



## **FinancialHealthReport™** **“Personal Finances are a Health Care Issue”**

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**Planning: Tax/Legal - Should You Be Concerned About U.S. Estate Tax?  
By Heather Evans (May 9, 2000)**

### *What is the U.S. estate tax?*

The United States imposes an estate tax that is unified with a gift tax and is applicable to transfers of property both during a lifetime and on death. The rate of tax ranges from 18% to 55% of the fair market value of the property. For individuals who are neither citizens of, nor domiciled in, the U.S., the taxable estate consists only of that part of those assets owned at the time of death that are situated in the United States.

### *Does Canada have a similar tax?*

Canada does not have an estate or inheritance tax. Instead, the Canadian income tax system forces the recognition and taxation of accrued capital gains in respect of property held on death. In other words, only the appreciation in the value of property from the time of acquisition is taxable at the individual's applicable marginal rate (the highest rate is approximately 48% for Ontario residents in 2000). Where an individual is married, the tax liability may be deferred until the death of the surviving spouse.

### *How are Canadians affected?*

A Canadian who is not a U.S. citizen or resident will face U.S. estate tax exposure in respect to assets located in the United States. In this case, the two most commonly held assets are U.S. real estate and shares of American corporations. The latter are subject to estate tax even if held within a Canadian brokerage account.

Because the U.S. taxes the full fair market value of property, and Canada only taxes appreciation, in many situations, the estate tax liability will exceed the Canadian income tax liability. This situation is particularly pronounced in larger estates where the marginal estate tax rate is in excess of the marginal income tax rate.



***What relief or planning strategies exist?***

It is important to know that an individual should not pay both of these taxes. Advance planning can help minimize the exposure:

- If the U.S. property has a value below \$60,000 US, the unified credit under the Internal Revenue Code will provide shelter from estate tax.

- Relief can also be claimed under the Canada-U.S. Treaty. For 2000, the credit mechanism shelters up to \$675,000 US. This amount will increase to \$1,000,000 US by 2006. However, it is pro-rated based on the proportion of U.S. assets that are worldwide assets. When an individual's worldwide assets are less than \$675,000 US, the credit generally provides full relief.

- The treaty also provides a "foreign tax credit" mechanism that ensures the estate taxes paid can be applied to reduce the Canadian income tax liability, thereby avoiding double tax.

- For larger estates, there are also certain planning strategies involving trusts or holding corporations that minimize, or entirely avoid, estate tax exposure.

**These comments are for general information and have application to individual Canadian residents only. U.S. citizens and U.S. residents are subject to estate tax on their worldwide estates, and the applicable planning techniques differ significantly. In either case, individuals should seek professional advice in respect to their own situations.**

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