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LB 140

PRESIDENT: One minute.

SENATOR CONWAY: From a legal perspective, I think that without question you can do that, no different than you would on an IRA or anything else that...for instance, we do a continual recapture whenever anybody under a depreciation schedule when, in fact, depreciation didn't unfold as it was scheduled. We take a straight line or accelerate it and then something does last or is worth more, like we do a house, then we go back and we recapture it and the county procedures are well designed to do that and the recapture actually would be more detrimental to them because if they had to recapture and show, let's say accumulated \$15,000, if you recapture that \$15,000, you'd have to recapture that in one year which, in essence, because of escalated rates, you would actually pay more tax because of recapturing a whole amount than what little minimal reduction on a marginal scale you would have taken each of those progressive years. So it would be detrimental, plus there is also a 10 percent penalty on top of that, so it does make you think...the kid better fall out of pretty serious grace before you would want to do that.

SENATOR MOORE: But you're saying that there is no question in your mind there would be no...there is no way if that uncle really wanted to play hardball with the state saying, that first ten years the statute of limitations ran out and you can't get it, there is no way legally he can do that.

SENATOR CONWAY: I believe under these kinds of provisions you can because the statute of limitations doesn't run out on a linked function where you're on contract and following that schedule. You would have one in terms of I think, what, a six-year limitation in terms of going back to audit unless something has been on file or you've got a contractual arrangement otherwise. So the statute of limitations would be at the point of discovery and we'd have to get into a...probably an attorney that understands this completely to explain that, but under a linked function you can keep going back as long as you can see that someone agreed to something and continually stayed within that...(interruption).

PRESIDENT: Time.

SENATOR MOORE: Okay.