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*Calculating Estate Tax Liability: 2001 to 2011 and Beyond*

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Updated May 7, 2008

**Abstract.** This report provides a basic explanation of how to calculate the federal estate tax liability for a taxable estate of any given size, using the schedule of graduated marginal tax rates and the applicable exclusion amount or the applicable credit amount for the year of death. The "applicable exclusion amount" is the amount of any decedent's taxable estate that is free from tax. It is known informally as the estate tax "exemption." The "applicable credit amount" or "unified credit" is the corresponding tax credit. It is equal to the tax that would be due on a taxable estate that is the size of the applicable exclusion amount.

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# CRS Report for Congress

## Calculating Estate Tax Liability: 2001 to 2011 and Beyond

Updated May 7, 2008

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Prepared for Members and  
Committees of Congress

# Calculating Estate Tax Liability: 2001 to 2011 and Beyond

## Summary

This report provides a basic explanation of how to calculate the federal estate tax liability for a taxable estate of any given size, using the schedule of graduated marginal tax rates and the applicable exclusion amount or the applicable credit amount for the year of death. The “applicable exclusion amount” is the amount of any decedent’s taxable estate that is free from tax. It is known informally as the estate tax “exemption.” The “applicable credit amount” or “unified credit” is the corresponding tax credit. It is equal to the tax that would be due on a taxable estate that is the size of the applicable exclusion amount.

A simplified method can be used to calculate the tax due on the estates of decedents dying in 2006 through 2009. This is because the applicable exclusion amount for those years reaches the top marginal tax bracket. Consequently, the estate tax liability can be calculated simply by multiplying the amount of the taxable estate in excess of the applicable exclusion amount for the year of death times the maximum estate tax rate for that year. The applicable exclusion amount is \$2 million for 2006-2008 and \$3.5 million for 2009. The maximum tax rate is 46% for 2006 and 45% for 2007-2009.

A more formal method is required to calculate the tax liability for years before 2006, or for 2011 and beyond. This is because more than one marginal tax rate applies to taxable estate values in excess of the exclusion amount. First, the tentative tax that would be due on the entire taxable estate is calculated from the marginal tax rate table for the year of death. Then, the applicable credit amount for the year of death is subtracted from the tentative tax in order to determine the estate tax due.

A numerical example is presented in the text and in worksheets for a \$5 million taxable estate of a decedent dying in 2007 or 2008. Both the simplified and formal methods are used to calculate the tax liability. Blank worksheets are also provided.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16, EGTRRA) gradually lowered the maximum estate tax rate and substantially raised the applicable exclusion amount over the years 2002 through 2009. The maximum tax rate fell from 60% under prior law in 2001 (a 55% marginal rate on taxable estate values over \$3 million plus a 5% surtax from \$10 million to \$17.184 million), down to 45% in 2007-2009. The applicable exclusion amount rose from \$675,000 in 2001, in steps, up to \$3.5 million in 2009. EGTRRA repealed the estate tax for decedents dying in 2010. All provisions of EGTRRA are scheduled to sunset on December 31, 2010. Unless changed beforehand, in 2011 the law will revert back to what it would have been had EGTRRA never been enacted. Under a provision of the Taxpayer Relief Act of 1997 (P.L. 105-34), in 2011 and beyond the applicable exclusion amount would be \$1 million, in contrast to \$675,000 in 2001.

The tables in the appendix present the marginal estate tax rates, the applicable exclusion amount, and the applicable credit amount by year. This report will be updated when there are changes in the law governing estate taxes.

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# Calculating Estate Tax Liability: 2001 to 2011 and Beyond

## Introduction

This report provides a basic explanation of how to calculate the federal estate tax liability on a taxable estate of any given size. It uses the schedule of graduated marginal estate tax rates and the applicable exclusion amount, as provided in §2001(c) of the Internal Revenue Code, and the corresponding applicable credit amount, for the year of death.

The report does not address how to determine the value of the taxable estate except to note here that deductions from the gross estate are permitted for funeral expenses, costs of administering the estate, debts and mortgages owed, charitable bequests, and bequests to the surviving spouse. Nor does the report explain the accompanying tax on gifts made during a person's lifetime or the generation-skipping transfer tax.<sup>1</sup>

The Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16, EGTRRA, pronounced egg-tra) phased out the federal estate tax over the years 2002-2009. EGTRRA lowered the top marginal estate tax rate gradually and raised the applicable exclusion amount (and consequently the corresponding applicable credit amount) in large increments over the phasedown period. EGTRRA repealed the estate tax for decedents dying in 2010. But the estate tax repeal, and all other provisions of EGTRRA, are scheduled to sunset on December 31, 2010.<sup>2</sup> Unless changed beforehand, in 2011 the law will revert to what it would have been had EGTRRA never been enacted.

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<sup>1</sup> For more information about these topics, see CRS Report 95-416, *Federal Estate, Gift, and Generation, Skipping Taxes: A Description Of Current Law*, by John R. Luckey, and CRS Report RL30600, *Estate and Gift Taxes: Economic Issues*, by Donald J. Marples and Jane G. Gravelle.

<sup>2</sup> For a fuller explanation of the estate tax provisions in EGTRRA, see CRS Report RL31061, *Estate and Gift Tax Law: Changes Under the Economic Growth and Tax Relief Reconciliation Act of 2001*, by Nonna A. Noto, Jan. 29, 2002, and CRS Report RS20989, *Federal Estate, Gift, and Generation-Skipping Transfer Taxes: Modification, Phase Out and Repeal Under the Economic Growth And Tax Relief Reconciliation Act of 2001*, by John R. Luckey, Aug. 14, 2001.

## Applicable Exclusion Amount and Applicable Credit Amount

It is common parlance to say that a certain amount of a decedent's assets is exempt from the estate tax. Mathematically, however, the applicable exclusion amount is not subtracted from the value of the taxable estate before applying the schedule of tax rates. Instead, the exclusion amount is converted into a tax credit known as the "applicable credit amount" or "unified credit." The credit is equal to the tax that would be due on a taxable estate the size of the applicable exclusion amount for the year of death. This tax credit is subtracted from the "tentative tax" liability on the entire taxable estate to determine the "net estate tax." Unlike a deduction, which is worth more to taxpayers in higher marginal tax rate brackets, the maximum value of the applicable credit is the same, regardless of the top tax rate that an estate faces.<sup>3</sup>

The applicable exclusion amount also serves as the tax filing threshold. That is, an estate tax return must be filed if the gross value of the estate exceeds the applicable exclusion amount for the year of death. This filing requirement holds even if the estate's taxable value falls below the applicable exclusion amount after subtracting eligible deductions, such that no estate tax is owed.<sup>4</sup>

**Table 1** presents the applicable exclusion amount and the corresponding applicable credit amount for each year, from 2001 to 2011 and beyond. In 2001, before EGTRRA, the applicable exclusion amount was \$675,000. It was scheduled to rise gradually to \$1 million for 2006 and beyond, under provisions of the Taxpayer Relief Act of 1997 (P.L. 105-34, TRA). EGTRRA raised the applicable exclusion amount to \$1 million immediately for 2002 and 2003. It raised the amount further, to \$1.5 million for 2004 and 2005, \$2 million for 2006 through 2008, and finally \$3.5 million for 2009. It repealed the estate tax for 2010 only. The provisions of EGTRRA are scheduled to sunset on December 31, 2010. If the sunset provision is not repealed, or the law is not otherwise changed beforehand, in 2011 estate tax law will return to what it would have been had EGTRRA never been enacted. Under the provisions of TRA of 1997, that would mean an applicable exclusion amount of \$1 million for the years 2011 and beyond (not the \$675,000 that prevailed in 2001).

The applicable credit amount was calculated by CRS by using the estate tax rate schedule to determine the tentative tax on a taxable estate the size of the applicable exclusion amount. It is based on the underlying set of graduated marginal tax rates shown in the tables in the **Appendix**. For the estates of decedents dying in 2002 or 2003, the applicable credit amount was \$345,800, corresponding to the estate tax on

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<sup>3</sup> The unified estate tax credit is non-refundable. That is, it cannot reduce estate tax liability below zero. Consequently, taxable estates that are smaller than the applicable exclusion amount are not able to take full advantage of the available credit.

<sup>4</sup> Less than half of estate tax returns filed each year from 1998 through 2006 were taxable. Calculated by CRS from unpublished estate tax data, by filing year, from the Internal Revenue Service, Statistics of Income (SOI), available on the IRS website [<http://www.irs.gov>].

\$1 million. For 2004 and 2005, the applicable credit amount was \$555,800, corresponding to the estate tax on \$1.5 million. For 2006, 2007, and 2008, the applicable credit amount is \$780,800, corresponding to the estate tax on \$2 million. For 2009, the applicable credit amount will be \$1,455,800, corresponding to the estate tax on \$3.5 million. For 2011 and beyond, the applicable credit amount is scheduled to return to \$345,800, the amount that was in effect for 2002 and 2003, corresponding to the estate tax on \$1 million.

**Table 1. Applicable Exclusion Amount and Corresponding Applicable Credit Amount, 2001 to 2011 and Beyond**

Calendar year of death	Applicable exclusion amount	Applicable credit amount (equal to the tentative estate tax on the corresponding applicable exclusion amount)
2001	\$675,000	\$220,550
2002 and 2003	1,000,000	345,800
2004 and 2005	1,500,000	555,800
2006, 2007, and 2008	2,000,000	780,800
2009	3,500,000	1,455,800
2010	Estate tax repealed	
2011 and beyond	1,000,000	345,800

**Sources:** The applicable exclusion amount is from 26 U.S.C. § 2010 (c) (as of 2000 and 2002). Title 26 of the U.S. Code is also referred to as the Internal Revenue Code. The applicable credit amount was calculated by CRS.

## Marginal Tax Rates

The tables in the **Appendix** present the graduated schedule of federal estate tax rates for each year from 2001 through 2009. The example here in the text uses the rates that apply to a decedent dying in 2007 or 2008, shown in **Table A-7**.

Rising marginal tax rates apply to different segments of the taxable estate. Each table of the **Appendix** contains an explanatory row that indicates where the applicable exclusion amount for that year of death falls within the rate schedule, and what the corresponding applicable credit amount, or unified credit, is. Taxable estate values up to the applicable exclusion amount are protected from tax by the credit. To help illustrate their “invisible role,” the rows of marginal tax rates that apply to estate values below the exclusion amount are shown in italics. Those graduated rates are incorporated in determining the value of the unified credit. In contrast, the “operative” marginal tax rates that affect the changes in tax liability associated with deductions from, or additions to, the taxable estate are those that apply to estate values above the exclusion amount. These rows are shown in regular typeface.

For 2007 and 2008, the graduated marginal tax rates range from 18% for taxable value from \$1 to \$10,000, up to 45% for taxable value over \$1.5 million. Because the applicable exclusion amount of \$2 million for both years falls in the top bracket, only the top marginal rate of 45% affects the change in tax liability associated with deductions from, or additions to, the taxable estate. In earlier years, when the exclusion reached lower in the rate schedule, more marginal tax rates played an active role.

## Calculating Estate Tax Liability

A simplified method can be used to calculate estate tax liabilities for the estates of decedents dying in 2006 through 2009. This is because the applicable exclusion amounts of \$2 million for 2006 through 2008 and \$3.5 million for 2009 fall in the top marginal tax rate bracket for the year. This means that the estate tax liability for 2006 through 2009 can be calculated simply by multiplying the amount of the taxable estate in excess of the applicable exclusion amount for the year of death times the maximum estate tax rate for the year. For 2006, the applicable exclusion amount was \$2 million and the maximum tax rate was 46%. For both 2007 and 2008, the applicable exclusion amount remains at \$2 million, but the maximum tax rate falls to 45%. For 2009, the applicable exclusion amount will rise to \$3.5 million, but the maximum tax rate will remain at 45%.

**Table 2** illustrates the simplified method of calculating the estate tax liability for a taxable estate of \$5 million of a decedent dying in 2007 or 2008. First, subtract the applicable exclusion amount of \$2 million from the taxable estate value of \$5 million, yielding a difference of \$3 million. Then, multiply that \$3 million times the tax rate of 0.45 to determine the tax liability of \$1.35 million.

**Table 2. Simplified Calculation of Estate Tax Liability for a Taxable Estate of \$5,000,000 of a Decedent Dying in 2007 or 2008**

Line	Instruction	Estate value, marginal tax rate, and tax liability
1.	Enter value of taxable estate.	\$5,000,000
2.	Enter value of applicable exclusion amount for the year of death.	\$2,000,000
3.	Calculate amount of estate in excess of the applicable exclusion amount (line 1 - line 2). Do not enter less than zero.	\$3,000,000
4.	Enter maximum marginal tax rate for the year of death.	0.45
5.	Calculate the estate tax liability (line 3 x line 4).	\$1,350,000

**Source:** Created by CRS.



**Table 3** provides a worksheet for the reader to make a simplified calculation of the estate tax liability of a decedent dying in 2006 through 2009.

**Table 3. Worksheet for Simplified Calculation of Estate Tax Liability for a Decedent Dying in 2006 through 2009**

Line	Instruction	Estate value, marginal tax rate, and tax liability
1.	Enter value of taxable estate.	
2.	Enter value of applicable exclusion amount for year of death (\$2 million for 2006-2008; \$3.5 million for 2009).	
3.	Calculate amount of estate in excess of applicable exclusion amount (line 1 - line 2). Do not enter less than zero.	
4.	Enter maximum marginal tax rate for the year of death (0.46 for 2006; 0.45 for 2007-2009).	
5.	Calculate the estate tax liability (line 3 x line 4).	

**Source:** Created by CRS.

The steps involved in formally calculating the net estate tax liability on a taxable estate for any recent year are laid out in the worksheets shown in **Tables 4** and **5**. **Table 4** uses the same numerical example used in **Table 2** of an estate with a taxable value of \$5 million for a decedent dying in 2007 or 2008. **Table 5** is a blank worksheet provided for readers to make their own calculations. The formal method set forth in **Tables 4** and **5** is needed to compute estate tax liability for years before 2006, and for 2011 and beyond. For those years, the marginal tax rate continues to rise above the bracket that contains the applicable exclusion amount. For 2006 through 2009, the formal method produces the same tax liability as the shortcut, but requires more computations.

Two basic steps are involved in calculating the estate tax liability. First, calculate the “tentative tax” due on a taxable estate of the size in question, based on the tax rate schedule in the appropriate table in the **Appendix** for the year of death. Second, subtract from the tentative tax the applicable credit amount for the year of the decedent’s death.

Calculating the tentative tax involves four steps: (1) in the appropriate tax rate table, find the amount of tax due at the bottom of the bracket in which the estate value falls; (2) calculate the amount of estate in excess of the bottom of the bracket; (3) multiply that excess amount by the marginal tax rate to determine the additional tax; and (4) add that additional tax to the tax due at the bottom of the bracket.

In **Table 4** the value of the taxable estate — \$5 million — is entered on line 1, column (A). Step (1): To determine the tentative tax on the estate of a decedent dying in 2007 or 2008, look down the first column of **Table A-7** and find the bracket that encompasses the taxable value of the estate. For an estate of \$5 million, that is the top bracket beginning with \$1.5 million. Column (c) of the last row of **Table A-7** shows that the tax on \$1.5 million is \$555,800. This equals the sum of the taxes due from all of the preceding brackets in the table. Enter this amount on line 2, column (B) of **Table 4**.

Step (2): Calculate the amount of the estate in excess of \$1.5 million, the bottom of the tax rate bracket. In column (A) of **Table 4** subtract line 2 from line 1 and enter the difference of \$3.5 million on line 3. This \$3.5 million is taxed at a marginal rate of 45%, as shown in the last row of **Table A-7**.

Step (3): Enter 0.45 on line 4. Multiply line 4 (0.45) times line 3 (\$3,500,000). Enter the resulting additional tax of \$1,575,000 on line 5 in column (A) and again in column (B) of **Table 4**.

Step (4): In column (B), add the additional tax of \$1,575,000 on line 5 to the \$555,800 on line 2 and enter a total “tentative tax” of \$2,130,800 on the \$5 million estate on line 6 of **Table 4**.

Next, find the applicable credit amount corresponding to the year of the decedent’s death. For a person dying in 2007 or 2008, the tax credit is \$780,800. Enter this amount on line 7. This corresponds to the tax that would be due on an estate of \$2 million, the applicable exclusion amount for 2007 or 2008. Subtract the applicable credit amount of \$780,800 on line 7 from the tentative tax of \$2,130,800 on line 6 and enter the resulting net estate tax liability of \$1,350,000 on line 8. This is the same amount arrived at by the simplified method shown in **Table 2**.

**Table 4. Formal Calculation of Estate Tax Liability for a Taxable Estate of \$5,000,000 of a Decedent Dying in 2007 or 2008**

Line	Instruction	(A) Estate value and marginal tax rate	(B) Tax liability (\$)
1.	Enter value of taxable estate.	<b>\$5,000,000</b>	XX
2.	Locate the table in the <b>Appendix</b> that corresponds to the year of death. Find the row that encompasses the taxable value of the estate. Enter the bottom of the bracket from that table, column (a), in column (A) here. Enter the tax on the bottom of the bracket from that table, column (c), in column (B) here.	<b>1,500,000</b>	<b>\$555,800</b>
3.	Calculate amount of estate in excess of bottom of bracket: (line 1 - line 2) in column (A).	<b>3,500,000</b> (line 1 - line 2)	XX
4.	Enter the marginal tax rate for the bracket, from that table, column (d), in column (A) here.	<b>0.45</b>	XX
5.	Calculate the tax on the amount in excess of the bottom of the bracket (line 3 x line 4) in column (A). Enter again in column (B).	<b>1,575,000</b> (line 3 x line 4)	<b>1,575,000</b> (copy)
6.	Calculate tentative tax before credit (line 2 + line 5) in column (B).	XX	<b>2,130,800</b> (line 2 + line 5)
7.	Enter the applicable credit amount for the year of death, from that table, in column (B).	XX	<b>780,800</b> (for 2007 or 2008)
8.	Calculate net estate tax liability (line 6 - line 7) in column (B). Do not enter less than zero.	XX	<b>1,350,000</b> (line 6 - line 7)

**Source:** Created by CRS.

**Notes:** XX = intentionally left blank. Author's example in **bold**, using information from **Table A-7** in the **Appendix**.

Readers can use the blank worksheet in **Table 5** to make their own calculations.

**Table 5. Worksheet for Formal Calculation of Estate Tax Liability**

Line	Instruction	(A) Estate value (\$) and marginal tax rate (%)	(B) Tax liability (\$)
1.	Enter value of taxable estate.		XX
2.	Locate the table in the <b>Appendix</b> that corresponds to the year of death. Find the row that encompasses the taxable value of the estate. Enter the bottom of the bracket from that table, column (a), in column (A) here. Enter the tax on the bottom of the bracket from <b>Table A</b> , column (c), in column (B) here.		
3.	Calculate amount of estate in excess of bottom of bracket: (line 1 - line 2) in column (A).	(line 1 - line 2)	XX
4.	Enter the marginal tax rate for the bracket, from that table, column (d), in column (A) here.		XX
5.	Calculate the tax on the amount in excess of the bottom of the bracket (line 3 x line 4) in column (A). Enter again in column (B). <sup>a</sup>	(line 3 x line 4)	(copy)
6.	Calculate tentative tax before credit (line 2 + line 5) in column (B).	XX	(line 2 + line 5)
7.	Enter the applicable credit amount from <b>Table 1</b> , for the year of death, in column (B).	XX	
8.	Calculate net estate tax liability (line 6 - line 7) in column (B). Do not enter less than zero.	XX	(line 6 - line 7)

**Source:** Created by CRS.

**Note:** XX = No entry needed.

- a. On line 5, for 2001 and for 2011 and beyond, add a 5% surtax on the taxable value of estates over \$10 million up to \$17.184 million.

## Cautionary Notes

Readers are warned that this report provides a highly simplified explanation of how to calculate the estate tax. Other tax credits and deductions can affect the final federal estate tax liability. For example, prior to EGTRRA, an estate could claim a credit (subject to a limit) for state death taxes paid on the estate. EGTRRA phased out the state tax credit by 25 percentage points per year from 2002 through 2004. In 2005, the credit was replaced with a deduction. Because of the sunset of EGTRRA, the full state credit is scheduled to be reinstated in 2011. Credits may still be claimed for foreign death taxes and for federal estate taxes paid on property that was transferred to the decedent within the past 10 years (subject to phaseout limits).

From 1998 through 2003, estates with qualified family-owned business interests (QFOBI) could claim a special deduction of up to \$675,000 that could, in combination with the applicable exclusion amount, equal \$1.3 million. EGTRRA repealed this special deduction as of 2004, when the applicable exclusion amount for all estates reached \$1.5 million. The QFOBI deduction would be reinstated in 2011.

Under EGTRRA, the estate and gift taxes remain partly unified from 2002 through 2009. The amount of taxable gifts<sup>5</sup> that may claim the gift tax exclusion is subject to a cumulative lifetime limit of \$1 million for 2002 and thereafter. The exclusion claimed for taxable lifetime gifts is subtracted to determine the applicable exclusion amount remaining available to a person's estate at death. The amount of taxable lifetime gifts is included in the base used to calculate the tentative estate tax. But the estate is credited for gift taxes previously paid. In 2010, the gift tax is scheduled to remain in place when the estate tax is repealed. The lifetime applicable exclusion amount for gifts will remain at \$1 million. The maximum rate of tax will be 35% on cumulative gifts over \$500,000. Under the return to prior law in 2011, the fully unified estate and gift tax would be reinstated. The single, combined exclusion of \$1 million could be applied to gifts and/or bequests.

A separate tax is levied on generation-skipping transfers (GST) through 2009. The GST tax is repealed for 2010. The GST tax would be reinstated in 2011.

Prior to EGTRRA, a 5% surtax was levied on taxable estate values from \$10 million to \$17.184 million to reclaim the benefits from the graduated marginal rates below 55%. The surtax was repealed in 2002. The surtax would be reinstated in 2011.

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<sup>5</sup> Gift amounts that are protected from taxation by the annual exclusion amount (\$12,000 per donor per recipient in 2006 and 2007, indexed for inflation) do not count against the cumulative lifetime exclusion.

## Appendix. Federal Estate Tax Rate Schedules by Year

During the phasedown period for the estate tax, from 2002 through 2009, the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16, EGTRRA) gradually reduced the maximum estate tax rate and substantially raised the applicable exclusion amount. The tables in this appendix present the changes year by year. The graduated rates from 18% to 43% established under prior law continue to apply to estate values up to \$1.5 million. The maximum estate tax rate dropped from 55% on taxable estate values over \$3 million (plus a 5% surtax in the range from \$10 million to \$17.184 million) in 2001 under prior law, to 50% on taxable estates over \$2.5 million in 2002. The maximum tax rate continued to drop by one percentage point per year, down to 45% on taxable estate values over \$1.5 million in 2007-2009. Notes at the bottom of each table summarize any reduction in the maximum estate tax rate or increase in the applicable exclusion amount scheduled to take effect that year.

There is an explanatory row in each table indicating where the applicable exclusion amount for that year of death falls within the rate schedule and what the corresponding applicable credit amount, or unified credit, is. Taxable estate values up to the applicable exclusion amount are protected from tax by the credit. The rows of marginal tax rates corresponding to estate values below the exclusion amount are shown in italics. Those graduated rates are incorporated in determining the value of the credit. The marginal tax rates that affect the changes in tax liability associated with deductions from, or additions to, the taxable estate are those above the exclusion amount.

The tax rates presented in **Table A-1** are the rates that were in effect prior to the enactment of EGTRRA in 2001. They continued to apply to the estates of decedents who died in 2001. They are also the rates that will be reinstated in 2011 if EGTRRA is allowed to sunset on December 31, 2010. A notable difference is that, under a provision of the Taxpayer Relief Act of 1997 (P.L. 105-34), the applicable exclusion amount will be \$1 million for 2011 and beyond, in contrast to \$675,000 in 2001.

The applicable exclusion amount of \$675,000 for 2001 fell within the 37% rate bracket. The corresponding applicable credit amount of \$220,550 incorporated marginal tax rates from 18% to 37%. Eight marginal tax rates from 37% to 55% (and the 5% surtax) applied to taxable values above the applicable exclusion amount. For 2011, with an exclusion of \$1 million, the corresponding applicable credit amount of \$345,800 will incorporate the marginal tax rates of 37% and 39%, in addition to those from 18% to 37%. Six marginal tax rates from 41% to 55% (and the 5% surtax) will still apply to taxable values above the applicable exclusion amount.

The tax rate schedules for 2002-2009, presented in **Tables A-2 - A-8**, were created by CRS. The maximum rate for each year was entered at the top of the general rate schedule, based on the information in §§ 2001(c)(1) and (2) of Internal Revenue Code (as of 2002). For 2007-2008 and 2009 (**Tables A-7** and **A-8**), the applicable exclusion amounts fall within the top tax rate bracket of 45%.

**Table A-1. Federal Estate Tax Rate Schedule for 2001  
and for 2011 and Beyond**

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But Not Over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
For 2001, the Applicable Exclusion Amount was \$675,000 and the Applicable Credit Amount was \$220,550			
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
For 2011 and beyond, the Applicable Exclusion Amount will be \$1 Million and the Applicable Credit Amount will be \$345,800			
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
2,000,000	2,500,000	780,800 +	49% of excess over 2,000,000
2,500,000	3,000,000	1,025,800 +	53% of excess over 2,500,000
over 3,000,000	—	1,290,800 +	55% of excess over 3,000,000
Special range for 5% surtax to phase out the benefit of graduated tax rates			
10,000,000	17,184,000	maximum surtax: 5% x \$7,184,000 = \$359,200	5% surtax means a 60% marginal tax rate in this range

**Source:** 26 U.S.C. § 2001(c) (2000).

**Notes:** These are the estate tax rates that were in effect prior to the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107-16, EGTRRA).

**Table A-2. Federal Estate Tax Rate Schedule for 2002**

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But Not Over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
For 2002, the Applicable Exclusion Amount was \$1 Million and the Applicable Credit Amount was \$345,800			
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
2,000,000	2,500,000	780,800 +	49% of excess over 2,000,000
2,500,000	—	1,025,800 +	50% of excess over 2,500,000

**Source:** 26 U.S.C. § 2001(c) (2002).

**Notes:** In 2002, the 5% surtax was repealed, as were tax rates in excess of 50%. That meant that the previous top bracket of 55% on taxable values over \$3 million was eliminated. In the next-to-top bracket from 2001, the rate was reduced from 53% to 50%, which was a new rate in the tax rate schedule. As a result, for decedents dying in 2002, the maximum marginal tax rate became 50% on taxable amounts over \$2.5 million. The applicable exclusion amount rose from \$675,000 in 2001 under prior law to \$1 million in 2002 under EGTRRA.



**Table A-3. Federal Estate Tax Rate Schedule for 2003**

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But Not Over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
For 2003, the Applicable Exclusion Amount was \$1 Million and the Applicable Credit Amount was \$345,800			
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
2,000,000	—	780,800 +	49% of excess over 2,000,000

**Source:** 26 U.S.C. § 2001(c) (2002).

**Notes:** In 2003, marginal tax rates above 49% were repealed. Thus, the tax rate on taxable estate values over \$2.5 million fell from 50% to 49%. The 49% rate then applied to taxable values over \$2 million, where it had previously taken effect. The applicable exclusion amount remained at \$1 million in 2003, as it had been in 2002. The graduated marginal tax rates from 18% up to 39% are represented in the applicable credit amount of \$345,800 for 2003, equal to the estate tax on \$1 million. There were still four marginal tax rate brackets that applied to taxable values above the applicable exclusion amount: 41%, 43%, 45%, and 49%.

**Table A-4. Federal Estate Tax Rate Schedule for 2004**

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But Not Over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
For 2004, the Applicable Exclusion Amount was \$1.5 Million and the Applicable Credit Amount was \$555,800			
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
2,000,000	—	780,800 +	48% of excess over 2,000,000

**Source:** 26 U.S.C. § 2001(c) (2002).

**Notes:** In 2004, tax rates above 48% were repealed. Thus, the tax rate on taxable estate values over \$2 million fell from 49% to 48%. The rate of 48% was a new one in the rate structure. The applicable exclusion amount rose from \$1 million to \$1.5 million. As a result, the 41% and 43% marginal rates were subsumed in the applicable credit amount of \$555,800. Only the two marginal rates of 45% and now 48% applied to taxable values in excess of the applicable exclusion amount.

**Table A-5. Federal Estate Tax Rate Schedule for 2005**

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But Not Over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
For 2005, the Applicable Exclusion Amount was \$1.5 Million and the Applicable Credit Amount was \$555,800			
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
2,000,000	—	780,800 +	47% of excess over 2,000,000

**Source:** 26 U.S.C. § 2001(c) (2002).

**Notes:** In 2005, tax rates above 47% were repealed. Thus, the tax rate on taxable estate values over \$2 million fell from 48% to 47%. Again, the rate of 47% was new in the rate structure. The applicable exclusion amount remained at \$1.5 million for 2005, as it had been for 2004. The two marginal rates of 45% and now 47% applied to taxable values in excess of the applicable exclusion amount.

**Table A-6. Federal Estate Tax Rate Schedule for 2006**

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But Not Over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
1,500,000	2,000,000	555,800 +	45% of excess over 1,500,000
For 2006, the Applicable Exclusion Amount was \$2 Million and the Applicable Exclusion Amount was \$780,800			
2,000,000	—	780,800 +	46% of excess over 2,000,000

**Source:** 26 U.S.C. § 2001(c) (2002).

**Notes:** In 2006, tax rates above 46% were repealed. As a consequence, the tax rate on taxable estate values over \$2 million fell from 47% to 46%. Again, the rate of 46% was new in the rate structure. The applicable exclusion amount rose from \$1.5 million to \$2 million. As a result, the 45% marginal tax rate was subsumed in the applicable credit amount of \$780,800. Only the top marginal rate of 46% applied to taxable values in excess of the applicable exclusion amount.

**Table A-7. Federal Estate Tax Rate Schedule for 2007 and 2008**

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But Not Over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
1,500,000	—	555,800 +	45% of excess over 1,500,000
For 2007 and 2008, the Applicable Exclusion Amount remained at \$2 Million and the Applicable Credit Amount remained at \$780,800			

**Source:** 26 U.S.C. § 2001(c) (2002).

**Notes:** In 2007, tax rates above 45% were repealed. As a result, the tax rate on taxable estate values over \$2 million was lowered from 46% to 45%. This is the lowest rate provided by EGTRRA. The tax rate was already 45% on taxable estate values from \$1.5 million to \$2 million, under pre-EGTRRA law (see **Table A-1**). Thus, the top tax rate bracket became 45% on taxable estate values over \$1.5 million. The applicable exclusion amount remained at \$2 million for 2007, as it had been for 2006. Only the top marginal tax rate of 45% applied to taxable values in excess of the applicable exclusion amount. The law for 2008 remained the same as for 2007.

**Table A-8. Federal Estate Tax Rate Schedule for 2009**

Taxable Estate		Tentative Tax	
(a) Bottom of bracket	(b) Top of bracket	(c) Tax on bottom of bracket	(d) Marginal tax rate on bracket
Over	But Not Over	Tax on amount in column (a)	Plus: Rate of tax on amount over bottom of bracket, in column (a), up to top of bracket, in column (b)
\$ 0	\$ 10,000	\$0 +	18% of such amount
10,000	20,000	1,800 +	20% of excess over \$10,000
20,000	40,000	3,800 +	22% of excess over 20,000
40,000	60,000	8,200 +	24% of excess over 40,000
60,000	80,000	13,000 +	26% of excess over 60,000
80,000	100,000	18,200 +	28% of excess over 80,000
100,000	150,000	23,800 +	30% of excess over 100,000
150,000	250,000	38,800 +	32% of excess over 150,000
250,000	500,000	70,800 +	34% of excess over 250,000
500,000	750,000	155,800 +	37% of excess over 500,000
750,000	1,000,000	248,300 +	39% of excess over 750,000
1,000,000	1,250,000	345,800 +	41% of excess over 1,000,000
1,250,000	1,500,000	448,300 +	43% of excess over 1,250,000
1,500,000	—	555,800 +	45% of excess over 1,500,000
For 2009, the Applicable Exclusion Amount will be \$3.5 Million and the Applicable Credit Amount will be \$1,455,800			

**Source:** 26 U.S.C. § 2001(c) (2002).

**Notes:** In 2009, the applicable exclusion amount will rise from \$2 million to \$3.5 million. There will be no further reduction in the maximum tax rate, which will remain at 45% for taxable estate values over \$1.5 million. Again, only the top marginal tax rate of 45% will apply to taxable values in excess of the applicable exclusion amount.