

THE DAILY CALLER

EXCLUSIVE: How The Republican Senate Saved the ‘Death Tax’

Posted by Richard Pollock on 12/07/2017 6:39 PM

The Senate tax reform bill does not repeal the “death” estate tax conservatives have long opposed, apparently because of at least three Republican senators. The three are among many who have received donations from insurance companies benefiting from the tax.

The House fully repealed the “death tax,” but Senate Republicans did not include a repeal in their version of the bill. Republican Sens. John McCain, Susan Collins and Mike Rounds, who are the only three Republican senators on-record opposing repeal, could be held responsible if the estate tax is not repealed in the final bill. The two chambers are now in the process of reconciling for final passage.

All three senators have publicly said they’re open to keeping the estate tax, and have received donations from insurance companies, which bring in tens of billions of sales dollars as a result of the policy. A senior Senate Republican aide named Collins and McCain specifically as the senators who seem to have tripped up repeal of the tax in the Senate. The source referred to them as “possible culprits,” and said their presence was definitely felt in the finance committee hearing to markup the bill, though neither are on the Senate Finance Committee.

A spokeswoman for McCain told The Daily Caller News Foundation he “was not involved in drafting or negotiating this provision.” The statement leaves open the possibility he quietly influenced senators on the markup committee, or that the committee chose to avoid a fight over the policy that could potentially lose them McCain’s vote, given his clout in the Senate and long history of opposing full repeal of the “death tax.”

“Because the margin was so tight, [the committee] thought it wasn’t a battle worth fighting,” the Senate source told TheDCNF.

The estate tax remains one of the starkest points of difference between the House and Senate tax bill, and will be a high priority for the conferees who are meeting to determine the final form of the tax bill in a reconciliation conference. Both the Senate and House versions raise the inheritance exemption from \$5.5 million to \$11 million, but the [House version](#) phases the death tax out over six years, while the Senate version maintains it at the higher bracket.

Conservatives have long opposed the tax levied against those who inherit valuable land and property after a death in the family. Many say it’s an unfair “double tax” on property that is also taxed on income, and say it punishes families with money tied up in equipment or land. Some survivors end up selling some or all of the family-owned business they are inheriting in order to come up with cash to pay the federal government.

The Senate aide told TheDCNF there wasn’t a “big skirmish” over the fate of the tax in the Senate markup hearing, and that discussions over keeping it remained “cordial.” Collins and McCain are the

most prominent senators in favor of keeping the tax, but the source also mentioned other members who have indicated a new willingness to negotiate away repeal.

One of them is Rounds, who officially wants to repeal the tax but has said more recently he is open to negotiating the point if that's what it takes to get the larger tax reform bill through Congress. "Legislation requires compromise," he said [in a recent op-ed](#), noting his position on repeal of the estate tax.

Outside supporters of repeal of the tax told TheDCNF they blame the markup committee chaired by Republican Sen. Orrin Hatch, who they believe didn't have the stomach for repeal. The American Business Defense Council, long-time advocates for complete repeal, pointed to an Aug. 31 Senate committee [press release](#) that doesn't call for reform, but instead calls to "mitigate the negative impact" of the estate tax.

Hatch also told reporters [in October](#), "I don't think there's the stomach to do a full repeal." Senator Hatch declined to respond to TheDCNF's questions about his role involving the shaping of the final version of the estate tax.

The life insurance industry has handsomely profited from the estate tax for years through the sale of "survivorship," or second-to-die life insurance policies that generate billions of dollars in sales. The insurance industry provides these products to cover the estimated estate tax the policyholders' children or heirs would have to pay upon their death. The policies are a more affordable way to pay the tax to the federal government.

For example, if a husband or wife estimates their heirs could face \$1 million in estate taxes, they could buy a life insurance policy that pays out \$1 million upon their death. That sum is free of income tax. The costs for the \$1 million whole or universal survivorship policy could cost them pennies on the dollar, making the protection affordable.

"If properly arranged, a survivorship life policy will be tax free to the beneficiary, no estate tax and no income tax," one organization boasts [on its website](#), adding, "If, for example, you only pay over time \$200,000 of premiums into a \$1,000,000 policy, you've effectively paid \$1,000,000 of estate tax for \$200,000! Twenty cents on the dollar!"

The life insurance industry has been tight-lipped about how much money they make from these policies. Survivorship policy "represents approximately four percent of the life insurance market and 10 percent of premium for companies who offer it annually," [according](#) to a June 13, 2017 report by the Insurance News Network. That amount would deliver as much as \$24 to \$30 billion in annual profits to the industry [based on premium data](#) from the Insurance Information Institute.

McCain, Collins and Rounds have received campaign contributions from some of the insurance companies who make money off the tax, as has every member of the Senate finance committee (Republicans and Democrats) that marked up the Senate bill.

From 1989 to 2016, McCain received \$3.7 million in campaign contributions from the insurance industry and \$19 million from the securities and finance industries, which includes those involving estate planning, a major allied player in promoting the survivorship insurance policies, according to data compiled by the Center for Responsive Politics.

Rounds received \$40,000 from the insurance industry's political action committees in his successful 2014 Senate bid, [according](#) to the Center for Responsive Politics. He received \$222,000 from the combined finance, insurance and real estate industries, according to the center.

The center also [found](#) that insurance, finance and real estate interests covered their bases with the entire Senate finance committee, paying all of the current committee members — Republicans and Democrats — a total of \$19.3 million.

As talk of full repeal of the death tax echoed through the walls of Congress, “panic” gripped the life insurance industry, its estate planners and insurance agents, according to industry insiders.

“All estate planning has almost come to a halt over the last six months due to the possibility of significant changes to the estate tax laws, and in particular, the possibility there could be repeal,” said retired estate planning lawyer Steve Hornig, in an interview with TheDCNF. Hornig opposes the estate tax.

“I would classify it as a panic in the industry,” added Ted Bernstein, who is a retirement-planning and life-insurance specialist in Florida and who supports the estate tax. “Survivorship insurance will go away completely if the legislation passes as expected.”

“Permanent insurance policies,” he added, “are a very significant percentage of the life insurance sales of the leading life insurance companies in the U.S.”

A sudden and unexpected dip in 2017 third quarter profits for whole or universal life insurance policies made survival of the death tax even more urgent, according to estate planners and life-insurance brokers. The third quarter numbers constituted the first downturn in 13 quarters for the life insurance industry, according to the [latest report from LIMRA](#), a worldwide research company that provides statistics for more than 850 insurance and financial service companies.

TheDCNF asked the American Council for Life Insurers (ACLI), the industry's main life insurance lobbyists in Washington, D.C., how much revenue they derive from survivorship policies. “We don't have data on that particular topic,” an ACLI spokesman replied in an email. The ACLI's annual reports are also devoid of any listing of revenues or profits from the sale of these specialized policies.

The ACLI effort is buttressed by 874 lobbyists for the entire insurance industry. In 2016, insurance lobbyists spent nearly \$153 million in lobbying, [according](#) to the center's numbers.

The Senate finance committee has not explained how the death tax survived their version of tax reform, and have not responded to queries from TheDCNF about the differences from the House bill. Republicans outnumber Democrats on the committee, 14-12.

“Nobody has turned the spotlight on them,” said Harold Apolinsky, a prominent part of the movement to repeal the death tax, in an interview with TheDCNF. “[The committee] has been extremely careful and quiet,” he added. “You know how guarded that has to be. I'm very disappointed.”

“The premiums they were getting from life insurance policies to provide cash at the owner's death,

it's billions each year," he said. "That was just too much money for them to ignore." Between 2015 and 2016, lobbying expenditures by ACLI were estimated at \$9.4 million, [according](#) to the nonpartisan Center for Responsive Politics. The insurance council has 30 full-time paid lobbyists and gave \$2.9 million to political candidate—\$561,000 to Republicans and \$378,000 to Democrats— according to the Center for Responsive Politics. The vast majority—\$935,000— went to incumbents.

Republican leadership in the finance committee addressed complaints by GOP senators, who have a lot of clout individually given the party's slim margin of control in the U.S. Senate.

McCain is one of the senators with the most clout, as he almost single-handedly defeated the Obamacare reform package when he voted against it last summer. He has loudly argued against full repeal of the tax for decades. As early as 2002, McCain was an ardent opponent.

"I want to take this opportunity to explain my opposition to making permanent the repeal of the federal estate tax," McCain [said](#) on the floor of the senate on June 11, 2002.

As the tax vote came to a head last week, however, McCain [said](#) he considered the tax "confiscatory."

Collins, who has opposed various Senate attempts to repeal and replace Obamacare, has also been an uncertain vote on the tax reform bill, and publicly opposed repeal of the estate tax this year.

"I don't think there's any need to eliminate the estate tax," Collins told [Bloomberg](#) Oct. 30, saying the proposal to repeal it "concerns me" and that she had conveyed her opposition to party leaders. Repeal "is not a priority for me as we seek to craft this tax bill," she [told Fox News](#) Oct. 5.

Republicans lead the ACLI. Former Oklahoma Republican Gov. Frank Keating was president and CEO beginning in 2003. He was replaced in 2010 by Dirk Kempthorne, a former Republican U.S. senator, governor of Idaho, and secretary of the Interior for former President George W. Bush. Keating and Kempthorne serve as "the chief representative and spokesman for the life insurance industry," [according](#) to ACLI.

TheDCNF reached out to Collins's office but received no response. Rounds's office told TheDCNF he opposes the estate tax but "recognizes that may not be feasible" to get the votes needed to pass tax reform.

The United States has the [fourth highest estate or inheritance tax rate](#) of the countries included in Organisation for Economic Co-operation and Development, at 40 percent— or "nearly three times the OECD simple average of 15 percent," [according](#) to the nonpartisan Tax Foundation.

Despite its high tax rate, the foundation stated the estate tax accounts for less than 1 percent of total federal revenue, meaning its impact on the budget is relatively minimal.

The estate tax raised [\\$19.3 billion in 2014, according to the OMB](#), or 0.6 percent of total federal revenue of more than \$3 trillion.

[Follow Richard on Twitter](#)

Content created by The Daily Caller News Foundation is available without charge to any eligible news publisher that can provide a large audience. For licensing opportunities of our original content, please contact licensing@dailycallernewsfoundation.org.

Article printed from The Daily Caller: <http://dailycaller.com>

URL to article: <http://dailycaller.com/2017/12/07/exclusive-how-the-republican-senate-saved-the-death-tax/>