



# Cohen Pollock Merlin Turner

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PERSONAL AND CONFIDENTIAL

## Re: It Is Time to Review Your Estate Plan

We are writing to notify you about the need to review your Wills, Trusts, Pre and Post Nuptial Agreements and other estate planning documents.

### CHANGES RELATED TO THE TAX CUTS AND JOBS ACT

As we are sure you are aware, new tax legislation commonly referred to as the "Tax Cuts and Jobs Act" became effective January 1, 2018. The "Act" ushered in sweeping changes to the personal and corporate income tax system, which you should be sure to discuss with us and your CPA. It also included significant changes to tax laws that affect many estate plans. The following is a summary of some of these changes:

- As before, any individual may leave an unlimited amount of assets to his or her spouse, completely gift, estate and generation skipping transfer tax-free; however the Act dramatically increased the amount that an individual may leave tax-free to others to \$11,180,000 (or \$22,360,000 per married couple). Unfortunately, these "exemptions" are scheduled to decrease to pre-Act levels in the year 2026, likely resulting in an exemption of approximately \$6,000,000 (or \$12,000,000 per couple) at that time (but, of course, these exemptions may always be changed again by Congress at any time).
- The Act continues the concept of "portability," allowing the unused federal gift and estate tax exemptions – but not the generation skipping transfer tax exemption – of the first spouse to die to be added to the exemptions of the surviving spouse by filing an estate tax return. Under prior law, a married couple had to equalize the ownership of their assets and the Will of the first spouse to die had to establish a "Bypass," "Credit Shelter," or "Family" trust to avoid wasting his or her exemption.
- The Act increases the "annual exclusion," or the amount that any individual may give to as many unique recipients and he or she would like each year to \$15,000.
- The Act maintains the law providing for a step up in the income tax basis of inherited assets.
- Alimony payments resulting from divorce settlement agreements after Dec. 31, 2018 will not be deductible by the payor or taxable to the recipient.

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#### **CONSIDERATIONS FOR OUR CLIENTS FOR 2018 AND BEYOND**

1. As explained above, many Wills and Revocable Trusts require that a trust be funded at the first spouse's death to take advantage of his or her exemptions. Due to the recent increase in the exemptions and the projected future exemption amounts, such trusts may now result in unintended consequences (e.g. leaving too much to the children and too little to the surviving spouse). Such trusts may also result in higher income taxes and the loss of an income tax basis step-up upon the death of the second spouse to die. There are many non-tax reasons for using trusts, but it is very important that you consult with us to ensure that your trusts are as flexible as possible under the new tax laws.
2. You should consult with us about using the temporary, increased exemptions to make gifts and to minimize or eliminate your estate's taxability.
3. If your estate plan includes a family limited partnership or you've made discounted gifts to trusts, you should contact us to discuss whether to maintain or adjust such planning vehicles.
4. If you entered into a pre or post marital agreement with your spouse, you should contact us to determine if you now need a post-nuptial agreement.

#### **WHAT'S NEW IN GEORGIA**

Effective July 1, 2017, Georgia has a new, statutory financial power of attorney a "POA." As a reminder, a POA is a document in which an individual (the "principal") grants authority to another individual (the "agent") to conduct life's business on the principal's behalf. The POA may be effective immediately, for a specified period of time, or only in the event of the principal's incapacity.

If you have a power of attorney signed prior to July 1, 2017, it will remain effective. Powers of attorney signed after July 1, 2017 should be the new form. Although the Georgia legislature is currently working to improve the new form, there are several advantages of having this document in place. Contact us to discuss whether a new power of attorney is right for you.

#### **WHAT NEXT?**

Please contact your attorney at Cohen Pollock Merlin & Turner after you have reviewed this letter to discuss whether changes to your estate plan are appropriate. We look forward to reconnecting with you and, as always assisting you with all of your legal needs.

Sincerely,

Your Family Wealth Planning Group at Cohen Pollock Merlin & Turner

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Please also visit our website to learn about our firm's other services and to sign up to receive electronic newsletters.

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