GATEWAY

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What Is the Gift Tax?

The federal gift tax applies to gifts of property or money while the donor is living. The federal estate tax, on the other hand, applies to property conveyed to others (with the exception of a spouse) after a person's death.

The gift tax applies to the donor. The recipient is under no obligation to pay the gift tax, although other taxes, such as income tax, may apply. The federal estate tax affects the estate of the deceased and can reduce the amount available to heirs.

In theory, any gift is taxable, but there are several notable exceptions. For example, gifts of tuition or medical expenses that you pay directly to a medical or educational institution for someone else are not considered taxable. Gifts to a spouse who is a U.S. citizen, gifts to a qualified charitable organization, and gifts to a political organization are also not subject to the gift tax.

You are generally not required to file a gift tax return unless the total gifts to a recipient exceed the annual gift tax exclusion for that calendar year. The Tax Cuts and Jobs Act, which was signed into law on December 22, 2017, increased the Gift tax in 2018 to $15,000. For 2023, the gift tax is $17,000 (up from $16,000 for 2022). The exclusion amount is indexed annually for inflation. A separate exclusion is applied for each recipient. In addition, gifts from spouses are treated separately; so together, each spouse can gift an amount up to the annual exclusion amount to the same person. Spouses can also elect to split gifts so that all gifts made by either spouse during a year are treated as made one-half by each spouse. This enables both spouses' annual gift tax exclusion to be used. However, you must file a gift tax return to split gifts with your spouse.

Gift taxes are determined by calculating the tax on all gifts made during the tax year that exceed the annual exclusion amount, and then adding that amount to all the gift taxes from gifts above the exclusion limit from previous years. This number is then applied toward an individual's lifetime applicable exclusion amount. If the cumulative sum exceeds the lifetime exclusion, you may owe gift taxes.

The 2010 Tax Relief Act reunified the estate and gift tax basic exclusion amount at $5 million (indexed for inflation), and the American Taxpayer Relief Act of 2012 made the higher exemption amount permanent while increasing the estate and gift tax rate to 40% (up from 35% in 2012). The latest major piece of tax legislation is the Tax Cuts and Jobs Act, which was signed into law on December 22, 2017. The Tax Cuts and Jobs Act doubled the federal estate tax exclusion to $11.18 million in 2018 (indexed annually for inflation). The 2023 federal estate tax exclusion is $12.92 million (up from $12.06 million in 2022). In 2026, the exclusion is scheduled to revert to its pre-2018 level.

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