

## ESTATE MATTERS

### ESTATE TAX REPEAL - FACT AND FICTION

“Save family farms and small businesses - repeal the death tax!” With an election looming, candidates once again dust off the estate tax issue (spun as “death tax” for emotional appeal). Unfortunately, the rhetoric doesn’t stand up to the facts.

*FICTION: The estate tax takes half your estate*

FACT: The estate tax currently only applies to 0.5% of estates and this will drop to 0.3% when the \$2 million exemption rises to \$3.5 million in 2009. For the few that actually pay, the average effective tax rate is only 20%.

*FICTION: Repealing the estate tax will lower your overall taxes*

FACT: Permanently repealing the estate tax will cost about \$1 trillion in 10 years starting 2012. As Bill Gates (himself an estate tax proponent) explains, “If that money is not there, then the funds are going to have to be raised in some other form.” According to Alan Greenspan, this shortfall must be made up by increasing middle-class taxes, reducing government services, or further increasing our record deficits.

*FICTION: Many farms and small business will be forced to liquidate to pay the estate tax*

FACT: The American Farm Bureau Federation could not show a single farm being sold to pay estate taxes in a recent New York Times interview. Special exceptions allow small businesses and farms to write-down their value for estate tax purposes, and the few that owe at all can pay over 14 years at special interest rates. The Congressional Budget Office confirms very few businesses face this issue at all (<http://tinyurl.com/ydjbtn>).

*FICTION: The estate tax is a death tax*

FACT: The estate tax taxes vast accumulations of inherited - not earned - wealth. Instituted in 1916 in response to accumulation of great wealth in the hands of a few robber barons and tycoons, it attempted to limit the concentration of America’s wealth in the hands of the few.

*FICTION: The estate tax discourages productivity*

FACT: Inheriting immense wealth removes incentive to contribute to society through work. A fair estate tax actually supports the American dream that hard work, determination, and talent will determine success rather than the family into which you were born.

*FICTION: The estate tax is “double taxation”*

FACT: “The bulk of assets in taxable estates are appreciated stocks and assets that have never been taxed,” Bill Gates explains. “It’s the opposite of double taxation.” Stocks, artwork, real estate and other highly appreciated inherited assets are taxed only upon inheritance.

*FICTION: Repealing the estate tax would leave more wealth for charitable giving*

FACT: Repealing the estate tax leaves little or no financial incentive for charitable bequests. The estate tax encourages the super-wealthy to contribute tens of billions to charity each year. Already, the increasing exemption has significantly decreased charitable bequests resulting in increased need for government services.

The percentage of the American public supporting estate tax repeal is surprising considering this benefits only the top one percent. This important revenue source and social program needs to be re-evaluated in light of the facts.

*Disclaimer: This general information is neither legal opinion or advice, nor a complete estate planning discussion, and refers to Maryland law - your state’s law may differ. As each situation is different, you should seek independent legal advice from an attorney for specific information.*

Charles R. Stewart is an attorney in Hagerstown practicing exclusively in wills, trusts, and estate planning. Please send questions to [PN@LawOfficeStewart.com](mailto:PN@LawOfficeStewart.com) or visit [www.LawOfficeStewart.com](http://www.LawOfficeStewart.com).