

SJR

14

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FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
APR 13 2005
SENATE FINANCE
COMMITTEE

DATE: 3/23/05

FURTHER:

DATE TURNED
IN TO OFFICE: 13 April 2005

Finance Committee considered SENATE JOINT RESOLUTION NO. 14

SJR 14 REPEAL FEDERAL ESTATE TAX

Urging the United States Congress to amend the tax code to permanently repeal the federal estate and generation-skipping transfer tax.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Row	3/24/05			✓	# 1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

APR 13 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SJR 14
(S) Publish Date: 3/23/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Repeal federal estate and GST tax RDU Revenue Programs and Services
Component Tax
Sponsor Senator Huggins, Therriault
Requester _____ Component No 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This resolution requests Congress to permanently repeal the federal estate and generation skipping transfer tax. Alaska's estate tax (AS 43.31) is based upon the state death tax credit allowed under federal law. In 2001, Congress changed the Internal Revenue Code to phaseout the state death tax credit by 12/31/2004. Since Alaska's estate tax was effectively reduced to zero by the change in federal law, permanent repeal of the federal estate tax will have no fiscal impact to general fund revenue.

Prepared by: Mike Williams, Revenue Auditor Phone: (907) 269-6632
Division: Tax Division Date/Time: 3/22/05 1:58 PM
Approved by: Jerry Burnett, Special Assistant to the Commissioner Date: 3/22/2005
Agency: Department of Revenue

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Charlie Huggins Senator

3/18/05

Sponsor Statement

SJR 14 – Urging the United States Congress to amend the tax code to permanently repeal the federal estate and generation-skipping transfer tax.

SJR 14 urges Congress to permanently repeal the estate tax, commonly known as the death tax, on inherited estates.

There is a fundamental problem with people accumulating assets with income that has already been taxed, then requiring their survivors to pay taxes on those assets again through an inheritance tax. The tax is unfair, first of all, to the decedent and to his or her heirs. We are talking about people who work hard throughout their lives, perhaps start businesses, or buy homes or property where real estate values are skyrocketing, and then the heirs are left, in some instances, with not enough cash to pay the applicable tax so they are forced to liquidate the family business, farm, or home.

In 2001 Congress, working with President Bush, enacted bipartisan legislation, under the Economic Growth and Tax Relief Reconciliation Act of 2001, to phase out and eventually repeal the death tax until 2010. At that time they did not have the votes to make the repeal permanent so under Senate rules, the cuts could only be extended for the term of the budget, which is 10 years. Therefore in 2010 the estate tax is repealed, however it springs back to life in 2011 at its old rate of 55 percent and at an exemption level of only \$1 million dollars.

President Bush has included the permanent repeal of the estate tax in his Fiscal Year 2006 budget proposal. Legislation has also been introduced this year in the U.S. Senate and U.S. House to permanently repeal the estate tax.

With passage of this legislation we will offer our support to Congress to act this year ending this tax on virtue, work, savings, job creation and the American dream.

Contact Information – Deborah Grundmann 465-4711

The tax credit is formally known as the "applicable credit amount" or the "unified credit," referring to the unified estate and gift tax. The amount of the tax credit is equal to the estate tax that would be due on the "applicable exclusion amount" for a decedent dying in the particular calendar year. For 2001, the applicable credit amount is \$220,550, corresponding to the tentative tax on a taxable estate of \$675,000. The credit is non-refundable. That is, it cannot reduce the tax on an estate below zero. Table 1 presents the applicable exclusion amount and the corresponding applicable credit amount scheduled under the tax law enacted in June 2001, for each year from 2001 until 2009.³

Table 1. Applicable Exclusion Amount and Corresponding Applicable Credit Amount, 2001 to 2009

(In the case of estates of decedents dying, and gifts made, during) Calendar Year	Applicable Exclusion Amount	Applicable Credit Amount (Equal to the tentative estate tax on the corresponding applicable exclusion amount)
2001	\$675,000	\$220,550
2002-2003	1,000,000	345,800
2004-2005	1,500,000	555,800
2006-2008	2,000,000	780,000
2009	3,500,000	1,455,800

Sources: Applicable exclusion amount from Sec. 2010(c) of the Internal Revenue Code as of June 7, 2001. Applicable credit amount calculated by CRS.

Marginal Tax Rates

Table 2 presents the graduated schedule of federal estate tax rates for 2001. Rising marginal tax rates apply to different portions of an estate. The statutory rates range from 18% for the taxable value of estates below \$10,000, up to 55% for taxable value over \$3 million. A 5% surtax raises the effective marginal tax rate to 60% on the taxable value of estates between \$10 million and \$17.184 million.

In practice, however, the lowest marginal estate tax rate for 2001 is *not* 18%, but 37%, the rate corresponding to taxable estates in the range of \$500,000 to \$750,000. This occurs because the "applicable exclusion amount" for 2001 exempts from tax the first \$675,000 in taxable estate per decedent. This is emphasized in Table 2 by gray shading over the first nine rows of the table, which cover taxable estate values from \$0 to \$500,000, and the corresponding statutory marginal tax rates

³An estate tax return must be filed if the gross value of the estate exceeds the applicable exclusion amount for the particular year. This filing requirement holds even if the estate's taxable value falls below this amount after subtracting eligible deductions, such that no tax is owed.

Table A.3. Federal Estate Tax Rate Schedule for 2004

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But not over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
Applicable Exclusion Amount is \$1.5 Million for 2004			
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
2,000,000	--	780,800 +	48% of excess over 2,000,000

Note: In 2004, tax rates above 48% are repealed. The tax rate on taxable estate values over \$2 million will fall from 49% to 48%. The applicable exclusion amount will rise from \$1 million to \$1.5 million.

Table A.4. Federal Estate Tax Rate Schedule for 2005

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But not over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
Applicable Exclusion Amount is \$1.5 Million for 2005			
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
2,000,000	--	780,800 +	47% of excess over 2,000,000

Note: In 2005, tax rates above 47% are repealed. The tax rate on taxable estate values over \$2 million will fall from 48% to 47%. The applicable exclusion amount will remain at \$1.5 million.

Table A.5. Federal Estate Tax Rate Schedule for 2006

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But not over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
Applicable Exclusion Amount is \$2.0 Million for 2006			
2,000,000	--	780,800 +	46% of excess over 2,000,000

Note: In 2006, tax rates above 46% are repealed. The tax rate on estate values over \$2 million will fall from 47% to 46%. The applicable exclusion amount will rise from \$1.5 million to \$2 million.

Table A.6. Federal Estate Tax Rate Schedule for 2007 and 2008

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But not over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
Applicable Exclusion Amount is \$2.0 Million for 2007 and 2008			
1,500,000	--	555,800 +	45% of excess over 1,500,000

Note: In 2007, tax rates above 45% are repealed. The tax rate on taxable values over \$2 million will be lowered from 46% to 45%. The tax rate is already 45% on taxable estate values from \$1.5 million to \$2 million, under prior law. Thus, the tax rate will be 45% on taxable values over \$1.5 million. The law for 2008 remains the same as for 2007.

Table A.7. Federal Estate Tax Rate Schedule for 2009

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But not over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
Applicable Exclusion Amount is \$3.5 Million for 2009			
1,500,000	--	555,800 +	45% of excess over 1,500,000

Note: In 2009, the applicable exclusion amount will rise from \$2 million to \$3.5 million. There are no additional reductions in tax rates.



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REASONS TO ELIMINATE THE FEDERAL ESTATE TAX

- Estate tax rates, which range from 41% to 48%, are substantially higher than othe the lowest estate tax rate is almost as high as the highest income tax rate of 39.6% the estate tax is imposed on earnings and assets that have already been subject to social security, and other taxes at the federal and state level.
- Under the current tax system, it is cheaper to sell the family-owned business before rather than pass the business to one's heirs. Growing business can not remain under a tax regime that imposes rates as high as 48% upon the death of the founder/owner.
- Small business has long been recognized as the backbone of America's economy almost 60% of the workforce and creating about two-thirds of the new jobs in the 1970's. Our tax laws should encourage rather than discourage the perpetual businesses.

- ① The estate tax costs jobs. Potential employment is lost when business owners don't expand or open another store because of the ever looming death tax, and current jobs are destroyed when businesses are liquidated to pay estate taxes. If estate and gift taxes were eliminated in 1999, 275,000 jobs would be created between 1999 and 2010. (IPI Report #150)
- ① With Americans living longer, we need to encourage individuals/families to save in order to plan for their future. However, the estate tax creates a disincentive to save and instead, encourages consumption. The more assets one has at death, the more one has to pay to the federal government.
- ① The estate tax, which was intended to break up large concentrations of wealth and create economic opportunity, has instead become a barrier to economic growth and job creation. This "disincentive to growth" effect of the estate tax is equivalent to doubling income taxes. (Tax Foundation)
- ① The estate tax has a negative impact on current business decisions. Critical resources are diverted away from investing in people and growth, and spent on attorneys, accountants, and insurance. It is estimated that family-owned businesses spent approximately \$33 billion in 1995 on attorneys, accountants and financial experts to assist in estate planning. (1995)
- ① The estate tax amounts to less than 2% of total federal revenues while costing the government and taxpayers approximately the same amount collected for enforcement and collection. (Joint Economic Committee Report, 1998)

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1 Reduces the Inequality of Wealth and Income?

In Alan Blinder's (a President Clinton appointee) book 'Toward an Economic Theory of Distribution', he concludes a "radical reform of inheritance policies can accomplish comparatively little income redistribution" and one of his findings was that only 2% inequality was attributable to the unequal distribution of inherited wealth.

Joseph Stiglitz, who served as Chairman of President Clinton's Council of Economic Advisors, found that the estate tax may ultimately cause an increase in income inequality (Journal of Political Economy).

Death Taxes penalize work and saving and encourages large-scale consumption by the rich. If an individual knows that they will be unable to pass on their wealth, then they choose to simply produce less wealth or to consume their wealth; Professor Edward McCaffery, USC - Liberal Democrat.

2 Deduction for Charitable Bequests Encourages Giving to Nonprofit Organizations

Because charitable donations are also deductible for income tax purposes, the tax system is much friendlier to gifts during life than to gifts made at death.

Total charitable bequests increased in real terms by nearly 23% in the first five years after the last major reduction in the death tax rate (1982-1986).

Over 1992-1995, more than four out of five estates (82%) did not take advantage of the charitable deduction.

3 Revenue Raised Warrants the Existence of Death Tax?

Alicia Munnell, a former member of President Clinton's Council of Economic Advisors, estimates that the costs of complying with estate tax laws are roughly the same magnitude as the revenue raised, or about \$23 billion in 1998.

In this century, the stock of capital in the economy has been reduced by approximately \$1 trillion due to the death tax and the death tax only raised \$585 billion.

The distortionary effects of the death tax result in losses under the income tax that the same size as the death tax revenue.

(Joint Economic Committee Report, Dec

A Brief History of Federal Estate, Gift and Generation-Skipp

The current federal estate tax has been in effect since 1916. The original legislation provided a \$50,000 exemption with marginal tax rates ranging from 1% to 10%, for estates over \$100,000. In 1924, concerned about the erosion of the base for estate taxes through lifetime gifts, Congress enacted the first gift tax with rates from 1% to 25%. This gift tax was repealed two years later and was reinstated in 1932. Donors were allowed a \$50,000 exemption and a \$5,000 annual exclusion per donee. During the years 1943-1976, the basic provisions of the federal estate and gift taxes remained substantially unchanged. The law allowed a \$60,000 Estate tax exemption with marginal rates ranging from 3% to 77%. The gift tax exemption was fixed at \$30,000 with an annual exclusion of \$3,000 per donee. During this period, the gift tax rates were lower than the estate tax rates, making gifts more attractive.

With the Tax Reform Act (TRA) of 1976, the structure of the federal estate and gift taxes changed considerably. This Act unified estate and gift taxes with a single rate structure provided for a maximum tax rate of 70%. With the Economic Recovery Tax Act of 1981, the estate and gift tax was substantially changed with a graduated increase in the unified credit exemption to \$600,000 in 1987. The marginal tax rate was decreased from 70% to 55%, and the marital deduction was removed, and the annual gift tax exclusion was raised to \$10,000.

With the Deficit Reduction Act of 1984, the Tax Reform Act of 1986, and the Omnibus Budget Reconciliation Acts of 1987, 1990 and 1993, various changes were made in Estate and Gift tax laws. The 1986 Tax Act also instituted the current generation-skipping tax on transfers to grandchildren and more remote descendants. With the Taxpayer Relief Act of 1997, Congress provided for an increase in the unified credit to an equivalent of a \$1 million exemption by the year 2006. It also allowed for a special exclusion for qualified family businesses and other provisions. Currently the top Estate and Gift tax rate is 48%, with a marital deduction on assets in excess of \$650,000 (the current equivalent exemption). A marital deduction on all assets passed from one spouse to another. There is a \$11,000 per year, per donor exclusion from gift taxes and a \$1 million generation-skipping lifetime exemption allows an effective rate assessed of 80% on money transfers to grandchildren after use of the \$1 million exemption.

Under the 2001 Tax Act, the rate of Estate Tax and Generation-Skipping Tax is reduced to 55% in 2009 and the lifetime exemption increases to \$3.5M then both are repealed in 2010 and brought back in 2011 at a 50% rate with a \$1M exception.

The gift tax is reduced to 35% with a \$3.5M exception but not repealed.



THE FUTURE

"The Death Tax has created perverse incentives that encourage people to spend their savings now, rather than pass them on to their children later. As the National Commission on Economic Growth

report: 'It makes little sense and is patently unfair to impose on people who choose to pass their assets on to their children and grandchildren spending them lavishly on themselves. Families faced with these confiscatory tax themselves forced to sell off farms or businesses, destroying jobs in the process.' This is (

CONCLUSION

"The estate tax is simply unfair. It tells every American that no matter how hard you work or how wisely you manage your affairs, in the end the Federal Government is going to step in and take it away. The estate tax is double and, in some cases triple taxation, it punishes hard work and savings, and it fails to raise the revenues that could possibly justify the damage it causes. It has been destroying businesses and ruining lives for four generations. Let us not make this mistake with our children. End the Death Tax now."



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- Some Numbers
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IT'S WRONG!

WF

- 1 It is the wrong tax
 - It collects just one percent of the nation's revenues, and dollar for dollar, it costs as much to collect Death Taxes as it raises.
- 2 It comes at the wrong time
 - A core principle behind repealing the Death Tax is the idea that people should not be burdened at the most difficult time of their lives. Newt Gingrich has the best line: "You have to visit the undertaker and the taxman on the same day."
- 3 It hurts the wrong people
 - If you saved for the future, put away money for your children, built a small business, farm, or achieved the American Dream in other ways, the Death Tax punishes you.
- 4 It helps the wrong people
 - The only people who are helped by the estate tax are the army of fancy lawyers and tax accountants - and IRS agents.

SOME NUMBERS

❑ The value to Washington and the cost to the family

Americans are surprised to learn that the estate tax raises a little more than a total Federal revenues and costs are of the same magnitude. To personalize then add, "Though they account for only one percent of Federal revenues, es have forced the sale of thousands of farms, ranches, and businesses through country, and we can only guess at the jobs and economic potential lost."

❑ The jobs argument

Economists calculate that if the money paid in estate taxes in 1999 were to be the total savings in 2010 would be \$1.7 trillion higher, the economy would be larger, and we would have 275,000 more jobs.

THE FARM ARGUMENT

"Imagine owning a family farm that you have worked for 30 years. You have built and developed the land with the hope of passing it along to your children so that they may have a better life. But after your death, your children tragically find that the farm will not be staying in the family. This is not a rare occurrence. Many family farms must be sold off to pay the Federal taxes due on the property. It's just plain wrong."

"Death taxes hits the family farmer particularly hard, who may be cash poor but are tradition rich. The value of their farms is not in the IRS valuation of their equipment and land, but in the farm's ability to produce. Farmers make their living growing food and fiber, not speculati equipment."



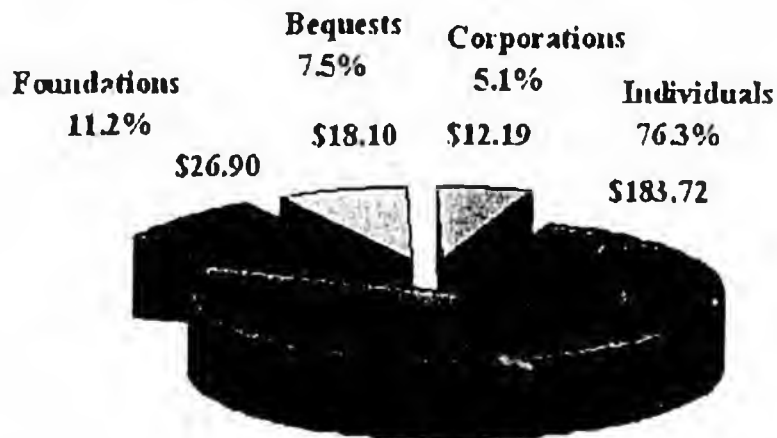
THE SMALL BUSINESS ARGUMENT

"Nothing penalizes the small business more than the Death Tax."

"It has been es ed that 70 percent businesses never make it past the fir generation, while 87% do not make it second generation. I believe the est responsible for much of this failure."

REASONS CHARITABLE ORGANIZATIONS SHOULD NOT BE AFI THE REPEAL OF THE DEATH TAX

2002 Contributions = \$240.92 Billion



Source: Giving USA 2003/AFRC Trust for Philanthropy

- ① Charitable giving has increased each year, after inflation, for the past 40 years. Despite fluctuations in the levels of income tax, capital gains tax and estate tax rates. Even warnings that the reductions in marginal income tax rates that occurred in the mid-80s decrease charitable giving, annual gifts by individuals rose by nearly 30% between 1989.
- ② When the top estate tax rate was reduced from 70% to 50% between 1981 and 1997, the amount of annual bequests grew approximately 80.8% (adjusted for inflation) during that period. There is simply no empirical evidence to suggest that charitable contributions decline if there is no death tax.
- ③ Giving USA 2000 reflects that those who have more give a larger percent of their assets to charity. People that make more than \$1 million dollars give twice as much, as a percent of income, than those who make less.
- ④ It is obvious that if families and individuals are not forced to pay 48% of their assets in taxes, they will have 48% more to give to charity.

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March 16, 2005

TAX REPORT

Washington Court Ruling Puts Spotlight on State Estate Taxes

By **RACHEL EMMA SILVERMAN**
Staff Reporter of THE WALL STREET JOURNAL
March 16, 2005; Page D3

A recent court ruling could prompt taxpayers to question their states' estate-tax laws.

Washington's Supreme Court recently struck down the state's estate tax, ordering that estate taxes collected since Jan. 1, 2002, be refunded. The court ruled Washington's estate tax was invalid because it didn't reflect current federal tax law.

State estate taxes have become a big issue in recent years as a result of federal tax-law changes in 2001 that phased out a federal credit for state estate taxes paid, among other things.

TAX RESOURCES



Read more about deductions and tax preparation². Plus, check out tax calculators and resources.

Before the tax-law changes, many states, including Washington, tied their tax rates to the amount of the federal credit. Afterward, some

states let their estate taxes phase out along with the federal credit. Others implemented separate estate-tax systems which means that some estates in those states face higher tax bills.

This year, for example, the biggest New York estates face a combination of state and federal taxes at a maximum estate-tax rate of 55.48%. Meanwhile, in states that have no estate tax this year, such as Florida, Nevada and California, large estates face only the top federal tax rate of 47%. That's because when the credit disappeared on Jan. 1, those states' estate taxes effectively did as well. (The credit was replaced by a federal deduction for state estate taxes paid.)

To help fill state coffers, at least 18 states and jurisdictions "decoupled," or separated, their estate taxes from the federal system, setting their own tax rules that no longer tied their estate taxes to the current federal system, according to tax-information provider CCH Inc. Among them: New York, New Jersey, Massachusetts, Maryland, Illinois and the District of Columbia.

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While the Washington case had some unique circumstances that might not apply to other states, the ruling "might encourage taxpayers in other states to look at the situation in their states to see if it's analogous," says John Logan, senior state tax analyst at CCH in Riverwoods, Ill.

Whether Washington state validly separated its estate taxes from the federal system was at the heart of the recent class-action case. In 1981, Washington voters approved a ballot initiative that effectively tied state estate taxes to the federal credit. But the state never updated its estate-tax statute to reflect the credit's phaseout. Instead, the state continued to collect taxes at amounts set before the tax-law changes.

In a class-action suit, representatives from three estates sued the state's department of revenue, arguing that the state's estate tax was invalid and should have disappeared with the federal credit. The state Supreme Court sided with the taxpayers, ruling that under state law, "any amount of a state estate tax not fully absorbed by a current federal credit is an invalid independent tax."

Now, the state must return an estimated \$152 million back to taxpayers, and stands to lose a projected \$279 million in estate taxes over the next couple of years. Before the ruling, the state was already facing a \$1.8 billion budget shortfall, says a department of revenue spokesman. The Legislature, however, could propose new laws for a state estate tax to ease the shortfall.

What can you do if you live in a state with an estate tax? For one thing, create a flexible estate plan. Cheryl Hader, a partner with law firm Drinker Biddle & Reath in New York, suggests the use of so-called disclaimers. The tax code allows nine months to give up -- or disclaim -- all or part of an inheritance. Disclaimers are complex but they can allow survivors to adjust their inheritance as tax rules change, while still keeping enough money to live on.

Things can get complicated for those who live in a state with no estate tax, but have homes in taxable states. One solution: Place the taxable state's property into an entity such as a limited liability company, says Jonathan Rikoon, a partner with law firm Debevoise & Plimpton in New York. When property is in an LLC, it can be taxed under the estate-tax laws of the state you live in, rather than those of the state where the property is located, he says.

State of the states: State tax revenues were strong for the last quarter of 2004, a new report says.

State tax rolls grew 7.8% during the fourth quarter, compared with a year earlier. The increase was the strongest fourth-quarter growth since 1991. Adjusted for inflation and tax-law changes, real state tax-revenue growth was only 2.3%. The biggest gains were in corporate income taxes, but revenues from personal income and sales taxes also grew.

The report cautions that "this growth is likely not sufficient, however, to solve all of the states' budget problems, both current and emerging." The research comes from the Nelson A. Rockefeller Institute of Government in Albany, the public-policy research arm of the State University of New York.

Dude, where's my tax refund? Tax-preparation giants are trying to lure younger customers.

Intuit Inc., maker of TurboTax software, recently launched trefund.com³, a Web site geared toward tax filers age 18 to 24. Customers can file their taxes online and put their refunds toward trips or purchases at **Best Buy** stores. Meanwhile, **H&R Block Inc.** has launched a Web site for teens called "Get Yours," www.hrblock.com/goto/firstfilers⁴. The site has free online federal-tax preparation for teens under the age of 18 and an education section with tax basics for teens and their parents.

BRIEFS: Former U.S. Sen. Connie Mack, who heads President Bush's Advisory Panel on Federal Tax Reform, has joined law firm King & Spalding's Washington office to be the co-chairman of the firm's government relations practice. ... The IRS designated the Indian Ocean tsunami a "qualified disaster," which allows corporate foundations to make grants to employees who are tsunami victims. Without that designation, such grants would generally be considered improper. ... Filers in New York and California can now donate to prostate-cancer research on their state tax returns. See prostatecancerfoundation.org⁵.

• E-mail Tom Herman at taxreport@wsj.com⁶.

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Retirement reform

Wednesday, April 13, 2005 - Linking millions of dollars in retirement aid for schools, the University of Alaska and municipalities across the state to approval of reforms in the two main state-run employee retirement programs has been characterized a number of ways by opponents. It's been called blackmail. It's been described as holding schools and communities hostage as they prepare their own budgets.

Proponents of the idea sharply disagree, saying that the linkage is the only way to bring about needed changes to a system that has accrued a significant debt and that has seen major increases in the cost to employers—the schools, the university, municipalities and the state government itself.

It's an ugly way to go about it, yes. But it appears necessary to bring equity to the retirement systems.

Government entities at all levels are having difficulty with the large mandatory payments to the Public Employees' Retirement System and the Teachers' Retirement System.

The persistent and large increases have come about for a variety of reasons: less-than-expected investment performance (the systems lost a combined \$1.4 billion from July 2000 to June 2002), rising health-care costs and decisions made a few years ago to lower the employer contribution rate—decisions that people now believe were made on faulty assumptions provided to the retirement system boards and subsequently to the Legislature, which authorized the lower rates.

The key inequity is that employees pay a set percentage into the system and receive a defined benefit upon retirement, meaning that the increased costs of providing that defined benefit are borne solely by the employer.

In Fairbanks, the local school district is a good example of the magnitude of that burden.

The district must make \$11.2 million in combined contributions to the PERS and TRS retirement systems in the current fiscal year. That's 8.9 percent of the district's total budget of \$125.3 million.

For the following fiscal year, however, the district's chief financial officer expects the combined contribution will rise to \$15.1 million, 11.1 percent of a budget that is projected to be about \$135.8 million.

That's an increase of \$3.9 million from one year to the next and the main reason that district officials and other educators in similar situations have been urging the Legislature to provide not only additional money for the classroom but also to pay those higher retirement costs.

The Senate on Monday took an important step to improving the systems, though governments will continue to need outside financial help for a number of years until the fiscal improvements begin to have a measurable effect.

Senate Bill 141, if it becomes law in its present form, would affect employees in two central ways:

New hires would be enrolled in a defined contribution plan, much like a 401(k), and would therefore assume the risk and responsibility for their retirement planning, and existing employees would be required to pay a little more into the system, with the goal of sharing cost increases equally with their employers for their own retirement. The additional money raised from those employees would not be used to pay the retirement cost of past employees.

Those sound like fair changes, though some employees presently enrolled won't see it that way.

Current employees who complain about the prospect of having to pay a little more—so that the rest of the public doesn't have to through higher local taxes or cuts in services so that the retirement bill can be paid—would do well to consider that they have a pretty good retirement plan that exceeds many plans offered in the private sector, where companies must be mindful of their bottom line.

How good is the state plan? An employee in the PERS system and who was hired from Jan. 1, 1961, to June 30, 1986, for

<http://www.news-miner.com/eda/article/print/0,1674,113%257E7252%257E2813718,00,ht...> 4/13/2005

example, can retire at age 55 with early retirement at age 50, and have the comfort of a defined payment every month for the duration of his retirement, and paid medical coverage for himself, his spouse and his eligible dependents.

Benefits are less lucrative for employees hired from 1986 to 1996 and for those hired later, but there can be no disputing that the program for all of them is an enviable one.

Some opponents have argued that the state constitution prohibits any change to that generous program for existing employees, and a legal challenge is entirely possible. But it is a fight that should be waged.

Meanwhile, the ugliness of this necessary approach to bring real change will be felt by real people worrying about their future. That's because the Senate's retirement bill is on its way to the House, which has its own ideas and concerns. And with leading Republican senators suggesting they will not provide that needed assistance unless reforms are approved, the prospect of job losses and service cuts exists.

As sometimes happens in Juneau, this issue may end up as a test of wills between the chambers. In the end, though, it would be best for Alaskans if the Senate's threat can be avoided and the issue resolved now, provided that legislators are comfortable they can make thoughtful, informed decisions on the matter in the few weeks remaining before their scheduled May 10 adjournment.



ALASKA

National Federation of Independent Business

Statement of Support

of SJR 14

Permanent Repeal of Death Tax

April 12, 2005

The Alaska Chapter of the National Federation of Independent Business has 2,500 members, making it the largest small-business advocacy group in the state.

NFIB was very actively involved at the federal level in getting a law passed in 2001 to repeal the Death Tax. The repeal is phased in to finally accomplish total repeal by 2010. However, that legislation will sunset on December 31, 2010. SJR 14 calls for the death tax to be permanently repealed.

Some people think the Death Tax only hits the super-rich. Often the victims hardest hit by the Death Tax are middle-class hard-working Americans ... small business owners and their employees. Originally intended to prevent the concentration of wealth that worried our founding fathers and later intended to raise revenue during wartime, the Death Tax in its current form is destructive to America's entrepreneurs. In addition to the tax itself, thousands of small businesses are impacted each year by expensive fees paid to attorneys, accountants and life insurers necessary to prepare for an eventual Death Tax debt.

The legislative agenda of NFIB for state and federal issues is determined by ballot. The ballot is a poll of the membership on a series of issues. Ballot results have shown that **89 percent of NFIB members favor full and total repeal of the Death Tax.**

NFIB/Alaska urges support for SJR 14.

Submitted by Thyes Shaub on behalf of NFIB/Alaska.

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 3/8/05

FURTHER: Finance

Date of 5-Day Notice: 3/17/2005
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/23/05

State Affairs Committee considered SENATE JOINT RESOLUTION NO. 14

SJR 14 REPEAL FEDERAL ESTATE TAX

Urging the United States Congress to amend the tax code to permanently repeal the federal estate and generation-skipping transfer tax.

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	3/20/05			✓	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	X			
<i>Betty Davis</i>	X			
CHAIR: <i>[Signature]</i>	X			

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