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Elements of Federal Estate Taxation

by

Barry W. Johnson
Internal Revenue Service

Jacob M. Mikow
Internal Revenue Service

Martha Britton Eller
Internal Revenue Service

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LEADING IN THOUGHT AND ACTION

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Barry W. Johnson
Internal Revenue Service

Jacob M. Mikow
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ELEMENTS OF FEDERAL ESTATE TAXATION

Barry W. Johnson,
Jacob M. Mikow
Martha B. Eller

ABSTRACT

The history of transfer taxation, including inheritance, estate and gift taxes is inextricably intertwined with the history of the nation. Revenue from taxes imposed on the transfer of property from decedent to heir was instrumental in financing U.S. involvement in the American Civil War, the Spanish American War, World War I and World War II. The introduction of the modern estate tax in 1916 was accompanied by a strident debate over the appropriate role of inheritances in a democratic society. This debate has intensified in recent years and opponents of the tax have built an increasingly diverse coalition of supporters. Much of the rhetoric, both for and against estate taxation, is rooted in assumptions about the incidence and effects of the tax.

This paper provides data for interpreting and evaluating the ongoing debate. It begins with a brief history of federal transfer taxation and an overview of current estate tax law, along with estimates of both the revenue generated by the tax and the share of the U.S. decedent population for whom returns are filed. The paper then presents a profile of the estate tax decedent population and contrasts these relatively wealthy decedents with the overall U.S. decedent population. It also provides a detailed description of the types of assets owned by estate tax decedents, the gross estate, and the allowable deductions from gross estate reported. The data presented are primarily for decedents who died in 1995, although, where appropriate, more recent data collected from returns filed in specific calendar years, regardless of the decedents' years of death, are also presented.

ELEMENTS OF ESTATE TAXATION

For most of the 20th century, and at key points throughout American history, the federal government has relied on estate or inheritance taxes as sources of funding. The modern transfer tax system, introduced in 1916, provides revenue to the federal government through a tax on transfers of property between living individuals – *inter vivos* transfers – as well as a tax on transfers of property at death. The tax on transfers of property at death, the federal estate tax, historically has affected only the wealthiest 1 or 2 percent of the U.S. decedent population. Revenue from the estate tax has contributed less than 2 percent to annual federal budget receipts.

Proponents of transfer taxation embrace it as a "fair" source of revenue and as an effective tool for preventing the concentration of wealth in the hands of a few powerful families. Opponents claim that transfer taxation creates a disincentive to accumulate capital and, thus, is detrimental to the growth of national productivity. Controversy over the role of inheritance in democratic society and the propriety of taxing property at death is not new, but is rooted firmly in arguments that have existed since Western society emerged from its feudal foundations. This paper will provide a framework for evaluating these issues. The paper will present a brief history of federal estate taxation, an explanation of the current estate tax, a profile of decedents whose estates are affected by the tax, and a description of the assets, deductions and tax liability reported on wealthy decedents' federal estate tax returns.

1.0 Early Estate Taxation

The modern transfer tax system follows a long history of taxation that began as early as 700 B.C. in ancient Egypt.[1] Some seven centuries later, at the turn of the 1st

century A.D., Roman Emperor Caesar Augustus imposed a transfer tax on successions and legacies to all but close relatives.[2] During the Middle Ages in feudal England, the crown owned all real property and granted its use to certain individuals during their lifetimes. At the death of a grantee, the grantee's estate retained the property only if an estate tax was paid. If no tax was paid, the granted property returned to the crown.[3]

In America, the first tax imposed at death was enacted by the Stamp Act of 1797, which provided for revenue to finance the undeclared naval war with France in 1794. Federal stamps were required on wills offered for probate, on inventories, on letters of administration, receipts, and discharges for legacies and on intestate distributions of property. A federal inheritance tax, as enacted by the Tax Act of 1862, provided revenue for funding the Civil War. The 1862 Act included a document tax on the probate of wills and letters of administration and a legacy tax on transfers of personal property. The U.S. Congress reenacted the provisions of the 1862 Act with the Internal Revenue Law of 1864. A tax on bequests of real property, a succession tax, was added, as well as increased legacy tax rates and a tax on transfers of real property made during a decedent's life for less than adequate consideration, the nation's first gift tax. The 1864 Law introduced several features which later formed the foundation of the modern transfer tax system: the exemption of small estates, the taxation of certain lifetime transfers that were testamentary in nature, the special treatment of bequests to the surviving spouse, and tax deductions for bequests to charitable organizations. The 1864 Law was repealed in 1870. The War Revenue Act of 1898 reintroduced a transfer tax to provide revenue for the Spanish American War. This time, the estate itself, not its beneficiaries, was taxed, making the 1898 tax a precursor to the modern federal estate tax. Tax rates varied

based on both the size of the estate and a beneficiary's relationship to the decedent. The tax was repealed in 1902 at the end of the war.

While the inheritance tax of 1862 had enjoyed relatively broad support, the 1898 tax provoked heated debate, largely due to changes in the U.S. social structure that were the result of industrialization and widespread immigration. Populist reformers called for curbs on unrestrained capitalism and limits on the dynastic accumulation of wealth. While Congressional debate surrounding the role of transfer taxation swelled, no further legislative action was taken until 1916, when the federal government realized a mounting deficit, the result of World War I. To address its financial needs, Congress passed the Revenue Act of 1916, which introduced the modern federal estate tax. While the new estate tax was appealed to the United States Supreme Court in *New York Trust Company v. Eisner*, Justice Oliver Wendell Holmes, who wrote for the majority, upheld its legality. Thus, the federal estate tax became a lasting component of the federal tax system.

The 1916 estate tax was applied to the net value of estates, defined as the value of all property owned by a decedent, the gross estate, less deductions. A $50,000 filing threshold was adopted in deference to the right of states to tax small estates. Gross estate included all property, both personal and real, owned by a decedent; life insurance payable to the estate; property transfers made for inadequate consideration and those made within two years of death; and transfers that took effect on or after death. Also included in gross estate was all joint property, except that fraction attributable to the surviving co-tenants' contribution. A deduction was allowed for administrative expenses and losses, debts, claims and funeral costs, as well as for expenses incurred in the support of decedent's dependents during the administration of the estate. The tax rates were graduated from 1

percent on the first $50,000 of net estate to 10 percent on the portion exceeding $5 million. Taxes were due one year after the decedent's death, and a discount equal to 5 percent of the liability was allowed for payments made within one year of death. A late payment penalty of 6 percent was assessed unless the delay was deemed "unavoidable." [4]

1.1 Significant Tax-Law Changes: 1916 to the Present

Since its inception in 1916, the basic structure of the modern federal estate tax, as well as the law from which it is derived, has remained largely unchanged. However, in the eight decades that followed the Revenue Act of 1916, the U.S. Congress has enacted several important additions to, and revisions of, the modern estate tax structure (see Figure 1). There have also been occasional adjustments to the filing thresholds, tax brackets and marginal tax rates (see Figure 2). [Figure 1 about here]

The first important addition to the law of 1916 was a tax on *inter vivos*, or lifetime, gifts, as introduced by the Revenue Act of 1924. Congress realized that, without a gift tax, wealthy individuals could effectively circumvent the estate tax, imposed at death, by transferring property, tax free, during their lifetimes. However, this federal gift tax was short-lived. Because of strong opposition to estate and gift taxes during the 1920's, the gift tax was repealed by the Revenue Act of 1926.[5] Then, just six years later, when the need to finance federal spending during the Great Depression outweighed opposition to the gift tax, the federal gift tax was reintroduced by the Revenue Act of 1932. A donor could transfer $50,000 free of tax during his or her lifetime, with a $5,000 per donee annual exclusion from the gift tax. [Figures 2 about here]

The Revenue Act of 1935 introduced the optional valuation date election. Although the value of the gross estate on the date of death determined whether an estate

tax return had to be filed, the Act allowed an estate to be valued, for tax purposes, one year after the decedent's death. With this revision, if the value of a decedent's gross estate dropped significantly after the date of death – a situation common during the Depression – the executor could choose to value the estate at its reduced value. The optional valuation date, today referred to as the *alternate valuation date*, later was changed to six months after the decedent's date of death.

Most outstanding among the pre-1976 changes to federal estate tax law were the estate and gift tax marital deductions, as well as the rule on "split gifts," introduced by the Revenue Act of 1948. The estate tax marital deduction, as enacted by the 1948 Act, permitted a decedent's estate to deduct the value of property passing to a surviving spouse, whether passing under the will or otherwise. However, the deduction was limited to one-half of the decedent's adjusted gross estate – the gross estate less debts and administrative expenses. In a similar manner, the gift tax marital deduction allowed a donor spouse to deduct one-half of an inter-spousal gift of non-community property assets. Furthermore, the Act of 1948 introduced the rule on "split-gifts," which permitted a nondonor spouse to act as donor of half the value of the donor spouse's gift. The rule on split gifts effectively permitted a married couple to transfer twice as much wealth tax free in a given year.

With a few exceptions, the Congressional Record remained free of reference to the estate tax and the entire transfer tax system until the enactment of the Tax Reform Act (TRA) of 1976. By creating a unified estate and gift tax framework that consisted of a single, graduated rate of tax imposed on both lifetime gift and testamentary dispositions, the Act eliminated the cost differential that had existed between the two types of giving.

Prior to the Act, it cost substantially less to transfer property during life than to leave it at death due to the lower marginal tax rates applied to *inter vivos* gifts. The TRA of 1976 also merged the estate tax exclusion and the lifetime gift tax exclusion into a single, unified estate and gift tax credit. This credit could be used either to offset gift tax liability during the donor's lifetime or, if unused at death, to offset the deceased donor's estate tax liability. An annual gift exclusion of $3,000 per donee was retained.

The 1976 tax reform package also introduced a tax on generation-skipping transfers (GSTs). Prior to passage of the Act, a transferor, for example, could create a testamentary trust and direct that the income from the trust be paid to his or her children during their lives and then, upon the children's deaths, that the principal be paid to the transferor's grandchildren. The trust assets included in the transferor's estate would be taxed upon the transferor's death. Then, any trust assets included in the grandchildren's estates would be taxed at their deaths. However, the intervening beneficiaries, the transferor's children in this example, would pay no estate tax on the trust assets, even though they had enjoyed the interest income derived from those assets. Congress responded to this tax leakage in the TRA of 1976. The Act added a series of rules that applied to GSTs valued at more than $250,000 and were designed to treat the termination of the intervening beneficiaries' interests as a taxable event. In 1986, Congress simplified the GST tax rates and increased the amount a grantor could transfer, tax free, into a GST trust, from $250,000 to $1 million. As with the gift tax exclusion, married persons could combine their GST tax exemptions, thus allowing a $2 million exemption per couple.

The Economic Recovery Tax Act (ERTA) of 1981 brought several notable changes to estate tax law. Prior to 1982, the marital deduction was permitted only for transfers of property in which the decedent's surviving spouse had a terminable interest – an interest that grants the surviving spouse power to appoint beneficiaries of the property at his or her own death. Ultimately, such property is included in the surviving spouse's estate. However, the ERTA of 1981 changed tax law and allowed a marital deduction for life interests that were not terminable, as long as the property was "qualified terminable interest property" (QTIP). To qualify, the surviving spouse needed to have sole right to all income during his or her life, payable at least annually. To utilize the deduction, however, the QTIP must be included in the surviving spouse's gross estate. The 1981 Act also introduced unlimited estate and gift tax marital deductions, thereby eliminating quantitative limits on the amount of estate and gift tax deductions available for interspousal transfers.

In addition, the ERTA of 1981 increased the unified transfer tax credit, the credit available against both gift and estate taxes. The increase, from $47,000 to $192,800, was to be phased in over six years, and the increase would effectively raise the tax exemption, or filing threshold, from $175,000 to $600,000 over the same period. The ERTA of 1981 also raised the annual gift tax exclusion to $10,000 per donee, and an unlimited annual exclusion from gift tax was allowed for the payment of a donee's tuition or medical expenses. Finally, through the ERTA of 1981, Congress enacted a reduction in the top estate, gift and GST tax rates from 70 percent to 50 percent, applicable to transfers greater than $2.5 million. The reduction was to be phased in over a four-year period. However later legislation, both the Deficit Reduction Act of 1984 and the Revenue Act of

1987, delayed the decrease in the tax rate from 55 percent to 50 percent until after December 31, 1992. The Revenue Act of 1987 also provided for the gradual recapture of the tax savings due to the structure of the marginal tax rates and the unified credit for taxable estates larger than $10 million. This was achieved by applying a 5 percent surtax to the amount of taxable estate in excess of $10 million but not over $21,040,000 (at the $21,040,000 level, the effects of the graduated rates and the unified credit were completely recaptured so that the entire estate was taxed at the maximum rate of 55 percent). Later, with the passage of the 1993 Revenue Reconciliation Act, Congress again revised the top tax rate schedule, imposing a marginal rate of 53 percent on taxable transfers between $2.5 million and $3 million, and a maximum marginal tax rate of 55 percent on taxable transfers exceeding $3 million, applied retroactively to January 1, 1993.

The next significant change to estate and gift tax law, and most current, was the Taxpayer Relief Act of 1997. The most dramatic change introduced by the TRA of 1997 was the increase in the unified credit, now called the "applicable exclusion amount." This change effectively raised the filing requirement over a nine-year period to $1 million by the year 2006. Another key provision of the 1997 Act, targeted at family-owned businesses that were more than 50 percent of an estate, allowed the deduction of up to $675,000 of a qualified business. In addition to having been predominately family-owned, a qualified business must also have had the decedent or a member of their family as a material participant in the business prior to the decedent's death. The last notable modification of this Act, the qualified conservation easement, permitted executors to

exclude up to 40 percent of the value of land that meets certain conservation, preservation, or education criteria.

1.2 Current Estate Taxation

In the course of its Estate Tax Study, the Statistics of Income Division (SOI) of the Internal Revenue Service (IRS) collects data from federal estate tax returns filed for wealthy decedents prior to IRS audit. A stratified random sample of estate tax returns is selected across a three-year cycle in which each cycle year corresponds to a filing year. Since almost 99 percent of returns for decedents who die in a given year are filed by the end of the second calendar year following the year of death, the three-year selection cycle permits the collection and analysis of estate tax data by both filing year and year of death. Year of death estimates are preferred for analyzing the demographic and financial characteristics of a cohort of decedents within a consistent tax law and economic environment while filing year data are useful for federal revenue estimates. This section will provide an overview of current estate law, along with estimates of estate tax revenue and the scope of the tax, as measured by the size of the decedent population for whom estate tax returns are filed. Other pertinent statistics will also be provided.

A federal estate tax return, Form 706, must be filed for every U.S. citizen or resident whose gross estate, valued on his or her date of death, combined with adjusted taxable gifts made by the decedent after December 31, 1976, and total specific exemptions allowed for gifts made between September 8, 1976 and the end of the year, equals or exceeds the filing threshold applicable for the decedent's year of death (see Figure 2). In 1998, the most recent filing year data available from SOI, 97,868 estate tax returns were filed for decedents who were citizens or residents of the United States.

The estate of a nonresident alien of the United States must also file a federal estate tax return, Form 706NA, if the nonresident alien's U.S. property, at death, exceeds $60,000. In filing year 1998, 346 federal estate tax returns were filed for nonresident aliens. U.S. total gross estate for nonresident aliens reached $110.3 million in 1998.

For decedents who were U.S. citizens or residents, the gross estate comprises all property, whether real or personal, tangible or intangible, including all property in which the decedent had an interest at the time of death, the decedent's share of jointly owned and community property assets, as well as the dower or curtesy of a surviving spouse. Also considered are most life insurance proceeds, certain annuities, property over which the decedent possessed a general power of appointment and transfers made during life that were (1) revocable or (2) made for less than full consideration.[6] Finally, qualified terminable interest property – property in which the surviving spouse had only an income interest, but for which a decedent's estate previously received an estate tax deduction under Internal Revenue Code (IRC) §§2056(b)7 – must be included in the estate of the surviving spouse. Assets are valued on the day of the decedent's death, although an estate is allowed to value assets on a date up to six months after a decedent's death, if the value of assets, as well as the estate tax, declines during this period. Special rules for determining real estate values and a tax deferral plan are available to an estate that is primarily comprised of a small business or farm. In addition, special valuation rules were recently enacted for real estate subject to a qualified conservation easement. Combined total gross estate in 1998 exceeded $173.8 billion, an amount that reflects a reduction of more than $214.9 million due to the use of alternate valuation, and a reduction of nearly $190.7 million due to special valuation of farm or business real estate.

Expenses and losses incurred in the administration of the estate, funeral costs and the decedent's debts are allowed as deductions against the estate for the purpose of calculating the tax liability. In addition, a deduction is allowed for the full value of bequests to the surviving spouse, including bequests in which the spouse is given only a life interest, subject to certain restrictions. Bequests to qualified charities are also fully deductible. Finally, a limited deduction for the value of a qualified family owned business was recently enacted. Estate tax returns filed in 1998 reported total allowable deductions of $70.9 billion, including $49.4 billion for bequests to the surviving spouse, $10.9 billion for bequests to qualified charities and $10.6 billion for estate administration expenses and other debts.

The taxable estate is calculated by subtracting allowable deductions from the gross estate. Taxable estate and post-1976 taxable lifetime transfers (taxable gifts) are then added together to yield the tentative tax base, or adjusted taxable estate, to which unified estate and gift tax rates are applied, yielding the tentative, or gross, estate tax. An initial rate of 18 percent is applied to the first $10,000 of adjusted taxable estate, while the maximum tax rate, 55 percent, is applied to that portion of adjusted taxable estate that exceeds $3 million. In addition, for returns with adjusted taxable estate between $10,000,000 and $17,184,000, the tax savings due to the structure of the marginal tax rates is phased out by applying a 5 percent surtax, which effectively creates a 60 percent tax bracket.[7] In 1998, more than 92,500 estates, or 94.5 percent of all estate tax returns filed in that year reported combined estate tax before credits of more than $43.3 billion assessed on total adjusted taxable estate of $107.8 billion, including combined taxable gifts of $4.7 billion reported for 11,917 decedents.

Gift taxes paid on post-1976 transfers, as well as allowable credits against the estate tax, are subtracted from the tentative estate tax. An applicable exclusion amount, equal to the estate tax liability on the filing requirement in effect for the decedent's year of death, is allowed for every decedent who dies after December 31, 1976. Other credits are also allowed for death taxes paid to states and other countries, as well as for a portion of gift tax paid on pre-1977 transfers included in gross estate. The credit for death taxes paid to states is limited to a graduated percentage of adjusted taxable estate, which is the federal taxable estate less $60,000. Several states limit their estate tax assessments to the allowable credit amount rather than administering a separate estate or inheritance tax system.

Estates that filed in 1998 reported gift taxes paid on post-1976 transfers of more than $933.0 million. In addition, these estates claimed $24.3 billion in tax credits, creating a tax reduction of 57.3 percent. The applicable exclusion, the largest single credit claimed by 1998 estates, totaled $18.8 billion. The state death tax credit was claimed on 58.7 percent of all returns reporting gross estate tax, and the credit totaled more than $5.3 billion. Other credits, combined, totaled $134.1 million in filing year 1998.

The residual of the total estate tax before credits, less post-1976 gift taxes already paid and other allowable credits, is the net federal estate tax payable. For filing year 1998, 47,483 estates reported estate tax liability that totaled $20.3 billion, nearly 19.8 percent of the gross estate reported for these decedents. The reported tax liability in 1998 represented only about 1.2 percent of total federal budget receipts in that year (see Figure 3). In general, as the number of estate tax filers and reported liability have increased in

recent years, the share of federal budget contributed by the estate tax, while still quite small, has also increased. Figure 3 also shows that estate taxes are assessed on fewer than 2 percent of all U.S. decedents annually. [Figure 3 about here]

Figure 4 shows that more than half of all 1998 estates that reported a tax liability were assessed tax at a maximum marginal tax rate of 39 percent or less.[8] The liability reported by these estates, less than $1.2 billion, represented only about 5.7 percent of total revenue reported on all estate tax returns filed that year. The estate tax liability reported by these estates represented 5.0 percent of their combined total gross estate. On the other hand, just 4,468 estates, or just 9.4 percent of all estates filing returns in 1998 were assessed tax at the maximum 55 percent marginal tax rate. These estates accounted for 63.6 percent of the total revenue reported in that year, more than $12.9 billion. These largest estates reported a tax liability that was 30.2 percent of their combined gross estate. The recapture or surtax was assessed on just 676 estates and raised $201.1 million, or 1.0 percent of the total estate tax revenue reported in 1998. [Figure 4 about here]

The federal estate tax return (Form 706) must be filed within nine months of the decedent's death unless a six-month extension is requested and granted. Taxes owed for generation-skipping transfers in excess of the decedent's $1 million exemption are due concurrently with any estate tax liability. Interest accumulated on U.S. Treasury bonds redeemed to pay transfer taxes is exempt from Federal income taxation.

Under IRC §6166, the executor can elect to defer paying the estate tax liability for 5 years and then pay the deferred taxes in 10 installments in cases where paying the tax on the due date would force liquidation of a business or farm. The first installment and the last year of the deferral period coincide, meaning that the maximum extension is 14

years. During the five-year deferral period, interest payments, calculated at an annual interest rate as low as 2.0 percent, are due annually. To qualify, the decedent's interest in a closely held business must be at least 35 percent of the adjusted gross estate (total gross estate minus expenses, losses, taxes, and indebtedness allowed as deductions under IRC §2053 and §2054). An amount of tax that bears the same ratio as the closely held business bears to the amount of adjusted gross estate may be deferred. The percentage of estates electing to defer taxes under §6166 declined from 1.7 percent of taxable estates in 1995 to 1.2 percent in 1998 (see Figure 5). The amount of deferred tax rose modestly from $420.4 million to $470.1 million over this same period. On average, these estates deferred 63.4 percent of their total reported tax liability. One reason that this provision is elected so infrequently is that only a few estates are composed of businesses that constitute a sufficient share of the adjusted gross estate to qualify. A second reason this provision is not more popular is that, under IRC §6324, a lien, in the amount of the deferred tax, is required to secure the debt. Such a lien may make future borrowing difficult for farmers who, due to the cyclical nature of their income, often use short-term loans to purchase seeds and other supplies at the start of a growing season. [Figure 5 about here]

2.0 Profile of Taxpayers

Decedents for whom estate tax returns are filed represent a small fraction of the entire U.S. decedent population in any given year. The demographic characteristics of these relatively wealthy decedents vary distinctly from those of the overall decedent population in a number of significant ways. An understanding of these differences is essential to evaluating arguments both for and against taxation of estates, since many of

these discussions focus on the economic inefficiencies that arise from behavioral responses to the tax. For example, it is often argued that estate taxes decrease incentives to accumulate wealth, thereby retarding the growth of capital stock, and that the costs attributable to estate tax avoidance schemes outweigh revenue gained from the tax. Demographic data present on federal estate tax returns provide useful information for evaluating the influence of the estate tax on the acquisitive and financial planning behavior of the very elite segment of the population affected by the tax. This section will present the sex and age composition of the estate tax filing population, as well as information on the geographic distribution of filers.

2.1 Sex and Age Composition, Geographic Location

In 1995, there were an estimated 78,023 U.S. decedents with gross estates above the $600,000 filing threshold in effect for that year. Male decedents outnumbered female decedents in the estate tax population, 54.9 percent to 45.1 percent (see Figure 6). Males also outnumbered females in the overall U.S. decedent population in 1995, but by a smaller percentage, 50.7 percent to 49.3 percent.[9] Estate tax decedents, on average, not only lived longer than their counterparts in the general decedent population, but also showed a less pronounced difference in age at death between genders. Female estate tax decedents, on average, lived 2 years longer than women in the general decedent population, while the difference in the age at death for males was larger, 2.8 years. Female decedents in the general population had an average age at death that was 6.4 years higher than average age at death for males. This difference was only 5.6 years for estate tax decedents. Factors such as access to better health care, better nutrition and

safer work environments contribute to the relative longevity of estate tax decedents. [Figure 6 about here]

The geographic distribution of estate tax decedents, by region, differed somewhat from that of the overall U.S. decedent population. In general, estate tax decedents were more highly concentrated in the West and in the Northeast compared to the overall decedent population. The Northeast accounted for 22.6 percent of all estate tax decedents but only 21.2 percent of all U.S. decedents (see Figure 7).[10] Similarly, 23.6 percent of estate tax decedents lived in the West, compared to 18.2 percent of the general decedent population. Conversely, estate tax decedents were less highly concentrated than decedents in the general population in both the South and Midwest, where the differences were -4.8 percent and -2.0 percent, respectively. These regional differences are attributable to many factors, including economic conditions, weather and recreational opportunities. [Figure 7 about here]

2.2 Marital Status

A comparison of the distribution of sex and marital status in the estate tax decedent population with the distribution in the entire U.S. decedent population revealed some notable differences. Of the 42,864 male decedents in the estate tax decedent population, 27,720, or 64.7 percent, were married, significantly higher than the 57.1 percent of the total 1995 U.S. decedent male population that was married (see Figure 8).[11] Only 8,684, or 24.7 percent, of female estate tax decedents were married, almost the same as the 25.6 percent of the U.S. female decedent population who were married at death. While only 23.1 percent of male estate tax decedents were widowed at death, the majority of female estate tax decedents, 62.3 percent, were widowed. In the overall U.S.

decedent population, 18.2 percent of males and 57.4 percent of females were widowed. The percentages of estate tax decedents who were classified either as single or as separated or divorced were similar for both sexes. Only 8.0 percent of males and 8.8 percent of females were single, while 4.2 percent of both males and females were separated or divorced. In the U.S. decedent population, 13.6 percent of males and 8.2 percent of females were reported as single, while 11.2 percent of males and 8.7 percent of females were divorced. [Figure 8 about here]

Male decedents were, on average, wealthier at death than their female counterparts. The overall average gross estate of male decedents was $1.9 million as compared to $1.6 million for females. However, the sex-based differences in wealth varied significantly by marital status. The largest sex-based difference in average gross estate size was observed for divorced decedents. Divorced males had an average gross estate of $2.2 million, while the average for divorced females was only $1.5 million. Married males, the largest group of male decedents, had an average gross estate of $2.0 million while married females had an average gross estate of $1.6 million. The smallest sex based difference in average estate size was observed for widowed decedents, $1.7 million for males and $1.6 million for females. The smaller average estate size for females may be due, in part, to age at death. Since female estate tax decedents outlived males by an average of 5.6 years, females may use more of their lifetime savings for living expenses.

2.3 Occupation

There were marked differences in the distribution of decedent occupations, as reported on the death certificate, between 1995 estate tax decedents and the overall 1995

U.S. decedent population.[12] The executive and managerial occupation category accounted for the largest percentage of male estate tax decedents, 27.7 percent, almost three times more than the percentage of all U.S. male decedents in this category (see Figure 9). Decedents working in educational and sales occupations made up the second and third largest groups of male estate tax decedents, accounting for 12.3 percent and 10.6 percent, respectively, of these wealthy decedents, while these occupations together accounted for fewer than one-tenth of all males in the U.S. decedent population. Likewise, although 8.9 percent of male estate tax decedents had occupations in healthcare, less than one percent of males in the overall decedent population had occupations in this category. Conversely, while just over half of all U.S. male decedents had worked in construction, production, labor, transportation, or service occupations, only 9.2 percent of male estate tax decedents had worked in one of these occupations. Nearly the same proportion of decedents in both groups had worked in agricultural or military occupations. [Figure 9 about here]

The distribution of occupations for female estate tax decedents was also quite different from that of females in the overall 1995 decedent population. Educational occupations were the largest occupation category for female estate tax decedents, accounting for 14.8 percent of all wealthy female decedents, more than three times the percentage of U.S. female decedents in this category. Executives made up 8.0 percent of female estate tax decedents, almost double the percentage of U.S. decedent businesswomen. In contrast, decedents who had worked in service, production or laborer occupations accounted for more than one-fifth of all U.S. female decedents, but only 2.5 percent of female estate tax decedents. Administrative support occupations were the

second largest category for women in both groups, accounting for almost ten percent of all occupations for female decedents. Likewise, occupation was reported as "none" or "homemaker" for nearly half of all female decedents in both groups.

There were also significant differences in wealth, as measured by average gross estate, between male and female estate tax decedents who had worked in similar occupations. Male estate tax decedents had larger average gross estates than females in all but one occupation category. The largest difference in average gross estate, $1.0 million, was for decedents with executive and managerial occupations. Male executives had an average gross estate of $2.6 million compared to female executives who had an average gross estate of just $1.6 million. Interestingly, the service occupation category was the only category where the average gross estate for females was larger than that of males, however, the difference in average estate size was only $14,000, the smallest for all occupation categories examined. Decedents with military occupations had the lowest average gross estate, $1.0 million for males and $0.7 million for females.

3.0 Asset Portfolio

Much has been written about the possible effects of estate taxation on national savings and investment rates. Of particular concern are the possible effects of estate taxation on small businesses and farms. It is frequently suggested that these types of enterprises are often liquidated to satisfy estate tax obligations. Data from federal estate tax returns provide a rich source of portfolio data for decedents. From these data, it is possible to examine differences in portfolio composition for decedents of different age groups and different gross estate sizes.

Estate tax returns filed for 1995 decedents reported $136.3 billion in combined gross estate. For young men, those under age 50, the face value of life insurance made up the largest single component of total gross estate, accounting for 30.5 percent of the total (see Figure 10). Real estate investments constituted the second largest share, 21.2 percent, with the personal residence accounting for $245.7 million, or 45.0 percent of total real estate holdings. Equity investments were the third largest component of gross estate, totaling $495.4 million, or 19.2 percent of the total. Stock in closely held corporations accounted for 63.4 percent of all equity holdings for these young males.

[Figure 10 about here]

Male decedents age 50 to 65 invested the largest portion of their portfolio, $3.8 billion or 30.3 percent of their gross estate, in stock, including $2.5 billion, or 65.9 percent of all equity investments, in closely held corporations. Real estate comprised 23.0 percent of gross estate, the second largest component, and totaled almost $2.9 billion, 30.7 percent of which was the value of the personal residence. For male decedents age 65 and older, the portfolio shifted to publicly traded stock and tax preferred securities. Stock was the largest component of gross estate, amounting to 22.4 billion, but with only 24.3 percent of these equity holdings made up of shares in closely held corporations. Bond holdings were the second largest component of gross estate, accounting for 19.0 percent of the total, or $12.6 billion, of which 68.2 percent was invested in tax-exempt bonds issued by state or municipal governments. Real estate constituted 18.0 percent of gross estate, with the value of the personal residence accounting for a third of total real estate holdings.

Overall, publicly traded stock and real estate dominated the portfolio held by female decedents, while bond holdings, particularly tax-exempt issues, were featured much more prominently in their portfolio than in that of male decedents. However, female decedents held a smaller portion of their gross estate in retirement assets, and their estates included less life insurance than male decedents in the same age groups. For female decedents under age 50, real estate made up 27.0 percent of the gross estate, with the personal residence accounting for 43.8 percent of total real property. Equity investments accounted for 22.8 percent of the gross estate. Stock in closely held corporations accounted for 45.7 percent of total equity holdings, a considerably smaller percentage than that held by male decedents of comparable age.

Middle-age female decedents, those 50 to 65, held the largest share of their portfolio as real estate, 34.8 percent, with 29.3 percent of all real estate consisting of the value of the personal residence. Stock accounted for 24.0 percent of gross estate, with less than a quarter of that made up of stock in closely held corporations. For women age 65 and older, stock accounted for the largest share of gross estate, 31.5 percent, with only 6.4 percent of all stock invested in closely held corporations. Bonds made up the second largest share of their portfolio, 22.6 percent of gross estate, with 66.6 percent of bond holdings invested in tax-exempt issues. Real estate accounted for 17.9 percent of gross estate, with the personal residence accounting for 40.8 percent of total real estate.

Using data from returns filed in calendar year 1998, the U.S. Treasury Department estimates that that fewer than 3,000 estates included farm assets, defined as farm equipment, crops, livestock or real estate used in farming activities, including grazing, orchards or crop production.[13] Only 642 estates, or 1.4 percent of all taxable

estates, had farm assets that comprised at least 50 percent of the total gross estate. For these estates, combined gross estate exceeded $939.1 million, an average of nearly $1.5 million per estate. The total tax liability was almost $151.0 million, an average of about $235,000 per estate, or about 16.1 percent of gross estate. Another 6,198 estates included either closely held stock or non-corporate business assets. These business assets comprised 50 percent or more of total gross estate for only 521 estates, or 1.1 percent of all taxable estates. For these 521 estates, the average value of gross estate was $7.9 million, while the average tax liability was $1.5 million, or about 19.1 percent of reported gross estate.

3.1 Jointly Owned Property

A number of recent studies have attempted to estimate the degree to which estates with gross assets above the filing requirement actually file a return. The non-filer tax gap is difficult to estimate because there are no administrative records that give a full picture of an individual's wealth. One approach to studying this problem is to use household survey data, in combination with U.S. Vital Statistics data, to generate an estimate of the number of decedents for whom estate tax returns should have been filed. One problem with this approach is apportioning assets in married households to the husband and wife in order to determine whether or not either or both individual's wealth would exceed the applicable estate tax filing threshold. The following data on the magnitude of jointly owned assets and community property reported in the estates of wealthy decedents provide some insight about asset ownership in married households.

Under IRC §2040, all of a decedent's property held either as "joint tenants with right of survivorship" or as "tenants by the entirety" must be included in the gross estate.

These assets are reported on a separate schedule of Form 706.[14] Under both forms of ownership, the distinguishing feature of such property is the right of survivorship. In the case of joint property held solely with a spouse, only one-half the full value is included in the decedent's estate. In the case of property held with someone other than a spouse, the full value of joint property is considered part of the estate, excluding any portion for which the surviving tenant(s) contributed adequate consideration toward the acquisition of the property.

The estates of 21,226 married male 1995 decedents reported assets that were owned jointly with the surviving spouse, 76.6 percent of all married males for whom an estate tax return was filed. For males who held some joint spousal assets, only $4.7 billion, or 11.7 percent of total gross estate, was jointly owned (see Figure 11). The majority, 86.8 percent, held a joint bank account, but the value of jointly held cash accounted for only 28.5 percent of total cash holdings for these males . The personal residence was owned jointly by 61.3 percent of males for whom some joint property was reported. Federal savings bonds and other real estate were owned jointly by more than half of the males who owned such assets. Only 7.0 percent of males who held stock in a closely held business held the stock jointly. The percentage of males who owned some publicly traded stock jointly was somewhat higher, 36.4 percent, but the value of jointly held stock accounted for only 6.3 percent of the value of all publicly traded stock for men reporting joint assets. Likewise, non-corporate business assets and farms were held jointly by a relatively small percentage of males whose estates included these assets.

[Figure 11 about here]

Of the 8,684 married 1995 female estate tax decedents, 71.5 percent, or 6,210, owned some assets jointly with their husbands. Like married male decedents, the bulk of their gross estate, $7.4 billion or 83.0 percent, was separate property with only $1.5 billion owned jointly. Joint bank accounts were owned by 80.5 percent of married women, a slightly lower percentage than for married males who died in that same year, with 23.1 percent of the value of all cash holdings held jointly. Federal savings bonds were owned jointly by 61.3 percent of married women. Like their male counterparts, the personal residence was owned jointly by more than half of these married females. It is notable that the percentage of females who owned joint assets is lower that that of married males in the majority of asset categories presented in Figure 11. In particular, this is true for real estate and financial assets other than Federal savings bonds.

3.2 Community Property

Community property is all property acquired by a husband and wife while domiciled in a community property state. While the specific laws vary by jurisdiction, most state laws exempt property acquired separately by gift, devise, bequest or descent. Income generated by property usually follows the character of the property from which it is derived, so that separate property generates separate income and vice versa. States currently governed by community property laws are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. For federal estate tax purposes, only one-half the value of an asset owned as community property is included in a decedent's estate. Further, when a surviving spouse inherits a decedent's community property interest, the basis of both the decedent and surviving spouse's

interests in that property, for capital gains tax purposes, becomes the value of the asset used for estate tax purposes.

Of the 7,438 married male decedents who were residents of community property states at the time of their deaths, 6,112, or 82.2 percent, owned some assets as community property (see Figure 12). This property totaled almost $6.8 billion, or 69.8 percent of their total gross estate. More than 80 percent of the value of real estate (including the personal residence), farm assets and Federal savings bonds was reported as community property. Smaller shares of most other financial assets were held as community property. Notable among this group was equity interests in closely held corporations. For these, only 35.6 percent of the value of all such stock was reported as community property for these married males. [Figure 12 about here]

A higher percentage of estate tax returns filed for married female decedents who were residents of community property states reported community property, 88.2 percent. In addition, a greater percentage of their total gross estate, 84.2 percent, or almost $3.5 billion, was community property. Nearly all the value of stock in closely held corporations, as well as farm assets, was community property. However, a somewhat larger percentage of the value of certain financial assets was held as separate property in the portfolios of married women compared to the portfolios of married males. These assets included investments in publicly traded stock, tax-exempt bonds, Federal bonds, corporate bonds and diversified mutual funds.

3.3 Valuation of Assets

Estate and gift tax regulations specify that assets should be valued at fair market value for the purpose of determining estate tax liability. Fair market value is defined as

"that price at which the property would change hands between a willing buyer and a willing seller neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts," according to IRC §§20.2031-1(b). In practice, however, determining the fair market value is complex, and most practitioners recognize the importance of using professionals to determine the value of assets for estate tax purposes.

IRS regulations provide some guidance for valuing the assets in a decedent's portfolio. For example, marketable securities – those that are traded either on an exchange or over-the-counter – are valued, for tax purposes, using the mean value of the highest and lowest bid on the valuation date or nearest trading day. Real estate is valued either by looking at comparative sales, or, in the case of rental properties, such as apartment houses or office buildings, by using a capitalization of income method.[15] Tangible assets, such as art or antiques, are valued by experts who focus on historical cost, condition and recent sales. Partial interests, such as income interests, remainder interests and annuities are valued using valuation tables produced by the IRS. These valuation tables take into account life expectancies and market rates of return on investments. Present value factors are calculated using U.S. Treasury obligations on instruments with maturities ranging from three months to nine years. Closely held businesses pose some of the most difficult valuation issues. Valuations must reflect earning potential, net worth, dividend paying potential, past performance and overall financial soundness.

Valuation, then, is more art than science. Indeed, there is much potential for legitimate disagreement among qualified professionals. For example, a single case

produced the following per share values for a closely held publishing company: $516 (estate tax return), $1,000 (revenue agent), $4,000 (ninety-day letter) $980 (first expert), $822 (second expert), $1,320 (third expert), $4,000 (government first expert), $3,400 (government second expert), $2,200 (court).[16] In a recent SOI study of audited estate tax returns, business assets (closely held corporations, non-corporate businesses and farms) were the most frequently revalued assets.[17]

3.3.1 Special Use Valuation

In some regions, urban sprawl has, over the years, increased the value of farm and ranch land, as well as real estate used for business purposes, relative to farm or business income. In determining the tax liability under Section 2032A, an executor may elect to value property used as a farm or used in a trade or business at its current use rather than at its "highest and best use." This provision was enacted because Congress believed that it was inappropriate to value land on the basis of potential use, especially since it wanted to encourage the continued use of property for farming and other small business purposes. Valuing such property at its highest use, rather than actual use, could result in higher estate taxes that would make continuation of farming, or the closely held business activities, infeasible. [18]

To qualify for the special use valuation election, the real property must satisfy several statutory tests designed to ensure that the property was being used for farming or other business purposes prior to and at the time of the decedent's death. In addition, the business must constitute at least 50 percent of the value of adjusted gross estate (the fair market value of property net of mortgages and debts associated with that property), and at least 25 percent of the adjusted gross estate must consist of qualifying real estate.

Finally, the decedent's heirs must agree to continue to use the property for farming or business purposes for 10 years following the decedent's death. The value of a farm is determined, in most cases, using a cash flow basis, calculated by dividing the excess annual gross cash rental for comparable land in the same general region as the subject property, by the prevailing interest rate on Federal Land Bank loans. For business interests, a variety of generally acceptable valuation methods may be used to determine the value of business assets in their current use. The reduction in value as a result of special use valuation is limited to $750,000, although Congress amended §§2032A(a)(3(B) as a part of the Taxpayer Relief Act of 1997, adding an inflation adjustment to this limit, calculated in increments of $10,000, for decedents dying in calendar year 1997 and thereafter. If the decedent's heirs dispose of specially valued real property within 10 years of the decedent's death, additional tax, equal to the original estate tax savings, is assessed.

Despite the seemingly generous provisions of this section of the code, it is rarely used. For returns filed during 1995–1998, only about 1 percent of all returns reporting estate tax liability elected to specially value real property (see Figure 13). The majority of the elections were for farm property in each of these years. The reduction in gross estate resulting from the election, grew from $115.9 million in 1995 to $190.7 million in 1998, an increase of 64.5 percent during the four-year period. The average reduction in value ranged from 359,963 in 1995 to 411,782 in 1998, far less than the statutory limit of $750,000 in effect for all returns filed during this period. In 1995, 47.2 percent of estates that elected special use valuation had total gross estates of less than $1 million. The

percentage under that threshold increased to 51.2 percent in 1996 and 57.5 percent by 1998. [Figure 13 about here]

Among the chief reasons for the low number of estates that elect special use valuation is the difficulty of satisfying all of the restrictions. In particular, few estates meet the eligibility requirements regarding the size of the business and the value of real property in relation to the adjusted gross estate. In addition, it is often difficult to gain agreement from all the heirs to continue to run the farm or business for at least 10 years after the decedent's death. The increasing demand for housing, particularly near urban areas, often means that the heirs would be financially better off selling the land rather than continuing to use it for a family farm or business.

3.3.2 Minority and Marketability Discounts

An important valuation issue, primarily affecting the valuation of business assets, but increasingly infiltrating the valuation of a host of other asset types, is the practice of claiming discounts to reflect the purported difficulty of finding a willing buyer for fractional or minority ownership interests. This practice takes full advantage of current tax laws by coupling minority discounts and lack of marketability discounts, two ideas that courts have held as conceptually distinct, but which, in practice, are often used jointly.[19] Minority discounts recognize that the owner of a non-controlling interest in a business is, to some extent, at the mercy of the controlling owners, making such interests less desirable and, thus, less valuable.[20] Lack of marketability discounts, however, are appropriate when no ready market exists for a particular asset, requiring the seller to incur extraordinary expenses to locate a willing buyer. In addition, there are a few other discounts that recognize extraordinary circumstances that might depress asset values.

Blockage discounts are appropriate when marketing large blocks of securities or property temporarily lowers the overall market for those assets by creating a sudden excess supply. Key man discounts are claimed when the loss of the manager of a one-man or small business has a depressing effect on the value of the business and are most acceptable when there are no suitable personnel available to take over operations.[21]

A series of court rulings in recent years have provided increased opportunities for asset values to be diluted through the creative use of discounting. Key to this has been the courts' rejection of the practice of aggregating family-owned assets for the purpose of valuing a decedent's estate, known as the doctrine of "no family attribution." The idea is that a decedent's assets must be valued independently of all other owners, regardless of their relation to the decedent. In practice, this means that a minority interest can be claimed when one spouse owns less than 50 percent of a business, even if the other spouse is the owner of a large percentage of the remaining share. This concept has been extended so that even assets in a QTIP trust cannot be merged with the second spouse's separate assets for estate tax valuation purposes at the time of the surviving spouse's death.[22] The repeated affirmation of this practice by the courts and its subsequent acceptance by the IRS in Revenue Ruling 93-12 have created what practitioners call "discount opportunities" for astute estate planners, with the family limited partnership (FLP) as the most common mechanism for exploiting these opportunities.

Family limited partnerships, or family limited liability companies, are created primarily to hold investment and personal assets rather than closely held businesses.[23] Parents transfer assets to a general partnership and create limited partner shares. The parents then make annual gifts of the limited partner shares to children, while retaining

the controlling, general partnership interest. When the parents die, the remaining interests pass through the estate. When executed effectively, minority and lack of marketability discounts are available for both estate and gift tax purposes.

Minority and lack of marketability discounts were claimed on more than 6,200 of the 97,868 returns filed during calendar year 1998, about 6.3 percent of all returns filed.[24] The value of discounts claimed was almost $2.8 billion, or 10.4 percent of total assets reported for these decedents. The size of these discounts ranged from about 10 percent to almost 40 percent of the full value of the asset (see Figure 14). The largest discounts reported on returns reporting a tax liability, 36.3 percent on average, were claimed for limited partnerships. While assets in a family limited partnership were disaggregated by SOI during data collection whenever possible, it is likely that some of the limited partnerships interests reported in Figure 14 are actually FLP's.[25] Closely held stock was also discounted steeply, an average of 29.8 percent for estates reporting a tax liability and 28.3 percent for non-taxable estates. Relatively large deductions were also claimed for interests in non-corporate business assets and farms. Overall, the discounts reported in Figure 14 are consistent with those reported in interviews SOI has conducted with attorneys and estate tax examiners, as well as with those discounts reported in estate planning literature. [Figure 14 about here]

4.0 Allowable Deductions

In the computation of tax liability, deductions are allowed for debts and mortgages owed by the decedent, losses and expenses incurred during administration of the estate, bequests to the surviving spouse, and bequests to qualified charities. For 1995 decedents, deductions totaled $60.1 billion, or 44.1 percent of gross estate (see Figure

15). Of this amount, estates of male decedents deducted $44.7 billion, or 74.4 percent of the total deductions, while estates of female decedents deducted $15.4 billion. [Figure 15 about here]

Overall, the marital deduction was the largest deduction from gross estate for 1995 decedents, amounting to $40.9 billion, or 30.1 percent of total gross estate. These bequests to the surviving spouse accounted for 49.4 percent of total deductions for taxable estates and 77.6 percent for nontaxable estates.[26] Bequests to qualified charities accounted for another $10.1 billion and amounted to 25.2 percent of total deductions for taxable returns and 11.5 percent for non-taxable returns. The third largest deduction was for decedents' debts, which totaled $6.3 billion, $2.7 billion for estates that reported a tax liability and $3.6 billion for those that did not. Expenses and losses related to the administration and settlement of the estate accounted for almost $3.2 billion of allowable deductions, or 12.2 percent of total deductions for taxable estates and 1.9 percent for non-taxable estates.

4.1 Marital Deduction

Because an estate can deduct an unlimited amount for bequests to the surviving spouse, the tax status of returns filed for married decedents is determined, in large part, by the marital deduction. Overall, the marital deduction was the largest deduction from gross estate for 1995 decedents, accounting for 68.1 percent of all deductions and 30.1 percent of total gross estate. Bequests to the surviving spouse accounted for 49.4 percent of total deductions for taxable estates and 77.6 percent for nontaxable estates.[27] In terms of the amount deducted, bequests to the spouse totaled $10.1 billion, or 12.8 percent of total gross estate, for taxable estates and $30.9 billion, or 53.7 percent of total gross

estate, for nontaxable estates. Of the 42,864 returns filed for male decedents, 27,066, or 63.1 percent, included spousal bequests, totaling $33.5 billion. By comparison, only 8,328, or 23.7 percent, of the 35,159 returns filed for female decedents included a deduction for spousal bequests, totaling $7.4 billion. Since male estate tax decedents, on average, died before female estate tax decedents, and since the estates of male decedents used the marital deduction at almost 3 times the rate of estates held by female decedents, it is not surprising to find that estates of female decedents who died in 1995 incurred proportionately more of the total estate tax liability.

4.2 Qualified Terminable Interest Property

Trusts can be useful estate-planning tools for protecting the interests of both a surviving spouse and a decedent's children. Generally, the decedent creates a trust that provides income to the surviving spouse for life, along with limited powers to invade the corpus of the trust under certain circumstances. The remainder of the trust passes to the decedent's children upon the death of the survivor spouse. Thus, while providing for the surviving spouse, the trust can protect a decedent's children in the event that the surviving spouse remarries. However, while the unlimited marital deduction is allowed for most direct bequests to a surviving spouse, IRC §§2056(b)(1) specifies that a bequest consisting of a life estate or other terminable interest does not qualify for the deduction. This is because allowing the deduction for terminable interest property would essentially exempt it from ever being subject to the estate tax, since this type of property is not included in the surviving spouse's estate for estate tax purposes. In 1981, Congress provided an exception to the terminable interest rule by enacting IRC §§2056(b)(7), which provided a marital deduction for "qualified terminable interest property," or

QTIP.[28] In order for property to qualify as QTIP, the trust must provide a "qualifying income interest for life" to the surviving spouse, meaning that all trust income must be paid to the surviving spouse. Most importantly, by electing to treat terminable interest property as a QTIP, the property must be included in the value of the surviving spouse's estate.

QTIP trusts were reported on 11,321 returns, or 31.1 percent of all returns filed for married 1995 decedents, and had a total value of over $16.4 billion, 78.3 percent of the $21.0 billion marital deduction claimed by these estates (see Figure 16). The percentage of estates reporting QTIP trusts as part of the marital deduction increased with the size of gross estate, rising from 22.7 percent of married decedents with gross estates under $1 million to 75.3 percent of those with gross estates over $20 million. For male decedents whose marital bequest included a QTIP trust, the size of the trust, as a percentage of the total marital deduction, increased with the size of gross estate as well. Those with gross estates less than $1 million reported QTIP trusts that were 66.2 percent of the total marital deduction, while those whose estates were greater than $20 million reported QTIP trusts that were 88.6 percent of the marital deduction. Overall, female decedents elected to place more of the marital deduction property in trust than males with comparable gross estate sizes. For female decedents whose marital bequest included a QTIP trust, the size of the trust increased from 69.1 percent of the marital deduction for women with gross estates less than $1 million to 98.0 percent for those with estates greater than $20 million. [Figure 16 about here]

4.3 Charitable Contributions

Charitable contributions are allowed as a deduction from gross estate under IRC §2055. The decision to include charities among the beneficiaries of an estate depends on many factors. The estate tax deduction for gifts to charity, in theory, provides an incentive for making such bequests by lowering the price of giving to charitable donees relative to non-charitable donees. Some researchers have found that, in fact, the estate tax deduction does stimulate charitable bequests and that higher estate tax rates increase the amount bequeathed to charities.[29] Such a finding suggests that eliminating the estate tax might have a serious impact on the finances of nonprofit organizations. Of course, other factors, such as the satisfaction gained from helping others and the desire to create a permanent legacy, play a role as well. Living dependents, such as a spouse or children, compete directly with charities for a decedent's distributable assets. Interestingly, estates reporting a tax liability claimed only 6.5 percent of gross estate as a charitable deduction, less than the 8.0 percent claimed by estates reporting no tax liability. For estates reporting a tax liability, it is clear that factors other than tax reduction had an important influence on the disposition of the assets. A look at the characteristics of decedents who made charitable bequests in 1995 is useful both for assessing the possible impact of changes in the estate tax on charitable giving and, to those in the nonprofit sector, for targeting fundraising efforts.

Of the estimated 78,023 estate tax decedents in 1995, 14,282, or 18.3 percent, made charitable bequests. For those decedents who gave, the deduction for gifts to charities totaled $9.7 billion, or 26.9 percent of net worth, defined as total gross estate less mortgages and other debts. Taxable estates deducted $5.1 billion for charitable bequests, 25.2 percent of total deductions, while nontaxable estates deducted $4.6 billion,

only 11.5 percent of total deductions. Compared to smaller estates, larger estates bequeathed a higher percentage of their net worth to charities. Of estates that contributed to charities, those with net worth under $1 million gave, on average, about 18.1 percent of their net worth, while those with net worth in excess of $10 million gave, on average, about 43.4 percent of their net worth.

In addition to varying by size of net worth, the propensity to give and amount bequeathed to charities also varied considerably by both sex and marital status. Overall, single decedents were more likely to give to charitable organizations than decedents who were married, widowed, separated or divorced. An estimated 38.3 percent of single male decedents and 48.9 percent of single female decedents made charitable bequests (see Figure 17). While the 5,793 widowed female decedents who made charitable bequests constituted the largest group of female decedent donors, accounting for 67.8 percent of all female benefactors, only 26.4 percent of all widowed female decedents made charitable bequests. Likewise, the 2,296 widowed male decedents who gave to charity constituted the largest group of male benefactors, accounting for 40.0 percent of male charitable donors. However, only 23.1 percent of all widowed males made charitable bequests. Married decedents of both sexes were least likely to make charitable bequests. Only 6.9 percent of married males and 9.1 percent of married females included charities among their beneficiaries. This finding supports other research which found that marriage has a negative effect on charitable bequests, since married decedents tend to substitute bequests to dependents, spouses and children for charitable gifts.[30] [Figure 17 about here]

Single decedents of both sexes gave a larger share of their net worth to charities than decedents who were married, widowed, separated or divorced. Single males gave a total of 52.1 percent of net worth to charitable institutions, while single females gave 36.5 percent of their net worth to charities. Widowed females, as a group, bequeathed the most property to charities, $3.5 billion or 28.4 percent of their net worth. Widowed males bequeathed $1.6 billion to charities, 27.1 percent of their net worth. Married decedents contributed the smallest percentage of net worth to charitable organizations, 18.4 percent for males and 11.1 percent for females. Married 1995 male decedents, as a group, gave $1.8 billion to charities, a bequest greater than that of widowed males. This is due, primarily, to four decedents who made charitable gifts of well over $100 million each. The median bequest for married males, $30,000, was almost 31 percent lower than the median bequest for widowed males, $43,155.

Charitable institutions receiving bequests from 1995 estate tax decedents were classified into one of the following six categories: (1) institutions which benefit society as a whole; (2) arts and humanities organizations; (3) religious institutions; (4) educational, medical, or scientific institutions; (5) private foundations; and (6) other, a category for contributions to organizations not includible elsewhere. Of these, religious organizations had the largest number of contributors, 8,401, or 58.8 percent of all contributing estates. Educational, medical or scientific institutions had the second largest number of contributors (7,309) followed by institutions in the "other" category (6,355), private foundations (981), arts and humanities organizations (932) and institutions that benefit society (611). Decedents gave, on average, to 1.7 types of organizations and contributed 87.0 percent of all charitable bequests to the following

three groups: educational, medical, and scientific institutions (31.6 percent); private foundations (30.9 percent); and other (24.5 percent). Private foundations received the largest share of total charitable bequests from male decedents, 38.5 percent. On the other hand, organizations classified as educational, medical or scientific in nature received the largest share of total charitable bequests from female decedents, 31.9 percent. Organizations that work to improve society as a whole, including those involved in promoting civil rights, community development, social science research or government effectiveness, received the smallest percentage of total bequests from both male and female decedents, accounting for only 0.4 percent and 1.0 percent, respectively.

5.0 Summary

Many of the arguments for abolishing the federal estate tax rest on assumptions about inefficiency costs that arise in response to its high marginal tax rates. Estimates of these costs are problematic, due to the uncertainty surrounding behavioral responses to any tax and compounded by a paucity of demographic and financial information on the very wealthy. This paper provided a range of basic estate tax data essential to any systematic evaluation of the merits, as well as the shortcomings, of the estate tax. The paper also demonstrated that the characteristics of the estate tax decedent population, only a small portion of the general U.S. decedent population, are different from the rest of the decedent population in rather significant ways. For example, the life spans of estate tax decedents exceed those of decedents in the general population, and, compared to the general decedent population, estate tax decedents more often were married at death, worked in professional occupations and lived in Western or Northeastern states.

The federal estate tax is often asserted as a "backstop" for the federal income tax. Under current federal income tax regulations, capital gains are taxed as they are realized, that is, after an asset is sold. When property is transferred at death, the basis of that property, for capital gains purposes, becomes the value as determined on the transferor's date of death. Thus, financial gains on property held until death escape the income tax, but are taxed under the estate tax. Estate tax data show that a significant portion of assets owned by estate tax decedents are invested in real estate and stocks, both of which are likely to have accrued substantial unrealized gains. Therefore, by capturing tax revenues lost by the federal income tax system, this feature of the estate tax code offsets some of the tax costs often associated with the estate tax. Data also show that small business assets, including farms, closely held stock and noncorporate businesses, are owned as part of a widely diversified portfolio for all but a few estate tax decedents. Only 1,163 estates reported business or farm assets that comprised more than 50 percent of their total gross estate. For these estates, recent changes in the tax code, such as allowing a deduction for qualified family owned businesses and raising the estate tax filing threshold, coupled with existing provisions, should prevent families from having to liquidate business assets to satisfy any estate tax liability.

Finally, when first adopted, the federal transfer tax system had goals beyond simply raising tax revenue. These objectives included breaking up large concentrations of wealth, limiting the extent to which wealthy parents could confer unearned advantages on their children and adding greater progressivity to the overall tax system.[31] At this writing, the future of the estate tax is unknown. Both houses of Congress have recently voted to phase-out the tax over ten years, although a presidential veto of that legislation is

almost certain. Still, popular sentiment seems to support major revision to or complete abolition of the transfer tax system. The continued relevance of these goals to our modern economy is an important issue that should be carefully considered as part of this ongoing debate.

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1. Randolph E. Paul, *Taxation in the United States* (Little, Brown and Co., Boston, MA, 1954), p. 3.

2. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (E. P. Dutton and Co., New York, NY, 1776|1913), p. 311.

3. Jacqueline J. Wong, "Treasury Defends Imposition of Estate and Gift Taxes," *Tax Notes Today*, 96 TNT 47-61 (online reference service).

4. For a more complete history of U.S. taxation of estates and inheritances, see Barry W. Johnson and Martha B. Eller, "Federal Taxation of Inheritance and Wealth Transfers," in Robert Miller and Stephen McNamee, eds., *Inheritance and Wealth in America* (Plenum Press, New York, NY, 1998), pp.61-90.

5. Howard Zaritsky and Thomas Ripy, "Federal Estate, Gift, and Generation skipping Taxes: A legislative History and Description of Current Law" Report 84-156A (Washington, D.C.: Congressional Research Service, August 1984), pp. 12-13.

6. Payment from pure annuities and benefits paid to the decedent from defined benefit pension plans that terminate at death are not included in gross estate. Survivor benefits from joint annuities and survivor annuities, are included in gross estate under §2039. Survivor benefits associated with defined benefit pension plans must be included in gross estate if the decedent contributed to the cost of the plan.

7. Prior to the Tax Payer Relief Act of 1997, the surtax was intended to recapture the tax savings due to both the structure of the marginal tax rates and the applicable credit and was applied to estates with adjusted taxable estates between $10,000,000 and $21,040,000. The change was the result of a clerical error introduced during preparation of the final text of the 1997 legislation. Congress subsequently elected to retain the change.

8. The applicable exclusion amount effectively offsets the tax liability assessed at marginal rates less than 37 percent for decedents who died after 1986.

9. National Center for Health Statistics, "Report of Final Mortality Statistics, 1995," *Monthly Vital Statistics Report*, vol. 45, no. 11, supplement 2 (1997), p. 5 and 15.

10. National Center for Health Statistics, "Report of Final Mortality Statistics, 1995," *Monthly Vital Statistics Report*, vol. 45, no. 11, supplement 2 (1997), p. 64.

11. National Center for Health Statistics, "Report of Final Mortality Statistics, 1995," *Monthly Vital Statistics Report*, vol. 45, no. 11, supplement 2 (1997), p. 60.

12. The seventeen occupation categories chosen were based on the Standard Occupational Classification (SOC) Manual developed by the Department of Commerce. The percentages for 1995 U.S. decedents were based on unpublished figures obtained from the National Center for Health Statistics (NCHS) as reported by the following states: CO, GA, ID, IN, KS, KY, ME, NH, NJ, NV, NM NC, OH, RI, SC, UT, VT, WV, and WI. The distribution of occupations for estate tax decedents from all fifty states was nearly identical to that of estate tax decedents who were residents of the states for which NCHS data were available. Occupation for all U.S. decedents was coded as "unknown" or "none" for 10.2 percent of males and 49.8 percent of females. For estate tax decedents,

occupation was coded as "unknown" or "none" for 2.8 percent of males and 51.3 percent of females. For both groups, a significant portion of these cases were reported as either "retired," or, for female decedents, "homemaker."

13. Office of Tax Policy Analysis, 2000, [unpublished estimates]. The value of farm real estate, often the most valuable farm asset, was not available for 1995 decedents. This information was first collected by SOI for returns filed during calendar year 1998.

14. Property held as tenants in common and community property are also included in a decedent's gross estate, but are reported along with separate property on the appropriate schedules.

15. Boris Bittker, Elias Clark and Grayson McCouch, *Federal Estate and Gift Taxation* (Little, Brown, and Co., Boston, MA, 1996), p. 577.

16. See Estate of Kelly vs. Commissioner 14 T.C.M. (CCH) 476 (1955).

17. Martha B. Eller and Barry W. Johnson, "Using a Sample of Federal Estate Tax Returns to Examine the Effects of Audit Revaluation on Pre-Audit Estimates," *Turning Administrative Systems Into Information Systems*, (1999), pp. 3-10.

18. General Explanation of the Tax Reform Act of 1976, 94th Congress, 2nd Session 537 (1976), reprinted in 1976-3 C.B. (Vol. 2) at 549.

19. Estate of Newhouse vs. Commissioner 94 Tax Court 193 249 (1990).

20. Laura E. Cunningham, "Remember the Alamo: The IRS Needs Ammunition in it Fight Against the FLP," *Tax Notes*, March 13, 2000, p. 1462.

21. Revenue rulings 59-60 §§ 4.02 (b) 1959-1 C. B. 237, 239-240.

22. Estate of Bonner vs. Commissioner U.S. 84 F 3rd 196 5th Circuit Court1996.

23. Cunningham, "Remember the Alamo: The IRS Needs Ammunition in it Fight Against the FLP," p. 1464.

24. Discount data were captured by SOI for the first time on returns filed during calendar year 1998. These returns were primarily filed for 1997 decedents, but include decedents who died in other years as well.

25. The discounts shown for each asset type were prorated by SOI in cases where the discount was reported as a percentage of a body of assets, such as assets held in a limited partnership or trust. For example, the discounts shown for tax-exempt bonds reflect discounts taken on a trust or FLP containing these bonds.

26. In some cases, paying tax at the time of the first spouse's death is a sound strategy for minimizing estate taxes. By carefully dividing the taxable estate between both spouses and by taking advantage of the structure of the marginal tax rates, a lower overall tax liability may be achieved.

27. In some cases, paying some tax at the time of the first spouse's death is a sound strategy for minimizing estate taxes. By carefully dividing the taxable estate between both spouses and by taking advantage of the structure of the marginal tax rates, a lower overall tax liability can often be achieved.

28. Bittker, Clark and McCouch, *Federal Estate and Gift Taxation,* pp. 524-529.

29. David Joulfaian, "Charitable Bequests and Estates Taxes," *National Tax Journal*, vol. 44, no. 2 (June 1991), pp. 169-180.

30. Michael J. Boskin, "Estate Taxation and Charitable Bequests," *Journal of Public Economics*, no. 5 (1976), p. 46.

31. George Cooper, *A Voluntary Tax? New Perspectives on Sophisticated Estate Tax Avoidance*, (The Brookings Institution, 1979), p. 9.

Figure 1: Highlights of Tax Law Changes 1916-1998

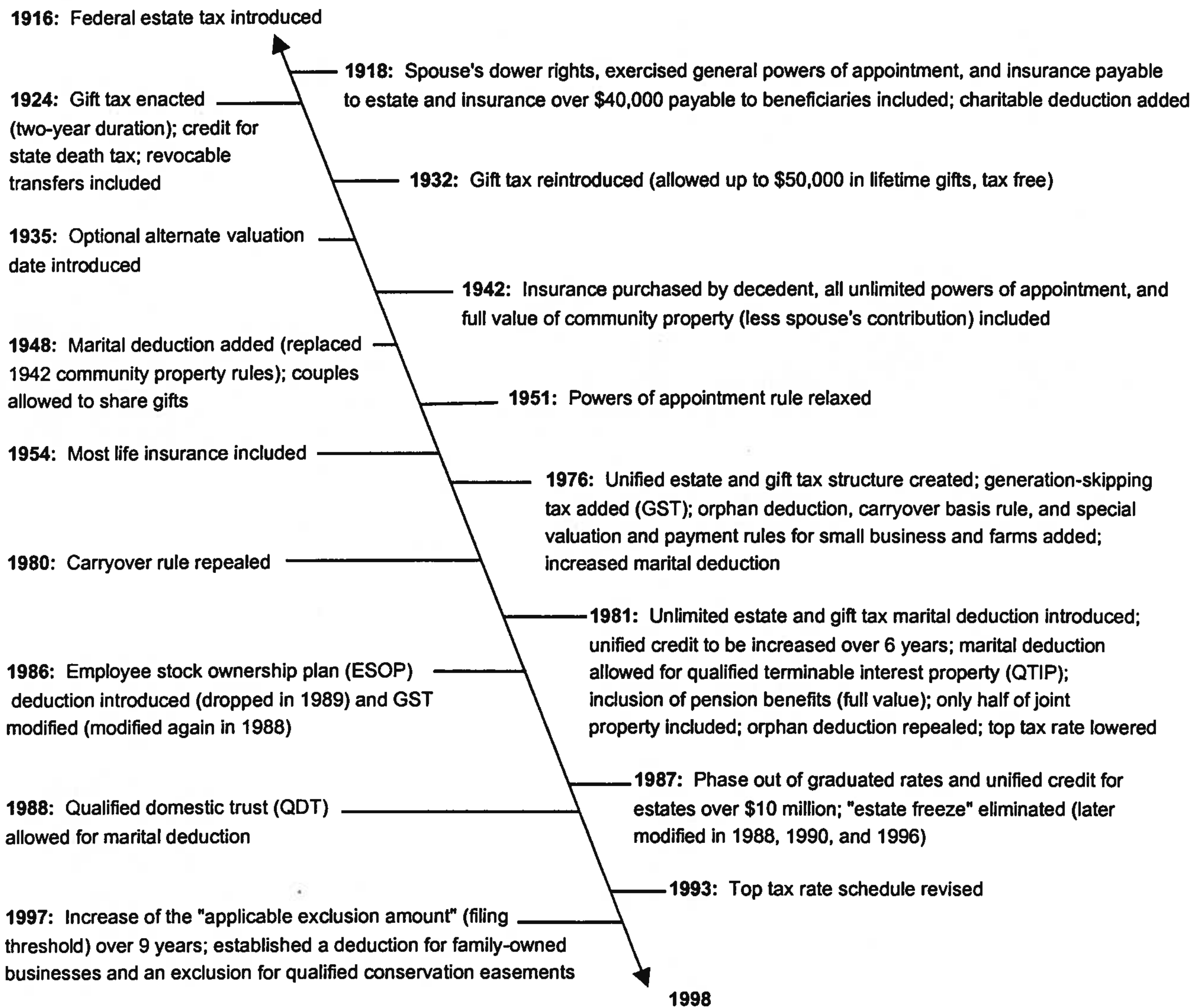

Figure 2: Estate Tax Filing Requirements and Tax Rates, 1916-2006

Year		Basic tax		
	Filing threshold amount	Initial marginal rate	Maximum marginal rate	Top bracket amount
1916	50,000	1	10	5,000,000
1917	50,000	2	25	10,000,000
1918-23	50,000	1	25	10,000,000
1924-25	50,000	1	40	10,000,000
1926-31	100,000	1	20	10,000,000
1932-33 [a]	100,000	1	20	10,000,000
1934	100,000	1	20	10,000,000
1935-39	100,000	1	20	10,000,000
1940 [b]	100,000	1	20	10,000,000
1941	100,000	1	20	10,000,000
1942-53	100,000	1	20	10,000,000
1954-76	60,000	3	77	10,000,000
1977	120,000	18	70	5,000,000
1978	134,000	18	70	5,000,000
1979	147,000	18	70	5,000,000
1980	161,000	18	70	5,000,000
1981	175,000	18	70	5,000,000
1982	225,000	18	65	4,000,000
1983	275,000	18	60	3,500,000
1984	325,000	18	55	3,000,000
1985	400,000	18	55	3,000,000
1986	500,000	18	55	3,000,000
1987-97 [c, d]	600,000	18	55	3,000,000
1998 [e]	625,000	18	55	3,000,000
1999 [e]	650,000	18	55	3,000,000
2000-01 [e]	675,000	18	55	3,000,000
2002-02 [e]	700,000	18	55	3,000,000
2004 [e]	850,000	18	55	3,000,000
2005 [e]	950,000	18	55	3,000,000
2006 [e]	1,000,000	18	55	3,000,000

[a] A supplement tax was in effect from 1932 to 1953.

[b] 10 percent war surtax added.

[c] Tax rate was to be reduced to 50 percent on amounts beginning in 1988, but reduction was postponed until 1992, then repealed retroactively in 1993 and set permanently to the 1987 levels.

[d] Graduated rates and unified credits phased out for estates between $10,000,000 and $21,040,000.

[e] Graduated rates phase out for estates between $10,000,000 and $17,184,000.

Note: Amounts are shown in dollars and tax rates are shown as percentages.

Figure 3: Estate Tax Filings, Total Federal Revenue and Estate Tax Filers as a Percentage of All Decedents, 1987-1998

(All estate tax figures are estimates based on samples - money amounts are in millions of dollars)

Filing year	Number of filers	Number of taxable returns	Reported tax liability	Total federal receipts	Taxable estate tax returns as a percentage of all deaths[a]
1987	45,113	21,335	6,358	854,353	0.88
1988	43,683	18,948	6,299	909,303	0.99
1989	45,695	20,695	7,467	991,190	1.11
1990	50,367	23,104	8,999	1,031,969	1.18
1991	53,576	24,781	9,100	1,055,041	1.25
1992	59,176	27,397	10,109	1,091,279	1.29
1993	60,207	27,506	10,335	1,154,401	1.45
1994	68,595	31,918	12,391	1,258,627	1.46
1995	69,755	31,563	11,841	1,351,830	1.62
1996	79,321	37,711	14,456	1,453,062	0.99[b]
1997	90,006	42,901	16,637	1,579,292	1.05[b]
1998	97,868	47,482	20,350	1,721,798	1.18[b]

[a] Percentages are calculated as the number of estate tax decedents who died in each year divided by the total decedents in that year. Other figures are based on returns filed in a particular calendar year, which represent decedents who died in a number of different years.

[b] Preliminary estimates

Figure 4: Estate Tax Returns Filed in 1998 Reporting a Tax Liability, by Highest Applicable Marginal Tax Rate

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Top marginal tax rate	Number of returns	Total gross estate[a]	Allowable deductions	Net estate tax
37	10,153	8,896,797	1,959,492	156,670
39	13,739	14,337,983	2,690,354	1,001,160
41	6,929	9,468,034	1,877,580	1,094,924
43	4,083	6,982,319	1,620,779	1,010,126
45	4,350	9,035,667	1,885,909	1,667,010
49	2,348	6,409,352	1,439,106	1,363,028
53	1,413	5,073,560	1,453,750	1,120,162
55	4,468	42,816,587	9,786,831	12,936,761
Total	47,483	103,020,299	22,713,801	20,349,841

[a] Gross estate is shown at the value used to determine estate tax liability.

Note: Tax rates are shown as percentages.

Figure 5: Tax Deferral Election Under Section 6166 of the IR Code for Estates, by Sex of Decedent 1995-1998

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Sex	Gross estate, for tax purposes		Adjusted[a] gross estate	Closely held business	Net tax	Tax deferred
	Number	Amount	Amount	Amount	Amount	Amount
Estate Tax Returns Filed in 1995						
Female	206	909,323	818,868	565,671	268,289	162,365
Male	332	2,832,285	2,485,482	1,857,516	415,143	258,049
Total	538	3,741,608	3,304,350	2,423,187	683,432	420,414
Estate Tax Returns Filed in 1996						
Female	212	920,259	842,029	567,270	286,896	183,775
Male	350	2,475,079	2,090,349	1,565,458	464,661	283,915
Total	562	3,395,338	2,932,378	2,132,728	751,557	467,690
Estate Tax Returns Filed in 1997						
Female	173	1,099,717	1,012,741	743,205	330,896	224,692
Male	289	1,867,018	1,598,140	1,161,515	369,073	230,812
Total	462	2,966,735	2,610,881	1,904,720	699,969	455,504
Estate Tax Returns Filed in 1998						
Female	251	828,828	754,456	488,978	244,520	146,049
Male	314	1,991,395	1,695,477	1,214,688	480,670	324,031
Total	565	2,820,223	2,449,933	1,703,666	725,190	470,080

[a] Adjusted gross estate is total gross estate less deductions allowed under IRC sections 2053 and 2054 (expenses, indebtedness, taxes and losses).

Figure 6: All 1995 U.S. Decedents and 1995 Estate Tax Decedents, by Sex and Age

(All estate tax figures are estimates based on samples)

Decedent group	Total number	Sex				Average age at death		Difference between male and female average age
		Male		Female				
		Number	Percent	Number	Percent	Male	Female	
Estate tax decedents	78,023	42,864	54.9	35,159	45.1	75.3	80.9	5.6
All U.S. decedents[a]	2,312,132	1,172,959	50.7	1,139,173	49.3	72.5	78.9	6.4

[a] Source: National Center for Health Statistics, "Report of Final Mortality Statistics, 1995," *Monthly Vital Statistics Report*, vol. 45, no. 11, supplement 2 (1997), pp. 5 and 15.

Figure 7: All 1995 U.S. Decedents and 1995 Estate Tax Decedents, by Region

(All estate tax figures are estimates based on samples)

Decedent group	Region							
	West		Midwest		South		Northeast	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Estate tax decedents[a]	18,391	23.6	17,631	22.6	24,288	31.2	17,601	22.6
All U.S. decedents[b]	422,000	18.2	568,000	24.6	833,000	36.0	490,000	21.2

[a] Excludes 112 estate tax decedents who were non-resident U.S. citizens at death.

[b] Source: National Center for Health Statistics, "Report of Final Mortality Statistics, 1995," *Monthly Vital Statistics Report*, vol. 45, no. 11, supplement 2 (1997), p. 64.

Figure 8: All 1995 U.S. Decedents and 1995 Estate Tax Decedents, by Sex and Marital Status

(All estate tax figures are estimates based on samples - money amounts are in thousands of dollars)

Sex	Marital status	U.S. decedents[a]		Estate tax decedents		Total gross estate, for tax purposes[b]	Average gross estate	Total estate tax liability
		Number	Percent	Number	Percent			
Female	Married	287,106	25.6	8,684	24.7	13,911,063	1,602	5,499,970
	Widowed	643,383	57.4	21,920	62.3	34,576,545	1,577	6,451,966
	Single	91,939	8.2	3,082	8.8	4,077,106	1,323	471,241
	Separated or divorced[c]	97,491	8.7	1,472	4.2	2,166,319	1,471	319,346
	Total	1,119,919	100.0	35,158	100.0	54,731,033	5,973	12,742,524
Male	Married	654,472	57.1	27,720	64.7	54,894,675	1,980	1,946,566
	Widowed	208,633	18.2	9,920	23.1	16,954,664	1,709	3,117,336
	Single	155,487	13.6	3,429	8.0	5,548,178	1,618	643,131
	Separated or divorced[c]	128,586	11.2	1,795	4.2	4,010,128	2,234	794,250
	Total	1,147,178	100.0	42,864	100.0	81,407,645	7,541	6,501,283
Total		2,267,097	...	78,022	...	136,138,678	13,515	19,243,806

[a] Source: National Center for Health Statistics, "Report of Final Mortality Statistics, 1995," *Monthly Vital Statistics Report*, vol. 45, no. 11, supplement 2 (1997), p. 60. Includes all decedents age 15 years and older.

[b] Gross estate is shown at the value used to determine estate tax liability. Gross estate could be reported as of the date of death or six months thereafter (i.e. alternate valuation method)

[c] "Separated or divorced" includes decedents who were legally separated or divorced at the time of their death, as well as decedents whose marital status at death was unknown.

Figure 9: All 1995 U.S. Decedents and 1995 Estate Tax Decedents, by Occupation and Sex

(All estate tax figures are estimates based on samples - money amounts are in thousands of dollars)

Male decedents

Occupation category[a]	Percentage of all U.S. decedents	Percentage of all estate tax decedents	Average gross estate (estate tax decedents)
Executive and managerial	9.6	27.7	2,601
Engineer and architect	2.2	7.3	1,291
Scientist, social scientist	1.5	2.7	1,299
Lawyer and judge	0.4	4.7	1,948
Teacher and counselor	1.4	12.3	1,864
Healthcare	0.9	8.9	2,109
Entertainer and athlete	0.9	1.8	2,338
Technologist	1.4	0.6	1,171
Sales	8.0	10.6	1,609
Administrative support	3.9	1.3	1,263
Service	11.7	1.7	1,092
Agricultural	7.7	8.9	1,414
Construction and extractive	9.2	3.2	1,472
Production	13.9	2.5	1,276
Transportation	7.1	1.4	1,354
Laborer	8.3	0.4	1,639
Military	1.7	1.3	1,004

Female decedents

Occupation category[a]	Percentage of all U.S. decedents	Percentage of all estate tax decedents	Average gross estate (estate tax decedents)
Executive and managerial	4.2	8.0	1,606
Engineer and architect	0.0	0.2	1,117
Scientist, social scientist	0.6	1.6	1,095
Lawyer and judge	0.0	0.5	1,652
Teacher and counselor	4.6	14.8	1,180
Healthcare	2.4	4.2	1,801
Entertainer and athlete	0.6	2.1	2,167
Technologist	1.2	0.3	897
Sales	5.2	3.2	1,389
Administrative support	9.7	9.6	1,215
Service	11.1	1.5	1,106
Agricultural	0.6	1.4	1,258
Construction and extractive	0.1	0.1	2,165
Production	7.4	0.9	886
Transportation	0.2	0.0	761
Laborer	2.0	0.1	874
Military	0.1	0.0	684

[a] The seventeen occupation categories chosen were based on the Standard Occupational U.S. decedents were based on unpublished figures obtained from the National Center for Health Statistics (NCHS) as reported by the following states: CO, GA, ID IN, KS, KY, ME, NH, NJ, NV, NM, NC, OH, RI, SC, UT, VT, WV and WI. The distribution of occupations for estate tax decedents from all fifty states was nearly identical to that of estate tax decedents who were residents of the states for which NCHS data were available. Occupation for all U.S. decedents was coded as "unknown" or "non" for 10.2 percent of males and 49.8 percent of females. For estate tax decedents, occupation was coded as "unknown" or "non" for 2.8 percent of males and 51.3 percent of females. For both groups, a significant portion of these cases was reported as either "retired" or, for female decedents, "homemaker."

Figure 10: Composition of Gross Estate at Date of Death by Age, Sex and Size of Gross Estate for 1995 Estate Tax Decedents

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Decedent Sex		Age at Death			Total	Percentage of total gross estate
		Under 50	50 under 65	65 and older		
Female	Total gross estate	886,046	4,740,712	49,185,700	54,812,458	100.0
	Publicly traded stock	109,967	891,672	14,504,767	15,506,406	28.3
	Closely held stock	92,474	246,788	992,753	1,332,015	2.4
	Bonds	76,608	482,034	11,096,807	11,655,449	21.3
	Cash	61,700	374,757	6,790,501	7,226,958	13.2
	Real estate	134,386	1,165,475	5,196,106	6,495,966	11.9
	Personal residence	104,915	483,597	3,587,795	4,176,307	7.6
	Life insurance	106,391	133,940	294,840	535,170	1.0
	Annuities	61,469	340,908	1,365,859	1,768,236	3.2
	All other assets	138,138	621,542	5,356,277	6,115,957	11.2
Male	Total gross estate	2,580,153	12,595,871	66,307,522	81,483,546	100.0
	Publicly traded stock	181,160	1,301,055	16,992,021	18,474,236	22.7
	Closely held stock	314,209	2,510,291	5,446,706	8,271,207	10.2
	Bonds	87,854	592,719	12,579,765	13,260,337	16.3
	Cash	143,884	687,206	6,847,340	7,678,430	9.4
	Real estate	300,284	2,006,095	7,931,733	10,238,112	12.6
	Personal residence	245,728	886,672	3,976,745	5,109,145	6.3
	Life insurance	786,100	1,560,199	1,630,086	3,976,384	4.9
	Annuities	228,962	1,698,536	4,436,052	6,363,550	7.8
	All other assets	291,973	1,353,104	6,467,089	8,112,165	10.0
Total		3,466,198	17,336,583	115,493,222	136,296,004	...

Note: Detail may not add to totals because of rounding.

Figure 11: Joint Assets and Total Assets for 1995 Estate Tax Decedents Who Owned Some Property Jointly with a Spouse, by Sex

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Asset type	Female decedents					Male decedents				
	All assets		Joint assets		Joint property as as percentage of all property	All assets		Joint assets		Joint property as as percentage of all property
	Number	Amount	Number	Amount		Number	Amount	Number	Amount	
Personal residences	4,741	950,134	2,679	433,849	45.7	14,697	2,565,479	9,006	1,161,354	45.3
Real estate	3,673	1,291,807	1,665	288,282	22.3	12,929	5,407,306	6,539	1,040,684	19.2
Closely held stock	756	338,668	72	13,704	4.0	4,305	4,987,359	302	103,710	2.1
Publicly traded stock	4,870	2,286,730	1,715	198,900	8.7	16,342	8,135,807	5,942	508,920	6.3
Tax-exempt bonds	3,881	1,302,816	1,133	160,698	12.3	11,274	4,259,026	3,897	497,338	11.7
Other Federal bonds	1,967	335,308	461	66,115	19.7	6,152	1,030,231	1,708	116,597	11.3
Federal savings bonds	863	45,894	529	30,289	66.0	3,293	147,500	1,699	33,004	22.4
Corporate bonds	1,184	69,394	294	8,948	12.9	3,637	215,545	1,096	24,123	11.2
Mixed bond funds	676	24,352	165	1,906	7.8	2,351	114,161	653	9,148	8.0
Mixed portfolio mutual funds	1,604	93,644	478	17,913	19.1	6,268	438,018	2,421	98,262	22.4
Cash	6,015	961,393	4,841	222,232	23.1	20,724	2,967,808	17,994	847,138	28.5
Life insurance	2,726	175,849	3	177	0.1	16,509	2,736,039	68	3,486	0.1
Farm assets	255	44,409	58	2,479	5.6	1,800	200,602	209	15,147	7.6
Limited partnerships	1,045	179,171	223	5,083	2.8	3,805	798,452	1,153	23,296	2.9
Noncorporate business assets	492	159,181	122	8,404	5.3	3,022	596,364	492	22,940	3.8
Annuities	3,056	345,968	72	2,417	0.7	13,930	4,279,892	475	24,134	0.6
Art	134	14,765	45	5,112	34.6	460	157,997	122	5,745	3.6
Depletables/Intangibles	251	49,024	38	15,617	31.9	1,177	123,735	142	4,118	3.3
Other	5,498	252,264	2,278	34,800	13.8	18,946	833,972	8,525	124,268	14.9
Total	6,210	8,920,771	6,210	1,516,925	17.0	21,226	39,995,292	21,226	4,663,412	11.7

Figure 12: Community Property and All Property for 1995 Estate Tax Decedents Who Owned Some Community Property, by Sex

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Asset type	Female decedents					Male decedents				
	All property		Community property		Community property as a percentage of.	All property		Community property		Community property as a percentage of.
	Number	Amount	Number	Amount	all property	Number	Amount	Number	Amount	all property
Personal residences	2,024	406,204	1,848	380,435	93.7	4,926	1,026,185	4,416	908,304	88.5
Real estate	635	684,923	554	634,608	92.7	1,503	513,379	1,282	429,940	83.7
Closely held stock	499	304,664	467	295,648	97.0	1,074	1,435,820	874	511,096	35.6
Publicly traded stock	2,078	863,719	1,845	629,368	72.9	4,806	1,892,785	4,340	1,196,323	63.2
Tax-exempt bonds	1,716	531,122	1,508	393,972	74.2	3,689	1,303,678	3,183	1,110,430	85.2
Other Federal bonds	880	115,580	763	94,402	81.7	2,148	332,828	1,918	232,989	70.0
Federal savings bonds	381	4,134	247	2,235	54.1	656	17,130	516	15,378	89.8
Corporate bonds	585	34,028	526	16,902	49.7	1,051	54,985	826	38,292	69.6
Mixed bond funds	292	7,432	273	6,411	86.3	873	33,846	751	30,386	89.8
Mixed portfolio mutual funds	779	40,216	700	34,393	85.5	1,772	93,046	1,573	77,962	83.8
Cash	2,541	410,317	2,380	338,634	82.5	6,081	930,898	5,521	715,537	76.9
Life insurance	1,176	55,143	928	41,633	75.5	4,343	479,796	3,355	330,595	68.9
Farm assets	152	34,975	145	34,665	99.1	591	67,168	564	58,278	86.8
Limited partnerships	711	95,984	640	89,732	93.5	1,339	171,823	1,161	130,764	76.1
Noncorporate business assets	462	112,161	410	102,310	91.2	1,192	190,848	1,020	149,927	78.6
Annuities	1,473	248,713	1,368	237,288	95.4	3,978	777,879	3,327	570,430	73.3
Art	103	6,637	98	6,598	99.4	271	23,007	222	11,974	52.0
Depletables/Intangibles	246	16,585	192	9,793	59.0	901	85,336	682	54,843	64.3
Other	2,432	173,580	2,253	141,348	81.4	5,926	262,343	5,413	189,505	72.2
Total	2,583	4,146,117	2,583	3,490,374	84.2	6,112	9,692,781	6,112	6,762,953	69.8

Figure 13: Estate Tax Returns Filed 1995-1998 for Estates Electing Special Use Valuation

(All figures are estimates based on samples - money amounts are in thousands of dollars)

	Fair market value		Adjusted value	Reduction in value
	Number	Amount		
Returns filed in 1995				
$600,000 under $1 million	152	86,398	41,193	45,205
$1 million or more	170	161,556	90,853	70,703
Total	322	247,954	132,046	115,908
Farm property	282	221,413	115,885	105,527
Non-farm property	40	26,541	16,161	10,380
Returns filed in 1996				
$600,000 under $1 million	209	121,427	62,870	58,557
$1 million or more	199	200,735	122,703	78,031
Total	408	322,162	185,573	136,588
Farm property	387	298,110	170,723	127,387
Non-farm property	21	24,052	14,851	9,201
Returns filed in 1997				
$600,000 under $1 million	261	171,331	70,004	101,327
$1 million or more	158	175,524	89,131	86,394
Total	419	346,855	159,135	187,721
Farm property	373	300,370	143,254	157,116
Non-farm property	46	46,485	15,881	30,604
Returns filed in 1998				
$600,000 under $1 million	266	181,888	91,032	90,856
$1 million or more	197	215,276	115,478	99,799
Total	463	397,164	206,510	190,655
Farm property	448	385,156	199,852	185,304
Non-farm property	16	12,009	6,657	5,352

Figure 14: Estate Tax Returns Filed in 1998 Claiming Minority Discounts

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Asset type	Nontaxable returns[a]				Taxable returns[a]			
	Number of returns	Discount amount	Taxable amount	Percent discount	Number of returns	Discount amount	Taxable amount	Percent discount
Real estate	921	126,049	733,721	14.7	2,025	273,929	1,740,414	13.6
Closely held stock	1,273	399,095	1,010,710	28.3	1,251	1,289,332	3,043,264	29.8
Publicly traded stock	72	28,570	281,922	9.2	100	109,133	977,773	10.0
Bonds	28	82	13,216	0.6	16	8,239	63,082	11.6
Farm assets	51	6,320	20,977	23.2	153	14,008	37,818	27.0
Limited partnerships	330	62,200	131,326	32.1	673	336,548	590,572	36.3
Other non corporate	145	17,368	35,945	32.6	281	70,107	228,232	23.5
Mortgages and notes	23	1,446	8,698	14.3	95	7,768	48,306	13.9
All other	112	15,345	69,309	18.1	91	12,597	250,914	4.8
Total	2,454	656,475	2,305,823	22.2	3,755	2,121,662	6,980,376	23.3

[a] Nontaxable returns are returns filed for decedents with gross estate greater than or equal to the filing threshold but for which deductions and tax credits completely offset any tax liability. Taxable returns are those reporting a net tax liability after deductions and tax credits.

Figure 15: Deductions for 1995 Estate Tax Decedents, by Sex and Tax Status

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Sex	Type of deduction	Nontaxable returns[a]		Taxable returns[a]	
		Number	Amount	Number	Amount
Female	Funeral expenses	11,552	72,477	20,794	128,874
	Executors' commissions	2,805	73,879	11,858	455,579
	Attorneys' fees	6,037	83,874	18,781	385,186
	Other expenses and losses	7,786	49,472	20,455	308,615
	Debts and mortgages	9,407	717,649	19,195	894,704
	Bequests to surviving spouse	13,427	5,636,018	21,733	1,802,503
	Charitable deduction	3,198	2,401,236	5,352	2,421,881
	Allowable deductions	13,427	9,010,417	21,719	6,397,208
Male	Funeral expenses	24,155	168,620	14,390	95,567
	Executors' commissions	3,054	82,664	8,400	423,841
	Attorneys' fees	10,570	129,791	12,961	348,930
	Other expenses and losses	13,477	80,215	13,776	330,062
	Debts and mortgages	17,853	2,869,475	12,971	1,801,436
	Bequests to surviving spouse	28,009	25,222,950	14,855	8,258,237
	Charitable deduction	2,864	2,181,029	2,869	2,699,230
	Allowable deductions	28,009	30,715,665	14,841	13,952,903
Total allowable deductions		41,436	39,726,082	36,560	2,350,111

[a] Nontaxable returns are returns filed for decedents with gross estate greater than or equal to the filing threshold but for which deductions and tax credits completely offset any tax liability. Taxable returns are those reporting a net tax liability after deductions and tax credits.

Figure 16: Gross Estate and Selected Deductions for Estates of 1995 Estate Tax Decedents Reporting QTIP Trusts, by Sex and Size of Estate[a]

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Sex	Size of Estate	Number	Total gross estate	Allowable deductions	Marital bequests	QTIP[a]
Female	$600,000 under $1 million	939	747,007	245,298	209,555	144,790
	$1 million under $5 million	1,699	3,061,756	1,986,399	1,789,556	1,369,503
	$5 million under $10 million	97	668,322	518,198	469,508	350,586
	$10 million under $20 million	33	463,818	358,251	302,711	254,923
	$20 million or more	14	1,195,958	1,132,997	1,053,656	1,032,300
	Total	2,784	6,136,861	4,241,143	3,824,986	3,152,102
Male	$600,000 under $1 million	2,907	2,353,094	924,033	838,529	555,219
	$1 million under $5 million	4,816	9,709,932	6,631,222	6,129,174	4,148,893
	$5 million under $10 million	490	3,341,920	2,769,589	2,527,139	1,982,432
	$10 million under $20 million	193	2,652,780	2,163,774	1,960,855	1,526,334
	$20 million or more	132	8,385,245	7,235,384	5,702,830	5,055,268
	Total	8,538	26,442,971	19,724,002	17,158,527	13,268,146
Total		11,322	32,579,832	23,965,145	20,983,513	16,420,248

[a] Qualified Terminable Interest Property

Figure 17: Charitable Deductions for 1995 Estate Tax Decedents Who Made Charitable Bequests, by Sex and Marital Status

(All figures are estimates based on samples - money amounts are in thousands of dollars)

Sex	Marital Status	Number	Net worth[a]	Charitable deduction
Female	Married	788	1,494,053	165,299
	Single	1,508	2,360,708	826,618
	Widowed	5,793	12,496,909	3,547,319
	Separated or divorced[b]	461	777,696	283,880
	Total	8,550	17,129,366	4,823,116
Male	Married	1,917	10,047,304	1,845,973
	Single	1,312	2,644,493	1,348,699
	Widowed	2,296	5,785,195	1,567,859
	Separated or divorced[b]	208	506,885	117,727
	Total	5,733	18,983,877	4,880,258
Total		14,283	36,113,243	9,703,374

[a] Net worth was calculated as total gross estate less debts and mortgages. Negative values of net worth were constrained to zero.

[b] "Separated or divorced" includes decedents who were legally separated or divorced at the time of their death as well as decedents whose marital status at death was unknown.