Q. How do the estate, gift, and generation-skipping transfer taxes work?

A. The federal estate tax applies to the transfer of property at death. The gift tax applies to transfers made while a person is living. The generation-skipping transfer tax is an additional tax on a transfer of property that skips a generation.

The United States has taxed the estates of decedents since 1916. Gifts have been taxed since 1924 and, in 1976, Congress enacted the generation-skipping transfer (GST) tax and linked all three taxes into a unified estate and gift tax.

The tax applies only to the portion of the estate’s value that exceeds an exemption level. The Tax Cuts and Jobs Act (TCJA) doubled the estate tax exemption to $11.18 million for singles and $22.36 million for married couples, but only for 2018 through 2025. The exemption level is indexed for inflation reaching $11.4 million in 2019 and $11.58 million in 2020 (and twice those amounts for married couples). The 40 percent top tax rate remains in place.

The tax rates and exemption levels have varied dramatically over the past two decades. Before the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the estate tax exemption was set at $675,000 and scheduled to gradually increase to $1 million. EGTRRA cut all three taxes sharply, but only through 2010. The act gradually phased out the estate and GST taxes and repealed both entirely for 2010, leaving only the gift tax (at a reduced rate) in effect that year (table 1).
The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 reinstated the estate and GST taxes for 2010 and extended them through 2012, with a $5 million estate tax exemption (indexed for inflation after 2011) and a top rate of 35 percent, but allowed executors to elect the EGTRRA rules for decedents who died in 2010. The 2012 rules were permanently extended by the American Taxpayer Relief Act of 2012, but the top rate was increased to 40 percent (table 1).

Here’s how the estate tax works:

The executor must file a federal estate tax return within nine months of a person’s death if that person’s gross estate exceeds the exempt amount ($11.58 million in 2020).

The estate tax applies to a decedent’s gross estate, which generally includes all the decedent’s assets, both financial (e.g., stocks, bonds, and mutual funds) and real (e.g., homes, land, and other tangible property). It also includes the decedent’s share of jointly owned assets and life insurance proceeds from policies owned by the decedent.

The estate and gift taxes allow an unlimited deduction for transfers to a surviving spouse, to charity, and to support a minor child. Estates may also deduct debts, funeral expenses, legal and
How do the estate, gift, and generation-skipping transfer taxes work?

行政费用、慈善遗赠，以及向州政府支付的遗产税。遗产税等于遗产总额减去这些扣除项。

根据2020年的有效免税额为1.158亿美元。任何价值超过1.158亿美元的遗产将一般按40%的最高税率征税。

遗产税水平是可转让的，使得有效的遗产税对于已婚夫妇是单身的两倍。例如，如果第一个死亡的配偶将5000万美元遗产留给子女和孙子女，那么遗嘱的遗产税将增加未用的6580万美元。

虽然税率为递增，但所有超出免税额的转移都按最高税率征税，因为免税额超过最高税率适用的阈值。

特殊规定为了减少遗产税，或者在时间上摊开支付，对家族拥有的农场和家族企业。如果满足某些条件的遗产可以使用特殊用途公式来减少遗产税，通常是40%到70%。家族拥有的企业可能常常在逻辑上对家族企业的估值进行折扣，因为当一个企业（包括，潜在地，仅被动投资在流动资产中）被分割给许多继承人时，小数份额可能的市场价值小于其总价值的按比例部分。如果农场或企业占据至少35%的总资产，税可以分为14年支付，以较低的利率，仅在头五年的期间支付利息。

继承不是受赠人收入的征税。

继承的财产基础被更新到死亡时的市场价值，这意味着在死亡时持有的资产的未实现资本利得永远不会受收入税的影响。（记者迈克尔·金斯利（Michael Kinsley）著名的称之为“死神天使的漏洞”）

以下是该税如何工作的。

1932年，国会通过了赠与税，以防止捐赠人通过在去世前转移财富来逃避遗产税。

2020年，每位捐赠人的免税额度为1158万美元。这个免税额度与遗产税相同，并与之整合（即，捐赠减少遗产税的可利用免税额度）。在该免税额度之外，捐赠人支付的赠与税为遗产税的40%税率。

每年的另外一部分也被免征（15000美元在2020年），该免税额根据通货膨胀以1000美元的档位调整，并单独授予每个受赠人。因此，一个有三个孩子的已婚夫妇每年可以分别给每个孩子90000美元（每对父母给每个孩子15000美元）而不需纳税或计入一生的免税额度。

赠与收到的不是受赠人的征税收入。
How do the estate, gift, and generation-skipping transfer taxes work?

And here’s how the generation-skipping trust tax works:

Congress enacted the GST tax in 1976 to prevent families from avoiding the estate tax for one or more generations by making gifts or bequests directly to grandchildren or great-grandchildren. The GST tax effectively imposes a second layer of tax (using the exemption and the top tax rate under the estate tax) on wealth transfers to recipients who are two or more generations younger than the donor.

*Updated May 2020*

**Data Sources**

Internal Revenue Code, [26 USC Subtitle B: Estate and Gift Taxes](https://www.irs.gov/).  

**Further Reading**


Q. Who pays the estate tax?

A. The top 10 percent of income earners pays more than 90 percent of the tax, with nearly 40 percent paid by the richest 0.1 percent. Few farms or family businesses pay the tax.

The Urban-Brookings Tax Policy Center (TPC) estimates that some 4,000 individuals dying in 2018 left estates large enough to require filing an estate tax return (estates with a gross value under $11.18 million did not need file this return in 2018). After allowing for deductions and credits, 1,900 estates owed tax. TPC estimates that over 90 percent of these taxable estates came from the top 10 percent of income earners and more than one-third came from the top 1 percent alone (table 1).

<table>
<thead>
<tr>
<th>Table 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estate Tax, Number of Returns and Distribution of Burden</td>
</tr>
<tr>
<td>2018 Current Law*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expended Cash Income Category</th>
<th>Businesses and Farms</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>Top 10%</td>
</tr>
<tr>
<td>Number of returns</td>
<td>4,020</td>
</tr>
<tr>
<td>Number of taxable returns</td>
<td>1,890</td>
</tr>
<tr>
<td>Share of all taxable returns</td>
<td>100%</td>
</tr>
<tr>
<td>Estate tax paid ($ billions)</td>
<td>$14.9</td>
</tr>
<tr>
<td>Share of all estate tax paid</td>
<td>100%</td>
</tr>
</tbody>
</table>


Notes: (a) Estimates are for estate tax returns filed for individuals who die in 2018.
(b) Estate tax returns on which farm and business assets represent at least half of gross estate.
(c) Estate tax returns on which farm and business assets represent at least half of gross estate and these assets are no more than $5 million.
(d) Number of returns is rounded to nearest multiple of ten.
(e) Estate tax paid is rounded to nearest multiple of $10 million.

Estate tax liability totaled an estimated $14.9 billion in 2018. The top 10 percent of income earners paid 93 percent of this total. The richest 0.1 percent paid $5.8 billion, or 39 percent of the total (table 1).

According to TPC’s 2017 estimates, only about 80 small farms and closely held businesses—estates with farm and business assets totaling no more than $5 million and making up at least half of the gross estate—paid any estate tax in 2017. Small farms and businesses were not subject to the estate tax in 2018 because of the
$11.18 million effective exemption under the Tax Cuts and Jobs Act. The higher exemption amount expires after 2025.

While most estimates assume the decedent bears the estate tax, this is primarily because of data limitations. There is good reason to believe that heirs most often bear the tax. When the burdens are analyzed this way, individuals inheriting over $1 million bear the estate tax almost exclusively.

Data Sources

Further Reading


Q. How many people pay the estate tax?

A. About 4,100 estate tax returns will be filed for people who die in 2020, of which only about 1,900 will be taxable—less than 0.1 percent of the 2.8 million people expected to die in that year.

Because of a series of increases in the estate tax exemption, few estates pay the tax. The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) raised the estate tax exemption from $675,000 in 2001 to $1 million in 2002 and to $3.5 million in a series of steps through 2009, sharply reducing the number of estates that paid estate taxes. EGTRRA repealed the estate tax for 2010 but after that, the estate tax was scheduled to revert to pre-EGTRRA rules.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 reinstated the estate tax and generation-skipping transfer tax and extended them through 2012, with a $5 million estate tax exemption (indexed for inflation after 2011) and a top rate of 35 percent. The American Taxpayer Relief Act of 2012 permanently extended the exemption, but the top rate was increased to 40 percent.

The Tax Cuts and Jobs Act doubled the exemption to $11.18 million in 2018 (indexed for inflation after 2018), but the estate tax cut is scheduled to expire after 2025 (along with most other provisions of the new law).

Internal Revenue Service data show that roughly 109,600 estate tax returns were filed for decedents in 2001, the year before the EGTRRA changes began to go into effect. Fewer than half—about 50,500—of those estates had any estate tax liability after credits. Estate tax liability totaled $23.7 billion (table 1).
For decedents in 2009, the year the final increase in the estate tax exemption under EGTRRA went into effect, only about 12,900 estate tax returns were filed, of which only 5,700 were taxable. Estate tax liability totaled $13.6 billion (table 1).

For those who died in 2010, executors could elect to have the EGTRRA rules apply, which meant that no estate tax was imposed. However, instead of recipients of bequests receiving a full step-up in basis, they were limited to $1.3 million (plus an additional $3 million for surviving spouses), with any additional unrealized gains required to be carried over. Recipients, therefore, will pay deferred income tax on these
additional unrealized gains when the gains are realized.

For decedents in 2018 (with an exemption of $11.18 million), the Urban-Brookings Tax Policy Center estimated that only about 4,000 estate tax returns were filed, of which only 1,900 were taxable. Estate tax liability totaled $14.9 billion after credits (table 1). The estimated number of total and taxable estate tax returns are 4,100 and 1,900 for both 2019 and 2020. Estimated estate tax liability is $15.6 billion in 2019 and 16.0 billion in 2020.

To put the number of estate tax returns filed in perspective, the Population Division of the Bureau of the Census estimates that about 2.7 million people died in 2019. Thus, an estate tax return will be filed for only about 0.15 percent of decedents, and only about 0.07 percent will pay any estate tax.

Updated May 2020

**Data Sources**


**Further Reading**


Q. What is the difference between carryover basis and a step-up in basis?

A. The difference is whether heirs who sell an inherited asset will pay tax on the capital gains from the time the asset was originally purchased or from the time it was inherited. In some cases, the difference is a lot of tax liability.

A capital gain occurs if a capital asset is sold or exchanged at a price higher than its “basis,” the original purchase price plus the cost of improvements less depreciation. When a person inherits an asset, the basis becomes the asset’s fair market value at the time of the owner’s death. This is called a ”step-up in basis” because the basis of the decedent’s asset is stepped up to market value. With gifts made during the giver’s lifetime, the recipient retains the basis of the person who made the gift (“carryover basis”).

The donor’s income does not include the unrealized gain (or loss) on assets given by gift or bequest. The recipient does not owe any tax until the asset is sold, at which point any gain is taxable. The taxable gain is the amount received from the sale of the asset less the asset’s basis. For most sales, the basis is the amount the taxpayer invested in the asset, adjusted for subsequent improvements, depreciation, and certain other items. For gifts and bequests, however, special basis rules apply.

For gifts, the basis remains the same as when the asset was held by the person who made the gift (“carryover basis”), but with an adjustment for any gift tax paid. For inheritances, the basis is the fair market value of the asset at the time of the donor’s death (or six months afterward, if the executor elects the alternative valuation date). This is referred to as “step-up in basis” (or “stepped-up basis”) because the previous basis is stepped up to market value.

The effect of carryover basis on gifts is to tax the unrealized gain accrued by the donor when the recipient sells the asset. The effect of step-up in basis on inheritances is to eliminate income tax on any unrealized gain accrued by the decedent.

There have been past efforts to repeal or eliminate step-up in basis.

- The Tax Reform Act of 1976 would have imposed carryover basis on all inherited assets, but the provision was repealed before it could ever take effect.
- The Economic Growth and Tax Relief Reconciliation Act of 2001 repealed the estate tax and curtailed step-up in basis, but only for one year—2010. The act limited step-up to $1.3
What is the difference between carryover basis and a step-up in basis?

- The Obama administration proposed repealing stepped-up basis subject to several exemptions, including a general exemption for the first $100,000 in accrued gains ($200,000 per couple). The US Department of the Treasury estimated that, together with raising the capital gains rate to 28 percent, this proposal would raise $210 billion over 10 years. Ninety-nine percent of the revenue raised would come from the top 1 percent of households ranked by income.

Further Reading


How could we reform the estate tax?

Q. How could we reform the estate tax?

A. Possible reforms run the gamut from repeal to modest fixes that would make the tax more difficult to avoid.

Proposals to reform the estate and gift tax range from comprehensive options, such as permanently repealing the estate tax or replacing the existing tax with a tax on inheritances, to more modest options, such as decreasing exemption amounts, increasing tax rates, and blocking avenues for avoidance.

The federal estate and gift taxes (including the generation-skipping tax, or GST) have changed more than a dozen times since 2001. The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) cut these taxes sharply but only through 2010. EGTRRA gradually phased out the estate tax and GST, eliminating them entirely for 2010 and leaving only the gift tax (at a reduced rate) in that year.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 reinstated the estate tax and GST for 2010 and extended them through 2012, with a $5 million estate tax exemption (indexed for inflation after 2011) and a top rate of 35 percent. But the law allowed executors to elect the EGTRRA rules for decedents who died in 2010. The American Taxpayer Relief Act of 2012 (ATRA) permanently extended the 2012 rules, though with a new top rate of 40 percent.

The Tax Cuts and Jobs Act of 2017 (TCJA) doubled the estate tax exemption to $11.18 million in 2018 (indexed for inflation after 2018) but kept the 40 percent top rate. The TCJA changes expire after 2025.

REPEAL

Many members of Congress have called for the repeal of the estate and gift taxes. That would be expensive, however. The Office of Management and Budget projects that these taxes will raise $205 billion in fiscal years 2019 through 2028.

Repeal would also be regressive—the benefits would go almost entirely to people at the top of the income distribution—and would invite significant sheltering of income. Further, gifts from an estate to charity currently qualify for full deduction from the estate’s taxable value, creating a substantial incentive to leave bequests to charities. Prior estimates indicate that repealing the estate tax would reduce charitable donations by 6 to 12 percent.

INHERITANCE TAX

One option, the substitution of an inheritance tax, would tax wealth transfers somewhat differently. An inheritance tax differs from an estate and gift tax in that the rate depends on the amount of gifts and bequests the taxpayer receives rather than on how much the donor gives or bequeaths.
gift taxes, a progressive inheritance tax gives donors an incentive to spread their wealth more broadly, because each of any number of recipients can claim an exemption and take advantage of progressive tax rates, thus reducing the total tax attributable to an estate. Most countries that tax wealth transfers do so with inheritance taxes rather than estate taxes and many states levy inheritance taxes.

LIMIT PREFERENCES

A more modest reform could repeal or modify the many estate tax preference items, such as special trust arrangements and valuation discounts, that allow savvy millionaires to drastically reduce or even eliminate estate tax liability. University of Southern California law professor Edward McCaffery said the tax was so easy to avoid that it was essentially a “voluntary tax” (albeit one that raised about $20 billion per year at the time of his writing). The plethora of loopholes complicates estate planning and results in comparable estates facing very different tax bills. Eliminating estate tax preferences could increase revenues, which could pay for extending the higher estate tax exemption scheduled to return to pre-TCJA levels after 2025 or for reducing the deficit.

RETURN TO PRIOR LAW

Alternatively, policymakers might simply reverse some of the estate tax changes enacted since 2001 (figure 1).

2000 law. Before 2001, the estate tax had an exemption level of $1 million (not indexed for inflation), a top statutory rate of 55 percent, a 5 percent surtax that phased out the benefit of lower rates for large estates, and a credit (rather than a deduction) for state wealth transfer taxes. Making pre-ATRA law permanent starting in 2019 would increase the number of estate tax returns filed for decedents who died between 2019 and 2028 by 1.7 million and increase the estate tax liabilities of these decedents by $585 billion.

2009 law. The estate tax law in effect under EGTRRA for 2009 had an exemption of $3.5 million (unindexed) and a top rate of 45 percent. If 2009 law were made permanent starting in 2019, the number of estate tax returns filed for decedents who died between 2019 and 2028 would increase by 246,000, and estate tax liabilities of these decedents would increase by $234 billion.

2009 law, exemption indexed by chained consumer price index. If 2009 law, modified to index the exemption to inflation, were made permanent starting in 2019, the number of estate tax returns filed for decedents who died between 2019 and 2028 would increase by 162,000, and estate tax liabilities of these decedents would increase by $171 billion (about three-quarters the increase without indexing the exemption).

2017 law. The TCJA doubled the estate tax exemption and adopted a somewhat slower inflation adjustment starting in 2018, but only through 2025. Returning to an estate tax exemption of $5 million (indexed for inflation from 2011) in 2019 through 2025 would increase the number of estate tax returns filed by 55,000 between 2019 and 2028 and would increase estate tax liabilities by about $60 billion.
Key Elements of the U.S. Tax System

How could we reform the estate tax?

**Data Sources**


**Further Reading**


How could we reform the estate tax?


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What are the options for taxing wealth transfers?

A. There are three options: an estate and gift tax (like the current US federal system), an inclusion tax, or an accessions tax.

The transfer of wealth through gifts or bequests can be taxed in three ways: under an estate and gift tax (like the current US federal system), under an inclusion tax, or under an accessions tax.

ESTATE AND GIFT TAX

An estate and gift tax applies to the donor or the donor’s estate using separate estate and gift tax rate structures. Apart from transfers to spouses and charities, which are generally exempt from tax, and the small annual exemption from the gift tax, the amount of tax imposed on the transfer does not vary with income or other characteristics of recipients of large gifts and bequests.

INCLUSION TAX

An inclusion tax requires recipients to treat transferred assets as taxable income under the federal income tax. The amount of tax, therefore, varies with the recipients’ characteristics (e.g., their filing status), the amount of their other income, the amount of their deductions, and other factors that affect income tax liability.

ACCESSIONS TAX

An accessions tax, like an inclusion tax, taxes recipients on the value of transfers received, but under a rate structure different from the income tax rate structure. The tax imposed on the transfer, therefore, depends only on the amount the recipient receives in the relevant time period.

CONSIDERATIONS

Under all three approaches, the treatment of the donor’s unrealized gains affects incentives to transfer and the amount of tax revenue produced. A donor’s unrealized gains could be taxed as part of his or her income. Alternatively, such gains could be taxed when realized by the recipient if a carryover basis is required. On the other hand, if the recipient is allowed a step-up in basis, such gains could never be taxed at all.

One consideration for an accessions tax is the period over which transfers are taxed. If transfers are taxed annually with a graduated rate schedule, recipients would pay much less tax on lifetime transfers received evenly over many years than if they received the entire amount in one year. The tax system could address these differences by taking into account the transfers recipients accumulate over their lifetimes, much like the
What are the options for taxing wealth transfers?

Federal estate and gift taxes. With these current taxes, bequests and gifts are added up over the recipient’s lifetime to determine whether he or she has exceeded the exempt amount.

The taxation of lifetime transfers can also differ under an inclusion tax because of the graduated income tax rate schedule. One way to address these differences would be to average inclusions over several years.

Under an estate and gift tax, the number of recipients doesn’t affect the amount of tax paid on transfers. Taxing inheritances under an inclusion tax or an accessions tax may encourage broader transfers of wealth, because broader transfers would generally reduce the total amount of tax paid.

Updated May 2020

Further Reading


Q. What is an inheritance tax?

A. A type of wealth transfer tax in which the recipient, rather than the donor’s estate, is taxed.

An inheritance tax applies to the gifts and bequests a taxpayer receives. Unlike estate and gift taxes, a progressive inheritance tax gives donors an incentive to spread their wealth more broadly. Recipients can claim an exemption and take advantage of graduated tax rates, thus reducing the effective tax rate. Currently, the United States has no federal inheritance tax, but several states do.

While donors or their estates are legally obliged to remit wealth transfer taxes, evidence suggests that all or most of the economic burden falls on recipients, who receive a smaller after-tax gift or inheritance than they would without the tax. However, an individual recipient’s burden varies depending on whether the tax is an inheritance tax or an estate and gift tax.

Inheritance taxes come in three principal forms:

1. An annual accessions tax applies to the gifts and bequests a person receives in a given year.
2. A lifetime accessions tax applies to the amount an individual receives by gift or bequest over a lifetime.
3. An inclusion tax counts gifts and bequests as income and taxes them as such.

Thus, the tax rate depends on the size of the gift or bequest, as well as on the recipient’s other income. An inclusion tax could be combined with either of the other two types of inheritance taxes into a single tax that takes advantage of the strengths of each.

Most countries rely on inheritance taxes rather than on estate and gift taxes, including more than half of the 36 countries in the Organisation for Economic Co-Operation and Development (OECD). Only two (besides the United States) have estate taxes. The past several decades have seen a shift away from estate taxes among various countries: Australia, Canada, and New Zealand repealed their estate taxes, and Ireland replaced its estate tax with an inheritance tax. More than half of OECD countries also tax gifts, most through a specific annual gift tax but a few include gifts in income subject to income taxes.

Some analysts argue that inheritance taxes are simpler to administer than estate taxes because they curtail strategies used to avoid estate taxes, such as moving assets into complicated trusts that falsely suggest a decedent’s estate will go to a person or entity exempt from the tax. Others argue that estate taxes are simpler because they require less record keeping.

Updated May 2020
What is an inheritance tax?

Further Reading


