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ESTATE PLANNING UPDATE:

- **Reduction and Repeal of New Jersey Estate Tax**
- **Proposed Federal Regulations: Minority and Lack of Control Discounts**

REDUCTION AND REPEAL OF NEW JERSEY ESTATE TAX

On October 14, 2016, Governor Christie signed into law new legislation that repeals the state's estate tax. This law was part of a legislative compromise that included, among other things, a $.23/gallon gas tax increase and a modest decrease to the state's sales tax. The estate tax repeal would be effective as of January 1, 2018; a New Jersey resident who dies on or after that date will not be subject to New Jersey estate tax. In the interim, beginning on January 1, 2017, the current estate tax exemption ($675,000) would increase to $2 million.

Unfortunately, the law does not eliminate the state's Inheritance Tax, which is levied upon bequests to individuals who are not "Class A" beneficiaries. A decedent's spouse, civil union/domestic partner, parents and descendants are all Class A beneficiaries; bequests to these individuals are not subject to Inheritance Tax. However, a decedent's siblings, daughter-in-law, son-in-law, nieces, nephews, cousins, friends, etc. are all Class C or Class D beneficiaries who *are* subject to the Inheritance Tax (at rates ranging from 11% to 16%).

You may wonder why the legislature only repealed the Estate Tax and not the Inheritance Tax as well. Consider the following statistics (obtained from the New Jersey Division of Taxation):

- 6,613 Inheritance Tax returns were filed in the prior fiscal year[1], generating revenue of approximately $371 Million.
- 6,581 Estate Tax returns were filed in the prior fiscal year, generating revenue of approximately $444 Million.

The elimination of the Estate Tax while retaining the Inheritance Tax was likely a compromise; eliminating both types of tax was likely viewed as too drastic given the State's budgetary concerns.

Regardless of the reason for the repeal, this new legislation (as it relates to the estate tax) is a great benefit to many of our clients. We look forward to working with you to review and update your estate planning documents in light of this recent, welcomed change.

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PROPOSED FEDERAL REGULATIONS:
MINORITY AND LACK OF CONTROL DISCOUNTS FOR FAMILY ENTITIES

Recently, the IRS issued proposed new regulations concerning the use of minority or lack of control discounts for family controlled entities, whether active businesses or not, for gift, estate, or generation-skipping transfer tax purposes. The regulations themselves (known as the §2704 Regulations) are quite complicated but the result is simple and draconian: if adopted in their current form as final, the regulations would *eliminate* virtually all of such discounts.

The regulations are applicable to transfers made after they become final; however, the effective date for these proposed regulations remains somewhat up in the air. A hearing on the regulations is currently scheduled for December 1, 2016. The effective date will be at least 30 days after the proposed regulations become final but it is nearly impossible to predict how quickly the regulations will be finalized. We know that the earliest these regulations could become effective is December 31, 2016. Internally, we are considering that date to be our "deadline" for planning purposes.

[1] July 1, 2015 through June 30, 2016.

The estate planning that can be done in the meantime to take advantage of the discounts is very much on a case-by-case basis. We encourage our clients who meet any of the following criteria to consider implementing appropriate estate planning techniques that take advantage of the discounting while it lasts:

- Clients with estates valued at more than $5.45 Million for an individual and/or more than $11.9 for a married couple.

- Clients who have not previously utilized the Family Limited Liability Company or Family Limited Partnership technique.

- Clients interested in utilizing lifetime gifting techniques.

Please contact our office to schedule a telephone conference or meeting to discuss the impact of the proposed regulations upon your estate and the tax planning options that remain available to you for the balance of 2016.
