

Duvall & Associates, Inc.

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Business Advisor Newsletter

"WELL THEY GOT MANSIONS
THINK WE SHOULD ROB THEM"

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Word has filtered out of the Obama camp that Democrats will move quickly to keep intact the Federal estate tax in 2010.

Years ago, Republicans enacted laws which methodically increased the Federal estate exemption from Carter-year levels of \$1 million per person to \$3.5 million in 2009.

Curiously in 2010, decedents are currently scheduled to receive a 1-year reprieve from Federal estate taxes. Thereafter, unless supplementary laws are passed the exemption will revert to the \$1 million exemption.

Portraying estate tax repeal as a tax cut for the wealthy, Obama has proposed to freeze exemption amounts at the \$3.5 million level (\$7 million for couples) with excess assets taxed at 45%. Thus, only the super-rich would be taxed.

Ironically, despite its populist appeal Obama's plan may actually cost the government tax dollars. Follow the logic.

Currently (or under Obama's plan) a decedent's net assets may be subject to estate taxes if they exceed exemption amounts - but all assets acquire a step-up in income tax basis to fair market value, even if not estate-taxed.

By contrast, if estate taxes were repealed beneficiaries could possibly acquire assets with decedent's basis - that is the benefit of a step-up in basis could be lost.

EXAMPLE - Joe dies owning only a \$2 million share of stock which he originally acquired for \$500,000.

Current law/Obama Plan - Joe's estate pays no estate taxes and his beneficiary can sell the stock for \$2 million with no income tax impact.

Estate Tax Repeal - Joe's beneficiaries sell the stock but could pay income taxes on \$1.5 million gain.

Estate tax repeal would not only greatly simplify tax laws - it could possibly increase overall tax revenues as well. But repeal would not make popular political headlines.

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