Center for American Progress

FACT SHEET

A Windfall for Wealthy Heirs

Repealing the Tax on Estates Worth More Than $5.5 Million

By Alexandra Thornton and Seth Hanlon September 22, 2017

The federal estate tax is a levy on very large estates—those that are valued at more than $5.49 million for single individuals, or nearly $11 million for couples, and passed on to heirs. Created just before the U.S. entry into World War I, the federal estate tax was implemented to provide a progressive source of revenue during a time of high inequality.[1] As President Theodore Roosevelt said in 1907, "Such a tax would help to preserve a measurable equality of opportunity."[2] Now, more than a century later, inequality is again approaching historically high levels.[3] Yet President Donald Trump and many conservative lawmakers want to repeal the estate tax and, to do so, are making claims in support of repeal that misstate the facts.[4]

Only the wealthiest 0.2 percent of estates pay any estate tax at all

The estate tax only applies to a tiny fraction of estates owned by the wealthiest Americans. Although everyone technically has an estate when they die, very few people have estates worth enough to be subject to the tax, which applies to the value of one's assets minus one's liabilities. The first $5.49 million of the value of one's estate is exempt from the estate tax, and the exemption amount is twice that for couples. In reality, however, the threshold amount of wealth for paying the estate tax is even greater, as there are numerous ways to reduce the value of one's estate under the current tax code, known as estate planning.[5]

Because of the large exemption levels and myriad estate planning techniques, 99.8 percent of Americans do not have estates that are large enough to trigger the estate tax. Less than 0.2 percent—fewer than 2 in every 1,000 Americans—will pay any estate tax.[6] Out of a total of 2.6 million deaths in 2013, the most recent year for which there are data, 4,699 estates owed estate tax.[7]

Even for the largest estates, only the estate value exceeding the exemption amounts is taxable. As a result, although the highest estate tax rate is 40 percent, the average rate that estates subject to the tax pay is just 17 percent. Taxable estates worth in the $5 million to $10 million range only pay a 9 percent tax rate, and even the largest estates—those worth more than $20 million—pay less than 20 percent of their value on average.[8]

Without the estate tax, large amounts of wealth would go untaxed

While regular workers pay taxes on their wages and salaries every year, a wealthy person who simply holds assets while the assets appreciate does not pay any tax on the gain. And due to a large loophole in the tax code known as stepped-up basis, if a person holds onto assets—such as stocks, real estate, or interests in business entities—until they die, the gain in value of those assets is never subject to income taxes. The wealthiest people often hold onto their assets and may even take out loans against them to finance their lifestyles without triggering income tax. In fact, more than half of the value of estates worth more than $100 million consists of unrealized capital gains—that is, capital gains that have never been taxed.[9]

Repealing the estate tax, then, would mean that a huge amount of wealth would never be taxed. Successive generations could avoid any tax at all on the ever-increasing value of their assets, so long as they never sold them. This contrasts with average working Americans whose wages have stagnated since 2000, who hold precious few assets, and who pay taxes every year on the money they earn.

Repeal of the estate tax will not affect small businesses and family farms

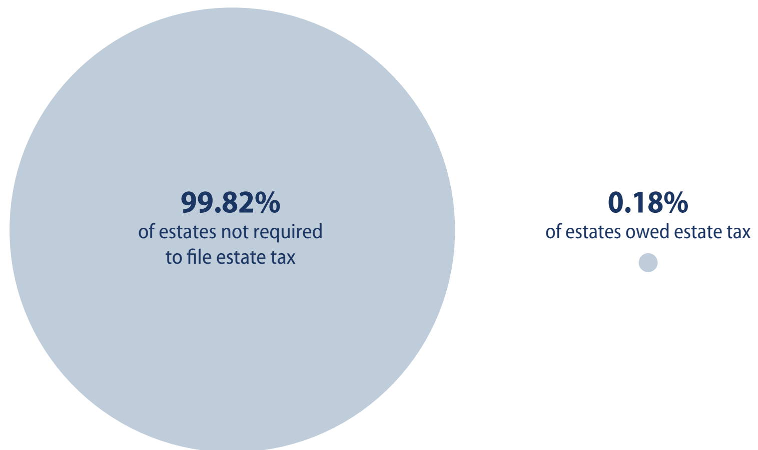
Opponents of the estate tax, including House Speaker Paul Ryan (R-WI), repeatedly claim that it threatens small businesses and family farms.[10] However, these claims do not match reality.

Small businesses and family farms worth less than $5.5 million, or nearly $11 million if owned by a couple, do not even have to file an estate tax return, much less pay any estate tax. The few small businesses and family farms whose estate worth exceeds the threshold amounts must file an estate tax return but still may not owe any tax once various deductions, debts, and special valuation provisions are allowed.[11] In fact, Section 2032A of the tax code allows farmers to value their farms at a much lower amount so long as they continue to operate as a farm, even if encroaching urban areas make the development value of their land much greater.[12]

According to the Tax Policy Center, only 50 small businesses and small farm estates in the entire country will owe any estate tax in 2017,[13] and they will pay an average tax rate of just 5.9 percent.[14] The U.S. Department of Agriculture has estimated that only 0.4 percent of all farm estates of any size would owe estate taxes in 2016—about 1 in every 250 farms.

FIGURE 1

Fewer than 2 out of every 1,000 Americans' estates were wealthy enough to owe estate tax in 2013



Sources: Internal Revenue Service, *SOI Tax Stats: Estate Tax Data, by Year of Death* (U.S. Department of the Treasury, 2013), available at https://www.irs.gov/statistics/soi-tax-stats-estate-tax-statistics-year-of-death-table-1; Jiaquan Xu and others, "Deaths: Final Data for 2013" National Vital Statistics Report 64 (2) (2016), available at https://www.cdc.gov/nchs/data/nvsr/nvsr64/nvsr64_02.pdf.

The revenue from the estate tax helps fund crucial federal programs

Although very few estates pay any estate tax, it is an important source of federal revenue. Repealing the estate tax would reduce federal revenues by $270 billion over 10 years, according to the congressional Joint Committee on Taxation.[15] This is significant revenue that helps pay for essential public functions. For scale, as the Center on Budget and Policy Priorities has noted, the average of $25 billion in revenue annually is more than the combined budgets of the Food and Drug Administration, the Centers for Disease Control and Prevention, and the Environmental Protection Agency.[16]

One useful point of context for how important estate tax revenues are is how many people's federal nutrition benefits that amount of revenue can pay for. While estate tax revenue does not actually pay for nutrition benefits—it goes into the government's general fund—the comparison is still useful. By 2018, the estate tax would raise enough revenue to pay for nutrition benefits for more than 17 million people.

TABLE 1

Estate tax revenue is sufficient to pay for nutrition benefits for 17 million people

Estate tax revenue and Supplemental Nutrition Assistance Program benefits by state, projected 2018

	Number of estates paying estate tax	Revenue raised	How many people's nutrition benefits could be paid for with revenue raised
United States*	**5,400**	**$25,157,000,000**	**17,028,504**
Alabama	40	$244,828,232	167,167
Alaska	*	$31,344,845	15,587
Arizona	80	$380,413,944	268,343
Arkansas	20	$176,204,936	131,200
California	1,070	$5,800,688,000	3,506,906
Colorado	70	$350,804,143	231,801
Connecticut	110	$345,546,661	220,040
Delaware	20	$54,975,644	37,104
District of Columbia	10	$150,209,978	97,946
Florida	620	$3,333,876,804	2,207,421
Georgia	120	$478,346,867	316,483
Hawaii	20	$108,247,576	41,674
Idaho	*	$36,511,513	27,050
Illinois	220	$965,376,398	614,920
Indiana	70	$175,967,170	121,187
Iowa	70	$98,049,767	76,495
Kansas	50	$210,187,997	158,441
Kentucky	40	$215,697,064	153,594
Louisiana	50	$217,703,663	148,502
Maine	20	$60,356,377	44,665
Maryland	80	$259,388,851	181,542
Massachusetts	130	$520,081,270	350,168
Michigan	100	$482,212,997	329,477
Minnesota	80	$244,166,931	198,819
Mississippi	20	$102,017,204	72,965
Missouri	80	$386,842,726	267,449
Montana	*	$30,087,849	21,534
Nebraska	40	$135,036,305	100,039
Nevada	50	$255,499,729	182,730
New Hampshire	30	$83,662,186	69,145
New Jersey	150	$479,141,037	346,188
New Mexico	30	$118,986,457	81,066

New York	470	$2,259,543,818	1,401,848
North Carolina	110	$282,305,035	199,857
North Dakota	*	$14,198,493	9,978
Ohio	140	$713,182,822	487,019
Oklahoma	50	$166,791,400	118,848
Oregon	20	$149,301,911	104,021
Pennsylvania	140	$690,125,802	481,064
Rhode Island	*	$63,661,912	40,594
South Carolina	50	$199,979,219	137,148
South Dakota	20	$69,336,246	47,288
Tennessee	60	$176,500,560	118,608
Texas	400	$1,942,439,124	1,415,559
Utah	20	$80,804,790	59,846
Vermont	*	$28,845,266	20,302
Virginia	130	$572,403,303	412,221
Washington	90	$278,676,215	201,250
West Virginia	*	$56,036,947	42,712
Wisconsin	70	$539,143,933	425,646
Wyoming	10	$113,705,331	28,996*

Notes: * indicates states with so few estates that pay estate tax that the IRS does not publish an exact number of those that have paid in past years in order to protect individual taxpayer data. The numbers for these states are included in the national totals, which are reflected in the estimate of the national total for 2018. State data may not add to national totals due to missing data in certain years and rounding. There are a total estimated 28,996 Supplemental Nutrition Assistance Program (SNAP) beneficiaries in Wyoming; the estate tax raises more revenue than the entire cost of SNAP benefits in Wyoming.

Sources: Chloe Cho, "State-by-State: Costly Estate Tax Repeal Benefits Only Few Wealthiest Estates" (Washington: Center on Budget and Policy Priorities, 2017), available at https://www.cbpp.org/blog/state-by-state-costly-estate-tax-repeal-benefits-only-few-wealthiest-estates; CAP analysis of data from Food and Nutrition Service, *Supplemental Nutrition Assistance Program (SNAP)* (U.S. Department of Agriculture, 2017), available at https://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap; 2018 projections based on CAP analysis of Congressional Budget Office, "Supplemental Nutrition Assistance Program – CBO's June 2017 Baseline" (2017), available at https://www.cbo.gov/sites/default/files/recurringdata/51312-2017-06-snap_1.pdf; 2018 projections based on CAP analysis of Joint Committee on Taxation, "Description of H.R. 1105, The 'Death Tax Repeal Act of 2015'" (Government Printing Office, 2015), available at https://www.jct.gov/publications.html?func=startdown&id=4760; CAP analysis of 2009–2013 data from Internal Revenue Service, "SOI Tax Stats – Estate Tax Data, by Year of Death," available at https://www.irs.gov/statistics/soi-tax-stats-estate-tax-statistics-year-of-death-table-6 (last accessed September 2017).

Congress should close loopholes in the estate tax, not repeal it

Trump administration officials have reportedly urged members of Congress to support repealing the estate tax by falsely suggesting that no one actually pays it because of the prevalence of loopholes.[17] While there are major loopholes in the estate tax, it is still paid by the roughly 5,000 wealthiest Americans who die each year.

Rather than repealing the estate tax, Congress should close the loopholes that allow the wealthiest Americans to avoid paying it or to reduce what they owe. For example, Congress should restrict the use of Grantor Retained Annuity Trusts, a sophisticated legal strategy to remove the value of assets from one's estate while still maintaining control over them.[18] While the Obama administration proposed rules to restrict the use of another maneuver, called valuation discounts, in 2016,[19] the Trump administration is considering stopping the rules from going into effect. If the administration does take this action, Congress should codify them.

Seth Hanlon is a senior fellow at the Center for American Progress. Alexandra Thornton is the senior director of Tax Policy for Economic Policy at the Center.

Endnotes

1 Paul L. Caron, "The One-Hundredth Anniversary of the Federal Estate Tax : It's Time to Renew Our Vows," *Boston College Law Review* 57 (823) (2015), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2657888; Michael J. Graetz, "'Death Tax' Politics," *Boston College Law Review* 57 (3) (2016), available at http://lawdigitalcommons.bc.edu/bclr/vol57/iss3/2/.

2 Tax Analysts, "Tax History Museum: 1901-1932: The Income Tax Arrives," available at http://www.taxhistory.org/www/website.nsf/Web/THM1901 (last accessed September 2017).

3 Ben Steverman, "The U.S. Is Where the rich Are the Richest," Bloomberg, June 16, 2017, available at https://www.bloomberg.com/news/articles/2017-06-16/the-u-s-is-where-the-rich-are-the-richest.

4 Dyland Matthews, "Donald Trump's tax plan, in fewer than 500 words," April 26, 2017, Vox, available at https://www.vox.com/2017/4/26/15438404/trump-tax-plan-april-mnuchin-cohn-changes.

5 These estate planning strategies include making large gifts to relatives during one's life, claiming discounts for partial interests in family-owned entities, and setting up various kinds of trusts.

6 Joint Committee on Taxation, *History, Present Law, and Analysis of the Federal Wealth Transfer Tax System* (2015), available at https://www.jct.gov/publications.html?func=startdown&id=4744.

7 U.S. Internal Revenue Service, "SOI Tax Stats – Estate Tax Year of Death Tables," available at https://www.irs.gov/statistics/soi-tax-stats-estate-tax-year-of-death-tables (last accessed September 2017).

8 Tax Policy Center, "Table T16-0277: Current Law Distribution of Gross Estate and Net Estate Tax by Size of Gross Estate" (2017), available at http://www.taxpolicycenter.org/model-estimates/baseline-estate-tax-tables-nov-2016/t16-0277-current-law-distribution-gross-estate.

9 Chye-Ching Huang and Chloe Cho, "Ten Facts You Should Know About the Federal Estate Tax" (Washington: Center on Budget and Policy Priorities, 2017), available at https://www.cbpp.org/research/federal-tax/ten-facts-you-should-know-about-the-federal-estate-tax#_ftnref14.

10 See, for example, Cesary Podkul, "Paul Ryan says 'death tax' hurts Wisconsin small businesses. IRS data shows otherwise," CNBC, June 8, 2017, available at https://www.cnbc.com/2017/06/08/paul-ryan-says-death-tax-hurts-wisconsin-small-businesses-irs-data-shows-otherwise.html; Website of Congressman Paul Ryan, "Taxes," available at https://paulryan.house.gov/issues/issue/?IssueID=12228 (last accessed September 2017); David Block and Scott Drenkard, "The Estate Tax: Even Worse Than Republicans Say," Tax Foundation, September 4, 2012, available at https://taxfoundation.org/estate-tax-even-worse-republicans-say/.

11 Christopher Ingraham, "Trump called the estate tax a 'tremendous burden' on family farmers. Here's the truth," *The Washington Post*, September 7, 2017, available at https://www.washingtonpost.com/news/wonk/wp/2017/09/07/trump-called-the-estate-tax-a-tremendous-burden-on-family-farmers-heres-the-truth/?utm_term=.b9c45dc64886.

12 U.S. Internal Revenue Code, *26 U.S. Code Section 2032A*, available at https://www.law.cornell.edu/uscode/text/26/2032A.

13 Tax Policy Center, "Who pays the estate tax?", available at http://www.taxpolicycenter.org/briefing-book/who-pays-estate-tax (last accessed September 2017).

14 See Tab 2 of excel doc in Tax Policy Center, "Table T16-0277: Current Law Distribution of Gross Estate and Net Estate Tax by Size of Gross Estate" (2017), available at http://www.taxpolicycenter.org/model-estimates/baseline-estate-tax-tables-nov-2016/t16-0277-current-law-distribution-gross-estate.

15 Joint Committee on Taxation, *History, Present Law, and Analysis of the Federal Wealth Transfer Tax System*.

16 Huang and Cho, "Ten Facts You Should Know About the Federal Estate Tax."

17 Julie Hirschfeld Davis and Kate Kelly, "Two Bankers Are Selling Trump's Tax Plan. Is Congress buying?", *The New York Times*, August 28, 2017, available at https://www.nytimes.com/2017/08/28/us/politics/trump-tax-plan-cohn-mnuchin.html.

18 Bridget Ansel, "How to Bypass U.S. Estate Taxes" (Washington: Washington Center for Equitable Growth, 2015), available at http://equitablegrowth.org/research-analysis/bypass-u-s-estate-taxes/.

19 Internal Revenue Service, *26 CFR Part 25* (U.S. Department of the Treasury, 2016), available at https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-18370.pdf.