

A question from Karisma's reader-foreign gift reporting

*Dear Ms. Wong,
I know that gifts over \$100,000 from foreign nationals need to be reported to the Internal Revenue Service, but no tax is due. What if the donation is in the form of real estate? My parents want to give me a house in Indonesia. I'm aware of the local tax implications but not clear if I owe any tax to the U.S. when I receive the gift or in the future, in case I sell the house. Thanks.
-- Hokkey G.*

Dear Hokkey,

Foreign gift reporting is only required for U.S. residents or citizens and Form 3520 is used to report such gifts and bequests, among other things, from foreign persons. Gifts and bequests that exceed \$100,000 in value (either cash or property) from foreign individuals need to be disclosed. However, no federal income tax is due on the gift. Instead a disclosure needs to be made that will provide you with a defense later on in the event the IRS wants to reclassify your gift as income.

What has happened in the past is that some individuals coming to live in the U.S. from abroad have made the claim that amounts they receive from overseas are gifts and therefore not taxable income. Because previously these gifts were not reportable, the IRS had no notice of what was going on unless they came in to examine those taxpayers. The disclosure puts IRS on notice that a taxpayer may be disguising income as foreign gifts. Because this does not sound like your case, you should not have any fear in making the appropriate disclosures. If you fail to report the gift, the IRS may preclude you later from raising that defense as a basis for excluding the property from income.

Form 3520 is due by April 15 every year and it should be mailed separately to the IRS Center in Ogden, Utah. If you later sell the house, remember that your cost basis is the cost paid by your parents. You use the exchange rate in effect at the time of their original purchase to determine the dollar cost basis. All that gain from the date they bought it until the date you sell it becomes U.S. taxable capital gain when you sell it. If your thoughts are to sell the property prior to otherwise inheriting it, then perhaps it would be better if your parents keep the property for now and sell it when the time is right. They can give you the cash without consequences to you and as foreigners they would not be subject to U.S. taxes on the sale or gift.

I have based on the assumption that you are a green card holder or American citizen.

To ask a tax question, simply email to us at winnes@wongcpa.com.