



WILLS, TRUSTS & ESTATES: PLAIN & SIMPLE

Annual Exclusion Gifts

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Many people like to take advantage of making “annual exclusion gifts” each year as part of their estate plan. An “annual exclusion gift” is simply a gift that qualifies for the annual exclusion from federal gift tax (\$13,000 this year and \$14,000 next year) and does not “eat into” your federal gift and estate tax exemption amount (\$5.12 million this year). The annual exclusion amount is set each year by the IRS and is indexed for inflation. [Note: New York does not have a gift tax].

Each person has their own separate annual exclusion amount to gift. They can give this amount to an unlimited number of people, whether family or not, during the course of the year. A husband and wife together can gift up to \$26,000 to each person this year (\$28,000 next year); but note that if the gift comes from just one of them, and the other spouse consents to treat the gift as made one-half by each spouse (“gift splitting”), then they must file a federal gift tax return for the gift to fall within the annual exclusion amount. Note that gifts to spouses who are U.S. citizens are not subject to the gift tax, so there’s no need to make an annual exclusion gift to them.

Annual exclusion gifts can be made with cash, stocks, bonds, portions of real estate, interests in a closely held business and forgiveness of a loan, as long as the value of the asset transferred doesn’t exceed the annual exclusion amount for that year. If you intend to transfer a portion of a closely held business (ex. LLC interest, S corp. stock) or real estate, you are well advised to obtain a professional appraisal of the asset gifted and to file a gift tax return reporting this gift so that the statute of limitations runs (3 years from the date of filing the return). This prevents the IRS from later claiming that the gift was worth more and imposing a gift tax when that gift is discovered.

Making an annual exclusion gift is the most simple form of estate planning, and you should take advantage of this tool if your goal is to reduce your taxable estate and share your wealth with others.

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