Life Insurance Cash Cow:

An Issue Brief on the Hidden Side of Estate Tax Lobbying

By:

Tim Carney

&

Dick Patten

November 30, 2010

A Study by the American Family Business Foundation

Table of Contents

Executive Summary

The Federal Estate Tax (aka, death tax) is currently repealed, due to a provision in the 2001 Economic Growth Tax Relief and Reconciliation Act (EGTRRA). However, on January 1, 2011, the tax comes back at the rate of 55 percent on all estates above $1 million.

Estate tax advocates often portray their fight as a struggle for fairness against greedy billionaires and spoiled heiresses, but as this American Family Business Foundation Issue Brief documents, it's the multi-billion-dollar life-insurance industry who profits handsomely from the tax at the expense of family business owners and farmers, to whom they sell estate tax-related products.

It's no surprise then that the life insurance industry, which stands to gain an estimated 10 percent of its revenues from estate tax policies, is leading the charge to ensure that the estate tax roars back to life.

Other findings in "Life Insurance Cash Cow: An Issue Brief on the Hidden Side of Estate Tax Lobbying," include the following:

- The life-insurance lobby spent $10 million a month lobbying in the first half of 2010. During this same period, only three industries – pharmaceuticals, electric utilities, and oil and gas – spent more over the same period.
- The leader of the life-insurance lobby, the American Council of Life Insurers (ACLI), spent $2.32 million in lobbying in 2010's second quarter. Only 10 industries spent more.
- The life-insurance industry exercises bi-partisan influence on the estate tax issue. Through most of 2010, the two leading life-insurance lobbyists – and thus the two biggest advocates for the death tax – were a former Republican governor and the wife of a Democratic Senator.
- Former Oklahoma Governor Frank Keating, President of ACLI until just recently, supported estate tax repeal until taking his position at ACLI in 2003.
- Out-going Senator Byron Dorgan (D-ND) has been a consistent and vocal supporter of repeal. His wife, Kimberly Dorgan, is the second-in-command at ACLI and an active lobbyist in favor of keeping the estate tax.
- ACLI and other lobbying firms have funded and lobbied for "grassroots" front groups to paint a "spoiled rich kid" image for those who support repeal.
- Warren Buffet, a major estate tax advocate, makes substantial profits through Berkshire Hathaway's holdings in multiple life-insurance companies.
- While the majority of the life-insurance industry lobbies hard against repeal, the organization representing independent life-insurance agents actually favors repeal.

Introduction: The Death Tax Lobby

Life Insurance Companies, Front Groups, and Billionaires Work Washington to Save the Estate Tax and Protect Their Profits

"Oh, hi, I'm London," said the blond young lady intended to evoke millionaire heiress Paris Hilton in the television ad running during the estate tax debate in 2005. "I just wanted to personally thank my Republican friends in Congress for trying to get rid of that mean old inheritance tax. I already stand to inherit a fortune, and because of you, I'll get millions more."

The ad, titled "leave no heiress behind," was the product of a group called the Coalition for America's Priorities. It helped set the tone for that year's effort to permanently repeal the estate tax – Democrats and liberals in the media were soon referring to it as the "Paris Hilton tax cut."

The "heiress" ad suggested a repeal of the estate tax would mean diminished "benefits to our soldiers." Democrats said without an estate tax, seniors, children, and the poor would suffer. But the heiress ad was paid for by the interest group that stood to lose the most from repeal of the estate tax: life insurance companies and agents.

The Coalition for American Priorities was a front group for the life insurance industry, run by politically-connected Democratic lobbyists in the pay of the industry.

While those who want the estate tax abolished are painted as shills or dupes for the obscenely wealthy, the pro-estate tax side has a sophisticated and well-funded – but not well-publicized – lobby.

The life insurance industry spends more than $50 million dollars a year on lobbying, and contributes tens of millions annually to congressional and presidential campaigns. Former top tax staff from the legislative and executive branches – both Republicans and Democrats – now work as life insurance lobbyists.

The industry's central lobbying shop, the American Council of Life Insurers, has been run for most of the past decade by former Gov. Frank Keating, a prominent Republican, and Kimberly Dorgan, the wife of a senior Democratic senator who has been a leader in the fight to save the estate tax.

Preservation of the estate tax – under the mantra of "reform, not repeal" – has been near the top of the industry's agenda for a decade. One leading public crusader for the estate tax, billionaire Warren Buffett, owns six different life insurance companies.

The estate tax is a huge profit driver for the industry, because it provides an incentive for wealthy individuals and business owners to buy life insurance. The industry, in fact, touts "whole life," and "universal life" policies as ways to pay for the estate tax. And on a more basic level, life insurance payouts are not taxed – if inheritance isn't taxed either, life insurance becomes less useful.

In short, the life insurance industry is using its political clout to lobby against the interests of its customers, for the sake of corporate profit – and doing it in a populist guise.

How the Life Insurance Industry Profits from the Estate Tax

Life insurance is the most basic tool for estate planning. Put simply, inheritance is subject to the estate tax, while life insurance benefits are untaxed. This drives up the demand for life insurance, thus driving up the price.

The disparate tax treatment distorts the market so much that a wealthy person could buy a policy knowing he will pay more in premiums than the value of the benefit – and it would still make sense financially. For example, if someone bought a $20 million whole life policy at age 60, and paid $25 million over the years in premiums, he would still be giving more to heirs (an untaxed $20 million) than if he just bequeathed that $25 million to his children – because after the estate tax, that could be worth less than $20 million.

While many people think of life insurance as a way to replace lost income if a bread-winner dies, a 2006 study by consulting firm LIMRA found that people were just as likely to use life insurance as a way of handing tax-free wealth to their children or grandchildren. "Leaving an inheritance is important to seven in 10 affluent retirees," the LIMRA study reported, "and almost six in 10 affluent pre-retirees."

The insurance industry also touts whole life policies as a tool for protecting non-liquid assets – such as a home or a family business – from the estate tax. Jim Swink, an executive at the Planning Corporation of America explained the process to the publication *On Wall Street* in 2007:

> "You can have someone who has a significant art collection," he says, rhetorically. "What do they want to do with this art collection? How do you monetize the value? This [property] is going to be considered as an asset in the estate of the individual, and today it's subject to the estate tax and the transfer tax," Swink says.
>
> Individuals often prefer to see their collectibles stay within the family after their deaths. Swink suggests that these individuals "quite often use life insurance as a means to generate the cash to pay the tax on the transfer to the next generation." Swink notes that it is all about the rate of return. "And quite often--because life insurance is received on an income-tax rate basis--the net after the tax rate of return is such that it makes sense to fund these transfer taxes with life insurance," he says.

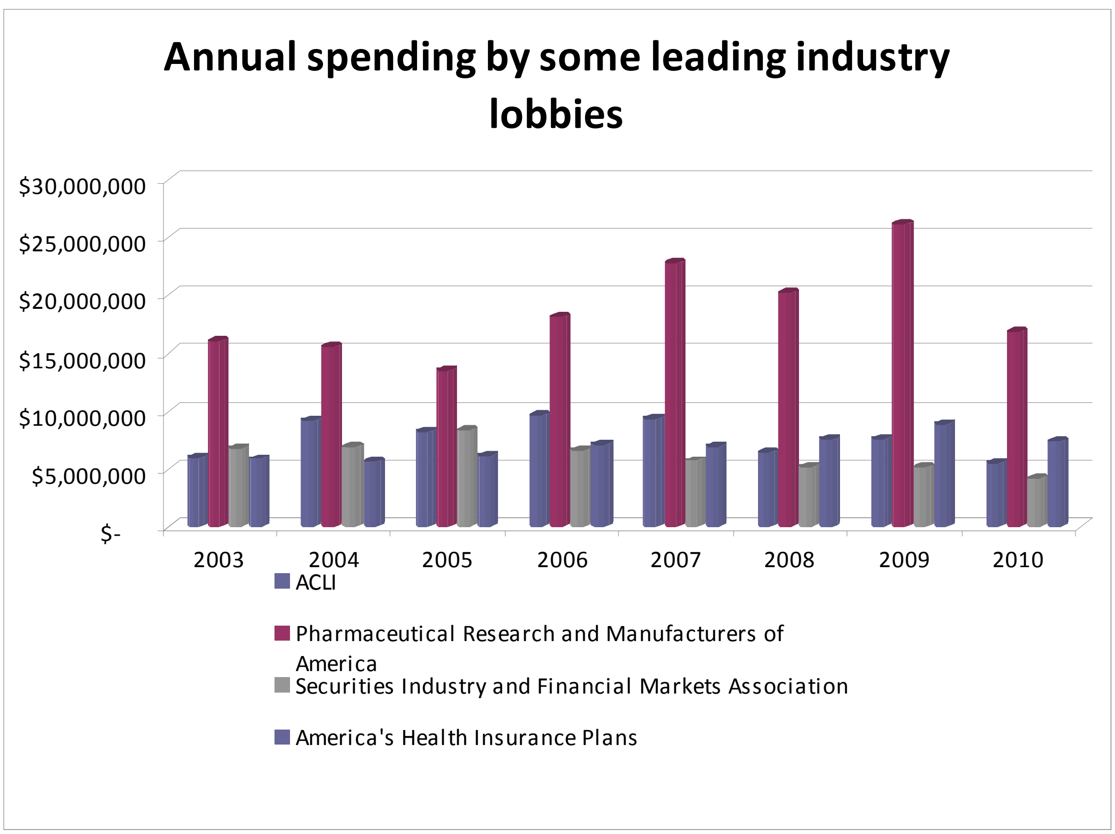
Life insurance, in other words, helps people either (A) minimize the estate tax burden, by paying a smaller amount during their lifetime, or (B) afford the estate tax by insuring against it – or both. Were there no estate tax to avoid, the demand for huge life insurance policies would be smaller.

Marc Cadin, the top lobbyist at the Association for Advanced Life Underwriting, told *National Underwriter* magazine that the industry is built upon "three thin threads," two of which rely on the existence of the estate tax. In the words of *NU*, those "threads" are "income tax-free death benefits, and the ability to remove life insurance from taxable estates."

The *Seattle Post-Intelligencer*, which at the time still pushed a print edition, quoted an industry source in 2005 estimating that about 10 percent of the industry's revenues come from estate planning – at the time that was about $12.5 billion.

The Insurance Lobby

The life insurance industry is a lobbying giant. In the first half of 2010, for example, the entire industry – all the companies together with their trade groups – spent about $10 million per month on lobbying Washington, according to an analysis of data from the Center for Responsive Politics. Only three industries – pharmaceuticals, electric utilities, and oil and gas – spent more over the same period.



Life insurers paid more to lobby than even the securities and investment industry, and that period included the debate and passage of the financial regulation bill. Famously connected industries like tobacco, health insurers, and defense contractors all spent significantly less on lobbying than did the life insurance industry.

New York Life, Met Life, and Northwestern Mutual each spent about $500,000 per month on lobbying in the first half of 2010.

The industry's lobbying covers a range of issues, many of them having to do with state and federal regulations on insurance. Taxes, though, take up most of the industry's attention in Washington. Life insurance, and the other insurance, annuity, and investment products these companies sell, are all deeply reliant on the tax code because they are largely used as tax shelters. In short, insurance companies need to make sure that their products are tax-advantaged while competing products are not.

The estate tax is not the only tax issue of importance to the industry, but over the past decade – since Republicans passed a bill to phase out the tax, but only temporarily – it's the most consistently pressing issue for the life insurance lobby.

For a hint of the estate tax's importance to life insurance companies, browse the pages of *National Underwriter*, the century-old magazine covering the industry.

For instance, an August 25, 2010, *NU* article headlined "State of Estate Taxation" began "The golden age of estate planning/wealth transfer is upon us. The stars, moon and earth have aligned to make this a key area for us in the financial services industry." The article focused on uncertainty about the future of the estate tax, and the possibility of a return to pre-2001 levels – and how these factors create "an ideal time for prospecting and growing your client base in this increasingly important area of wealth transfer and estate planning."

In the first eight months of 2010, *NU* carried 40 stories discussing the estate tax. The magazine's annual legislative previews have dealt with the estate tax each of the last 10 years.

The estate tax is a cash cow for the life insurance industry – and the industry's lobbyists guard it zealously.

American Council of Life Insurers, Frank Keating, and Dirk Kempthorne

Leading the industry on the lobbying front is the American Council of Life Insurers – one of the largest lobbying operations in the country. Since 1999, ACLI has spent $85 million on lobbying, an average of $7.4 million per year.

ACLI's spending on lobbying often puts it in the top tier of industry groups. In 2010's second quarter, for instance, ACLI spent $2.32 million on lobbying, or $25,485 per day. Only ten industry lobbies spent more. In this period, ACLI outspent the American Petroleum Institute (which was busy fighting off legislative retaliation for the BP Gulf oil spill) the Biotechnology Industry Organization, the U.S. Telecom Association, and the Securities Industry and Financial Markets Association, to name a few.

The President of the ACLI for most of the past decade was former Oklahoma Gov. Frank Keating. As a politician, Keating was unambiguous and eloquent in his opposition to the death tax. In his State of the State address in 1998, Governor Keating called on the legislature to lessen the bite of Oklahoma's estate tax.

"We will reduce state inheritance taxes 10 percent each year until Oklahoma's estate tax exemption equals the federal exemption," Keating declared. Interestingly, this proposal – making sure that Oklahoma wasn't forcing any businesses or families to pay the state estate tax who wouldn't already have to pay the federal estate tax – would primarily help small business by eliminating the need of many of them to engage in costly estate planning.

Keating put this proposal in moral terms: "Let's put an end, once and for all, to the sad spectacle of Oklahoma retirees shopping for someplace else to live because they don't want state government confiscating the wealth they've worked a lifetime to pass on to their children. And let's assure that never again will an Oklahoma family have to sell the family farm or business to pay estate taxes. We ought to be building businesses, not crushing them to death under an intolerable tax burden."

Near the end of his governorship, Keating wrote in the newsletter of Americans for Tax Reform, "I believe death taxes are un-American. They are rooted in the failed collectivist schemes of the past and have no place in a society that values entrepreneurship, work, saving, and families. I commend President Bush for putting us on course to end the federal Death Tax. We intend to do the same in Oklahoma."

At about the same time that ATR newsletter was published, Keating announced he would become president and CEO of ACLI once his term as governor expired in January 2003.

Of his new role, Keating said, "The life insurance industry not only helps working Americans achieve financial security through products that allow them to accumulate, manage and protect assets. It is also a $3 trillion industry that contributes significantly to the strength of the American economy. So in many ways, I see my new role at ACLI as an extension of my career in public service."

But the lobbying agenda he would spearhead at ACLI had the exact opposite effects. By lobbying to preserve the death tax, Keating was working against his clients' customers and their ability to "protect assets." By championing this tax that creates billions in dead-weight economic losses, Keating was pushing a measure that likely harms the American economy. And defending a policy that hurts small businessmen while enriching one industry is the opposite of "public service."

Keating was open about his advocacy for preserving the death tax. The *Seattle Post-Intelligencer* in 2005 reported: "Opposition from a usually reliable Republican ally, the insurance industry, and deficit politics are doing what Democrats alone couldn't: threatening President Bush's plan for permanent repeal of the estate tax."

Specifically, the P-I wrote:

> "New York-based MetLife Inc., New York Life Insurance Co. and Milwaukee-based Northwestern Mutual Life Insurance Co., which sell policies intended to reduce the effect of the tax on inherited wealth, are among the companies whose trade groups are fighting permanent repeal….
>
> "Leading the charge for the life insurers, who stand to lose a combined $12 billion in premiums if the estate tax is ended, is Frank Keating, the Republican former governor of Oklahoma who now is president of the American Council of Life Insurers. 'I am institutionally and intestinally against huge blocks of inherited wealth,' he says. 'I don't think we need the Viscount of Enron or the Duke of Microsoft.' "

But Keating's clients sold products that allow wealthy people to hand huge sums of money to their children – arrangements that are different from "huge blocks of inherited wealth" only in that Keating's clients act as middlemen and get to take a cut.

Keating, on another occasion, chided conservatives saying, "A number of my fellow conservatives think the only good tax is a repealed tax."

On the day after the 2010 elections, Keating stepped down as head of ACLI, replaced by Idaho's former senator and governor, Dirk Kempthorne, a Republican who also served briefly as Interior secretary under President George W. Bush.

Kempthorne, as governor, had objected to the pace of estate tax repeal. CQ reported:

> This revenue crunch has caused many governors to express frustration with Congress. In March 2003, Gov. Dirk Kempthorne of Idaho, a Republican, and then-Gov. Paul E. Patton of Kentucky, a Democrat, wrote congressional tax writers asking them to slow the phase out of the estate tax credit, noting that some heirs face an increased tax bill under the confusing new structure.
>
> "Not only have the federal changes imposed difficult conformity on states, but they have also infringed on the authority and flexibility of states to respond to the needs and priorities of our citizens," they said.

ACLI's Kimberly Dorgan

The top Democrat at ACLI is Senior Executive Vice President for Public Policy Kim Dorgan, the second (and current) wife of outgoing Sen. Byron Dorgan, D-N.D. Sen. Dorgan is the chairman of the Democratic Policy Committee, making him one of the four highest-ranking Democrats.

In 2007, Democrats, newly in the majority and touting themselves as the "most ethical Congress ever," passed an ethics bill that restricted lobbying by members' wives and husbands. But Kim Dorgan, because she was a lobbyist before the law went into effect, was grandfathered in and unaffected by the spouse-lobbying provisions.

Sen. Dorgan, despite a clear conflict of interest, has taken the lead at times in the fight to save the estate tax. In January 2001, when Republicans, for the first time in 46 years, controlled the House, Senate, and White House, and the GOP clearly had the votes to repeal the death tax, Dorgan led the effort to save the tax, proposing a bill to create a unified exemption for the estate and gift tax of $2 million, leaving top rates at 55 percent, while providing some special protection for family-owned businesses.

In April 2001, after the House voted to repeal the tax, Dorgan headlined a Capitol Hill press conference in which he helped explain, according to a press release, "how H. R. 8, the House-passed estate tax repeal, actually hurts farmers."

The next year, when Republicans pushed a bill to permanently repeal the tax, the effort died on the Senate floor, where Dorgan denounced the measure: "Strip it all away," he said "this is tax relief for billionaires when we have a very big deficit and we have other priorities."

Washington Monthly, a political magazine, in 2007 listed the Dorgans as one of "Washington's 60 sizzlingest power couples," writing, "both [Sen. Dorgan] and the ACLI were crucial forces behind the movement to keep the estate tax when Republicans tried to repeal it in 2005."

Dorgan, as Democratic policy chair, is frequently asked about the estate tax, and he regularly responds without disclosing that the estate tax provides a significant portion of his family's wealth. For instance, Larry Kudlow on CNBC asked Dorgan about the estate tax in 2006, and Dorgan derided the idea, saying that "every time the majority party talks about the middle class or the president talks about the middle class, the wealthiest Americans get the biggest cuts."

On the Senate floor, that month, Dorgan passionately defended the estate tax, and attacked the Republicans' rhetoric. "There is no 'death tax,' of course," he said, "This is the function of a clever pollster paid handsomely by people with a lot of money to come up with a moniker that would allow them politically to cast this into the water and have it float."

Dorgan went on, "the purpose of this issue is to say to the richest, the wealthiest Americans, we want to help you."

During this floor debate, Dorgan actually painted the estate tax as a moral positive. “You can’t take it with you,” he said, waxing philosophic. “We’re on this Earth for a relatively short period of time. We are blessed to live here, a unique spot on this planet. And this, in my judgment, requires of us some responsibilities….

“And the question is: should at least some of the largess that those that have been most successful in this country have accumulated in their lifetime – should at least some of it be taxed?”

Never during this debate did Dorgan disclose that his personal wealth came largely from the companies that help people avoid paying the tax – and that if the tax disappeared, his wife’s wealthy clients would suffer.

Ironically, when Republicans tried that autumn to attach permanent estate tax repeal to a minimum wage bill, Dorgan, called the GOP tactics “cynical.”

Sen. Dorgan’s political network is tied in with one liberal non-profit working to preserve the estate tax. Dorgan’s former deputy chief of staff, Scott Nelson, is a lobbyist at the K Street lobbying firm K&L Gates, where he represents the Fair Economy Action Fund. Nelson lobbies – through a project called “Responsible Wealth” – to preserve the estate tax at a relatively low exemption and high rate.

Nelson donated to Dorgan’s campaign in 2009, before Dorgan announced he would not seek another term. Nelson also contributed to the campaign of Democratic Rep. Earl Pomeroy in 2009, the same year Pomeroy introduced a bill to prevent the estate tax from disappearing in 2010. Pomeroy’s bill would set a rate of 45 percent and an exemption of $3.5 million.

ACLI and K Street

ACLI boasts an in-house staff of about a dozen lobbyists, including many former congressional staffers.

One such revolving-door lobbyist is Alane Dent, former legislative counsel for Pomeroy, who, as noted above has sponsored bills to perpetuate the death tax at a 45 percent rate. Gregory Jenner, a current ACLI lobbyist, served under President George H. W. Bush as top tax policy staffer in the Treasury Department.

ACLI headquarters are at 101 Constitution Avenue, a coveted new office building just across the street from the Senate side of the Capitol.

In addition to its in-house staff, ACLI retains seven K Street lobbying firms to do its business.

Its biggest lobbying contract in 2010 is with Williams & Jensen, whose stars are Republican Steve Hart and Democrat Bert Carp – both of whom work on the ACLI account according to lobbying filings. Hart is an alumnus of Ronald Reagan's Office of Management and Budget among other executive departments. Hart is also a CPA, who, before attending law school, worked on the tax staff of an accounting firm.

Carp was Jimmy Carter's deputy assistant for domestic affairs and was staff counsel for Sen. Walter Mondale. He was also the top lobbyist at Turner Broadcasting for ten years. ACLI is paying Williams & Jensen $30,000 per month, adding up to $180,000 in the first half of 2010.

In 2008, ACLI also retained K Street powerhouse Akin, Gump, Strauss, Hauer & Feld to lobby on tax policy. Leading ACLI's team at Akin Gump is Democratic former congressman Vic Fazio of California. Fazio was the chairman of the House Democratic Caucus from 1995 through 1999. Since leaving Congress, he has given more than $475,000 to Democratic candidates and committees, his top donations being $15,000 each in 2007 to the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee. In other words, he spent $30,000 last election to help expand Democratic control of Congress.

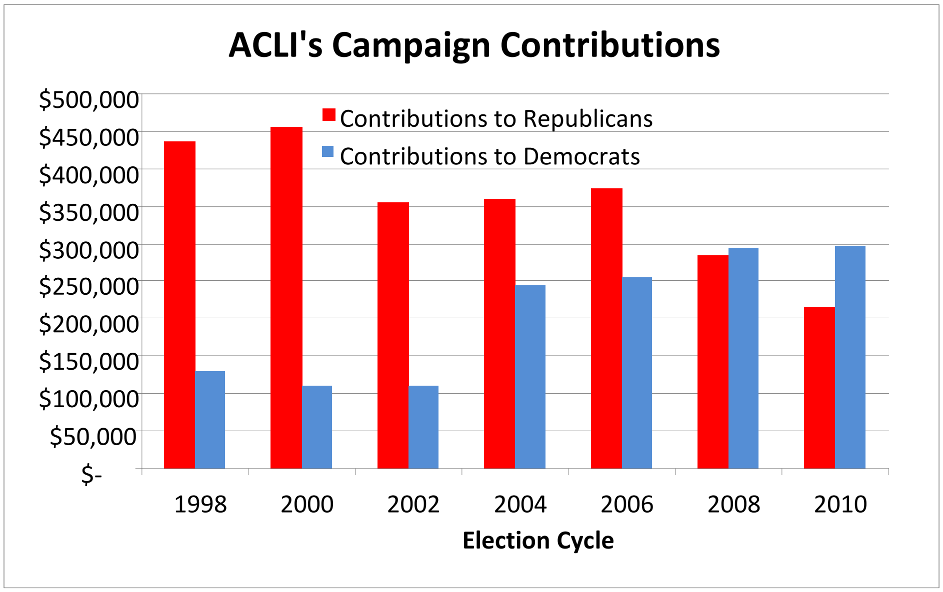
Another Akin Gump lobbyist on retainer for ACLI is Jayne Fitzgerald, a longtime Democratic tax writer. Fitzgerald worked on the Ways & Means Committee for Chairman Dan Rostenkowski, and also worked on the subcommittee for Select Revenue Measures under Democratic congressmen Charlie Rangel and Pete Stark, currently the two most senior members of the Committee.

Yet another Rostenkowski alumnus, Robert Leonard is another Akin Gump lobbyist advancing ACLI's tax agenda. Leonard was the top Democratic staffer on the Ways & Means Committee for 20 years. When Leonard left Capitol Hill in 1993, he launched a small lobbying shop with William Oldaker, a friend and confidant of then-Senator Joe Biden. Oldaker has been campaign treasurer for Biden's Senate campaigns.

Then there's Pam Olson. Olson served in President George W. Bush's Treasury Department as assistant secretary for tax policy. In that position Olson clashed with ACLI on more than one issue. In 2003, Olson testified before Congress in favor of estate tax repeal. Also, she was a chief evangelist for Bush's proposed "Lifetime Savings Accounts," essentially tax-advantaged IRAs from which account holders can withdraw cash at any time for any reason.

ACLI publicly opposed Lifetime Savings Accounts, which would compete with some insurers' products such as annuities, cash-value whole-life plans, and 401(k)s. So when Pamela Olson cashed out of the Bush Administration in 2004, returning to Skadden Arps, ACLI retained her. A 2005 Skadden Arps lobbying registration lists Olson as the firm's sole lobbyist for ACLI. From 2005 through the end of 2009, Olson lobbied on taxes for ACLI. It was in this period that Democrats fought back two efforts to permanently repeal the estate tax.

Of course, a powerful lobby operation needs to grease the skids of Congress. To that end, the American Council of Life Insurers operates a good-sized political action committee. The PAC has steadily shifted its partisan leanings over the past decade from overwhelmingly supporting Republicans to overwhelmingly favoring Democrats (see chart).



ACLI's PAC spent $659,400 in the 2008 election, which is more than many politically active industry lobbies. For instance, the health insurance lobby's PAC – America's Health Insurance Plans – spent $617,200 in the same period, while the Managed Funds Association's PAC (representing hedge funds) spent $250,900. The nation's largest PAC – the National Association of Realtor's PAC – spent $4.02 million.

ACLI's partisan shift has been stark. In 1998, 74 percent of the PAC's contributions to individual candidates went to Republicans. Even more striking, ACLI gave $101,500 to Republican committees and PACs – such as $30,000 to the National Republican Senatorial Committee, $15,000 to the National Republican Congressional Committee, and thousands to PACs operated by Republican leaders Trent Lott, Newt Gingrich, Tom DeLay, and John Boehner – and not a dime to Democratic committees or PACs. All considered, then, that election ACLI spent 77 percent of its PAC money to elect Republicans.

The same story was true in the 2000 and 2002 elections, when ACLI's PAC spent 80 and 76 percent, respectively, on Republicans. Since then – when Republicans began pushing permanent estate tax repeal – the PAC has tacked hard to the Left. The GOP percentage of ACLI money fell to 59 percent for the 2004 and 2006 elections, and since then, the PAC has favored Democrats. In the first seven quarters of the 2010 elections (including all of 2009 and the first nine months of 2010), ACLI favored Democrats with its giving to House candidates, Senate candidates, and PACs. In the House, where Republicans took over the majority, as expected, ACLI favored Democrats by a 2-to-1 margin.

The Ricchetti Brothers and the Coalition for America's Priorities

In 2005, the life insurance lobby quietly launched a front organization called the Coalition for America's Priorities. The group took out radio, print, and television ads, including the "Leave no Heiress Behind" TV spot featuring a Paris Hilton-inspired heiress thanking Republicans for trying to kill the death tax.

Steve Ricchetti founded the Coalition. He was also a lobbyist for the Association of Advanced Life Underwriting, another life-insurance industry lobby.

Steve Ricchetti had been the top lobbyist for Blue Cross/Blue Shield in the late 1980s before taking over the Democratic Senatorial Campaign Committee as executive director in 1990. He then joined Bill Clinton's White House, first as the liaison to the Senate, and then as deputy chief of staff. Upon leaving the White House, he launched his own lobbying firm, Ricchetti, Inc. with his brother Jeff.

Jeff Ricchetti was a lobbyist for the Podesta Group, co-founded by Clinton's White House chief of staff John Podesta, who later would serve as Obama's transition director and president of the Center for American Progress. In 1999, Jeff, along with Tony Podesta (John's brother) registered as lobbyists for ACLI, lobbying on tax issues.

ACLI dropped the Podesta Group as its lobbyist in late 2000 and hired the newly formed Ricchetti, Inc. The firm's 2001 lobbying registration reports that on ACLI's behalf, the Ricchettis were lobbying on "tax issues, including estate tax repeal."

In 2003 ACLI temporarily dropped Ricchetti, Inc., as its lobbyist (they would reunite in 2009). But the brothers were back in the estate tax game by early 2004, when the Association for Advanced Life Underwriting hired the Ricchetti, Inc. to lobby on "issues affecting estate tax repeal" according to the firm's lobbying registration.

It was on behalf of the AALU that the Ricchettis launched the Coalition for America's Priorities in 2005. The Capitol Hill publication *Roll Call* reported on the group's founding in July 2005, calling Steve Ricchetti a "longtime Clinton confidant," and noting that Clinton pollster Mark Penn (who would later take a top role in Hillary Clinton's presidential run) and Clinton advisor Gene Sperling were both "allied with the group."

Ricchetti told *Roll Call*, “It was our determination that we needed a political and substantive effort to tell the truth about what is really at stake here.” But Ricchetti never disclosed what was at stake for his clients, the life insurers, who were paying for this campaign.

Marc Cadin, vice president of legislative affairs at AALU, and thus the top lobbyist there, talked to *National Underwriter* in 2007 about the industry’s effort “to make permanent repeal politically unpalatable.” *NU* reported:

> To that end, the AALU-backed Coalition for America's Priorities unveiled a TV ad earlier this year featuring a Paris Hilton look-alike describing the prospect of permanent repeal as "awesome."
>
> "Make no mistake: Members of Congress do politics for a living," said Cadin. "So coming up with what's dubbed the Paris Hilton tax cut was sure political genius. It provided [political cover] for politicians who want to be in the reform camp."

The Coalition registered as a non-profit advocacy body, under section 501(c)4 of the tax code. The organization’s tax forms show that in 2006, it spent $1.54 million. Of that, $1.1 million was on advertising, while about $382,000 went to “consulting fees” and “issue advocacy,” – meaning it went to pay the lobbyists running the group.

Three of the coalition’s five directors were lobbyists: Steve and Jeff Ricchetti were the treasurer and secretary, respectively, of the group, while Democratic lobbyist Ronald Platt was also a director.

In addition to the TV ad, the coalition ran newspaper ads featuring a lavishly-dressed model supposed to be an heiress, accompanied by the words, “The last thing a rich heiress needs is a one trillion dollar raise in her allowance.”

In 2007 and 2008, tax records show the coalition spending about a quarter million on continued consulting and lobbying fees, but no big ad buys.

Since 2000, Jeff Ricchetti and his wife have given about $136,000 to Democratic candidates according to the Center for Responsive Politics. Steve Ricchetti has given about $200,000.

Warren Buffett

The most famous lobbyist for the estate tax is billionaire investment mogul Warren Buffett. Buffett has been fighting for a decade to preserve the tax, and in 2007, he made his case in testimony to the Senate Finance Committee.

"Dynastic wealth, the enemy of a meritocracy, is on the rise," Buffett said, "Equality of opportunity has been on the decline. A progressive and meaningful estate tax is needed to curb the movement of a democracy toward a plutocracy."

As the second-richest man in America, Buffett's heirs could face a hefty estate tax bill (however, by giving much of his wealth to the Buffett Foundation and the Gates Foundation, the "Oracle of Omaha" limits his estate-tax exposure). But until then, the tax is enriching him.

Buffett's company, Berkshire Hathaway, is far more involved with property and casualty insurance, but it does have small holdings in life insurance. Berkshire owns General Re Life, IdeaLife Insurance, Central States Indemnity Life, Berkshire Hathaway Life Insurance Co. of Nebraska and First Berkshire Hathaway Life Insurance Co.

Life insurance plays a very small role in Berkshire's size and Buffett's wealth – his property and casualty insurance businesses collect more than 500 times as much in premiums as his life insurance businesses – but it still pokes a hole in Buffett's populist arguments, because he is helping people avoid the estate tax that he thinks should be higher.

More than once, Buffett has bought up family businesses facing the estate tax – another way in which he benefits from the tax.

Independent Agents Favor Repeal

The Independent Insurance Agents and Brokers of America, known as "The Big I," actually favors repeal of the estate tax. The IIABA is smaller than the other trade groups, spending only about $1 million on lobbying each year. Put another way, ACLI spends in a day what The IIABI spends in a week.

For instance, in 2005, when the House passed the Death Tax Repeal Permanency Act, The Big I's top lobbyist Charles E. Symington Jr. said, "The death tax disproportionately and negatively impacts small and family-owned businesses, which are crucial to our nation's economy. The reemergence of this tax could lead to more small-business failures and hinder the perpetuation of family-owned small businesses."

The IIABA is a member of the Family Business Estate Tax Coalition, led by the National Federation of Independent Businesses, which spent the last decade lobbying to repeal the estate tax.

The IIABA's clients deal more in property and casualty insurance than in life insurance, but there are other reasons the group would have different interests than the big insurance lobbies.

Independent agents, as opposed to agents working for the insurance giants, are small businessmen and entrepreneurs – a class that is more conservative politically and potentially affected by the estate tax. Also, independent agents, more than captive agents for large firms, depend on personal networks, friendship, and trust, and so thus they are less likely to lobby against their clients' interests. Also, relying more on personal relationships, it's in the interest of independent agents for small businesses to stay within the same family.

The "Big I" might reflect the industry's views more accurately than the ACLI and the AALU. A 2008 survey of life insurance agents found that most of them don't like the tax. *Investment News* reported: "Surprisingly, 52% of the 316 advisers who responded to the survey's question about whether the estate tax should be abolished said that it should."

The magazine quoted life insurance agent Leon Rousso, who owns his agency, saying of the estate tax, "It works great for life insurance agents, and I am one, But as a citizen of the country, I think it's kind of ridiculous."

After Democrats took control of the White House and Congress – and the prospect of permanently repealing the estate tax became slim – the Big I and the Family Business Estate Tax Coalition adapted its tactics, and began supporting "reform" rather than repeal. They backed a bill sponsored by Senators Jon Kyl and Blanche Lincoln that would permanently set the top estate tax rate at 35 percent, and would exempt the first $5 million of an estate (an amount that would be indexed for inflation).

Summary and Conclusions

The estate tax is a major source of revenue for the life insurance industry, which lobbies aggressively – with large budgets – in order to preserve the tax. This adds a dimension of irony to the populist arguments against repeal, especially considering the wealth and political connection of the life insurance lobbyists at the forefront of this fight.

While estate tax advocates call repeal a gift to heiresses, estate tax protection is a gift to a huge industry with well-funded, politically-connected lobbyists.

About the Authors

Timothy P. Carney is the senior political columnist at the *Washington Examiner* and the author of *Obamanomics*. His first book, *The Big Ripoff: How Big Business and Big Government Steal Your Money* won the Templeton Enterprise Award from the Intercollegiate Studies Institute and the 2006 Lysander Spooner Award for the "best book on liberty." A protege of veteran columnist Robert Novak, Tim was senior reporter at the *Evans-Novak Political Report* and became editor when Novak retired in 2008. Tim's work has appeared in the *Wall Street Journal*, *New York Post*, *American Spectator*, *American Conservative*, Huffington Post, National Review Online, *Human Events*, and many other publications. He is a regular on Fox Business Network, and he has appeared on McLaughlin Group, *Hardball*, and other shows on CNBC, MSNBC, FOX, and CNN. Tim, a New York native and an alumnus of St. John's College in Annapolis, lives near Washington, D.C. with his wife and three children.

Dick Patten is the President of the American Family Business Foundation and the American Family Business Institute. He is a well-recognized expert on the federal estate tax and its impact on family business owners and farmers, employment, and other economic issues, the relevant tax law, and the history of the death tax repeal movement. Dick has authored op-eds in the *Christian Science Monitor*, *Washington Times*, *Human Events,* and many other publications. He is regular broadcast guest, and has appeared on FOX Business, National Public Radio, Marketplace, Associated Press Radio and other national and local programs across the country.

About the American Family Business Foundation

The American Family Business Foundation (AFBF) is the research and education voice of America's family business owners and farmers. Established in 2008, the Foundation publishes reports that examine critical policy questions about the impact of the estate tax on capital accumulation, family businesses, employment, income mobility and wealth disparity, federal revenues and the general economy. In addition to academic research, the Foundation hosts educational events to contribute to the public debate about the estate tax. Finally, the Foundation's principals are policy experts that are frequently called upon to provide insight on estate tax issues.