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Should You File A Gift Tax Return?

April 15th has come and gone. You have either filed your tax returns or filed an extension for additional time. While we focus on the filing of our federal and state income tax returns, it is all too easy to forget that gift tax returns may also be required.

Until recently, the “gift tax exclusion” was \$10,000 per person per year, allowing each of us to make gifts up to that sum without filing a gift tax return. In 2001, the gift tax exclusion was increased to \$11,000. Thus, I can give each of member of my family \$11,000, and if I am married, we can give as much as \$22,000. If my gift is more than \$11,000, I would be required to file a gift tax return and some tax might be owed.

The amount of a gift is not the only factor to considered. The nature of the gift also determines whether the exclusion applies, and to what extent. For example, if I give a gift of cash, the recipient has the immediate use of the money. This is considered a gift of a *present interest* and no gift tax return need be filed. If, instead of giving cash, I contribute money to an Irrevocable Life Insurance Trust, when does the recipient get to use the money? Typically, after I and/or my spouse have passed away. This is a gift of a *future interest* and may not be offset by any part of the gift tax exclusion.

However, not all gifts to an insurance trust are future interest gifts. Many such trusts give beneficiaries the right to immediately withdraw contributions for a limited time period. If the beneficiary has the opportunity to withdraw the money for present use, such gifts will be considered present interest gifts.

With so much at stake, isn't this a good time review your gift giving process to determine whether you a gift tax return for 2003, or an earlier year, may be required.