

## THE AMERICAN PROSPECT

A Real Killing

T@P *Death by a Thousand Cuts* is an excellent autopsy of the “death tax.”

By David Cay Johnston

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*Death by a Thousand Cuts: The Fight Over Taxing Inherited Wealth* by Michael J. Graetz and Ian Shapiro (Princeton University Press, 392 pages, \$29.95)

This book about the unlikely success of a small band of the anti-tax rich and their hired hands in attacking the estate tax, the most progressive element of the federal tax system, is public-policy reporting at its best. But *Death by a Thousand Cuts* is much more. It is also an important manual on moral arguments in contemporary politics. And taxes are moral issues.

The authors are Yale professors -- Michael Graetz an influential commentator on tax policy and Ian Shapiro a leading political theorist. They combine their specialties well to explain the rise of a movement dedicated to shifting the burden of taxes off of rich dead people and onto living wage earners. For now repeal will last just one year, in 2010, but the authors seem to think President Bush will win permanent repeal.

“Looking back, the most remarkable feature of repeal was what a long shot it was at the start,” Graetz and Shapiro write. That shot began in 1992 with Patricia Soldano, who manages the fortunes of several rich families. What motivated Soldano most was the awful experience of a client stricken with ovarian cancer at 38 who spent her final days racing to complete her estate-tax plan. Outraged, Soldano wanted to end such deathbed agonies.

One fundamental that estate-tax opponents grasped is that those who frame the debate also frame the assumptions that go into most news coverage. The reason is practical: Most reporters, especially political reporters, are generalists who rely on the popular symbolism of the moment to make their stories clear and accessible. Change the lens through which an issue is seen, reframe the terms of the debate, and presumption is on your side. Cleverly, and inaccurately, attacking the estate tax as the “death tax” was a key to success. There is no tax on death, though many Americans now believe otherwise. The estate tax, and the gift tax, are levies on the transfer of large fortunes.

President Bush frequently denounces the “death tax” as immoral double taxation. He has not made the same argument against Social Security, Medicare, gasoline, and excise taxes, which, combined with the federal income tax, can be

seen as quintuple taxation of the same dollar. And the truth is that many estates consist of wealth that has never been taxed, as Bill Gates well knows. (Appreciated assets, until sold, are not subject to taxation.) But left unchallenged, these presidential claims become political truths.

By casting the estate tax as an indefensible affront to the American dream, a levy that destroys family businesses and family farms, repeal advocates kept the focus on those who build fortunes. Few asked about other moral concerns: Would repeal burden the unrich? Would it hurt economic growth and innovation? What about idle heirs? Fortunately for the enemies of the estate tax, while the anti-tax Republicans stuck to their agenda, the Democrats did not have a clue. The authors write of the “weakness and ineptitude” of Democrats who defended the estate tax with statistics. Democrats spoke in the arcane tongue of the wonks, a deceptive breed of smarty-pants said by President Bush to infest that strange land on the other side of a barrier to common sense known as the Beltway.

Graetz and Shapiro also suffer from wonkspeak, spilling far too much alphabet soup on their cogent arguments, although a cheat sheet reminds the reader what QFOBI, FBETC, and other uppercase strings mean. They argue that Bill Clinton and other centrists, practicing what *Prospect* Co-Founder and former U.S. Labor Secretary Robert B. Reich calls midpoint “triangulation” between the two parties, were responsible for the failure of Democrats to frame taxes in moral terms.

“Triangulation,” the authors write, “may be an effective tactic in isolation, but it becomes a disastrous long-term strategy whenever it is manifestly opportunistic - - devoid of any moral purpose.”

After recounting how Frank Luntz taught his Republican clients to frame the issue in simple, memorable, and moral terms, Graetz and Shapiro say defenders of the estate tax failed to draw on the kind of argument used by the tax’s original Republican champion. “No one,” they write, “has effectively made the case that Theodore Roosevelt did nearly a century ago on behalf of taxing inheritances. Roosevelt’s claim that the man of great wealth owes a peculiar obligation to the state because he derives advantages from the mere existence of government, now seems quaint. Today it would quickly be labeled class warfare.”

Graetz and Shapiro then devote a chapter to showing that there is much more to the success of the estate-tax repeal than “well-funded activists and their pollsters.” “Behind the success of the movement lies a much larger trend in American political culture,” they write. They call this trend “exploiting the think tank gap.” Repeal advocates benefited from ideological marketing by The Heritage Foundation and other organizations that the news media routinely describe as conservative, even though their policy arguments are sometimes radical and ahistorical.

What does it signify that no Democrat (or anti-repeal Republican) has articulated a memorable and moral argument for retaining the estate tax? Does it really require marketing consultants to tell the 99 percent of Americans who will never pay this levy that repeal means they will be taxed more so that Paris Hilton can cavort tax-free? Are the advocates of the estate tax incapable of saying that the choice is between helping strivers and helping those who Donald Trump calls members of “the lucky sperm club”? Or, to paraphrase Warren Buffett, that estate-tax repeal is the economic equivalent of choosing our next Olympic team from among the children of past gold-medal winners instead of who runs the fastest today? Can Democrats and moderate Republicans spell M-E-R-I-T?

Estate-tax repeal, Graetz and Shapiro note, is not the endgame, just a beginning. “Make no mistake,” they write, “Estate tax repeal, along with the fair tax, movement and its cousin the flat tax, campaign, are key pieces of a three-decade effort to fundamentally restructure our nation’s tax system by eliminating all taxes on wealth and income from wealth.” The authors seem to expect a future in which America will have a government of the rich, by the rich, for the rich -- and voted in by people who are not.

There is, legally, nothing to prevent that result. Article 1, Section 8 of the Constitution gives Congress nearly unfettered power to tax. The Founding Fathers approved of broad taxing power because they understood that taxes were a political and moral matter. Alexander Hamilton and James Madison both wrote about the danger that those in power would design taxes to punish the opposition. But just as the Framers did not envision machine guns in crafting the Second Amendment, they did not foresee ideological marketing. What they understood -- and leaders of both parties today either never learned or ignore -- is that taxation based on ability to pay is a moral principle, intertwined with the history of democracy since ancient Athens.

Is it conservative to overturn that democratic principle? Is it moral to let the Mars, Gallo, DuPont, Newhouse, Pritzker, Heinz, Edwards, Cheney, and Bush children inherit fortunes tax-free while single individuals who work full time pay income taxes once their earnings reach \$3.52 an hour? Or is it, as Grover Norquist asserted in a radio debate with me last year, irrelevant that taxation based on ability to pay is the most conservative principle in Western civilization, because America is not a part of Western civilization but an entirely separate -- and radical -- society?

Those who want to know how to think about these questions should spend a few evenings with *Death by a Thousand Cuts*.

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