

It is much more than that. It is a tax on a decedent's estate that applies at certain levels and at certain times. I would agree with the majority party, if they say the exemption isn't high enough. It should be much, much higher. We want to make it much higher. But I would not agree, and do not agree, if they say: Let us repeal the estate tax burden on the largest estates in this country.

Again, let me say that there are many who have amassed very substantial estates who believe we should not repeal the estate tax burden. Incidentally, a substantial amount of charitable giving in this country is stimulated by the presence of an estate tax. I would not use that to justify its presence, but I would say that one additional result of a total repeal for the largest estates will, I think, have a very significant impact on foundations and charities in this country.

But we are going to have a very substantial discussion as we move along. This is a very important issue dealing with a lot of revenue. I must say, it is interesting that the issue is brought to the floor of the Senate without even going to the Finance Committee. I would expect the chairman and ranking member of the Finance Committee would express great concern about that. This is an issue that has just bypassed the Finance Committee, just being brought right to the floor of the Senate, with no hearings, no discussions, no markup in the Finance Committee.

It is also a circumstance where the majority leader has indicated he wants to bring this up, but he does not want people to offer amendments really. And if they are to offer amendments, he wants them to be relevant with respect to the decision of relevancy in the Senate, not with respect to what is relevant or nonrelevant about the subjects that are on the floor of the Senate.

For example, if the proposal is to substantially cut revenue by exempting the largest estates in this country from any estate tax burden, if that is the proposal, it would not be relevant in the Senate to say: I have another idea. Why don't we retain the tax burden on the largest estates, exempt the tax burden on the other estates, and then, instead of costing the extra \$50 or \$60 billion for the first 10 years and substantially move over the next 10 years, let's use that difference to provide a middle-income tax break, or let's use that difference to provide a larger tax credit for college tuition to send your children to college. Let's use that difference to provide a benefit of prescription drugs in the Medicare program. Let's use that difference to pay down the Federal debt that now exists at around \$5.7 trillion—all of those ideas would be out of order and considered, under the arcane Senate rules, as nonrelevant.

Mr. THOMAS. Will the Senator yield for a unanimous consent request?

Mr. DORGAN. Of course, I yield, without losing my right to the floor.

#### ORDER FOR RECESS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Senate recess today from the hours of 12:30 to 2:15 in order for the weekly party conferences to meet. I further ask unanimous consent that the time count against the postcloture debate time.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, I know Senator WELLSTONE has been here a long time, and I have been here a long time. Is there any way we can work out an order of recognition when we come back after the conference lunches? I ask Senator ROTH if that would be possible.

Mr. WELLSTONE. Mr. President, I thank the Senator from California. I think it would be a good idea if we could work out an order, and I am pleased to do so.

Mr. ROTH. Mr. President, I request that the Democratic side give us a list of the order, and we will try to develop one as well. Then when the manager comes back for the Democratic side, we will see if we can't work that out.

Mrs. BOXER. I ask my friend, Senator DORGAN, after the party lunches, if he intends to continue to speak.

Mr. DORGAN. No, Mr. President.

Mrs. BOXER. As we have it now, it is Senator WELLSTONE first and myself second. I would defer to our ranking member and the chairman to work this out. If you could take that into consideration, I will not object to the request.

Mr. WELLSTONE. Reserving the right to object, I wonder whether I could ask unanimous consent that I be allowed to speak since I have been here all morning, when we come back from the break.

The PRESIDING OFFICER. The Senator would have to repropound his request.

Mr. ROTH. Mr. President, Senator MOYNIHAN and myself will work this out. We will try to work it out so we can alternate back and forth.

Mr. WELLSTONE. I will not object.

The PRESIDING OFFICER. On the unanimous consent as originally propounded, is there objection? Without objection, it is so ordered.

The Senator from North Dakota has the floor.

Mr. ROTH. I have a parliamentary question.

The PRESIDING OFFICER. The Senator from North Dakota yielded for a unanimous consent to be propounded. The floor returns to the Senator from North Dakota.

Mr. DORGAN. Mr. President, the facts are not very evident with respect to this debate in most cases.

I thought it would be useful to quote from an interesting publication, the "Farm and Ranch Guide"—it is a well-

known publication to most farmers and ranchers—an article by Alan Guebert, "A Tax Break for the Rich Courtesy of Family Farmers" is its title.

He points out that in 1997, according to Internal Revenue Service data, 1.9 percent of the more than 2 million Americans who died paid any estate tax at all; only 1.9 percent paid any estate tax at all.

As skinny as that slice was, an even skinnier 2,400 estates paid almost 50 percent of all estate taxes . . .

His point was, there are not many estates that are subject to an estate tax. I believe we ought to enact a generous exemption for family farms and small businesses so that no family farms or small businesses will be caught in the web of an estate tax.

It is not as if this is a riveting debate, of course. The estate tax is a complicated issue. It can be highly emotional. As we see in the Senate today, it is not going to keep people glued to their seats.

I suggest, however, the purpose of taxation is to pay for things we do in this country together. We build roads together because it doesn't make sense for each of us to build a road separately. We build schools because it makes sense that we do that together. We provide for a common defense. It requires taxes to pay for all this. It is what we do as Americans.

I probably shouldn't name particular cities, but go mail a letter in some cities around the world and see how quickly that letter moves. Go drive on some roads in rural Honduras and see how well your tires hold up. Go take a look at some of the services in other parts of the world and then evaluate what your tax dollar buys in this country. That is part of our investment in America. Some say that the payment of taxes is something we don't like very much—I think all of us share that feeling—so let's relieve that burden. They come to the floor with a plan. The plan is in writing and says, what we want to do is relieve the burden of the estate tax.

We say: That's all right. Let us relieve the burden so that nobody of ordinary means is going to have to pay an estate tax.

They say: No, that is not what we mean. Our idea is more than that. Our idea is, we want to remove the estate tax from everybody, including the largest estates in the country. So they say: our idea is to reduce the amount of revenue the Government has and to do it by relieving the burden of the estates tax on the largest estates.

We say: Well, that is an idea, but here is another idea. If we are talking about \$250 billion in 10 years of tax relief, why go just to 400 of the wealthiest Americans? Why not provide some of that to the rest of the American folks?

How about to working families? How about some relief from the high payroll taxes people pay? How about some more relief from the cost of sending kids to college?

We have some ideas. But we are told: Your ideas don't matter. We are going to deal only with our own ideas, and those are ones that would benefit the upper-income folks. But we want to put clothes on it to disguise it a little because we know it doesn't sell very well to talk about providing tax relief to billionaires. We are going to disguise it to make it look different and call it tax relief for family farmers and small businesses.

But we support such relief. Let's do that right now. In fact, perhaps the Senator from Nevada could put forth a unanimous consent request. We can legislate like they do—don't go to the committees, don't have markups; just bring it to the floor and put forth a unanimous consent request. They have done that on the estate tax. Yesterday, they did it on the H-1B proposal. Perhaps we can say we support eliminating the estate tax for small businesses and family farmers and do it their way. That is not a good way to legislate, but let's try that. Then we can get that off the table so all that remains is the question, Are we going to provide a very substantial amount of tax relief to those 400 or so estates that represent the largest accumulation of wealth in the country? If that is the priority, what is it measured against—against the other priorities? Is it the most appropriate? Is it the most logical thing to do? Or are there other uses of that revenue that would make more sense for this country?

In summary, that is something that I think will be subject to a substantial amount of debate in the coming weeks. I wish to close where I began and say that there is a profound difference that exists between many of us and the majority party on the subject of whether the largest estates in this country should be relieved of the burden of paying an estate tax. I think there is a better use for those funds than tax relief for billionaires. On the other hand, there is no difference between us on whether we ought to make a quantum leap and provide a very significant exemption for the transfer of family farms or small businesses. And for a dramatic and substantial increase in the unified exemption from the current roughly \$675,000 level, I would support taking that to the \$4 million level for a husband and wife. I think we can do that. There certainly should be agreement on that. We can take that step, and what is left is an idea to relieve the rest of the burden by some of the majority, and other ideas that we would have for the use of those funds, including middle-income tax relief. Let's have that debate. It seems to me that that would be the simple way of proceeding.

I wanted to make some of those points. I appreciate my colleagues who are also going to make some points in the postcloture discussion. Then we should have this debate, with amendments. I think time agreements could be developed, and I think at the end of

the debate we would see where the votes are in the Senate on this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. REID. Will the Senator yield for a unanimous consent request, without losing his right to the floor?

Mr. CRAIG. Yes.

Mr. REID. Mr. President, I have discussed this with the chairman of the Finance Committee. After the recess, which will be in a few minutes, we would like these Senators to speak. On our side of the aisle, the order of speakers would be Senators WELLSTONE, BOXER, FEINGOLD, KENNEDY, DURBIN, and HARKIN on postcloture regarding this estate tax matter. On the Republican side, the speakers who have been requested are Senators BURNS, KYL, and GRAMS so far. We will alternate back and forth. The majority will fill in a couple more speakers so there would be a requisite number on each side. People on my side have indicated they would take a half hour or so, but we won't lock in the time at this time, only the order of speakers.

I ask unanimous consent that we be able to do that at this time.

The PRESIDING OFFICER. Is the Senator from Idaho allowed to complete his time?

Mr. REID. Of course.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, under a unanimous consent agreement, we are slated to recess at 12:30, is that correct?

The PRESIDING OFFICER. Yes.

Mr. CRAIG. Mr. President, I come to the floor to speak for a few moments. Senator DORGAN was on the floor talking about the character of his State and the character of this issue of estate tax or death tax, whatever we wish to call it. I call it that which destroys the American dream.

I have always been amazed that anyone who serves in public life can justify the revenue they spend for the sake of Government as somehow destroying someone else's life or property. Yet over the years, clearly, the estate tax provision of our national Tax Code has done just that.

The Presiding Officer is from the State of Wyoming. I am from Idaho. Much of our States are made up of farmers, ranchers, and small business people. Really, the character of the business and industry of our States is made up of small businesses.

Some of us strive all of our lives in a small business to create a little estate that we then want to hand to our children, if they choose to carry on that which we have developed. Yet in nearly every instance today, under current law, to be able to carry on that small Main Street business or that farm or that ranch, you have to re-buy it. You have to sell it to get the revenue to pay

off the Federal Government, and then you spend the rest of your life, as the person who is the inheritor, paying for the business.

That is not the American dream. That is not what built the basis of wealth in our country which has generated this tremendous economy, which employs the men and women who make up the workforce of our economy. That is why I and others have consistently argued that, clearly, we needed to either eliminate the estate tax or do it in a way that recognizes those small- and medium-size proprietorships and businesses that are not held in stock or in corporations. That is exactly what we are attempting to do.

I am always amazed that the other side will come to the floor and say: Well, this is a great idea, but then again we ought to consider this or that, and maybe we ought not to do that, and that somehow it is wrong to generate wealth in our society and to want to be able to pass it on to our children and grandchildren.

Shame on those who want to deny the American dream. Shame on those who want to deny the energy and the spirit that has created this country and made it the greatest country ever known on the face of the Earth—a country great for its ability to allow individual citizens to grow and generate wealth in business. That is what this debate is fundamentally about. So anybody who wants to come to the floor and deny us as a Congress, as a people, the right to deal with this issue in a fair and equitable way simply denies the average citizen of this country the American dream.

Let us not get lost in the words. Let us not get lost in the phraseology about a little bit here and a little bit there, and we have to have all this money to spend in Government. This is the time of the greatest prosperity in the history of this country. There are articles out there saying that the surplus is going to double and triple into the trillions of dollars; yet we still have in the law a situation that says: If you die, you lose. If you die, the Government gets your work. If you die, all of the lifetime you have spent building a little business, a farm, or a ranch is somehow no longer yours.

I am sorry, but I am not going to get fouled up in the rhetoric, and I am going to continue to come to the floor to try to cut through the silly philosophy that somehow the Government has a right to all your money. What we have here is a responsible and legitimate piece of legislation to change the tax law of this country to gradually move us out of the situation that says if you die, you sell your business and the Government gets the money. What is wrong with medium- and small-size businesses that are not large corporations or stock-held businesses? What is wrong with allowing your children to have them, if they want them to continue that business and continue that legacy?

That is the issue that is before us. That is what is embodied in H.R. 8.

I suggest that anybody who would want to say something different—whether it is on the minor side, or whether they want to use the politics of the day to deny this to the average American—shame on you. I don't see any good politics in that kind of bad politics.

Mr. REID. Mr. President, I failed to be courteous to my friend from Idaho for allowing me to interrupt. I express my appreciation for his willingness to do that.

Mr. CRAIG. I thank the Senator from Nevada.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:16 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:16 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

The PRESIDING OFFICER. The Senator from Minnesota.

#### DEATH TAX ELIMINATION ACT— MOTION TO PROCEED

Mr. WELLSTONE. Mr. President, let me, first of all, mention to colleagues when we look at this estate tax bill, the Center on Budget and Policy Priorities—and I think their work has been impeccable—points out that fewer than 1.9 percent of the 2.3 million people who died in 1997 had any tax levied on their estates. We are talking about 1.9 percent.

This repeal that my colleagues on the other side of the aisle are proposing helps the wealthiest 2 percent of Americans. I ask unanimous consent the full study from the Center on Budget and Policy Priorities be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Center on Budget and Policy Priorities, June 21, 2000]

#### ESTATE TAX REPEAL: A WINDFALL FOR THE WEALTHIEST AMERICANS

(By Iris J. Lav and James Sly)

#### SUMMARY

On June 9 the House passed legislation that would repeal the federal estate, gift, and generation-skipping transfer tax by 2010. The Senate is expected to consider estate tax repeal in July.

Repealing the estate tax would provide a massive windfall for some of the country's wealthiest families.

In 1997, the estates of fewer than 43,000 people—fewer than 1.9 percent of the 2.3 million people who died that year—had to pay any estate tax. The Joint Committee on Taxation projects that the percentage of people who die whose estates will be subject to estate tax will remain at about two percent for the foreseeable future. In other words, 98 of every 1,000 people who die face no estate tax whatsoever.

To be subject to tax, the size of an estate must exceed \$675,000 in 2000. The estate tax exemption is rising to \$1 million by 2006. Note that an estate of any size may be bequeathed to a spouse free of estate tax.

Each member of a married couple is entitled to the basic \$675,000 exemption. Thus, a couple can effectively exempt \$1.35 million from the estate tax in 2000, rising to \$2 million by 2006.

The vast bulk of estate taxes are paid on very large estates. In 1997, some 2,400 estate—the largest five percent of estates that were of sufficient size to be taxable—paid nearly half of all estate taxes. These were estates with assets exceeding \$5 million. This means about half of the estate tax was paid by the estates of the wealthiest one of every 1,000 people who died.

If the estate tax had been repealed, each of these 2,400 estates with assets exceeding \$5 million would have received a tax-cut windfall in 1997 that averaged more than \$3.4 million.

As these statistics make clear, the estates of a tiny fraction of the people who die each year—those with very large amounts of wealth—pay the bulk of all estate taxes.

Moreover, a recent Treasury Department study shows that almost no estate tax is paid by middle-income people. Most of the estate taxes are paid on the estates of people who, in addition to having very substantial wealth, still had high incomes around the time they died. The study found that 91 percent of all estate taxes are paid by the estate of people whose annual incomes exceeded \$190,000 around the time of their death. Less than one percent of estate taxes are paid by the lowest-income 80 percent of the population, those with incomes below \$100,000.

#### SMALL BUSINESSES AND FAMILY FARMS

Very few people leave a taxable estate that includes a family business or farm. Only six of every 10,000 people who die leave a taxable estate in which a family business or farm forms the majority of the estate.

Nevertheless, it often is claimed that repeal of the estate tax is necessary to save family businesses and farms—that is, to assure they do not have to be liquidated to pay estate taxes. In reality, only a small fraction of the estate tax is paid on small family businesses and farms. Current estate tax law already includes sizable special tax breaks for family businesses and farms.

To the extent that problems may remain in the taxation of small family-owned businesses and farms under the estate tax, those problems could be specifically identified and addressed at a modest cost to Treasury. Wholesale repeal of the estate tax is not needed for this purpose.

Farms and family-owned business assets account for less than four percent of all assets in taxable estates valued at less than \$5 million. Only a small fraction of the estate tax is paid on the value of farms and small family businesses.

Family-owned businesses and farms are eligible for special treatment under current law, including a higher exemption. The total exemption for most estates that include a family-owned business is \$1.3 million in 2000, rather than \$675,000. A couple can exempt up to \$2.6 million of an estate that includes a family-owned business or farm.

Still another feature of current law allows deferral of estate tax payments for up to 14 years when the value of a family-owned business or farm accounts for at least 35 percent of an estate, with interest charged at rates substantially below market rates.

Claims that family-owned businesses have to be liquidated to pay estate taxes imply that most of the value of the estate is tied up in the businesses. But businesses or farms

constitute the majority of the assets in very few estates that include family-owned businesses or farms. A Treasury Department analysis of data for 1998 shows that in only 776 of the 47,482 estates that were taxable that year—or just 1.6 percent of taxable estates—did family-owned businesses assets (such as closely held stock, non-corporate businesses, or partnerships) equal at least half of the gross estate. In only 642 estates—1.4 percent of the taxable estates—did farm assets, or farm assets and farm real estate, equal at least half of the gross estate.

Furthermore, the law can easily be changed to exempt from the estate tax a substantially larger amount of assets related to family-owned farms or businesses, and this can be done without repealing or making other sweeping changes in the estate tax. When the House considered the estate tax on June 9, Ways and Means Committee ranking member Charles Rangel offered an alternative that would have exempted the first \$2 million of a family-owned business for an individual and \$4 million for a couple, without requiring any estate planning.

#### EFFECTIVE ESTATE TAX RATES MUCH LOWER THAN MARGINAL RATES

The estate tax is levied at graduated rates depending on the size of the estate; the highest tax rate is 55 percent. This sometimes leads people to conclude that when someone dies, half of their estate will go to the government.

It normally is not the case, however, that half of an estate is taxed away. Effective tax rates for estates of all sizes are much lower than the marginal tax rate of 55 percent. On average for all taxable estates in 1997, estate taxes represented 17 percent of the gross value of the estate. A combination of permitted exemptions, deductions, and credits, together with estate planning strategies, reduced the effective tax rate to less than one-third of the 55 percent top marginal tax rate.

#### REPEAL OF THE ESTATE TAX CARRIES A HIGH COST

Repealing the estate tax would be very costly. According to the Joint Committee on Taxation, the House bill would cost \$105 billion over the first 10 years, as it phases in slowly. Once the proposal was fully in effect—and the estate tax had been repealed—the proposal would cost about \$50 billion a year. The cost of the proposal in the second 10 years—from 2011 to 2020—would be nearly six times the cost for 2001–2010.

Under the House bill, the estate tax would be reduced gradually over the next decade, leading to full repeal in calendar year 2010. Under current law, CBO projects the estate tax will bring in \$48 billion a year by 2010.

In the 10 years between 2011 and 2020, the estate tax likely would bring in at least \$620 billion under current law. The House bill includes a provision, relating to the valuation of capital assets when a person dies, that would offset a small portion of the revenue loss from repeal of the estate tax. The offsetting revenue gain is likely to be in the range of \$5 billion to \$10 billion a year.

The net effect of the House bill when fully phased in thus would be a revenue loss likely exceeding half a trillion dollars over 10 years.

The very high cost of repeal would be felt fully in the second decade of this century. That is the period when the baby boomers begin to retire in large numbers, substantially increasing the costs of programs such as Social Security, Medicare, and Medicaid. Repealing the estate tax would subsequently reduce the funds available to help meet these costs and to facilitate reforms of Social Security and Medicare that would extend the solvency of those programs, as well as to meet other priority needs such as improving