

CHAPTER 3D

ESTATE TAX

HIGHLIGHTS

- Tax Base The value of the adjusted taxable estate.
- Tax Rate Equal to the maximum allowable federal credit for which the taxpayer is eligible.
- Revenue

2003-04 (actual)	\$482.4 million*
2004-05 (estimate)	\$209.0 million*
2005-06 (estimate)	\$ -0- million*
- Administration State Controller

*Includes estimated effects of estate tax phase-out (see Section 3 of this Chapter)

1. TAX OVERVIEW

In 1982, California voters approved an initiative to repeal the state Inheritance and Gift Tax law. The initiative, Proposition 6, provided for the imposition of the **Estate Tax**, and prohibited the imposition of inheritance taxes by the state or local governments.

Generally, estate tax is levied on the entire property holdings of an individual upon his or her death. The value of each estate is based upon the fair market value of the decedent's property and interests in property as of the decedent's date of death. The California estate tax is derivative of the federal estate tax. Under federal law, the estate tax is reduced by a credit for a portion of state inheritance or estate taxes paid, up to certain maximum levels. California's estate tax is equal to the taxpayer's maximum allowable federal credit. In effect, California "picks up" a share of the tax that would otherwise go to the federal government but does not increase the total tax liability of the estate.

2. FEDERAL TAXATION

In the case of estates of decedents who died during 2004, the federal government allows a \$555,800 credit against estate and gift taxes, effectively exempting estates worth \$1.5 million or less, from taxation. Since the applicable credit amount applies to lifetime transfers as well as transfers at death, the value of an estate not required to pay estate tax may be lower if any part of the credit had been used for taxable gifts made during the decedent's lifetime. Property inherited by a spouse is fully exempt from taxation.

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The Economic Growth and Tax Relief Reconciliation Act of 2001 eliminates the federal estate tax over a nine-year period beginning in 2002. Under federal law, an effective exclusion of \$1 million exists for deaths occurring in 2002 and 2003; the effective exclusion rises to \$1.5 million in 2004 and 2005; to \$2 million in 2006, 2007, and 2008; and to \$3.5 million in 2009. The estate tax is completely repealed in 2010, but reinstated in 2011 at the appropriate level per prior federal statute.

3. FEDERAL REPEAL OF THE STATE PICKUP TAX CREDIT

The 2001 federal law also phased out the state pickup tax credit over a four-year period beginning in 2002. The credit was reduced by 25% in 2002, by 50% in 2003, by 75% in 2004, and was entirely eliminated in 2005. The impact on California of the reduction in the pickup tax is significant. The Department of Finance estimates that revenue will decline by more than \$1 billion from what it would have been in fiscal year 2004-05, absent the changes in federal law. The pickup tax remains for the generation skipping transfer tax; however, the revenue generated is not expected to be significant.

4. ADMINISTRATION

The California estate tax is a self-assessed tax, administered by the State Controller's Office. The amount to be paid is equal to the maximum federal credit allowable, as calculated according to Federal Form 706. For deaths prior to 2005, a check in this amount and a state return, along with a copy of Federal Form 706, must be sent to the Controller's Office within nine months after the death of the deceased.

5. CODE

Revenue and Taxation Code Sections 13301-14302 and Sections 16700-16950