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Giving or Receiving a Down Payment Gift? Here Are the Tax Consequences

By Margaret Heidenry
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Searching for homes and scrolling through listing photos is fun, but saving up for a down payment can be a real challenge. That's why some home buyers turn to family for a helping hand in the form of the gift of a down payment. But whenever a large stack of cash changes hands, Uncle Sam wants to know—and that means tax returns can get complicated. So before you give or get a down payment gift, make sure you understand their tax implications.

Who can give you a cash gift for a down payment?

If you're buying a home, you can only use a cash gift from an immediate relative to help get a mortgage to buy a home. That means a parent, grandparent, sibling, or spouse. It's also generally acceptable to receive gifts from a domestic partner, or significant other, if you're engaged to be married.

"Keep in mind you will have to provide detailed documentation in the form of a gift letter to the lender that states the name of the donor, their relationship to you, the date and amount of the gift," says **Jennifer Harder**, founder and CEO of Jennifer Harder Mortgage Brokers. You'll also need a statement from the donor that the money was given with no expectation of repayment.

And watch out for this important condition: The general rule is, if you are putting a down payment of 20% or more, it can all be gifted money. But if your down payment is *less* than 20%, some of that needs to come from your own pocket.

How much of a tax-free gift can you give?

Any one person can give a gift of $15,000 or less to another individual and not have to pay taxes on it.

Here's an example of how families can amass a bigger gift under that regulation: Each member of a couple trying to get help with a down payment can receive $15,000 from each parent. So Mom gives $15,000 to her daughter and $15,000 to her son-in-law, and Dad does the same. That means that one set of parents could give the couple a total of $60,000 tax-free. And then the husband's parents could do the same.

"All that's required is that it is a gift, meaning it's made with disinterested generosity," says **Ann Brookes** at Taxattorneyatlaw.com.

"The beauty of the gift tax is that any amount received that's beneath the current $15,000 exclusion amount is not taxable to anyone," says tax expert and CPA, **Folasade Ayegbusi** of accountingwithfolasade.com. She used the gift tax strategy to purchase her first home.

"I received a $10,000 gift and used it as my down payment," she says.

What if the down payment gift is above $15,000?

Down payment amounts above $15,000 and received as a gift must be reported on a gift tax return by the person making the gift—not the beneficiary. But that doesn't mean the donor will pay taxes.

"The gifts get tallied up over time and offset against the lifetime exclusion on gifts, which is currently $11.4 million," says Brookes. "The purpose of filing the return is to track your lifetime gift amount, which will be used in calculating tax on your estate when you die." If you give more than $11.4 million while still alive, the gift tax rate kicks in, which can be anywhere from 18% to 40%.

What if you don't report the down payment gift?

There is generally a three-year statute of limitations on filing a gift tax return, although that doesn't begin until a return is filed. If you do not file the gift tax return within that period, “the IRS can assess a gift tax, in addition to penalties and interest, on a reportable gift that was not adequately disclosed to the IRS on a return, years—even decades—after the gift was made," says tax attorney **Jennifer Correa Riera** of Miami's Fuerst, Ittleman, David & Joseph.