



TRUSTS & ESTATES LAW UPDATE

FALL 2016

New Jersey Enacts Estate Tax Repeal

Governor Christie recently signed into law a comprehensive transportation funding law that also included the repeal of the New Jersey Estate Tax and other tax cuts. Here is a summary:

- The New Jersey Estate Tax repeal will be effective for people dying on or after January 1, 2018. The current \$675,000 exemption will increase to a \$2,000,000 exemption for people dying on or after January 1, 2017.
- New Jersey will increase its gross income tax exclusion on pension or retirement income over four years to \$100,000 for couples, \$75,000 for individuals, and \$50,000 for married taxpayers who file separately.
- The New Jersey sales tax will be reduced from 7% to 6.875% on January 1, 2017 and reduced to 6.625% on January 1, 2018.
- The New Jersey Inheritance Tax will remain intact. This tax is imposed on transfers of certain assets to beneficiaries who are not spouses, parents, children or grandchildren (i.e., nieces, nephews, siblings, friends, etc.). New Jersey Inheritance Tax rates start at 11% and go as high as 16%.

Federal Estate Tax

- The lifetime gift and estate tax exclusion amount rises to \$5.49 million in 2017.
- The annual exclusion amount for gifts remains at \$14,000.
- The effective tax rate for the estate and gift tax remains at 40%.
- Portability of the lifetime exclusion unused by a deceased spouse is still available, if elected, after death of the first spouse.

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What this means to you?

The repeal of the New Jersey estate tax will hopefully help convince New Jersey residents who have otherwise contemplated moving out of state into staying permanent residents of New Jersey.

The estate tax repeal does not eliminate other issues to consider during the planning process:

Revocable Trusts. Designed a probate avoidance vehicle, Revocable Trusts are fast becoming a beneficial estate planning tool. In addition to keeping the terms of your estate plan private, they will also ease the administrative process after death. In New Jersey, it is still required that tax waivers be issued in order to transfer certain financial accounts after death. Obtaining these waivers can delay access to cash and transferring inherited assets to the beneficiaries. Because the tax waiver requirements do not apply to assets held in a decedent's revocable trust, a revocable trust is a strategy that should be evaluated during the estate planning process. Clients with real property in jurisdictions other than New Jersey should also consider a revocable trust to avoid unnecessary ancillary probate regulations.

Spendthrift/Dynasty Trusts. While estate taxes may have played an important part in creating an estate plan, there are many other factors such as: second marriages, minor or disabled beneficiaries, divorce protection for beneficiaries, or creditor concerns, continue to justify the importance that trusts play in a solid estate plan. Please contact us if you need to address any of these concerns in your plan.

Review Outdated Estate Plans. It is critical that all estate planning documents and overall estate plan be reviewed in light of the new law in order to avoid unwanted estate tax and asset transfer consequences and to maximize the benefits available under the new law. Most tax sensitive estate plans implemented after 2001 were established using a disclaimer formula; however, if your estate plan includes a mandatory bequest tied to the New Jersey estate tax exemption (or the amount that could pass free of federal or state estate tax), you may wish to revisit your plan to be sure it continues to carry out your wishes.

Asset Titling/Beneficiary Designations. This is also an appropriate time to review the ownership of your assets to confirm that the manner in which you own your assets is coordinated with your estate planning documents. In addition, this may also be a good time to confirm who are the beneficiaries of your retirement plans and life insurance policies to ensure that they too are consistent with your estate planning objectives.

Do we have your current contact information and email address?

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