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THE TAX LAWYER

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Tom Brady Truck Handoff Deflates Tax Bill, Copies Obama's Nobel Prize Move. Can You Regift Too?

Tom Brady just deflated his tax bill, handing off the winning Super Bowl MVP truck worth \$35,000 to [Malcolm Butler who will pay taxes on the prize](#). Butler is the rookie cornerback who intercepted [Russell Wilson's](#) pass on the goal line to seal the Patriots' Super Bowl win. The car was sort of presented to [New England Patriots](#) quarterback [Tom Brady](#) as Super Bowl MVP, but now will be given *directly* by the company to teammate [Malcolm Butler](#).

It's good PR and a good tax move too. Tom Brady can afford the gesture, and could afford the taxes. Brady is wealthy, while Butler made \$585,000 this season, including a minimum of \$420,000 and a \$165,000 bonus that all Patriots players got for the postseason. But no one likes paying taxes on something they don't keep.

And the ins and outs of the tax system often aren't simple math. There are separate sets of rules for income and deductions. Often, you lose out on the deduction side, sometimes hugely. Then, too there are two separate tax systems entirely with the income and gift tax. Brady donated the car he won as Super Bowl XXXVIII MVP to his high school, which then raised \$365,000 from a raffle.



The tax impact isn't lost on sports stars. When Derek Jeter retired, 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. These gifts are more in the nature of marketing, made in a business context not a family one. Any individual can give gifts to another and avoid gift tax as long as the gifts are no more than \$14,000 a year.

Still, get used to thinking that taxes apply everywhere. If you win the lottery or hit it big at the casino, you pay tax. If you win goods instead of cash, their value is income. 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](#).

You can decline an award, and there are some famous examples. George C. Scott declined an Academy Award for his role in Patton in 1971. If you are awarded a cash prize such as a Nobel and decline it, you don't have income, so there is no tax to pay. But getting the award without the tax would be best. And that brings up the option of *regifting*.

If you win a Nobel and are handed \$1.4 million, you can turn around and give it to charity. Unfortunately, though, the tax consequences of regifting can be problematic. You get stuck with all the income and have limited deductions. That's why President Obama arranged to have his \$1.4 million Nobel money go *direct* to charity. If he had collected his prize money and *then* donated it to a qualified charity, he wouldn't necessarily be able to write off the entire \$1.4 million.

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