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## Fixing the Federal Wealth Transfer Tax System

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### Abstract

At the end of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 was enacted to extend many of the Bush-era tax cuts. It also increased the estate and gift tax exemption to \$5 million, lowered the rate to 35% and implemented spousal portability for exemptions. The 2010 Tax Act did not, however, address many of the substantial problems created by the Economic Growth and Tax Relief Reconciliation Act of 2001, originally scheduled to expire at the end of 2010. Instead, lawmakers merely “kicked the can down the road,” in a manner of speaking, and delayed EGTRRA’s sunset until the end of 2012. This period of continued uncertainty makes planning for the future unnecessarily difficult and expensive. This article proposes making permanent the \$5 million exemption, 35 percent tax rate and spousal portability of the 2010 Tax Act, while remedying the problems and uncertainty created by the scheduled sunset of existing estate and gift tax rules on December 31, 2012.

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