

## A Guide to the Federal and Connecticut Gift Taxes

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**Introduction:** Many people are not aware that the transfer of property by gift, including the transfer of real estate, may be subject to Federal and Connecticut gift taxes. This informational publication is intended to alert you that certain transfers of property are considered gifts. If you give a gift, you may be required to file federal Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return and **Form CT-709, Connecticut Gift Tax Return**. Understanding the gift tax is important because if you are required to file a return and you do not do so, you may be charged various penalties.

Although this publication will only provide general information, it will refer you to additional state and federal publications that will assist you in complying with Federal and Connecticut gift tax requirements.

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**What is Gift Tax?** Gift tax is the tax that is imposed on the transfer of property by gift during each calendar year.

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**What Transfers of Property by Gift May Be Subject to Gift Tax?** In general, all transfers of real or personal property by gift, whether tangible (such as a car, boat or jewelry) or intangible (such as cash) that are made by you (the donor) to someone else (the donee) are subject to the gift tax.

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**When is a Transfer of Property Considered a Gift?** In general, a transfer of property is a gift if the fair market value of the property (less encumbrances) exceeds the amount received (in money or other type of payment) for the property. Therefore, if you give property to another person or entity or if you sell it (other than in the regular course of business) for less than it is worth, you may be making a gift.

**What is the Difference Between a Gift of a Present Interest and a Gift of a Future Interest?** With a gift of a *present interest* the donor is allowed an annual exclusion of \$10,000 per donee. A **present interest** gift is the unrestricted right to the immediate use, possession, or enjoyment of the property, or the income from the property.

With the gift of a *future interest*, no annual exclusion is allowed. A **future interest** gift is a gift that will begin in use, possession, or enjoyment at some future date or time.

For gifts made after 1998, an annual exclusion of \$10,000 is subject to adjustment based on the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for calendar year 1997.

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**What are Some Examples of Gifts of Real Property?** Whenever you transfer title to real estate and you receive less than the fair market value of the property (in cash or other type of payment) and the transfer is not the result of a sale in the regular course of business, you may be making a taxable gift.

**EXAMPLE 1:** John owns a vacant lot. He conveys title to the property to his son. John does not receive any money or other type of payment from his son. John has made a gift to his son equal to the fair market value of that lot. John is allowed to deduct an annual exclusion of \$10,000 from the value of gifts made to each person. If the fair market value of the lot is \$25,000, the amount of the taxable gift is \$15,000.

Gift	\$25,000
Annual Exclusion	(\$10,000)
Taxable Gift	\$15,000

**EXAMPLE 2:** Lois owns a house worth \$125,000. She sells the house to a close friend for \$25,000, a fraction of its value. She has made a gift to her friend of \$100,000, the difference between the fair market value of the house and the selling price.

Fair Market Value	\$125,000
Sales Price	(\$25,000)
Gift	\$100,000

Lois is allowed to deduct an annual exclusion of \$10,000 from the value of gifts to each person. Lois has made a taxable gift of \$90,000.

Gift	\$100,000
Annual Exclusion	(\$10,000)
Taxable Gift	\$ 90,000

**EXAMPLE 3:** Ted owns a house worth \$150,000. On October 5, 1996, Ted conveys title to the house to a close friend (non-family member) while retaining a ‘life use.’ Ted does not receive any money or other type of payment from his friend. Ted has made a gift of a *future interest* to his friend.

Because this is a gift of a future interest, Ted is not allowed to claim the annual exclusion. If Ted were to release his ‘life use’ in the future, he would be making an additional gift. For more information on valuation of these gifts, see Treasury Regulation §25.2512-5 (as amended by T. D. 8540).

**EXAMPLE 4:** Mary owns a house worth \$132,000. She conveys title to the house to her three children and retains a ‘life use.’ Mary does not receive money or any type of payment from her children. Mary has made a gift of a *future interest* to her children. Because this is a gift of a future interest to her lineal descendants, it is subject to the Special Valuation Rules (IRC §§2702 et seq.). The value of Mary’s gift determined under the Special Valuation Rules is the property’s fair market value (less encumbrances). No annual exclusions are allowed because this is a gift of a *future interest*.

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### Who Must File a Connecticut Gift Tax Return?

If you were required to file a federal gift tax return, you may also be required to file **Form CT-709**. Whether or not you must file depends upon whether you are a **resident** or a **nonresident** of Connecticut.

A Connecticut **resident** who made a gift of real or personal property during the calendar year and who is required to file federal Form 709, must file **Form CT-709** if:

- The gift is of any intangible property (such as cash); **or**
- The gift is of real or tangible personal property located in Connecticut.

A **nonresident** who made a gift of real or personal property and who is required to file federal Form 709, must file **Form CT-709** if:

- The gift is of any intangible property employed in carrying on a trade or business within Connecticut; **or**
- The gift is of real or tangible personal property located in Connecticut.

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**Who Must Pay the Tax?** The person making the gift is responsible for filing federal Form 709 and **Form CT-709** and paying the taxes due (if any). If the gift taxes are not paid when due, the person receiving the gift may have to pay the tax.

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**When Should the Returns Be Filed?** Generally, the federal Form 709 and **Form CT-709** must be filed, and the gift taxes paid, on or before April 15th annually for gifts made during the preceding calendar year.

If the donor of the gifts died during the year in which the gifts were made, the due date for filing **Form CT-709** is the same as the due date for filing federal Form 709. The federal gift tax return for a calendar year in which the donor dies must be filed not later than the **earlier** of:

- The due date (with extensions) for filing the donor’s federal estate tax return, federal Form 706; **or**
- April 15 of the year following the calendar year when the gifts were made.

**IMPORTANT:** Under this rule, if the donor died before July 15 of the year in which the gifts were made, federal Form 709 is due nine months after the date of death unless extensions are granted. Therefore, the Connecticut gift tax return is due nine months after the date of death unless extensions are granted. If the donor died after July 14, the due date for federal Form 709 (without extensions) is always April 15 of the following year. In this case, the Connecticut gift

tax return is also due on April 15. If no federal estate tax return is required to be filed, the due date for federal Form 709 and **Form CT-709** is April 15 (unless an extension of time to file has been granted).

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**What Happens if a Return is not Filed?** If you fail to file a return and pay the tax when due, you will be required to pay interest on the tax deficiency from the due date of the return and to pay any applicable penalties.

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**Effect of This Document:** An **Informational Publication (IP)** is a document that addresses frequently-asked questions about a current Department position, policy or practice.

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**Effect on Other Documents:** **IP 99(9)** supersedes **IP 94(1.1)**, *A Guide to the Federal and Connecticut Gift Taxes*.

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**Related Forms and Publications:** You may request the following publications about the Federal and Connecticut gift taxes:

Please call the Internal Revenue Service at 1-800-829-3676 to order **Form 709**, United States Gift (and Generation-Skipping Transfer) Tax Return.

To order **Form CT-709**, *Connecticut Gift Tax Return and Instructions* see Forms and Publications on this page.

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**For Further Information on Federal Gift Tax**

Please call the Internal Revenue Service at 1-800-829-1040. **TTY/TDD users only** may call 1-800-829-4059.

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**For Further Information on Connecticut Taxes**

Please call the Department of Revenue Services during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free from within Connecticut), or
  - **860-297-5962** (anywhere).
  - **TTY, TDD and Text Telephone users only** may transmit inquiries 24 hours a day by calling 860-297-4911.
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**Forms and Publications:** Forms and publications are available all day, seven days a week:

- **Internet:** preview and download forms and publications from the DRS web site: <http://www.state.ct.us/drs>
- **DRS TAX-FAX:** call **860-297-5698** from the handset attached to your fax machine and select from the menu; or
- **Telephone:** Call **1-800-382-9463** (toll-free from within Connecticut) or **860-297-5962** (anywhere) and select **Option 2** from a touch-tone phone.