Here's why the rich hate the estate tax

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Death and taxes may be unavoidable. Taken together, they become a firestorm.

The federal estate tax has been a hot-button issue since it was first imposed under the Revenue Act of 1916, when 10 percent was levied on portions of an estate exceeding $5 million.

The reason this one component of fiscal policy remains so hotly debated and highly politicized is because Americans are largely divided over its impact. Some believe it is a tool to prevent the concentration of wealth in the hands of a few, while others argue it is a hindrance to capital accumulation and curbs economic growth.

"There's a fundamental ethical disagreement," said Chris Edwards, director of tax policy studies at the libertarian Cato Institute.

"What would we rather Bill Gates do with his wealth? Go out and buy a bunch of yachts or houses or continue to save and grow his money?" he asked. "The rest of us should want that money saved and the estate tax works against that," Edwards said.

"The estate tax creates an incentive for rich people to blow their money so they don't have anything when they die."

"That argument just doesn't hold water," countered Howard Gleckman, a senior fellow in the Urban-Brookings Tax Policy Center at the liberal Urban Institute.

"Actually the opposite is true," he added. "A number of these estates are people who own closely held businesses and they are running their businesses as they would. The effects are much smaller than people think."

"Effectively no one pays this tax except for the very, very wealthiest," Gleckman said. "The story of family farmers having to sell their farm to pay the tax is a myth.

At its peak in the 1940s, the tax was 77 percent on portions of more than $10 million, then 70 percent for amounts over $5 million from 1976 to 1982.

More recently, the overall trend has been toward reducing the estate tax — it's 40 percent today, down from 55 percent in 2000.

At the same time, the threshold for imposing the tax has significantly increased.

In 2000, the estate tax lifetime exclusion amount was $675,000. Today, it is more than $11 million — after the Tax Cuts and Jobs Actmore than doubled the previous gift and estate tax exemption, also known as the unified credit.

Under current rules, a taxpayer can transfer $11.18 million per person, either in the form of gifts while alive or in bequests after death — and do so without having that amount be subject to the 40 percent gift and estate tax.

"Higher net worth individuals can now dispose of greater portions of their assets estate and gift tax free either by gifting them during lifetime or transferring them at death," said Michael Feinfeld, a tax manager in the trusts & estates department at Marcum LLP.

At least for now, the tax code's generosity is a limited-time deal. The $11.18 million estate and gift tax exemption is set to expire after the end of 2025, at which point it will revert to $5.49 million.

Only the wealthiest currently pay the federal levy. The number of estates now subject to the federal estate tax fell to just 1,700 after the tax cut from about 5,500 last year, amounting to less than 0.1 percent of all deaths.

As a result, the amount of estate tax owed sank to $13.6 billion from $20.4 billion last year, saving heirs almost $7 billion, according to estimates by the Tax Policy Center.

The stakes are particularly high going forward. Over the next 30 years to 40 years, $30 trillion in financial and nonfinancial assets is expected to pass from baby boomers — the wealthiest and one-time largest generation in U.S. history — to their heirs.

Meanwhile, states have their own skin in the game. As of last year's tally, 14 states and the District of Columbia have an estate tax, and six states have an inheritance tax, according to the Tax Policy Center. Maryland and New Jersey had both. (New Jersey and Delaware have since repealed their estate tax.)