

Gift Tax





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Estimating Gift Tax Liability

If you make any gifts during your lifetime, they may be subject to gift tax. There are a number of exclusions and deductions available to minimize taxable gifts and reduce or eliminate gift tax. By making gifts, you generally remove the gifted property, plus subsequent appreciation and any gift tax paid, from your estate. In general, any property that you still own at death may be subject to estate tax.

If you make taxable gifts in excess of the estate and gift tax exemption equivalent amount (\$5,450,000 in 2016, \$5,430,000 in 2015), you may be subject to gift tax.

Estimating and planning for the gift tax and the estate tax may be important to you because this could be one of the largest expenses you or your estate may have to pay. It also means that a significant part of your property may go to the government and not to your beneficiaries.

Caution: *Transfers of property you make to persons who are more than one generation below you (e.g., a grandchild or great-nephew) may also be subject to generation-skipping transfer (GST) tax, a separate and additional type of federal transfer tax. Some states also impose their own gift tax, estate tax, and GST tax. These taxes are not discussed here, but you should take them into account when planning your estate. See your financial professional for more information.*

The federal unified tax system

Under federal law, all property transfers are taxed under a unified gift and estate tax system. This means that lifetime gifts are reported and gift tax owed is paid annually. Upon your death, gifts are added back to your estate for estate tax calculation purposes, even though gift tax may have already been paid on them. Any gift tax paid is subtracted from estate tax owed. The result of this system is that you pay tax on the cumulative amount of wealth you give away, which may push your estate into a higher tax bracket.

Calculating gift tax

Gift tax is imposed on taxable gifts you make during the current year, which is your current gifts reduced by various exclusions and deductions. (Technically, you generally file a gift tax return and pay any gift tax by April 15 of the following year.)

Your cumulative taxable gifts are calculated by adding taxable gifts you made in prior years to the taxable gifts you made in the current year. A tentative tax is calculated on your cumulative taxable gifts, as well as on your prior taxable gifts. The tax is calculated under the Unified Tax Rate Schedule, which is graduated; the larger the value of your cumulative transfers, the greater the tax rate (much like your income tax). A tentative gift tax is calculated by subtracting the gift tax on prior taxable gifts from the gift tax on cumulative taxable transfers.

The unified credit is subtracted from the tentative gift tax, resulting in the gift tax that is owed.

The gift tax calculation looks like this:

Gifts in Current Year	
- Exclusions and Deductions	
Taxable Gifts in Current Year	
+ Taxable Gifts in Prior Years	
Cumulative Taxable Gifts	
Tax on Cumulative Taxable Gifts	
- Tax on Prior Taxable Gifts	
Tentative Gift Tax	
- Unified Credit	
Gift Tax Owed	

Determining what is taxable

The first step in estimating gift tax is to determine what is taxable. This generally includes any gratuitous transfer of property or interest in property, including:

- Real estate
- Personal property (e.g., cash, insurance proceeds, cars, furniture, jewelry, art objects)
- Intangible property (e.g., copyrights, patents)

Generally, the value assigned to each property item is the fair market value (FMV) on the date of the gift, though other valuation methods may apply. Simply stated, FMV means the price at which property would sell for on the open market.

Tip: *When spouses elect to split gifts for the year, each spouse should include one-half of such gifts in his or her calculation of gift tax. Splitting gifts generally enables each spouse to use his or her annual exclusions, applicable exclusion amount, and lower gift tax brackets.*



Under the federal unified tax system, estate tax is calculated by taking into account both your taxable estate and the adjusted taxable gifts you make during your lifetime. The result of this system is that you pay tax on the cumulative amount of wealth you give away, which effectively pushes your estate into a higher tax bracket.

Determining what isn't taxed

The second step in the gift tax calculation is to determine what isn't taxed. Certain amounts are excluded from, and deductions are subtracted from, your current gifts. The result is your current taxable gifts.

The following exclusions are allowed:

- **Qualified transfers:** Qualified transfers are certain medical expenses and tuition that you pay on behalf of others. Payments must be made directly to the medical or educational provider, and other requirements apply.
- **Annual gift tax exclusion:** The annual gift tax exclusion allows you to exclude gifts of up to \$14,000 per year made to each and every person or organization. Certain requirements must be met to qualify for this exclusion.

Tip: The annual gift tax exclusion is indexed for inflation, so it may change in future years.

Technical note: While the applicable exclusion amount (or basic exclusion amount; sometimes referred to as an exemption) indicates the amount of property that can be sheltered from federal gift or estate tax by the unified credit, the applicable exclusion amount is not actually an exclusion (or exemption). So do not reduce the amount of gifts by the applicable exclusion amount. Instead, the unified credit is subtracted below as a credit against tax.

The following deductions are allowed:

- **Unlimited marital deduction:** The unlimited marital deduction lets you deduct the value of property you give to your spouse for gift tax purposes. Although this deduction is unlimited, only certain property interests qualify, and certain conditions and requirements must be satisfied.

Tip: Transfers to non-U.S. citizen spouses do not qualify for the unlimited marital deduction, but may qualify for a \$148,000 (in 2016, \$147,000 in 2015) annual exclusion. This exclusion is indexed for inflation.

- **Charitable deduction:** The entire value of property you give to charity is deductible for gift tax purposes. The gift must be to a qualifying organization and must be for a public purpose. Gifts to individuals, no matter how needy, do not qualify. Certain conditions must be met to qualify for this deduction, but the amount is not limited as it is with the income tax deduction.

This is what your calculation should look like at this point:

Gifts in Current Year
- Exclusions and Deductions
Taxable Gifts in Current Year

Calculating the tentative gift tax

As noted earlier, exclusions and deductions are subtracted from current gifts, resulting in current taxable gifts. The current taxable gifts are then added to your prior taxable gifts, resulting in your cumulative taxable gifts.

A tentative tax is calculated on your cumulative taxable gifts, as well as on your prior taxable gifts. The tax is calculated under the Unified Tax Rate Schedule (see below) for gift tax and estate tax, which is graduated. A tentative gift tax is calculated by subtracting the gift tax on prior taxable gifts from the gift tax on cumulative taxable gifts.

In general, as a result of calculating tax this way, the larger the value of your cumulative transfers, the greater is the tax rate on your latest transfer.

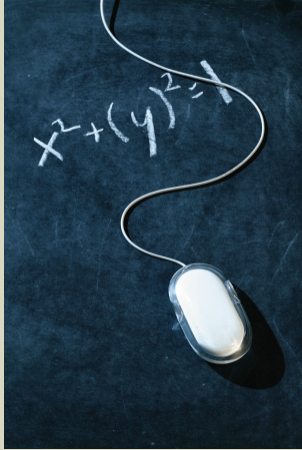
This is what your calculation should look like at this point:

Gifts in Current Year
- Exclusions and Deductions
Taxable Gifts in Current Year
+ Taxable Gifts in Prior Years
Cumulative Taxable Gifts
Tax on Cumulative Taxable Gifts
- Tax on Prior Taxable Gifts
Tentative Gift Tax

Deducting the unified credit

Once your tentative gift tax has been calculated, the unified credit is applied against the tax. The unified credit available is reduced to the extent that you have previously used it on prior taxable gifts.

- **The unified credit:** This credit (\$2,125,800 in 2016, \$2,117,800 in 2015) allows you to pass an amount referred to as the basic exclusion amount (formerly known as the applicable exclusion amount) free from gift and estate tax. This lifetime exclusion (which is sometimes referred to as an exemption) effectively exempts \$5,450,000 (in 2016, \$5,430,000 in 2015) from gift tax and estate tax. For 2011 and later years, the exclusion amount is portable; that is, any exemption that is unused by the first spouse to die may be used by the surviving



A word about state death taxes

The individual states also impose their own "death taxes," in the form of an estate tax or an inheritance tax, or both. Whether your estate will be subject to state death taxes depends on the size of your estate and the tax laws in effect in the state in which you are domiciled. Some states also impose a separate gift tax.



spouse for gift tax and estate tax. [Technically, the Internal Revenue Code refers to the portable unused exemption as the deceased spousal unused exclusion amount (DSUEA).]

This is what your calculation should finally look like:

- Gifts in Current Year**
- Exclusions and Deductions
- Taxable Gifts in Current Year**
- + Taxable Gifts in Prior Years
- Cumulative Taxable Gifts**
- Tax on Cumulative Taxable Gifts
- Tax on Prior Taxable Gifts
- Tentative Gift Tax**
- Unified Credit
- Gift Tax Owed**

Achieving peace of mind

Although estimating gift tax can be complicated, you can do it if you proceed step by step. Estimating gift tax and estate tax is an important step in formulating and implementing a successful estate plan, and the peace of mind that comes with that should be worth your time and trouble.

Federal Gift and Estate Exemption Limits and Tax

For 2016, there is a \$5,450,000 gift and estate tax basic exclusion amount, the estate of a deceased spouse can transfer any unused applicable exclusion amount to the surviving spouse, and the top gift and estate tax rate is 40%.

Year	Amount effectively exempted from federal gift and estate tax	Highest federal gift and estate tax rates
2015	\$5,430,000 plus DSUEA*	40%
2016	\$5,450,000 plus DSUEA*	40%

*Basic exclusion amount plus deceased spousal unused exclusion amount (exclusion is portable for 2011 and later)



A word about generation-skipping transfer (GST) tax

GST tax is an additional tax imposed on property you transfer to an individual who is two or more generations below you (e.g., a grandchild or great-nephew). A flat tax rate equal to the highest estate tax rate then in effect is imposed on every generation-skipping transfer you make over the GST tax exemption, which is \$5,450,000 (in 2016, \$5,430,000 in 2015).

Some states also impose their own GST tax.

Gift and Estate Tax Rate Schedule

For 2011 and later years, the credit shelter amount is portable; that is, any exemption that is unused by the first spouse to die may be used by the surviving spouse for gift and estate tax purposes.

2015 and 2016 Gift and Estate Tax Rate Schedule

Taxable Gift/Estate	Tentative Tax Equals	Plus	Of Amount Over
\$0 - \$10,000	\$0	18%	\$0
\$10,000 - \$20,000	\$1,800	20%	\$10,000
\$20,000 - \$40,000	\$3,800	22%	\$20,000
\$40,000 - \$60,000	\$8,200	24%	\$40,000
\$60,000 - \$80,000	\$13,000	26%	\$60,000
\$80,000 - \$100,000	\$18,200	28%	\$80,000
\$100,000 - \$150,000	\$23,800	30%	\$100,000
\$150,000 - \$250,000	\$38,800	32%	\$150,000
\$250,000 - \$500,000	\$70,800	34%	\$250,000
\$500,000 - \$750,000	\$155,800	37%	\$500,000
\$750,000 - \$1,000,000	\$248,300	39%	\$750,000
\$1,000,000 -----	\$345,800	40%	\$1,000,000
Credit shelter amount	Credit amount		
\$5,430,000 in 2015	\$2,117,800 in 2015		
\$5,450,000 in 2016	\$2,125,800 in 2016		

IMPORTANT DISCLOSURES

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