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## Marc A. Hebert's 'Money \$ense': When do you need to file a gift tax return?

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HAVE YOU given or received a gift lately? There might be some tax consequences for you. Here are a few factors to analyze when determining the outcome.



First, just what is considered a gift? According to the IRS, a gift is “any transfer to an individual either directly or indirectly where full consideration (measured in money or money’s worth) was not received in return.” The gift tax was established to prevent citizens from circumventing the federal estate tax by giving away their money before they die.

With each transfer, there is the potential to incur a gift tax. Paying the tax is the duty of the person giving the gift (donor) not the recipient (donee). However, if the donor does not pay the tax, the donee may be obligated to do so.

For federal tax purposes, gifts are reported on Form 709 by April 15 following the year the gift was made. There are a few states – but not New Hampshire – that also levy a gift tax, so be sure to check if you are not from the Granite State.

As usual in things tax-related, there are some exceptions. You do not have to pay tax on gifts that are less than an annual exclusion limit. This amount changes most every year. Currently, the annual exclusion is \$15,000 per recipient. Gifts for birthdays and holidays usually fall in this category.

You can “split” gifts with your spouse. In other words, you can treat all gifts made by either spouse during the year as made one-half by each spouse. You will need to file gift tax returns to reflect your choice. The splitting of the gift enables you and your spouse to effectively use each other’s annual exclusion.

Gifts to your U.S. citizen spouse that qualify for the marital deduction are also excluded from the gift tax. It should be noted that gifts to others are not excluded – gifts to your children, nieces and complete strangers are subject to the gift tax.

You may also make payments directly to the provider, on another person’s behalf, for qualified tuition or medical expenses, and these will not be counted as gifts for gift tax purposes.

Gifts to charities that qualify for the charitable deduction are excluded from the gift tax. Filing is not required as long as you transfer your entire interest in the property to qualifying charities.

If you made a gift of property that’s difficult to value, you might want to report the gift, even if you’re not required to do so. This is to establish the gift’s taxable value. If you do file, the IRS generally has only three years to challenge the gift’s value. If you don’t report the gift, the IRS can dispute the value of your gift at any time in the future.

As mentioned above, if your gift isn’t exempt from taxation, you’ll need to file a gift tax return. But that doesn’t mean you have to pay a gift tax. Generally, each taxpayer is allowed to make taxable gifts totaling \$11.4 million (in 2019) over his or her lifetime before paying any gift tax. This limit will change and, after 2025, will revert back to the pre-2018 level of \$5.49 million per spouse. Filing the gift tax return helps the IRS keep a running tab on the taxable gifts you have made and the amount of the lifetime exclusion you have used.

If you are making a gift, it would be wise to consult a tax professional. This will ensure you have met all the rules and are knowledgeable of the tax outcome.

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