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Seven Reasons Why Congress Should Repeal, Not Fix, the Death Tax

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The House and Senate may soon begin debate on what to do with the federal estate tax. If Congress fails to act before January 1, 2010, current law calls for death taxes to disappear entirely for one year before returning in 2011 at a top rate of 55 percent and a \$1 million exemption of taxable estate.¹ The 2009 tax rate is 45 percent, and the exemption stands at \$3.5 million per taxpayer.

What should Congress do? Some Members want to permanently “fix” the death tax by reducing the top rate to 35 percent, which some pro-death tax policymakers suggest is a rate wealthy taxpayers could “afford.” However, this would be the wrong move for Congress to make. Instead, policymakers should do what their voters want them to do, as revealed in poll after poll: They should repeal this tax and kill it, once and forever.

Punishing Hard Work. Americans of all walks of life sense the deep injustice of federal death taxes and the fundamental immorality of bedrock public policies that tell people one thing and do another. Policymakers say, on the one hand, that that if you work hard, save your money, and generally do the right things in your daily life, you will succeed in the U.S. economy. On the other hand, however, these same policymakers support the federal death tax, which has the power to nearly confiscate these hard won economic gains once success is attained.

As Members of Congress consider whether to retain federal death taxes, they should ponder the principal reasons why they should join prior Congresses and repeal this tax.

1. *Death taxes discourage savings and investment.* For those Americans who think that their estates may one day pay federal death taxes, the tax sends a signal that it is better to consume today than invest and make more money in the future. Instead of putting their money in the hands of entrepreneurs or investing more in their own economic endeavors, Americans are encouraged to consume it now rather than pay taxes on it later.
2. *Death taxes undermine job creation.* Not only do federal death taxes have a corrosive effect on the virtue of savings and prudent investment, but they also directly undermine job creation and wage growth. These latter effects make death tax repeal everyone’s concern. Heritage Foundation economists estimate that the federal estate tax alone is responsible for the loss of between 170,000 and 250,000 potential jobs each year.² These numbers do not appear in employment statistics because the investments that would have created these jobs are never made.³
3. *Death taxes suppress productivity and wage growth.* The estate tax discourages investment, which holds down wage growth. Businesses are

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less able to purchase new tools and equipment, which makes workers less productive, which means less wage and salary growth. It is through productivity growth that enhancements to economic and social well-being are made and the virtues of America's form of economic organization are most abundantly seen.

4. *Death taxes contradict the central promise of American life: wealth creation.* Most Americans oppose death taxes because they seem so un-American. The central promise of American life is that if you work hard, save, and live prudently, you will be assured the enjoyment of your economically virtuous life. There are few other places on the planet where this promise is made (let alone kept), and it—along with companion promises of political and religious freedom—has attracted millions of immigrants to the United States. The death tax contradicts the very promise that has attracted so many.
5. *Death taxes hurt those who have tied their savings up in land.* Some Americans—such as farmers, ranchers, and homeowners—have improved the land upon which their other assets sit, and the death tax punishes them for this productivity. Others see their property value go up because of factors beyond their control, such as the popula-

tion growth of cities. In this case, the death tax is fundamentally unfair.

6. *Death taxes hurt African-American business owners.* Many Americans save in their businesses in order to pass an asset along to their children, and many of these businesses are owned by African-Americans and other minorities. The threat of seeing their life savings absorbed in a single tax bill is reason enough to demand permanent repeal.
7. *Death taxes hurt women business owners.* Small businesses offer a way around the corporate glass ceiling for many women returning to the labor force after raising families or taking care of other obligations. The economy welcomes their enterprise and creativity, but the death tax makes their return more difficult.

The Nightmare of the American Dream. The federal death tax is, indeed, the nightmare of the American dream. Not only does it undermine the promise of American economic life, but it strikes hard at those aspects of economic activity most important to those just starting their careers or struggling to climb up the economic ladder: It strikes at job creation and income growth.

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1. This peculiar feature of American tax law stems from a scoring by the staff of the Joint Committee on Taxation just a few days before House floor debate of the House Ways and Means chairman's tax bill. The score indicated that the House's budget resolution had not allocated enough funding for permanent repeal of death taxes while also lowering other tax rates and changing the tax base as elsewhere contemplated in the 2001 tax legislation. Given that the Senate had adopted a similar amount for tax cuts, the chairman's mark had to be quickly redrafted in order to provide promised tax relief and avoid a budget point of order. As a result, repeal of the federal death tax occurred in only one year (2010) as opposed to being permanently repealed before coming back at pre-2001 levels in 2011. By doing this, the legislation's managers stayed within the amount of tax relief that Congress had earlier authorized.
2. See William W. Beach, "Death Taxes: Killing the Economy," Heritage Foundation *WebMemo* No. 189, January 23, 2003, at <http://www.heritage.org/Research/Taxes/wm189.cfm>.
3. Recent work by Douglas Holtz-Eakin and Cameron T. Smith present an argument that a repeal of the estate tax would result in job growth among small businesses of 1.5 million jobs. See Douglas Holtz-Eakin and Cameron T. Smith, "Changing Views of the Estate Tax: Implications for Legislative Options," American Family Business Foundation, February, 2009, at http://www.nodeathtax.org/files/AFBF_Holtz_Eakin_2009.pdf (November 7, 2009).