



## Adjusting For Changes In Available Annual Gift Tax Exclusion for Gifts to Trusts

Many clients will create an Irrevocable Life Insurance Trust (ILIT) to own their life insurance policies. Clients frequently match the planned premium to the number of \$12,000 (2006 number, indexed for inflation) annual gift tax exclusions available based on the number of trust beneficiaries. When the number of beneficiaries is limited, a spouse will frequently join in the gifting so that a total of \$24,000 per trust beneficiary may be transferred free of gift tax. Unfortunately, at the death of the first spouse the number of available gift tax exclusions is cut in half. When this happens, the concern is whether the premium payments to the trust can be structured to continue to avoid gift taxation. If you have run into this situation, Prudential Financial has a solution.

**Facts:** Assume a couple, ages 75 and 73, have an estate liquidity need of \$1,950,000. Their attorney has drafted an ILIT with their five children named as the beneficiaries. During the underwriting process it's determined that the 75-year-old is uninsurable. Their attorney has cautioned the clients to keep the premium payments under \$60,000 (5 X \$12,000) to avoid taxable gifts, which would otherwise occur at the death of the first spouse. The prospects want to know what can be done to address the concern raised by their attorney.

**Solution:** There are a couple of ways to prepare for a reduction in available annual exclusion gifts. One simple method is to purchase a flexible premium universal life insurance policy – either individual UL coverage on the healthier spouse, or survivorship UL if an 'uninsurable' class is available on one insured. This gives your clients the premium payment flexibility they need to be able to adjust their gifts to the trust. Depending on the specific situation, it may be possible to "pack" annual premium payments equal to \$24,000 per trust beneficiary into the trust while both spouses are alive; and drop the payments back to \$12,000 per beneficiary after the first death. Of course, it is vital to make sure that policy payments are sufficient to cover charges and expenses to avoid the lapse of the policy. The client should also be aware that "packing" annual premium payments up front might cause the policy to become a Modified Endowment Contract (MEC) with additional potential tax consequences.

In the situation discussed earlier, to provide money to pay premiums, the prospects could gift \$120,000 a year to the trust while both spouses are alive. After the first death, the gifts could be reduced to \$60,000 to match the reduced number of available annual gift tax exclusions.

The attached illustration assumes the prospects have the ILIT purchase a \$1,950,000 PruLife® SUL Plus policy. To illustrate the premium flexibility we assume both prospects live for three years and illustrate gifts of \$120,000 during those three years, making high payments into the policy. We then assume the death of the 75-year-old in year four, with a reduction of annual premium payments to \$60,000.

**Product Features:** PruLife® SUL Plus has the following features and benefits that make it worth considering:<sup>1</sup>

- ◆ Issue ages 18-90 (18-85 Death Benefit Option C), based on age **last** birthday
- ◆ Capacity limit up to \$65 million on fully underwritten single life and survivorship policies
- ◆ Uninsurable rating class available on one insured
- ◆ Continuation of coverage beyond age 100
- ◆ 24-month rolling target premiums (except NY)
- ◆ 7-Year Short-Term No-Lapse Guarantee is available at all issue ages<sup>1</sup>
- ◆ Target Term Rider is available (except NY)
- ◆ SUL Plus offers three death benefit options, including "Option C+" – return of premiums plus interest
- ◆ Waiver of Surrender Charge Endorsement available

### ILLUSTRATION EXCERPT ON NEXT PAGE

<sup>1</sup> PruLife® SUL Plus is issued by Pruco Life Insurance Company in all states except New York where it is issued by Pruco Life Insurance Company of New Jersey. Both are Prudential Financial companies located in Newark, NJ. All guarantees are based on the claims-paying ability of the issuing company, and each company is responsible for its own financial condition and contractual obligations.

This training material has been prepared to assist our licensed financial professionals. It is designed to provide general information in regard to the subject matter covered. It should be used with the understanding that Prudential is not rendering legal, accounting or tax advice. Such services should be provided by the client's own advisors.

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751 Broad Street, Newark, NJ 07102-3777  
IFS-A022165 Ed. 02/06 Exp. 08/07

**Prudential**  **Financial**

Basic Ledger Statement Excerpt – PruLife® SUL Plus  
 Male 75, Class T & Female 73, Preferred Non-Smoker  
 \$1,950,000 PruLife® SUL Plus - Type A (Fixed) Death Benefit - Guideline Premium Test

Year	Age of Younger Insured	Annual Premium Outlay	Guaranteed <sup>1</sup> Results Based On Minimum Interest Rate of 3% and Maximum Charges			Non-Guaranteed Results Based On Illustrated Interest Rate of 4.75% <sup>2</sup> for 10 years, then 5.15%* thereafter and Current Charges		
			Contract Fund	Cash Value	Death Benefit	Contract Fund	Cash Value	Death Benefit
1	73	120000	37086	0	1950000 <	89079	49666	1950000 <
2	74	120000	45035	9206	1950000 <	178483	142654	1950000 <
3	75	120000	56698	24454	1950000 <	272978	240734	1950000 <
4	76	60000	5347	0	1950000 <	311495	282827	1950000 <
5	77	60000	0	0	1950000 <	348858	323775	1950000 <
6	78	60000	0	0	1950000 <	404350	382851	1950000 <
7	79	60000	0	0	1950000 <	458435	440521	1950000 <
8	80	60000	0	0	0	510548	497110	1950000
9	81	60000	0	0	0	560162	551201	1950000
10	82	60000	0	0	0	606755	602278	1950000
Total		780000						
11	83	60000	0	0	0	653788	653788	1950000
12	84	60000	0	0	0	697396	697396	1950000
13	85	60000	0	0	0	739055	739055	1950000
14	86	60000	0	0	0	778937	778937	1950000
15	87	60000	0	0	0	817136	817136	1950000
16	88	60000	0	0	0	853475	853475	1950000
17	89	60000	0	0	0	887705	887705	1950000
18	90	60000	0	0	0	918725	918725	1950000
19	91	60000	0	0	0	945758	945758	1950000
20	92	60000	0	0	0	967882	967882	1950000
Total		1380000						
21	93	60000	0	0	0	983446	983446	1950000
22	94	60000	0	0	0	989250	989250	1950000
23	95	60000	0	0	0	979388	979388	1950000
24	96	60000	0	0	0	940520	940520	1950000
25	97	60000	0	0	0	841293	841293	1950000
26	98	60000	0	0	0	603822	603822	1950000
27	99	60000	0	0	0	64108	64108	1950000
Total		1800000						

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< Indicates the **No-Lapse Guarantee<sup>1</sup>** will be in effect for the entire policy year.  
 \* This includes a non-guaranteed additional excess interest amount in years 11 and later.

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<sup>2</sup> As of 1/1/2006. Subject to change.