



Stanfield and Dupre, PLLC

1095 Evergreen Circle, Suite 200-408
The Woodlands, Texas 77380
PHONE: (832) 482-4622
FAX: (281) 947-3034
Brent Stanfield – brent@stanfielddupre.com
Nick Dupre – nick@stanfielddupre.com

January 2, 2019

Happy New Year:

I hope you and your family are in good spirits and good health. It is time for your annual estate planning letter and summary of law updates related to and affecting planning. The biggest news comes from the SECURE Act signed by President Donald Trump into law in December 2019. I sent a separate summary of such Act on January 2, 2020. If you need a copy or did not receive it, please feel free to reach out or you can view it on our website. The major change affecting estate planning clients is the elimination of the Stretch IRA provision for inherited IRAs (does not include spouses) and forces those beneficiaries (typically kids and grandkids) to distribute those assets within 10 years of date of death. This means all clients need to revisit beneficiary designation and also review with your counsel an update to any retirement benefits provisions in your documents.

On to estate taxes. For 2020, the federal estate, gift and generation-skipping transfer (“GST”) tax exemption amounts for 2020 increased to \$11,580,000 for individuals and \$23,160,000 for married couples. Remember that these exemption amounts are scheduled to increase with inflation each year until 2025. On January 1, 2026, the exemption amounts are scheduled to revert to the 2017 levels, adjusted for inflation. The highest marginal federal estate and gift tax rates will remain at 40% and the GST tax rate will remain a flat 40%.

While exemption amounts are still high, there is still a unique opportunity for estate planning. We recommend that you consider taking advantage of the increased gift tax exemption amount and possibly the GST tax exemption amount by making gifts to children and/or grandchildren either outright or to new or existing trusts. The increased gift tax exemption amount allows a married couple who previously used their full gift tax exemption amounts to transfer additional amounts to their descendants in 2020 without the imposition of federal gift tax.

We also recommend that you review the terms of your Wills and Revocable Trusts at this time to ensure they remain in accordance with your wishes. Many Wills and Revocable Trusts create trusts that will be funded according to formula clauses tied to the exemption amount in effect on your date of death. If you die before 2026, these trusts may be funded with significantly larger amounts than you were anticipating when the documents were signed.

The amount each person may give annually to as many individuals as he or she desires without incurring a gift tax and without using any of the gift tax exemption amount increased in 2018 and remains the same for 2020 to \$15,000. In other words, a married couple may make “annual exclusion gifts” of up to a total of \$30,000 to an unlimited number of recipients. If you would like to make annual exclusion gifts to a minor, you may wish to make these gifts to “Crummey” trusts or to UTMA or college savings accounts. Please note that in addition to making gifts using your gift tax exemption and annual exclusion amounts, there is an unlimited gift tax exclusion for amounts paid on behalf of an individual directly to medical care providers for medical care and to educational institutions for tuition.

You may also wish to leverage gifts of your gift and GST tax exemption amounts by engaging in sales to grantor trusts. Other estate planning techniques, including intra-family loans, grantor retained annuity trusts (“GRATs”) and split-interest charitable trusts, continue to be effective wealth transfer tools as well. In January 2020, the Applicable Federal Rate for use with a sale to a grantor trust or for an intra-family loan with a nine-year or longer term will be 2.07%. The Section 7520 “hurdle rate” for GRATs and certain split-interest trusts will be 2.03%. It is important to note that certain techniques work better in a low interest-rate environment, so it may be advantageous to act in the near future before interest rates rise further.

Many individual clients have less than \$10 million and most couples have less than \$22 million. Therefore, the majority of our planning is to act as an advisor and discuss family dynamics. For example, I usually ask about your children and want to know if there are any special needs or concerns. This might be a child who has Down’s syndrome, on SSI (receiving social security disability income), a child with a tax lien, a child in a bad marriage, a child with a judgment, a child who is an alcoholic, or has other issues. I need to know about their status in order to give you proper advice. If their status has changed since I prepared your documents, then I need to know. I can give advice and sometimes protect their share for their benefit.

If you have not had your plan reviewed or changed in the last 3-5 years or so, you should be aware there are many significant updates which have occurred in the Trust and Will documents. It would be very appropriate for you and possibly other family members to visit me and discuss what has changed and what documents might need to be updated.

The following are this year’s observations and comments for your consideration:

1. Many of our clients select a child to be the successor Trustee. Some of our more mature clients will select a child to serve with them as co-Trustee. I have encouraged this decision because it enables a client to turn over as much or as little of the day to day management of the Trust assets as they choose. Most of my clients still manage their financial affairs and their child, serving as co-Trustee, is simply added to their accounts for the convenience of both the parent and child. Other clients have been relying on the child to help with paying bills and adding a child on as co-Trustee rather than co-owner on to the account is not only convenient, but a great safety net for the rest of the family.

2. Review and save any and all digital assets. Your login/usernames, passwords, and personal identification numbers are important to ensure family members can access important online and electronic records after your death.

3. If you still have an A/B Trust (Family/Marital Trust) type planning, it is imperative you make an appointment with my office. Over the past several years, I have written about whether or not an A/B Trust is still appropriate for some clients.

4. Please review all life insurance, IRA, and annuity beneficiaries to ensure the appropriate person or Trust has been named as beneficiary. Generally, most life insurance, annuity and IRA beneficiaries should first be your spouse.

5. Examine asset protection. Are any of your assets exposed to creditors? Can we fill those gaps with insurance or perhaps additional planning via a trust or LLC? Likewise, please ensure any current structures are being administered correctly. We are happy to help advise in any of these areas.

6. Sit down with your professional team, i.e. your CPA, financial advisor, insurance broker and commercial banker. If you need a referral for any of these areas, please let me know. Planning in these areas should happen throughout the year. Many clients wait until December to start asking financial, tax and insurance questions. Start now!

Our purpose in sending this yearly letter is to get you thinking about your assets, your estate, and your decisions. If you need any clarification or have any questions, please feel free to call my office.

Regards,

A handwritten signature in cursive script, appearing to read "Nick Dupre".

Nicholas A. Dupre
