



**State Death Taxes Issue Brief:  
A Current Assessment**

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## Introduction

The passage of House Resolution 4853, the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act, replaced the scheduled Federal Estate Tax rate of 55% and \$1 million exemption with a 35% rate and \$5 million exemption.<sup>i</sup> Although the exemption will prevent some individual estates from being taxed, more than 65,000 farms, real-estate partnerships, and privately-held corporations have surpassed this threshold and are at this time susceptible to the Federal Estate Tax. By 2048, half of American estates are projected to have sufficient wealth to trigger the tax.<sup>ii</sup>

Unfortunately, the death tax doesn't stop there. In addition to the Federal Estate Tax – which already confiscates up to a third of the net worth of a family business or farm – **22 states and the District of Columbia impose a separate state estate or inheritance tax (two states impose both).**<sup>1</sup> State estate taxes are a particularly pressing concern in past years due to the elimination of the state estate tax credit. The Economic Growth Tax Relief and Reconciliation Act of 2001 gradually eliminated the former federal credit for state estate taxes and replaced it with a deduction. Whereas the credit provided a dollar-for-dollar reduction in the Federal Estate Tax, up to a limit of 16%, the deduction simply reduces the total amount of income subject to the Federal Estate Tax. The credit effectively subsidized states without adding to the tax burden. The deduction requires that states impose their own estate tax in order to capture the revenue. H.R. 4853 continues the deduction system through 2012.

These additional taxes dramatically increase the tax liabilities of heirs and estates upon the death of an estate owner. The statutory rates of taxation range from 0.8% to 20%, with exemptions ranging from \$100 to \$5 million.

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<sup>1</sup> There is a specific difference between state inheritance taxes and state estate taxes: inheritance taxes are levied based upon the value of specific property bequeathed to heirs, whereas estate taxes are levied based on the value of the entire estate.

This report aims to give a comprehensive and accurate review of the status of all state death taxes and the total, possible tax liability for a family, business, or individual heir in each state. The following table shows the statutory rates for each state levying death taxes, as well as the potential top statutory effective rate that decedents would be required to pay when the Federal Estate Tax obligations are combined with state death tax obligations.

**Table 1: Overview of State Death Taxation Data**

State	Type of Tax	Exemption	Death Tax Rate (Min. to Max)	State + Federal Tax Top Statutory Effective Rate*
Connecticut	Estate Tax	\$2,000,000.00	7.2% - 12%	42.8%
Delaware	Estate Tax	\$5,000,000.00	0.8% - 16%	45.4%
District of Columbia	Estate Tax	\$1,000,000.00	0.8% - 16%	45.4%
Hawaii	Estate Tax	\$3,600,000.00	0.8% - 16%	45.4%
Illinois	Estate Tax	\$2,000,000.00	0.8% - 16%	45.4%
Indiana	Inheritance**			
	Spouse and Charity	100% Exempt	0%	35%
	Class A Beneficiaries	\$100,000.00	1% - 10%	41.5%
	Class B Beneficiaries	\$500.00	7% - 15%	44.75%
	Class C Beneficiaries	\$100.00	10% - 20%	48%
Iowa	Inheritance**			
	Schedule A Beneficiaries	100% Exempt	0%	35%
	Schedule B Beneficiaries	No Exemption	5% - 10%	41.5%
	Schedule C Beneficiaries	No Exemption	10% - 15%	44.75%
Kentucky	Inheritance**			
	Class A Beneficiaries (Lineal Descendents)	100% Exempt	0%	35%
	Class B Beneficiaries	\$1,000.00	4% - 16%	45.4%
	Class C Beneficiaries	\$500.00	6% - 16%	45.4%
Maine	Estate Tax	\$1,000,000.00	0.8% - 16%	45.4%
<b>**Exemption Doubles to \$2,000,000, Jan. 1, 2013 (Legislation passed in FY 2012 Budget, May 25, 2011)**</b>				
Maryland	Estate Tax	\$1,000,000.00	0.8% - 16%	45.4%
	Inheritance Tax**			
	Lineal Heirs	100% Exempt	0%	45.4%
	Everyone Else	No Exemption	10%	45.4%
Massachusetts	Estate Tax	\$1,000,000.00	0.8% - 16%	45.4%
Minnesota	Estate Tax	\$1,000,000.00	0.8% - 16%	45.4%
Nebraska	County Inheritance Tax**			
	Immediate Relative	\$40,000.00	1%	35.65%
	Remote Relative	\$15,000.00	13%	43.45%

	Other Transfers	\$10,000.00	18%	46.74%
<b>New Jersey</b>	<b>Estate Tax</b>	\$675,000.00	0.8% - 16%	45.4%
	<b>Inheritance Tax**</b>	\$1,000,000		
	Class A Beneficiaries	100% Exempt	0%	45.4%
	Class C Beneficiaries	\$25,000.00	16%	45.4%
	Class D Beneficiaries	\$500.00	16%	45.4%
<b>New York</b>	<b>Estate Tax</b>	\$1,000,000.00	0.8% - 16%	45.4%
<b>North Carolina</b>	<b>Estate Tax</b>	\$5,000,000.00	0.8% - 16%	45.4%
<b>Ohio</b>	<b>Estate Tax</b>	\$338,333.00	\$338,333 - \$500,000:6%	38.9%
			Over \$500,000:7%	39.55%
<b>**Ohio Estate Tax Repealed, Effective Jan. 1, 2013 (Legislation passed in FY 2012-2013 Budget, June 30, 2011)**</b>				
<b>Oregon</b>	<b>Estate Tax</b>	\$1,000,000.00	0.8% - 16%	45.4%
<b>Pennsylvania</b>	<b>Inheritance**</b>	\$3,500 Family Exemption	Lineal Heirs: 5%	38.25%
		No Exemption	Siblings: 12%	42.8%
		No Exemption	Other: 15%	44.75%
<b>Rhode Island</b>	<b>Estate Tax</b>	\$859,350.00	0.8% - 16%	45.4%
<b>Tennessee†</b>	<b>Inheritance**</b>	Tennessee Inheritance Tax is limited to bequests from decedents with net taxable estates in excess of \$1,000,000		
		Less than \$40,000	5.50% of the net taxable estate	38.58%
		\$40,000 to \$240,000	\$2,200, + 6.5% of the excess over \$40,000	39.225%
		\$240,000 to \$440,000	\$15,200 + 7.5% of the excess over \$240,000	39.875%
		Over \$440,000	\$30,200 + 9.5% of the excess over \$440,000	41.18%
<b>Vermont</b>	<b>Estate Tax</b>	\$2,750,000.00	0.8% - 16%	45.4%
<b>Washington</b>	<b>Estate Tax</b>	\$2,000,000.00	10% - 19%	47.35%

**Note:** The distinction made between different classes of beneficiaries in states that levy inheritance taxes refers to different types of relatives. Generally speaking, Class A beneficiaries are spouses, children, and often siblings. Class B beneficiaries are non-immediate family members, i.e. aunts, uncles, cousins, etc. Class C beneficiaries are generally non-family member beneficiaries, friends, etc.

\*The top effective rates in each state are highly fluid; they are affected by several factors including, but not limited to: the state specific exemption rate, the size of the estate, and estate planning. The rates listed were calculated based on the top statutory rate for each state. The

Internal Revenue Service allows taxpayers to list state estate taxes paid as a deductible on their Federal Estate Tax return.

\*\* State inheritance taxes are levied based on the amount bequeathed to an individual heir and could be levied simultaneously with the Federal Estate Tax. The Internal Revenue service allows taxpayers to list inheritance taxes paid as a deductible on their federal income tax returns. For the purpose of this study, we assume that the entire estate is passed to a single heir.

† TN inheritance taxes are limited by the total size of the estate, as well as the size of the gift.

**The tax liability is calculated using the following formulae:**

1. State estate tax liability = estate value\*top state rate
2. Federal tax liability = (estate value – state estate tax liability)\*maximum federal rate
3. Inheritance tax liability = (estate value – state estate tax liability – federal estate tax liability)\*top inheritance tax rate
4. Top effective rate = (federal tax liability + state estate tax liability + inheritance tax liability)/estate value

## Overview of State Inheritance Taxes

An inheritance tax is a tax on the value of assets inherited by a specific heir. This differs slightly from an estate tax in that an estate tax is a tax on an entire estate prior to the division of assets among heirs. Eight states have separate inheritance taxes: Indiana, Iowa, Kentucky, Maryland, Nebraska, New Jersey, Pennsylvania, and Tennessee.

### Indiana

Indiana divides heirs into classes A, B, and C and taxes each class at a different progressive rate. Class A beneficiaries have a \$100,000 exemption and include all lineal descendants and ancestors. Class B heirs have a \$500 exemption and include siblings and spouses, partners, widows, and widowers of Class A beneficiaries. Class C beneficiaries have a \$100 exemption and consist of all other heirs.<sup>iii</sup> Separate Qualified Terminal Interest Property (QTIP) elections are permitted.<sup>2</sup> The Indiana Inheritance Tax rates and brackets are detailed in Table 2.

**Table 2: Indiana Inheritance Tax**

Beneficiary Class	Tax Rate	Tax Bracket (Net Taxable Estate Value)
<b>Class A</b>	1%	Less than \$25,000
	\$250 + 2%	\$25,000 - \$50,000
	\$750 + 3%	\$50,000 - \$200,000
	\$5,250 + 4%	\$200,000 - \$300,000
	\$9,250 + 5%	\$300,000 - \$500,000
	\$19,250 + 6%	\$500,000 - \$700,000
	\$31,250 + 7%	\$700,000 - \$1,000,000
	\$52,250 + 8%	\$1,000,000 - \$1,500,000
	\$92,250 + 10%	\$1,500,000
<b>Class B</b>	7%	Less than \$100,000
	\$7,000 + 10%	\$100,000 - \$500,000
	\$47,000 + 12%	\$500,000 - \$1,000,000

<sup>2</sup> See page 9 for a detailed explanation of a “Qualified Terminal Interest Property” trust.

	\$107,000 + 15%	\$1,000,000
<b>Class C</b>	10%	Less than \$100,000
	\$10,000 + 15%	\$100,000 - \$1,000,000
	\$14,500 + 20%	\$1,000,000

## Iowa

Iowa heirs are divided into sections A through G, and each section has its own progressive tax rates. Schedule A heirs are lineal ancestors and descendants of the decedent. Section A heirs are exempt from the tax. Schedule B consists of sons- and-daughters-in-law, brothers, and sisters. All other individual heirs fall under Section C status. Schedule D includes all for-profit corporations. Schedule E is made up of all charitable organizations created under the laws of a foreign country. Schedule F is defined as “unknown heirs, as distinguished from beneficiaries who are not presently ascertainable, due to contingent events.” Schedule G is made up of tax-exempt organizations.<sup>iv</sup> The tax rates and brackets for each of the Iowa Inheritance Tax sections are detailed in Table 3.

**Table 3: Iowa Inheritance Tax**

Beneficiary Schedule	Tax Rate	Tax Bracket
<b>Schedule A</b>	Exempt	Not Applicable
<b>Schedule B</b>	5%	Below \$12,500
	6%	\$12,500 - \$25,000
	7%	\$25,000 - \$75,000
	8%	\$75,000 - \$100,000
	9%	\$100,000 - \$150,000
	10%	\$150,000
<b>Schedule C</b>	10%	\$50,000
	12%	\$50,000 - \$100,000
	15%	\$100,000
<b>Schedule D</b>	15%	Total Amount
<b>Schedule E</b>	10%	Total Amount
<b>Schedule F</b>	5%	Total Amount
<b>Schedule G</b>	Exempt	Not Applicable

## Kentucky

Kentucky also uses a beneficiary class system. Class A heirs are lineal descendants within two generations, stepchildren, stepparents, surviving spouses, and charitable

organizations. Class B heirs include nieces, nephews, sons- and-daughters- in-law, and great-grandchildren. Class C includes all other individuals and businesses.<sup>v</sup> Table 4 shows the Kentucky Inheritance Tax rates and brackets in detail.

**Table 4: Kentucky Inheritance Tax**

Beneficiary Class	Tax Rate	Tax Bracket
<b>Class A</b>	0%	0
<b>Class B</b>	4%	\$1,000 - 10,000
	5%	\$10,000 - \$20,000
	6%	\$20,000 - \$30,000
	8%	\$30,000 - \$45,000
	10%	\$45,000 - \$50,000
	10%	\$50,000 - \$60,000
	14%	\$100,000 - \$200,000
	16%	\$200,000 - \$500,000
	16%	\$500,000 and above
<b>Class C</b>	6%	\$500 - \$1,000
	6%	\$1,000 - \$10,000
	8%	\$10,000 - \$20,000
	12%	\$20,000 - \$30,000
	14%	\$30,000 - \$45,000
	14%	\$45,000 - \$50,000
	16%	\$50,000 - \$60,000
	16%	\$100,000 - \$200,000
	16%	\$200,000 - \$500,000
	16%	\$500,000 and above

## Maryland

Maryland exempts all lineal heirs, which includes spouses of lineal children, parents, grandparents, stepchildren, stepparents, siblings, as well as corporations owned entirely by exempt heirs. All other heirs are taxed at a 10% rate on all inherited assets.<sup>vi</sup>

## Nebraska

The Nebraska inheritance tax is unlike that of any other state. This state's inheritance taxes are administered at the county level. Beneficiaries are bracketed based on their

relationship to the decedent. Immediate relatives are all lineal descendants, ancestors, siblings, surviving spouses, and those whom the state recognizes as the parent of the decedent for at least 10 years prior to death. Remote relatives include nieces, nephews, uncles, aunts or the surviving spouses of such relatives. All other property transfers are filed as other transfers and taxed accordingly.<sup>vii</sup> Table 5 details the Nebraska inheritance tax rates and exemptions.

**Table 5: Nebraska Inheritance Tax**

Transfer Type	Tax Rate	Exemption
Immediate Relative	1%	\$40,000
Remote Relative	13%	\$15,000
Other Transfers	18%	\$10,000

### **New Jersey**

New Jersey taxes beneficiaries using a beneficiary class system. Beneficiaries are divided into classes A, C, and D. Class B no longer exists. Class A beneficiaries are exempt from the inheritance tax. Class A consists of all lineal descendants including parents, grandparents, spouses, civil union partners, and domestic partners. Class C beneficiaries have a \$25,000 exemption and beyond that are taxed at a top rate of 16%. Class C heirs consist of siblings and spouses, widows, and widowers of class A beneficiaries. Class D beneficiaries consist of all other beneficiaries and are also taxed at a top rate of 16% percent on everything above a \$500 inheritance.<sup>viii</sup>

### **Pennsylvania**

The Pennsylvania Inheritance Tax divides heirs into six categories: surviving spouse, minor child, charitable organization, lineal descendants, siblings, and collateral groups. The first three categories – surviving spouses, minor children, and recognized charities -- are exempt from the Pennsylvania Inheritance Tax.<sup>ix</sup> Table 6 details the tax rate of the other three tax groups.

**Table 6: Pennsylvania Inheritance Tax**

Beneficiary type	Tax Rate	Exemption
<b>Lineal descendants</b>	5%	\$3,500 family exemption
<b>Siblings</b>	12%	None
<b>Collateral Groups</b>	15%	None

**Tennessee**

Since 2006, the Tennessee Department of Revenue has levied the tax on bequeathed property from a decedent whose net taxable estate exceeds an exemption of \$1 million.<sup>x</sup>

Tennessee's inheritance tax rates are outlined in the Table 7:

**Table 7: Tennessee Inheritance Tax**

Bequeathed Property Value from Estates Above \$1 million	Tax Rate
Not over \$40,000	5.5%
\$40,000 to \$240,000	\$2,200, plus 6.5% of the excess over \$40,000
\$240,000 to \$440,000	\$15,200, plus 7.5% of the excess over \$240,000
Over \$440,000	\$30,200, plus 9.5% of the excess over \$440,000

## Estate Taxes

An estate tax, unlike an inheritance tax, taxes the total value of all taxable assets held within a single estate upon the death of the owner, prior to the transfer of wealth. Currently, 16 states and the District of Columbia levy a state estate tax. The states are listed below:

**Table 8: States Levying a State Estate Tax**

Connecticut	New Jersey
Delaware	New York
District of Columbia	North Carolina
Hawaii	Ohio
Illinois	Oregon
Maine	Rhode Island
Maryland	Vermont
Massachusetts	Washington
Minnesota	

### The Effect of EGTRRA on States

Prior to Congress' passage of the Economic Growth and Tax Relief Reconciliation Act of 2001, "EGTRRA," the federal government allowed a credit for state estate taxes paid.

Before EGTRRA, all 50 states and the District of Columbia imposed an estate tax equal to the federal credit for state estate taxes paid, commonly referred to as the "sponge" or "pick-up" tax. This effectively gave the states a part of the estate tax that would otherwise be payable to the federal government.

EGTRRA phased out the credit for state estate taxes paid at the end of 2004. In 2005, the credit for estate taxes paid was replaced by a deduction for state estate taxes paid. Since state revenue was tied to the federal credit for estate taxes, the reduction in the allowable credit translated into a loss in state revenue.

The original credit was based on the following schedule.<sup>xi</sup>

**Table 9: Credit for State Death Taxes as of December 31, 2000**

State Death Tax Credit Table			
Adjusted Taxable Estate			
(1) Adjusted taxable estate equal to or more than ---	(2) Adjusted taxable estate less than ---	(3) Credit on amount in Column (1)	(4) Rate of credit on excess over amount in Column (1)t
0	40,000	0	0.00%
40,000	90,000	0	0.80%
90,000	140,000	400	1.60%
140,000	240,000	1,200	2.40%
240,000	440,000	3,600	3.20%
440,000	640,000	10,000	4.00%
640,000	840,000	18,000	4.80%
840,000	1,040,000	27,600	5.60%
1,040,000	1,540,000	38,800	6.40%
1,540,000	2,040,000	70,800	7.20%
2,040,000	2,540,000	106,800	8.00%
2,540,000	3,040,000	146,800	8.80%
3,040,000	3,540,000	190,800	9.60%
3,540,000	4,040,000	238,800	10.40%
4,040,000	5,040,000	290,800	11.20%
5,040,000	6,040,000	402,800	12.00%
6,040,000	7,040,000	522,800	12.80%
7,040,000	8,040,000	650,800	13.60%
8,040,000	9,040,000	786,800	14.40%
9,040,000	10,040,000	930,800	15.20%
10,040,000	and up	1,082,800	16.00%

### **Retainment, Reinstatement, and DeCoupling**

Since the phase-out of the federal estate tax credit in 2005, 16 states and the District of Columbia have retained or reinstated their estate taxes. Of these, 14 have decoupled their state estate taxes from the Federal Estate Tax by fixing the tax rates to pre-EGTRRA levels.

Thirteen states and the District of Columbia follow the same fixed rate schedule and state XXX follows its own schedule. Table 9 shows the pre-EGTRRA rate levels to which these 14 states and the District of Columbia still adhere. The states include: DE, DC, HI, IL, ME, MD, MA, MN, NJ, NY, NC, OR, RI, and VT.

## **Qualified Terminable Interest Property (QTIP) Trust**

A **Qualified Terminable Interest Property, or QTIP**, is a type of trust that enables the grantor to provide for a surviving spouse and also to maintain control of how the trust's assets are distributed once the surviving spouse passes. Income, and sometimes principal, generated from the trust is given to the surviving spouse to ensure that he or she is taken care of for the rest of his or her life.<sup>xii</sup> The property in the trust is qualified to take advantage of marital deductions, which means that the value of the property in the trust is not subject to state and federal estate taxes when the first spouse dies.

Generally QTIP trust assets are subject to estate taxes when the surviving spouse dies.<sup>xiii</sup> Some states, however, allow a separate QTIP election, whereby a spouse may elect to place assets into another trust, the beneficiaries of which the spouse clearly delineates. The states that permit a separate QTIP election are indicated in the individual state descriptions.

## **Individual State Estate Tax Data**

### **Connecticut**

In May, 2011, Connecticut's state estate tax burden increased as a result of lowering the exemption from \$3.5 million to \$2 million. This legislation was passed as a provision in the state budget. According to McGuire Woods LLP, the Connecticut estate tax rates were reduced to a spread of 7.2% to 12%, and went into effect for decedents dying on or after January 1, 2010.<sup>xiv</sup> No separate QTIP election is permitted.

## **Delaware**

Delaware tax law indicates that the tax is tied to a federal state death tax credit in effect on January 1, 2001, meaning that the tax rate adheres to the guidelines of Table 9.<sup>xv</sup> The filing threshold is \$5 million.<sup>xvi</sup> No separate QTIP election is permitted.

## **District of Columbia**

The District of Columbia maintains a \$1 million filing threshold for the “state” estate tax. Taxpayers are required to file estate tax returns if they are a resident with an estate valued over \$1 million, or if they are a non-resident owning real property within the District of Columbia.<sup>xvii</sup> The District of Columbia estate tax has been frozen at the rate schedule highlighted in Table 9. No separate QTIP election is permitted.

## **Hawaii**

From January of 2005, with the phase out of the “sponge” tax, until April of 2010, Hawaii had no estate taxes. Unfortunately, on April 30, 2010, Hawaii’s legislature reimposed the tax.<sup>xviii</sup> According to Hawaiian estate attorneys, the bill is poorly written. While it indicates that there is a \$3.5 million exemption, the tax actually kicks in on estates valued at over \$3.6 million. Hawaii’s estate tax rate is progressive, ranging from 0.8% to 16%, again, mirroring Table 9. No separate QTIP election is permitted.

## **Illinois**

On January 13, 2011, Illinois Governor Pat Quinn signed Public Act 096-1496, The Taxpayer Accountability and Budget Stabilization Act. This legislation increased Illinois’ individual and corporate income tax rates, and reinstated Illinois’ estate tax as of January 1, 2011 on estates over \$2 million.<sup>xix</sup> The tax rate is reflected in Table 9. A separate QTIP election is permitted.

## Maine

On May 25, 2011, Governor Paul LePage signed legislation (FY 2012 budget) to double the state estate tax from \$1 million to \$2 million, effective January 1, 2013. Until then, for decedents dying after December 31, 2002, the Maine estate tax is frozen at the pre-EGTRRA federal state death tax credit rates (shown in Table 9) and imposed on estates exceeding a threshold of \$1 million.<sup>xx</sup>

A separate QTIP election is permitted, as spelled out in a 2010 “Tax Alert” issued by Maine Revenue Services. This limits the amount of the state QTIP to \$2.5 million (the difference between Maine’s \$1 million exemption and the federal government’s \$3.5 million exemption. Maine has yet to clarify the allowable QTIP election amount for the 2011 tax year. There may be a new limit, but as of now, the limit stands at \$2.5 million.

## Maryland

Maryland is one of the two states that levies *both* an inheritance tax and an estate tax. (The other state is New Jersey.) This tax is calculated using the maximum allowable credit for state death taxes under §2011 of the Internal Revenue Code, as computed for Maryland purposes, less any inheritance tax paid. Since January 1, 2004, the threshold for the Maryland estate tax has been capped at \$1 million, while the progressive tax rate is capped at 16%.<sup>xxi</sup> The rate schedule is shown in Table 9. A separate QTIP election is permitted.

## Massachusetts

For decedents dying on or after January 1, 2003, the Massachusetts estate tax is frozen at the federal state death tax credit rate in effect since December 31, 2000.<sup>xxii</sup> (The rate is reflected in Table 9.) The exemption is capped at \$1 million.<sup>xxiii</sup> A separate QTIP election is permitted.

## Minnesota

Minnesota's state estate tax also is frozen at the federal state death tax credit as shown in Table 9. Its estate tax filing threshold is \$1 million.<sup>xxiv</sup> No separate QTIP election is permitted.

## New Jersey

Like Maryland, the state of New Jersey imposes *both* inheritance and estate taxes. The estate tax is levied at a rate of 0.8% to 16%.<sup>xxv</sup> This rate progression is shown in Table 9. The inheritance tax is a credit against the estate tax, such that the total transfer tax liability in New Jersey is limited to 16% of an estate.

New Jersey has one of the highest estate tax liabilities in the United States, with an exemption of \$675,000<sup>xxvi</sup>. A QTIP election for New Jersey estate tax purposes is only allowed to the extent permitted to reduce federal estate taxes.<sup>xxvii</sup>

## New York

The New York state estate tax rate is frozen at the federal state death tax credit rate in effect since July 22, 1998. Thus, New York's laws do not conform to the changes that were enacted by Congress' passage of EGTRRA. The minimum estate value threshold to trigger the tax is \$1 million. The rate of taxation is progressive and maxes out at 16%.<sup>xxviii</sup> New York estate tax rates are reflected in Table 9. According to McGuire Woods, "On March 16, 2010, the New York Office of Tax Policy Analysis, Taxpayer Guidance Division issued a notice permitting a separate state QTIP election when no federal estate tax return is required to be filed, such as in 2010 when there is no estate tax or when the value of the gross estate is too low to require the filing of a federal return."<sup>xxix</sup>

## North Carolina

The North Carolina state estate tax carries the highest filing threshold/exemption of any other state. The filing threshold for the tax is \$5,000,000. It mirrors the current Federal Estate

Tax laws. The rate is tied to the federal state death tax credit put into effect on December 31, 2001 (outlined in Table 9).<sup>xxx</sup> No separate state QTIP election is permitted.

## Ohio

On June 30, 2011, Governor John Kasich signed into law the states FY 2012-2013 budget, which permanently repeals the state estate tax, effective January 1, 2013.

Until then, the State of Ohio boasts two things with regard to its estate taxation: the lowest filing threshold and the lowest top rate of taxation of all the states that levy separate estate taxes. The state estate tax exemption is \$338,333, with a top tax rate of 7%. The structure is simple: from \$338,333 to \$500,000 the tax is 6%. Above \$500,000, the tax rate is 7%. Ohio permits a separate QTIP election for its state tax.<sup>xxxi</sup>

## Oregon

The state of Oregon refers to its estate tax as a state “inheritance tax.”<sup>xxxii</sup> In reality, however, the tax actually operates as an estate tax since it is based on the total value of the decedent's estate, as opposed to the amount an heir receives.

On June 28, 2011, Oregon’s Governor signed into law HR 2541, which alters the application of the state estate tax, effective 91 days after the 2011 regular session of the state legislatures adjourns.<sup>xxxiii</sup> Most notably, the bill eliminates the former “cliff”, which caused estates in excess of \$1 million but below \$1.1 million to owe a disproportionately high tax.

Oregon's current estate tax is determined under the Internal Revenue Code in effect as of December 31, 2000. This means that the tax is tied to the federal state estate tax credit, and a return must be filed if the decedent’s gross estate plus adjusted taxable gifts exceed \$1 million. (The rate is shown in Table 9.) In Oregon, a federal tax return must be filed and attached to the state estate tax return, even if the taxpayer is not required to file a federal return. Oregon permits a separate QTIP election for state purposes. Oregon also permits a separate state marital election

for a trust of which the surviving spouse is the sole discretionary beneficiary. This is referred to as special marital property.<sup>xxxiv</sup>

### **Rhode Island**

Effective January 1, 2010, the Rhode Island estate tax exemption increased from \$675,000 to \$859,350.<sup>xxxv</sup> Any estate valued above that threshold is taxed on a progressive scale from 0.8% to 16%, as outlined in Table 9. Rhode Island recognizes a separate state QTIP election.

### **Vermont**

In 2010, Vermont increased the estate tax exemption threshold from \$2 million to \$2.75 million for decedents dying after January 1, 2011.<sup>xxxvi</sup> As of January 1, 2012, the exclusion is scheduled to equal the federal estate tax applicable exclusion, so long as the exclusion is not less than \$2 million and not more than \$3.5 million. Vermont does not permit a separate state QTIP election.<sup>xxxvii</sup> Vermont estates with values exceeding \$2.75 million are taxed at a progressive rate that tops out at 16%. The rate schedule is shown in Table 9.

### **Washington**

A 2005 decision by the Washington Supreme Court in *Hemphill v. State Department of Revenue*, declared the state's estate tax unconstitutional. But later that same year the Washington legislature voted to impose a new, separate estate tax for estates valued over \$1.5 million for 2005 and \$2 million thereafter at a rate of 10% to 19%. The state permits a separate QTIP election. The Washington Department of Revenue imposes the tax according to the following schedule<sup>xxxviii</sup>:

### **Table 10: Washington State Estate Tax**

If Washington taxable estate is at least	But less than	The amount of tax equals initial tax amount	Plus tax rate %	of Washington taxable estate value greater than
\$0	\$1,000,000	\$0	10%	\$0
\$1,000,000	\$2,000,000	\$100,000	14%	\$1,000,000
\$2,000,000	\$3,000,000	\$240,000	15%	\$2,000,000
\$3,000,000	\$4,000,000	\$390,000	16%	\$3,000,000
\$4,000,000	\$6,000,000	\$550,000	17%	\$4,000,000
\$6,000,000	\$7,000,000	\$890,000	18%	\$6,000,000
\$7,000,000	\$9,000,000	\$1,070,000	18%	\$7,000,000
\$9,000,000		\$1,440,000	19%	\$9,000,000

## Conclusion

The recent return of the Federal Estate Tax, coupled with state death taxes of various types in 22 states and the District of Columbia creates significant obstacles for family and small businesses and farms.

A Connecticut Department of Revenue study found that states without estate taxes produced twice as many new jobs and their economies grew nearly 50 percent more from 2004 to 2007 than states with such taxes. And in Rhode Island, the Ocean State Policy Research Institute has shown that high death tax burdens are “the most significant driver of out-migration...especially considering that the number one destination state for former Rhode Island residents is Florida, a state with no estate tax.”<sup>xxxix</sup> Furthermore, estate and inheritance tax law is increasingly complex and constantly changing. States regularly modify their death tax statutes, raising and lowering exemptions and adjusting rates. State revenue departments are forced to keep up with changing legislation, and as a result, information is often outdated, leaving revenue department staff unfamiliar with new laws and procedures and unable to assist taxpayers. Taxpayers whose estates meet the applicable filing threshold are likely to hire estate planning attorneys to sort through the confusion of estate planning and end up paying nearly as much in

preparing for the tax as they do in paying the tax itself.<sup>xl</sup>

State estate and inheritance taxes, like the Federal Estate Tax, are a burden on American families and businesses. These taxes need to be recognized as the job and opportunity killers they are; Congress and the respective states should quickly pass legislation to repeal the death tax once and for all.

## Endnotes

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<sup>iv</sup> Iowa Department of Revenue “An Introduction to Iowa Inheritance Tax,” <http://www.iowa.gov/tax/educate/78517.html>.

<sup>v</sup> Kentucky Department of Revenue “Inheritance and Estate Taxes,” <http://revenue.ky.gov/individual/inherittax.htm>.

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