



## Obama Administration Announces Gift Tax Annual Exclusion Proposal

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BY: FARHAD AGHDAMI

On Tuesday, March 4, 2014, the Obama administration released its FY15 Budget. At the same time, the Treasury Department issued its accompanying “Green Book” that describes various changes in tax law and the resulting revenue impact. The Green Book often represents a mix of the White House’s “wish list” and a “preview of coming attractions” for legislative proposals. This year’s Green Book included many proposals from prior years – limitations on the term of Grantor Retained Annuity Trusts, limits on the term of generation skipping trusts, limits on valuation discounts, etc. A new proposal, which is somewhat similar to proposals circulated during the Clinton Administration, reflects the Administration’s attempt to limit the use of the gift tax annual exclusion for gifts to trusts, through the use of so-called “*Crummey*” withdrawal powers.

Currently, gifts of \$14,000 per person, per year can be made outright or, through the use of a *Crummey* withdrawal power, in trust. Annual exclusion gifts can be made to an unlimited number of donees. *Crummey* withdrawal powers are often used to make gifts to irrevocable life insurance trusts, but can be used for other purposes.

The Green Book proposal would impose an annual limit of \$50,000 per donor on the donor’s transfers of property within this new category that will qualify for the gift tax annual exclusion. Thus, a donor’s transfers in the new category in a single year in excess of a total amount of \$50,000 would be taxable, even if the total gifts to each individual donee did not exceed \$14,000. The new category would include transfers in trust (other than to a trust described in section 2642(c)(2)), transfers of interests in passthrough entities, transfers of interests subject to a prohibition on sale, and other transfers of property that, without regard to withdrawal, put, or other such rights in the donee, cannot immediately be liquidated by the donee.

A link to the Green Book is found [here](#).

This proposal, if enacted, would have significant impact on the use and funding of irrevocable life insurance trusts that are implemented by many families, especially owners of closely held businesses, to provide liquidity for the payment of estate tax.

We expect significant resistance from the insurance industry and other affected parties to this proposal. As noted earlier, the Green Book represents a “wish list” and a “preview of coming attractions.” We are not sure into which category this proposal will fall, but we will continue to keep you apprised of developments.

## **Related People**

- David D. Addison – 804.420.6483 – [daddison@williamsmullen.com](mailto:daddison@williamsmullen.com)
- Farhad Aghdami – 804.420.6440 – [aghdami@williamsmullen.com](mailto:aghdami@williamsmullen.com)
- Daniel J. Durst – 804.420.6465 – [ddurst@williamsmullen.com](mailto:ddurst@williamsmullen.com)
- James Philip Head – 703.760.5231 – [jhead@williamsmullen.com](mailto:jhead@williamsmullen.com)
- Christine Nguyen Piersall – 757.629.0703 – [cpiersall@williamsmullen.com](mailto:cpiersall@williamsmullen.com)
- Fielding L. Williams, Jr. – 804.420.6410 – [fwilliams@williamsmullen.com](mailto:fwilliams@williamsmullen.com)

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