

U.S. Private Enterprise Council

Family-Owned Restaurant (New Hampshire)

Tony and Stephanie acquired a local bakery whose owner was retiring in 2002 for \$300,000. Tony worked at a pizza joint and Sharon was a bookkeeper at local doctor's office when they decided to make the purchase. Their combined talents translated into great success for the bakery which had been a stalwart in the community for over three decades. Tony and Stephanie opened an identical shop in a neighboring town to offer their famous loaves of bread and delectable pastries to a wider base of customers. Soon after, their daughter, Kristen, joined the family business, which freed up Tony and Stephanie to focus on expanding into new locations all across the area. Sadly, Stephanie's health began to fail and she passed away shortly afterwards.

In 2007, Tony updated his will to pass control of the business down to Kristen to carry on it on after his death. Between 2007 and when he subsequently passed in 2018, Bob paid taxes on any income he derived from the business. Following his death, ownership and control of the business was passed to Kristen under the terms of the will. Kristen has no plans to sell the business which is now valued at \$3.17 million thanks to the facilities, equipment and steady cash flow it maintains. However, as a result of new tax proposals from President Biden and some in Congress, Kristen could face an additional unexpected \$813,750 federal tax bill (i.e. the "Zombie" tax) just to carry on the family business if these become law:

Family-Owned Restaurant - New Hampshire		Current Capital Gains Tax Treatment	
Zombie Tax Treatment		<i>Currently, gains on small businesses, family- or privately-owned enterprises, farms or ranches are <u>intentionally</u> not subject to federal capital gains taxes when they are passed on to family members or heirs to hold or continue their operations. If sold, however, they are subject to federal capital gains taxes.</i>	
Current Value	\$3,175,000		
Original Investment	<u>\$300,000</u>		
Accumulated Value	\$2,875,000		
Capital Gains Tax Exemption	<u>\$1,000,000</u>		
Taxable Amount	<u>\$1,875,000</u>		
Federal Capital Gains Taxes (*43.4%)	\$813,750		
Estate Tax Treatment		Estate Tax Treatment	
Taxable Estate	\$2,361,250	Taxable Estate	\$3,175,000
Estate Tax Exemption	<u>\$11,700,000</u>	Estate Tax Exemption	<u>\$11,700,000</u>
Taxable Amount	\$0	Taxable Amount	\$0
Estate Tax (40%)	\$0	Estate Tax (40%)	\$0
TOTAL NEW TAX LIABILITY	\$813,750	CURRENT TAX LIABILITY	\$0
* Proposed 39.6% capital gains + 3.8% NIIT			
New Hampshire does not have a separate state cap gains tax		New "ZOMBIE TAX" Liability to IRS	\$813,750

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Metal Fabrication Co. (New Hampshire)

Larry took a huge risk and left a well-paying, executive level job at a mineral processing company to buy a struggling rival in 1996 for \$7.5 million. Larry grew the business to unimaginable heights all while raising his son, Kevin, all by himself following the unexpected death of his wife. The two were inseparable, and once Kevin graduated from business school on the West Coast, he came back to New Hampshire to help his dad run the company. Together they managed a highly profitable business. They invested heavily in new machinery and acquired several struggling mines nearby at steep discounts to expand their operation.

In 2011, Larry created a will to pass control of the business down Kevin to carry it on after his death. Between 2011 and when he subsequently passed in 2021, Larry paid taxes on any income he derived from the business. Following his death, ownership and control of the business was passed to Kevin under the terms of the will. Kevin has no plans to sell the business which is now valued at \$45 million thanks to the mining rights, equipment, and inventory that it maintains. Kevin has one young daughter of his own that might possibly serve as the third generation to own and operate the business. However, as a result of new tax proposals from President Biden and some in Congress, Kevin could face an additional unexpected \$9,504,600 federal tax bill (i.e. the "Zombie" tax) just to carry on the family business if these become law:

Metal Fabrication Co. - New Hampshire		Current Capital Gains Tax Treatment	
Zombie Tax Treatment		<i>Currently, gains on small businesses, family- or privately-owned enterprises, farms or ranches are <u>intentionally</u> not subject to federal capital gains taxes when they are passed on to family members or heirs to hold or continue their operations. If sold, however, they are subject to federal capital gains taxes.</i>	
Current Value	\$45,000,000		
Original Investment	<u>\$7,500,000</u>		
Accumulated Value	\$37,500,000		
Capital Gains Tax Exemption	<u>\$1,000,000</u>		
Taxable Amount	<u>\$36,500,000</u>		
Federal Capital Gains Taxes (*43.4%)	\$15,841,000		
Estate Tax Treatment		Estate Tax Treatment	
Taxable Estate	\$29,159,000	Taxable Estate	\$45,000,000
Estate Tax Exemption	<u>\$11,700,000</u>	Estate Tax Exemption	<u>\$11,700,000</u>
Taxable Amount	<u>\$17,459,000</u>	Taxable Amount	<u>\$33,300,000</u>
Estate Tax (40%)	\$6,983,600	Estate Tax (40%)	\$13,320,000
TOTAL NEW TAX LIABILITY	\$22,824,600	CURRENT TAX LIABILITY	\$13,320,000
* Proposed 39.6% capital gains + 3.8% NIIT			
New Hampshire does not have a separate state cap gains tax		New "ZOMBIE TAX" Liability to IRS	\$9,504,600