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## Trust and Estates Update

### Chamberlain Trust and Estates Update

April 6, 2020

At Chamberlain Hrdlicka, we are endeavoring to be responsive to our clients' continuing needs for legal advice and counsel during this time of crisis. Our various firm legal teams are focusing on the most critical issues confronting our business and individual clients. Some examples include:

- our Corporate team providing critical information on SBA loan and grant programs available to provide emergency funding to businesses in distress;
- our Labor and Employment lawyers addressing a wide range of employment issues including the painful process of employee layoffs;
- our Real Estate group advising on landlord-tenant issues such as the widespread request for rent concessions and the status and availability of eviction remedies;
- our Tax Advisory and Tax Controversy team's efforts to provide timely advice on the tax aspects of the new federal laws such as waivers of required minimum distribution rules and liberalization of withdrawal rules for 401K Plans and IRAs; and
- our litigators maintaining close contact with the courts to make sure our clients' pending cases are being properly shepherded during this extraordinary time when many courts are doing business under drastically modified operational rules.

You should be receiving email communications from all our teams that provide more detail on these issues. As our firm's Trust and Estate Team, we stand ready to address your questions, and if appropriate, to put you in touch with the practitioners in our firm who can best respond to your particular needs. We are here to support each of our clients in this time of challenge. Our team focuses on:

- **Basic Estate Planning:** (Wills, Trusts, Powers of Attorney and Health Care Directives);
- **Sophisticated Estate, Gift and Income Tax Planning** (to minimize estate, gift and income taxes in the context of estate and business planning);
- **Estate and Trust Design and Administration and Related Disputes** (advising executors, trustees and beneficiaries in connection with the administration of estates and trusts and related family disputes)

In this time of great uncertainty, our team remains fully operational to meet our clients' continuing needs for our support and counsel.

### Let us highlight a few important considerations that are especially critical now:

- 1 Basic Estate Planning.** It is critically important to assure that your basic estate planning documents are in place and in good order and updated. Your Will, Trusts, Powers of Attorney and Healthcare Directives are the foundation of your estate plan. If you don't have these critical documents in place, now is the time to do so. If

## Trust and Estates Update, *Continued*

you have previously addressed these requirements, you should review your documents to make sure they continue to faithfully implement your intentions and are updated under state law and current tax laws and regulations.

**Note: In this time of "social distancing," we are able to work with you remotely to put in place the basic package or help you update existing plans**

- 2 Sophisticated Estate, Gift and Income Tax Planning.** The current precipitous downturn in the market and plummeting interest rates generate unique opportunities for effective estate, gift and income tax planning:
- **Use of Annual Exclusion Gifts** (\$15,000 per donee or \$30,000 per donee for married couples) at a time when values are depressed, so that more can be gifted within the exemption amount.
  - **Larger Gifts within the donor's lifetime estate and gift tax exemption** (\$11,580,000 per person or \$23,160,000 per couple). Use these generous exemptions now when values are low and before the exemptions are cut approximately in half at the end of 2025.
  - **Gifts to Spousal Lifetime Access Trusts or "SLATS" for a spouse** to effectively utilize the lifetime exemptions when values are low while keeping substantial control of the assets within the marital unit.
  - **Gifts to Grantor Annuity Trusts or "GRATS"** are especially attractive in times of low interest rates and depressed asset values.
  - **Intra family loans** can be made at historically low interest rates.
  - **Installment Sales or Gifts to "Grantor" Trusts** to "freeze" the donor's estate for estate and gift tax purposes.
  - **Roth IRA Conversions** may be timely given depressed asset values in regular IRA accounts.
  - **"Loss Harvesting"** can lock in losses from assets that have declined in value to shelter gains from other assets.
- 3 Estate and Trust Design and Administration and Related Disputes.** Equally important with tax considerations are personal and family goals and challenges. We have experience counseling families who are dealing with family conflict involving estate planning and financial matters. Often, well-crafted provisions of estate plans, including Wills and Trusts, can greatly enhance your chance to avoid future family squabbles over disposition of property. Examples include:
- **"No Contest" clauses in Wills and Trusts** can discourage frivolous challenges to carefully drawn estate plans.
  - **Indemnification and Hold Harmless clauses** can protect family members who serve as executor or trustee of family trusts from unwarranted liability.
  - **"Decanting"** of trusts can re-engineer plans that have become unworkable or even counter-productive.

This alert is intended to highlight the importance of not neglecting the basic estate planning necessities or failing to take advantage of the unique opportunities presented in the current difficult environment. We are a call or email away, so please let us know how we can help.

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