Conservatives
for
Property Rights

August 4, 2017

Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20024

RE: Notice 2017-38

To whom it may concern:

Conservatives for Property Rights (CPR), a coalition of policy organizations representing tens of thousands of Americans, strongly opposes any implementation of the proposed rules under Section 2704 regarding family businesses and their valuations under the Federal Estate Tax.

While we consider the imposition of estate or inheritance taxes a violation of basic private property rights, the proposed rules would particularly harm the property rights of family farms, ranches, and businesses.

Clarence Borley, the former chief administrator of the Washington State Department of Revenue Inheritance and Gift Tax Division, was quoted as saying, "Inheritance is not a natural right, but is merely a civil convenience granted by a benevolent government." CPR could not disagree more. And our position on the nature of private property rights, including inheritance taxation, enjoys a long history in Western civilization and in the United States.

When King John signed the Magna Carta on June 15, 1215, inheritance rights were codified within 16 chapters, roughly one-third of the Great Charter. 17th Century political philosopher John Locke said government or someone else "may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another."

In the United States, the father of our Constitution, James Madison, said, "Government is instituted to protect property of every sort; as well that which lies in the various rights of individuals as that which the term particularly expresses. This being the end of government, that alone is a just government, which impartially secures to every man, whatever is his own." Plainly, Madison would regard the proposed regulations under Section 2704 as unjust government working not to secure private property, but to deprive the survivors of someone deceased of property that rightly belongs to them by right of inheritance.

Thus, it is well-founded that property and inheritance rights are an inherent right, not a privilege. And the proposed rules under consideration in Notice 2017-38 are premised on "government-granted rights" to private property.

As proposed, the regulations would (1) eliminate the family business minority discount. This would result in an increase of valuations of family businesses for estate tax purposes between 60 percent and 100 percent; and (2) render “null & void” any estate tax planning a family did up to 3 years prior to the death of the business owner. However, this is arbitrary, given that people generally do not have advance knowledge of the date of their death.

More to the point regarding the IRS proposed rules under Section 2704, American family businesses, farms, and ranches are the bedrock of America’s economy. They provide 72 percent of America’s jobs in this jobs-thirsty nation. They are anchors of their communities. Yet, the proposed changes under Section 2704 singularly hurt family businesses, farms, and ranches. This is detrimental for them, their families, America, and our economy.

We urge you not to implement the rules proposed under Section 2704.

Respectfully,

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