

FREQUENTLY ASKED QUESTIONS REGARDING GIFT TAX

TO: Our Gift Tax Clients

FROM: VINCENT J. RUSSO & ASSOCIATES, P.C.

RE: Frequently Asked Questions Regarding Gift Tax Returns

1. Why am I required to file a Gift Tax Return?

If you gave away \$12,000 or more to someone (other than your spouse) or to an Irrevocable Trust, then you have to file a gift tax return.

2. Will I owe any Federal Gift Tax?

It depends. The gift tax calculation is based upon the amount of your gift and whether you have made prior taxable gifts. Generally, you will not owe any gift tax with your return if you gave away less than \$1,000,000 during your lifetime.

3. I've heard that I have a \$1,000,000 "lifetime exclusion". What does this mean?

All U.S. citizens, either during their lifetime, or upon their passing, are entitled to transfer a certain dollar amount of assets to their heirs, free of any transfer taxes (i.e., Gift Tax or Estate Tax). In New York, that dollar amount is presently \$1,000,000 per person.

4. What impact will this have on my personal income tax return?

None. The gift tax return is a completely separate tax return from your personal income tax return. It does not have to be reported on your Form 1040.

5. Do I have to wait until I receive my Gift Tax Return in order to file my personal income tax return?

No.

6. Can I take an income tax deduction for a gift I made?

No. You cannot take an income tax deduction unless you made a gift to a qualified charity.

7. Will the recipient of my gift owe any tax?

Generally, no. However, if you owe a gift tax and if you do not pay the tax, then the recipient will be held responsible for the tax.

8. I signed a new deed to my house last year. Is that a gift?

Yes. If you transferred your home to someone other than a spouse (for example: to your children or to an Irrevocable Trust) for less than full consideration (full fair market value), then this transfer is a gift which must be reported in your gift tax return.

9. I changed the ownership of my life insurance policy. Is that a gift?

Yes. The Fair Market Value (FMV) of the gift is equal to the *Cash Surrender Value* of the policy on the date that the ownership of the policy was changed. Your insurance company will provide you with this information when you call their customer service number and request Form 712.

10. I changed the beneficiary of my life insurance policy. Is that a gift?

No. This is merely a change of beneficiary and not a change of ownership.

11. I made a gift of real estate last year. What other information do I need to send you?

You will need to send us:

(A) either (i) an appraisal prepared by a certified real estate appraiser; or (ii) a real estate broker letter containing a comparative market analysis, which sets forth the fair market value of the real estate *as of the date the deed was signed* (not as of today's date).

Please call us if you need a real estate broker to assist you in this regard so that we may recommend someone to assist you.

(B) You also must provide us with your adjusted cost basis in the real property. Please see the enclosed Memorandum regarding Calculation of Tax Basis in Real Property.

12. I gifted stocks and/or mutual funds last year. What additional information do I need to provide to you?

We need the following information so that we may complete the gift tax return:

Example:

<u>Description of Gift</u>	<u>Date</u>	<u>Cost Basis</u>	<u>Fair Mkt Value of Gift</u>	<u>Donee (Recipient)</u>
100 shares IBM	3/15/07	\$1,500	\$4,000	my son Richie
1610 units Janus Mercury Fund	4/9/07	\$2,000	\$3,200	Smith Irrevocable Trust

13. Do I have to list all gifts that I made, even if they are less than \$12,000 per person?

Yes. Please fill out the enclosed Gift Tax Questionnaire listing all gifts that you made during the calendar year, *even if the gifts were less than the \$12,000 annual exclusion*. If a return needs to be filed, we will list these gifts showing that they qualify for the annual exclusion.

14. Will I owe any NYS Gift Tax for gifts that I made this year?

No. New York repealed its gift tax law effective January 1, 2000. However, if you are filing for a gift made prior to that date, then New York State Gift Tax may be due.

Prepared by: **Vincent J. Russo & Associates, P.C.**
Attorneys and Counselors at Law

3740 Expressway Drive South Islandia, NY 11749 (631) 582-1919	1600 Stewart Avenue Westbury, NY 11590 (516) 683-1717	7600 Jericho Turnpike, Suite 110 Woodbury, NY 11797 (516) 682-8282	250 Lido Boulevard Lido Beach, NY 11561 (516) 897-7100
---	---	--	--

© December 2007, VINCENT J. RUSSO & ASSOCIATES, P.C.

N:\LEGAL\gifttax\forms\FAQ.wpd