Occupy the Estate Tax

by

Paul L. Caron
Charles Hartsock Professor of Law
University of Cincinnati College of Law

We have never needed a robust estate tax more than we do today. There are several reasons – I only have time here to consider two.

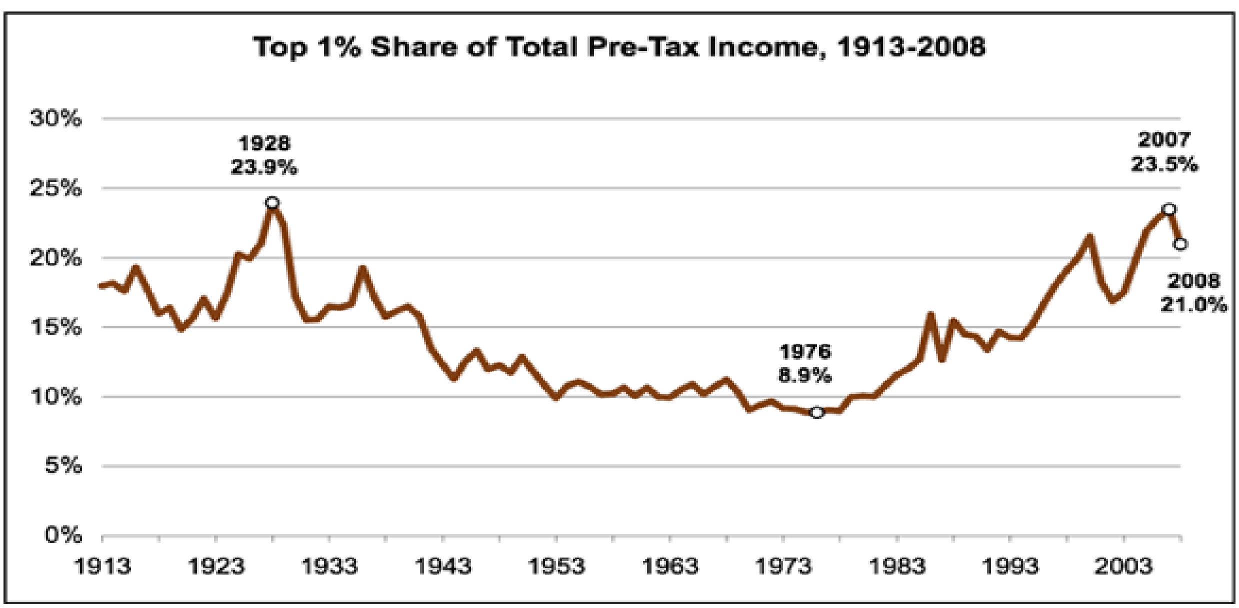
First, we have never needed the revenues from an estate tax more.

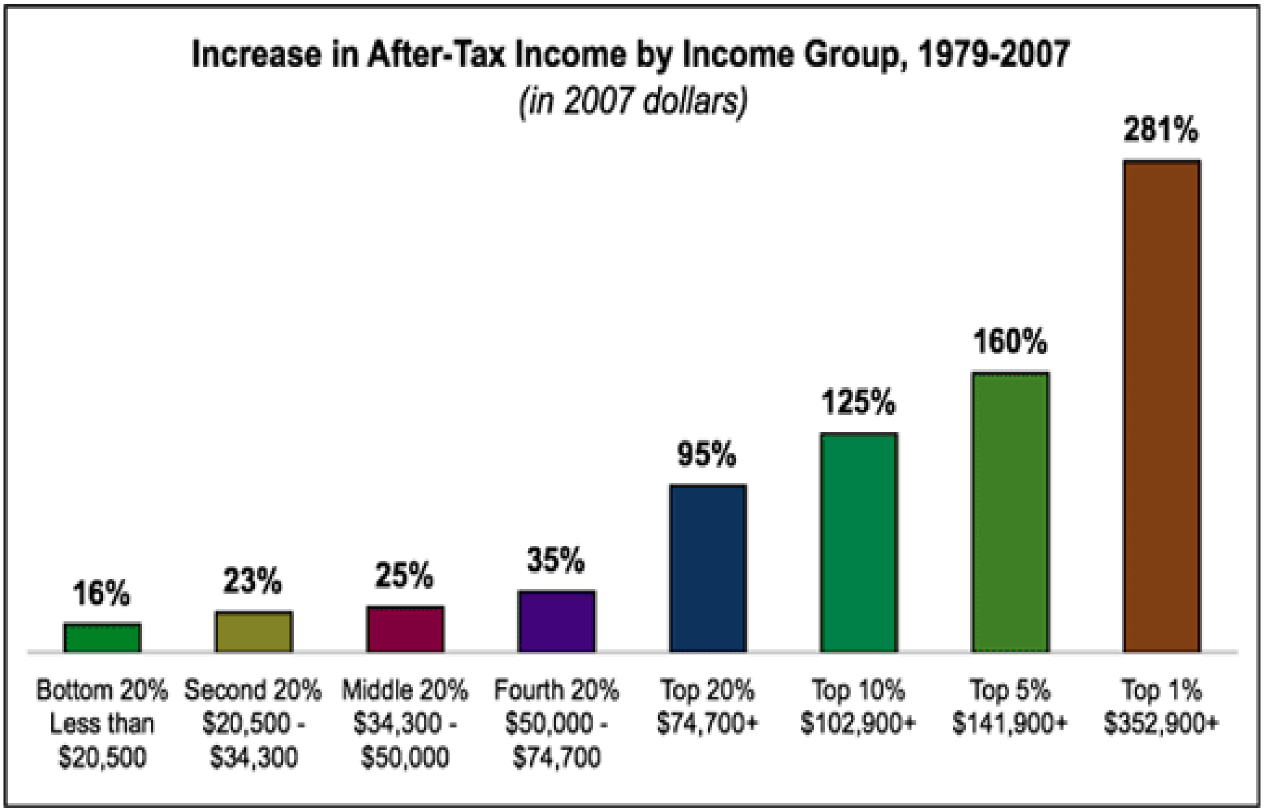
- Budget: $15.2 trillion deficit, 100% debt to GDP ratio (Greece = 142%)
  - 1990: $3.0 trillion; 1995: $5.0 trillion
  - Bush's First Budget (10/1/01): $5.8 trillion
  - Obama's First Budget (10/1/09): $11.9 trillion
- Economy: 8.5% unemployment rate (average 5.7% since 1947), 1.8% GDP growth (3.3% average)
- Virtually every economist agrees that a long-range budget solution requires a combination of spending cuts and tax increases.
- In our first 150 years, on four occasions we used an inheritance tax to help fund wars. As Steve Bank has shown, this is the first time we have cut taxes (including estate taxes) during war
- Estate tax revenues are needed:
  - 1997-2007: $20-$25 billion/year
  - Returns filed in 2010: $13.2 billion (for 2009, $3.5m exemption)

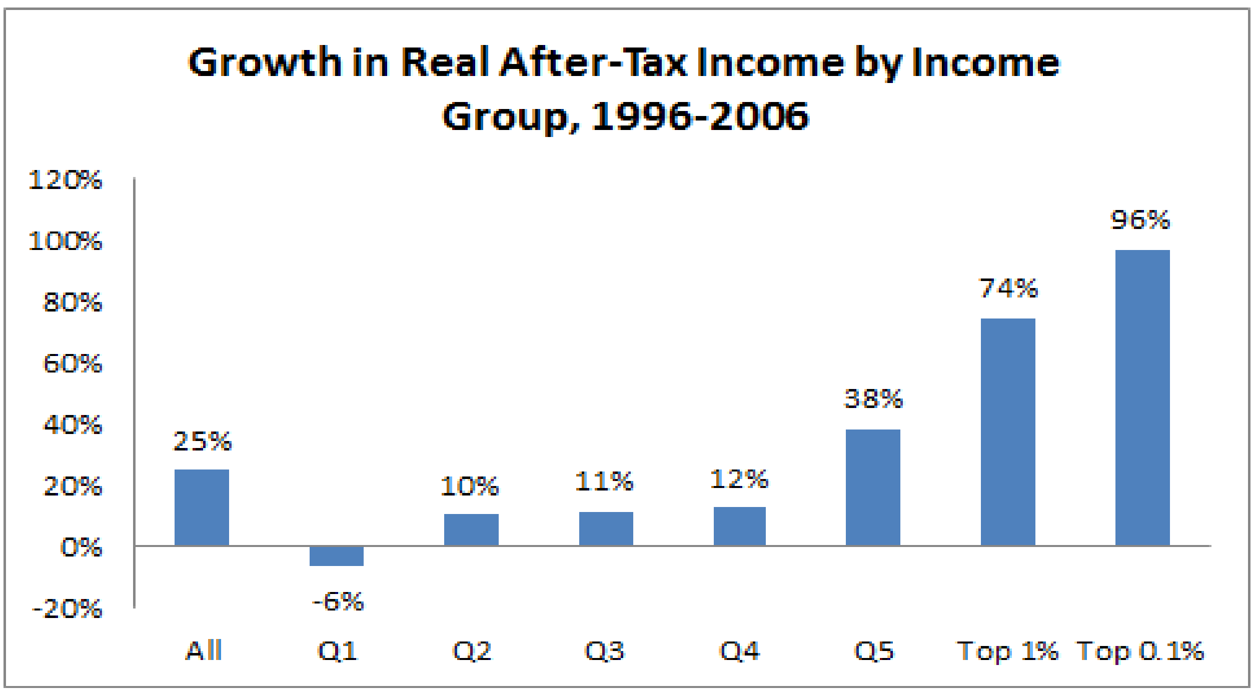
Second, as the Occupy Wall Street Movement has shown, we have never needed the estate tax more to curb rising income and wealth inequality.

- If we had more time, I'd show some fancy charts. But here are just a few numbers.

Income:

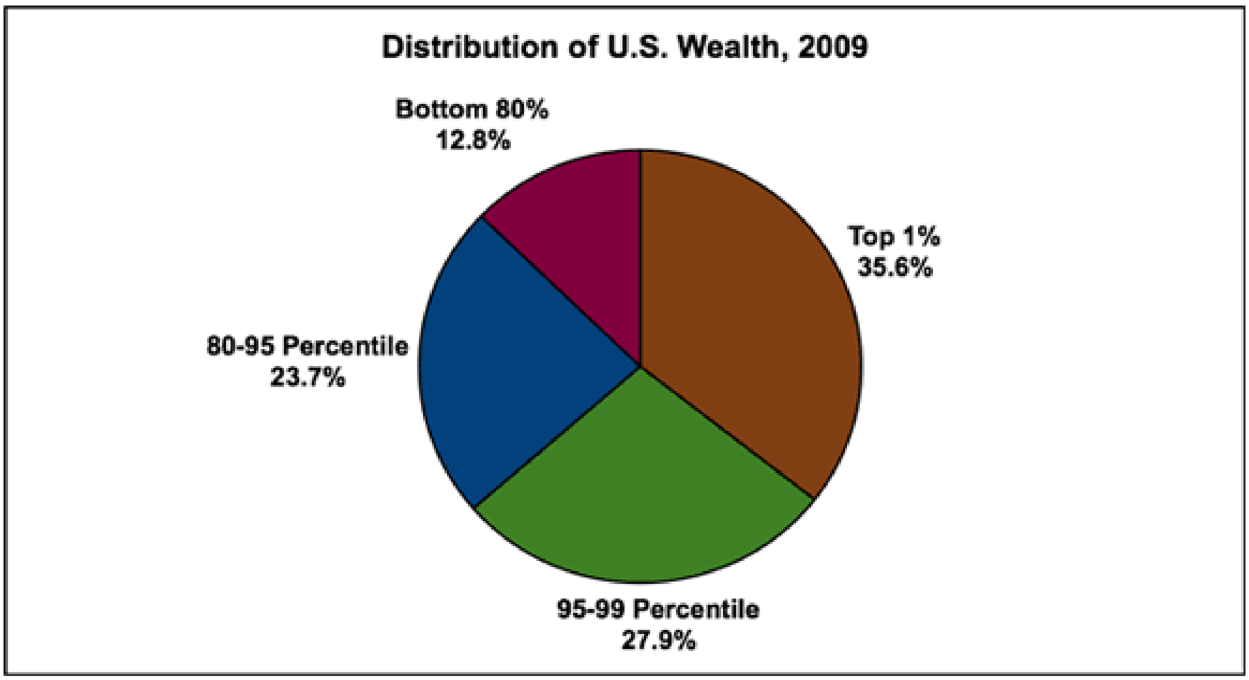



Increase in After-Tax Income by Income Group, 1979-2007
(in 2007 dollars)
16%
23%
25%
35%
95%
125%
160%
281%
Bottom 20% Less than $20,500
Second 20% $20,500 - $34,300
Middle 20% $34,300 - $50,000
Fourth 20% $50,000 - $74,700
Top 20% $74,700+
Top 10% $102,900+
Top 5% $141,900+
Top 1% $352,900+


Growth in Real After-Tax Income by Income Group, 1996-2006
120%
100%
80%
60%
40%
20%
0%
-20%
25%
-6%
10%
11%
12%
38%
74%
96%
All
Q1
Q2
Q3
Q4
Q5
Top 1%
Top 0.1%

Wealth

	Bottom 99%	Top 1%
1929	55.8%	44.2%
1945	70.2%	29.8%
1972	70.9%	29.1%
1976	80.1%	19.9%
1979	79.5%	20.5%
1981	75.2%	24.8%
1983	69.1%	30.9%
2007	65.4%	34.6%
2009	64.4%	35.6%



Top 1% share of federal taxes:

	All	Income
1979	15.4%	18.3%
1981	12.9%	16.3%
1995	20.1%	29.0%
2006	28.4%	39.1%
2007	28.1%	39.5%

So if I'm right that we need a robust estate tax to raise revenue and curb concentrations of income and wealth, how do we make that happen in today's political environment?

Jim Repetti noted in his 2001 NYU article (*Democracy, Taxes, and Wealth*) that rising wealth inequality hinders economic growth.

This offers a way to re-frame the current debate between Democrats and Republicans – we should look at increasing taxes on the 1% not as class warfare, but as a tool for revitalizing the economy (to raise all boats, even the yachts of the 1%).

The estate tax offers the ideal vehicle for doing so, since the estate tax historically has affected only 1-2% of decedents who die each year

- Far less now with $5m exemption (0.6% in 2007, with $2m exemption)
- High of 7.6% in 1976

The estate tax is more efficient than income tax – it has less impact on savings because:

- The natural human tendency to ignore thinking about our own death
- To the extent people factor in the estate tax in their economic decisions, the impact is a function of the probability of dying in that year.
  - So the estate tax has little impact during a taxpayer's most productive years.
  - The estate tax has little impact prior to age 70 (<2% effective ET rate).

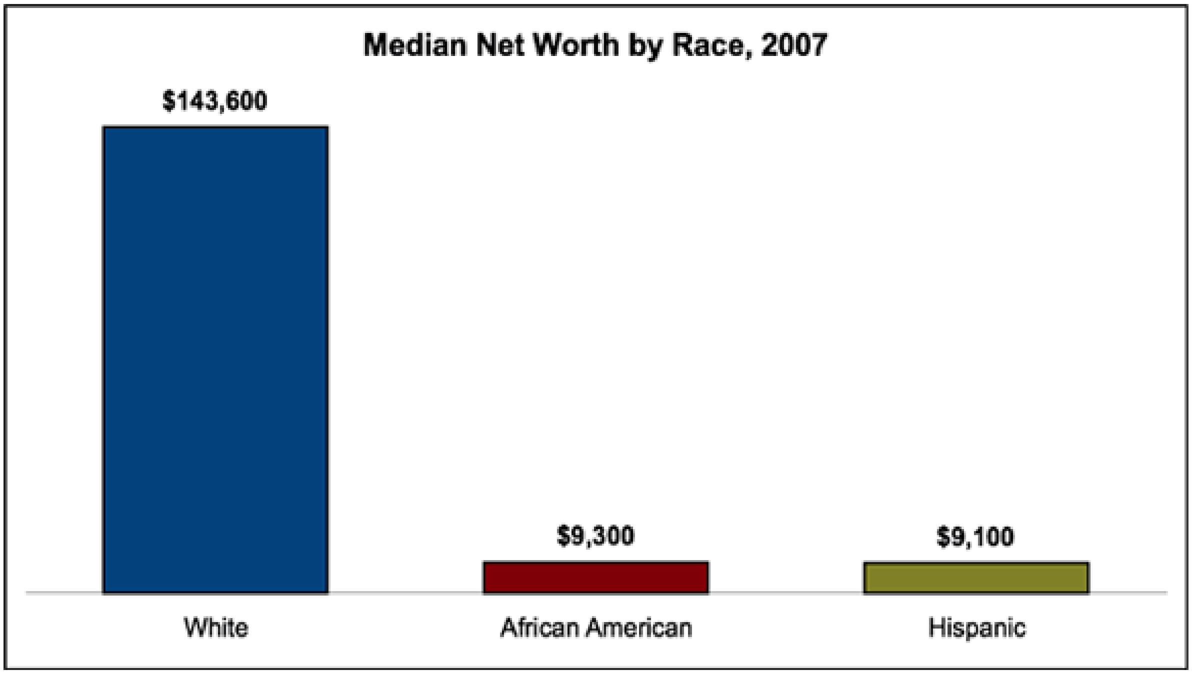
It is hard to estimate planning costs: we can't easily separate out costs for tax planning from costs to plan for normal succession of property under state law

As Jay Soled has noted, the costs to administer estate tax are in line with revenues generated.

Increasing concentration of wealth also harms democracy by giving wealthy undue influence in the political process (playing out now with Super PACs).

OECD studies show other adverse effects of increasing concentrations of wealth:

- Life expectancy
- Literacy
- Infant Mortality
- Homicides
- Imprisonment
- Teen Pregnancy
- Mental Illness
- Social Mobility



Yet Michael Gratez noted that African-American business leaders played large role in fight to repeal the estate tax.