

UNEQUAL DEMOCRACY

THE POLITICAL ECONOMY OF THE NEW GILDED AGE

Larry M. Bartels

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The Strange Appeal of Estate Tax Repeal

FOR MANY LIBERALS, the most egregious feature of the Bush tax cuts was the gradual phaseout and temporary repeal of the federal estate tax. The fiscal impact of the estate tax phase-out is relatively modest in the overall scheme of the Bush tax cuts; the Joint Committee on Taxation has estimated that it will cost the federal government \$186 billion through 2011, less than 15% of the total cost of the 2001 EGTRRA legislation alone. However, the fight over estate tax repeal seems uniquely symbolic of the skewed class politics of the New Gilded Age. Eliminating what one prominent economist has called "the closest thing to a perfect tax we have"¹ in order to protect the inherited wealth of multimillionaires seems perversely contrary to the interests of the 98% of American families whose estates will never reach the threshold for taxation. How could a democratic political system arrive at such a policy?

In 2002 the estate tax was only assessed on estates worth \$1 million or more, and many of those were exempted. Under the provisions of the 2001 EGTRRA tax cut, the estate tax threshold gradually increased to \$3.5 million in 2009, while the tax rate gradually declined. The estate tax will be totally repealed in 2010; however, as with other elements of the 2001 tax cut, it will be reinstated in its pre-2002 form in 2011—absent further action by Congress.

Paul Krugman mocked the apparent illogic of this off-again, on-again scheme: "If your ailing mother passes away on Dec. 30, 2010, you inherit her estate tax-free. But if she makes it to Jan. 1, 2011, half the estate will be taxed away. That creates some interesting incentives. Maybe they should have called it the Throw Momma From the Train Act of 2001."² Whether wealthy ailing mothers will, in fact, be put at risk remains to be seen. Legislation providing for permanent repeal of the estate tax has cleared the House of Representatives on more than one occasion, only to fall short of garnering the 60 votes necessary to overcome a Democratic filibuster in the Senate.

But why is Congress even considering estate tax repeal? In their comprehensive account of the repeal effort, Michael Graetz and Ian Shapiro portrayed the threat to the estate tax as a "political mystery":

¹Robert H. Frank, "The Estate Tax: Efficient, Fair and Misunderstood." *New York Times*, May 12, 2005.

²Paul Krugman, "Bad Heir Day," *New York Times*, May 30, 2001.

A law that constituted the blandest kind of common sense for most of the twentieth century was transformed, in the space of little more than a decade, into the supposed enemy of hardworking citizens all over this country. How did so many people who were unaffected by the estate tax—the most progressive part of the tax law—and who might ultimately see their own taxes increased to replace the revenues lost if the estate tax disappeared, come to oppose it? Who made this happen?

The answers to these questions reveal a great deal about how American politics actually works in the age of polls, sound bites, think tanks, highly organized membership organizations, and single-issue coalitions.³

Graetz and Shapiro assumed as a matter of course that if ordinary people oppose the estate tax, *someone*—as it turns out, conservative think tanks, interest groups, and propagandists—must have “made this happen.” In this chapter, I propose another possibility—one that is less conspiratorial but in some ways even more troubling. My account suggests that the estate tax was quite unpopular with the American public long before conservative think tanks, interest groups, and propagandists came along. Thus, if public sentiment determined public policy, the estate tax would probably have been repealed long ago.

From this perspective, the real “political mystery” of the estate tax is not why the repeal movement has enjoyed so much success in recent years, but why such an unpopular tax has lasted as long as it has. The answer to that question reveals a great deal about how American politics has actually worked through most of the past century. It is not a story of “polls, sound bites, think tanks, highly organized membership organizations, and single-issue coalitions,” as Graetz and Shapiro would have it. Rather, it is a story of powerful public officials pursuing their own ideological impulses, ignorant or heedless of public sentiment. Ironically, in this case the powerful public officials happen to have been on the side of ordinary people, while public sentiment has been on the side of the multimillionaires.

PUBLIC SUPPORT FOR ESTATE TAX REPEAL

If the extent of public support for the Bush tax cuts documented in chapter 6 is remarkable, the extent of public support for estate tax repeal is even more remarkable. For example, the 2002 National Election Study survey included questions focusing on the ongoing controversy about “doing away with the tax on large inheritances.” These questions were asked in two forms, one referring

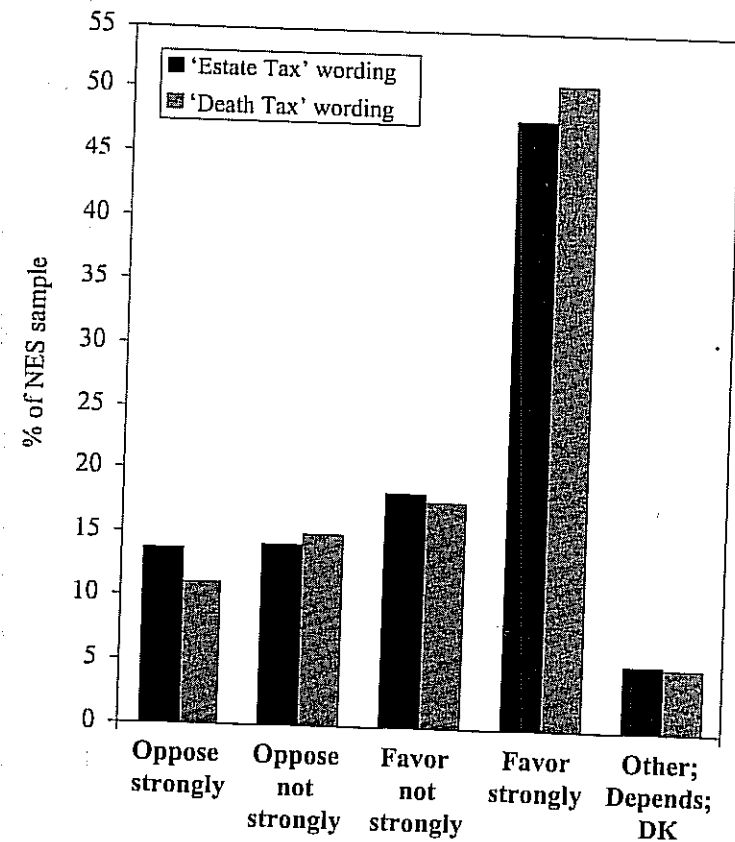


Figure 7.1 Public Support for Repealing the Estate Tax

to the “estate tax” and the other to the “death tax.” Figure 7.1 shows the distributions of public opinion for both versions.⁴

Since the “death tax” label has been aggressively championed by proponents of repealing the tax, it might be expected to generate more public support for repeal than the “estate tax” wording. It did, but only by a few percentage points. What is more significant is that, regardless of the wording, a substantial majority of survey respondents favored repealing the tax. Combining the results for both versions of the question, 49% of the public “strongly” favored repeal while another 18% were less strong supporters. Only 27%

⁴“There has been a lot of talk recently about doing away with the tax on large inheritances, the so-called [‘estate tax’/‘death tax’]. Do you FAVOR or OPPOSE doing away with the [estate tax/death tax]? Do you [favor/oppose] doing away with the [estate tax/death tax] STRONGLY or NOT STRONGLY?”

³Graetz and Shapiro (2005), 3.

opposed repeal, and they were slightly more likely to be "not strong" opponents than "strong" opponents. (They were also less likely than supporters of repeal to say that this issue was "very important" to them personally.)

These results are broadly consistent with those of other surveys that have asked about repealing the estate tax. For example, the 2003 survey conducted by National Public Radio, the Kaiser Foundation, and Harvard's Kennedy School of Government found 54% of the public in favor of repealing the "federal estate tax" and 16% opposed (with 29% saying they "don't know enough to say"); 60% favored repealing the tax when the phrase "death tax" was mentioned in the question (with 15% opposed and 26% saying they "don't know enough to say").⁵

Some analysts have cast doubt on the depth of public support for repealing the estate tax implied by survey results like these. For example, the NPR/Kaiser Foundation/Kennedy School survey included a series of additional questions proposing various exemption levels for the estate tax; a total of 52% of the sample favored keeping the current tax (15%) or raising the exemption level to \$1 million (26%) or to \$5 million (11%), while only 26% continued to support repeal even if the tax was "collected only on estates worth \$25 million or more."⁶ Similarly, a 2001 survey conducted by Mark Penn for the Democratic Leadership Council found substantial support for continuing to apply the estate tax to very large estates; when Penn offered respondents the choice of eliminating the estate tax, leaving it as is, or "exempting small family farms and small businesses from the estate tax, but not multimillionaires," 56% chose the third option, while fewer than one in four continued to favor eliminating the tax.⁷ Findings like these suggest that *some* form of continued estate tax could conceivably win substantial public sup-

⁵ National Survey of Americans' Views on Taxes, April 2003, www.kff.org, www.npr.org. As in the 2002 NES survey, the two questions were asked of random half-samples. "There is a federal estate tax—that is, a tax on the money people leave when they die. Do you favor or oppose eliminating this tax, or don't you know enough to say?" Favor, 54%—Oppose, 16%—Don't know enough to say, 29%. "There is a federal estate tax that some people call the death tax. This is a tax on the money people leave when they die. Do you favor or oppose eliminating this tax, or don't you know enough to say?" Favor, 60%—Oppose, 15%—Don't know enough to say, 26%.

⁶ "Would you (still) favor eliminating the federal estate tax if it were collected only on estates worth \$1 million or more? . . . \$5 million or more? . . . \$25 million or more?" Keep estate tax, 15%—Keep tax but only on estates of \$1 million or more, 26%—Keep tax but only on estates of \$5 million or more, 11%—Keep tax but only on estates of \$25 million or more, 7%—Eliminate tax even on estates of \$25 million or more, 26%—Don't know/Refused, 15%.

⁷ Mark J. Penn, "What Americans Really Think about Bush's Tax Cut," March 2001, www.ndol.org/blueprint/spring2001/penn.html. "A key feature of President Bush's tax cut proposal is the elimination of the estate tax. The estate tax is now levied against estates of more than \$600,000. That exemption will soon rise to \$1 million. Only the top 2 percent of estates are now subject to the tax. Which is closer to your view?" "We should eliminate the estate tax," 23%—"We should leave it as it is," 16%—"We should exempt small family farms and small businesses from the estate tax, but not multimillionaires," 56%—Don't know, 5%.

TABLE 7.1

Obtuse Support for Repealing the Estate Tax

"There has been a lot of talk recently about doing away with the tax on large inheritances, the so-called [estate tax/'death tax']. Do you FAVOR or OPPOSE doing away with the [estate tax/death tax]?"

	<i>Favor repeal</i>	<i>Oppose repeal</i>	<i>N</i>
<i>Total sample</i>	67.6%	27.2%	1,346
<i>Among those who . . .</i>			
have family incomes			
of less than \$50,000	62.9%	29.9%	620 (46%)
want more spending on most			
government programs	66.3%	28.3%	1,232 (92%)
say income gap has increased			
and that is a bad thing	64.9%	31.9%	596 (40%)
say government policy contributes			
to differences in income	64.6%	30.1%	813 (63%)
say rich people pay less than			
they should in federal income taxes	65.2%	31.4%	674 (50%)
All of the above	63.4%	32.8%	134 (10%)

Source: Calculations based on data from 2002 National Election Study survey.

port. Nevertheless, what is most striking in the survey data is that a great many people with no material stake in repealing the estate tax seem remarkably eager to get rid of it.

The depth of public antipathy toward the estate tax is vividly demonstrated in table 7.1, which shows how support for repeal in the 2002 NES survey varied with seemingly relevant circumstances and political views of the respondents. In the sample as a whole, almost 68% of the respondents favored repeal. Even among people with family incomes of less than \$50,000 (about half the sample), 63% favored repeal. Among people who wanted to spend more money on a variety of federal government programs, 66% favored repeal.⁸ Among

⁸ Respondents who were interviewed in both waves of the 2002 NES survey were asked whether federal spending in each of 17 specific areas should be increased, decreased, or kept about the same. I counted those who favored more increases than decreases as wanting more government spending. The 17 spending items focused on "building and repairing highways," "AIDS research," "welfare programs," "public schools" (or "big-city schools"), "dealing with crime," "child care," "homeland security" (or "the war on terrorism"), "unemployment insurance," "defense," "environmental protection," "aid to poor people" (or "aid to the working poor"), "foreign aid," "Social Security," "tightening border security to prevent illegal immigration," "aid to blacks," "preventing infant mortality," and "pre-school and early education for poor children" (or "pre-school and early education for black children").

people who said that the difference in incomes between rich and poor had increased in the past 20 years *and* that that is a bad thing, 65% favored repeal. Among those who said that government policy is a "very important" or "somewhat important" cause of economic inequality (almost two-thirds of the sample), 65% favored repeal. Among those who said that the rich are asked to pay too little in federal income taxes (half the sample), 65% favored repeal. Most remarkably, among those with family incomes of less than \$50,000 who want more spending on government programs *and* said income inequality had increased *and* said that is a bad thing *and* said that government policy contributes to income inequality *and* said that rich people pay less than they should in federal income taxes—the 10% of the sample with the strongest conceivable set of reasons to support continuation of the estate tax—63% favored repeal.

The persistence of overwhelming public support for repeal in the face of such a variety of seemingly contrary considerations is quite impressive. As in the case of the Bush tax cuts more generally, this pattern of support leads one to wonder what considerations have led so many people to embrace policies that are so clearly contrary to their material interests.

The statistical analyses reported in table 7.2 relate support for estate tax repeal in the 2002 NES survey to a variety of indicators of respondents' political values and perceived self-interest.⁹ Since the primary direct effect of repealing the estate tax would be to reduce the long-run tax burden of the wealthiest 1–2% of American taxpayers, it seems plausible to suppose that people who believed the rich pay too much in taxes should have been much more likely to favor repealing the estate tax, while those who believed the rich pay too little in taxes should have been much more likely to oppose repeal. Since repealing the estate tax would have no direct effect on people's own tax burdens (for all but the wealthiest handful) or on the tax burden of the poor, opinions about whether these taxes are too high or too low are less obviously relevant. However, if people recognized that repealing the estate tax is likely to lead, eventually, to increases in other, broader-based taxes (in some combination with reductions in government services and larger budget deficits), those who believed their own taxes (or the taxes paid by the poor) are too high might be inspired to oppose repealing the estate tax.

Attitudes regarding the tax burden borne by the rich did have a modest positive effect on support for repealing the estate tax. The results presented

⁹ As with the parallel analyses presented in table 6.3, the parameter estimates reported in table 7.2 are from instrumental variables regression analyses. Since the question on estate tax repeal appeared in the post-election wave of the 2002 NES survey, I use perceived tax burdens in the pre-election survey as instruments for the corresponding perceived tax burdens in the post-election survey.

TABLE 7.2

Self-Interest, Political Values, and Support for Estate Tax Repeal

Parameter estimates from instrumental variables regression analyses (with standard errors in parentheses). Support for estate tax repeal ranges from -1 (oppose strongly) to +1 (favor strongly).

	[1]	[2]	[3]
Own tax burden (-1 to +1)	.332 (.093)	.225 (.092)	.226 (.105)
Rich tax burden (-1 to +1)	.150 (.070)	.009 (.074)	-.003 (.076)
Poor tax burden (-1 to +1)	.101 (.107)	.101 (.106)	.104 (.131)
Republican Party identification (-1 to +1)	—	.189 (.092)	.168 (.113)
Conservative ideology (-1 to +1)	—	.379 (.157)	.454 (.173)
Government spending preferences (-1 to +1)	—	—	.024 (.247)
Perceived government waste (0 to 1)	—	—	-.119 (.256)
Family income (0 to 1)	.195 (.079)	.102 (.079)	.104 (.081)
"Death tax" wording	.061 (.041)	.039 (.040)	.030 (.041)
Intercept	.143 (.058)	.166 (.063)	.233 (.216)
Standard error of regression	.740	.716	.724
Adjusted R ²	.01	.07	.05
N	1,346	1,346	1,346

Source: Calculations based on data from 2002 National Election Study survey.

in the first column of table 7.2 suggest that people who thought the rich pay too much in federal income taxes were somewhat more likely to favor repeal, while those who thought the rich pay too little were somewhat less likely to favor repeal. So far, so good. However, this effect is dwarfed by the much larger effect of respondents' attitudes about their *own* tax burdens. The latter effect is also positive, meaning that people who thought *they* are asked to pay too much in federal income taxes were substantially more likely to support repealing the estate tax—despite the fact that the vast majority of them never have been or would be subject to the tax.

Separate analyses by income class indicate that the effect of respondents' own perceived tax burdens was about equally powerful among upper- and middle-income people. However, people whose incomes put them in the bottom third of the income distribution seem to have attached no weight one way or the other to their own tax burdens. Their views about estate tax repeal seem to have been strongly related to their own income levels, and perhaps also to their views about the tax burdens of poor people—with support for

repeal perversely higher among low-income respondents who thought the poor are asked to pay too much.¹⁰

It is possible that the apparent effects of perceived tax burdens in the first column of table 7.2 are really attributable to more general political dispositions that shape people's views about tax burdens as well as their specific opinions about the estate tax. In order to test that possibility, the analysis reported in the second column of table 7.2 includes party identification and political ideology as explanatory factors in addition to perceived tax burdens.¹¹ The results of this more elaborate analysis indicate, not surprisingly, that Republicans and (especially) conservatives were a good deal more likely than Democrats and liberals to favor estate tax repeal. Meanwhile, the apparent effect of people's perceptions of the tax burden of the rich disappears entirely, while the apparent effect of their perceptions of their own tax burdens is reduced by one-third and the apparent effect of family income is reduced by one-half.

The analysis reported in the third column of table 7.2 adds two more potential explanatory factors: government spending preferences and perceived government waste.¹² The statistical results presented in table 6.3 implied that these factors influenced people's support for the 2001 tax cut; but the results presented in table 7.2 suggest that they had no perceptible impact on support for estate tax repeal. Here, as in the analysis presented in the second column, support for estate tax repeal seems to have been most strongly affected by political ideology, party identification, and people's perceptions of their own tax burdens.

In assessing the substantial effects of ideology and party identification, it is important to bear in mind that the distributions of ideology and partisanship in the American public are not sufficiently skewed for their impact in table 7.2 to imply much *net* support for estate tax repeal. Instead, as with the

Bush tax cuts more generally, the most important single factor in accounting for the predominance of public support for estate tax repeal was respondents' attitudes about their own tax burdens. People who said *they* are asked to pay too much in federal income taxes were substantially more likely to support repealing the estate tax—even though almost none of them would ever be subject to the tax. Even after allowing for the effects of family income, partisanship, ideology, government spending preferences, and perceptions of government waste, those who said they are asked to pay too much were significantly more likely to favor repeal. Since respondents were much more likely to think that they are asked to pay too much in taxes rather than too little, the impact of these views on the overall distribution of opinion about repealing the estate tax was substantial, accounting for about one-fourth of the *net* public support for repeal.¹³

While support for estate tax repeal was strongly related to people's views about their own tax burdens, their views about whether the rich pay too much or too little in taxes had no apparent effect. Since the sole effect of repealing the estate tax would be to reduce the long-run tax burden of the wealthiest 1–2% of American taxpayers, it seems logical to expect that people who wanted the rich to bear a larger share of the tax burden would be especially likely to oppose repeal. They were not. Nor were people who said that the poor are overburdened by the tax system more likely to oppose repeal, notwithstanding the likelihood that repealing the estate tax would lead to increases in other, broader-based taxes, reductions in government services, and larger budget deficits.

IS PUBLIC SUPPORT FOR REPEAL A PRODUCT OF MISINFORMATION?

As with support for tax cuts more generally, support for estate tax repeal seems to be oddly unconnected to some considerations that would seem on their face to be quite relevant (such as whether rich people pay too much in taxes) and misconnected to some considerations that ought logically to be irrelevant, or even to imply opposition rather than support (such as whether people think their own taxes are too high). Peculiarities like these presumably help to account for why so many of Graetz and Shapiro's Washington informants "attributed the unexpected public support for repeal to misinformation and semantics."¹⁴

¹³ The sample mean value for the (–1 to +1) estate tax variable was .387. Multiplying the sample mean value for *Own tax burden*, .410, by the parameter estimate in the third column of table 7.2, .226, accounts for 24% of this net support for repealing the estate tax.

¹⁴ Graetz and Shapiro (2005), 253.

¹⁰ The parameter estimates for *Own tax burden* are .37 (with a standard error of .11) for the 36% of the NES sample with family incomes over \$65,000, .38 (.16) for the 33% of the sample with family incomes between \$35,000 and \$65,000, and .03 (.33) among the 31% with family incomes under \$35,000. The parameter estimates for family income are .41 (.41), .75 (.49), and 1.38 (.51), respectively. The perceived tax burdens of poor people had no perceptible effect among upper- and middle-income respondents, but a parameter estimate of .39 (with a standard error of .34) among low-income respondents.

¹¹ As in the analyses reported in table 6.3, I employ the difference in "thermometer ratings" assigned to conservatives and liberals as an instrument for *Conservative ideology* and the respondents' 2000 presidential vote as an instrument for *Republican party identification*.

¹² I employ an index derived from eight government spending items in the pre-election wave of the 2002 NES survey as an instrument for the corresponding index of *Government spending preferences* in the post-election wave of the survey, and perceptions of trust in government (whether government can be trusted to do what is right, whether government is run for the benefit of all, and whether government officials are crooked) as instruments for *Perceived government waste*.

Proponents of estate tax repeal have not hesitated to rely on specious arguments to make their case. One is the notion that the estate tax poses a mortal threat to small businesses and family farms. A 2005 study by the Congressional Budget Office found that fewer than 5% of taxable estates in 2000 belonged to farmers or family-owned businesses, and that the vast majority of these had sufficient liquid assets (stocks, bonds, bank accounts, and insurance) to cover their estate tax liability. The study identified a total of 138 farm estates that may have lacked sufficient liquid assets (not counting trusts) to cover their estate tax liability; but they would have been able to spread their estate tax payments over a period of up to 14 years. And if the \$3.5 million exemption scheduled to take effect in 2009 had been in effect in 2000, only 65 farm estates would have owed any tax at all.¹⁵

Another common argument of supporters of estate tax repeal is that it unfairly taxes assets that were already taxed as income. For example, a television ad aired in North Dakota by the American Family Business Institute paired images of the D-Day invasion with a claim that "The I.R.S. hits this greatest generation with an unjust double tax, the death tax." However, the reality is that much of the wealth subject to estate taxation consists of "unrealized"—and therefore untaxed—capital gains resulting from increases in the value of stock, real estate, and other assets.¹⁶

The powerful factual myths bolstering support for estate tax repeal show no sign of losing traction. They continue to be retailed by such prominent figures as Connie Mack, the chairman of President Bush's blue-ribbon tax reform panel. In a brief interview published a week before the panel filed its report (and a few months after the Congressional Budget Office published its report on the effects of the estate tax on farms and small businesses), Mack was asked about the possibility of repealing the estate tax:

I think there is a likelihood that Congress will deal with that issue before this term comes to an end. I would vote to eliminate, as we refer to it, the death tax. I think it's an unfair tax.

(Really? I think it's a perfect tax. The idea behind it was to allow people to postpone paying taxes until they die, at which point they presumably no longer care. Why do you call it unfair?)

Well, let's say, if you are in the farming business and you have the desire to pass this farm on to your children. The problem is that when your parents die, you

have to come up with cash to pay the estate tax. One thing you don't have is cash. You've got plenty of land. So I just don't believe it's a fair tax.

(That strikes me as a red herring. The issue is not really small farms, but zillion-dollar estates made up of stocks and bonds.)

I don't know what the percentage breakdown is. I still go back to the same notion that these individuals who have accumulated these resources have paid taxes on them many times in their life, and then to say, when you die, now you pay more taxes on it? There is a limit.¹⁷

Maybe the chairman of the president's tax reform panel—a veteran of the Senate Appropriations, Finance, and Joint Economic committees—really had no idea how many of the people burdened by the estate tax are family farmers, despite the CBO's report on the subject a few months earlier. Maybe he believes that their wealth has already been taxed "many times." Maybe he knows but does not care. Of course, the fact that specious arguments circulate in elite political discourse does not necessarily imply that they penetrate the thinking of ordinary citizens, or that they have significant effects on policy preferences. Nevertheless, the brazenness of conservative efforts to impugn the "death tax" reinforces the suspicion in some quarters that public support for estate tax repeal is largely a product of widespread misunderstanding of how the estate tax actually works.

Opinion surveys provide plenty of support for the notion that public misunderstanding of the estate tax is widespread. For example, the 2003 NPR/Kaiser Foundation/Kennedy School survey asked respondents who favored eliminating the estate tax (57% of the sample) about their reasons for doing so. All four of the reasons proposed in the survey were endorsed by substantial majorities, including "It affects too many people" (62%) and "It might affect YOU someday" (69%).¹⁸ These results suggest that a very substantial number of people who supported repealing the estate tax mistakenly believed that their own taxes would be lower as a result. Another question in the same survey asked whether "most families have to pay the federal estate tax when someone dies or only a few families have to pay it." Almost half the respondents said that most families have to pay, and an additional 18% said they did not know. Thus, two-thirds of the American public apparently failed

¹⁷ Deborah Solomon, "Taxing Issues," *New York Times Magazine*, October 23, 2005, 23.

¹⁸ "Why do you favor eliminating the estate tax as it is now? Is this a reason or not?" "The money was already taxed once and it shouldn't be taxed again." Yes, a reason, 92%—No, not a reason, 7%—Don't know, 2%. "It affects too many people." Yes, a reason, 62%—No, not a reason, 34%—Don't know, 3%. "It might affect YOU someday." Yes, a reason, 69%—No, not a reason, 30%—Don't know, 1%. "It might force the sale of small businesses and family farms." Yes, a reason, 74%—No, not a reason, 22%—Don't know, 4%.

¹⁵ Congressional Budget Office, "The Effects of the Federal Estate Tax on Farms and Small Businesses," July 2005.

¹⁶ Edmund L. Andrews, "Death Tax? Double Tax? For Most, It's No Tax," *New York Times*, August 14, 2005; Jacob Freedman, "Rough Accounting Ahead for Inheritors," *CQ Weekly*, June 16, 2006, 1672.

to recognize the single most important fact about the estate tax: that it is paid only by very wealthy people.¹⁹

Economist Joel Slemrod has shown that confusion on this score contributed to public support for estate tax repeal. He estimated that, other things being equal, support for repeal was 10.3 percentage points higher among people who thought most families have to pay than among those who recognized that only a few families pay estate taxes. (People who said they didn't know were slightly *more* supportive than those who were misinformed.) Slemrod concluded that "popular misunderstanding . . . contributes to the widespread opposition to the tax, although a majority would oppose it even in the absence of this particular misconception."²⁰

Unlike the NPR/Kaiser Foundation/Kennedy School survey analyzed by Slemrod, the 2002 National Election Study survey did not include specific factual questions about the estate tax or its effects. However, it is possible to examine the effects of political information more generally on support for estate tax repeal among the NES respondents. The analysis in chapter 6 showed that support for the 2001 tax cut was significantly weaker among better-informed people than among those who were less well-informed. Is that true as well of the strong support for repealing the estate tax evident in figure 7.1?

The answer is no. In the case of estate tax repeal, the statistical results presented in table 7.3 indicate that better-informed people in the 2002 NES survey were actually slightly *more* likely than those who were less well-informed to favor repeal.²¹ Separate analyses for Republicans, Independents, and Democrats show somewhat stronger positive effects of political information on support for repeal among Republicans and Independents. Among Democrats the estimated effect is negative, but only slightly so.²²

¹⁹ "Do you think that most families have to pay the federal estate tax when someone dies or only a few families have to pay it?" Most families have to pay, 49%—Only a few families have to pay, 33%—Don't know, 18%.

²⁰ Slemrod (2006), 69. Krupnikov et al. (2006) repeated Slemrod's analysis separately for Democrats and Republicans; they found that the effect of misinformation was about twice as large for Democrats as for Republicans.

²¹ As in table 6.5, these analyses allow for additional differences in support for estate tax repeal due to differences in family income and question wording ("estate tax" versus "death tax"). Income had a positive effect on support for repeal, especially among Republicans; the "death tax" question wording produced somewhat more support for repeal among Republicans but had no apparent effect on Independents or Democrats.

²² Krupnikov et al. (2006) reported qualitatively similar results from their analysis of the same data using a different statistical procedure, instrumental variables regression, paralleling and elaborating the analysis of Bartels (2004). The magnitudes of their estimated information effects are larger than for those reported here—in part because the instrumental variables procedure mitigates bias due to measurement error in political information, in part because it ignores ceiling effects in support for estate tax repeal, and in part because Krupnikov et al. classified Democratic and Republican "leaners" as partisans, whereas I classify them here as Independents. (Oddly, the apparent information effect is about twice as large for Republican leaners as for full-fledged Republican identifiers.)

TABLE 7.3

Partisanship, Political Information, and Support for Estate Tax Repeal

Ordered probit parameter estimates (with standard errors in parentheses) for probability of (strongly or not strongly) favoring estate tax repeal. Additional response thresholds are included in the analyses but not shown here.

	Total sample	Republicans	Independents	Democrats
Political information (0 to 1)	.287 (.143)	.538 (.273)	.589 (.241)	-.268 (.252)
Family income (0 to 1)	.455 (.117)	.629 (.217)	.135 (.202)	.352 (.201)
"Death tax" wording	.086 (.062)	.255 (.115)	-.015 (.105)	.063 (.105)
Intercept	.048 (.091)	.052 (.188)	.178 (.151)	.097 (.151)
Log likelihood	-1,807.4	-485.9	-631.2	-638.6
Pseudo-R ²	.01	.02	.01	.00
N	1,346	434	471	441

Source: Calculations based on data from 2002 National Election Study survey.

The contrasting effects of political information on support for estate tax repeal among Republicans and Democrats are represented graphically in figure 7.2. Among Democrats, support for repeal declined from 62% for the least well-informed to 51% for the most well-informed. Among Republicans, however, support for repeal increased from 69% for the least well-informed to 85% for the most well-informed. Thus, while increasing levels of political information clearly bolstered the relationship between partisanship and views about the estate tax, there is no indication here that a better-informed public would, on balance, be any less enthusiastic about estate tax repeal.

Table 7.4 provides additional perspective on the interaction between political information and political values in producing support for estate tax repeal. The first and second columns of the table show the impact of political information on support for repeal separately among people who said that rich people pay too little federal income tax and among those who said that the tax burden of rich people is about right or too high. The results suggest that increasing political awareness had a substantial positive effect on support for estate tax repeal in the latter group but no effect at all in the former group. Even very well informed people who said that the tax burden of rich people is too low were more likely than not to support estate tax repeal. Among people who lacked this reason for opposing repeal, however, uninformed people were about equally divided between support and opposition, but highly informed people were very likely to favor repeal.

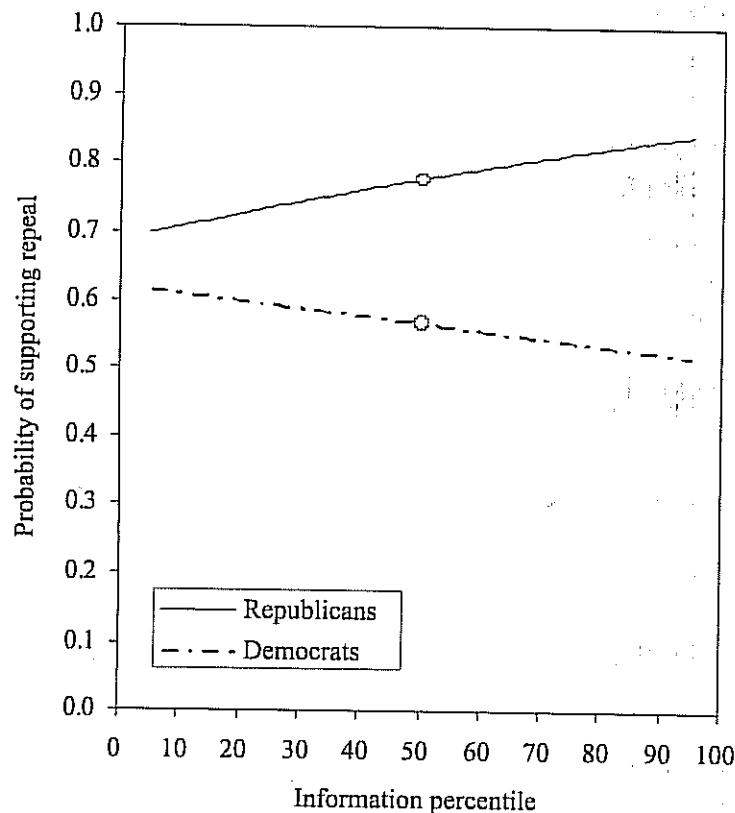


Figure 7.2 Support for Estate Tax Repeal by Partisanship and Information Level

The third and fourth columns of table 7.4 present the results of parallel analyses among two more subgroups of NES respondents. The results presented in the third column are based on the views of people who said that the difference in incomes between rich people and poor people in the United States today is larger than it was 20 years ago, *and* that that is a bad thing; these are the people for whom growing economic inequality might provide a reason to oppose repealing the estate tax. (In 2002, these respondents made up slightly more than 40% of the NES sample.) The results presented in the fourth column are based on the responses of people who said that the difference in incomes between rich people and poor people has not increased (about 25% of the total sample), *or* that the larger income gap is a good thing (about 5%), *or* that they did not know or had not thought about whether the larger income gap is a good thing or a bad thing (about 28%). What these three groups have in common is that they lack

TABLE 7.4
Attitudes about Inequality, Political Information, and Support
for Estate Tax Repeal

Ordered probit parameter estimates (with standard errors in parentheses) for probability of (strongly or not strongly) favoring estate tax repeal. Additional response thresholds are included in the analyses but not shown here.

	<i>Rich people pay too little federal income tax</i>	<i>Tax burden of rich people is about right or too high</i>	<i>Income gap is larger and that is a bad thing</i>	<i>Income gap is not larger or larger gap is not bad</i>
Political information (0 to 1)	-.099 (.184)	.915 (.233)	-.439 (.212)	1.011 (.204)
Family income (0 to 1)	.297 (.153)	.588 (.182)	.359 (.171)	.512 (.162)
"Death tax" wording	.033 (.080)	.189 (.098)	.103 (.092)	.083 (.083)
Intercept	.294 (.121)	-.290 (.140)	.394 (.155)	-.238 (.117)
<i>Log likelihood</i>	-1,081.6	-702.7	-810.1	-974.5
<i>Pseudo-R²</i>	.00	.03	.01	.03
<i>N</i>	784	562	594	752

Source: Calculations based on data from 2002 National Election Study survey.

either a factual basis or a moral basis (or both) for thinking of growing economic inequality as a problem that might be exacerbated by repealing the estate tax.

Dividing the survey respondents in this way produces dramatically different estimates of the effect of political information on views about estate tax repeal.²³ Among those who had reason to be concerned about growing economic inequality, politically informed respondents were significantly more likely than those who were less well-informed to oppose estate tax repeal. However, among those who did not recognize or did not care about increasing inequality, those who were better-informed were substantially more likely to favor repeal.

For people of average political awareness these results imply very little difference in support for repeal between those who were concerned about inequality and those who were not. For people of less-than-average political awareness, those who were concerned about increasing inequality were actually

²³ We saw in chapter 5 that better-informed respondents were more likely to recognize that the income gap between rich and poor has grown, and more likely to think that that is a bad thing. Thus, it should not be surprising that the average level of political information is higher for the subgroup of respondents analyzed in the third column of table 7.4 than for the subgroup analyzed in the fourth column. Nevertheless, the variation in political information *within* each subgroup is sufficient to estimate the effects of information on policy preferences with tolerable precision.

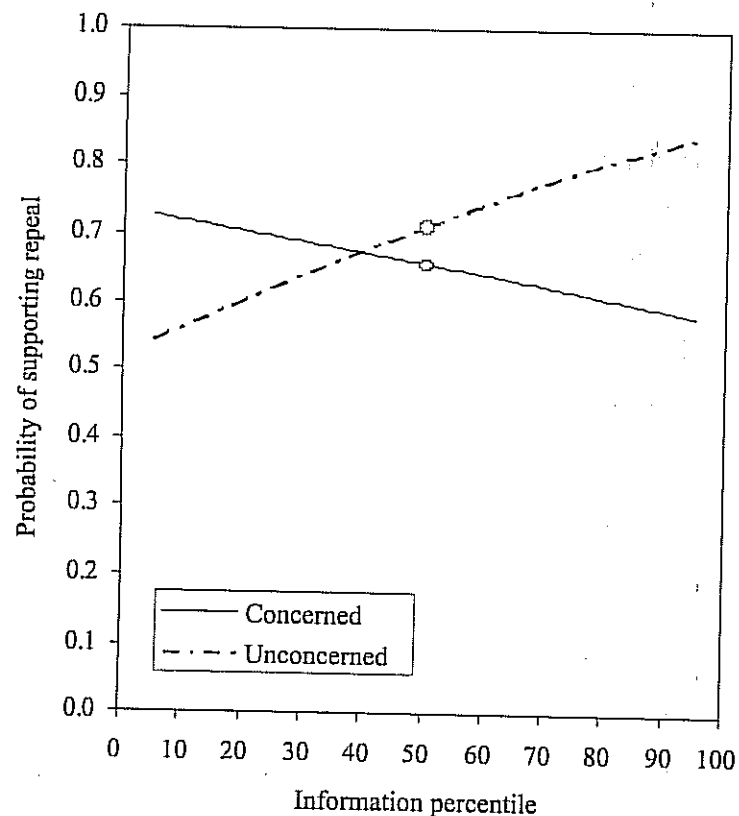


Figure 7.3 Support for Estate Tax Repeal by Concern about Income Inequality and Information Level

somewhat *more* likely to favor repeal than those who did not know or did not care that inequality has increased. Only among the best-informed citizens did concern about inequality produce significant resistance to the allure of estate tax repeal—and even the best-informed people who recognized and regretted the fact that inequality has increased were more likely than not to favor repeal (figure 7.3).

The pattern of support for estate tax repeal in figure 7.3 highlights the extent to which the political effects of information may hinge on a conjunction between specific bits of policy-relevant knowledge and specific moral interpretations of policy-relevant facts.²⁴ Among people who happened not to

²⁴ On the significance of specific policy-relevant facts see Gilens (2001); on moral interpretations, see Stoker (1992).

know or care that economic inequality has increased, the best informed about politics and public affairs were, by far, the most likely to *support* repealing the estate tax. Both recognition of the economic trend and a moral judgment that it is “a bad thing” were necessary to make well-informed, politically sophisticated people more likely to *oppose* repeal.

These results highlight the depressing limits of political information as a potential transformative force. In the case of the estate tax, the most powerful effect of greater political awareness was to significantly *bolster* support for repeal among people who did not recognize, or did not care, that income inequality has increased. The countervailing effect among people who *did* recognize and regret the fact that inequality has increased, while significant, was a good deal weaker.

It is important to consider an additional, indirect effect of information on support for estate tax repeal: the evidence presented in table 5.12 suggests that increasing political information would tend, overall, to produce a substantial increase in public recognition of and concern about increasing inequality. In effect, increasing political information would not only produce shifts to the right along the dotted and solid lines in figure 7.3, but also a shift from the dotted line to the solid line, producing some additional reduction in support for estate tax repeal. However, the overall impact of the direct and indirect effects of increasing political information implied by my analysis remains quite modest.

For people who assume that public support for estate tax repeal must be a product of ignorance or misinformation, these results should be triply disheartening. They suggest, first, that even if every person in America could be made to see that economic inequality has increased *and* made to feel that that is a bad thing, the overall distribution of public opinion about estate tax repeal would change rather little, since declining support for repeal among better-informed people would be largely offset by increasing support for repeal among those who were less well-informed. Second, even if the entire public somehow became splendidly well-informed about politics and public affairs, the overall distribution of public opinion about estate tax would change rather little, since declining support among people concerned about inequality (and an increase in their numbers) would be largely offset by increasing support among people who continued to be unconcerned about inequality. Finally, since even very well-informed citizens who recognized and regretted the fact that inequality has increased were more likely to support estate tax repeal than to oppose it, it seems very likely that a majority of the public would persist in favoring repeal even if they were splendidly well-informed *and* concerned about inequality. In short, there is no ground here for imagining that the strange appeal of estate tax repeal could be overcome simply by making citizens better informed.

DID INTEREST GROUPS MANUFACTURE PUBLIC ANTI-PATHY TO THE ESTATE TAX?

The analysis presented here seems consistent with Slemrod's analysis in indicating that public ignorance and misinformation play a relatively modest role in accounting for the strange appeal of estate tax repeal. Slemrod estimated that eliminating public misconceptions about the reach of the estate tax would only decrease public support for repeal from 79% to 72%.²⁵ Similarly, the analysis here suggests that even universal public recognition of increasing economic inequality would only decrease public support for repeal from 68% (the overall level of support in the 2002 NES sample) to 57% (reflecting the estimated probability of support among people at the top of the distribution of political awareness who both recognized and regretted increasing economic inequality). As Graetz and Shapiro put it, "folk wisdom in Washington, which attributes the widespread support for repeal to the gap between belief, rhetoric, and reality, misses the real story."²⁶

But what is that real story? Graetz and Shapiro's account emphasized the role of conservative political entrepreneurs in framing and selling estate tax repeal as a moral issue rather than an economic issue. These entrepreneurs

understood that tax debates are not won by giving the public more information. The trick is giving them the right kind of information from your point of view, shaping the lens through which they come to see the issue at hand. . . . The death tax label added moral momentum to the case for repeal, turning the tax-man into a pimp for the grim reaper. . . . Jonathan Weisman was not exaggerating when he wrote in *USA Today* . . . that the repeal movement had become "a massive lobbying effort that has swayed public opinion, altered the terms of the debate and proven unstoppable."²⁷

In Graetz and Shapiro's account, conservative think tanks played a key role in this propaganda effort: the "growing think tank gap strengthened the hand of the repeal forces considerably. . . . In bringing the conservative tax-cutting agenda from the margins to the mainstream, the new think tanks have . . .

²⁵ Slemrod (2006). Slemrod's 79% figure represents support for repeal among people who took a position one way or the other—the 28% of the sample in the 2003 NPR/Kaiser Foundation/Kennedy School survey who said they "don't know enough to say" are excluded. The estimated 7-point effect of misinformation combines a 10-point decrease in support for estate tax repeal among the 49% of respondents who thought most families pay estate tax and a 12-point decrease among the 20% who did not know. By comparison, Slemrod estimated that eliminating public misconceptions about the progressivity of the current tax system would decrease public support for a flat-rate tax from 53% to 42% (a decrease of 24 percentage points among the 44% of the public who thought rich people would pay more under a flat-rate system).

²⁶ Graetz and Shapiro (2005), 254.

²⁷ Ibid., 254, 253, 129–130.

transformed the limits of acceptable conduct." In particular, the Heritage Foundation, a "colossus of ideologically focused conservatism, with an annual operating budget in excess of \$30 million, would play a major role in moving estate tax repeal into the realm of the politically thinkable." They portrayed estate tax repeal as "an early and intense preoccupation at Heritage," which generated a "flood of activity" on the issue. (Along the way, they found space to describe in loving detail the foundation's headquarters, with its "well-manicured lawn," "dark wood paneling," "gilt mirror," and "gold-etched names of donors.")²⁸

Eventually, 240 pages into their account, Graetz and Shapiro mentioned in passing that the Heritage Foundation's total spending on estate tax repeal "from the mid-1990s through 1999" amounted to \$250,000. Even with some allowance for the effects of "placing Heritage's considerable resources at the repeal coalition's disposal" in ways that are not reflected in that figure, it strains credibility to imagine that an expenditure of that magnitude—roughly 0.2% of the foundation's total spending during the years in which it pursued the issue of estate tax repeal—could reflect an "intense preoccupation" or produce a "flood of activity," much less constituting "a major role in moving estate tax repeal into the realm of the politically thinkable."²⁹

If the observed political action in this case seems too modest to produce the alleged political reaction, perhaps that is because public opinion did not really need to be "swayed" or "manipulated" into supporting estate tax repeal. The fact of the matter is that Americans have always found the juxtaposition of death and taxes peculiarly unsettling, even before the Heritage Foundation and other conservative groups began to mount a vigorous attack on the supposed iniquities of the "death tax" in the 1990s.

Although major survey organizations seem to have ignored the issue before the mid-1990s,³⁰ vivid evidence of that antipathy is available from an unlikely source: in-depth interviews with ordinary Americans on the subject of distributive justice. Summarizing the results of these interviews, which she conducted in New Haven in the mid-1970s, Jennifer Hochschild noted that "almost everyone, rich and poor, is incensed that the very wealthy do not pay their fair share of taxes." At the same time, however, she noted that "no one is enthusiastic about, and very few even accept, inheritance taxes. On this point, the sanctity of private property overwhelms the principle of equality in the political domain. Policymakers who seek revenues and support for government expenditures should not publicize inheritance taxes, even for the very wealthy."³¹

²⁸ Ibid., 85, 241–242, 89, 94, 98, 92–93.

²⁹ Ibid., 242, 358.

³⁰ The Roper Center's *iPOLL* database includes 82 survey questions mentioning the estate tax, death tax, or inheritance tax; but none of those questions was asked before 1996.

³¹ Hochschild (1981), 280.

The examples Hochschild provided of her working people's views about inheritance taxes sound uncannily similar to the focus-group-tested rhetoric of the repeal effort described by Graetz and Shapiro 25 years later.³²

If I'm working and I'm banking my money, I'm planning for *their* [his children's] future. So hey, if I turn around and pass away, they got every right in the world to get what I worked for.

It's wrong, taking away money from somebody that has earned it. You pay taxes all your life on the money you earn, and then when you pass away and you leave some money to your relatives, you gotta take *more* money out of it. It seems like tax on top of tax.

Awful, because it's in the family, and the family has a perfect right to hand it down to their children if they want to.

Why should I work all my life and run the risk that three idiots that got jobs out of patronage are going to decide whether my daughter is going to 'get my money? No way. Before I'll do that, I'll stop working.

Probably shouldn't be one. It's his money, he can do what he wants.

None of these ordinary working people was spurred to indignation by right-wing think tanks, sound bites, or well-organized political activists. They opposed the estate tax because it violated their deeply held views about family, work, and economic opportunity.

Even more surprising evidence of long-standing public antipathy to government interference with inheritance comes from an opinion survey commissioned by *Fortune* magazine in 1935.³³ In the midst of the most catastrophic economic depression in American history, *Fortune* asked survey respondents "How much money do you think any one person should be allowed to inherit?" The results are presented in table 7.5.

Over half the respondents in the *Fortune* survey said there should be "no limit" on inheritances; fewer than one-third favored limits of less than \$1 million (almost \$15 million in current dollars). The editors of *Fortune* characterized these results as "astonishing" and an indication "that the nature of Public Opinion in this country is still all but unknown":

Despite the various noises made by the Doctors Townsend, Long, and Coughlin, and despite, again, five long years of economic hardship, 44 per cent of the people supported the right of millionaires (constituting probably no more

³² Ibid., 152, 183, 201, 206, 221. The quotations come, respectively, from an unskilled worker, an assembly-line maintenance man, a widowed housewife, a chemical manufacturer, and a 19-year-old living with his parents and working in his father's corner store.

³³ *Fortune*, October 1935, 56-57. I am indebted to Adam Berinsky for calling this survey to my attention.

TABLE 7.5

Views on the Right to Inherit, by Income Class, 1935

	"How much money do you think any one person should be allowed to inherit?"				
	\$100,000 or less ^a	\$100,000 to \$1,000,000	Over \$1,000,000 ^b	No limit	Don't know
Total sample	15.1%	15.5%	2.3%	51.7%	15.4%
Prosperous	8.9%	16.1%	2.5%	58.9%	13.6%
Upper middle	13.8%	15.6%	2.8%	51.1%	16.7%
Lower middle	16.0%	16.3%	2.5%	51.2%	14.0%
Poor	17.8%	15.3%	1.9%	47.1%	17.9%
Negro	15.0%	12.0%	1.3%	58.0%	13.7%

^a Includes "None" responses ranging from 0.4% to 1.0%.

^b Includes "Over \$10,000,000" responses ranging from 0 to 0.7%.

Source: *Fortune* Quarterly Survey, 1935.

than .004 of 1 per cent of the people) to continue to possess a million invested dollars, subject only to present taxation. It was concluded that this phenomenon was partly due to the fear of a half of the people that any measure destroying the millionaire might come too close to touching their own prospects for attaining what they would consider modest wealth. But there is a difference between self-made wealth, a tradition to which many Americans continue to aspire, and inherited wealth, for which few have well-founded hopes. (In 1933 about 1,300,000 Americans died, of whom only 10,000, or .77 of 1 per cent, left taxable estates—\$50,000 or more—with a net average value of \$80,000.)

If Hochschild's New Haven working people sound like participants in Heritage Foundation focus groups, the editors of *Fortune* here sound like irritated twenty-first century liberals lecturing ordinary Americans about the actual workings of the estate tax and the unreality of their faith in economic opportunity. The lectures have never been very effective. Yet, it is hard to see any evidence here that the right-wing activism described by Graetz and Shapiro has been particularly effective either. Hochschild recognized 25 years ago that, from the perspective of "policymakers who seek revenues and support for government expenditures," estate tax repeal was a train wreck waiting to happen. At best, the Heritage Foundation helped draw the attention of conservative elites to public antipathy that had gone unrecognized for decades.

ELITE IDEOLOGY AND THE POLITICS OF ESTATE TAX REPEAL

According to Graetz and Shapiro, "no repeal effort ever got off the ground during the Ronald Reagan and George H. W. Bush administrations largely

because most Washington insiders assumed that abolishing the estate tax was politically impossible. According to the orthodox wisdom, the vast majority of Americans would oppose repealing a steeply progressive tax that they would never themselves pay. It was not until the Gephardt-Waxman fiasco in 1992, when their gambit to cut the threshold to \$200,000 blew up in Democrats' faces, that conservatives became alert to the possibility that they might have missed something.³⁴

My analysis strongly suggests that the "orthodox wisdom" described by Graetz and Shapiro was quite mistaken through much of the twentieth century: far from opposing estate tax repeal, "the vast majority of Americans" would probably have been happy to support it. Thus, for partisans of popular sovereignty, the real "political mystery" is not why the estate tax was phased out in 2001, but why it lasted as long as it did. The answer to that question has little to do with conservative elites' grasp of public opinion, but much to do with the political leverage of liberal Democratic elites whose own ideological values made them eager to retain "a steeply progressive tax."

This interpretation is indirectly bolstered by Graetz and Shapiro's own account of the last serious attempt to repeal the estate tax, by President Calvin Coolidge and Treasury Secretary Andrew Mellon in the mid-1920s. Mellon—himself one of the wealthiest men in America at the time—proposed abolishing the federal estate tax as part of a proposed \$250 million post-war tax cut. As in 2001, estate tax repeal competed with a wide variety of other potentially popular tax cuts. The House of Representatives passed a \$336 million tax cut, well in excess of the \$250 million proposed by the administration. However, the chair and ranking minority member of the Ways and Means Committee, William Green (R-Iowa) and John Nance Garner (D-Texas), both strongly opposed estate tax repeal, and they succeeded in keeping it out of the House tax package, though the bill did cut the top estate tax rate in half and substantially increased the credit for state inheritance taxes. According to Graetz and Shapiro, "Green and Garner each faced strong constituent pressures to repeal the tax, but neither budged." In contrast, on the Senate side Finance Committee chair Reed Smoot (R-Utah) supported repeal and managed to win his committee's support for a \$362 million tax cut "by trading Republican support for lower income tax rates on middle-income people for Democratic votes for estate tax repeal." A conference committee appointed to reconcile the House and Senate plans ended up producing an even bigger aggregate tax cut than either chamber had originally voted, \$381 million. Green succeeded in preventing total repeal of the estate tax; nevertheless, the final bill cut estate tax rates, increased the credit for state estate taxes, and increased the exemption to \$100,000.³⁵

³⁴ Graetz and Shapiro (2005), 118.

³⁵ My account of the 1920s repeal effort follows that of Graetz and Shapiro (2005), 221–225.

Nothing in this episode suggests that estate tax repeal was politically unthinkable in the 1920s. Quite to the contrary, it was intensely debated in the context of a broader tax-cutting initiative, it passed in the Senate, and it seems to have fallen by the wayside in conference committee primarily due to the strong opposition of a single strategically placed committee chair who refused to budge in the face of "strong constituent pressures to repeal the tax."

Having narrowly failed to repeal the estate tax in the 1920s, only a decade after its inception, Republicans would have to wait a long time for another opportunity. The Great Depression, though it could not produce significant public enthusiasm for inheritance taxes, did produce something even more important—durable Democratic majorities in Congress. The House remained in Democratic hands for 60 of the 64 years between 1931 and 1994, and the only instance of unified Republican control for the remainder of the century was a tenuous two-year period at the beginning of the first Eisenhower administration, when the Republicans held a 10-seat margin in the House and a one-seat margin in the Senate.

Republicans won control of the House in 1994 and soon began pushing estate tax repeal. By the late 1990s predominantly Republican majorities in both houses of Congress favored repeal but were far from being able to override a veto by Democratic president Bill Clinton. When the bitterly contested 2000 election left the White House in Republican hands, producing the first unified Republican government in almost half a century, it took less than five months for the estate tax phaseout to be passed and signed into law.

The lesson I draw from this history is that strong public support for estate tax repeal was certainly not sufficient, and probably not necessary, for repeal to happen. When conservative Republicans controlled the levers of power in Washington in the 1920s, they came close to engineering repeal but were stymied by the opposition of a single obstinate committee chair. When Democrats were in control, through much of the rest of the twentieth century, estate tax repeal was the furthest thing from any sensible politician's mind, regardless of what the public thought of the idea. During periods of divided government, including the Reagan and George H. W. Bush administrations, it would have been quite reasonable for "Washington insiders" to continue to assume "that abolishing the estate tax was politically impossible"—not because "the vast majority of Americans would oppose repealing a steeply progressive tax that they would never themselves pay," but because liberal Democratic lawmakers were willing and able to prevent it.

The most recent episodes in estate tax policy making underscore the importance of both elite partisanship and institutional checks on majoritarian policy making in the contemporary American political system. In 2006, the Senate narrowly failed on two separate occasions to enact a permanent repeal or major reform of the estate tax. In June, Republican leaders mustered a 53–2 majority for repeal in their own caucus but attracted only four of 43 Senate

Democrats to their cause (Max Baucus, Blanche Lincoln, Ben Nelson, and Bill Nelson), and thus fell three votes short of the 60 needed to cut off a Democratic filibuster. According to one press report, "Republicans are now debating whether to give up on their goal and attack Democrats in the coming midterm elections as obstructionists on a measure that they say has considerable support, or settle for a bipartisan measure that would stop short of eliminating the tax entirely."³⁶

House Republican leaders facilitated a compromise by constructing a new bill that would retain the estate tax for estates worth more than \$5 million (\$10 million for couples). As a further sweetener to key Democratic moderates in the Senate, the bill included a special tax break for timber industries worth \$900 million over three years. The bill duly passed the House, and Senate Majority Leader Bill Frist pledged to bring it to a quick vote, but "facing opposition from Democrats who oppose any big reduction in the estate tax and conservative Republicans who want nothing less than total repeal," Frist changed course and "announced that he was postponing action."³⁷

A few weeks later, House Republican leaders constructed an even more audacious package by combining the estate tax reduction and other tax breaks with a long-standing Democratic priority, a \$2.10 per hour increase in the federal minimum wage. Again, the compromise measure passed the House (with 34 Democrats joining 196 Republicans in favor). Frist lined up all but two Senate Republicans; one supporter said of the compromise, "It helps a lot of different people with real problems. It's politics at its best. Everybody gives and everybody takes." According to a press report, "Mr. Frist and his allies in business viewed the wage increase, stretched over three years, as an acceptable trade-off for a permanent reduction in the estate tax and \$38 billion in tax breaks and federal aid that constituted the third part of the measure. But they could not overcome intense opposition from Democrats and organized labor." Despite the attractive packaging—and a warning from Frist that senators would not get an opportunity to vote on the popular provisions separately—"Democrats did not back off," and the bill fell three votes short of the 60 votes needed to cut off debate. Frist "noted that the major provisions of the measure—the wage increase, the estate tax reduction and the package of tax breaks—all enjoyed majority

Senate support yet could not clear the procedural hurdles" imposed by the body's filibuster rule.³⁸

The fact that Republicans saw potential electoral gains in attacking Democrats as "obstructionists" for opposing estate tax repeal clearly implies that public opinion is not entirely irrelevant in this story. However, it is equally clear that public support for estate tax repeal has been far from sufficient to make it happen. Indeed, Frist's final failed attempt to push a significant estate tax reduction through the Senate demonstrated that even the combination of public support, majority support in the House, majority support in the Senate, an enthusiastic president, and an attractive package of popular add-ons could not overcome the disciplined resistance of Democratic elites to permanent estate tax repeal.

Although the Bush administration has been stymied in its efforts to permanently repeal the estate tax, it has faced fewer hurdles in softening estate tax enforcement, underlining the capacity of those who execute the laws to shape policy through quiet shifts in priorities and procedures. A deputy commissioner of the Internal Revenue Service, Kevin Brown, ordered staff cuts reducing the agency's complement of estate tax lawyers from 345 to 188, saying that "careful analysis showed that the I.R.S. was auditing enough returns to catch cheats" and that "auditing a greater percentage of gift and estate tax returns would not be worthwhile because 'the next case is not a lucrative case'." Six of the lawyers whose jobs were likely to be eliminated "said in interviews that the cuts were just the latest moves behind the scenes at the I.R.S. to shield people with political connections and complex tax-avoidance devices from thorough audits," but "Mr. Brown dismissed as preposterous any suggestion that the I.R.S. was soft on rich tax cheats."³⁹

As with the Bush tax cuts more generally, the legislative fate of estate tax repeal will be powerfully shaped by the power of the status quo in American politics. In light of the looming automatic reinstatement of the pre-2002 estate tax in 2011, permanent repeal seems very unlikely regardless of which party holds the reins of government in the wake of the 2008 election. A Republican president and Congress bent on repeal would face the same problem Frist faced in 2006—an intransigent minority willing and able to block action in the Senate. At best, the result might be a negotiated compromise reducing the estate tax rate and the number of estates subject to taxation from their pre-2002 levels. On the other hand, a Democratic president and

³⁶ Edmund L. Andrews, "G.O.P. Fails in Attempt to Repeal Estate Tax," *New York Times*, June 9, 2006, C1.

³⁷ Edmund L. Andrews, "Timber Becomes Tool in Effort to Cut Estate Tax," *New York Times*, June 21, 2006, C1; Rachel Van Dongen, "House Backs Compromise Estate Tax Cut," *CQ Weekly*, June 23, 2006, 1788; Rachel Van Dongen, "Frist Lets Estate Tax Revision Simmer as He Looks for Support," *CQ Weekly*, July 7, 2006, 1876.

³⁸ David Nather, "Bills Merged in Pre-Recess Flurry," *CQ Weekly*, July 29, 2006, 2110; Carl Hulse, "House Approves Wage Increase Linked to Tax Breaks," *New York Times*, July 30, 2006; David Nather and Rachel Van Dongen, "Frist Loses Estate Tax Showdown," *CQ Weekly*, August 4, 2006, 2176; Carl Hulse, "Wage Bill Dies; Senate Backs Pension Shift," *New York Times*, August 4, 2006.

³⁹ David Cay Johnston, "I.R.S. Will Cut Tax Lawyers Who Audit the Richest," *New York Times*, July 23, 2006, A16.

Congress would have the tempting option of doing nothing, letting the estate tax resume in its pre-2002 form, and deploying the resulting incremental tax revenue to preserve or expand popular government programs. Alternatively, Democrats could barter a continuation of the much-reduced 2009 estate tax for the acquiescence of moderate Republicans in less palatable revenue-raising initiatives. In any case, it seems very likely that some version of the estate tax will be back in place in 2011. Notwithstanding the strange public appeal of estate tax repeal, America's wealthiest families will once again be subject to what liberal economist Robert Frank identified as "the closest thing to a perfect tax we have."⁴⁰

The prospect of a revived estate tax highlights not only the power of the status quo in the legislative process, but also the limited force of public sentiment when it happens to conflict with the ideological convictions of strategically placed political elites. In the context of the broader politics of inequality, it is ironic that public sentiment in this instance is on the side of multimillionaires, while elite intransigence is centered among liberal Democrats. However, that specific configuration of political forces is neither typical nor essential to the story.

To demonstrate that point, I turn in chapter 8 to a parallel case drawn from the opposite end of the American income spectrum and featuring a very different configuration of political forces—the evolution of the federal minimum wage. In that policy domain, the power of the status quo and the limited force of public sentiment are both even more striking than they are in the case of estate tax repeal, but with very different political ramifications. Whereas liberal Democrats have employed the power of the status quo to frustrate public sentiment opposing a tax on America's wealthiest inheritors, conservative Republicans have used the power of the status quo to frustrate strongly egalitarian public sentiment favoring wage hikes for America's poorest workers.

⁴⁰ Robert H. Frank, "The Estate Tax: Efficient, Fair and Misunderstood," *New York Times*, May 12, 2005.