



INDEPENDENT WOMEN'S FORUM  
*Position Paper*

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# THE DEATH TAX:

## Unfair, Inefficient, Bad for Women

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### Executive Summary

The death tax—or federal tax on one's assets at the time of death—is an unfair, inefficient tax that should be permanently repealed. The death tax is:

- **A Drag on the Economy:** The death tax discourages savings and investment, the engines of economic growth. Economists estimate that the death tax results in the loss of hundreds of thousands of jobs each year and billions of dollars of wealth.
- **An Inefficient Way to Raise Revenue:** Because the death tax is a drag on economic growth and diverts resources away from productive economic activity, analysts estimate that the tax may actually *decrease* federal revenues.
- **Antithetical to American Values:** Americans overwhelmingly support repealing the death tax because it punishes savings and unfairly taxes assets that have already been taxed by the government.
- **Bad for Women:** Women are increasingly starting businesses and face the difficult task of planning for how to ensure their businesses can survive them. Women also tend to outlive their husbands, and as a result, many are left with the burden of planning for how to pass on their assets to loved ones.

Liberal feminist groups like the National Organization for Women and the National Women's Law Center ignore the high costs of the death tax and oppose its repeal. But American women overwhelmingly recognize that the death tax is an unfair tax and poor way to raise revenue for the government.

It's time for Congress to bury the death tax.

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## **Introduction**

In 1916, Congress passed an estate tax to fund World War I. In the beginning, the estate tax was relatively modest: assets in excess of \$50,000 (the equivalent of about \$11 million today) were taxed at an initial rate of one percent, but increased to ten percent on assets above \$5 million (or over \$1 billion in today's dollars).<sup>1</sup>

The rate of taxation quickly grew and, from the mid-1930s until 1980, the top tax rate reached an astounding 77 percent. Some tax relief followed during the 1980s and 1990s, but until 2001, the top tax rate remained a high 55 percent.<sup>2</sup> In 2001, Congress approved the Economic Growth and Tax Relief Reconciliation Act, which phases out the death tax over a period of ten years. But under current law, in 2011, the estate tax will be reborn to its pre-2001 status, and individuals will face the prospect of losing more than half of their estate above \$1 million to the government.

Policymakers should not allow this perverse circumstance to persist. Imagine an elderly woman facing a terminal illness in 2010. Under current law, she would have a significant financial incentive to end her life before the new year, so that she could pass her assets on to loved ones.

The future existence of this tax also affects how individuals plan their finances today. An entrepreneur starting a business cannot predict how successful her business might be, therefore she cannot determine if she will be affected by the death tax. Neither can she determine exactly when she can expect to die. Given these uncertainties, many prudent entrepreneurs are likely to hire tax lawyers and financial advisors in an effort to preserve their future assets for loved ones and to ensure that their businesses will live on after their demise. The time and resources spent in this financial planning are a loss for the business and a drain on the economy.

American entrepreneurs deserve consistency and clarity in their tax laws. Repealing the death tax once and for all would be an important step toward simplifying our tax code and boosting our economy.



### **The Anti-American Dream Tax**

The death tax is loathed by most Americans. Although everyone is affected by the drag the tax places on the economy, most Americans won't directly pay the death tax—but that doesn't stop them from urging its repeal.

Death tax supporters have attempted to increase support for the death tax by raising the exemption, which makes the tax more progressive, and encouraging the perception that the death tax only affects “the rich.” But few Americans embrace this notion of class warfare. Polls regularly show widespread support for the full repeal of the death tax because it is seen as antithetical to core American values.

Americans recognize that the death tax is inherently unfair. The individuals who earned the assets that constitute the estate already paid taxes on it when it was income. They could have chosen to use their money instead to purchase expensive vacations and fine foods and wines. If they had chosen to consume their assets, they would have no estate to tax. Only those who were willing to forgo that consumption and instead saved and invested will face the death tax. In essence, they will be punished for their frugality.

One poll found that nearly seven out of ten Americans objected to the death tax *because* it singles out people for being successful. Eight in ten opposed the tax because it taxes assets that have already been taxed by the government. As a result, the death tax is among America's most unpopular taxes and among the first that taxpayers want cut.<sup>3</sup>

Part of the American dream is making sacrifices in order to leave the next generation with more assets and more opportunities. The death tax is a tax on this American dream.

### **A Drag on the Economy**

The death tax hinders economic growth by discouraging economic productivity and diverting resources away from their most productive uses.

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*The implicit message of the estate tax—that people are better off consuming their assets now instead of saving them to pass on to their loved ones—also discourages the very behaviors that help grow the economy.*

When entrepreneurs and those who own assets spend their time and money “estate planning” in order to avoid paying a future death tax, they divert resources that otherwise could be invested into their businesses and the economy. The implicit message of the estate tax—that people are better off consuming their assets now instead of saving them to pass on to their loved ones—also discourages the very behaviors that help grow the economy.

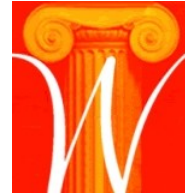
Economists estimate that the federal estate tax alone depresses the number of jobs by 170,000 and 250,000 each year.<sup>4</sup> The Joint Economic Committee estimated that the estate tax reduced the stock of capital by \$497 billion or 3.2 percent.<sup>5</sup> The estate tax was also cited as a leading cause of the break up of thousands of family-run businesses. Through 2001, an estimated 2.6 million acres of forest land were harvested and 1.3 million acres were sold each year in order to pay for estate taxes.<sup>6</sup> In 2001, economists estimated that immediate repeal of the estate tax would result in a net increase in the GDP of nearly \$150 billion between 2001 and 2008.<sup>7</sup>

### **An Inefficient Way to Raise Revenue**

Ideally, policymakers ought to strive to enact tax policy that raises revenue in the most efficient manner possible, causing the least distortion in individual behavior. In order to minimize the burden on the economy, a tax should also be transparent so that individuals can easily calculate how much they owe. The tax must also be applied uniformly: there shouldn't be loopholes that allow one individual to avoid paying the tax while a similarly situated individual pays it.

The death tax shares none of these virtues. It distorts people's behavior during their lives—discouraging savings, encouraging consumption, and diverting resources to unnecessary estate planning—and it is often difficult for individuals to calculate if they will be affected by the tax and how much their heirs will owe. Wealthy individuals can hire financial planners and tax consultants to help them shield most if not all of their assets from the tax. Not only does this create an additional element of unfairness, but in doing so they are wasting money that otherwise could have been put to productive use.

When taking into account compliance costs and the distortionary effects of the tax, the Joint Economic Committee



concluded that “the available data indicates that the estate tax may actually result in a net revenue loss for the federal government.”<sup>8</sup> In other words, the tax may result in the government having less money instead of having more.

The estate tax is estimated to have raised about \$22 billion dollars or about one percent of federal tax receipts in 2002. But this was offset by an estimated \$22 billion in compliance costs.<sup>9</sup> Even liberal economists Henry Aaron and Alicia Munnell concluded that these compliance costs and the resources spent to avoid the tax made the estate tax one of the most burdensome and inefficient of all taxes.<sup>10</sup>

In other words, the death tax is simply a poor way for the government to raise money.

### **The Death Tax: A Burden on Women**

Feminist organizations tend to be big supporters of the death tax, parroting the claim that eliminating the tax is a giveaway to the rich and ignoring how the tax acts as a drag on the economy. For example, National Organization for Women president Kim Gandy railed against tax cuts generally in a statement in 2002, but singled out proposals to speed up the elimination of the death tax as “one of the most outrageous.”<sup>11</sup>

Not only do the liberal feminists ignore the death tax’s adverse affects on the economy, affecting all Americans including women, but also they fail to recognize that without repeal women will be increasingly affected by the death tax directly.

Today, women are launching businesses at double the rate of the rest of the U.S. population. Women’s owned firms make up 28 percent of all privately-held firms in the U.S., employing 9.2 million people and generating \$1.15 trillion in sales.<sup>12</sup>

These women business owners are struggling to make sense of the estate tax laws and are using up resources to prepare for the potential of facing these punitive taxes. The Center for the Study of Taxation surveyed the National Association of Women Business Owners in March 2000 to assess how the death tax affects their plans and businesses. The average respondent spent \$60,000 per year on

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efforts to plan and pay for the tax. Few had actually faced costs associated with an estate tax, yet they felt compelled to allocate significant resources on measures that would reduce the burden on the tax in the future. An average of \$30,000 per year was invested in life insurance policies that would cover the future costs of tax. This is \$30,000 that could have otherwise been used to pay another employee, buy equipment, or used to expand production.<sup>13</sup>

Women business owners saw the death tax as a significant drain on their business and deterrent to the business's future prospects. More than four in ten thought that the death tax would halt the expansion of their business and four in ten thought their businesses would have to be sold to pay the tax. The average women business owner estimated that 39 jobs within their business had been lost in the past five years in order to bear the costs of planning and paying for the death tax. They anticipated an even greater job loss in the years to come.<sup>14</sup>

The gradual reduction of the death tax which was passed in 2001 may have lessened the burden on these business owners, but only temporarily. With the full death tax schedule to return in 2011, most business owners are likely continuing to allocate resources in preparation for a future estate tax. After all, they cannot be sure when they will pass on and cannot be certain if Congress will act in time to repeal the death tax before 2011. Many will err on the side of caution by assuming that their heirs will indeed face this burdensome tax and take measures to protect them today.

It isn't just women business owners who are affected by the estate tax. Women tend to outlive men. As a result, they often inherit their husband's assets and face the burden of planning for the passage of the estate after their deaths. A tax lawyer and estate planner writing in *The Journal of Financial Services Professionals* highlighted how women's longevity would result in women increasingly controlling the country's wealth: "Women are more likely to inherit and they actually own (or benefit from) slightly more than one-half the financial assets in the country."<sup>15</sup> As a result, women will increasingly face the brunt on the death tax's burden.



## Conclusion

It's time to pull the plug on the death tax. This unfair tax discourages savings and investment—the very activities that grow our economy and raise our standard of living. The death tax is inherently unfair: the assets facing the death tax have already been taxed by the federal government as income. Finally, the death tax is an inefficient way for the federal government to raise revenue.

Women in particular should be concerned about the death tax since they tend to outlive their husbands and will be forced to plan for how to pass on their assets after their death. Women are also increasingly starting businesses. It's unfortunate that instead of just focusing on expanding their business, they instead must also consider how to navigate the estate tax laws so that their business will continue after they are gone.

Congress should permanently repeal this inefficient tax immediately.

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## Endnotes

<sup>1</sup> Gary Robbins, "Estate Taxes: An Historical Perspective," Heritage Background No. 1719, January 16, 2004, p. 2.

<sup>2</sup> Ibid.

<sup>3</sup> Luntz Research Companies and Global Strategy, Inc., Luntz Research Companies and Global Strategy, Inc., January 16-21, 2003. Available at: <http://www.naa.org/ppolicy/pdfs/Finaldeathtaxinfosheet.pdf#search='death%20tax%20has%20little%20support%20from%20americans'>.

<sup>4</sup> William W. Beach, "Now Is (Still) the Time to Permanently Repeal Federal Death Taxes," Heritage WebMemo #720, April 12, 2005, p. 2.

<sup>5</sup> "The Economics of the Estate Tax: An Update," A Joint Economic Committee Study, Vice Chairman Jim Saxton (R-NJ), June 2003.

<sup>6</sup> Ibid.

<sup>7</sup> Dr. Allen Sinai, "Macroeconomic and Revenue Effects of the Estate Tax," American Council for Capital Formation Center for Policy Research, March 2001.

<sup>8</sup> "The Economics of the Estate Tax: An Update," p. 5.

<sup>9</sup> Ibid.

<sup>10</sup> Henry J. Aaron and Alicia H. Munnell, "Reassessing the Role for Wealth Transfer Taxes," National Tax Journal 45, no. 2, June 1992: 138.



## THE DEATH TAX: UNFAIR, INEFFICIENT, BAD FOR WOMEN

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<sup>11</sup> “Women Need Real Economic Security,” National Organization for Women, Statement of NOW President Kim Gandy, February 6, 2002.

<sup>12</sup> “Women’s Small Business Summit Sets Policy Priorities to Help Women-Owned Firms Grow; Bush Pledges Support,” U.S. Newswire, September 9, 2002.

<sup>13</sup> Patricia M. Soldano, “How the Estate Tax Robs Women,” Policy and Taxation Group, <http://www.policyandtaxationgroup.com/html/alldead2.html>.

<sup>14</sup> *Ibid.*

<sup>15</sup> Ted T. Kurlowicz, “What Estate Planners Will Be Doing in 10 Years (or Not),” *Journal of Financial Service Professionals*; January 2005.