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U.S.

Senate GOP Hits Resistance on Estate-Tax Repeal—From Republicans

Some in party are ready to negotiate over changes to the tax in drive to pass a broader tax overhaul



Sen. Mike Rounds (R., S.D.) says a repeal of the estate tax isn't necessary. PHOTO: ALEX EDELMAN/ZUMA PRESS

By Richard Rubin

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WASHINGTON—Senate Republicans are running into internal resistance to their proposed repeal of the estate tax, making it a potential casualty of the trade-offs the GOP faces in its effort to overhaul the tax code.

The party's leaders included estate-tax repeal in the tax-overhaul framework they released last week. But Republican Sens. Mike Rounds of South Dakota and Susan Collins of Maine said this week that repeal isn't needed. Others say their desire to eliminate the tax must be balanced against other priorities including tax cuts for businesses and middle-class families.

"I don't think we have to totally repeal it because I think the folks on the upper end of it are all avoiding it right now legally anyway," Mr. Rounds said Wednesday. "For me, we can't fail on [a tax overhaul] and whatever we can do to pick up the last few votes we may need, I'm ready to negotiate."

Under current law, the tax, with a top rate of 40%, applies to estates valued at more than \$5.49 million per person or \$10.98 million per married couple. Those levels are indexed to inflation under a deal Congress reached in 2010. The tax applies to about 5,500 estates a year.

According to IRS data, more than 40% of the estate tax in 2015 was paid by estates with gross values over \$50 million.

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Preserving the estate tax would help Republicans fight the “tax cuts for the rich” label that Democrats are pinning on their plan. Giving up on repeal may ultimately be a necessary concession given their narrow margin for error in the Senate, where

Republicans have 52 seats out of 100 and any three GOP senators can sink an idea. Besides Mr. Rounds and Ms. Collins, Sen. John McCain (R., Ariz.) has opposed past repeal efforts, though when he was asked Thursday about the tax, he called it “confiscatory.”

One alternative: a larger exemption that would narrow the scope of the tax without getting rid of it altogether. But stopping short of repeal would mean courting a fight with conservatives who have been waiting for years for unified GOP control of the government so they could get rid of what they call a “death tax.”

“It’s very important to me,” said Sen. John Kennedy (R., La.) “It’s the most unfair tax God ever put breath in. It’s taxing money that’s already been taxed. I just think it’s inherently unfair.”

The office of Senate Majority Leader Mitch McConnell declined to comment.

The House passed a repeal bill in 2015 with seven Democrats voting yes and three Republicans opposed. President Donald Trump, who says his net worth is above \$10 billion, campaigned on repeal in 2016. His heirs stand to benefit if Republicans follow through on the plan for repeal.

This year, 0.2% of people dying will have a taxable estate. Increases in the exemption under Presidents George W. Bush and Barack Obama made the tax less common. In 2008, 0.7% of the deceased had taxable estates; in 2000, 2.2% did.

“We’ve taken care of the problem for the vast majority of family-owned businesses or ranchers in this country,” Ms. Collins said. “So that is not a priority for me as we seek to craft this tax bill.”

Many households use estate-planning techniques and charitable donations to minimize or avoid the estate tax. Republicans say they worry about the impact of the tax on families with illiquid businesses.

One way to address that concern, Mr. Rounds said, would be to double or triple the current exemption, setting it at \$20 million or \$30 million per couple.

“I would consider that a victory,” said Mr. Rounds, who helped remove tax reductions for high-income households from the Senate’s health care bill earlier this year over concerns about pairing tax cuts with Medicaid cuts.

Increasing the exemption instead of repealing the estate tax would take up much less fiscal space in the GOP tax plan. Right now, lawmakers are already struggling to fit more than \$5 trillion in rate cuts into a budget that would allow only \$1.5 trillion.

Part of their strategy is to cut back on tax breaks, but that is tough. They’re already under pressure in the House to soften the proposed repeal of the deduction for state and local taxes, because of potential defections from New York and New Jersey Republicans.

In the Senate, some lawmakers are pushing for a boost in the child tax credit that could be costly.

Scaling back plans to repeal the state and local tax deduction or expanding the child tax credit would likely require Republicans to remove other tax breaks or scale back their ambitions for cuts in tax rates.

Estate tax repeal would reduce federal revenue by about \$239 billion over the next decade, according to the Tax Policy Center.

That is enough to lower the corporate tax rate by more than 2 percentage points. (Republicans want to cut the 35% corporate rate to 20%.) Or, it would be about enough money to turn the \$1,500 child tax credit outlined by House Republicans last year into the \$2,000 one backed by Senators Mike Lee (R., Utah) and Marco Rubio (R., Fla.)

The estate tax shouldn't be a primary focus for Republicans, said Sen. Tim Scott (R., S.C.), a Finance Committee member. "We should continue to focus on hard-working Americans who need a pay increase, which means reducing their taxes," he said.

Sen. Shelley Moore Capito (R., W.Va.) who noted that she has voted for full repeal, said it isn't clear yet what will happen. "It's probably one of the things that is in the mix," she said. "Is it a must for me? I want to see the whole package. The whole package is a must."

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