

SENATE TAXATION COMMITTEE
MEETING OF FEBRUARY 15, 1977

Chairman Richard Bryan called the meeting to order at 2:00 pm, with the following members and representatives present:

Senators Richard Bryan, Gary Sheerin, Floyd Lamb, Carl Dodge, Norman Hilbrecht. Senator Norman Glaser absent/excused

Representatives: Clyde Turner (observer); Leroy Bergstrom, Nevada Society of CPA's; John Gianotti, Harrah's; Z. Chris Zimmerman, Internal Revenue Service; Clyde L. Scott, Department of Taxation; Charles Malone, Self; Andrew Grosse, Research Office of Legislative Counsel Bureau

Items under consideration:

SJR No. 5 of the 58th Session: Proposes to amend Nevada Constitution to allow imposition of estate tax credit not to exceed credit allowable under federal law.

Chairman Bryan explained that in reviewing the minutes of this committee during the 1973 and 1975 sessions, in which this resolution was discussed, there were several individuals offering testimony that he felt would be beneficial to the committee in explaining the ramifications of this measure. He had asked several of these to attend today.

Mr. A. Chris Zimmerman, an estate tax attorney with the Internal Revenue Service, testified first and explained that he was appearing neither as an opponent or proponent of the measure, but strictly to present information on the fiscal impact this would have to the State of Nevada.

He distributed copies of three documents for the Committee's review: 1) Unified Rate Schedule for Estate and Gift Taxes 2) Section 2011 of the Internal Revenue Code, Credit for State Death Taxes, and 3) Form L-154 of the IRS, Estate Tax Closing Letter.

He pointed out that there has been, within the last eight years, a gradual increase in the number of estate tax filings in Nevada. In 1968 there were only 150 estates filing returns; recently there have been 346 estates which is a gradual increase of 10 to 15% of returns filed every year. Of great concern to this committee should be the amount of revenue being lost to the state. As far back as 1962, the State of Nevada lost \$300,000; in 1970 we lost 2¼-million dollars and in 1975 the State lost \$1,000,000. Nevada is the only state that does not take advantage of the federal pick-up tax.

One concern of any new tax bill is the cost of administering and how many people would it take. Administration of this estate tax credit is minimal according to reports his office has received from other states. Most services are performed by the Department of Taxation and is handled by regular staff on a part time basis.

In 1976 of the 400 estate tax returns filed, only about one hundred would have had any credit; about 300 had estates of under \$100,000. The credit under the old law began at \$100,000; the first \$60,000 is free, the next \$40,000 only the federal government takes its share, and then we begin to receive a share.

Everything was changed in October of 1976 when the Tax Reform Act was passed. Under the new law, estates can reach \$175,000 before there will be a tax. Now it will be down to an estimated 2% that will be required. Most of the returns that will no longer have to be filed will be the smaller returns. In looking at several of the years lost revenue, almost every year there is anywhere from 3 to a half-dozen which provide about 75% of the revenue that would come to the state of Nevada. Nevada lost last year, in returns that were closed out, \$1-million. In reviewing about three quarters of the returns currently in inventory, which represent about one year's filings, the present loss to the State of Nevada would be no less than \$7-million. Many rich people have lived in Nevada and have passed away and not having this bill, Nevada has lost their tax credit. He explained that as the estate gets larger, the percentage of revenue that the state loses increases. For example, in an estate of \$500,000, the total tax liability will be \$108,000 of which the State of Nevada would get \$12,000 or 11% of this revenue. If the estate goes up to \$5-million the total tax would be \$2,500,000 of which Nevada would get \$400,000 or approximately 16%. The larger the estate, the greater percentage of the total revenue that goes to the State of Nevada. This is due to the fact that under the new law, the federal tax reaches 70%; that's a change from the old one, it used to be 77%.

Once the estate exceeds \$10-million, the State of Nevada gets 16% of the tax. Either the state takes it, or the federal government will take it. The enactment of the bill should not cost Nevadans one dime; the government will be taking 70% one way or the other, but the heirs to the estate will receive the same amount of money.

As far as administration of this bill, the only thing the state needs is to have someone come in and take a look at Form L-154. That form shows what the tax is and once you have that information you know the amount of credit that is allowed in that case. The IRS issued in 1976 approximately 400 of these forms. Anyone coming into the state of Nevada would only be interested in 90 to 100 of these; the rest would be smaller estates under \$100,000. Still speaking on the cost of administering the program, it was pointed out that the State of Alabama in 1971 received revenue of \$3-million; in 1976 they have gone to \$5-million. They have a much larger population and about three times the number of filings of Nevada and their entire system is run by one employee on a part time basis and one stenographer. Florida, which also has a much larger population than Nevada, has a somewhat more complicated system with only 15 people and their revenue is 35 to \$40-million per year. This is a very easy system to administer and relatively inexpensive. There are some big returns coming in right now and the information is readily available.

Considerable discussion following regarding the mechanics of administering such a program, with Mr. Zimmerman giving detailed information on just what forms are presently used by the IRS and what forms would be involved with an estate filing. It was suggested that the Department of Taxation in Carson City would be the appropriate agency to handle the filing and administration of the program. It was pointed out that this would reduce the amount of income to the federal government inasmuch as they are now receiving the total amount and, if this measure were passed, a percentage would go to the State of Nevada rather than to the federal government. Mr. Zimmerman reminded the committee that there have been very few states that have turned down money from the federal government. For example, revenue sharing is a program in which states received money from the federal government, but no state turned theirs away. He feels that when 49 states are

part of the program, he can't understand why they can all be wrong and one state can be right.

Senator Bryan asked about the election under the estate tax code which allows either a ten or fifteen year period of time in which the estate can pay off the taxes which are owed in closed held type of ownership. If this is true, is there an issue presented that if this particular bill is passed, that Nevada could collect revenue from the estates which became estates before the effective date of the enactment of the law, if they elected the ten or fifteen year payment. Mr. Zimmerman explained that is a typical constitutional law question. If there is enough money at stake from the State of Nevada's standpoint, and there are some large estates that tend to make that election if they can qualify for it, he can certainly see no reason not to do it. If the Nevada Court would uphold the legality of that, it would decide the issue.

Senator Bryan asked if we have a \$100,000,000 ^{estate} what kind of federal tax and tax credit would be available. Mr. Zimmerman explained that the tax would be \$69,500,000 and of that, the State of Nevada would get \$15,476,000; 22.4% would go to the State of Nevada, if this measure is passed.

Senator Dodge asked if by looking at their records, they can tell if we are picking up residents that are more affluent than in the past, and was advised by Mr. Zimmerman that of the estates over ten million, there are very few where the people have not been long term residents of the state. He feels that people who have enough money where they would transfer their residence for tax purposes, have highly sophisticated financial advisors that would tell them that their net tax bill would not be any different in any state regardless of this provision in the law.

Senator Lamb indicated that his main concern is that this would be opening the door to a state income tax, however, Mr. Zimmerman assured him that that would not necessarily be the case. That would be legislation that would have to be initiated by the legislature, separate from this measure.

Senator Sheerin remarked that Mr. Zimmerman had stated that 49 states have this federal estate tax credit; of those 49 how many have state estate taxes and how many have state inheritance taxes? Mr. Zimmerman replied that he didn't think any state has an estate tax which is a tax in effect on the 'right to pass' money. The states all tax, in effect, on the 'right to receive' and where the distinction comes in is as soon as you have a tax on the right to receive, depending on the relationship, the tax will vary. A spouse may be taxed at a 2% rate whereas, a stranger might be taxed at 10% rate. To his knowledge, all the states tax essentially on an inheritance tax rate. Five states have a pickup tax and they don't care who gets it, but their tax is keyed to the federal credit.

Senator Bryan informed the Committee that he had asked Mr. Rhodes of the Research Department to develop a calculation based upon the gross values of of several estates. In the report, it was pointed out that the Nevada taxable portion from various estates would be: Redfield Estate \$5,876,400; the Cord Estate would be \$5,756,584; the Bilts Estate would be \$274,485; the Hughes Estate \$399,476,000; and the Whittell Estate would be \$5,876,400 Senator Sheerin asked if we could make this retroactive and was told that we could, if any of the estates elected to take the advantage of the ten

year option to pay it off. Mr. Zimmerman added that any estate of a decedent dying before December 31, 1976 would be restricted to the ten year; 15 year period is for those dying before December 31, 1976.

Mr. Andrew Grosse with the Legislative Counsel Bureau distributed a Counsel Bureau background research paper entitled, "Estate Taxes, 1977 No. 7, in which they included a considerable amount of information and statistics on the five other states having a pickup tax, their revenue and costs of administration (copy attached).

In discussion, it was pointed out by Mr. Grosse that it is difficult to project what revenue would be to the state each year as it depends on the death of a resident. Most states distribute revenue on a year to year basis.

Senator Bryan explained that there were differences in the resolutions that were introduced during the 1973 session and the one before us now and asked Mr. Grosse to elaborate on the difference. Mr. Grosse indicated that in 1973, the Nevada Bankers Association offered an amendment to prohibit any attachment, or a restriction on an estate as a result of this estate tax. To assure that this could not happen, an amendment was added to the first resolution and is part of the present resolution.

Senator Bryan asked if other states have similar provisions to the constitutional amendment which indicates that the State of Nevada shall accept the determination by the federal government for the taxable estate without further audit. Do they conduct any individual audit? He was advised by Mr. Grosse that Florida and Alabama do, but he was not sure about others. Mr. Zimmerman explained that the audit is to make a determination of the situs for the purpose of deciding who is going to get the credit not the amount.

Mr. John Giannotti testified in behalf of his employer, Mr. Harrah and encouraged the passage of this resolution. He stated that in observing the testimony on this measure during the past sessions he feels it would be a good thing for Nevada. The passage of SJR 5 of the 58th Session will allow Nevada to take advantage of a credit which is allowed by the federal government that is rightfully due to Nevadans which is not taking one cent out of our pockets. It will provide substantial funds to Nevada. Every one has an obligation to do all we can to explore additional sources of revenue which places no more burden on the people of Nevada. This is simply a rebate from Washington, D. C. which will provide millions of dollars to the state and a recovery of a tax or credit that we are talking about. His employer has an estate that would come under the provisions of this resolution and provide additional monies to the state. At the time of death, if this is passed, it would be Mr. Harrah's desire that this credit be returned to Nevada for the use of Nevadans. On behalf of Mr. Harrah, he would like to express his concern as to passage of the bill and hope that they will see, in their good wisdom, to do so.

Mr. Les Bergstrom speaking in his own behalf, explained that his society, the Nevada Association of Cert. Public Accountants has not taken a stand on this issue other than to say that it doesn't appear to create any administrative problems in the state that were of some concern in the past. He explained he has been an observer of this measure in the past two sessions and he feels we are leaving, in a Nevadans expression, "a good deal of money on the table". He stated that the best testimony he has heard

is the testimony by the preceding witness, Mr. Chris Zimmerman. In his opinion, if we would like the State of Nevada to retain the money that would otherwise go to Washington, D.C., it would be wrong to deny the passage of this resolution.

Chairman Bryan asked if there was anyone in the audience that wanted to speak in opposition.

Mr. Charles Malone, a Carson City resident, spoke in his own behalf opposing the measure. He submitted, for the record a book entitled, "The Liberty Amendment/ Action for Americans", a pamphlet titled, "Republics and Democracies", and a copy of S.J.R.No. 7 introduced in 1960 which, "Memorialized Congress to propose a constitutional amendment abolishing income, estate and gift taxes and prohibiting federal competition with private business". Mr. Malone read a prepared statement in which he opposed this resolution and suggested the committee consider the Liberty Amendment.

There being no further testimony, Senator Bryan informed the committee that he had been contacted by a representative of the Nevada Bankers Association who asked that they be given an opportunity to appear before the committee and express their views. They had a conflict and did not have anyone that could be present today. Senator Hilbrecht voiced an objection, stating that they had ample notification of this hearing and there should be any number of individuals that could have appeared in their behalf.

It was finally determined that this measure would be heard, once again, by the committee in order that the bankers' views could be heard.

#2. The Chairman brought to the committee's attention, a bill that Senator Wilson had asked the committee to introduce as a committee measure, BDR 32-921 which is a tax exemption for the Nevada Arts Association. A motion was introduced by Senator Sheerin and seconded by Senator Hilbrecht that the Taxation committee introduce BDR 32-921; motion carried unanimously.

#3. Senator Hilbrecht called attention to the Taxation Committee agenda for February 17th. He explained that this is conflicting with another meet and asked if this could be rescheduled as the bills on the agenda did not appear to be of a controversial nature. Senator Bryan agreed inasmuch as the bill was a housekeeping measure and he had not been aware of a conflict

#4. Senator Sheerin stated that in light of the testimony presented at the initial hearing of Senate Bill No. 19, which he introduced, he is not anxious to process the bill. At the hearing, the County Assessors were very much opposed to the provision for eliminating the need to apply for veterans' exemption on an annual basis and for that reason he was not interested in proceeding with the bill in its present form. He added that due to the request by the Department of Motor Vehicles, as explained by Ms. Valenta-Wiese, he would like to process Senate Bill 19 and strike the substantive part of it and amend it so that the DMV's problem is solved. A copy of the proposed amendment was distributed.

Senator Bryan informed the committee that there is a correction that needs

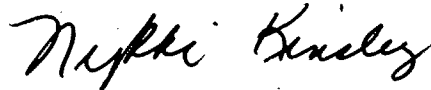
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to be made to the amendment in Section 17 which would differentiate the collection procedures in those counties in excess of 100,000 population and those less than 100,000. He added that he will be receiving the correction to the amendment soon and will proceed with it. Senator Dodge suggested we continue to process the bill and should insert the provision for the Vietnam veterans, including the dates for the termination of hostility on the second page.

Senator Bryan advised that he will secure a committee amendment and bring this measure back to the committee. Senator Hilbrecht agreed with the suggestion of Senator Sheerin, but is not entirely sure we should look at the amendment. A copy of the amendment will be made available to the entire committee.

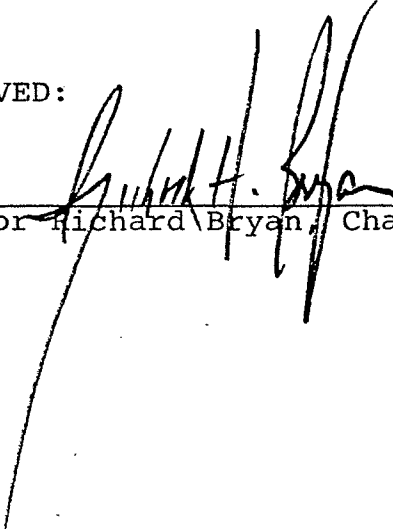
There being no further business, the meeting was adjourned.

Respectfully submitted,



Nykkie Kinsley, Secretary

APPROVED:



Senator Richard Bryan, Chairman

95TH CONGRESS
1ST SESSION

H. J. RES. 23

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1977

Mr. ROUSSELOT (for himself, Mr. McDONALD, and Mr. SYMMS) introduced the following joint resolution; which was referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relative to abolishing personal income, estate, and gift taxes and prohibiting the United States Government from engaging in business in competition with its citizens.

1 *Resolved by the Senate and House of Representatives of*
2 *the United States of America in Congress assembled (two-*
3 *thirds of each House concurring therein), That the following*
4 article is proposed as an amendment to the Constitution of
5 the United States, which shall be valid to all intents and
6 purposes as part of the Constitution when ratified by the
7 legislatures of three-fourths of the several States:

"ARTICLE —

1

2 "SECTION 1. The Government of the United States shall
3 not engage in any business, professional, commercial, finan-
4 cial, or industrial enterprise except as specified in the Con-
5 stitution.

6 "SEC. 2. The constitution or laws of any State, or the
7 laws of the United States, shall not be subject to the terms
8 of any foreign or domestic agreement which would abrogate
9 this amendment.

10 "SEC. 3. The activities of the United States Govern-
11 ment which violate the intent and purposes of this amend-
12 ment shall, within a period of three years from the date of
13 the ratification of this amendment, be liquidated and the
14 properties and facilities affected shall be sold.

15 "SEC. 4. Three years after the ratification of this amend-
16 ment the sixteenth article of amendments to the Constitution
17 of the United States shall stand repealed and thereafter
18 Congress shall not levy taxes on personal incomes, estates,
19 and/or gifts."

Department of Taxation

CARSON CITY, NEVADA 89710

In-State Toll Free 800-992-0900



MIKE O'CALLAGHAN, Governor

JOHN J. SHEEHAN, Executive Director

February 3, 1977

Mr. Donald A. Rhodes
 Legislative Counsel Bureau
 Carson City, Nevada 89710

Dear Mr. Rhodes:

In answer to your request concerning the exemption allowed by the Internal Revenue Service for State Death Tax, we have done considerable research. The latest information, of which I am attaching copies, pertain to the new Federal Estate and Gift Tax Law.

My understanding of your instructions was that the proposed Nevada credit was to be computed on the gross value of the estate. I have used these gross value figures in making the computations. In some instances the gross amounts are not exact but, to the best of my knowledge, they are a "ball park" figure.

It should be noted, also, that "the tax imposed by Section 2001 shall be credited with the amount of any estate, inheritance, legacy or succession taxes actually paid to any state or the District of Columbia in respect of any property included in the gross estate (not including any such taxes paid with the respect to the estate of a person other than the decedent."

With the above in mind, the following are our computations of the credit which would be allowed to the State of Nevada by the Internal Revenue Service for its Inheritance Tax computations, should a law be enacted:

	<u>GROSS ESTATE</u>	<u>NEVADA TAXABLE PORTION</u>
<u>REDFIELD ESTATE:</u>		
Value of Estate	\$ 40,000,000	
Amount of Nevada taxable portion (\$1,082,800 plus 16% of excess over \$10,040,000		\$ 5,876,400

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CORDS ESTATE:

Value of Estate	39,251,150	
Amount of Nevada taxable portion (\$1,082,800 plus 16% of excess over \$10,040,000)		5,756,584

BILTS ESTATE:

Value of Estate	3,883,131	
Amount of Nevada taxable portion (\$238,800 plus 10.4% of excess over \$3,540,000)		274,485

HUGHES ESTATE:

Value of Estate	2,500,000,000	
Amount of Nevada taxable portion (\$1,082,800 plus 16% of excess over \$10,040,000)		399,476,400

WHITTELL ESTATE:

Value of Estate	40,000,000	
Amount of Nevada taxable portion (\$1,082,800 plus 16% of excess over \$10,040,000)		5,876,400

In connection with the tax which Nevada might impose on its taxable portion, I am attaching, also, a copy of Tax Facts 1976 which is published by the American Association of Retired Persons. This will provide you with a broad overview as to the methods used by other states in computing state inheritance tax.

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I trust the above will provide you with the information you requested. If I can be of further service, please feel free to call me.

Very truly yours,

John J. Sheehan
Executive Director

By *Clyde E. Scott*
Clyde E. Scott
Budget Director

CLS:law

Enclosures

UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES

If the amount with respect to which the tentative tax to be computed is:

The tentative tax is:

Not over \$10,000.....	18% of such amount.
Over \$10,000 but not over \$20,000.....	\$1,800 plus 20% of the excess of such amount over \$10,000.
Over \$20,000 but not over \$40,000.....	\$3,800 plus 22% of the excess of such amount over \$20,000.
Over \$40,000 but not over \$60,000.....	\$8,200 plus 24% of the excess of such amount over \$40,000.
Over \$60,000 but not over \$80,000.....	\$13,000 plus 26% of the excess of such amount over \$60,000.
Over \$80,000 but not over \$100,000.....	\$18,200 plus 28% of the excess of such amount over \$80,000.
Over \$100,000 but not over \$150,000.....	\$23,800 plus 30% of the excess of such amount over \$100,000.
Over \$150,000 but not over \$250,000.....	\$38,800 plus 32% of the excess of such amount over \$150,000.
Over \$250,000 but not over \$500,000.....	\$70,800 plus 34% of the excess of such amount over \$250,000.
Over \$500,000 but not over \$750,000.....	\$155,800 plus 37% of the excess of such amount over \$500,000.
Over \$750,000 but not over \$1,000,000.....	\$248,300 plus 39% of the excess of such amount over \$750,000.
Over \$1,000,000 but not over \$1,250,000.....	\$345,800 plus 41% of the excess of such amount over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000.....	\$448,300 plus 43% of the excess of such amount over \$1,250,000.
Over \$1,500,000 but not over \$2,000,000.....	\$555,800 plus 45% of the excess of such amount over \$1,500,000.
Over \$2,000,000 but not over \$2,500,000.....	\$780,800 plus 49% of the excess of such amount over \$2,000,000.
Over \$2,500,000 but not over \$3,000,000.....	\$1,025,800 plus 53% of the excess of such amount over \$2,500,000.
Over \$3,000,000 but not over \$3,500,000.....	\$1,290,800 plus 57% of the excess of such amount over \$3,000,000.
Over \$3,500,000 but not over \$4,000,000.....	\$1,575,800 plus 61% of the excess of such amount over \$3,500,000.
Over \$4,000,000 but not over \$4,500,000.....	\$1,880,800 plus 65% of the excess of such amount over \$4,000,000.
Over \$4,500,000 but not over \$5,000,000.....	\$2,205,800 plus 69% of the excess of such amount over \$4,500,000.
Over \$5,000,000.....	\$2,550,800 plus 70% of the excess over \$5,000,000.

Internal Revenue Service
District Director

Department of the Treasury

Date:

Estate of:

Date of Death:

Person to Contact:

Contact Telephone Number:

Estate Tax Closing Letter
(This is not a bill for tax due)

The computation at the bottom of this letter shows how we computed our determination of the Federal tax liability for the estate named above. It does not include any interest that may be charged.

You should keep a copy of this letter as a permanent record because your attorney may need it to close the probate proceedings for the estate. It is evidence that the Federal tax return for the estate has either been accepted as filed, or has been accepted after an adjustment that you agreed to.

This is not a formal closing agreement under section 7121 of the Internal Revenue Code, but we will not reopen this case unless the provisions of Revenue Procedure 74-5 reproduced on the back of this letter, apply.

If you have any questions, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely yours,



District Director

Gross estate tax.....		\$ _____
Less credits allowed:		
State death taxes.....	\$ _____	
Federal gift tax.....	_____	
Tax on prior transfers.....	_____	
Foreign death taxes.....	_____	
Total credits.....		\$ _____
Net estate tax.....		\$ _____
Penalties, if any.....		\$ _____

Rules governing the reopening of cases closed after examination in the Office of a District Director

Rev. Proc. 74-5

SECTION 1. PURPOSE

The purpose of the Revenue Procedure is to restate and amplify the conditions under which a case closed after examination in the office of a District Director of Internal Revenue may be reopened to make an adjustment unfavorable to the taxpayer.

This procedure contains a listing of certain types of cases wherein reconsideration is not considered a reopening and makes clear that cases closed after examination by service centers require application of reopening procedures.

SEC. 2. SCOPE

This procedure pertains to all cases, regardless of type of tax, in which the prior audit and conference action, if any, did not extend beyond the jurisdiction of the office of the District Director. It does not apply to cases previously closed after consideration by Regional Appellate Offices of Regional Counsels.

SEC. 3. DEFINITIONS

.01 Closed Case:

1. A case agreed at the district level is considered closed when the taxpayer is notified in writing, after district conference, if any, of adjustments to tax liability or acceptance of his return without change.

2. An unagreed income, estate or gift tax case is considered closed when the period for filing a petition with the United States Tax Court specified in the statutory notice of deficiency issued by the District Director expires and no petition was filed.

3. An unagreed excise or employment tax case is considered closed when the period for filing protest and requesting consideration by the Appellate Division specified in the preliminary letter expires and no protest or request for Appellate consideration is filed.

.02 Examination and Reopening:

1. Contacts with taxpayers to verify or adjust items disclosed on information returns, including items of income distributable to taxpayers by partnerships, fiduciaries, or small business corporations, and contacts with taxpayers

to correct mathematical errors are not examinations or reopenings.

2. Reconsideration of a case is not considered a reopening and therefore, requires no approval or issuance of form letter L-153 if it involves:

(a) Cases involving section 1311 of the Code.

(b) Cases involving the year of deduction of a net operating loss carryback or similar type of carryback under other provisions of the Code.

(c) Cases in which there have been involuntary conversions and the taxpayer has not recomputed his tax liability because he did not replace the property within the time provided by section 1033 of the Code.

(d) Cases involving an overpayment in excess of \$100,000, subject to consideration by the Joint Committee on Internal Revenue Taxation under section 6405 of the Code.

SEC. 4. POLICY

.01 The Internal Revenue Service will not reopen any case closed after examination by a district office, service center or Office of International Operations to make an adjustment unfavorable to the taxpayer unless:

1. There is evidence of fraud, malfeasance, collusion, concealment or misrepresentation of a material fact; or

2. The prior closing involved a clearly defined substantial error based on an established Service position existing at the time of the previous examination; or

3. Other circumstances exist which indicate failure to reopen would be a serious administrative omission.

.02 All reopenings must be approved by the District Director or by the Director of International Operations for cases under his jurisdiction. If an additional inspection of the taxpayer's books of account is necessary, the notice to the taxpayer required by section 7605(b) of the Code must be signed by the District Director, or by the Director of International Operations for cases under his jurisdiction.

SEC. 5. EFFECT ON OTHER DOCUMENTS

This Revenue Procedure supersedes Rev. Proc. 72-40, 1972-2 C.B. 819.

[Sec. 2011]

SEC. 2011. CREDIT FOR STATE DEATH TAXES.

[Sec. 2011(a)]

(a) IN GENERAL.—The tax imposed by section 2001 shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent).

[Sec. 2011(b)]

(b) AMOUNT OF CREDIT.—The credit allowed by this section shall not exceed the appropriate amount stated in the following table:

If the taxable estate is:	The maximum tax credit shall be:
Not over \$90,000.....	8/10ths of 1% of the amount by which the taxable estate exceeds \$40,000.
Over \$90,000 but not over \$140,000.....	\$400 plus 1.6% of the excess over \$90,000.
Over \$140,000 but not over \$240,000.....	\$1,200 plus 2.4% of the excess over \$140,000.
Over \$240,000 but not over \$440,000.....	\$3,600 plus 3.2% of the excess over \$240,000.
Over \$440,000 but not over \$640,000.....	\$10,000 plus 4% of the excess over \$440,000.
Over \$640,000 but not over \$840,000.....	\$18,000 plus 4.8% of the excess over \$640,000.
Over \$840,000 but not over \$1,040,000.....	\$27,600 plus 5.6% of the excess over \$840,000.
Over \$1,040,000 but not over \$1,540,000....	\$38,800 plus 6.4% of the excess over \$1,040,000.
Over \$1,540,000 but not over \$2,040,000....	\$70,800 plus 7.2% of the excess over \$1,540,000.
Over \$2,040,000 but not over \$2,540,000....	\$106,800 plus 8% of the excess over \$2,040,000.
Over \$2,540,000 but not over \$3,040,000....	\$146,800 plus 8.8% of the excess over \$2,540,000.
Over \$3,040,000 but not over \$3,540,000....	\$190,800 plus 9.6% of the excess over \$3,040,000.
Over \$3,540,000 but not over \$4,040,000....	\$238,800 plus 10.4% of the excess over \$3,540,000.
Over \$4,040,000 but not over \$5,040,000....	\$290,800 plus 11.2% of the excess over \$4,040,000.
Over \$5,040,000 but not over \$6,040,000....	\$402,800 plus 12% of the excess over \$5,040,000.
Over \$6,040,000 but not over \$7,040,000....	\$522,800 plus 12.8% of the excess over \$6,040,000.
Over \$7,040,000 but not over \$8,040,000....	\$650,800 plus 13.6% of the excess over \$7,040,000.
Over \$8,040,000 but not over \$9,040,000....	\$786,800 plus 14.4% of the excess over \$8,040,000.
Over \$9,040,000 but not over \$10,040,000...	\$930,800 plus 15.2% of the excess over \$9,040,000.
Over \$10,040,000	\$1,082,800 plus 16% of the excess over \$10,040,000.

Source: Secs. 810, 813(b), 1939 Code.

[Sec. 2011(c)]

(c) PERIOD OF LIMITATIONS ON CREDIT.—The credit allowed by this section shall include only such taxes as were actually paid and credit therefor claimed within 4 years after the filing of the return required by section 6018, except that—

(1) If a petition for redetermination of a deficiency has been filed with the Tax Court within the time prescribed in section 6213 (a), then within such 4-year period or before the expiration of 60 days after the decision of the Tax Court becomes final.

(2) If, under section 6161, an extension of time has been granted for payment of the tax shown on the return, or of a deficiency, then within such 4-year period or before the date of the expiration of the period of the extension.

NEVADA LEGISLATIVE COUNSEL BUREAU
OFFICE OF RESEARCH BACKGROUND PAPER

1977 No. 7

ESTATE TAXES

I

Nevada is unique in many ways. One of those ways concerns the estate tax. The federal government and 49 states levy an estate tax. Nevada does not. There are several terms used in discussing taxes related to death. An estate tax is levied against the net estate of a decedent based on the right to transmit property from the decedent's estate to the living. The tax is paid by the estate, not by the heirs. An inheritance tax is levied against the right of a beneficiary of an estate to receive a portion of the estate and is payable by the heirs. The term "death taxes" is used to refer to either or both of these taxes. Both estate and inheritance taxes are considered indirect taxes because they are on the transfer of property, not property itself.

Estate and inheritance taxes account for 2.0 to 2.6 percent of federal revenues and about 2.0 percent of state revenues nationwide. This revenue source varies a good deal from year to year even at the federal level. While mortality rates are predictable, the wealth of decedents in any one year can cover quite a range (see appendix).

There are two types of state estate taxes. Forty-four states have estate taxes which, to various degrees, add to the total tax against an estate. Five states have only what is known as a "pickup" tax. This means that the states levy an estate tax in the amount of the credit that the federal government allows for the payment of a state estate tax. The effect is to take a cut of the federal tax without adding anything to the total tax on the estate. Alabama, Alaska, Arkansas, Florida and Georgia have the "pickup" tax only.

II

In every regular session since 1961, the Nevada legislature has considered the "pickup" type of estate tax. The 1967 session directed a study of the need and feasibility of an estate tax in Nevada. This appeared as Legislative Counsel Bureau Bulletin 76 in January 1969. That study was directed only at the "pickup" tax. In 1969, 1971, 1973 and 1975, legislation was introduced to amend article 10, section 1, of the constitution to allow an estate tax and to provide statutory authority for implementation. The 1969 assembly joint resolution was reported "do pass" by committee, but never voted on by the assembly. The 1971 and 1973 senate joint resolutions were both passed by the senate but died in committee in the assembly. The 1975 legislature passed S.J.R. 5. The vote in the senate was 18-2 and in the assembly, 36-3 with one absent. The resolution did not make it to the assembly floor without difficulty. It was reported "without recommendation" by the taxation committee on a 5-4 vote. S.J.R. 5 of the 1975 session will be before the 1977 session for its second approval.

Committee hearings in 1971 and 1973 in the senate, and in the senate and assembly in 1975, do allow the positions pro and con to be summarized. Testimony for the enactment of a "pickup" tax centered on two uncontested facts. First, a "pickup" tax costs the estate not a cent. In the absence of a state "pickup" tax, the federal government claims the portion that would go to the state. Second, the costs of administering the tax are very small. The reason is that the Internal Revenue Service does all the work. The IRS will not allow the estate tax credit on the federal estate tax until they receive a receipt reflecting payment of the state tax. If they do not receive it within 6 months, IRS will assess the estate in the amount of the state tax.

The opposing position can be characterized as the psychological argument. Financial institutions and others interested in attracting the wealthy to Nevada do not deny that a "pickup" tax would cost nothing extra, but they have contended that the absence of even a "pickup" tax enhances Nevada's image as a

low tax state. This image, in turn, attracts people of wealth according to the viewpoint. In 1973, the Nevada Bankers' Association offered an amendment to the proposed resolution to prohibit any attachment of or restriction on an estate as a result of a state "pickup" tax. This language was in the 1975 resolution which passed and there was no opposition from the bankers in 1975 committee hearings. The opponents also raise the specter of safety deposit boxes being sealed upon a death because of a state death tax. This contention, however, is not tenable, especially in view of the added language prohibiting such action, because there is no necessity for this with only the "pickup" tax. The IRS will ensure that the state gets an accounting of an estate.

Finally, opponents have held that the amount collected would be small relative to the costs of administration. This was probably true into the 1960's. There would have been less than half million dollars collected in 1964. In 1975, however, based on IRS estimates, the state would have received 2.5 to 3 million dollars through a "pickup" tax. Based on other "pickup states," the cost of administration would be under \$20,000 per year. The revenue would be around 1 percent of state revenues so it is debatable as to the worth of the tax relative to the overall fiscal structure.

The states with a "pickup" tax, their revenue and their costs of administration are listed:

Alabama--1975-76, revenues of \$4,917,344 with administration costs of about \$100,000. Some state auditing is done which results in the high cost of administration.

Alaska--1975-76, revenues of \$162,038 with administration costs of \$3,800.

Arkansas--1975-76, revenues of \$2,168,578 with administration costs, representing part of the time of several people, at \$50,000.

Florida--1975-76, revenues of \$37,945,358 with administration costs of about \$115,000. Florida does state auditing of

estates, this accounting for its higher costs of administration.

Georgia--1975-76, revenues of approximately \$5,800,000 with administration costs of \$15,000.

IV

A 1974 review of death taxation in the United States assessed Nevada's position on the estate tax.

In Nevada, which is the only state not to have some death duty, estates must still pay the federal tax. By not having at least a pickup tax, Nevada denies itself revenue and does not decrease the total amount of tax which must be paid.*

The reasons for enacting a "pickup" tax are well established. Revenue likely to be produced and administration costs can be fairly accurately predicted. The reasons against enacting the tax are more difficult to establish and document although this fact does not necessarily make them invalid. There may exist a "tax climate" that attracts people to Nevada which would be disturbed by enacting the "pickup" tax. Tangible evidence of such an effect, however, is not available.

SUGGESTED READING

(Available in the Research Library)

Bureau of the Census; State Government Finances in 1972, (1972 is no longer available, however, we do have 1973) U.S.G.P.O., Washington, D.C., 1973.

Business Research Bureau; Death Taxation in the American States, University of South Dakota, Vermillion, S.D., 1974.

*Business Research Bureau; Death Taxation in the American States; University of South Dakota, Vermillion, S.D., 1974.

Commerce Clearing House, Inc.; State Tax Guide, Second Edition, 1972.

Committee on Taxation, Nevada Senate; "Minutes of March 16, 1971, meeting on S.J.R. 20."

Governor's Committee on Taxation; Nevada Tax Handbook, Nevada Tax Commission, Carson City, NV, 1968.

Legislative Counsel Bureau; "Need and Feasibility of Establishing an Estate Tax in Nevada," Bulletin No. 76, Carson City, NV, January 1969.

United States Code Annotated, Title 26, Section 2011, Wests Pub. Co., St. Paul, Minn., 1967.

Zubrow, R. A. et al; Financing State and Local Government in Nevada, State Printing Office, Carson City, NV, 1960.

APG/jd
Revised: 1-11-77

REVENUES AND COSTS OF ADMINISTRATION
IN ESTATE TAX "PICKUP" STATES

State	Revenue		Admin. Costs		Revenue to Cost Ratio 1975-76
	1971-72	1973-74	1975-76	1975-76	
Alabama	\$ 3,522,437	\$ 6,234,714	\$ 4,917,344	\$100,000	49:1
Alaska	39,476	88,823	162,038	3,800	43:1
Arkansas	1,307,189	2,000,000	2,168,578	50,000	43:1
Florida	31,025,000	40,953,000	37,945,358	110,000	344:1
Georgia	5,504,587	6,000,000	5,800,000	15,000	386:1

* New Mexico sometimes is considered a "pickup" state but it is possible in that state for an estate to pay more than the federal credit to the state.

SJR 9
1973

original

— 2 —

1 such exemption because while in the warehouse the property is assem-
2 bled, bound, joined, processed, disassembled, divided, cut, broken in bulk,
3 relabeled or repackaged. The legislature may exempt motor vehicles from
4 the provisions of the tax required by this section, and in lieu thereof, if
5 such exemption is granted, shall provide for a uniform and equal rate of
6 assessment and taxation of motor vehicles, which rate shall not exceed
7 five cents on one dollar of assessed valuation. No inheritance [or estate]
8 tax shall ever be levied, and there shall also be excepted such property as
9 may be exempted by law for municipal, educational, literary, scientific or
10 other charitable purposes. *The legislature may provide by law for the*
11 *taxation of estates taxed by the United States, but only to the extent of*
12 *any credit allowed by federal law for the payment of such a state tax. The*
13 *combined amount of such federal and state taxes shall not exceed the*
14 *estate tax which would be imposed by federal law alone. If another state*
15 *of the United States imposes and collects death taxes against an estate*
16 *which is taxable by the State of Nevada under this section, the amount*
17 *of estate tax to be collected by the State of Nevada shall be reduced by*
18 *the amount of death taxes collected by such other state.*

Ⓢ

SJR 9
1973

first reprint

— 2 —

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14 *estate tax which would be imposed by federal law alone. If another state*
15 *of the United States imposes and collects death taxes against an estate*
16 *which is taxable by the State of Nevada under this section, the amount*
17 *of estate tax to be collected by the State of Nevada shall be reduced by*
18 *the amount of death taxes collected by such other state.* [Any lien for such
19 estate tax shall attach no sooner than the time when the tax is due and
20 payable, and no restriction on possession or use of a decedent's property
21 shall be imposed by law prior to the time when the tax is due and pay-
22 able. The State of Nevada shall accept the determination by the United
23 States of the taxable estate without further audit.]

Ⓢ

Added language in brackets -
Proposed by bankers

Taxation Committee

SDR #5 of 50th Session January 15, 1972

Name

Representing

Clyde Turner

observing only
Keele CPAA

Joseph A. Brennan

JOHN GRABOITI

HARRAH'S

A. Chris Zimmerman

A.P.S.

Clyde West

Upt. of Taxation

CHARLES MALONE

SELF.

No- Brown, Lamb, Monroe

GALLAGHER

31 - year

Pres- Christensen (Wachal)
Evans, Harney, Humphrey
(Emerald), Leavitt,
Ransay, Ryan, Seifer
Waters -

N-V Young

SENATE JOINT RESOLUTION NO. 7—SENATORS BLACK, DIAL, DUFFY, ECHEVERRIA, FRANK, GALLAGHER, LEMAIRE, MCGOWAN, RAND, SEEVERS, SETTELMAYER, SLATTERY AND WHITACRE

FEBRUARY 26, 1960

Referred to Committee on Federal Affairs

SUMMARY—Memorializes the Congress of the United States to propose a constitutional amendment abolishing income, estate and gift taxes and prohibiting federal competition with private business. (BDR 643)



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

SENATE JOINT RESOLUTION—Memorializing Congress to propose constitutional amendment abolishing income, estate and gift taxes and prohibiting the Federal Government from engaging in any business, professional, commercial, financial or industrial enterprise except as provided in the Federal Constitution.

1 *Resolved by the Senate and Assembly of the State of Nevada, jointly,*
2 That the 50th session of the legislature of the State of Nevada respect-
3 fully requests the Congress of the United States to propose to the
4 people an amendment to the United States Constitution or to call a
5 convention for such purpose to add to the Constitution an article pro-
6 viding as follows:

ARTICLE _____

8 Section 1. The Government of the United States shall not
9 engage in any business, professional, commercial, financial or
10 industrial enterprise except as specified in the Constitution.

11 Section 2. The Constitution or laws of any State, or the laws
12 of the United States shall not be subject to the terms of any for-
13 eign or domestic agreement which would abrogate this amendment.

14 Section 3. The activities of the United States Government
15 which violate the intent and purposes of this amendment shall,
16 within a period of three years from the date of ratification of this
17 amendment, be liquidated and the properties and facilities affected
18 shall be sold.

19 Section 4. Three years after the ratification of this amendment
20 the sixteenth article of amendments to the Constitution of the
21 United States shall stand repealed and thereafter Congress shall
22 not levy taxes on personal incomes, estates, and/or gifts.

23 *And be it further resolved,* That the legislative counsel forthwith
24 prepare and transmit certified copies of this resolution to the Vice
25 President of the United States, the President Pro Tempore of the
26 Senate, the Speaker of the House of Representatives and each member
27 of the Nevada congressional delegation.

SENATE

AGENDA FOR COMMITTEE ON.....TAXATION.....

Date FEB. 15, 1977 Time 2:00 pm Room 231.....

Bills or Resolutions
to be considered

Subject

Counsel
requested*

S.J.R. 5 of the 58th Session

Proposes to amend Nevada Constituion to allow
imposition of estate tax not to exceed credit
allowable under federal law.