Spouses Should Be Aware of ‘Gift-Splitting’ Criteria when Gifting Assets

by Frank L. Brunetti on August 26, 2013

Lawmakers' decision to both set the estate tax at $5.25 million for 2013 and increase the annual gift tax to $14,000 has been a welcomed sigh of relief for many affluent individuals and business owners. The gift tax, in particular, has historically been a key strategy Americans have used to transfer wealth to future generations and lower their taxable estate or tax liability.

Couples who file jointly have the added advantage of doubling the amount they can gift to individuals at a tax-free rate, enabling them to extend $28,000 in cash or assets to loved ones. However, when one spouse chooses to extend a gift to another person, a scenario known as "gift-splitting" should be discussed to help them avoid federal gift taxes. Gift-splitting works as follows: If an individual or their spouse makes a gift to someone else, that gift can be considered for tax purposes as having been made half by the gifter and half by his or her spouse.

However, the IRS dictates that both individuals must agree to split the gift. This means that either spouse or the couple together could make a gift of up to $28,000 to any person and not be subject to the gift tax, so long as they both agree to it. If they do, they can each can take the annual exclusion for their part of the gift. However, the tax agency also notes that if they split the gift they made, they must file a gift-tax return to show that the individual and their spouse agrees to use gift splitting. The filing requirement is the case even if half of the split gift is less than the annual exclusion.

When gifting large amounts to children or other beneficiaries and utilizing the gift-splitting rule, it may be helpful for spouses to speak with a tax professional to understand their obligations.