

# Non-Citizen Resident Estate/Gift Tax Quick Reference Guide 2018

	<b>CITIZEN MARRIED TO RESIDENT OR NON-RESIDENT ALIEN</b>	<b>RESIDENT ALIEN MARRIED TO RESIDENT OR NON-RESIDENT ALIEN</b>	<b>RESIDENT ALIEN MARRIED TO CITIZEN</b>	<b>NON-RESIDENT ALIEN MARRIED TO CITIZEN</b>	<b>NON-RESIDENT ALIEN MARRIED TO RESIDENT ALIEN</b>	<b>NON-RESIDENT ALIEN MARRIED TO NON-RESIDENT ALIEN</b>
<b>MARITAL DEDUCTION</b>	No marital deduction (QDOT exception)	No marital deduction (QDOT exception)	Unlimited marital deduction	Unlimited marital deduction	No marital deduction (QDOT exception)	No marital deduction (QDOT exception)
<b>EXEMPTION EQUIVALENT FOR ESTATE TAXES</b>	\$11,200,000 exemption equivalent in 2018	\$11,200,000 exemption equivalent in 2018	\$11,200,000 exemption equivalent in 2018	\$60,000 exemption equivalent in 2018	\$60,000 exemption equivalent in 2018	\$60,000 exemption equivalent in 2018
<b>EXEMPTION EQUIVALENT FOR GIFT TAXES</b>	\$11,200,000 exemption equivalent in 2018	\$11,200,000 exemption equivalent in 2018	\$11,200,000 exemption equivalent in 2018	Not available	Not available	Not available
<b>WORLDWIDE TAXATION OF PROPERTY</b>	Property taxed worldwide	Property taxed worldwide	Property taxed worldwide	Property taxed in the U.S. only	Property taxed in the U.S. only	Property taxed in the U.S. only
<b>ANNUAL EXCLUSION GIFT TO ALIEN SPOUSE</b>	Annual exclusion gift of \$152,000 in 2018	Annual exclusion gift of \$152,000 in 2018	Not applicable	Not applicable	Annual exclusion gift of \$152,000 in 2018	Annual exclusion gift of \$152,000 in 2018
<b>ANNUAL EXCLUSION GIFT TO OTHERS</b>	Annual exclusion gift of \$15,000 in 2018	Annual exclusion gift of \$15,000 in 2018	Annual exclusion gift of \$15,000 in 2018	Annual exclusion gift of \$15,000 in 2018	Annual exclusion gift of \$15,000 in 2018	Annual exclusion gift of \$15,000 in 2018

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# Definitions

### **ANNUAL EXCLUSION GIFT**

U.S. citizens, resident and non-resident aliens may gift up to \$15,000 (indexed for inflation) annually to a donee. No limit is imposed on the number of donees.

### **ANNUAL EXCLUSION GIFT TO NON-CITIZEN SPOUSE**

Inter-spousal gifts to a non-citizen spouse would qualify for a special annual gift tax exclusion amount of \$ 152,000 in 2018 (indexed for inflation) in lieu of the lost gift tax marital deduction. Gifts by a non-resident alien spouse to a non-citizen spouse would also qualify.

### **CITIZEN**

A citizen is a person born or naturalized in the U.S. and is subject to its jurisdiction. The estate tax is imposed on a citizen's taxable estate, which includes all assets wherever the property is situated in the world.

### **DOMICILE**

Domicile is the place which an individual has freely chosen as the center of his or her domestic and legal relations, the principal and permanent residence, with no present intent of leaving. A domicile, once acquired, is presumed to continue until it is shown to have been changed.

### **EXEMPTION EQUIVALENT**

U.S. citizens and resident aliens may claim an estate tax applicable exclusion amount. The estate tax applicable exemption amount for 2018 is \$ 11.2 million. The current gift tax applicable exemption amount is \$11.2 million. By contrast, non-resident aliens do not qualify for the gift and estate tax applicable exemption amount. But, non-resident aliens would qualify for a lower estate tax applicable exemption amount of \$60,000, which is not applicable to the transfer of property by gift.

### **MARITAL DEDUCTION**

The unlimited gift tax marital deduction is available only on inter-spousal gifts to a U.S. citizen spouse. Gifts by a resident or non-resident alien spouse to a U.S. citizen spouse would qualify for the gift tax marital deduction. But, inter-spousal gifts to a non-citizen spouse do not qualify. I.R.C. 2056(d)

### **NON-CITIZEN**

A non-citizen is a person who is not a U.S. citizen and may be a resident alien, or a non-resident alien.

### **NON-RESIDENT ALIEN**

A non-citizen who does not intend to domicile in the U.S. is referred to as a non-citizen non-resident alien. The estate tax is imposed on a non-resident alien's taxable estate, which includes only assets situated in the U.S.

### **QUALIFIED DOMESTIC TRUST (QDOT)**

A QDOT allows the deceased spouse's estate to obtain a deferral of estate tax for transfers of property passing to a non-citizen spouse. Additionally, it ensures that eventually, the QDOT property will be subject to federal estate tax by preventing the non-citizen from removing the property from the U.S. I.R.C. 2056(d)

### **RESIDENCE**

Residence without intention to remain indefinitely does not constitute domicile.

### **RESIDENT ALIEN**

A non-citizen who intends to domicile in the U.S. is deemed a non-citizen "resident alien." The estate tax is imposed on a resident alien's taxable estate, which includes all assets wherever the property is situated in the world.

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