

## Tax Breaks for Rich Murderers

David Runciman

*Death by a Thousand Cuts: The Fight over Taxing Inherited Wealth* by Michael Graetz and Ian Shapiro · Princeton, 392 pp, US \$29.95

The politics of taxation can sometimes be gripping for a nation's citizens, but not often: the arguments tend to be too technical when they are true, and too obviously bogus when they are false, to sustain public interest for long. By extension, the politics of another country's tax system is unlikely to be of much interest to anyone with any sort of normal life. Listening to the ins and outs of other people's fiscal battles can be like listening to other people's dreams: interminable and almost completely unreal. *Death by a Thousand Cuts* is something different. It tells the story of the campaign to repeal the estate tax (what we would call inheritance tax) in the United States, which culminated in the inclusion of the measure in George Bush's massive tax-cutting legislation of 2001. Don't let that put you off. This is one of the most interesting books about politics, and power, and the way the world is going, that you are ever likely to read.

What makes it so fascinating is that it is a mystery story. The mystery is this: how did the repeal of a tax that applies only to the richest 2 per cent of American families become a cause so popular and so powerful that it steamrolled all the opposition placed in its way? The estate tax was the most progressive part of the American tax system, because it rested on the principle that the wealthy few, if they were not willing to bequeath their money to charity, should not be permitted to pass it all directly to their heirs. It had been on the statute book for nearly a hundred years, and throughout that time it had been generally assumed that there was widespread support for the idea that unearned wealth passed between the generations, creating pockets of aristocratic privilege, was not part of the American dream. Because it was a tax that so obviously took from the relatively few to relieve the burden on the very many, there seemed no possibility that a sufficiently large or durable coalition of interests could ever be formed to get rid of it. Yet during the 1990s just such a coalition came into being, and not only did it hold together, it grew to the point where the clamour for estate tax repeal seemed irresistible. What Graetz and Shapiro want to know is how the architects of repeal got so many different people on board. How they stopped them falling out among themselves, once it became clear that they could not possibly have the same interests in common. And why the hell the Democratic Party didn't do more to stop them.

The repeal lobby built its campaign around two forms of politics, one all too familiar, the other daringly new. The familiar tactic was to play on the sense many people have that the rich are not after all so different from the rest, if only because they hope one day to become rich themselves. A poll conducted by Time/CNN on the estate tax issue in 2000 revealed that 39 per cent of Americans believe that they are either in the wealthiest 1 per cent or will be there 'soon'. Armed with this sort of polling evidence, the pro-repeal activists spread their net as wide as possible in looking for individuals who felt that the estate tax was going to be picking on them before too long. But as well as preying on people's naive hopes and fears, the case for ending the taxation of inherited wealth also rested on a more surprising claim: that the estate tax was, however you looked at it, simply 'unfair'. Whether or not the tax was likely to apply to you, the argument went, it should be obvious on basic grounds of equity that it shouldn't apply to anyone.

As Graetz and Shapiro point out, the politics of taxation in the United States has traditionally relied on a relatively straightforward choice. Policies that allow individuals to hold onto their money and do with it what they like may be economically efficient, but they are not particularly fair: many people will end up with less than they need and perhaps than they deserve. Progressive taxes, which are more equitable, are nevertheless not so efficient at generating future wealth. You can't have it both ways. But both ways was exactly how the opponents of the estate tax did have it. As well as attacking the tax on the grounds that it stifled wealth creation, they also attacked it on the grounds that it was unjust in principle. This brazen – and from the outside baffling – proposition rested on three elements, which taken together turned the traditional logic of tax politics on its head.

The first step in portraying the estate tax as inherently unfair was to make it sound utterly callous. This was achieved by the simple expedient of rechristening it the 'death tax'. The champions of repeal worked tirelessly to ensure that no politician or political commentator sympathetic to their cause ever called the estate tax by its proper, relatively neutral name. The result was that, when the subject came up in one of the 2000 presidential debates, even Al Gore was forced to refer to it as the 'estate or death tax', so that his audience could be sure what he was talking about. Renaming it served two purposes. First, it conjured up the image of a ghoulish IRS hovering over deathbeds across the country, waiting to pounce on families when they were at their most vulnerable ('You shouldn't have to visit the undertaker and the taxman on the same day,' ran one of the slogans). Second, it made it sound as though the estate tax was primarily a burden on individuals seeking to pass on their wealth at the end of their lives, rather than a charge on those who planned to inherit it. This was crucial: it shifted attention away from the idea that unearned wealth should be subject to certain penalties, and towards the idea that the hard-working people who had earned the money in the first place were being penalised for their thrift and determination. It also focused attention on the stories that the enemies of the tax wanted heard: of family farms and businesses built up over the years and then suddenly dismantled because the demise of their founders left their heirs subject to a large cash charge on non-liquid assets. Never mind that the most obvious remedy for injustices of this kind was simply to raise the exemption levels (from \$650,000 for individuals and \$1.3 million for couples) rather than to abolish a tax whose revenue derived mostly from publicly traded securities and other liquid assets, and whose main burden fell on the richest 0.1 per cent of American society. The opponents of the estate tax weren't interested in the facts: they wanted to strike a chord, and they succeeded.

They also wanted to make sure their stance came across as a matter of principle, not just another piece of political horse-trading. As Grover Norquist, the godfather of the American anti-tax movement, puts it, 'you shouldn't be double-taxed when you die. That's principle. Well, taxes shouldn't be quite so high when you die; that's special pleading. The American people like principled arguments. They do not like special pleading.' This, at least, is the polite version of the argument. In an exchange on National Public Radio, the transcript of which is included in this book and is practically worth the price of admission on its own, Norquist went a stage further:

I think it speaks very much to the health of the nation that 70-plus per cent of Americans want to abolish the death tax, because they see it as fundamentally unjust. The argument that some who play the politics of hate and envy and class division will say, 'Yes, well, that's only 2 per cent,' or, as people get richer, 5 per cent in the near future of Americans likely to have to pay that tax. I mean, that's the morality of the Holocaust. 'Well, it's only a small percentage,' you know. 'I mean, it's not you, it's somebody else.'

After a bit more of this, Norquist's interviewer, Terry Gross, feels compelled to intervene: 'Excuse me. Excuse me one second. Did you just . . . compare the estate tax with the Holocaust?' Norquist starts to backtrack, but he doesn't get very far:

No, the morality that says it's OK to do something to a group because they're a small percentage of the population is the morality that says the Holocaust is OK because they didn't target everybody, just a small percentage . . . And arguing that it's OK to loot some group . . . or kill some group because it's them and because it's a small number, that has no place in a democratic society that treats people equally . . . When South Africa divided people by race, that was wrong. When East Germany divided them by income and class, that was wrong. East Germany was not an improvement over South Africa.

You might expect this to have been the point at which the repeal movement started to fall apart, given that the pro-repeal lobbyists were trying to recruit support from all areas of American society, not just the lunatic fringe. But Norquist was simply articulating, somewhat melodramatically, a line of argument that was crucial in extending the appeal of his campaign: the idea that the estate tax was not just 'double taxation' – taxing wealth once when it is earned and again when it is inherited – but also 'double discrimination'. Polling evidence found that the estate tax was especially unpopular among certain relatively disadvantaged minorities, including blacks and gays, because it could be portrayed as persecuting individuals who had already had to overcome discrimination and prejudice in order to accumulate their wealth. One of the most prominent supporters of estate tax repeal was the African-American billionaire Bob Johnson, who ran a series of newspaper ads that portrayed the tax as an attack on 'the entire black community':

Unlike most white Americans, many African Americans who accumulated wealth did so facing race discrimination in education, employment, access to capital, and equal access to government resources. In many cases, race discrimination was supported by governmental policies and failure to enforce equal rights law. It is unfair and unjust for the government through the estate tax to seize a portion of the estate of the individuals it failed to provide equal opportunity.

The same sort of argument was tried out, with startling success, on gay and lesbian voters in the 2000 presidential election. Once the estate tax had been depicted as a form of 'discrimination', and voters reminded that successful gay and lesbian couples were already discriminated against by not being free to take advantage of marital tax deductions, polls discovered that 82 per cent of gays and lesbians were in favour of estate tax repeal, even though the vast majority were also supporters of Al Gore.

The only way this strategy could work, of course, was for the estate tax to be viewed in complete isolation from any wider questions of social solidarity between the wealthy few and the disadvantaged many, within and across various minorities. Thus the final tactic adopted by the advocates of repeal was to insist that the estate tax was a one-off 'injustice', quite different from any of the more traditional questions of just distribution that might crop up when considering the tax burden as a whole. Making estate tax repeal an all-or-nothing issue was a way not only of turning it into a matter of principle, but also of separating it out from the complex negotiations that underpin tax politics more generally. Norquist likes to view all government taxes as wicked per se; but he has also come to understand that the best way to get rid of them is to treat them

separately, as discrete instances of injustice. This approach was made easier by the readiness of the media and many politicians to focus on individual stories of hardship, and to ignore anything more complicated. Nevertheless, it had its inevitable limits when it came to the extremely messy business of drafting the legislation that would formally abolish the estate tax. The final package of measures that George Bush got through Congress in 2001 totalled \$1.35 trillion of tax cuts, of which the repeal of the estate tax contributed only about a tenth. The compromises needed to get the bill passed meant that the estate tax could only be wound down in stages, with final repeal coming into effect in 2010. Moreover, the bill as a whole included a sunset clause, which requires all its measures to be revoked in 2011. So although the enemies of the estate tax got what they wanted in 2001 – a law that kills it – the way they achieved this meant that the tax would only be off the statute books for a solitary year at the end of the decade, after which the whole issue could be up for grabs again.

This raises Graetz and Shapiro's second question. Even though estate tax repeal was presented to the public as a principled struggle for justice, in the end what had to be sold to the various interest groups who stood to benefit was a tricky gamble. By insisting on total repeal, but at the cost of having to accept a sunset clause, the opponents of the tax ruled out the alternative strategy of trying to get a permanent alteration to the exemption levels. The dangers of this approach soon became clear, once the budgetary surpluses inherited by the Bush administration disappeared, to be replaced by ever increasing deficits. When total estate tax repeal was agreed in 2001, the rosy fiscal position of the federal government made it look like an affordable experiment: were the question of total repeal to be reconsidered in 2011, after a decade of war and a deepening social security crisis, it might well appear an unaffordable indulgence. Why then didn't the many individuals who could have been just as effectively rescued from the tax by the exemption levels being raised argue for permanent reform rather than temporary repeal, leaving it as a burden on the super-rich elite only? After all, since the revenue derived by the tax was mainly paid by the super-rich anyway, there was an incentive on both sides to reach a deal of this kind, leaving the tax in place while drawing the sting of its popular opponents.

The answer to this question is the most old-fashioned one of all: money. For the super-rich, the gamble of seeking a repeal of the tax rather than a readjustment of the exemption levels made sense, since they had everything to gain, and very little to lose if the plan backfired (as one of them put it, it would take exemption levels of at least \$50 million to get the seriously wealthy interested, and perhaps not even then). But for the merely well-off, the danger of the repeal being overturned and the tax returning at its old levels was a serious one. So the super-rich used the extra money at their disposal to push for their preferred option, by funding lobbyists and think-tanks, making campaign contributions, and paying for all the polls, surveys and other studies that made total repeal appear irresistible. It helped that there are now a lot more seriously wealthy individuals in America than ever before, including in the higher reaches of the insurance industry, which might otherwise have been expected to come out against repeal (insuring against the effects of the estate tax had been big business for the industry, yet that didn't stop its big businessmen, mindful of their own estates, from seeking to abolish it). But in the end, given the sums of money available, it did not need many champions of total repeal to tip the balance, once it was clear that a few were willing to pay for what they wanted.

One aspect of the mystery remains, however. Not every member of the super-rich elite supported repeal. There were some who hated the idea, including William Gates Sr (father of Bill), Steven Rockefeller, George Soros and Warren Buffet. What is more, the Democratic Party was squarely against the proposal, and wanted to prevent it. Given that the alliance that had been formed to push repeal through was so obviously flaky, and vulnerable to the skilful exploitation of the differences between its members, why didn't the opposition do more to break it up? The answer is

a mix of complacency, incompetence and ideological slippage. For the most part, the Democratic Party didn't believe that estate tax repeal was ever going to happen, because it was such an obviously minority interest. Once they woke up to the fact that the plan had wide popular support, they thought that it could easily be countered by pointing out that the tax applied only to the richest 2 per cent of Americans. This was a catastrophic error. It played into the hands of the champions of repeal, by making them sound principled, and their opponents whiny and self-interested (this is what Norquist was playing on in his Holocaust rant). Similarly, it didn't help trying to explain that 'double taxation' was nothing to get excited about, since it was so commonplace (the same individuals can be taxed on income, consumption, capital gains and so on). This made repeal of the estate tax sound exactly what its supporters wanted it to sound like: the first step in a war against the widespread duplicity of the tax system. By the time a few opponents of repeal started to make the case on more principled grounds, arguing that the estate tax was a crucial part of the American conception of giving everyone a fair chance in life, it was already too late. Graetz and Shapiro draw a blunt lesson from all this, designed to send a chill through the hearts of progressive politicians everywhere: 'In politics, when you're explaining, you're losing.'

Part of the problem for the Democratic Party was that their enemies seemed to have all the best stories when it came to the estate tax: all those tales of hard-working families striving to make their way in the world, until the grim reaper conspires with the taxman to scatter their modest fortunes to the winds. But were there really no stories to throw back? Graetz and Shapiro suggest that a similar campaign could have been run by the opponents of repeal, highlighting a few of the many instances of wholly worthless individuals inheriting a large chunk of unearned wealth on no basis other than an accident of birth. It has to be said, however, that the way Graetz and Shapiro lay out this option is indicative more of the problems liberals have with confronting the dark arts of their opponents than it is of any likely solutions. They identify Paris Hilton and Nicole Richie, stars of *The Simple Life* (a TV show which sent the super-privileged pair out to encounter ordinary Americans and observe the hilarious results) as possible poster-children for the absurd injustice of inherited wealth, citing the *New York Times* verdict on the two as 'ditsy', 'ignorant' and 'pampered'. Unfortunately, this rather misses the point (as well as sounding impossibly po-faced), which is that these ditsy and ignorant girls are smart enough to have played on their image as undeserving fools to make themselves a stack of money. Paris Hilton, who has parlayed her inadvertent appearance in a homemade porn movie (the touchingly entitled *One Night in Paris*) into enough notoriety to make herself a successful global brand, was recently the subject of a profile in the selfsame *New York Times*, praising her business acumen. When Graetz and Shapiro try to ram home their point by mentioning a celebrated moment in the first series of *The Simple Life*, which saw Paris asking an Arkansas family, 'What is Wal-Mart? Is it, like, where they sell wall stuff?', they risk getting the response that po-faced liberals should dread most of all: can't you, like, get a joke.

It would be better, surely, to adopt a strategy that Graetz and Shapiro rule out as much too extreme, which is to find some examples of well-known criminals who came into a stack of money, like Michael Skakel (the Kennedy cousin who was convicted of murdering Martha Moxley), and run with the slogan: 'Bush favours tax breaks for rich murderers.' They say, bafflingly, that 'the anti-repealers need not have mimicked Lee Atwater' (the mastermind behind the notorious Willie Horton ads which helped win George Bush Sr the presidency in 1988), when all the evidence in their book suggests that the defenders of the estate tax needed to use every weapon at their disposal. But they are certainly right when they suggest that the anti-repealers needed to find a better symbol for their campaign than the one they ended up with: the earnest, well-meaning and wholly inappropriate figure of Bill Gates Sr. It more or less defies belief that the many champions of the estate tax were happy to leave Gates to make the case against repeal,

allowing their cause to be identified with a man who not only spoke for the wealthiest family on earth (which made it hard for him to claim that he spoke for ordinary Americans), but who was also in the unique position of having more or less acquired his privileged position in American society from his son, rather than the other way round. The only conclusion one can draw is that the other prominent opponents of repeal, like Warren Buffet and George Soros, just weren't that bothered about the matter. Certainly, the gravest disadvantage faced by the Democrats on this issue, as on so many others in recent years, was that they were not able to summon the energy, resolve or resources from among their supporters that the Republican Party seemed able to tap into almost at will.

This, though, simply points to the deeper difficulty that Graetz and Shapiro identify. The Republicans made headway on the estate tax issue in the 1990s by the simple expedient of holding their ground, while the Democratic Party, under Bill Clinton, moved the goalposts their way. This book contains, at the end, a withering critique of Clinton's strategy of 'triangulation', which left his legacy (including those large budget surpluses) vulnerable to the cruder, but also far shrewder, tactics of anti-tax die-hards like Grover Norquist, who simply bided their time. As Graetz and Shapiro explain,

there is a world of difference between triangulation and Norquist's calculating pragmatism. Norquist never considers compromises that threaten his strategic goals. Triangulation may be an effective tactic in isolation, but it becomes a disastrous long-term strategy whenever it is manifestly opportunistic – devoid of any clear moral purpose. Indeed, pursued for its own sake, triangulation undermines your strategic objectives if it does not displace them entirely.

In the case of the estate tax, the consequence of a decade of triangulation was that when Bush came to push for his record tax cuts in 2001, even though he had come into office with less electoral legitimacy than any president in modern history, the Democrats found themselves fighting the battle entirely on Republican terms. In order to agree a position they felt they could defend, 'the same people who had previously advocated lowering the exemption to \$200,000 in order to fund Medicare enhancements were now endorsing an increase in that tax threshold to as much as \$5 million to forestall outright repeal.' The response of the forces of estate tax repeal was to suspect, with good reason, that if they refused to budge, their opponents would eventually crumble, which they did.

Still, the battle to overturn the estate tax is not over yet. In order to forestall the dangers of the 2011 sunset contained in the original legislation, the issue was recently brought back to Congress, where the House of Representatives voted by 272 to 162 to make the repeal permanent. The matter now goes to the Senate, where a final compromise may be required in order to prevent a threatened Democratic filibuster. Nevertheless, the likely nature of that deal can be gauged from the fact that the Republicans are talking about minimum exemption levels of \$10 million per person, on a flat rate of 15 per cent (the original tax had progressed to considerably higher rates for larger estates). But as Graetz and Shapiro point out, this argument is no longer just about the estate tax. The astonishing success of the champions of repeal, in pushing their agenda to the point where a compromise looks a lot like the very thing they were after, is a harbinger for the future. Campaigners like Norquist have never been interested only in the estate tax: they have larger targets in their sights, including the income tax itself. It may seem absurd to think that a mass democracy like the United States could be contemplating abolishing income tax, or even

simply moving to a flat-rate system. But for a long time it seemed absurd that the estate tax could ever be permanently repealed. And now it is only a small step away.

This is not simply a story about the United States. Many aspects of it are distinctively American – the power of the lobbyists, the astonishing reach of the think-tanks, the sheer amounts of money involved – but the moral of the tale is far wider than that. For example, unlike many of the other advances made by radical conservatism in the US, this is not a story in which religion plays much of a part. (Though it is true that by rechristening the estate tax the ‘death tax’, its enemies may have succeeded in tapping into the widespread sense that the dead are still with us, and have interests that need protecting.) Instead, this is a tale about the power of narrative in politics, and the increasing ease with which individual stories can be made the be-all and end-all of political debate. The new information technology, with its cascades of rumour and limitless outlets for personal histories, is more often than not the enemy of informed public discussion. In the face of an endless readiness on all sides to heed the unmediated voice of personal experience, it has become harder to sustain the bigger picture needed for any plausible defence of progressive politics. This shifts politics, inexorably, to the right. In Britain, during the recent election campaign, the battleground for this newly personalised form of politics was not tax, but defence, immigration, terrorism, security and crime, where all the arguments were played out on Tory territory. In due course, when the Tories recover their nerve and the state of the economy starts to place Gordon Brown’s reputation under pressure, the argument will move on to tax.

It is worth considering what then will be the price of the triangulations of the Blair years, the abandonment of principle, the remorseless pragmatism, the cynical disregard for constitutional proprieties. Too much attention has been focused in recent months on the legacy Blair is likely to leave for Brown, when what really matters is the legacy the Labour government leaves for the next Tory government (and the next party to govern Britain will be the Conservatives, unless the electoral system is changed). The example of the transition from the Clinton years to the Bush years is a salutary one. Clinton left an open door for his opponents to march through, by draining his supporters of their resolve, and hardening it among his enemies. He also acquiesced in the personalisation of politics, without finding a convincing narrative to counter the stories of injustice on which the Republican Party chose to feed. In the end, he made it too easy for them to undo his good work, and he destroyed the short-to-medium-term electoral prospects of his party in the process. Can anyone in Britain say with any confidence that Blair won’t turn out to have done the same?

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