



ESTATE AND GIFT TAX COUNSELING FOR THE ELDERLY

The federal estate and gift taxes affect transfers of property at different stages in the owner's life. The gift tax applies to lifetime transfers, while estate tax is imposed on transfers at death. The gift tax return is due on April 15 following the year in which the gift is made. Generally, the estate tax return is due nine months after the date of death. You can get a six-month extension if you ask for one before the due date and the estimated correct amount of tax is paid before the due date. The federal government imposes estate tax at your death only if your prop-

erty is worth more than a certain amount, which depends on the year of death.

Federal Estate Tax

Estate tax is a tax on your right to transfer property at your death. It consists of an accounting of everything you own or have certain interests in at the date of death. The fair market value of the items is used, not necessarily what you paid for them or what their values were when you acquired them. The total of all of these items is your "gross estate." The includible property may

consist of items such as cash and securities, estates, insurance, trusts, annuities, business interests and other personal assets.

Once you've accounted for the gross estate, certain deductions are allowed in arriving at your "taxable estate." This will be the amount where the tax is calculated. The deductions may include mortgages and other debts, estate expenses, property that passes to surviving spouses and qualified charities.

As soon as the net amount is computed, the value of lifetime taxable gifts is added to this number and the tax is computed. The tax is then reduced by the available unified credit, applying to both the gift and estate tax to eliminate or lower taxes.

Property Exempt from Estate Tax

All property left to a spouse is exempt from the tax, as long as the spouse is a U.S. citizen. Also, there is no estate tax on any property you leave to a tax-exempt charity.

State Death Taxes

In addition to the federal estate tax, a state death tax may be imposed. There are two types of these taxes: inheritance taxes and estate taxes. Inheritance taxes are paid by your inheritors, not your estate. Typically, how much they pay depends on their relationship to you. State estate taxes are similar to the estate tax imposed by the federal government. Your estate must pay this tax no matter who your beneficiaries are.

The Federal Gift Tax

The gift tax is a tax on the transfer of property by one individual to another while receiving nothing, or less than full value, in return. The tax applies whether the donor intends the transfer to be a gift or not. If you sell something at less than its full value or if you make an interest-free or reduced-interest loan, you may be making a gift.

While a gift tax return must be filed whenever an individual makes a taxable gift, a gift tax is not payable unless total taxable gifts, both in the current and prior years, exceed \$1 million. A separate annual exclusion applies to each person to whom you make a gift.

Gifts that fall under the annual exclusion have no tax consequences. This means that the gift giver's lifetime unified credit is not affected.

DAVID N. ADLER, ESQ.



TRUSTS & ESTATES,
TAXATION, ESTATE
LAW PLANNING

David N. Adler has maintained a prominent estates, wills and trusts practice for over 25 years with particular emphasis on interacting directly with clients in resolving their estate problems. His practice has encompassed all facets of probate and administration proceedings, preparation of wills

and trusts, transfer tax planning and kinship. He has served as President of the Queens County Bar Association, and for the past 20 years has served as Chairman of its Trusts and Estates Section. Mr. Adler has hosted a show on Public Television entitled "Planning your Estate." Additionally, Mr. Adler's participation on the New York State Bar Association's Executive Committee for Trusts and Estates is further evidence of his commitment to his chosen field.

Mr. Adler has written numerous articles encompassing various aspects of estates practice, and has been published in *The New York State Bar Journal*, *The New York Law Journal*, and *The Queens Bar Bulletin*. His work in the area of kinship has incorporated extensive genealogical research in the representation of resident and foreign individuals. Mr. Adler remains proud of his AV Preeminent® rating by Martindale-Hubbell® and has also been selected for inclusion in Who's Who in American Law.

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Questions for Your Attorney

Before meeting with your attorney, prepare yourself with questions such as:

- Will my estate be subject to state death tax?
- What is the best way to leave money or property to charity?
- Must I pay any taxes on property which I leave to my spouse? Should I instead create a trust?