



What are the tax implications of a home loan from Mom?

Q: My mom is giving us money to buy a vacation home. We will pay her back monthly, but it's more of a handshake agreement. Will there be any tax implications for either of us? She will not be on the deed.

A: Your mom will be your lender and you will be the borrower in this situation. We recommend that you document your arrangement, and there are a number of reasons to do it. But the best reason is so that it's clear that this is a loan and not a gift. (We'll explain that in a moment.)

We don't know if your mom will be charging you interest on the loan. If your mom doesn't, the IRS will treat the arrangement as a gift from your mom to you. The gift amount is based on the amount of interest you would have paid your mom each year.

The IRS has tables of interest rates that can be used to satisfy IRS requirements that the loan charge you a fair interest rate, sometimes known as an "arm's length" interest rate. Those same rates can be used by the IRS to figure out the gift amount. You can find these interest rates on the IRS website under "Index of Applicable Federal Rates (AFR) Rulings." There you will find minimum short-term, mid-term and long-term interest rates that you can use in determining loan payment amounts between family members. The tables will also give you amounts that will exceed the minimum amount by 10, 20 and 30 percent

If your mom does not charge you interest on your loan, she has the right to give you an annual gift of \$15,000 for 2018 (\$30,000 if the gift is to two individuals) without triggering gift tax filings. If you paper the file and she decides not to charge you interest, you should make sure that you are under the \$15,000 annual limit.

You mentioned that you are buying this vacation home with someone else. If that's the case, your mom can give you and this other person an annual gift of \$30,000, and she can give you this gift each year until she has basically given you the property. As we mentioned before, we'd prefer to know that you have some paperwork that shows that the gift would be to you and the other person. We don't want you to be in a position where the IRS feels that the gift was to you alone and then requires your mom to file gift tax paperwork with the IRS.

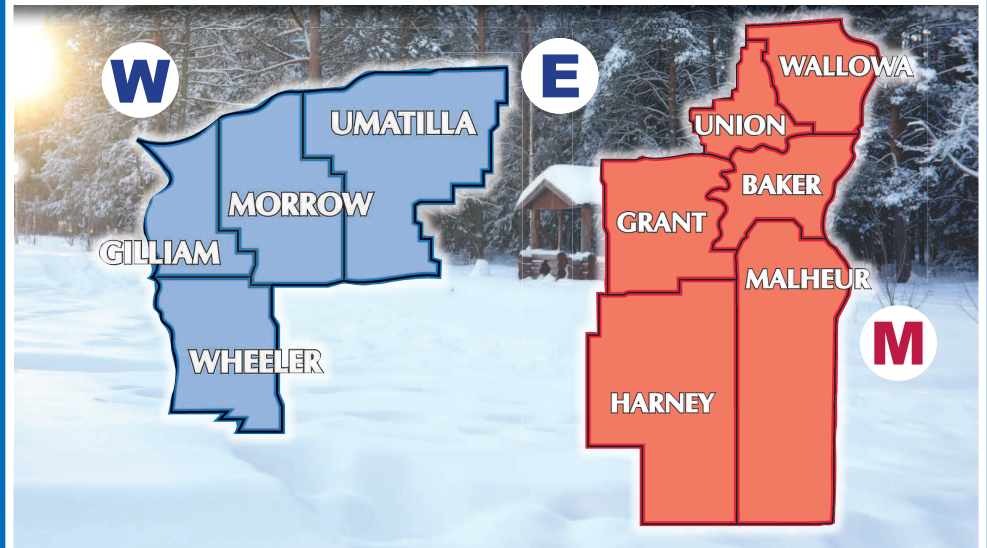
If your mother is giving you the home, however, and you do not have paperwork showing the gift was a loan, you should be aware that when it comes time to sell the property, you may walk into a minefield where the IRS determines that you essentially paid nothing for the property, so if you sell it you will owe a great deal in capital gains tax.

In general, if the home is owned by you and used as a second home, you can deduct the real estate property taxes and may be able to deduct your interest payments you make to your mom. You'll have to see what benefits you get on your federal income taxes by deducting interest and property taxes. (You might also want to keep in mind that the tax rules are changing and you may have a limited amount to deduct a maximum of \$10,000 for real estate property taxes and any state income taxes you owe.)

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