The *New* New York State Estate Tax Law

Has it Really Made Things Better?

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Not really. The top New York estate tax rate remains at 16%, and while the new law did increase the New York estate tax exemption, it also contains a "cliff" that takes away all of the benefits of the exemption once your estate reaches a certain limit. The amount exempt from New York estate tax has been increased to $2,062,500 (from $1 million) for people dying after April 1, 2014, and is scheduled to increase each April 1 to eventually equal the federal estate tax exclusion amount (currently $5,340,000) in 2019. The "cliff," however, phases out the exemption for estates that are between 100% and 105% of the exemption amount (that is, between $2,062,500 and $2,165,625 until April 1, 2015, with all benefit of the exemption being wiped out if the taxable estate exceeds $2,165,625).

For example, if you die between April 1, 2014 and April 1, 2015 with a taxable estate of $2,165,625 (105% of $2,062,500), your estate will pay a New York estate tax of $112,050, even though your estate exceeds the exempt amount by only $103,125 ($2,165,625 - $2,062,500)! Note that each spouse has an exemption amount, but if you don't take advantage of it on the death of the first spouse, you lose it (unlike federal law, which permits the surviving spouse to "inherit" the deceased spouse's unused exemption amount).

Furthermore, the new law adds back to your taxable estate all taxable gifts you made during the three year period immediately preceding your death. Under prior New York law, these gifts were not subject to New York gift tax, and had little to no effect on a wealthy New Yorker's estate tax liability. There are also open questions regarding who will be responsible for the New York estate tax on these gifts, as well as the deductibility of that portion of the New York estate tax on the federal estate tax return.

Suffice it to say, the new New York estate tax law did nothing to help wealthy New Yorkers and is actually worse for them than the prior law, due to the adding back of gifts made within three years of death.

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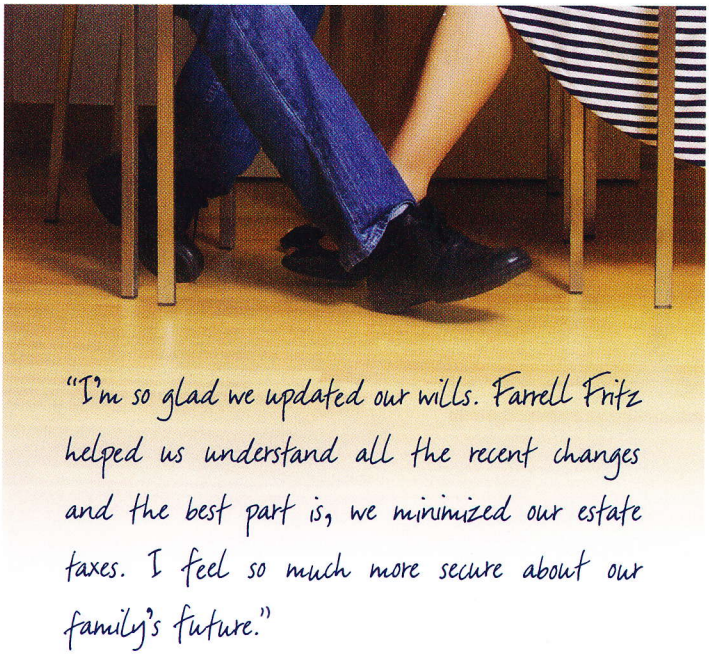

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