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NEW JERSEY ESTATE TAX REPEAL

As a result of a compromise with Democratic leaders in the New Jersey Legislature, Governor Christie recently signed legislation that includes a number of changes to New Jersey's estate, income, and sales and use tax laws. The highlights of the new law include a phase out of the New Jersey estate tax by January 1, 2018 and an increase in the gas tax by 23 cents per gallon beginning November 1, 2016.

New Jersey Estate Tax Phased Out

The Federal estate tax exemption is currently \$5.45 million per person, indexed for inflation (increasing to \$5.49 million per person in 2017). New Jersey's estate tax exemption, however, is currently \$675,000 per person. The new legislation provides for a phase-out of the New Jersey estate tax for decedents dying pursuant to the following schedule:

<u>Decedents dying</u>	<u>Exemption</u>
Present through December 31, 2016	\$675,000
January 1, 2017 through December 31, 2017	\$2,000,000
January 1, 2018 and beyond	New Jersey estate tax repealed

New Jersey Inheritance Tax Unaffected

Importantly, the new law does not affect New Jersey's inheritance tax, which is based on the relationship of the beneficiary to the decedent. Spouses, lineal ancestors and descendants, civil union partners, and charities are exempt from the inheritance tax. However, any other beneficiary may be subject to the inheritance tax at a rate of between 11% and 16%, depending on the relationship to the decedent.

Gas Tax Increased

The new law increases the New Jersey gas tax by 23 cents per gallon (to a total of 37.5 cents per gallon) and the diesel tax by 27 cents per gallon (to a total of 44 cents per gallon). These tax increases take effect November 1, 2016.

Sales and Use Tax Decreased

The new law decreases the New Jersey sales and use tax rate. Beginning January 1, 2017, the sales and use tax will be reduced from its current rate of 7% to 6.875%. On January 1, 2018, the sales and use tax will be reduced again to 6.625%.

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Income Tax Changes

There is currently an exclusion of pension and retirement income from state income tax of up to \$20,000 (for married, joint filers), \$15,000 (for single filers), and \$10,000 (for married, separate filers). In order to qualify for this exclusion, a taxpayer (and/or his or her spouse/civil union partner if filing jointly) must (i) have gross income for the entire year before subtracting any pension exclusion not exceeding \$100,000, and (ii) be either 62 years or older on the last day of the tax year, or qualify as disabled under Social Security guidelines. The new law gradually increases the amount of the exclusion over a four-year period, such that by 2020, the exclusion amounts will be \$100,000 (for married, joint filers), \$75,000 (for single filers), and \$50,000 (for married, separate filers).

The new law also increases the Earned Income Tax Credit from 30% to 35% of the Federal benefit amount beginning in 2016.

Finally, the new law allows veterans to exclude \$3,000 of their income from the New Jersey state income tax.

Estate Planning Remains Critical

In light of the new law, New Jersey residents should review their current estate plans and discuss with their tax advisors whether revisions should be made. Many wills and revocable trusts incorporate formulas for funding trusts and bequests that are designed to minimize state estate tax. Changes to these documents may be necessary depending on whether such formulas now result in unintended consequences or unnecessary complication of estate plans for New Jersey residents.

Moreover, putting tax considerations aside, there are still many important reasons for New Jersey residents to be proactive with their estate planning. For example, trusts can continue to be used to ensure that assets pass to intended beneficiaries, control how and when distributions are made, and protect assets from creditors. The repeal of the New Jersey estate tax will, however, remove some of the complication from the estate planning process and allow New Jersey residents to focus on other significant considerations.

If you have any questions or would like additional information about how the New Jersey estate tax repeal may affect your estate planning, please consult your regular contact at Berkowitz, Lichtstein, Kuritsky, Giasullo & Gross or any member of our Trusts and Estates Department at 973-325-7800.

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