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Tax on inheritance an accounting nightmare

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Want to stick it to the federal government? Wait a month, then drop dead.

On Jan. 1, 2010, the federal death tax disappears. No matter what the value of the assets you leave behind -- $7,000, $700,000, or $700 million -- the IRS won't get a penny if you assume room temperature during the following 12 months.

On Jan. 1, 2011, the death tax returns with a vengeance, hitting estates in excess of $1 million at a rate of 55 percent.

Insane as that sounds, it's fiscal reality.

With a spread-the-wealth president and a Congress controlled by Democratic leaders who are even more spendthrift than the Republicans they replaced, there's little chance that the death tax will be permanently repealed before 2011 arrives. (A likelier scenario is that the $1 million exemption threshold will be lowered.) Nonetheless, the death tax is an across-the-board disaster. It's an economic albatross, underperforms as a revenue generator, and does not foster a more "equitable" society.

Egalitarians defend taxation of non-respiration as a wonderful device to punish the winners of "life's lottery." As usual, such thinking is unsound. Most members of the mega-affluence club joined through merit, not mom and dad. In a recent Heritage Foundation analysis, economist Curtis S. Dubay found that "of the Americans in the top 25 of the Forbes list of billionaires, only those in the Walton family (Wal-Mart) inherited their fortunes. The rest -- including Bill Gates (No. 1), Warren Buffet (No 2), Lawrence Ellison (No. 4), Michael Bloomberg (No. 17), and Michael Dell (No. 25) -- earned their fortunes by taking risks and through innovation, business acumen, and hard work."

Edward McCaffery, a tax-law professor at USC, avers that "if breaking up large concentrations of wealth is the intention of the death tax, then it is a miserable failure." The Wall Street Journal notes that "super-rich families "¦ have always found ways to avoid or mitigate it through offshore accounts, tax-sheltered foundations, and so on. It is the heirs of the not-so-super-rich -- the thrifty dentist, the canny investor, the small-business millionaire -- who are typically devastated by the tax."

The levy generates only about 1 percent of all federal revenue. And it's likely that its combined compliance costs and economic damage generate a net loss for the federal treasury. Chris Edwards, director of tax policy studies at the Cato Institute, observes that the tax "has created a large and wasteful estate-planning and avoidance industry. The industry overflows with high-paid lawyers and accountants doing paperwork, litigation, asset appraisals, and creating financial structures to minimize the tax burden using trusts, life insurance, and private foundations."

Dubay's colleague William W. Beach writes that in addition to its "corrosive effect on the virtue of savings and prudent investment," the death tax "directly undermine[s] job creation and wage growth." The Heritage Foundation estimates that it "is responsible for the loss of between 170,000 and 250,000 potential jobs each year."

(At the state level, death taxes provide one more inducement to flee to places that are friendlier to wealth. Lawmakers and Gov. M. Jodi Rell enacted a death tax in 2005. According to a 2008 survey of estate-planning professionals by the Department of Revenue Services, over 52 percent had clients change "their Connecticut domicile to another state primarily due to the "¦ estate tax.")

Supporters of land and wildlife conservation should oppose the levy. According to environmental-law professor

Jonathan H. Adler, it's an terrific tool for turning farms, ranches, and open space into homes and stores: "For many landowners, if the land is not developed at the time of inheritance, it will be soon thereafter. This is especially true for countless rural Americans who are 'land-rich and cash-poor.' For them, subdividing or developing inherited land is the only way to pay the estate tax." An official of The Nature Conservancy once admitted that the tax "encourages the destruction of ecologically important land in private ownership."

The wonky objections to taxing death are all valid, and serve to thoroughly vanquish the "fairness" crowd's specious claims. But in the words of U.S. Rep. Ron Paul (R-Texas), "Ultimately, the argument against the death tax is a moral one." The government either has a claim on the stuff you've accumulated over the course of your life -- no matter how meager or immense -- or it doesn't.

If you believe that it doesn't, next year is a good year to die. Connecticut's government class will get its cut, but you'll pass into the Great Beyond knowing that your heirs won't be forced to support Washington's spendaholics.

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