



DANIEL G. JOHNSON PROVIDES ESTATE AND GIFT TAX REFORM TESTIMONY

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On Wednesday, September 16, 2015, Daniel G. Johnson, a Principal in Cummings & Lockwood's Private Clients Group, testified before the Connecticut State Tax Panel in Hartford concerning the migration of Connecticut residents in light of the current Connecticut estate and gift tax regime, as well as the recent increase in probate court fees. Members of the Panel, including the current Commissioner of Revenue Services, asked Dan a number of questions about issues related to migration by Connecticut residents, as well as the potential form that sensible estate and gift tax reform might take.

CONNECTICUT STATE TAX PANEL

September 16, 2015

Testimony of Daniel G. Johnson, Esq.

Cummings & Lockwood LLC, Stamford, Connecticut

Mr. Chairman and Members of the Panel:

My name is Dan Johnson and I work in the Stamford Office of Cummings & Lockwood, where I am a partner in the Private Clients Group and the partner in charge of the Stamford Office. My practice is focused exclusively on estate planning and estate administration and so I deal with the Connecticut estate and gift tax regimes on a daily basis, and have for the past nineteen years. Although there is no question that my testimony today is informed by my professional experience, I would prefer that you think of me today as the grandson of George Johnson, a policeman who raised his family in Bridgeport, or as the son of Robert Johnson, the first in his family to graduate from college, who worked for the Juvenile Court system as a Supervisor in New Haven, and raised my brother and me in Wallingford. My family's story is happily a common American story, and in our case a Connecticut story, of successive generations taking advantage of opportunities to provide for better lives for their descendants, and it began its latest chapter when I dropped off my youngest son for his first day of preschool in Fairfield this morning.

I thought that it would be helpful for the Panel to hear about some of the experiences that I have had with my clients and other advisors during the past year.

I am sure that you are aware of the AP article in July entitled "Connecticut is Most Expensive Place to Die in US." That article, which was focused on the new statutory fee schedule for Connecticut estates, was picked up by a broad range of national publications and I had three CPAs call me to discuss it that week. Those CPAs, and many of the other advisors who have discussed that article with me since July, viewed the change in the statutory

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fee schedule for Connecticut estates as a “last straw” for some of their clients which, in conjunction with the Connecticut estate tax regime, was going to persuade families to change their residence to Florida or another tax friendly jurisdiction.

Unfortunately for Connecticut, among the wealthiest families that I advise, the couples that stand out in my mind are not the couples that decide to change their residence to Florida or another jurisdiction with a less burdensome estate tax regime. Those families are in a clear majority, to the point that my law firm has two memos for our clients about the steps required to become a Florida resident, and we recently expanded our presence in Florida to include an office on the East Coast in Palm Beach Gardens. Rather, the families that do stand out in my mind are the families that tell me that they are not considering changing their residence in spite of the recognized estate and gift tax implications of remaining Connecticut residents. Of the ten wealthiest families that I advise, it is important for this Panel to note that only two fall into this category, and one of the wealthiest families with whom I work contacted me last week to discuss the Connecticut statutory probate fees and is currently initiating the process of changing its residence.

I wanted to mention two additional items on this front. First, this topic of changing residence is so popular in Connecticut that I have spoken about it twice, once at the Bruce Museum in Greenwich and again for the Western Connecticut Estate & Tax Planning Council in Bethel. Those two presentations are notable in my mind because, believe it or not, when you talk about tax planning for a living, it can be hard to command everyone’s attention. But I find that when I talk about residency planning, the room becomes fully engaged and, in Bethel, following the conclusion of the program, one of the waitresses actually asked me for a copy of my materials for her parents. The second thing that I wanted to mention is that, in my two decades of practice in which I have counseled dozens of families that have migrated from Connecticut, I have only worked with one couple that decided to repatriate to Connecticut. That decision was driven by declining health, and only after a very deliberate consideration of the increased tax exposure under the Connecticut estate tax regime, and acceptance of that regime as a palatable consequence under all of the circumstances.

I had lunch with two wealth advisors in Greenwich last week and we spent part of our visit talking about our Connecticut clients who are becoming residents of other jurisdictions. A worrisome turn in that conversation that I wanted to mention to this Panel was the notion that some individuals are planning to not only move themselves, but are planning to move their small businesses with them. We are all well aware of the concerns raised by General Electric, Aetna and Travelers this year, but a number of professional advisors are even more concerned about small and more portable businesses that are pursuing moves more quietly because of concerns about the Connecticut state tax regimes in the executive suite. An advantageous tax regime incubated the hedge fund and private equity industries in Connecticut, but it is not difficult to imagine that those industries could migrate away from Connecticut if the perception about our State tax regime does not change, and, to be candid, that process has probably already begun.

When I began my professional career in 1997 I came to Stamford because of my perception that the area has a vibrant economy, as evidenced by the companies that moved to Stamford in the 1990s and the City’s slogan at the time, as “The City that Works.” During the course of my career I have never had a reason to regret my decision, but I would be lying if I did not admit that I have reservations about the future. My wish for Connecticut is not that it become the preeminent domestic tax jurisdiction in the United States, but that it take the steps required to reverse the current perception that Connecticut is unfriendly to business and has an unduly burdensome estate and gift tax regime, coupled with the most expensive probate court system in the country.

An article regarding the testimony was published in the New Haven Register on September 18, 2015. Please click on link below.

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