

Background

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How the Death Tax Kills Small Businesses, Communities—and Civil Society

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Abstract: *The death tax: What does it kill? Who does it affect? It affects hundreds of thousands of small-business owners across the country—as well as their employees and community residents who benefit from the senior and day care centers, playgrounds, charities, and learning centers that are built or supported by small-business owners. Like water and sunlight in an ecosystem, small businesses provide sustenance essential to building and preserving communities. So high is the death tax that a large portion of heirs to small companies cannot afford to pay it after the business founder dies, and see themselves forced to sell to giant corporations—which have no personal ties to the communities of their new acquisitions, and thus no incentive to commit to local institutions. What does the death tax kill? The best of American life and civil society itself. The death tax is simply antithetical to the core of the American dream.*

All across America, the day-to-day richness of Americans' way of life is evident among families who live in tight-knit towns and small communities. Communities are formed through an intricate web of connections. The typical web-building process is familiar: Children gather at a local swimming pool or join a Boys & Girls Club. Their parents become acquainted. Parents and children form friendships and find their lives intersecting in a widening variety of places—at church, at school and local civic organizations, on athletic teams, and through charitable projects. They visit in one another's homes, share their concerns about their children's schools, and render mutual aid and

Talking Points

- Small businesses are a primary source of sustenance for communities across America. The estate tax—known aptly as the death tax—is a direct assault on a community's ecosystem.
- Family and local businesses facilitate the smooth turning of the wheels of community life; they often supply the economic lifeblood to civic associations and charities that spring up in response to local needs.
- Small-business entrepreneurs are the living icons of the American Dream—and the death tax turns their lifework into the American Nightmare.
- The death tax generates only about 1 percent of federal revenues, yet has huge repercussions on the largest job and growth sector of the economy: The death tax discourages investment and savings, undermines job creation, suppresses productivity and wage growth, hurts those whose savings are tied up in land, hurts small businesses and communities, and contradicts the American ideal of wealth creation.

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moral support in times of difficulty. Through such interactions, individuals and families spontaneously knit the fabric of a community. Then the boy marries the girl and it all starts over again.

But community is not an inevitable result even when people live in close proximity to each other. The associations that form a community are like an ecosystem, where all the complex interactions depend on a few sources of sustenance: air, water, sunlight. Degrade one of those sources, and the ecosystem is vulnerable to systemic breakdown. So, too, with communities.

By undermining a primary source of sustenance for communities, the small business, the “death tax” (the federal estate tax levied on individuals, including owners of small companies, after their death) is a direct assault on a community’s ecosystem. In any typical community, small businesses are not external sources of nurturance, like sunlight cast on an ecosystem from afar. They are integral parts of—and active participants in—a community. As such, they generate some of the most critical forces that knit communities together. These crucial economic resources are often destroyed by death taxes.

Small Towns and Small Business: Bringing Community to Life

Franklin County, Iowa. A typical example of how the nurturing process works is the role that Sukup Manufacturing Company plays in the small town of Sheffield, Iowa. As Eugene Sukup, the company’s chairman of the board, describes it:

As the largest employer in Franklin County, Iowa, we’ve watched the community grow around us. Today, we have a health clinic, a dentist office, a chiropractor, a drug store, a bank, a grocery store, a restaurant, and a golf course. The growth of the town can be seen by new homes that are being built and a church that has overgrown its capacity and is making plans for a new one.

We believe in giving back to the community, which is why my company is a major donor to the Sheffield Care Center for Senior Citi-

zens. We helped build a local swimming pool and a playground. We also gave a million dollars to help fund a child day care center that cares for over 100 children in Hampton, Iowa [10 miles south of Sheffield]. Sukup Manufacturing Company contributes 10 percent of its taxable income for charitable contributions for local charities and contributions to the Sukup Family Foundation, which also contributes to area charities. The family foundation does not build up a large balance but uses the money for charitable gifts.¹

Eugene Sukup made that statement before a congressional committee, testifying in support of permanent repeal of the death tax. In threatening the vitality of his business, the death tax simultaneously threatens a principal source of economic support for the senior citizens center, the playground, the local swimming pool, the day care center, and the many charities supported by the Sukup Family Foundation.

Playgrounds, senior centers, volunteer organizations—are all spaces within which people interact to form community. These spaces are not optional; a community cannot exist without them. In threatening the source of their support, the death tax is the Grim Reaper that can gut small communities by uprooting people’s livelihoods, decimating charity flow, cutting down young entrepreneurial talent, while in the process robbing small-town America and city neighborhoods of much of their civil society underpinnings.

Death Tax, Community-Killer

In small communities, family and local businesses form the economic backbone for the intricately related institutions of family, church, and school. Small businesses facilitate the smooth turning of those wheels of community life; they often supply the economic lifeblood to civic associations that spring up in response to local needs. Small business entrepreneurs are the living icons of the American Dream—and the death tax turns their lifework into the American Nightmare. Here follow some nightmares made in the U.S.A:

1. Eugene Sukup, testimony in Hearing, “Federal Estate Tax: Uncertainty in Planning Under the Current Law,” to U.S. Senate Finance Committee, November 14, 2007.

Bearden, Arkansas. When the Anthony Timberlands logging company was started a century ago, there were nearly 20 other privately owned timber companies in Arkansas. Today, every one of them, with the sole exception of Timberlands, has been claimed by the death tax—as have the small communities that depended on them.

Many of these companies were bought by foreign corporations. John Ed Anthony, chairman of Anthony Timberlands, described the market in family-owned companies created by the death tax as a “feeding ground” for corporations—which do not have to pay estate taxes. This dynamic of the tax code damages rural communities because absentee owners have no personal stake in them. As profits leave the communities, jobs disappear, effectively wiping out the communities—and the flourishing civil societies—that once surrounded these timber companies.

The death tax creates a “feeding ground” for corporations—which pay no estate taxes—damaging rural communities, because absentee owners have no personal stake in them.

Anthony noted in particular that the absentee corporate managers cannot replace the leadership that was lost within the community. Living in far away cities, the new owner—the corporation run by managers—does not fill seats on bank and school boards, nor does it keep its locally acquired capital in the community in which it grew. Profits are sent back to corporation headquarters. The corporation and its management do not nurture these communities because they do not live there.²

Despite the loss of its other timber mills, Bearden still thrives as a community, drawing vital sustenance from Anthony Timberlands. The company operates three lumber mills, a wood-treatment plant, and a laminating facility. It employs 750 full-time workers plus hundreds of contractors. But Timberlands produces more than lumber products. It builds baseball fields, contributes to local needs,

and provides four or five \$10,000 college scholarships to local students every year. When employees need land to build a home, they often find Anthony Timberlands willing to sell them a land lot, allowing them to plant family roots in the community.

The lumber industry, of course, has little interest in building baseball fields or giving away scholarships or selling lots for homes. The Anthony family has a *personal* interest in doing those things, because they nurture and preserve the community where their family has had roots for generations. The death tax could end their role as a mainstay of the community. John Ed Anthony explained the problem to Congress:

As with most other timber companies, Anthony Timberlands does not have large cash reserves or other liquid assets. We call that being “land poor.” Although we have weathered the storm of paying huge death taxes with the passing of my father in 1961 at a young age and my grandfather in 1981 at age 97, when I die, or in anticipation of my death, it will be recognized that it will be impossible to pay the death tax yet again and have the company survive. No entity of consequence can survive when 50 percent of its assets are confiscated. Like all the other privately owned entities, my family will have no choice other than to seek a corporate buyer who, if the pattern seen so often repeats itself, will liquidate the forest we have grown and ultimately consolidate or close the mills. The employees of the company, the forest, and the local community, will never be the same once local ownership is removed.³

Sipsey, Alabama. In 1935, H. E. Drummond opened a coal mine in the little town of Sipsey. When he died in 1956, his son Larry took over the business and eventually made it the largest mining company in the state, with 3,500 employees and 1,500 contractors. Larry Drummond has maintained his father’s commitment to serving his community. The Drummond Company contributes more than \$1 million to local

2. Author interview with John Ed Anthony, chairman, Anthony Timberlands, Bearden, Arkansas, March 2010.

3. John Ed Anthony, testimony in Hearing, “Federal Estate Tax: Uncertainty in Planning Under the Current Law,” U.S. Senate Finance Committee, November 14, 2007.

charities each year and has engaged in such diverse community projects as school construction, establishing health clinics, funding job training centers, building fire departments, and coordinating United Way fund drives.

But the transition of the Drummond Company from father to son was not a smooth one, as Larry Drummond explains:

Paying the death tax has placed the business in considerable financial duress in the years following my father's death. We were forced to reallocate useful assets in order to make cash available for our yearly payments. This is due to the fact that coal mining is a very capital intensive business. All cash must be reinvested in purchasing the best equipment, exploring new sources, and employing workers to extract the material. Retaining cash in order to pay for the death tax prevents reasonable expansion and investment and results in fewer new jobs created.

I would like to point out that the harm of this tax does not only fall on the owners of a business such as Drummond and Company, but the employees and their families as well. If we are forced to sell our business at the next generation's death, it is very likely that it will go to a large corporation who would sell off much of the assets and consolidate the operation. Many of our employees who have been with the company for years would be out work.

Casco, Maine. Hancock Lumber was started by the Hancock family six generations ago. It maintains 30,000 acres of timberland in southern Maine. Its sawmills and 10 retail stores throughout the state employ 550 workers. Kevin Hancock, president of the company, explained to Congress the dilemma he faces:

When my mother dies, the estate tax will be a major event for both the business and my entire family. Because we have no liquid assets within the business or outside it, paying the death tax will be very difficult. We are

spending \$75,000 a year on life insurance, but we have been advised that this will not be enough [to pay the estate tax]. This means that to pay the death tax, we will be forced to sell part or all of the business, depending on the valuation of the company. Either way, some of the forestland will likely be the first to go, since we can more easily recoup those losses than our mills or retail stores....

[O]ur forests are not simply potential lumber, but are natural areas on which wildlife thrives and humans are able to enjoy outdoor recreation. I have no doubt that when they are sold, they will go to a developer. Once it has been sold to a developer, it will be parceled off and will no longer be maintained as publicly open forests. This is particularly a shame in southern Maine, where green-space and curtailment of sprawl is a major political issue. Unfortunately, the death tax has been a leading cause of green-space and forest loss in Maine, as multiple private forests have been sold in order to pay the death tax. It saddens me that the death tax will likely result in our land being moved from forest to housing development.⁴

Small Businesses in Big Cities

Jobs, Homes, and Charitable Works. In large cities, the vital contributions of small family businesses are more difficult to distinguish alongside the achievements of corporate and government giants. But those small-business contributions are present just the same. If removed, they will be sorely missed by those who benefit from them. "Funeral homes, weekly newspaper publishers, radio station owners, and local dry cleaners—all are affected all across the demographic spectrum," explains Representative Sanford Bishop (D-GA), whose congressional district in southwest Georgia includes mostly small towns with one modest-sized city, Columbia, all nestled in rolling farmlands.⁵

Melanie Meyer is the majority owner of the Versailles Arms apartment complexes, which constitute

4. Kevin Hancock, testimony in Hearing, "Federal Estate Tax: Uncertainty in Planning Under the Current Law," U.S. Senate Finance Committee, November 14, 2007.

one of the largest Section 8 public-housing properties in New Orleans. She is an exceptional proprietor and community leader. Her buildings have always been clean and superbly maintained, and she has worked vigorously to promote economic development and empowerment in her predominantly low-income neighborhood. If the death tax persists, Ms. Meyer's properties will expire when she does. The properties' tenants, who relied on them for safe, clean, and affordable housing, will have no place to live, and neighborhood residents, who relied on the learning center for education and financial advice, will be on their own once again.⁶

If the death tax persists, the low-income apartments in New Orleans owned by Melanie Meyer will expire when she does. The tenants, who rely on the property for safe and clean housing, will have no place to live.

Meyer's business success has also spawned charitable works. In 1994, she helped to establish SNAP (Safe Neighborhood Action Plan), a successful local organization based in the Versailles Arms Neighborhood Networks Learning Center.⁷ Meyer wants to keep the Versailles Arms property in the family so that it is both a business and an integral part of people's lives. But if she died today, none of her heirs could afford to pay the estate tax on the property.⁸ The government would get its money—and the community, losing its infrastructure, would undergo radical change not for the better.

In Biloxi, Mississippi, Victor Mavar, former owner of Mavar Shrimp and Oyster Company, received requests from local community leaders to invest in a housing development for lower-income and middle-income families who lost their homes

during Hurricane Katrina. Despite a lifetime of contributing to the community, and an interest in rebuilding Biloxi, Mavar turned down all requests. He explained to Congress why:

I've avoided making any investments in other new businesses, which may not turn a profit for several years. I have chosen to do this despite my interest in supporting the rebuilding of Biloxi, which was ravaged by Hurricane Katrina in 2005. In fact, I have received requests for investments in several local businesses, including a housing development that would help lower and middle income families who lost their housing due to the hurricane. However, I have been forced to turn them all down, lest I burden my children with the same death tax that we sold the business to avoid. As I see it, the death tax has encouraged a "wealth-redistribution," not from the rich to the poor, but from the local community to the national corporations.⁹

Personal Safety. Small businesses in big cities provide another, more subtle, kind of bond for community life: personal safety. The late author and activist Jane Jacobs offers a street-level illustration:

The other day an incident occurred on the street where I live.... The incident that attracted my attention was a suppressed struggle going on between a man and a little girl of eight or nine years old. The man seemed to be trying to get the girl to go with him. By turns he was directing a cajoling attention to her, and then assuming an air of nonchalance. The girl was making herself rigid, as children do when they resist, against the wall of one of the tenements across the street.

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5. Derooy Murdock, "How Death Tax Shafts Black Americans," *Human Events*, July 6, 2006, at <http://www.humanevents.com/article.php?id=15927> (May 27, 2010).
 6. Barbara Kasoff, "Businesswomen are Discovering Estate Tax's Dire Consequences," Policy and Taxation Group, May 17, 2006, at <http://www.policyandtaxationgroup.com/html/stories.html> (May 25, 2010).
 7. *Ibid.*
 8. *Ibid.*
 9. Victor Mavar, "Federal Estate Tax: Uncertainty in Planning Under the Current Law," U.S. Senate Finance Committee, November 14, 2007, p. 2, at <http://www.nodeathtax.org/resources/testimonies/mavar> (May 27, 2010).

As I watched from our second-floor window, making up my mind how to intervene if it seemed advisable, I saw it was not going to be necessary. From the butcher shop beneath the tenement had emerged the woman who, with her husband, runs the shop; she was standing within earshot of the man, her arms folded and a look of determination on her face. Joe Cornacchia, who with his sons-in-law keeps the delicatessen, emerged about the same moment and stood solidly to the other side. Several heads poked out of the tenement windows above, one was withdrawn quickly and its owner reappeared a moment later in the doorway behind the man.... On my side of the street, I saw that the locksmith, the fruit man and the laundry proprietor had all come out of their shops and that the scene was also being surveyed from a number of windows besides ours. That man did not know it, but he was surrounded. Nobody was going to allow a little girl to be dragged off, even if nobody knew who she was.¹⁰

Jacobs puts her finger on why small-business owners spontaneously took an interest in the little girl's safety:

[S]torekeepers and other small businessmen are typically strong proponents of peace and order themselves; they hate broken windows and holdups; they hate having customers made nervous about safety. They are great street watchers and sidewalk guardians if present in sufficient numbers.¹¹

Minorities: Penalized for Business Success

Black-Owned Businesses. Even a company as big and successful as Black Entertainment

Television (BET) will not survive its founder's death under current tax law. In order to pay the death tax, the heirs will likely have to sell BET to a big conglomerate.¹² The same would happen to Chicago's Chatham Food Center, built up by Leonard L. Harris, who put his earnings back into his business. His family, too, would have to sell the store in order to pay the IRS.¹³ Worse still, *The Chicago Daily Defender*, the oldest black-owned daily newspaper in the United States, was already forced into bankruptcy by the death tax in 2003.¹⁴

Hispanic-Owned Businesses. Hispanic families fare the same, for there is no minority advantage with the Grim Reaper. As one owner of a manufacturing and engineering company in Nevada put it: "If I shut down my business, it puts 18 families on the street. These families would then become dependent on the government for support, and it would increase the problem—not solve it."¹⁵

In 2004, about 1 million Hispanic-owned businesses were sole proprietorships, employing 3.5 million and grossing \$200 billion in receipts.¹⁶ This is a lot of civil society infrastructure to wipe out, infrastructure that would be much broader in the second generation as businesses grow (just like the Marvar shrimp business in Biloxi or the defunct timber businesses of Bearden Arkansas). The average minority-owned business spends \$28,000 annually on life insurance premiums to prepare for the death tax, and \$9,000 on associated legal fees. All this money could be used to expand businesses or to continue to build communities. One in five Hispanic family business owners said he would have to sell his business or property early in order to provide liquidity to pay the death tax.¹⁷

10. Jane Jacobs, *The Death and Life of Great American Cities* (New York, NY: Random House, 1993), pp. 49–50.

11. *Ibid.*, p. 47.

12. Murdock, "How Death Tax Shafts Black Americans."

13. *Ibid.*

14. *Ibid.*

15. Policy and Taxation Group, RepealEstateTax.com, at <http://www.repealestatetax.com/pdf/061804DeathTax.pdf> (May 25, 2010).

16. *Ibid.*

17. *Ibid.*

Small Businesses: Building the Fabric of Communities

In the stories summarized above, clear themes emerge, such as figures in the fabric of communities, themes in which small businesses play an integral and vital part.

Philanthropic Giving. A senior center in Sheffield, Iowa; day care for more than 100 children in Hampton, Iowa; baseball fields in Bearden, Arkansas; a learning center in New Orleans; health clinics, job training centers, fire departments, and United Way drives in Alabama. These are but a few examples of the hundreds of thousands of charitable projects supported by small businesses in communities across America. Like sunlight and clean water in an ecosystem, small businesses are vital in sustaining the fabric of community.

Civic Leadership. With experience and judgment honed by the demands of commerce, small-business owners routinely serve on the boards of local banks, schools, community colleges, and civic organizations of all kinds. They do it because they belong to those communities and have a *personal* stake in seeing them thrive.

Nurturing Entrepreneurship. Entrepreneurial families beget entrepreneurial children, as illustrated in almost all of the families above. But what the government's death tax has now taught all of these children is that it can wipe out a lifetime of business building. This is no way to preserve the American culture of "can do" business building. Though corporate America provides opportunities for entrepreneurs, it does not nurture them as family businesses do.

Victor Mavar's father had four sons who went into business. Now, after building a firm that employed 300, Victor keeps away from business. Because of the looming death tax, he sold early to a

big corporation—which later relocated the business and left the 300 people without jobs.¹⁸

Stewards of Natural Resources. Lumber companies, such as Hancock Lumber in Maine, do not merely consume natural resources; they preserve them. The Hancock family has maintained its 30,000 acres of timberland since 1848. In the passing of one generation, that land could be subdivided and sold for housing as the only available means to pay the death tax.

The Folly of the Death Tax

Defenders of the death tax often cite the fact that relatively few are subject to it.¹⁹ But those "relatively few" include thousands of family-owned businesses like Sukup Manufacturing in Iowa, Anthony Timberlands in Arkansas, and Hancock Lumber in Maine—as well as the thousands who benefit from jobs and the charity generated by these businesses.

The death tax generates about 1 percent of federal revenues. By generating that small a benefit to the federal treasury, the death tax discourages investment and savings, undermines job creation, suppresses productivity and wage growth, hurts those whose savings are tied up in land, hurts businesses owned by families, women, and minorities, and contradicts the American ideal of wealth creation.

Perhaps worst of all, in threatening small businesses, the death tax threatens activities that are essential to the moral fabric of American life. Like water and sunlight in an ecosystem, small businesses provide sustenance that is essential to building and preserving communities—jobs, civic leadership, and a wide range of charitable giving and human services. A tax policy that jeopardizes those values is antithetical to core of the American dream.

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18. Mavar, testimony in Hearing, "Federal Estate Tax: Uncertainty in Planning Under the Current Law."

19. See, for example, Tax Policy Center, "Wealth Transfer Taxes: Who Pays the Estate Tax?" *Tax Policy Briefing Book*, 2008, at <http://www.taxpolicycenter.org/briefing-book/key-elements/estate/who.cfm> (May 25, 2010).