

Questions Our Clients Are Asking in 2023

March 2023

To our clients and friends:

As we begin a new year, we take inspiration from Founding Father George Washington. Facing extreme hardship in the freezing winter days of the Revolutionary War, General Washington wrote in a letter, "it is vain to ruminare upon, or even reflect upon the Authors or Causes of our present Misfortunes." Instead, he chose to focus on charging forward, ultimately launching an attack on the British that turned the tide of the War in favor of the Revolutionaries and our new Nation.

Rather than focusing on the chaos of the past year and current political, economic, and social uncertainties, we focus on looking forward and planning for the long-term. We know that two things are certain—death and taxes, both of which require careful planning and forethought. Read on to find questions that we are often asked and how to respond via planning for the long-term and, in some cases, take advantage of the current climate.

But first, please join us in recognizing members of The Blum Firm team for accolades received in 2022.

- **Marvin Blum** was included in *Fort Worth, Inc.*'s magazine 2022 list of 400 Most Influential People in Fort Worth.
- Five of our attorneys were selected to the 2022 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. **Len Woodard** was recognized in Business & Corporate.
- **Kandice Damiano, Beth Hampton** and **Jennifer Sibley** were selected in the 2022 Texas Super Lawyers Rising Stars list in Estate Planning & Probate.
- *360 West Magazine* recognized **Marvin Blum, Dyann McCully, and Kandice Damiano** as Top Attorneys in 2022 in the Wills, Trusts, Estates, and Probate Category. **John Hunter** and **Len Woodard** were recognized as Top Attorneys in 2022 in Tax Law.
- Nine of our attorneys were named 2022 Top Attorneys by *Fort Worth Magazine*. **Marvin Blum, John Hunter, Amanda Holliday, Len Woodard, David Bakutis, Dyann McCully, Laura Haley, Kandice Damiano, and Beth Hampton** were recognized in the Probate/Estates/Trusts category.
- **Jeff Hamilton** and **Ed Copley** were named by *D Magazine* as a 2022 Best Lawyer.
- Three of our attorneys were selected in *U.S. News – Best Lawyers in America*. **Marvin Blum** and **David Bakutis** in Trusts & Estates and **Keith Morris** in Litigation – Trusts & Estates.
- **The Blum Firm, P.C.** was included in the 2023 Edition of *U.S. News – Best Lawyers* "Best" ranking for the Dallas/Fort Worth area in Trusts & Estates and in Litigation-Trusts & Estates.

We are also pleased to announce several fantastic additions to our team over the past year. **Stacy Kelly** joined the litigation team as a partner in our Houston office, bringing with her over twenty years of experience in complex probate and fiduciary litigation, probate administration, heirship proceedings, and guardianship matters. **Doug Harvey** joined our Dallas office, where he focuses on estate planning. Prior to joining the Firm, Doug served as general counsel for a commercial mortgage lending and services company, giving him unique experience to counsel clients on entity selection and formation, day-to-day operations, and business succession matters. **Christopher Beck** joined our team in the Fort Worth office focusing on tax matters. Christopher has fifteen years of experience assisting clients with domestic and international tax controversy, compliance, and tax planning. Welcome Stacy, Doug, and Christopher!

As you review the questions and ideas over the next few pages in your journey of planning for the long-term, we invite you to contact us by email or by phone or visit our website. We look forward to helping you achieve your goals in 2023!

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The Blum Firm 2022 Holiday Party
(Staff and Family Members)

How Much Should I Leave My Children to Avoid Ruining Them?

As Warren Buffett says, the right amount to give your children is the amount they are prepared to receive. The problem is less about the amount the children receive and more about the children not being prepared to receive it. It is important to be intentional about training your kids to be responsible inheritors.

One option is to **include a charitable structure in your estate plan and leave your heirs two inheritances**: (1) a traditional inheritance to provide for their security and needs; and (2) a second inheritance giving them the opportunity to use the family assets to give back.

Family philanthropy is a gift that keeps on giving, not only to the recipients of grants, but also to the donors. Those who give get back more than they give. A Family Foundation can be described as a “laboratory” where family members come together to practice group decision making as they jointly select causes to support. As they manage foundation funds, they learn about investing and money management. Moreover, these interactions create connectedness and powerful family glue.

MAKE LEMONADE OUT OF LEMONS: How Do I Make Lemonade with Higher Interest Rates?

Federal Reserve officials suggested at their last meeting of 2022 that they expect inflation to stay elevated and in turn expect to raise interest rates this year more than they had previously forecast. With further interest rate hikes on the horizon, economic uncertainty will likely continue. But, do not despair. Some estate planning techniques thrive in higher interest rate environments.

A **Qualified Personal Residence Trust (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 term of the trust, 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. Because the value is discounted, you can gift it to your heirs using less of your lifetime gift tax exemption.

Another technique that works well in a higher interest rate environment is the **Charitable Remainder Trust (CRT)**. With a CRT, you transfer assets to an irrevocable trust. The trust pays you an annuity for a specified term and passes any assets remaining when the term ends to a charity of your choice. The CRT can sell assets without recognizing gain, while you only recognize the gain as you receive annuity payments, postponing the date you have to recognize the gain. Higher interest rates have two key effects on CRT planning: (1) they can lead to higher income tax deductions for you; and (2) they may allow for a higher annual payout to you.

THE LANDSCAPE FOR 2023: What Does “Use It or Lose It” Mean?

The current **\$12.92 million estate tax lifetime exemption** (\$25.84 million for married couples) **is set to be cut in half on January 1, 2026**. Unless Congress changes the law prior to December 31, 2025, those higher amounts will sunset and return to pre-2017 level. The political dysfunction of our partisan government makes it unlikely these exemptions will be extended by a new tax law. If you haven't already taken advantage of this limited time opportunity in your estate planning, you should act before the window closes. The federal estate tax rate for value transferred above the exemption to anyone other than a spouse or charity is currently 40%. Without taking steps now, a single decedent in 2026 with an estate over \$6 million will only transfer 60% of the overage to heirs.

The Blum Firm utilizes several techniques to lock in the current exemption levels. Clients often choose to make lifetime gifts of assets expected to greatly increase in value to remove future appreciation from their taxable estate. Making gifts of assets with depressed value can be especially effective during this time of economic uncertainty.

Can The Blum Firm Help With My Tax Audit?

You may have heard the IRS will be receiving an additional \$80 billion over the next decade due to the passage of the Inflation Reduction Act. Over half of that is earmarked specifically for tax enforcement. As a result, the number of IRS auditors could double to over 30,000 by 2031. In response, **The Blum Firm is expanding our tax controversy practice** to broaden the firm's ability to help our clients as they navigate the more difficult tax challenges they will face in the coming years.

In addition to assisting clients with tax controversy matters connected to income tax and gift/estate tax, we represent clients in civil or criminal tax examinations and audits, as well as IRS collection matters. We also represent individuals and businesses with international issues including the tax consequences of cross-border transactions, assisting expatriate clients on compliance issues relating to tax and information reporting, and representing clients entering into the IRS offshore voluntary disclosure programs with respect to previously undisclosed foreign assets.

How Do I Protect My Family Assets in 2023?

Asset protection planning, either as defensive structures against unforeseen creditors or as important components in your fundamental estate planning structure, is essential during times of uncertainty. Asset protection planning is a set of legal strategies created to **protect your assets from creditors, lawsuits, and judgments**, usually through the implementation of a marital property agreement, limited liability company, limited partnership, or a trust. Most importantly, it can provide you with settlement negotiation power and prevent the seizure of your assets in the event of a judgment.

Asset protection planning is particularly important for spouses that have varying levels of liability exposure. For instance, assume one spouse has a high probability of liability exposure (i.e., a doctor, lawyer, or other service professional) and the other spouse has a very low probability of liability exposure. Spouses can enter into a partition agreement, to make exposed assets the separate property of the spouse with the lower liability exposure. If a judgment is issued against the spouse with the higher liability exposure, the potential creditors will not be able to seize any of the assets that are owned by their spouse as separate property.

In addition, retitling certain assets into the name of an entity, such as a limited partnership or trust, can provide asset protection. Most importantly, with the right techniques, asset protection planning can protect the assets that you have worked so hard to accumulate for you and your family and give you peace of mind during these uncertain times.

What Are Some Ways That I Can Help My Children With the Rising Cost of Living?

With inflation hitting a 40-year high in 2022, there is a dramatic increase in the cost of living compared to recent years. You may have witnessed the effect of this rise on younger children or grandchildren, early in their careers or still pursuing their education, and struggling to make ends meet. **Tax-advantaged planning strategies are available to benefit your children or grandchildren now when they need it most**, rather than later when they receive their inheritances.

- In 2023, the annual gift tax exclusion allows each individual to give away up to \$17,000 per donee, free of tax and without eating into the donor's lifetime gift tax exemption.
- Tuition payments made directly to an educational institution on behalf of a child or grandchild are not treated as taxable gifts. Likewise, payments for a child or grandchild's medical care (including health insurance) made directly to the medical provider are not treated as taxable gifts.
- Individuals may make flexible intra-family loans (including home mortgage loans) for more favorable interest rates than those available on the open market.
- "529 Plans" are tax-advantaged savings plans primarily designed to assist with educational costs and can be created for the benefit of a child or grandchild. The money in a 529 Plan will appreciate on a tax-deferred basis. Upon withdrawal, if the money is used for qualified education expenses, it will not be subject to income tax.

PAY NOW OR PAY (MORE) LATER: Is It Worth It to Do an Online Will?

When you hear someone refer to a "homemade" or "do it yourself" Will, you may think of handwriting scratched across a piece of paper. However, the term also refers to free or low-cost forms downloaded from the Internet. Homemade Wills have been around for generations, but our litigation team is seeing an increase of the use of internet-produced homemade Wills. We speak from experience when we caution that **your loved ones will spend more in attorney's fees to clean up the mess created by a homemade Will than it would have cost to have a Will properly prepared by an estate planning attorney.**

Even for a "simple estate," homemade Wills, including Internet downloads, are fraught with problems. A best-case scenario for a homemade Will is that you have a valid Will, but extra steps are required for probate because it lacks the necessary language for a stream-lined process under Texas law. And, this best-case scenario will require more time from the attorney probating the Will and, thus, more attorney's fees.

A worst-case scenario costs you more than just increased attorney's fees. For example, homemade Wills often fail to meet the requirements under Texas law to create a valid Will, meaning the document has zero effect. Or, the terms in the homemade Will may be confusing, incomplete, or contradictory, and a judge has to determine what you meant by the words you chose. The result of a worst-case scenario is the possibility that your estate passes to different beneficiaries (or in different shares) than what you intended and higher attorney's fees to probate the Will.

Trust us when we say you will either pay now to prepare a valid Will that accomplishes your objectives, or your loved ones will have to pay (more) later to clean up the mess.

Numbers to Know in 2023

Annual Gift Tax Exclusion Amount	Individual \$17,000*	Married Couple \$34,000*
Combined Lifetime Federal Estate Tax and Generation-Skipping Transfer Tax Exemption Amount	Individual \$12,920,000	Married Couple \$25,840,000

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

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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QUESTIONS OUR CLIENTS ARE ASKING IN 2023

When Do I Need to Update My Estate Plan?

Among the top questions we hear from our clients is **when, or under what circumstances, estate plans should be reviewed**. The circumstances typically considered are a change in family dynamic, such as marriage, divorce, birth, and/or death. Additionally, a change in financial or work circumstances, such as retirement, substantial shift in wealth, or sale of a family business/property warrants review. Anyone moving to Texas from out of state (e.g., California) should have any existing documents reviewed for appropriate updates and to clearly delineate the characterization of assets coming into Texas, as well as the impact of Texas law on such assets going forward. Many will review their planning if there is a concern about the effect of wealth on their children and grandchildren, or if they have concerns about whether someone named to a fiduciary capacity (e.g., executor or trustee) may not be equipped to carry out your wishes.

If none of the above apply, it is still advisable to have your plans reviewed every three to five years, to see if there are any new tax laws or planning techniques that may be appropriate for your plan. We will be happy to assist you with a review of your plan.



Meet The Blum Firm Partners

(Left to right) David Bakutis, Frank Leffingwell, Stacy Kelly (seated), Keith Morris (seated), Kandice Damiano, Dyann McCully, John Hunter, Marvin Blum, Amanda Holliday, Len Woodard, Jeff Hamilton, Julie Harris (seated), Julie Plemons (seated), Matthew Rittmayer, and Laura Haley

Does The Blum Firm Have Ideas for Legacy Planning?
Yes! Check out our Blog at:
www.theblumfirm.com/family-legacy-planning-series

Questions Our Clients Are Asking in 2023 provided by The Blum Firm, P.C. to provide current information about developments in tax and estate planning.

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