

The New Jersey Inheritance Tax - The Lesser Known New Jersey Death Tax

February 20, 2010 | by Gary Botwinick

I find that clients often use the terms "estate tax" and "inheritance tax" interchangeably. Usually, that isn't a problem, and I know exactly what they are talking about. However, in New Jersey there really is a distinction between the "estate tax" and the "inheritance tax." This is New Jersey, after all — so we have two taxes. Go figure!

The New Jersey Estate Tax is the better known of the two taxes. The tax is imposed on estates of over \$675,000. However, amounts passing to a surviving spouse are exempt from the tax. While the tax rates imposed in New Jersey are lower than the Federal estate tax rates which most of use are familiar with, they can still be quite significant. In fact, through a strange quirk in the law, the rates start at a rate as high as 37% on the first \$52,174 over the exemption, and, thereafter, the rates range from 4.8% to 16%. So, for example, the following taxes will be imposed on New Jersey estates:

- \$1,000,000 \$ 33,200
- \$1,500,000 \$ 64,400
- \$2,000,000 \$ 99,600
- \$3,500,000 \$ 229,200
- \$10,000,000 \$1,067,600

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. I didn't forget Class B — this Class 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-child, 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 exemption, received by a Class C beneficiary, 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.

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 unkind tax of all.

The Inheritance Tax also proves far more difficult to plan around than estate taxes 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.