BLUM
THE BLUM FIRM, P.C.
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Planning Ideas for 2016

March 2016

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Dear Clients and Friends:

We truly value our relationships with you and are grateful for the opportunity to serve you in achieving your estate planning goals.

The Blum Firm's Holiday Party

We have already started 2016 on an exciting note with the addition of **Ed Copley** to our Dallas office as Senior Counsel and **Doug Paul** to our Austin office as Partner. Ed is a former managing partner of Akin Gump. During his 50-plus year career, Ed's practice has focused primarily on taxation, trusts and estates law, and estate planning. Doug Paul has been a practicing attorney for over 10 years and is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization. He earned a Bachelor of Arts degree from the University of Texas at Austin, a Master of Business Administration from Louisiana State University, and a Juris Doctor from Louisiana State University School of Law. Doug has experience in estate and tax planning, asset protection planning, and charitable planning.

In 2015, we welcomed two new attorneys to our firm: **Julie Harris** and **Torrie Poehls**. Julie joined our Dallas office in September. Julie has been a practicing attorney in the areas of tax, probate, and estate planning for nine years. She graduated from the College of William and Mary on the Dean's List with Honors, earning a Bachelor of Science degree in Psychology and minoring in Biology. She received her Juris Doctor from North Carolina Central University School of Law, graduating *cum laude*, and received an LL.M. in taxation from the University of Florida Levin College of Law in Gainesville, Florida. Torrie joined our Fort Worth office in December. Torrie earned a B.B.A. in Marketing in 2009 from Texas Tech University *summa cum laude* and received her Juris Doctor from Texas Tech University School of Law *cum laude* in 2013. While at Tech Law, she served as President of her class and as Editor-in-Chief of the Estate Planning & Community Property Law Journal. We are thrilled to have Ed, Doug, Julie, and Torrie as part of our team!

We are also proud to announce that several of our attorneys were recognized in 2015 for their superior skills as attorneys. Among them, **Steve Novak** was named to the "Best Lawyers in Dallas" 2015 list by D Magazine. Steve received this honor for the second year in a row in the area of Trusts & Estates.

Thomson Reuters named **Marvin Blum**, **Gary Post**, **John Hunter**, **Steve Novak**, and **Len Woodard** as 2015 Super Lawyers. **Marvin** was also again named in 2015 as one of the Top 100 Super Lawyers in the State of Texas. **Marvin**, **Gary**, and **Steve** were recognized in the areas of Estate Planning and Probate law, **John** was recognized in the area of Tax law, and **Len** was recognized in the area of Business/Corporate law. Additionally, **Amanda Holliday** was named as a 2015 Rising Star Super Lawyer in the area of Estate Planning and Probate.

Fort Worth, Texas magazine recognized twelve of our attorneys as 2015 Top Attorneys. **Marvin Blum, Gary Post, John Hunter, Amanda Holliday, Amy Ott, Rachel Saltsman, Cathy Moon**, **Laura Haley**, **Kandice Damiano**, and **Julie Plemons** were designated as Top Attorneys in the area of Probate, Estates, and Trusts. **Len Woodard** was designated as a Top Attorney in the area of Tax, and **Torrie Poehls** was designated as a Top Attorney in the category for Attorneys Under Five Years of Practice.

Finally, **Amy Ott**, **Rachel Saltsman,** and **Christine Wakeman** recently became Board Certified in Estate Planning and Probate Law, bringing our team of Board Certified attorneys to twelve!

As you can see, The Blum Firm has seen some exciting growth and changes in 2015. In the following pages, you will find a discussion of several estate planning ideas to consider in our current economic climate, including planning techniques for a rising interest rate environment, asset protection strategies for notes receivable, and ideas to prepare for dementia and disability. We hope these thoughts will help you plan for a brighter tomorrow. Please don't hesitate to contact us and let us know how we can better serve you!

The Blum Firm, P.C.

PLANNING OPPORTUNITIES IN A HIGHER INTEREST RATE ENVIRONMENT

The Federal Reserve raised interest rates in December 2015 and has indicated that further interest rate hikes are on the horizon. Do not despair; there are some estate planning techniques that thrive in higher interest rate environments.

One technique is a **Qualified Personal Residence Trust (a "QPRT")**. A QPRT is a trust used to pass your primary residence or vacation home to your heirs at a discounted value. You retain the right to live in the home during the trust's term, and thereafter you pay rent to the trust. When interest rates are higher, the size of the discount increases. This technique allows you to substantially discount the value of your home and lock in that discounted value.

For the charitably inclined, a **Charitable Remainder Annuity Trust ("CRAT")** is an enticing technique when rates are higher. With a CRAT, you transfer assets to an irrevocable trust. The trust pays you an annuity and passes any assets remaining when the trust ends to a charity of your choice. The CRAT can sell assets and postpone the date you have to recognize the gain. Higher interest rates have two key effects on CRAT planning: (1) they can lead to higher income tax deductions for you and (2) they may allow for a higher annual payout to you.

LOCK IN LOW INTEREST RATES BEFORE THEY RISE

Before rates begin to climb, consider taking advantage of tax-free wealth transfer techniques that work best in a low interest rate environment. The premiere technique involves a sale of appreciating and/or income-producing assets to a **Beneficiary Defective Trust (or "678 Trust")** in exchange for a promissory note at the applicable federal rate (1.8% for a 9-year note in February 2016). The 678 Trust is outside of your estate for estate tax purposes but still subject to your control and accessible for your needs. To the extent the appreciation and income generated by the property sold to the 678 Trust exceeds the interest, you will have reduced your estate tax exposure. When combined with valuation discounts typically available on the sale of a minority interest in a closely-held business, the estate tax savings can be significant. The sale technique can also be used with trusts for the benefit of a spouse or children.

Similar techniques include a sale of assets to a trust in exchange for a lifetime **private annuity** and a sale to a **grantor retained annuity trust ("GRAT")**. These techniques are successful when the asset sold grows in excess of the interest rate. A simpler option for taking advantage of low interest rates is to make a **low-interest loan to a family member** (e.g., an adult child) or to an existing irrevocable trust. If the proceeds can be invested so that the growth exceeds the interest, you will have reduced your estate tax. As some renegotiations can have income tax consequences, please contact us to discuss your options.

SEIZE THE DAY! TAKE ADVANTAGE OF THE VALUATION DISCOUNTS BEFORE IT'S TOO LATE

A limited partnership or limited liability company, when established for valid business or asset protection purposes, can provide significant transfer tax savings. The main transfer tax benefit lies in the ability to apply a valuation discount to interests in such entities when transferred (either by gift or sale), thereby reducing the value of the gift or sales price. For years, family owned or controlled entities have qualified for valuation discounts. Frustrated with this, the IRS is ready to take action that would significantly curtail valuation discounts for such entities. Although the IRS threatened to take such action in the last quarter of 2015, they have yet to do so and it still possible to take advantage of valuation discounts.

MAKE LEMONADE: TAKE ADVANTAGE OF LOW MINERAL VALUES

With the recent drop in energy prices, many of our clients are acutely aware that the value of minerals are lower now than they were only a year ago. Accordingly, this is the perfect time to do estate planning with mineral interests. **By acting at a time that mineral values are repressed, you can take advantage of many of the techniques discussed in this newsletter, as well as other techniques, to shift the future growth of the minerals and the income they produce, out of your taxable estate.** Engaging in this planning before the minerals increase in value can save a significant amount of estate taxes.

ASSET PROTECTION STRATEGIES FOR NOTES RECEIVABLE

Many estate planning techniques involve the sale of assets in exchange for a promissory note. In many instances, this note is a significant asset of the estate. Like other assets held individually, a note receivable may be subject to the claims of creditors (e.g., a creditor from a car accident). If you hold a large note receivable individually, you should consider contributing the note to a protected vehicle such as a **limited partnership (LP) or a limited liability company (LLC).** An additional benefit to this technique is that, as payments are made on a note that is owned by a protected vehicle, those payments will receive protection as well. While LPs and LLCs do not provide absolute asset protection, they do **provide an additional layer of protection**. In the event that a creditor wins a judgment against you, that creditor may be more likely to settle for less than the judgment amount if your assets are held in a protected vehicle like an LP or an LLC.

This newsletter contains generalizations and simplifications. Prior to implementing any estate plan, you should consult with competent tax and legal counsel to assess your specific circumstances and determine whether any particular technique discussed in this communication would be appropriate for you and could be implemented in a manner designed to achieve the desired favorable outcome. This newsletter including any attachments is not intended to be, and should not be construed as, U.S. federal tax advice for purposes of Circular 230 and may not be used for the purpose of avoiding penalties under the Internal Revenue Code. Additionally, this newsletter including any attachments is for education purposes and is not intended to be used for, and should not be used for, the purpose of promoting, marketing or recommending to another party any transaction or matter addressed herein.

THE RED FILE: YOUR FAMILY'S GUIDE TO YOUR ASSET MANAGEMENT AND FUTURE CARE

If something were to happen to you today, would your loved ones know where to find all of your important personal information? If you were suddenly unable to communicate due to an accident or a decline in mental health, would they know your wishes for future care? If not, you should consider creating a "Red File."

A Red File serves as a comprehensive asset management guide for your family. It consolidates all of your important personal and professional account information and can detail your medical information and wishes for future care. Your Red File should contain a variety of information including, financial information (checking and investment account information, credit card information, location of safety deposit boxes, etc.), real estate information (deeds, utility company information, home maintenance information including your alarm system and lawn care company, etc.), insurance policy information (homeowners, vehicle, health, etc.), computer records and online account information (email accounts and passwords, social media accounts and passwords, etc.), medical information (doctor contact information, medical history, etc.), and copies of key documents (birth certificate, social security card, marriage license, etc.). Creating a Red File can provide great comfort to your family.

PLANNING FOR POTENTIAL FUTURE DEMENTIA OR OTHER DISABILITY

Often, estate planning is focused on identifying those individuals who will make financial and medical decisions for you if you should suffer from dementia or other mental and/or physical disability in the future. What is often not considered are some of the more personal issues. **Where do you want to live if you should become permanently disabled? If your preference is to live with a child, do you want a portion of your assets used to remodel his or her home or to purchase a larger home and, if so, how much? If you cannot be cared for in a home environment, do you have a preference on assisted living facilities?** Do you want to provide support to your caregiver, whether it is a family member or a close friend who takes on that role? If you do not have children who can take on one or more of these roles, who will implement your wishes for care during your remaining lifetime?

These types of issues, if not addressed in advance, may create friction between your children and/or result in you not receiving the type of care and living environment that you envision. Please contact us to discuss ways in which we can incorporate this aspect of planning into your current estate plan.

CONSIDER FUNDING YOUR LIVING TRUST BEFORE DEATH

Recently, a notable estate planning professor has indicated his belief that, after you die, funding a bypass trust (i.e., the trust that utilizes your estate tax exemption) could trigger income tax on the growth of assets between your date of death and the date of funding, if you use non-pro rata funding. Non-pro rata funding is the practice of funding the bypass trust with whole assets that have a value equal to 50% of the total community estate. Alternatively, pro rata funding would give the bypass trust a 50% interest in **each asset** of the estate.

While we, like most estate planning firms, are of the opinion that non-pro rata funding of the bypass trust after the first spouse's death is not a taxable event, it may well be worth funding your Living Trust during your lifetime to avoid possible IRS disputes down the road. If the Living Trust is funded during both spouses' lifetimes, Texas case law holds that no income tax should be triggered upon the non-pro rata funding of the bypass trust after the first spouse passes away.

IT'S TIME TO HAVE A FAMILY MEETING

When is the last time your family had a meaningful, productive conversation about money and the role it will play in your family's future? **Do your kids know and understand your estate plan?** Have they heard you express your wishes for how the family will continue to function after you're gone? These types of conversations can be difficult and awkward to bring up over dinner. **The best way to ensure open communication about these issues and educate everyone on the family's legacy and financial matters is to schedule an annual family meeting.** Not only can these meetings help unite the family and prepare it to carry on the family's legacy, they can also serve as an educational tool for younger generations. Annual family meetings provide a platform for you to share your goals for the family's future, like good stewardship of family wealth or discuss the family's views on philanthropy.

One way to improve the productivity of family discussions is to include your financial and estate planning advisors in the meetings. **Advisors can be of great help in organizing the meeting, facilitating the discussion, planning educational material, and creating a meeting agenda that will ensure the meeting is beneficial and enriching.**

NUMBERS TO KNOW IN 2016

Lifetime Gift Tax Exemption
$5,450,000

Estate Tax Exemption
$5,450,000

GST Tax Exemption
$5,450,000

Annual Gift Tax Exclusion
$14,000 per donee

Top Estate/Gift/GST Tax Rate
40%

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SUMMARY OF RELEVANT PROVISIONS OF PATH ACT OF 2015

The Protecting Americans from Tax Hikes Act of 2015 (the "PATH Act") was signed into law on December 18, 2015. Below are some of the highlights from the PATH Act that affect the tax world.

The PATH Act made the following provisions permanent: (1) individuals age 70½ and older may make tax-free distributions of up to $100,000 from IRAs to qualified charitable organizations, (2) individuals may elect to claim an itemized deduction for state and local sales taxes instead of deducting state and local income taxes, (3) individuals may exclude gain on the sale or exchange of qualified S corporation stock held for more than five years, and (4) the recognition period for built-in gain following conversion from a C corporation to an S corporation was reduced to five years.

The PATH Act also made several notable changes to 529 plans. The term "qualifying expenses" was expanded to include computer equipment and related expenses. The redeposit of 529 funds in certain circumstances upon the refund of tuition is allowed without penalty.

The PATH Act does considerably more than the typical tax extenders legislation seen at year-end in prior years and is viewed by some as the biggest step towards a rewrite of the Tax Code in a long time.

2015 Super Lawyers

John R. Hunter (2004-2015)
Gary V. Post (2006-2015)
Marvin E. Blum (2003-2015)
Steven W. Novak (2013-2015)
Len Woodard (2014-2015)

The comments compiled for this newsletter are general in nature and are not tailored to any particular situation. As in the case with any estate, tax or financial planning recommendation, the planning tips suggested in this summary should not be implemented without carefully considering the total economic impact and obtaining the advice of counsel. The advice of an attorney, accountant, or other financial planning professional will provide valuable aid in analyzing the suitability of the particular estate, tax, or financial planning tip for you. By providing this information, The Blum Firm, P.C. does not assume any obligation to provide notification of future changes in laws. Please contact us if the information we have provided affects you and you would like to discuss. The content of this letter was prepared by Marvin E. Blum.

Planning Ideas for 2016 is provided by The Blum Firm, P.C. to provide current information about developments in tax and estate planning.
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