March 29, 2012

Dear Representative:

The undersigned organizations, members of Americans for a Fair Estate Tax (AFET), urge you to co-sponsor the Sensible Estate Tax Act (SETA) of 2011, HR 3467.

Since 2001, Americans for a Fair Estate Tax (AFET), a coalition of dozens of national and state organizations, has advocated for a robust estate tax to help fund investments in our nation's future.

We support the Sensible Estate Tax Act (SETA), which would allow the overall structure of the pre-2001 estate tax rules to come back into effect, but would simplify the rules and index for inflation the $1 million per-spouse exemption that would shield about 99 percent of Americans from the tax.

AFET members believe that the best alternative to this bill is for Congress to do nothing, and simply allow the pre-2001 estate and gift tax rules to come back into effect in 2013, as scheduled under current law.

The wealthiest one percent of taxpayers should pay their fair share of taxes. The Congressional Budget Office (CBO) projects that federal estate and gift taxes will collect $516 billion in revenue from 2013 through 2022, assuming that the most recent estate and gift tax cut expires as scheduled at the end of 2012.

Some lawmakers claim that we should continue to reduce estate tax revenue even as they simultaneously claim we cannot afford to fund the sort of public investments that create jobs and reduce poverty — like hiring teachers, modernizing infrastructure, expanding health care, improving child nutrition, and ensuring that child care and early education are affordable for all children. It would be shameful to cut a progressive tax to benefit the wealthiest one percent while debating cuts in the public investments that create prosperity for everyone.

All but the very wealthiest families would be shielded from the estate tax under either the pre-2001 rules or the Sensible Estate Tax Act. If the pre-2001 rules are allowed to come back into effect, the estate tax will exempt $1 million of estate value ($2 million for married couples). The last time the estate tax exemption was at $1 million per spouse was 2003, and only 1.3 percent of deaths in America during that year resulted in estate tax liability.

SETA would shield more estates from the tax because it would set the per-spouse exemption at $1 million indexed for inflation from 2000. The per-spouse exemption would therefore be about $1.3 million in 2013, with married couples paying no tax on estates worth less than $2.6 million.

Other policy options would be fiscally irresponsible. Extending the estate tax break in effect for 2011 and 2012, which increases the estate tax exemption to $5 million per spouse and reduces the top estate tax rate to 35 percent, would cost $432 billion over the following decade according to the Congressional Budget Office.

President Obama's proposal is somewhat less costly but still reduces the estate tax entirely too much. His proposal would set the estate tax exemptions at $3.5 billion per spouse and the estate tax rate at 45 percent. These rules were in effect for one year in 2009; only 0.3 percent of deaths in 2009 resulted in estate tax liability. Making these rules permanent would allow most of the wealthiest one percent to entirely escape the estate tax.

The *effective* estate tax rate would be low under either the pre-2001 rules or SETA. The estate tax rates under the pre-2001 rules ranged from 37 percent to 55 percent for the largest estates, and SETA would retain these rates. However, the *effective* estate tax rate has always been far lower because the tax applies only to the part of the estate that remains after subtracting the per-spouse exemption, assets left to a spouse, and any charitable bequests.

In the year 2000, the estate tax exemption was only $675,000 per spouse, and the top estate tax rate was 55 percent. But for the 2.2 percent of deaths in 2000 that resulted in estate tax liability, the federal estate tax paid was equal to only 20.4 percent of the value of the estates, on average.

Existing breaks would continue to protect small businesses and farms under either the pre-2001 rules or SETA. A Congressional Budget Office analysis found that of the 52,000 estates taxed in 2000, just 485 (1 percent) consisted largely of family-held businesses and just 1,659 (3 percent) were estates of farmers. CBO also found that only 0.3 percent of taxable estates were either family held-business estates or estates of farmers *and* lacked sufficient liquid assets (like cash, stocks, and bonds) to pay the estate tax. These few estates lacking liquid assets are protected by the rule allowing them 14 years to pay the tax so that it is not necessary to sell land and other fixed business assets to pay the estate tax.

Both the pre-2001 rules and SETA would retain additional breaks for estates that include farms. Land used for business or farming can be valued for estate tax purposes at less than it is truly worth for development and other purposes. Estates with farmland can also take advantage of conservation easements to further reduce estate tax liability.

State governments would again have an important revenue source under either the pre-2001 rules or SETA. The pre-2001 rules included a credit against the federal estate tax for state inheritance and estate taxes. These taxes imposed by states would reduce federal estate taxes dollar for dollar up to a certain limit. States were therefore able to raise revenue without increasing the total tax paid by each estate.

The 2001 legislation phased out the credit and replaced it with a deduction. This caused many states to lose all estate tax revenue, because their state inheritance and estate taxes were based on the amount of federal credit allowed. Some states made changes to their laws to revive their estate tax, but most have not. SETA, or a return to the pre-2001 rules, would restore this sharing of estate tax revenue with state governments.

The estate tax would be simpler under either the pre-2001 rules or SETA. The 2001 estate tax legislation maintained the gift tax, but with different exclusion amounts and different rates than the estate tax. This means that under the 2001 legislation, a different set of rules applied depending on whether a person gave a gift while living or at death. SETA would "reunify" the estate and gift taxes so that the same rules would apply regardless of whether a gift is made during the donor's life or as a bequest.

SETA would provide additional simplification by allowing the "portability," or sharing between spouses, of the lifetime exemption. The portability provision allows the second-to-die spouse to use any of the lifetime exemption that his or her spouse did not use. This eliminates the need for estate tax planning for many taxpayers, particularly for married couples whose joint estate is worth less than the $2.6 million per-couple exemption.

We ask you to cosponsor and support the Sensible Estate Tax Act and oppose any bill that makes the estate tax more generous to the wealthiest one percent.

For more information, please contact Craig Jennings at cjennings@ombwatch.org.

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American Federation of Government Employees
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Campaign for America's Future
Chicago Political Economy Group
Citizen Action of New York
Citizen Action of Wisconsin
Citizen Action/Illinois
Citizens for Tax Justice
Coalition on Human Needs
Communications Workers of America
Community Action Partnership
Corporation for Enterprise Development
Dēmos
Economic Opportunity Institute (WA)
Equality State Policy Center
Every Child Matters
Florida Center for Fiscal and Economic Policy
Florida Consumer Action Network
Friends of the Earth
Georgia Rural Urban Summit
Growth & Justice
Idaho Community Action Network
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Jobs with Justice
Kentuckians For The Commonwealth
Main Street Alliance
Main Street Alliance of Oregon
Maine People's Alliance
Michigan Citizen Action
Missouri Progressive Vote Coalition
Montana Organizing Project

Mount Vernon United Tenants- NY
National Advocacy Center of the Sisters of the Good Shepherd
National Committee for Responsive Philanthropy
National Community Tax Coalition
National People's Action
National Women's Law Center
New Hampshire Citizens Alliance for Action
New Jersey Citizen Action
New Mexico Voices for Children
New Yorkers for Fiscal Fairness
Ocean State Action
OMB Watch
Oregon Action
Penn Action
Progressive Leadership Alliance of Nevada
Progressive Maryland
Progressive States Network
ProgressOhio
Protecting Arizona's Family Coalition (PAFCO)
Public Citizen
Responsible Wealth
RESULTS
Sargent Shriver National Center on Poverty Law
SEIU
Sugar Law Center for Economic and Social Justice
Tax Fairness Oregon
Tax Justice Network USA
Tennessee Citizen Action
United Action for Idaho
United Auto Workers
United for a Fair Economy
United NY
USAction
Virginia Organizing
Voices for Progress
Washington Community Action Network
Wealth for the Common Good
West Virginia Citizen Action Group
Wider Opportunities for Women
Working America
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Ocean State Action
OMB Watch
Oregon Action
Penn Action
Progressive Leadership Alliance of Nevada
Progressive Maryland
Progressive States Network
ProgressOhio
Protecting Arizona's Family Coalition (PAFCO)
Public Citizen
Responsible Wealth
RESULTS
Sargent Shriver National Center on Poverty Law
SEIU
Sugar Law Center for Economic and Social Justice
Tax Fairness Oregon
Tax Justice Network USA
Tennessee Citizen Action
United Action for Idaho
United Auto Workers
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