

# Estate Planning for the 99%: What the rest of us need to know about Estate Planning

---

November 15, 2012 | by

While much has been written about the tremendous opportunity the current federal estate tax laws provide for individuals with assets over \$5 million (including our August 2012 newsletter), little attention has been paid to individuals with estates of a lesser value who live in New Jersey. If you are one of those people, congratulations, New Jersey has the worst state estate tax regime in the country. Our great state not only has one onerous death tax, but two – the ***New Jersey Estate Tax*** and the ***New Jersey Inheritance Tax***. The ***New Jersey Estate Tax*** is the better known of the two taxes. The tax is imposed on estates of individuals with assets over \$675,000. Amounts passing to a surviving spouse, however, are exempt from the tax. While the tax rates imposed in New Jersey are lower than the federal estate tax rates, they can still be quite significant. In fact, through a strange quirk in the law, the rates start as high as 37% on the first \$52,174 over the exemption, and, thereafter, range from 4.8% to 16%. So, for example, the following taxes will be imposed on New Jersey estates of the following amounts: \$33,200 estate tax on a \$1,000,000 estate; \$64,400 estate tax on a \$1,500,000 estate; \$99,600 estate tax on a \$2,000,000 and a \$229,200 estate tax on a \$3,500,000 estate. These estate tax amounts are not insignificant, and a prudent individual will consider the effect of the New Jersey Estate Tax when determining whether to make gifts this year or in future years. New Jersey does not have a gift tax regime that mirrors the current federal gift tax. Thus, there is an opportunity to gift away assets of less than \$5 million that will not result in the payment of federal gift taxes now and will not be included in the individual's estate for New Jersey Estate Tax purposes in the future. In other words, the gifted assets will be removed from both the Federal and the New Jersey Estate Tax. Many of the techniques that can be implemented to gift assets to beneficiaries are similar to those techniques described in our August 2012 newsletter. In addition, individuals are able to make gifts of \$13,000 (\$26,000 for a married couple) to any beneficiary each year without incurring a gift tax. The gift tax also does not apply to any amounts you pay directly to an educational organization for a beneficiary's tuition or the amounts you pay to a medical institution that provided medical care for the beneficiary. Implementing either the techniques from our August 2012 newsletter or making the gifts described

above, even if not necessary at the federal level, can significantly reduce the New Jersey Estate Tax that may be due at your death.

The lesser known death tax in New Jersey is the ***Inheritance Tax***. The New Jersey Inheritance Tax is less a tax based upon value as it is a tax based upon the relationship between the deceased and the beneficiary. All beneficiaries are assigned to a certain “class.” **There are four classes of beneficiaries:** Class A, Class C, Class D and Class E (Class B was eliminated in 1963). Depending upon the Class that a beneficiary falls into, there may or may not be a New Jersey Inheritance Tax. **Class A beneficiaries** include the decedent’s spouse, civil union partner, children, grandchildren, great grandchildren, step-children, mother, father or grandparents. Bequests to Class A beneficiaries are wholly exempt from New Jersey Inheritance Taxes. **Class C beneficiaries** include the decedent’s siblings, half-siblings, son-in-law, daughter in-law, widow of a deceased son, and widower of a deceased daughter. Bequests to Class C beneficiaries are taxed on amounts in excess of a \$25,000 exemption to each. The first \$1,075,000 over the exemptions, received by Class C beneficiaries, is taxed at 11% and the amount in excess of that figure is taxed at rates from 13% to a maximum of 16%. **Class E beneficiaries** include tax exempt entities such as charities and not-for-profit organizations. Bequests to Class E beneficiaries are wholly exempt from the New Jersey Inheritance Tax. **Class D beneficiaries** include anyone who is not a Class A, C or E beneficiary. So, for example, a nephew, niece, cousin, fiancé, best friend or non-civil union partner are all Class D beneficiaries. Bequests to Class D beneficiaries are taxed on the first dollar (unless the bequest is less than \$500) at rates of 15% up to \$700,000, and 16% in excess of that amount. Example: John is unmarried and has no children. He wishes to leave his \$500,000 estate to his niece and nephew. The New Jersey Inheritance Tax due at John’s death is \$75,000. While an estate will receive a dollar-for-dollar credit against New Jersey Estate Taxes for amounts paid as Inheritance Taxes, the tax can be extremely onerous. While this tax is generally not a concern for most “nuclear families”, for individuals without children it can be the most burdensome tax of all. The Inheritance Tax also proves far more difficult to plan around than the Estate Tax because, in most cases, clients are more reluctant to embark on a lifetime gifting strategy when the intended beneficiaries are not their spouse or children. However, with some careful planning the effect of the tax can be reduced.

For information about how you can reduce Estate and Inheritance Taxes call our [Trust and Estate Department](#) to make an appointment.