

United States Senate  
WASHINGTON, DC 20510

October 3, 2014

John Koskinen  
Commissioner  
Internal Revenue Service

Mark J. Mazur  
Assistant Secretary, Tax Policy  
U.S. Department of the Treasury

William J. Wilkins  
Chief Counsel  
Internal Revenue Service

Re: Priority Guidance Plan for 2014-2015; Proposed Regulations under IRC §2704

Dear Sirs:

As members of the Senate Finance Committee who support full repeal of the federal estate tax, we are writing to ensure that current tax laws and regulations in this area appropriately protect family farms and businesses from the negative impacts of federal estate, gift and generation-skipping taxes as they exist today. In particular, we are writing to ensure that regulatory projects contemplated under the U.S. Treasury's 2014-2015 Priority Guidance Plan ("Priority Plan") released on August 26, 2014 do not undermine the much needed certainty in the estate tax arena achieved with enactment of the American Taxpayer Relief Act of 2012 ("ATRA"). We are concerned that proposed regulations under IRC §2704, relating to restrictions on the liquidation of interests in certain family-owned corporations and partnerships, could artificially and arbitrarily increase the value of family business interests, including corporations, limited partnerships and limited liability companies, above the fair market value of those assets which is the long-established basis of valuation for estate, gift and generation-skipping tax purposes.

There are two basic rules in determining fair market value in the estate, gift and generation-skipping tax context. The first is that fair market value is the price at which the property would change hands between a hypothetical willing buyer and a hypothetical willing seller neither being under any compulsion to buy or sell and both having reasonable knowledge of the facts. See Treas Reg. Sections 20.2031-1(b), 20.2031-3. The second is that the willing buyer and the willing seller must negotiate based on relevant facts as they stand on the valuation date (the date of transfer for gift tax purposes and generally the date of death for estate tax purposes).

Two basic adjustments are recognized for family business interests to accurately reflect fair market value: lack of marketability discount and minority interest. Courts, the IRS and numerous valuation studies have long acknowledged the existence of adjustments for lack of marketability. In addition, courts and the IRS will permit an adjustment for minority interests in a closely-held business or limited partnership or limited liability company to reflect the lack of control and the

lack of influence of a minority holder. The adjustments for lack of marketability and minority interest are thus basic components in the determination of the fair market value of an interest based upon the willing buyer-willing seller test, which has been and should continue to be the foundation of valuation for estate and gift tax purposes in all situations whether the transfers are between family members or unrelated persons.

As you are aware, proposals to eliminate valuation adjustments have been proposed and soundly rejected by Congress over many years. This is because those adjustments are part of the process of determining fair market value. Moreover, the President's two most recent budget submissions, unlike those of previous years, did not include revenue proposals that would disregard valuation adjustments applicable to restrictions on transfers of family-controlled interests. At the same time, the Senate has long been on record in favor of responsible estate tax relief, a commitment most recently reaffirmed by 80 Senators through an amendment to the budget resolution on March 22. Senate Roll Call Vote #66, 113th Congress, 1st Session.

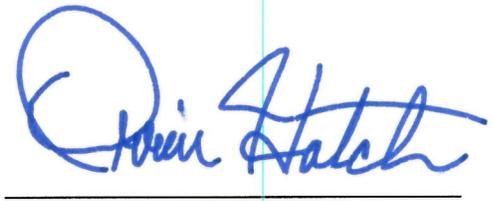
Any regulatory effort that would have the effect of artificially inflating the value of estates would thus result in significantly higher tax burdens for many American families and eliminate the benefits of estate tax relief legislation enacted on a bipartisan basis. Moreover, restricting or eliminating the recognition of the lack of marketability and minority interest adjustments for family business interests runs counter to the basic economic and valuation principles that have been used by taxpayers, appraisers, courts and the IRS for decades.

We appreciate your careful and thorough review of this matter, and as you move forward with the Priority Plan, we urge you to uphold long-accepted valuation principles and abstain from regulatory actions that are inconsistent with federal legislative efforts to provide critical estate tax relief to family businesses and farms and to uphold basic and long-accepted valuation principles.

Sincerely,



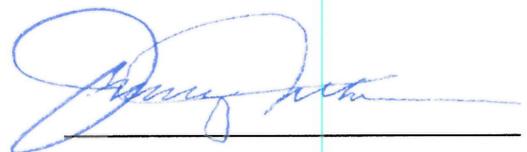
---



---



---



---

Chuck Grassley

John Cornyn

Mike Enzi

Mike Crapo