

WISCONSIN ESTATE TAX

While Wisconsin imposes an estate tax under current law, the tax is dependent on federal law. Due to either the provisions of or absence of the federal estate tax in recent years, Wisconsin's estate tax has been inactive for deaths beginning in 2008.

Wisconsin's estate tax in its present form was adopted in 1992, after a five year phase-out of the earlier inheritance and gift tax, as provided by 1987 Wisconsin Act 27. The Wisconsin estate tax is imposed upon the transfer of property which is subject to a federal estate tax and on the portion that has a taxable situs in this state (Chapter 72, Wis. Stats). The estate tax is equal to the federal credit for state death taxes allowed under the federal estate tax. This type of federal credit tax is known as a "gap" tax or "pick-up" tax allowing the state to "pick-up" a share of taxes that would otherwise be paid to the federal government. The maximum credit, or "pick-up" tax, for the most recent years the tax was in effect, was calculated using rates ranging from 0.8% to 16%, with the top rate imposed on the amount of the adjusted taxable estate exceeding \$10,040,000. The tax was due and payable on the date nine months after the decedent's death.

The 2001 Economic Growth and Tax Relief Reconciliation Act (EGTRRA) phased out the federal estate tax over a nine-year period beginning in 2002. Moreover, EGTRRA phased out the federal estate tax credit for state death taxes, reducing it by 25% for deaths in 2002, 50% for 2003 and 75% for 2004 (see Table 1). For deaths during the 2005 to 2009 period, no federal credit for state estate taxes was allowed (a deduction was allowed in lieu of the credit), and for deaths in 2010, the federal estate tax was repealed. Given the dependence of Wisconsin's estate tax on the federal credit for state estate taxes, EGTRRA changes meant either the reduction of or the effective elimination of the Wisconsin estate tax (at least until EGTRRA's initial sunset date of January 1, 2011, whereby prior federal law, and Wisconsin's tax, would have been restored in 2011 barring further federal action).

In response to EGTRRA, 2001 Wisconsin Act 16 imposed a Wisconsin estate tax equal to the state estate tax credit allowed under pre-EGTRRA federal law (as of December 31, 2000) for deaths occurring after September 30, 2002, and before January 1, 2008. By linking to prior federal law for deaths during this time period, Wisconsin retained an estate tax despite the phase-out of the federal credit. By establishing this link to prior federal law, Wisconsin effectively exempted estates under \$675,000 for the October 2002 through December 2007 period. (Under EGTRRA, the federal exemption continued to grow in steps rising to \$3.5 million by 2009).

Beginning with deaths occurring on January 1, 2008, Wisconsin has not collected an estate tax. For 2008 and 2009 federal law did not allow a credit for state death taxes. For 2010, the federal estate tax was repealed. More recent federal legislation, described below, has kept, and will continue to keep, Wisconsin's tax dormant into the future.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the 2010 Tax Relief Act) deferred the sunset of EGTRRA (which would have restored Wisconsin's tax) by two years to January 1, 2013 and made other significant changes to the federal estate tax law for 2011 and 2012. It set the new federal estate tax top rate at 35% with a \$5 million exemption, adjusted for inflation. A credit for state estate taxes paid was not reestablished for

deaths during the 2011 and 2012 period. Since the federal estate tax allowed a deduction, rather than a credit for state estate taxes paid, Wisconsin's "pick-up" tax remained dormant for two more years as a result of this federal action.

The American Taxpayer Relief Act of 2012 (enacted very early in 2013) increased the federal estate tax top rate to 40% and made changes in the applicable exclusion amounts. The act exempted the first \$5 million for individual estates and \$10 million for family estates, with both exemptions indexed for inflation. In addition, the act removed both the sunset provision of the 2001 EGTRRA law and its extension in the 2010 Tax Relief Act. By removing both the initial sunset provision and its extension, the federal deduction rather than credit for state estate taxes paid under federal estate tax law was made permanent and applicable for deaths beginning in 2013. As a consequence, Wisconsin estate tax will remain dormant unless Wisconsin estate tax law is modified to activate the tax.

The chart below shows Wisconsin estate tax collections by fiscal year since 1999-2000 (FY00). Estate tax collections are impacted by demographics, estate tax law changes, and fluctuations in the market value of assets. As discussed, Wisconsin established its estate tax equal to the federal credit for state estates taxes as of December 31, 2000 for deaths occurring after September 30, 2002, and before January 1, 2008. No state estate tax has been collected for deaths occurring on or after January 1, 2008 since, as discussed above, under federal estate tax laws no credit for state taxes has been permitted. (FY11 and FY12, not shown in the chart below, have included only residual activity such as amended and audited returns).

Table 1 on the following page displays the key components of both the federal and Wisconsin estate tax for deaths occurring from 2000 through 2012.

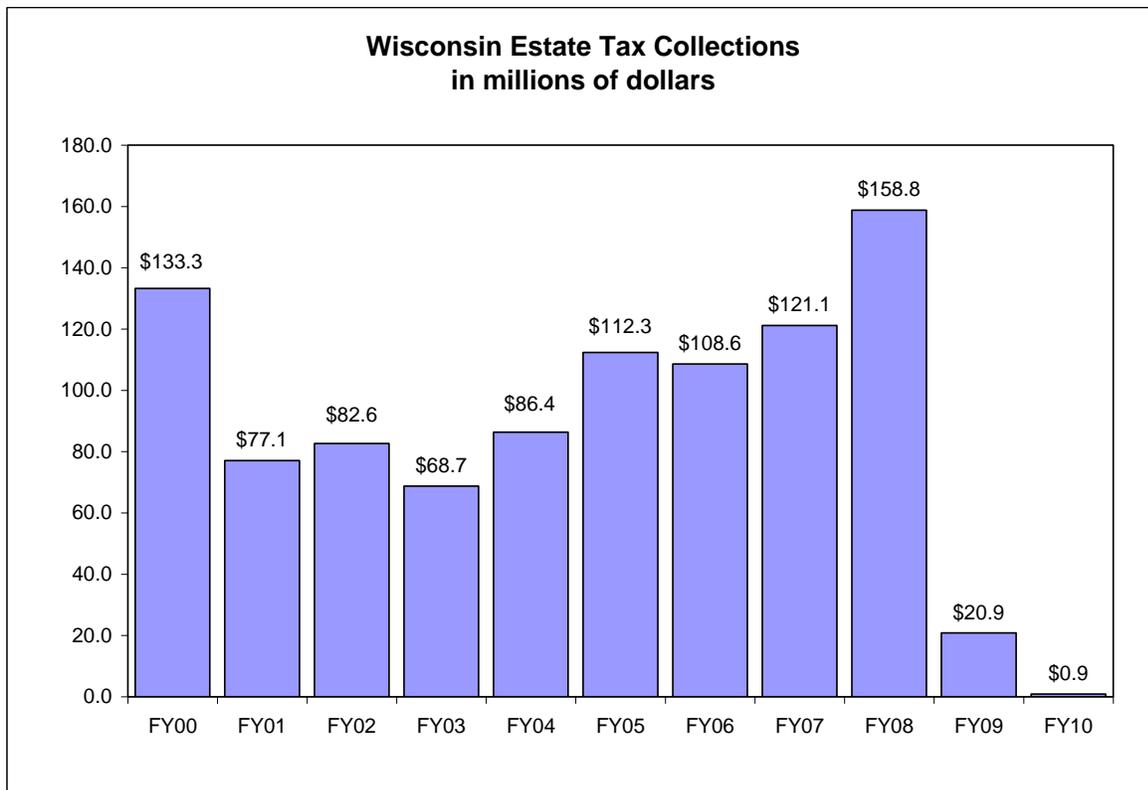


Table 1
Federal and Wisconsin Estate Tax Laws - Selected Characteristics

Federal Estate Laws	EGTRAA 2001											Tax relief Act 2010		American Taxpayer Relief Act of 2012 (e)		
	2000	2001	2002(c)	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013		
Exclusion Amount	\$675,000		\$1 million		\$1.5 million		\$2 million				repealed	\$5 million, indexed for inflation in 2012		\$5 million inflation adjusted		
State Tax Credit	100%		75%	50%	25%	no credit, deduction in lieu of credit for state estate taxes									deduction (no credit)	deduction (no credit)
Max Tax Rate	55%			49%	48%	47%	46%	45%	45%	45%	0%	35%		40%		
Wisconsin Estate Tax Laws	1987 Wisconsin Act 27	2001 Wisconsin Act 16 (a)						Sunset of 2001 Wisconsin Act 16 (b)								
Exclusion Amount	\$675,000	\$675,000 beginning 10/1/02 (d)						no Wisconsin estate tax (b)								
State Tax Credit	100%	100% beginning 10/1/02 (d)														

(a) The Wisconsin state estate tax for deaths between October 1, 2002 and Jan. 1, 2008 was equal to the federal credit for state estate taxes as of Dec 31, 2000, which linked state law to the federal period which effectively excluded the first \$675,000 of the taxable estate from state taxation.

(b) For deaths occurring after December 31, 2007, the Wisconsin estate tax is computed under the federal estate tax law in effect on the day of the decedent's death. Beginning with deaths in 2008, no such credit has been in effect, and consequently, Wisconsin's tax has been dormant.

(c) Before EGTRRA, the applicable exclusion amount was \$675,000 but scheduled to increase over time. EGTRRA raised the applicable exclusion amount to \$1 million immediately for 2002 and 2003.

(d) Between Jan. 1, 2002 and Sept. 30, 2002, Wisconsin followed the federal changes under EGTRRA, under which the applicable exclusion for that time period was \$1 million and the federal credit allowed for state estate taxes was reduced to 75% of full amount.

(e) American Taxpayer Relief Act of 2012 repealed the sunset provision of the 2001 EGTRRA law which was extended to Dec. 31, 2012 by the 2010 Tax Relief Act. By repealing this provision, the EGTRRA change from a credit to a deduction for state estate taxes paid was made permanent and is applicable to estates of decedents dying after Dec. 31, 2012.