WILMINGTON TRUST

# Issues AND INSIGHTS

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## Delaware Repeals Estate Tax in 2018

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- Following the repeal of Delaware's estate tax, there remain 17 states plus the District of Columbia that impose either an estate tax, an inheritance tax, or both
- Even without the Delaware estate tax, there will continue to be a strong need for Delaware residents and their advisors to be thoughtful and proactive with their estate plans

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**Delaware became the latest state to repeal its estate tax, effective January 1, 2018. Governor John Carney, Jr. signed a stand-alone estate tax repeal bill on July 2, 2017, removing this tax for individuals dying after December 31, 2017.**

When the current form of the Delaware estate tax was enacted in 2009, it was expected to bring in approximately $25 million per year in added revenue. However, the largest amount of revenue generated by the estate tax in a single year was $16.2 million in 2011. The lowest revenue was $1.3 million in 2014 and the estate tax produced $9.3 million in 2016. The estate tax repeal bill's chief sponsor in the Delaware legislature, Rep. Mike Ramone, noted that the state was losing more in income taxes than it gained in estate tax so it was a net loss in revenue to the state. Delaware benefits from wealthy families staying in Delaware and paying personal income taxes. This income tax revenue is lost if these families are motivated to change residency to avoid the state estate tax. The state was missing out on ongoing annual income tax payments for the prospect of collecting a one-time estate tax

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that many wealthy families could work to limit or avoid through proper planning or a change in residency prior to death. There is no practical way to determine the precise motivations for residents who leave the state nor quantify lost income tax revenue resulting from the estate tax. However, there was growing pressure on the legislature and Governor Carney due to these disappointing revenue numbers and anecdotal evidence that the wealthy were, in fact, leaving Delaware, which reduced ongoing income tax revenue.

Following the repeal of Delaware's estate tax, there remain 17 states plus the District of Columbia that impose either an estate tax, an inheritance tax, or both. New Jersey has also repealed its estate tax effective January 1, 2018, but it retains an inheritance tax.

Following repeal, some planning issues to consider are:

**Review current plans:** Delaware residents should have their estate planning documents reviewed to ensure that allocations, divisions, and formulas previously incorporated for the purpose of funding trusts and bequests in a manner aimed at minimizing federal and Delaware estate taxes do not lead to unintended results or unnecessary complication of the wealth transfer plan.

**Insurance planning:** Many Delaware residents own life insurance to avoid liquidating real estate, business interests, and retirement accounts, perhaps at a deep discount and with adverse income tax consequences, in order to pay federal and Delaware estate taxes. As a result of this change in law, life insurance should be reviewed to determine whether the current level and structure of insurance is appropriate and sufficient (or excessive) in the context of the overall estate plan.

**Estate plans are typically not guided solely by estate tax considerations, but the impact of tax planning throughout many estate plans is undeniable. Even without the Delaware estate tax, there will continue to be a strong need for Delaware residents and their advisors to be thoughtful and proactive with their estate plans. We encourage you to consult with your tax and/or professional advisor(s) to determine what, if any, steps you should take given the repeal of the Delaware estate tax. In addition, please do not hesitate to call your Relationship Manager if you have any questions or if we can assist you in any way.**

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Jeff is responsible for developing trust planning strategies for wealthy individuals and families throughout the United States and abroad. He works closely with his clients' legal, tax, and investment advisors to construct and implement appropriate trust structures that take advantage of the state of Delaware's unique trust and tax laws. He earned his J.D. (summa cum laude) and MBA (with honors) from Syracuse University and holds a bachelor's degree in Economics from Northwestern University.





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