ASSET
Americans Standing for the Simplification of Estate Tax
ESTATE TAX COALITION

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www.SimplifyEstateTax.org

April 15, 2013
Chairman Pat Tiberi
Ranking Member Ron Kind
Ways & Means Committee Tax Working Group on Pensions & Retirement

RE: Comments to Ways & Means Tax Working Groups: Estate Tax

Dear Chairman Tiberi and Ranking Member Kind,

Please accept our comments to the record for Ways & Means working group, specifically on an alternative to the current estate tax collection method. We believe it to be a win/win solution that deserves consideration, because of the revenue neutral nature of the proposal, and the economic benefit it will provide, and the thousands of jobs that it will preserve.

Over the past three years the Americans Standing for the Simplification of the Estate Tax have conducted more than 150 meetings on Capitol Hill, and two major studies on the economic benefits of the ASSET proposal to change the collection method for the estate tax.

ASSET was formally organized 2010 in order to bring together the private businesses, family farms and individuals who have been advocating for a change to the collection method for the estate tax. Members of ASSET believe that so long as the IRS requires the estate tax be paid, there is a simpler collection method that allows the same cash flow to the U.S. Treasury, yet doesn't cause jobs losses or the closure of businesses.

As Congress begins the process of comprehensive tax reform it should undertake an overhaul of the estate tax. I believe that our proposal, the ASSET plan, will manage to generate comparable revenues for the U.S. Treasury without the very destructive collection method of the current estate tax. Over the past 50 years, the estate tax has brought in an average of 1.1 percent of total IRS collections[1], but we are convinced that the current method of collecting this tax is extraordinarily inefficient and distortive.

The case for reform is dramatically illustrated by reviewing the data cited by the Congressional Joint Economic Committee in its May 2006[2] and updated in their July, 2012 study, which indicated that individuals' costs of complying with the estate tax (avoiding wealth transfer taxes) roughly equals the revenue yield of the estate tax for the Treasury.

The JEC study accurately states that according to the CBO, approximately 5 percent of all estates that owed estate taxes in 2000 (the latest data available) had a tax liability that exceeded their liquid assets (i.e. bonds, corporate stock, bank accounts, and insurance); for estates of farmers, the figure was 8 percent, and for family owned businesses, the figure was even greater, at more than a third. Farm assets and business assets represent 17.1 percent of the

[1] IRS Table 7 SOI
[2] 2006 JEC Cost and Consequences of the Federal Estate Tax

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gross taxable estate value as of 2009, the third largest category following stock (30percent) and real estate (22 percent).

The estate tax as we know it is an arbitrary and inefficient way to impose such costs, and its distortive effects call out for a simpler, more equitable approach. Lost in the Fiscal Cliff debate at the 13th hour at the end of 2012 over rates (35% vs. 40%) and exemptions ($1 million, 3.5 million or $5 million) is a more fundamental question – why keep the current broken structure in place when it does such harm?

The proposal attached reflects more than 150 meetings and conversations that I have had over the past three years. I have spoken with chairmen of Congressional committees and subcommittees, IRS staff, and numerous small business owners, farmers, and ranchers around the nation. ASSET has more than 3,400 supporters and growing. I have also reached out to many thoughtful experts at organizations along the whole political spectrum and ASSET hired a major local economist to help dive even further into the issue.

I am motivated to seek change because of stories such as the one I heard from farmer Teddy Butz from Windbridge Farm and a member of ASSET: "We had an Aunt pass away and now the heirs are being forced to sell part of the farm to cover the Estate Tax. Now is not the time to sell. Had the ASSET program been in effect, this problem could have been averted or reduced."

I believe that the answer lies between the public outcry to "end the death tax" and the calls from others on the political spectrum to impose significant taxes on those who are fortunate enough to die with vast amounts of accumulated wealth. The ASSET proposal would simplify the tax system by replacing the current collection methodology and substituting as an interim measure a pay-as-you-go, revenue neutral alternative collection mechanism that will, over time, vanish thanks to the anticipated windfall of capital gains tax receipts.

Background on the ASSET Proposal

The ASSET proposal attempts to simplify the estate tax by changing the collection mechanism for the same population that is likely to leave an estate. This proposal depends on a temporary "bridge" to maintain revenue neutrality for the first few years and then may succeed in eliminating the need for the bridge mechanism through an increase in revenues from capital gains taxes that should occur from the sale of tracked estate assets. But the harmful effects of the current estate tax collection method cease immediately. The payment of the tax becomes tied to an economic event, rather than an untimely death of a founder when a revenue producing farm or business is likely to be at its most vulnerable point.

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The ASSET proposal would stop imposition of the current estate and gift taxes collection method and would substitute a temporary revenue neutral combination of budgetary offsets. Some are outlined in a study commissioned by a prominent economist now with the Tax Policy

Center. We are open to suggestions of possible consensus budgetary offsets and would note that any such offsets are intended to be temporary in nature because of the capital gains revenue windfall.

I encourage Members of Congress to analyze this proposal and to give it full and fair consideration. The proposal meets the principles stated by officials and activists on both sides of the spectrum and could be the right solution for this pressing problem.

Sincerely,

Jack Fitzgerald
Founder
ASSET: Americans Standing for the Simplification of the Estate Tax

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From 1960 to 2009, the estate and gift tax raised just 1.2% of all IRS revenue, but has caused a drag on our economy that far outweighs the value of the revenue it brought in.
The rate during most of those years was 55% to 77% with an exemption from 60K to 600K.
Beginning in 2002, Congress brought the rate down gradually to 45%, with an exemption of $1m up to $3m, but the revenue to the Treasury remained approximately 1%.

This 1% of IRS revenue generated by estate tax is the equivalent of 1.86% of the AGI of the top 1% of taxpayers, or 2.47% of AGIs over $1m. Joint Committee on Taxation (JCT) scores show the 2013 law of 40% with a $5,250m exemption reduces the expected revenue by over 2/3, reducing the 2.47% calculation to approximately 0.76%. This means that the same revenue collected by the estate tax under current law could be obtained by collecting 0.76% of the AGI for taxpayers with AGI over $1 million in a given year.

The Tax Foundation says these taxpayers pay more in compliance and avoidance expenses than the revenues collected by our government.
Americans for Tax Reform (ATR) says the tax is "successfully avoided by the rich and famous who have the means to never pay the tax even over many family generations."

The 2013 law helps some small businesses, farms and ranches but not those that are worth more than $5m and have a large number of employees. They are forced to sell before death of the owner or liquidate after he/she passes away, to pay the 40% estate tax. This costs jobs and reduces the pool of private capital in America.

The magnitude of this problem is not well-documented, but between 1985 and 2009, out of $23 Trillion in AGI of the top 1% of taxpayers, only $426b was collected in estate tax. Obviously the super rich don't pay the estate tax.

The ASSET proposal would avoid the unintended consequences of the 40% rate and broaden the base so that the super rich would pay their share. Taxpayers would save the avoidance costs by paying the much lower transition charge, which itself would be reduced annually until eliminated, as revenue from the 15% asset tax is collected.
By collecting both the transition and estate ASSET tax on form 1040, both the IRS and the taxpayer save money. For all these reasons the ASSET proposal is better than both current law and full repeal. Taxpayers pay less and the IRS collects more. ASSET preserves jobs and private capital.

Current Law

Avoidance costs paid prior to death

ASSETS sold or liquidated prematurely, negatively impacting the economy, creating job losses

40%rate over a $5m/$10m exemption

Estate assets subject to excessive valuation by IRS in step up basis

6-9 months to settle estate leads to fire sales of assets and job losses

Requires comprehensive, expensive estate tax return

Full Repeal

Avoidance costs eliminated

No need to sell assets, no fire sale

No tax at death

Assets subject to capital gains tax 23.8% today. Rate has been both lower and higher in the past.

No $5m/10m exemption

No step up in valuation

No job losses

Information return filed

ASSET Proposal
(Change in collection methodology)

No tax obligation arises upon death of a taxpayer.

Assets subject to 15% estate ASSET tax over $5m/$10m exemption if or when sold

Avoidance costs replaced with transition charge (variety of budget offsets could be used temporarily, phasing out in approx 5 years as 15% ASSET estate tax revenues increase

No need to sell assets, no fire sale

No job losses

Information return filed