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Death Tax Hearing Slated for Wednesday, November 14th

In an effort to move Death Tax repeal legislation forward, Sen. Jon Kyl (R-AZ) was able to garner a commitment from Senate Finance Chairman Max Baucus (D-MT) to hold a hearing before the end of the year and a legislative mark-up in 2008 on the issue. The hearing has been scheduled for Wednesday, November 14th to discuss problems and concerns surrounding the Death Tax. Warren Buffet – a well-known opponent of the Death Tax repeal – is scheduled to testify. The remainder of the panel will be filled with speakers in favor of the death tax repeal, including a family business owner from Iowa and a rancher from Nevada.

A second hearing is anticipated in December or January to review legislative solutions for the Death Tax. The legislative mark-up has not been scheduled, but it is anticipated to take place in early spring. All legislation must be marked-up in Committee before it can go to the Senate floor for consideration.

What We're Saying About the Death Tax

The Death Tax punishes growing family businesses and farms. It is a roadblock to keeping these businesses within the family.

a) Survey data suggest that the Death Tax continues to be a primary reason why small businesses fail to survive beyond one generation. Close to two-thirds (64 percent) of respondents in one survey of family businesses reported that the Death Tax makes survival of the business more difficult. [Joseph H. Astrachan and Roger Tutterow, "The Effect of Estate Taxes on Family Business: Survey Results," *Family Business Review* 9, no. 3 (Fall 1996): 303-314.]

b) 87 percent of black-owned firms and 93 percent of manufacturing firms responded that the Death Tax was an impediment to survival. [Joseph H. Astrachan and Craig E. Aronoff, "A Report on the Impact of the Federal Estate Tax: A Study of Two Industry Groups" (Marietta, GA: Kenneseaw State College, Family Enterprise Center, 1995)]

Unlike larger businesses, most family businesses and farmers have the entire value of their operation in their business or their land.

Because family businesses keep money tied up in their business, this tax makes it difficult for family businesses to continue through generations.

a) "Smaller firms, typically lacking access to capital from financial markets, may be unable to obtain the optimal amount of capital to finance their investments. Intergenerational transfers function, in essence, as a sort of internal financing mechanism. To the degree that estate taxes reduce or limit intergenerational transfers, they also reduce the amount of financing available for investment in small or family-run enterprises." [Joint Economic Committee Report: Costs and Consequences of the Federal Estate Tax, May 2006, p. 22]

This tax forces family businesses to pay lawyers and accountants and purchase life insurance in order to ensure all they have worked to build is not eliminated.

a) Family firms taking steps to survive Death Tax-liabilities spend an average of nearly $125,000 per company on attorney/consultant fees, life insurance premiums and other costs. [*Survey of the Impact of the Federal Estate Tax on Family Business Employment Levels in Upstate New York*, June 22, 1999]

b) A 2006 survey of the National Association of Manufacturer's small and medium-sized manufacturers, respondents said that, on average, they spend $94,000 annually on insurance premiums, attorney's fees and other estate planning fees solely in preparation for the death tax bill.

c) A 1999 study by Holtz-Eakin, Philips and Rosen found: "owners of businesses buy more [life] insurance than other individuals, but even together with the liquid assets in their portfolios, there is sufficient money to cover estate taxes."

The temporary nature of this tax results in more complexity and confusion for family businesses.

a) This results in increased planning costs, since business owners do not know how to plan under the uncertain terms of the law.

This tax discourages savings and investments, reduces wages and job creation and is the leading cause of dissolution for thousands of family-run businesses.

a) A survey of family business owners by Prince & Associates found that 98 percent of heirs cited "needed to raise funds to pay estate taxes" when asked why family businesses fail. [Russ Alan Prince & Karen Maru File, *Marketing to Family Business Owners* (Cincinnati, OH: National Underwriter, 1995), 35.]

The Death Tax is a form of double taxation.

a) Someone worked a lifetime to build a business and earn a living from it. During that time, the government collected income and other taxes from the business. The government has already taken its fair share and the estate should not be taxed again upon the owner's death.

b) Family businesses already pay federal and state income sales, corporate, social security, Medicare and other payroll taxes.

When family businesses close it is not just the family that is affected. Family businesses are important to their communities and this loss means a loss of jobs and investment.

a) Even if only a small percentage of the 550,000 small businesses that fail annually are attributable to the Death Taxes, the cumulative number affected over time could be substantial. [(Also, there were an estimated 23.7 million small businesses in 2003. Joint Economic Committee calculations using 1999-2003 data from U.S. Small Business Administration, Office of Advocacy, *The Small Business Economy* (Washington, DC: Government Printing Office, 2004), & data online at www.sba.gov/advo/index.htm)]

b) Repealing this tax would create 200,000 extra jobs a year. [(WSJ, True Cost of Dying, 1999)]

Money used to plan for the Death Tax is money that is not reinvested in employees and the business itself.

a) A 2006 JEC report states that "the principal reason that estate taxes cause such disruption to family businesses is that they impose large cash demands on firms that generally have limited access to liquid assets. For example, the typical small business owner has 60 percent of the family net worth invested in the business."

b) Nearly 60% of business owners say they would add jobs over the coming year if Death Taxes were eliminated [(WSJ, True Cost of Dying, 1999, Gallup Poll)]

c) The enormous compliance costs equal the revenue produced by the tax: about $22 billion in 2003. [The Economics of the Estate Tax: An Update—Joint Economic Committee Study, June 2003]

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