June 5, 2006

Dear Senators,

There may be no greater test of your commitment to both fiscal discipline and a progressive tax code than the votes you may be asked to cast on the estate tax when Congress returns next week.

Majority Leader Bill Frist has stated that he will file a motion to proceed on an estate tax bill in the first week in June. With deficits still projected to total $4 trillion in the next 10 years, with our entitlement challenge still unsolved, with energy prices rising, and with troops still lacking full equipment, the Senate Leadership apparently believes that the most pressing national priority this summer is to assure that the very wealthiest estates in 2011 and beyond are granted a multimillion dollar tax break.

In September — in the wake of Hurricane Katrina — Senator Frist sidelined his scheduled motion to proceed on an estate tax bill at the 11th hour, after Finance Committee Chair Grassley noted that it would be an "unseemly" time to extend tax cuts for the most wealthy. Several leading Senators will seek to hide the "unseemliness" of doing it this summer by replacing votes for full repeal with compromises which are nearly as costly and unfair as full repeal.

1. The numbers that every member of the United States Senate must appreciate:

- **Under current law, 997 of 1,000 estates — those with less than $7 million per couple — will not pay a penny of federal estate taxes**. By 2009, under current law, the estate tax exemption will have risen to $7 million per couple, or $3.5 million per person. *At this point, 997 of every 1,000* estates will not pay one penny of federal estate tax.

- **The two most likely proposals will benefit only the wealthiest three of every 1,000 estates.** Any lowering of the estate tax rate from current law in 2009 will benefit only the three wealthiest estates of every 1,000 — or estates above $7 million per couple.

- **The "compromise" offered by Senator Kyl would cost $800 billion between 2012 and 2021 (including interest costs) — or 84% of the costs of repeal,** according to the Joint Tax Committee**.** Kyl seeks to reduce the estate tax to only a 15% rate on the amount of an estate in excess of $10 million per couple.

- **Under the Kyl "compromise," the 800-900 wealthiest estates worth over $20 million alone will get a $7.2 billion tax cut, when compared to the 2009 freeze. That is a staggering $8.3 million tax cut per estate**.

- **You may also be asked to consider an "alternative compromise," framed as a graduated rate structure, which would cost nearly 75% as much as full repeal over the long run, according to estimates by the Tax Policy Center.** This proposal would place a 15% tax on estates of couples worth $7-10 million, a 25% rate on estates of couples worth $10-20 million, and a 35% rate on estates above $20 million. While it may be framed as costing only half as much as repeal, the proper way to measure the real cost is over the first full decade in which the effects of repeal would be fully felt — from 2012 to 2021. Tax Policy Center estimates indicate that it will cost 74% as much as repeal over this period.

- **Compared to freezing current law at the 2009 levels, this "alternative compromise" would cost about $200 billion in the decade from 2012-2021.**

- **All of the additional cost in extra tax cuts in that decade would go solely to the wealthiest 0.3% of estates — or wealthiest three of every 1,000 estates — those worth more than $7 million per couple.** The graduated rate structure — when compared to 2009 law — cuts taxes by 66% for couples with estates between $7-10 million, by almost half for couples with estates between $10-20 million, and by 20% or more for multi-billion dollar estates.

2. None of the arguments used by those supporting further estate tax cuts (cuts beyond the 2009 estate tax levels) hold up:

A Low Effective Rate:

- While supporters of repeal or near repeal argue that the rate of 45% above the exemption level is high, they fail to recognize that the current effective rate — the actual share of the estate that is paid in taxes — will average only about 18% for taxable estates in 2006.
- The Kyl proposal would lower the average effective rate to a mere 6%.
- The proposal with the graduated rate structure, outlined above, would also significantly lower the effective rate.

Does Not Force Businesses or Farms to Be Sold:

- If the 2009 exemption level of $3.5 million ($7 million per couple) had been in place in 2000, fewer than 100 family businesses nationwide and only 65 farm estates would have owed any estate tax at all.
- In 2004, only 440 estates comprised primarily of a farm or business of *any size* paid any estate tax. There is little evidence of farms or family held business having to be sold due to the estate tax.
- Almost all responsible privately held businesses engaging in planning for the future and planning for the estate tax should be part of that.
- Even those few family businesses that do owe estate tax have 14 years to spread out their payments.

Repeal Is Not Highly Popular With the Public:

- According to recent polling data, nearly 60% of voters have initial, unaided views that support leaving the estate tax as is or reforming it — and only 23% support repeal.
- When asked about the estate tax in the context of other budget priorities, voters rank repealing the estate tax as the *last* priority, and 55% of voters oppose repeal.

3. There is no sound reason for any member of Congress committed to progressivity and to fiscal discipline to lower the estate tax beyond current law in 2009:

- The 2009 freeze repeals all estate taxes for couples with an estate below $7 million — again, that is 997 out of 1,000 estates.
- A 2009 freeze will save nearly $600 billion when compared with repeal (costing only 40% as much as repeal) over the 2012-2021 period.
- A $7 million dollar exemption level for a couple at a 45% rate produces an average effective rate of 17%.

The last six years have seen a striking distortion of our national economic priorities. While child poverty has increased, while the budget has gone from surplus to substantial deficits, while our soldiers often fight without the best equipment — the United States Congress has found the time and resources to expend hundreds of billions of dollars of deficit-exploding tax relief for the most fortunate members of our nation. No single act would reflect such misplaced priorities as the allocation of hundreds of billions of dollars for the handful of wealthiest estates in our nation.

There is every reason to vote "no" on the motion to proceed. There is no reason to waive pay-as-you go principles and raise our long-term deficit by hundreds of billions of dollars to provide multi-million dollar tax cuts to a handful of the most wealthy estates. There is no reason to vote for a motion to proceed that would allow Congress to distract itself with such a regressive, deficit-exploding tax cut while our nation is still at war and faces such serious long-term fiscal challenges. And if there is a vote on substantive amendments, there is every reason to vote no on both the Kyl and "near repeal" proposals discussed above.

Sincerely,

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