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New Jersey Estate Tax Repeal

On Oct. 14, Governor Christie signed new tax legislation that makes sweeping changes to New Jersey death taxes.

Key Points:

- > Repeals Estate Tax for Decedents dying on or after Jan. 1, 2018
- > Increases Exclusion Amount from \$675,000 to \$2,000,000 for Decedents dying on or after Jan. 1, 2017

New Jersey has two separate types of death taxes: the New Jersey estate tax and the New Jersey inheritance tax. Under the new law, the New Jersey estate tax is repealed effective Jan. 1, 2018, but the New Jersey inheritance tax will remain in effect.

The difference between the two taxes is that the estate tax is calculated at variable rates based on the total amount of the decedent's taxable estate. While the value of the taxable estate is reduced for transfers to spouses and charitable organizations, the tax would apply to transfers to all other recipients, including children. For example, for a 2016 estate valued at \$3,500,000 passing to children, the estate would owe a \$229,200 New Jersey estate tax. This tax would be reduced to \$129,600 for 2017 estates and eliminated completely beginning in 2018.

By contrast, the New Jersey inheritance tax works differently. This tax is based upon the relationship of the recipient to the decedent. Notably, the inheritance tax exempts transfers to spouses, children, and lineal descendants in any amount. While certain relatives receive preferential tax rates, the inheritance tax on all others is a flat tax of 15-16 percent. Furthermore, the inheritance tax is imposed on amounts starting at just \$500. For example, assets valued at just \$100,000 passing to close friends would generate a \$15,000 New Jersey inheritance tax.

Practical Implications

With this change in the law, many estate plans will likely need to be revised to avoid unintended consequences. For example, a common planning technique of funding tax shelter trusts by formula will need to be reviewed and revised to prevent the unnecessary funding of certain trusts and the possible disinheritance of a spouse. In addition, the new law may affect how assets get divided between beneficiaries and what assets qualify for a step-up cost basis.

Additional Changes

- > Beginning Nov. 1, 2016, the New Jersey tax on gasoline will increase by 23 cents per gallon—from 14.5 cents to 37.5 cents. This is the first increase since 1988.
- > Beginning on Jan. 1, 2017, the New Jersey sales tax will decrease from 7 percent to 6.875 percent ; on Jan. 1, 2018, the sales tax will decrease to 6.625 percent.
- > The earned income tax credit will increase from 30 percent to 35 percent of the federal credit for taxable years beginning on or after Jan. 1, 2016.
- > Veterans who were honorably discharged or honorably released from service will receive a personal exemption from income tax equal to \$3,000.

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