

Planning Insights for 2020

March 2020

To our clients and friends:

Happy 2020! As we begin not only a new year, but also a new decade, we look forward to seeing what the future holds. This year marks The Blum Firm's 40th anniversary since being founded in 1980. We are eternally grateful to you, our clients and friends, who have helped us grow into the largest group of estate planning attorneys in Texas with clients all over the country. It is through a combination of fantastic clients, amazing colleagues, and talented attorneys and staff that we are able to provide cutting edge estate and tax planning services, and we appreciate the opportunity to continue serving you for the next four decades and beyond.

Speaking of our talented attorneys, we would like to share some of the accomplishments and recognition that the Firm's attorneys received over the last year:

- **Kelsey Brock** became a partner in the Firm effective January 1, 2020. Kelsey is an integral member of our Dallas team, and we are excited to watch her career continue to advance!
- **Marvin Blum** was again included in the second annual list of *Fort Worth, Inc.'s* 400 Most Influential People.
- Four of our attorneys were selected to Thomson Reuters' 2019 Texas Super Lawyers list. **Marvin Blum**, **John Hunter**, and **Dyann McCully** were recognized in Estate Planning & Probate, while **David Bakutis** was recognized in Estate & Trust Litigation. **Marvin** was also named as a Top 100 Super Lawyer for the State of Texas.
- Seven attorneys were selected to Thomson Reuters' 2019 Texas Rising Stars list. **Amanda Holliday**, **Amy Ott**, **Rachel Saltsman**, **Jeff Hamilton**, **Kandice Damiano**, **Beth Hampton**, and **Jennifer Sibley** all were named in the area of Estate Planning & Probate.
- Eight of our attorneys were named 2019 Top Attorneys by *360 West* magazine, with two being recognized in more than one practice area. **Marvin Blum**, **Amanda Holliday**, **Amy Ott**, **Rachel Saltsman**, **David Bakutis**, and **Dyann McCully** were recognized in Wills, Trusts, Estates, and Probates. **Marvin**, **John Hunter**, and **Len Woodard** were recognized in Tax Law, and **Dyann** was recognized in Arbitration and Mediation.
- Thirteen of our attorneys were named 2019 Top Attorneys by *Fort Worth* magazine. **Marvin Blum**, **Amanda Holliday**, **Amy Ott**, **Rachel Saltsman**, **David Bakutis**, **Dyann McCully**, **Julie Plemons**, **Laura Haley**, **Kandice Damiano**, **Cathy Moon**, and **Beth Hampton** were recognized in the Probate/Estates/Trusts category, while **John Hunter** and **Len Woodard** were recognized in the Tax category.

We have also had the pleasure of adding three attorneys to our team. **Paige Foster** joined the Dallas office, while **Megan McIntyre** and **Malathi Ravi** joined the Fort Worth office.

Paige earned her J.D. from Texas Tech University School of Law and a Bachelor of Arts in Psychology *cum laude* from Baylor University. While at Texas Tech, **Paige** served as the Managing Editor of the Estate Planning and Community Property Law Journal, President of the Tax Law Society, and Vice Chairperson of the Student Wellness Advisory Council.

Megan also attended Texas Tech University School of Law and earned her J.D. *magna cum laude*. She received her Bachelor of Arts in International Relations and Global Studies *cum laude* from the University of Texas at Austin. During law school, **Megan** served as the Executive Symposium Editor for the Estate Planning and Community Property Law Journal, Vice President of the Organization of Women Law Students, and Secretary of the Longhorn Bar Association.

Malathi earned her J.D. from Emory University School of Law and her B.S. in Economics from Birmingham-Southern College. At the beginning of her career, **Malathi** worked as an International Tax Consultant for Arthur Andersen and Deloitte & Touche and as a Lead Systems Business Analyst at Thompson Reuters working on international tax issues. While taking a break from the law to focus on her husband and two daughters, **Malathi** spent much of her time volunteering and is currently a member of the Fort Worth Country Day School Board of Trustees and Finance Committee.

Looking forward, we will continue to monitor developments related to estate planning and tax law, including any impacts from the 2020 presidential election. In the meantime, the pages to follow contain planning tips and strategies for your consideration. As always, we are available to discuss any questions you may have as you review this information.

We wish you a happy, healthy, and prosperous 2020!

The Blum Firm, P.C.

The Blum Firm's Holiday Party



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Amanda L. Holliday*
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USE IT OR LOSE IT: INCREASED EXEMPTION AMOUNTS SET TO SUNSET

The Tax Cuts & Jobs Act of 2017 resulted in an increase of the lifetime gift and estate tax exemption and the generation-skipping transfer tax (“GST”) exemption to \$11.58 million per person (\$23.16 million for a married couple) in 2020. That amount is expected to increase each year until January 1, 2026 when the exemption amounts revert to \$5 million, adjusted for inflation. In the meantime, individuals have a limited time opportunity to “use it or lose it” by making lifetime gifts that utilize the increased exemptions. Some techniques are described in more detail below.

While it may be tempting to wait until 2025 to utilize the increased exemptions, it is important to keep in mind that new legislation could reduce the exemptions sooner. Although we consider that an unlikely scenario, the political landscape has been known to change in unexpected ways. In addition, acting sooner rather than later locks in the benefit from the growth of assets over time. If you act now (rather than in 2025) to shift assets to a pocket that is outside of your estate for estate tax purposes, exempt from GST tax and protected from creditors and divorcing spouses, you will also shift the growth of those assets over the next five-year period out of your estate.

TECHNIQUES TO USE IN THE GOLDEN AGE OF ESTATE PLANNING

Current market volatility, low interest rates, and increased exemption amounts of \$11.58 million give rise to unique planning opportunities, making this the golden age for estate planning. However, note that potential changes in the political landscape may result in a premature end to this golden age, as new leadership could pass laws to reduce the gift and estate tax exemption before 2026.

Consider leveraging the increased exemption amount by making intra-family loans, selling appreciating assets to grantor trusts, or setting up grantor retained annuity trusts. These options are particularly effective while interest rates are low. Other planning techniques can utilize the increased exemption while incorporating an “estate freeze.” These techniques involve transferring assets with high appreciation potential to a trust for the benefit of your family often in exchange for a note payable to you. Consequently, the value of your estate for estate tax purposes is frozen at today’s values, and future growth of the assets sold is shifted outside your estate.

Making significant lifetime gifts does not mean forfeiting control of, or even access to, the gifted assets. **Some planning techniques allow you and your spouse to maintain control and access to the assets.** For example, a husband and wife can each gift to a Spousal Lifetime Access Trust (“SLAT”) for the benefit of the other spouse. This technique is a favorite because it uses the additional exemptions, but husband and wife continue to control and benefit from the gifted assets. You can also utilize the increased GST exemptions by making a “late allocation” to assets already held in an irrevocable trust that is not currently GST exempt.

Many planning techniques utilize **valuation discounts** associated with partnership interests, which can be gifted or sold to trusts that are outside of your estates for estate tax purposes. In 2016, the IRS issued proposed regulations that would have eliminated those valuation discounts in most cases. However, the Trump administration deemed those regulations “unduly burdensome” and withdrew them. For these reasons and for other non-tax reasons (including creditor protection, divorce protection, spendthrift protection, and posthumous control), now is the ideal time to explore many estate planning opportunities.

THE SECURE ACT IS HERE: IT'S TIME TO UPDATE YOUR IRA BENEFICIARY DESIGNATIONS

Do you have an IRA? If so, you need to check your beneficiary designations – and likely change them. As of January 1, it is no longer a good idea to name your children (either directly or through a Conduit Trust) as the beneficiary of your IRA.

The new SECURE Act of 2019, signed by President Trump in December, eliminated what was known as “the stretch IRA” for most beneficiaries. Basically, instead of your children being able to stretch out IRA distributions over their lifetime, once a child inherits an IRA, the entirety of the funds within the IRA must be distributed within 10 years.

This means that the income tax benefits associated with small, lifetime payouts are gone. Now, the IRA you diligently stewarded for years will be completely exposed within ten years of your child receiving it. **To protect your IRA from your children’s creditors, divorces, income taxes, and unwise spending, you must change your beneficiary designations.** For most, the best option will be to leave your IRA to an **Accumulation Trust**, which will allow the IRA funds to remain protected.

Depending on the complexity of your estate plan, changing your IRA beneficiary designations may require a few small steps, or it may mean a more comprehensive overhaul of your current plan. Regardless, anyone with an IRA should take steps now to resolve insecurities caused by the new SECURE Act.

DON'T WANT TO PAY LARGE CAPITAL GAIN TAX? CONSIDER A CRT

Selling a valuable asset is no fun if you have to give away 20% to the IRS. **A Charitable Remainder Trust (“CRT”) is one tool for a charitably inclined individual to save income taxes.**

Here is how a CRT works: Before selling an appreciated asset, the individual contributes the appreciated asset to a CRT, which then sells the asset and makes annual payments to the individual for a term of years. No tax is paid on the sale proceeds. Instead, tax is paid by the individual after receiving each annual payment. The result is that the **CRT enjoys the tax free investment build up.** All assets remaining in the CRT at the end of the term pass to the individual’s favorite charities. The individual and the charities receive more after-tax cash than they otherwise would, and the IRS is the loser. Now that IS fun!

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.

WHAT IS THE DIFFERENCE BETWEEN DONOR-ADVISED FUNDS AND PRIVATE FOUNDATIONS?

Many people want to incorporate charitable planning into their estate plan. One way to accomplish this is to create a donor-advised fund. You can make a large gift to a donor-advised fund, which qualifies for a charitable deduction in the year the gift is made. These assets are then professionally managed and distributed to desired causes at the recommendation of the donor. **These funds are a low maintenance option for the donor** and are subject to fewer rules and restrictions than other charitable vehicles.

Another option to facilitate charitable giving is to create a private foundation. Private foundations allow families to collaboratively establish a charitable entity that can carry on a **giving plan through multiple generations**. While private foundations are subject to more rules and restrictions than donor-advised funds and must also file annual information returns with the IRS, they allow family members to participate in the foundation's operations and, in some cases, to be compensated for their work.

THERE ARE ALTERNATIVES TO A PREMARITAL AGREEMENT

A premarital agreement is a common tool to protect the separate property character of assets when a marriage ends, whether by death or divorce. Although an effective tool, the idea of entering into such an agreement can sometimes be emotionally difficult. It is important to know that there are ways to protect both your assets and your heirs' assets with the help of alternatives to the classic premarital agreement. **One option is to create an irrevocable trust to own the assets**. Because the trust, rather than the beneficiary, owns the property, these assets fall outside the marital estate altogether and therefore are not subject to the claims of a spouse and do not factor into the division of the community property.

Another option is to create a limited liability company ("LLC") to own the assets. Typically, income from separate property will be characterized as community property. If the community property income is not carefully segregated from the separate property, the two types of property could become commingled, jeopardizing the separate property character of the assets. If an LLC is funded with separate property, then the LLC interests will be characterized as separate property. Income generated by the assets will stay inside the LLC and can be reinvested there without jeopardizing the separate property nature of the LLC. Note that if the LLC makes distributions, the distributions may be characterized as community property.

DON'T LEAVE YOUR FAMILY IN A LURCH: BUSINESS SUCCESSION PLANNING

If you own a business, do you have a succession plan in place? It's important to have a plan in place for WHEN (not IF) you are no longer able to run it. Business succession planning allows you to decide who will own the business and plan for the sale/transfer to the new owner(s). It also allows you to decide who will run the company, the process of training/mentoring your successor, and plan for the financial future of family members who are supported by the business. And, if the business will stay in the family, plan now to prepare the family to be able to make decisions together, collaborate, and communicate effectively.

Don't leave your family, your business, and your employees unprepared in the instance of a sudden or unexpected event. Call us to discuss your business succession planning needs.

ARE YOUR CHILDREN PREPARED FOR THEIR INHERITANCE?

While estate planning often focuses on technical factors (tax, asset protection, etc.), it is also important to focus on your qualitative goals, including a strategy to equip the next generation to responsibly receive, manage, maintain, and pass on the assets.

The most common reasons wealth transfer efforts fail are lack of communication, lack of trust, and unprepared heirs. By studying families who have succeeded throughout generations, **common best practices have been identified**: hold **family meetings** and family retreats; create a curriculum and process to **educate the heirs**; have a system of **family governance** (such as how family decisions are made); and work to preserve the **family's history** and heritage. The bottom line: Don't just prepare the money for the family, prepare the family for the money.

We are pioneering a new type of trust called a Family Advancement Sustainability Trust ("FAST") that is dedicated to the family. A FAST does two things: (1) it is funded with assets that will be used to pay for family meetings, family enrichment, and to prepare heirs to successfully manage an inheritance; and (2) it creates a leadership structure to ensure these activities happen. Please contact us to explore how to invest in your family and add a FAST to your estate plan.

MAINTAIN YOUR "WBE" STATUS AND MINIMIZE TAXES

Many business owners who own a certified Woman's Business Enterprise ("WBE") are hesitant to put the business in a trust as part of tax minimization planning for fear of losing the WBE certification and the related benefits such as special consideration when bidding on certain grants and government contracts. However, **a certified WBE can be owned by a trust** if the trust is carefully drafted. The trust must be structured so that a woman is entitled to receive at least 51% of the profits and benefits of the business and so that she maintains at least 51% of the voting rights of the business. Additionally, the trust must be structured to ensure that only women hold the position of trustee of the trust.

If you have a WBE and are interested in tax minimization planning, we can help ensure that any trusts in your estate plan allow for the possibility of a WBE while still accomplishing your estate and tax planning goals.

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.

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PLANNING INSIGHTS FOR 2020

Estate and Gift Tax Numbers to Know:

	2019		2020	
Annual Gift Tax Exclusion Amount	Individual \$15,000*	Married Couple \$30,000*	Individual \$15,000*	Married Couple \$30,000*
Combined Lifetime Federal Estate Tax and Generation-Skipping Transfer Tax Exemption Amount	Individual \$11,400,000	Married Couple \$22,800,000	Individual \$11,580,000	Married Couple \$23,160,000

Unless there is another tax law change, the estate and gift tax exemption will sunset on **December 31, 2025**. Starting **January 1, 2026**, the exemption will return to **\$5 million**, adjusted for inflation.

***Plus unlimited amounts for education or medical expenses, paid directly to the service provider.**

Income Tax Numbers to Know: The contribution limit for employees who participate in 401(k) plans increased from \$19,000 in 2019 to \$19,500 for 2020. The catch-up contribution limit for those 50 or older increased from \$6,000 in 2019 to \$6,500 for 2020. In 2020, the Social Security wage cap is \$137,700, up slightly from \$132,900 in 2019. The higher standard deductions we saw last year have been adjusted for inflation.

We recommend “bunching” multiple years of charitable gifts into a single year to maximize your charitable deduction. Bunching several years of charitable gifts into one year can push taxpayers above the new higher threshold for itemizing deductions in that year and provide them with a deduction for the full value of their donation. In alternate years, taxpayers could give less and simply claim the standard deduction. And to make certain your favorite charities are still receiving gifts from you on an annual basis, you may want to consider directing your bunched charitable gifts to a donor-advised fund that supports the specific charities that matter most to you.

Standard Deduction	2019	2020
Single	\$12,200	\$12,400
Married Filing Jointly & Surviving Spouse	\$24,400	\$24,800
Married Filing Separately	\$12,200	\$12,400
Head of Household	\$18,350	\$18,650