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Tax Alert



Robert W. Wood
THE TAX LAWYER

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Supermodel Bar Refaeli's Alleged Tax Evasion On Gifts: Must You Report Yours?

The revelation that supermodel Bar Refaeli is under investigation for alleged tax evasion is big news. She and her mother may both face tax evasion charges for allegedly failing to report millions in income. For one thing, Israeli tax authorities claim that Ms. Refaeli failed to report 'gifted' Range Rover and Lexus cars. But if someone wants to give her fancy cars, weren't these gifts?

Sure, the car companies may have *asked* her for photos they could use, but so what? Ms. Refaeli and her mother were questioned and have even been barred from travelling abroad for six months without permission as the serious charges shake out. But some of the allegations raise fundamental questions about what is income. This time of year there are lots of gifts. If you're a supermodel, perhaps year round is gift giving season. One of the bones of contention with Refaeli is so-called celebrity perks she received, the value of which was significant.



*Bar Refaeli arrives for the opening ceremony and the screening of the film *La Tete Haute (Standing Tall)* at the 68th international film festival, Cannes, southern France, Wednesday, May 13, 2015. (Photo by Joel Ryan/Invision/AP)*

For example, one designer offered her big discounts in exchange for public relations services. The same with 'free' vehicles. Ms. Refaeli is now married to Israeli billionaire Adi Ezra, and was once the girlfriend of Leonardo DiCaprio. Mr. DiCaprio has probably received his own share of promotional 'gifts' where he really had to report them. Oscar swag bags, for one. In the U.S., we are used to regarding virtually everything as income.

When Derek Jeter retired he received 'gifts' too. Yet reports said [Jeter owed \\$16,000 in taxes on his farewell gifts](#) including golf clubs, wine, vacation packages, cowboy boots and a kayak. Jeter received about \$33,000 in gifts from other teams. The Yankees gave Jeter a massage therapy machine, a 10-day trip to Italy, and Waterford Crystal. The Mariners' Robinson Cano gave Jeter a \$34,000 watch. But aren't gifts tax-free?

Not always, and distinguishing between income and gifts can be tough. If gifts are made out of "detached and disinterested" generosity, they aren't taxable. But in a business setting, many gifts are more in the nature of marketing. When Pontiac gave away cars on Oprah, the recipients were on the hook for [taxes](#) even though they didn't receive cash.

In employment, your employer must withhold extra taxes from your cash pay to make up for any property you get in kind. Can't you claim it was a gift? Many people try this, including [John Edwards](#) with his "[it was a gift, not a campaign contribution](#)" defense.

A briefcase or a country club membership from your boss is not made from "detached and disinterested generosity." Instead, it is meant to reward you for a job well done, and to help secure your services in the future. There is an [exception from tax for small holiday gifts to employees](#). The IRS says you can hand out turkeys or holiday baskets to employees provided the gifts don't exceed \$100 in value.

If employee works unpaid overtime and you reward him with tickets to the Super Bowl, they are wages. You're supposed to increase the withholding on his cash wages to cover the value of the tickets. But that works only if you pay with a combination of cash and goods.

If a buddy who isn't a regular employee helps out at your business occasionally and you thank him with tickets? The IRS says to report them as pay on [Form 1099](#). The IRS likes those forms, and increasingly relies on information matching. And that's one reason why [mistakes with Form 1099 can cost big](#).

As for Ms. Refaeli, she has other tax issues apart from celebrity perks. In fact, one of the issues relates to her tax residence.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not intended as legal advice.