

Attorney Timothy P. Crawford, CPA, CELA*, CAP**
wanted to share this information you.

Unwrapping the Confusing Gift Tax Rules

GREATER MILWAUKEE AREA OFFICES IN BROOKFIELD, GLENDALE, MILWAUKEE, OAK CREEK & RACINE

Your Asset Protection Law Firm

840 Lake Avenue, Suite 200
Racine, WI 53403
(262) 634-6659

E-mail: tpc@execpc.com
Website: www.TpcLaw.com

The rules surrounding taxes on gifts often create confusion. Below are some of the nuts and bolts of the gift tax, including when a gift tax form needs to be filed.

The annual gift tax exclusion for 2006 was \$12,000. This means that any person who gave away \$12,000 or less to any one individual (anyone other than their spouse) does not have to report the gift or gifts to the IRS. Any person who gave away more than \$12,000 to any one person, however, will have to file a Form 709, the gift tax return. But just because you file a Form 709 doesn't mean you necessarily have to pay taxes; this depends on your past gift-giving history.

The IRS allows you to give away a total of \$1 million during your lifetime before a gift tax is owed. This \$1 million exclusion means that even if you have to file a Form 709 because you gave away more than \$12,000 to any one person last year, you will owe taxes only if you have given away more than a total of \$1 million in the past. As a result, the filing of a Form 709 is only a formality for most people.

Keep in mind that any part of the \$1 million credit that is reported on the gift return actually counts against your overall federal estate tax exclusion, which is \$2 million this year. So that means if you give away \$1 million during your lifetime, upon your death your estate may only exclude \$1 million from taxes, not \$2 million.

However, there are several ways to give away more than \$1 million over a lifetime without owing taxes. Keep in mind that Form 709 is only required when you give away more than the annual exclusion. So a married couple with a married child can give away \$48,000 in one year without having to report the gift: each parent gives the child and the child's spouse \$12,000 each. If a couple did this for 25 years, they would have given away \$1.2 million without even having to report the gifts, much less having them count against their lifetime \$1 million exclusion. Also it would be possible for the couple to give away \$96,000 within a short span of time -- \$48,000 in December and \$48,000 in January of the next calendar year. (Note that if both spouses have made gifts, each must file a separate Form 709.)

Another way for a gift to be exempted from reporting requirements – no matter the gift's size -- is to pay for someone else's medical care or educational tuition. It is important to note that the money must be paid directly to the school, university or health care provider to be exempt, and that pre-payments can often be made as soon as the person is admitted to the school (schools include not just colleges but nursery schools, private grade schools, or private high schools). However, if you contribute to someone else's 529 college savings plan, you are subject to the \$12,000 gift exclusion rule. A special regulation in the tax code enables a donor to use up five years' worth of her exclusions and gift \$60,000 to a 529 at one time.

If you have given away property other than money, like stock, you have to report that on your gift return, too, if the value is more than \$12,000. If the stock had gone up in value since you bought it, you report the value as of the date that you gave it away. You may want to inform the recipient that the basis, or the amount that you bought the stock for, becomes their basis. The basis is used when the property is sold to determine the profit or loss.

Finally, tax deductible gifts made to charities need not be reported on a gift tax return unless the donor retains some interest in the gifted property.

*This article is not intended as legal advice. It is basic information. I would recommend that you call Attorney Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Timothy P. Crawford can be reached toll-free at 1-888-634-6675. When you call in, please mention the fact that you have read this article. Attorney Timothy P. Crawford is a Board Certified Elder Attorney. He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

**“Those Who Plan Ahead Win.
Those Who Don't Plan Ahead Lose.”**

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*Attorney Timothy P. Crawford is a Nationally Board Certified Elder Law Attorney (**CELA**). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

Timothy P. Crawford was invited to join the Council of Advanced Practitioners (CAP**) of the National Academy of Elder Law Attorneys (**NAELA**) in August of 2005. **CAP** is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client's Choice Award.

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