The Estate (Inheritance) Tax

Overview

The federal estate tax, also known as the inheritance tax, is primarily paid by the estates of multi-millionaires and billionaires before their assets are passed to their heirs. It was created nearly 100 years ago to raise revenue from those with the greatest ability to pay, encourage charitable giving and put a brake on the concentration of wealth and power. Conservatives call it the "death tax" in order to mislead people to believe that all Americans pay the tax. But the truth is the vast majority of deaths – 99.9% – will not trigger estate taxes in 2014.

Who pays the estate tax and how much do they pay?

Currently, the tax is assessed only on estates with assets exceeding $5.3 million ($10.6 million per married couple). Families with an estate worth less than those amounts pay nothing. Most families with estates worth $10.6 million or more do careful planning to avoid the tax. Tax loopholes let many wealthy families greatly reduce what they pay or pay no taxes at all. The estate tax is graduated – like the income tax – with a top rate of 40%. However, the average effective tax rate is 17% for those 1 out of 700 deaths that result in paying an estate tax.

Why is the estate tax important?

Very wealthy Americans have many ways to avoid paying their fair share in taxes. Some billionaires pay a lower federal tax rate than an average worker. Large portions of the incomes of the very rich are never taxed at all.

American society is rapidly becoming divided between the extremely rich – the top 1% – and everyone else. Huge family fortunes are passed down from generation to generation, creating a new American aristocracy. The estate tax is a small step toward levelling the playing field. And revenues generated by the estate tax – $14 billion in 2013 from 2,667 deaths – help fund essential services enjoyed by all.

Correcting misinformation about the estate tax

Conservatives misleadingly imply that every American will have to pay the estate tax when he or she dies. But this is pure propaganda – only 1 out of every 700 deaths results in paying estate taxes.

Conservatives claim that many small, family-owned farms and businesses must be sold to pay estate taxes. But in the entire country just 20 small, family-owned farms and businesses owe any estate tax a year. Virtually none of them get sold to pay the estate tax.

Conservatives claim that the estate tax constitutes "double taxation" because it applies to assets that already have been taxed once as income. But large estates consist mostly of "unrealized" capital gains that have never been taxed, like income from Wall Street investments and from real estate.

Key Facts

The estate tax raised $8.5 billion in 2012 – less than 1% of the $1.2 trillion inherited that year.

Only 1 out of every 700 deaths results in paying the federal estate tax today. The vast majority of estates – 99.9% – do not pay federal estate taxes.

While the top estate tax rate is 40%, the average tax rate paid is just 17%.

The estate tax is only paid on assets greater than $5.3 million per individual ($10.6 million couple). Even billionaires pay nothing on the first $5.3 million left to their heirs.

Only 20 small business and family farm estates nationwide will owe any estate tax in 2013.

The estate tax will raise $225 billion over the next 10 years. This is more than the $164 billion 10-year shortfall in the highway and mass transit trust funds.

The Walton family – which owns half of Walmart – has exploited a loophole in the estate tax to avoid paying $3 billion in estate taxes. This could increase by tens of billions in the future.

Casino magnate Sheldon Adelson has exploited a loophole that allowed him to pass $8 billion to family members and avoid $2.8 billion in estate taxes.

News Coverage

Accidental tax break saves wealthiest Americans $100 billion," Bloomberg News

How Wal-Mart's Waltons Maintain Their Billionaire Fortune, Bloomberg News

Cook Couple Passed $6 Billion Fortune to Son to Avoid Tax, Bloomberg News

A Family's Billions, Artfully Sheltered, The New York Times

President Obama wants to strengthen the estate tax

The estate tax will currently raise about $225 billion over 10 years. President Obama wants to restore its parameters to 2009 levels – a $3.5 million exemption for an individual ($7 million couple) and a 45% top rate. This reform and others he proposed will raise $131 billion more over 10 years, and affect three estates for every 1,000 deaths.

Other stronger reform options

- **Restore the estate tax to what it was under President Clinton** – a $2.6 million exemption per couple with a 55% top tax rate. This would generate an additional $249 billion over 10 years – money that could be used to support popular public services and reduce the deficit. Even with this smaller exemption, the tax would affect fewer than 2 out of 100 estates. Rep. Jim McDermott (D-WA) proposed such legislation (H.R. 3467) in 2011.
- **Close the inherited capital gains tax loophole.** Wealthy people avoid capital gains taxes by holding onto their assets until they die and bequeathing them to heirs. The increase in value is not taxable when they are sold. This loophole will allow the wealthy to dodge about $650 billion in taxes over the next 10 years.
- **Close an estate tax loophole used by the super-rich, known as the "Walton" grantor retained annuity trust, or GRAT.** These specialized trusts allow families like the Waltons to completely avoid paying estate and gift taxes. This loophole may have cost the U.S. Treasury $100 billion since 2000.

Conservatives want to repeal the estate tax

There is a significant effort among conservatives to repeal the estate tax – with no plans to replace the $225 billion in revenue that would be lost over a decade. A bill (H.R. 2429) to do that, authored by Rep. Kevin Brady (R-CA), has a majority in the U.S. House cosponsoring it.

Talking points

- The estate tax is paid by billionaires and millionaires – it is not a tax on the middle class. An estate needs to be worth more than $5 million before a dime of it gets taxed. Only 1 estate out of every 700 deaths pays any estate tax.
- A strong estate tax is needed to make sure the wealthy pay their fair share. It is not a tax on small businesses and family farmers – just 20 of them across the country pay U.S. estate taxes each year.
- The richest Americans are amassing huge fortunes, passing them to their heirs and creating a new aristocracy. The rest of us are barely keeping our heads above water. We need a strong estate tax to help restore the promise of America to everyone.
- Repealing the estate tax would blow a $225 billion hole in the federal budget over 10 years. It would give huge tax breaks to those who need them the least – the wealthiest Americans.

Opinion

Changing the tax code could help curb inequality, The Washington Post

Look How Easy It Is to Game Estate Taxes, Bloomberg View

America's Taxation Tradition, The New York Times

Resources

Estate and Gift Taxes, Tax Policy Center

Policy Basics: The Estate Tax, Center on Budget and Policy Priorities

Myths and Realities About the Estate Tax, Center on Budget and Policy Priorities

Fixing and Expanding the Estate Tax, Institute for Policy Studies

Loopholes in the Estate Tax Show Why Revenue Must Be on the Table, Center for American Progress

Wealth and Our Commonwealth: Why Americans Should Tax Accumulated Fortunes, Bill Gates Sr. and Chuck Collins

Contact

Harry Gural
hgural@americansfortaxfairness.org

Americans for Tax Fairness *is a diverse coalition of 425 national and state organizations that collectively represent tens of millions of members. ATF was formed on the belief that the country needs comprehensive, progressive tax reform that results in greater revenue to meet our growing needs.*