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Maryland

Estate Tax

Estate Tax Relief in Maryland Could End Exodus of Retirees, Comptroller Says

A higher estate tax exemption recently enacted in Maryland under H.B. 739 will likely stem the flow of retirees moving out of the state, Maryland's comptroller and an estate planning attorney recently told Bloomberg BNA.

Maryland was among the worst states for retirement in a list Forbes magazine compiled last year. One of the reasons for this was the state's estate tax, which Maryland's comptroller and an estate planning attorney said they believe is driving retirees from the state.

The Maryland Legislature took note of its state's undesirable reputation and recently enacted legislation making the estate tax regime less burdensome on taxpayers. Starting in 2015, Maryland's estate tax exemption will gradually increase until it matches the federal estate exemption, estimated to be \$6 million in 2019. New York also raised its exemption amount from \$1 million earlier this year, and Hawaii and Delaware raised their estate tax exemptions to match the federal exemption earlier.

Maryland is in the minority of states that imposes an estate tax. Most state's estate tax was designed as a "pick-up" tax based on the federal credit for death taxes paid. It no longer applies because of recent changes to the Internal Revenue Code. Many of these jurisdictions no longer impose an estate tax.

Low Threshold. Maryland is among a minority of states that retained its estate tax by conforming to an earlier version of the Internal Revenue Code. Maryland's estate tax exemption is \$1 million. This threshold is substantially lower than the federal estate tax exemption amount of \$5.25 million.

The state's low estate tax exemption is one of the factors contributing to Maryland's harsh characterization. "There was considerable concern that Maryland was outside the norm in its decoupled relationship with the federal estate tax," the Comptroller of Maryland Peter Franchot said. "There was an increase in anecdotal evidence that residents were leaving Maryland because of the estate tax."

Jeffrey D. Katz, managing partner of JDKatz, P.C., agreed. Some of his clients considered it easier to move across the state line into Virginia, where there is no es-

tate tax, or to Florida, where many retirement-age individuals own second homes and no estate tax laws are on the books, he told Bloomberg BNA. "Maryland's competitive disadvantage regarding estate taxes is a reality," Katz said, "even if tax considerations are only one of many factors clients use to decide where to retire."

Impact on Estate Planning Attorneys. While estate tax relief may negatively affect Maryland's budget in the short term, Franchot said, the economic activity generated by retaining wealthy Marylanders will likely offset any loss in revenue from estate taxes.

The higher exemption for estate taxes is also likely to have a minimal impact on estate planning attorneys Katz said. While the new Maryland law may reduce the demand for death tax planning by estate attorneys, Katz said estate planners will instead help clients focus more

on charitable giving options, education savings plans and gifting.

As the higher estate tax exemption takes effect in Maryland and other states, only time will tell if the goal to retain residents is achieved.

This legislation took effect July 1, 2014, but applies starting Jan. 1, 2015.

Full text of the legislation is available at http://mgaleg.maryland.gov/2014RS/Chapters_noln/CH_612_hb0739t.pdf.

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For additional discussion of the estate tax exemption in Maryland, see *Estates, Gifts, & Trusts Navigator*, at Maryland 1.5.1.