

## Dear Clients and Friends,



### Opportunity Abounds

The uncertainty of last year for all of us in the estate planning community has now ended! The new Tax Cuts and Jobs Act of 2017 is officially law and has wide-ranging implications for individuals, small businesses, corporations, and almost all sectors of the American economy. This year's client letter addresses the significant changes to our income and estate tax laws and provides you with guidance regarding your existing estate plans and the abundance of corresponding planning opportunities. It might appear lengthy and a bit more technical than usual, but it is nonetheless important, especially if you are the beneficiary of an irrevocable trust.

### What You Need to Know

**Estate Tax Exemptions:** The new tax law does not repeal the Federal estate tax, generation-skipping transfer (GST) tax, or gift tax, and retains the step-up basis at death. However, it essentially eliminates them for most taxpayers by more than doubling the estate, GST and gift tax exemptions to approximately \$11.2 million for individuals and approximately \$22.4 million for married couples. These exemptions went into effect January 1, 2018 and will have an effect on almost all of our clients' existing estate plans, regardless of net worth. Assets in excess of these exemptions will be taxed at 40%. (These changes are subject to sunset provisions in 2025 and, of course, the 2018 and 2020 midterm elections and the 2020 Presidential election.)

**Trusts and Income Tax Planning:** Trusts that may have been necessary in the past to reduce potential estate taxes may no longer be necessary or should be amended to provide for greater flexibility and increased income tax savings. Income tax savings planning opportunities can be incorporated into existing estate plans by permitting a step-up in basis of appreciated assets when someone dies. Appreciated assets, which are included in a decedent's taxable estate, receive a "step-up" in basis, but typically assets held in an irrevocable trust (or which are gifted away during life) retain the donor's or trust's original basis. *By retaining assets until death, or revising the terms of an estate plan or irrevocable trust, assets will receive a step-up basis at death, which saves income taxes when those assets are later sold by the decedent's heir at no or a reduced gain.*

For example, appreciated assets held in an existing by-pass trust created at the death of one spouse do not get a step-up in basis when the surviving spouse dies. The same is true for most irrevocable trusts. With the drastic reduction in federal and state estate taxes, the income tax savings resulting from a stepped-up basis of assets will likely be more valuable than the estate tax savings strategies that prompted the use of an irrevocable trust in the first place. This technical explanation is necessary to alert all of our clients, and their friends, that most, if not all, estate plans need to be revised and updated to achieve a stepped-up basis on death for assets, whenever possible, and to minimize income taxes, when possible. **Moreover, if you are a beneficiary of an irrevocable trust, created by a spouse, parent or anyone else, it is critically important that the trust be reviewed, and if necessary, "reformed" to allow for the possibility of a new basis when a beneficiary dies.** In our experience, almost all irrevocable trusts that we have reviewed do not have the necessary provisions to accomplish a step-up in basis when a beneficiary dies.

**Business Planning:** We also need to review your existing LLCs and Partnerships to determine whether to discount assets or not, thereby changing the value, and thus affecting the basis of assets at death.

**Planning for the Ultra Wealthy:** The doubling of the estate, gift and GST tax exemptions opens a significant, once in a lifetime opportunity for individuals with assets in excess of these exemptions to protect more assets than ever from estate taxes. This change, combined with the IRS's withdrawal of the anti-discounting regulations proposed earlier in 2017, leaves a door open for dynasty trusts, family partnerships, discounted gifts and other strategies that could preserve and transfer significant wealth to your beneficiaries and future generations.

### Changes to Individual Income Taxes

For many clients, the income tax has now become the new estate tax!

**SALT Deductions:** The \$10,000 limitation on State and Local tax ("SALT") deductions has created an incentive to move assets from a state with a high income tax to a state with a lower or no income tax at all. Depending on its language, a trust may authorize a revision of an existing trust, otherwise irrevocable, into a new or second trust to take advantage of more favorable income tax laws or to provide a beneficiary with a general power of appointment, which can result in a step-up basis of assets at the beneficiary's death.

**Non-Grantor Trust:** This new cap on State and Local tax deductions may make a special income-tax saving trust, called a non-grantor trust, attractive to many of you. If you are considering selling a business, an asset, a stock, or anything else that has substantially appreciated in value, we should consider this trust first.

**Charitable Remainder Trust:** Similarly, our charitably inclined clients with appreciated assets should consider using a Charitable Remainder Trust (CRT) before selling the appreciated assets. These trusts allow clients to name themselves or someone else to receive payments for life or for a term of 20 years or less. For example, the trust income can be paid to a married couple for as long as both are alive and then at the death of the survivor, the trust assets pass to the named charities. This technique can provide significant tax savings while allowing you to keep control over property and obtain the upfront tax deduction.

**Irrevocable Trusts:** If you are a beneficiary of an irrevocable trust, it is critically important that you immediately have the trust reviewed to make sure that its provisions take into account all modern income tax savings techniques. There are also techniques to eliminate state income taxes on investment accounts, by creating irrevocable trusts in states with no income taxes.

### Maryland, Washington, D.C. and Virginia

It is worth mentioning that there have also been recent changes to the Maryland and Washington, D.C. estate tax laws. Maryland's estate tax exemption is currently \$4 million and is scheduled to increase in 2019 to match the Federal estate tax exemption. The District of Columbia estate tax exemption currently matches the Federal estate tax exemption. Virginia has no state estate tax. There has been no change to the basis step-up rules for beneficiaries or estates of any size.

### What to Do Now - Building Flexibility Into Plans

As I have often said, *estate planning is a process, not a product.* We work hard to prepare your documents with varied administrative clauses that can address potential pitfalls and we constantly update our drafting to reflect changes in the law. That being said, at this time, with the passing of the most significant tax legislation in more than 30 years, we advise you to review your estate planning documents with us as soon as possible. We'll help you to make sure your estate plan is consistent with the new laws, reflects your current planning intentions, and takes advantage of new planning opportunities to reduce income taxes if needed. *Even if estate taxes are not your concern, if your documents have not been reviewed in the past 4 years, you are due for review as well!*

### Updates at Altman & Associates

2017 was another growth year for our firm. Robert Freda, Esq. successfully transitioned into the firm and we now have space in McLean, Virginia, as well as Tysons Corner. Jackie Ohh joined the team last year, a welcome addition and a trained paralegal. Melissa Aitken, our Managing Attorney for the Probate Team, and Jamie Zhang, Paralegal, are enjoying our newly adjacent office space which includes a new and larger conference room. We continue to make updates to our website and strive to make improvements every day to client services, efficiencies, technology, and transparency.

We are also pleased to announce the formation of the Wise Family Law Division of Altman & Associates, a totally separate and distinct law practice. Brian Wise, Esq. has been practicing family law in Maryland and D.C. for over 25 years, and has served in the court system as a certified mediator for families and couples who wish to peacefully end their marriage. Gary and Brian feel that there is a natural connection between estate law and family law: preserving and protecting wealth, maintaining familial relationships, and guiding families through the next chapter of their lives. Please join us in welcoming Brian and the Wise Family Law Division!

### Thank You

I remain grateful for the support and trust of our clients, wealth advisory network, friends and family. We are also very fortunate to have such an outstanding group of employees contributing to our success. As a token of our appreciation, and in keeping with the "opportunity" theme, we are treating the Altman team to the D.C. leg of Elton John's farewell tour this fall! (Hence the red piano on the cover!)

### Staying in Touch

It is important that we have your most current contact information, including your e-mail address. Please complete a quick client update form at [www.altmanassociates.net/update](http://www.altmanassociates.net/update) or call us with any changes. For those of you active on social media, we invite you to connect with us on Facebook, Twitter and/or LinkedIn. We also greatly appreciate reviews, if you have the time! Cheers!

Gary Altman, Esq.