Hearing on the Burden of the Estate Tax on Family Businesses and Farms

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OF THE

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Hearing on the Burden of the Estate Tax on Family Businesses and Farms

U.S. House of Representatives,
Committee on Ways and Means,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:11 a.m. in Room 1310 Longworth House Office Building, Hon. David Reichert [Chairman of the Subcommittee] presiding.

*Chairman Reichert. Good morning, and now we have entered into the subcommittee hearing on the burden of the estate tax on family business and farms.

Today, as we consider the burdens family businesses and farms face planning for and paying the estate tax, or, as it is more commonly known, the death tax, we will have the opportunity to hear from witnesses who have experienced this challenge first-hand.

Thank you to our guests and our witnesses for joining us today for this important hearing, and for sharing your stories.

The story is the same in all of our districts, I would imagine: family businesses, business owners, and farmers work hard their entire lives with the goal of passing on the fruits of their labor, but face the sometimes insurmountable burden and hurdle of the death tax. And, in addition to the actual tax liability the death tax imposes, merely planning for it, regardless of whether these businesspeople and farmers end up owing it, is yet another challenge that we will hear and discuss today.

In fact, as I am sure many of my colleagues have also heard, I consistently hear from local businesses about how this unnecessary tax threatens the livelihood of families. In my home state there are numerous examples of the harmful impact of the death tax.

In Seattle, permanent relief from the death tax is critical for family-owned businesses like the Seattle Times, which is a fourth and fifth-generation family business. And, in my own district, in Issaquah, Washington last year, a family had to make the difficult choice to sell their farm which had been in the family for over 120 years. This is a devastating decision to have to make, and they are not alone in making it.

I thank Congressman Kevin Brady for his work to provide much-needed permanent relief to families across the country, I'm proud to be a cosponsor of this legislation to repeal the death tax once and for all. I look forward to hearing from today's witnesses this important issue.

*Chairman Reichert. Mr. Neal, would you like to make an opening statement?

*Mr. Neal. Thank you very much, Mr. Chairman. And thank you for calling the topic today before us. I want to also congratulate you on becoming the chairman of the Subcommittee. As you know, being chairman of this Subcommittee leads to great thing. Former alumni include Chairman Camp, Chairman Rostenkowski, and Chairman Rangel. And former Chairman Tiberi isn't so bad, either.

[Laughter.]

*Mr. Neal. Speaking of which, I have enjoyed working with your predecessor, and I look forward to working with you.

We are here this morning to discuss the estate tax, which, for all the recent histrionics around the topic, has been, in one form or another, a part of the tax code since the days of our founding fathers. Whether used by John Adams to defend our democracy against a foreign threat, or by Lincoln to unite us, an inheritance tax has been recognized as a legitimate way to fund government operations and prevent concentrations of wealth.

While the estate tax, or the inheritance tax, is necessary to fund the government, perhaps more importantly, the estate tax is necessary to our democracy. As our founding fathers observed, you simply cannot have democracy in a nation with extreme economic inequality and wealth concentrated in the hands of the very few. Mr. Jefferson noted, citing Adam Smith, that "A power to dispose of the states forever is manifestly absurd; the earth and the fullness of it belongs to every generation, and the preceding one can have no right to bind it upon posterity."

Such extension of property is quite unnatural. There is no point more difficult to account for than the right we conceive men to have to dispose of their goods after death. This sentiment has been adopted in various forms throughout our history by different Americans.

One might remember that it was Theodore Roosevelt who was the first president to recommend a steep, graduated tax on inheritance. He, in fact, invited to the White House those to inform them that he was about to do it. More recently, Warren Buffett, George Soros, and Bill Gates, Sr. have all come out in strong support of maintaining a robust estate tax to prevent a concentration of wealth.

Today's hearing is an important one in this ongoing debate about the necessity of the estate tax. Today's panelists represent wide-ranging views on the topic, and each should have their views heard. Some of the small businesses, farms, and farmers represented here today have legitimate concerns about being able to make ends meet. And, as I understand it, many farmers and small businesses find themselves asset rich but cash poor. Combines, tractors, and plows are not cheap, and are big investments that farmers rely upon to grow their business.

So, I should point out that I think that there ought to be a way for this Subcommittee to recommend and for the full committee to embrace a notion providing some relief to farmers, if we can figure out how to do that specifically, so that the family maintains the interest. And I think that that is an opportunity that we perhaps could find common ground on.

I would remind my colleagues, as we proceed to the suggestion that we should repeal the estate tax in its entirety, we serve in the House of Representatives, not the House of Lords. And I think that that is a noteworthy example of what happens over time, if we are not careful about the concentration of wealth for those who miss the opportunity to present Steve Jobs or Bill Gates, Jr., as well.

Congress has recognized the plight of these businesses, and we have enacted numerous provisions to help our nation's farmers and small businesses, whether through generous expensing rules or accelerated bonus depreciation, both of which I have supported. I think that this was in addition to raising the thresholds on the estate and the gift tax. We have gone from a $1 million exemption with a top rate of 55 percent to a $5 million exemption indexed for inflation, with a top rate of 40 percent. While our nation's farmers and small businesses have legitimate concerns about the estate tax, it is my hope that this argument this morning is not being used for the purpose of ending the estate tax for simply America's wealthiest people.

The facts seemingly bear this out. As the Tax Policy Center recently revealed, only 20 small businesses and farm estates nationwide owed any estate tax in 2013. Furthermore, they point out that that estimate of those 20 estates owed just 4.9 percent of their value in tax, on average. This trend to small business and former levels also corresponds for all taxpayers, as well. As Joint Tax has pointed out, in 2013 there were 2.6 million deaths in the United States, and 4,700 estate tax returns reporting some tax liability were filed. This means 99.85 percent of all estates owed no estate tax at all. By comparison, in the mid-1970s, taxable estate returns exceeded 6 percent of all deaths.

Mr. Chairman, I would like to thank you for calling this hearing. I look forward to the discussion and hearing from our witnesses, and to seek ways to improve our current estate tax.

Remember, the estate tax is not a tax on Conrad Hilton. The estate tax is a tax on Paris Hilton. And, incidentally, who could be against that?

[Laughter.]

*Mr. Neal. And I call that up because I think that is a noteworthy example of what would happen if we broadly repealed the entire estate tax. And thank you, Mr. Chairman.

*Chairman Reichert. Thank you, Mr. Neal. Before I introduce today's witnesses, I ask unanimous consent that all Members' written statements be included in the record.

[No response.]

*Chairman Reichert. Without objection, so ordered.

We will now turn to our panel of distinguished witnesses. And I would like to welcome, first, Mr. Brandon Whitt of Batey Farms in Murfreesboro, Tennessee; second, Mr. Bobby Knight, owner and operator of -- I am sorry, McKnight -- of McKnight Ranch Company in Fort Davis, Texas; and third, Ms. Karen -- help me.

*Ms. Madonia. Madonia.

*Chairman Reichert. Madonia? A chief financial officer of Illco Company, a family-owned Chicago-area distributor of heating, ventilation, air conditioning, and refrigeration equipment parts and supplies. And, fourth, Professor Ray Madoff of the Boston College Law School in Newton Center, Massachusetts.

Thank you all for joining us today. You will each have five minutes to present your oral testimony, and your full written testimony has been submitted for the record.

Mr. Whitt, we will start with you. You are recognized for five minutes.

STATEMENT OF BRANDON WHITT, BATEY FARMS

*Mr. Whitt. Good morning. I certainly appreciate the opportunity to be here. And Chairman Reichert and Ranking Member Neal, and members of the subcommittee, my name is Brandon Whitt. I operate a seventh-generation farm in Murfreesboro, Tennessee, where I farm with my wife, Katherine, and my father-in-law, John.

In a suburbanized area just outside of Nashville, Batey Farms dates back to 1807. Beginning from a Revolutionary War land grant for military service, over its 208 years the farm has seen many faces, developments, victories, and certainly failures. But one thing remains constant: we have strived to uphold the principle of our family motto of preserving the past and embracing the future.

Batey Farms is a very diverse -- and includes a market that sells fruits, vegetables, and pork we produce directly to consumers. In addition, we farm 1,800 acres of row crops, and 250 acres of hay on our own land, and land we rent from neighboring land owners. My wife and I manage the day-to-day operation of our farm business, while my father-in-law, who still works daily alongside me, owns the land that we farm. We employ one full-time employee, two part-time, and over a dozen seasonal workers. Over 65,000 customers pass through our farm gate annually, and we are currently investing to expand our agritourism attractions, so that our more -- so that more of our urban neighbors will visit and make a connection to modern-day agriculture.

When my wife's grandmother passed away in 1998, my father-in-law, who had farmed the land for his entire life, was faced with a big -- with a huge estate tax burden. The farm, at the time, was a little over 600 acres. Land values were booming, and the value of the farm had doubled over the previous 10 years. John ended up having to sell a large portion of the land to pay estate taxes. This may not sound like much of a sacrifice, giving up 120 acres, but it left him with 483 acres to farm, and it completely changed the farm business. The land was lost to development. And having houses so close to our fields and the remaining land, it made it impossible [sic] to continue raising cattle.

Fast-forward to today. We still farm that same land. Only now it is easily valued at more than $25,000 per acre. Some might say that we should sell out, start over somewhere else. But this is not my family's plan. We believe that Batey Farms will be a viable farm business far into the future, and we hope that our children will be the eighth generation to farm our land. We believe that our farm adds value to our town, to our neighbors, and value to the open space that our customers have value -- for a local food source, and that our farm market creates a sense of community. We intend to honor our motto, and continue our farming business as long as we are able to.

My father-in-law, John, is now 72 years old. As we look to the future, we can't help but worry about what will happen when he passes away. We have spent countless hours talking with financial advisors, accountants, and attorneys, trying to put together a plan that will allow Batey Farms to remain a viable business. We know that we will face an estate tax when my father-in-law dies, and we are planning now to try to avoid having to sell more acres to pay the tax. I can't help but think about what our farm might be if we could have invested all that time and energy into our own business.

My story is the story of young farmers all across the country. Agriculture certainly looks different on farms from state to state. But we all face the same reality that an uncertain tomorrow can bring. We face decisions about making long-term investments on our farms and ranches, without the benefit of knowing the price we will be paid for our products. We deal with unpredictable weather that can change a good year into a bad one with a single storm.

There isn't much we can do about these risks. They are a normal part of the uncertainty that goes along with farming. But why should uncertainties over estate taxes be added to these others? Our job is hard enough, as it is. I urge Congress to abolish the federal estate tax, so that farms like mine can better use their resources to build a stronger business, and a better community. I urge Congress to act quickly to end estate taxes, so that no further farmer or rancher has to sell part of their business to pay this misguided tax.

Thank you very much for the opportunity to be here.

*Chairman Reichert. Thank you, Mr. Whitt.

Mr. McKnight, you are recognized for five minutes.

STATEMENT OF ROBERT E. MCKNIGHT, MCKNIGHT RANCH COMPANY

*Mr. McKnight. Thank you, Chairman Reichert, Ranking Member Neal. I appreciate the opportunity to be here today. My name is Bob McKnight, a seventh-generation cattleman from Fort Davis, Texas, and certainly my privilege to appear before this Committee today to speak on behalf of the cattlemen and women across this country to discuss an uncomfortable issue that too many of us have had to deal with, that being the death tax.

I am here to share my story today, so hopefully we can leave with a better understanding of the personal impact this has on families like mine and many like mine. Having dealt with the death tax on multiple occasions, I can assure you it is not easy to settle the estate of a loved one while mourning the loss of that loved one. And then, to find out that estate is subject to the death tax is pretty tough. How will I pay the estate tax? We are going to have to sell off part of our business, take out a loan, layoffs. These are all tough questions I had to face when confronted with the death tax. And, unfortunately, this story is more common than it should be.

As a cattleman, the most important part of our family's livelihood is the health and safety of our livestock. Every day myself, our employees, we go out and put the needs of our livestock ahead of our own. Cattle don't take a day off; we can't, either. I am financially and emotionally invested in the success of this operation. And I have a responsibility which I take very seriously, and that is the care for the animals and the people that work for us.

Our ranch is a family-owned small business located in Southwest Texas. Like other small businesses, we have the worries of making payroll, complying with numerous federal/state regulations, bills, loans, taxes. I face the same stresses every business owner out there faces, plus we have to deal with Mother Nature. We never know what she has in store for us.

In recent years our ranch and others have been ravaged by wildfires while in the throes of a drought of historic proportion. Many in Texas have been forced to liquidate their herds -- in some cases, their entire operation. The exodus of cattle out of Texas is unprecedented. We have had some rains. The country is going to take time to heal. To get back to our historic numbers is going to take some time. I think we are up to the task, but it is going to take a little time.

When times have been lean, we have had to make sacrifices to keep our business above water, keep our employees on the ranch. But sometimes you run out of places to cut, and you have to make real hard choices. And that means laying off season employees. This is exactly what happened to our family, precipitated by the death tax. I had to let go of season employees, and they had to seek work elsewhere.

The skill set that we need on our agriculture operations is very unique, and it takes years to develop. And when you lose that skill set, it is difficult, if not impossible, to replace it. I would give anything to have those guys back. But, unfortunately, I don't believe that is going to happen.

Many farmers and ranchers have had the same experience with the death tax. And, even with the current exemption levels, I believe there is a lot of angst out there with these rising land values: Is it going to trigger a death tax?

That is why many families, I think it is imperative they continue to invest in planning and complying with the estate tax. And, unfortunately, that money used to do that comes off the top. It is after-tax money spent on investing, rather than investing in your company. And, even with an estate plan, the best estate plans, it takes years to transfer. And, again, compliance is not free.

As someone who has been on the negative end of the death tax, I just have one question: What are the positive benefits of the death tax? When faced with a death tax, I am no longer thinking about how I am going to grow my business, hire more employees. I am focused on where I am going to have to cut. Are we going to have to liquidate? Are we going to have layoffs? How are we going to control this loss? I would rather focus on expanding our business, reinvesting in our community by creating more jobs.

The death tax impacts more than just my family. It affects our employees and the family businesses around us. In the small rural communities of Texas, these family ranches have support businesses all around them. And when you are feeling it, I can tell you it runs through the whole community, and it is pretty tough.

The death tax is a death warrant for far too many businesses. I feel the best solution, the fair solution, is a repeal of the death tax. Thank you.

*Chairman Reichert. Thank you, Mr. McKnight.

Ms. Madonia, you are recognized for five minutes.

STATEMENT OF KAREN MADONIA, CHIEF FINANCIAL OFFICER, ILLCO, INCORPORATED

*Ms. Madonia. Chairman Reichert, Ranking Member Neal, and members of the Subcommittee on Select Revenue Measures -- my name is Karen Madonia, and I am the chief financial officer of Illco, a Chicago-area distributor of heating, ventilation, air conditioning, and refrigeration equipment parts and supplies. Thank you for giving me the opportunity to talk about the estate tax and its effect on family businesses.

As background, Illco was a very small company when my dad bought it in 1973. At that time he was 32 years old with a wife, 3 daughters, and a mortgage, but he knew he wanted more than just a job. He wanted to create something permanent, to be in control of his own destiny. With help from my grandfather, my dad took a risk and went into business for himself. In those early years he worked every job at the company, 7 days a week, 10 to 12 hours a day. But his passion for the industry, his commitment to his employees, and his drive to grow his company kept him pushing forward. And 40 years later, he has a business that employs 97 people in 3 states, and generates $42 million in revenue.

My sisters and I grew up understanding that if we wanted to be successful at anything, we had to work hard and stay focused on our goals. We are proud to work alongside our dad now, and look forward to making our own mark on the family business in the coming years. There is also a generation behind us just beginning to consider career options. Perhaps some of them will join us; that is certainly my hope. But after years of listening to us struggle to figure out how to grow the business while navigating the estate tax waters, I imagine all of them will think twice before making that leap.

Proponents of the estate tax will tell you that it prevents the concentrated accumulation of wealth in our country. They will tell you that our nation needs to increase taxes on the wealthy, because they need to pay their fair share. On the surface, that is a pretty safe argument to make. It is easy to say the solution to our fiscal issues is to increase the burden on those who can afford it the most. But what is fair about paying taxes your whole life, only to have to pay even more at death, simply because you are leaving a business behind?

What is always overlooked is the effect of the estate tax on the family business. In most cases, we are not talking about passing on bank accounts with multi-million-dollar balances. We are talking about businesses where most of the net worth is tied up in inventory, accounts receivable, equipment, and real estate.

At Illco, for example, we carry an inventory valued at $12 million and an accounts receivable of about 5 million. Our inventory has to be high. We provide vital heating, cooling, and refrigeration parts and supplies to hospitals, schools, nursing homes, and grocery stores. And when that equipment breaks down, it needs to be fixed immediately.

After paying our taxes and making our annual profit-sharing contribution, the income that is left is put back into the company so we can continue to carry an extensive inventory, extend payment terms to our customers, and maintain our fleet and our buildings. If something happened to my dad, and we were left with a large estate tax bill, we would have to choose between shutting down branches, laying off workers, or liquidating inventory, just to be able to pay a tax bill that only occurred because an owner died.

Over the last few years, my dad has spent countless hours and entirely too much money trying to figure out how his company can outlive him. Instead of focusing on growing his business, he has had to strategize about how to pass his company on to his kids without having to dismantle it. Most of our strategic management decisions, whether they are about day-to-day operations or opportunities to expand, involve consideration of the estate tax in one way or another.

We have opted to maintain a large cash reserve as a precaution. Other companies choose to protect themselves by purchasing insurance. Either way, money that could be used to grow and create jobs is sitting on the sidelines. The estate tax is a huge road block to successful family businesses undergoing generational transfers. Think about that: Perhaps the greatest challenge in transitioning a business from one generation to the next is our own tax code.

Small business owners take huge risks at great personal sacrifice, and they truly are the backbone of the American economy. No one is asking for it to be easy. In fact, my dad would probably be the first one to tell you that overcoming the challenges is probably the most rewarding part of owning your own business. But it shouldn't be the case that the thing that keeps you up at night is the worry that you may leave your kids with a huge tax burden when you die.

I believe that most people would be proponents of an overhaul to our tax code. There probably are too many exemptions and loopholes that only upper-income taxpayers can take advantage of, and those topics are worthy of a national conversation. But taxing the estates of successful entrepreneurs is punitive, and that is not the role our tax code should play.

Two years ago, when Congress last addressed the issue of the estate tax, you gave the small business community some certainty by establishing an exemption and indexing it to inflation. While we still maintained that full repeal was the right answer, we appreciated that you understood that constantly changing the rules made it impossible for us to properly plan for the future of our businesses. I respectfully ask that you again carefully consider all the ramifications of estate tax policy, and then vote once and for all to permanently repeal the estate tax.

It is time to encourage families to create wealth by starting their own businesses, not threaten to take it away from them if the government thinks they have accumulated too much.

Thank you for the opportunity to share my family story with you.

*Chairman Reichert. Thank you, Ms. Madonia.

Ms. Madoff, you are recognized for five minutes.

STATEMENT OF RAY MADOFF, PROFESSOR, BOSTON COLLEGE LAW SCHOOL

*Ms. Madoff. Thank you. Chairman Reichert, Ranking Member Neal, members of the subcommittee, my name is Ray Madoff, and I am a professor at Boston College Law School, specializing in estate planning and tax policy. Thank you for inviting me to testify today, and for holding this hearing.

In my comments today, I would like to start by briefly addressing the family farm and business issue, and then take the bulk of my time to talk about the important role of the estate tax, and the serious costs of repeal.

As other witnesses have testified this morning, family farms and businesses are an important part of our society. And I believe that we should do what we can to protect them. We have some protections in place already. We have a large, $10 million exemption and provisions allowing taxes to be paid over 15 years. But if these are not sufficient, Congress should address the situation with targeted solutions.

There are two possibilities that are pretty easy: one would be to lift the cap from Section 2032(a), allowing special valuation for land would help our farmers here; or, revive Section 2057, but instead, provide an unlimited exemption for family businesses and farms, insofar as they are operated by family members. We have the statutes in place; we can easily enact them.

However, over 90 percent of the assets subject to the estate tax are assets other than closely-held businesses. And the family farm and business issue should not serve as a decoy to hide the true beneficiaries of estate tax repeal, especially given the value of the estate tax and the cost of repeal.

The estate tax plays a critical role, in terms of promoting fairness in our tax system, because it provides a counter-weight to the extraordinary income tax benefits given to those with inherited wealth. Our income tax system favors taxpayers with inherited wealth in two important ways.

First, inherited income is entirely excluded from the income tax system. A person who inherits $100,000 or $100 million is treated the same for tax purposes as a person who inherits nothing. This failure to tax inherited income is particularly glaring, in comparison to the taxes imposed on workers, who are subject to income taxes of up to 39.6 percent, and payroll taxes of up to 15.3 percent. Because of this difference, a construction worker who earns $60,000 after taxes gets less than $44,000. But if another individual inherits $60,000, she gets to enjoy that $60,000 entirely undiminished by taxes.

Second, those who inherit wealth also get to avoid capital gains taxes due to the step-up in basis at death. Consider the case of a person who had invested $20,000 in Apple stock in the 1980s. If that person died in 2015, the stock would be worth over $4 million at the time of death. But, under our current income tax system, no one will ever pay taxes on that $4 million of gain. This extraordinary benefit is only afforded those who obtain property by inheritance, not by any other way.

The estate tax also provides a valuable source of revenue for the government. While some say it isn't very much, there is still a lot that can be done with $270 billion over 10 years, including things like fully funding school nutrition programs, which would provide nutritious meals to 31 million children a day, or funding the program for free community college tuition that would benefit more than 9 million students, which could be funded 5 times over with this money. Even if the goal is to reduce the size of government, surely there are other taxpayers more in need of a tax break than the heirs of fortunes of over $10 million.

In addition to the cost of foregone revenue, the repeal of the estate tax would impose other burdens as well. Most importantly, it would increase wealth inequality, as the financial benefit of repeal would flow to America's wealthiest families.

Moreover, these families are likely to hold on to the wealth, as estate planners have perfected the art of protecting inherited wealth in perpetuity, through the creation of dynasty trusts.

Wealth inequality is not just a product of the market, but it is significantly affected by the government policies, especially tax policies, that allocate societal resources. Over the course of much of the 20th century, these policies resulted in a strengthening of the middle class. However, since the 1980s, wealth inequality has grown considerably, particularly among those who would most benefit from estate tax repeal: the wealthiest one-tenth of one percent of the population. In 2010 -- in 2012, that tiny sliver of Americans, those with $20 million or more, owned the same amount of wealth as that which is owned by 90 percent of the population. Estate tax repeal would exacerbate this concentration of wealth.

Wealth inequality threatens democracy. Both Thomas Jefferson and John Adams expressed their concern about the risk to democracy that could result from extreme wealth inequality.

Wealth inequality also hurts the economy. Studies persistently show that high concentrations of wealth correlate with poor economic performance.

Finally, repeal of the estate tax could have a devastating impact on our charitable sector. We count on our charitable sector to finance education, health care, scientific research, art, the social safety net. And the estate tax charitable deduction encourages charitable giving. And though the result would not be intended, it is quite likely that repeal of the estate tax would reduce charitable giving. Though it is difficult to quantify this impact, even a small reduction in charitable giving could prove devastating to the sector, and to the individuals that it serves.

Thank you again for inviting me to testify today. I am happy to answer any questions that you might have. And I hope that my comments are helpful to the committee as it considers this very important issue.

*Chairman Reichert. Thank you, Professor, for your testimony. Thank you all for your testimony. And I am sure members of the subcommittee have a few questions for you. And I will begin with Ms. Madonia.

You have highlighted several elements of your business that make estate planning difficult, including inventories and the capital-intensive nature of your business. Is this typical for businesses in your industry?

*Ms. Madonia. Yes, very typical. I mentioned in my testimony that we --

*Chairman Reichert. Microphone.

*Ms. Madonia. I am sorry. The parts that we sell -- refrigeration, heating, air conditioning -- if a refrigeration unit goes out in a grocery store, you have a limited amount of time before that food is lost. If the air conditioning system goes out in a hospital, you got to get that up and running pretty quick, so that patients can be taken care of.

So, we have to carry a pretty heavy inventory. When customers come in to buy something, we have to have it on the shelf, so they can walk out the door with it. And then there are trucks, buildings, and warehouse equipment -- there is a huge capital investment in our industry, yes.

*Chairman Reichert. Would you say that the death tax is a general concern for those businesses that do similar work that you do?

*Ms. Madonia. Absolutely. We –

*Mr. Thompson: Estate tax. It’s not the death tax. It’s the estate tax.

*Chairman Reichert. Pardon me? Estate tax, yes, I am sorry.

*Ms. Madonia. Yes. We come to Washington every year with our trade association, and this is always the first issue because it is an industry made up of a lot of small family businesses. And, yes, it is top on our list every year.

*Chairman Reichert. What is the membership of your association?

*Ms. Madonia. It is Heating, Air-Conditioning and Refrigeration Distributors, and there are between 450 and 500 members.

*Chairman Reichert. Okay, thank you. Mr. Whitt, it appears from your testimony that Batey Farms is facing several pressures that are changing how you farm, including increasing land values due to expansion of Nashville. Would you say that Batey Farms is typical, in having to struggle with increasing land values, and the changing nature of farming?

*Mr. Whitt. Absolutely, Chairman Reichert. You know, we are, fortunately, on the outskirts of urban life, which provide many opportunities for our farm to connect consumers to agriculture today. Unfortunately, that comes with an extremely large increase in land value.

Sure, it would be great to sell out and move somewhere else, and go buy 10 times the land, but that was never our intent to do so. We want to have that connection in our own personal community to share our story, to provide agriculture to our community. I don't see -- you know, estate tax in our case is going to be a huge problem for us, because of that increase in land value over the last several years.

*Chairman Reichert. You touched on this in your testimony, but again I will give you an opportunity to sort of amplify your answer a little bit. Is this driving an even greater concern about the death tax than in years past for American farmers?

*Mr. Whitt. Absolutely.

*Chairman Reichert. And --

*Mr. Whitt. As land value -- not only our personal farm, but land values in general continue to increase. So our question is, you know, when and if things happen to that family member now, what is going to happen? Because that death, what kind of bill are we going to be facing because of the death? And are we going to be able to hold on to that business?

You know, unfortunately, the only value we have is in land. I can assure you that my investment into my community through my expenses far outweighs my accumulation of wealth that I accumulate on my farm.

*Chairman Reichert. Okay, thank you.

Mr. McKnight, you said in your testimony that you are a seventh-generation rancher. Is that common among ranchers, to have that kind of a history?

*Mr. McKnight. In lots of Texas and across the country, yes. These are old ranches that have been put together through a lot of hard work, and it is generations just adding to it and adding to it. And you get to a point to where the death tax -- estate tax, I am sorry -- can be very tough. But, yes, these ranches weren't put together in a day. It is generations of hard work.

*Chairman Reichert. And you know a lot of these seventh-generation, fifth-generation --

*Mr. McKnight. Seven is a long time. I know multi-generational families, yes --

*Chairman Reichert. Multi-generational families --

*Mr. McKnight. Three, four, five, yes, absolutely.

*Chairman Reichert. Would you say that the pressures you are facing are typical for ranchers across the United States?

*Mr. McKnight. Absolutely.

*Chairman Reichert. And is the death tax a constant source of concern?

*Mr. McKnight. Absolutely. Yes, sir.

*Chairman Reichert. Mr. Neal, you are recognized.

*Mr. Neal. Thank you, Mr. Chairman. Professor Madoff, some have argued that Congress should repeal the estate tax because it serves as a double tax on income. Could you shed some light on that argument?

*Ms. Madoff. Yes. I think the double tax argument is one of the real misunderstandings about how the tax system works.

There are three things that are important to recognize. First of all, the bulk of assets that pass at death have never been subject to tax, because they are appreciated capital assets. And, due to the step up in basis at death that I talked about earlier, that wealth has never been taxed.

In addition, double taxation doesn't really capture anything, because there is no principle that money that has been taxed to one person shouldn't be taxed to another person. If I earn money and I pay taxes on it, and then I pay money to my mechanic for fixing my car, my mechanic can't say, "Hey, that income has already been taxed when Madoff earned it." Each taxpayer has to pay taxes.

In addition, taxpayers often pay taxes, multiple types of taxes. You pay income taxes, payroll taxes, sales taxes, property taxes. There is no principle of double taxation, avoiding double taxation, in the tax system.

*Mr. Neal. Mr. Whitt, based on your testimony, if we were able to find a way to address the land issue that you have spoken to specifically, would that satisfy the notion that we could accommodate you without repealing the entire estate tax?

*Mr. Whitt. Well, I believe, unfortunately, then, in some cases, yes, it could. But I think, when we look at the difference between farms and small businesses all across this country, where do we set that limit, there is always going to be winners and losers in that case. And, without full repeal, I don't see how we can be fair to McKnight and unfair to me, just because of the differences in our businesses.

*Mr. Neal. I would say that that is the nature of the tax system, though. There are winners and losers in the tax system. I think we all subscribe to that basic premise, that, as you try to shift the tax code around, that it is like squeezing toothpaste with the cap on.

*Mr. Whitt. Well, I don't understand why he should have to sell part of his business, just because he is over an exemption. Why should he have to sell his business? It is as detrimental to him to sell part of his business, just because he is over a limit and I am under.

*Mr. Neal. Okay. Now, just a reminder of what this Committee has done, the full Ways and Means Committee has done, now, just -- and it is March. We have already proposed, over the objections of some of us, $317 billion in tax cuts, unpaid for. And the proposal here, if this were to take place, would add $270 more billion dollars to tax cuts, unpaid for. So, that means that this Committee, in full, well into early April, before tax-filing season, will have proposed $587 billion worth of tax cuts that are unpaid for.

Now, let me tie that to this argument. That means that we will be proposing $587 billion in tax cuts, and only $567 billion of defense spending. So the same people that will argue here we should increase defense spending, including the President, will simultaneously argue that we should cut taxes by $587 billion. And I would submit, as good as the arguments are that you have all made this morning, there isn't anybody here who could run a family farm or business based upon the premise that has been offered by this Committee.

So, part of this is messaging that you are hearing today, and I understand that. People make arguments, and you want to, obviously, get those arguments to conform to a policy at some position. But we should not miss the fundamental point that these tax cuts, if they were to be put in place, mean that somebody else has to pay. Because, as Mr. Whitt has correctly noted, as you move the items around in the tax code, then there are those that will pay, and there are those that will pay less.

The argument that most of us hold today is that we should not remove the estate tax for the wealthiest Americans, based upon this notion that, by proffering some relief to the small family farmer, who has a legitimate argument here today, that we should cut taxes for Paris Hilton.

*Chairman Reichert. Thank you, Mr. Neal. Mr. Tiberi, you are recognized.

*Mr. Tiberi. Thank you, Mr. Chairman. Great testimony. Wow. Mr. Neal, I love you, because you --

*Mr. Neal. I will be able to put that on my campaign brochure.

[Laughter.]

*Mr. Tiberi. Well, you might not want to. And the reason why is because he is trying to come to yes, in terms of trying to fix the problem, except for the end of your statement, with respect to tax cuts, in all due respect, from my perspective, because we can, in this place, not pay for a trillion-dollar spending bill, but then we have to pay for tax cuts.

My dad -- you love it when I talk about my dad, don't you? My dad, when I was 16 years old, first job at McDonald's, said, "We have a crazy tax system." Sixth-grade education, immigrant to America. "You get taxed when you earn it, you get taxed when you save it, which is crazy" -- this is my immigrant father -- "because it discourages you from saving, and then you get taxed when you die, if you happen to save it, and try to invest it, and try to get a nest egg for your family."

*Mr. Neal. Would --

*Mr. Tiberi. The debate that we have --

*Mr. Neal. Would the gentleman yield?

*Mr. Tiberi. -- at the end of my statement, I would be happy to. But the debate that we just heard is fabulous, because it is like a debate that I have with my friends who run conservative or liberal think tanks. You have got reality, and you have got theory.

And what I loved about the three of your testimonies', who are living in the real world today, is that you are dealing with this today. It is not theory. And you are not living Warren Buffett's life. You are not living Bill Gates's life. You are living a life, and your statement about your father was awesome, awesome. Because what is so great about America is that my mom and dad taught me that with hard work and a little luck and a little bit of elbow grease, you can actually accomplish something in America.

The tax code often times makes really weird -- or makes people make weird choices, and it does create winners and losers. But the reality is -- I have talked to people in Central Ohio -- because of this tax code, they spend so much time trying to think -- and money.

I had a guy tell me, second-generation trying to become a third-generation family-owned car dealership, $50 million in inventory on his lot. He doesn't have a private jet; he doesn't have Warren Buffett's issues. He is trying to run a business, trying to hire more employees, trying to pass a business on to his son, and he is spending more time and money – that he could otherwise use to hire more people - trying to make sure the business doesn't have to be sold if he dies, or when he dies, which is what you all said.

So, I appreciate the fact that we are trying to figure out the family farm. But with all due respect to the two of you, it is more than the family farm. It is that third-generation business.

I talked to a business guy who sold his business to his employees, which I think is great, by the way -- ESOP, great in Ohio, great in Minnesota, you support it. But one of the reasons why he did it was because of the estate tax law. But this is before we passed the $5 million exemption. And his son is still involved in the business, and so is his daughter, but they are no longer the owners. They are part of the ownership team. But that was a decision made, in part, because of our tax law.

So, I appreciate the fact that you three came here and testified today, and really, really applaud you. This is hard. And this place -- it is hard to get things done. But you represent why I believe Mr. Brady's legislation is the right thing to do.

Ms. Madonia, can you just go into one other issue, or expand on it? In terms of the subject of the death tax, and the exemptions that you talked about, can you go into that a little bit further?

*Ms. Madonia. Yes. We spent a lot of time in our family talking about the estate tax, and we have got this generation of kids. There are eight -- my dad has eight grandchildren, and several of them are in school or have graduated from school with business degrees with some hopes, I hope, of coming to work for us. But this is an issue that we have talked about around our family tables for years, trying to -- where my dad has been trying to figure out the best way for him to continue to grow the company and still preserve it for us.

We watched him our whole lives, we watched my dad work, you know, 10 to 12 hours a day, literally. He would -- when he first bought the business, he would make the deliveries, and he would work the counter. At 5:00 he would go into his office and do receivables and payables. He did all of it. And we watched him struggle through all that. And to watch him try and figure out how he can pass it on to us, and let us make our mark on it without having to dismantle part of it is, really, just heartbreaking.

*Mr. Tiberi. Thank you.

*Chairman Reichert. Thank you, Mr. Tiberi. Ms. Sanchez, you get to follow Mr. Tiberi.

*Ms. Sanchez. Thank you, Mr. Chairman, and thank you to all of our witnesses for joining us here today.

The estate tax was originally instituted to ensure that the very wealthiest families, those who have benefitted from the greatness of this country, and the opportunities available in the economy, could contribute back to that system, so that others would also have those opportunities and chances to succeed. And, over time, Congress has whittled away much of the fairness that was in that system. So much so that, now, 99.85 percent of estates -- 99.85 percent of estates -- are now exempt from paying any estate tax, whatsoever.

If the existing exemptions and special provisions for family farms and true small businesses aren't enough right now, then let's specifically look at that. Because I am willing to work on that. I heard your testimony; I very much sympathize with your testimony. I understand the desire to keep things running in a family business. I get that, I get the hardships that you guys encounter. But let's not throw the entire baby out with the bath water and say we are going to eliminate the estate tax, all together.

This nation was founded on the principles that if you work hard and you put your sweat equity into something, everybody has an opportunity to earn their wealth, their status, and their privilege. We don't believe in an aristocracy, or that it is a good societal thing for dynasties to hoard their wealth and leave the rest to fight over the crumbs. That is just not how this country was founded.

But we have a paradox here in this country, where we think you should work hard to get where you are because work, by its very nature, and being productive, is very good. But, by the same token, everybody wants to make enough money to where they can retire and not have to work. And they want to preserve increasingly larger and larger chunks of their wealth. And that is why I am a little bit baffled why this Subcommittee is focusing on our time on how we can be doing more, quite frankly, for that last .15 percent of Americans.

But, you know, maybe I shouldn't be that surprised. After all, we have seen proposals in the federal budget that gut anti-poverty programs affecting the most vulnerable in our society, seniors, children, and people with disabilities.

And there has been a long debate -- we have had several debates in the preceding two congresses -- over means testing eligibility for a variety of programs that help poor and low-income families. We all agree that our federal dollars are valuable, they are scarce. And means testing can be a tool in helping to make sure that federal dollars are being spent in the most efficient way, and targeted to the populations that are truly deserving and most in need.

But one of the more recent Republican priorities has been a drug test as a precursor to some of these means-tested programs. Drug testing is an irrelevant requirement with respect to whether or not a person is poor enough to qualify for help in feeding her family, and yet they want to add those additional burdens on to folks that need help the most. And that is done under the guise of protecting the integrity of those programs, as a way to weed out those who are truly deserving from that benefit, and those who aren't. And, again, that is the issue of drug testing.

I find it interesting that some of those same rules don't apply to the scarce federal dollars that are being talked about today to be used for additional tax cuts, again, for people who are not just scraping to get by. And one current example is -- you know, I am a working mom -- a single mother who works to make ends meet. Why is it that she should be drug tested -- which is an unrelated requirement -- to receive assistance, food assistance, to make sure that her family has enough to eat, and people who are lucky enough to inherit millions of dollars are literally required to do nothing to get the federal tax benefit with their inheritance?

So, my first question is for Professor Madoff. You are an expert -- I am sorry. You are an expert on estate tax law, and you write the legal practice guides that most estate planners use in order to do estate planning. What work requirements are there to inherit up to $10 million tax-free?

*Ms. Madoff. There are no requirements to get that benefit under the law. We have a preference in our tax system for inherited wealth over wealth earned by wages, so that somebody who inherits 10 million pays no inheritance taxes, they pay no income taxes. They pay no payroll taxes.

And, moreover, they don't even have to tell the Federal Government that they have received $10 million. The government seems not to be interested in those flows of wealth, even if that were to come from a distant relative, you know, money lands on your lap -- lucky you, you get it. It is the only income that we don't subject to tax. It is, you know, very -- we have a very broad definition of income, and it is very odd that we just give inherited wealth a free pass. And if we repeal the estate tax, then it is completely free -- it makes no sense at all.

*Ms. Sanchez. Professor Madoff, is there any really good -- if I could just ask this question, and I will take the answer in writing -- is there really any good policy reason for a bias that is in favor of inherited wealth, versus the wealth that an individual accumulates through their own hard work and sweat and tears?

*Ms. Madoff. I don't think so.

*Ms. Sanchez. Thank you. I yield --

*Chairman Reichert. Well, that is quick and short, thank you.

Mr. Paulsen, you are recognized.

*Mr. Paulsen. Thank you, Mr. Chairman. Boy, some really great testimony. I just really appreciate hearing your perspective, your story, your real-world experience of what you are having to live with, and the successes you have built.

You know, you hear a lot of statistics about how the estate tax might only affect large companies or businesses, and maybe just a few wealthy individuals. But I can certainly tell you that is not the case of the folks I have talked to, some family businesses in Minnesota similar to what you have expressed today. I have spoken to Minnesota farmers; I spoke to Minnesota family business owners who have had their family livelihoods threatened with the death tax right on the horizon.

I remember I met with an individual just two weeks ago, and he has got millions of dollars locked up that he would love to invest that capital to hiring more people, jobs, et cetera, expansion, but he has got to work with the tax code, he has got to plan for the future, all these accounts, all these lawyers, and then plan for all these contingency plans, and it is just sitting on the sidelines.

And, you know, there is one company, Ms. Madonia, it is a company that is just like yours. And it is Johnstone Supply. It is an HVAC company in Minnesota, equipment wholesaler in Bloomington. It is a prime example of how detrimental this tax can be for family business. And, unlike a lot of large corporations, it is these small businesses that have a high level of assets, but a very low level of liquidity. Right? Farming is the exact same situation. And Johnstone, for example, they own a few buildings, they carry that high level of inventory, but it has relatively little working capital.

But when the family started looking at transferring ownership to the next generation, they realized that they were going to have to pay -- they were having huge liquidity problems when it came to paying these estate taxes. And they found that the only way that they were going to be able to afford the taxes was to sell off a portion of the business, or to purchase a substantial life insurance policy. And that, because of the uncertainty surrounding the estate tax -- the company started about 30 years ago -- they never knew how much life insurance was needed in order to help cover the cost of the tax.

So, when it became clear how big the burden was actually going to be, the cost of insurance at the age of the family members was substantial, it was huge. And, due to the circumstances, then, the next generation of the family was forced to purchase this Minnesota company, which, in turn, has caused them to become highly leveraged, put the company at risk, and they actually consider themselves very lucky to have found a bank that was willing to actually do the deal. But because his family still owns some companies in some other states, they have been forced to spend about 20 percent of their net income on life insurance to fund their future estate obligations.

Now, this is money that could otherwise be reinvested in the company, reinvested in the business in their community, and put towards growing the company. But the money is locked up. And this isn't a family that is trying to evade taxes. They are not trying to escape taxes. They simply want to keep the business afloat, and in the family for other generations. And so, the tax code is literally forcing them, essentially, to consider breaking up the family business. And that is jobs lost. That is layoffs, and that is the wrong direction.

So, Ms. Madonia, I just want to follow up a little bit. It brings me to the question of how -- what options do family businesses like yours or like Johnstone Supply really have when it comes to the estate tax today? And what does repeal mean for expanding operations, for increasing sales, for creating jobs? Would it make your business stronger?

*Ms. Madonia. Yes, absolutely. And, for the record, Johnstone Supply is also a HARDI member, so we know that -- I know those folks well.

Yes, the statistic about the -- only affecting a small fraction of estates, I think in large part that is probably because people spend a lot of money trying to figure out how to preserve their company without having to pay that tax. So, if you -- I don't have a number. I wish I had a number. I wish there was some way to kind of capture that statistic on how much money is spent every year on hiring accountants and lawyers to try and figure out how you could -- how you can, you know, pass your company on.

In our case, I know that we sit on a lot of cash, and we do that purposefully, because my dad is in his seventies. And, while it wouldn't be enough cash to pay the estate tax if we got hit with it, it would help us a little bit. And that money could very easily be used to hire more people, to start a new branch, to get into new equipment lines, or add another vendor to our list of preferred vendors. It could be used for a lot of things. Buy more trucks. And it is not being used for that, because it is sort of earmarked as "just in case" money.

*Mr. Paulsen. And what really comes out in your testimony? I think of your father sitting around the table, planning for the future. It is not about some aristocracy, or passing this on for family wealth. It is about keeping a company afloat, and living that American Dream for other generations and for other -- having many more jobs, many more employees. That is a big part of our economy, that is the engine of our economy, is many small businesses, just like yours.

*Ms. Madonia. Yes.

*Mr. Paulsen. I yield back, Mr. Chairman.

*Chairman Reichert. Thank you. Mr. Kelly, you are recognized.

*Mr. Kelly. Thank you, Mr. Chairman. I thank you all for testifying. I never sat in those seats, but I have sat in something similar to yours. First of all, Ms. Madonia, we are not talking about passing on your estate to Madonna, the singer. We are talking about Karen Madonia, who is in a business.

And, Mr. McKnight and Mr. Whitt, in addition to what you are doing on an everyday basis -- I am an automobile dealer -- you are also tax collectors, aren't you? You guys, when you pay people wages, whether it is the mechanic that worked on your car, or somebody that works in your fields, or somebody that works on your farm equipment, or somebody that does whatever they do for it, don't you pay wage taxes? Yes. So, we collect taxes. I just wish it was only double taxation. I could live with being taxed twice. I can't live with being taxed to death, and then even -- you can't even die without paying taxes, because of a government that can't stop spending your money.

And so, when we talk about this great loss of revenue, what we are talking about is leaving the money in the pockets of the people who earned it, not the people who burned it. And I am just -- I am fascinated, as you go through this -- how -- look at 208 years your family has been in this business. The contributions to your community over the years? I don't think you could put it in dollars and cents, could you?

Just in some of the taxes, just talk about some of the taxes you pay.

*Mr. Whitt. Well, of course, obviously, our business is small, we don't employ a whole lot, but we -- give you an example -- we sell over a quarter million dollars of pork products a year that we pay sales tax on. We pay sales tax for all the products that we sell out of our retail locations. We pay our employees' payroll taxes. So, you know, it is not like we are sitting back, raking in the money, and never paying any taxes out.

And it would be fascinating to go back and see the benefit that our family businesses had on Murfreesboro, the town of Murfreesboro, over the last 208 years.

*Mr. Kelly. But just in -- you don't really consider yourselves one of the privileged one percent, do you?

[Laughter.]

*Mr. Whitt. Well --

*Mr. Kelly. I mean I see -- here every day I see divide, divide, divide, divide. It is always, "the wealthy, the wealthy, the wealthy." And I watch what you are doing. I got to tell you. This is incredible, the amount of income, the amount that you put back into your communities. I mean what you have done, over 208 yards -- years, the Batey Farms have employed people, have paid federal withholding tax, have collected taxes, wage taxes that -- by the way, Social Security, Medicare -- all of those things are collected by you and then sent to the government for their distribution.

Mr. McKnight, same thing. You are seventh generation.

*Mr. McKnight. Yes. And just to tell you a little about our story, about the time I got out of college, certainly not familiar with the estate tax, but my grandfather and great-uncle were the principals in our family business. My father and aunt were -- the uncle had no children, so basically it was like they had two fathers. About the time I got out of school, my grandfather passed away, followed by my great-uncle's dad, followed by my grandmother's death a little later. My dad contracted Parkinson's during this time, and we lost him in 2004.

So, basically, the first 24 years of my working career there was never a day I didn't have to deal with the estate tax, planning it. It was -- basically, I was a government employee with no benefits, you know? And during those 24 years I watched two-and-a-half generations of hard work, sweat, and savings evaporate. And that wasn't enough. We had to go in and liquidate twice. And in a cattle operation, those liquidations are very risky. We were able to get through it, but we had good weather, and we made it through that. But even at that point, there was still a liquidity problem, and that is when we had the layoffs.

And, unfortunately, I think a lot of these layoffs are the forgotten casualty of this punitive tax. And the biggest expense, though -- again, I got out of school. I didn't come home to grow smaller. We came home to get bigger. We wanted to be part of the solution, not the problem. The loss of opportunities in those 24 years, I can't enumerate that. And the last six years is the first time I have had the freedom to go to work and just concentrate on our family business.

Again, I don't know what the positive aspects of this tax are.

*Mr. Kelly. Well, it is becoming very unpatriotic to die.

[Laughter.]

*Mr. Kelly. Because at that point you go off the tax rolls. We found a way to even get to you after you are laid to rest.

Ms. Madonia, I mean, tell me. I mean your story is the story of so many people across America. And I am serious about this. We keep talking about the super-wealthy. Mr. Paulsen hit on it. You talk about assets that aren't liquid; I am an automobile dealer, too. So I get a little bit concerned about that. We have spent more time and more money trying to figure out how to maintain a family business that my dad started in 1953 after being a parts picker. This guy did not inherit great wealth. He worked to accumulate something, he passed it on. I had to buy it from him, it wasn't left to me in his will, by the way, so I have been paying taxes my whole life.

But -- well, I know I am getting gaveled, but listen. Thank you for being here today. God bless you. Don't give up the fight, because we are not, either.

*Chairman Reichert. Thank you, Mr. Kelly.

Mr. Thompson, you are recognized.

*Mr. Thompson. Thank you, Mr. Chairman. Thank you all very, very much for being here. And I really would like to dig in and try and solve this problem. I think we have a responsibility, and not to preserve millions of dollars in tax cuts for billionaires and the top one percent, or however it is being characterized here, but we have a responsibility to make sure the estate tax works in a way that protects the people who create jobs and the family farmers, and even the family business owners.

I have carried legislation in this Congress -- matter of fact, the first bill I introduced when I was elected to Congress in 1998 was a bill to address this issue. And I am getting ready to reintroduce it again, the Family Farm Preservation and Conservation Tax Act, that would exempt family farms from paying estate tax if the farm continues in the family, and continues to be farmed.

You know, if you sell it or rent it out and go live on the beach in Hawaii, then, you know, we ought to tax you. But we do need to figure out a way to preserve valuable farm land. We are losing it by way too much every day. We are losing ag land while we are sitting here today.

And I was particularly impressed, Mr. Whitt, with your testimony. You brought up a lot of the issues that I bring up when I talk about my bill: the cost associated with protecting your family farm from being lost; the loss of ag land to development; the idea that young farmers -- we are losing young farmers. And if we don't do something about estate tax and how it impacts family farms, we are going to lose more. And I don't think we want to do that. So I am very encouraged by the committee having this hearing.

I hope we can get away from the rhetoric. It is not death tax, it is estate tax. And I think that was a very clever political strategy, but I think it has back-fired, and it has hurt us in trying to resolve this very, very real problem.

Ms. Madoff, I have got some questions for you. You are a tax attorney, correct?

*Ms. Madoff. Mm-hmm.

*Mr. Thompson. Is there anything in the tax code that is -- refers to death tax? Is there a "death tax"?

*Ms. Madoff. No, there isn't.

*Mr. Thompson. Does anybody pay taxes after they die?

*Ms. Madoff. No.

*Mr. Thompson. Okay. So you don't get called for jury duty. You are dead, you are dead.

*Ms. Madoff. As they say in the Country-Western song, you know, "They don't have luggage racks on hearses."

*Mr. Thompson. Yes, exactly. I think it is important to establish that, and delve into the policy, rather than the politics.

Do you think that, short of repeal, that there is a way that we can target a solution to deal with this issue?

*Ms. Madoff. Absolutely. And the legislation is already there on our books. It has been -- it is not currently active, but Sections [sic] 2057 could address all businesses, and Section 2032a could address farmers.

And I think it is really important for this body to be aware that every single one of these witnesses would be better off with a targeted exemption than with repeal of the estate tax, and here is why.

*Mr. Thompson. Well --

*Ms. Madoff. It -- oh, sorry.

*Mr. Thompson. We get it.

*Ms. Madoff. Okay, but --

*Mr. Thompson. I would like to give you a copy of my legislation I am going to be introducing in the next week or so, and I would like to get your feedback on that.

Mr. Whitt and Mr. McKnight, I have a question for you, for both of you. If total repeal of the estate tax isn't politically feasible, are you supportive of finding a way to protect the capital assets of family farmers and ranchers so their family farms can continue? Are you willing to forego those protections until, if ever, the estate tax is fully eliminated?

*Mr. Whitt. That is a loaded question --

*Mr. Thompson. It was pretty straightforward.

*Mr. Whitt. -- to be honest with you. And, you know, I really believe that targeted legislation, it sounds good on the forefront, and maybe we can help out, but there is a lot of rules that come along with that.

*Mr. Thompson. This would be pretty straightforward. It would say that you -- if your father-in-law passes away and leaves you and your wife the farm, as long as you continue to farm it, you would be exempt from paying any taxes, any estate taxes.

*Mr. Whitt. If it is that simple.

*Mr. Thompson. Yes. So you would support something like that?

Mr. McKnight, would you?

*Mr. McKnight. Again, something to look at. I think the devil is in the details. How do you treat a rancher maybe that has gone out and invested in another business? Or maybe they are expanding through their --

*Mr. Thompson. I am just talking about the family farms. Family farms.

*Mr. McKnight. Again, if this were just -- again, I think it is very complicated. The devil would be in the details --

*Mr. Thompson. Pretty straightforward.

*Mr. McKnight. Okay.

*Mr. Thompson. Let me --

*Mr. McKnight. If a guy has got multiple business -- you are saying he would be exempt from the tax, or he would have to pay --

*Mr. Thompson. It would be your family farm that would be exempt from the tax. If you own a family farm, and you have a bucket of gold, you still pay the estate tax on the bucket of gold.

*Mr. McKnight. Right.

*Mr. Thompson. But the family farm would be protected, if you keep farming.

*Mr. McKnight. I think the devil would be in the details, how that was written.

*Mr. Thompson. Let me ask you. On -- the American Farm Bureau policy manual states on page 152, "If the" --

*Chairman Reichert. The gentleman's time is expired.

*Mr. Thompson. Mr. Chairman, I would like to submit for the record the policy of the American Farm Bureau, and the policy of the NCBA, as it relates to this issue.

*Chairman Reichert. Without objection.

[The information follows: The Honorable Mike Thompson1, The Honorable Mike Thompson 2]

*Mr. Thompson. Okay, thank you.

*Chairman Reichert. Mr. Renacci, you are recognized.

*Mr. Renacci. Thank you, Mr. Chairman. I want to thank the witnesses for being here. It is interesting, because, as I sat here and listened, there were times my blood pressure went up and times my blood pressure came down. I am a -- was a small business owner, so I appreciate what you all have done. I also am a CPA, and I also have done estate tax planning. So I have seen it from all avenues, and I understand the issues that you are facing.

And this, really, this hearing is about two things, in my opinion. It is about the orderly transfer of business interests upon death, and it is also about double taxation. I think those are the keys we should be zeroing in on.

It is interesting, some of the issues that were brought up. You know, there was talk that inheritance isn't taxed. I heard one of the witnesses say that. Those are the exemptions of the inheritance. That is part of the exemption of the amount. But, you know, that is the rhetoric that we continue to hear, because there is also income that is not taxed, and that is because of the exemptions that you have on income tax. So there are pieces of taxable income that are not taxed. So, I just use that as we got to watch what we say when we say inheritance isn't taxed, because there is income tax. There is income that is not taxed. There is all kind of ways we can talk about this and look at this.

But -- and this hearing really isn't about Soros, Gates, Buffett, or Hilton, because, quite frankly, Soros, Gates, Buffett, and Hilton probably will not pay very much estate tax, because they have probably done enough things, whether it is through dynasty trusts, foundations, family partnerships, all those other things that they were able to do because of their liquid assets, they are able to, in most cases, get around much of the estate tax that you all have to pay.

The question here is how do we make sure, especially when it comes to small businesses and family businesses, how do we make sure that there isn't a burden placed on you upon the -- and, again, when we talk about words, I mean, we say that there is no death tax. No, there is -- upon death there is an estate, and upon the estate there is a tax. So the question is how you want to talk about it.

We can get rid of all this rhetoric, and just really get down to the basics. How do we make sure that, in the long run, a business can survive and sustain itself and move forward? And I think if we do that -- and I am glad to hear many of my colleagues on the other side are talking about ways of doing that. How can we get that accomplished? Because it is too many times where I have seen, back in my district, back in Ohio, where people with a small farm or with a small business, upon the death of someone, and the estate, and the estate tax, are not able to continue the business, because the business has to go up for sale because of the fixed assets, because of the buildings, because of the assets that are there, because of the farm land being valued at a certain level, all of those things.

So, I think it is important that we look at this issue. But, at the same time, I also believe there is a double taxation, because I have seen too many times where businesses have come up, their business sells, they pay their tax, that individual now has liquid assets, and then, upon his death, those liquid assets go into an estate, and then those estate assets are then taxed at almost a 50 percent rate, and they are double-taxed.

Now, the question is, should the Federal Government be able to take those dollars? And should the Federal Government be able to be part of that double taxation?

Or, the better question is, should value continue to be passed on from family to family to family at a -- I mean the -- again, now I will go back to Soros, Gates, Buffett, and Hilton. I guarantee you those individuals, if you know --

*Mr. Neal. Will the gentleman yield?

*Mr. Renacci. I will, but not right now. But if you take Paris Hilton, the daughter, quite frankly, she is getting a lot of money somehow from her family. So --

*Mr. Neal. Thank you very much.

*Mr. Renacci. But I will yield.

[Laughter.]

*Mr. Renacci. But, anyway, so, again, this continues to be a discussion about how we fix the problem, and how we take care to fix that.

And, again, I could ask every one of the three of you -- I mean I am sure you have all purchased fixed assets in the farm. I was the CPA for three farms. I understand the business. You probably have -- I mean what is the cost of -- what is -- give me a cost of one of your pieces of equipment in your farm. A big one, a big one. A big --

*Mr. Whitt. The last combine price, $340,000.

*Mr. Renacci. Absolutely. So you got 340,000 tied up in this. You got this large amount tied up in your land. All the sudden there is a death, then there is an estate, and there is taxation. How do you come up with those dollars? How are you planning on coming up with those dollars?

*Mr. Whitt. By growing the business. How does a small farm continue to be a small farm, with the increased values that we are having to pay for the equipment, the expenses that we incur on that farm? The only choice we have is to grow, to have more growth sales to compensate. We don't really make much money off of the products that we sell. The margins are very low. So how do we increase that? We sell more. We have to grow more to be able to purchase these things, just to run the business. It takes a combine -- I don't think any of us want to go back out to the field and start hand-picking our crops. We will become very inefficient at that point.

*Mr. Renacci. Thank you. My time is -- I yield back.

*Chairman Reichert. The gentleman's time is expired. Mr. Brady is recognized.

*Mr. Brady. Thank you, Chairman Reichert, for permitting me to participate in today's important hearing. I want to thank the witnesses, as well. Very helpful, including my fellow Texan, Bobby McKnight. Like many of you, I have been fighting to permanently repeal the death tax since my constituents first sent me here to Congress.

And I would like to echo a very important point made this morning. This tax is not about reducing income inequality. The super-rich have a legion of lawyers and all the resources in the world. It is not the super-rich that pay this tax; it is the people who are at the table today who pay this tax. This is the number-one reason -- death tax is the number-one reason family-owned farms and businesses aren't passed down to the next generation. The number-one barrier. It is the farmer, the rancher, the courageous entrepreneur, family-owned business, whose assets are tied up in buildings and machines and property tax that pay the death tax. It is their spouse and children that have to sell the business, or parts of it, just to pay Uncle Sam.

One Texas rancher I have known for a long time has paid the death tax three times. Her grandfather started their Texas cattle ranch in 1970, just a year after this tax was created. In 2011, her husband passed away suddenly in a tractor accident. The price of hay was outrageous because of the drought. Diesel costs were way up. She had no idea how she was going to continue the ranch. And the IRS swooped in, and forced her to sell huge chunks of cattle stock, just to pay the death tax, all the while she and her children are mourning the loss of their husband and father. Try telling that family they are like Paris Hilton, exactly.

A former staffer, a young woman staffer of mine returned to her family ranch in Texas recently after her aunt passed away to help sell her estate. This was a ranch that her great-great grandfather had settled in the 1800s. She and her brother were able to keep that ranch. Guess how? They merely had to sell two-thirds of the ranch to keep it. So tell this young woman she is exactly like the robber barons of the Teddy Roosevelt-years.

The death tax is an immoral tax. And it is an attack on the American Dream. It disproportionately hurts small businesses and start-ups. They have already paid, as Mr. Renacci and others have pointed out, very high rates on it to begin with, and Uncle Sam swoops in and takes 40 percent of the nest egg they have built a lifetime trying to put together.

And what is worse is that this tax is especially destructive to women and minority-owned businesses, the fastest-growing sector of our economy today. Harry Alfred, the president and CEO of the National Black Chamber of Commerce, goes as far as calling this tax, in his words, "a black tax," because of its destructive effect on black-owned small businesses.

A study by two Boston College professors, Professor Madoff, several years ago estimated that between 2001 and 2055, the first half of this century, the death tax will wipe out between 11 and 15 percent of all African American wealth, 11 and 15 percent of all African American wealth wiped out by this tax. This one tax alone these Boston College experts said would cost African American households between $192 billion and $257 billion. This is not a decoy for the wealthy. These are real people.

And imagine what that money could do if it was invested in education and businesses and jobs.

So, as Members of Congress, I think we are tasked with making our great country better, with ensuring that we leave our children a better nation than the one we received. The death tax, I think, Mr. Chairman, betrays that oath. And so I urge my colleagues to work with me in eradicating this immoral tax once and for all.

I know you have been given some bits and pieces. "What if we do this to satisfy you?" And, "What if we just sort of buy you out of this thing?" But the point is that Washington will pick winners and losers among people who have built wealth, and that is wrong.

And, by the way, after the agreement was reached on the current estate tax levels, the President immediately turned around and began lowering those exemptions and raising those rates. And so, whatever you are promised today I guarantee you won't be there tomorrow.

So, Mr. Chairman, thank you very much for having me here today.

*Chairman Reichert. Thank you, Mr. Brady, and thank you for your hard work on this issue, and thank you for the work you put in to your piece of legislation. Thanks for being patient and staying with us today, and offering your comments.

And just before we end the hearing --

*Mr. Neal. Give me one --

*Chairman Reichert. Oh, I am sorry. We have one more for Mr. Neal.

*Mr. Neal. Thank you. Just -- and thank you, Mr. Chairman, very helpful --

*Chairman Reichert. Quick question from Mr. Neal.

*Mr. Neal. Yes. Ms. Madoff, just to follow up on what Mr. Thompson said, is there a good way to exempt family farms and small businesses from the estate tax? And would you develop and offer a better approach? And why?

*Ms. Madoff. Absolutely. And it would be much better for all of these witnesses. So let me explain what it is.

Section 2057 was a short-lived provision that provides -- that was designed to provide benefits, but could be made into a complete exemption for family businesses and farms. Section 2032A would be for land. And the reason that this would be more valuable for all of these witnesses is because this body only controls the federal tax system. But, increasingly, states are turning to their own state estate tax systems, and they model them on the federal definition of the gross estate.

And so, these organizations, if you repeal the federal estate tax, they would continue to be vulnerable to possibly being taxed under the state estate tax systems, which are in more than half the states. But if you provide an exemption for the definition, an exclusion from the gross estate, they would be protected from their states. And so it is very important. An exemption would be much more valuable for every single one of these witnesses. And I agree that they should all be protected. And they can easily be protected by Section 2057.

And you have to remember this only applies to eight percent of the assets. Studies -- numbers just came out. Eight percent of the assets are small business assets, ninety-two percent are other assets. So the numbers -- we should not throw out the whole system because of eight percent. This eight percent is an important part of our economy, and should be addressed, and can be, easily and fairly.

*Chairman Reichert. Thank you for your --

*Mr. Neal. Thank you, Mr. Chairman.

*Chairman Reichert. Thank you, Mr. Neal. Thank you, Ms. Madoff.

Mr. Reed, you are recognized.

*Mr. Reed. Thank you, Mr. Chairman. And, as with Mr. Renacci, my blood pressure has gone up and down during the testimony here today.

But I will start with this. I am getting sick and tired of folks down here blasting the American charitable spirit. You know, as I am sitting, listening to the testimony, I just Googled Warren Buffet. Do you know how much money he has estimated to be giving away? $37.4 billion. See?

And so, Ms. Madoff, I appreciate your Utopic commitment to the government bureaucracy of D.C. to be able to magically acquire all this money that people have earned over a lifetime, and will go to Washington, D.C. to then have D.C. ferret out where it is going to go amongst the masses of the 300 million Americans that we call our fellow citizens.

I believe Mr. Whitt and his family, they worked hard. Who owns your property?

*Mr. Whitt. My father-in-law.

*Mr. Reed. Your father-in-law. You, right? Not the government. When you are done with your use of that land, that is a fundamental principle that we hold in America. You own that property. You earned that property.

And if you choose to do what I think the American spirit and our fellow Americans do on a regular basis, it is amazing to me how much our fellow citizens are charitable. You look at Bill Gates. Look at Andrew Carnegie, one of the robber barons that was potentially referenced to previously in some of the testimony. What did Carnegie do? Carnegie invested tremendous amounts of money into our society, into our American society, and did some very positive things.

Now, I am not going to defend every single American who may have ulterior motives and has an evil heart. But I will tell you the vast majority of Americans I know, they are good people. They are charitable people. And it frustrates me that we have a tax system that is essentially going to say, "When you die, yes, we taxed your entire lifetime, but you are going to pay one more." How is that fair?

The question you keep raising, Ms. Madoff, in your testimony, or your written -- is a question of fairness. I would throw that back at you and say, "How is it fair that Washington, D.C. takes your property and makes you pay a tax on it at your death?" You have earned that property.

So, as we have this conversation --

*Mr. Neal. Mr. --

*Mr. Reed. I just --

*Mr. Neal. Will the gentleman yield?

*Mr. Reed. Sure, I will yield a minute.

*Mr. Neal. If you -- to throw it back at her, would you let her answer?

*Mr. Reed. Well, I have listened to hours, and read her testimony. And I understand where she is going to come from on her testimony. And, Ms. Madoff, it is no personal disrespect to you, but you represent a philosophy that is very frustrating to me, a philosophy that your testimony speaks loud and clear to, ma'am. And it is a philosophy that I came to Washington in 2010 to fight, is that I trust the individuals more to do with their property what is right.

And when they work their entire lifetime, when I talk to my family farmers back in Western New York, and they are there on the eighth, seventh, sixth generation, and they are telling me, "You know what? When my father dies, I am going to have to carve up my farm to pay the tax bill" -- because land isn't cash. That $340,000 combine that you paid -- that is not cash. And if you have a bill that goes to the government, they want cash. Uncle Sam doesn't take a combine and say, "Call it even." He wants cash. And so that is the problem.

And then, you know what also happens? I have seen it in the eyes of my constituents. I have seen it in their eyes, when they say, "You know what? I have to carve up my property in order to pay for this tax bill." And you know what happens? Farming. Do you do farming because you want to be a multi-millionaire, Mr. Whitt? You are going to be a robber baron of the 21st century of making that big mega-farm across America? Why do you do farming?

*Mr. Whitt. Because it is an action of servitude to my fellow man.

*Mr. Reed. Amen. It is a way of life. It is a way of life. And when I see the tears in the eyes of my constituents who say, "All I want to do is just go out and work my land" -- "All I want to do is build my inventories in my HVAC company that" -- I believe you have an HVAC company, right? That is all they want to do.

But, no. What we are going to say is we in Washington know what is best to do with that money that you have earned over your lifetime. Send it to Washington, and then we will sprinkle it among the masses. I would trust Ms. Madonia, I would trust Mr. McKnight, and I would trust Mr. Whitt to take care of his fellow man in his community, in his back yard, rather than have this taxation system that you are talking about, Ms. Madoff.

*Ms. Madoff. I am sorry; I guess I didn't make my testimony clear, because I agreed with you, that none of these people should have to pay an estate tax for their family businesses, so I entirely agree with you.

*Mr. Reed. But you are going to -- reclaiming my time -- you are going to draw the line, and somebody is going to pay for it.

And even the people that are the robber barons, like the Andrew Carnegies, just like Warren Buffett, $37.4 billion of his money going to better our fellow American citizens. And that is the American spirit that I love and I am committed to. And with that, I yield back.

*Chairman Reichert. The gentleman's time is expired.

While I was the chairman of the Human Resources Subcommittee prior to coming to the Tax Committee subcommittee, this is almost more emotional and compassionate than the human resources. I didn't think taxes were going to get this exciting, but you can tell that there is -- there are strong feelings on both sides of the aisle.

I think that you also sensed, as witnesses today, that both sides really understand the issue that you are dealing with, the taxes, the decisions that you have to make, and I think there was some agreement here that we need to do something.

Now, there is disagreement as to how and what, and I noticed that, you know, as Mr. Thompson talked about his bill, he asked -- his piece of legislation -- Mr. Whitt and Mr. McKnight how they felt about it, but he didn't ask Ms. Madonia. And I would imagine that her answer would be a little bit different, since that bill only addresses family-owned farms. There are other businesses out there that, frankly, as we have heard today from Ms. Madonia, that are affected by the estate tax, or death tax, however you want to refer to it.

So, I am going to come away with -- this first experience as the chairman of this Subcommittee -- with a positive feeling that most of us on the committee feel like we need to do something. And we are going to continue to work on this. And, again, I congratulate Mr. Brady on his bill.

And so, today, that concludes our hearing. And I must advise that Members may submit written questions to the witnesses. Those questions and the witnesses' answers will be made a part of the record.

Again, I would like to thank all the witnesses for being here today. Thank you for taking time out of your busy schedules, away from your families and your businesses, and thank you all for your testimony. The committee stands adjourned.

[Whereupon, at 11:35 a.m., the Subcommittee was adjourned.]

Public Submission for the Record