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Mr. Nathan L. Townsend is an Associate in Broad and Cassel's Orlando office. He is a member of the Firm's Estate Planning and Trusts Practice Group. Mr. Townsend focuses his practice in helping individuals manage their wealth and effectively transfer their assets to their chosen beneficiaries. His work is primarily in probate, trusts and estates, and transfer tax controversy matters.He can be reached at 407-839-4266 or by email at ntownsen@broadandcassel.com.

New Automotive Rules for Irrevocable Trusts Explained

Do you have an insurance trust or an irrevocable trust that was created for gifting assets? If so, you need to know about the new rules, so that you can be sure that your generation skipping transfer (GST) tax exemption is not exhausted without your knowledge.

The 2001 Tax Relief Act, which was signed into law on June 7, 2001, modifies the rules for allocating GST exemption to transfers that are made to irrevocable trusts. In the past, relatively few transfers in trust would result in the automatic allocation of GST exemption. Most often one's GST exemption was applied to transfers by the allocation by a taxpayer upon the filing of a gift tax return. Under the new law, transfers to irrevocable trusts are more likely to result in automatic allocation of GST exemption. Taxpayers have an opportunity to elect not to allocate their GST exemptions by filing a gift tax return for the year in which the contribution was made to the trust.

Your most important tool to minimize or eliminate the GST tax (applied currently at a flat 50 percent) is the GST exemption. This exemption currently allows each tax payer to transfer just over $1 million during lifetime or a death -- without subjecting the transferred assets to the GST tax. Unfortunately, under the new tax law, your risk inadvertently depleting your GST exemption simply by making transfers to irrevocable trusts.

As the use of one's GST exemption is an integral part of a complete estate plan, it's important not to allow such inadvertent application of this valuable exemption. The only certain way to ensure you are properly planning for the most effectived use of your GST exemption is to file a gift tax return for each year in which contributions are made to your irrevocable trust. On that return, you will either elect to allocate GST exemption to the transfers made to the trust, or you will elect not to allocate the GST exemption to these transfers. **BC**

If you have created one of these trusts, take control of the allocation of this important exemption, rather than allow the IRS to dictate when it is allocated. In light of these new laws, if you are unsure if this new allocation rule applies to you, we would be happy to discuss this and any other estate planning issues with you.

Broad and Cassel, founded in January 1, 1946, has more than 140 lawyers and 200 support personnel located in seven offices throughout the state of Florida. Broad and Cassel has a national and international client base with offices located in Boca Raton, Fort Lauderdale, Miami, Orlando, Tallahassee, Tampa, and West Palm Beach. The Firm has extensive experience in a wide variety of practice areas including: Corporate and Securities; Real Estate; Estate Planning and Trusts; Commercial Litigation; Health Law; Taxation; Bankruptcy and Creditors' Rights; Labor and Employment; Intellectual Property Law; Computer and Technology Law; Appellate Law; White Collar Criminal and Civil Fraud Defense; and Special Assets.

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