

STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
601 DELAWARE AVENUE  
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 71-4

December 7, 1971

PERSONAL INCOME TAX

- Property acquired by Gifts.

QUESTION: Is the basis of such property the same for both federal and state tax purposes? What effect, if any, does any difference have on state income taxes? How has this been handled in prior years? Will the new State Gift Tax Law have any effect on basis?

For property acquired by gift after 1920, the basis is the same as it would be in the hands of the donor or the last preceding owner by whom it was not acquired by gift. For federal tax purposes where property was acquired by gift after September 2, 1958 the basis is increased by the amount of the gift tax paid on the gift. Such increase is made only to the extent that the total basis will not exceed the fair market value of the property at the time of the gift. The state does not recognize such increase in basis for the period September 2, 1958 to December 31, 1970. Therefore, if property was acquired by gift between September 2, 1958 to December 31, 1970 and sold or exchanged in 1971 or subsequent years the gain for state tax purposes would be adjusted by the amount of gift tax included in basis for federal tax purposes. On any sale or exchange of property prior to 1971 taxpayer should have made the adjustment on his return.

For purposes of loss the basis of the property acquired by gift is fair market value when acquired, or substituted basis as above, whichever is lower. The loss, therefore, if substituted basis is used for gifts acquired between September 2, 1958 and December 31, 1970, would be reduced by the gift tax paid.

Example

Taxpayer acquires property by gift in 1962. The basis in the hands of the donor was \$25,000. Fair market value date of gift was \$40,000. Federal gift tax paid by donor at time of gift was \$5,000. Taxpayer sells property in 1971 for \$75,000. Gain reported on federal return should be \$45,000 computed as follows:

Sales Price		\$75,000
Basis in hands of donor	\$25,000	
plus gift tax paid	<u>5,000</u>	<u>30,000</u>
Gain		\$45,000

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For state purposes the gain is \$50,000.

Sales Price	\$75,000
Basis in hands of donor	<u>25,000</u>
Gain	\$50,000

The increase in gain is to be reported as an adjustment on schedule 1 with a full explanation.

EDITOR'S  
NOTE:

Gifts made after 1/1/71 the basis in the hands of the donee will be the same for federal and state purposes. The new State Gift Tax paid will increase the basis of the property to the same extent as the Federal Gift Tax paid.



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Director of Revenue

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