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Minimize Gift Tax When Transferring Money to Loved Ones in the U.S.

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Q: What is the best way for my parents in China to give me money for buying a house in the United States?

My parents in China are ready to transfer $20,000 to me as a gift because my boyfriend and I plan to buy a house together. So far though, I'm just in the U.S. on a visitor's visa. How should I handle this to minimize tax on the gift? Should I ask them to transfer it into my boyfriend's bank account?

A: Having your parents transfer $20,000 to a bank account inside the U.S. is not necessarily a good idea from a gift tax standpoint. If you are here in the US on a visa (rather than a green card), it might be a better idea for them to transfer the money to you in China (for example, to your bank account in China, assuming you have one). That way the entire gift takes place "offshore", and would not be subject to US gift taxes.

Examples

Here is a sketch of three possible scenarios**:**

- Scenario 1: Having your parents make one $20,000 transfer to a bank account inside the U.S. -- since gift tax limit is $13,000, your parents would owe gift tax on the remaining $7,000. They would need to file a gift tax return (Form 709) and if the cumulative amount of the gifts exceeded $60,000 then they would have to write a check to the IRS.
- Scenario 2: Having each of your parents transfer $10,000 to a bank account inside the U.S. -- since each transfer is under the $13,000 limit, your parents would not owe gift tax.

- Scenario 3: Having your parents make the transfer to your bank account in China -- there is no limit on the transfer amount, but you may have to report the existence of the account under the "FBAR" rules if you are required to file a US income tax return

An FBAR is a Report of Foreign Bank and Financial Accounts. U.S. tax law requires that this report be filed by "any United States person who has a financial interest in or signature authority or other authority over any financial account in a foreign country, if the aggregate value of these accounts exceeds $10,000 at any time during the calendar year."

Even though your parents are non-resident aliens for US tax purposes, if they make the gift in the U.S. (by depositing it to a U.S. bank, for example) they are subject to the $13,000 annual gift tax exclusion -- they would also have to pay gift tax on the difference. Therefore, another suggestion would be for your father to gift $10,000 to you and then for your mother to separately gift $10,000 to you. That way, each gift would qualify for the gift tax exclusion under US laws.

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