

GIFTING BETWEEN SPOUSES

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Generally, when clients make gifts, they make them to their children and grandchildren in an amount that is completely free from the gift tax (currently in an amount equal to \$13,000 per year). However, you may use the same logic to make gifts between spouses. The best part...you do not lose control of the money and it passes to your beneficiaries free from the estate tax. It must be done correctly though.

First, set up an irrevocable trust, where the donor spouse is the trustmaker and the other spouse, the donee, is the beneficiary. The donee spouse may also be the Trustee so you do not lose any control over the assets. The Trustee then may pay out of the trust for the beneficiary's health, education and maintenance. By limiting the distributions to this standard, the assets held in the irrevocable trust are asset protected for the beneficiary. Further, the trust is generally structured as a grantor trust, meaning that the income taxes that would be owed by the trust are actually paid by the trustmaker. By structuring it as a grantor trust, then the assets in the trust will grow income tax free as well! In my next blog, I will discuss the rules that apply to transfers to the trust as there are specific requirements for gifts between spouses to ensure that they are free from gift taxes.

To learn more about spousal gifting, please [consult with an estate planning attorney](#)