

# ELDERLAW

## NEWS

New Jersey

Legal News for the Aging and Disabled

June 2001

### QUESTIONS? CALL CERTIFIED ELDER LAW ATTORNEYS FOR ANSWERS.

Questions about protecting your assets against catastrophic illness and nursing home costs, Estate Planning and Administration, Social Security, Medicare, Medicaid, Nursing Home Litigation, Retirement or Disability Planning?

Call or write: Donald D. Vanarelli, Esq., Certified Elder Law Attorney, Registered Guardian and former Social Security Claims Representative.

Mr. Vanarelli is available to speak with your social, religious or educational group, or with your employees.

A PUBLICATION OF

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## Congress Repeals Estate Tax – in 2010

In an unusual Saturday session held on May 26<sup>th</sup>, the U.S. Congress passed a ten-year, \$1.35 trillion tax cut bill, the largest in two decades. One of the centerpieces of the bill is a repeal of the federal estate tax – but not until 2010. Gift tax overhaul is also part of the bill. The estate and gift tax changes are part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

However, as a result of Congressional budget reconciliation rules, the tax bill expires in 10 years, at midnight on December 31, 2010. On January 1, 2011, all the provisions in the bill “sunset” and revert to current law. Thus, the estate tax repeal will last for only one year (in the absence of future action extending the repeal).

**Major Changes.** The new law makes several key changes in estate and gift taxes:

- Increases the lifetime estate and gift tax exemption from the current level of \$675,000 to \$1 million, effective January 1, 2002.
- Provides for a gradual increase in the exemption and a decrease in the maximum estate tax rate between 2002 and 2009. This table summarizes the changes:

<u>Year</u>	<u>Exemption Amount</u>	<u>Maximum Estate Tax Rate</u>
2002	\$1 million	50%
2003	\$1 million	49%
2004	\$1.5 million	48%
2005	\$1.5 million	47%
2006	\$2 million	46%
2007	\$2 million	45%
2008	\$2 million	45%
2009	\$3.5 million	45%
2010	REPEALED	REPEALED

To put this into perspective, the highest tax rate under current law, applied to the estates of persons dying in 2001, is 55%, and the lifetime exemption amount this year is \$675,000. (Continued on page 2)

## Publisher of the Elderlaw News is Certified as Registered Guardian

Donald D. Vanarelli, Esq., publisher of this newsletter, has been certified as a Registered Guardian by the National Guardianship Foundation. Certification is the process used to identify persons who have achieved the requisite level of knowledge, skill, experience, and understanding of the ethical principles and standards of good practice, to act as professional guardians. Registered Guardians serve as private fiduciaries by practicing as guardians of the person or the estate of a person rendered incapacitated through age or disability. As a professional guardian of the person, a Registered Guardian ensures that the incapacitated person receives appropriate personal care, such as proper medical care and housing. As a professional guardian of the estate, a Registered Guardian manages some or all of the incapacitated person's property and/or income. Registered Guardians often utilize the services of other professionals, such as geriatric care managers, accountants, financial planners and social workers, to provide for each incapacitated person's unique needs.

**Congress Repeals Estate Tax – in 2010** (Continued from page 1) Until the new tax law was passed, that lifetime exemption amount was not scheduled to rise to \$1 million until 2006.

- Increases the exemption against gift tax to \$1 million. However, even after the estate tax has been repealed, the gift tax will remain in effect.
- Gradually reduces the state death tax credit between 2002 and 2004, and eventually (effective January 1, 2005) converts it into a deduction rather than a credit. Current law allows to each estate a dollar-for-dollar credit against federal estate tax for any inheritance tax or other death tax imposed by a state government. The new law will reduce and eventually eliminate state revenues from this source.
- Imposes a “carryover basis” rule at death in 2010. Under this provision, the income tax basis of assets held at death will no longer be “stepped up” to their fair market value as of that date. There are two exceptions to the carryover basis rule: a \$3 million exemption for assets passing to a surviving spouse, and a \$1.3 million exemption for transfers to anyone else.
- Allows estates, revocable trusts and heirs to take advantage of the income tax exclusion for capital gains realized on the sale of a personal residence. Currently, the exemption of \$250,000 (\$500,000 for a married couple) is not available after the death of the owner of the residence.

**Implications.** The new law makes sweeping changes, many not effective for years. Some possible consequences of the law are discussed below:

- Fewer estates will be subject to estate tax, and those that are will pay less tax.
- If, as some contend, the federal estate tax served a valuable purpose in curbing concentrations of wealth in the hands of a few families, repeal of the tax will promote greater concentrations of wealth in fewer hands.
- States stand to lose billions in tax revenues when the state death tax is fully eliminated in 2005.
- Many observers believe that complete repeal of the estate tax will not take place as scheduled as economic conditions, budget projections and political conditions change.

One thing appears certain: between now and 2010, Congress will revisit the federal estate tax issue.

#### **Workshops: Upcoming Seminars sponsored by the ElderLaw News**

DATE	LOCATION	TIME	TOPICS
June 6, 2001	Union County Chamber of Commerce	8:00 – 10:00am	Estate Planning and Elder Law Issues
June 13, 2001	Sunrise Assisted Living, Westfield	6:00 – 7:00pm	Guardianships, Powers of Attorney, Revocable Trusts, Etc.
June 14, 2001	Woodbridge Library	1:00 – 2:30pm 7:00 – 8:30pm	Asset Protection Strategies for Nursing Home Planning Asset Protection Strategies for Nursing Home Planning
June 19, 2001	Metuchen Library	1:00 – 2:30pm 7:00 – 8:30pm	Asset Protection Strategies for Nursing Home Planning Asset Protection Strategies for Nursing Home Planning

The seminars are free, but seating is limited. Advance registration is required. Please call 908-232-7400.



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