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Sent: Tuesday, March 26, 2019 5:25 AM
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Cc: Faith Brown <FBrown@leg.state.vt.us>; tax.taxpayeradvocate@vermont.gov
Subject: Montpelier Targets Tax Increase on the Ill and Infirm!

Good Morning:

I have communicated with most of you on this topic previously. Here is my latest attempt to have this issue be given the attention that I believe it deserves.

With Respect,

Jason

Montpelier Targets Tax Increase on the Ill and Infirm!

Is this an unfair headline?

Imagine yourself with a spouse suffering from dementia and needing round the clock care to keep themselves and others safe. Perhaps you have a child or grandchild with substance abuse or mental health issues who needs a residential care community to get well. Alternatively, you have an injury or illness, the care costs not being covered by insurance.

In order to cover these health care costs, you've drawn money out of retirement accounts, you've sold investments intended for retirement or a legacy to family or community, or you've had to sell the last parcel of the family farm handed down through generations. All these transactions trigger the recognition of taxable income.

Here's the thing. In addition to dealing with a health tragedy, in addition to having to compromise your financial security, under the Vermont tax law that passed in 2018, you WILL get a tax bill from Montpelier!

Is the headline unfair?

When I've raised this issue with Legislators, I've gotten several responses.

“The issue was caused by the Trump Tax Cut over which we have no control.”

The response is wrong. The Trump Tax Cut has absolutely nothing to do with the tax bill these folks are getting from Vermont. It is a result of Vermont Legislation that moved Vermont's base for the income tax calculation from Federal Taxable Income (a figure after deducting Medical Expenses) to a base of Federal Adjusted Gross Income (a figure before Medical Deductions).

"Other states have moved to Adjusted Gross Income so we've just aligned with them."

True, there are states who have a Federal Adjusted Gross Income base. But those states have significantly lower tax rates than Vermont. More to the point, the residents in states in proximity to Vermont would not experience the tax trap noted above. Nearby states either continue to maintain a Federal Taxable Income base, allow for a deduction from income for medical expenses, or, in the case of New Hampshire, they don't tax income to start with.

"It would be a \$5,000,000 cost to the revenue of the state to remedy the issue."

Admittedly, this is true. However, this is only true because the legislature, in passing the tax changes in May of 2018, created this problematic tax. I can only assume that the tax increase impacting folks with health care costs was an unintended consequence of the law. If in the spring of last year, a legislator stood up in chambers and suggested, "Let's add a tax to people who have to generate taxable income to pay medical expenses!" how much merit would the proposal have been given? I doubt that the legislature is so heartless to give it a second thought. The action needed is to fix an error.

"It would be too difficult to accommodate the change."

I have no question that making the necessary adjustments will take effort. However, I point out that when the legislation was first proposed, it was noted that the change would impact charitable giving (also a deduction in arriving at Federal Taxable Income) on which so much of our social and cultural institutions depend. The legislature, in its wisdom, found a way to rectify this issue. It can do the same for the Medical Deduction.

"We have too much on our plate to address this issue."

Tell this to my client who is drawing funds out of retirement accounts to cover her husband's cognitive residential care costs. Tell this to her when she has to write a check to the State of Vermont for \$10,000 that she would not have had to do a year ago or if she lived in another state. Tell this to my client whose teenage child needed residential care for a mental health crisis. Tell this to my colleague who rather than coasting toward a well-earned retirement, is having to use retirement resources to provide care for an illness not covered by health insurance.

These folks are your neighbors. They have played by the rules. They have saved for a rainy day so they would not be a burden on their community. The rainy day has come. Rather than wrapping them in a warm blanket or at least allowing them the comfort of their own blanket, we are asking them to share what blankets they have. This message is opposite of the Vermont ideals I was raised with.

Montpelier Targets Tax Increase on the Ill and Infirm.

Is this a true statement? Clearly it is not. Legislators are good people doing yeoman's work in challenging times. But every day that the current law stands, the truer the statement becomes.

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