



Quick Facts: Maintaining the New Mexico Estate Tax

Preserving a vital revenue source before its too late

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Q. What is the estate tax?

A. The estate tax is a tax on the transfer of vast wealth. Up to 2004, it was levied on estates worth more than \$625,000, and most of it is paid on estates worth millions. The current proposal would tax estates worth over \$1.2 million for 2005 and \$1.25 million in years after that.

Q. Why do we need to act now to preserve New Mexico's estate tax?

A. The New Mexico estate tax piggybacks on a component of the federal estate tax that was fully eliminated at the end of last year (2004). By acting now, New Mexico can recapture revenue for the general fund, revenue available to the state for years. It also provides us with the opportunity to avoid taxing estates worth less than \$1.2 million.

Q. What have other states done?

A. Every state has an estate tax. Forty states were coupled to the federal estate tax and 18 states have already "decoupled" from the federal estate tax changes.

Q. What do the federal changes mean?

A. As part of the gradual phase-out of the federal estate tax, the federal credit is reduced by 25% annually, starting in 2001. There will be no federal credit for state death taxes paid after 2004. Because New Mexico has not yet decoupled, NM's estate tax expired at the end of 2004. The proposed legislation reinstates an NM estate tax based on the federal tax code prior to 2001.

Q. Is the estate tax hard on family businesses and farms, as asserted by the Bush administration?

A. The estate tax is not levied on small family businesses and farms that cannot afford to pay.

- In 2001, only one tenth of one percent of estates liable for estate tax included farms. Most farms subject to the estate tax were part of estates worth over \$20 million. (Neil Harl, *Agricultural Law Digest*, Sept. 23, 2003).
- *Family owned farms and businesses accounted for less than 3% of all taxable estates in 2001* (Springer, Center on Budget and Policy Priorities, 2003).
- The American Farm Bureau Federation acknowledged to the *New York Times* in 2001 that it could not cite a single example of a farm having to be sold to pay estate taxes (cited in Springer, 2003).

Q. Who pays the estate tax?

A. Less than 2% of all adult deaths in the US result in a taxable estate.

Q. Is the estate tax unfair?

A. High income taxpayers have received substantial federal *and* state tax income tax relief in recent years, at substantial cost to federal and state revenues. For New Mexico, de-linking from the federal estate tax phase-out will help preserve general fund programs and services that benefit all New Mexicans. Decoupling will also reduce pressure to increase other taxes (like the GRT) that are more burdensome to businesses and/or moderate income New Mexicans.

Q. Is an estate tax the same as an inheritance tax?

A. NO. The estate tax is *not* an inheritance tax. New Mexico does not have an inheritance tax. Instead, some inheritances are taxed under New Mexico's income tax.

Q. Are estate taxes double taxation?

A. NO. The majority of the value of the largest estates is unrealized capital gains - income that has *never* been subject to tax.

Q. If New Mexico decouples from the federal estate tax changes, will we also have to decouple from other provisions of federal tax law, such as income tax?

A. NO. Decoupling from the estate tax does *not* mean decoupling from other provisions of federal tax law. If New Mexico decouples from the estate tax, it can continue to “piggyback” other provisions of federal tax law.

Q. How does New Mexico's estate tax work?

A. New Mexico's estate tax, like those of most other states, was based on the federal estate tax credit for state estate taxes paid. New Mexico's estate tax will be equal to the maximum amount of credit for state estate taxes paid allowed by the IRS in the 2001 statute if HB 568 is adopted. The maximum federal credit amount in that statute is a function of the size of the estate and a rate table set in federal law.