MT199104 HR 10/2002

The Federal Estate Tax

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This publication analyzes how federal tax laws affect individual estates, including changes resulting from the Economic Growth and Tax Relief Reconciliation Act of 2001. In many cases, the federal estate tax can be reduced significantly by careful planning during life.

The federal estate tax is a liability against the estate of a deceased person for the privilege of transferring property. The amount of the estate tax depends upon the value of the assets the decedent (the person who died) held at death, how the assets are held, and deductions and credits available. In many cases, the potential estate tax can be reduced significantly by careful planning during life.

This MontGuide presents a general explanation of the federal estate tax provisions resulting from the *Economic Growth and Tax Relief Reconciliation Act of 2001*. One significant development is that the repeal of the federal estate tax was postponed until Jan. 1, 2010. Another change is a reduction in the highest tax rate from 50% to 45%. Also, there is an increase in the value of property that may be transferred free of the federal estate tax during the years 2002-2009 (see Table 1, p. 6). In 2002 and 2003, the exclusion is $1 million.

The Gross Estate

Calculation of the federal estate tax begins with the determination of a deceased person's *gross estate*. The gross estate includes: the fair market value of all real and personal property owned at death, transfers with retained life estate, transfers taking effect at death, revocable transfers, annuities, joint interests, powers of appointment, proceeds of life insurance, certain transfers occurring within three years of death, and future payments that were owed to the decedent at the time of death. An explanation of each follows.

Real and personal property owned by the deceased person

Property owned by the decedent includes real estate, stocks, bonds, checking and savings accounts, and promissory notes or other evidences of indebtedness held by the decedent. Also included in the gross estate are miscellaneous personal property (furniture, jewelry, personal effects), collections (works of art, coins, stamps, guns), and the decedent's business interests in a partnership or family corporation.

Transfers with retained life estate

The value of the gross estate includes property transferred during life by the decedent if he or she retained possession, enjoyment of, or reserved certain rights or interests in the property. However, if the transfer was made for full consideration in money or money's worth at the time of the transfer, the value will not be included in the decedent's gross estate.

Interests that an individual could reserve for life include the use, possession, or other enjoyment of the transferred property; the right to receive income; or the right to designate persons who may receive income from the transferred property. This provision will bring back into the gross estate, for federal estate tax computation purposes, the full date-of-death value of closely held corporation stock if a decedent transferred the stock but retained stock voting rights.

This provision will also bring back into the gross estate, for federal estate tax computation purposes, the value of property a decedent transferred but retained the right to income or retained the right to live on the property. This is true even though the property is validly transferred according to Montana law.

Example A: Jack deeded his ranch to his son and daughter-in-law. However, Jack continued to live on the ranch, made management decisions, and received income from the operation. In this case, the Internal Revenue Service concluded that he had retained a life interest in the property. The value of the ranch at the time of Jack's death was included as a part of his gross estate.

Transfers taking effect at death

If a transfer was not made for a full consideration in money or money's worth, the gross estate includes the value of property interests transferred at death if all of the following conditions exist:

1. Only by surviving the decedent could the beneficiaries obtain possession or enjoyment of the property transferred.
2. A right to have the property to oneself (reversionary interest) was retained by the decedent.
3. The value of the reversionary interest immediately before the decedent's death exceeded 5% of the value of the entire property.

Example B: John transferred property to a trust with the income payable to his wife for life and the remainder payable to himself or, if he is not living at his wife's death, to their child or the child's estate. John held a reversionary interest by the terms of the trust. He had expressly retained the right to have the property returned to him in the event he survived his wife, a right he possessed up to the moment of death. If the value of the reversionary interest was greater than 5% of the trust value, the value of the trust will be included in John's gross estate.

The value of the reversionary interest is based on actuarial tables. In other words, calculating the value of the reversion depends on the likelihood that the person establishing the trust will survive his or her beneficiaries.

Revocable transfers

The gross estate includes the value of property interests transferred by a decedent (*unless the transfer was made for full consideration in money or money's worth*) if the enjoyment of the property transferred was subject, on the date of death, to any power of the decedent to alter, amend, revoke or terminate the transfer.

An example of a revocable transfer is a revocable living trust. While one purpose of revocable living trusts is to reduce or eliminate probate costs, the assets in a revocable living trust are still included in the gross estate and subject to federal estate taxes. The power to change beneficiaries and/or increase any beneficiary's enjoyment of the property are other examples of revocable transfers.

Annuities

The gross estate includes the value of an annuity or other payment that a beneficiary is due to receive because he or she survives the decedent. A single life annuity contract that provides periodic payments to a person for life and ceases at the person's death is not included in the gross estate for federal estate tax computation purposes.

Joint tenancy interests

If property is held by a husband and wife as joint tenants with rights of survivorship, then the estate of the first spouse to die includes one-half of the value of property regardless of which spouse paid for purchase of the property. This rule applies as long as the decedent and the surviving spouse are the only joint tenants on the property title.

Example C: A husband purchased a farm for $200,000 with his own funds and titled it in joint tenancy with right of survivorship with his wife. When the husband died, the farm had increased in value to $1.4 million. Because the farm was in joint tenancy between husband and wife, one-half the value of the farm ($700,000) was included in the husband's gross estate for determining the federal estate tax liability.

If the property was owned at the time of the decedent's death by the decedent as joint tenant with right of survivorship with another person or persons (*other than the decedent's spouse)*, then the gross estate includes the full value.

Example D: A father placed his ranch valued at $2.5 million in joint tenancy with right of survivorship with his son. Upon the father's death, the son could not prove he contributed funds to the purchase price. As a result, the entire value of the ranch ($2.5 million) was included in the father's gross estate for determining the federal estate tax liability.

An exception is allowed, however, if the personal representative of the estate (the person who carries out your plan for the settlement of your estate; formerly called "executor" or "administrator") can prove the surviving joint owner provided part or all of the money when the property was acquired or when the mortgage was paid off.

Example E: A father and his son bought a farm for $100,000. Each provided half the funds for the purchase. When the father died, the farm was valued at $3 million. The amount included in the father's gross estate for federal estate tax purposes was half of the value ($1.5 million) because he had contributed half of the original purchase price.

The burden of proof is on the decedent's estate to prove the amount and source of contribution on the part of the surviving joint owner or owners unless the decedent and surviving joint owner is a spouse. Records are needed to document when the property was acquired, what consideration was furnished and by whom. In the absence of such records, the full value of the property will be subject to the federal estate tax.

Powers of appointment

The gross estate includes the value of property interests over which the decedent had a general power of appointment at death. A general power of appointment is the power to determine who will own or enjoy a property, presently or in the future. In essence, if the decedent retained the "right to direct" the property, the value will be included in the gross estate.

A general power of appointment is one under which the holder could appoint the property to himself, his creditors, his estate, or his estate's creditors. A general power of appointment also includes the unlimited power to consume, invade, or appropriate either income or principal, or both for the benefit of the decedent prior to his/her death.

Proceeds of life insurance

The face value of life insurance on the decedent is included in the gross

estate, if any one of the following conditions exists:

- The proceeds are receivable by the estate.
- The proceeds are receivable by another for the benefit of the estate.
- The decedent possessed incidents of ownership in the policy (such as the power to change beneficiaries, to revoke an assignment, to pledge the policy for a loan, or to surrender or cancel the policy).

Example F: A mother has a $500,000 life insurance policy. Because she makes the insurance premium payments, she is considered as owner of the policy. Her son is the beneficiary. When she dies, the $500,000 will be included in her gross estate, which also includes a ranch valued at $2 million. The federal estate tax on her estate of $2.5 million is $680,000.

Example G: A mother has a $500,000 life insurance policy and transferred ownership to her son. Now he makes the premium payments. Her son is the beneficiary. When she dies, the $500,000 is not included in her estate because she is not the owner. The federal estate tax is computed on the $2 million ranch. The federal estate tax is $435,000.

The mother's ownership of the life insurance policy cost her estate an additional $245,000 in taxes. ($680,000 - $435,000 = $245,000).

Insurance on the life of another, owned by the decedent at his or her death, is also included in the gross estate. The amount included is the replacement value of the policy, which can be obtained from the life insurance company.

Transactions within three years of death

Generally, the value of gifts (other than gifts of life insurance) made by a decedent is not included in the gross estate. However, interests in property otherwise included in the gross estate under the so-called "strings attached" provisions (or which would have been included had the interest been retained by the decedent) are included in the gross estate if transferred within three years of death.

In addition, any gift tax paid by the decedent or his or her spouse within three years of death will be included in the gross estate for federal estate tax computation purposes.

Valuation of Gross Estate

Generally, the value of the decedent's property interest for federal estate tax purposes is its *fair market value* at the date of death. The IRS defines the fair market value as the 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 all relevant facts.

The personal representative may elect an alternative valuation of the assets as of six months after the decedent's death. If the alternate valuation is elected, then *all* assets must be valued as of the alternate date, or as of the date of their distribution, sale, exchange, or other disposition, if any of those events occur before the alternate valuation date. The alternate valuation can be elected only if the valuation reduces the size of the gross estate and also reduces the amount of tax due.

Basis of property

All property (real estate, stocks, bonds) that a person owns has a *basis* for tax purposes. For example, a home purchased in 1977 for $47,000 has a basis of $47,000 even though its current value is $163,500.

Property received by a donee as a gift from a donor during life has a *carryover basis value*. This means that the value basis in the hands of the donee is the same as it was in the hands of the donor.

Example H: A father gifts land to his daughter that is currently worth $1 million. The father paid $100,000 for the land. The daughter assumes her father's $100,000 basis in the property. If she sells the property for $1 million, she is responsible for a capital gains tax on the difference between the basis ($100,000) and the fair market value ($1 million). Thus, the daughter would owe a federal capital gains tax of $162,000 on the $900,000 profit (Assuming a tax rate of 18%).

Property that is received by a beneficiary from a decedent has a stepped-up basis. This means the value of the property is stepped up to the fair market value at the date of death of the owner.

Example I: If the father in Example H had died and willed the property to his daughter, she would have received a stepped-up basis on the property. This means the value in the property will be stepped-up from the father's $100,000 basis to $1 million. If the daughter sold the property for $1 million after her father's death, there would be no capital gains tax because she sold it at the stepped-up basis value.

Special use valuation on real property

If the personal representative has an agreement signed by those receiving an interest in real property to assume personal liability for recapture of taxes, he or she may elect to value qualified real property as a farm or as its use in the closely held business, rather than at its fair market value.

The *special use valuation* cannot reduce the decedent's gross estate by more than $800,000 in 2001 (indexed for inflation in subsequent years). For property to qualify for special use valuation, certain requirements must be met. The real property subject to special use valuation must comprise at least 25% of the gross estate and the property must pass to qualified heirs (a lineal descendant of the decedent's grandfather). Also, the real property, and other farm or business assets must comprise 50% of the gross estate.

Deduction for qualified family-owned businesses

During 2002 and 2003, there is a

limited estate tax deduction for qualified family-owned businesses. A personal representative may elect to deduct the value of certain qualified family-owned business interests if such interests comprise more than 50% of a decedent's adjusted gross estate and if several other requirements are met.

One requirement is that for five of the eight years before the property owner's death, the qualified family-owned business must have been owned by the decedent or a family member. Either the decedent or a family member must have materially participated in the business. Another requirement is that the interest must pass to a qualified family member or a key employee of the business. A qualified family member is the individual's spouse; lineal ancestors; lineal descendants of the individual, the individual's spouse and the individual's parents; and the spouses of the lineal descendants.

The deduction for family-owned business interests is $1.3 million, but the amount is limited by the *applicable exclusion amount* (see Credits Against the Estate Tax p. 5). For example, the value that may be deducted from the gross estate in 2002 and 2003 is $1.3 million. Of this amount, $1 million is considered as the applicable exclusion and the remaining $300,000 is the family-owned business deduction. The deduction is repealed for decedents dying after Dec. 31, 2003, because the applicable exclusion of $1.5 million in 2004 is higher than the family-owned business deduction of $1.3 million.

The deduction for a qualified family-owned business, as well as the special use valuation on real property, can result in a recapture of the tax if, during the 10-year period following the date of death, certain events occur, such as the sale of the property to a non-family member.

The Taxable Estate

The taxable estate is derived by subtracting the allowable expenses and deductions from the gross estate. *Allowable expenses* include such items as: administration and funeral expenses, claims against the estate, obligations, and casualty and theft losses. *Allowable deductions* include the marital deduction, charitable deduction and, if it applies, the qualified family-owned business deduction mentioned in the prior section. These items are explained in the following section.

Allowable expenses

Administration and funeral expenses. Deductible administration expenses include compensation to the personal representative who is responsible for settling the estate, fees to the attorney for handling legal aspects of the estate, and miscellaneous costs such as accountant's fees, court costs and expenses for selling estate property (if the sale is necessary to settle the estate). These deductions may be taken either on the estate tax return or the fiduciary income tax return, but not on both.

Funeral expenses are also deductible. Medical expenses for the decedent, if deducted only on the estate tax return and not on the decedent's income tax return, are fully deductible.

Claims against the estate. All debts of the decedent, such as property taxes accrued before death, unpaid income taxes on income received by the decedent during life, and unpaid gift taxes on gifts made by the decedent during life are deductible from the gross estate.

Obligations. Unpaid mortgages and other charges against property, including the interest accrued to the date of the decedent's death, are deductible if the value of the property is included in the gross estate without reduction for the mortgage or other indebtedness.

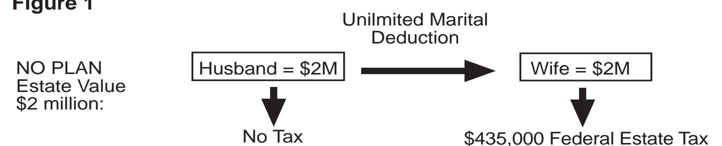
Casualty and theft loss. Deductions are allowed for losses incurred during the settlement of the estate that arise from theft or casualties, such as storms or fires. However, the deduction allowed is only to the extent that the losses are not compensated for by insurance and if they are not deducted on the estate's income tax return.

Allowable deductions

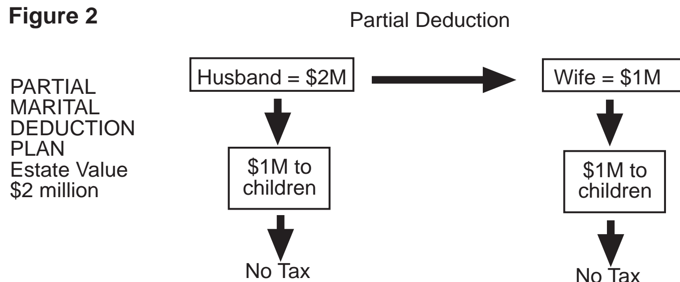
Marital deduction. Generally, unlimited amounts of property can be transferred at death to a spouse without a federal estate tax. However, fully utilizing the *unlimited marital deduction* at the death of the first spouse may result in higher taxes at the death of the second spouse. By taking advantage of the exclusion amount of the first deceased spouse, federal estate taxes can be minimized at the death of the second spouse.

Example J: Assume a husband has an estate valued at $2 million in 2002. If he leaves it all to his wife, there is no estate tax at his death, because the total amount qualifies for the unlimited marital deduction. However, if the wife dies in 2003, the federal estate tax will be $435,000 (Figure 1).

Figure 1



Example K: The couple could have developed an estate plan that utilizes a partial marital deduction. The father's will could have provided that $1 million (equal to his applicable exclusion) of his $2 million estate pass directly to his children and the balance of $1 million to his wife. At the wife's death, only the $1 million left to her is included in her taxable estate. All of it is sheltered by her own applicable exclusion of $1 million. The result is no federal estate tax at the death of either parent and a $435,000 tax savings for the children (Figure 2).



Example L: Assume the same facts as Example H, except that the husband has children from a prior marriage and that the ranch land has been in the family for several generations. While the husband wants to provide for his wife, he also wants to be sure his children ultimately inherit the land. His plan would be identical to the one in Example K, except the land valued at $1 million would not be left outright to his wife, but would instead be placed in a *qualified terminable interest property trust* (QTIP).

The terms of the QTIP trust require all income to be distributed to the wife for life, with the assets to pass to the husband's children at the death of the wife. With an appropriate election by the personal representative, the QTIP trust will qualify for the marital deduction at the death of the husband. While the property is subject to the federal estate tax at the death of the wife, there is no tax because the amount is equal to the wife's applicable exclusion of $1 million.

The husband will be assured that his assets will pass to his children from a prior marriage following the death of his present wife because of the terms of the QTIP trust.

Another alternative is for the father to create a family trust (also known as the by-pass or credit shelter trust) to hold the assets equal to Dad's applicable exclusion ($1 million in Example L above). The assets in the by-pass trust could pass directly to his children upon his death. Another alternative is that the assets could be held in a trust with the spouse receiving income from the trust assets.

The law is very, very complex in this area. Contact an attorney or a certified public accountant for a full discussion of the factors to be considered to maximize family objectives and minimize taxes.

Pre-June 2001 wills. All married couples with pre-June 2001 wills should have them reviewed by an attorney to determine if the martial deduction clause over-funds the credit shelter in a by-pass trust or family trust.

Example M: Assume that a father has a $1,050,000 estate and a will written before June 2001 that states that the family trust should be funded at his death to the maximum amount of the applicable exclusion. If he died in 2003, $1 million (the maximum applicable exclusion) would pass to the family trust and only $50,000 would pass to his wife. That is not the result the father wants. Instead he wants the family trust to hold $550,000 of the estate assets and $500,000 to pass to his wife. The father needs to contact his attorney to change the marital deduction clause in his will.

Charitable deduction. An unlimited deduction is allowed for the value of property in the decedent's gross estate that was transferred by will to or for the use of a "qualified" 501(c)(3) charitable, religious, educational or governmental organization.

Example N: In his will, a 4-H leader has bequested land valued at $2 million to the Montana 4-H Foundation. The amount would qualify as a charitable deduction because the Montana 4-H Foundation has a 501(c)(3) designation.

Federal Estate Tax Rates

Once the taxable estate is determined, the federal estate tax rate is applied. The rates for 2002 through 2011 are provided in Table 3 on page 7. The highest tax rates are reduced from 50% to 45% by 2007. The rate remains at 45% in 2008 and 2009. In 2010, the estate tax is repealed and in 2011, the highest tax rate returns to the old rate of 55% on estates of $3 million. This sunset provision repealing all of the 2001 changes at the end of 2010 was included to comply with the requirement of a Congressional Budget Act that changes do not increase the budget deficit for a fiscal year.

Credits Against the Estate Tax

The following credits are deducted from the tentative estate tax: the applicable credit (applicable exclusion), credit for state death taxes, credit for gift taxes on gifts made before 1977, and credit for tax on prior transfers.

Applicable credit. The *applicable credit* is a credit against the federal estate tax due. Starting in 2002 and continuing through 2009, the applicable credit amount increases from $345,800 to $1,455,800. In 2010, the estate tax is repealed. In 2011, the applicable credit returns to $345,800 (Table 1, p. 6).

The applicable credit is applied against the gift or estate taxes otherwise payable. The actual value of an estate that may pass or the monetary value that may be given in excess of the annual exclusion amount without a gift tax due in 2002 and 2003 is $1 million. In other words, during the years 2002-2003, the $345,800 applicable credit is equal to $1 million in assets that can be transferred without being taxed during life or after death.

Example O: Jack has an estate valued at $1,750,000 in 2003. The tax on $1,500,000 is $555,800 (Table 3, p. 7). The tax on the remaining $250,000 ($1,750,000 - $1,500,000 = $250,000) is computed at a 45% rate which is equal to $112,500. The tentative tax is $668,300 ($555,800 + $112,500 = $668,300). From the tentative tax, the applicable credit of $345,800 is subtracted (Table 1). The tax due is $322,500 ($668,300 tentative tax - $345,800 applicable credit = $322,500).

Applicable exclusion. The *applicable exclusion* translates the applicable credit into the dollar value that can be

transferred at death without a federal estate tax. Starting in 2002 and continuing through 2009, the applicable exclusion increases from $1 million to $3.5 million. In 2010, the federal estate tax is repealed. In 2011, the applicable exclusion returns to $1 million.

The applicable credits and applicable exclusions during the years 2002-2011 are listed in Table 1. A federal estate tax return is required only when a taxable estate is valued at more than the exclusion amount. A federal gift tax is payable only when a gift is valued at more than the applicable exclusion amount.

Credit for state death taxes. The federal estate tax may be further reduced if any estate or inheritance tax is actually paid to any state on any property included in the gross estate of the decedent. The maximum allowable credit is computed using the *adjusted taxable estate*, which is the taxable estate reduced by $60,000. The state death tax credit rate ranges from 0.8 percent to a maximum rate of 16 percent. The state death tax credit will be reduced from 25% to 100% as shown in Table 2. In 2005, the state death tax credit will be repealed and replaced with a deduction for any death taxes actually paid to a state on the estate.

Table 2: State Death Tax Credit Phase-Out

Year	Reduction
2002	25%
2003	50%
2004	75%
2005	100%

Credit for gift taxes. The gift tax payable gifts after 1976 is a part of the computation for determining the federal estate tax liability. No separate credit is allowed for taxes on these gifts. However, a credit still exists for federal gift tax paid by a decedent on taxable gifts made before 1977 if the property is included in the gross estate.

Credit for tax on prior transfers. Partial credit is allowed against the tax for federal estate taxes paid on the transfer of property to the present decedent from a decedent who died within ten years before, or within two years after, the present decedent's death.

Filing of estate tax return

If the gross estate of a decedent is more than the applicable exclusion amount ($1 million in 2002 - 2003), Form 706, United States Estate Tax Return, is due nine months after the date of death.

Extension of time to pay the tax

A reasonable extension of time (not to exceed six months) to file the estate tax return, or related statements or documents, may be granted if it is impossible or impractical to complete the return within the normal nine-month period beginning at the decedent's date of death. However, an extension of time to file the return is not an extension of time to pay the tax.

One-year extension. The personal representative may request an extension of time to pay the estate tax. A period not to exceed 12 months from the date fixed for the payment may be granted by the IRS when there is reasonable cause. However, interest accrues from the original due date.

Ten one-year extensions. In addition, the personal representative, when showing reasonable cause, may be

Table 1: Applicable Estate and Gift Tax Credits and Applicable Exclusions 2002- 2011*

	Federal Estate Tax		Federal Gift Tax	
Year of Death	Applicable Credit Amount	Applicable Exclusion Amount	Applicable Credit Amount	Applicable Exclusion Amount
2002	$345,800	$1,000,000	$345,800	$1,000,000
2003	$345,800	$1,000,000	$345,800	$1,000,000
2004	$555,800	$1,500,000	$345,800	$1,000,000
2005	$555,800	$1,500,000	$345,800	$1,000,000
2006	$780,000	$2,000,000	$345,800	$1,000,000
2007	$780,000	$2,000,000	$345,800	$1,000,000
2008	$780,000	$2,000,000	$345,800	$1,000,000
2009	$1,455,800	$3,500,000	$345,800	$1,000,000
2010	Repealed	Repealed	$345,800	$1,000,000
2011	$345,800	$1,000,000	$345,800	$1,000,000

*Note: There is only one applicable tax credit. If the applicable credit ($345,800) is used up for gifting during 2002 and 2003, there is none available to offset the federal estate tax in 2002-2003.

Table 3: Federal Estate Tax Rate Schedule, 2002-2011

Taxable Estate Bracket			Rate Excess Over Column 1							
If the Amount is Column 1 ($)	But Not Over Column 2 ($)	Column 3 Tax on Column 1 ($)	2002 %	2003 %	2004 %	2005 %	2006 %	2007 2008 2009 %	2010 %	2011 and after prior law unless new law enacted %
0	10,00	0	18	18	18	18	18	18	0	18
10,00	20,00	1,80	20	20	20	20	20	20	0	20
20,00	40,00	3,80	22	22	22	22	22	22	0	22
40,00	60,00	8,20	24	24	24	24	24	24	0	24
60,00	80,00	13,00	26	26	26	26	26	26	0	26
80,00	100,00	18,20	28	28	28	28	28	28	0	28
100,00	150,00	23,80	30	30	30	30	30	30	0	30
150,00	250,00	38,80	32	32	32	32	32	32	0	32
250,00	500,00	70,80	34	34	34	34	34	34	0	34
500,00	750,00	155,80	37	37	37	37	37	37	0	37
750,00	1,000,0	248,30	39	39	39	39	39	39	0	39
1,000,0	1,250,0	345,80	41	41	41	41	41	41	0	41
1,250,0	1,500,0	448,30	43	43	43	43	43	43	0	43
1,500,0	2,000,0	555,80	45	45	45	45	45	45	0	45
2,000,0	2,500,0	780,80	49	49	48	47	46	45	0	49
2,500,00		1,025,8	50	49	48	47	46	45	0	53
3,000,00										55

Estate Tax Computation: Jack has an estate valued at $1,750,000 in 2003. The tax on $1,500,000 is $55
($1,750,000 - $1,500,000 = $250,000) is computed at a 45% rate which is equal to $112,500 (Table 3).
($555,800 + $112,500 = $668,300). From the tentative tax, the applicable credit of $345,800 is applie
($668,300 tentative tax - $345,800 applicable credit = $322,500).

granted a series of one-year extensions of time for paying taxes not to exceed 10 years from the due date of the original payment of the tax liability. However, interest accrues from the original due date.

Fifteen-year installments. The estate tax can be paid in installments (of up to 15 years) if the value of the decedent's interest in a closely held business exceeds 35 percent of the decedent's gross estate. The estate makes an annual interest payment for a period not to exceed four years. Thereafter, the balance is paid in up to 10 annual installments of principal and interest.

A special 2% interest rate is provided for deferred tax attributed to the first $1 million in value of the closely held business interest in 2002 and thereafter. The interest rate on deferred taxes on the remaining amount is 45% of the underpayment rate (federal short-term rate plus three percentage points). The rate has varied between seven and 11 percent since 1990.

The Economic Growth and Tax Relief Reconciliation Act of 2001 expands the availability of installment payment of estate tax for the closely held business by increasing the number of shareholders or partners from 15 to 45. The provision has also been expanded to include qualified lending and finance business interests. The tax on these interests must be paid in five installments of principal and interest. This provision applies to estates of decedents dying after Dec. 31, 2001.

Changing Regulations

The Economic Growth and Tax Relief Reconciliation Act of 2001 made substantial changes in federal estate tax laws. While this MontGuide discusses several of the major changes, you are encouraged to consult competent professionals such as a certified public accountant, attorney, charted life underwriter, or certified financial planner to keep abreast of regulations as they develop. Also, consult these professionals for estate tax planning for your individual situation.

Further Information

The Internal Revenue Service provides in-depth publications on Federal Estate and Gift Taxation. They can be ordered from the IRS (1-800-829-3676) or downloaded from the web at http://www.irs.ustreas.gov.

Additional information about major changes in the regulations on **gifting** as a result of the Economic Growth and Tax Relief Conciliation Act of 2001 are explained in MontGuide 199105. The publication is available free from your local MSU Extension Office. Or, send $1 for handling to MSU Extension Publications, P.O. Box 172040, MSU, Bozeman, MT 59717-2040. Or, the MontGuide can be downloaded from the Web at http://www.montana.edu/wwwpb/pubs/mt9105.html

Acknowledgment

Representatives from the following reviewed this MontGuide and recommend its reading by all Montanans who are in the process of estate planning.

- Business, Estates, Trusts, Tax and Real Property Section—State Bar of Montana
- Montana Society of Certified Public Accountants
- Montana Association of Insurance and Financial Advisors

Appreciation is also expressed to the following for their reviews:

- Montana Extension agents
- Students in the Spring (HDFP 530) Estate Planning for Families Distance Education course, Great Plains-IDEA.

Disclaimer

This publication is not designed as a substitute for legal advice. Rather it is designed to help inform persons about the basic provisions of the federal estate tax law and to create an awareness of the need for planning if a goal is to minimize the tax. There are numerous exceptions and conditions to some of the concepts discussed. Future changes in laws cannot be predicted and statements in this MontGuide are based solely on the laws in force on the date of publication.

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File under: Consumer Education
D-11 (Estate Planning)
Revised Oct. 2002 2000-1002 ST