

Prior Gifts

Tax Calculation	Gift Tax
Year of Gift:	2020
Year of Spousal Death:	2017
Pre-1977 Taxable Gifts:	\$0
Deceased Spousal Unused Exclusion:	\$0
Taxable Gifts in Year of Spousal Death and Before Death:	\$0

Period	Taxable Gifts for Current Period	Taxable Gifts for Prior Periods	Cumulative Taxable Gifts for All Periods	Tax on Prior Gifts (2020 Rates)	Tax on Cumulative Gifts (2020 Rates)	Tax on Gifts for Current Period	DSUE From Predeceased Spouse(s)	Basic Exclusion Amount for Year of Gifts	Applicable Exclusion Amount	Maximum Unif. Credit Available for Period (2020 Rates)	Unif. Credit Allowable in Prior Periods	Available Credit in Current Period	Credit Allowable	Gift Tax Payable
1981	\$50,000	\$0	\$50,000	\$0	\$10,600	\$10,600	\$0	\$175,625	\$175,625	\$47,000	\$0	\$47,000	\$10,600	\$0
1983	\$70,000	\$50,000	\$120,000	\$10,600	\$29,800	\$19,200	\$0	\$275,000	\$275,000	\$79,300	\$10,600	\$68,700	\$19,200	\$0
2001	\$880,000	\$120,000	\$1,000,000	\$29,800	\$345,800	\$316,000	\$0	\$675,000	\$675,000	\$220,550	\$29,800	\$190,750	\$190,750	\$125,250
2002	\$120,000	\$1,000,000	\$1,120,000	\$345,800	\$393,800	\$48,000	\$0	\$1,000,000	\$1,000,000	\$345,800	\$220,550	\$125,250	\$48,000	\$0
2008	\$200,000	\$1,120,000	\$1,320,000	\$393,800	\$473,800	\$80,000	\$0	\$1,000,000	\$1,000,000	\$345,800	\$268,550	\$77,250	\$77,250	\$2,750
2010	\$100,000	\$1,320,000	\$1,420,000	\$473,800	\$513,800	\$40,000	\$0	\$1,000,000	\$1,000,000	\$345,800	\$345,800	\$0	\$0	\$40,000
2011	\$1,000,000	\$1,420,000	\$2,420,000	\$513,800	\$913,800	\$400,000	\$0	\$5,000,000	\$5,000,000	\$1,945,800	\$345,800	\$1,600,000	\$400,000	\$0
2013	\$3,000,000	\$2,420,000	\$5,420,000	\$913,800	\$2,113,800	\$1,200,000	\$0	\$5,250,000	\$5,250,000	\$2,045,800	\$745,800	\$1,300,000	\$1,200,000	\$0
Totals:												\$1,945,800	\$168,000	

## Prior Gifts

This utility calculates the unified credit allowed by prior gifts, as required by IRC section 2505(a)(2), and the gift tax payable on adjusted taxable gifts that are included in the tentative tax base for federal estate tax purposes, as required by IRC section 2001(b)(2) and (g). As will be explained below, these results are needed for federal estate and gift tax calculations when more than \$500,000 of taxable gifts were made before 2010 because taxpayers can no longer rely on the amounts reported on the gift tax returns that were filed for those prior gifts.

Under the unified (and progressive) gift and estate tax system created by the Tax Reform Act of 1976, gift tax calculations are cumulative, so that each taxable gift during the taxpayer's lifetime pushes the taxpayer into higher gift tax rates. Similarly, gifts made during lifetime are added to the taxable estate in calculating the estate tax due at death, and so lifetime gifts pushes the taxpayer's estate into higher estate tax brackets.

A "unified credit" against the gift tax and estate tax provides an exclusion for gifts up to a certain total amount during lifetime, or an exclusion for a taxable estate of up to a certain amount.

Under this system, certain problems can arise when a taxable gift is reported during lifetime at one tax rate, and tax is paid (or unified credit is used) at that tax rate, but the tax rate is later changed. IRC section 2001(b)(2) has always addressed part of the problem by providing that the gift tax that is considered to have been payable on the taxable gifts that are included in the estate tax calculation must be redetermined using the tax rates in effect at the decedent's death, and not the tax rates in effect at the time the gifts were made. So, for example, if a decedent had made a taxable gift and paid a tax of 45%, but the tax rate were only 35% at the decedent's death, the inclusion of the gift in the estate tax calculation would add 35% to the tentative tax and section 2001(b)(2) would subtract that same 35% from the tentative tax. In that way, the inclusion of the gift in the estate tax calculation neither increases nor decreases the estate tax payable, but simply insures that the taxable estate is taxed at the intended rate.

A new problem arose in 2010, when the reduction in the top gift tax rate from 45% to 35% actually changed the amount of the credit allowed. When the top gift tax rate was 45%, the credit was \$345,800, which is what the tax would be on \$1,000,000. When the top gift tax rate became 35%, the tax on \$1,000,000 became \$330,800, which became the credit amount in 2010. If a taxpayer had made gifts of \$900,000 in 2009, when the top tax rate was 45%, and then made a gift of \$100,000 in 2010, intending to use up the rest of the \$1,000,000 exclusion, there might be a tax of \$11,000, because the 2009 gift would have used up \$306,800 of credit, leaving only \$24,000 of credit in 2010, while the \$100,000 gift would result in a tax of \$35,000.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 therefore made the following changes:

1. IRC section 2001(b)(2) has been amended, and a new subsection 2001(g) has been added, to require that, in calculating the gift tax payable on the adjusted taxable gifts that are included in the estate tax calculation, the tax rates that are in effect at the decedent's death must be applied both in calculating the tentative tax on the gifts and in calculating the credit allowed and the tax payable on those gifts.
2. IRC section 2505(a)(2) has been amended to require that the "credit allowed" for gifts in previous years must be redetermined using the rates in effect for the current year and not the rates in effect in the year in which the gifts were made.

The program makes these calculations by allowing the user to enter the amounts of the taxable gifts made each year, and then recalculating both the unified credit allowed for those gifts and the gift tax payable on those gifts by applying the tax rates in effect at the time of the decedent's death or, for a gift tax calculation, the rates in effect in the year the gift is made. The results can then be applied in calculating the gift tax or estate tax currently payable.