



ESTATE TAX REFORM

Background:

Individuals, family partnerships and family corporations own 98 percent of our nation's 2 million farms and ranches and generate 86 percent of the food and fiber produced in our country. When estate taxes on an agricultural business exceed cash and other liquid assets, surviving family partners can be forced to sell land, buildings or equipment needed to keep their businesses operating. This not only can cripple a farm or ranch operation but also hurts the rural communities and businesses that agriculture supports.

Estate taxes are repealed for one year, 2010, during which time surviving family members will pay capital gains taxes using carry-over basis on assets that exceed \$5.6 million per couple if inherited farmland and other appreciating assets are sold. In 2011, the estate tax will be reinstated with a \$1 million exemption and a top rate of 55 percent.

The return of estate taxes will strike a blow to farm and ranch operations trying to transition from one generation to the next. A \$1 million exemption is not high enough to protect a typical farm or ranch able to support a family and when coupled with a top rate of 55 percent can be especially difficult for farm and ranch businesses. In the late 1990s, twice the number of farm estates paid estate taxes compared to other estates and it took two and half years of farm returns for a moderate-sized farm operation to pay estates tax owed.

Estate taxes hit family-owned farm and ranch operations especially hard because of the illiquid nature of farm and ranch business property. With 80 percent of farm and ranch assets land based, agriculture producers have fewer options when it comes to generating cash to pay the estate tax. Not only can selling land destroy the economic viability of a farm or ranch, a forced land sale can result can depress asset values when a "buyers market" is created. The situation is made worse when tight credit markets reduce the number of potential buyers for farm and ranch land.

The "off again on again nature" of estate tax law makes it difficult, if not impossible, for farmers and ranchers to engage in planning for the transfer of a family business from one generation to the next. While estate tax planning may be able to protect some family farms and ranches from the devastation of estate taxes, planning tools are costly and take money needed to operate and expand businesses. Even with planning, changing asset values and family situations make it impossible to guarantee that a well thought out estate plan will protect a family business from estate taxes.

Legislative Status:

Last year, the House passed H.R. 4154, the *Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009* to provide a permanent \$3.5 million exemption with a top 45 percent rate last year.

Last year, during Senate consideration of the FY 2010 budget resolution, 51 senators supported an amendment offered by Sens. Blanche Lincoln (D-Ark.) and John Kyl (R-Ariz.) to provide a \$5 million exemption and a 35 percent rate.

AFBF Policy:

Farm Bureau believes that estate taxes should be eliminated permanently. If estate taxes are reinstated, there should be an exemption large enough to exclude farms and ranches from estate taxes, the exemption should be indexed for inflation and be transferable to a spouse. Farm Bureau opposes a retroactive reinstatement of the estate tax. In addition, there should be no limit on the amount of farmland that valued for farm use rather than development value (IRC Code section 2032A). Farm Bureau supports the continuation of "stepped-up" basis—which adjusts the value of property for inflation at death.

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