

What's New

The provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 made a number of changes to the estate tax and the gift tax rates and to the applicable exclusion amounts.

- The top marginal tax rate applicable to estates and gifts decreased from 46 percent in 2006 to 45 percent in 2007, and will remain at that rate through 2009.
- The estate tax has been repealed for 2010, and the highest gift tax rate will be decreased to 35 percent for 2010. The changes to the applicable exclusion amounts are discussed later in this publication.
- The provisions for these changes are currently set to expire for estates of decedents dying and gifts made after December 31, 2010.

Introduction

If you give someone money or property during your life, you may be subject to federal gift tax. The money and property you own when you die (your estate) may be subject to federal estate tax and the gross income of your estate may be subject to federal income tax. The purpose of this publication is to give you a general understanding of when these taxes apply and when they do not. It explains how much money or property you can give away during your lifetime or leave to your heirs at your death before any tax will be owed. Gifts you make during your life or bequests from your estate can also be subject to the generation-skipping transfer (GST) tax, if the gifts or bequests are to a person, such as a grandchild, who is more than one generation younger than you.

No tax owed. Most gifts are not subject to the gift tax and most estates are not subject to the estate tax. For example, there is usually no tax if you make a gift to your spouse or to a charity or if your estate goes to your spouse or to a charity at your death. If you make a gift to someone else, the gift tax usually does not apply until the value of the gifts you give that person exceeds the annual

exclusion for the year. See *Annual exclusion* under *Gift Tax*, on page 6.

Even if tax applies to your gifts or your estate, it may be eliminated by the unified credit, discussed later. However, many estates are subject to federal income tax. See *Income Tax on an Estate* on page 12.

No return needed. Gift tax returns are filed annually. However, you generally do not need to file a gift tax return unless you give someone, other than your spouse, money or property worth more than the annual exclusion (discussed on page 6) for that year, or a gift not subject to the annual exclusion. An estate tax return generally will not be needed unless the estate is worth more than the applicable exclusion amount for the year of death. This amount is shown in the table under *Unified Credit (Applicable Exclusion Amount)*, later.

No tax payable by the person receiving your gift or bequest. Generally, the person who receives your gift or your bequest will not have to pay any federal gift tax or estate tax because of it. Also, that person will not have to pay income tax on the value of the gift or inheritance received. However, covered gifts or bequests received from expatriates after June 16, 2008, may be subject to tax. Consult your tax adviser for more information.

No income tax deduction. Making a gift or leaving your estate to your heirs does not ordinarily affect your federal income tax. You cannot deduct the value of gifts you make (other than gifts that are deductible charitable contributions).

What this publication contains. If you are not sure whether the gift tax, the estate tax, the income tax, or the GST tax applies to your situation, the rest of this publication may help you. It explains in general terms:

- When tax is not owed because of the unified credit,
- When the gift tax does and does not apply,
- When the estate tax does and does not apply,