IS THE ESTATE TAX DEAD?

REPORTS OF DEATH ARE GREATLY EXAGGERATED

Community Foundation Research and Training Institute
PO Box 86
Grabill, IN 46741
260-210-2977
cfrtinstitute@gmail.com
www.cfrti.com

REPORTS OF DEATH ARE GREATLY EXAGGERATED

In May of 1897, the New York Journal heard a rumor that Mark Twain had died, and mistakenly printed his obituary. When confronted with the mistake, the author, in his inimitable manner, commented, “Reports of my death have been greatly exaggerated.”

So it is with the Estate Tax. Based on numerous legislative changes in the last decade, some forecast that the estate tax is dead. Yet, like Twain, the reports of the death of the estate tax are greatly exaggerated. But what’s going on with the estate tax, and what are the implications for future charitable gifts in estate plans?

CHARITABLE GIVING AND THE ESTATE TAX

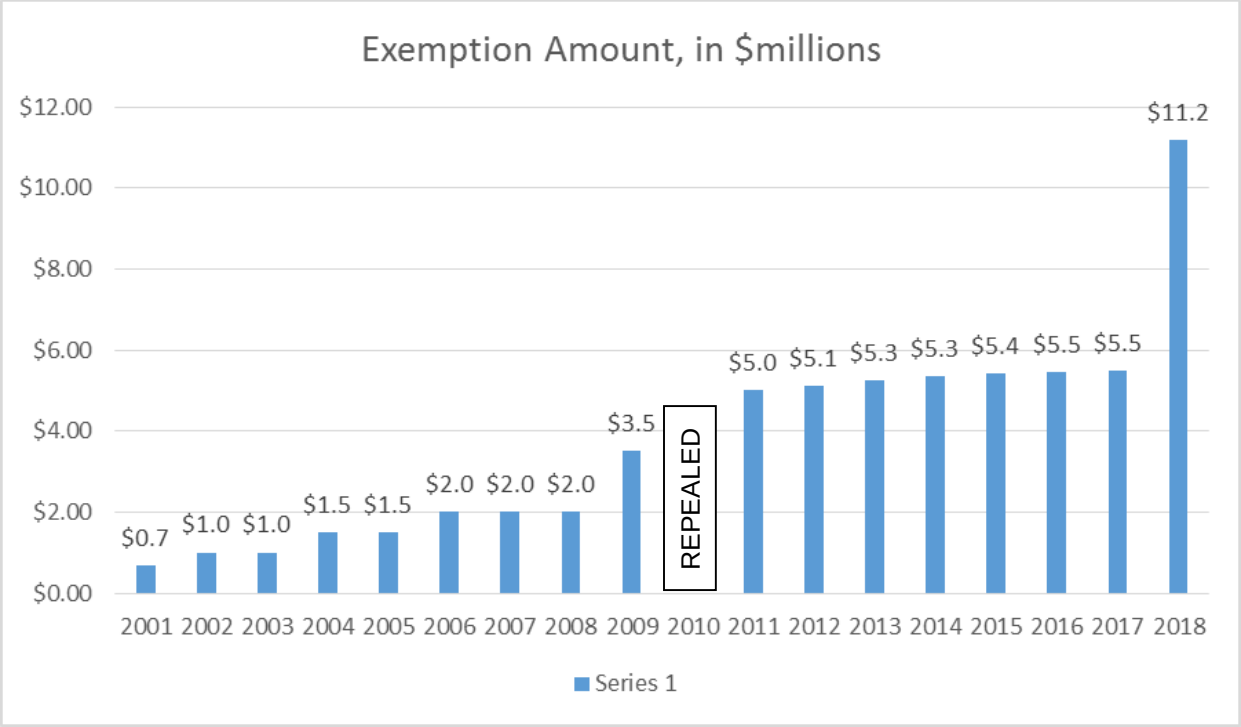
For highly-valued estates, a charitable gift remains an effective way of reducing the estate tax liability.

WHAT IS THE ESTATE TAX?

The estate tax in the United States is a tax on the transfer of the estate of a deceased person. The tax applies to property that is transferred via a will or according to state laws of intestacy. The estate tax is one part of the Unified Gift and Estate Tax system in the United States. The other part of the system, the gift tax, applies to transfers of property during a person's life.

If an asset is left to a spouse or a charity, the tax usually does not apply. In addition, a maximum amount, varying year by year, can be given by an individual, before and/or upon their death, without incurring federal gift or estate taxes. This estate tax exemption has grown significantly over the years, from $650,000 in 2001 to $11.2 million in 2018.

An estate tax return must be filed if the gross estate of the decedent is valued at more than the filing threshold for the year of the decedent's death. In addition, a spouse needs to file a return – even if no tax is due -- if the estate elects to transfer any deceased spousal unused exclusion (DSUE) amount to a surviving spouse, regardless of the size of the gross estate or amount of adjusted taxable gifts. (The election to transfer a DSUE amount to a surviving spouse is known as the “portability election”.)



The estate tax can result in a significant liability, as marginal rates for the largest estates can be as high as 40%. In 2016, 5,219 returns paid $18.3 billion in estate taxes. (7,192 returns filed in 2016 ended up paying no estate tax liability). For estates larger than the current federally exempted amount, any estate tax due is paid by the executor, other person responsible for administering the estate, or the person in possession of the decedent's property.

HOW MANY RETURNS ARE FILED?

The amount of the estate tax exemption is shown in the chart above. As the value of the exemption rises, the number of estates that are required to file an estate tax return falls.

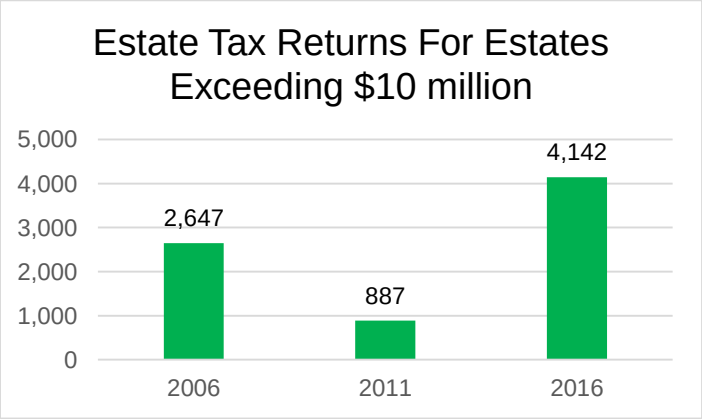
The chart on the next page shows the number of estate tax returns filed (regardless of whether an estate tax is due).

In 2001, when the estate tax exemption was only $650,000, more than 100,000 estate tax returns were filed. As the exemption rose the number of returns filed fell dramatically. In the ten years from 2001 to 2011, the number of returns filed fell by over 95%.

Yet after a low point of 4,588 returns filed in 2011, the number of returns filed more than doubled to 12,411 in 2016. This occurred despite increases in the exemption amount. What is causing this increase in estate tax return filings?

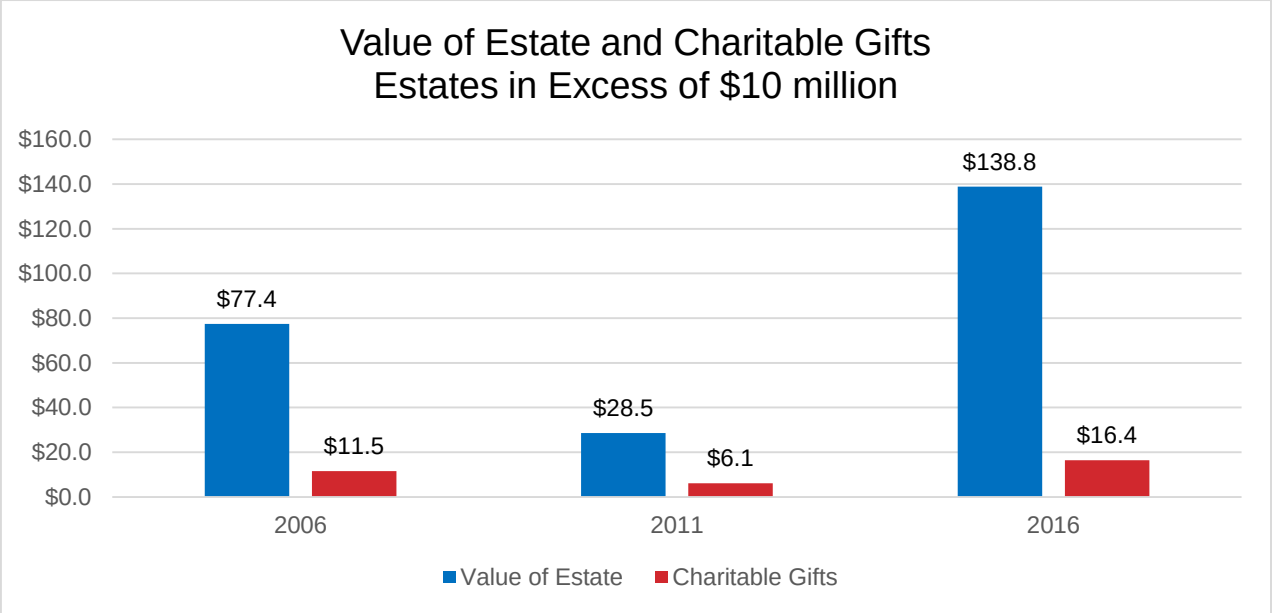
THE RISE OF THE MEGA-ESTATE

Why the increase? The answer in a nutshell: People are wealthier. Ten years of rising stock values, along with appreciation in real estate values and increases in the value of tech companies means that some estates are growing in value faster than the increase in the exemption amount. The number of "mega-estates" – those with asset values in excess of $10 million – has risen dramatically in the last five years, as shown in the graph to the right.



Rising stock values account for much of the increase. The appreciation in the value of some stocks has been remarkable. The savvy investor who bought 1,000 shares of Google stock in 2004 for $85,000 would see the value of their investment at nearly $1.3 million today. Similar gains accrued to Facebook, Netflix and Amazon, among other stocks.

The result is that there has been a large increase in the number of estates whose value exceeds $10 million. In 2006, before the economic crisis, around 2,600 estates in the United States were valued at more than $10 million. By 2011, as asset prices declined dramatically, just 887 estates exceeded that level.



But rising asset prices in the last five years have brought the return of the highly-valued estates. In 2016 more than 4,100 estates had a value above $10 million.

The aggregate value of these highly wealthy estates increased, as well. The sum of assets in estates more than $10 million in 2011 was $28.5 billion. For the 4,142 estates at that level or above in 2016, their total value soared to $138.8 billion.

Along with higher values for estate taxes came a corresponding increase in charitable gifts in estate plans. From a low of $6.1 billion in estate gifts in 2011, the value of estate gifts reflected in estate tax returns surged to $16.4 billion in 2016.

Despite recent changes, for highly-valued estates, the inclusion of a charitable gift remains an effective way of reducing the estate tax liability.

THE FUTURE OF THE ESTATE TAX

The doubling of the estate tax exemption for 2018 will certainly lead to a reduction of returns filed as well as the estate tax liability paid. But asset values continue to rise at a remarkable pace, and until that escalation slows ever larger estates will continue to face an estate tax.

While his obituary printed in 1897 was inaccurate, Mark Twain would die 13 years later. In addition to being an exaggeration, the announcement of his death was also premature.

For now, thanks to the rising level of the value of estates, the estate tax will continue to be relevant for wealthy households. But future legislative changes could reduce the influence of this tax even further. Reports of the death of the estate tax are exaggerated, may those reports might simply be premature.