

# The Lesser Known “Death Tax”

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## Understanding the Importance for Planning of your Future and your Beneficiaries’ Needs

We all know the saying, “There are two things in life that are unavoidable: death and taxes.” But what about death taxes? Prior to 2018, New Jersey residents often used the terms “estate tax” and “inheritance tax” interchangeably when referencing what was commonly referred to as “death taxes.” In the past, New Jersey residents were subject to the higher of the estate or inheritance tax. While the New Jersey Estate Tax was eliminated for deaths on or after January 1, 2018, the New Jersey Inheritance Tax was never repealed and is a separate tax that is levied on amounts that a *beneficiary* receives (instead of the estate).

Even so, the New Jersey Inheritance Tax is full of idiosyncrasies. New Jersey is one of only six states with such a tax. While most taxes are based upon value, this particular tax is based upon the *relationship* between the deceased and the beneficiary.

### **How Does the New Jersey Inheritance Tax Work?**

Under the New Jersey Inheritance Tax, the tax system separates beneficiaries into one of four distinct “classes”: Class A, Class C, Class D and Class E. (Class B was eliminated in 1963). The class that a beneficiary falls into determines whether there is New Jersey Inheritance Tax owed.

### **How the State of New Jersey Views Each Beneficiary Class**

**Class A:** includes the decedent's spouse, civil union partner, child(ren), grandchild(ren), great-grandchild(ren), step-children, mother, father or grandparent(s). Bequests/distributions to Class A beneficiaries are exempt from New Jersey Inheritance Taxes.

**Class C:** includes the decedent's sibling(s), half-sibling(s), son-in-law(s), daughter-in-law(s), widow of a deceased son, and widower of a deceased daughter. Bequests/distributions to Class C beneficiaries are taxed as follows:

- 11% tax on any amount over \$25,000 up to \$1,100,000 (no tax below \$25,000)
- 13% on any amount over \$1,100,000 up to \$1,400,000
- 14% on any amount over \$1,400,000 up to \$1,700,000
- 16% on any amount over \$1,700,000

**Class D:** includes anyone who is not a Class A, C or E beneficiary. For example, a nephew, niece, cousin, fiancé, friend, or non-civil union partner is considered a Class D beneficiary.

Bequests/distributions to Class D beneficiaries are taxed as follows:

- 15% on any amount up to \$700,000 (unless the bequest is less than \$500)
- 16% on any amount in excess of \$700,000

**Class E:** includes tax exempt entities such as charities and not-for-profit organizations.

Bequests/distributions to Class E beneficiaries are exempt from the New Jersey Inheritance Tax.

It is important to note that life insurance paid to a named beneficiary, regardless of the class, as defined by the State of New Jersey, is exempt from New Jersey inheritance tax.

## **The New Jersey Inheritance Tax and the Impact on Residents and Non-Residents**

Generally speaking, the decedent must be a resident of New Jersey for their estate to be subject to the New Jersey Inheritance Tax. If applicable, an inheritance tax return must be filed and the tax must be paid within eight months of the decedent's death. In addition, nonresidents who own real estate or tangible personal property in New Jersey may also be subject to the New Jersey Inheritance Tax.

## Important Estate Planning Considerations

Due to the state's elimination of the New Jersey Estate Tax in 2018, it is important to review estate plans and consider the impact of the New Jersey Inheritance Tax. While a lifetime gifting strategy may be an option, it can be difficult to plan if the intended beneficiaries are not spouses or children. However, with some careful planning, the effect of the tax can be reduced, offset, or avoided.

Working with a trusted advisor who is familiar with the nuances of Federal and New Jersey tax laws and the state's inheritance tax law can go a long way in protecting your assets and beneficiaries, and planning for your future. If you would like to review your estate plan or if you are just starting at the beginning of your planning process, the [estate planning team](#) at Einhorn Barbarito is available to speak with you about your particular planning needs.