

OPINION

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VIEWPOINT

Proposed IRS rules Threaten Austin businesses

It's never good economics to tamper with basic principles of valuation, family relationships and business planning. Not that that's stopped the IRS in the past, but now the tax agency is trying to go so far over the line that they're threatening one of the pillars of American society and commerce - - the family business.

The IRS's latest grab could hit the core of Austin's economy disproportionately hard. The agency's proposed changes to Section 2704 may sharply reduce a favorable tax environment on which many tech and life science entrepreneurs rely, potentially force small and mid-size family businesses to sell-off in order to pay higher estate and gift taxes, and severely impact fractional interests in real estate that have been part of Austin's recent appreciation trend.

Sweeping changes proposed by the IRS to estate and gift tax regulations would increase by as much as 50 percent the federal estate taxes on transfers of the ownership in family companies and other assets from one generation to the next through an estate or gift. These changes to Section 2704 will be open for public comment until Nov. 2; a public hearing is set Dec. 1, with official enactment occurring as quickly as 30 days later.

As the negative effects of these proposed revisions on the financial health and viability of many family companies are being recognized, a significant opposition is developing among family company owners and their tax advisors, financial planners and valuation experts. But since the IRS is attempting to enact the changes unilaterally and entirely administratively - having been rebuffed by Congress for many years - threatened business owners need to

take steps immediately to protect their assets from being exposed as soon as early next year.

In order to impose higher taxes on family business owners, the new regulations would remove long-recognized ways of valuing closely held and thinly traded equity interests.

Owners of closely-held businesses will be faced with much larger taxes when interests in the business are transferred. In the near-term, this will strongly disincentivize continuation of family-owned businesses. Longer-term, it could force the sale of closely-held businesses in order to pay the substantially higher estate taxes.

Steps individual companies can take to protect themselves will vary according to specific situations. Family company owners need to consult immediately with their estate and financial planning advisors to review and evaluate the proposed regulations and possible gifting/planning strategies to mitigate their impact.

Also important is for everyone who believes these proposed regulations will have a negative effect on family companies and, in turn, on the U.S. economy as a whole, to write/email/and call their congressman and senators to register their opinions and begin laying the foundation for Congress to roll-back this unwise, uneconomic, family-unfriendly regulation if the IRS is able to push it through administratively.

Sonia Desai and Jared C. Jordan are executives at HSSK LLC, a business valuation, litigation consulting and financial restructuring advisement firm.