

Background

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The Economic Case Against the Death Tax

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Abstract: *2010 is the only year since 1916 in which heirs to an estate will not have to pay the dreaded death tax. Victory for small businesses? Not yet—due to a legal quirk, the death tax is scheduled to come back to life in 2011. Studies, statistics, and real life have shown again and again that the businesses and families burdened with the death tax often see themselves forced to cut back on benefits, investments, and employees. The death tax keeps new jobs from being created, hurting not just the affected businesses, but the economy as a whole. Because it is a tax on capital, the death tax destroys as many as 1.5 million jobs that the economy needs as it struggles to recover. Heritage Foundation tax policy expert Curtis Dubay details a replacement for the death tax, and explains why Congress must kill the death tax—now.*

This year, the only time since 1916, inheritors of assets do not have to pay any federal estate tax (also known as the death tax). Congress started phasing out the death tax with the 2001 tax relief package. That legislation began a yearly process of lowering the death tax rate (55 percent at the time) and increasing the portions of estates exempt from taxation (only \$1 million before the tax phase-out).

The phase-out of the death tax was long overdue and represents Congress's recognition of the economic damage the death tax causes. But the expiration of the death tax is only temporary. On January 1, 2011, it will come back to life with its rate as high and exemption amount as low as before the 2001 tax relief. Congress passed the

Talking Points

- This year, the only time since 1916, inheritors of assets do not have to pay a federal estate tax (also known as the death tax). Congress started phasing out the death tax with the 2001 tax relief package.
- The phase-out was long overdue and represents Congress's recognition of the economic damage the death tax causes. But the expiration of the death tax is only temporary: Due to a budgetary quirk, the death tax will spring back to life on January 1, 2011.
- The death tax slows economic growth, destroys jobs, and suppresses wages because it is a tax on capital and entrepreneurship.
- Proponents of the death tax argue that repealing the tax would increase the deficit too much. But a system where heirs pay capital gains on the assets they acquire from an estate is already in place: the inheritance tax.
- Congress must kill the death tax once and for all.

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2001 tax bill under budget reconciliation rules. Policies passed under reconciliation cannot extend outside a 10-year budget window, so the current law has always included the resurrection of the death tax in 2011 despite the congressional vote for its permanent extinction.

The renewed death tax would once again inflict serious harm on family businesses, workers, and the economy. Congress should act before the end of the year to repeal this economically harmful tax permanently.

Tax on Jobs and Wages

The death tax slows economic growth, destroys jobs, and suppresses wages because it is a tax on capital and on entrepreneurship.¹ Capital is any resource that individuals or businesses use to generate income. Like anything else, when the income accruing to capital is taxed, its price rises and less of it is purchased. Less capital means slower productivity growth, lower wages, and fewer jobs. As such, taxes on capital should be minimal or nonexistent. In fact, there is a general consensus among economists that there should be no taxes on capital.² The death tax:

1. **Discourages savings and investment.** For those Americans who think that their estates may one day be subjected to the federal death tax, the tax sends a signal that it is better to consume today than invest and make more money in the future. Instead of putting their money in the hands of entrepreneurs or investing more in their own economic endeavors, Americans are encouraged to consume it now rather than pay taxes on it later.
2. **Undermines job creation.** Because the death tax discourages saving and investing, it also undermines job creation. Resources that otherwise would have been available for businesses to use to expand their operations and add new workers are consumed by people who deem it wiser to spend the money now than invest it knowing their inher-

itors will have to pay the death tax later. Furthermore, resources that businesses otherwise would have used to add jobs are diverted to protect families from the death tax.

3. **Suppresses wages and productivity.** Since the death tax lowers saving and investing, there are fewer resources available for businesses to purchase additional tools and equipment or replace old and worn-out pieces with new ones. That means less capital their workers can use, and therefore the workers' productivity does not increase as much as it would have in the absence of the death tax. If the business cannot replace worn-out capital, the productivity of its workers declines. Wages are a function of a worker's productivity, growing more slowly when productivity slows, and declining when productivity decreases.³

Stifling Entrepreneurship

Entrepreneurship is vital to economic growth. Entrepreneurs who start businesses create new jobs that help expand the economy. The death tax stands in the way of entrepreneurs. When a person weighs the risk of a new business venture, he takes into account all the costs he will face in order to determine the final return he will earn. He then weighs whether the return he could earn is worth the risk of losing all he invests in the enterprise. The death tax raises the costs an entrepreneur will pay because it promises to confiscate a portion of his business upon his death. The prospect of their children or other family members being forced to pay a hefty tax in order to keep the business they have rightly inherited causes many entrepreneurs to refrain from starting a business. That means fewer jobs are created and economic growth is slower than it would have been in the absence of the death tax.

Successful entrepreneurs who create the most jobs pay high marginal income tax rates throughout

1. Robert Carroll *et al.*, "Personal Income Taxes and the Growth of Small Firms," National Bureau of Economic Research Working Paper No. 7980, October 2000, at <http://www.nber.org/papers/w7980> (July 16, 2010).
2. Kenneth L. Judd, "The Optimal Tax Rate for Capital Income Is Negative," National Bureau of Economic Research Working Paper No. 6004, April 1997, at <http://www.nber.org/papers/w6004> (July 16, 2010).
3. William W. Beach, "Seven Reasons Why Congress Should Repeal, Not Fix, the Death Tax," Heritage Foundation WebMemo No. 2688, November 9, 2009, at <http://www.heritage.org/Research/Taxes/wm2688.cfm>.

their working years. When the top federal income tax rate is combined with the average federal rate and federal payroll taxes, those who take the risk to start a business often pay marginal tax rates of close to 50 percent. The death tax is yet another tax an entrepreneur must pay if he uses the disposable income left over after paying taxes to grow the business and increase its value.

Family-Owned Businesses Hit Hardest

Estates that consist largely of family-owned businesses are the most vulnerable to the death tax. Family-owned businesses and the families that own and operate them are synonymous for purposes of the death tax. The value of the portion of a business owned by a deceased person, including the business's assets, such as equipment and property, is included in their estate. The high value of these assets is the cause of the problem for family-owned businesses.

The business's assets make the estate appear valuable on paper and can raise the value of the estate above the threshold over which the estate is subject to the death tax. Just because the business's assets are worth enough to push the value of the estate above the threshold does not mean the family has enough cash available to pay the death tax. Family-owned businesses often reinvest all available resources back into the business to keep its operations running consistently or purchase new equipment and property to grow the business. These family businesses cannot easily sell their assets to raise cash when the death tax hits because those assets are necessary to generate income and employ workers. Nevertheless, if a family member passes away, the death tax liability of the estate would apply to the full value of those assets.

If a business's available cash does not cover the full estate tax bill, the family must sell some of its assets—despite their necessity for the operation of the business. The forgone assets the business sells to pay the death tax lowers its income-generating capability, forcing it to reduce wages or let go of some existing workers because of reduced capacity. Even if the business can pay the death tax liability without reducing its workforce or lowering wages, it can no longer use the resources diverted to paying the tax bill to expanding the business, adding work-

ers, or raising wages. The best-case scenario for a family business hit with the death tax is to have its growth slowed rather than stopped or, in the worst-case scenario, reversed.

It does not change the fact that the death tax is a tax on capital if the family is fortunate enough to have the cash available to pay the death tax. The family could have used the cash that goes to pay the death tax to add new workers, pay higher wages, or increase benefits. It does not matter if the death tax confiscates cash, assets, or a combination of both from a family business. It is still a tax on capital that reduces the ability of family-owned businesses to expand, hire new workers, and pay higher wages.

These family businesses cannot easily sell their assets to raise cash when the death tax hits because those assets are necessary to generate income and employ workers.

Although the death tax is a tax on capital regardless of the assets that a family must forgo to pay it, the relative illiquidity of some assets held by family businesses (such as farmland and other infrequently traded equipment) increases the economic inefficiency of the death tax even more and amplifies the negative impact on the family holding the hard-to-sell property. Families often must sell such assets that do not regularly trade in active markets to raise money to pay the death tax. Due to the lack of an active market, these families must often accept prices for these assets that are lower than they would have received if they had more time to sell the property. As such, in some cases Congress provides families the option to pay the death tax over a longer time horizon in order to give families a chance to raise the necessary funds to pay the tax. But it does not matter how long it takes a family to pay the death tax, it is still a tax on capital that diverts scarce resources to the government that the families and businesses could use to create jobs and expand the economy.

Always a Tax on Jobs and Wages

The death tax is a tax on capital whether it falls on an estate that consists mostly of a family-owned

business or an estate that consists of other more liquid types of assets, such as real estate, stocks, bonds, and cash. Nor does the economic well-being of the heirs mitigate the negative economic impact the death tax imposes.

If the heirs that inherit the estate do not have their own financial means to pay the death tax bill, the effect is similar to what happens when a family business is tagged with the death tax. The heirs would have to sell off pieces of the estate to gather enough cash to pay the estate's death tax. Whether the assets are part of a business, stocks, bonds, or real estate, the death tax forces heirs to sell assets to pay the government instead of letting them choose to do so for economic or personal reasons. This reduces the returns the assets would have otherwise earned and takes resources away from pursuits that would likely have continued to appreciate and support more jobs and higher wages.

Even if the heirs of an estate have enough appreciable assets to pay the death tax liability, it is still a tax on capital. Money does not sit idle and unused. It is in money market accounts, bonds, or some other low-risk liquid form that businesses use to borrow money to support their operations and create jobs. When recipients of estates use those resources to pay the death tax, the private sector supports fewer jobs.

If the wealthy heirs do not have the cash on hand to pay the death tax they must sell some of their assets to pay the death tax bill. The sale of their assets has the same economic effect as when less-wealthy heirs or family businesses must sell assets to pay the death tax. No matter what the circumstance, the death tax is a tax on capital that destroys jobs, lowers wages, and slows economic growth.

Who Benefits from the Death Tax?

Despite its devastating impact on the economy, jobs, and wages, the death tax has persisted for more than 90 years in its modern form and could well survive this year's moratorium unless Congress acts soon. An entrenched group of special interests that benefit from the death tax and hold large sway with Congress are the reason for the resilience of the death tax:

- **Estate tax lawyers and planners.** Even though they face large death tax bills, estates from wealthy families pay considerably lower taxes than they otherwise would—because of estate tax lawyers and planners. Wealthy families hire expensive estate lawyers to arrange their affairs in a legal manner to minimize the impact of the death tax on their estates, or in some cases escape liability all together. Estate tax lawyers and planners have an obvious vested interest in seeing the death tax remain in place. As long as it does, they can continue to collect lucrative fees for arranging estates to minimize death tax liability.⁴

The fees paid by families to minimize their death tax liability are a drag on economic growth. The families could invest the resources they use to protect their estates so businesses and entrepreneurs could create new jobs; instead the money is diverted to protect the estate from the death tax.

- **Life insurance companies.** As long as the death tax remains in place, life insurance companies will continue to collect premiums from family businesses that cannot afford estate lawyers and planners but want to protect their businesses. In order to protect their assets from being liquidated when they die, these families purchase life insurance policies that will pay the living mem-

4. One of the most common ways the rich avoid the death tax completely is by transferring large portions of their estates to non-profit charities and foundations. Charitable donations are exempt from the death tax, so large donations are an easy way for the rich to significantly lower their death tax liability. Often the heirs of the decedent retain high-paying positions at the charity receiving the donated funds. A recent example demonstrates how some families use charitable donations to reduce their death tax liability and ensure their heirs' financial well-being. Warren Buffett, the third-richest man in the world on the latest *Forbes* list of the world's richest people, recently put in motion a plan to transfer a large majority of his considerable wealth to a charitable foundation and thus avoid paying the death tax on that portion of his wealth when he passes away. The Bill and Melinda Gates Foundation (Bill Gates is the second-richest man in the world according to *Forbes*) will receive Buffett's donations. Buffett also plans to give a considerable portion of his remaining fortune to other foundations run by his three children. See Carol J. Loomis, "Warren Buffett Gives Away His Fortune," *Fortune*, June 25, 2006, at <http://money.cnn.com/2006/06/25/magazines/fortune/charity1.fortune/> (July 16, 2010).

bers of the family enough to cover the death tax liability when a family member passes away. The life insurance policies are expensive, but not as expensive as estate tax lawyers and planners. The life insurance companies enjoy increased profitability while they continue to collect premiums for policies to protect against the death tax year after year. The premiums families pay to insurance companies siphon off limited resources that the families could use to expand their businesses and add new workers.

- **Large businesses.** The death tax is an impediment for family-owned businesses that could expand to compete with larger businesses because it creates a large disincentive for the family businesses to expand. If a family-owned business grows large enough, it will push the value of the family's estate over the death tax's exemption level and the family will owe a hefty amount when the current owner dies. Faced with endangering the life of the business because of the death tax, many families choose to keep their businesses smaller than they otherwise would have. This prevents them from competing more forcefully against larger businesses that are not family-owned and do not have to worry about the death tax.

Large businesses also benefit from the death tax in another more direct way. Even though some family businesses choose to remain small to keep the death tax at bay, others take the risk and grow as large as possible. When a family member passes away these family-owned businesses often lack the necessary cash to pay the death tax, as explained above. If the family cannot raise the cash necessary to pay the death tax from selling certain assets, it is forced to sell the entire business. Larger businesses can then buy these competitors and acquire a larger share of the market in the process. These transactions sometimes occur before a death occurs so the family does not have to go through a dif-

ficult and complicated transaction during a period of mourning.

No Purpose, No Reason, for the Death Tax

Outside the narrow special interests that benefit from the death tax, there no longer exists any justification for the tax. When Congress passed the death tax in 1916, it was originally intended to serve two purposes: (1) raise revenue for the federal government (World War I was the original impetus for extra revenue); and (2) prevent the build-up of wealth in a concentrated number of families.⁵ The death tax serves neither of these purposes today.

The death tax is no longer a vital source of federal revenues. In 2008, it raised about \$24 billion, just above 1 percent of total federal tax collections. This is down considerably from 1940, when the estate tax raised more than 5 percent of all federal revenue.⁶

The death tax is no longer a vital source of federal revenues.

Nor is the death tax necessary to prevent the accumulation of wealth in a limited few families. In today's modern marketplace the well-off are more likely to accumulate their fortunes by creating new and innovative products demanded by the rapidly expanding global marketplace than through inheritance. The ability to make vast fortunes in the United States is not restricted to family lines or a lucky few. Statistics on income show that each American has ample opportunity to earn high incomes and accumulate wealth while doing so. Statistics also show that Americans have an equal chance of moving down the income scales.⁷ The estate tax is not necessary to ensure a more equal distribution of wealth. The opportunity to earn high incomes, and the equally high probability of earning lower incomes, work well enough on their own.

5. See Darien B. Jacobson, Brian G. Raub, and Barry W. Johnson, "The Estate Tax: Ninety Years and Counting," Internal Revenue Service *SOI Bulletin*, Summer 2007, p. 120, at <http://www.irs.gov/pub/irs-soi/ninetyestate.pdf> (July 16, 2010).

6. Office of Management and Budget, "Historical Tables: Budget of the U.S. Government, Fiscal Year 2011," Tables 1.1 and 2.5, at <http://www.whitehouse.gov/omb/budget/Historicals/> (July 16, 2010).

Number of Estates Paying Death Tax Not the Issue. A common argument in favor of the death tax is that it only affects a small number of estates and as such has a small impact on the economy.⁸ By that logic, a tax that only one taxpayer paid would be an ideal tax, even if that tax ground the economy to a halt. The number of taxpayers that pay a particular tax is economically irrelevant. What matters is the impact the tax has on the economy. By this more accurate metric the death tax is a poor tax because it is a large weight dragging down economic growth.

The number of estates subject to the death tax has declined steadily since passage of the 2001 tax relief. That package steadily phased out the death tax by reducing its rate and increasing the portion of estates exempt from the death tax from \$1 million to \$3.5 million, before doing away with the death tax entirely in 2010. In 2000, before the tax relief packages began, 52,000 estates paid the death tax. As a result of the increased exemption level, by 2008 (the latest year of available data) just over 17,000 estates paid the death tax.⁹

Fewer estates paying the death tax has reduced the economic cost it imposes, but as long as the death tax remains in place it will continue to slow economic growth, destroy jobs, and lower wages. It is little consolation to workers that remain unemployed or see their pay stagnate because of the death tax that the impact of the tax has been slightly lessened.

Current proposals to resuscitate the death tax and set its exemption level between \$3.5 million (\$7 million for married couples) and \$5 million (\$10 million for married couples) would still subject estates that support the most jobs and generate the most eco-

nomical activity to the death tax. Even though these estates are the most able to afford expensive planning measures to lower their death tax liability substantially, they often cannot escape the tax entirely and therefore still pay large tax bills. These large estates support more economic activity, generate more income, and support more jobs than the estates that would continue to fall below the threshold.

According to data from the Internal Revenue Service “smaller estates (under \$3.5 million) make up the bulk of filers—more than 60 percent between 2002 and 2007. Large estates (over \$10 million), however, contributed between 18 percent and 30 percent of the total revenue in the same time frame, indicating a disproportionate distribution of tax liability.”¹⁰ Subjecting these estates to the death tax again would continue to put a large number of workers at risk of seeing their wages idle or their jobs destroyed.

Death Tax Repeal = Job Creation

Econometric analyses that model the impact of a repealed death tax on employment support the argument that the death tax destroys an unacceptable amount of jobs regardless of the number of estates that pay the tax.

In an econometric simulation run in 1993, when the death tax’s exemption was \$600,000, Professor Richard E. Wagner found that if Congress repealed the death tax it would create 228,000 jobs.¹¹ In 1996, Heritage Foundation economist William W. Beach found that repealing the death tax would create an average of 145,000 jobs annually.¹² Gary and Aldonna Rob-

7. See Stuart M. Butler, William W. Beach, and Paul L. Winfree, “Pathways to Economic Mobility: Key Indicators,” Pew Charitable Trust Economic Mobility Project, September 2008, at http://www.economicmobility.org/assets/pdfs/PEW_EMP_PATHWAYS.pdf (July 16, 2010).
8. Chuck Marr and Gillian Brunet, “Stalled Proposal to Cut Estate Tax Further is Deeply Flawed and Should Not Be Revived,” Center on Budget and Policy Priorities, May 21, 2010, at <http://www.cbpp.org/files/5-20-10tax.pdf> (July 16, 2010).
9. Internal Revenue Service, “Estate Tax Returns Filed in 2008 by Tax Status and Size of Gross Estate,” at <http://www.irs.gov/pub/irs-soi/08es01fy.xls> (July 19, 2010), and Internal Revenue Service, “Estate Tax Returns Filed in 2000: Gross Estate by Type of Property, Deductions, Taxable Estate, Estate Tax and Tax Credits, by Size of Gross Estate,” at <http://www.irs.gov/pub/irs-soi/00es01c.xls> (July 19, 2010).
10. Douglas Holtz-Eakin and Cameron T. Smith, “Changing Views of the Estate Tax: Implications for Legislative Options,” American Family Business Foundation, February 2009, at http://www.nodeathtax.org/uploads/view/834/afbf_holtz_eakin_2009.pdf (July 16, 2010).

bins's 1999 analysis concluded that the economy would create 240,000 jobs 10 years after repeal of the death tax.¹³ A study in 2001 by the Institute for Small and Emerging Businesses found that repealing the death tax would create 131,000 jobs.¹⁴ In an update to the 1996 research, Beach determined repealing the death tax would create 142,000 jobs in 2001.¹⁵ In a later analysis in 2003, Beach's research established that repealing the death tax would create between 170,000 and 250,000 jobs.

The most recent study on the effect on employment from repeal of the death tax by Douglas Holtz-Eakin and Cameron Smith, completed in 2009, found that even with a reduced number of estates paying the death tax in recent years, the death tax continues to destroy an unacceptable amount of jobs. The study found that full repeal of the death tax would create 1.5 million jobs.¹⁶ This result is larger than previous findings because the economy has grown since previous studies and the analysis was conducted during a steep recession.

Since businesses would create 1.5 million jobs in the absence of the death tax, it is also true that the death tax at its levels in 2009 (45 percent rate and \$3.5 million exemption) is destroying 1.5 million jobs by preventing businesses from creating them. The large amount of economic activity supported by the estates that would be subject to the death tax were it continued permanently at its 2009 levels is proof that levying the death tax only on a small number of high-value estates is still no cure for the economic ills

caused by the death tax. Only full repeal can fully alleviate the damage it causes.

A large increase in employment is not the only benefit the economy would enjoy if Congress repealed the death tax. Additional benefits from full repeal of the estate tax include:

- Increasing small business capital by more than \$1.6 trillion;
- Increasing the probability of hiring by 8.6 percent;
- Increasing payrolls by 2.6 percent; and
- Expanding investment by 3 percent.¹⁷

At a time of slow economic growth and high unemployment, the boost to the economy and employment from full repeal of the death tax would be welcome news. Compared to the cost of recently enacted spending programs like the \$862 billion stimulus that Congress has already tried in order to invigorate the economy, repealing the death tax would not add to the deficit in the long term (as discussed below) and it would energize the economy where increased government spending has failed.

The Inheritance Solution

Proponents of the death tax argue that the federal government cannot afford to repeal the tax because doing so would increase the deficit too much. But repealing the death tax does not mean assets transferred at death would be tax-free. Instead, the heirs of the estate would pay capital gains taxes on the assets they acquire when they choose to sell them. The revenue from higher capital gains taxes combined with the increased revenue from the income

11. Richard E. Wagner, *Federal Transfer Taxation: A Study in Social Cost* (Washington, D.C.: Institute for Research on the Economics of Taxation, 1993).

12. William W. Beach, "The Case for Repealing the Estate Tax," Heritage Foundation *Background* No. 1091, August 21, 1996, at <http://www.heritage.org/Research/Reports/1996/08/BG1091nbsp-The-Case-for-Repealing-the-Estate-Tax>.

13. Gary Robbins and Aldonna Robbins, "The Case for Burying the Estate Tax," Institute for Policy Innovation *Policy Report* No. 150, 1999, pp. 19–20.

14. Richard F. Fullenbaum and Mariana McNeill, "The Effects of the Federal Estate and Gift Tax on the Aggregate Economy," Research Institute for Small and Emerging Business *Working Paper Series* 98–01, 1998, pp. 14–17.

15. William W. Beach, "Time to Repeal Federal Death Taxes: The Nightmare of the American Dream," Heritage Foundation *Background* No. 1428, April 4, 2001, at http://thf_media.s3.amazonaws.com/2001/pdf/bg1428.pdf.

16. Holtz-Eakin and Smith, "Changing Views of the Estate Tax."

17. *Ibid.*

tax (due to higher economic growth from repealing the death tax) means in the long run there would be no revenue loss.¹⁸

A system where heirs pay capital gains on the assets they acquire from an estate is already in place in the form of the inheritance tax. Currently, the heirs “carry over” the basis of the original owner’s assets when they acquire the possession in question. The capital gains tax is calculated on the difference between the sale price the heir receives when he sells the item and the price the deceased paid when he acquired it. No portion of the transferred asset escapes taxation. The capital gains tax paid on assets acquired from estates is an inheritance tax because the burden of the tax falls on the heirs rather than the estate.

The major difference between the death tax and the inheritance tax is that the heirs do not pay the tax at the time of the estate owner’s death; rather they pay it when they sell what they inherited. While the inheritance tax is still a tax on capital, the punitive effects the death tax has on capital are significantly lessened because other resources do not have to be sold or liquidated to pay the capital gains tax. Furthermore, heirs base their sale of the assets on purely economic considerations rather than under tax duress. Under the inheritance tax system, there still exists an exemption amount so that a portion of estates remain tax-free and assets contained in smaller estates continue to transfer to heirs tax-free.

A similar system for taxing transfers at the time of death could remain in place if Congress repealed the death tax permanently. For the inheritance tax to remain viable in the long term, Congress would need to devise a system to determine the basis for certain assets held for considerable amounts of time, for which no reliable records of the original purchase price exist—a challenge that is surmountable.

An inheritance tax system should be an acceptable solution for all sides of the debate. Those concerned with economic efficiency will find a better tax system than the death tax, and the increased economic growth that would come with a repealed death tax. For the first time all taxes on capital (capital gains, dividends, and wealth transfer taxes) would be taxed at the same rate (assuming the rate on dividends remains the same as capital gains). For those concerned that the rich are getting away without paying their “fair share,” there will still be a tax on the transfer of assets and wealthy estates will continue to pay considerable tax. And for those that do not want to see the deficit increase, switching from the death tax to an inheritance tax would bring in the same amount of revenue to the federal government from a combination of the revenue raised by the inheritance tax and from increased income tax revenue due to higher economic growth.

The biggest winners would be the American economy which would see a rise in employment, American workers who would see their wages increase, and family businesses that would no longer have to worry about their future survival.

Conclusion

It is long past time for Congress to repeal the death tax for good. It serves none of the original purposes Congress intended in 1916, and it presents a significant danger for family-owned businesses. Because it is a tax on capital, it is destroying some 1.5 million jobs that the economy desperately needs as it struggles to recover.

An acceptable replacement exists, one that is already in place for 2010, which satisfies all stakeholders in the death tax debate—if Congress does the right thing and kills the death tax once and for all.

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18. Alfredo Goyburu, “The Economic and Fiscal Effects of Repealing Federal Estate, Gift, and Generation-Skipping Taxes,” Heritage Foundation Center for Data Analysis Report No. CDA02-08, November 15, 2002, at <http://www.heritage.org/Research/Reports/2002/11/The-Economic-and-Fiscal-Effects-of-Repealing-Federal-Estate-Gift-and>.