National Automobile Dealers Association

EXTEND CURRENT ESTATE TAX LAW THROUGH 2013

Action Needed by the End of the Year to Avoid a Tax Increase; Enact Permanent Law in 2013

Issue

In December 2010, Congress passed a temporary estate tax regime of a 35 percent rate and a $5 million exemption. Unless Congress acts, the estate tax rate will increase to 55 percent and the exemption will fall to $1 million on January 1, 2013. NADA supports a one-year extension of the current rate and exemption structure. NADA also supports enactment of a permanent solution to the estate tax in 2013 that would allow small business dealers to plan for the succession of their family-owned dealerships and retain capital within their businesses to preserve economic opportunity for current and future employees.

Background

In 2001, a phase-out and eventual repeal of the estate tax was signed into law. However, the 2001 law included a provision to "sunset" the law after 2010 without further Congressional action, which would have returned the tax to the confiscatory levels of a 55 percent rate with $1 million exemption.

In December 2010, Congress passed a two-year estate tax regime at NADA-supported levels of a 35 percent rate with a $5 million exemption. The legislation also included other provisions critical to mitigating the effects of the estate tax, such as stepped-up basis, full transfer of an unused exemption, indexing of the exemption to inflation, and a reunification of the gift and estate taxes at a $5 million exemption. However, this estate tax regime is temporary, and expires on January 1, 2013. An extension of the current regime and, eventually, permanent reform, is necessary to provide family-owned dealerships with the ability to plan for the succession of the business.

Key Points

- Most dealerships are family-owned businesses with significant estate tax exposure. Half of NADA member dealerships have spent decades building their companies and are second- or third-generation businesses.
- The estate tax particularly hurts dealerships since assets, such as land and single-use showroom facilities, cannot be liquidated to pay the tax without destroying the viability of the dealership.
- Estate tax planning and life insurance take significant resources out of the dealership every year, yet cannot sufficiently mitigate the effects of the estate tax. Family businesses should not have to sell their businesses or incur substantial debt to pay the tax.
- Until a permanent solution is reached, the estate tax will continue to burden the continuity of family-owned dealerships and the future of their employees.

Status

In July 2012, the Senate voted on a package of extensions of expiring tax provisions that did not include the estate tax. In August 2012, the House voted to extend the current rate and exemption structure through 2013. It is likely that the estate tax will be debated in the upcoming lame-duck session. NADA will continue its leadership role in the Family Business Estate Tax Coalition to advocate for an estate tax that provides small business dealerships with permanent relief.

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