

A notorious spendthrift who was usually broke for that reason received the following letter from his uncle, a wealthy and prudent man: "I understand you're in financial difficulties again. I promise to give you \$5,000 on your birthday next month, but you'd better use it wisely or you'll never get another dime from me." The spendthrift thereupon signed a contract with a car dealer to purchase a \$40,000 automobile and to make a \$5,000 down payment on the day after his birthday.

If the spendthrift sues the uncle for \$5,000 after the uncle learned of the car-purchase contract and then repudiated his promise, which of the following is the uncle's best defense?

- A. A promise to make a gift in the future is not enforceable.
- B. Reliance by the promisee on a promise to make a future gift does not make the promise enforceable unless injustice can be avoided only by such enforcement.
- C. Reliance by the promisee on a promise to make a future gift does not make the promise enforceable unless that reliance also results in an economic benefit to the promisor.
- D. Reliance by the promisee on a promise to make a future gift does not make the promise enforceable unless the value of the promised gift is substantially equivalent to the promisee's loss by reliance.

## Explanation:

### Promises binding without consideration

|   |   |
|---|---|
| <b>Pay debt barred by technical defense</b> | Promise to pay debt that would be enforceable absent technical defense to enforcement (eg, statute of limitations, bankruptcy)  |
| <b>Perform voidable duty</b>                | Promise to perform voidable duty, provided that new promise is not also voidable (eg, minor reaffirms promise to perform contract after reaching age of majority)   |
| <b>Pay for material benefits received</b>   | Promise to pay for material benefits received in the past & not intended as a gift (eg, promise to pay for emergency services previously received)  |
| <b>Promissory estoppel</b>                  | Any promise (eg, promise of future gift) if: <ul style="list-style-type: none"><li>• promisor should reasonably expect promisee to rely on promise</li><li>• promisee relies on promise to his/her detriment <i>and</i></li><li>• injustice can be avoided only by enforcement of promise</li></ul> |

To be enforceable, a contract must be supported by consideration—ie, a bargained-for exchange of promises or performance. A **promise to make a gift**—eg, the uncle's promise to give the spendthrift \$5,000 on his birthday without asking for anything in return—does not involve a bargained-for exchange and is generally unenforceable. But under the doctrine of **promissory estoppel**, a gift promise may be **enforceable if**:

- the promisor should **reasonably expect** the **promisee to rely** on the promise
- the promisee relies on the promise to his/her **detriment** *and*
- **injustice** can be **avoided only by enforcement** of the promise (**Choice A**).

Here, the uncle promised to gift the spendthrift \$5,000 on his birthday. The uncle likely should have expected the spendthrift to rely on that promise since the uncle knew about the spendthrift's financial difficulties. And the spendthrift did rely on that promise when he entered into a car-purchase contract and agreed to make a \$5,000 down payment the day after his birthday. As a result, the uncle's best defense is that the spendthrift's reliance on the promise does not make it enforceable unless injustice can be avoided only by such enforcement.

**(Choice C)** Promissory estoppel (also known as detrimental reliance) does not require proof that the promisee's reliance resulted in an economic benefit to the promisor.

**(Choice D)** The value of the promised gift need not be substantially equivalent to the promisee's loss by reliance for promissory estoppel to apply. However, the promisee's

remedy is limited to actual loss suffered in reliance on the promise—not necessarily the full value of the promise.

**Educational objective:**

A party's promise to make a gift is enforceable under the doctrine of promissory estoppel if (1) the promisor should reasonably expect the promisee to rely on that promise, (2) the promisee detrimentally relies on that promise, and (3) injustice can be avoided only by enforcement of that promise.

**References**

- Restatement (Second) of Contracts § 71 (Am. Law Inst. 1981) (bargained-for exchange).
- Restatement (Second) of Contracts § 90 (Am. Law Inst. 1981) (promissory estoppel).

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