Connecticut Debate Association, Novice Scrimmage

October 2, 2010. Wethersfield High School

Resolved: The U.S. should repeal all estate and inheritance taxes

Estate tax in the United States

From Wikipedia, the free encyclopedia

The estate tax in the United States is a tax imposed on the transfer of the "taxable estate" of a deceased person, whether such property is transferred via a will, according to the state laws of intestacy or otherwise made as an incident of the death of the owner, such as a transfer of property from an intestate estate[1] or trust, or the payment of certain life insurance benefits or financial account sums to beneficiaries. The estate tax is one part of the Unified Gift and Estate Tax system in the United States. The other part of the system, the gift tax, imposes a tax on transfers of property during a person's life; the gift tax prevents avoidance of the estate tax should a person want to give away his/her estate.

In addition to the federal government, many states also impose an estate tax, with the state version called either an estate tax or an inheritance tax. Since the 1990s, opponents of the tax have used the pejorative term "death tax." The equivalent tax in the United Kingdom has always been referred to as "inheritance tax".

If an asset is left to a spouse or a charitable organization, the tax usually does not apply.

Inheritance tax

From Wikipedia, the free encyclopedia

An inheritance tax (also known as an estate tax or death duty) is a tax which arises on the death of an individual. It is a tax on the estate, or total value of the money and property, of a person who has died.[1] In international tax law, there is a distinction between an estate tax and an inheritance tax: an estate tax taxes the personal representatives of the deceased, while an inheritance tax taxes the beneficiaries of the estate. However this distinction is not always respected.

A Good Year To Die

Investors Business Daily

Posted 01/04/2010 07:11 PM ET

Fiscal Policy: The new year saw the death of the estate tax. But like Freddie Krueger, this epitome of class warfare and wealth redistribution is sure to return to wreak havoc among the living.

Once dubbed the "Paris Hilton" tax, the levy is supposed to target the inherited wealth of the super-rich who really didn't earn it or don't really need so much of it. Or so we're told. But at some point, even inherited wealth was created and taxed in its creation. The death tax is double taxation, and just because you can't take it with you doesn't mean the government should take it from you or your heirs.

The estate tax is mostly gone in 2010 because of language in the 2001 Bush tax cuts that gradually reduced the tax rate to 45% and raised the exemption to $3.5 million in 2009.[2] But in 2011, in the absence of any action, it reverts to prior law with a $1 million exemption and a 55% rate. During this year without an estate tax, many estates will still be subject to the capital gains tax they now avoid.

Though it brings in little revenue, the estate tax has a far-reaching economic impact. Some 5,500 families would have paid a total of $14 billion in estate taxes this year, the Congressional Budget Office estimates.

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[1] An "intestate estate" occurs when someone dies and does not leave a will, so that a court has to decide how to distribute the property among that person's heirs. That person is said to have "died intestate."

[2] The Bush tax cuts reduced the estate tax to zero for 2010.

That's $14 billion sucked out of the economy and into government coffers to stimulate nonexistent jobs when its wider circulation could be creating real ones.

It takes capital out of the cold, dead hands of entrepreneurs and puts it in the unproductive hands of government. Heritage Foundation economists reckon that the federal estate tax alone is responsible for the loss of 170,000 to 250,000 potential jobs each year. These numbers do not appear in employment statistics because the investments that would have created these jobs are never made.

In December, Speaker Nancy Pelosi led Democrats in the House to vote to make the estate tax permanent at 2009 rates. On the Senate side, a two-month extension of the tax was rejected. But Finance Committee Chairman Max Baucus says Congress will seek to restore this tax on the dead retroactively. So if you die in 2010, don't expect to rest in peace. The IRS may still pay your heirs a visit.

The death tax accounts for around 1% of federal receipts on average. But tax avoidance efforts and compliance costs in term of time and money cost the economy much more than that. Congress' Joint Economic Committee estimates the tax drains about $60 billion from our economy each year.

The tax is about class envy, every bit as much as was the famous luxury tax of the 1990s. That assessment was meant to punish yacht buyers, but it only succeeded in punishing yacht builders and the workers they employed, to the extent that it had to be repealed.

As it is, we don't know if the very rich and sick will avoid life-extending medical care in 2010, or if their heirs will pull the plug on them as the next new year approaches. We do know these perverse incentives should not exist. We should be seeking to make the repeal permanent and not to restore retroactively what amounts to grave-robbing.

People should not be punished because they work hard, become successful and want to pass on the fruits of their labor, or even their ancestors' labor, to their children. As has been said, families shouldn't be required to visit the undertaker and the tax collector on the same day.

We doubt that those who said give us liberty or give us death meant death to be a taxable event.

What Should We Do With the Estate Tax?

The Wall Street Journal, 20 September 2010

Should the government take a big bite out of inheritances? Does taxing big estates help or hurt the economy and the country? And is such a tax fair to heirs, not to mention the people who worked and saved over the decades to build up those assets?

The estate tax has always been contentious -- but now the debate has taken on new life. Because of Senate inaction, the estate tax lapsed at the end of last year. While there's no estate tax this year, heirs of those dying in 2010 may owe full capital-gains tax on sales of inherited property and may actually face a bigger tax bill than they would have if they had inherited in 2009.

Many believe Congress will tackle the estate-tax question in the weeks before it adjourns, along with a slew of other tax matters. What's likely to happen? Many think lawmakers will return the estate tax to its 2009 level -- a $3.5 million exemption per individual and a top rate of 45% -- and possibly raise the exemption. Heirs of those who die in 2010 may also get the choice of using 2009 rules. If lawmakers don't step in, the tax will return in 2011 with a $1 million exemption per individual and top rate of 55%.

So in the meantime, the debate rages on. And a huge amount of money hangs in the balance.

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Get Rid Of It

By Ed McCaffery

Ed McCaffery is the Robert C. Packard trustee chair in law and a professor of law, economics and political science at the University of Southern California's Gould School of Law. He is also the author of *Fair not Flat: How to Make the Tax System Better and Simpler*.

Suppose you overheard a mother schooling her child not to work for regular wages, not to save and, by all means -- whatever you do, my dear child! -- to spend every cent the little one could accumulate on this Earth and die broke. How bizarre, you would think.

Yet that's exactly what the U.S. tax system tells the American people. If you work hard, save thriftily and accumulate a fortune, you'll be taxed constantly and then see up to one-half of your savings go to your distant Uncle Sam instead of the heirs that you choose. Why not stop building up your net wealth, spend what you have and die poor?

These incentives do not just hurt the heirs of the very wealthy; they hurt the entire nation. We need class teamwork, not class warfare.

The case against the estate tax is not a fancy one. It does not turn on complex legal or economic argument. It is a simple moral case: As Adam Smith taught, the law should be set up to align the interests of one and all.

If the law allows people to keep what they earn, everyone has a private incentive to work hard -- which ends up benefiting everyone else. Consider Smith's butcher, baker and brewer. A system that lets them keep what they earn encourages them to produce more -- and hence less expensive -- meat, bread and brew. They can also put more money in the bank, another positive for their neighbors and the nation. Having large supplies of private capital available for lending keeps interest rates low. That helps all borrowers and, all things being equal, drives up wages, because employers don't have to spend as much on financing capital investments.

The estate tax encourages the wealthy baker to stop working and go broke. That hurts the brewer, who has to pay more for the bread he eats and the money he borrows. Even if the baker doesn't blow all of his money, he will likely try to shelter as much as possible with estate planning -- which means he's spending time engaging in needless, complex transactions instead of doing his best job and hiding his money instead of letting it benefit other borrowers.

Proponents of the tax don't accept this argument. They argue that the tax doesn't hurt the economy and doesn't encourage spending by people trying to die broke. Many experts who have studied the numbers disagree. What's more, the advocates' argument goes against a basic tenet of economics: People respond to incentives. It's curious that estate-tax proponents tend to believe that people respond to the tax's incentive to give to charities -- and then curiously deny that anyone would respond to the incentives to stop working, stop saving and engage in sophisticated planning to avoid the tax.

Another common argument is that the tax hits only a small fraction of the population. But that fraction pulls a disproportionate amount of economic weight when it comes to savings. Wealthy individuals are the best savers, better than government, which cannot save a nickel, and better than the not-rich, who struggle to make ends meet. The savings of the wealthy are critical to America's health.

The estate tax has a long history. But it has been avoided and ineffective the whole time -- and widely disliked, even by people it doesn't directly affect. Might the ordinary folk have a valid point?

Proponents of the tax are a well-meaning lot. They think that the estate tax is needed to raise revenue, break up concentrations of wealth, and serve the goals of redistribution and fairness. Yet the estate tax as is does none of these things, or does them poorly. As taxes go, it raises slim revenue, and its redistributionist goals can be easily avoided through dying broke or estate planning. And if we could tighten the existent tax, make it hard to avoid, then we would run even more forcefully into the incentives to stop working and saving.

So proponents come down to this: It's the best we have. It may be a bad progressive tax, but at least it's a progressive tax. It's the only way to deal with the "Paris Hilton problem" of the spendthrift heir who gets a windfall he or she did not earn. Only, it is not. The right way to deal with that problem is the right way to deal with the general problem of U.S. tax policy -- to tax spending, not working and saving. Excessive private spending -- heirs wasting an inheritance instead of using it thriftily and productively -- is the Paris Hilton "problem."

My proposal is to scrap the income, gift and estate taxes and replace them with a consistent spending tax, which can easily be progressive. The incentive then is not to spend it all and die broke. It is to save as much as possible and die rich. A progressive spending tax could bring in as much revenue as the taxes it replaces. And it would be better from a moral point of view.

Sounds like something Adam Smith would understand, something that would make the brewer happy while helping a nation of bakers and butchers that needs more private savings. And it would generate more comforting advice to be hearing moms tell their children.

Keep It

By Michael J. Graetz

Michael J. Graetz is a professor of law at Columbia Law School and the co-author of Death by a Thousand Cuts: The Fight Over Taxing Inherited Wealth.

Is it fair for Paris Hilton to inherit her great-grandfather Conrad's fortune without paying any tax on it? Or Yankee owner George Steinbrenner's 13 grandchildren? This is exactly what happens when there is no estate or inheritance tax on the bequests of the very rich.

Indeed, that's what the case for the estate tax boils down to: basic fairness. The tax affects a small number of people who inherit large amounts of wealth -- and who can afford to give up a portion of their windfall to help finance their government. In 2008, for instance, the estate tax collected about $29 billion from fewer than 20,000 estates -- the wealthiest 1% of the 2.5 million people who died that year.

As Teddy Roosevelt observed when he proposed taxing large inheritances a century ago, the "man of great wealth owes a peculiar obligation to the state," and an economic aristocracy is contrary to American values. Large tax-free inheritances undermine our nation's commitment to equality of opportunity for all.

Opponents like to say the estate tax isn't fair because it's a "double" tax -- hitting assets that have already been taxed before. Of course, we all pay double or even triple taxes: both income and payroll taxes on our wages, and sales taxes when we spend our earnings. But, for the wealthy, that's often simply not the case. Social Security taxes stop at just over $100,000 a year. And if you hold assets until your death, you don't pay capital-gains taxes on them. So, the gain in the value of George Steinbrenner's Yankees never faced a tax hit.

What's more, much of the money that the very wealthy leave behind hasn't been heavily dunned by income taxes. The top income earners pay strikingly low income-tax rates, since they get a big chunk of that income from sources that either have low tax rates -- such as capital gains -- or aren't taxed at all, such as interest on state and local-government bonds. In 2007, for instance, the top 400 taxpayers, with average income of $344 million, paid an average income-tax rate of less than 17%.

So, taxing large inheritances serves to back up gaps in other taxes. That's especially vital now, as we face a dangerous imbalance between federal spending and revenue. Yes, spending must be cut, but we must also have enough tax revenue to keep the government running. If we kill the estate tax, the money will have to come from somebody else. (It's simply not plausible to argue, as some do, that we could tax only what people spend and eliminate all taxes on income and wealth. We'd end up shifting the tax burden down to those less able to pay or drive our country deeper into debt.)

Some argue the tax is too small to be meaningful, so why bother? But the amount raised is not chump change. In 2008, the tax contributed less than 1% of federal revenue, but it was enough to pay for about three-quarters of the total expenditures of the Department of Homeland Security that year.

Critics also argue the tax is easily avoided through crafty estate planning. I agree. Let's tighten the loopholes so the super-wealthy pay their fair share. More broadly, some complain that the estate tax stifles economic growth. But the economic costs are relatively small. Treasury economists have estimated that people with estates large enough to be subject to the tax die with about 90% of the wealth they would have accumulated if the tax were repealed.

What's more, there's no evidence that wealthy people are blowing their money, or stopping work, in an effort to "die broke" and evade the tax. On the other hand, large tax-free inheritances do encourage their recipients not to work. People who receive large inheritances are about four times more likely to drop out of the labor force than those who inherit only small amounts.

Let's be clear on this point. The tax burdens those who inherit the wealth, not those who produced it; it is a tax on Paris Hilton, not Conrad Hilton. And it does not conflict with the values of hard work, entrepreneurship and thrift.

To be sure, the estate tax is not ideal. Like our income tax, it is overly complex and expensive to comply with. The tax also unduly burdens small businesses and family farms, rarely but sometimes forcing their liquidation when the owner dies. Such assets should be exempt from the tax until they are sold outside the family. We should also set the tax's exemption level and rates according to the size of bequests received. Such a change would better align tax rates with ability to pay and make it easier to adjust the tax for family circumstances.

Even with its shortcomings, we need the estate tax, with our nation's financial situation more precarious than it has been in half a century and the distribution of income and wealth skewed more toward the top than at any time since the 1920s.

Indeed, it is something of a mystery why a tax that affects only the richest 1% of our citizens, encourages charity and places no burden on the vast majority of Americans should be repealed. Perhaps it should be beyond surprise that the interests of the wealthy triumph in today's politics.

Estate tax in the United States (continued from above)

From Wikipedia, the free encyclopedia

Arguments in favor

Proponents of the estate tax argue that it serves to prevent the perpetuation of wealth, free of tax, in wealthy families and that it is necessary to a system of progressive taxation.[22] Proponents point out that the estate tax affects only estates of considerable size (in 2009, over $3.5 million USD, and $7 million USD for couples) and provides numerous credits (including the unified credit) that allow a significant portion of even large estates to escape taxation. Regarding the tax's effect on farmers, proponents counter that this criticism is misguided as there is an exemption built into the law that is specifically designed for family-owned farms.[23] Proponents note that abolishing the estate tax will result in tens of billions of dollars being lost annually from the federal budget.[24]

Furthermore, supporters argue that many large fortunes do not represent taxed income or savings, that wealth is not being taxed but merely the transfer of that wealth, and that many large fortunes represent unrealized capital gains which (because of a step up in basis at the time of death) will never be taxed as capital gains under the federal income tax.[25].

Another argument in favor of the estate tax relates to comparative incentives. Proponents argue that the estate tax is a better source of revenue than the income tax, which is said to directly disincentivize work. While all taxes have this effect to a degree, some argue that the estate tax is less of a disincentive since it does not tax money that the earner spends, but merely that which he or she wishes to give away for non-charitable purposes. Moreover, some argue that allowing the rich to bequeath unlimited wealth on future generations will disincentivize hard work in those future generations.[24] Winston Churchill argued that estate taxes are “a certain corrective against the development of a race of idle rich”. Research suggests that the more wealth that older people inherit, the more likely they are to leave the labor market[26].

Proponents of the estate tax tend to object to characterizations that it operates as a double or triple taxation. Proponents point out that many of the earnings that are subject to the estate tax were never taxed because they were "unrealized" gains.[23] Others note that double and triple taxation is common (through income, property, and sales taxes, for instance) or argue that the estate tax should be seen as a single tax on the inheritors of large estates.

Supporters of the estate tax also point to longstanding historical precedent for limiting inheritance, and note that current generational transfers of wealth are greater than they have been historically. In ancient times, funeral rites for lords and chieftains involved significant wealth expenditure on sacrifices to religious deities, feasting, and ceremonies. The well-to-do were literally buried or burned along with most of their wealth. These traditions may have been imposed by religious edict but they served a real purpose, which was to prevent accumulation of great disparities of wealth, which tended to destabilize societies and lead to social imbalance, eventual revolution, or disruption of functioning economic systems. This economic safety valve is now partially imposed via the estate tax, which strips excess wealth from the recently dead and diverts it back to the society as a whole.

It is sometimes posited that children don't have any moral right to the wealth of their parents after they have grown up, and the transfer of wealth works against many of the fundamental ideals of society, such as the American Dream. Therefore a heavy estate tax can be considered an ethical form of tax.

Proponents also note that the arguments of estate tax opponents are occasionally disingenuous. For example, while opponents point to family farmers and small business owners in an effort to demonstrate the unfairness or overreach of the tax, proponents note that nearly all family farmers and small business owners are exempt from or are not subject to the estate tax.[23]

One of the world's wealthiest men, Warren Buffett, CEO of Berkshire Hathaway, and the father of another of the world's wealthiest men (Microsoft founder Bill Gates), William H. Gates, Sr., favor the estate tax[27].

Arguments against

One argument against the estate tax is that the tax obligation in itself can assume a disproportionate role in planning, possibly overshadowing more fundamental decisions about the underlying assets. In certain cases, this is claimed to create an undue burden. For example, pending estate taxes could become an artificial disincentive to further investment in an otherwise viable business – increasing the appeal of tax- or investment-reducing alternatives such as liquidation, downsizing, divestiture, or retirement. This could be especially true when an estate's value is about to surpass the exemption equivalent amount. Older individuals owning farms or small businesses, when weighing ongoing investment risks and marginal rates of return in light of tax factors, may see less value in maintaining these taxable enterprises. They may instead decide to reduce risk and preserve capital, by shifting resources, liquidating assets, and using tax avoidance techniques such as insurance policies, gift transfers, trusts, and tax free investments[28]

The estate tax burden falls heavily on farmers because agriculture has a lot of capital assets, such as land and equipment, in order to generate the same amount of income that other types of businesses generate with less. The return of the estate tax—and the higher rate and lower exemption—could result in as many as 10 percent of farms and ranches owing estate taxes in 2011, compared with about 1.5 percent of agricultural operations in 2009. Individuals, partnerships, and family corporations own 98 percent of the nation’s 2.2 million farms and ranches. The estate tax often forces the surviving family members to sell land, buildings or equipment to keep their operation going. In 2011, when the estate tax returns with a top rate of 55 percent and a $1 million exemption, as many as one in 10 farms and ranches (roughly 3,500-4,000 estates) would be subjected to the estate tax than there were in 2009. [29]

Another argument against the estate tax is a moral one. Proponents continually offer that the inheritor of wealth doesn't deserve it because, simply, he or she did not earn it directly. While it may be true that the receiver of wealth may not have a direct moral claim to that wealth, those opposed to the estate tax would argue that logically, neither does anyone else. This argument would further assert that the rights to that wealth lie with the deceased person, the person who earned it originally and who paid taxes on it continually while living. The rights lie with the deceased to dispose of his or her wealth as he or she sees fit, whether that disposition be in the form of a charitable gift, a check to the government, or a gift to a chosen heir. (Rand, 1967) This argument would assert that anyone claiming that an heir does not deserve inherited wealth could certainly not claim a right to use the power of government to confiscate that wealth on behalf of unknown others who most certainly would not deserve the wealth by that same line of thinking. To quote an Investor's Business Daily editorial, "People should not be punished because they work hard, become successful and want to pass on the fruits of their labor, or even their ancestors' labor, to their children. As has been said, families shouldn't be required to visit the undertaker and the tax collector on the same day."[30].

Opponents also point out that many attempts at validating the estate tax assume the superiority of socialist/collectivist economic models. For example, proponents of the tax commonly argue that "excess wealth" should be stripped from the recently deceased without offering a definition of what "excess wealth" could possibly mean and why it would be undesirable if procured through the honest effort of a productive life. Such statements exhibit a predilection for collectivist principles that opponents of the estate tax have long opposed on moral grounds.[31][32]

Previous Tax Foundation research has found the estate tax acts as a strong disincentive toward entrepreneurship. A 1994 study found that the estate tax’s 55 percent rate at the time had roughly the same disincentive effect as doubling an entrepreneur’s top effective marginal income tax rate. The estate tax has also been found to impose a large compliance burden on the U.S. economy. Some past economic studies have estimated the compliance costs of the federal estate tax to be roughly equal to the amount of revenue raised—nearly five times more costly per dollar of revenue than the federal income tax—making it one of the nation’s most inefficient revenue sources.[33]

The "death tax" and "estate tax" neologisms

The terms "death tax" and "estate tax" are neologisms used by policy makers and critics to describe the tax in a way that conveys additional meaning. Also used are death duties and inheritance taxes. The original taxes were known simply as death duties.[34].

The neologism "estate tax" began to be used by policy makers to make it appear that only estates or third party administrators and executors were being taxed, rather than heirs or the dead. The neologism "death tax" more directly refers back to the original use of "death duties" to address the fact that death itself triggers the tax or the transfer of assets on which the tax is assessed.

Many opponents of the estate tax refer to it as the "death tax" in their public discourse partly because a death must occur before any tax on the deceased's assets can be realized and also because the tax rate is determined by the value of the deceased's assets rather than the amount each inheritor receives. Neither the number of inheritors nor the size of each inheritor's portion factors into the calculations for rate of the Estate Tax.

Proponents of the tax say this is an imprecise use of the term "death tax," which has been used since the nineteenth century to refer to all the death duties applied to transfers at death: estate, inheritance, succession and otherwise.[35] This also is how the phrase "death taxes" is used in the United States' Internal Revenue Code.[36]

The recent political use of "death tax" as a synonym for "estate tax" was popularized by Jack Faris of the National Federation of Independent Business[37] during the Speakership of Newt Gingrich. It has been widely but inaccurately attributed to Republican pollster Frank Luntz. In a memo, Luntz wrote that the term "death tax" "kindled voter resentment in a way that 'inheritance tax' and 'estate tax' do not" [34].

Linguist George Lakoff alleges the "estate tax" phrase is a deliberate and carefully calculated neologism which is used as a propaganda tactic to aid in the repeal of estate taxes. However the use of "death tax" rather than "estate tax" in the wording of questions in the 2002 National Election Survey increased support for estate tax repeal by only a few percentage points.[38]

Estate and Gift Taxes

Urban Policy Institute and the Brookings Center

Tax Policy Center: Tax Topics (http://www.taxpolicycenter.org/taxtopics/estatetax.cfm)

Estate Tax Parameters 2001-2011

- Estates larger than $3.5 million potentially owe estate tax in 2009. Only about 1 in 460 deaths result in a taxable estate; 99.8 percent of deaths trigger no estate tax. The estate tax will raise almost $14 billion from 5,500 estates in 2009. Source: Tax Policy Center Table T09-0400
- Under the 2001 tax cut, the estate tax phases out gradually to complete repeal in 2010. In 2011, the estate tax reverts to its 2001 status with estates greater than $1 million subject to tax rates up to 60 percent. Source: The Estate Tax Is Down, But Not Out
- The estate tax is the most progressive federal tax. In 2009, more than 76 percent of estate taxpayers come from the top 5 percentof the income distribution, and they pay 93 perc ent of estate tax revenue. Source: Tax Policy Center Table T09-0402

Year	Exemption	Top Tax Rate
2001	675,000	60
2002	1,000,000	50
2003	1,000,000	49
2004	1,500,000	48
2005	1,500,000	47
2006	2,000,000	46
2007	2,000,000	45
2008	2,000,000	45
2009	3,500,000	45
2010	Repealed	
2011	1,000,000	60

Share of Total Estate Tax Paid by Income Percentile 2009

Income Percentile	Share Paid
Top 0.1%	42.1%
99% to 99.9%	29.9%
95% to 99%	20.8%
90% to 95%	1.3%
80% to 90%	2.0%
Bottom 80%	3.1%

Year	Number of Deaths	Deaths Subject to Estate Tax	Percent	Gross Estate Value ($ millions)	Estate Tax Paid ($ millions)	Effective estate tax rate
2001	2,363,100	50,456	2.14%	129,638	23,744	18.32%
2002	2,389,533	28,074	1.17%	105,339	18,841	17.89%
2003	2,394,749	27,309	1.14%	90,429	18,709	20.69%
2004	2,344,354	19,294	0.82%	102,078	22,220	21.77%
2005	2,394,516	25,200	1.05%	134,754	26,874	19.94%
2006	2,373,218	15,700	0.66%	125,188	24,656	19.70%
2007	2,362,210	17,000	0.72%	131,827	25,019	18.98%
2008	2,399,380	13,700	0.57%	105,582	19,778	18.73%
2009	2,437,134	5,500	0.23%	75,341	13,835	18.36%