

HISTORY OF THE FEDERAL ESTATE TAX¹

In view of the following tortured history, it is hard to imagine what will happen to the federal estate tax post EGTRRA 2001. Intelligent planning does not rely on a permanent repeal of the tax.

- 1797 The first federal "estate" tax was passed to help fund a naval buildup. This was actually a *stamp* duty on legacies and intestate shares of personalty, and was not effective until 1798. The tax was 25¢ on a share over \$50 and under \$100, 75¢ on a share between \$100 and \$500, plus \$1 per additional \$500 share, or portion thereof.
- 1802 The stamp tax was repealed.
- 1862 To help fund the Civil War, Congress imposed a *legacy* tax on personalty if personal estate exceeded \$1,000 (share of spouse was exempt) and a *stamp* tax on probates of wills and letters of administration (from 50¢ to \$20 for estates up to \$150,000, with \$10 more for each additional \$50,000, or fraction thereof).
- 1864 The legacy tax was increased and a succession tax on realty was added, ranging from 1% to 6% on the basis of relationship to the deceased.
- 1870 The legacy succession tax was repealed.
- 1872 The stamp tax was repealed.
- 1894 At the beginning of the Spanish-American War, a 2% "income" tax was imposed upon "money and value of all personal property acquired by gift or inheritance."
- 1898 The rates were changed, and ranged from .75% to 2.25%, but estates under \$10,000 were exempt (as well as legacies to surviving spouses).
- 1902 The "income" tax was repealed.
- 1916-21 The modern estate tax was enacted, followed by a succession of changes. Initially, there was an exemption of \$50,000, and the rates ranged from 1% on the first \$50,000, to 10% on estates over \$5 million. Thereafter, the 1% rate increased to 1.5%, then to 2%; and the 10% rate increased to 15%, then to 25% (on estates over \$10 million).
- 1924 The gift tax was imposed, a state credit was allowed, and the estate tax was increased on all taxable estates over \$100,000 (estates over \$10 million were taxed at 40%).
- 1926 The gift tax was repealed, the exemption was raised from \$50,000 to \$100,000, and the 1924 rates were retroactively removed. As a result, \$250 million was refunded to just seven estates, while other estates received lesser refunds.
- 1931 The exemption was reduced from \$100,000 to \$50,000, and rates were more than doubled.
- 1932 For estates over \$1 million, the maximum rate was increased from 19% to 45%.
- 1934 For estates over \$10 million, the maximum rate was increased to 60%.
- 1935 The exemption was further reduced to \$40,000, and the rates were increased to 2% on the first \$10,000 bracket, and increased to 70% on amounts over \$50 million.
- 1940 To help finance World War II, a "temporary" defense tax increased estate taxes 10%.
- 1941 The progressive rates were increased, and the "temporary" defense tax became permanent. The rates were increased to 3% on the first \$5,000 bracket, and increased to 77% on amounts over \$10 million.
- 1981-99 During this 19-year period, no less than 126 new estate tax laws were enacted (an average of seven per year).²

1. This history has been compiled from an exhaustive work by Louis Eisenstein, contained in "The Rise and Decline of the Estate Tax," *Tax Law Review*, 1956, pages 223-259.

2. See, Hal Graff, "Estate Tax Law Changes: More Sales Opportunities for Financial Advisors," *Journal of Financial*