



Gift vs. Estate Taxes: Is It Always Better to Give ...?

Maybe it's true that it is better to give than to receive. But *when* to give is a question that tax and valuation experts often ponder. Should an asset be gifted during the owner's lifetime to reduce the value of his or her estate? Or should the owner hold onto a particular asset and gift another one?

Of course, the answer depends on the nature and value of the asset and the valuation date. Gift tax is computed on a cumulative basis. Under current law, an individual, during his or her lifetime, can transfer taxable gifts up to \$1 million without incurring gift tax. There is also an annual gift tax exclusion covering assets of up to \$12,000 given to any one person. This amount increased from \$11,000 beginning in 2006.

Currently, estates enjoy a one-time tax exclusion on values up to \$1.5 million, with this exclusion increasing to \$3.5 million by the year 2009. The federal estate tax is completely repealed in 2010. In 2011, the current rules indicate a reversion to the pre-2001 tax exclusion on values of up to \$1 million.

What It's Worth

When? Assets are valued differently at different times. For gift tax purposes, assets are valued when given. For estate tax purposes, assets are valued at the time of owner's death *or* six months after death.

How? Assets are valued differently depending on whether they represent a controlling interest or a minority interest. For the purposes of estate tax, value is determined at the decedent's level, so a controlling interest receives less discount in a valuation. Even if the owner has a minority interest but is bequeathing it in a way that will then give the recipient controlling interest, the asset should still be treated as a minority interest.

In terms of gift tax, gifts are valued at the recipient's level. Thus, a controlling interest divided into minority interests among several recipients is considered a minority interest for gift tax purposes.

At what rate? Gifts are subject to the same tax rates as estates through 2009. After that, the gift tax rate will equal the highest marginal income tax rate. But as of 2004, the applicable credit and exclusion amounts for estate and gift taxes are no longer unified.

As noted in the chart below, for gift tax purposes, an applicable credit amount of \$345,800 is allowed against cumulative taxes on lifetime gifts, offsetting the tax on the first \$1 million in gifts. For estate tax transfers, the applicable credit for 2006 is \$780,800, offsetting the tax on the first \$2 million.

Applicable Credit Amounts

ESTATES

For Transfers Made in:	The Credit is:	Taxable Estate Equivalent
1987-1997	\$192,800	\$600,000
1998	\$202,050	\$625,000
1999	\$211,300	\$650,000
2000-2001	\$220,550	\$675,000
2002-2003	\$345,800	\$1,000,000
2004-2005	\$555,800	\$1,500,000
2006-2008	\$780,800	\$2,000,000
2009	\$1,455,800	\$3,500,000

GIFTS

For Transfers Made in:	The Credit is:	Taxable Gift:
1987-1997	\$192,800	\$600,000
1998	\$202,050	\$625,000
1999	\$211,300	\$650,000
2000-2001	\$220,550	\$675,000
2002 & thereafter	\$345,800	\$1,000,000

Source: PPC's Guide to Practical Estate Planning, May 2005

Estate and gift tax laws change regularly. But one premise is clear: From a tax-savings

standpoint, if making gifts today, choose assets that have the most potential to increase in value. By doing so, maximum value is removed from the estate.

And although current law contains exclusion amounts through 2009, no one can predict what Congress will do in the meantime. At this point, it seems that lifetime gifts are the way to go — but professional planning is vital both to reduce gift and estate tax burdens and to stay apprised of potential changes in the law.

For more information on the application of estate and gift taxes, please contact our firm today.