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### **THE GIFT TAX EXEMPTION AND HOW TO USE IT IN YOUR ESTATE PLAN**

Did you know that when you make certain types of gifts in the form of property, equities or cash, the IRS considers it a taxable event, and imposes a “gift tax” on the transfer based upon the calculated value?

The gift tax has been around for decades. Most people consider it a double tax because you paid tax on the money when you earned it and now you have to pay taxes on it when you give it away. That’s the perception, but not necessarily the truth, in all instances. Despite imposing the gift tax, the IRS has certain exclusions (credits) that you can elect to use or not, depending on how you plan your estate. The amount of this credit varies each year.

The first credit provides for the allowance of gifting up to \$14,000.00 to as many people as you would like in any current year. And if you are married, both you and your spouse can each make a gift to the same person totaling \$28,000.00.

The second credit is known as your lifetime credit. Each person has a credit that they can chip away at during their lifetime. Currently, for 2016, the lifetime credit is \$5.45 Million dollars, and it starts after you’ve exhausted your \$14,000.00 credit. Every year that you make a gift above \$14,000.00, you can elect to file a tax return, stating the amount of the gift, the IRS keeps track and chips away at your credit.

For example, lets say you want to gift away \$100,000.00 this year to your child. The first \$14,000.00 will be a tax-free event. The balance of the gift (\$86,000.00) can be used to chip away at your lifetime exclusion. And you can do this every year for multiple people.

There are many people who aren’t aware of these tax credits or how they work. You would be surprised how many clients I have helped who are getting on in their age and have never utilized their credits. The problem is that when you die, your estate doesn’t get to use the credit, so whatever you failed to use during your lifetime is wasted and your estate then becomes susceptible to the estate tax. The gift tax credit works simultaneously with the estate tax credit. The estate tax credit and the gift tax credit are combined and referred to as the Unified Credit”. This means that whatever you chip away at on the gift tax credit, your estate loses that amount of exclusion when you die.

So how does this work with your estate plan? The amounts listed above are for the year 2016. However, each year following can result in a lower credit depending on what the current presidential administration decides. Therefore, the Five Million dollar credit you currently enjoy may not be available after 2016. You should act now, before the limits are lowered. The art of a



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good estate plan is to die with an estate with the lowest value possible. If you are older, with adult children, you should consider taking advantage of the gift tax credits by gifting to your family and friends who would normally be listed as beneficiaries of your estate.

You should be calculating your estate value and determining how much you can gift away on an annual basis without effecting your livelihood. If you have funds or property that is in excess of that amount, talk to your attorney and accountant and set forth an annual gifting schedule that allows you the benefit of avoiding the gift tax and while lowering you estate at the same time. If this is well calculated, you can very effectively lower your net worth from an estate planning perspective and take full advantage of the credits afforded to you under the tax code.

***Anthony J. Medico, Esq.,*** has practiced law for over 22 years. To ask a question for this column, or to receive Medico's free Estate Planning Survival Guide, visit his website at [www.medicoandassociates.com](http://www.medicoandassociates.com), send an e-mail to [Amedico@medicoandassociates.com](mailto:Amedico@medicoandassociates.com) or call (203) 661-8151. You can read most of his previous columns on his Greenwich Time estate planning blog on the internet. Just go to <http://www.greenwichtime.com/blogs> and scroll down until you find him under the business section. Enjoy.