

Have You Thought About the New State Estate Tax?

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Most people embarking on serious estate planning have some idea of the recent changes to the federal estate tax laws that have raised the threshold at which estates are now taxed. As part of the 2001 changes to the federal estate tax system, the federal exemption amount was increased from \$675,000 to \$1 million, resulting in an overall reduction in the estate tax. This amount is slated to increase over the next several years until it reaches \$3.5 million in 2009 and in 2010 the estate tax is slated to be eliminated altogether. This, however, is not without Congress's reenacting the law, which will otherwise be repealed by a sunset provision, in which case, the \$675,000 amount would once again apply. The exemption is currently at \$1.5 million. where it will remain until it goes up to \$2 million in 2006.

What many people have not grasped, however, is that our State of Maine has its own estate tax. Prior to the federal estate tax amendments, this tax was of little practical consequence to the tax payer, because the state threshold was the same as the federal, and federal law allowed the state tax to be deducted from the federal estate tax owed. Under this sponge tax system, the net state and federal estate tax due was always equal to the federal tax that would have been due. However, with the increase in the exemption for federal estate tax, many states have found themselves facing a substantial decrease in revenue due to these changes. The result is that many states have enacted new tax thresholds, independent of the federal estate tax laws. Maine is among these states and the new laws apply to the estates of anyone dying after January 1, 2002. For estates of people dying in 2002, the exemption is \$70,000. For people dying in year 2004, the exemption is \$850,000, it will go to \$950,000 in 2005, and finally, to \$1 million. Thus, although an estate of under \$1.5 million may pass free of federal estate tax, it will not necessarily pass free of state estate tax.

This disparity between the federal and Maine estate tax can wreak havoc with estate plans that were drawn up before these changes. The effect is that an old estate plan for a married couple which utilized trusts to maximize the amount that can pass tax-free under the federal tax code, could inadvertently create a

situation in which Maine estate tax is due at the death of the first spouse, which would otherwise, not be necessary.

Although the new Maine estate tax laws will create an additional tax burden for couples with estates in excess of \$1.7 million (two times the Maine estate tax threshold of \$850,000 if each spouse properly utilizes his or her exemption), with proper planning, this tax can be minimized if not eliminated. Everyone in Maine with estates approximating or exceeding this amount would be well advised to have their estate plans reviewed to make sure that the new Maine estate tax has been properly taken into account and to save their heirs from an unexpected estate tax liability.