

Unbalancing Florida's Tax System: Eliminating Taxes on Wealth Has Shifted the Burden to Other Floridians

Florida's state tax structure has become even more heavily weighted against the poor and middle class, even as the numbers of poor and near-poor Floridians increase and the share of income held by the wealthy continues to rise.¹

Choices made by state political leaders and Congress in the last decade have made Florida's tax structure more unbalanced and less fair. Their actions have shifted the cost of necessary state services more heavily onto those least able to pay, in a state already second-worst in the nation on tax fairness.²

A good state tax system should provide adequate revenues, use a variety of revenue sources, and minimize taxes on low-income individuals.³ Florida's system has always been unbalanced and often inadequate to meet the needs of the state. The tax structure has proven even more inadequate during the economic downturn. It also has been narrowed to focus more than ever on taxes paid disproportionately by middle- and low-income residents.

Two taxes targeted specifically to wealth held by individuals disappeared during the last decade after having been collected in Florida for more than three-quarters of a century. The absence of that tax revenue has meant less money for state services like education, health care, and public safety, as well as a heavy reliance on the regressive sales tax. Florida relies more than any other state in the nation on its general sales tax and selective sales taxes (on items like gasoline, tobacco, and alcohol).⁴

Tax Breaks for a Few

- Two taxes targeted specifically to wealth held by individuals disappeared during the last decade after having been collected in Florida for more than three-quarters of a century.
- Elimination of these taxes – both paid almost entirely by more affluent Floridians – has cost the state more than \$12 billion to date.

In most states, the presence of a progressive personal income tax can help offset some of the regressive effects of sales taxes. Since Florida levies high sales taxes and no income tax, however, its overall tax system is unsurprisingly and inevitably regressive.

Eliminating “Wealth Taxes” Made Florida More Regressive

Since 1999, the Florida Legislature has created more loopholes and cut many taxes: the corporate income tax, sales tax, unemployment tax, pari-mutuel tax, and health care assessments.⁵ Several of the reductions lowered taxes on corporations and wealthy Floridians, including the elimination of two so-called “**wealth taxes**” used in Florida for decades to help make the state’s tax structure somewhat less regressive. These taxes specifically target the accumulated assets of the wealthy, rather than people’s spending (like the sales tax) or earnings (like an income tax).

A regressive tax is one that takes a higher percentage of earnings from lower-income people than it does from people with higher incomes.

The two eliminated wealth taxes are the intangibles tax and the estate tax. Gone with them are billions of dollars that could have bolstered funding for services like education and health care.

The Intangibles Tax

First levied in Florida in 1931, the **intangibles tax** was a property tax levied each year on “intangible” property – items that cannot be touched physically or that represent something else of value, such as

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stocks, mutual funds, bonds, and notes. Most financial assets held by middle-income Floridians were exempt: cash, bank certificates of deposit, the value of insurance policies, individual retirement accounts (IRAs), and real estate holdings, as well as some business assets.⁶ Also exempt were Florida municipal bonds and U.S. Treasury notes and bonds. Most corporations, partnerships, and trusts were subject to the tax.

The intangibles tax rate varied over the years. By 1999, when cuts in the tax began, the rate was 1.5 mills (\$1.50 for each \$1,000 of value), although a portion of businesses’ accounts receivable was exempted from the tax.^{7,8} By 2007, when it was eliminated, the annual tax amounted to \$500 for every \$1 million worth of non-exempt intangible assets owned.

Advocates of eliminating the tax disregarded its role as one of only two progressive taxes in Florida’s tax structure. Instead they labeled it “a tax on seniors and savers,” although the intangibles tax contained no provisions targeting seniors and excluded the most common

Collections from Annual Intangibles Tax

Source: Florida Tax Handbooks

Fiscal Year	\$ Amount (Millions)
1994-95	708.8
1995-96	762.1
1996-97	807.3
1997-98	993.7
1998-99	975.8
1999-2000	784.7
2000-01	479.5
2001-02	450.5
2002-03	366.3
2003-04	275.1
2004-05	303.1
2005-06	194.5
2006-07	45.9
2007-08	0
2008-09	0
2009-10	0
2010-11	0

Annual Average, 1994-95 Through 1998-99 **\$849.5 million**

Estimated Total Loss Since Rate Cuts and Repeal, 2000-2011 **\$7.3 billion**

a note, bond, or other obligation secured by a mortgage deed or other lien on real property.¹⁴ It is estimated to yield about \$170 million this year and more than \$200 million in future years.¹⁵)

From 1994-95 through 1998-1999, the annual intangibles tax averaged \$849.5 million per year. That means that in the 12 budget years between 1999-2000 and 2010-11, cuts in the annual intangible tax and its eventual elimination have cost the state about \$7.3 billion in revenue cumulatively, most of which would have been paid by affluent Floridians.¹⁶

forms of savings for moderate- and low-income Florida residents. In fact, estate planners said, “As a practical matter the tax had very little impact on most Floridians.”⁹

Others who wanted to eliminate the tax focused their arguments on economic development. They maintained that “businesses have turned away from Florida as a result of certain features of this tax....[I]n the marketplace, the intangibles tax puts Florida companies at a disadvantage to their out-of-state competitors.”¹⁰ Yet Florida’s “business climate” was considered better when the intangibles tax was in effect than it is today: 4th in the nation in 1999¹¹ and 14th today.¹²

The Florida Legislature began reducing the annual intangibles tax in 1999 and followed with a succession of additional reductions, reducing collections year-by-year, as the chart at left shows.

By the 2000-01 budget year, intangibles tax collections had been cut in half. Further reductions continued through 2007, when the annual tax on intangibles was completely eliminated.¹³ (A second, smaller intangibles tax remains – a one-time charge levied on

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WHO PAID THE ANNUAL INTANGIBLES TAX? HOW MUCH?

The tax was levied on corporations, banks, trusts, partnerships, and individuals beginning in 1931. Banks, savings associations, and insurers were exempted in 1998.

Businesses: Before reductions began through legislative action in 1998, banks paid \$1.50 and other businesses \$2 per \$1,000 of value in intangible personal property (such as mutual funds, stocks, and accounts receivable). That equaled \$1,500 for every \$1 million in taxable assets for banks and \$2,000 for every \$1 million for other businesses.

If a corporation had \$10 million in taxable assets, it would have owed the state \$20,000 a year.

Individuals: Many assets were exempt, including bank accounts and bank CDs, Florida municipal bonds, U.S. treasury notes and bonds, pensions, and assets in retirement accounts (such as an IRA, 401k, or 403b). No tax was due on the first \$20,000 of taxable assets (\$40,000 for joint filers). Assets between \$20,000 and \$100,000 (\$40,000 and \$200,000 for joint) paid \$1 per \$1,000 in assets. Assets above \$100,000 (\$200,000 joint) paid \$2 in tax per \$1,000 in assets.

No tax was owed unless it exceeded \$60. Therefore, a couple paid no intangibles tax unless their taxable assets (not including their IRAs, bank accounts, Florida municipal bonds, or U.S. securities) totaled at least \$100,000. In that case, they would have owed \$60.

A couple with \$200,000 in stocks separate from IRAs would have paid \$160.

Middle-class and lower-income individuals and couples with typical assets – checking and savings accounts and IRAs – owed no intangibles tax. For example, a person or couple could make any amount of money annually, have a \$25,000 CD, \$15,000 in a checking account, a \$20,000 savings account, and IRAs totaling \$250,000 – and still owe no intangibles tax.

The Estate Tax

The second wealth tax, the **estate tax**, had been levied in Florida since 1930 on the transfer of certain property at the death of a resident. The amendment to the state constitution that allowed the tax limited it to the amount that could be credited against the federal estate tax obligation. Therefore the Florida tax did not increase the total taxes paid by the estate; it only ensured that some of the revenues from the federal tax stayed in Florida.¹⁷

By 2000, the Florida estate tax was providing more than \$750 million each year to the state treasury, as the chart below shows. Today it yields nothing, because Congress voted in 2001 to phase out the federal estate tax over several years and to eliminate the state credit against the federal tax in 2005.

That action ended Florida’s own estate tax and all those of other states that piggybacked on the federal tax. Before the 2001 law, all 50 states had an estate tax. About 10 states had taxes not tied to the federal tax, and 15 others retained their estate taxes by passing laws to unhook from the federal tax.

Merely passing a law to unhook was not an option for Florida because the state constitution allowed an estate tax only to the extent it could be credited against a federal estate tax.¹⁸ Imposing a Florida estate tax without a credit against a federal tax could only occur by amending the constitution.

The issue is not entirely settled, however. The 2001 congressional action provided that the estate tax, including the state credit, would be reinstated on January 1, 2011, without further congressional action. If Congress does nothing, then the estate tax and the state credit will return at 2001 levels. But when Congress begins sessions again on November 15, it will consider various proposals, all of which would restore the estate tax, but at a level much reduced from 2001.

The U.S. House of Representatives has voted to reinstate the federal estate tax at the 2009 level, which exempts \$3.5 million per individual (compared to \$675,000 in 2001). The Senate has not yet acted. A variety of other proposals would establish different exemption levels and rates of taxation.¹⁹ Resumption of the federal tax, if coupled with restoring the state credit, would allow Florida to again collect a portion of estate taxes, although not at the previous rate. However, because of the need for federal revenue to reduce the budget deficit, none of the most-debated proposals includes restoring the state credit.

Florida Estate Tax Collections

Source: Florida Tax Handbooks

Fiscal Year	\$ Amount (Millions)
1994-95	420.0
1995-96	421.7
1996-97	546.9
1997-98	595.0
1998-99	674.1
1999-2000	778.7
2000-01	767.1
2001-02	751.3
2002-03	558.4
2003-04	382.7
2004-05	324.4
2005-06	71.4
2006-07	43.4
2007-08	12.2
2008-09	4.8
2009-10	0
2010-11	0

Only 600 to 800 Florida estates are expected to pay federal estate taxes if the estate tax is restored at 2009 levels.

As with the intangibles tax, advocates of eliminating the estate tax – or the “death tax,” as they labeled it – maintained that it was an unfair tax that would harm many families, small farms and small businesses. In fact, even before Congress began phasing out the tax in 2001, it affected only about two percent of people nationally who died each year. It excluded estates valued at less than \$675,000 and extended special benefits to spouses, family-held businesses, and farms.²⁰

By 2009, only six-tenths of one percent of deaths in 2008 in the U.S. resulted in payment of estate taxes, according to the IRS. (Estate taxes, if owed, usually are paid in the year after a person dies.) That rate will be even lower this year for those who died in 2009, because the value of an estate exempted from

the tax rose from \$2 million per spouse to \$3.5 million.²¹ In other words, unless an estate was valued at more than \$3.5 million, no estate tax would be owed. (For people who die in 2010, no estate tax will be owed because the tax was eliminated completely for one year. That means the estates of several billionaires who died this year, including Florida resident George Steinbrenner, will owe no estate tax.²²)

In Florida, 1,367 estates owed federal estate taxes in 2009, representing less than 1 per cent of all deaths.²³ That number will decline with the increase in the value exempted. One estimate is that only 600 to 800 estates and about a dozen small farms and businesses in Florida would pay the federal estate tax in 2011 if the law is resumed at 2009 levels.²⁴

Those 600 to 800 wealthy individuals who would owe estate tax would be a small minority of the 170,000 people who die in Florida each year.²⁵

The estate tax has applied only to millionaires since 2002 and only to those with at least \$2 million in taxable assets since 2006.

For example, if Mary Jones died in 2007 and left her estate to her nephew, NO estate tax would have been due even if she owned a \$300,000 house, \$500,000 in rental properties, a \$40,000 car, and \$1 million in cash, savings, mutual funds, artwork and jewelry.

The Cost of Eliminating the Intangibles and Estate Taxes

If the federal estate tax had not been cut in 2001 and the state credit eliminated in 2005, Florida would have received at least \$5 billion more in revenue cumulatively in the last decade. Furthermore, at the 2001 level, Florida's estate tax would have generated about \$922 million in the 2011-12 budget year and more than \$1.3 billion each year thereafter, state economists estimated.²⁶

Together, elimination of the annual intangibles tax and the estate tax – both paid almost entirely by more affluent Floridians – has cost the state more than \$12 billion to date. Their absence will cost the state budget at least \$2 billion each year in the future – or 9 percent of the current general revenue budget.

These funds otherwise would have been available for prekindergarten programs, K-12 schools, colleges and universities, health and human services, transportation, criminal justice, and other state priorities.

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Endnotes

¹ “The Poor and Near-Poor in Florida Increase; Income of Those at the Top Rises,” FCFEP, October 2010.

<http://www.fcfep.org/attachments/20101011--Poor%20and%20Near-Poor%20Increase>

² “Who Pays? A Distributional Analysis of the Tax Systems in All 50 States, Third Edition,” Institute on Taxation and Economic Policy, November 2009. <http://www.itepnet.org/whopays3.pdf>

³ “Principles of a High-Quality State Revenue System,” Fourth edition, June 2001; updated June 2007, National Conference of State Legislatures <http://www.ncsl.org/default.aspx?tabid=12673>

• “A high-quality revenue system relies on a balanced variety of revenue sources. • A high-quality revenue system treats individuals equitably. Minimum requirements of an equitable system are that it imposes similar tax burdens on people in similar circumstances, that it minimizes regressivity, and that it minimizes taxes on low-income individuals.”

⁴ 2009 State Tax Collection by Source, Federation of Tax Administrators.

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⁵ 2010 Florida Tax Handbook. <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2010.pdf>

⁶ “Florida’s Tax System: Inadequate and Regressive,” Nick Johnson and Iris J. Lav, Center on Budget and Policy Priorities, Voice for Economic Justice, Summer 2001.

⁷ 2000 Florida Tax Handbook. <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2000.pdf>

⁸ <http://www.kulzick.com/fintti.htm>

⁹ <http://www.deanmead.com/CM/Articles/Repeal%20of%20the%20Florida%20Intangibles%20Tax.pdf>

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¹³ Florida Tax Handbooks, Florida Legislature. <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2001.pdf>

¹⁴ Department of Revenue Tax Information Publication #07C02-01, January 2, 2007.

<http://dor.myflorida.com/dor/tips/tip07c02-01.html>

¹⁵ Revenue Estimating Conference, General Revenue Fund, August 12, 2010.

<http://edr.state.fl.us/Content/conferences/generalrevenue/grchng.pdf>

¹⁶ In 1994-95 through 1998-99, the annual intangibles tax averaged \$849.5 million per year, before the legislature began a series of reductions in the tax effective in 1999. The estimate of dollars lost is based on subtracting the annual intangibles tax collected in each subsequent year from the \$849.5 average. The estimate does not account for population growth or for any growth in intangible assets held by Floridians since 2000. Intangible assets can be expected to correlate with stock prices, which rose through much of the period since 2000. Between 2000 and 2008, the Dow Jones Industrial Average rose from about 10,600 to its high of 14,614, then fell below 10,000 for more than a year before recovering to the 10,000 level in November 2009.

¹⁷ 2010 Florida Tax Handbook. <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2010.pdf>

¹⁸ 2010 Florida Tax Handbook. <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2010.pdf>

¹⁹ “Proposed Estate Tax Legislation,” United for a Fair Economy.

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²⁰ Johnson and Lav.

²¹ “State-by-State Estate Tax Figures: Number of Deaths Resulting in Estate Tax Liability Continues to Drop,” Citizens for Tax Justice. <http://www.ctj.org/pdf/estatetax2010.pdf>

²² “How Steinbrenner Saved His Heirs a \$600 Million Tax Bill,” Wall Street Journal, July 13, 2010.

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²⁴ “Number of Taxable Estates by State, 2011” Taxvox blog, Tax Policy Center, Urban Institute and Brookings Institution, April 10, 2009. http://taxvox.taxpolicycenter.org/blog/_archives/2009/4/10/4148926.html

²⁵ “Florida Population and Components of Change,” Florida Demographic Forecast, Office of Economic and Demographic Research, Florida Legislature, October 25, 2010.

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²⁶ 2010 Florida Tax Handbook. <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2010.pdf>.