

2011 POLICY

MAKE PERMANENT THE CURRENT FEDERAL ESTATE TAX

NFDA Position

That NFDA strongly support federal legislation that would make permanent the current federal estate tax exclusion and rate.

Background

As a result of Congress passing the Taxpayer Relief Act of 2001, the federal estate tax has been successively reduced over the past 10 years from its original amount of \$1M exclusion and 55% tax rate above that to the current \$3.5M exclusion and 45% tax rate. Further, it will be totally repealed in 2010. However, the repeal is only for one year. Unless Congress acts otherwise, it automatically will revert to its 2001 levels in year 2011 and beyond.

Discussion

While the current law goes a long way towards eliminating the burden of estate taxes generally, it only temporarily eases the burden of small businesses, such as funeral homes, who seek to transfer the business from one generation or family member to another at death. Funeral homes are the quintessential community-rooted, small business. They are the last of a slowly fading breed of entrepreneur whose survival is only made more difficult by the onerous estate taxes. In order to recognize and preserve the heritage and strength of this foundation of the American economic system, it is absolutely critical that the federal tax laws not penalize or otherwise prevent the tax-free transfer of family business ownership at death to other family members.

To this end, NFDA has joined 150 other national organizations in the Family Business Estate Tax Coalition (FBETC). The original purpose of this Coalition was to seek permanent repeal of the federal estate tax after 2011. In the 109th Congress, the House passed its bill (**H.R. 8**) in 2005 and again in 2006 but the Senate failed to act on the issue. Senator Kyl (R-AZ) the primary sponsor of the Senate Bill (**S. 420**) sought to craft a last minute compromise version that would have raised the exclusion and index it to the CPI, provided a stepped-up basis and reduced the tax rate on value above the exclusion in order to get a bill out of the Senate and into Conference with the House bill but his efforts failed to get the necessary 60 votes to pass. With the change in party leadership in both the House and Senate after the 2006, election, the hope for a full repeal are now gone.

In 2007, the Senate Finance Committee held a hearing on the problems and consequences in complying with the current tax. NFDA submitted written comments for the record evidencing the horror stories many of our members had with the current estate tax. In 2008, The Finance

Committee held an additional hearing to examine the various options available to address the issue.

In 2009, Congress failed to address the expiring estate tax issue. Consequently, the estate tax was repealed for 2010. The question has now fallen to the Lame Duck Congress in 2010 to act before the end of the year. In that regard, President Obama and the Congressional Republicans reached an agreement to raise the estate tax exclusion to \$5 million (\$10 Million for a couple), index it for inflation, and reduce the tax rate above the exclusion to 35%. NFDA is in complete support of this new agreement...even though it is just for two years. While this agreement came under fire from Congressional Democrats, it was ultimately passed by both the House and Senate and signed into law by President Obama.

NFDA will continue to be actively engaged on this issue until this provision is made permanent and bring final certainty to the law to benefit family-owned funeral homes.

NFDA Governance History:

1998: Committee Action 1/13/98; Policy Board Action 3/30/98

1999: Committee Action 1/26/99; Policy Board Action 3/15/99

2000: Committee Action 2/01/00; Policy Board Action 3/27/00

2001: Committee Action 1/30/01; Policy Board Action 3/19/01

2002: Committee Action 1/29/02; Policy Board Action 3/18/02

2003: Committee Action 1/23/03; Policy Board Action 3/24/03

2004: Committee Action 1/26/04; Policy Board Action 3/15/04

2005: Committee Action 1/18/05; Policy Board Action 3/7/05

2006: Committee Action 1/17/06; Policy Board Action 3/8/06

2007: Committee Action 1/16/07; Policy Board Action 3/26/07

2008: Committee Action 1/14/08; Policy Board Action 3/10/08

2009: Committee Action 1/29/09; Policy Board Action 3/30/09

2010: Committee Action 1/20/10; Policy Board Action 3/08/10

2011: Committee Action 1/27/11; Policy Board Action 3/09/11

Attest: NFDA Policy Board (original resolution) Date: March 30, 1998 File Code: RES033/Policybd