

Estate Planning Red Flag - You Don't Understand the Rules when Splitting Gifts with your Spouse

Here's a quick estate planning tip: one of the easiest ways to reduce the size of your taxable estate is to take advantage of your gift tax exclusion. For 2025, you can transfer up to \$19,000 per recipient gift-tax-free. And you can double the exclusion to \$38,000 per beneficiary if you elect to split the gifts with your spouse.

However, it's critical to understand the rules of gift-splitting to avoid unintended — and potentially costly — mistakes. Pitfalls to avoid include:

Failing to make the election. To elect to split gifts, the donor must file a gift tax return and the nondonor must consent by checking a box on the return and signing it or, if a gift exceeds \$30,000, filing his or her own gift tax return. Once you make the election, you must split *all* gifts to third parties for the year.

Splitting gifts with a noncitizen. To be eligible for gift-splitting, one spouse must be a U.S. citizen.

Divorcing and remarrying. To split gifts, you must be married at the time of the gift. You're ineligible for gift-splitting if you divorce and either spouse remarries during the calendar year in which the gift was made.

Gifts a future interest. Gift-splitting can be used only for present interests. So, a gift in trust qualifies only if the beneficiary receives a present interest — for example, by providing the beneficiary with so-called Crummey withdrawal rights.

Benefiting your spouse. Gift-splitting is ineffective if you make the gift to your spouse, rather than a third party; if you give your spouse a general power of appointment over the gifted property; or if your spouse is a potential beneficiary of the gift. For example, if you make a gift to a trust of which your spouse is a beneficiary, gift-splitting is prohibited unless the chances your spouse will benefit are extremely remote.

Also, when splitting gifts, know that if you die within three years of splitting a gift, some of the tax benefits may be lost.