

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

Office Correspondence

Date May 26, 1937.

To Chairman Eccles

Subject: _____

From Lauchlin Currie
LAC

Attached is a note by Mr. Bryan that I think will interest you, on some matters we were discussing in our telephone conversation yesterday.

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FEDERAL RESERVE SYSTEM

Office Correspondence

Date May 26, 1937

To Mr. Currie

Subject: Note on the Gift Tax

From Malcolm H. Bryan
MHB

1. The basis for computing a gift tax is the value of the property at the time the gift is made. It is not the cost of the gift to the donor.

This point is covered in the law in the following language: "If the gift is made in property, the value thereof at the time of the gift shall be considered the amount of the gift."

For illustration, suppose a taxable gift of securities worth \$100,000 that had cost \$10,000. The value of the gift for gift-tax purposes is \$100,000.

2. For the income tax in connection with capital gains (not for the gift tax), the value is the cost to the donor or the value when the gift is made, whichever is lower. This point is covered in the income tax law, Section 113, which deals with the basis of determining gain or loss from property.

For illustration, suppose a taxable gift of securities worth \$100,000 that have cost the donor \$10,000. A subsequent sale of the property at \$120,000 by the donee would add \$110,000 to income taxable under the capital gains provisions of the income tax law. In case the property were subsequently sold at \$5,000, the loss would be limited to the difference between \$10,000 and \$5,000.

3. A donor is allowed an annual exemption of \$5,000 of gifts.^① He is allowed also (in line with the estate tax) an exempt aggregate of \$40,000 cumulated since June 6, 1932. Of course, certain classes of defined charitable bequests are likewise tax exempt.

① \$5,000 to each donee. A man with five children, say, could thus distribute \$25,000 annually free of tax.

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4. A donor will probably give away such portions of his property as have small value but are likely to increase in value. It is possible, moreover, for a donor who controls a corporation to freeze "present corporate value in preferred stock so that a gift may be made without tax in presently valueless, but ultimately valuable, common stock." ^{1/}

How to prevent such procedure is not clear.

^{1/} Studies in Federal Taxation, Randolph Paul, p. 59.