

## You can't take it with you . . .

Giving gifts during your lifetime can be an important part of your overall estate plan. While often used to provide for and protect family members, friends, and organizations, lifetime gifting allows you to enjoy the results of your gift while still alive, pay for education or medical needs of others, and fulfil charitable and altruistic inclinations. Also, gifting can provide for a smooth transition of a small or family-owned business to family members. Finally, giving while alive may also serve important estate planning goals by reducing your gross taxable estate and shifting future appreciation and income to the recipient (usually in a lower tax bracket).

In some circumstances, however, lifetime gifting may offer some disadvantages. You will lose control over the gift once given - an important consideration in the passing of family business. The gift may also reduce the recipient's ambition and industriousness. Some donors fear loss of personal attention from the recipient and feel that the threat of recision increases the incentive to visit. In extreme cases, excessive gifting may cause a reduction in estate liquidity, even leaving insufficient funds to pay estate taxes.

Defined as a voluntary transfer of an interest in property for little or no value, your gift must be intentional and the recipient must be aware of it. Your gift is only complete when you give up all rights to rescind it and surrender dominion and control, and there should be either physical or symbolic delivery (as in a stock certificate or deed to property). Also, the interest in the property must be in the present and not a future or contingent interest.

Currently, spousal gifts qualify for an unlimited marital deduction (assuming citizenship). Additionally, the annual exclusion was increased this year, meaning you can give up to

\$12,000 each to an unlimited number of recipients. A married couple can give up to \$24,000 as long as both spouses consent (requiring an IRS form 709). Be careful, however, when giving a \$12,000 gift as any additional gifts (including birthday and Christmas presents, dinners, etc.) will be taxable to the donor. In addition to the \$12,000 per year, you may give up to \$1 million away tax free - any gift tax due can be applied against this amount.

There is also a unlimited charitable gift deduction to qualified charities. In addition to removing assets from your estate, you may gain a current year income tax deduction. And if you are considering giving money to another for paying either medical costs or tuition - reconsider. Unlimited medical and educational exemptions mean tuition payments (but not room, board, or living expenses) made directly to educational institution or medical treatments paid directly to provider (including health insurance payments) are tax exempt.

So, not only can you not take it with you, but there are many excellent reasons to give it away before you leave!

*This information is general information only and not legal opinion or advice, nor a complete discussion of estate planning issues. This refers to Maryland law - your state's provisions may differ. Seek independent legal advice from an attorney for specific information. Tax advice is not intended and cannot be used for the purpose of avoiding penalties imposed under the Internal Revenue Code or by any other applicable tax authority or promoting, marketing or recommending to another party any tax-related matter.*

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