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ESTATE TAXES

I

Nevada is unique in many ways. One of those ways concerns the estate tax. The federal government and 49 states levy an estate tax. Nevada does not. There are several terms used in discussing taxes related to death. An estate tax is levied against the net estate of a decedent based on the right to transmit property from the decedent's estate to the living. The tax is paid by the estate, not by the heirs. An inheritance tax is levied against the right of a beneficiary of an estate to receive a portion of the estate and is payable by the heirs. The term "death taxes" is used to refer to either or both of these taxes. Both estate and inheritance taxes are considered indirect taxes because they are on the transfer of property, not property itself.

Estate and inheritance taxes account for 2.0 to 2.6 percent of federal revenues and about 2.0 percent of state revenues nationwide. This revenue source varies a good deal from year to year even at the federal level. While mortality rates are predictable, the wealth of decedents in any one year can cover quite a range.

There are two types of state estate taxes. Forty-three states have estate taxes which, to various degrees, add to the total tax against an estate. Six states have only what is known as a "pickup" tax. This means that the states levy an estate tax in the amount of the credit that the federal government allows for the payment of a state estate tax. The effect is to take a cut of the federal tax without adding anything to the total tax on the estate. Alabama, Alaska, Arkansas, Florida, Georgia and New Mexico have the "pickup" tax only.

II

In every regular session since 1961, the Nevada legislature has considered the "pickup" type of estate tax. The 1967 session directed a study of the need and feasibility of an estate tax in Nevada. This appeared as Legislative Counsel Bureau Bulletin 76 in January 1969. That study was directed only at the "pickup"

tax. In 1969, 1971 and 1973, legislation was introduced to amend article 10, section 1 of the constitution to allow an estate tax and to provide statutory authority for implementation. The 1969 assembly joint resolution was reported "do pass" by committee, but never voted on by the assembly. The 1971 and 1973 senate joint resolutions were both passed by the senate but died in committee in the assembly.

Committee hearings in 1971 and 1973 in the senate do allow the positions pro and con to be summarized. Testimony for the enactment of a "pickup" tax centered on two uncontested facts. First, a "pickup" tax costs the estate not a cent. In the absence of a state "pickup" tax, the federal government claims the portion that would go to the state. Second, the costs of administering the tax are very small. The reason is that the Internal Revenue Service does all the work. The IRS will not allow the estate tax credit on the federal estate tax until they receive a receipt reflecting payment of the state tax. If they do not receive it within 6 months, IRS will assess the estate in the amount of the state tax.

The opposing position can be characterized as the psychological argument. Financial institutions and others interested in attracting the wealthy to Nevada do not deny that a "pickup" tax would cost nothing extra, but they do contend that the absence of even a "pickup" tax enhances Nevada's image as a low tax state. This image, in turn, attracts people of wealth according to the viewpoint. The opponents also raise the specter of safety deposit boxes being sealed upon a death because of a state death tax. This contention, however, is not tenable because there is no necessity for this with only the "pickup" tax. The IRS will ensure that the state gets an accounting of an estate. No "pickup" state ever gets involved with safety deposit boxes.

Finally, opponents have held that the amount collected would be small relative to the costs of administration. This was probably true into the 1960's. There would have been less than a half million dollars collected in 1964. In 1975, however, based on IRS estimates, the state would have received 2.5 to 3 million dollars through a "pickup" tax. Based on other "pickup states," the cost of administration would be under \$20,000 per year. The revenue would be around 1 percent of state revenues so it is debatable as to the worth of the tax relative to the overall fiscal structure.

III

The states with a "pickup" tax, their revenue and their costs of administration are listed:

Alabama--1973-74, revenues of \$6,234,714 with administration costs of \$9,321.

Alaska--1973-74, revenues of \$88,823 with administration costs of \$3,000 to \$5,000.

Arkansas--1973-74, revenues of approximately \$2,000,000 with administration costs not known but considered "negligible" since no full-time employee is required.

Florida--1973-74, revenues of \$40,953,000 with administration costs of about \$115,000. Florida does state auditing of estates, this accounting for its higher costs of administration.

Georgia--1973-74, revenues of approximately \$6,000,000 with administration costs of \$15,000.

New Mexico--"Pickup" tax enacted in 1973 with no data yet available.

IV

A 1974 review of death taxation in the United States assessed Nevada's position on the estate tax.

In Nevada, which is the only state not to have some death duty, estates must still pay the federal tax. By not having at least a pickup tax, Nevada denies itself revenue and does not decrease the total amount of tax which must be paid.*

The reasons for enacting a "pickup" tax are well established. Revenue likely to be produced and administration costs can be fairly accurately predicted. The reasons against enacting the tax are more difficult to establish and document although this fact does not necessarily make them invalid. There may exist a "tax climate" that attracts people to Nevada which would be disturbed by enacting the "pickup" tax. Tangible evidence of such an effect, however, is not available.

*Business Research Bureau; Death Taxation in the American States; University of South Dakota, Vermillion, S.D., 1974.

SUGGESTED READING
(Available in Research Library)

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Governor's Committee on Taxation; Nevada Tax Handbook, Nevada Tax Commission, Carson City, 1968.

Legislative Counsel Bureau; "Need and Feasibility of Establishing an Estate Tax in Nevada," Bulletin No. 76, Carson City, January, 1969.

United States Code Annotated, Title 26, Section 2011, Wests Pub. Co., St. Paul, Minn., 1967.

Zubrow, R.A. et al; Financing State and Local Government in Nevada, State Printing Office, Carson City, 1960.