

# ***The “Daily Plan-It™”***

LAW OFFICES OF GARY R. WAITZMAN, L.L.C.

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## ***New Gift Tax Exemption Raises Some Big Questions for Business Owners***

As part of the tax deal reached by Congress last year, the lifetime gift tax exemption for 2011 and 2012 rose from \$1M to \$5M for individuals and from \$2M to \$10M for married couples.

A recent Wall Street Journal article (<http://tinyurl.com/4u22obr>) has succinctly pointed out that business owners now have a chance to transfer a big chunk of their businesses to beneficiaries — even before handing over operational control of the business.

### **A Possible Golden Opportunity**

This means that your clients can give away that much wealth without paying a cent in gift taxes. It can really be a golden opportunity to transfer wealth to the next generation at no tax cost.

However, this transfer of ownership can also bring about complex succession and estate planning issues that business owners should address before giving away a cent.

If you have clients who are business owners and they want to take advantage of this two-year rise in the gift tax exemption, there are questions that they need to ask themselves:

- Who will eventually lead the business?
- How can I treat my other heirs fairly?
- How do I pass down wealth without jeopardizing my own retirement security?

### **Start Planning NOW**

These are complicated questions. The answers will decide which estate planning strategies make the most sense for your client’s family to use.

In my experience, such decisions typically can’t be made in a matter of weeks or months. I recommend that your clients who want to take advantage of the new gift tax exemptions should start planning now.

The main advantage of your client transferring a stake in his family business now is that his heirs won’t have to take on debt or sell the business to satisfy the estate tax bill incurred upon his death.

### **Give It Away, But Keep Control**

For clients who want to retain control of the business while alive, the transfer can be structured so that they keep managing control for life or for a set period.

To insure that retirement plans remain secure, the transfer can stipulate that the original owner retains a salaried position (employee, consultant or chairman) and has a profit-sharing or defined-benefit pension plan.

I also recommend that business owners earmark assets outside the company for beneficiaries who are not on the company payroll. That way, the child who eventually takes over the business can manage it without being tied up having to consult with siblings, some of whom may insist upon large distributions.

As always, I hope this article has helped you and your clients. If you have a specific case or concern, please contact our office.

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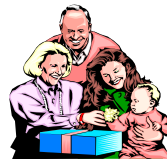
250 Parkway Drive, Suite 130

Lincolnshire, IL 60069

847.719-1300

Fax: 847.719.1301

[gary@grweplaw.com](mailto:gary@grweplaw.com)



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