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THE INHERITANCE TAX AND ITS PROBLEMS

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The Inheritance Tax and its Problems.

Although the problems of the inheritance tax are vital to us today, it is not a tax of recent origin. The idea probably was originated in Egypt about seven centuries before the birth of Christ. The Roman Empire had its "vicesima hereditatium", a tax of a twentieth part of inheritances, levied and collected to pay the pensions of the veteran soldiers. During the middle ages the "relief" and "heriot" were imposed by the overlord in return for the privilege of succeeding to the possession of property. The heir or successor to property was compelled to pay the Feudal Lord a certain sum or perform a certain service before he could be invested with the estates of his ancestor. Inheritance taxes were introduced into England as a complete system in 1780, where they have been enlarged and changed from time to time. Under the Act of 1780 only legacies of personal property were taxed, but in 1853 Mr. Gladstone championed a measure which was adopted, taking successions to real property, also. In practically this form the English succession or inheritance duty remains at present. Today, the United Kingdom gets about 10% of its total revenue from the inheritance tax. These "death duties", as they are called, are graduated from one to ten per cent, according to the amount involved, and the degree of relationship of the heirs. The Canadian states closely follow the English in all respects. On the continent Germany, Austria, France, Switzerland, Denmark, and Sweden have inheritance or succession taxes. They seem to be a great favorite in most democratic countries, especially used to encourage social equality. The history of the tax in the United States is stated by Gleason and Otis on Inheritance Taxation:

" Inheritance taxes have been imposed by the United States Government only under pressure of emergency caused by war, and

have been repealed as soon as that pressure was removed,on the theory that such taxes were primarily a source of revenue tacitly reserved to the State governments for their support. Four times in its history war conditions have produced such taxes. They may be known as the Revolutionary War Tax,enacted in 1797 and repealed in 1802; The Civil War Tax,enacted in 1862 and repealed in 1870; the Spanish War Tax,enacted in 1898 and repealed in 1902; and the present World War Tax, enacted in 1916 and amended in 1917." Pennsylvania led the States of the Union in passing legislation imposing taxes upon inheritances in 1826. Virginia soon followed, in 1844,and today forty-five out of the forty-eight states are using some form of the inheritance tax.

The inheritance tax,as commonly spoken of today,may be one of three forms. It may be a fee for probate procedure; it may be an estate tax,where the total estate is taxed without regard to the heirs; or it may be a succession tax,levied upon each heir separately. The first is rightly called a fee, for it is not properly a tax. It is merely a flat charge for the court procedure in probating a will,and is most commonly found in England. The estate tax on the gross estate is usually a flat rate,or a slightly progressive one,and is the form used by the Federal Government. The succession tax is the one used by the various states,where separate heirs are taxed, and these groups of heirs are usually divided into various classes with different rates for each class, depending on the relationship to the deceased.

The Economists of note have differed greatly in their opinions about this tax. Adam Smith opposed it because it aided in the transfer of capital to the State,whose labours are unproductive, and took it away from persons who might apply it productively. He thought that it failed to conform to his principles of

taxation, though he did admit that when property descended to others than dependents it could be easily taxed by the State without any inconvenience. Ricardo objected to the tax on the ground that it was a tax on capital. John Stuart Mill advocated it in the extreme, urging that only relatives be allowed the right of inheriting property, and that the amount which they could receive be limited. Also, he advocated highly progressive rates. Blackstone in his " Commentaries" says:

" Naturally speaking, the instant a man ceases to be he ceases to have any dominion; else if he had a right to dispose of his acquisitions one moment beyond his life he would also have a right to direct their disposal for a million of ages after him; which would be highly absurd and inconvenient.

" The right of inheritance or descent to the children and relatives of the deceased seems to have been allowed much earlier than the right of devising by testament. We are apt to conceive at first view that it has nature on its side; yet we often mistake for nature what we find established by long and inveterate custom. It is certainly a wise and effectual, but clearly a political, establishment; since the permanent right of property vested in the ancestor himself was no natural, but a civil, right. Wills, therefore, and testaments, rights of inheritance and successions, are all of them creature of the civil or municipal laws, and accordingly are in all respects regulated by them."

Bentham favored the tax because he wished to abolish intestate inheritance - where there was no will the property would go to the state. Only very near relatives would be eligible for intestate inheritance. He held that this was not a tax, and that its advantage lay in its "unburthensomeness", or freedom from oppressiveness. Those today that are socialistically inclined favor it because it is a method whereby large fortunes can

be reduced and equalized.

The inheritance tax will preserve the individual heir from the demoralizing influence of great riches, according to Mr.Carnegie. It will preserve society from the corrupting influence of hereditary wealth,says Mr.Roosevelt. The inheritance tax will place the State in its legitimate place as co-heir, according to Bluntschli. Professor Seligman holds that it is essentisl to the realization of the faculty principle in taxation.

The proponents of the tax base its justification upon nearly every theory of taxation which has been advocated. As following out the benefit theory, it is claimed that the State should collect an amount equal to the benefit it has given in the services of transferring the property. Of course the value of these services is minutely small in comparison with the large sums inherited, and it seems that the probate fee is here referred to and not the regular inheritance tax. Whatever the form of the tax, the old difficulty of measuring the benefit arises, and the justice of the tax would then vary according to the accuracy of measurement. Along with the benefit argument it is claimed that the State is a partner to the accumulation of wealth,there-is entitled to its share. This is somewhat like the argument of the Single Land Taxers with their unearned increment. In this case there is undoubtedly some justice in the claim - a man owes a great deal to the State for the opportunities it affords him to make and save money. He is debtor for his education and training,good government,social conventions,and all that, but all this is intangible and immeasureable, and the benefit theory does not receive much consideration today in tax levies.

It is the oommon accepted opinion that most good taxes should conform to the ability to pay theory. I believe that the

inheritance tax does this. Hunter,in his Outlines of Public Finance,says " The tax may be the source of much revenue,with a minimum of sacrifice and a small derangement of enterprise, and in this respect corresponds to the modern utilitarian ideals of justice." A person who has had nothing to do with the amassing of a fortune, and who might just as well go on through life without receiving it, can very well afford to bear the tax, and a pretty heavy one, when suddenly he receives a legacy from a deceased friend or kinsman.

The principal arguments for the inheritance tax are as follows: large inheritances are socially undesireable.Ought there not be a limit beyond which,for the public welfare,the further accumulation of surplus wealth should be discouraged? Profligacy is encouraged by the receipt of a large amount of unearned wealth, and it would be far better for the money to go to the State where it would be put to advantageous usage than to go into the hands of some unappreciative and careless person who would throw it to the winds. All property came originally from the State anyway,and at the death of its accumulator it might well return to the State. This is a political and social argument and would not be sound enough, in my opinion, to justify the tax were it not supported by other stronger ones. Again, it is advocated because of the ease with which it can be collected. Unquestionably there is less room for evasion than in any other direct tax I know of. The will is probated in court, the definite amounts to each heir and the total sum is set down in black and white and the tax can be collected before a penny is turned over to the beneficiaries. A third popular argument has already been discussed under the head of the ability to pay theory - that an inheritance is an unexpected windfall and the

recipients are well able to pay the tax. Another argument that we sometimes hear is that the deceased may have been evading taxes during his life time and at his death there is offered an excellent opportunity to collect these back taxes. Everyone knows that at the present time one of the most popular indoor sports is devising some method to beat the tax collector. If it can be done cleverly and without perjury it is looked upon as a great accomplishment, and the inventor of the scheme has a host of admiring friends and followers. So, very probably, the deceased may have been somewhat negligent or forgetful about various bits of personalty, several shares of stock, or a bond or two, but from the point of justice the argument will not hold. No two decedents will have evaded taxes to the same degree, and it would be impossible to make any discriminations on the basis of the extent to which the taxes had been evaded.

What are some of the arguments against inheritance taxes? To some extent these taxes in their very nature have the economic ill-effect of impairing and sometimes destroying that which a lifetime of individual work and planning has created. Such values thus destroyed must be re-created, or production must fall behind. That means a duplication of work each generation, a waste of national energy and effort, and thus a loss to the community. Most economists are agreed that ordinarily it is unwise and unjust to place a tax upon savings or upon capital. And so some object to the inheritance tax because it is a tax on capital. A popular conception, upheld by the courts, which answers this argument is that an inheritance tax is not a tax upon property, but is an impost or excise tax either upon the right to transmit property at death, or upon the right to succeed to it

from the dead. The succession tax may be regarded as a tax upon the right to receive it from the dead, while the estate tax, such as the present Federal tax, is imposed upon the right to transmit property. But if it is not a tax upon capital it comes out of capital, so is it not just as harmful? Felix Schuster says in his article on the 'Economic Soundness of Inheritance Taxes' : " They tend towards a reduction of capital, from which they are derived, and ultimately they must be for the State a declining source of revenue, while for the contributor they imply diminished power to carry out his duties to himself, to his successors, and to the State."

We know that the whole capital of a nation is turned over once every thirty-five years by the hand of death. If fortunes are broken up every thirth-five years, what then? The dissipation of capital always signifies some loss, and its grave diminution a peril of catastrophe. There is the common notion that the "death duty" is harmful, for it consumes the capital at the disposal of the community. When the State takes a tax and uses it in a productive manner there is no loss of capital to the community, and there may be an increase. The dissipation of accumulated capital that may be occasioned by the tax will be offset by new accumulations. Furthermore, it is not true that the whole tax is drawn from social savings destined to nourish and extend productive functions. Had the inheritance tax not been imposed, part of the tax - perhaps a large part- would have been wasted or spent for unneccesaries by the heirs and the beneficiaries.

If sums raised by inheritance taxation do practically represent a net reduction in our fund of accumulated capital

the State does not have to dissipate this. Alvin S.Johnson has proposed a plan of Public Capitalization whereby the State adopts the same policy which every prudent person would recommend to the private heir. He suggests that capital acquired through inheritances be treated as a fund to be maintained intact. Let the State set apart as a permanent investment fund the proceeds of the inheritance taxes and depletion of national capital will at once cease. The public capitalization of the inheritance tax would tend to conserve the national stock of productive wealth. This plan might work out well, but several arguments against it present themselves. Although more wealth is being produced all the while the government would gradually be accumulating most of it. Soon the fund would attain such magnitude that embarrassment would result in the disposition of the income from it. Too great an excess of revenue is decidedly harmful to a government, several times having caused panics in the United States. Again, investment is not one of the functions of the State. Its duty is governing,not doing business.

There is inherent in inheritance taxation that element of social undesirability and unfairness that it leaves entirely untouched the spendthrift who never laid by a dollar and never paid a dollar of income tax in his life, and penalizes the man of practical industry,self-denial,and thrift. It is a sort of double tax on the man who has been paying income taxes while accumulating his wealth.

It is exceedingly important to encourage thrift and enterprise,which are desirable at all times and especially so now when for the public welfare it has become necessary to reestablish the world after the ravages of the war by the inten-

sified creation of wealth by production and saving. The assumption that the inheritance taxation on large fortunes should be so heavy that it would abolish the bequeathing of wealth to descendants and to start everybody on the voyage of life on practically the same basis of financial equality overlooks fundamental laws. As punishment deters so reward stimulates. The community must stimulate ment of large capacity to work to the limit of their ability, for the sake of the community's good. Men of large affairs conduct their business on that principle. They are always on the lookout for brains and capacity, and are always ready to give large reward to the possessors of such gifts, because from experience they know it pays to do it.

The same law holds good for the community. The commonwealth needs that there be men of enterprise and ability with large capital to develop our large resources. The creation of capital, the developing of resources, and the transmission of property from father to children constitute the cornerstone of society. The acquisition and transmission of capital are essential conditions of progress because they are largely the determining reasons for work and savings.

While these men of ability benefit themselves, their thrift benefits the country at large to a far greater extent. The government must not only stimulate men to effort, it must make it worth their while to save and accumulate. The most powerful incentive to work and save is the thought of leaving something to those they leave behind them, and the desire to perpetuate that which they have built up. If that incentive is taken away by injudicious inheritance taxation, or if it is so materially reduced as to make it of small consequence, then men may not be

expected to do more than try to meet the needs of themselves and their dependents while they live. The great spring of thrift, self-denial,and economy whichmakes the wheels of the world go round will be lost. While material reward is not the only incentive that causes men to work, yet it is a potent one.The remedy for want and poverty is not found in penalizing or preventing the individual from accumulating capital.Each must strive for for the well-being of all. Every wise and helpful plan towards remedying all maladjustments in the allocation of financial rewards of skill and work should be warmly welcomed.

But the privilege of handing down property by will is an essential part of the price which for centuries every community has found it wise and helpful to pay as an incentive to thrift, for the benefit of the community as well as for other fundamental reasons. Results tested by material results have proved the price just. No other means has been inventedthat worked so productive of good . If all the money left by the wealthy to their heirs should be divided among the entire population,the amount coming to each individual would be so small that it would be of very little practical help to the community. If the government should take it all what reason is there to think that it would be used as well as in private hands? The rich man can spend only a relatively small sum of money on himself in ways which will not help others . The bulk of his money must be spent in productive projects just as if the government spent it. He would be more painstaking and energetic in using it where it would count most.

It is a mistake to think that nearly all the nation's wealth goes to a few rich. On the contrary,about 7/8 of our national income is from those whose income is less than $5000

yearly. Our wealthiest men are not those who inherited wealth, but those who began at the bottom of the ladder and climbed up. The accumulation of capital, then, by the most efficient and capable men will continue, and the redistribution of wealth caused by the inheritance tax will not work any hardship on industry by breaking up available capital.

The claim that the inheritance tax discourages thrift and savings is an old familiar argument, used against many of the existing taxes by those who would like to see all forms of taxes abolished, not realizing the absolute dependence of a government's existence and operation upon them. In the case of the inheritance tax it is still less true than for some others. A man desires to know that his loved ones will be amply provided for after his death, and he will save in order to assure this. Knowing that a part of his savings will be taken by the government will cause him to accumulate just that much more, so that his dependents will still have sufficient. The chances are that he will not consider "ten cents after death is ten cents lost", as is sometimes claimed.

An argument which has been disproved again and again, but which is still vigorously put forth is that it is the sacred right of a man to dispose of his property without being penalized. In the complex social order existing now there are no inalienable rights of man. Even the early ones of life, liberty, and the pursuit of happiness are contingent upon one's relations to his fellow man. The courts of practically all our states have held that the right of inheritance is not a natural right, but one created by the State, and subject to whatever regulations and restrictions it may see fit to impose. This principle is clearly stated in the case of Cornetts ' Executors vs. Common-

wealth, 20 Va.Appeals 569, " the right to succeed to the property of a decedent is a creature of the law,only secured and protected by its authority,which right the Legislature may,in its discretion,restrict,for it depends upon the statute of will and the statute of descents and distributions. It is a tax upon a civil right or privilege which is granted by the State upon such terms as may be imposed."

Inheritance tax laws in the United States have caused much litigation.Their constitutionality has been attacked on the ground that they do not provide a uniform method of taxation,affecting all persons alike,as required by the constitutions of the majority of these states. But this contention has been repudiated by the courts of nearly all of these states on the ground that such a tax is equally imposed and properly apportioned on all classes; that it is a tax on the succession or devolution of property rather than on the property itself, and that it is therefore uniform. Deathbed gifts,apparently made to escape such taxes are included in the scope of such laws.

The Wisconsin law considers the Inheritance Tax a tax on property,burdening the property to the extent of the tax,and reducing its market value to that extent, as much so as a direct tax of like amount and frequency. Dealers in securities, investors,and promoters object strenuously to drastic inheritance laws alleging that they tend to depreciate the selling value of securities,and make them undesirable as investments. This could not be true unless the tax were a burden upon the property itself.

It seems to me that the arguments in favor of the tax are stronger than those against it,and that inheritances furnish an excellent source from which an important part of the State's revenues may be obtained. Professor Underwood,in 'State and Local

Taxation', characterizes it as follows:

" A defence of the taxation of inheritances is superfluous. Its existence in all but a few of the civilized nations, and in all but a few of the most backward states, is its chief defense."

It is particularly advantageous because it possesses a wide elasticity. The rate can be raised or lowered at will, for to raise the rate will not cut off the source of the tax by causing fewer deaths. It is true that the yield is irregular and cannot be accurately entered except by guess in a budget pre-estimate. However, for large political units the yield is surprisingly uniform.

Although we say that the inheritance tax is a good one because it offers little opportunity for evasion or fraud, and that it can be collected with ease, still it presents some grave problems which have baffled and which continue to baffle our best tax experts. We will proceed to consider several of the outstanding ones. First is the question of whether the tax should be levied according to the domicile of the decedent or the situs of the property. Most all states tax all property located in the state of which the decedent was a resident - both real estate and personal property. But what of intangible personalty, stocks and bonds of corporations outside the state? The possession of a slip of paper , such as a bond, does not necessarily mean that the property or interest is anywhere near at hand. It is absurd to me to think of a financier carrying his interests in a huge railroad system around in his pocket - yet it would be possible to put evidences of the ownership of a dozen railroads and a dozen industrials in a tiny box in a vault of some bank. Some states tax shares of stock at their physical location, others

where the securities were issued, no matter where the owner lived or died. The tangible personal property of a resident may be taxed, no matter how widely scattered it is. To a very large extent the tax is placed at the domicile of the decedent. The western states, however, emphasize the "situs" principle, and the eastern states the "domicile". To successfully enforce an inheritance tax based upon the "situs" principle would require each state to keep an agent or informant in every other state. Innumerable difficulties and much confusion and delay now arises because of the many different systems in operation in our country.

The disagreement over taxing according to "situs" or "domicile" leads in many cases to double taxation. If A lived in one state and owned securities of corporations operating in another, at his death both states might tax the same property. It is easy to conceive of cases where triple or even quadruple taxation might occur in this way. Here is an actual instance of triple taxation. The deceased was subject to the tax in Wisconsin because that state was his residence; in Illinois, because the stock was physically in that state, being kept in a safety deposit box in Chicago; and in Utah, because the railroad company is a Utah corporation. Double taxation is not always unjust, as some alarmists would lead you to believe, but I do think that it is out of place with the inheritance tax. A uniformity of state laws is what is needed to remedy the situation. It has been suggested, in recognition of the need for some means of eliminating the great confusion and delay of administering this tax, that the administration and collection be transferred to the Federal Government, the proceeds to be distributed on some agreed basis, such as population, property, or needs in some one

line, as schools. Joseph S.Mathews,assistant attorney-general of New Hampshire, apropos of this decision,writes:

" In the state of the decedent's domicile inheritance is measured by the value of the real estate located therein, plus the value of all the personal property, wherever located. In any other state it is limited to the value of the real estate in that state. Many states levy a further tax upon personal property of non-residents passing by will or inheritance. Complaints are made against this system because of the multiple tax imposed,and because of the expense and delay imposed upon the administration of estates. The first evil could be remedied by the adoption of the plan whereby inheritance taxes upon personal property should be levied by the state of domicile only,and that the so-called inheritance taxes levied upon the personal property of non-residents should be discontinued. Administration could be simplified by the adoption of a flat rate. Ascertain,as nearly as possible,the average rate paid on all estates for a given period; adopt that rate and apply it uniformly. The tax in a foreign state could then be assessed by the simple process of applying the rate to the value of the property in that state."

The ease with which the personal property tax and the income tax may be evaded has caused state officials much concern. The inheritance tax does not cause quite as much worry along that line,but attempts are made to evade it. Most noteworthy of these are the "gifts made in contemplation of death". A man that gets old,knowing that his days on this earth are few and desiring to keep his fortune intact, unmindful of old King Lear,in Shakespeare's play by that name, may bestow his worldly goods

upon his children or nearest relatives. Thus the inheritance tax collector is cheated out of his rightful share. State laws now wholly provide that gifts made in contemplation of death are subject to the inheritance tax. Our Federal Estate Tax Law contains such a provision. It says:'In the case of transfers made within two years prior to decedent's death,it should be noted that if such transfers were made in contemplation of death they are to be included in the gross estate regardless of the value. It is only where the value is a "material part" of decedent's whole estate that the presumption is made that they were made in contemplation of death.' The difficulty of administering such a law is apparent - who is to determine which gifts are made in contemplation of death? The courts are frequently called upon for their opinion. The attempt to tax these gifts has led to much litigation and injustice,and the taxation of all gifts would greatly simplify matters. Some states have sought to solve the problem by considering the transfer of property within a certain period preceding death as coming under this head. In Wisconsin the period is six years. It is foolish to seriously advocate sucha law as that - for transfers of property of young business men,who soon afterwards might meet accidental death, would be considered as "gifts in contemplation of death." Better than that would be a plan whereby a man's estimated life could be determined from his life insurance policy and a period of years selected in which all gifts would be taxed; or the state might say that since a man in Biblically alloted three score years and ten, all gifts made near that limit would be taxable. However,I do not believe that we should be greatly concerned with the difficulty of this problem,for it

is relatively insignificant,most property owners desiring to keep their hands on their hard-earned wealth as long as there is any breath in their bodies.

Should the Federal Government use an inheritance tax? On April fourteenth,1906,in a speech at Washington,President Roosevelt startled the country by declaring " It is important to this People to grapple with the problem of enormous fortunes... I feel that we shall ultimately have to consider the adoption of some such scheme as that of the progressive inheritance tax on all fortunes beyond a certain amount,either given in life or devised or bequeathed upon death to any individual - a tax so framed as to put it out of the power of the owner of one of these enormous fortunes to hand on more than a certain amount to any one individual." The proposed federal tax was advocated,not primarily for revenue,but to accomplish a sociological and economic result. It would introduce into our revenue legislation the principle that a tax may be imposed,not alone for fiscal purposes,but with the definite object of dispersing property accumulated in the hands of a single owner. This may be done with perfect constitutionality,having been sanctioned by the courts on the ground that it is an indirect or excise tax,and therefore does not have to follow the rule of apportionment.But the tax is administered in the usual process of settling the estate in the probate courts. These are state courts over which the Federal Government has no jurisdiction or control. With a Federal inheritance tax it would become necessary for federal authorities to intervene in the state courts to protect the interests of the government and to collect the tax. Confusion of jurisdiction would result. It has been tacitly agreed that this form of taxation should be left to the states. It is true,

as has already been brought out, that the Federal Government uses an estate tax,but this consists of a relatively small flat tax upon the whole inheritance without regard to the heirs. The Federal Estate Tax Law of September 8,1916,was amended by the Act of March 3,1917. This amendment affects only the rates of tax on estates of decedents dying on or after March 3,1917. The net estates of every resident decedent and the net estate of every non-resident decedent dying on or after September 9, 1916,is subject to the provisions of the Federal Estate Tax Law and liable for the payment of the tax thereby imposed.

The rate of tax varies according to the amount of the net estate,progressively from 1% on estates of $50,000 to 10% on estates in excess of $5,000,000 of decedents dying prior to March 3,1917,and from 1% on estates of $50,000 to 15% on estates in excess of $5,000,000 of decedents dying on or after March 3, 1917.

General sentiment is against Federal Inheritance Succession Tax. On this subject the National Tax Association,in 1907,passed these resolutions:

Whereas,the several states are now taxing inheritances with marked success and need all the revenue that can be drawn properly from this source;and

Whereas,the Federal Government can readily raise additional revenue,when required,from other sources;

Resolved,that it is the sense of this conference that inheritance taxes should be reserved wholly for the use of the several states.

Probably the most perplexing problem in connection with the inheritance tax is that of rate making. How high should the

rate be, should it be progressive, and who should be exempted, are questions about this phase. The progressive principle tends to restrict the burden of the tax to a small minority of the population; in a purely democratic state, therefore, it must be almost inevitably accepted. Its efficiency for the present is greatly reduced by the fact that it is somewhat illogically engrafted upon the principle of differentiation of tax rates according to kinship. There can, however, be no doubt that the progressive inheritance tax finds general favor in the modern state and will increase its efficiency at need. How steep should these progressive rates be, and how affected by relationship? Here we are speaking of the succession tax, for progression for the estate tax works hardship and is unfair. The will might be so worded that with a progressive estate tax the amounts left to the smallest beneficiaries would be entirely wiped out. Opinions vary as to how high the rate should run. Mill and Bentham wanted the tax on collateral inheritances to be confiscatory, with a pretty high rate for direct heirs. Luckily all tax experts are not that severe. The rates run as high as thirty-five percent in the United States. In making the rates progressive it seems clear that some distinction should be made in the classes of beneficiaries. Then the rates are progressive in two ways V according to the size of the share or the amount of the property, and according to the remoteness of relationship of the beneficiary to the deceased. Plehn divides the legatees into three classes, and suggests a different rate for each class. They are as follows: the spouse, and the direct heirs, such as the son, daughter, mother or father; second, collateral heirs to all degrees, uncles, aunts, and cousins; third, strangers to the blood. Other economists would have but two classes, direct heirs, and all others. Still again, some advocate

a fourth class - charitable, educational, and religious institutions, which are to be exempted. The rates applied to each of these classes differ in practically every state. The State of New York, through an amendment adopted in 1911, is considered to have one of the most model tax laws. There are but two classes of heirs, direct and collateral, an exemption of five thousand dollars is made to the direct heirs, and one thousand to the collateral. The rates are as follows:

Above exemption, to $50,000, 1% for direct, 5% for collateral.
Above $50,000 to $250,000, 2% for direct, 6% for collateral.
Above $250000 to 1,000,000, 3% for direct, 7% for collateral.
All above $1,000,000, 4% for direct, 8% for collateral.

These rates are remarkably low, but this tax is an elastic one, and can be increased when necessity demands. Many states exempt direct heirs entirely, but they are all gradually waking up to the realization of the hidden possibilities in this form of tax, and no doubt they will utilize it to its fullest extent ere many years.

No definite laws can be laid down by which just rates can be accurately determined. It is largely a matter of opinion. Several interesting plans have been advocated. The following method of scientific rating was proposed by the Massachusetts Tax Commission: to remedy the unscientific method of computing inheritance taxes the following formula is recommended to be used to secure the normal or primary tax:

$$t = \frac{a - \sqrt{1000\ a}}{10}$$

in which formula a represents the amount of the succession or legacy, and t represents the tax; this formula automatically exempts the first thousand dollars, providing for the excess above one thousand dollars percentage rates rising by regular

gradation from zero to a limit of ten percent of the largest inheritances. The distributees are divided into four classes, in each of which there are sub-classes entitled to different exemptions and taxed at different fractions of the primary rate. The editor of the National Tax Association Bulletin humorously commented: "This device has one serious drawback; it will require tax officials who can do square root."

Whether the value of the dower and homestead interest of the widow in the estate of her husband should be included as a part of the taxable property of the estate, or allowed as a proper deduction in arriving at the net estate subject to the tax, is a question upon which the courts have disagreed widely. It is claimed on one hand that dower comes to the wife by virtue of the marriage,and that the death of the husband serves only to consummate,not to transmit it; that it exists by virtue of the marriage relation,and does not accrue to the wife. Other courts hold that dower is an inchoate right or a mere expectancy becoming a vested right upon the death of the husband,and that this accretion of the vested right is such a devolution of property as is contemplated by the inheritance tax laws. In Billings vs.People,189 Ill.472, the court held dower to be taxable as an interest in the estate of the husband passing to the wife on his death.

Now that the theory and main problems have been considered let us closely examine the tax laws of some one state and see how they have worked out. The Virginia laws on this subject are among the best in the country. Prior to 1916 no tax was imposed upon direct heirs,nor upon any property passing exclusively for state,county,municipal,benevolent,charitable,educational, or religious purposes. All other property passing was subject to

a flat collateral inheritance tax of five per cent. From 1916 to 1918 the governmental and charitable beneficiaries were exempt, while progressive rates ranging from 1% to 20% were imposed on direct and collateral inheritances. The laws and rates now in effect were passed on June 21,1918. The legatees were divided into four classes. The first class included bequests for state,county,minicipal, charitable,educational, or religious purposes in this state,or any institution,association,or corporation in this state whose property is exempt from taxation by the laws of this state. The next class,known as class A, included husband,wife,lineal ancestor,lineal descendent. The third class,known as class B, included brother, sister,nephew,or niece. The fourth class included all others. The table of rates and exemptions for these classes follows:

Beneficiary	Amount of exemption	over exemption and up to $50,000	over $50,000 and up to $100,000	over $100,000 and up to $500,000	over $500,000 and up to $1,000,000	over one million
1.State, county, etc.	entire amount	no tax	no tax	no tax	no tax	no tax
2.Class A	$10,000	1%	2%	3%	4%	5%
3.Class B	4,000	2%	4%	6%	8%	10%
4.All others	1,000	5%	7%	9%	12%	15%

Property within the jurisdiction of the Commonwealth includes:

(a) real estate of a resident or non-resident decedent located in Virginia.

(b) personal property,tangible or intangible,of a resident decedent,whether located in Virginia or outside.

Property exempt from other taxation must be included in determining the tax.This applies to United States Government Bonds, bonds of the State of Virginia,shares of stock in Virginia cor-

porations,shares of stock in a national bank, although the bank is located outside of Virginia. Real estate of a resident decedent located outside of Virginia is not within the jurisdiction of the Commonwealth and should not be considered in determining the tax. The law provides that the tax shall be assessed upon the actual value of the property at the time of the death of the decedent. Debts of the decedent and expenses of administration should be deducted from the gross value of the estate,and the tax computed on the residue. When,however, a debt is forgiven by a will the transfer is taxable,

All of the taxes collected under this law go for the use of the Free Public Schools. One half the amount collected is placed to the credit of the Public School Fund of the Commonwealth which is distributed to the localities on the basis of school population; the other half is remitted to the counties and cities in which such taxes are respectively collected, to be used for the primary and grammar grades of the Public Free Schools in such counties and cities.

Quoting from the tax law,section nine - Taxes imposed by the provisions of this act shall be payable to the treasurer of the county or city in which the amount of such tax was determined and at the expiration of one year after the death of the decedent... If the taxes are not paid when due a penalty thereon of twenty percent per annum on the total amount and penalty from the date when the same was due until paid ,shall be added to the amount of said taxes and collected as a part of the same.
Section ten... The treasurer may levy upon and sell so much of said property,both real and personal,as shall be sufficiant to pay the taxes and expenses of sale,or he may rent or lease any portion of the real estate charged with the taxes for cash suffi-

cient to pay the amount of the taxes due.

The new tax laws have worked well in Virginia, though often questions of legailty and constitutionality have arisen to be settled in the courts. The revenue derived from inheritances has begun to assume significant proportions, and inheritances may be looked upon as important sources for state funds. The following figures will illustrate the growing importance of this tax, and the effect of the new law can be disverned.

Year.	Total State Revenue.	Amount received from inheritances.	Per cent of total.
1915	$ 7,945,202	$ 70,991	.9%
1916	9,208,127	118,935	1.3%
1917	10,330,020	144,791	1.4%
1918	13,035,622	100,512	.8%
1919	18,442,324	199,536	1.1%
1920	21,008,000	499,000	2.3%

Most of our states now have some form of the inheritance tax and it is becoming more popular all the while. It is gaining favor as a source of revenue and not as a reform. Revenue and reform should not be mixed - the more reform, usually the less revenue. I think this tax deserves serious consideration in any tax system, because of its ease of collection, its conformance to the ability to pay theory of taxation, and the possibility of levying it where there is little or no burden. Admittedly it has its problems. Joint estates, community property, the common practice of carrying property in the wife's name, the lack of uniformity of state laws, all go to complicate its administration, but these problems can be worked out and solved just as other tax problems have been cleared up. I am strongly in faver of a progressive (to a reasonable degree) tax on inheritances. Although a tax of this character is opposed by some individuals of large wealth, apparently from selfish motives, there has yet to be made a sound legal, moral, or economic

argument against the enactment and enforcement of sucha tax law. Expediency and political good judgment all seem to be in its favor.

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