

Background Paper 81-3

ESTATE TAXES



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## I. INTRODUCTION

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 (see appendix).

There are two types of state estate taxes. Forty-four states have estate taxes which, to various degrees, add to the total tax against an estate. Five 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 and Georgia have the "pickup" tax only.

## II. ESTATE TAX PROPOSALS IN NEVADA

Nevada has had an inheritance tax. It was passed in 1913. Revenue experience was erratic with revenue from it never being very great in relation to total revenues. The Nevada inheritance tax was repealed in 1925. In 1939, the legislature passed a proposed constitutional amendment to prohibit all inheritance and estate taxes. The proposal was approved again in 1941 and by the electorate in 1942. That prohibition has not been changed since and is found at article 10, section 1. It says, quite simply, "No inheritance tax shall ever be levied."

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, 1973 and 1975, legislation was introduced to amend article 10, section 1, of the consittution 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. The 1975 legislature passed S.J.R. 5. The vote in the senate was 18-2 and in the assembly, 36-3 with one absent. The resolution did not make it to the assembly floor without difficulty. It was reported "without recommendation" by the taxation committee on a 5-4 vote.

In 1977, S.J.R. 5 came up for second passage by the legislature. It easily passed the senate 15-3 with two absent. The bill died, however, in the assembly taxation committee on a 5-2 vote. In 1979, the process was begun anew with passage of S.J.R. 6. It passed the senate 17-3 and the assembly 34-5 with one absent. Again, the estate tax amendment will be before the 1981 session for second passage. If it passes, the electorate will make the final decision at the 1982 general election.

### III. ESTATE TAX - PRO AND CON

Committee hearings in 1971 and 1973 in the senate, and in the senate and assembly in 1975, 1977 and 1979, 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 have contended 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. In 1973, the Nevada Bankers' Association offered an amendment to the proposed resolution to prohibit any attachment of or restriction on an estate as a result of a state "pickup" tax. This language was in the 1975 resolution which passed and is in the 1979 resolution. There was no opposition from the bankers in 1975 committee hearings. In 1977, the bankers' association claimed that its members received numerous complaints from clients so they expressed opposition. 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, especially in view of the added language prohibiting such action, 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.

The argument is also advanced that the amendment would be a "foot in the door" for more death taxes, and then income taxes. The chief spokesman for Nevada's bankers is quoted in the April 8, 1977, Reno Evening Gazette as saying "\* \* \* If an inheritance tax was put on the books, there is always the possibility in the future that the state could increase the tax to provide Nevada with a higher percentage." The spokesman did not explain how this could be done since S.J.R. 5 specifically precluded such an action.

Finally, opponents have held that the amount collected would be small relative to the costs of administration. This was probably true in 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 through a "pickup" tax. In 1978, that would have gone up to about \$3.7 million. Based on other "pickup states," the cost of administration would be under \$30,000 per year. The revenue would be around 1 percent of state revenues so it may be debatable as to the worth of the tax relative to the overall fiscal structure. There would be years, however, when the tax could be much greater than this. As the state grows in population, the changes from year to year would become less erratic.

#### IV. THE PICKUP STATES

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

Alabama - 1978, revenues of \$7,529,000 with administration costs of about \$150,000. Some state auditing is done which results in the high cost of administration.

Alaska - 1978, revenues of \$244,000 with administration costs of \$5,000.

Arkansas - 1978, revenues of \$2,539,000 with administration costs, representing part of the time of several people, at \$65,000.

Florida - 1978, revenues of \$45,816,000 with administration costs of about \$160,000. Florida does state auditing of estates, this accounting for its higher costs of administration.

Georgia - 1978, revenues of approximately \$8,072,000 with administration costs of \$20,000.

#### V. CONCLUSION

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

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



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. It is even more difficult to make a case for wealthy residents leaving the state because of a "pickup" tax since there would be no state left without at least that tax. Further, Nevada would still be among the few states with no personal or corporate income tax.

## VI. SUGGESTED READING

(Available in the Research Library)

Bureau of the Census; State Government Finances in 1972 (1972 is no longer available; however, we do have 1973), U.S.G.P.O., Washington, D.C. 1973.

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

Commerce Clearing House, Inc.; State Tax Guide, Second Edition, 1972.

Committee on Taxation, Nevada Senate; "Minutes of March 16, 1971, meeting on S.J.R. 20."

Dahl, Albin J.; "The Truth about Death and Taxes in Nevada," Nevada Review of Business and Economics, Winter 1978-79, Vol. II, No. 4; University of Nevada, Reno.

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

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

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

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

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VII.  
A P P E N D I X

REVENUES AND COST OF ADMINISTRATION IN  
ESTATE TAX "PICKUP" STATES

<u>State*</u>	<u>1972</u>	<u>1974</u>	<u>1976</u>	<u>1978</u>	<u>Admin. Costs 1978</u>	<u>Revenue to Cost Ratio - 1978</u>
Alabama	\$ 3,522,437	\$ 6,234,714	\$ 4,917,344	\$ 7,529,000	\$150,000	50:1
Alaska	39,476	88,823	162,038	244,000	5,000	48:1
Arkansas	1,307,189	2,000,000	2,168,578	2,539,000	65,000	39:1
Florida	31,025,000	40,953,000	37,945,358	45,816,000	160,000	286:1
Georgia	5,504,587	6,000,000	5,800,000	8,072,000	20,000	403:1

\*New Mexico sometimes is considered a "pickup" state but it is possible in that state for an estate to pay more than the federal credit to the state.