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RESPONSIVE SOLUTIONS

Year-End Options for Gifting to Minors

By Dennis F. Gorman, Esq., CPA

In making annual gifts to minors, many people often do not want to give a blank check, which the minor can spend on, for instance, fancy clothes. An outright gift of cash is certainly an option, but it also is usually the least attractive one.

In 2015, under federal law, you are allowed to make annual, gift-tax-free gifts of $14,000 per person to anyone, including minors. In order to be eligible for the gift tax exclusion, gifts must be present interest gifts rather than "in trust," with a few statutory exceptions. (The $14,000 annual exclusion also applies to the federal generation-skipping tax.) You can set up a Uniform Transfers to Minors Account (formerly known as the Uniform Gifts to Minors Account), for which you or another adult is the custodian of the account for the benefit of your child. Such an account can hold cash or marketable securities. Once the minor turns age 18 or 21 and depending on the source of the funds, he or she must be entitled to take possession of the account's funds from the custodian.

Another minor-gifting option is called an IRS Section 2503(c) Minor's Trust. If your trust meets certain requirements, it would qualify as a present-interest gift, making it eligible for the $14,000 annual gift tax exclusion. To qualify as a 2503(c) Trust, the trust must require that the principal and income may be either paid to, or applied to the benefit of, the beneficiary while he or she is under age 21. In addition, the trust must distribute all remaining property in the trust to the beneficiary once he or she reaches age 21. Further, if the beneficiary dies prior to age 21, the property in the trust must be payable to either the beneficiary's estate or to someone whom the beneficiary had appointed under a general power of appointment.

Adults commonly use Section 2503(c) Trusts for gifts to minors of something other than cash or marketable securities – for example, an interest in real estate. Yet another vehicle for making gifts to minors, which is quite popular these days, is the IRS Section 529 Plan, which is used for educational savings. Your gift to a 529 Plan is eligible for the $14,000 annual exclusion. In addition, the funds you place in a 529 Plan are allowed to grow income-tax free. If you withdraw the funds to pay for your child's college expenses, all of the plan's accrued income permanently avoids income taxation.

Under Section 529, each state must choose an investment company to manage 529 Plans, which in Massachusetts is Fidelity Investments. However, Mass. residents can utilize the 529 Plans available in any of the 49 other states for use of a different investment company. Further, you can front-load five years worth of your $14,000 annual exclusion into a 529 Plan. So a couple can gift upfront into a 529 Plan to a grandchild, for example, a total of $140,000 – $14,000 times five years times two parents – into a 529 Plan.

One other key minor-gifting option utilizes an irrevocable life-insurance trust. When properly drafted, this trust also qualifies for the $14,000 annual exclusion. Ultimately, the beneficiary of such a trust will receive payment when the insurance policy fully matures.

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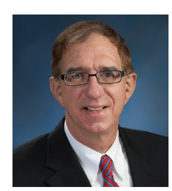

Dennis F. Gorman
P: 508.459.8037
F: 508.459.8337
E: dgorman@fletchertilton.com

THE GUARANTY BUILDING
370 Main Street, 12th Floor
Worcester, MA 01608
TEL 508.459.8000 FAX 508.459.8300

THE MEADOWS
161 Worcester Road, Suite 501
Framingham, MA 01701
TEL 508.532.3500 FAX 508.532.3100

CAPE COD
1579 Falmouth Road, Suite 3
Centerville, MA 02632
TEL 508.815.2500 FAX 508.459.8300