



## North Carolina Law Life

### Use the 2012 Gift Tax Exclusion or Lose It

By: Robin E. Pipkin. *Friday, September 28th, 2012*

Time is running out for those of you with substantial assets to use the **gift tax** exclusion which is now at \$5,120,000 to make lifetime gifts to those in your family. To date in 2012, we have had several clients take advantage of this high exemption which we are not likely to see again. Often the best gift to use in such situations is one that is not only high in value



(Photo credit: Wikipedia)

but is also likely to appreciate and generates either little or no income. Gifting of such assets does not deprive the owner of any income and benefits his or her family in that a valuable asset is transferred to the next generation at no transfer cost. We recently had a client transfer non-income producing real estate which was valued at about \$4,000,000 entirely free of gift tax. Unless the current law is changed, the transfer of this asset on or after January 1, 2013, would cause the family member gifting the asset to incur substantial gift tax.

In some instances, a gift can first be transferred into a **limited liability company** and then only part of the interest is transferred to the next generation. Often, more asset value can be transferred in this manner since sometimes a lack of marketability discount can be taken. However, this is not always the case. Any discounts should be supported by a professional appraisal with the appraiser understanding that his appraisal will be used for gift tax purposes and that he may be called upon to defend his valuation upon an audit by the Internal Revenue Service.

If you are contemplating such a gift, now is the time to begin since we only have about four months until the end of 2012. Any gift of this magnitude would require several weeks to accomplish given the legal steps that would need to be taken and the appraisal that would need to be obtained.

Contact one of our **estate planning attorneys** for more information.

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