Death is Taxation

The federal estate tax is the last known World War I survivor. Originally, it was instituted to pay for wars and then to be promptly repealed. Implemented in 1916, the current death tax is more than 100 years old.

by Lindsay King, assistant editor

"The majority of agricultural producers, particularly in the beef industry, truly are asset rich and cash poor," said Danielle Beck, National Cattlemen's Beef Association (NCBA) senior director of government affairs, at the 2019 Cattle Industry Convention tax and credit committee meeting. "Everything is tied up in the land and the value of that is such a huge component of the estate."

On paper, producers are rolling in cash. When the actual bank statement arrives, it's a different story.

The estate tax, more commonly referred to as the death tax, is "a levy on an individual's transfer of property enacted at death," according to the Family Business Coalition (FBC). Most producers don't have the kind of cash on hand to cover the taxation of their assets. With a majority of them tied up in land, equipment and livestock, it can be nearly impossible to write the upwards of a million dollar check without selling off pieces and parts.

The Revenue Act

According to the Internal Revenue Service (IRS), "the Revenue Act of 1916 created a tax on the transfer of wealth from an estate to its beneficiaries, and thus was levied on the estate."

Revisions through the years created new tax brackets and rates. What remains the same? Death tax takes a hard toll on producers and their families, even if they are prepared for it.

"I think people forget that farmers and ranchers are business owners," Beck added.

The Bush administration put the death tax on a 10-year schedule for repeal, ending in 2010. For an entire year, the death tax was officially laid to rest.

"That same year, the Lincoln Kyle Compromise was struck, which set the exemption for the estate tax at 5 million (for individuals)," said Palmer Schoening, FBC chairman. This included a 35% tax rate, which was raised to 40%.

Congress believed the compromise was just "tax cuts for the wealthiest Americans and estates." The latter, referring to producers.

Today's tax outlook

Both the NCBA and FBC have focused legislative efforts on death tax reform. It's a high priority, but the delicate game of cat and mouse between the two parties keeps the death tax from being repealed entirely. For now.

Several positive changes came from the Tax Cuts and Jobs Act of 2017. The estate and gift tax exemption was increased to $11.4 million per individual ($22.8 million per couple).

That effectively cut the number of taxable estates in the U.S. almost in half. The annual gift exclusion amount stayed the same at $15,000.

"Basically, they were able to double the exemptions, so you can protect twice as much as you could previously from the estate tax," Schoening said. "One caveat, though, was the individual tax cuts expire at the end of 2025."

These higher exemptions might contribute to a repeal later, making it cheaper in the long run.

In the mean time, splitting up entities is a way to make the new tax system work better for your operation, Beck suggested.

For example, if you own cattle and a trucking company, Beck said to break them into two. This should allow the current tax system to work more favorably for you.

Both the NCBA and FBC assured producers that they are pushing to make the doubled exemptions permanent. Although they recognize it might be a slow process, producers can rest assured death tax reform is a top priority for both organizations and hopefully a full repeal is around the corner. AJ