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### Buyer's Remorse? How About Year-End Gift Remorse!

Did you make gifts at year-end to kids and other family members, hoping to clean up your estate? Perhaps you thought you were saving huge taxes and making your beneficiaries happy at the same time. See [\\$5M Tax-Free Gifts? Going, Going, Gone.](#) You were not the only one who was surprised when Congress passed the fiscal cliff bill at New Years with an estate tax fix that meant you **could** have waited.



Most tax advisers and taxpayers figured that Congress would not get its act together for many months. Most also figured that when Congress did eventually act the generous \$5.12M gift and estate tax exemption would plummet. Maybe it would be \$3M or \$3.5M for estate tax, but perhaps only \$1M for gifts during life.

For that reason, estate planners saw a land office business at the end of 2012. As it turned out, of course, the \$5.12M figure was continued indefinitely, and applies to gift or estate tax. Both the size of the figure and the gift and estate tax parity were huge surprises. Congress even added inflation indexing so the number should continue to creep up.

Some people who acted hastily and signed over large outright gifts to kids or grandkids may be flummoxed. But most gifts were made in trust with some controls attached. If you didn't do this, get some advice from your estate planner. It may not be possible to fix it, but there may be end runs.

In many cases, the presence of a spouse is a huge safety net. Often, gifts to children are in trust to the children, but with the spouse having a right to use the income and principal to the extent the spouse wishes. This is a huge backdoor way of using the gifted money or assets during the life and marriage.

What if you transferred more than you now believe you should have and you can't undo it? Try to look on the bright side. The fact that the assets should continue to appreciate in value and are out of your estate ought to be a good thing. You can also look at it as a good way to test the waters, allowing beneficiaries to manage and conserve some assets. If they stand to someday inherit even larger sums, having a chance to observe their financial and management skills can itself be worthwhile.

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