



For Immediate Release
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**Hearing Statement of Senator Max Baucus (D-Mont.)
Regarding the Federal Estate Tax: Uncertainty in Planning under the Current Law**

The English philosopher Francis Bacon said: "Men fear death as children fear . . . the dark; and as that natural fear in children is increased with tales, so is the other."

Many Americans fear that on the day that they die, the taxman will come knocking at their family's door. But as with children's natural fear of the dark, the fear of the death tax has been increased with tales.

The estate tax is complicated and intimidating. It needs serious reform. And I support repeal.

But we need certainty in this area. So we need a deal that can garner 60 votes. We need to provide predictability and relief for taxpayers like ranchers and farmers in Montana.

But the fact of the matter is: 99 times out of a hundred, the tale is worse than the tax. Less than one percent of all estates are currently subject to estate tax.

According to IRS data, out of nearly two and a half million deaths in 2004, about 19,300 estates paid the estate tax. These numbers have decreased as the exemption level has increased. The tax will completely disappear in 2010. But then, as in a children's campfire tale, it returns in the end in 2011.

Many small business owners fear that their kids will have to liquidate the business to pay the estate tax. But once again, the tale there is worse than the tax.

The Congressional Research Service reports that very few family businesses are subject to the estate tax. In addition, very little of the tax is collected from family businesses. In 2003, only a little more than three out of a hundred businesses where the owner died had an estate tax liability.

The reason for that is planning.

Estates can eliminate the tax burden with a myriad of tax provisions. One way to decrease the amount of the gross estate is by electing a special use valuation. When certain conditions are met, an estate can revalue certain farm and closely-held business real property at its special use value, rather than at fair market value.

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The estate can further decrease its taxable estate through deductions. There's a marital deduction. And there's a deduction for charitable giving.

Families can also form family partnerships, and use different trust instruments in estate planning.

Through such planning, many taxpayers lower their estate tax. Some even eliminate it.

But, does estate tax planning need to be so complex?

For many smaller estates, the problem with the current estate tax is that the law keeps changing. The estate tax law will change every year from 2008 through 2011.

It's easy to just say: "Plan." But, with the state of the current estate tax laws, a family cannot have just one plan. Families must have multiple estate plans. And that costs money.

Today, we will hear about the complexity in estate tax planning as a result of the changing law. We will hear that some estate tax fears are like a childlike fear of the dark. And we will see whether this committee, at least, can resist the temptation to increase those fears, with campfire tales of our own.

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