

## Dear Clients and Friends,



What a ride this past year has been! In the estate planning community, all eyes are on the new administration and Congress to see what they will do with respect to income and estate taxes. This uncertainty has left many wondering if now is the right time to begin an estate plan or the right time to review and/or modify an existing estate plan. As we sail forward, rest assured that we are here to help you navigate whatever changes lie ahead.

### Estate Taxes: No Longer What Planning is About

The important thing to keep in mind is that true estate planning has very little to do with taxes. In reality, with federal and state exemption rates in the multi-millions and rising, only .5% of Americans will be subject to estate tax. Whether you fit into that bracket or not, the more critical component of planning is determining who will make decisions for you if you become unable to do so and to whom, how and when your assets will be distributed. *These are decisions which cannot be put on hold in anticipation of future tax laws.*

### Estate Planning: A Process, Not a Product

As I often say, *estate planning should be treated as a process, not a product.* At this time, and under these circumstances, our focus is on drafting estate plans that address all possible scenarios, with necessary flexibility, that are designed to work under the laws in effect when the plan is drafted. It is important to make sure that your estate plan has the right provisions and protections, if you happen to die before any changes to the nation's tax laws. In any event, estate plans are implemented based on the laws in effect when you die.

### Staying Ahead of the Curve

We prepare your documents with administrative clauses intended to address potential pitfalls and uncertainties and we update our drafting techniques on a constant basis. As no two clients are alike, our practice is highly customized, taking into account the unique circumstances of each and every individual. This is the most challenging part of the process for us at Altman & Associates, and one of the hardest to explain to our clients because we do not live in a world of "one and done".

### What Could Happen When the Tax Laws Are Changed

- **Possible Estate Tax Repeal** – The current federal estate tax stands at 40%, however, the current administration has vowed to repeal it. While the tax impacts very few estates, families and small businesses can be hit hard when it does.
- **Gift Tax Repeal Unlikely** – Without a gift tax, taxpayers could shift income to family members or others with lower income tax rates, at any time. Hence, it is unlikely that gift taxes will be repealed.
- **Capital Gains Changes** – To replace the taxes lost when the estate tax is repealed, it is possible that there will be a new capital gains tax at death. The tax rate on capital gains may also change.
- **Income Tax Changes** – The corporate income tax will likely be reduced, as well as individual income tax rates.

### What's Important to Think About Now:

**Clarity & Flexibility** - Given the uncertainty about future estate laws and how lives can change, adding sufficient flexibility into estate documents is more important than ever, as is clear and concise language to avoid family fights and court cases.

**Planning for Second Marriages & Blended Families** - Even couples who have been married for 30 years worry that a surviving spouse will remarry and disfavor the children. Consequently, planning to anticipate a second marriage or planning for couples who have children from prior marriages is critically important. After the loss of a parent, will the children continue to have family dinners together? Will the children and step-children be able to amicably handle the settling of affairs? Ensuring these things often warrant naming independent fiduciaries to handle matters after the death of the first spouse.

**Asset Protection** - This can apply to both the client and his or her beneficiaries. How should an inheritance be structured to avoid the claims of creditors, predators and bad marriages? Additionally, how can a client protect his or her own assets from creditors? I recently learned about a young real estate investor who had personally guaranteed loans on a new development. The project failed and he became personally liable for \$20 million. As luck would have it, his uncle had recently died and left him an outright bequest of \$20 million. The dilemma was that if the young man received the bequest, his creditors would get their \$20 million. However, if he disclaimed the bequest, the \$20 million would be given to the American Cancer Society. If the uncle's planning had considered protecting the inheritance from the man's creditors via a trust with appropriate provisions, he would have been able to declare bankruptcy and

still benefit from the inheritance. This example is a good reminder that most inheritances should be placed in trust to safeguard against creditors and other parties.

**Financial Exploitation & Elder Abuse** - As the population ages, this is becoming a concern for almost everyone. An estate plan done when a client was 60 may no longer be appropriate when the client is 80. Certain steps should be taken as early as possible to make sure that the client is protected, as he or she ages, from family contention or financial exploitation.

**Fiduciary Issues & Income Taxation of Trusts** - Individuals who are Trustees and beneficiaries of existing Irrevocable Trusts are sometimes wary of hiring trust attorneys to assist them or look out for their interests. However, they should do exactly that. Last year, I advised beneficiaries of an Irrevocable Trust after the primary beneficiary (their mother) died. Unfortunately, there was nothing I could do to reverse a \$500,000 generation-skipping transfer (GST) tax. Had I been approached prior to their mother's death, we could have avoided the GST tax with a simple court action. All too often, people pay exorbitant taxes and fees that could have easily been avoided with advanced planning.

**Creating Family Harmony, Instead of Destroying Families & Wealth** – Sadly, many families are torn apart over how the parents have structured their estate plan. There are techniques and strategies that we use to best insure that, after the death of the parents, the children and heirs still continue to have Thanksgiving dinners together.

**The Changing Notion of Family** - The traditional family structure involving a heterosexual couple in a long-term marriage who conceived children together is no longer the norm. Primary changes in family structure have included:

- A dramatic increase in divorce and the creation of blended families
- Legalization of same-sex marriage and an increase in unmarried cohabiting couples
- Children born outside of marriage and the phenomenon of single mothers by choice
- An acceptance of adoption and sophisticated assisted reproductive technology
- Evolving gender roles and an increased understanding of issues impacting transgender family members

Estate planning documents have to take into consideration these changes as they impact family governance, how services are provided and how existing trusts are to be interpreted. These issues go to the very core of what it means to be a family.

### Exciting News at Altman & Associates

2016 was a wonderful year for our firm. We celebrated our 20th business anniversary and welcomed a new attorney, Christopher Martin, to our team. This year, Jamie Zhang began transitioning to a Paralegal position to assist in our probate and trust administration team. Also in 2017, we are thrilled to welcome Li Weng, Robert (Bob) J. Freda and Alexandra Hermann to the Altman & Associates team. Li is fluent in Mandarin Chinese and brings exciting new energy to the team. Bob, a longtime friend of mine, adds several decades of estate law and CPA experience to our arsenal. Alexandra has seamlessly taken over the front office as our new Administrative Assistant.

To keep up with our expansion, we are adding some much needed additional space to our Rockville location. (Please pardon the noise if you happen to visit.) We now have offices in McLean, Tysons Corner, Washington, D.C. and Columbia, Maryland as well.

### Thank You

As we reflect back on our success and look forward to the future, I would like to say thank you. I can still remember the first day I opened the office in this very same building! The support and trust from our valued clients, our wealth advisory network, our friends, family and our employees have been critical to our success. We remain grateful for the opportunity to continue serving you and your referrals. Similarly, we have developed an extensive network of trusted professionals over the years—lawyers (who practice in other areas of the law), CPAs, financial advisors, insurance agents, daily money managers, home health care providers, real estate agents, business advisors and consultants, employee benefit providers, and others, so please contact us if you need assistance in any area. We will do our best to connect you with the best person to help you.

Gary Altman, Esq.

**P.S. Please let us know if there have been any changes to your contact information, including e-mail. Call the office or visit [www.altmanassociates.net/update](http://www.altmanassociates.net/update) to complete a quick client update form.**