

TAKE IT OR LEAVE IT

The modern United States estate tax dates back to the Revenue Act of 1916, which created a tax on inherited wealth. In 1932, Congress extended the tax to gifts, to prevent wealthy individuals from transferring assets during their lifetime to allow their heirs to avoid the estate tax. Finally, adoption of the estate marital deduction came in 1948. Since then, the estate tax and gift tax remained largely unchanged until 2001. During those intervening years Congress mainly focused on closing loopholes and making changes to exemptions and marginal tax rates.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) provided for yearly easing of the estate and gift tax burden through 2010. The sweeping provisions of EGTRRA entirely eliminated federal estate and gift taxes in 2010. This provision led wealth managers to irreverently advise clients to “throw mama from the train” in 2010. If lawmakers failed to change the law, the estate tax and gift tax would return to 2001 rates in 2011 (an increase in the 2009 top-rate from 45% to 55%, and a decrease in the exemption from \$3.5 million to \$675,000).

Estate taxes have a long history, dating to ancient Rome. They traditionally have a twofold purpose. First, and most apparent, they provide revenue. For example, Congress passed the Revenue Act of 1916 primarily to fund military preparedness after the beginning of the Great War. Second, they prevent plutocracy by reducing the concentration of wealth in the hands of a few.

Estate taxes affect only 1% of all inherited estates, and generated only 1% of annual US tax revenue in the decade before the tax was eliminated in 2010. In a growing controversy over the US estate tax, its opponents are winning. Rhetoric that characterizes the estate tax as a “death tax” that will deprive the middle class of future riches stirs up opposition from those who would in fact benefit from it. The very fact that this controversy holds such a prominent place on the American political stage is in itself a success for tax opponents.

In 2010, despite opposition from those who opposed tax cuts to individuals earning over \$200,000 and families earning over \$250,000 annually, Congress passed a bill to extend the tax cuts through 2012. President Obama signed the bill, which also extended unemployment benefits through 2011.