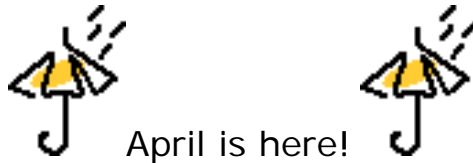


# WYTYCHAK ELDER LAW NEWS

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## News:

- The Alzheimer's Association is hosting a screening of HBO's "Momentum in Science, Part 2" facilitated by Dr. Susan Melchiorre, Geriatrician on **Wednesday, April 20, 2011 at 6:30 pm** at the Kootenai Medical Center Health Resource Building, Fox Auditorium. This educational piece is FREE!

## Understanding the Gift and Estate Taxes

Many seniors come to our office with questions about the gift and estate taxes. What follows is information which helps to explain how the gift and estate taxes work together.



The federal gift tax exists for one reason: to prevent citizens from avoiding the federal estate tax by giving away their money before they die.

The gift tax is perhaps the most misunderstood of all taxes. When it comes into play, this tax is owed by the giver of the gift, not the recipient. You probably have never paid it and probably will never have to. The law completely ignores gifts of up to \$13,000 per person, per year, that you give to any number of individuals. (You and your spouse together can give up to \$26,000 per person, per year to any number of individuals.)

If you have 1,000 friends on whom you wish to bestow \$13,000 each, you can give away \$13 million a year without even having to fill out a federal gift-tax form. That \$13 million would be out of your estate for good. But if you made the \$13 million in bequests via your will, the money would be part of your taxable estate and, depending on when you died, might trigger a large tax bill.

Your estate is the total value of all of your assets, less any debts, at the time you die. In 2011, the Federal and State governments will tax estates over 5 million at rates as high as 35%. That 5 million is an *exclusion* meaning the first 5 million of your estate does not get taxed.

The estate tax revisions enacted in December 2010 are temporary and are scheduled to

expire after 2012.



For tax purposes, a gift is a transfer of property for less than its full value. Re-titling a car or putting a family member on the title to the house or a bank account is a gift. Selling a car worth \$15,000 for \$1 is a gift. In other words, if you aren't paid back, at least not fully, or if you give property to someone for less than what it is worth, it's a gift.

In 2011, you can give a lifetime total of \$5 million in taxable gifts (that exceed the annual tax-free limit) without triggering the gift tax. Beyond the \$5 million level, you would actually have to pay the gift tax.

If you make a taxable gift, you must file Form 709: U.S. Gift (and Generation-Skipping Transfer) Tax Return, which is due April 15 of the following year. Even if you do not owe a gift tax because you have not reached the \$5 million limit, you are still required to file this form if you made a gift that exceeds the \$13,000 annual gift tax exclusion level. The IRS needs to keep a running tab of your lifetime exemption.

Keep in mind that the gifting rules for Taxes are extremely different than the gifting rules for obtaining Medicaid with the Idaho Department of Health and Welfare. For Medicaid purposes, gifts of any value (less than fair market value exchange) are penalized for the five years prior to application to the State for Medicaid.

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*"No matter how long the winter, spring is sure to follow."  
- Proverb from Guinea*



*"April hath put a spirit of youth in everything."  
- William Shakespeare*

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If you haven't already done so, please take a look at our website at:

[www.wytychakelderlaw.com](http://www.wytychakelderlaw.com)