



Informs ■ Educates ■ Advocates

## **Issue**

### **To Repatriate Unclaimed Veterans' Cremated Remains**

#### **Background**

Currently, many funeral homes across the country are holding the cremated remains of veterans that have been unclaimed by family members or relatives. NFDA strongly believes that these remains should be properly identified and given the proper burial or internment along with the appropriate military honors.

#### **Problem**

The issue here is how best to identify these remains and see that they receive a proper burial or internment in a recognized Veterans Cemetery with appropriate military honors. In that regard, legislation has been introduced to repatriate unclaimed cremated remains of veterans held by funeral directors.

The bill, H.R. 2051, would direct the Secretary of Veterans Affairs to work with veteran service organizations and other groups in assisting funeral homes, in possession of unidentified or abandoned remains, in determining if the remains are that of a veteran eligible for burial at a National Cemetery. If remains are determined to be that of an eligible veteran, there is no next of kin, and there are no available resources to cover burial and funeral expenses, then the Secretary of Veterans Affairs shall cover the cost of burial. In addition, the bill would call on the Secretary of Veterans Affairs to establish a public database of the veterans identified in this project.

#### **Congressional Solution**

Pass H.R. 2051 and send it to the President for his signature.

## **Issue**

### **Codify the SSI Exclusion for Irrevocable Funeral and Burial Trusts**

#### **Background**

Under current regulations, the Supplemental Security Income Program (SSI) provides that funds set aside by low income individuals in an irrevocable funeral/burial trust to pay for funeral and burial expenses are not treated as resources when determining an applicant's eligibility for SSI. By providing this exclusion, Congress and the Social Security Administration (SSA) have recognized that funeral planning is good social policy – especially for low-income individuals. Pre-need funeral planning and funding actually saves federal, state and local governments money as it encourages individuals to pay for their funeral and burial with funds set aside in advance, thus avoiding government-funded indigent funerals.

#### **Problem**

Without this exclusion, many SSI recipients would die without adequate funds for a dignified funeral and burial. Without this exclusion, state and local governments would be forced to allocate public monies to fund this expense, which is currently being covered by the SSI recipient using personal monies under the funeral funds exclusion. This option is problematic since many state and local governments are eliminating or severely reducing indigent funeral and burial funds due to the current economic downturn.

The problem is that the irrevocable funeral trust exclusion is a regulatory exclusion and is subject to unilateral agency revocation. This accidentally occurred in 2001 when SSA misinterpreted SSI anti-fraud legislation passed by Congress and repealed this regulatory exclusion. This caused considerable concern for many low income SSI applicants whose applications were held up pending resolution of this issue. While NFDA was successful in convincing SSA that its interpretation was incorrect, this situation could occur again.

#### **Congressional Solution**

To prevent further uncertainty and to prevent this situation from happening again, NFDA supports passage of legislation (H.R. 935/S.863) to codify this exclusion. It is important to note that this bill does not change the current regulation, it merely codifies it.

## **Issue**

### **To Make Permanent the Current Federal Estate Tax**

#### **Background**

Under current law, estate taxes are paid by the estate of a decedent on the value of assets owned at the time of death in accordance with a graduated scale. As a result of Congress passing H.R. 4853, the “Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010” which was signed into law by President Obama as Public Law 111-312, the estate tax has been extended for two years until December 31, 2012. Among other things, the law sets the exclusion at \$5 million dollars (\$10 million for a couple) and lowers the tax rate above that limit to 35%. Unless Congress acts otherwise, it will automatically revert to the 2001 exclusion of \$1 million dollars (\$2 million for couples) and a tax rate of 55% for everything above that limit starting January 1, 2013.

#### **Problem**

In order to recognize and preserve the heritage and strength of family-owned businesses, it is absolutely critical that federal tax laws not penalize or otherwise prevent the tax-free transfer of family business ownership at death to other family members. To emphasize this point, a recent survey of NFDA members revealed the following:

- Under the current federal estate tax, 36% of NFDA members would have to sell all or part of their business if the current owner died, and 33% said they would have to borrow money to pay the federal estate tax. In addition, many indicated that they have purchased large insurance policies to pay for the estate tax which further reduces resources that could be used productively in the business.
- If the owner of their firm died, most members (62%) stated that they would be forced to eliminate between one to four jobs under the current estate tax laws.
- If they did not have to set aside, buy insurance, or borrow money to pay the federal estate tax, most funeral homes (over 60%) would be able to create between one and four additional new jobs, fund business operations, salaries and other worker benefits as well as community outreach programs.

#### **Congressional Solution**

The best solution to the current federal estate tax situation would be to permanently repeal it. However, in the alternative, Congress should make permanent the current estate tax laws.