



Nebraska's 'Death' Tax: Killing Small Farms, Businesses, and Investments  
By Jordan Cash

Last week we reported on the millions in federal government subsidies farms in Nebraska receive on an annual basis. In total, \$180.8 billion in aid is given to Ag producers when combining benefits from all levels of government; federal, state and local.[\[1\]](#) Of every \$100 American farmers earn, \$62 comes from the government.

The intentions of all this government aid is to help family farmers compete in an industry that is becoming more dominated by large corporations every year, and to keep the price of food low for domestic consumers. Yet, in Nebraska our state tax policy is working against the family farm.

Nebraska is currently one of six states that have a separate inheritance tax-often morbidly referred to as a 'death tax'-eleven states have a separate estate tax and two states, Maryland and New Jersey, collect both.[\[2\]](#) The key difference between the inheritance tax and an estate tax is simply that an estate tax taxes the entire estate of the deceased while an inheritance tax only targets specific bequests, often with exemptions and different rates depending on the heir's familial relation to the deceased, generally following the rule that closer relatives will pay lower rates.

Perhaps the most consequential effect of Nebraska's inheritance tax is its effect on farmers and ranchers. Many of Nebraska's farms are family owned, and passing it from one generation to the next is often fraught with complications due to the combined burdens of state and federal taxes on estates and inheritance. To pay the taxes, farmers, ranchers, and other small family owned businesses are often forced to sell all or part of their business.

The inheritance tax in Nebraska is structured differently than in most other states. Collected at the county level and administered by the county where the deceased person's property resides, the property inherited is evaluated and priced based upon the fair market value at the time of death.[\[3\]](#) The tax must be paid within one year of the time of death with interest on unpaid taxes rising as high as 14%. Gifts to federal departments, state agencies, and charities are exempt.[\[4\]](#)

Yet despite the seemingly benign intention of the inheritance tax to keep wealth from being concentrated, this form of tax brings with it a plethora of unintended consequences. Small businesses and family farmers are especially vulnerable to the consequences of the tax, particularly since the federal estate tax-which had been set to a zero percent rate during

2010-jumped to 35% on January 1<sup>st</sup> of this year, and the burden for those wishing to pass their possessions onto their family has now multiplied dramatically.

One of the immediate effects of the death tax is on investors. Because of the tax, people wishing to pass along money and possessions to their children must inevitably save more, so that their heirs do not have to give away most of their inherited possessions in taxes. This reduces the amount of capital readily available to invest, thereby smothering innovation and entrepreneurship. It is estimated that investment was reduced by \$850 billion nationwide and 1.5 million potential jobs were not created due to the national estate tax alone.<sup>[5]</sup> Nebraska's situation is made worse than the national average because of its own internal inheritance tax.

Looking at the burden imposed by both federal and state death taxes, Nebraska ranked fifth in the nation for the highest death tax rates with 46.7% of inherited wealth ultimately taken by taxes. In a study by the Ocean State Policy Research Institute, it was concluded that "the most significant driver in out-state migration is the estate tax."<sup>[6]</sup> Similarly, the Connecticut Department of Revenue Services in 2008 found that the 26 states without estate taxes produced twice as many jobs and grew 50% faster than those with the tax between the years of 2004-2007.<sup>[7]</sup> While the estate and inheritance taxes are not perfectly analogous, the threat to Nebraska's economy should not be underestimated.

Nebraska's inheritance tax is one that hurts Nebraska's economy far more than it helps. The burden placed upon small business owners, investors, farmers, ranchers, and even those who simply wish to pass saved wealth onto their children is incredibly heavy, punishing people for wisely saving money to bequeath to their heirs and to preserve their business or agricultural endeavors. While the burden is not solely Nebraska's doing, as the federal estate tax is set at the inexorable rate of 35%, for as long as Nebraska insists on keeping the inheritance tax, it will be a deterrent on economic innovation and growth, and weigh down existing small businesses and family farms to the point where they may cease to exist when the time comes for them to pass from one generation to the next.

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<sup>[1]</sup> Mckenna, Barrie. "For U.S. Farmers, Subsidies the Best Cash Crop." *The Globe and Mail*. The Globe and Mail, 25 Nov. 2010.

<sup>[2]</sup> Joel Michael, "Estate and Inheritance Taxation: An Overview of Taxes in the States" in *House Research*, (Sept 2010). <http://www.house.leg.state.mn.us/hrd/pubs/ss/ssestinh.pdf> Accessed April 22, 2011.

<sup>[3]</sup> Nebraska Department of Revenue, Title 316 Chapter 17: Inheritance Tax. <http://www.revenue.state.ne.us/legal/regs/inherit.html>. Accessed April 19, 2011.

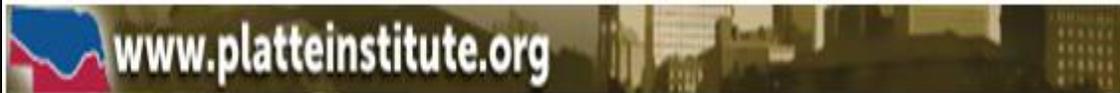
<sup>[4]</sup> J. David Aiken, "NF96-236 Nebraska Inheritance and Estate Taxes" in *Historical Materials from University of Nebraska-Lincoln Extension* (1996).

[http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1399&context=extensionhist&sei-redir=1#search="nebfact+j+david+aiken+1996+inheritance+tax"](http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1399&context=extensionhist&sei-redir=1#search=) Accessed April 19, 2011.

[5] Daniel J. Mitchell, "The 'Death Tax' Destroys Wealth" in *USA Today* Oct. 1, 2009. [http://www.cato.org/pub\\_display.php?pub\\_id=10597](http://www.cato.org/pub_display.php?pub_id=10597). Accessed April 20, 2011.

[6] Ocean State Policy Research Institute, "Death Tax Ambush" Wall Street Journal Lead Editorial, Feb. 8, 2011. <http://www.oceanstatepolicy.org/docs/LeavingRI/WSJeditorial.html>. Accessed April 22, 2011.

[7] Ibid.



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