



Baines ups his trade value

Success as a designated hitter may earn him a ticket to a contending team
Sports, C1



Emmys sing show's praises

"Sopranos" receives 16 nominations, followed by "The Practice," "Ally McBeal"
Life & Leisure, D1



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Estate tax burdens more than it earns

The tax bill under consideration by the House Ways and Means Committee includes a provision to phase out the federal gift and estate tax. The bill, which overall would cut taxes by \$850 billion over 10 years, is largely the handiwork of committee Chairman Bill Archer, R-Texas. Archer has long supported conservative efforts to repeal the gift and estate tax — which in 1976 was combined

Delaware Voice



Sheldon D. Pollack

into a single unified tax on all transfers of wealth. A companion bill introduced in the Senate, by Finance Committee Chairman William Roth of Delaware, does not include a comparable provision. That's too bad. It is time to repeal the wealth transfer tax, and Sen. Roth's support is critical.

In recent years, numerous bills have been introduced in Congress (mostly by Republicans, but also supported by some Democrats) to repeal the much despised tax — which kicks in at 37 percent and reaches an onerous 55 percent on transfers over \$3 million. Short of this, legislation has been enacted to soften the impact of the tax, such as provisions in the Taxpayer Relief Act of 1997 which increased the individual lifetime exemption from \$600,000 (where it had been stuck for a decade) to \$1 million by 2008. But ultimately, this is just tinkering. This presents a formidable challenge to the thousands of tax and estate lawyers who make their livelihood navigating their clients' fortunes around the vagaries of the wealth transfer tax.

The wealth transfer tax just doesn't raise enough revenue to justify its existence. The tax imposes weighty compliance costs on a significant number of persons (fees for estate planning and legal advice, setting up trusts, insurance premiums.) while raising remarkably little revenue. The Joint Economic Committee recently concluded that compliance costs are roughly equal to the revenue it raises. Despite sky-high rates, the tax raised only \$23.1 billion in 1998. That amounted to 1.4 percent of total federal receipts.

The gift and estate tax raises so little because so few individuals are subject to it. With competent but costly legal advice, all but the wealthiest individuals can avoid the tax. This is because the lifetime individual exemption shelters most estates. In 1987, when the exemption was raised to \$600,000, fewer than 19,000 individuals were subject to the estate tax — the his-

toric low. Today, with the exemption at \$650,000, only slightly more than 1 percent of all adults will be subject to the tax at death.

To take advantage of each spouse's exemption, married couples must correctly arrange their assets and draft their wills. There are a number of time-honored techniques for achieving this. The most important is a credit shelter trust in each spouse's will. This device can save a couple's heirs more than \$200,000 in extra estate tax.

Other sanctioned but often abused techniques for reducing estate tax include transferring your home to a personal residence trust, family limited partnerships, and a wide assortment of trusts for charitable giving. Another exemption from the gift tax (which applies to transfers during a lifetime) allows individuals to give up to \$10,000 a year to any other person, including children and grandchildren, completely tax-free. By making such gifts, estate tax will be minimized, and family assets can be passed to the next generations.

Congress dictates

Such techniques are commonly portrayed by the media as gimmicks used by the wealthy to evade estate taxes. While some push the outer limits of what is permissible, most are not only legal but are precisely how Congress has dictated that American citizens organize their financial affairs to comply with the estate tax.

It is also highly unproductive and very expensive. Indeed, one of the best arguments for junking the wealth transfer tax is that lawyers, financial planners and insurance agents are its main beneficiaries, rather than the U.S. Treasury. It is ridiculous that the tax laws should encourage people to consume their life savings before they die, set up unwanted trusts or give away their assets in \$10,000 increments, just to avoid the wealth transfer tax. Unfortunately, it can be very expensive not to do so.

The many professionals who make a living off estate planning are sure to be in the forefront of opposition to repealing the tax. Liberals and public interest groups such as Citizens for Tax Justice denounce any proposal to repeal the tax as benefiting only the wealthy. Nevertheless, there is a compelling case for moderates of all political stripes to support efforts to repeal.

Such a bipartisan coalition is what it will take. Certainly it is necessary to get the chairman of the Senate Finance Committee behind the campaign to repeal the wealth transfer tax.

► Sheldon D. Pollack is associate professor in the College of Business and Economics at the University of Delaware.

makes operations more...

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