MATSUMURA LAW FIRM

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How The Gift Tax Works

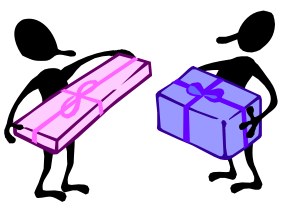
Giving a gift to your friends and family is a noble and wonderful thing, but you need to know the gift tax laws so your gift won't get you in trouble. The federal government (IRS) regulates and taxes transfers of wealth. So if your gift is over a certain dollar value (in cash or in kind), you may need to report it to the IRS. Here are some gift tax rules you should pay attention to. . ..

1. Unlimited Marital Deduction.

The unlimited marital deduction excludes all gifts made from one spouse to another from the federal gift tax. Therefore, you do not need to worry about gift taxes for interspousal gifts.

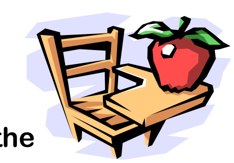
2. Annual Gift Tax Exclusion.

The annual gift tax exclusion is the dollar value which you can gift to a donee in any one year which will be free from gift tax. The annual gift tax exclusion amount for 2008 is $12,000. Thus, a mother with three children can gift a total of $36,000 ($12,000 each) to them each year free of gift tax consequences. If the only gifts made during a year are excluded in this fashion, the donor has no need to file a federal gift tax return (IRS Form 709). If annual gifts during one year exceed $12,000 to one donee, the exclusion covers the first $12,000 and the excess is considered a "taxable gift". If a donor has "taxable gifts" in any one year, the donor must file a gift tax return for that year.



3. Gift Tax Return (IRS Form 709).

The federal gift tax return for any calendar year is due on April 15th of the following year. The filing deadline can be extended for six months to October 15th. However, if any tax is due, the tax must be paid by April 15th. The tax return is filed by and any tax is paid by the donor. The donee does not have to file or pay any tax. There is no California gift tax - the gift tax is only federal.



4. Unlimited Gift Tax Exclusion for Direct Medical & Tuition Payments.

Payments of medical expenses and tuition for another person is a gift for federal gift tax purposes. However, if you make such gifts *directly to the service providers*, the amounts are all excluded from gift tax. In fact, you can give an unlimited amount of money directly to the medical and educational providers without ever having to file a gift tax return. You just must make sure the payments go directly to the provider and do not go to the person receiving the medical and/or eductional services.

5. Lifetime Unified Credit for Taxable Gifts.

As mentioned above, amounts gifted in excess of $12,000 per person is a "taxable gift". These taxable gifts are reported to the IRS on a gift tax return. However, the taxable gift, although it must be reported, may not be subject to any gift tax. There is a "lifetime unified credit" for gifts that wipes out the gift tax liability on the first $1 million of taxable gifts that you make during your life. Please note that any reduction of your gift tax credit likewise reduces your estate tax credit (thus, called a "unified" credit). To the extent that you use the gift tax credit against a gift tax liability, the unified credit is reduced (or eliminated) for use against the federal estate tax at your passing. And while the estate tax is currently scheduled for repeal in 2010, the gift tax is not.