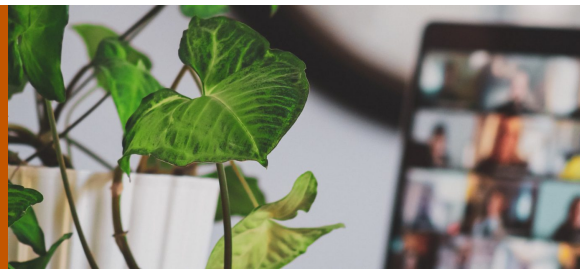
Before You Give: What to Know About 2025 Gift Tax Rules



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As we approach the end of the year and the holiday season, many clients start thinking about making gifts to family, friends, and in some cases, to trusts. Before making gifts, it's important to understand the tax rules around those gifts so that you can plan for them in the most tax-advantageous way possible.

For tax purposes, a gift is transfer of money or property to another person in which the donor (the person making the gift) receives less than full market value in return. This can include things you may not think of as gifts, such as paying expenses or buying assets on behalf of a family member or friend (the donee). Donations to charitable organizations are distinct and are treated separately from other gifts. When an individual makes a gift, their basis in the asset (what they paid for it) carries over to the recipient. On the other hand, when an individual dies owning an asset the basis is "stepped-up" to its value on the date of death, which can provide a significant income tax advantage to the beneficiary of the asset.

The IRS requires that a donor file a gift tax return (Form 709) if they made gifts during the year in excess of the annual exclusion amount per recipient. In 2025 and 2026, the annual exclusion amount is $19,000 per recipient, which means that each donor can give another individual up to $19,000 without any requirement to report the gift on a tax return. Spouses can gift up to $38,000 to each individual by making an election to split gifts.

But even when gifts exceed the annual exclusion amount and a gift tax return is required, it is very unlikely that the donor will owe any gift tax. This is because the gift tax and estate tax are part of a unified tax system. As it stands now, a person can pass up to $13,990,000 to others – whether as gifts during life or inheritances at death – without incurring any federal gift or estate tax liability. Someone who makes gifts to an individual in excess of $19,000 during the year will begin to chip away at the $13,990,000 lifetime exemption, but it will take very large gifts to use that up, and a gift tax would be due only when that amount is exhausted. In 2026, this amount increases to $15 million per person and will be adjusted for inflation going forward. Unless your taxable gifts have already exceeded your exemption, Form 709 is filed simply to track the exemption used, but will have no tax due.

Maintaining good records regarding gifts is important for multiple reasons. If multiple gifts are given to the same recipient during the year, they must be reviewed in total at the end of the year to determine if a reportable gift was made. If Form 709 is required, then it must include certain information about the gift, including the name and address of the donee, the relationship to the donor, a description of the gift (cash or property), the date of the gift, basis in the property gifted, and value on the date of the gift.

Cash gifts are generally fairly straightforward. However, there can be complexities if other property is gifted – such as securities, real estate, or interests in business – or when gifts are made into a trust rather than directly to an individual. If you are considering gifting these or something similar, or are considering setting up and funding a new trust, please contact us for additional information.

Also important to note is that some gifts are not reportable at all to the IRS and can be a very effective way to transfer assets. These include gifts to a U.S. citizen spouse, along with payments made directly to an educational institution for tuition, and payments made directly to a medical provider for qualified medical expenses. These types of gifts are not subject to the $19,000 annual exclusion limit and also do not use up any of the $13.990M lifetime exemption.

When gifting is contemplated in order to achieve estate tax planning objectives, careful attention must be given to the type of asset gifted and the recipient (often a trust in order to maximize estate tax planning objectives). For individuals who are unlikely to be subject to a federal estate tax at their death, aggressive gifting of non-cash assets may not be the most tax-advantageous path because assets that are gifted before death do not get a step-up in basis at death, which may mean higher income tax liability down the road when the recipient sells the asset. On the other hand, if an individual dies owning an asset and it passes to a beneficiary after death, the asset is stepped-up to its date of death value, which will help minimize capital gains when it is sold. Careful planning is required to ensure that federal estate tax, Massachusetts estate tax (if applicable), and income tax are all considered and balanced against each other.

Please reach out if you would like to discuss any planned gifting for 2025 or if you would like to discuss how gifting might fit into your overall estate tax plan.

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