Dana P. Jumper
Trust 730

Executive Summary

Since ancient times, governments and leaders have imposed a tax on wealth transferred by bequeaths or inheritance. In addition to raising revenue, governments have enacted estate or inheritance taxes based on public policy positions designed to achieve social and political goals. They have used the tax as a tool to break up dynastic wealth accumulation by a small number of families who grew extraordinarily wealthy over generations. Governments have also used gift and inheritance taxes as a way to redistribute money in society and level the playing field (Joint Committee on Taxation, 2008, p. 2) so that wealthy people do not have an unfair advantage over others less fortunate. And, as a matter of moral goodness, governments have instituted wealth transfer taxes as a way to strengthen families, encourage personal ambition and discourage unproductive lives built around leisure and indulgence.

The tax has largely taken 2 forms: the estate tax, in which the tax is imposed on the estate of the transferor (the decedant), and the inheritance tax, in which the tax is imposed on the beneficiary of the gift or bequest (Joint Committee on Taxation, 2007, pp. 2-3). There is, however, a third form, as in Canada, in which estate property is taxed as a capital gain.

In more recent times, governments added gift taxes (and generation skipping taxes) to their revenue schemes as a way to raise additional money, deter those who would seek to avoid wealth transfer taxes by giving their wealth away, distribute wealth to a broader portion of society, and encourage charitable giving.

The United States Government currently imposes both estate and gift taxes, as well as a generation skipping tax. They have not always done so, enacting and rescinding the tax several times throughout our history, and the reasons for imposing the tax have changed from the

original intent of raising revenue to fight our nation's wars (Joint Committee on Taxation, 2007, p. 4) to using progressive tax policy to redistribute wealth and encourage societal good. The policy is not universally popular. Economic and social experts are divided as to the efficacy of it, with some arguing that the tax inhibits the production of wealth by removing incentives for thrift and saving, punishes families who earn their wealth through agriculture or closely held businesses, and perhaps most importantly, tramples the fundamental right of free citizens to determine what they can do with their own property (Saxon & Thornberry, 1998, pp. 3-5). Despite frequent Congressional debate, the tax has withstood the challenges to it. In 2001, The Economic Growth and Tax Relief Reconciliation Act was passed as a major attempt to phase out and ultimately repeal the tax, but Congress has not renewed or extended that act and the tax remains at levels similar to those before the act was passed.

Along with the United States, many developed countries of the world have estate (or inheritance) and gift taxes. According to data from the International Bureau of Fiscal Documentation (as cited in Joint Committee on Taxation, 2007, p.3), among the 34 nations that belong to the Organisation for Economic Co-operation and Development (OECD), at least 20 have some form of tax on inheritances and gifts (Organisation for Economic Co-operation and Development; Ernst & Young, 2012). Eight do not have a wealth transfer tax, either never having instituted one or having recently abolished it.

This paper compares and contrasts the inheritance taxes of 5 of those countries (United Kingdom, France, Germany, Japan and Canada).

This chart shows the comparisons at a glance:

Type of Tax	Country
Estate Tax (levied on transferror)	United States, United Kingdom
Inheritance Tax (levied on beneficiary)	France, Germany, and Japan
Gift Tax	United States, United Kingdom, France, Germany, Japan
Other Form	Canada

Beginning with the United States, we will look at the genesis of the wealth transfer tax and the observable public policy concerns for it. We will also examine how the tax is implemented in each of the countries. The purpose of showing the history of the tax is to gain an understanding of the public policy rationale for the tax, and to show how the tax has developed into its present form based on the cultural and political development of each country.

The United States

The first wealth transfer tax in the United States was The Stamp Act of 1797 and it was designed to raise funds for the Navy. It was repealed in 1802, and despite the War of 1812 which demanded more revenue be raised, the next time the tax was instituted was the War Revenue Act of July 1, 1862, in response to the increased revenue needs of the Civil War (West, 1908). That act was repealed in 1870.

Over the course of the next several decades, the Industrial Revolution gave rise to great wealth accumulation by a select few industrialists and their families. Policy makers began suggesting wealth transfer taxes as a means of forcing the wealthy to pay their fair share of the tax burden and breaking up dynastic wealth among super-rich families. In 1898, because of the need for revenue caused by the Spanish American War, the Congress again instituted an inheritance tax and then repealed it in 1902.

But, in the early years of the 20th century, progressive politicians returned to income taxes and inheritance taxes as ways to address the inequalities in wealth that were developing in American society (Jacobson, Raub, & Johnson, 2006, pp. 120-121). President Theodore Roosevelt strongly advocated for an estate tax and in 1906 proposed:

"…a progressive tax on all fortunes beyond a certain amount, either given in life or devised or bequested 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." (Joint Committee on Taxation, 2007, p. 1)

This was not the first time that an estate or inheritance tax had been suggested in the United States. The reason it had not yet been continually adopted is because of the inherent conflict in American society between the absolute rights of an individual to their own property, including the right to bequeath that property, the distrust by Americans of nobility, and the notion that property should be gained through personal achievement, not though inheritance. That tension was being played out in the tax policy of the time (Beckert, 2007, pp. 13-19).

In 1916, as a result of World War I, the estate tax was re-instituted, and has been in effect since. The tax was levied on the property the transferor passed to his beneficiaries, and as such, was a true estate tax. In 1924 -26, a gift tax was enacted and repealed, but in 1932 the gift tax was reintroduced because Congress realized that the wealthy could avoid paying estate taxes thru *inter vivos* gifts to their families and friends (Jacobson, Raub, & Johnson, 2006, p. 122). In 1976, Congress added a Generation Skipping Tax to close another tax loop-hole. A donor could establish a trust for the benefit of his children from which income was paid to them during their lifetime, and upon their death the rights to income would be passed to their children. While the

estate tax would apply to the first generation transfer, it would not apply to the transfer to the second generation, as the assets in the trust were never included in the estate of children in the first generation (they never owned them, they only received income from them.) Under the new generation skipping tax laws, Congress ensured that the termination of each generation's interest was a taxable event.

Changes to the estate and gift tax laws since 1916 were largely designed to correct deficiencies (close loop-holes), include or exclude certain familial relationships, and adjust the levels and rates at which the tax would be applied. They were not designed to challenge the tax or abolish it. However, in 2001, the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) did provide for sweeping change to the U.S. tax policy, including estate and generation skipping tax policies. The act called for periodic increases in the exemption amount for decedents and eventually repealing the tax in 2010. Congress passed EGTRRA with the stipulation that it must act specifically to extend the act, and if it failed to do so, the act would expire and the estate tax would revert to the form it had before EGTRRA.

The EGTRRA act is a significant event in American tax policy. Even though Congress did allow certain aspects of the law to expire, for the first time in nearly a century, policy was beginning to reflect the growing concern that the estate tax was an unfair double taxation of wealth, taxing earnings when they are made and again when they are bequeathed, and that the tax discourages capital formation and wealth production by punishing people for achieving at high levels (Saxon & Thornberry, 1998, p. 4).

Public policy concerns notwithstanding, the estate and generation skipping tax provisions of EGTRRA have expired and the current tax laws impose a tax on estates over $5 million. Here are the rules for decedents in 2011 and 2012:

United States			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Estate Tax	Gross Estates > $5,000,000	35%	Property passed to surviving spouses is not taxed. The $5 million exemption is "portable" so surviving spouse can share unused portion.
Gift Tax	Gifts during lifetime totaling > $5,000,000	35%	Annual exemption per gift of $13,000. Estate and gift tax exemptions are "unified" so the total exemption is $5 million.

The current rates apply in 2011 and 2012, but are set to expire in 2013. At that time, unless Congress acts to change the rules, the estate and gift taxes will apply to gross estates over $1 million and the maximum tax rate will increase to 55%. Despite the increased pressure to change the estate tax in the United States, there is no legislation pending to do that.

The United Kingdom

The first estate tax in the United Kingdom was enacted in 1694 after the idea was borrowed from Holland. In the 1780s and 90s, the tax was changed to provide for widows and children of the decedent and it become a tax on the transfer of the estate itself, with the requirement to provide receipts being placed on the administrator or executor of the estate, as a way to eliminate cheating. At this time, the tax first became graduated according to the relationship of the decedent to the beneficiaries; e.g., a 2% tax for brothers and sisters, 6% for more distant relatives (West, 1908, pp. 60-61).

Later, an "account duty" was levied to protect against *causa mortis* gifts that were designed to evade the estate tax. The tax also became progressive at this time, with a maximum tax rate of 3 pounds for every hundred pounds, or portion thereof, in the estate. Then, an "estate

duty" was imposed as an additional tax of 1 percent on estates and realty exceeding ten thousand pounds. The combination of different duties was not very effective and was difficult to administer. In 1894 and in 1907, the tax law was simplified and was charged on the estate as a whole, including personal and real property, eliminating the need for separate "duties." The tax was also changed so that the value of the estate was based on the fair market value of the property. The tax rate was progressive, depending on the size of the estate, and heirs were charged based on closeness to the decedent, with more distant relatives being charged at a higher rate (West, 1908, pp. 62-64). The maximum estate tax rate equated to about 23% for a large estate. The estate tax remained in effect in essentially the same form for the next 70 years.

In 1976, the estate tax was replaced by the Capital Transfer Tax, which was re-named in 1984 to the Inheritance Tax (IHT). That is the tax that is in place today. Despite its name, the IHT is an estate tax, and the estate of the transferor is responsible for paying it. Early in the 1990s, opponents of the tax began to argue for it to be abolished. As in the United States, opponents in the UK pointed out the IHT constituted double taxation, and that the tax was a drag on capital formation since wealth had to be re-earned in each generation instead of being compounded. The Prime Minister, John Major, supported abolishing the tax but did not take any action during his term to do so. In response to conservative challenges, Chief Secretary Timms argued that the tax was morally right, first and foremost because the government needs to generate revenue:

"Because it is morally the right tax. Only 6 per cent. of estates paid inheritance tax last year. The zero threshold is £285,000 this year, rising to £325,000 in 2009-10. All wealth passed to spouses or civil partners is tax free. It is right to apply tax in that way and we will continue to

do so. If the hon. Gentleman is suggesting that it should be abolished, he needs to explain where the money would come from." (as cited in Seely, 2004, p.6)

Legislators refused to abolish the tax and the only major changes enacted were to increase the tax-free threshold and extend the provisions protecting family farms and businesses (Seely, 2011, p. 4)

The IHT is based on the total estate of the decedent, including real and personal property. The threshold for the tax is currently £325,000. Bequests to spouses and registered civil partners are usually exempt from the IHT, as are gifts made before the last 7 years of the decedent's lifetime. Gifts made during the last 7 years of the transferor's lifetime are called Potentially Exempt Transfers, and the tax on gifts made during the last 3-7 years of life is determined using Taper Relief (Ernst and Young, 2012, p. 236). Gifts made during the last 3 years of the decedent's life are taxable if the estate is over the threshold (Understanding Inheritance Tax and Probate; Earnst and Young, 2012). The IHT, compared to the tax in the United States is depicted on this table:

United States			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Estate Tax	Gross Estates > $5,000,000	35%	Property passed to surviving spouses is not taxed. The $5 million exemption is "portable" so surviving spouse can share unused portion.
Gift Tax	Gifts during lifetime totaling > $5,000,000	35%	Annual exemption per gift of $13,000. Estate and gift tax exemptions are "unified" so the total exemption is $5 million.
United Kingdom			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
IHT (Estate Tax)	Gross Estates > £325,000	40%	Property passed to surviving spouses or civil partners is not taxed.
IHT (Gift Tax)	Gross Estates > £325,000 - There is no separate gift tax in the UK. Gifts made in the last 7 years of life may be subject to IHT.	40%	Gifts made before the last 7 years of life are exempt. Gifts made 3-7 years before death, apply Taper Rule. Gifts made in the last 3 years of life are included in the gross estate and are taxed at the IHT rate.

France

The earliest records of taxes on wealth transfers date from 1553. Taxes were imposed by *insinuation,* or registration on testamentary dispositions. In 1703, Louis XIV expanded the base for the tax to include all movable and immovable property and imposed a 1 percent tax. The royal line was not taxed. An additional tax was added shortly thereafter to raise war revenue, but the rate never decreased, remaining the same for over 100 years. Then, in the late 1700s, a form of proportional tax was introduced, with tax rates of 1 ¼% for direct heirs to 11 ¼% for strangers in blood.

Other registration and administrative stamps were added, and as a result, smaller estates were impacted very heavily by the tax. The tax was regressive with the government taking almost 15 or 20 percent of the value of the succession and there was no relief in the form of exemptions. The tax created hardships and forced sales of property were common in order to pay the tax. Usufruct owners, who had only the rights of enjoyment of property, were taxed on one half the value of the property with no regard to their longevity, and revisionary owners were taxed immediately, as if they had already come into possession of the property.

Though the tax was debated and studied, it remained intact because policy makers feared the loss of revenue (about 40 million francs annually). They also wanted to protect against tax cheats, who often hid or under-reported movable property in order to avoid the tax on it (West, 1908, pp. 192-194).

The tax policy changed in 1901 and a progressive tax was instituted that provided for different rates based on the size of the estate and the relationship to the deceased. The law

continued to evolve and a gift tax was added in the early 1900s. It, too, was progressive, with rates charged based on the occasion of the gift and the relationship to the giver.

Naturally, the French Revolution played the largest role in developing tax policy in the nation. Unlike the United States, the concept of equality for all people played a prominent role over individual rights in shaping the policy. The inheritance tax was implemented to break up wealth and prevent the existence of a class of nobility. Further, the state was expected to enforce the policy so that no person would have an unfair advantage over another because of inherited wealth. Family relationships also informed the tax policy, albeit in a way almost opposite to that in the U.S. Inheritance law limited the right of fathers to bequeath property so that they would not possess a despotic power over their children and be able to use inheritance as a way to control them (Beckert, 2007, pp. 19-23).

The fairness of tax policy in France since the Revolution has been debated between conservative and republican politicians, with strong impetus to expand individual testamentary freedom. But the tax has withstood the challenges to it, with the driving force being equality. "Paternal authority and freedom of the proprietor did not return. They did not triumph over the republican principle of equality." (Gotman, as cited in Beckert, 2007)

Today, all transfer of wealth is taxed, whether it is transferred by bequest or through *inter vivos* gifts. Gifts are considered early transfers from a future succession and are taxed accordingly. Inheritance and gift taxes are owed by the beneficiary; the amount of the tax is taken from the estate along with any other debts owed before the wealth is transferred. Direct bequest transfers to spouses are exempt from the tax. The tax rates are progressive beginning at 5% for transfers between direct relatives (ascendants and descendants) for estates under €8,072

to a maximum rate for direct relatives of 45% for estates greater than €1,805,066. Transfers between siblings are taxed at a rate of 35 or 45 percent, depending on the size of the estate. Rates for more distant relatives, regardless of the size of the estate, are 55% (for relatives to the 4th degree) and 65% for all others. Gifts to spouses are not exempt from gift tax and are taxed on the same progressive scale as the inheritance tax for ascendants and descendants (Ernst and Young, 2012, pp. 76-83).

The following table compares the French inheritance tax policy to the U.S.:

United States			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Estate Tax	Gross Estates > $5,000,000	35%	Property passed to surviving spouses is not taxed. The $5 million exemption is "portable" so surviving spouse can share unused portion.
Gift Tax	Gifts during lifetime totaling > $5,000,000	35%	Annual exemption per gift of $13,000. Estate and gift tax exemptions are "unified" so the total exemption is $5 million.
France			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Inheritance Tax	All estates, on a progressive scale, based on blood relationship to the decedent	45% for direct relatives, 65% for distant or unrelated beneficiaries	Property passed to surviving spouses or civil partners is not taxed.
Gift Tax	All gifts (except hand-to-hand gifts that are not recorded) regardless of the relationship to the donor. Taxed at the same rate as the inheritance tax	45% for direct relatives, 65% for distant or unrelated persons	Gifts (including hand-to-hand gifts) made during the last 10 years of life are included in the estate for calculating inheritance taxes. Gifts made prior to the last 10 years of life are not included.

Germany

Inheritance taxes in Germany began as early as 1566, but were primarily enacted at the state, not the federal level. The relationship of the beneficiary to the decedent seemed to play an important role in the tax policies of the various states; spouses, and especially minor children, were exempted from the tax or taxed at a much smaller rate. During the 18th century, inheritance taxes were introduced in several states to provide support for orphanages or houses of correction (West, 1908, pp. 32-36). By 1905, almost all of the states had enacted an inheritance tax, and a

table of rates from the time (West, 1908, p. 34) shows most states charging no tax, or a minor rate up to 3% for widows or children of the decedent, to a maximum rate of 10-20% for more distant relations.

In 1906, the Imperial Law was enacted at the federal level and rates were established across the nation. Spouses and children were exempt from the tax. Parents, brothers and sisters, and their children were taxed at the minimum rate of 4%. More distant relatives were taxed up to 10%. The tax was progressive based on the size of the estate. Land and buildings used in farming or industry were taxed at a reduced rate and gifts to charities were exempted. A gift tax was also enacted for *inter vivos* gifts that were given within 5 years of death to preclude people from breaking up their estate into a series of smaller gifts so that the estate would be taxed at a lower rate. The revenue from the tax was divided between the federal government and the states, with 2/3 going to the federal government. The tax had the effect of increasing revenues by triple the amount the states had collected individually (West, 1908, pp. 35-38).

Unlike the United States and France, Germany did not undergo a colonial or civil revolution in the establishment of its nation, government and laws. Inheritance tax policy in Germany was developed out a uniquely Germanic sense of family. Although individual rights were an important force in society, the rights of the family superseded them, and property was seen as being collectively owned by a family instead of being owned by an individual. A person was not seen as having testamentary rights to bequeath property any way he desired. Instead, the law was enacted to protect the family's possession of the property and its rights to ownership. The philosopher, Hegel, living and writing in the mid-1800s, was a primary proponent of the idea.

To be sure, there were opponents of the inheritance tax policy, but they did not argue the tax should be abolished from the position of testamentary or individual rights, as opponents argued in the United States and France. Instead, the opponents of the policy argued that the tax should be used for the betterment of society, as a means to fund social programs that addressed social ills. In this case, the right of the family was seen as subordinate to the role of the state. Those opponents of the tax policy who did argue for its abolition based their opposition on the rights and needs of the family, arguing for a reduced tax to keep the wealth within the family unit (Beckert, 2007, pp. 23-28).

The impact of the historical tax policy debate can be seen in the current inheritance tax law in Germany. The inheritance tax as reformed in 2009 and amended in 2010 and 2011, is a unified inheritance and gift tax and is based on the familial relationship to the decedent. Beneficiaries are broken down into 3 classes. Spouses, registered same-sex partners, children, stepchildren, grandchildren, great grandchildren, parents and grandparents form Class I. Tax Class II consists of brothers, sisters, nephews, nieces, stepparents, sons-in-law, daughters-in-law, parents-in law and divorced spouses and, in the case of gifts, parents and grandparents. All other persons, including legal entities and same sex partners, are in Tax Class III (Næss-Schmidt, Pedersen, Harhoff, Winiarczyk, & Jervelund, 2011, p. 18).

The progressive tax is also based on the size of the estate. The smallest estates, those valued under €75,000 after exemptions and allowances, are taxed at a rate of 7% for Class I beneficiaries, 15% for Class II, and 30% for Class III. The rates for the largest estates, those over €26,000,000, are taxed at 30%, 43% and 50% for the different classes.

The amount of the estate exempt from the tax is also graduated based on the class of the beneficiary. It is easy to see the how importance of family shaped that tax policy. Spouses and

legally registered same-sex partners are granted an exemption of €500,000. An additional exemption of €256,000 is provided if the surviving spouse or partner is not entitled to pension payments on the death of the spouse. Children and step-children are given a €400,000 exemption, with an additional allowance of up to €52,000 for children under age 27, if they are not also beneficiaries of a pension. In contrast, the lowest exemption is only €20,000 for beneficiaries in Class III, who have no familial ties to the decedent.

The following chart is a comparison between inheritance taxes in Germany and estate taxes in the United States:

United States			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Estate Tax	Gross Estates > $5,000,000	35%	Property passed to surviving spouses is not taxed. The $5 million exemption is "portable" so surviving spouse can share unused portion.
Gift Tax	Gifts during lifetime totaling > $5,000,000	35%	Annual exemption per gift of $13,000. Estate and gift tax exemptions are "unified" so the total exemption is $5 million.
Germany			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Inheritance Tax	All estates, on a progressive scale, based on blood relationship to the decedent	30% for estates over €26,000,000 for beneficiaries in Class I, 50% for estates over €26,000,000 for beneficiaries in Class III	Personal exemption up to €726,000 for surviving spouses or registered same-sex partners not receiving a pension. Minimum exemption of €20,000 for beneficiaries in Class III.
Gift Tax (unified with the inheritance tax)	All gifts, taxed at the same rate as the inheritance tax	30% for estates over €26,000,000 for beneficiaries in Class I, 50% for estates over €26,000,000 for beneficiaries in Class III	Personal exemption up to €726,000 for surviving spouses or registered same-sex partners not receiving a pension. Minimum exemption of €20,000 for beneficiaries in Class III.

Japan

An inheritance tax was first instituted in Japan in 1905, which may reflect that Japan remained a feudal country well into the 19th century. It was broken up into numerous states and regions, with no central government. In 1868, the country unified under a central government and began a period of rapid growth. The wealth transfer tax was originally designed as an estate tax. It had progressive tax rates that were based on relationship to the decedent, and it included

different rates for transfer of personal property as opposed to succession to the head of a household (West, 1908, p. 59). The tax retained its nature until 1950, when it was changed to an accession tax that was imposed on the recipient of any successions, bequests or gifts. In 1953, the tax was split into separate inheritance and gift taxes. In 1958 it was revised again so that the taxes were based on the number of statutory heirs and their share of the inheritance in order to preclude people from lessening the tax burden by increasing the number of recipients (Tax Bureau, Ministry of Finance of Japan, 2010, p. 133).

The inheritance tax policy is based on the concept that it is a privilege to inherit property from an ancestor (Asahi & Kook, 2006, p. 4) and that the heir should pay tax on it. Still, policy makers also quickly adapted the policy so that individual testamentary rights were superseded by the orderly and efficient collection of the tax by the state, regardless of the wishes of the transferor. Exemptions in the tax law also highlight the importance policy makers placed on transferring property within families, by establishing statutory categories of succession, and by keeping real agricultural property within families and under production. Inheritance tax is postponed on farmland that is transferred within a family if the heir promises to continue farming it until his date of death. If he does farm the land until his death, the tax is exempted. If the heir later changes his mind and quits farming or sells the land, the tax is reinstated and must be paid (Tax Bureau, Ministry of Finance of Japan, 2010, p. 138).

The inheritance tax is calculated on the value of the entire inheritance minus the standard deduction of ¥50,000,000, and allowable deductions of ¥10,000,000 for each statutory heir. It is a progressive tax that is imposed based on the size of each statutory inheritance. Inheritances under ¥10,000,000, after deductions are subtracted, are taxed at a 10% rate, and inheritances over ¥300,000,000, the highest category, are taxed at a 50% rate.

The tax is based on the number of statutory heirs and is calculated very objectively. For instance, if a decedent leaves an estate of ¥10,000,000 after allowable exemptions to a wife and 3 children as heirs, the wife is allocated ½ of the estate and the children the other half. Four separate applications of the tax are imposed. The tax on the wife's statutory portion would be 10% of ¥5,000,000 (¥500,000) and the tax on each child's portion would be 10% of ¥5,000,000/3 (¥166,667). The total inheritance tax would be ¥666,667 and would have to be paid by whoever received the property, whether it was divided statutorily among the descendants or bequeathed in any other manner. (Takagi, 2011, p. 5).

Gifts during a lifetime are taxed annually according to the value of the gift, with an annual exemption of ¥1.1 million. Tax rates are progressive, beginning at 10% for gifts valued under ¥2,000,000 and increasing to 50% for gifts valued in excess or ¥10,000,000. Gifts of farmland are afforded the same exemption that they are under inheritance tax laws, with a postponement of the tax if the recipient promises to farm the land. Gifts transferred during the last 3 years of a person's life are included in gross estate calculations, but the tax paid is also credited to the inheritance tax (Tax Bureau, Ministry of Finance of Japan, 2010, pp. 139-140).

This table is a comparison of estate, inheritance and gift taxes in the U.S. and Japan:

Type of Tax	Taxable Amount	Maximum Tax Rate	Exemptions
United States			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Estate Tax	Gross Estates > $5,000,000	35%	Property passed to surviving spouses is not taxed. The $5 million exemption is "portable" so surviving spouse can share unused portion.
Gift Tax	Gifts during lifetime totaling > $5,000,000	35%	Annual exemption per gift of $13,000. Estate and gift tax exemptions are "unified" so the total exemption is $5 million.
Japan			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Inheritance Tax	All inheritances, on a progressive scale, based on the gross estate and number of statutory heirs	50% for inheritances over ¥300,000,000 (approx $3.7m) calculated for each statutory heir	Exemption of ¥50,000,000 (approx $627,000) plus ¥10,000,000 (approx $125,000) for each statutory heir. Tax on farmland postponed if the heir promises to farm until death
Gift Tax (owed by recipient)	Total of all gifts, taxed annually	50% for gifts over ¥10,000,000 (approx $125,000)	Annual exemption ¥1.1 million (approx $13,800)

Canada

Prior to 1892, there were no inheritance taxes in Canada, but at that time 4 separate provinces enacted the taxes almost simultaneously. In one of those provinces, Ontario, the tax allowed generous exemptions, had progressive and high tax rates on direct heirs, and was enacted to raise revenues for mostly charitable purposes. In what must be one of the most glorious and clear cut examples of tax policy ever, the legislature wrote:

"WHEREAS this province expends very large sums annually for asylums for the insane and idiots, and for institutions for the blind and for deaf mutes, and towards the support of hospitals and other charities, and it is expedient to provide a fund for defraying part of the said expenditure by a succession duty on certain estates of persons dying as hereinafter mentioned; Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:" (West, 1908, p. 77)

By 1908, all of the provinces had succession taxes. They were among the very first taxes instituted in the provinces. That is unlike most nations and states, where excise taxes and custom

duties were the primary means of raising revenue. The taxes continued in their progressive form and in many provinces, they accounted for 40 or 50% of the revenues raised. In the first half of the 20th century, the taxes became unduly complex and burdensome, as the federal government added a wealth transfer tax and provincial governments either opted out of the federal scheme or agreed to accept a portion of the federal collections instead of implementing their own tax. Depending on the province, citizens either paid the federal tax or received a credit for the amount of the tax they paid to the provincial government (Duff, 2005).

In 1962, the government appointed a commission on taxation to find ways reduce the rates and simplify the administration of income taxes in the nation. Following the report of that commission, the government responded to complaints from different interest groups or industries who found the proposed changes to be untenable. Shoe manufacturers complained, since the taxes on succession would result in many companies selling their business or being unable to continue family-run firms. The mining industry was heavily impacted by recommended changes which would result in an increase of 100% on taxes they paid. If the inheritance tax was abolished as recommended, small taxpayers would end up paying more because the offset was a capital gains tax and the inclusion of gifts and inheritance in income. Finally, bowing to public and corporate pressure, the federal government decided to abolish all inheritance and gift taxes in 1971 and leave them to the individual provinces to enact. From that time, and for the next 14 years, each of the provinces eventually abolished their succession taxes, with Quebec, the final province, finally abolishing the tax in 1985 (Duff, 2005, pp. 89-105).

Tax policy in Canada was initially a response to the need to raise revenue and provide for the social good; i.e., hospitals, asylums, etc. The reasons for abolishing it were not so much a rejection of those desires as it was a result of low revenue yield for the federal government, the

imposition of capital gains tax at death, and the difficulty of administering the tax at the federal and provincial levels (Duff, 2005, p. 99).

While there is currently no gift or inheritance tax in Canada, there is a capital gains tax imposed at death. This form of tax offers another option for tax policy makers to consider when debating the merits of wealth transfer tax. Under Canadian law, a decedent is "deemed" to have disposed of all his property immediately before death. The property is "deemed" to have been disposed of at fair market value, and any depreciation is recaptured. The capital gain will result if the proceeds of the disposition exceed the cost of the property. The tax law provides an exemption from capital gains for property that passes to a spouse. The property carries a roll-over basis for the spouse (Joint Committee on Taxation, 2007, pp. 12-13).

Current marginal capital gains tax rates, including federal and provincial taxes, range from 19.5% for citizens living in Alberta province to 25% for those residing in Nova Scotia.

The following table is a comparison of estate tax policy in the United States and Canada:

United States			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
Estate Tax	Gross Estates > $5,000,000	35%	Property passed to surviving spouses is not taxed. The $5 million exemption is "portable" so surviving spouse can share unused portion.
Gift Tax	Gifts during lifetime totaling > $5,000,000	35%	Annual exemption per gift of $13,000. Estate and gift tax exemptions are "unified" so the total exemption is $5 million.
Canada			
Type of Tax	**Taxable Amount**	**Maximum Tax Rate**	**Exemptions**
"Deemed" Capital Gains (property and gifts)	All capital gains on "deemed" dispositions of property (market value minus cost basis)	25% for residents of Nova Scotia	Property passed to spouse is exempt and carries a roll-over basis.

Summary

By comparing and contrasting the estate and gift tax laws of the United States with those of other countries, and by examining the tax and public policy positions that inform them, we can

have a better understanding of why our laws are written as they are and how they might be changed to better accomplish our goals and advance our society.

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