If you made gifts last year, you may (or may not) need to file a gift tax return

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Gifting assets to loved ones is one of the simplest ways of reducing your taxable estate. However, what may not be as simple is determining whether you need to file a gift tax return (Form 709). With the April 17 filing deadline approaching, now is the time to find out an answer.

Return required

A federal gift tax return (Form 709) *is* required if you:

- Made gifts of present interests — such as an outright gift of cash, marketable securities, real estate or payment of expenses other than qualifying educational or medical expenses (see below) — *if* the total of all gifts to any one person exceeded the $14,000 annual exclusion amount (for 2017);
- Made split gifts with your spouse;
- Made gifts of present interests to a noncitizen spouse who otherwise would qualify for the marital deduction, *if* the total exceeded the $149,000 noncitizen spouse annual exclusion amount (for 2017);
- Made gifts of *future* interests — such as certain gifts in trust and certain unmarketable securities — in any amount; or
- Contributed to a 529 plan and elected to accelerate future annual exclusion amounts (up to five years' worth) into the current year.

Return not required

No gift tax return is required if you:

- Paid qualifying educational or medical expenses on behalf of someone else *directly* to an educational institution or health care provider;
- Made gifts of present interests that fell within the annual exclusion amount;
- Made outright gifts to a spouse who's a U.S. citizen, in any amount, including gifts to marital trusts that meet certain requirements; or
- Made charitable gifts and aren't otherwise required to file Form 709 — if a return is otherwise required, charitable gifts should also be reported.

If you transferred hard-to-value property, such as artwork or interests in a family-owned business, consider filing a gift tax return even if you're not required to. Adequate disclosure of the transfer in a return triggers the statute of limitations, generally preventing the IRS from challenging your valuation more than three years after you file.

In some cases it's even advisable to file Form 709 to report *nongifts*. For example, suppose you sold assets to a family member or a trust. Again, filing a return triggers the statute of limitations and prevents the IRS from claiming, more than three years after you file the return, that the assets were undervalued and, therefore, partially taxable.

Please contact us if you made gifts last year and are unsure if you should file a gift tax return.

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