

## NEW TAX LAW FOR NEW JERSEY RESIDENTS

The September 29<sup>th</sup> Hoboken train crash was tragic but it may have prompted both sides of the NJ state government to reach a compromise on a new tax bill. Not long before the crash, the Governor had suspended all transportation infrastructure spending. The State Transportation Trust Fund had literally just run out of money, and republicans and democrats could not agree on a plan to replenish the fund. Infrastructure projects around the state came to a grinding halt. But just days after the crash, the parties reached an agreement. It seems the accident was enough to break the impasse.

The headline tax change is the 23 cent per gallon gas hike effective November 1. Fill your tanks up at the end of the month! But note that even with the tax hike, New Jersey gas will still have a lesser tax per gallon than either Pennsylvania or New York. So, while many New York and Pennsylvania residents may stop coming to Jersey to fill up as the difference is now small, we won't be leaving the state to fill up either. According to my math, this will cost the average driver about \$170 per year.

The good news, in addition to resumed spending on infrastructure, is in the rest of the law. The new law will increase the earned income tax credit for low income tax payers, create a tax deduction for veterans, and it will cut the sales tax by three-eighths of a percent.

The even better news is that the estate tax will be eliminated over time, and residents drawing from retirement accounts will pay less New Jersey tax on those withdrawals. For full details on these last two items, I asked my friend, and long-time tax attorney, Bruce Mantell to explain the law. His explanation follows. If you have any questions about the changes, please give us a call.

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## DEATH OF THE NEW JERSEY ESTATE TAX

Benjamin Franklin declared that the only two sure things in life are death and taxes. Well, to some extent, New Jersey residents will no longer need to be concerned with the New Jersey Estate Tax beginning in 2018 since it has been repealed, effective January 1, 2018. As such, New Jersey's reputation as "the worst state in which to die" will no longer apply.

On September 30, 2016, the fight over how to replenish the state's transportation trust fund that pitted Governor Chris Christie, a Republican, against Senate President, Stephen Sweeney, and Assembly Speaker, Vincent Prieto, both Democrats, ended in a compromise, drastically altering the landscape of the taxation of New Jersey residents' estates. The Governor signed the new law on Friday, October 14, 2016.

The new law, which will go into effect on November 1, 2016, addresses a number of areas of taxation, not only the New Jersey Estate Tax. In addition to an increase in the gas tax, a slight decrease in the sales tax, and tax breaks for veterans and lower-income families, the compromise eliminates the New Jersey Estate Tax on January 1, 2018 and increases the New Jersey Gross-Income-Tax Exclusion on pension and retirement income over a four year period.

### **What was so bad about passing away as a New Jersey resident?**

Before the January 1, 2018 effective date of the repeal of the New Jersey Estate Tax, New Jersey will continue to be a less than ideal place to die. A national outlier, New Jersey levies taxes on both the value of a decedent's estate at death (the estate tax), until the repeal is effective, and, in certain circumstances, on the amount of the inheritance a beneficiary receives (the inheritance tax). New Jersey is also one of only approximately 30% of states that impose an estate tax. And New Jersey is one of only a very few states that impose an inheritance tax. In fact, only New Jersey and Maryland impose both an estate tax and an inheritance tax.

### **What was the New Jersey Estate Tax before the Repeal?**

Before the effective date of the repeal, the New Jersey Estate Tax applies to all estates which are valued at \$675,000 or more. Generally, an estate's value consists of a variety of assets including, but not limited to, real estate, bank accounts, retirement accounts, life insurance, business interests, and other assets owned by a person at death. Because of this rather expansive definition, and the low threshold for the imposition of the tax, New Jersey's Estate Tax applies to more estates than in any other state in the country on a percent basis. Of the other states that impose an estate tax, all their thresholds are decidedly higher than New Jersey's \$675,000 exemption. In fact, some of the states that have an estate tax peg the threshold at the federal level which is currently \$5.45 million.

### **How has the New Jersey Estate Tax changed?**

The New Jersey Estate Tax will be phased out rather quickly. That is, the new law calls for the elimination of the New Jersey Estate Tax over the course of the next 15 months. For those New Jersey residents dying before January 1, 2017, their estates will still be taxed at the \$675,000 threshold. For those dying in 2017, the threshold will increase to \$2 million. For decedents dying after December 31, 2017, there will no longer be a New Jersey estate tax.

### **Has the New Jersey Inheritance Tax changed?**

The new law eliminates the New Jersey Estate Tax but leaves the New Jersey Inheritance Tax intact. The New Jersey Inheritance Tax is imposed on amounts passing to beneficiaries other than close relatives, (i.e., parents, spouses, children, and grandchildren). It continues to be imposed upon inheritances received by brothers, sisters, cousins and friends. The New Jersey Inheritance Tax rates range from 11% to 16% of the inheritance depending upon the relationship of the beneficiary and the value of the amount inherited.

### **The new law also increases the Retirement Income Exclusion.**

The new law also increases the New Jersey Gross-Income-Tax Exclusion on pension and other forms of retirement income by providing that the exclusion rises gradually over the course of four years. Currently, the exclusion is \$20,000 for those filing jointly, \$15,000 for individuals and \$10,000 for those who are married but file separately. The first rise in the exclusion for all filers, starting on January 1, 2017, doubles the current exclusions to \$40,000 for joint filers, \$30,000 for individuals, and \$20,000 for separate filers. The exclusion continues to increase annually by \$20,000 a year for joint filers, \$15,000 a year for individual filers and \$10,000 a year for those married filing

separately. Accordingly, by 2020, the exclusion will be \$100,000 for joint filers, \$75,000 for individual filers, and \$50,000 for separate filers.

### **What are the takeaways?**

As with the phase out and repeal of the New Jersey Estate Tax, the increase in the Retirement Income Exclusion may change the mind of thousands of retirees and soon-to-be retirees who are forced to consider relocation to a tax-friendlier state. In fact, the Retirement Income Exclusion will impact more New Jersey residents than the repeal of the New Jersey Estate Tax since the former measure affects a vast majority of older New Jersey residents with retirement income. The New Jersey Estate Tax only applies to estates in excess of \$675,000 (estimated to be approximately 5% of all New Jersey decedents).

By making New Jersey more affordable for the living and the families of a deceased person, the state's goal of stemming the outward migration of residents, stimulating the economy, and increasing public revenues by keeping the wealthy in the state, may be better served. Of course, even with the repeal of the New Jersey Estate Tax and the automatic increase in the Retirement Income Exclusion, New Jersey homeowners still pay significant real estate taxes and New Jersey residents remain subject to one of the most burdensome of all state income taxes, the aptly named New Jersey Gross Income Tax. And, it should be noted that many economic pundits are dubious regarding New Jersey's ability to reduce tax revenue at a time when the state has an extremely large budget deficit and its coffers are in great need of replenishment. These same pundits also ponder whether the repeal of the New Jersey Estate Tax on January 1, 2018 is, in fact, disingenuous, leading them to posit that the tax may be reinstated before its repeal ever becomes effective. Bear in mind that the effective date of the New Jersey Estate Tax repeal, January 1, 2018, essentially coincides with the date that the next New Jersey Governor takes office.

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