

Estate Taxes – Kansas

In 2009 the Kansas House Taxation committee held a hearing on HB 2047¹. The bill covered the suspension of the phase out provision of the Kansas estate tax

Suspending Phase Out of Kansas Estate Tax (HB 2047) - The House Taxation committee held a hearing on HB 2047, a bill which suspends the phase out of the Kansas estate tax. The Kansas Department of Revenue supported the bill, citing a \$5 million positive fiscal impact in FY 2010, \$11 million in FY 2011, \$17 million in FY 2012, and \$18 million in FY 2013. Opposing groups stated that repealing the phase out would exacerbate the competitive disadvantage Kansas has and would hurt investment and job creation in the state. They believe that estate taxes deplete the estates of those who have saved for their entire lives, forcing family businesses to lay off workers. They also believed that the tax motivates people to make financial decisions for estate tax purposes rather than for business or investment reasons, and so has a negative effect on family-owned businesses.

The end result of the recommendation from the committee was that the tax was eliminated beginning for deaths occurring in year 2009.

The amount of revenue Kansas collected from estate taxes for the prior ten years was as follows:

2001	19,364,000
2002	9,518,000
2003	10,041,000
2004	9,165,000
2005	9,927,000
2006	9,918,000
2007	10,684,000
2008	10,562,000
2009	10,765,000
2010	8,396,051
2011	229,122
2012	0

Source Kansas Tax Report 1992-2009²

Source Kansas General Funds Report FY 062011³

Who Pays the Estate Tax in Kansas: 2000-2009?

# of Estates Owning								% of Estates Owning							
2000	2002	2004	2005	2006	2007	2008	2009	2000	2002	2004	2005	2006	2007	2008	2009
672	225	183	207	191	102	148	93	2.7%	0.9%	0.7%	0.9%	0.8%	0.4%	0.6%	0.4%

There was no provision made for replacing the funds lost from the elimination of estate taxes. Consequently, there is a short-fall in the states’ revenue on an average of approximately \$10,000,000 a year.

There are many arguments for and against estate taxes.

It appears that Myths are the primary arguments used to eliminate the tax.

The Citizens for Justice sets out the myths in regard to Federal Estate taxes and they have been used as well at state level:⁴

Myth: Most families will be affected by the estate tax if it is not repealed or severely reduced.

Fact: Only 0.6 of deaths that occurred in 2008 resulted in estate tax liability.

One survey showed that seven out of ten Americans believe his or her family could have to pay federal estate taxes. That's pretty remarkable considering that less than seven out of every *thousand* deaths in 2008 resulted in estate tax liability.

Myth: The estate tax rates are so high that it amounts to a confiscatory tax.

Fact: The *effective* estate tax rate has always been, and always will be, far lower than the nominal estate tax rate, and was just 20.4 percent in 2009.

There's something about a statutory tax rate of 50 percent or higher that some people find unfair. If the estate tax has a rate that high, some people argue, then it amounts to a "confiscatory" tax, meaning the government is basically just confiscating your property, or at least the majority of it. This argument merely demonstrates that most people don't realize that the *effective* estate tax rate is nowhere near 50 percent.

While the statutory estate rates described here may sound high — 55 percent in 2011 under current law and 45 percent in 2011 under President Obama's proposal — the *effective* estate tax rates are far lower. The effective tax rate is the fraction of the value of the net estate that must be paid in taxes after accounting for deductions and credits.

For example, IRS data show that for the 0.6 percent of deaths in 2008 that resulted in estate tax liability in 2009, the effective estate tax rate was 20.4 percent. (The effective rate for the other 99.4 percent of people who died was zero percent.)

Myth: The estate tax amounts to double-taxation on earnings that have already been subject to the federal income tax.

Fact: More than half of the value of taxable estates consists of capital gains income that was never taxed.

Most large estates include assets such as real estate, stocks or bonds. Any increase in the value of these assets is capital gain income that would be subject to the income tax if they were sold during the owner's lifetime. However, this type of income is not subject to the income tax if the owner dies and leaves it to an heir. In other words, without the estate tax, a huge amount of income would never be taxed. Over half the value of inherited estates is capital gains income that has never been taxed.

Myth: The estate tax hurts family farms and small businesses.

Fact: Only a tiny fraction of farms and small businesses would be affected at all by the estate tax under any of the estate tax proposals being contemplated by members of Congress.

Late last year, the Tax Policy Center provided estimates that defined small business estates as those in which farm and business assets represent at least half of the gross estate and total no more than \$5 million. Using this

definition, it was estimated that only 100 farms and small business estates would have owed any estate tax this year if the 2009 exemption levels had been in effect.

Even if Congress allowed the estate tax to revert entirely to the pre-Bush rules, there would still be plenty of provisions that make the estate tax manageable for closely held businesses and farms. Family farms receive a higher exemption and can be valued, for estate tax purposes, according to their "current use" as farmland, which may be much less than their market value. Finally, the tax due on an estate that is a closely held business or farm can be paid over 14 years.

The most fiscally responsible estate tax proposal introduced in this Congress (the Responsible Estate Tax Act), would expand the provision that allows closely held farm estates to be valued according to their current use, so that it could be used to lower the value of the estate, for estate tax purposes, by \$3 million. (In fact, such provisions could limit would be indexed for inflation.)

Some lawmakers mistakenly believe that additional breaks are needed for farms. Other proposals to exempt large or unlimited amounts of farmland from the estate tax would, if enacted, serve as major vehicles for actually harm genuine farmers because they would encourage wealthy people to convert all sorts of assets into farmland, which would drive up the price of land for those who genuinely make a living from farming.

Respectfully submitted by
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¹Kansas Legislature Session 2009 House Bill 2047 by Committee on Taxation 1-21

² State of Kansas Adjusted General Fund Tax Receipts, Rates of Change, Elasticities, Composition and Effective Tax Rates: Fiscal Years 1992 Through 2009 Prepared for Kansas Division of the Budget by John D. Wong J.D., PhD Consulting Economist August 2009

³ Kansas Governors Budget Report for Fiscal Year ending June, 2011

⁴ Citizens for Tax Justice October 20, 2010 State-by-State Tax Figures