

Tax Tip

Week of November 1, 2010

Application of Attribution Rules on Couples that Separate

The attribution rules are designed to stop couples from splitting income by gifting or transferring assets from the high income spouse to the lower income spouse. The rules apply to both income and capital gains. If assets are transferred to a child under the age of 18, any income from the transferred asset is included in the income of the individual that made the transfer, but any capital gains remain the income of the child.

The attribution rules as they apply to income or capital are treated differently when a couple separates. The attribution concerning income no longer applies as at the date a couple separates. However, the attribution rules as they apply to capital gains cease on divorce, rather than separation. It is possible for the couple to file an election to have the attribution rules cease on separation.