

TREASURY TO WITHDRAW HATED ESTATE TAX VALUATION RULES

In its final report on burdensome tax regulations, the Treasury Department has called for the withdrawal of Obama-era valuation rules that family business owners said would wreak havoc on their legacy plans. The proposed rules, issued in August 2016, “Restrictions on Liquidation of an Interest for Estate, Gift and Generation-Skipping Transfer Taxes” under Section 2704, would have curbed valuation discounts and meant increased estate taxes on the deaths of owners of family businesses. The Treasury has now concluded that “the proposed regulations’ approach to the problem of artificial valuation discounts is unworkable.” The report says that Treasury plans to publish a withdrawal of the proposed regulations in the Federal Register shortly.

So, it’s back to business as usual for the family business owners. The regulations were mucking up an area that was already difficult to navigate. Families can go back to wealth transfer planning using discounts without the fear of the 2704 regulations looming. Still, you don’t want to be too aggressive.

The Family Business Coalition, which lobbied hard to kill the 2704 regulations, issued a statement applauding Treasury Secretary Steven Mnuchin and the Administration “for protecting family owned businesses from this proposed stealth death tax increase.” Proponents of the rules said they would close a tax loophole that allows the wealthy to pass more on to heirs free of gift tax and estate tax by lowballing the value of what they gave away.

While the withdraw of the 2704 regulations is a huge victory for small businesses and the anti-death-tax lobby, it’s overshadowed by the prospect, under the Trump-GOP tax framework, of estate and generation-skipping-transfer tax repeal. Could this be the first nail in the coffin of the estate tax? It shows where the Administration is coming from. The §2704 regulations were on President Donald Trump’s April executive order hit list of potentially burdensome regulations. Estate tax repeal in the House is a safe bet; in the Senate, it’s at best uncertain.