

Changes Wrought by EGTRRA

- Ramp-up in the applicable exclusion
 - \$675,000 in 2001
 - \$1,000,000 in 2002-2003
 - \$1,500,000 in 2004-2005
 - \$2,000,000 in 2006-2008
 - \$3,500,000 in 2009
- Estate tax repealed in 2010
- No basis step-up (with exceptions)
 - \$1,000,000 in 2011 and thereafter

Changes Wrought by EGTRRA

- GSTT exemption, beginning in 2004 mirrors the applicable exclusion
 - No GSTT in 2010
 - But remember, the applicable rate is not really the same as the estate tax rate
 - It is the product of the inclusion ratio and the maximum estate tax rate
 - EGTRRA extends GST exemption automatic allocation to indirect skips

Changes Wrought by EGTRRA

- Maximum estate tax rate gradually reduced**
 - 55% in 2001**
 - 50% in 2002**
 - 49% in 2003**
 - 48% in 2004**
 - 47% in 2005**
 - 46% in 2006**
 - 45% for years 2007-2009**
 - 0% in 2010**
 - 55% for years 2011 and thereafter**

Changes Wrought by EGTRRA

- Maximum gift tax rate falls at the same rate as the federal estate tax through 2009**
- Pegged at 35% for 2010 and thereafter**
- Gift tax applicable exclusion amount set at \$1,000,000 for 2002 and thereafter**
 - Estate and gift tax systems are “de-coupled” beginning in 2004

Federal Estate Tax

2001 Data

- Decedents — 2.3 million**
- Taxable estates — 51,841**
- Taxable returns with farm property — 2601**

Federal Estate Tax Data For 2003

- Decedents – 2.3 million**

- Taxable estates – 30,627
- Taxable returns with farm property – 1,967

Federal Estate Tax 2001 Data

- Largest 3502 estates (\$5,000,000 and up) — \$3,515,461 average in tax
- Largest 1337 estates (taxable estates exceeding \$10,000,000) — \$5,982,409 average in tax
- Largest 469 estates (\$20,000,000 and up) — \$10,374,200 average in tax

Federal Estate Tax Data – 2003

- Largest 3,486 estates (\$5,000,000 and up) - \$3,542,703 average in tax
- Largest 1,329 estates (taxable estates exceeding \$10,000,000) - \$6,115,653 in tax
- Largest 505 estates (taxable estates exceeding \$20,000,000) —\$10,265,364 average in tax

Federal Estate Tax 2001 Data

Estates Listing Farm Property

Federal Estate Tax – 2003 Data

Estates Listing Farm Property

- \$1,000,000-\$2,500,000
- 1,309 estates
- \$92,559 (avg. value of farm property)
- \$2,500,000-\$5,000,000
- 392 estates
- \$168,844 (avg. value of farm property)
- \$5,000,000-10,000,000
- 139 estates
- \$194,352 (avg. value of farm property)
- \$10,000,000-\$20,000,000
- 65 estates
- \$465,523 (avg. value of farm property)
- \$20,000,000 and up
- 61 estates
- \$3,313,852 (avg. value of farm property)

Federal Estate Tax 2001 Data

Lowest Five States in Federal Estate Tax

Payments on the Average

Federal Estate Tax 2001 Data

Highest Five States in Federal Estate Tax Payments on the Average

2004 Estate Tax Data

- Decedents – 2,441,613
- Taxable estates – 30,276 (1.2% of all deaths)
 - 520 estates of \$20 million or more
- Paid 26.1% of federal estate tax
 - 808 estates of \$10-\$20 million
- Paid 15% of federal estate tax
 - 2,166 estates of \$5-\$10 million
- Paid 20.2 % of federal estate tax
 - 5,630 estates of \$2.5-\$5 million
- Paid 21.6% of federal estate tax
 - 21,152 estates of \$1.5-\$2.5 million
- Paid 17.1% of federal estate tax

2004 Federal Estate Tax Data

- 82.9% of the federal estate tax was paid by the largest 9,124 estates (30.1% of taxable estates)**
 - .375% of all estates accounted for 82.9% of all federal estate tax revenue
- i.e., less than 4 tenths of 1% of decedents estates in 2004 accounted for 82.9% of all federal estate tax revenue**

2004 Federal Estate Tax Data

- Looking at the data from the other direction –**
 - The smallest 21,152 taxable estates accounted for .86% of decedents and 69.9% of taxable returns, but only 17.1% of estate taxes paid**

2004 Federal Estate Tax Data

•Top Ten States in Federal Estate Tax Payments on the Average

- #1: Connecticut**
- #2: New York**
- #3: Massachusetts**
- #4: Nevada**
- #5: California**
- #6: Florida**
- #7: Vermont**
- #8: Maryland**
- #9: Delaware**
- #10: New Jersey**

2004 Federal Estate Tax Data

•Bottom Ten States in Federal Estate Tax Payments on the Average

- #50: Alaska**
- #49: North Dakota**
- #48: New Mexico**
- #47: Utah**

- ~~#46: Montana~~
- ~~#45: West Virginia~~
- ~~#44: Mississippi~~
- ~~#43: Idaho~~
- ~~#42: Arkansas~~
- ~~#41: South Carolina~~

**Estate Tax Returns Filed
(Death in 2004)**

- Arkansas – 168 (.6) Kentucky – 231 (.6)
- Colorado – 251 (.9) Minnesota – 466 (1.2)
- Illinois – 1,395 (1.3) Missouri – 484 (.9)
- Indiana – 414 (.7) Nebraska – 200 (1.3)
- Iowa – 263 (.9) North Dakota – 31 (.5)
- Kansas – 183 (.7)

Wealthiest U.S. Counties (2005)

- Los Angeles County, CA
- Cook County, IL (Chicago)
- Orange County, CA
- Maricopa County, AZ (Phoenix)
- San Diego, County, CA
- Harris County, TX (Houston)
- Nassau County, NY (Long Island)
- Santa Clara County, CA (Silicon Valley)
- Palm Beach County, FL
- Middlesex County, MA (Boston suburbs)

Poorest U.S. Counties (2005)

- Buffalo County, SD
- Shannon County, SD
- Starr County, TX
- Ziebach County, SD
- Todd County, SD
- Sioux County, ND
- Corson County, SD
- Wade Hampton County, AK
- Maverick County, TX
- Apache County, AZ

2005 CBO Study

- *Used 2000 tax data but applied 2005 law*
 - *33,685 estates would have to file FET returns*
 - *1,005 farm and ranch estates would have been required to file*
 - *300 farm and ranch estates would have had any FET liability*
- 2005 CBO Study**
- *740 estates (out of 13,771 that were estimated to owe some tax) would have insufficient liquidity to pay the FET*
 - *27 farm and ranch estates*
 - **NOTE:** *The liquidity calculations did not include assets held in trust*

2005 CBO Study

- *With an applicable exclusion of \$3.5 million:*
- *187 estates would have to file*
- *65 estates would owe some tax*
- *13 estates would have liquidity problems (not counting assets held in trust)*

Study by Burman, Gale and Rohaly

- *Raising the exclusion to \$3.5 million would result in only 30 farm and ranch estates having any federal estate tax to pay*

Study by Poterba and Weisbrenner

- *Much of the value subjected to federal estate tax is unrealized appreciation in value*
- *37 percent of all value in estates above \$500,000 in value is unrealized gain*
- *For estates valued in excess of \$10 million, 56 percent of value is unrealized gain*

Consequences of Repeal

- **Heirs of large estates would have substantially more assets to invest, some in all likelihood in farm property (top 61 estates in 2003 reported an average of \$3,313,852 in farm assets)**
- **Result would be an expected increase in farm asset ownership by the very wealthy**
- **Proportion of farmland that is rented would likely rise over time**

Who Pays the Federal Estate Tax?

- **Top five percent of the income distribution bears 91 percent of estate tax (but only 49 percent of the income tax)**
- **Top 20 percent of the income distribution bears 99 percent of the federal estate tax and 77 percent of income tax**
- **91 percent of estate tax paid by individuals with annual incomes above \$190,000 at death**

**Planning Guidelines
(for those with larger estates)**

- **Balance estates**

- Watch under funding of the marital share
- Check state death tax liability
- Check plan more frequently
- Plan to die in 2010

So, What Has Happened?

- * House passed H.R. 8 in April of 2005 which would permanently repeal the federal estate tax (and, permanently eliminate complete step-up in basis)
- Senate failed to invoke cloture on H.R. 8 on June 8, 2006 (vote was 57-41)
- On June 22, 2006, House passed H.R. 5638 (eff. 1/1/10)
 - \$5 million exemption (inflation adjusted)
 - Rate of 15% for estates valued at \$5-\$25 million
 - Rate of 2X cap. gain rate for larger estates
 - Complete new basis at death retained

Long-term Implications for Agriculture

- Loss of new basis at death is vastly more important than federal estate tax burden
- Federal estate tax on farm assets is paid by the top two percent (or fewer)
- Repeal of the federal estate tax would accelerate the trend toward concentration of wealth
- Loss of federal estate tax revenue would necessarily be replaced with revenue from other taxes, mostly income tax
 - In 2004, the federal estate tax generated revenue of \$23, 607, 620,746.00

Revenue Loss

- Treasury Department estimates (Feb. 2006) if Congress were to permanently repeal FET in 2006 (eff. in 2010) (stated in revenue loss per year):
 - 2006 - \$205 million
 - 2007 - \$1.1 billion
 - 2008 - \$1.7 billion
 - 2009 - \$2.1 billion
 - 2010 - \$2.7 billion
 - 2011 - \$23.7 billion
 - 2012 - \$53.1 billion
 - 2013 - \$56.8 billion
 - 2014 - \$61.6 billion
 - 2015 - \$65.8 billion
 - 2016 - \$70.2 billion