

# TAX TIPS

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July 29, 2010

## ASSESSMENT PERIOD FOR GIFTS

Generally, for gifts made after August 5, 1997, the IRS is not allowed to revalue gifts if the gift was adequately disclosed on the donor's gift tax return and the statute of limitations for the gift tax return has expired. This general rule also prevents the IRS from revaluing gifts for purposes of reporting adjusted taxable gifts on a decedent's estate tax return.

Recently, in IRS Chief Counsel Advice memorandum CCA 201024059, the IRS determined that gift tax could be assessed at any time on a gift where the donor of closely-held business stock did not adequately disclose the method used to determine the fair market value of the closely-held business stock or provide a description of the stock's discounts.

In order to meet the adequately disclosed requirement, IRS regulations require donors to furnish information with the gift tax return to cause the statute of limitations to begin. To start the statute of limitations, the gift tax return must include:

1. A complete and accurate description of the transferred property;
2. Any consideration received by the transferor;
3. The identity of, and relationship between, the transferor and each transferee;
4. If the transfer is in trust, the trust's EIN and a description of the trust terms or provide a copy of the trust instrument;
5. A detailed description of the method used to determine the fair market value of the property transferred, including any financial data used in determining the value of the interest, any restrictions on the transferred property considered in determining the fair market value of the property, and a description of any discounts claimed in valuing the property. In the case of a transfer of an interest in an entity that is not actively traded, a description must be provided of any discount claimed in valuing the interest in the entity or any assets owned by such entity.

The statute of limitations for the assessment of additional gift tax is three years after the date the return was filed or the due date of the gift tax return if filed earlier. This period is extended to six years if the gift tax return omits gifts exceeding 25% of the value of total gifts reported. When no gift tax return is filed, or where the IRS determines there is fraud, the limitations period is extended indefinitely.

If you have any questions please contact our National Tax Services Group at 609.520.1188 or email [Taxbriefs@withum.com](mailto:Taxbriefs@withum.com)

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