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THE IMPENDING DEATH OF NEW JERSEY ESTATE TAX

On October 14, New Jersey Governor Chris Christie signed a bill which will phase out and eventually completely eliminate the New Jersey estate tax.

Under the current law, New Jersey estate tax is applicable to estates that exceed \$675,000 in value (the lowest “estate tax exemption amount” in the country), when such assets pass to anyone other than a spouse or charity. Under the new law, the exemption amount will increase to \$2 million for residents who die in 2017, and beginning January 1, 2018, the estate tax will be completely eliminated. It should be pointed out that the New Jersey estate tax is in addition to and separate from the federal estate tax (which currently has an exemption amount of \$5.45 million, which is indexed for inflation and increases annually).

This estate tax phase-out was part of a compromise needed in order to get the primary component of this new legislation passed – a 23 cent per gallon tax hike on gasoline. By passing this new legislation, New Jersey will lose the annual estate tax revenue of approximately \$320 million. However this loss in revenue will be more than offset by the new gas revenue which is expected to be \$1.23 billion per year.

Another tax that will not be affected by the new legislation is the New Jersey Inheritance Tax. This tax is only levied upon inheritances left to non-lineal family members (i.e. siblings, nephews and nieces) and friends, and has an exemption amount of only \$500.

The new law will most definitely bring about changes to current estate planning techniques used for New Jersey residents. For example, one piece of advice commonly given to New Jersey clients is that they should transfer their life insurance policies to an irrevocable trust, so that the death benefit is not included in their estate for estate tax purposes. Once the complete phase-out takes effect in 2018, such a transfer will no longer be necessary *from a tax standpoint*, in a situation where the death benefit combined with other estate assets will not exceed the federal estate tax exemption amount. Furthermore, existing estate planning documents, which were drafted with New Jersey estate tax as a major influence, may need to be revised, now that estate tax will no longer be a concern.

It is important to note, that while these changes are significant, they do not diminish the necessity of proper estate planning. Estate planning generally, and trusts in particular, provide clarity with respect to distribution of assets among heirs, and address and resolve a host of other practical non-tax issues such as asset protection, concerns about minors receiving large sums, maintaining eligibility for government benefits, etc.

Please contact our firm to discuss estate planning strategies based on your specific circumstances, and to determine whether your existing documents need to be updated.

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