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A Guide to the Gift Tax (for the Very Generous)



Ken Cedeno for The New York Times

Nadine Block and her husband, Patrick Vannebush, received money last year from her parents to help them buy their house.

By CHARLES DELAFUENTE
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WHEN you sit down to do your taxes, you remember that very generous birthday gift from your wealthy aunt, and wonder how, and where, you report it, or if it's taxable at all.

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The short answer is that you don't have to report it, because it isn't taxable — at least not to you. And what about your

aunt: If she gave you more than \$12,000, she must fill out a gift tax form, a step that Sidney Kess, a lawyer and accountant in New York, says is "not a big deal."

She may have to pay gift tax, but only if she has been extremely generous, because the first \$1 million in reported gifts over a lifetime does not activate the tax.

Anyone who gave more than \$12,000 to any one person other than a spouse last year is required to file Form 709, the gift tax return. Each Form 709 must list the amounts reported on previous years' 709s, to determine whether the giver has crossed the million-dollar threshold.

Actually, though, it's possible to give away much more than \$1 million before any tax is due, because many gifts need not be reported and are not added into the calculation that establishes the \$1 million lifetime exemption. A gift or a series of gifts that add up to

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total of \$96,000," he said.

Money paid for someone else's medical care or directly to a school or college for someone else's tuition is also exempt from reporting, regardless of the amount.

The definition of educational institution is "very broad," said Randi A. Schuster, a lawyer at Holtz Rubenstein Reminick, an accounting firm in New York City. "It can be for nursery school, private grade school, not just for what we normally think of in gifts — paying for college tuition."

Many wealthy people are using the education-funding exemption as "a pretty savvy way to reduce an estate"— and thus the estate tax due at death, Mr. Kess said. He said that the I.R.S. advised a taxpayer in a private-letter ruling last year that she could pay tuition for six grandchildren years in advance and all at once, and the gifts would be exempt.

A private-letter ruling applies only to the taxpayer who requested it, but it "gives you an idea of the government's thinking," Mr. Kess said. He said that "private schools and colleges are seeing a lot more people using that strategy" to minimize taxes, and are encouraging prepayments.

There is a caveat. Proud (and wealthy) new grandparents cannot prepay an infant's four years at Harvard, because if the child doesn't go to Harvard, the money is not refundable. school and high-school private education could be made as soon as a child is admitted to a particular school, he said.

Julian Block, a lawyer in Larchmont, N.Y., explained, "What people misunderstand is that if you give more than \$12,000 in one year to one person, yes, you have to file, but for most people it's a formality. They don't actually incur any gift tax liability" because of the gift they made.

Mr. Block used the example of a father who gave a son \$50,000 last year; \$38,000 is subject to tax. But the \$1 million exemption soaks that up — and leaves the father \$962,000 for use against future gifts. Gift tax liability — where a check has to accompany the Form 709, "is incurred only by people who are obscenely wealthy," he said.

In fact, Mr. Block and his wife, Zelda, will have to file gift tax returns this year, because they gave their daughter, Nadine Block, and her husband, Patrick Vennebush, a gift to help them buy a house in Falls Church, Va., a Washington suburb, last year.

But Mr. Block doesn't ever expect to approach the point where gift tax will be due. "I'd love to become affluent enough to have to pay the gift tax," he said. "That's unlikely to happen."

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