

# State's Widow's Tax Outlined

**Sen. Frank Pecora and Rep. Michael C. Gruitza HARRISBURG (Dauphin Co.)**  
 — It has been said that there are only two things that are certain in life -- death and taxes. Yet, while there may be no escaping the anguish of either, shouldn't the surviving spouse of a family farm at least be spared the agony of having to cope with both at the same time?

Some 47 states and the federal government have voted to scrap the tax on transfers at death from one spouse to another. However, three states, including Pennsylvania, still cling to the so-called "widow's tax." In fact, Pennsylvania's death tax on transfers to spouses, now pegged at 6 percent, is the most severe tax of its kind levied by any jurisdiction -- state or federal -- in the country. Furthermore, it is imposed on all estates. For example, a typical estate of \$100,000 transferred to a surviving spouse will pay a tax of \$6,000.

In an effort to bring Pennsylvania's inheritance tax in line with the rest of the country, bills were introduced last year and again this year in the State Legislature to amend the tax by excluding transfers to a surviving spouse. One bill, House Bill 921, was passed unanimously by the House Finance Committee and is presently before the House Appropriations Committee. An identical bill, Senate Bill 1444, has been introduced in the Senate and is awaiting a May 1 hearing before the Senate Finance Committee. Both bills are the result of a recommendation by the Joint State Government Commission, a bipartisan agency of Pennsylvania's General Assembly, to abolish the "widow's tax."

Though the health of the state's farm community has improved in recent years, farmers still face low profit margins and encroachment by suburban developers. The present "widow's tax," extracts a heavy toll on the continued operation of a farm, and inevitably contributes to the further loss of agricultural land in the state.

Often, a death tax of this nature requires, in effect, that the surviving spouse "buy back" the farm from the state. The spouse may have to borrow funds or sell part or all of the farm assets just to raise the cash needed to meet the "widow's tax" obligation.

Joint ownership of a farm exempts a farm family from the tax, but this is not always possible or desirable from a traditional point of view.

For example, in farm communities, a farm and farm equipment

are often passed from one parent to a child, with the spouse receiving a life interest in trust. The farm, farm equipment and livestock also may be titled in one person's name to expedite financing, even when the farm itself is titled in joint ownership.

Thus, while the surviving spouse may inherit the farm tax free, he or she still may be required to pay the 6 percent transfer tax on the animals and equipment needed to operate the farm. Yet, the farm is never really changing ownership for economic consideration, and, therefore, remains in the same economic unit. To make matters worse, when the surviving spouse dies, the second estate will also be taxed, resulting in double taxation of the family farm.

Passing the proposed legislation will remove a harsh financial burden from the shoulder of surviving spouses in farm families whose estates are, for the most part, tied up in non-liquid assets. Pennsylvania should not force these individuals to deplete their resources, or in the worst case, sell their farms just to pay the state's inheritance tax. To the contrary, the state should do all in its power to encourage surviving spouses to remain economically viable.

Apart from economic considerations, the proposed amendment to the state inheritance tax can be justified on humanitarian and moral grounds. The death of a spouse is one of the most painful experiences one can face in life. It is a time to grieve, to reach out for spiritual and emotional support and uplifting. It is hardly the time to be burdened by major financial considerations, particularly an unwanted and perhaps crushing tax bill.

Then, too, there is the question of how husband and wife should be treated for inheritance tax purposes. The present death tax on surviving spouses runs contrary to the universally accepted principle that a husband and wife are one economic unit. For years, the federal government has viewed husband and wife as a single economic unit for income tax purposes. The same concept is followed for

federal estate and gift taxes. And in Pennsylvania, neither the Realty Transfer Tax nor the Sales and Use Tax is imposed on a gratuitous transfer from one spouse to another. Furthermore, the state's new Divorce Code treats most assets as marital property to which both partners have some claim regardless how the title is held. All of these statutes reflect the underlying judgment that husband and wife form a partnership and that it is inappropriate to levy a tax on

property transferred within the partnership. The same common sense should also apply to transfers at death.

A death tax has sometimes been justified on the basis that it restricts the perpetuation of wealth from one generation to another. Yet, the "widow's tax" on transfers of property between spouses has no relevance to the stated objective.

Frank Pecora, a State Senator representing Allegheny and

Westmoreland counties, and Michael C. Gruitza, a State Representative from Mercer County, are principal sponsors of bills that would amend the state's inheritance tax to exclude all transfers to a surviving spouse.



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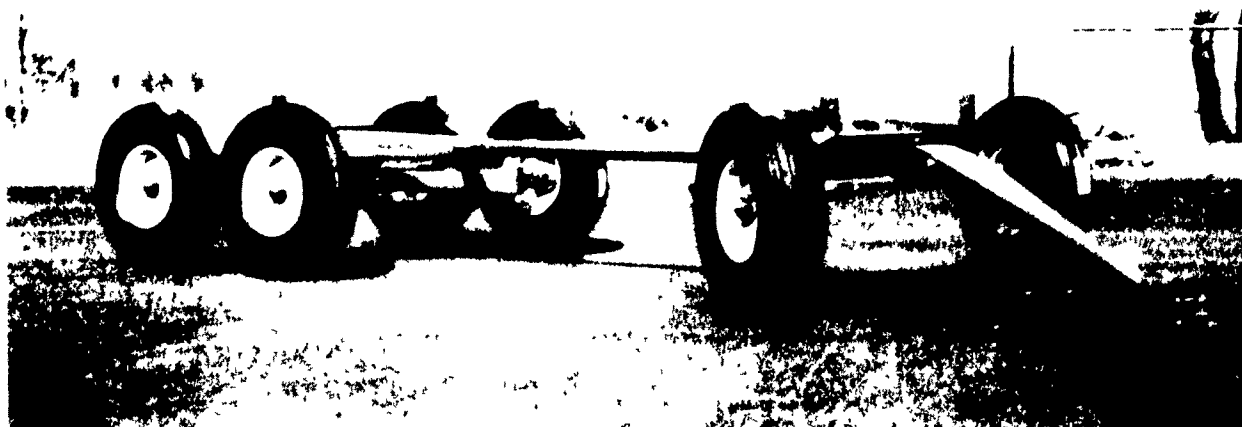
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