

## **New Jersey's Inheritance and Estate Taxes: A Technical Summary**

Frederick K. Schoenbrodt, II  
Neff Aguilar, LLC

---

New Jersey imposes two taxes- a transfer inheritance tax and an estate tax- that apply upon the death of a New Jersey resident or a non-resident having real property in New Jersey. Although both of these taxes apply at death and are payable at approximately the same time (8-9 months after death), these two taxes are conceptually very different. As a result, the impact of these taxes will vary widely among estates. These comments do not pertain to the Federal Estate Tax.

The principal factors influencing the impact of the New Jersey estate tax on a decedent's estate are:

1. The total value of a decedent's estate;
2. Whether the decedent's spouse survived the decedent; and
3. How the property is titled.

The principal factors influencing the impact of the inheritance tax on a decedent's estate will be:

1. The identity of a decedent's beneficiaries and their relationship to a decedent; and
2. The amount passing to certain classes of beneficiaries.

The differences in the manner by which these taxes are calculated can result in tax liabilities that may be surprising to someone unfamiliar with the specifics of the tax law. For example, a New Jersey resident who leaves his \$600,000 estate to his or her children will pay no New Jersey inheritance or estate tax. On the other hand, a New Jersey resident who leaves half as much, or \$300,000, to nieces and nephews will pay \$45,000 in inheritance tax.

The discussion below summarizes the operation of these two taxes, explaining their differences, providing examples of their calculation and identifying how the inheritance tax liability, when applicable, may offset an estate tax liability.

Note: New Jersey does not impose a gift tax or generation-skipping transfer tax.

---

---

## NEW JERSEY INHERITANCE TAX

### Basic Features:

- The New Jersey Inheritance Tax is a tax on the transfer of property by a decedent to a beneficiary. The rate of tax varies and depends upon the relationship of the beneficiary to the decedent.
- Any transfer to a spouse (or domestic partner or civil union partner), descendant or ascendant (Class “A” beneficiary) is not subject to inheritance tax.
- Any transfer to a charity (Class “E” beneficiary) is not subject to inheritance tax.
- Notable exemptions from the New Jersey Inheritance Tax:
  - Transfers of property having a value less than the applicable threshold for the beneficiary’s class;
  - Life insurance proceeds payable to a named beneficiary; and
  - Transfers of real and tangible personal property located outside of New Jersey.
- Transfers made within three (3) years of death are presumed to have been made “in contemplation of death” and subject to inheritance tax.
- The New Jersey Inheritance Tax Return generally must be filed and tax paid within eight (8) months of the decedent’s date of death.

### Calculating the New Jersey Inheritance Tax:

1. Identify each beneficiary’s class and the applicable rate of tax:

#### Class “A” beneficiaries:

*Members.* Spouse of a decedent, the domestic partner or civil union partner of the decedent, any child (natural or adopted) of the decedent, the descendants of any child (natural or adopted) of the decedent, any step-child of the decedent, certain children of a civil union partner or domestic partner conceived by artificial insemination, and a parent or grandparent of the decedent.

*Rate.* Transfers to Class “A” beneficiaries are completely exempt from inheritance tax.

Note: Under current law, there are no Class “B” beneficiaries.

Class “C” beneficiaries:

*Members.* Any sibling of the decedent, including half-brother or half-sister, the spouse or surviving spouse of a child of the decedent, or the civil union partner or surviving civil union partner of a child of the decedent.

*Rate.* The first \$25,000 received by a Class “C” beneficiary is exempt from inheritance tax. Amounts exceeding the initial \$25,000 are taxed as follows:

- 11% on the next \$1,075,000;
- 13% on any amount in excess of \$1,100,000, up to \$1,400,000;
- 14% on any amount in excess of \$1,400,000, up to \$1,700,000; and
- 16% on any amount exceeding \$1,700,000.

Class “D” beneficiaries:

*Members.* Every other transferee, distributee or beneficiary who is not included in Classes “A”, “C” or “E”.

*Rate.* Transfers to Class “D” beneficiaries are taxed as follows:

- Less than \$500, exempt from tax; \$500 or more, no exemption;
- 15% on any amount up to \$700,000; and
- 16% on any amount in excess of \$700,000.

Class “E” beneficiaries:

*Members.* Exempt entities and organizations, including the State of New Jersey or any of its political subdivisions, educational institutions, churches, hospitals, orphan asylums, public libraries and certain other non-profit agencies.

*Rate.* Transfers to Class “E” beneficiaries are completely exempt from inheritance tax.

2. The personal representative of the decedent’s estate is responsible for paying the total tax liability upon filing the New Jersey Inheritance Tax Return; however, unless the will or other governing instrument provides otherwise, the tax is charged against the respective beneficiary’s share and reduces it.

### **Inheritance Tax Example 1.**

*(All examples assume the decedent is a New Jersey resident or domiciliary)*

At Mary's death, Mary provides for a bequest of \$100,000 to her favorite charity and directs that the balance of her estate, totaling \$1,500,000, will pass to her three children in equal shares.

#### *Inheritance Tax Analysis:*

- The charity is a Class "E" beneficiary, so the \$100,000 charitable bequest is completely exempt from inheritance tax.
- Mary's children are Class "A" beneficiaries, so the transfers to her children are completely exempt from inheritance tax.
- No inheritance tax is payable to New Jersey.

### **Inheritance Tax Example 2.**

At John's death, John provides for a bequest of \$25,000 to his friend Claudia and directs that the balance of his estate, totaling \$5,000,000, will pass in equal shares to his two nieces who survive him.

#### *Inheritance Tax Analysis:*

- John's friend Claudia is a Class "D" beneficiary. As a result, the gift to Claudia results in inheritance tax. The tax due equals \$3,750 (*i.e.*, 15% of \$25,000). The share actually payable to Claudia will be \$21,250 (25,000-3,750), unless the will provides otherwise.
- John's nieces are Class "D" beneficiaries, so the transfers to them result in inheritance tax. Since each niece receives \$2,500,000, the tax on each transfer equals \$105,000 (15% of the first \$700,000) plus \$288,000 (16% of the next \$1,800,000), for a total tax of \$393,000 per transfer.
- Total inheritance tax payable to New Jersey equals approximately \$789,750 (\$393,000 + \$393,000 + \$3,750).

#### **Note regarding the New Jersey Compromise Tax:**

In certain circumstances, the amount that a beneficiary will receive from a decedent, or whether the beneficiary will receive anything at all, will be contingent upon future events. For example, in the case of a trust, the amount that will ultimately be transferred to the trust's remainder beneficiaries will likely be uncertain at the time of death.

In such a case, the estate and the New Jersey Division of Taxation may enter into a compromise that allows for the immediate and final resolution of the inheritance tax liability resulting from the existence of the contingent interest. That compromise may be proposed by the estate on the inheritance tax return and based upon the amount of taxes that would be due under the various contingencies, the present value of those future tax liabilities, and the probability of those contingencies coming to fruition, or the personal representative may let the Division of Taxation propose the compromise.

---

## NEW JERSEY ESTATE TAX

### Basic Features:

- The New Jersey Estate Tax applies to those estates where the value of the decedent's gross estate exceeds \$675,000. The tax is computed using the Federal Estate Tax law as it existed on December 31, 2001.
- The \$675,000 exemption is not portable between spouses; *i.e.*, each spouse has his or her own exemption. If the first spouse to die fails to use his or her exemption, that exemption will not be available when the second spouse dies (*e.g.*, if the first spouse leaves his or her entire estate to the surviving spouse without further planning).
- Any gift to a surviving spouse is fully deductible for New Jersey Estate Tax purposes.
- Any gift to a charity is fully deductible for New Jersey Estate Tax purposes.
- The New Jersey Estate Tax Return generally must be filed and tax paid within nine (9) months of the decedent's date of death.

### Calculating the New Jersey Estate Tax:

1. Determine the adjusted taxable value of the estate. This is usually done by preparing a pro forma Federal Estate Tax Return (using the form for decedents dying in 2001 regardless of the decedent's actual date of death) using date of death values. In general, the adjusted taxable value of the estate equals the taxable estate for federal estate tax purposes less an adjustment of \$60,000

Note that transfers to a surviving spouse (or domestic partner or civil union partner) are completely exempt from New Jersey estate tax, as are transfers to charities.

2. Determine the maximum state death tax credit allowable to the estate under the Internal Revenue Code as of December 31, 2001. The following worksheet may be used to compute the tentative tax (note the amount of tax will be adjusted if the estate has real and/or tangible personal property located outside of New Jersey):

**Worksheet for New Jersey Estate Tax**

1. Taxable Value of Estate	1.	
2. Exemption Amount	2.	\$60,000.00
3. Line 1 minus Line 2 -- Adjusted Taxable Value	3.	
4. From Table Below, Determine Tax on Line 3 Amount and Enter Here		

<b>TAX TABLE</b>					
<b>AMOUNT FROM LINE 3 ABOVE</b>					
<b>AT LEAST</b>	<b>BUT LESS THAN</b>	<b>TAX ON AMOUNT IN FIRST COLUMN</b>	<b>+</b>	<b>%</b>	<b>OF EXCESS OVER</b>
\$0	\$615,000	\$0		0	\$0
615,000	667,175	0		37.0	615,000
667,175	840,000	19,304		4.8	667,175
840,000	1,040,000	27,600		5.6	840,000
1,040,000	1,540,000	38,800		6.4	1,040,000
1,540,000	2,040,000	70,800		7.2	1,540,000
2,040,000	2,540,000	106,800		8.0	2,040,000
2,540,000	3,040,000	146,800		8.8	2,540,000
3,040,000	3,540,000	190,800		9.6	3,040,000
3,540,000	4,040,000	238,800		10.4	3,540,000
4,040,000	5,040,000	290,800		11.2	4,040,000
5,040,000	6,040,000	402,800		12	5,040,000
6,040,000	7,040,000	522,800		12.8	6,040,000
7,040,000	8,040,000	650,800		13.6	7,040,000
8,040,000	9,040,000	786,800		14.4	8,040,000
9,040,000	10,040,000	930,800		15.2	9,040,000
\$10,040,000	-----	\$1,082,800		16.0	\$10,040,000

3. To avoid double taxation, the tentative New Jersey Estate Tax is reduced by any New Jersey Inheritance Tax paid to determine the estate's final New Jersey Estate Tax liability.

### ***Estate Tax Example 1.***

At Mary's death, the taxable value of Mary's estate is \$2,500,000. Mary's Will provides for a bequest of \$50,000 to her sister and directs that the balance of her estate will pass to Mary's three children in equal shares.

#### *Estate Tax Analysis:*

- Mary's estate exceeds \$675,000 and she has no surviving spouse to whom she leaves any assets. As a result, her estate is subject to the New Jersey estate tax.
- Applying the table above, the New Jersey estate tax equals 8.0% of the excess over \$2,040,000, or \$36,800, plus \$106,800, for a total New Jersey estate tax liability of \$143,600.
- Mary's sister is a Class "C" beneficiary. The gift of \$50,000 to her sister results in an inheritance tax liability of \$2,750 (*i.e.*, the first \$25,000 is exempt, the excess \$25,000 is taxed at 11%).
- Mary's children are Class "A" beneficiaries, thus the transfers to them are exempt from inheritance tax.
- The total inheritance tax liability of \$2,750 is subtracted from the estate tax liability of \$143,600, resulting in a final estate tax liability of \$140,850.
- The total inheritance and estate liability equals \$143,600.

### ***Estate Tax Example 2.***

At John's death, the value of John's estate is \$2,560,000. John's Will provides for a bequest of \$250,000 to his favorite charity and directs that the balance of his estate will pass to his three children in equal shares.

#### *Estate Tax Analysis:*

- The gift to charity will be deducted from the gross estate resulting in a taxable estate for federal estate tax purposes of approximately \$2,310,000.<sup>1</sup>
- After applying the \$60,000 adjustment, the taxable value of the estate is \$2,250,000.

---

<sup>1</sup> For purposes of these examples, deductions for estate administration expenses and debts of the decedent have been ignored.

- Applying the table above, the New Jersey estate tax equals 8.0% of the excess over \$2,040,000, or \$16,800, plus \$106,800, for a total New Jersey estate tax liability of \$123,600.
- The charity is a Class “E” beneficiary, so the \$250,000 charitable bequest is completely exempt from inheritance tax. John’s children are Class “A” beneficiaries, so the transfers to his children are completely exempt from inheritance tax.
- No inheritance tax is payable to New Jersey.
- The total estate tax liability equals \$123,600.

---

Disclaimer: This summary is intended to provide general information regarding the New Jersey Inheritance and Estate Taxes incurred by residents of New Jersey and examples illustrating the basic operation of these taxes. Separate calculations apply to non-New Jersey residents owning property in New Jersey. No attempt is made in this summary to discuss or explain the United States Federal Estate Tax which may be payable in addition to the New Jersey Inheritance and Estate Taxes and which may be substantially larger than the combined New Jersey Inheritance and Estate Taxes.

This summary is not intended as a substitute for the reader’s own research or the advice of a qualified trusts and estates and/or tax specialist. The author shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to be caused, directly or indirectly by the information contained in this summary.