

CLARK | SKATOFF PA
ATTORNEYS AT LAW

2017 Estate and Gift Tax for Non-US Citizens

United States Gift Tax	To: US Citizen	To: US Resident (Green Card Holder)	To: Non Resident Alien
From: US Citizen	<p>Spouse: Unlimited Marital Deduction</p> <p>Others: Annual Exclusion: \$14,000 Applicable Exclusion Amount: \$5,490,000</p>	<p>Spouse: Annual Exclusion: \$149,000 Applicable Exclusion Amount: \$5,490,000</p> <p>Others: Annual Exclusion: \$14,000 Applicable Exclusion Amount: \$5,490,000</p>	<p>Spouse: Annual Exclusion: \$149,000 Applicable Exclusion Amount: \$5,490,000</p> <p>Others: Annual Exclusion: \$14,000 Applicable Exclusion Amount: \$5,490,000</p>
From: US Resident (Green Card Holder)	<p>Spouse: Unlimited Marital Deduction</p> <p>Others: Annual Exclusion: \$14,000 Applicable Exclusion Amount: \$5,490,000</p>	<p>Spouse: Annual Exclusion: \$149,000 Applicable Exclusion Amount: \$5,490,000</p> <p>Others: Annual Exclusion: \$14,000 Applicable Exclusion Amount: \$5,490,000</p>	<p>Spouse: Annual Exclusion: \$149,000 Applicable Exclusion Amount: \$5,490,000</p> <p>Others: Annual Exclusion: \$14,000 Applicable Exclusion Amount: \$5,490,000</p>
From: Non-Resident Alien (US Situs Property)	<p>Spouse: Unlimited Marital Deduction</p> <p>Others: Annual Exclusion: \$14,000 No Applicable Exclusion Amount</p>	<p>Spouse: Annual Exclusion: \$149,000 No Applicable Exclusion Amount</p> <p>Others: Annual Exclusion: \$14,000 No Applicable Exclusion Amount</p>	<p>Spouse: Annual Exclusion: \$149,000 No Applicable Exclusion Amount</p> <p>Others: Annual Exclusion: \$14,000 No Applicable Exclusion Amount</p>
From: Non-Resident Alien (non-US sited property)	No US Gift Tax Applied	No US Gift Tax Applied	No US Gift Tax Applied

United States Estate Tax	To: US Citizen	To: US Resident (Green Card Holder)	To: Non Resident Alien
From: US Citizen	<i>Spouse:</i> Unlimited Marital Deduction <i>Others:</i> Applicable Exclusion Amount: \$5,490,000	<i>Spouse:</i> Applicable Exclusion Amount: \$5,490,000 <i>Others:</i> Applicable Exclusion Amount: \$5,490,000	<i>Spouse:</i> Applicable Exclusion Amount: \$5,490,000 <i>Others:</i> Applicable Exclusion Amount: \$5,490,000
From: US Resident (Green Card Holder)	<i>Spouse:</i> Unlimited Marital Deduction <i>Others:</i> Applicable Exclusion Amount: \$5,490,000	<i>Spouse:</i> Applicable Exclusion Amount: \$5,490,000 <i>Others:</i> Applicable Exclusion Amount: \$5,490,000	<i>Spouse:</i> Applicable Exclusion Amount: \$5,490,000 <i>Others:</i> Applicable Exclusion Amount: \$5,490,000
From: Non-Resident Alien (US Situs property)	<i>Spouse:</i> Unlimited Marital Deduction <i>Others:</i> Applicable Exclusion Amount: \$60,000	<i>Spouse:</i> Applicable Exclusion Amount: \$60,000 <i>Others:</i> Applicable Exclusion Amount: \$60,000	<i>Spouse:</i> Applicable Exclusion Amount: \$60,000 <i>Others:</i> Applicable Exclusion Amount: \$60,000
From: Non-Resident Alien (non-US sited property)	No US Estate Tax Applied	No US Estate Tax Applied	No US Estate Tax Applied

General Principles

Rate of Taxation

The current rate of taxation for taxable gifts and bequests is 40% at the Federal level. Amounts gifted beyond the annual gift exclusions and beyond the lifetime applicable exclusion would be taxed at that rate. Likewise, at death, any taxable bequest beyond the lifetime applicable exclusion is taxed at 40%. Not every gift or bequest is taxable. Gifts and bequests to US citizen spouses are not taxed. Bequests to charities remain untaxed, as do some lifetime gifts to charities.

Taxation of United States Citizens and Permanent Residents

United States Citizens and Permanent Residents (typically a green card holder) are subject to United States estate and gift tax on their worldwide assets, whether through lifetime gift or passing at death.

The United States is a party to a number of [estate and gift tax treaties](#), whereby double taxation is avoided, typically on real estate.

Taxation for Spouses not United States Citizens

US-citizen spouses can receive lifetime gifts or bequests at death from their spouse in an unlimited amount, pursuant to the unlimited marital deduction. Non-US citizen spouses receiving lifetime gifts cause taxation as if they were non-spouses, save for the increased annual gift exclusion amount for such spouses. With respect to bequests at death, a non-US citizen spouse can receive the benefits of citizen status through the use of a Qualified Domestic Trust ("QDOT"), where the estate tax is deferred until actually paid out to the non-citizen spouse, or the spouse does at some point become a citizen.

Taxation for Non Resident Aliens of their US situs property

Domestic real estate always has as its situs the United States. Intangible assets are subject to a number of rules that classify certain assets as non-US situs or as not subject to United States transfer tax, such as bank deposits in US banks, stock in US companies, and life insurance proceeds.

What is the Applicable Exclusion Amount?

The Applicable Exclusion Amount is the amount transferred prior to death (over and above the annual gifting exclusions) that can be transferred free of gift tax. At death, the same Applicable Exclusion amount applies, except that any portion that was used to eliminate gift tax during lifetime reduces the amount available at death.