

Will You Owe A Gift Tax This Year?

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The rules surrounding taxes on gifts often create confusion during tax season - or any other time. Below are some of the nuts and bolts of the gift tax, including when a gift tax form needs to be filed.

The annual gift tax exclusion for 2006 was \$12,000 (it remains at \$12,000 for 2007).

This means that any person who gave away \$12,000 or less to any one individual (except a gift to a spouse, in which case an unlimited marital deduction generally applies) does not have to report the gift to the IRS; any person who gave away *more than* \$12,000 to any one person, however, will have to file a Form 709 gift tax return. But just because you file a Form 709 doesn't mean you necessarily have to pay taxes; this depends on your past gift-giving history.

The IRS allows you to give away a total of \$1 million during your lifetime before a gift tax is owed. This \$1 million exclusion means that even if you have to file a Form 709 because you gave away more than \$12,000 to any one person last year, you will owe taxes only if you have given away more than a total of \$1 million in your lifetime (not counting any \$12,000 annual exclusion gifts). As a result, the filing of a Form 709 is a formality for most people. Keep in mind that any part of the \$1 million credit that is reported on the gift return actually counts against your overall federal estate tax exclusion, which is \$2 million this year. Thus, if you give away \$1 million during your lifetime, upon your death your estate may exclude only \$1 million from taxes, not \$2 million.

However, there are several ways to give away *more than* \$1 million over a lifetime without owing taxes. Keep in mind that Form 709 is required only when you give away more than the annual exclusion to one person in one year. Therefore, a married couple with a married child can give away \$48,000 in one year without having to report the gift: each parent gives the child and the child's spouse \$12,000 each. If a couple did this for 25 years, they would have given away \$1.2 million without having to report the gifts. In addition, the gifts would not count against their lifetime \$1 million exclusion. Moreover, it would be possible for the couple to give away \$96,000 within a short span of time -- \$48,000 in December and \$48,000 in January of the next calendar year.

Another way for a gift to be exempted from reporting requirements - no matter the gift's size -- is to pay for someone else's medical care or educational tuition. It is important to note that the money must be paid directly to the school, university or health care provider to be exempt, and that pre-payments can often be made as soon as the person is admitted to the school (schools include not just colleges but nursery schools, private grade schools, or private high schools). However, if you contribute to someone else's 529 college savings plan, you are subject to the \$12,000 gift exclusion rule. A special regulation in the tax code enables a donor to use up to five years' worth of her exclusions and gift \$60,000 to a 529 plan at one time

If you have given away property other than money, like stock, you have to report that on your gift return, too, if the value is more than \$12,000. If the stock had gone up in value since you bought it, you report the value as of the date that you gave it away.

Finally, tax deductible gifts made to charities need not be reported on a gift tax return unless the donor retains some interest in the gifted property.