

Death Or Taxes?

Both are inevitable, but trying to deal with estate taxes keeps getting trickier



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If you own a farm or ranch and want to leave most of it to your heirs, plan to die in 2010.

As absurd as that may sound, it's the only year that the so-called "death tax" is scheduled to be fully repealed. After that, and your estate could be hit with a whopper tax bill.

On June 7 th, 2001, President Bush signed into law the Economic Growth and Tax Relief Reconciliation Act of 2001, which included the so-called "Estate Tax repeal." It marked a compromise, under which Congress created a 10-year phase-out that gradually allows more of your estate's value to be deducted each year until 2010, and then the estate tax will be fully repealed.

The hitch is, the tax will only be repealed for that one year. After that, the level jumps back to rates established in 2001 (37 percent up to 55 percent) and will allow only \$1million in assets to be exempted.

In other words, unless Congress acts between now and 2011, the tax law completely reverts in 2011 to what it was prior to the enactment of the Estate Tax repeal in 2001.

For years, farm and ranch groups have been working to permanently repeal the Death Tax. But with budget deficits looming, most lawmakers are reluctant to give up or offset the revenue that's currently generated from this type of tax.

"The uncertainty under current law is untenable," says Jason Jordan, Manager of Legislative Affairs for the National Cattlemen's Beef Association. "It makes estate planning extremely difficult."

Soaring asset values

Complicating estate planning efforts: corn, soybean and wheat prices soared to record levels earlier this year, and farmland prices also pushed to unprecedented heights. The USDA estimated that the price of an average acre of U.S. cropland rose 13 percent in 2007, to \$2,700, more than double the \$1,340 price of 1998. In states like Iowa, the price of farmland more than doubled – averaging almost \$4,000 an acre last year. And similar trends have been replicated across Kansas and other Plains States.

Landowners, who built an estate plan a few years ago, might find that their assets have doubled or even tripled in value today – making some of these tax exemptions unrealistic. Given all of these changes and the uncertainty surrounding the tax laws, it's become necessary to revisit your lawyer and estate planner every year.

In the 110 th Congress, there have been several efforts to attempt to address estate tax reform, but not have gained any significant

momentum.

- Reps. Kenny Hulshof (R-MO.) and Robert Cramer (D-AL.) introduced H.R. 2380, with 67 original cosponsors last year. Similar legislation (H.R. 1586) was introduced by Rep. Mac Thornberry (R-TZ). Both bills would make the repeal permanent.

- As part of the Senate budget resolution, a measure offered by Senator Max Baucus (D-Mont.) could pave the way for future actions that will lessen the burden of Death Tax on ranching families. The Baucus amendment does not actually alter current tax law, but sets aside funds for the Senate Finance Committee to address some form of Death Tax relief within the next five years.

Calendar Years	Exemption Amount
2002-2003	\$1 million
2004-2005	\$1.5 million
2006-2008	\$2 million
2009	\$3.5 million

In an effort to keep the debate moving, the Senate Finance Committee recently held another hearing on this topic. However, Sen. Chuck Grassley (R-IA) says he's looking for actions, not just words.

"It is troubling to me that the Congress has done nothing more than talk about potential reforms and have not taken effective action to remedy the fact that in 2011 the death tax will come back with impunity on the 2001 level. This situation is simply unacceptable," he adds.

Grassley urged the Finance committee to move quickly toward a mark up of an estate tax bill.

"We need a bill which will simplify the estate tax as well as make those changes more permanent to provide individuals certainty and simplicity regarding the settling of their estate. A bill of this kind will ease anxiety and allow individuals to reinvest their money into their businesses and the economy as opposed to paying attorneys to keep their assets away from the government."

However, even though the Senate Finance Committee may be working towards a mark up, Jordan is not optimistic that Congress will be able to tackle this type of sensitive issue – especially in an election year. As a result, any hopes for permanent repeal of the death tax may be left to the next Congress and the next President. Δ

Editor Sara Wyant publishes a weekly e-newsletter covering farm and rural policy called *Agri-Pulse*. For a four-week free trial, go to www.Agri-Pulse.com