



LAW ALERT

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Estate Planning Review During COVID-19 Crisis

We at Ruskin Moscou Faltischek hope that you and your family are healthy and safe during these challenging times. We have received many questions from clients asking what they should do about their estate plan as a result of the COVID-19 crisis. Accordingly, we are providing a few important steps that you can take to ensure that your estate plan is current and, if needed, accessible to you and your trusted fiduciaries and agents. As with any periodic review, if you discover that changes need to be made, or that you want to modify your estate plan, we are available to guide you through that process.

I. Review Your Documents

First and foremost, make certain that you know where your documents are located and that you have access to them. Ideally, in addition to your Revocable Trust and/or Will, you should have a Durable Power of Attorney (and Gift Rider, if applicable), Health Care Proxy and Living Will. You should keep executed copies in a secure place that is accessible to you, including a secure electronic copy if possible. Also, your agents under your ancillary documents and fiduciaries under your Revocable Trust and/or Will should have a copy of the documents under which they are appointed.

With the exception of your Will, there are often multiple originals of your estate planning documents. For those documents, consider giving an original to your agents and fiduciaries or, at the very least, tell them where the original is located. If we prepared your estate planning documents, we maintain the original Will and one original of your other documents in a secure location until you request them, or they are needed by your agent or fiduciary. If you have difficulty locating any of these documents, please let us know and we will be pleased to provide you with a copy.

When reviewing your documents, confirm that your wishes, including your selection of agents and fiduciaries, have not changed. If you determine that a document is missing or needs to be updated, we are here to work with you and prepare new documents. Even during this time of social distancing, we can have your documents executed in compliance with the witness and notary requirements.



II. Compile Key Information

Another action item that has become particularly important during the COVID-19 crisis is the preparation of a list containing information about your doctors, medications and other medical information. Additionally, you should create a list of log-ins and passwords for bank accounts, email accounts, social media accounts, and the like. The ability for others to access these accounts on your behalf without this information can be difficult, time consuming, and costly. Once you have prepared these lists, they should be stored in a secure location, shared with your family, and in the case of medical information, provided to your agent under your Health Care Proxy.

III. Consider Creating a Revocable Trust

An important benefit of using a Revocable Trust is to avoid having to probate a Will and the corresponding delay of appointing your Executor to manage your estate. As we navigate through the COVID-19 crisis, the New York State Court System has essentially come to a standstill and it is uncertain when it will be back to business as usual. What was once a delay is now an unknown. While the courts will eventually “re-open,” you can avoid the possibility of another standstill by preparing a Revocable Trust instead of a traditional Will. With a Revocable Trust, your successor Trustee can swiftly take over managing your assets without any court intervention. Upon presenting a death certificate, your successor Trustee will have the authority to work with your financial institutions. Your family will not need to wait several months for an Executor to be appointed. If there is a crisis or another event that causes the sharp market declines we are currently experiencing, the successor Trustee can actively manage and trade positions to protect and preserve your estate for your heirs.

While you are alive, Revocable Trusts are also beneficial if you become sick or otherwise unable to be the Trustee of your Trust. In those cases, your successor Trustee can again work seamlessly with your financial institutions. This avoids having to rely on a Power of Attorney, which financial institutions often have issues accepting thereby causing delay and frustration for those acting on your behalf.

If you have not considered a Revocable Trust in the past, we are here to discuss how it can be a beneficial part of your estate plan. Finally, if you have a Revocable Trust, please review your assets to confirm that the Trust is properly funded so you can take advantage of these benefits.



IV. Evaluate Strategies During An Economic Downturn

The COVID-19 crisis has created a unique opportunity to make gifts of assets with distressed values, thereby maximizing your wealth transfer strategies without incurring a gift tax. The silver lining in an economic downturn (provided it rebounds in the future) is that the value of many assets today for gift tax purposes are less than the value of those same assets before the COVID-19 crisis began and the economy was at all-time highs. The reduction could be significant. In choosing to take advantage of gifting with assets that have distressed values, the assets can then appreciate outside of your estate as the economy turns around.

In addition to the opportunities presented during an economic downturn, the estate and gift tax exemption remains at \$11,580,000 per person. The exemption will sunset to approximately half its current amount at the end of 2025, or can change sooner depending on the results of the presidential election. Taken together, those who presently make gifts, or are considering making gifts, should evaluate using some, or all, of their unused exemption. If you make larger gifts now that use up your exemption and the exemption amount is reduced in the future, you will have taken advantage of a level of tax-free gifting that may never be available again. Given the complexities of a wealth transfer plan, we encourage you to reach out to us to discuss what strategies will work in your situation. As part of this, we can discuss the benefits of utilizing Trusts as a way to maintain control of the assets and preserve them for your family.

Another strategy to consider in a down economy is a conversion from a traditional IRA to a Roth IRA. While the conversion is a taxable event, the depressed value of the assets in your traditional IRA will cause a lower amount of income tax owed. Once converted, distributions are income tax free, any gains on the assets are not taxed, and there are no required minimum distributions.

We hope this estate planning review will give you peace of mind that your documents are in order and accessible if you need them. If changes need to be made, or if you want to discuss the benefits of a Revocable Trust or strategies during an economic downturn, reach out to us by phone or email. Please stay safe and healthy.

If you have any questions, please contact

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