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Estate and Gift Tax Revenues: Past and Projected in 2008

Nonna A. Noto, Government and Finance Division

March 19, 2008

Abstract. Data on both past revenues and revenue projections regarding the estate tax should be interpreted with awareness of the year-to-year changes in estate tax law from 1997 to 2011. The modest changes brought about by the Taxpayer Relief Act of 1997 (TRA, P.L. 105-34) were followed by big changes made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA, P.L. 107-16). Both laws provided for increases in the applicable exclusion amount, commonly called the estate tax exemption, as shown in the first column of Table 1. EGTRRA also gradually lowered the maximum marginal estate tax rate, from 55% (plus a 5% surtax in a certain range) in 2001, to 46% in 2006, and 45% in 2007-2009, as shown in the second column of Table 1.

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Prepared for Members and Committees of Congress

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Summary

Data on both past revenues and revenue projections regarding the estate tax should be interpreted with awareness of the year-to-year changes in estate tax law from 1997 to 2011. Large increases in the prevailing estate tax exemption — from $675,000 in 2001 and 2002, to $1 million in 2003 and 2004, and to $1.5 million in 2005 and 2006 — led the number of taxable estate tax returns to fall by half, from about 45,000 in 2002 to about 22,500 in 2005 and 2006. Taxable estates fell from 2.15% percent of prior-year deaths in 2001, to 1.36% in 2003, and to 0.93%, or 9.3 per thousand deaths, in 2005 and 2006. Notwithstanding the steep decline in the number of taxable returns, estate taxes paid remained above $20 billion per year.

Gift tax revenues fell by roughly half after the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA, P.L. 107-16). Possibly, many wealthy people chose to forgo the certainty of taxes on lifetime gifts, hoping that the estate tax would later be repealed permanently as of 2010 and they would then be able to pass their assets along tax-free upon their death. Gift taxes accounted for 14% to 17% of estate and gift tax revenues in FY1999-FY2001, but only 6% to 9% in FY2002-FY2007. Gift tax revenues of $3.9 billion to $4.7 billion per year in FY1999-FY2001, fell to $1.4 billion to $2.4 billion in FY2002-FY2007.

The standard 10-year forecasts of both revenue from the estate tax and revenue losses from permanent repeal of the estate tax should be interpreted with caution. The forecasts should not be used to approximate revenues for a different 10-year period. This is because of the changes scheduled to occur in the estate tax exemption and top tax rate from 2008 through 2011. The exemption is $2 million for decedents dying in 2008, but $3.5 million for 2009. Under current law, there will be no estate tax in 2010. If EGTRRA is permitted to sunset at the end of 2010, the estate tax will apply again in 2011, but with an exemption of $1 million. The top tax rate will revert from 45% in 2007-2009 to 55% (with a 5% surtax in a certain range) in 2011 and beyond.

Revenues from estate and gift taxes were $26 billion in FY2007, contributing 1.0% of total federal revenue. The Congressional Budget Office projects that, if the estate tax is reinstated in 2011 as currently scheduled, revenue from the estate and gift taxes would climb steadily by about $7 billion per year, from $55 billion in FY2012, contributing 1.6% of total federal revenue, to $97 billion in FY2018, contributing 2.1% of total revenue.

President Bush's budget for FY2009 has proposed to make permanent the tax cuts enacted in 2001 and 2003, including those dealing with estates and gifts. The proposal to permanently repeal the estate tax after 2010 accounts for approximately one-quarter of the projected cost of this set of proposals over the 10-year forecast period, FY2009-FY2018 — $522 billion out of $2,185 billion according to Treasury and $670 billion out of $2,414 billion according to the Joint Committee on Taxation. This report will not be updated. Cost estimates of estate tax bills will be included in CRS Report RL34374, *Estate Tax Legislation in the 110th Congress*.

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Changes in Estate Tax Law

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Exemption

The estate tax exemption plays two important roles. First, it serves as the filing threshold for the estate tax. A federal estate tax return must be filed if a U.S. decedent's gross estate[1] (before deductions) equals or exceeds the exemption for the year of the decedent's death. Second, the transfer of an amount of assets up to the exemption is free from federal tax for every estate.[2]

The value of the exemption is not indexed for inflation. Nor is it set in relation to any specific definition of wealth. Instead, Congress has intermittently raised the dollar amount.

From 1987 through1997 the exemption remained at $600,000, under provisions of the Economic Recovery Tax of 1981 (ERTA, P.L. 97-34). TRA of 1997 provided for a gradual increase in the exemption over nine years. Under TRA, the exemption rose to $625,000 for 1998, $650,000 for 1999, and $675,000 for 2000 and 2001. It was scheduled to reach $1 million in 2006.

Before the provisions of TRA were fully phased in, however, they were superseded for tax years 2002-2010 by much larger changes made by EGTRRA of 2001. EGTRRA raised the exemption to $1 million beginning immediately in 2002

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[1] Technically, the gross estate plus adjusted taxable gifts.

[2] In practice, each estate tax return receives a unified credit against the estate tax equal to the tax that would be due on the amount of the exemption. The unified credit is applied against both estate and gift tax obligations.

and 2003. It further increased the exemption in large increments, to $1.5 million for 2004 and 2005, $2 million for 2006 through 2008, and $3.5 million for 2009. It repealed the estate and generation-skipping transfer taxes entirely for the estates of decedents dying in 2010 only.

Table 1. Estate Tax Exemption and Maximum Tax Rate, 1988-2011

Calendar Year of Death	Exemption	Maximum Tax Rate for Taxable Estate Values Over (in $ millions)
1988-1997	$600,000[a]	55% over $3.0, plus 5% surtax from over $10.0 to $21.040[d]
1998	$625,000[b]	55% over $3.0, plus 5% surtax from over $10.0 to $17.184[e]
1999	$650,000[b]	“
2000	$675,000[b]	“
2001	$675,000[b]	“
2002	$1,000,000[c]	50% over $2.5[c]
2003	$1,000,000[c]	49% over $2.0[c]
2004	$1,500,000[c]	48% over $2.0[c]
2005	$1,500,000[c]	47% over $2.0[c]
2006	$2,000,000[c]	46% over $2.0[c]
2007-2008	$2,000,000[c]	45% over $1.5[c]
2009	$3,500,000[c]	“
2010	Estate tax repealed for 2010 only[c]	
2011 and thereafter	$1,000,000[b]	55% over $3.0, plus 5% surtax from over $10.0 to $17.184[e]

Notes:

a. Provision of the Economic Recovery Tax Act of 1981 (ERTA, P.L. 97-34). The exemption was $600,000 in 1987 as well.

b. Provisions of the Taxpayer Relief Act of 1997 (TRA, P.L. 105-34). TRA had also provided for the exemption to increase to $700,000 for 2002 and 2003, $850,000 for 2004, $950,000 for 2005, and $1 million for 2006 and beyond.

c. Provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA, P.L. 107-16).

d. The Revenue Act of 1987 (P.L. 100-203) provided for a 5% surtax to offset the benefits of both the graduated tax rates on taxable estate values below $3 million and the unified credit (exemption), such that the effective rate of tax on the entire estate was 55%.

e. As the result of a clerical error in the final text of TRA of 1997, later adopted by Congress, the surtax was intended to offset the benefits of only the graduated tax rates, and not the unified credit (exemption) as well.

For detailed schedules of the marginal estate tax rates by year, see CRS Report RL33718, *Calculating Estate Tax Liability: 2001 to 2011 and Beyond*, by Nonna A. Noto.

The estate tax provisions of EGTRRA are scheduled to sunset on December 31, 2010, along with the act's other provisions. Unless new legislation governing the estate tax is enacted beforehand, in 2011 the law will revert to the law in effect prior to June 7, 2001. The estate tax will be reinstated with an exemption of $1 million — the amount that TRA had provided for 2006 and beyond — and the family-owned business deduction will be reinstated.[3]

Maximum Tax Rate

From 1988 through 1997, the maximum marginal tax rate was 55% on taxable estate values over $3 million.[4] In addition, there was a surtax of 5% on taxable values over $10 million up to $21.040 million. From 1998 through 2001, the maximum rate remained at 55% on taxable estate values over $3 million. But, under TRA of 1997, the 5% surtax applied from over $10 million only up to $17.184 million.[5]

In addition to raising the exemption in large increments, EGTRRA significantly reduced the top marginal estate tax rate over a period of six years (column 2 of **Table 1**). At the outset, EGTRRA eliminated the 5% surtax and reduced the maximum tax rate from 55% to 50%, effective in 2002. It subsequently reduced the top tax rate by one percentage point per year, from 49% in 2003, down to 46% in 2006, and finally to 45% for 2007 through 2009.[6] For decedents dying in 2010, there is no estate tax. For 2011 and beyond, if EGTRRA sunsets, the maximum tax rate will revert to 55%, the 49% and 53% marginal rate brackets will be restored, and the 5% surtax on taxable estate values from $10 million up to $17.184 million will be reinstated.

[3] The Taxpayer Relief Act created a new exclusion from the estate tax for qualified family-owned business interests (QFOBI) that was in effect from 1998 through 2003. The exclusion was (up to) $675,000, but was limited to a total of $1.3 million in combination with the applicable exclusion amount, which was scheduled to rise. The family-owned business exclusion was converted to a deduction by the Internal Revenue Service Restructuring and Reform Act of 1998 (P.L. 105-206). Under EGTRRA, the family-owned business deduction was repealed in 2004, when the applicable exclusion amount for all estates was increased to $1,500,000. For more information, see CRS Report 95-444, *A History of Federal Estate, Gift, and Generation-Skipping Taxes*, by John R. Luckey.

[4] Under ERTA of 1981, the top marginal estate tax rate was scheduled to fall to 50% in 1985. The Deficit Reduction Act of 1984 (P.L. 98-369) froze the top tax rate at the 1984 level of 55% until 1988. The Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) extended the maximum rate of 55% through 1992. The Omnibus Reconciliation Act of 1993 (P.L. 103-66) extended the maximum rate of 55% retroactively, from December 31, 1992, onward. See CRS Report 95-444, *A History of Federal Estate, Gift, and Generation-Skipping Taxes*, by John R. Luckey.

[5] For an explanation of the surtaxes, see notes d and e of **Table 1**.

[6] For additional information on these changes in federal estate tax law, see CRS Report RL31061, *Estate and Gift Tax Law: Changes Under the Economic Growth and Tax Relief Reconciliation Act of 2001*, by Nonna A. Noto, Jan. 29, 2002, and CRS Report 95-444, *A History of Federal Estate, Gift, and Generation-Skipping Taxes*, by John R. Luckey.

Which Law is Reflected in Revenue for a Particular Year?

The tax law that applies to an estate is the law in effect in the year of the person's death. However, the estate tax return is not due until nine months after the person's death, and an extension of six months is not uncommon. Complex returns may be granted a longer extension.

It follows that estate tax returns filed in any given calendar year will include a few returns of people who died in that year, mostly the returns of people who died in the previous year, and some returns from deaths in prior years that are filing under an extension. Of estate tax returns filed in calendar years 2001 through 2005, roughly 10% were filed in the year of death, 72% in the year after death, 14% two years after death, and 3% three or more years after death.[7]

Consequently, for a given filing year (a calendar year), this report refers to the exemption that was in effect for a death in the prior calendar year as the "prevailing exemption" for that filing year. For example, the prevailing exemption for most estate tax returns filed in 2006 would be the $1.5 million exemption in effect for deaths in 2005.

Revenue in a particular fiscal year is most likely to reflect the estate tax law in effect in the previous-numbered calendar year. Recall that the estate tax return is not due until nine months after the date of death and that the fiscal year runs from October 1 of the previous calendar year until September 30 of the same-numbered calendar year. So, for example, deaths in calendar 2006 would be reflected in estate tax returns filed on time in the last three months of 2006 and the first nine months of 2007, which comprise FY2007.

Unexpected Patterns

An increase in the estate tax exemption would be expected to reduce the number of estate tax returns filed, the number of taxable returns, and the total amount of estate tax paid with those returns. But this is not always the case. In particular, from 1998 until 2000, the number of taxable returns continued to increase even though the prevailing exemption was gradually rising. Total estate taxes paid remained nearly the same between 2002 and 2003, even though the number of taxable returns fell by 26%, and between 2004 and 2005, when taxable returns fell by 29%.

Whether the number of taxable returns and the amount of tax revenues decline depends upon whether the increase in the exemption outpaces the increase in the value of wealthy decedents' estates. Broad market fluctuations in the value of widely

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[7] The five-year averages were calculated by CRS from annual statistics reported in Brian G.Raub, "Recent Changes in the Estate Tax Exemption Level and Filing Population," Internal Revenue Service, *Statistics of Income (SOI) Bulletin*, vol. 27, no. 1 (Summer 2007), Figure B, p. 114.

held assets such as stocks or real estate can override the relationship that would otherwise be expected between an increase in the estate tax exemption and the number of taxable estate tax returns filed the next year. Estate valuations are likely to be unusually high in years of market peaks and unusually low in years of market crashes. This is likely to cause the number of taxable estate tax returns filed in the next calendar year to be higher and lower, respectively, than would otherwise be expected.

The standardized measurement of taxable estate tax returns expressed as a percentage of deaths has been tracked over time as an indicator of how deeply the estate tax reaches into the population. When this percentage has risen above a politically unacceptable level, the Congress has, at some point, raised the estate tax exemption in order to bring the percentage back down to the typical historical level. During the previous two decades, for years of death from 1982 through 2003, taxable estate tax returns measured as a percentage of adult deaths fluctuated within the range of just under 1% (0.88%) to 2.30%.[8]

Increase in Exemption and Number of Taxable Returns

The relationship between the increase in the prevailing exemption amount and the number of taxable estate tax returns filed each year from 1998 through 2006 is illustrated by the juxtaposition of **Figures 1** and **2**. The data underlying these two graphs are presented in columns 1 and 2, respectively, of **Table 2**. To help highlight the relationships between these two measures, columns 1 and 2 of **Table 3** show the percentage change from the previous year for the prevailing exemption and the number of taxable returns.

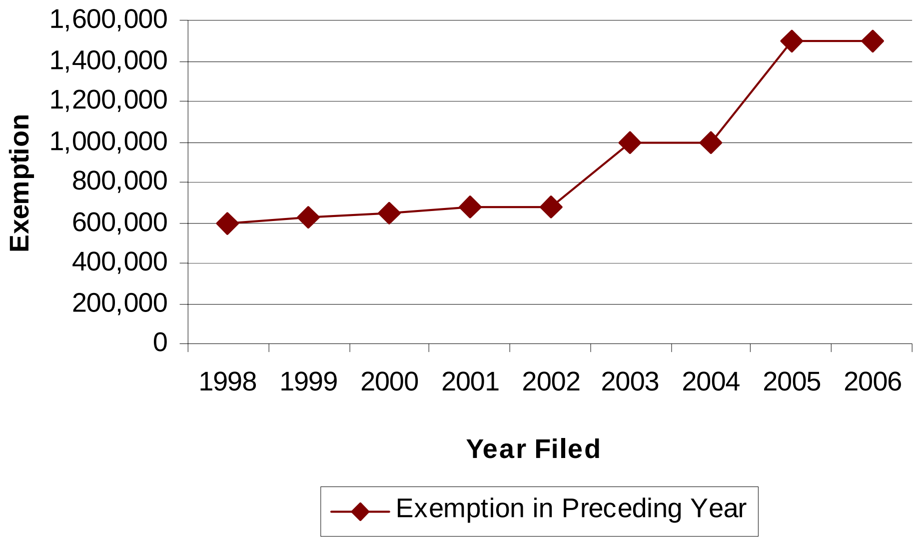
Initially, from 1998 through 2000, when the prevailing exemption was rising in annual increments of $25,000 or about 4% — from $600,000 in 1998 to $625,000 in 1999, and $650,000 in 2000 — the number of taxable returns nonetheless continued to rise modestly. The rising pattern holds whether measured as the absolute number of returns (column 2 of **Table 2**) or standardized as tax returns as a percent of deaths (column 3 of **Table 2**). The number of taxable estate tax returns rose from 47,475 or 2.05% of deaths in 1998, to 52,000 or 2.17% of deaths in 2000. This suggests that value of assets broadly held by wealthy decedents was generally rising more rapidly than the exemption from 1997 to 1999. The stock market, for example, was generally rising over this period.

The number of taxable returns declined very slightly, by half a percent, in 2001, when the effect of the higher $675,000 exemption first registered. This suggests that at $675,000, the level of the exemption had caught up with the value of assets held by wealthy decedents in 2000. Between 2001 and 2002 the number of taxable estate tax returns dropped by 13%, even though the prevailing exemption remained at $675,000. This suggests that the value of assets widely held by wealthy decedents fell between 2000 and 2001. The stock market, for example, peaked in March 2000, and stock prices continued to fall until October 2002. It was not until 2002, the

[8] Internal Revenue Service, *Statistics of Income Bulletin*, Spring 2007, Selected Historical and Other Data, Table 17, p. 279.

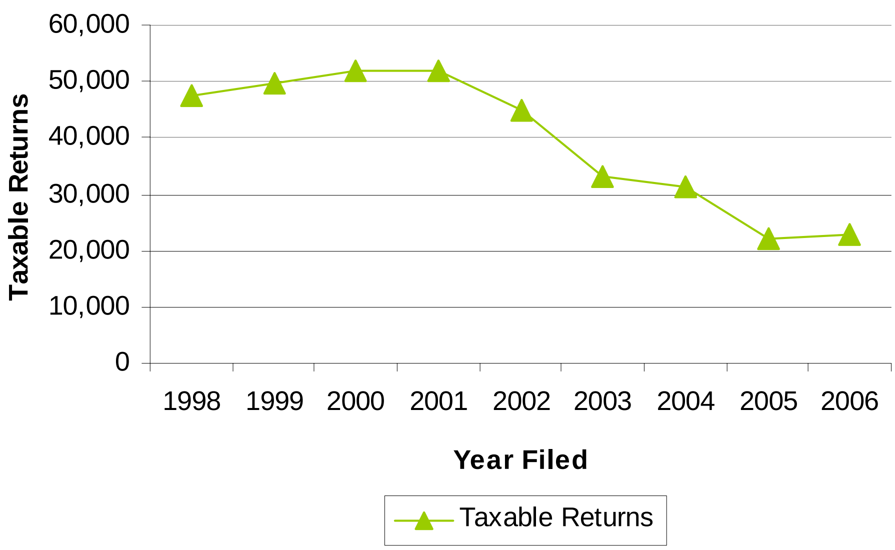
second year that the $675,000 exemption prevailed, that the number of taxable returns (45,018) and taxable returns measured as a percent of deaths (1.86%) fell below their levels in 1998, when the prevailing exemption was $600,000.

Figure 1. Dollar Amount of Prevailing Exemption, 1998-2006



Source: See columns 1 and 2 of **Table 2**.

Figure 2. Number of Taxable Estate Tax Returns Filed, 1998-2006



Source: See columns 1 and 2 of **Table 2**.

Table 2. Exemption, Taxable Returns in Number and as a Percent of Deaths, and Estate Tax Paid, for Returns Filed in 1998-2006

Year Filed	(1) Exemption in Preceding Year ($)	(2) Taxable Returns	(3) Taxable Returns as Percent of Deaths in Preceding Year[a]	(4) Estate Tax Paid[b] (in $ billions)
1998	$600,000	47,475	2.05%	$20.3
1999	625,000	49,863	2.13	22.9
2000	650,000	52,000	2.17	24.4
2001	675,000	51,736	2.15	23.5
2002	675,000	45,018	1.86	21.4
2003	1,000,000	33,302	1.36	20.8
2004	1,000,000	31,329	1.28	21.6
2005	1,500,000	22,250	0.93	21.7
2006	1,500,000	22,798	0.93	24.7

Sources: Exemption in preceding year (column 1) taken from **Table 1**. Data on number of taxable returns (column 2) and net estate tax paid (column 4) are from Internal Revenue Service, Table 1. Estate Tax Returns Filed in [year]: Gross Estate by Type of Property, Deductions, Taxable Estate, Estate Tax and Tax Credits, by Size of Gross Estate. Unpublished data from the Statistics of Income (SOI) for the years 1998 to 2006. Available on the IRS website [http://www.irs.gov/] visited February 6, 2008. See the source note to **Table 4** for an explanation of the search sequence.

In March 2007, IRS revised the tables for estate tax returns filed in 2001 through 2005 to include "late" returns for which the gross estate was below the prevailing exemption for the filing year. These are typically returns filed under an extension, for earlier years of death when the tax filing threshold was lower. In the revised tables, the categories for size of gross estate below $5 million were made consistent with the size categories of interest after EGTRRA. Taxable returns as a percent of deaths in preceding year (column 3) were calculated by CRS based on the mortality numbers shown in note a below.

Deaths in 1997-2001 from U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, *Statistical Abstract of the United States*, annual editions from 2000 to 2003. Deaths in 2002 from National Vital Statistics Reports, *Deaths: Final Data for 2002*, vol. 53, no. 5, Oct. 12, 2004, p. 1. Deaths in 2003 and 2004 from U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, *Deaths: Final Data for 2004*, posted Nov. 24, 2006, Table 1, available at [http://www.cdc.gov/nchs/products/pubs/pubd/hestats/finaldeaths04_tables.pdf]. Preliminary estimate of deaths in 2005 from U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics: H.C. Kung, D.L. Hoyert, J. Xu, and S.L. Murphy, *Deaths: Preliminary data for 2005*, Health E-Stats, Sept. 2007, available at [http://www.cdc.gov/nchs/products/pubs/pubd/hestats/prelimdeaths05/prelimdeaths05.htm], visited Feb. 6, 2008.

a. The total number of deaths in the United States rose slightly from year to year from 1997 through 2003, fell in 2004, but rose back to nearly its 2003 level in 2005 as follows:

1997	2,314,245	2002	2,443,387	
1998	2,337,256	2003	2,448,288	
1999	2,391,399	2004	2,397,615	
2000	2,403,351	2005	2,447,903	preliminary
2001	2,416,425			

b. More precisely, this is the net estate tax paid. This is the estate tax due after claiming permitted tax credits.

Table 3. Percentage Change from Previous Year in Prevailing Exemption, Number of Taxable Returns, and Estate Tax Paid

Year Filed	(1) Prevailing Exemption	(2) Taxable Returns	(3) Estate Tax Paid
1999	4.2%	5.0%	12.6%
2000	4.0	4.3	6.5
2001	3.8	-0.5	-3.6
2002	0	-13.0	-9.1
2003	48.1	-26.0	-2.8
2004	0	-5.9	3.9
2005	50.0	-29.0	0.3
2006	0	2.5	13.8

Source: Calculated by CRS from data presented in columns 1, 2, and 4 of **Table 2**.

In 2003, the number of taxable returns dropped by 26% (from 45,018 in 2002 to 33,302 in 2003), when the prevailing exemption rose by 48% (from $675,000 for deaths in 2001 to $1 million in 2002). Taxable returns as a percent of deaths fell from 1.86% in 2002 to 1.36% in 2003. This suggests that at the $1 million level the exemption amount had outpaced the growth between 2001 and 2002 in the value of assets held by wealthy decedents. In 2004, the number of taxable returns dropped further, by a modest 6% (from 33,302 in 2003 to 31,329 in 2004), as the $1 million exemption continued to prevail. This suggest that there was a small decline between 2002 and 2003 in the value of assets held by wealthy decedents.

In 2005, the number of taxable returns again dropped significantly, by 29% (from 31,329 in 2004 to 22,250 in 2005), after the exemption rose by $500,000, or 50%, to $1.5 million for people dying in 2004. Finally, in 2006, the number of taxable returns increased slightly, by 2.5% (from 22,250 in 2005 to 22,798 in 2006), as the $1.5 million exemption continued to prevail. This suggests that there was a small increase in the value of assets held by wealthy decedents between 2004 and 2005. This was in contrast to the experience in 2004, when the number of taxable returns fell while the exemption remained unchanged. Taxable returns measured as a percentage of deaths in the prior year fell below 1%, to 0.93% or 9.3 per thousand deaths, in both 2005 and 2006, when the prevailing exemption rose to $1.5 million.

It can be expected that both the number of taxable returns and taxable returns measured as a percentage of deaths will drop substantially for returns filed in 2007, when the prevailing exemption rises to $2 million, and again for returns filed in 2010, when the prevailing exemption will rise to $3.5 million. The number of taxable estate tax returns is projected to drop far below the typical historical range of 1% to 2% of adult deaths.[9]

Number of Taxable Returns and Total Taxes Paid

As shown in the last columns of **Tables 2** and **3**, total estate taxes paid moved in the same direction as the number of taxable returns filed from 1998 through 2003. Both measures rose from 1998 to 2000 and fell from 2000 to 2003. Then, somewhat surprisingly, estate tax payments rose slightly (by 4%), from $20.8 billion in 2003 to $21.6 billion in 2004, despite a decline of nearly 2,000 (or 6%) in the number of taxable returns. Even more surprising, estate taxes paid rose very slightly (by 0.3%) to $21.7 billion in 2005, even though the number of taxable returns dropped by 29%.

Although the number of taxable estate tax returns filed in 2005 was less than half that in 1998, essentially the same (nominal, not inflation-adjusted) amount of estate tax was paid for both years ($21.7 billion in 2005 compared with $20.3 billion in 1998).

What explains the persistence of revenues despite a dramatic drop in the number of taxable estates? While large in number, the smallest estates as a group contributed relatively little in estate taxes. Although the two lowest gross estate size classes accounted for 33,179 or 64% of the 51,736 taxable returns filed in 2001, they contributed only $2.7 billion or 11% of the $23.5 billion in estate taxes paid. The large decrease in the total number of taxable returns between 2001 and 2005 can be explained by the elimination from taxability of the large number of estates in the two lowest gross estate size categories (under $1 million and $1 million up to $1.5 million) after the prevailing exemption rose to $1 million in filing year 2003. There was a further large decrease in the number of taxable returns in the $1 million to $1.5 million category and a smaller decrease in the $1.5 million to $2 million category in filing year 2005, when the prevailing exemption rose to $1.5 million.

Between 2004 and 2005, the $1.4 billion loss in estate taxes paid by these two smallest size classes, plus a $0.7 billion loss in the $2 million to $3.5 million gross estate size class, was more than offset by the $2.1 billion increase in taxes collected from the largest size class, with gross estates of $20 million or more.

[9] For estimates made in July 2005 by the Urban-Brookings Tax Policy Center of the number of taxable estate tax returns, and calculations by CRS of taxable returns as a percent of adult deaths, under the higher exemptions scheduled under current law through 2009, see CRS Report RL33501, *Indexing the Estate Tax Exemption for Inflation*, by Nonna A. Noto, July 7, 2006, Table 2; for the historical series from 1934 through 2002, see Table 1 of that report.

Table 4. Number of Taxable Returns Filed in 2001-2006, by Size of Gross Estate

Size of Gross Estate (In $ Millions)	2001	2002	2003	2004	2005	2006
All Taxable Returns	51,736	45,018	33,302	31,329	20,250	22,798
< 1.0	18,093	13,638	2,676	1,053	—	—
1.0 < 1.5	15,086	14,131	11,457	10,269	1,820[a]	819[a]
1.5 < 2.0	6,024	5,780	6,764	7,057	5,237	5,704
2.0 < 3.5	6,884	5,961	6,716	7,290	7,311	9,043
3.5 < 5.0	2,148	2,170	2,202	2,165	2,282	2,951
5.0 < 10.0	2,165	2,100	2,157	2,166	2,280	2,664
10.0 < 20.0	868	755	824	808	822	1,004
20.0 or more	469	484	504	520	498	614

Table 5. Estate Taxes Paid with Taxable Returns Filed in 2001-2006, by Size of Gross Estate

(in $ billions)

Size of Gross Estate (in $ millions)	2001	2002	2003	2004	2005	2006
All Taxable Returns	23.5	21.4	20.8	21.6	21.7	24.7
< 1.0	0.7	0.5	0.1	0.1	—	—
1.0 < 1.5	2.0	1.9	0.9	0.7	0.2[a]	0.1[a]
1.5 < 2.0	1.8	1.6	1.5	1.5	0.6	0.5
2.0 < 3.5	4.0	3.3	3.5	3.7	3.0	3.4
3.5 < 5.0	2.7	2.4	2.4	2.4	2.3	2.7
5.0 < 10.0	4.3	3.9	4.2	4.4	4.5	5.2
10.0 < 20.0	3.1	2.8	2.9	3.2	3.3	4.0
20.0 or more	4.9	4.9	5.2	5.6	7.8	8.5

Sources for Tables 4 and 5: Internal Revenue Service, Statistics of Income, Estate Tax Returns Filed in [year]. Unpublished data available at [http://www.irs.gov/]. Use the following search sequence: Tax Stats, Individual Tax Statistics, Estate & Gift Tax, Estate Tax, Filing Year Data Tables, By Tax Status and Size of Gross Estate, and, finally, the filing year of interest.

Note for Tables 4 and 5: a. For returns filed in 2005 and 2006, the lowest category is under $1.5 million. In effect, this combines the first two rows of the table.

Between 2005 and 2006, estate taxes paid increased by 13.8% to $24.7 billion, even though the number of taxable returns increased by only 2.5%. There was an increase in the number of taxable returns in each of the six size classes of over $1.5 million in gross estate. This was accompanied by an increase in the amount of estate taxes paid by each of the five size classes of over $2.0 million in gross estate, totaling an additional $2.9 billion.

Gift Tax Revenues Fell After 2001 Tax Act

Gift Tax Law

The gift tax is levied on the taxable transfer of assets during a donor's lifetime.[10] Under the law prior to EGTRRA, the estate and gift tax exemption was "unified." That is, the exemption could be used to protect any combination of lifetime gifts and/or bequests at death that added up to the dollar amount of the exemption for the year of death.

Under the Taxpayer Relief Act of 1997 (TRA), the "unified" applicable exclusion amount or exemption — for lifetime taxable gifts together with bequests — rose gradually from $600,000 in 1997, to $675,000 in 2001. The same graduated tax rate structure that applied to estates applied to cumulative taxable lifetime gifts in excess of the exemption amount.

In contrast, under EGTRRA, the exemption for cumulative lifetime gifts was capped separately at $1 million, effective from 2002 onward, even as the combined exemption for gifts and bequests rose from $1 million for decedents dying in 2002 and 2003 up to $3.5 million for decedents dying in 2009 (refer back to **Table 1**). Furthermore, under EGTRRA, the gift tax is to remain in place in 2010 with a cumulative lifetime exemption of $1 million, even when the estate tax is repealed.

The EGTRRA law means that, beginning in 2002, once an individual has given away $1 million cumulatively over their lifetime, they will owe gift taxes on any further gifts, payable in the year following the gift. Any amount of the gift tax

[10] Under the gift tax, there is an annual exclusion per donor for each donee. This exclusion amount is indexed for inflation and rounded down to the nearest $1,000. The exclusion is $12,000 in 2008, the same as in 2006 and 2007. Gifts up to this limit are not counted as taxable gifts. A married couple may give up to twice that amount, $24,000, to an individual in a single year without having it count against their lifetime exclusion. In addition, there is an unlimited exclusion for gifts to pay for tuition or medical expenses or for transfers to a political organization for the use of the organization. There is also an unlimited marital deduction for most gifts between spouses. Only gift amounts in excess of the annual exclusion need to be reported on a gift tax return. A gift tax return is due by April 15 of the year after a potentially taxable gift is made, even if no tax is currently due. No gift tax is due until cumulative taxable gifts over the donor's lifetime exceed the lifetime gift exclusion amount. For more information, see CRS Report 95-444, *A History of Federal Estate, Gift, and Generation-Skipping Taxes,* by John R. Luckey, and CRS Report 95-416, *Federal Estate, Gift, and Generation-Skipping Taxes: A Description of Current Law*, by John R. Luckey.

exemption (up to $1 million) used by a person during their lifetime is to be subtracted from the combined exemption applying in their year of death to determine the amount of the exemption remaining to protect the estate from taxation. So, for example, if an individual who has already given away $1 million in lifetime taxable gifts died in either 2006, 2007, or 2008, when the combined exemption is $2 million per decedent, there would be $1 million in exemption remaining for the estate.

In 2010, under EGTRRA, the maximum gift tax rate will be capped at 35% (equal to the maximum individual income tax rate under EGTRRA) on cumulative lifetime taxable transfers over $500,000. This is lower than the maximum rate of 45% scheduled to apply to estates and gifts in 2007 through 2009. Under the bills that would permanently repeal the estate tax by simply repealing the sunset provision of EGTRRA, this gift tax would remain in place after 2010.[11]

Gift Tax Revenues

Through FY2001, gift taxes accounted for a significant percentage of combined estate and gift tax revenues.[12] Ever since the adoption of EGTRRA in 2001, with its announcement of estate tax repeal in 2010, there has been a substantial decline in the revenue collected from the gift tax. The last column of **Table 6** shows that gift taxes accounted for 14% to 17% of combined estate and gift tax revenues from FY1999 through FY2001. In contrast, from FY2002 to FY2007, gift taxes accounted for only 6% to 9%. Gift tax revenue fell by more than half, from the range of $3.9 billion to $4.7 billion per year in FY1999-FY2001, down to the range of $1.4 billion to $2.4 billion in FY2002-FY2007 (second column of **Table 6**). This is illustrated in **Figure 3**.

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[11] For further explanation, see CRS Report RL34374, *Estate Tax Legislation in the 110th Congress*, by Nonna A. Noto.

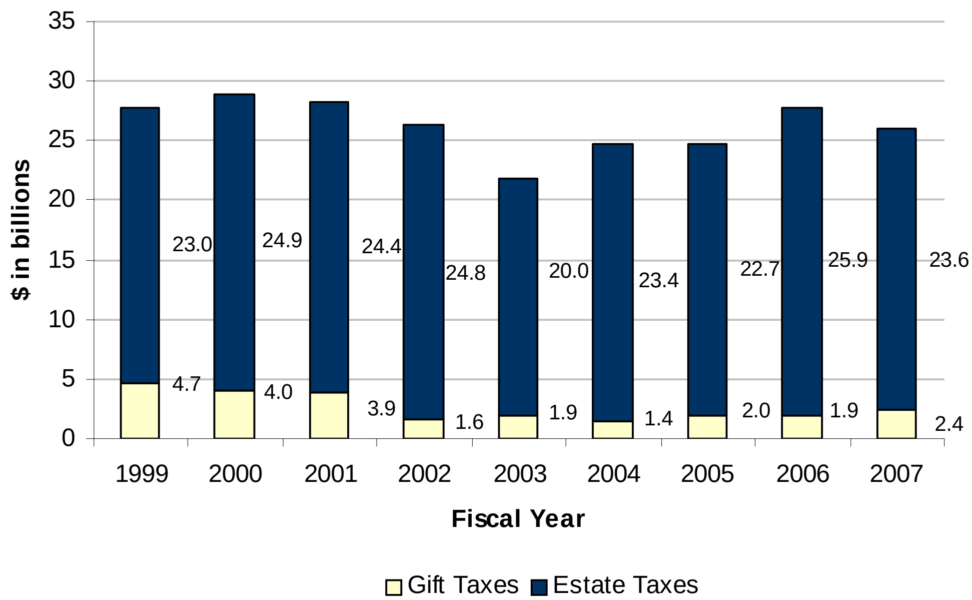
[12] The revenue numbers cited in the remainder of this report differ from those presented in the last column of **Table 2** in at least three ways: 1) they include gift taxes in addition to estate taxes; 2) they are on a fiscal year rather than calendar year basis; and 3) they are based on revenue collections data, rather than on a sampling of estate tax returns.

Table 6. Net Collections of Estate Taxes and Gift Taxes and Their Percentage Breakdown, Fiscal Years 1999-2007

Fiscal Year	Estate Taxes	Gift Taxes	Estate and Gift Taxes	Percent Estate Taxes	Percent Gift Taxes
	(in $ billions)				
1999	23.0	4.7	27.7	83	17
2000	24.9	4.0	28.9	86	14
2001	24.4	3.9	28.3	86	14
2002	24.8	1.6	26.4	94	6
2003	20.0	1.9	21.9	91	9
2004	23.4	1.4	24.8	94	6
2005	22.7	2.0	24.7	92	8
2006	25.9	1.9	27.8	93	7
2007	23.6	2.4	26.0	91	9

Sources: Internal Revenue Service *Data Book* for the fiscal years 1999-2007, Table 1: Internal Revenue Collections and Refunds, by Type of Tax. Available on the IRS website [http://www.irs.gov] under SOI Tax Stats. Net collections are equal to gross collections minus refunds. Percentage calculations by CRS.

Figure 3. Net Collections of Estate Taxes and Gift Taxes and Their Percentage Breakdown, Fiscal Years 1999-2007



Source: Columns 1 and 2 of **Table 6**.

A possible explanation for the decline in gift taxes is that many wealthy people chose to forgo the certainty of gift taxes if they transferred assets while they were alive, in the hope that the estate tax would be repealed permanently and they would then be able to pass the assets along to beneficiaries tax-free upon their death.[13] Forecasters at the U.S. Treasury Department predict that revenue from the gift tax will remain low in the years remaining prior to FY2011 but will be higher in FY2011, reflecting gifts made in 2010 before the scheduled return of the estate tax in 2011.

Estate and Gift Taxes Contribute Less Than 2% of Federal Revenue

As shown in **Table 7**, revenues from estate and gift taxes combined accounted for $27.8 billion or 1.5% of total federal revenue in FY1999.[14] Their contribution remained at 1.4% for FY2000, FY2001, and FY2002, even though their absolute dollar amount fluctuated first above and then below their FY1999 level. Ever since the effects of EGGTRA began to register in FY2003, the share of revenue contributed by estate and gift taxes has remained below 1.4%. From FY2003 through FY2006 it fluctuated within the range of 1.1% to 1.3% of total revenue, even though the dollar amount rebounded from $22.0 billion in FY2003 to $27.9 billion in FY2006. In FY2007 estate and gift taxes fell back to $26.0 billion, accounting for 1.0% of total federal revenue. The percentage share of estate and gift taxes is influenced by fluctuations in other revenue sources as well.

[13] There is another tax advantage to delaying the transfer of assets until after death that was present in prior law and remains in practical effect for small estates under EGTRRA. Recipients are likely to owe less in capital gains taxes when they sell a capital asset received from a bequest after death, rather than from a lifetime gift, because of the difference in treatment of basis. Under both EGTRRA and prior law, assets transferred by gift receive a carryover basis (the donor's purchase price), in contrast to a step-up in basis (the value at the time of the transfer). Under the law in effect through 2009, while the estate tax remains in effect, recipients of assets transferred at death receive a step-up in basis. This cancels potential capital gains tax liability on the increase in the value of the asset during the decedent's period of ownership. Under EGTRRA, assets transferred at death during years when the estate tax is repealed (2010 and possibly subsequent years if extended) will receive a modified carryover basis. There is a step-up allowance of $1.3 million per decedent plus $3 million for a surviving spouse, both indexed for inflation after 2010. These step-up allowances are likely to shelter most capital gains in small estates from income tax when the heirs sell the assets.

[14] For information on state revenues from these types of taxes, see CRS Report RS20853, *State Estate and Gift Tax Revenue*, by Steven Maguire.

Table 7. Estate and Gift Tax Revenues Combined, Dollar Amount and as a Percent of Total Federal Revenue, FY1999-FY2007

Fiscal Year	Estate and Gift Tax Revenues	
	In $ Billions	As a Percent of Total Federal Revenue
1999	$27.8	1.5%
2000	29.0	1.4
2001	28.4	1.4
2002	26.5	1.4
2003	22.0	1.2
2004	24.8	1.3
2005	24.8	1.1
2006	27.9	1.2
2007	26.0	1.0

Sources: Revenue data from U.S. Executive Office of the President, Office of Management and Budget, *Historical Tables, Budget of the United States Government, Fiscal Year 2009* (Washington: GPO, 2008), Table 2.1, p. 31 (total receipts), Table 2.5, p. 46 (estate and gift taxes). Percentage calculations by CRS.

CBO Projections Show Rebound in Estate Tax Revenues after FY2011 if EGTTRA Sunsets

In January 2008, the Congressional Budget Office (CBO) released its projections, under current law, of estate and gift tax revenues through FY2018, as shown in **Table 8**. CBO assumes growth in the value of assets over time, reflecting both real economic growth and inflation. CBO noted that individuals' wealth has been growing slightly faster than GDP, on average, in recent years.[15]

Starting from actual revenues of $26 billion in FY2007, CBO projected that revenues would rise slightly to $27 billion in both FY2008 and FY2009. In all three of these years, estate and gift taxes were estimated to account for 1.0% of total federal revenue and 0.2% of gross domestic product (GDP). This is based upon an estate tax exemption of $2 million for decedents dying in calendar years 2006-2008.

[15] U.S. Congress, Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2008 to 2018*, Washington, Jan. 2008, pp. 97-98.

Reflecting the large increase in the exemption to $3.5 million for 2009 and the repeal of the estate tax for decedents dying in calendar year 2010, CBO projected that estate and gift tax revenues would fall to $22 billion in FY2010 and $21 billion in FY2011. This corresponds to 0.8% of total federal revenue in FY2010 and 0.7% in FY2011, and to 0.1% of GDP in both years.

Reflecting the reinstatement of the estate tax in 2011 with an exemption of $1 million, CBO projected that estate and gift tax revenues would rise markedly to $55 billion in FY2012. That represents 1.6% of projected federal revenue (higher than the 1.5% share they contributed in FY1999) and 0.3% of GDP. CBO projected that estate and gift tax revenues would continue to rise steadily in nominal dollars by roughly $7 billion each year, to $63 billion in FY2013, and up to $97 billion in FY2018. That represents 1.8% of projected total revenue for FY2013 and 2.1% for FY2018. Because the $1 million exemption amount is not indexed for inflation after 2011, and because the wealth of individuals is assumed to grow faster than inflation, CBO projected that estate and gift tax revenues would rise to 0.4% of GDP starting in FY2014.

CBO's cumulative revenue projection for the standard 10-year forecast period, FY2009-FY2018, is $604 billion. There is a big difference, however, in the revenue expected for the first half of the 10-year period versus the second half. This is because of the large changes in the estate tax exemption each calendar year from 2008 through 2011 (refer back to **Table 1**, column 1). CBO's revenue forecast for the first five-year period, FY2009-FY2013, is $188 billion. This reflects one calendar year when the exemption is $2 million, one when it is $3.5 million, one when there is no estate tax, and two when the exemption is $1 million. The revenue projection for the second five-year period, FY2014-FY2018, is $416 billion. This projection is based on the assumption that the estate tax will be in effect for all of those years with an exemption of $1 million and that the top tax rate will be restored (from 45% in 2007-2009) to 55% for decedents dying in 2011 and after, as provided under pre-EGTRRA law.

Table 8. CBO Projections of Combined Estate and Gift Tax Revenues Each Year from FY2008 through FY2018 under Current Law: Dollar Amount, Percent of Total Revenue, and Percent of GDP

Fiscal Year	Revenue in $ Billions	As a Percent of Total Revenue	As a Percent of GDP
Actual 2007	26	1.0	0.2
2008	27	1.0	0.2
2009	27	1.0	0.2
2010	22	0.8	0.1
2011	21	0.7	0.1
2012	55	1.6	0.3
2013	63	1.8	0.3
2014	70	1.9	0.4
2015	76	1.9	0.4
2016	83	2.0	0.4
2017	90	2.1	0.4
2018	97	2.1	0.4
First 5-year subtotal 2009-2013	188	1.2	0.2
Second 5-year subtotal 2014-2018[a]	416	2.0	0.4
10-year total 2009-2018	604	1.6	0.3

Source: U.S. Congress, Congressional Budget Office, *The Budget and Economic Outlook: Fiscal Years 2008 to 2018*, Washington, Jan. 2008, Table 4-1: CBO's Projections of Revenues, p. 83. Percent of total revenue calculated by CRS.

a. The second five-year subtotal for FY2014-FY2018 was added by CRS.

Treasury Department and JCT Estimates of Revenue Loss from Permanent Repeal

In its FY2009 budget, the Bush Administration again proposed making the repeal of the estate tax permanent. The Administration's proposal to remove the sunset provision of EGTRRA would make permanent both the repeal of the estate tax and the generation-skipping transfer tax, as well as the modifications to the gift tax currently scheduled to be in effect for 2010 only.

Table 9 presents estimates of the changes in federal receipts expected each year, through FY2018, if legislation to repeal the sunset provision of EGTRRA with respect to the estate and gift taxes were enacted in 2008, to take effect in 2010. These estimates were issued by the U.S. Treasury Department in February 2008 and by the Joint Committee on Taxation (JCT) in March 2008. The Treasury's estimates of revenue loss begin in FY2008. The JCT's estimates begin in FY2009. These estimates do not include the reduction in revenue expected as a result of impending changes made by EGTTRA, namely the increase in the estate tax exemption to $3.5 million for 2009.

Reduced Gift Taxes and Income Taxes Also Expected

According to Treasury Department analysts, the revenue losses estimated for FY2008 through FY2010 stem primarily from a projected decline in gift tax revenues. As explained previously, the estimates are based on the assumption that taxpayers would immediately begin to reduce taxable gifts during their lifetimes if they knew that the estate tax would be permanently repealed in 2010.

In addition, it is expected that enactment in 2008 of permanent repeal of the estate tax (effective in 2010) would modestly affect revenues from the individual income tax, in two opposing ways. First, lifetime charitable donations and accompanying tax deductions would fall, thereby increasing income tax revenues. Second, and larger in effect, capital gains realizations by the elderly would fall as they wait to pass on their assets tax-free after death, thereby decreasing current income tax revenue. Treasury projected that, for FY2008 through FY2010, net reductions in income taxes would add to the decrease in revenue from gift taxes. For FY2011 and beyond, the loss in income taxes would add to the decrease in revenue from estate taxes as well as gift taxes.[16]

[16] These conclusions are based on a comparison of two sets of revenue change estimates for FY2008-FY2013, for the proposal to repeal the estate tax, published in the U.S. budget for FY2009. See U.S. Executive Office of the President, Office of Management and Budget, *Analytical Perspectives, Budget of the United States Government, Fiscal Year 2009* (Washington: GPO, 2008), Table 17-3, p. 265, and Table 17-4, p. 269. According to conversations with Treasury Department analysts, the estimates in Table 17-3, Effect of Proposals on Receipts — for making permanent the repeal of estate and generation-skipping transfer taxes and modification of gift taxes — include the projected negative effects on income tax revenue, in addition to the effect on estate and gift tax revenue. These estimates (presented out to FY2013) are the same as those shown in **Table 7** of this report for the Treasury Department. In contrast, the estimates in Table 17-4, Receipts by Source — of the effects of proposed legislation on receipts, under the heading for estate and gift taxes — include only the effects on estate and gift tax receipts. The difference between the two series represents the estimated associated loss of income tax revenue.

Table 9. Treasury Department and JCT Estimates of Revenue Losses from Permanent Repeal of the Estate Tax, Each Year from FY2008 to FY2018

Fiscal Year	Treasury Department	Joint Committee on Taxation
	(millions of dollars)	
2008	-422	—
2009	-2,502	-1,401
2010	-3,453	-2,288
2011	-26,409	-30,521
2012	-57,639	-69,388
2013	-59,670	-76,957
2014	-64,670	-84,174
2015	-69,371	-90,728
2016	-74,379	-97,431
2017	-79,285	-104,890
2018	-84,604	-112,038
2009-2013	-149,673	-180,555
2014-2018	-372,309	-489,261
2009-2018	-521,982	-669,816

Sources: U.S. Department of the Treasury, *General Explanations of the Administration's Fiscal Year 2009 Revenue Proposals* (referred to as the Bluebook), Washington, Feb. 2008, p. 129. Column 2: U.S. Congress, Joint Committee on Taxation, *Description of Revenue Provisions Contained in the President's Fiscal Year 2009 Budget Proposal*, 110th Cong., 2nd sess., JCS-1-08 (Washington: GPO, Mar. 2008), p. 311. The second five-year subtotal for FY2014-FY2018 was added by CRS.

Notes: These estimates are based on the assumption that Congress acts in 2008 to permanently repeal the estate tax and generation-skipping transfer tax effective in 2010. The estimates include the projected accompanying loss of individual income tax revenue, in addition to estate and gift tax revenue, as explained in the text.

According to Treasury Department analysts, Treasury's estimates of revenue loss are lower than JCT's (for fiscal years 2011 and beyond) primarily because Treasury starts from a lower baseline (the projection of what revenues from the estate tax would otherwise be) than the Congressional Budget Office baseline used by JCT.

Ten-Year Forecast May Be Misleading Because of Changing Law

The U.S. Treasury Department and the Joint Committee on Taxation typically prepare a revenue-change forecast for 10 fiscal years forward whenever they evaluate a tax proposal. Similarly, in its budget outlook publications, CBO makes projections of specific revenue sources for the next 10 fiscal years. Because of the big changes in estate tax law scheduled over the next three calendar years, from 2009 through 2011, the standard 10-year forecast starting in FY2009 gives a misleading measure of the revenue — or revenue loss — that would be expected if the same tax law were in effect for each of the 10 years.

For the hypothetical case of legislation in 2008 to make estate tax repeal permanent for 2010 and beyond, the expected five-year revenue losses are far lower for the first five years, FY2009-FY2013, than they are for the second five years, FY2014-FY2018, when repeal of the estate tax would be fully in effect. The revenue loss estimate for the second five-year period better reflects the long-run cost of the permanent repeal proposal: $372 billion according to Treasury and $489 billion according to the JCT. For individual years reflecting full repeal of the estate tax, Treasury estimated a revenue loss of $60 billion for FY2013, rising by about $5 billion each year to $85 billion in FY2018. The JCT estimated a revenue loss of $77 billion in FY2013, rising by about $7 billion each year to $112 billion in FY2018.

Estate Tax Repeal Accounts for One-Quarter of the Estimated Cost of Making the 2001 and 2003 Tax Cuts Permanent

Among the revenue proposals in its FY2009 budget, the Bush Administration has again proposed to "make permanent certain tax relief provisions enacted in 2001 and 2003." **Table 10** lists the proposals within that category in decreasing order of their projected revenue loss over the 10-year forecast period, FY2009-FY2018.

According to the Treasury Department's estimates, repeal of the estate tax accounts for nearly one-quarter (23.9%) of the revenue losses associated with making permanent this group of tax cuts enacted in 2001 and 2003: $522 billion out of $2,185 billion for the group. The Treasury estimates that the revenue loss from permanent repeal of the estate tax is just over half the size of the most costly component of the package, extending the reductions in marginal individual income tax rates: $522 billion compared with $1,008 billion, or 52%.

According to the Joint Committee on Taxation, the estate tax accounts for just over one-quarter (27.8%) of the projected revenue cost of making the set of 2001 and 2003 tax cuts permanent: $670 billion out of $2,414 billion for the 10-year period, FY2009-FY2018. JCT estimates that permanent estate tax repeal would cost nearly two-thirds as much as making the individual income tax rate cuts permanent: $670 billion compared to $1,401 billion, or 64%.

The big role of estate taxes may seem surprising given that estate and gift taxes account for 2% or less of past and projected federal revenue (refer back to **Tables 7** and **8**).

Table 10. Treasury and JCT Estimates of Revenue Loss from Making Permanent Certain Tax Cuts Enacted in 2001 and 2003, Cumulatively for FY2009-FY2018

Tax Proposal	Treasury	JCT	Treasury	JCT
	In $ Billions		Percent of Total	
Lower marginal individual income tax rates	-1,008	-1,041	46.1	43.1
Estate tax repeal	**-522**	**-670**	**23.9**	**27.8**
Increase child tax credit[a]	-252	-261	11.5	10.8
15% dividend rate	-196	-217	9.0	9.0
15% capital gains rate	-105	-102	4.8	4.2
Marriage penalty relief[a]	-60	-81	2.7	3.3
Increase small business expensing	-27	-23	1.2	0.9
Education incentives	-12	-15	0.5	0.6
Other incentives for families and children	-5	-5	0.2	0.2
Total	-2,185	-2,414	100.0	100.0

Sources: U.S. Department of the Treasury, *General Explanations of the Administration's Fiscal Year 2009 Revenue Proposals* (referred to as the Bluebook), Washington, Feb. 2008, p. 129. U.S. Congress, Joint Committee on Taxation, *Description of Revenue Provisions Contained in the President's Fiscal Year 2009 Budget Proposal*, 110th Cong., 2nd sess., JCS-1-08 (Washington: GPO, Mar. 2008), p. 311. Percentage calculations by CRS.

Note: a. The estimates for the child tax credit and marriage penalty relief also include outlays for refundable tax credits associated with these proposals.