

# WILLIAMS, BAX & SALTZMAN, P.C.

## PREPARING FOR THE FUTURE: CURRENT EVENTS REQUIRE THAT YOU REVISIT YOUR ESTATE PLAN

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The Covid-19 pandemic has forced each of us and our families to consider many contingencies that little more than a month ago did not seem particularly pressing. Among them are potential short-term or extended unemployment resulting from the dramatic impact on the economy and the deeply sobering risk of fatal illness. These stand out as two compelling reasons to revisit your estate plan.

***Powers of Attorney.*** At the very least, you should have up-to-date powers of attorney for health care and up-to-date durable property powers of attorney. These powers of attorney should reflect your current wishes regarding who would be acting as your agent, what authority and guidance your agents should have, the withholding or removal of medical treatments, and what powers and limitations your agents should have with respect to your property that is not held in trust.

***Last Will and Testament.*** If you do not have a will, now is an appropriate time to make one. And if you do have a will, you should confirm the suitability of your designated executor and your named guardian for any minor children. Does your will leave your property to your intended beneficiaries? Does a change in your financial situation—or theirs—cause you to rethink how your property should be allocated?

***Lifetime (“Living”) Trusts.*** If you have a trust, look to whom you designated as the current and successor trustees. Does the trust adequately provide for you and your financial dependents in the event of your incapacity? In light of changes to your investment portfolios, 401Ks, IRAs, real estate investments, and closely held business interests, should your asset allocation among your beneficiaries be recalculated? Pay particular attention to marital funding formula provisions in your trusts and wills, as the reduction in value of your assets can markedly distort the amounts your surviving spouse and children receive on your passing. Creditor protection planning for your loved ones may be more important than ever.

***New Illinois Trust Code.*** On January 1, 2020, the new Illinois Trust Code (“ITC”) became effective. While the ITC applies to all trusts created by you on or after January 1, it also applies to your existing revocable trust. Among the more prominent changes made by the ITC, Trustees are now required to provide notices of a trust’s existence, copies of trust agreements, and annual trust accountings and inventories to all beneficiaries or their representatives. This may include your children and grandchildren, even if they are not current beneficiaries. You can minimize these

disclosure requirements with proper trust modifications. Your revocable trust should now be amended to comply with the ITC and, for most of you, to reduce disclosure.

***Tax Planning Developments.*** Those of you with large taxable estates may find this an opportune time to do additional estate tax planning. The federal generation-skipping and gift tax exemption is now larger than ever at \$11,580,000 but is scheduled to revert to the 2017 amount—\$5,490,000, adjusted for inflation—in 2026. The interest rate is now exceptionally low: the long-term applicable federal rate is only 1.15% and the Section 7520 rate, which is used in calculating the amount of gift when utilizing certain estate planning techniques, is only 0.8%. And many assets are now valued at a substantial discount from where they were only 6 weeks ago. Taken together, these developments magnify the advantages afforded by transferring assets to or in trust for younger generation family members using grantor retained annuity trusts, charitable lead annuity trusts, sales to intentionally defective grantor trusts in exchange for promissory notes, and straight gifts. This presents a special opportunity to minimize estate taxes.

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The welfare and well-being of our estate planning and wealth transfer clients and their families have taken on elevated importance and urgency due to the ongoing public health crisis. We encourage you to thoughtfully deliberate these developments and call us to discuss your unique situations and estate planning needs in consideration of current events.