

GOLDEN: Murphy retreats on millionaire's tax

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(Photo: Seth Wenig/AP)

In the span of 24 hours last week, New Jersey Policy Perspective, the left-of-center think tank based in Trenton, urged the Legislature to enact an increase in the tax on incomes over \$1 million, claiming millionaires will receive a windfall under the new federal tax reform/tax cut legislation, and Gov. Phil Murphy announced his administration will join in a lawsuit claiming the law punishes millionaires by forcing them to pay higher taxes.

The think tank report contended that despite the \$10,000 cap imposed on allowable deductions for state and local taxes, millionaires will fare far better than middle-and low- income taxpayers, reaping a savings of more than \$30,000.

More: [Who pays top NJ taxes compared to their income? \(/videos/news/investigations/data/2017/08/03/who-pays-top-nj-taxes-compared-their-income/104248024/\)](https://www.washingtonpost.com/news/energy-environment/wp/2017/08/03/who-pays-top-nj-taxes-compared-their-income/104248024/)

Normally, on an issue such as this, Murphy and Policy Perspective would be of the same mind. Their ideologies, philosophies of government and views on policy operate, for the most part, on parallel tracks.

The divergence of opinion on the millionaire's tax is not a serious breach in their relationship and should be viewed in the context of political reality. It is an acknowledgment by Murphy that the tax increase has encountered resistance in the Legislature and his position is increasingly untenable.

In joining with fellow Democratic governors Andrew Cuomo of New York and Daniel Malloy of Connecticut and agreeing to file a federal lawsuit to overturn the law's cap provisions, Murphy said his administration would "explore every legal mechanism to fight for our taxpayers."

He remains committed to the increase, but by allying himself with the governors of two neighboring high income/high tax states, he has found the cover he needs to re-assess the wisdom of demanding immediate action. A high-profile defeat in the administration's early stages would be demoralizing and jeopardize the remainder of his agenda.

Joining Cuomo and Malloy, moreover, avoids Murphy becoming an outlier, a solitary figure struggling to avoid an embarrassing defeat of his signature campaign issue.

Rather than a full retreat, it is a strategic and temporary withdrawal, albeit one forced upon him by legislators — principally Senate President Steve Sweeney, D-Gloucester— concerned an increase in state taxes atop the federal deductions cap will convince high earners to seek residency in friendlier states, depriving New Jersey of their tax revenue as well as their considerable contributions to the state's overall economy.

(Remember last April when hedge fund manager David Tepper moved from New Jersey to Florida, sending shudders through the Department of the Treasury, which estimated the billionaire's re-location would cost the state more than \$100 million in personal income tax revenue.)

For Murphy, becoming a party to the lawsuit buys him time to negotiate with the Democratic legislative leadership, while outwardly maintaining his commitment to the tax increase.

In truth, however, any legal challenge to the constitutionality of the Federal tax law could take years to settle what with arguments, appeals and the like. And, Murphy is in no position to wait out such protracted court proceedings.

Moreover, legal experts have predicted the state litigants are highly unlikely to prevail. Murphy, though, apparently is willing to spend significant taxpayer dollars to pursue what could be a fool's errand.

Attacking President Trump and the Republican Congress over the new tax law is risk free for the three governors, although at odds with congressional Democrats who were united in opposition to the tax reform legislation, insisting it was a massive giveaway to the rich.

It is those same rich that Murphy, Cuomo and Malloy seemingly want to protect from the law's provisions because they believe, in their states at least, millionaires will be punished.

Rather than a massive giveaway to the rich their party leaders in Washington, D. C., claimed, it portends a possible massive and costly runaway by the wealthy from their states.

Murphy also confronts a dilemma posed by Sweeney's suggestion that before a millionaire's tax is considered, a study be undertaken of the state's overall tax structure — state levies as well as local property taxes — to assess their fairness (property taxes in particular) and whether a comprehensive overhaul of the system is necessary.

A study of that magnitude would presumably take many months to complete and many months following if its recommendations require legislative approval.

Whether the millionaire's tax will be included when Murphy delivers his budget message to the Legislature in March is unclear at this point. What is clear, though, is that his divergence from Policy Perspective is a trial separation rather than a divorce. And, like most such situations, it's about money.

Fear not; a reconciliation is likely.

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