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Appellate Division: No Estate Tax Marital Deduction for Registered Domestic Partners

Richard D. Sanders and Stacey Valentine Fielding wrote an article, "Appellate Division: No Estate Tax Marital Deduction for Registered Domestic Partners," for the *New Jersey Law Journal.*

The article discusses a recent, published opinion out of the Appellate Division—*Jiwungkul v. Dir., Div. of Taxation*, No. A-4089-15T2 (N.J. Super. App. Div. May 11, 2017), which found that same-sex couples registered as domestic partners under New Jersey's Domestic Partnership Act are not entitled to the marital deduction for purposes of calculating the New Jersey estate tax due at the death of the first partner.

While the loss of the marital deduction is certainly of significant importance, the Jiwungkul holding has the added potential of creating far reaching precedent for domestic partnerships in the state of New Jersey generally. The ruling stands for the proposition that domestic partners are afforded only those rights specifically granted in the DPA and no others. This proposition will undoubtedly encourage courts to construe the rights granted thereunder restrictively. Thus, it is extremely important that couples who opt for this arrangement understand the specific tax consequences of doing so and implement appropriate measures in their estate plans and beyond.

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