

Psychological Impact of COVID-19 on Estate Planning

Talking Points for Advisors

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MARVIN E. BLUM is an attorney and CPA based in Fort Worth. He is Board Certified in Estate Planning and Probate Law and is a Fellow of the American College of Trust and Estate Counsel.

Mr. Blum founded The Blum Firm, P.C., now in its 40th year. The Blum Firm is one of the premier estate planning firms in the nation, known for creating customized, cutting-edge estate plans for high-net-worth individuals. The firm specializes in estate and tax planning and the related specialties of asset protection, business planning, business succession planning, charitable planning, family legacy planning, fiduciary litigation, and guardianship.

Mr. Blum serves on the Editorial Advisory Committee for *Trusts & Estates* magazine. He is Treasurer for the Fort Worth Symphony and the Texas Cultural Trust. He is Secretary/Treasurer of the Pat & Emmitt Smith Charities and a member of the Boards of Directors of the Multicultural Alliance and B Sharp Youth Music Program.

Mr. Blum earned both his BBA in Accounting (Highest Honors) and his law degree (High Honors) from the University of Texas.

Ideal Time To Do Estate Planning

- › We will realize later that now is the perfect time to do estate planning.
- › With an economic downturn comes lower interest rates and lower asset valuations.
- › We've been here before—the 2008 credit crisis. Some took the opportunity to do planning, but many did not.

Planning Paralysis

- › Clients do not want to spend money right now. They feel poor (even if their deflated estate that was once worth \$100 million is now worth \$75 million).
- › People are depressed. This leads to inertia.
- › Clients need a push.
 - Tax savings now will be more dramatic.
 - Cost is minimal compared to benefits.
 - It's risky to assume you will always be healthy enough to engage in planning.
- › Clients need to hear this message from multiple advisors.

Dispel Planning Myths

- › Some are hesitant to engage in estate planning for fear of losing control of the assets, losing access to the assets, or losing the flexibility to change their mind later.
- › There are estate “freeze” planning techniques which allow the client to retain all these things.
 - First, the client transfers the assets to a Family Limited Partnership (“FLP”) to squeeze down the value of the FLP units by qualifying for valuation discounts.
 - Next, freeze the value and lock in the discount by selling FLP units to a trust that is outside of the estate, e.g., a Beneficiary Defective Trust (“678 Trust”), a Spousal Lifetime Access Trust (“SLAT”), or an Intentionally Defective Grantor Trust (“DGT”) for the benefit of your children.
 - *Control* – Client is president of the general partner of the FLP; also, can serve as trustee of the 678 Trust or SLATs.
 - *Access* – Notes receivable from sales; client is also the beneficiary of the 678 Trust or SLATs.
 - *Flexibility* – Special trustee or trust protector provisions; special power of appointment in 678 Trust or SLATs.

Awareness Of Our Mortality

- › This coronavirus recession is different from other economic declines of the past. This one is coupled with a threat to our health.
- › The pandemic reinforces that we are mortal.
- › Those of us age 60 and over can no longer delude ourselves that we're still young. We are in the high risk "elderly" category.
- › The coronavirus can even strike young people. Our children age 18+ need estate planning documents too, especially the healthcare documents.

Get Your Affairs In Order

- › Getting your affairs in order is more than having a will.
- › Having updated ancillary estate planning documents is equally important.
 - Financial Power of Attorney
 - Medical Power of Attorney
 - Directive to Physicians/Living Will
 - Declaration of Guardian
 - HIPAA Waiver
- › Now is also a good time to create a “Red File” for what estate planning documents don’t cover.

“Red File”

- › Centralized file of personal information, such as key contacts, location of assets, passwords, etc.
- › A detailed plan for how you want to be cared for during incapacity.
- › A continuity plan for any businesses owned.
 - Business continuity planning (business succession planning) is the number 1 most neglected area of estate planning.
- › The family’s legacy plan.
 - The recent increase in the use of video-conferencing services (such as Zoom) has shown us there is no need to put off having the first family meeting until everyone can be in the same room.
 - Locked up with family during this pandemic has made us acutely aware of any communication or family harmony issues.
 - Now is the ideal time to write an “ethical will” or “love letter” to future generations.

The “Golden Age of Estate Planning” Won’t Last

- › Opportunities that are available today won’t always be available.
- › The higher estate tax exemption and some of the other tax breaks in the Tax Cuts and Jobs Act of 2017 will sunset December 31, 2025.
- › One day, there’ll be another Democratic administration in the White House. There’ll be a push to raise taxes and close down planning tools. Section 2704 regulations will resurface, shutting down valuation discounts.
- › The federal deficit is going through the roof. We will have to pay for all this stimulus help.
- › No one knows exactly what tax changes will occur, but right now we likely have the best planning environment and tax rates we will see for a long time.

What Will You Be Most Proud Of?

- › Author Michael Hyatt has written several books on planning and leadership and expressed the following thought.
 - Ten years from now when you look back on what you did during this episode, what will you be most proud of?
 - Wouldn't it be great if you could say that you took advantage of this time to set up your family for success?