

WILLMS, S.C.

LAW FIRM

MEMORANDUM

TO: Clients and Friends of Willms, S.C.

FROM: Attorney Maureen L. O'Leary

DATE: April 14, 2011

RE: Generation-Skipping Transfer Tax Return Filing Requirements

If you were the Trustee or a beneficiary of a generation-skipping trust in 2010, there are three types of generation-skipping transfer tax returns that you should be aware of:

1. IRS Form 706-GS(D-1): Notification of Distribution From a Generation-Skipping Trust;
2. IRS Form 706-GS(D): Generation-Skipping Transfer Tax Return for 2010 Distributions; and
3. IRS Form 706-GS(T): Generation-Skipping Transfer Tax Return for 2010 Terminations.

Traditionally, the filing deadline for these returns is April 15, but the IRS has extended the deadline for filing most of these 2010 returns to September 17, 2011 (for Form 706-GS(T)) and September 19, 2011 (for Forms 706-GS(D-1) and 706-GS(D)).¹ It is also important to remember that the generation-skipping transfer tax rate in 2010 was 0%, so no generation-skipping transfer tax should be due as a result of 2010 distributions. However, you may still be required to file one or more of the following returns for informational purposes.

¹ The extended deadlines only apply for distributions made between January 1, 2010 and December 16, 2010. The deadline for distributions made between December 17, 2010 and December 31, 2010 was not extended.

IRS Form 706-GS(D-1): Notification of Distribution From a Generation-Skipping Trust

A 2010 Form 706-GS(D-1) is required to be filed by the trustee of any trust that made a taxable distribution in 2010. A taxable distribution is any distribution from a trust to a skip person (other than a taxable termination or a direct skip). A skip person is someone assigned to two generations or more below the grantor of the trust (example: a distribution to a grandchild from a trust established by a grandparent). The trustee must file the return for each skip person even if the inclusion ratio is zero. The purpose of the return is to report the distribution and provide the beneficiary with the information needed to determine if any generation-skipping transfer tax is due as a result of the distribution. A copy of the return needs to be filed with the IRS and sent to the beneficiary. For further instructions regarding how to file this form, please visit the following web address: <http://www.irs.gov/pub/irs-pdf/i706gsd1.pdf>.

IRS Form 706-GS(D): Generation-Skipping Transfer Tax Return for 2010 Distributions

A 2010 Form 706-GS(D) is required to be filed by anyone who received a taxable distribution from a trust in 2010, if the inclusion ratio of the distribution is greater than zero. As discussed above, if a beneficiary received a taxable distribution, they should have received a 2010 Form 706-GS(D-1) from the trustee that reports the distribution and its inclusion ratio. The purpose of Form 706-GS(D) is for the beneficiary to report whether any generation-skipping transfer tax is due as a result of the distribution. For further instructions regarding how to file this form, please visit the following web address: <http://www.irs.gov/pub/irs-pdf/i706gsd.pdf>.

IRS Form 706-GS(T): Generation-Skipping Transfer Tax Return for 2010 Terminations

A 2010 Form 706-GS(T) is required to be filed the trustee of a trust that had a taxable termination in 2010. An example of a taxable termination is the termination of a trust established by a grandparent for the benefit of a grandchild. The purpose of this return is for the trustee to report whether any generation-skipping transfer tax is due as a result of the taxable termination. For further instructions regarding how to file this form, please visit the following web address: <http://www.irs.gov/pub/irs-pdf/i706gst.pdf>.

Please let us know if you have any questions regarding whether you have to file any of the above generation-skipping transfer tax returns or if you would like our assistance with the preparation of such returns.

END OF MEMO