

LEGAL TIPS

Death and Taxes

By

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Founding Father Benjamin Franklin is credited with saying, “In life, nothing is certain except death and taxes.” Were truer words ever spoken?

Two taxes confronting Americans today are the federal estate tax and the federal gift tax. The federal estate tax has undergone changes and attempts to repeal it but it still exists.

Here are some of the key points: \$5,250,000.00 may usually pass to a non-spouse from the decedent without payment of tax; it is typically possible to pass an unlimited amount to the decedent’s surviving spouse in most cases, and; the top tax rate is 40%.

Texas used to have an “inheritance tax” but no longer does and imposes no tax upon the death of a Texan.

The federal gift tax is imposed on transfers during life rather than at death. One of the most important exceptions to this tax is known as the “annual exclusion.” This allows gifts of a certain amount and type to be made without being taxable or requiring the filing of a gift tax return. The annual exclusion amount for 2013 is \$14,000.00.

Another important exception allows for the direct payment of medical expenses and tuition. If done properly, such a payment will not be considered a gift for gift tax purposes. For example, Barney incurs a \$20,000.00 bill at the hospital but cannot pay it. His friend, Fred, offers to pay and sends a check for \$20,000 to the hospital to pay Barney’s bill. That payment will not be a gift for gift tax purposes. It is required that the payment be made directly to the provider of

the service such as the hospital or school to take advantage of this exception. Allowing Barney to deposit the check into his own account and then having him write a check to the hospital would not qualify.

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