

## What is the Gift Tax Treatment when a Nonresident Gratuitously Transfers a Promissory Note?

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Generally, transfers of intangible property by a nonresident not a citizen of the United States are not subject to transfer taxation. (26 U.S.C.A. § 2501.) However, there is an exception where the donor is subject to the alternative income tax regime of § 877 (Expatriation to avoid tax). (*Id.*) For these nonresidents the transfer of intangible property is subject to tax if the property is deemed situated within the United States. (§ 2511.) Debt obligations, such as promissory notes, of a United States person owned and held by a nonresident are deemed to be situated within the United States. (§ 25.2511-3.)

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