SUPPORT A PERMANENT SOLUTION TO ESTATE TAX REFORM

Position:

NECA supports permanent repeal of the estate tax. In the absence of permanent repeal, NECA supports modification of the estate tax for the highest exemption and lowest tax rate possible.

Issue:

In 2001, Congress passed a $1.3 trillion tax cut package that included repeal of the estate tax. Though the tax is scheduled for full repeal this year, it will be reinstated in 2011 with a $1 million unified credit exemption. For estates valued at over $1 million, the applicable estate tax rate will be 55%.

NECA understands that it may not be politically feasible to permanently repeal the estate tax; however a permanent solution is entirely appropriate. NECA seeks substantial and permanent reduction in the tax rate and a significant increase in the amount of an estate exempted from taxation as soon as possible in order to help clarify the issue for estate planning purposes.

Status:

House: Rep. Earl Pomeroy (D-ND) introduced the "Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009," or H.R. 4154. This legislation passed the House on December 3, 2009 (Roll Call Vote #929).

Senate: During debates about the budget, many amendments were proposed to try to repeal or reform the estate tax. Sens. Jon Kyl (R-AZ) and Blanche Lincoln (D-AR) successfully introduced an amendment to the Senate budget bill that included, as one of the propositions on which the budget is based, estate tax reform making permanent a $5.0 million exemption at a 35% top tax rate. This amendment is a good indication that there is bi-partisan interest in passing legislation to make at least this minimal reform permanent.

Key Points:

- Construction companies are frequently family-owned and are particularly hard hit by the death tax burden, since the value of these businesses is not in liquid assets.
- More than 70% of family businesses do not survive the second generation, and 87% fail to make the third generation. Studies indicate that the average family business spends nearly $20,000 in legal fees, $12,000 for accounting, and an additional $11,200 for other advisors preparing for death taxes.
- Estate taxes are essentially a "ransom" that families must pay to the government for the "privilege" of keeping their business in their family. While the rate reduction during the years 2002-2009 will be helpful to some families and the one-year full repeal will also work in their favor, the problems return in the year 2011.
- To avoid horrendous estate taxes and ensure that an heir can continue in the family business, small owners often invest in expensive life insurance policies rather than investing money in the business. Recent studies show that businesses can spend an average of $30,000 on life insurance premiums just to plan for their estate tax burden. The result is that the business falters (does not grow, expand, evolve). These actions impact not only the business owners, but deny opportunity and growth to both the employees and the community.
- Federal estate tax rates have increased significantly since their implementation in the early 1900's. They are so high now that families often must sell their small construction companies in order to pay the death tax. This in turn creates disruption for employees, customers and suppliers.

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