The Impact of Estate Taxes on Forest Stewardship

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The Peril Posed by the Estate Tax

America is blessed with rich and magnificent forests—and the almost incalculable benefits that those forests bring. We build our homes with timber from Southeastern loblolly pines and western Douglas fir trees. We hunt and hike in the forested valleys of the Great Smokies and the north woods of the Midwest. We drink water that has been cleansed by woodland canopies and roots. American forests also provide more than a million jobs, and harbor thousands of varieties of plants and animals—including many imperiled species.

Yet, while Americans may understand the importance of forests, few realize that 35 percent of the nation’s woodlands—or 279 million of America’s 797 million acres of forest—are owned by 11 million families and individuals. These family owners are people like Tom and Leslyn Jacobs, who have worked hard for decades to steward 800 acres of forest in Wisconsin’s north woods (see p.9). The Jacobs’ land helps supply the state’s wood and paper industries and offers vital habitat for wildlife.

Family forests are under threat—from natural perils such as invasives, drought, and wildfire, and from estate taxes that can force owners to harvest prematurely and sell off parcels to pay the tax bill. Smaller forest parcels impact water quality, wildlife habitat, and rural economies supported by forestry.

Fifty-seven million acres of private forest land are threatened by development within the next two decades.¹ At the same time, America is facing an unprecedented transfer of forest land to the next generation. More than 60 percent of private forest owners are 55 years or older, and own a total of 170 million acres. More than 15 percent—accounting for 52 million acres—is owned by someone 75 years or older.²

When family forest owners die, their heirs can be hit with a staggering tax bill—such as the $1.7 million tax bill that Elizabeth Marshall Maybee received after her grandmother passed away in 2005 (see p. 6). America’s woodland owners—82 percent of whom make $100,000 or less per year³—don’t have that kind of cash lying around. Faced with a big...
25% of fresh water comes from private forests

60% of at-risk wildlife depends on private forests for habitat
estate tax bill, people like Maybee are forced to sell land or timber to pay the Internal Revenue Service.

Selling off parts of the cherished family forest is “heart-breaking,” says Maybee. These losses, though, aren’t just personal. All Americans are the losers when family forests are converted to other uses. Vital wildlife habitat is lost, crucial air- and water-filtering services are gone, and important recreational areas disappear. When forests are lost, “there are a lot of impacts, and very few of them would be considered good,” says Susan Stein, private forest land studies coordinator at the U.S. Forest Service.

Yet, family forest owners are disproportionately hit with the estate tax. The reason is simple. As Russ Shay, director of public policy at the Land Trust Alliance explains, “land and timber have become much more valuable than they used to be.” When a family holding is surrounded by development, its value when sold into housing lots and shopping centers climbs into the millions of dollars. Moreover, trees can be surprisingly valuable. “I have a black walnut on my property worth $50,000 and I’ve hugged trees worth $250,000,” says Shay. “With very expensive real estate and very expensive trees, the value can add up fast.”

And because most of the wealth these families typically have is tied up in the forest land, it’s often difficult for the heirs to pay the tax if they keep the forest intact. In a study published in the Journal of Forestry in 2006, Forest Service tax expert John Greene and colleagues found that in 42 percent of the cases where estate tax was due, timber or land had to be sold to pay the tax.

Since that first study, Greene,
Tom Crowder’s grandfather had a passion for the land and the outdoors. He had 6,000 acres of pines and bottomland hardwoods teeming with songbirds and other wildlife in south central Arkansas. Crowder’s grandfather also worked hard to improve the land, starting family traditions of planting trees and harvesting the wood sustainably. “We’ve created an older, very mature, very diverse forest that offers benefits for everything from wildlife diversity to the high quality of timber we produce,” Crowder says.

Indeed, large parts of the forest look like a beautiful park, with towering 80-year-old loblolly and longleaf pine trees. And the land is full of family history and memories. “I grew up on the property. It was incredible,” recalls Crowder, now 31.

Because of the estate tax, however, things have changed on the property. When Crowder’s grandmother died in 1998, leaving the property to her four daughters, the Internal Revenue Service (IRS) said it was worth millions of dollars. Since the IRS calculates property value as including the value of the timber, the family was essentially being penalized for their careful stewardship. The forest had been managed so well that the timber alone was worth millions of dollars.

As a result, the tax bill was huge. “No one in the family had the cash to pay it,” says Crowder. “The only option was to sell the land or the timber—and the family didn’t want to sell the land.”

If the IRS had insisted on quick payment, the family would have been forced to harvest large swaths of the forest at unsustainable levels. Instead, the government allowed payment over 15 years, which helped. But then timber prices dropped by more than half. “So every year, to meet the annual payment, we had to cut more and more,” says Crowder. “For 15 years, not a single penny came off of the property that didn’t go to the IRS.”

To Crowder, the harmful consequences of the estate tax seem painfully obvious. For generations, his family managed the land to create the healthiest, most diverse forest possible. The family has followed rigorous management standards as a certified Tree Farm within the American Tree Farm System®. In doing so, they not only built a legacy they hoped to pass along in the family, they also benefited society by contributing to clean water, clean air, and wildlife habitat. Yet, because of these efforts, their estate tax bill was higher than if they had exploited the land. “I don’t think we should punish those people who take these issues to heart,” says Crowder.

The family’s estate tax bill is finally paid off, and Crowder is working to restore the family’s woodland by replanting hundreds of acres. “We’re not expecting any kind of return for a decade,” he says, “but our passion for taking care of the forest goes on.”
Two million dollars is a lot of money. It’s certainly far more than Elizabeth Marshall Maybee, who raised three children on a rural schoolteacher’s salary, could ever afford. “I don’t have very much income myself,” she says.

But $2 million was the tax bill she got from the IRS after her grandmother died in 2005, leaving Maybee and her brothers a 3,000-acre Northern California ranch that has been in the family for more than 130 years.

After years of legal challenges and thousands of dollars in fees, Maybee was able to get the estate tax bill trimmed only slightly, to $1.7 million. Her only hope of paying the bill: sell off parts of the property. “It’s heartbreaking to sell the property,” she says. “The estate tax could be the death knell for this ranch.”

Chopping up the land would be a serious blow not just to the coho salmon that depend on the pristine stream that runs through the rugged property or to the other wildlife that thrive on this vast, wild expanse of land. It would also bring an end to generations of careful family stewardship—and would dash Maybee’s hopes of creating a nature camp for children. “There’s a pride that comes from keeping the land ownership in the family and knowing that the blood, sweat, and tears of your ancestors have gone into it,” Maybee says.

Located in Humboldt County, the land was originally homesteaded in the 1880s by Maybee’s grandfather’s grandfather. Subsequent generations made their living cutting timber and raising sheep and cattle on the property. Now Maybee gets just enough income to pay the property taxes by renting space for a cell phone tower, along with leasing hunting and grazing rights. “It doesn’t make much money,” she says. Yet, the family keeps investing in the property, most recently planting hundreds of redwood trees.

Unfortunately, the 49-year-old Maybee is not the only American whose efforts to keep an environmentally valuable property intact and in the family has been lost to the consequences of the estate tax. Her story also highlights how arbitrary—and even unfair—the tax can be.

Maybee was hit with a double financial whammy. When her grandmother died, inherited property was taxed at a rate of 47 percent on everything over $1.5 million. If her grandmother had lived until 2012, Maybee’s tax bill would have been on anything above $5.12 million.

The second financial hit was land values. In 2005, when Maybee inherited the property, Humboldt County land values soared, but have since dropped. Unfortunately, Maybee’s estate taxes are based on the high 2005 value, even though she’s now forced to sell at much lower prices, to pay the estate tax. She and her family have talked about giving the land away to the state or to environmental groups. But they worry it might ultimately be split apart or degraded. “Family stewardship really is the best way to retain rural land holdings,” says Maybee.
Brett Butler (co-leader of the Family Forest Research Center, a collaborative effort between the U.S. Forest Service and the University of Massachusetts-Amherst), and other researchers have been probing deeper into the impact of the estate tax. In recent focus groups, they heard several tales of families being hurt by the tax. One focus group participant described how after a friend’s father died, “he lost about half of all that timberland they had. And it was thousands and thousands of acres. He had to sell just to pay the tax.” If Congress does let the exclusion revert back to $1 million, said another participant, “that’ll be devastating for family forestland owners.”

Not only would it be devastating to family forest owners, but also to the myriad benefits that Americans rely on from private forests. As the U.S. Forest Service noted in a 2010 nationwide assessment, “[f]orest fragmentation—resulting in part from the intergenerational transfer of ownership… increases the difficulty of addressing all types of forest health issues.” These forest health issues include insects and disease, wildfire risks, and carbon storage, coupled with the reduction of the economic benefits derived from private forests.

Butler is currently leading a research effort in several states to assess the impacts of various estate tax scenarios on families who own forest land. The preliminary results of the first phase of that research, from Minnesota, are troublesome. (More than 5.3 million acres of Minnesota’s forestland are owned by 194,000 family forest owners.) If the estate tax reverts back to a $1 million exemption level, roughly 6,000 family forest owners and 1.6 million acres—30 percent of the family-owned forestland in the state—could be at risk.

Given the aging demographics of forest owners, this isn’t some distant threat; much of this land will be passed to the next generation in the next decade. In addition, if land values continue to rise, the number of families and forested acreage impacted by the estate tax will increase.

The researchers expect to see similar results in other parts of the country, portending dire consequences for families, for clean water, for wildlife, for carbon storage, for rural economies, and for America’s forest heritage. “If you care about keeping our forests as forests, you should be concerned about the estate tax,” says Bettina Ring, Senior Vice President, Family Forests, at the American Forest Foundation.

### ESTATE TAX LEVELS: IMPACT IN MINNESOTA

**Amount of forest at risk: 1 tree = 5,000 acres**

<table>
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<tr>
<th>Amount of Forest at Risk</th>
<th>If the estate tax exemption reverts back to $1 million with a 55% tax rate, 1.6 million acres of Minnesota forests could be at risk.</th>
<th>If the estate tax exemption is set at $5 million with a 35% tax rate, 250,000 acres of Minnesota forests could be at risk.</th>
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At a minimum, Congress should extend the $5 million exemption level for estate taxes, and adjust it for inflation. This limit must be made long-term or permanent, to enable family forest owners who have estates larger than the limit to take steps to reduce or eliminate the tax burden for their heirs.

Congress should also rectify problems with the “special use valuation” provision of the estate tax law. Designed to help preserve family forests and farms, this provision allows owners to more fairly value their property for estate tax purposes.

Here’s how the special use valuation works: For someone who owns 3,000 acres of forest in Georgia or Wisconsin, that land might be worth $2,500 per acre if carved up into vacation homes or shopping centers. That’s a value of $7.5 million for the whole property. But, to keep it as a forest, the property is worth $1,750 per acre, or $5.25 million for the whole property. Under the estate tax, heirs would usually be required to pay the tax on the highest and best use value of the property, even if they never intend to develop it. With an exclusion limit of $5 million, heirs would face a tax on that extra $2.5 million; or $875,000 at the current 35 percent tax rate.

The special use valuation provision, however, allows family forest owners to value the land as forest—which would often be worth considerably less than developed land. In the current version of the provision, a family can reduce the value by up to $1.04 million. In this particular case, heirs would pay tax on $250,000, or $87,500 at the 35 percent rate.

While this provision theoretically helps family forest owners reduce their estate tax burden, in reality many owners are not using the provision. Why? To be eligible, heirs cannot harvest any trees or sell any land to a non-family member for 10 years after they acquire the land. If they do, they lose the special use tax advantage and have to pay the extra

Forests are being broken up into smaller parcels at increasing rates, making it more difficult to sustain healthy and productive forests. The number of owners of 10 to 50 acres of private woodlands roughly doubled between 1978 and 1994, to 4 million. The number now totals 8 million. This makes it more crucial than ever that the federal government remove barriers like the estate tax that make it more difficult for family forest owners to keep their forests intact.
Tom and Leslyn Jacobs never dreamed they would have to worry about the estate tax. But by working hard and living frugally for decades, they’ve managed to acquire enough Wisconsin land that this tax is now a major concern. Their more than 800 acres of land includes stands of cedar, hardwoods, and towering white pines; along with ponds, a pristine spring, a beautiful creek, and a six-acre bluestem prairie. Both bears and timber wolves roam their property.

The couple hopes to keep the land intact, as a source of wood for the state’s timber and paper industries, and a supplier of clean water, prime wildlife habitat, and hunting grounds. But the Jacobs worry that the estate tax may make that impossible.

Land prices have increased since Tom and Leslyn bought much of their property. Their holdings are now worth millions of dollars—enough to potentially trigger a huge tax bill when their children inherit the land. “I think about the estate tax all the time,” says Tom. If Congress cuts the current estate tax exclusion level from $5 million to $1 million, “I’d ask myself, why would I ever have done this,” he says. “I might as well just sell the land and buy Corvettes or take trips to Europe.”

But that’s not the Jacobs’ nature. Tom grew up working and hunting in the forest. He earned a degree in forestry and married another forester. “All we had back then were school loans, my pickup truck with 160,000 miles and Leslyn’s old ’72 Chevy,” Tom recalls. Buying land seemed like a distant dream.

But in 1984, a banker who was a buddy of Tom’s agreed to loan the Jacobs $40,000, and they bought their first 80-acre property.

Through timber sales and years of hard work, the Jacobs paid off the loan. Then another woodland property came on the market, and the Jacobs took out another loan and got 160 more acres. The pattern repeated, and the Jacobs’ holdings grew. Their last purchase was two years ago, from a family Tom knew. The parents passed away and, ironically, the children had to sell the property to pay the estate taxes—even though they wanted to keep it.

The Jacobs, certified Tree Farmers, have taken care of their holdings. They’ve built trails and access roads, planted thousands of trees, cut timber to improve the health and diversity of the forests, and built a cabin with their own wood. “We’re working all the time, but we enjoy what we are doing,” he says.

The majority of the family’s wealth is in their forestlands, so they don’t have the financial resources to cover a major tax bill. Tom and Leslyn are already thinking about what land they might have to sell so their son and daughter can pay the estate taxes. But they would much rather keep their land intact. “Wisconsin has some of the greatest well-managed, private forests in the country,” Tom says. “We need to keep them that way.”
Taxes with interest. This requirement also discourages active, sustainable management of family forests that keeps forests healthy and productive, and benefits all Americans.

The American Forest Foundation is advocating for changes to the special use provision, so more forest owners will take advantage of a reduced estate tax, which will help them avoid the financial hardship landowners across the country (such as those profiled here) have experienced. In a bill recently introduced in the House of Representatives, the Keep the Forest and the Farm in the Family Act of 2012, supported by the American Forest Foundation and more than 50 other organizations, heirs could continue to harvest timber as long as they have a forest stewardship plan or a third-party certification (such as the American Tree Farm System®) as a sustainable forest, or if owners work with a professional forester. The legislation would also increase the maximum reduction in forest or farm estate value allowed.

“The problem is most policy makers don’t unpack the ‘tax cuts for the wealthy’ and analyze what is within this package of taxes,” says Tom Martin, President of the American Forest Foundation. “The estate tax is not just about the ‘1 percent’, as many claim; it’s a forest conservation issue that could impact millions of acres of forest, if Congress doesn’t act.” Families, not the federal government, and not industry, own most of America’s forests. All of us depend on these forests for clean air and water, wildlife habitat, carbon storage, wood products, and good-paying jobs in rural communities. The debate about estate taxes needs to acknowledge the myriad of public benefits private forest lands provide, and the unprecedented transfer of private woodlands America is facing.
As the next generation is poised to inherit millions of acres of forest land, we need to ensure they can keep the forest in the family. The way to do that is with an estate tax exemption of $5 million adjusted for inflation, taxed at 35 percent above $5 million, and common-sense changes to the special use valuation to support sustainable forestry on family forests.
The American Forest Foundation (AFF) works on-the-ground with families, teachers, and elected officials to promote stewardship and protect our nation’s forest heritage. In partnership with local, state and national groups, AFF gives America’s family forest owners the tools they need to manage healthy and sustainable forests.

We grow stewardship every day.

Footnotes:
2 Ibid.
10 Data sources: Forest area – USGS National Land Cover Database 2001; Ownership – CSI Protected Areas Database. Version 4.0; State and counties – ESRI Data & Maps 2006. Produced by: USDA Forest Service, Northern Research Station; Forest Inventory and Analysis, Family Forest Research Center; Brett J. Butler (21-May-08)

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