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2014-2015 New York State Budget

Significantly Impacts New York Estate Planning

April 4, 2014 -- The 2014-2015 New York State Budget, enacted April 1st, has resulted in significant changes to the New York State income and estate tax laws. Following is a brief summary of the most important changes affecting New York trusts and estates.

It would be prudent to contact your Meltzer Lippe attorney to discuss how these changes affect your estate plan and whether any action is necessary or desirable, especially if your estate plan includes a trust that previously was not subject to New York income tax.

- **Increase in Estate Tax Exemption.** The New York estate tax exemption (that is, the amount that a New York decedent may pass to non-spouse and non-charitable beneficiaries free of New York estate tax) will increase in phases over the next three years from \$2,062,500 to \$5,250,000 (as indexed for inflation). Under prior law, the New York estate tax exemption was \$1,000,000. Barring a change in the federal estate tax exemption, the New York estate tax exemption will be identical to the federal estate tax exemption beginning on January 1, 2019.
- **Inclusion of Lifetime Gifts in New York Estate Tax Calculation.** Although New York does not impose a gift tax on lifetime transfers (unlike the federal government), the value of gifts made by a New York decedent (i) within three years of death and (ii) between April 1, 2014 and January 1, 2019 will be added to the value of the decedent's estate and may result in an estate tax on such gifts.
- **Repeal of New York Generation-Skipping Transfer Tax.** The New York (but not federal) generation-skipping transfer tax has

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been repealed, meaning that New York will not impose a generation-skipping transfer tax on certain trusts that are held solely for the benefit of individuals two or more generations below the creator of the trust, on distributions from these trusts to such persons or on outright gifts to such persons.

- **Income Taxation on Distributions to New York Beneficiaries from Certain Trusts.** Unchanged from prior law, New York will not impose a current income tax on the income of certain trusts created by New York residents that have (i) no New York trustees, (ii) no property located in New York and (iii) no New York source income. However, New York now imposes an income tax on the accumulated income of such trusts earned after January 1, 2014 at the time of a distribution to a New York beneficiary. In addition, such trusts must file an informational return in any year that there is a distribution to a New York beneficiary.
- **Income Taxation of Incomplete Gift Non-Grantor ("ING) Trusts.** Certain domestic asset protection trusts that were created by New York residents in states in which there is no state-level income tax and in which the creator maintained a beneficial interest previously were able to avoid New York income tax under certain circumstances. Under current New York law, any such trust will be treated as a "grantor trust" for purposes of the New York income tax, meaning that the creator is required to report all of the trust's income tax items on the creator's individual income tax returns and will be responsible for the associated income tax liability.

Should you have any questions please e-mail: info@meltzerlippe.com

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About

Co-chaired by Stephen M. Breitstone and Avi Z. Kestenbaum, the Meltzer Lippe Trusts & Estates practice is the only *three-time U.S. News and World Report National Tier # 1* practice group on Long Island; consists of multiple attorneys listed as Martindale-Hubbell Top Rated Lawyers of Taxation Law, New York Super Lawyers, and Best Lawyers; and contains 19 attorneys with advanced degrees in taxation and estate planning.

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