Legal ALERT
Keeping you informed of noteworthy changes in the law.

PHILLIPS NIZER LLP

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TRUSTS & ESTATES ALERT

USE IT OR LOSE IT: ACT NOW TO TAKE ADVANTAGE OF THE $5 MILLION GIFT TAX EXEMPTION IN 2012

In 2010, Congress enacted legislation that significantly changed the federal gift and generation-skipping transfer ("GST") tax laws in effect for the years 2011 and 2012, offering individuals a unique opportunity to make substantial gifts free of gift tax by the end of this year. For this two-year period, the federal gift tax exemption was increased five-fold from $1 million to $5 million per person (or from $2 million to $10 million per couple) – the highest gift tax exemption levels in history. In 2012 an individual may give up to $5,120,000 and a married couple may give up to $10,240,000 without paying gift tax.[1] By making lifetime gifts, an individual can remove future appreciation on the gifted assets and the income from those assets from his or her taxable estate. Unless Congress acts, the current law is scheduled to expire at the end of the year and the gift tax exemption will drop to $1 million per person (or $2 million per couple) in 2013. New York, New Jersey, Florida and nearly all other states do not impose a gift tax, however, Connecticut does. Individuals interested in making lifetime gifts to take advantage of the generous gift tax exemption currently available should do so this year or risk losing out on this rare opportunity.

Although the law is not scheduled to expire until the end of this year, now is the time to start planning to utilize the 2012 gift tax exemption. Determining the most effective structure for making gifts takes time given the tax considerations and family circumstances personal to each individual. Gifts made in trust for children and grandchildren, or other relatives or friends, involve determining the provisions that will govern the trust and drafting the necessary documents. Certain assets, including real property or interests in business entities, require qualified appraisals to determine their value for gift tax purposes. Waiting until the end of the year is not recommended, as it may be difficult to obtain appraisals, draft documents, execute asset transfers and open new accounts (if needed) in time to meet the December 31st deadline. For these reasons, individuals who want to make gifts this year should begin the process now.

In addition to the gift tax exemption which is scheduled to drop in 2013, other changes to the gift and GST tax regimes will take effect next year unless Congress passes new legislation, as illustrated in the chart below.

Gift and GST Taxes: 2012 vs. 2013

	2012	**2013** (unless changed by a new law)
Gift Tax Exemption	$5,120,000	$1,000,000
Gift Tax Rate:	35%	55%
GST Tax Exemption:	$5,120,000	$1,000,000[2]
GST Tax Rate:	35%	55%

[1] Exemption amounts are increased for inflation and are reduced by the amount of prior taxable gifts.
[2] Indexed for inflation.

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Please contact us as soon as possible if you are interested in making gifts to take advantage of your available gift tax exemption this year.

A member of the Phillips Nizer LLP Trusts & Estates Department will discuss your present estate plan and the wealth-transfer opportunities that are newly available to you and your family.

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Please note: This Client Alert is necessarily limited in scope and should not be relied upon as a complete analysis of the tax considerations involved in making gifts in 2012.