

May 27, 2021

## TRENDS TO WATCH

# Gifts and Future Tax Code Changes

*As rules shift and tax code changes appear on the horizon, understanding how to navigate gifts and transfers of real estate is more important than ever.*

There are many mechanisms by which real estate can be transferred from parents to children, or intergenerationally. As the tax codes seem likely to shift in the short term, many may be looking to make gifts soon, rather than leaving real estate as part of an estate or inheritance for their beneficiaries.

We're here to help, with extensive local market expertise, as well as access to the entire network of Valbridge offices and experts across the country. We've collected some of the best tips and recommendations from Valbridge experts to help you navigate this complex process.

### THE GIFT TAX FOR REAL ESTATE

The current gift exclusion for 2020 is \$15,000, so any gifts above that amount must be reported with Form 709 to the IRS. Generally, the federal gift tax applies to any transfer by gift of real or personal property, whether tangible or intangible, made directly or indirectly, in trust, or by any other means.

The gift tax applies not only to the free transfer of any kind of property, but also to sales or exchanges, not made in the ordinary course of business, where the value of the money (or property) received is less than the value of what is sold or exchanged. The gift tax is in addition to any other tax, such as federal income tax, paid or due on the transfer.

The IRS requires an appraisal report along with Form 709, filed when the giftee files applicable income taxes. Anyone ordering an appraisal now would, presumably, be filing with a 6 month extension (i.e. October 15 of 2021). Whether as an individual or any other kind of corporate entity, when an extension is filed, the estimated taxes must be paid.

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## TIMELINES FOR APPRAISALS & FILING

For any gifts made in 2021, filing would not be due until April 15, 2022 (March 15 for corporations).

For any gifts made in 2020, a report would be needed by no later than October 15 (the extended deadline to file), minus any additional time required by accountants - a safe bet is September 15.

If a fractional valuation is needed, the base appraisal must be completed at least a week before the fractional report. (For more on fractional valuations and discounts, we'd encourage you to see [this whitepaper](#) and arrange a consultation so that we can assist with any relevant timing or planning. The valuation of these types of interests can be very complex and it is essential that a proper analysis be conducted if it is going to be accepted by the IRS for tax filing purposes.)

## FUTURE CHANGES TO THE TAX CODE

As taxes seem likely to go up, and estate and gift exemptions seem likely to diminish, it's useful to think ahead. For any gifts made in 2021, it's unclear how future tax code changes might apply. There are generally three options:

1. The date of the passage of any Congressional bill;
2. The date the bill was introduced to Congress; or
3. Retroactively to Jan 1 of the year in question

It would be safe to say that any gifts made in 2020 would not be included in any potential future changes.

Presently, the lifetime gift tax exemption is \$11,850,000 for individuals (and double that - \$23,700,000 - for couples), so if a couple wants to remain under that threshold, they would require a valuation on any relevant property to ensure that their gift does not exceed the threshold.

For those valuations, the Date of Value and the Date of Gift would ideally be the same, but a good rule of thumb is that the Date of Value listed in the appraisal be within 60 days of the Date of Gift.

Access to reliable and expert advice can make all the difference in situations like these, so if you'd like further information relevant to a particular situation, please don't hesitate to reach out to our team.

*If you or your clients might need appraisal services or any other type of commercial real estate valuation especially as relates to gifts, gift taxes, or estate planning, please email us today at [LA@valbridge.com](mailto:LA@valbridge.com) or call us at (626) 486-9327.*

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**SOURCES/FURTHER READING:**

- [IRS Form 709 Instructions](#)
- [Fractional Interest Discounts \(Valbridge White Paper, May 2020\)](#)
- [Fractional Interest Valuation](#)