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'Estate tax' label misleads on levy's true purpose

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For as long as there have been politicians, politicians have hidden their true purposes by giving laws names that disguise what they actually do. One such law is the estate tax.

It should be called the "death tax." Just as a sales tax is paid when somebody sells you something, and an income tax is triggered when you earn income, the death tax comes when you die. So rather than conjure visions of IRS grave robbing, the politicians named it the estate tax.

When Congress at the end of last year voted to keep the Bush-era tax rates in place through 2012, it made one huge exception: It voted to increase the death tax from zero to 35 percent for the next two years. This will apply to all estates valued at more than $5 million. Beginning in 2013, the rate will increase again, to 55 percent, on estates valued at more than $1 million.

Many estates, however, consist of business assets. And this looms large when business owners make plans.

If, because of the death tax, the Internal Revenue Service will claim more than a third of what you own after you die, you will act differently than you would if there were no estate tax.

You might, for example, purchase life insurance to cover the cost of the tax. Or you might put your assets in a trust. Money that is spent this way, however, is money that isn't being used to grow your business.

In a research report I wrote recently for the American Family Business Foundation, I found that nearly 2,000 estate tax filings in 2009 included farm assets. If you consider that for every person over age 60 who dies there are 19 people over 60 who remain alive, you can calculate that an additional 35,000 farms could have been hit with estate taxes if their owners had died.

And that's just farms.

In addition to farms, some 46 percent of all estate tax filings in 2009 listed other business assets, such as limited partnerships, closely held stock, and unincorporated business assets. Sure, there probably is some overlap in these numbers. But we can estimate that some 29,000 private corporations and some 14,000 real estate partnerships also would be affected if their owners die.

Together, these statistics paint a picture of small family business owners and family farmers being penalized by a tax that politicians claim is aimed at the idle rich.

The fact is that the death tax can affect almost anyone, including the frugal middle class. A worker who starts work at age 22, earns $30,000 the first year and receives average raises thereafter, saves 15 percent of his income in a 401(k) plan, and retires and dies at age 67 would pay the tax. Under current law, when this worker dies he would owe $50,000 or more.

This tax can affect far more people than most of us realize. For the past several generations, median household wealth among the elderly has been rising faster than inflation. If this trend continues, one-half of all U.S. households will be subject to the estate tax by 2048 -- when today's 20-year-old worker will retire.

The estate tax isn't a tax on trust fund babies and the idle rich. The idle rich can afford tax accountants and lawyers to shelter their wealth from the estate tax. In fact, the estate tax is a tax on family-owned businesses, and it's killing thousands every year.

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