

# **WAKEMAN LAW GROUP, INC.**

Estate, Trust & Tax Attorneys

4500 E. Thousand Oaks Boulevard, Suite 101  
Westlake Village, California 91362  
(800) 366-1186 · (805) 379-1186 · (818) 889-1296  
Fax (805) 379-4975  
[www.wakemanlaw.com](http://www.wakemanlaw.com)

## **GENERATION SKIPPING PROVISIONS**

While most people are inclined to leave their wealth to their children, often additional tax savings can be had by leaving wealth to grandchildren rather than to children.

The key, of course, is to leave the wealth to the grandchildren without denying the children access to this wealth. This is known as Generation Skipping.

Because of the tremendous long-term tax savings available through use of generation skipping techniques, the IRS has developed a series of rules to greatly curtail an individual's ability to skip generations.

Assume for example that you will leave an estate of \$10 million. If you were to leave this wealth to your children, it would be taxed at the time of their deaths, along with any wealth which they have created. However, if you were to leave this wealth to your grandchildren, while giving your children the ability to use it should they need it, this wealth would not be taxed at your children's death.

While people often think about saving estate taxes only in one generation, the IRS thinks long term. If every person with a sizable estate were to establish a Generation Skipping Plan as described above, there would be a drastic decrease in revenue, not now, but a generation from now. It is for this reason that restrictions have been placed on your ability to make gifts to your grandchildren.

The IRS imposed restrictions are not designed to eliminate your ability to make gifts to your grandchildren. Rather, they are designed to limit the amount which you can gift. Logic would then dictate that you take full advantage of the generation skipping allowances which are available to you.

In order to take full use of the Generation Skipping Provisions available to you, you need to have a reasonable understanding of how this tax works.

First and foremost, while the generation skipping tax is interwoven with the gift and estate taxes, you must be aware that it is a separate tax. This tax is at a rate of 35%! As you can see it is extremely expensive to make generation skipping gifts that cause the imposition of tax.

The IRS has decreed that each individual may not give more than a total of \$5 million to

grandchildren, either during life or at death, without causing the imposition of the Generation Skipping Tax. That is \$5 million to your grandchildren in toto, not \$5 million to each. Please note however, that while you may give this \$5 million to grandchildren free of Generation Skipping Tax, the gift may not be free of the Gift and Estate Taxes.

You have at your disposal the annual exclusion from Gift Taxes (\$13,000) and the lifetime exception (\$5 million) available to offset these taxes. By carefully combining these Gift and Estate Tax provisions, along with the \$5 million Generation Skipping Tax Exemption you can pass a tremendous amount of wealth to your grandchildren, completely free of tax.

It is possible to establish this Irrevocable Trust for the lifetime benefit of your children, and to have the Trust continue by your grandchildren. If your children need access to these funds it would be available to them. However, if they are able to live their lives without these funds, then, the funds, plus the growth thereon, would pass to the grandchildren without causing unnecessary estate taxation at the time of death of the children.

These assets would also be protected from divorce, lawsuits, creditor's claims, bankruptcy, and other creditors and predators.