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Targeting, Lost Emails, Delayed IRS Refunds, Now Taxing Christmas

The IRS probably isn't on anyone's Christmas list this year, though the agency is doing the best it can with what Congress has doled out. Still, like putting up with your relatives, what can you do? We know it is [better to give than to receive](#), but whether you are giving or receiving, it can be truly maddening to see the government taking a piece.

Surprisingly, when gifts change hands, there is often either income tax or gift tax. The latter can seem especially unfair and comes up in surprising ways. Yes, even at Christmas. The IRS can tax your Christmas gifts. The issue comes up mostly in a family context where gifts might exceed \$14,000.

OK, that's not most gifts, but the gift tax law says you can give up to \$14,000 per year per person to any number of people, family or not. A married couple can give \$28,000. But step over that line and you either pay gift tax or eat into your lifetime credit of \$5.3 million, something you might rather save for estate tax.



To its credit, the IRS doesn't walk around this time of year with a calculator. Yet in gift or estate tax cases, the issue does come up. Fact is, many people are sloppy about counting up birthday, Christmas and other gifts during the year. A new car or other big ticket items can push you into taxable territory. And as in any gift or estate tax context, valuation issues can arise too.

In [The Gift Of The Magi by O Henry](#), a struggling young husband and wife want to give the other something special for Christmas. Each has something very precious. Of course, you know what happens. Della cuts off her flowing long hair and sells it to a wig maker to buy a platinum chain for Jim's heirloom pocket watch. Jim sells his prized watch to buy combs for Della's hair.

They both lose their most prized possessions, but we see that Della's hair and Jim's watch were not their most prized possessions after all. It's quite beautiful until you think about the IRS. Selling Della's hair to buy Jim a watch chain? Subject to income tax, and then the gift of the watch might be counted too. Jim selling his watch clearly is subject to income tax.

Sure, the IRS may never know. ("Dear, here is a Form 1099 for your gift this year....") And if the IRS does come round, Della could argue that when she sells her hair for cash it is capital gain not ordinary income. Jim has gain on his watch too, even if it is a family heirloom. If the watch increased in value since he inherited it, the gain is taxed when he sells it.

The tax treatment of sales of body parts is seriously discussed in some circles. In fact, some argue that the [tax code lags the growing body-parts market](#). Whether hair or body parts, selling for cash probably means tax. Gifts of body parts may trigger taxes too.

Both Jim and Della sold for cash and used the sale proceeds to buy gifts. That could mean gift tax, but as they are married, there's no limit. That's right, the one big exception to the gift tax is between married couples. The idea is that the IRS will get it eventually via estate tax when the last spouse dies.

More depressing thoughts? If your employer 'gives' you a \$5,000 'gift' at the Holidays, it's clearly taxable, employment taxes too. Business gifts to customers and clients can be deducted as a promotional expense but the limit for tax deductions is usually \$25 per person. As for the income side of the equation, small gifts are ignored, like low value birthday or holiday gifts—never cash—group meals, occasional tickets, flowers, etc.

But season tickets, luxury boxes, etc. are taxed. And to employees, not only income but employment taxes apply. Who knows, perhaps Dickens was mulling over taxes when he wrote in [A Christmas Carol](#) that "every idiot who goes about with a 'Merry Christmas' on his lips should be boiled with his own pudding, and buried with a stake of holly through his heart."

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