

Estate Tax

Background:

Through an initiative in 1981, Washington voters overturned the state inheritance tax. However, a credit allowance on the federal estate tax allowed the state to continue to collect a limited “estate tax”, known by employers as the “death tax”. In 2001, the federal government passed a law to phase out the federal estate tax by 2010 and the state credit no longer exists.

After the change in federal law in 2001, the State continued collecting taxes and in February 2005, the State Supreme Court ruled unanimously in *Hemphill et al v. Department of Revenue* that the state had no authority to collect this money and would have to reimburse it retroactively. In response, the 2005 Legislature passed a new state estate tax, ESB 6096. The business community fought the passage of this legislation, but was unsuccessful. However, the legislation did establish a deduction for family owned farms.

In 2007, Initiative 920 was validated with more than 400,000 signatures to repeal the estate tax but was ultimately not passed by the voters. Legislation introduced in the 2007 legislative session attempted to provide a deduction from the estate tax for family held business similar to what already exists for farmers. The legislation received a public hearing in the House but failed to pass after the democrat majority expressed an unwillingness to change the law so soon after Initiative 920 to repeal the entire state estate tax was defeated.

Problem:

By the time the owner of a family business dies, he or she has already paid federal, state and local taxes on their income several times – B&O taxes, excise taxes, license fees, social security taxes, federal income taxes, sales taxes, state and local property taxes, etc. When small businesses prepare for the estate tax, often the result is under-investing in the company, hurting future economic growth, the ability to create jobs and the resulting taxes that are paid. Attorneys are now advising their clients of the seriously negative effects of the estate tax on business and other assets in Washington. Some employers have already left Washington. Others are considering moving.

Solution:

1. Lawmakers should eliminate the estate tax to protect family owned business.
2. If the federal government reinstates the state death tax credit, enact a state pick-up tax credit equal to the state death tax credit amount.
3. Provide a deduction from the state estate tax for family held business similar to what already exists for farmers.