Death and Taxes

BY JIM PREVOR

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So much attention is paid within the industry to government relations efforts specific to the produce trade — food safety, PACA, the inspection service, etc. — that it is easy to forget how often the more generic issues that concern all of America impact the future of the produce industry. The current battle over the estate tax — or as its adversaries put it, "the death tax" — is such an issue.

The last sitting Congress passed a repeal of the estate tax, but president Clinton vetoed the bill. Now, President George W. Bush has included in his tax plan the repeal of the estate and gift tax. A group of the ultra-rich, including David Rockefeller, George Soros and the father of Bill Gates, have launched a campaign to save it. On the outcome of the battle lies the shape of the produce industry.

One of the reasons so few family businesses manage to make it through multiple generations is that the tax levied on estates imposes a unique obligation on family businesses — namely the need to recapitalize the business every generation.

Whereas a public company is immortal and thus never has to pay taxes when its owners pass away, for a family farm or a family business, the death of an owner often requires the business itself to come up with money to pay the death levies. This fact leads to many a business sale.

This being the case, the players in the produce industry of tomorrow are at least as likely to be determined by the laws concerning death taxes as they are by the laws concerning pesticides.

Some think the issue is an absurdity. Fewer than 2 percent of Americans who died last year paid any estate tax at all. After all, an individual can exempt $675 thousand from the estate tax and this amount is scheduled to rise to $1 million by 2006.

But the estate tax, with its steep slope to a 55 percent tax rate, effects many more people than those who actually pay it. It also burdens those who arrange their affairs to avoid the tax.

But the estate tax has powerful forces on its side. The insurance industry for one: It is estimated that in excess of 10 percent of all the life insurance sold in the country is purchased for estate planning reasons. In addition, billions and billions are spent on legal and accounting fees setting up trusts, arranging for the gifting of assets and, in general trying to avoid this heavy tax.

But all this places a heavy burden on America's wealth. So many of our best and brightest are drawn into lucrative, if fundamentally unproductive careers, helping people plan their affairs to minimize this tax. So many young people receive gifts their families know they are not mature enough to handle, but the tax laws drive the behavior. With so many dollars spent on lawyers, accountants and trust fees, and so much potential wasted in these pursuits, it is very reasonable to think that a repeal of the estate tax might actually lead to an increase in tax revenue, as capital and labor heads into more productive pursuits.

Indeed there is little doubt that the estate tax costs the government more than it generates. Beyond the cost of lawyers and accountants, the estate tax does something horrible: It reduces the time horizons of our country's most experienced and able people.

For most people children are the bridge to the future and, since time immemorial, parents have worked hard so that children, grandchildren and generations yet unborn could have a better life. But the estate tax is so onerous that many a competent and capable person has simply stopped working rather than working hard for no benefit.

Remember the estate tax is in many ways unjust, because it is a tax levied on money that has already been taxed. The combined burden is astounding. An individual who has reached the 55 percent estate tax bracket and has enough money to live on sees this: If he goes to work and lives in a high tax state, between income taxes, social security, Medicare, etc., he will probably give up more than 50 percent of his first dollar of working income.

Of the 50 cents he may have left, the estate tax will take away another 55 percent; so for every dollar earned, this citizen will see the government take away 77.5 cents. Is it any wonder that many an intelligent, vibrant person with much to contribute to the world, decides, instead, to hang it up and go play golf?

Is the tax defensible? Not really. Rockefeller, Soros and Gates Pere make claims from the morally obtuse — that we should keep the tax because it encourages charity — to the flat-out wrong — that reducing the estate tax will cause taxes on the poor middle class to increase. More sophisticated opponents might see the estate tax as a tool against dangerous concentrations of wealth — but a tax that hits people starting at an estate of $675,000 is hardly a tool for dealing with people with excessive economic power.

All across this country, every single day, people in the produce industry are taking their hard-earned money and giving it to lawyers and accountants, to trust officers and insurance companies and spending countless hours thinking about minimizing the bite of this tax. Both the country and these individuals would be better off if they were focusing on their businesses. **pb**