

Clinton's Proposed Estate Tax Hike Is A Bit Hard To Swallow

By Robert W. Wood

As the election countdown looms, there is considerable debate about the FBI email investigation reboot, FBI Director James Comey's announcement, Anthony Weiner's computer, and what top Clinton aide Huma Abedin knew and did. The computer Abedin and Weiner shared now reportedly belongs to Mr. Weiner. There has been blow back on Secretary Hillary Clinton over still more emails that might have been sent or received, what was deleted, and who said what. Yet there is also big criticism of Comey.

As for Trump, he is facing new tax claims by the New York Times about just how much he pushed the envelope to get that whopping \$916 million tax loss. He still hasn't released his tax returns, and clearly will not, though his aggressive tax posture can hardly be doubted. And then there are the Russian allegations. Whatever happens, tax changes seem inevitable.

Trump wants to cut tax, which some economists say not to do. And Clinton wants to increase taxes at least on the wealthy, which the public seems to favor. Indeed, one thing we know is that Clinton wants — and plans — to raise taxes materially. It may seem unfair and skewed to look at only one of her many big proposed tax increases. There are so many to choose from!

Yet there is one tax hike in the firmament of Clinton tax increases that seems *particularly* hard to swallow. Yes, it's that 65 percent estate tax. If Clinton is elected and gets this tax increase passed, few people will pay it, of course. The likelihood that most people will face this estate tax rate (even if Congress cooperates and changes the law) is remote.

Besides, it is a tax on the really, really wealthy. And, it is a wealth or death tax, so one might say, who should care? But we should, even if we only aspire to have our child become the next Mark Zuckerberg. Besides, it really isn't *only* the 65 percent rate that is offensive about Clinton's big fat estate tax increase.

There are many very painful and costly elements in the Clinton estate tax expansion that will hurt many, many people. Trump still says he wants to repeal the estate tax. In contrast, Clinton wants to increase it from 40 percent up to a whopping 65 percent.

Yes, that is a very big increase, one that on its own may help to endear Clinton to Bernie Sanders supporters despite the rough and tumble of the primary campaign and kerfuffle over the debates. Current law exempts estates worth up to \$5.45 million from tax.

Beyond that, you pay 40 percent. Clinton previously called for whittling the \$5.45 million figure down to \$3.5 million, and increasing the 40 percent tax rate to 45 percent. But those were modest hikes, and that was then. Now, she has proposed 50, 55 and 65 percent rates.

The 50 percent rate applies to estates worth over \$10 million per person, 55 percent for estates over \$50 million, and 65 percent for estates exceeding \$500 million. The new proposed estate tax plan makes her prior 40 percent to 45 percent hike seem inconsequential.

In the past, Clinton and fellow Democrats have been behind the Sensible Estate Tax Act of 2016. It would slash the estate tax exemption to \$3.5 million, and raise the tax rate to 45 percent. President Barack Obama also proposed *no* basis step up on death.

When combined with state estate taxes, the President's proposal would yield the highest estate tax rate in the world. Stephen Moore of the Heritage Foundation calculated that, by eliminating basis step up, we would end up with the world's highest estate tax rate. If you add in state inheritance taxes, the combined tax rate could go as high as 68 percent.

But now, the situation is even worse. Clinton doesn't just want a lower exemption and a 45 percent rate. Now, she wants that lower exemption and a soaring 50 percent to 65 percent tax rate. And that is going to hurt. Some voters, and many estate planning lawyers, are likely to say that the really big estates can find ways around many rules to at least materially reduce their impact.

But if you do not plan well, carefully, and with a reasonable budget, you will be stung. Even at the current higher exemption and lower tax rate, the estate tax succeeds at catching many people unaware. With cutting the exemption by millions, removing inflation adjustments, and hiking the 40 percent rate to 50 percent to 65 percent, there will be a lot more pain.

One might reasonably expect hardships to family companies and family farms. Given that income tax has been paid as the income accumulated during the taxpayer's life, is it fair to tax it again? And if we do tax it, isn't 40 percent plenty? Isn't a 50 percent to 65 percent rate downright confiscatory?



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