

New Jersey's Taxes Heading Higher

Legal Alert

July 23, 2009

Alan Zuckerman

In connection with the 2009-2010 fiscal year budget, New Jersey has recently enacted new tax legislation that substantially increases taxes on New Jersey businesses and individuals, as well as increases taxes on insurance premiums, cigarettes and alcoholic beverages.

The following is a summary of the corporate and individual income tax increases:

I. Corporate Income Tax. The new law extends the 4% surcharge (previously scheduled to expire in 2009), applied to corporations subject to the corporation business tax, to tax periods ending before July 1, 2010. The law also decouples the corporation business tax from the federal American Recovery and Reinvestment Act of 2009, which for federal tax purposes allows businesses that repurchase debt in 2009 and 2010 to defer reporting discharge of indebtedness income as taxable income until 2014 and then to spread this income over the five tax years. However, the law does allow corporations to exclude the income in future years when it is required to be recognized for federal purposes, so that the income will not be taxed a second time.

II. Personal Income Tax.

A. Rate Increases on Incomes \$400,000 and above. For tax years beginning on or after January 1, 2009, but before January 1, 2010 (i.e., for one year only), the new law increases the tax rate for individual taxpayers with taxable income of more than \$400,000, as follows:

\$400,000 but less than or equal to \$500,000 8% (up from 6.37%)

\$500,000 but less than or equal to \$1 million 10.25% (up from 8.97%)

\$1 million or more 10.75% (up from 8.97%)

However, there will be no penalties imposed for insufficient payment of estimated or withholding tax that may otherwise be due on wages and other remuneration received before October 1, 2009 as a result of these higher rates. These increased tax rates will effectively apply to small businesses operating as LLCs and S corporations, where the income of the business flows through to the owners and is reported on their individual income tax returns.

B. Property Tax Deduction. For 2009, the law limits the property tax deduction for high-income taxpayers. The deduction is limited to a maximum of \$5,000 (previously \$10,000) for a taxpayer who has gross income over \$150,000, but not over \$250,000, and the deduction is eliminated for taxpayers with gross income exceeding \$250,000. There are exceptions for taxpayers who are over age 65, blind, or disabled, which still allow the full \$10,000 deduction.

C. Lottery Winnings. Winnings from the New Jersey lottery in excess of \$10,000 are no longer exempt from tax, and will be subject to withholding.

III. Property Tax Rebates. The New Jersey Property Tax Rebate is substantially reduced and in many cases, eliminated by the new law. Following are the new limits:

Homeowners under age 65 who are not disabled are not eligible for the rebate if the income of the owner is \$75,000 or more. For homeowners who are age 65 or are disabled, the rebate still applies if the owner has income of no more than \$150,000. There are further limitations on the amount of the property tax rebate,

Continued

even for those who qualify based on the above income limitations. In addition, no rebate will be allowed for any tenant who is under age 65 and not disabled, and the rebate for tenants who are at least age 65 or are disabled will be limited based on income.

If you would like more information, or if you have questions concerning the issues discussed in this Alert, please contact Alan Zuckerman or any other member of Flaster Greenberg's Taxation Department.

ATTORNEYS MENTIONED

Alan Zuckerman