FULL COMMITTEE HEARING ON SMALL BUSINESS AND THE ESTATE TAX: IDENTIFYING REFORMS TO MEET THE NEEDS OF SMALL FIRMS AND FAMILY FARMERS

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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FULL COMMITTEE HEARING ON SMALL BUSINESS AND THE ESTATE TAX: IDENTIFYING REFORMS TO MEET THE NEEDS OF SMALL FIRMS AND FAMILY FARMERS

Wednesday, November 4, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 1:05 p.m., in Room 2360, Rayburn House Office Building, Hon. Nydia Velázquez [chairwoman of the Committee] presiding.

Present: Representatives Velázquez, Dahlkemper, Schrader, Nye, Altmire, Bright, Griffith, Graves, Fallin, Luetkemeyer, and Thompson.

Chairwoman VELÁZQUEZ. [Presiding.] I call this hearing of the House Small Business Committee to order.

For many, starting a successful business and seeing it grow is the cornerstone of the American dream. As the daughter of an entrepreneur, I saw firsthand what my family had to do to keep a small business afloat. With big ideas for the future and limited resources to call upon, I know that starting and running your own venture for many entrepreneurs is a family affair.

It is not surprising then that many small-business owners imagine passing along the farm or business they have built to a child or grandchild to carry on the family trade. But for many parents who have spent their whole lives working to leave their business to their children, the estate tax can threaten the dream of having a son or daughter follow in their footsteps.

For many family businesses, the estate tax was a hurdle too great to overcome as the heirs of a family farm or business suddenly found themselves in the middle of a complex outdated law. It closed the doors on countless viable family businesses because they did not have the cash on hand when the estate tax came due. This was especially true for many family farmers, who were forced to liquidate—their greatest wealth is the land they till, not the cash in their bank accounts.

For small-business owners that sought to overcome these hurdles, the anxiety and costs were tremendous. After all, estate planning for small businesses is complex and costly. Entrepreneurs attempting to plan for the future had to hire costly lawyers and accountants to navigate laws, calculate their estate tax, and set aside funds so they could pass along the family trade.

Even then, entrepreneurs were not guaranteed their family business or farm would survive to pass on to the next generation. One entrepreneur told me he spent 5 years, hundreds of thousands of dollars for consultants, and carried a life insurance policy to protect his children from having to sell the family business. Despite his careful planning, he was still worried he may have overlooked something which would cost his employees their jobs if his children were not able to pay the estate taxes to keep their doors open.

It is not surprising then that before estate tax reform was enacted in 2001, some 70 percent of family businesses did not survive into the second generation. Almost 90 percent did not make it to the third generation.

While the estate tax reforms enacted in 2001 allowed entrepreneurs to focus on growing their ventures, the reforms were enacted on a temporary basis and will soon end. Starting in 2011, the estate tax exemptions for small businesses will expire. When they disappear, millions of family enterprises will again find their chances for survival beyond the first generation in jeopardy.

In today's hearing, we will examine what the future of the estate tax holds for small businesses. Some are calling for complete repeal of the estate tax; others have suggested that Congress freeze estate tax provisions in their 2010 form. One thing is clear: We will need to find a solution.

Small businesses face enough hurdles to succeed even without the estate tax as an insurmountable obstacle in their way. Children who inherit the family farm or firm and wish to carry on their trade should not be forced to sell or liquidate their business.

Protecting the family business and farm so it can flourish into the next generation will also help the communities who depend on these enterprises for jobs and services. By crafting an estate tax policy that works for small businesses and family farms, entrepreneurs can focus on growing their ventures, creating the jobs and growth needed for long-term prosperity.

I would like to take this opportunity to thank all the witnesses for being here. I am glad that they were able to make this trip to Washington to be with us this afternoon and look forward to the hearing from them—or to hear from you.

With that, I will yield to Ranking Member Graves for his opening statement.

Mr. GRAVES. Madam Chair, I appreciate it very much, and I also want to join you in thanking our witnesses for coming today, and some of you from a long way, but I do appreciate you taking the time out of your schedule to be here.

Entrepreneurs are struggling, and they are responding to a very difficult economy by working to expand and create jobs at a time of high unemployment. Now they are threatened with additional regulations, mandates, and tax increases to pay for health care and additional government spending. The last thing that they need is the possibility of losing their businesses. Yet if Congress fails to act before 2011, family businesses and entrepreneurs may find their companies at risk.

Current law, which would phase out the estate tax for those who pass away in 2010 only, is scheduled to sunset January 1, 2011. If Congress does nothing, the top marginal estate tax rate of 55 percent and an exemption of just $1 million would again take effect in 2011.

Small businesses and farms are often operated by families and transferred from one family member to the next. These entrepreneurs frequently return any savings right back into their businesses by purchasing valuable equipment or land needed to operate the company.

In the case of a small company or a farm, although the assets are transferred after a descendant's death may be valuable, the heir's net worth or liquidity may not be high. The heir, facing a 50 percent estate tax bill, may be forced to sell vital equipment or land just to pay the tax, rendering the business inoperable. The net effect is the reduction of capital formation for productivity and business expansion.

Death should not be a taxable event. The notion that the federal government is owed anything upon the death of a family member is outrageous to me.

Before current law sunsets at the end of 2010, Congress must act. I support a full repeal of the estate tax, and I have introduced legislation, H.R. 664, to make the 2001 and 2003 tax relief, including the estate tax phase-out, permanent. But the fact that there is uncertainty in the law makes it very difficult for small-business owners and farmers to plan, and we cannot allow these entrepreneurs to risk their future or their companies.

Madam Chair, again, I want to thank you for holding this hearing, and I appreciate and look forward to the testimony.

Chairwoman VELÁZQUEZ. Thank you.

The chair recognizes the gentleman from Pennsylvania, Mr. Altmire, for the purpose of introducing our first witness.

Mr. ALTMIRE. Thank you, Madam Chair. And welcome to all of our witnesses, especially my constituent, Mr. Spoa. Mr. Christy Spoa is the president of Ellwood City Save-a-Lot, located in Ellwood City, Pennsylvania. Mr. Spoa's company is family-owned and was started over 90 years ago.

He is testifying on behalf of the Food Marketing Institute. FMI represents more than 1,500 food retailers and wholesalers worldwide.

Welcome, Mr. Spoa.

Chairwoman VELÁZQUEZ. Your mic is not on. Thank you.

STATEMENT OF CHRISTY SPOA

Mr. SPOA. —thank you—and members of the Committee. Thank you for inviting me to testify about the impact of the estate tax on small businesses.

My name is Christy Spoa, Senior, and I am the president of the Ellwood City Save-a-Lot in Ellwood City, Pennsylvania. We have been a family-owned business for 91 years and are proud of the relations we have built with our customers and our community.

I am pleased to say that the fourth generation of Spoas will carry on this tradition. Three of my children work with me at the Save-a-Lot and will eventually run the company.

Operating a supermarket is a demanding undertaking that requires long hours and dedication, but they have tackled these challenges with creativity and enthusiasm. I take great pride in knowing that I am leaving the business in good hands.

However, the existence of the estate tax makes planning this succession harder than it should be. For a number of years, I have worked with my industry association, the Food Marketing Institute, to advocate for the repeal of this unfair tax.

I hoped the 2001 reforms would be the first steps in this process. But the situation it created by having the tax disappear next year before snapping back to as much as 55 percent in 2011 has made estate planning nearly impossible.

I continue to hope that Congress will repeal the tax or eliminate it for companies to stay in the family, but right now, businesses like mine need certainty and predictability.

The estate tax hits family-owned businesses when they are at their weakest, following the death of the head of the company. This period can turn into a nightmare for families that have not adequately prepared. I can only imagine how painful it must be to have to sell off all or part of a once-thriving family business in order to pay the estate tax.

Supermarket owners tend to be asset-rich in terms of buildings, equipment and stock, but cash poor. Even single-store operator can quickly find themselves exceeding the current exemption levels, and multi-store companies can easily exceed $10 million.

It is exceedingly difficult for companies like mine and others in the industry to withdraw significant amounts of cash to pay the estate tax. And since I operate a single store, selling off part of the business to raise funds is not an option. No one wants to leave that as a legacy for their children.

So in order to protect against the cost of the tax, I carry a life insurance policy that would help my family cover the expense of compliance, should anything happen to me. Similarly, I have spent countless hours with lawyers and accountants to plan for the orderly transition of leadership from myself to my children.

The estate tax makes this process infinitely more complicated, and it will even be more complex once my children take over, since there will now be three owners. They will also have to spend a significant amount of money to make sure that unforeseen circumstances do not threaten the viability of the business and their ability to leave it to the next generation. So I am not just passing on the company, but the cost of estate planning, as well.

Some might argue that this is the cost of doing business. But every dollar that goes toward insurance premiums and estate planning is a dollar not invested in my business. It is money taken from job creation, increased wages, and better benefits. Right now, I have 25 employees, and they bear the brunt of this tax just as much as my family do.

In the 91 years we have been in business, I would guess we have employed over 1,000 people at one time or another. Where are these jobs going to come from if family businesses are weakened or sold to cover the cost of the tax? It can be easy to ignore this impact, but for communities that are struggling to create good jobs, it is a question that needs to be answered.

At the start of my testimony, I mentioned that I have been advocating for years to repeal this tax. It is my belief that it simply does more harm than good. Both the industry and I recognize that this is a difficult task and have worked to support reasonable compromises when they are offered. But I continue to believe that repeal is the best solution and the best way to make sure that small and family-owned businesses continue to thrive and create jobs.

For individually owned and operated grocery stores like mine, the estate tax is a constant source of anxiety that has real consequences for my family, my employees, and the day-to-day operations of my business. I do not have the cash or assets on hand to simply write the government a check, so I have spent years and thousands of dollars to plan for the worst. But no matter how much I spend, I always wonder, have I done enough?

Thank you for inviting me to testify, and I will be happy to answer any questions.

[The statement of Mr. Spoa is included in the appendix.]

Chairwoman VELÁZQUEZ. Thank you, Mr. Spoa.

Our next witness is Ms. Meredith Mayes. She is the digital solutions manager of ColorCraft of Virginia, located in Sterling, Virginia. ColorCraft is a family-owned, high-end commercial digital printing company. Ms. Mayes testifying on behalf of Printing Industries of American. PIA is the world's largest graphic arts trade association, representing an industry with approximately 1 million employees.

You have 5 minutes.

STATEMENT OF MEREDITH MAYES

Ms. MAYES. Chairwoman Velázquez, Ranking Member Graves, and members of the Committee, good afternoon, and thank you for inviting me to testify today. My name is Meredith Mayes, and I work as a digital solutions manager at ColorCraft of Virginia, a commercial printing company.

I represent the second generation of the company. My father, Jim Mayes, acquired ColorCraft in 1986 and grew it from a 23-employee shop to one with nearly 98 employees at its peak. We currently employ 51 workers, including my mother, who—in the traditional mom-and-pop sense of small business—oversees the company's accounting.

Through all of the ups and downs, our company has always remained true to its family atmosphere. Our longest serving employee has been with us for 23 years. We know that this term is more than just company culture; it is a commitment to jobs and growth for our family, but also for those families who depend on ColorCraft for their livelihoods. That is why the estate tax is a tremendous concern for us and for thousands of printers across the country.

According to the Printing Industries of America, of which ColorCraft is a proud member, 6 out of 10 printing companies are family-owned. In total, there are approximately 17,000 family-owned plants in the United States, and they employ close to 600,000 workers. The uncertain future of the estate tax is top of mind for nearly all of these firms.

At ColorCraft, I have watched my father spend numerous hours and dollars attempting to ensure the longevity of a company he works so hard to keep afloat and growing. Annually, we spend $5,000 on estate tax planning. All told, we have spent $730,000. Our company would much rather have reinvested that $730,000 to fund sales training, technical education, and debt reduction, all of which would benefit the entire ColorCraft family and the jobs we provide.

On that note, job creation should definitely be part of an estate tax discussion. The printing industry has lost 73,000 jobs since mid-2008. Family-owned small businesses are critical to the revival of our economy, and an estate tax that soaks up financial resources and negatively impacts job creation is very troubling.

This is especially true, as a 2006 Joint Economic Committee report stated that the revenue raised by the death tax amounts to only 1.2 percent of total federal revenues.

There are non-economic costs to the estate tax, too. Small businesses are known for community service. And, trust me, a local printer is often the first stop for every local club, school, and charity seeking an in-kind donation.

For instance, ColorCraft supports local educational programs, including Head Start and the Monroe Technology Center in Leesburg, Virginia. An estate tax that threatens small-business survival also threatens non-profit and community support.

So what can Congress do to ensure that the estate tax doesn't continue to be an albatross on small printers' necks as we seek to survive and grow? In my opinion, a full, outright and permanent repeal of this tax is the best solution. The next best-case scenario is permanent reform.

One reform idea is the Estate Tax Relief Act of 2009, introduced by Rep. Shelley Berkley and others, which would phase in the estate tax exemption levels over 10 years to $5 million, while also decreasing the tax rate to 35 percent. This particular adjustment of exemption levels and rates, if indexed for inflation and made permanent, would relieve approximately 80 percent of family-owned printers from both the destructive planning and payment of the estate tax.

This approach is one our industry would welcome and support, though a higher starting exemption level and a shortened timeframe would provide more practical relief.

I would add a note of caution regarding top exemption levels. I urge Congress to be mindful that capital-intensive industries like printing have non-cash assets that add up very quickly in spite of depreciation schedules. For example, our most recent equipment purchase was a printing press at $3.8 million.

Additionally, many family-owned printers strive to own rather than lease their plants, which also adds to the estate tax calculation. What may sound like a lot of money on paper doesn't always translate to cash on hand.

As stated previously, I manage the digital printing side of my family's business. My father and many of his generational peers have an expertise in traditional ink-on-paper printing, an area of the industry that is expected to have less than 1 percent annual sales growth between now and 2020. In contrast, digital printing is expected to have 133 percent sales growth by 2020.

As I network with second-and third-generation printers across the country, many of us are driving the digital expertise and, therefore, driving the future growth of the entire industry. My generation wants the chance to lead our family-owned businesses into the future. I hope fervently that Congress will act upon the problem of the estate tax issue to allow ColorCraft and other printers to continue growing, succeeding, and reaching our full potential.

Again, thank you for holding today's hearing and for inviting me to testify. I look forward to answering any questions you may have.

[The statement of Ms. Mayes is included in the appendix.]

Chairwoman VELÁZQUEZ. Thank you, Ms. Mayes.

Our next witness is Mr. Arthur Uhl. He is an attorney and founding partner of Uhl, Fitzsimons & Jewett law firm in San Antonio, Texas. The law firm focuses on real estate, business and energy law matters. Mr. Uhl is also a cattle rancher and producer. He is testifying on behalf of the National Cattlemen's Beef Association, a marketing organization and trade association for a million cattle farmers and ranchers.

Welcome.

STATEMENT OF ARTHUR UHL

Mr. UHL. Madam Chair, Ranking Member Graves, and members of this Committee, my name is Arthur Uhl, and I am a rancher, cow producer, and attorney from San Antonio, Texas. I am testifying on behalf of the National Cattlemen's Beef Association, the NCBA, which is the largest and oldest national organization representing America's cattlemen and cattlewomen.

As chairman of NCBA's tax and credit policy Committee, I can testify that the repeal or fundamental reform of our federal estate tax system is at the heart of NCBA's mission, and we believe it is critical to the long-term viability of our industry.

I appreciate your Committee raising awareness of the tremendous burden that the estate tax places on America's farmers and ranchers. Ninety-seven percent of American farms and ranchers are owned and operated by families, many of which have owned their properties for generations. To a small-and medium-sized operation, this tax can be a death sentence. Thank you for holding this hearing and bringing cattlemen to the table.

Tax policy is a key factor impacting American cattle producers, particularly in today's difficult business climate. In an industry where financial returns are historically small, we depend upon the ability to pass on a farm or ranch to the next generation without exhausting resources for arduous planning or being forced to break apart economically viable operations. We view the estate tax as fundamentally unfair, inefficient, economically stifling, and particularly devastating to our business, which requires highly valued assets to produce minimal economic returns.

Cattle producers understand and appreciate the role of taxes in maintaining and improving our nation, but they also believe the most effective tax code is a fair one. For this reason, NCBA members fundamentally disagree with the taxing of assets that have already been taxed, sometimes two and three times over. In the eyes of American farmers and ranchers, death should not be a taxable event, either for the estate or for the heirs.

The current onerous estate tax system is also at odds with our important national goals of preserving natural resources and open space. Family farms and ranches provide an abundant and necessary source of food and fiber to feed the growing global population, as well as Americans right here at home. Not only are they producing nutritious food, America's farmers and ranchers are taking care of the land, air and water that make our way of life possible.

The death tax breaks up farm and ranch land and displaces family generational farms and ranches, expediting their conversion to strip malls and condo complexes and doing a great disservice to the American public and our rural way of life.

All family businesses would like to see this tax go away, and historically the cattlemen have fought for full repeal of the estate tax. But our members recognize full repeal may not be an option at this time, so we are simply asking Congress to reform the estate tax to give relief and certainty to dedicated farming and ranching families who continue to work and preserve the land.

The minimal amount of progress which has been made is at risk of being undone. Currently, the estate tax rate is set at 45 percent for estate assets exceeding $3.5 million in value, or $7 million per couple. The president's proposed budget would freeze the estate tax at these levels so they could be dealt with at a later date. If Congress does nothing, in 2011, the exemption amount and tax rate will revert to staggering pre-2001 tax levels, meaning estate assets exceeding $1 million would be taxed at the 55 percent rate.

When you factor in land and equipment, not to mention rising property values, it is clear that most farms and ranches would easily exceed the million-dollar threshold. This is a value that most farmers and ranchers will never see in terms of cash, as it is tied up in productive assets, which we hope to pass down to the next generation.

An estate tax exemption of agricultural lands is an optimal way to diminish the devastating effects of the estate tax on family ranching operations. Farm and ranch land market values continue to increase based on many things, including their proximity to urban sprawl. In most cases, this inflated market value is the basis for assessing the death tax, resulting in the need to liquidate productive agricultural assets in order to keep what we can.

Indexing for inflation is absolutely critical in countering escalating land values, and stepped-up basis provisions are imperative when those assets have been levied with the tax. NCBA has supported recent legislative proposals to increase the exemption levels and decrease the rate of taxation.

For these reasons, it is our recommendation that Congress act swiftly to bring further reform to the death tax. We urge you to work with Chairman Rangel and the Ways and Means Committee to include the reform ideas laid out in Representative Berkley's bill, as well as the adoption of the agricultural exemption contained in the Thompson-Salazar bill, because, at the end of the day, all we really want is to keep our farms and ranches in production.

We need farms and ranches to stay whole and be passed down from generation to generation in order to take care of the land, feed our country, feed the world, and maintain our way of life.

NCBA appreciates the House Small Business Committee holding this hearing, and U.S. cattle producers need your leadership and look forward to continuing dialogue on this important issue.

[The statement of Mr. Uhl is included in the appendix.]

Chairwoman VELÁZQUEZ. Thank you, Mr. Uhl.

The chair recognizes Ms. Fallin for the purpose of introducing our next witness.

Ms. FALLIN. All right. Thank you, Madam Chair. It is a great pleasure to be able to introduce one of my long-term friends and a woman that is very highly respected in Oklahoma, and that is Terry Neese. Terry, welcome. It is good to have you here in front of our Small Business Committee.

Ms. Neese has served as a distinguished fellow at the National Center for Policy Analysis. In this role, she develops ideas to help small-business owners make better financial and health care decisions. She is the owner of a small business, a family farm, and has founded several organizations to educate and train small-business owners.

Ms. Neese has been recognized by Fortune magazine as one of the power 30 most influential small-business women in Washington, and Inc. magazine has named her as one of four top advocates for entrepreneurs in the United States. So we are thrilled today that she was able to make time in her schedule to join us from Oklahoma.

And welcome, Terry. It is good to have you here.

STATEMENT OF TERRY NEESE

Ms. NEESE. Thank you. It is good to be with you. Thank you, Congresswoman Fallin.

And, Madam Chairwoman, good to see you. It has been a while. And I appreciate you holding this important hearing.

Members of the Committee, thank you for inviting me and giving me the opportunity to discuss the detrimental impact of the estate tax on small business and their families.

Today, I am speaking on behalf of the National Center for Policy Analysis, a nonprofit, nonpartisan public policy research organization dedicated to developing and promoting private alternatives to government regulation and control. The NCPA recently started the Family Policy Center, where we focus on finding private solutions to issues faced by women, families, and small business. They are headquartered in Dallas, Texas, and I live and work in Oklahoma.

Support for the estate tax is based on three major claims: first, inheritances are a major source of wealth inequality; second, the tax provides significant revenue for the federal government; and, third, the individuals required to pay the tax can easily afford it.

These are, however, all myths. Not only the rich, but lower-and middle-class Americans, especially small-business owners, should be concerned if the estate tax is not repealed or maintained permanently.

It is a common assumption that inheritances are a major source of wealth inequality. And an NCPA study shows that only 17 percent of wealth for the top 1 percent wealth came from bequests. In actuality, individual skills and personal choices are far more important in determining household wealth.

Because inheritances are only a minor factor determining the wealth distribution among retirees, using the estate tax as redistributive mechanism is unlikely to have a significant effect on that distribution. In fact, it may be self-defeating if it slows capital formation. The resulting increase in capital returns would make the rich even richer.

The second myth, the tax provides significant revenue for the federal government, in fact, it makes up 1 percent to 3 percent of federal tax revenue. It slows capital formation, reducing tax revenues, lowering wages, employment, federal payroll, and income tax revenues.

And according to the Heritage Foundation, if the estate tax were repealed, the U.S. economy would average as much as $11 billion per year in extra output, and an average of 145,000 new jobs per year could be created, and personal income could rise by an average of $8 billion annually above current projections.

The third myth and final one is the individuals required to pay the tax can easily afford it. It is important to understand that the burden of the tax falls on the recipient, not the giver. Middle-class Americans, especially small-business owners, are often stuck with a burdensome estate. Small-business owners and family farmers generally have large investments in infrastructure. Many don't have large capital assets that can be used to pay the tax. And, therefore, many heirs have to liquidate the farm or shut the doors on the family business to pay the estate tax.

The NCPA views the estate tax as anti-family, because it does not allow a parent to pass their hard work and their wealth, if they have any wealth, to their children. It is anti-farm, because farms are especially vulnerable because they hold vast amounts of land which are subject to the estate tax as they are passed from generation to generation. And it is anti-small business. It hurts small businesses that don't enjoy the same tax shelters and benefits as large corporations.

As Congresswoman Fallin said, I have been involved in small-business issues for more than 30 years, serving as a national president of the National Association of Women Business Owners, owner of my own business, and today as a distinguished fellow at the National Center for Policy Analysis.

So, on behalf of the NCPA and the many small-business owners like me and families that might be affected by the actions of this Committee, I am in hopes that you will look at this, as small-business owners are the job-creators of this country, and we will lead us out of the recession as we did in 2001. They don't need any more taxes, not now, and not when they die.

Thank you very much. And I look forward to your questions.

[The statement of Ms. Neese is included in the appendix.]

Chairwoman VELÁZQUEZ. Thank you. There is going to be a series of seven votes coming up. I am not going to be asking questions in this round, and I am going to recognize the rest of the members that are here, and then we will go into recess, and I will come back and ask my questions.

So, Mr. Graves?

Mr. GRAVES. I will defer, too, Madam Chair. I don't think there is anything that could be said or any question that I could ask that would get me to be more against the estate tax.

[Laughter.]

Chairwoman VELÁZQUEZ. Mr. Griffith?

Mr. GRIFFITH. Madam Chair, thank you for holding this hearing. We appreciate so much your comments. I hope that we can translate that and transfer it into the floor of the House and make something happen so that our hard-earned tax dollars are not planning to try to avoid an estate tax in the future. It is a major, major problem and a major difficulty, and we appreciate, Madam Chair, holding this hearing and certainly you all for being here. Thank you.

Chairwoman VELÁZQUEZ. Mr. Luetkemeyer?

Mr. LUETKEMEYER. Thank you, Madam Chair.

I would just ask a couple of brief questions. I think we are all in agreement here. This is an issue that we are all in agreement on. This is a really big problem for small businesses. As a small-business person myself, I have seen our family have to go through this discussion of how we can succeed or pass down businesses from one to the other.

I know, Mr. Spoa, you talked a little bit about some of the problems in planning. You had the importance of life insurance in that. But it—you also made the comment about—it is extremely difficult to try and make a long-term plan on estates with this constant changing of the rules and every year, having to go back and redo this.

Can you give some examples or experiences on the difficulty of doing this and the cost that is involved in trying to go back—and trying to revise this and protect this group this time and that asset this next time—moving target, isn't it?

Mr. SPOA. Yes, it is. It is a moving target. And it becomes more difficult, I think, for my children that are taking over the business, because there are three of them involved, and they have to worry about the other two. I really only have to worry about myself, up to certain point, until these children decided they wanted to take over and stay in the business.

They have to continually plan for each of them and what they have—what if something happens to one of them? What happens to the business? So they have had to invest in insurance policies. And the joke is sort of, if anybody is going to die, better do it next year, because then we can pass on. We don't have to worry about it.

But it is a moving target. I mean, you have to sit down with the accountants. You have to sit down with the tax planners. You have to sit down with the attorneys. And you do it every year—

Mr. LUETKEMEYER. It is a cost that you have to incur that you have to incur, is it not?

Mr. SPOA. Right, it is a cost.

Mr. LUETKEMEYER. Do you have an idea of roughly what your costs are or what the average cost is for people to comply?

Mr. SPOA. I think I will go along with what the young lady next to me said, it was roughly around $5,000 a year. We may be a little higher than that, but I hate—I hesitate to guess without knowing for sure. But it is probably, I would say, between $5,000 and $10,000 a year.

Mr. LUETKEMEYER. Okay.

Ms. Mayes, you made the comment about, you know, printing industry is very—it is unlike the cattlemen industry or the cattle industry over here, which you can sell off a number of acres to do this. It is hard to sell your printing press—

Ms. MAYES. That is right.

Mr. LUETKEMEYER. —you know, to kind of divide that up and, you know, throw off this part and that part. I mean, when you buy a huge asset like that, which is probably 50 percent to 60 percent of all your assets, are all tied up, or your money—your capital is tied up in one asset, it makes it difficult to try to sell off parts in order to be able to keep the whole.

Not that farming is not an industry that it is easy to accommodate estate taxes. I mean, that is also incumbent on the way you generate cash. But it really causes a problem for the printing industry, does it not?

Ms. MAYES. Yes, it is a very capital-expensive industry. I mean, one press is $3 million. We have three large presses and all of the small equipment, as well, everything, it is just very capital-intensive industry.

Mr. LUETKEMEYER. It really affects everybody differently, like I say, under the capital—with the cattle industry here, you know, if you sell off too much land, suddenly it doesn't make your farm productive enough to maintain and to be able to stay in business, I would guess, Mr. Uhl. Is that correct?

Mr. UHL. Excuse me?

Mr. LUETKEMEYER. When talking about, if you have to sell off some of your property, it makes it difficult to try and cash flow your business. You are usually set up so you—the size of your business is—the activities that you have on your property is conducive to the size of the total ranch.

Mr. UHL. Absolutely. A critical mass is absolutely necessary in our business. And when you have to sell off part of your land, that obviously impacts your economic viability.

Mr. LUETKEMEYER. Right.

Ms. Neese, just a real quick one for you. You were talking about the negative impact on economic activity. And I thought that was an interesting comment from the standpoint that actually the estate tax is a restraint on economic activity. That is an interesting comment. Can you elaborate on this a little bit?

Ms. NEESE. Well, I think it is because of—especially if you are a farmer, the infrastructure and the cash assets that you have, it is a detriment to employment, to wages, to revenues, federal revenues, if you look at it as a detriment.

Mr. LUETKEMEYER. Just expansion in general, I would guess.

Ms. NEESE. Exactly.

Mr. LUETKEMEYER. Yes. And if you have to sell off part of your assets, you have got less to leverage if you want to expand or improve your business, I would take it.

Ms. NEESE. Exactly. And one other quick comment from my perspective, in my business, I own a human resources firm in Oklahoma City. And we spent anywhere from around $5,000 to $7,500 a year. And we have been doing that now for 20 years. And the uncertainty is one of the biggest problems. We need permanent fix. And that will help all small-business owners. It will help us create more jobs. It will be so—the burden that will be released would be a huge one for us.

Mr. LUETKEMEYER. Thank you for your comments. My time is up. Thank you, Madam Chair.

Chairwoman VELÁZQUEZ. Mr. Schrader?

Mr. SCHRADER. Thank you, Madam Chair.

I guess a question for Mr. Uhl, maybe Ms. Neese, in terms of the farmers, I am a farmer, and also I have a small business. And I am very concerned about, you know, my estate and being able to pass things onto my kids. Any rough estimates, in terms of sizes, particularly of the average—you know, such as it is farm or ranch, where they would fall in the different proposals that are being discussed in terms of, you know, estate value, what percentage of farms, what percent of ranches are about $3.5 million, above $5 million, or below those numbers, that sort of thing?

Mr. UHL. To our knowledge, there is no hard economic data that will tell you an exact percentage of farms or ranches that will come within the standard. Certainly, if the exemption rate goes down to a million dollars, many, many more will come in.

According to the National Agricultural Statistics Service in the USDA, the average beef operation was 573 acres, and the average operation also had 40 cows. Also, the average profitability over a 30-year average was $30 per head. So what that would lead you to, I believe, economically would be that that average beef operation would average about $1,200 in profitability per year for that 573-acre average.

So I guess what that really tells you is that there are many people in the industry who are not in the industry full time, that it is merely on a part-time basis. For those of us who are in the business full time, many more acres are involved.

Again, according to the National Agricultural Statistics Service, in 2009, the average pasture value per acre was $1,070. In 2003, that was $605. So during that 4-year period, the average per-acre value went up 77 percent, which shows you how rapidly these values have been escalating.

Of course, that is of no use to us in the business, because we don't intend to sell our land. We would like to pass it along. So that is why this issue is so important to us.

Mr. SCHRADER. Ms. Neese, any comments along the same lines?

Ms. NEESE. Just a personal experience. My family farm has been in our family for 100 years. My grandfather started the farm, passed it down to my father, and two other siblings. They ended up having to sell part of their land. It was a big problem for my father. I ended up purchasing the farm from my father to create less complications for him and giving him a life estate on the farm until his passing.

So that is just an example of some of the things. And I have to tell you, this was back when the—was charging 20 percent interest rates. So I got my father out of that and paid it off for him.

So these are some of the things personally that I have been through in terms of trying to deal with passing the farm off generation to generation. We are in Cotton County, Oklahoma, and because it is a 100-year-old farm, I would love to keep it in my name.

Mr. SCHRADER. Thank you very much.

Just a comment, Madam Chair, that I think it is a nice, great, bipartisan bill that we could maybe get behind, and I hope this

Committee will look favorably on it. We are actually getting something maybe from the Senate at end of this week or next week, whenever the Senate ever gets anything done, that is going to be spending a lot more for relief for our different businesses. I can't think of any better expense is to take care of this, and the $28 billion or whatever would pale in comparison to the benefit for American farmers and American small businesses.

Chairwoman VELÁZQUEZ. Mr. Thompson?

Mr. THOMPSON. Thank you, Madam Chairwoman.

Thank you to the panel for your testimony today.

Mr. Spoa, it is good to have another Pennsylvanian here. And I wanted to start out with—just wanted to ask you, you talked about your family-owned company has provided jobs for many people over the years. And what are the kind of jobs that will disappear if small businesses must be sold to pay estate taxes? And are you concerned that the jobs won't be created to fill that void?

Mr. SPOA. Well, the jobs that are filled by the retail grocery industry, you have well-paying jobs in the meat department, the bakeries, the delis, produce managers, front-end manager. These are all well-paying jobs that people actually support families on.

Now, a lot of your part-time workers are the high school students who get their first job, can learn a little bit about what it is like to have to go to work every day, to follow a schedule, learn how to take orders from your supervisors, and learn how to interact with the consumer, and just generally learn a little bit about life in general, rather than just the book-learning that they receive in school.

So those are the jobs that would be lost, along with what every small retailer does for their community as a whole.

Mr. THOMPSON. Can you tell me a little bit about that, in terms of how it would impact the surrounding community and the economy, give me some examples?

Mr. SPOA. Ellwood is a small community. Businesses support the local hospital. Businesses support the local Distributive Education Clubs of America's program. Businesses support churches and all the clubs that go along with the churches, the bingos and the dinners that the churches throw. They support the bans from the high school. I mean, you name it, and small business is there to support, every business in relationship to what they can afford to help, but they all help. They all do something for their community.

And if they are gone, where is the community going to get—where are they going to get that—who is going to provide those services for them?

Mr. THOMPSON. Okay. Thank you.

Ms. Mayes, in your testimony, you emphasized the need for certainty in the estate tax. We have heard a little bit about that. Would you elaborate on why this is important?

Ms. MAYES. It is so important for the planning phase. You know, I discussed that we spend $5,000 a year, total of $730,000. Most of that is on life insurance premiums, the life insurance premiums on my father, on myself, on another partner of ours, just to try and plan. We never know which direction it is going to go in, and that is why just to get a certain plan down that we can plan for now would just be so helpful, and we wouldn't have to go back and forth.

Mr. THOMPSON. Yes, thank you.

Mr. Uhl, in your testimony, you talked about farmers and ranchers are often multi-generation small businesses. How frequently do they need assistance with succession and estate planning? And have you seen any trends related to this issue, you know, of that line of farming and ranching ending, where, you know, has there been up to this point situations where farmers have not continued to the next generation because of these costs and maybe combined with other factors?

Mr. UHL. Yes, absolutely, in two different ways. On account of farm economics now, many times in many instances, the primary farmer or rancher needs to take a second job, and so that sort of takes them out of the industry. And many times, the death tax can cause a requirement for a mortgage to be put on the property, which ultimately ends up being such a burden that it is—those economic assets are sold down the line.

And so even though it may be 3, 4, 5 years after the death tax is imposed, ultimately, the land is sold on account of that, because there is no longer an economically viable unit intact. So, yes.

Mr. THOMPSON. Thank you.

And I will yield back, Madam Chair.

Chairwoman VELÁZQUEZ. Mr. Bright?

Ms. Fallin?

Ms. FALLIN. Thank you, Madam Chair. I do have a couple of questions.

And I, too, support eliminating the estate tax and hope we can accomplish that before it expires. I would like to ask Ms. Neese a couple of questions. Why is the estate tax more burdensome on a small family business than the larger ones?

Ms. NEESE. Well, I am not sure that it is more burdensome on small business, other than it costs small-business owners so much to get into compliance and to make sure that they are able to pass that small business on to the next generation.

And especially in today's economy, a lot of small businesses are really hurting, and it is difficult for them to just make payroll. And so to know that they have got to take another $5,000 or $7,500 to help them with the estate tax planning is a huge lump to take out of their budget when they could be using those dollars to market and continue to sell their wares and keep themselves in business.

Ms. FALLIN. That would make sense. And I would assume that those small-business owners may not have the level of expertise in accounting that some of the larger ones might.

Ms. NEESE. They definitely have to have an attorney who—perhaps the large corporations have an attorney on staff and human resource people that the large corporations have on staff, so absolutely correct.

Ms. FALLIN. That is good. If I could ask Mr. Spoa a question, you said that you carry a life insurance policy to protect your family against the expense of an estate tax. Can you just elaborate a little bit more on why it is important for companies in industries with low capital and small margins to have something like that?

Mr. SPOA. Well, if you want to pass your business on, you have to. If something would happen, there is no money there for the payment of a tax. So you really don't have any choice.

I guess you could say, if you don't do it, you are setting a plan that really isn't a plan. So what they say, you can have no plan be a plan. And if you don't have the insurance and you don't do some planning, then you are willing to let your business go and all the years that your parents put into it and the hours that my wife and I put into it and the hours that the kids are putting into that means nothing if you don't buy that insurance, so that at least you have the cash to pay that tax.

Ms. FALLIN. Thank you. That is very good.

I know we are short on time, so, Madam Chairman, I will relinquish my time. Thank you very much.

Chairwoman VELÁZQUEZ. Thank you.

Mr. Nye?

Mr. NYE. Thank you, Madam Chairman. My questions were largely answered. I just wanted to say thank you for coming here. I know it is arduous to get into Washington, but it is important for us to hear from you. For us to be able to make good policy, we have to hear from people who are on the front lines every day who are experiencing this, trying to keep up with the regulations, paying the expenses that you have talked about today, in terms of keeping up with all this code.

And I just want to say: Thank you for taking the time to come sit here before us, because we need to see from people who are out there on the front line every day for us to make good decisions. So we appreciate you being here.

I yield back.

Chairwoman VELÁZQUEZ. Ms. Dahlkemper?

Ms. DAHLKEMPER. Thank you, Madam Speaker, and I apologize for coming in late. I had another hearing. But I just want to thank you, also. And I don't have any further questions at this point, so I appreciate your testimony today and appreciate you coming in front of us.

I yield back.

Chairwoman VELÁZQUEZ. Okay. So I do have a question.

We all support your concern regarding the estate tax, but we have a lot of competing interests right now, and one of them is facing rising deficits and the impact this could have on our economy in the future.

Estimates say that repeal will cost $1 trillion over 10 years. So if there is an exemption amount, a magic number that will protect small businesses, while taking into consideration fiscal constraints, what will that number be, Mr. Spoa?

Mr. SPOA. You are talking the exemption or the tax rates?

Chairwoman VELÁZQUEZ. The exemption.

Mr. SPOA. The exemption. The problem with setting a set figure with the exemption is that may work very well today, this year or next year, but 5 to 10 years down the road, that number would mean nothing anymore. So I don't know if you—if you really can set a—

Chairwoman VELÁZQUEZ. So let me ask you this question, then. There are a broad array of estate tax proposals right now. And one proposal is to make the 2009 levels of $3.5 million permanent. Would this provide, in the case of Mr. Uhl, farmers with the certainty they need and the necessary protection? If not, what would be an acceptable threshold for family farms?

Mr. UHL. It would provide the certainty. Certainly, the higher the exemption level, the more people that will be employed, the better it will be for our economy. The current level of $3.5 million is insufficient for a meaningful number of members not only in our association, but the industry, those who produce the most beef.

I am not prepared to tell you a number, but I can tell you, the higher the number, the better for our industry and the better for our economy.

Chairwoman VELÁZQUEZ. Okay. Any other member of the panel would like to comment?

Ms. NEESE. You know, Madam Chairwoman, I would love to be really optimistic and say how important it is that it is totally repealed and we have a permanent repeal so that we can then permanently decide what to do with our businesses, in terms of estate tax.

Chairwoman VELÁZQUEZ. Sorry, Ms. Neese. We don't live in a perfect world.

Ms. NEESE. But I would point to, you know, some of the studies that have come out that have said that the economy would average as much as $11 billion a year in extra output. I mean, look at some of those.

I just think that, to protect small business, Mr. Uhl has made two good points. One, we need to have something permanent. And, two, the higher the amount, the better. But I will keep my rose-colored glasses on and stick to total, permanent repeal.

Chairwoman VELÁZQUEZ. Okay.

Ms. Mayes?

Ms. MAYES. Well, just $5 million would help approximately 80 percent of the printing companies that would be relieved of this burden in today's dollars and cents, but just something permanent so that we could plan would be great, because the most important thing is, I have 51 families that I have to worry about, not just my own. It is more important to worry about those 51 families and their longevity and their livelihoods.

Chairwoman VELÁZQUEZ. Okay. Well, thank you very much. And we will continue to listen and discuss this issue that I know is important for small businesses in America, especially at a time when small businesses are struggling. Thank you all for being here today.

I ask unanimous consent that members will have 5 days to submit a statement and supporting materials for the record. Without objection, so ordered.

This hearing is now adjourned.

[Whereupon, at 2:00 p.m., the Committee was adjourned.]

NYDIA M. VELAZQUEZ, NEW YORK
CHAIRWOMAN

SAM GRAVES, MISSOURI
RANKING MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-0515

Statement
of the
Honorable Nydia M. Velázquez, Chairwoman
U.S. House Committee on Small Business
"Small Businesses and the Estate Tax: Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"
Wednesday, November 4, 2009

For many, starting a successful business and seeing it grow is the cornerstone of the American Dream. As the daughter of an entrepreneur, I saw firsthand what my family had to do to keep a small business afloat. With big ideas for the future and limited resources to call upon, I know that starting and running your own venture for many entrepreneurs is a family affair. It is not surprising, then, that many small business owners imagine passing along the farm or business they have built to a child or grandchild to carry on the family trade. But for many parents who have spent their whole lives working to leave their business to their children, the estate tax can threaten the dream of having a son or daughter follow in their footsteps.

For many family businesses, the estate tax was a hurdle too great to overcome as the heirs of a family farm or business suddenly found themselves in the middle of a complex web of archaic laws. It closed the doors on countless viable family businesses because they did not have the cash on hand when the tax came due. This was especially true for our family farmers, who were forced to liquidate because their greatest wealth is the land they till, not the cash in their bank accounts.

For small business owners that sought to overcome these hurdles, the anxiety and costs were tremendous. After all, estate planning for small businesses is complex and costly. Entrepreneurs attempting to plan for the future had to hire costly lawyers and accountants to navigate laws, calculate their estate tax, and set aside funds so they could pass along the family trade.

Even then entrepreneurs were not guaranteed their family business or farm would survive to pass on to the next generation. One entrepreneur told me he spent five years, hundreds of thousands of dollars for consultants, and carried a life insurance policy to protect his children from having to sell the family business. Despite his careful planning, he was still worried he may have overlooked something which would cost his employees their jobs if his children were not able to pay the estate taxes to keep their doors open.

It's not surprising then that before estate tax reform was enacted in 2001, some seventy percent of family businesses didn't survive into the second generation. Almost ninety percent didn't make it to the third generation.

While the estate tax reforms enacted in 2001 allowed entrepreneurs to focus on growing their ventures, the reforms were enacted on a temporary basis and will soon end. Starting in 2011, the estate tax exemptions for small businesses will expire. When they disappear, millions of family enterprises will again find their chances for survival beyond the first generation in jeopardy.

In today's hearing, we will examine what the future of the estate tax holds for small businesses. Some are calling for complete repeal of the tax. Others have suggested that Congress freeze estate tax provisions in their 2010 form.

One thing is clear — we will need to find a solution. Small businesses face enough hurdles to succeed even without the estate tax as an insurmountable obstacle in their way. Children who inherit the family farm or firm and wish to carry on their trade shouldn't be forced to sell or liquidate the business.

Protecting the family business and farm so it can flourish into the next generation will also help the communities who depend on these enterprises for jobs and services. By crafting an estate tax policy that works for small businesses and family farms, entrepreneurs can focus on growing their ventures — creating the jobs and growth needed for long-term prosperity.

COMMITTEE ON
SMALL BUSINESS
REPUBLICANS

REP. SAM GRAVES, RANKING MEMBER

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Opening Statement
Ranking Member Sam Graves
House Committee on Small Business
Hearing: "Small Businesses and the Estate Tax: Identifying Reforms to Meet the Needs of Small Firms and Family Farms"
November 4, 2009

Madam Chairwoman, thank you for calling this hearing on the very important topic of the estate tax. Special thanks to our witnesses who have taken time from their busy schedules to be here today. Entrepreneurs are struggling. They are responding to our difficult economy by working to expand and create jobs at a time of high unemployment. Now they are threatened with additional regulations, mandates, and tax increases to pay for health care and additional government spending. The last thing they need is the possibility of losing their businesses.

Yet if Congress fails to act before 2011, family businesses and entrepreneurs may find their companies at risk. Current law, which would phase out the estate tax for those who die in 2010 only, is scheduled to sunset on January 1, 2011. If Congress does nothing, a top marginal estate tax rate of 55%, and an exemption of just $1 million, would again take effect in 2011. Small businesses and farms are often operated by families, and transferred from one family member to the next. These entrepreneurs frequently return any savings right back to their business by purchasing valuable equipment or land needed to operate the company.

In the case of a small company or farm, although the assets transferred after a decedent's death may be valuable, the heir's net worth or liquidity may not be high. The heir, facing a 50% estate tax bill, may be forced to sell vital equipment or land to pay the tax, rendering the business inoperable. The net effect is reduced capital formation, productivity and business expansion. Before current law sunsets at the end of 2010, Congress must act. I support a full repeal of the estate tax, and I have introduced legislation, H.R. 664, to make the 2001 and 2003 tax relief, including the estate tax phase out, permanent.

If Congress does not repeal the tax, it should, at a minimum, reduce the estate tax rate and increase the exemption. The fact that there is uncertainty in the law makes it difficult for small business owners and farmers to plan. We cannot allow these entrepreneurs to risk the future of their companies.

Madam Chairwoman, thank you for recognizing the need to hold a hearing on this absolutely critical issue. I look forward to the testimony.

FOOD MARKETING INSTITUTE

Testimony of Mr. Christy Spoa, Sr.
President/Owner
Ellwood City Save-a-Lot

"Small Businesses and the Estate Tax: Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"

House Committee on Small Business
Wednesday, November 4, 2009
2360 Rayburn House Office Building

Chairwoman Velazquez, Ranking Member Graves, and Members of the Committee –

Thank you very much for inviting me here today to talk about the impact of the estate tax on our nation's small businesses. My name is Christy Spoa, Sr. and I am the President of the Ellwood City Save-a-Lot in Ellwood City, Pennsylvania. We have been a family-owned business for over 90 years and are extremely proud of the long-term relationships we have built with our customers and our community.

I am pleased to say that the next generation of Spoas have entered the business and will carry on this tradition. Three of my four children – Christy, Jr., Debbie and David - work with me at the Save-a-Lot and will eventually run the business. My daughter Cathy is a school teacher in Connecticut.

It is a thrill for me to work with my children everyday and to see the energy and new ideas that they are bringing to the business. Running a supermarket is a demanding undertaking that requires long hours and dedication to customer service, but they have tackled these challenges with creativity, hard work and enthusiasm. I take great pleasure and pride in knowing that I am leaving the business in such good hands.

There is no doubt, however, that the existence of the estate tax makes the process of planning this succession harder than it should be. For a number of years, I have worked with my industry association, the Food Marketing Institute (FMI), to advocate for the repeal of this unfair tax. I hoped the 2001 reforms would be the first steps in this process. But the situation it created – where the tax disappears next year before roaring back to as much as 55% in 2011 – has made estate planning with any kind of confidence nearly impossible. While I continue to hope that Congress will repeal the tax all together, or eliminate it for companies that stay in the family, right now businesses like mine need certainty and predictability.

The estate tax hits family-owned businesses when they are at their weakest – following the death of the head of the company. This should be a time of remembrance and rededication to the legacy of a lost loved-one. But getting hit with the estate tax can turn this period into a nightmare for families that have not adequately prepared. I can only imagine how painful it must be to be faced with having to sell off all or part of a once-thriving family business in order to pay the tax.

My family has taken steps to make sure this never happens. But this points to one of the most overlooked aspects of the estate tax. It is not just a one-time levy. It is a constant expense hanging over the head of thousands of family-owned businesses in the United States that takes a toll in dollars, but also in lost productivity, limited growth and emotional strain.

In order to protect against the cost of the tax, I am forced to carry a life insurance policy that will help my family cover the expense of compliance should anything happen to me. This is vital for someone in my industry. Supermarket owners tend to be asset-rich with holdings of buildings, land, equipment and stock, but cash poor. Even single-store operators can quickly find themselves exceeding the current exemption levels, and multi-store companies can easily exceed $10 million. So, it is difficult to withdraw the potentially significant amount of cash necessary to pay the estate tax from a business like mine. And since I operate a single store, selling off part of the business to raise funds is simply not an option. The industry as a whole operates on a profit margin of slightly more than 1%, so even generous payments plans mean vital cash flowing out of investment and growth and leaving my business weaker and less able to compete. No one wants to leave that as a legacy for their children.

Similarly, I have spent countless dollars and hours with lawyers and accountants to plan for the orderly transition of leadership from myself to my children. I was fortunate that my own father lived into his nineties, so I was able to take over ownership and operation long before he passed away. But the estate tax makes this process significantly more complicated, and it will be even more complicated for my children, who will share ownership, once they take over. They will also have to spend a significant amount of money in order to make sure that unforeseen circumstances do not threaten the viability of the business and their ability to leave it to the next generation. So, I'm not just passing on the company, but the significant costs of estate planning as well.

Some people might argue that this is simply the cost of doing business. But it is important to keep in mind that every dollar that goes toward insurance premiums and estate planning is a dollar that is not invested in my business. It is money taken away from job creation, increased wages, better benefits, and continued growth. Right now I have 25 employees and they bear the brunt of the estate tax just much as my family and I do.

Again, this is not a one-time expense, but an annual cost. With every change in the law or my economic situation, I need to go back and revisit my planning. When taken as a whole, these costs can ripple out and impact an entire community.

Ellwood City, where I make my home, is somewhat unique in that "Main Street" is still dominated by family-owned businesses. In addition to retail stores (including two additional supermarkets), we have a small metal foundry that all provide jobs to our community. None of the owners is a Rockefeller, a Gates or a Buffett, but each of them is acutely aware of the estate tax and the toll it can take on their business if they are not careful.

This has real consequences. In the 91 years we have been in business, I would guess that we have employed over 1000 people at one time or another. For a lot of these employees, it was a first job or a chance to make a little extra money. For others it was a chance to get back into the workplace after raising children. And for some, it turned into a career that allowed them to raise their families and buy a home. Where are these jobs going to come from if family businesses are weakened or sold to cover the cost of the tax? It can be easy to ignore this effect on employment, but for communities that are struggling to create good jobs, it is a question that needs to be answered.

I understand that the estate tax was originally designed to prevent the concentration of wealth in the hands of a small number of families. But it has expanded far beyond this to threaten the ability to pass along family-owned businesses. For individually owned and operated grocery stores like mine, the estate tax is a constant source of anxiety that has real consequences for the my family, my employees and the day-to-day operations of my business. I do not have the cash or assets on hand to simply write the government a check and pay the bill, so I have spent years and thousands of dollars to plan for the worst. No matter how much money I spend, I always wonder, "Have I done enough?"

The estate tax is not innocuous and it is not simply a cost of doing business. It affects families, employees and communities in a real way. At the start of my testimony I mentioned that – like many in my industry – I have been advocating for years to repeal this tax. It is my belief that it simply does more harm than good. Both the industry and I recognize that this is a difficult task and have worked to support reasonable compromises when they are offered. But I continue to believe that repeal is the best solution and the best way to make sure that small and family-owned businesses continue to thrive and create jobs.

Thank you for inviting me to testify today. I will be happy to answer any questions you might have.

CHRISTY SPOA, SR.
PRESIDENT
ELLWOOD CITY SAVE-A-LOT

Christy Spoa was born and raised in the grocery industry. He graduated in 1956 from Fenn College. He currently serves on the following:

BOARD OF DIRECTORS:

- Pennsylvania Food Merchants Association – Also served as Past Chairman
- NGA Public Advisory Council
- Pennsylvania Chamber Business and Industry
- Food Marketing Institute (FMI)
  Member of FMI Communications Committee
  Member of FMI Independent Operator Committee
  Member of FMI Member Services Committee
- Chairman – Ellwood City Hospital Board of Trustees

Christy also serves on numerous industry committees.

AWARDS:

1978 – Riverside High School Ecology Youth for America Appreciation Award
1989 – Spirit of America Award
2001 – FMI Glen Woodard Award

PERSONAL:

Christy is married to Dorothy Nada Chicovsky. They have four children and three are active in the food business.

2/2006

STATEMENT FOR THE RECORD

MEREDITH L. MAYES

COLORCRAFT

and

THE PRINTING INDUSTRIES OF AMERICA

BEFORE THE

HOUSE COMMITTEE ON SMALL BUSINESS

NOVEMBER 4, 2009

"Small Businesses and the Estate Tax: Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"

INTRODUCTION

Chairwoman Velazquez, Ranking Member Graves, and members of the Committee, good afternoon and thank you for inviting me to testify today.

My name is Meredith Mayes and I work as a Digital Solutions Manager at ColorCraft of Virginia, a commercial printing company. I represent the second generation of the company. My father, Jim Mayes, acquired ColorCraft in 1986 and grew it from a 23 employee shop to one with nearly 75 employees at its peak.

We currently employ 51 workers, including my mother, who – in the traditional "mom & pop" sense of small business – oversees the company's accounting.

Through all of the ups and downs, our company has always remained true to its "family atmosphere." Our longest serving employee has been with us for 23 years. We know that this term is more than just company culture, it's a commitment to jobs and growth for our family and for those families who depend on ColorCraft for their livelihoods. That's why the estate tax is a tremendous concern for us and for thousands of printers across the country.

FAMILY-OWNED PRINTING COMPANIES

According to the Printing Industries of America, of which ColorCraft is a proud member, six out of 10 printing companies are family-owned. In total, there are approximately 17,000 family-owned plants in the U.S. and they employ close to 600,000 workers. The uncertain future of the estate tax is top of mind for nearly all of these firms.

ISSUES SURROUNDING ESTATE TAX

At ColorCraft, I've watched my father spend numerous hours and dollars attempting to ensure the longevity of a company he works so hard to keep afloat and growing. Annually, we spend $5,000 on estate tax planning. All told, we've spent $730,000. Our company would <u>much</u> rather have reinvested that $730,000 to fund sales training, technical education and debt reduction – all of which would benefit the entire ColorCraft family and the jobs we provide.

On that note, job creation should definitely be part of an estate tax discussion. The printing industry has lost 73,000 jobs since mid-2008. Family-owned small businesses are critical to the revival of our economy and an estate tax that soaks up financial resources and negatively impacts job creation is very troubling. This is especially true as a 2006 Joint Economic Committee report stated that the revenue raised by the death tax amounts to only 1.2 percent of total federal revenues.

There are non-economic costs to the estate tax, too. Small businesses are known for community service – and, trust me, a local printer is often the first stop for every local club, school and charity seeking an in-kind donation! For instance, ColorCraft supports local educational programs, including Head Start and Monroe Technology Center in Leesburg, Virginia. An estate tax that threatens small business survival also threatens non-profit and community support.

SOLUTIONS

So what can Congress do to ensure that the estate tax doesn't continue to be an albatross on small printers' necks as we seek to survive and grow? In my opinion, a full, outright, and permanent repeal of this tax is the best solution. The next best case scenario is permanent <u>reform</u>.

One reform idea is the Estate Tax Relief Act of 2009 introduced by Rep. Shelley Berkley and others, which would phase-in the estate tax exemption levels over ten years to $5 million while also decreasing the tax rate to 35 percent. This particular adjustment of exemption levels and rates if indexed for inflation and made permanent would relieve approximately 80 percent of family-owned printers from both the destructive planning and payment of the estate tax. This approach is one our industry would welcome and support, though a higher starting exemption level and a shortened time-frame would provide more practical relief.

I would add a note of caution regarding top exemption levels. I urge Congress to be mindful that capital intensive industries like printing have non-cash assets that add up very quickly in spite of depreciation schedules. For example, our most recent equipment purchase was a printing press at $3.8 million. Additionally, many family-owned printers strive to own rather than lease their plants, which also adds to the estate tax calculation. What may sound like a lot of money on paper doesn't always translate to cash on hand.

CONCLUSION

As stated previously, I manage the digital printing side of my family's business. My father and many of his generational peers have an expertise in traditional ink-on-paper printing, an area of the industry that is expected to have less than one percent annual sales growth between now and 2020. In contrast, digital printing is expected to have 133 percent sales growth by 2020. As I network with second- and third-generation printers across the country, many of us are driving the digital expertise – and, therefore, driving the future growth of the entire industry. My generation wants the chance to lead our family-owned businesses into the future. I hope fervently that Congress will act upon the problem of the estate tax issue to allow ColorCraft and other printers to continue growing, succeeding and reaching our full potential.

Again, thank you for holding today's hearing and for inviting me to testify.

I look forward to answering any questions you may have.

Testimony

on behalf of the

National Cattlemen's Beef Association

with regard to

"Small Businesses and the Estate Tax: Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"

submitted to the

United States House of Representatives – Committee on Small Business

The Honorable Nydia M. Velazquez, Chairwoman

submitted by

Arthur Uhl
Attorney at Law

Chairman – NCBA Tax and Credit Committee

November 4th, 2009
Washington, DC

BEEF USA **National Cattlemen's Beef Association**

Madame Chair, Ranking Member Graves, Members of the Committee - my name is Arthur Uhl and I am a rancher, cattle producer and attorney from San Antonio, Texas. I am testifying on behalf of the National Cattlemen's Beef Association (NCBA), which is the largest and oldest national organization representing America's cattlemen and women. As Chairman of NCBA's Tax and Credit Policy Committee, I can testify that the repeal or fundamental reform of our federal estate tax system is at the heart of NCBA's mission, and we believe it is critical to the long term viability of our industry. I appreciate your Committee raising awareness of the tremendous burden that the estate tax places on America's farmers and ranchers. Ninety-seven percent (97%) of American farms and ranches are owned and operated by families--many of which have owned their property for generations. To small and medium sized operations, this tax can be a death sentence. Thank you for holding this hearing and bringing cattlemen to the table.

Tax policy is a key factor impacting American cattle producers, particularly in today's difficult business climate. In an industry where financial returns are historically small, we depend upon the ability to pass on a farm or ranch to the next generation without exhausting resources for arduous planning, or being forced to break apart economically viable operations. We view the estate tax as fundamentally unfair, inefficient, economically stifling and particularly devastating to our business, which requires very highly valued assets to produce minimal economic returns. Cattle producers understand and appreciate the role of taxes in maintaining and improving our nation, but they also believe that the most effective tax code is a fair one. For this reason, NCBA members fundamentally disagree with the taxing of assets that have already been taxed, sometimes two and three times over. In the eyes of American farmers and ranchers, death should not be a taxable event for either the estate or its heirs.

The current onerous estate tax system is also at odds with our important national goals of preserving natural resources and open space. Family farms and ranches provide an abundant and necessary source of food and fiber to feed the growing global population, as well as Americans right here at home. Not only are they producing nutritious food, America's farmers and ranchers are taking care of the land, air, and water that make our way of life possible. The Death tax breaks up farm and ranch land and displaces family generational farms and ranches, expediting their conversion to strip malls and condo complexes and doing a great disserve to the American public and the rural way of life.

All family businesses would like to see this tax go away, and historically the cattlemen have fought for full repeal of the estate tax. But our members recognize full repeal is not an option at this time, so we are simply asking Congress to reform the estate tax to give some relief and certainty to dedicated farming and ranching families who continue to work and preserve the land.

The minimal amount of progress which has been made is at risk of being undone. Currently, the estate tax rate is set at 45% for estate assets exceeding $3.5 million in value (or $7 million for a couple). The President's proposed budget would freeze the estate tax at these levels so it can be dealt with at a later date. If Congress does nothing, in 2011, the exemption amount and tax rate would revert to staggering pre-2001 tax levels, meaning estate assets exceeding $1 million would be taxed at a 55% rate. When you factor in land and equipment, not to mention rising property values – it's clear that most farms and ranches would easily exceed the $1 million threshold. This is value that most farmers and ranchers will never see in terms of cash, as it is tied up in productive assets which we hope to pass down to the next generation.

An estate valuation of agricultural lands which is based on its productive value, as opposed to its fair market value, is an optimal way to diminish the devastating effects of the estate tax on a family ranching operation. Farm and ranch land market values continue to increase based on many things including their proximity to urban sprawl. In most cases, this inflated value is the base for assessing the Death tax, resulting in the need to liquidate productive agricultural assets in order to keep what we can. Indexing for inflation is absolutely critical in countering escalating land values, and stepped-up basis provisions are imperative when those assets have been levied with the tax. NCBA has supported recent legislative proposals to increase the exemption levels and decrease the rate of taxation.

For these reasons, it is our recommendation that Congress act swiftly to bring further reform to the Death Tax. We urge you to work with Chairman Rangel and the Ways and Means Committee to include the reform ideas laid out in Rep. Berkley's bill, as well as the adoption of the agricultural valuation of estate assets contained in the Thompson/Salazar bill because, at the end of the day, all we really want is to keep our farms and ranches in production. We need farms and ranches to stay whole and be passed down from generation to generation in order to take care of the land, feed our country, feed the world, and maintain our way of life.

NCBA appreciates the House Small Business Committee holding this hearing. U.S. cattle producers need your leadership, and we look forward to a continuing dialogue on this important issue.

NATIONAL CENTER FOR POLICY ANALYSIS

Statement of

Terry Neese

Distinguished Fellow
National Center for Policy Analysis Family Policy Center

On the Estate Tax

Small Business Committee
United States House of Representatives
November 4, 2009

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Madam Chairwoman and members of the Committee, thank you for inviting me today and giving me the opportunity to discuss the detrimental impact of the estate tax on small businesses and their families. Today, I am speaking on behalf of the National Center for Policy Analysis (NCPA), a nonprofit, nonpartisan public policy research organization dedicated to developing and promoting private alternatives to government regulation and control. NCPA recently started the Family Policy Center, which focuses on finding private solutions to issues faced by women, families, and small businesses.

As you are probably aware, an estate tax was enacted in 1916 to pay for World War I, and it has remained in force since. The initial top rate was just 10 percent, suggesting that its original purpose was to raise revenue, rather than redistribute wealth. The estate tax did not become explicitly redistributive until the administration of Franklin Roosevelt. The Revenue Act of 1935, in particular, was almost solely concerned with redistribution. The top estate tax rate, which was 45 percent when Roosevelt took office, was ratcheted up to 60 percent in 1934 and 70 percent in 1935.

Today the estate tax exists almost exclusively for redistributive purposes, since the revenue yield is minuscule. In fact, the estate and gift tax is not a significant revenue source for the federal government. [Note that if the estate tax were abolished, most bequests would still be subject to capital gains taxation when assets are sold - generating offsetting revenue increases.]

Myths

Support for the estate tax is based on three major claims: 1) inheritances are a major source of wealth inequality, 2) the tax provides significant revenue for the federal government and 3) the individuals required to pay the tax can easily afford it. These are, however, all myths. Not only the rich, but lower- and middle-class Americans, especially small business owners, should be concerned if the estate tax is not repealed or maintained permanently.

Myth 1: The Estate Tax is Major Source of Inequality.

Fact: Support for the estate tax is based largely on the idea that inheritances are a major source of wealth inequality. It is commonly assumed that inheritances are a major source of wealth inequality and that the offspring of wealthy families tend to be as rich as their parents due to bequests. However, an NCPA analysis of data from the Survey of Consumer Finances found that among the wealthiest 1 percent of Americans only 17 percent of their wealth came from bequests. In fact, the contribution of inheritance is surprisingly small, and it turns out that an individual's skills and personal choices are far more important in determining household wealth.

More specifically, skills acquired through education, entrepreneurship and hard work determine whether individuals move from one wealth level to another.

To understand the reasons for wealth inequalities, it is best to look at the age range in which individuals generally accumulate their wealth. For instance, wealth accumulation tends to peak, as married households reach retirement age (60 to 69) and have accumulated all the wealth they will during their lifetimes. Studying this specific group it is easy to see that the distribution of wealth is highly unequal:

- The top 1 percent of households holds about 23 percent of all wealth.
- The top 5 percent holds 51 percent of all wealth.

However, inherited wealth is a very small portion of total wealth even for the wealthiest households. For example:

- If we could somehow tax away every single dollar of wealth due to inheritances, it would reduce the top 1 percent's share of the nation's total wealth by only 4 percentage points.
- If all the wealth due to inheritance of the top 5 percent were taxed away, it would reduce their share of the wealth by only 7 percentage points.

The principal argument for the estate tax is the notion that without it wealth would become more concentrated in the hands of financial dynasties. However, wealth is highly mobile - being raised in a wealthy family does not guarantee that these children will be rich themselves when they retire:

- Only one in five children of the wealthy will themselves be wealthy when they reach retirement age.
- On the other hand, more than half of the children whose parents are in the bottom half will end up in the top half by the time they retire.

Because inheritances are only a minor factor determining the wealth distribution among retirees, using the estate tax as a redistributive mechanism is unlikely to have a significant effect on that distribution. Indeed, it may be self-defeating if it slows capital formation: The resulting increase in capital returns would make the rich even richer.

Myth 2: The Estate Tax Contributes Significant Revenue for the Federal Government.

Fact: While estate tax advocates claim that it raises considerable sums for the federal government, in reality the tax makes up less than 3 percent of total federal tax proceeds and some estimates put this number at less than 1 percent. Moreover, it reduces capital formation, thereby lowering productivity, wages, employment, and federal payroll and income tax revenues. For example, the Heritage Foundation found that as a result of complete estate tax repeal:

- The U.S. economy would average as much as $11 billion per year in extra output.
- An average of 145,000 new jobs per year could be created and personal income could rise by an average of $8 billion annually above current projections.
- The federal budget deficit would decline because increased revenue generated by increased economic growth would more than compensate for estate tax revenue.

Myth 3: Heirs Can Afford the Estate Tax.

Fact: Heirs can be wealthy or poor. It is important to understand that the burden of the tax falls on the recipient, not the giver. For this reason, one cannot state with certainty what the distributional effect of the estate tax actually is. In fact, nearly two-thirds of the children of parents in the wealthiest 20 percent of families fall to a lower wealth bracket upon reaching adulthood. Therefore, contrary to the popular notion that only the rich are beneficiaries of estates, middle-class Americans, especially small business owners, are often stuck with a burdensome estate.

A survey by the Center for the Study of Taxation found that because of the estate tax, 51 percent of family businesses would have significant difficulty surviving a principal owner's death. Fourteen percent of business owners said it would be impossible for them to survive and only 10 percent said the estate tax would have no effect.

To further explain why this is such an issue, it is important to look at what exactly the estate tax actually taxes. The estate tax taxes wealth, which is the total *stock* of assets owned by a household, and includes material possessions, as well as financial instruments such as stocks and bonds. Small business owners and family farmers generally have large investments in infrastructure, adding to their "wealth", but many don't have large capital assets that can be used to pay the tax. Therefore, many heirs have to liquidate the family farm or shut the doors on the family business to pay the estate tax.

Conclusion:

The NCPA views the estate tax as:

- ANTI-family- Does not allow a parent to pass their hard work and wealth on to their children
- ANTI-farm- Farms are especially vulnerable because they hold vast amounts of land which are subject to the estate tax as they are passed from generation to generation
- ANTI-small business- Hurts small businesses that don't enjoy the same tax shelters and benefits as large corporations

Congress is facing a tax deadline. Under legislation passed in 2001, the federal estate tax is being phased out: The tax rate is falling and the value of the property of the deceased that is exempted from the tax is rising. The tax is even scheduled to disappear in 2010, but it will return in 2011 at pre-2001 rates - up to 55 percent for estates valued in excess of $1 million.

Small business owners and other middle-class Americans must not be deceived by the misleading claims of estate tax supporters. Even if the tax is allowed to go away in 2010, the increase when it returns in 2011 will only further impede productivity. If Congress truly wants to stimulate the economy, they ought to end the estate tax permanently.

I have been involved in small business issues for more than 30 years, serving as national president of the National Association of Women Business Owners (NAWBO), owner of my own business, and today as a Distinguished Fellow for the National Center for Policy Analysis. So, on behalf of the NCPA and the many small business owners, like me, and families that might be effected by the actions of this committee, I want to thank you for accepting my testimony. I look forward to answering your questions.

YVETTE D. CLARKE
11TH DISTRICT, NEW YORK

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EDUCATION AND LABOR COMMITTEE

HOMELAND SECURITY COMMITTEE

SMALL BUSINESS COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515-3211

HEALTH, EMPLOYMENT, LABOR, AND PENSIONS SUBCOMMITTEE

HEALTHY FAMILIES AND COMMUNITIES SUBCOMMITTEE

CHAIRWOMAN: EMERGING THREATS, CYBERSECURITY, AND SCIENCE AND TECHNOLOGY SUBCOMMITTEE

INTELLIGENCE, INFORMATION SHARING AND TERRORISM RISK ASSESSMENT SUBCOMMITTEE

CONTRACTING AND TECHNOLOGY SUBCOMMITTEE

RURAL DEVELOPMENT ENTREPRENEURSHIP AND TRADE SUBCOMMITTEE

November 4, 2009
Small Business Committee
Estate Tax Hearing
Rep. Yvette Clarke - Comments

- Thank you Madame Chair and Ranking Member Graves for having this hearing and thank you to the panelists for being present today.
- Madame Chair I think that it's time that we kill the dramatic and emphatically state that there is NO DEATH TAX. Now that we have this out of the way, we can have a real conversation.
  - The term death tax, coined by Republican strategists to scare the American public into believing that this was a tax they should be against, has hampered legitimate conversation about this issue for too long.
  - The term death tax is pure marketing and it should be dispensed with right away.
- That being said, we can discuss what the exemption level should be as we move forward and we can discuss what the top rate should be as well. These are conversations we can have without the hyperbole of death tax drama.

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EDUCATION AND LABOR COMMITTEE

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RURAL DEVELOPMENT ENTREPRENEURSHIP AND TRADE SUBCOMMITTEE

- However, there are some facts at hand that must be heeded. The U.S. Treasury currently collects approximately $26 billion annually from the estate tax.
    - There are differing views and differing studies as to the true impact on small firms. We must study this issue and that is a part of why we are here today.
    - One thing that is certain, however is that doing away with the estate tax would be terribly detrimental. Some estimates say a full repeal would cost the government $1.3 trillion over a decade.
    - What I find most perplexing is that many of the same people who advocate for deficit reduction would advocate for the repeal of this tax which affects a select group of Americans of arguably extreme wealth to the detriment of the national debt.
    - Essentially this would dry up revenues which can be put towards reducing the debt, or Investing in Innovation and Infrastructure- what I like to call the 3 I's- for our economic health!
- The big picture here is simple Madame Chair. We ARE experiencing economic difficulties as a nation. WE MUST look to the future with targeted investments in creating the jobs and industries of the future.
- A repeal of the estate tax would adversely impact this goal, and any discussion we have about "reform" must keep in mind that the estate tax does NOT impact more than 90% of American citizens. The time is now for a reasonable conversation about this issue, and I hope we can have one here today.

- Thank you once again to the panelists, to Madame Chair and Ranking Member Graves.

Associated Builders and Contractors, Inc.

November 4, 2009

The Honorable Nydia Velázquez
Chair
House Small Business Committee
2361 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Sam Graves
Ranking Member
House Small Business Committee
B-363 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairwoman Velázquez and Ranking Member Graves:

On behalf of Associated Builders and Contractors (ABC), a national association with 79 chapters representing 25,000 merit shop construction and construction-related firms with 2 million employees, we appreciate the opportunity to provide our position regarding the estate tax in response to the House Small Business Committee's hearing entitled, "Small Businesses and the Estate Tax: Identifying Reforms to Meet the Needs of Small Firms and Family Farmers." The estate tax, also known as the "death tax" places a significant burden on future generations of family business owners, their employees, customers, and suppliers.

Construction companies are frequently small, family-owned businesses and are particularly hard hit by the death tax burden, since the value of these businesses is not in liquid assets. Due in large part to the death tax, more than 70 percent of family businesses do not survive the second generation, and 87 percent fail to make the third generation. According to the Small Business Administration, 77 percent of failed family businesses entered into bankruptcy following the death of the founder.

Currently, the estate tax has a top tax rate of 45 percent and an exemption of $3.5 million per person. Specifically, the estate tax is set to expire in 2010 for one year and return to its highest taxable rate of 55 percent in 2011. Almost one-third of all small business owners today will be forced to sell outright, or liquidate a significant portion of their company to pay for this unfair tax. The estate tax not only jeopardizes the survival of family-owned construction companies, but it also siphons off critical funds used for estate planning costs that could be invested back into the business.

The estate tax constitutes slightly more than 1 percent of federal revenue – and is most likely revenue-neutral when the full impact of closing a business is considered. ABC believes that at roughly 1 percent of annual federal revenue, the death tax is hardly worth the devastation it causes to family-owned construction business. Since under current law the estate tax will reappear at its highest taxable rate in 2011, ABC continues to advocate for full repeal.

Family-owned small businesses are the backbone of our economy and give Americans a sense of pride and accomplishment in our country. In the construction industry, they provide valuable jobs and play an integral role in building communities. ABC believes that these businesses are worth preserving for the next generation.

Sincerely,

Brewster B. Bevis

Brewster B. Bevis
Senior Director, Legislative Affairs

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PRINTING
INDUSTRIES
OF AMERICA *Advancing Graphic Communications*

PRINTING INDUSTRIES OF AMERICA MEMBER TESTIFIES BEFORE HOUSE COMMITTEE ON ESTATE TAX ISSUE

Pittsburgh, Pennsylvania, November 4, 2009—*Printing Industries of America member and Digital Solutions Manager of ColorCraft of Virginia, Meredith L. Mayes, testified today before the House Committee on Small Business regarding the issue of estate tax reform and its impact on family-owned small printing companies. Six out of ten printing companies are family owned. Ms. Mayes was invited to provide testimony by Committee Chairwoman Nydia Velazquez (D-NY).*

At the hearing Mayes discussed the negative impact estate tax planning has upon small printers and job creation and also noted the non-economic costs to communities that occur when small companies go out of business. Mayes noted that ColorCraft has spent more than $700,000 in estate tax planning, and those resources could have been better spent on more productive items, such as sales training, technical education, and debt reduction.

Regarding jobs, Mayes stated, "Job creation should definitely be part of an estate tax discussion. The printing industry has lost 73,000 jobs since mid-2008. Family-owned small businesses are critical to the revival of our economy, and an estate tax that soaks up financial resources and negatively impacts job creation is very troubling."

Mayes further commented on policy solutions that she asked the Committee and Congress to keep in mind as estate tax reform is considered. She stated that the most effective solution would be outright, permanent repeal of the estate tax, but that the next best case scenario would be permanent reform. She advocated policy proposals that offered a combination of raising exemption levels while at the same time decreasing the tax rate, noting that indexing for inflation and permanency were key factors.

Mayes additionally urged the Committee to consider the unique impact of the estate tax on capital intensive industries.

"I urge Congress to be mindful that capital intensive industries like printing have non-cash assets that add up very quickly in spite of depreciation schedules. For example, our most recent equipment purchase was a printing press at $3.8 million. Additionally, many family-owned printers strive to own rather than lease their plants,

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which also adds to the estate tax calculation. What may sound like a lot of money on paper doesn't always translate to cash on hand."

Printing Industries of America will continue to advocate on behalf of its members as the estate tax reform debate unfolds.

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About Meredith L. Mayes: *A 12-year employee of ColorCraft of Virginia, Ms. Mayes works as a Digital Solutions Manager. She holds a B.S. in Management Science: Production Operations Management from Virginia Tech University.*

About Printing Industries of America: *Printing Industries of America is the world's largest graphic arts trade association, representing an industry with more than one million employees. It serves the interests of more than 10,000 member companies. Together with its nationwide affiliate network, Printing Industries delivers products and services that enhance the growth, efficiency, and profitability of its members and the graphic communications industry through advocacy, education, research, and technical information.*

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SMALL BUSINESS COUNCIL OF AMERICA

Comments Submitted to the United States House Small Business Committee

"Small Businesses and the Estate Tax: Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"

November 4, 2009

Prepared by Paula A. Calimafde, Esq.
Chair of the Small Business Council of America

The Small Business Council of America (SBCA) appreciates the opportunity to submit written comments to the House Small Business Committee's November 4, 2009, hearing titled "Small Businesses and the Estate Tax: Identifying Reforms to Meet the Needs of Small Firms and Family Farmers."

The SBCA is a national nonprofit organization which represents the interests of privately-held and family-owned businesses on federal tax, health care and employee benefit matters. The SBCA, through its members, represents well over 20,000 enterprises in retail, manufacturing and service industries, virtually all of which provide health insurance and retirement plans for their employees. The SBCA is fortunate to have many of the leading small business advisors in the country on its Advisory Boards, many of whom are the leading experts in the estate tax law and how that law impacts small and family-owned businesses.

Background

The 2001 Tax Act created a legal landscape that makes it impossible for small business owners and other taxpayers to plan their estates with any predictability. From 2009 to 2011, the amount exempt from estate taxes varies from \$3.5 million to \$1 million and in one year (2010), the entire estate tax system is repealed! This unpredictability has undermined taxpayer confidence in the estate tax system.

The estate tax system was developed to avoid the problems that occur when a very small elite of the country is able to amass great wealth and pass this wealth down to the next generation; it was not intended to cut in half the estates of working Americans who had built up a family business or a small business based on their own hard work.

Estate Tax Certainty and Reform Needed Now for Small Business Owners

Small businesses need certainty in the estate tax area. In order to assist small businesses, the estate tax exemption should be permanently set at the $3.5 million dollar level (this is the current exemption level). The SBCA is in favor of reforming the existing estate tax system and does not support repealing the estate tax law in 2010 and beyond. We believe the following reforms are needed:

- Permanently set the estate tax exemption amount to $3.5 million and then increase it gradually over a number of years until it reaches *at least* $5 million and thereafter have it increase by COLA
- Preserve the step-up in basis at death for simplicity
- Reunify the estate and gift tax exemptions, increasing the gift tax exemption to immediately equal the estate tax exemption, for simplicity and flexibility
- Exempt retirement plan assets from the estate tax in an amount up to an additional $1 million if assets are going to a surviving spouse and up to an additional $500,000 if the assets are going to other heirs

By implementing these steps, small business owners who have worked a lifetime to build their companies will, in the vast majority of cases, be exempt from the estate tax system.

Under these reforms, a significant number of small business owners will find themselves in a better tax position than if the estate tax were repealed in 2010 as scheduled and far better than they would be in 2011. It is imperative for Congress to act this year to provide certainty for the Nation's small business owners. If the estate tax law is not "fixed" in 2009, many Americans will be forced to amend their estate planning documents to take into account the possibility of repeal which requires different provisions to be included. In our view, this would be a terrible waste of resources for small business owners (as well as other Americans).

The SBCA is opposed to the proposed repeal scheduled to take place in 2010. This is because total repeal would be accompanied with a loss of the step-up in basis and a continuing $1 million cap on the gift tax exemption. Unfortunately, many small businesses would end up paying more taxes under the proposed repeal in 2010 than they would with the increased exemption proposed to be in effect in 2009 because of the loss of the step-up in basis.[1]

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1 A single person with assets greater than $1.3 million up to $3.5 million is better off under the estate law as it stands in 2009 and in most cases ends up in a worse tax position under repeal of the estate tax. Similarly, a decedent who is married with assets greater than $4.3 million up to $7 million does better under the law as it would stand in 2009 than he/she would under total repeal. This covers a significant amount of taxpayers based on the data set forth below which illustrates how many taxpayers drop off of the estate tax rolls as the exemption amount increases.

Reunify the Gift and Estate Tax System
In the 2001 Act, Congress was concerned that once the estate tax was repealed in 2010, taxpayers might refocus their efforts on shifting assets to lower income tax bracket taxpayers (such as their children or grandchildren). Accordingly, Congress capped the gift tax exemption (which had for a long time been "unified" [or in lockstep] with the estate tax exemption) at $1 million. Thus, although a person can pass up to $3.5 million today at death, only $1 million can be given away during lifetime.

Many estate planners have found that this artificial cap on giving has caused the senior generation owners of small businesses to not be able to pass ownership of the family business to the next generation. It serves no function if estate taxes are not repealed.

What is the Correct Exemption Level? $3,500,000
When Should the Exemption be Made Permanent? As Soon As Possible and Before December 31, 2009

A critical question for small business is what is the correct exemption limit in order to effectively repeal estate taxes for small business owners. Based on data set forth in a March 16, 2005, issue paper from the Center on Budget and Policy Priorities[2]:

- If the estate tax exemption were $1 million in 2011, then 53,800 estates would be subject to the estate tax. Of the 53,800 estates that would be taxable, nearly half (46%) would have assets of less than $2 million and nearly three-fourths would be valued at less than $3.5 million.

- If the exemption level in 2011 were $2 million instead of $1 million, then the number of taxable estates would shrink to 21,000. This is a reduction of 61% in the number of estates that would face the estate tax.

- If the exemption amount in 2011 were $3.5 million instead of $2 million, then the number of taxable estates would drop to 8,500 (84% of the estates would be exempt compared to the number that would have been subject to estate tax if the exemption amount were $1 million in 2011).

These numbers demonstrate how many small businesses would be covered if the exemption amount were $3.5 million. This number should be indexed to keep up with any cost of living increases over the years. We are aware that there are still groups representing small businesses who are still calling for repeal rather than a permanent extension of the 2009 estate tax law. Unfortunately, this is because many small businesses owners (as well as those who represent small business groups) do not understand the negative impact of repeal because they do not understand the carry over basis and the ultimate imposition of income tax on those assets which do not receive a step up in basis.

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[2] This paper is entitled, "Estate Tax Reform Could Raise Much-Needed Revenue: Some Reform Options with Low Tax Rates Raise Very Little Revenue" by Joel Friedman and Ruth Carlitz.

If the SBCA represented the interests of the wealthiest individuals in America, our suggestions would be entirely different. We would *not* suggest increasing the exemption amount because when one's estate is a billion dollars or more or even just a hundred million (!), it does not matter at all if the exemption amount is $1 million or $3.5 million – the impact is negligible. What does matter is the tax rate. Thus, a tax rate of 45% is incredibly significant when a hundred million or a billion dollars is involved. Contrast this to the small business owner whose entire estate is $3.8 million. If the exemption amount is a $1 million or $3.5 million will make a huge difference to the heirs and if the exemption amount is $3.5 million then an estate tax equal to 45% on $300,000 does not appear to be overwhelming. Contrast this result to a $1 million exemption with a 35% tax rate, this same small business worth $3.8 million is now subject to an estate tax of 35% on $2.8 million or $980,000 The chance of the business paying almost $1 million in estate taxes making it to the next generation is unlikely whereas the same business paying roughly $135,000 in estate taxes has a far better chance of surviving.

A recent CRS Report ("Estate and Gift Tax Revenues: Past and Projected in 2008, March 19, 2008"), set forth the following query: "What explains the persistence of revenues despite a dramatic drop in the number of taxable estates?" The answer is:

> While large in number, the smallest estates as a group contributed relatively little in estate taxes. Although the two lowest gross estate size classes accounted for 33,179 or 64% of the 51,736 taxable returns filed in 2001, they contributed only $2.7 billion or 11% of the $23.5 billion in estate taxes paid. The large decrease in the total number of taxable returns between 2001 and 2005 can be explained by the elimination from taxability of the large number of estates in the two lowest gross estate size categories (under $1 million and $1 million up to $1.5 million) after the prevailing exemption rose to $1 million in filing year 2003. There was a further large decrease in the number of taxable returns in the $1 million to $1.5 million category and a smaller decrease in the $1.5 million to $2 million category in filing year 2005, when the prevailing exemption rose to $1.5 million.
>
> Between 2004 and 2005, the $1.4 billion loss in estate taxes paid by these two smallest size classes plus a $0.7 billion loss in the $2 million to $3.5 million gross estate size class, was more than offset by the $2.1 billion increase in taxes collected from the largest size class, with gross estates of $20 million or more. (at p.10)

What About a Small Business Exemption? No Can Do

For years the SBCA has tried to come up with an effective reduction in tax rates for small business and we have not been successful. When one takes into account that we have many of the leading estate planning advisors in the country for small business on our advisory boards and board of directors, and we have been unable to come up with an effective exclusion, our guess is that none exists that will a) work correctly and b) not be subject to abuse.

We know that such an exemption should not bear any resemblance to the Qualified Family Owned Business Interest (QFOBI) exemption that came into law a few years back (and would spring back into existence in 2011, if the law is not changed). This rule was not only absurdly complicated, but suffered from the most severe planning defect - a small or family business owner would not be able to know if he/she qualified for the exemption until death occurred.

Promote Retirement Savings

The SBCA believes that giving an exemption for up to $1 million in retirement plan assets that are left to a surviving spouse and up to $500,000 for retirement plan assets that are left to others would go a long way towards promoting retirement plan savings by small business owners and others. This estate tax exemption on retirement plan assets is also important because these assets can be subject to estate tax and income tax when distributed to the deceased plan participant's beneficiary. Currently, the incentive for contributing money to a retirement plan (and thereby locking it up until retirement) is being diminished by the lower tax rates on capital gains and dividends that do not apply to funds coming out of a retirement plan.

Portability

The SBCA supports the so-called "portable" estate tax exemption. This proposal provides that if the first spouse to die does not use up his/her entire estate tax exemption, then the unused portion can be used by the surviving spouse's estate. Thus, the first spouse's exemption is not lost because the first spouse did not have enough assets or because of a lack of proper estate planning for the first spouse's estate. We understand that the devil is in the details but we believe this policy could be very helpful to many small business owners. Many married couples end up with only one exemption because they do not use an estate planning attorney.

Example of the Small Business Nightmare under the Current Federal Estate Tax Landscape

An Example of the Small Business Nightmare
Due to the Current Federal Estate Tax Landscape

Mr. Entrepreneur is the sole proprietor of a small business, Innovative Inc., which, together with his home, totals $3.5 million in assets. Mr. Entrepreneur's wife has passed away and his single heir is his daughter, who may or may not want to take over the business, once her father passes away. Mr. Entrepreneur wants to provide the best that he can for his daughter, Ms. Smart, upon his passing and he is currently seeking out the best plan. Unfortunately, in the current federal estate tax landscape, he is not able to do any meaningful planning unless he knew which year he was going to die!

Let's say that Mr. Entrepreneur's assets will be valued the following way upon his death:

Asset	Decedent's Basis	Fair Market Value at Death
Innovative Inc.	$100,000	$2,600,000
Residence	$500,000	$900,000

Without Congress Acting:
If Mr. Entrepreneur were to pass away in the next three years, the following will occur:

- In **2009**, when the exemption level is $3.5 million, Ms. Smart will owe **no federal estate tax.**
- In **2010**, the federal estate tax will have been repealed and the step-up in basis is lost. Ms. Smart will have the burden to find the documentation of her father's basis in his property (which could have been purchased decades ago). In 2010, the law provides that Ms. Smart will receive $1.3 million in assets with a stepped-up basis to fair market value. The remaining $2.2 million in assets will have the same basis that her father had with those assets. Considering the above basis and assuming Ms. Smart chooses to sell the business and her father's house, Ms. Smart allocates the entire step-up basis to Innovative Inc., and with a capital gains tax of 15%, Ms. Smart would pay $255,000 in capital gains tax. That is $195,000 for Innovative Corp (15% of $2.6 million minus the $1.3 million in step-up basis and $60,000 for the residence (15% of $900,000 minus $500,000). Depending on what documentation can be provided, Ms. Smart can pay **as much as $330,000** (15% of $2.2 million) or **as low as $255,000.** Note that these taxes will not be due until Ms. Smart sells the house and the business.
- In **2011, the federal estate tax will be $1,220,000,** because the exemption reappears at $1 million, which, in effect, would be devastating for Ms. Smart since she could not even cover the cost by selling the residence so she would be forced to sell all or a portion of the business, even if she wanted to keep running it. It is possible that some portion of the $1,220,000 will be paid to a state government depending upon the state's estate tax law.

How can Mr. Entrepreneur plan properly for an estate tax which can fluctuate between zero and over a million dollars on a relatively modest estate!

With Congress Acting:

If Congress enacts a permanent extension of the $3.5 million exemption immediately, all of Mr. Entrepreneur's assets would receive a step-up in basis of $3.5 million, assuring that there would be no federal estate tax and no income tax. By doing this, Congress effectively would have repealed the federal estate tax for Mr. Entrepreneur and most other small business owners who were never intended to be punished for their hard work.

If Congress reunited the estate and gift tax systems, Mr. Entrepreneur could gift his business to his daughter during his lifetime, if that made business sense for the family. Furthermore, if a gradual increase to $5 million exemption were enacted, Mr. Entrepreneur would not be disincentivized to grow his business which in turn would keep our economy growing.

Should Congress Think Outside the Box?

Even though the SBCA is often willing to "think outside the box", in the area of estate taxes we think the better course of action is to reform the system rather than throwing it out. The estate tax system is well understood; the dislocation that would take place by going to another system would be significant. Further, the original purpose for enactment of estate taxes still makes good policy today. We do think that our recommendation with respect to exempting a portion of retirement plan assets from the reach of estate taxes could prove to be a significant incentive for small business owners to establish retirement plans. Because of current law, retirement plans must provide meaningful benefits for non-owner employees and thus, Congress would have achieved an important policy goal – assisting all small business employees in saving for retirement.

Recommendation

In order to protect small business owners, this year Congress should *permanently* extend the $3.5 million exemption amount (i.e., extend the 2009 estate tax law on a permanent basis) as soon as possible. In 2010, Congress should consider increasing the exemption amount over the next several years, reunifying the gift and estate tax exemptions and adding a portability provision. Retirement plan assets should be exempt from the estate tax in an amount up to an additional $1 million if assets are going to a surviving spouse and up to an additional $500,000 if the assets are going to other heirs.

By enactment of these reforms, most small businesses will be removed from the reach of the estate tax.

Ms. Calimafde is the current Chair, past President and a member of the Board of Directors of the Small Business Council of America, Inc., the only national non-profit organization which has represented the interests of privately owned businesses exclusively in the Federal tax, retirement, health care and employee benefits areas for the past twenty-five years. She received her B.A. from Swarthmore College and her J.D. from Catholic University.

She is a partner in the Bethesda, Maryland law firm, Paley Rothman, where she chairs the firm's Retirement Plans Practice Area and the Employee Benefits Practice Area and is a senior member of the Estate Planning Department. Ms. Calimafde has nearly 30 years of experience advising small businesses and closely held businesses in tax areas and estate planning. For nearly 30 years, she has been a legislative advocate for small and closely held businesses in the Federal tax, health care and employee benefits arena.

In 1986, Ms. Calimafde was elected at the Maryland State Conference to serve as a delegate to the White House Conference on Small Business. She was subsequently appointed by the White House Conference to serve as one of eleven National Commissioners of the 1986 White House Conference on Small Business. As such, she chaired the Payroll Costs Session at the National Conference, which covered qualified retirement plans, employee benefits and social security, among other issues. In 1995, Ms. Calimafde was appointed by the White House to serve as a Presidential Delegate at the 1995 White House Conference on Small Business.

She is also a member of the Board of Directors of the Small Business Legislative Council (1992-), Past Chair (1988-1990) and Vice Chair (1986-1988) of the Closely Held Committee of the ABA Tax Section, Advisory Board of the Journal of S Corporation Taxation, 1989-1994, Employee Benefits Council, Chamber of Commerce of the United States, 1986-1994, 1996-, and Small Business Council of the U. S. Chamber, 1995-1998 and the Washington, D.C. Estate Planning Council, 1994-. She is a fellow of the American College of Tax Counsel, the American College of Trust and Estate Counsel and a charter fellow of the American College of Employee Benefits Counsel.

IFA Franchising Building opportunity

November 4, 2009

The Honorable Nydia Velázquez
Chairwoman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

The Honorable Sam Graves
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Velázquez and Ranking Member Graves:

On behalf of the International Franchise Association (IFA), I want to thank you for holding today's important hearing on what many small business owners refer to as the "death tax." Small franchised businesses are grateful that the estate tax is currently not being assessed, but urge Congress to fully repeal the onerous tax so that their businesses can prosper.

As the largest and oldest franchising trade group, the IFA's mission is to safeguard the business environment for franchising worldwide. IFA represents more than 85 industries, including more than 11,000 franchisee, 1,200 franchisor and 600 supplier members nationwide. According to a 2008 study conducted by PricewaterhouseCoopers, there are more than 900,000 franchised establishments in the U.S. that are responsible for creating 21 million American jobs and generating $2.3 trillion in economic output.

As you know, the estate tax has been phased down and will disappear completely in 2010. If this tax relief is allowed to sunset, the tax will return in full force in 2011 and threaten family-owned small businesses with up to a 55% tax on the accumulated estate. Full repeal of the estate tax is especially important to small businesses because in many cases, upon the death of the owner, the beneficiaries are forced to sell the business to afford the tax. Moreover, the uncertainty surrounding these tax rates impacts the day-to-day operations of many family-owned businesses because the threat of taxation requires business owners to continue with estate-planning strategies that are costly, cumbersome and time consuming.

The estate tax has long cost our economy more than the revenue it generates for the federal government. According to the Joint Economic Committee (JEC), the estate tax has brought in only $761 billion in revenue since 1942, while reducing the stock of capital in the economy by $847 billion. The JEC study finds no compelling reason to keep the tax and a number of compelling reasons to reduce or abolish it. The IFA has advocated for a permanent solution to the estate tax and I urge Congress to address this situation now before the tax returns to its pre-2001 level.

Thank you for your continued leadership on behalf of our nation's small businesses.

Sincerely,

David French
Vice President, Government Relations

cc: Members of the Committee on Small Business

1501 K Street, N.W. Suite 350 Washington, DC 20005
Telephone: 202/628-8000 Fax: 202/628-0812 E-Mail: ifa@franchise.org Internet: www.franchise.org

November 6, 2009

The Honorable Nydia Velazquez
Chairwoman
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

The Honorable Sam Graves
Ranking Member
Committee on Small Business
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Velazquez and Ranking Member Graves:

On behalf of the Society of American Florists (SAF) I am writing to thank you for holding a hearing on the future of the estate tax and its impact on small businesses. SAF is the national trade association that represents over 10,000 small businesses located in every state, including growers, wholesalers, retail florists, manufacturers, importers, suppliers and wire services. Floriculture has grown over recent years to a level of more than $35 billion at the retail level. At farm gate value, floral and nursery sales represent about 15 percent of total U.S. crop agriculture sales.

Under current law for 2009, the individual exemption is $3.5 million and the top tax rate is 45 percent. SAF urges Congress to, at the very least, permanently freeze the estate tax at the 2009 level; which would provide stability and permanence.

However, we believe Congress can and should do more. In place of the ideal, which is complete repeal of the tax, SAF has supported a $5 million exemption and a top rate of 35 percent. This formula would protect many more floral businesses and farms, making it easier for entrepreneurs to pass their profession down to their children or employees without complicated, expensive legal hurdles.

The majority of floriculture businesses are small, family-owned businesses who are burdened by the uncertainty and unpredictability of the estate tax. Many of these businesses are capital-intensive with most of the value invested in the land or in the business itself. Most of these small floral businesses don't have liquid assets sufficient to pay the tax due upon death of the owner and are forced to sell. Therefore, during their lifetime, owners spend much of their limited resources on costly planning, by hiring attorneys and accountants and buying life insurance to protect the business and the jobs of long-term employees.

In the midst of this economic downturn, these entrepreneurs are working hard to remain viable, continue to operate, preserve jobs and one day expand again and hire more employees. We ask Congress to act now to permanently freeze the estate tax at the 2009 level.

Again we thank you for your leadership and vision as you work to end the uncertainty of the estate tax and provide permanent and additional relief for our members. We look forward to working with you in the months ahead to help advance this important issue.

Sincerely

Kevin Priest
Chairman, SAF Government Relations
Society of American Florists

Chairwoman Velazquez, Ranking Member Graves, and Members of the Committee, it is my pleasure to present testimony on the impact of the estate tax on small businesses.

My name is Pearle Marr, and I am the former Vice-President of Community Relations of Imperial Lithographics, a photographic development and printing company based in Phoenix, Arizona. Imperial Lithographics was an emblematic small business. It was started by my parents and run by the entire family. It grew from my father's initial dream in his home to a 140,000 square foot complex offering employment to two hundred twenty employees.

Imperial Lithographics was an important part of the Phoenix community, the source of generous donations to St. Lukes Hospital, Anti-Defamation League, Arizona Science Center, Boys and Girls Club, United Way and many more. Our family had every intention of continuing it after my parents passed away and continuing to provide employment and support to the local community. That is, until we learned of the estate tax.

When my father passed away from Leukemia, he left behind a business with millions of dollars in estate tax liabilities. My mother realized that when she passed away, those liabilities would leave the family with an enormous tax burden. We looked into the traditional estate planning options and tried to provide liquidity for our looming estate tax via life-insurance policies and tax planning strategies.

For awhile things looked okay and it seemed we would avoid the worst of the estate tax and keep the business. However, over the course of several years we realized that the money we spent on life-insurance and tax-planning was slowly draining valuable capital from the company. Machines that needed to be replaced were neglected. New, potentially profitable expansions were passed over. Good employees did not receive appropriate bonuses.

We realized that the very tools we were using to avoid the estate tax were costing us tens of thousands of dollars each year – money that we could not afford to lose. Further, it became evident that even if the business survived the estate tax, it would be substantially weakened and would not be competitive.

Thirteen years after my father died we realized that we had no choice but to sell Imperial Lithographics. Our piece of the American Dream could not survive the confiscation of the estate tax.

The loss of Imperial Lithographics was not limited to my family, but affected our employees, their families, and the Phoenix community. The new owners of the company wanted to buyout a competitor, not expand their service. Accordingly, the business was gutted, the two-hundred twenty employees were laid off, and hundreds of thousands in charitable donations to local charities dried up.

My story is not unique. Across this country many other hard-working small business owners are losing sleep over how to pay the estate tax and keep their business. They have worked hard and built a strong local business, only to learn that their success has created an estate tax nightmare for their children.

The small business owners aren't the only ones losing sleep. Research from the former Director of the Congressional Budget Office, Dr. Douglas Holtz-Eakin, finds that when small business suffers, their employees suffer as well. According to Dr. Holtz-Eakin's research, the estate tax burden on small business reduces employment nationwide by 1.5 million jobs.

My family and I are no longer small business owners. Our dream is gone. It does not have to be that way for America's other small business owners and future entrepreneurs.

Chairwoman Velazquez and Members of the Committee, for the sake of small business owners, their employees, and the American dream, please introduce legislation to permanently repeal the federal estate tax. Keep entrepreneurship and the American dream alive.

Thank you for your time and consideration.

Peter Nelson
President of Marc Nelson Oil Products
1977 Claxter Road NE
Salem, OR 97301

Statement for the Record
U.S. House Small Business Committee
"Small Businesses and the Estate Tax:
Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"
November 4, 2009

Chairwoman Velazquez, Ranking Member Graves and Members of the Committee, I appreciate the opportunity to share my concerns about the death tax.

In 1936 at the height of the Great Depression, my grandfather, Melford M. Nelson, founded M.M. Nelson Oil Co., now known as Marc Nelson Oil Products.

As the first commissioned fuel and lubricants distributor in Oregon, Melford plunged his life and savings into the then one-man operation. Today the company, now headquartered in Salem, employs more than 30 people and serves customers throughout Oregon and Southwest Washington.

Most of our company's growth occurred after my father joined the business in 1962. My father and grandfather worked side by side, building the business the old-fashioned way: living frugally, saving money, investing profits back into the business and focusing on the needs of Oregon residents.

Instead of living the high life, they sacrificed. As it turns out, the very same hard work that made Marc Nelson Oil Products successful now places the business's future at the mercy of the Internal Revenue Service.

When my father, now 72, dies the IRS will "reward" his hard work by taking 45 percent of all his personal and business assets above $3.5 million. The valuation of his assets will include our company's inventory, machinery, property, and vehicles. Since the company alone is easily valued in excess of $10 million, the estate tax liability likely will exceed $3 million.

Like many family-owned companies in Oregon and elsewhere, Marc Nelson Oil Products is not awash in cash. In fact, we are rather cash-strapped. Coming up with an extra $3 million for the government - to pay a tax for the privilege of existing - won't be easy.

In fact, it might be impossible. That's why we are being forced to spend hundreds of thousands of dollars on tax planning in the hope that we can keep the business alive after my dad passes.

That's hundreds of thousands of dollars we're no longer able to reinvest in the company, to grow it and create new jobs, which is what we would rather do with the money.

If the tax planning is successful, Nelson Oil Products will stay in our family - although it will be weakened, and probably smaller, than it could have been without the estate tax. If planning is not successful, assets will have to be sold and employees laid off. Worst-case scenario: We will be forced to sell the company, jeopardizing the livelihoods of all of our employees.

As it turns out, we're not alone. Some 24 million Americans own family businesses and farms. Like us, many of these families each year spend valuable capital paying estate taxes or paying accountants and lawyers to find ways to minimize the tax. This is money that could be better spent growing the company and creating jobs.

There is a very simple solution that would cost the government nothing and, in fact, enrich both government coffers and individual pocketbooks: repeal the estate tax.

In a report for the American Family Business Foundation, to which I belong, the former director of the Congressional Budget Office, Douglas Holtz-Eakin, calculated that eliminating the death tax could create as many as 1.5 million jobs - at no cost to the government. That's because the tax raises less money each year than the government loses because the tax slows business growth.

Roughly 20,000 of the 1.5 million jobs would be here in Oregon, according to the Cascade Policy Institute.

The harmful estate tax currently brings in less than 1 percent of total federal revenue. Without the tax, small businesses would grow, and federal, state and local governments would receive more revenue, rather than less. In fact, economist Stephen Entin, a former Treasury official, estimates that repealing the estate tax would increase federal tax revenues by roughly $20 billion annually.

The Small Business Subcommittee has an opportunity this fall to support small businesses by introducing legislation to permanently repeal the estate tax. On behalf of my small business, thousands like it, and the jobs we represent, I respectfully ask that you start the process to get rid of the estate tax for good. Thank you for your consideration.

Larry Reece
Owner
RFI Enterprises
360 Turtle Creek Ct
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Statement for the Record
U.S. House Small Business Committee
"Small Businesses and the Estate Tax:
Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"
November 4, 2009

Chairwoman Velazquez, Ranking Member Graves and Members of the Committee: it is a pleasure to present testimony about the impact of the estate tax on small business owners.

I am the owner of RFI Enterprises, a family-owned security-systems small business based in San Jose. Like many other small-business owners, my first office was the kitchen table.

When we started the family business in 1979, we had a modest goal: to earn enough money to pay the bills and put our kids through college. Little did we know that RFI Enterprises would grow to employ nearly 250 people at four locations in California, Nevada and Washington.

While it may sound like a cliché, our company, like many of California's small businesses, could become a victim of its own success.

Its future, as well as the job security of our employees, will depend in large part on the decisions Congress makes this fall on estate taxes.

Currently, business owners face an estate tax rate of 45 percent, with the first $3.5 million exempt. This is likely to change when Congress revisits the tax in an effort to prevent the rate from going to zero next year and jumping to 55 percent in 2011, which would happen under current law.

The White House wants to maintain the estate tax at the already ridiculously high rate of 45 percent; others want to increase the rate to 55 percent and lower the exemption.

What Congress should do is repeal the tax. Otherwise, small businesses will continue to be ripe for the plucking in the eyes of federal tax authorities.

When my wife and I die, for example, our personal and business assets will be combined, creating a huge tax bill that our daughter will be forced to pay.

If the bill is large enough, she might have to sell the company.

I've seen it happen time and again to other family businesses. One by one they are sold to large corporations, often to pay estate taxes.

While the large corporations absorb their assets, they don't always absorb the employees. Many lose their jobs.

In a study for the American Family Business Foundation, to which I belong, former Congressional Budget Office Director Douglas Holtz-Eakin estimated that 1.5 million U.S. jobs could be created or saved simply by eliminating the estate tax.

More than a tenth of these jobs, nearly 180,000, would be in California, calculates the San Francisco-based Pacific Research Institute.

Meanwhile, back at the kitchen table, we are sorting through estate-planning options and trying to save our company for our family of loyal employees.

We're spending hundreds of thousands of dollars on tax planning — money that would be better spent growing the company and adding jobs.

This is not just my story. There are more than 700,000 small businesses in California, which account for an estimated 52 percent of the entire private-sector work force, according to the Small Business Administration. Many of them are facing the same challenges that RFI Enterprises faces.

For the sake of my family, our employees, and the millions of others throughout our state, I encourage the Small Business Committee to take this opportunity to stand up for us by marking up legislation to permanently repeal the federal estate tax.

Bruce Nevins
CEO and Owner
Grande Harvest Wines
33 Grand Central Terminal
New York, NY 10017

Statement for the Record
U.S. House Small Business Committee
"Small Businesses and the Estate Tax:
Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"
November 4, 2009

Chairwoman Velazquez, Ranking Member Graves and Members of the Committee, I appreciate the opportunity to share my concerns about the death tax.

I am one of many small business owners throughout America whose heirs will likely be forced to sell the business in order to pay the estate tax. The irony is that as an entrepreneur and small business owner, I am the very person that every member of congress claims to protect. My story demonstrates how the estate tax harms small businesses and thereby weakens the American economy.

My company, Grande Harvest Wines, is a retail merchant of fine wine and spirits with stores located in New York and Connecticut. The main store of Grande Harvest Wines is located in Grand Central Station, New York City. I have also opened a restaurant in Connecticut. My "wealth" – as far as the IRS will be concerned at the time of my death – is in my building space, my inventory, (shelves upon shelves of wines and spirits, food, and cooking utensils) and in my equipment and machinery. All of the company's cash assets are reinvested in the company in order to maintain inventory.

Due to the complexity of the state alcoholic beverage laws, I maintain multiple corporate entities. This means that my already limited capital is spread throughout my business in such a way as to make it near impossible to quickly raise large amounts of cash. My sons will have no easy way to pay my estate tax liability when I die and will likely need to sell assets in order to raise cash. Doing so will very likely render the business unprofitable and force its complete sale.

I am doing everything I can to avoid the sale of my business due to estate tax liabilities. I have purchased multiple life insurance policies, but these come at the cost of expensive premiums. I would rather reinvestment that money in the business and thereby create new jobs. The truly distressing fact is that even after misallocating hundreds of thousands of dollars on life-insurance premiums, the policies may yet fail to cover my estate tax liabilities.

Except for the estate tax, I see no reason why the company will not continue to grow and expand under my sons' leadership. Three of my sons are already learning the complicated business of importing and retailing wine from around the world. In time they will take over for me, assuming we have found a way to deal with the death tax.

I find it strange that Congress has not yet addressed a tax which falls so harshly on small business owners. This tax burdens the very people who are creating jobs and sustaining our economy.

I have worked hard my entire life, paid my share in taxes, served my country in Vietnam, and generously contributed to my local community. I have created more than twenty jobs and I provide my employees with generous benefits (including health coverage). It is nothing less than an outrage that my sons may lose the family business because of the death tax - the most unfair and un-American tax ever instituted!

I urge the Members of the House Small Business Committee to draft and recommend passage of legislation to permanently abolish the federal estate tax.

Bill Simkins
Vice-President
Simkins-Hallin, Inc.
326 North Broadway
Bozeman, MT 59715

Statement for the Record
U.S. House Small Business Committee
"Small Businesses and the Estate Tax:
Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"
November 4, 2009

Chairman Velazquez, Ranking Member Graves, and Members of the Committee: as the Vice-President of Simkins-Hallin, a small business in Montana, I am pleased to present testimony about the federal estate tax and its impact on small businesses.

Simkins-Hallin was originally started as a lumber yard by my father and grandfather in 1946. Over the past 63 years the company has become very successful. Today we employ over 100 people and are one of the primary sources of economic growth in the local community. One of our projects is the development of real estate around the Big Sky ski resort. A recent economic development study found that the resort and surrounding tourism is responsible for $1 billion in Montana's economy. Our development is helping Big Sky become a premiere vacation spot and will result in increased economic growth and tax revenues for the state of Montana.

With that in mind, it is hard for me to understand why Congress refuses to repeal the death tax, a tax that hampers my business's growth and may prevent me from passing it on to the next generation of the family.

Like many small businesses, Simkins-Hallin is "cash poor." Our capital is in the form of hard assets such as property, machinery and lumber. We constantly reinvest our profits in order to stay competitive. The management team takes very small salaries in order to plow the majority of our resources into maintaining and growing the business. This is common practice for many other small businesses in Montana.

The fact that the company is cash-poor means that it will be very difficult for the next generation to pay the estate tax when the current owners die. They will likely need to sell existing assets and apply for loans in order to pay the estate tax. It is very possible that we may have to sell the entire business. For Simkins-Hallin, the estate tax is nothing less than a threat to our survival.

My family has racked our brains trying to find a way to pay the estate tax and keep the business. Our options are not very encouraging.

We have purchased life-insurance policies for the owners, but the premiums are a heavy burden on valuable business capital. This burden will only increase as the owners grow older. Another option is to take out a large loan. This is also problematic, as we cannot sustain a high amount of debt and still stay in business over the long term. My family remains frustrated and concerned about our inability to ensure that the business survives the estate tax.

The only sure estate tax planning option for Simkins-Hallin is no estate tax. I respectfully ask that the House Small Business Committee draft legislation to repeal the estate tax. The Simkins family and small businesses across America appreciate your leadership on this important issue.

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Statement for the Record
U.S. House Small Business Committee
"Small Businesses and the Estate Tax:
Identifying Reforms to Meet the Needs of Small Firms and Family Farmers"
November 4, 2009

Chairwoman Velazquez, Ranking Member Graves and Members of the Committee. I am pleased to offer my views to the committee on the matter of the Federal Estate Tax and the impact it had on one family-owned business in Biloxi, Mississippi.

I am one of the former owners and Vice President of Mavar Shrimp & Oyster Co., Inc., a family owned seafood processing and pet food manufacturing business in Biloxi, Mississippi. The history of Mavar Shrimp & Oyster Co., Inc. is a classic story of American entrepreneurialism. In 1898, my father, John Mavar immigrated from what is now Croatia to Biloxi, Mississippi. He worked as a fisherman while my mother was employed as a seafood worker. Both were hard-working and frugal individuals. They saved as much as possible and in 1920 my father purchased his first fishing boat.

John quickly became a very successful commercial fisherman. By 1926 he had accumulated enough capital that he was able was able to start a small fresh-seafood operation. His business consisted of buying from other boat owners and selling at both retail and wholesale. The business was a success. As each of his four sons finished their education they joined the family business.

My family was always thinking creatively of new business opportunities. For example, in the 1950's we realized that the small, noncommercial fish that were typically thrown overboard could be processed and used in catfood. Accordingly, we took a waste product and turned it into a new profitable (and job-creating) operation for our business. Through such innovations and the hard work of my family, all of whom were employed in the business, Mavar Shrimp and Oyster Co., Inc. became one of the largest and strongest businesses in the community.

In the last few years of our ownership, we grossed approximately $50 million in annual sales and in peak season we employed 300 people. Our employees were paid the second highest starting wage in the city – only civilians on the local military base were offered a higher starting wage.

As you might assume, we never had any intention of selling the business. That is, until we became aware of our estate tax liability, and realized that we would be unable to pay the tax without selling most or all of the assets. In fact, we were forewarned that it was very possible that my family would possibly be forced to sell at an unfavorably low price if one or more of the owners suddenly died. Because we wanted to save our children from the difficulty of dealing with this problem, we elected to sell in 1988 to the H.J. Heinz Company when they made an offer to buy our business.

When Heinz took over, we hoped that they would keep the business running in Biloxi for the long-term future. Unfortunately, within five years, they chose to relocate the manufacturing operations to Pennsylvania and Kansas. Obviously, most of our employees, who had lived in Biloxi for all of their lives, were not able to simply relocate with the new owners. While a handful did move, the majority simply lost their jobs and had to start new careers. Today, I regularly meet folks on the streets of Biloxi who tell me that they used to work in our business, and wish it had never been sold.

Ironically, even with the sale of our business, I am still concerned about being able to pay the estate tax. I've spent a fortune on attorneys, accountants, life-insurance and other tax-planning measures, such as early gifting to my children and charitable endeavors. Most disappointingly, I've avoided making any investments in new businesses. I have chosen to do this despite my interest in supporting the rebuilding of Biloxi, which was ravaged by Hurricane Katrina in 2005. In fact, I have received requests for investments in several local businesses, including a housing development that would help lower and middle income families who lost their housing due to the hurricane.

Despite my desire to help Biloxi rebuild, I have been forced to turn them all down, lest I burden my children with the same death tax that we sold the business to avoid. As I see it, the death tax has encouraged a "wealth-redistribution," not from the rich to the poor, but from the local community to the national corporations.

Today, one of my sons has his own seafood processing business. His is one of approximately five such operations that remain in Biloxi. He has already achieved considerable success, and will likely continue to do very well. I am proud of him, but I wish that he could work hard without the threat of the estate tax.

Members of the Committee, my family's small business is gone, and no legislation will bring it back. But the thousands of other small businesses do not have to face the estate tax. You can end this unjust law. For the sake of my son and other entrepreneurs in places like Biloxi, Mississippi, I ask that the committee support legislation to permanently repeal the estate tax.