



High Net Worth Families



ALERT

MARCH 2020

Dear clients:

First and foremost, we are thinking of all of you and wishing you well. Your health and safety are of paramount importance to us, and we hope that you are managing as well as can be expected during these difficult times.

We recognize that the current COVID-19 situation is unprecedented and filled with uncertainty. Please know that while we are working remotely to contain the spread of the virus, we are ready and able to assist you with any concerns you may have.

Updating Estate Planning and Health Care Documents

We have heard from many of you about updating your estate planning documents, and the subject is likely on the minds of many others as well.

We can help you with any changes you might wish to make to your current wills and other documents, and can provide you with precise instructions for executing the new documents in accordance with the required formalities—all from the comfort and safety of your own home. New York, by Executive Order of Governor Cuomo, is even permitting the notarization of documents using audio-video technology through April 18, and it is possible that other states may follow suit.

Whether you wish to make specific changes or merely confirm the terms of your documents, please call or email your Loeb & Loeb attorney.

When you executed your estate planning documents, you likely also signed an Advance Health Care Directive or Durable Power of Attorney for Health Care, depending on the state in which you reside.

In a health emergency, it is critical to know who has authority to make medical decisions if you are not able to do so. We recommend that you give copies of those documents, which most jurisdictions will accept, to the named health care agents so they will have the documents readily available in a medical emergency.

Please contact us for copies if you need them. If you want to make any changes, let us know and we will update your documents and provide instructions for valid execution.

IRS and California Tax Filing Extensions

The Internal Revenue Service (IRS) has announced an extension until July 15 for individuals and corporations to file their income tax returns and make tax payments for 2019, as well as to make payments of first-quarter estimated taxes for 2020. The deferral is not unlimited, however. Individuals may defer a maximum of \$1 million in payments, including self-employment taxes. Trusts and estates with federal income and estimated tax payments can also defer a combined maximum of \$1 million until July 15 with no interest or penalties.

Following the IRS announcement, the California Franchise Tax Board (FTB) extended by a month the tax relief program it previously implemented, postponing the filing and payment deadlines until July 15 for individual and business 2019 tax returns and tax payments; first- and second-quarter 2020 estimated payments; 2020 LLC taxes and fees; and 2020 nonwage withholding payments. The FTB previously had extended the filing and payment due dates until June 15, noting that it would extend deadlines further if the IRS granted a longer relief period.

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All California taxpayers qualify for the relief and need not contact the FTB to take advantage of the extension. The FTB did note, however, that it continues to process tax returns, issue refunds and provide customer service to taxpayers, and that taxpayers should make every effort to file tax returns by the original April 15 filing deadline, if possible, to get their refunds.

At this time, the New York State Tax Department has not extended the deadline for filing state personal income tax returns or other tax returns. [This link](#) provides state-by-state tax filing guidance related to COVID-19, and we will keep you posted on developments in New York and other states.

As of now, neither the IRS nor the FTB has offered any guidance on additional time to make IRA contributions for 2019 that are due by April 15.

Wealth Transfer Planning

Many of you recognize that the current economic uncertainty could also present an opportunity for efficient wealth transfer planning. In response to client inquiries, we have put together this short list to give you an idea of some planning opportunities that are available.

1. **Direct Gifts.** This is an opportune time to make gifts of assets that have dropped in value, if you feel comfortable doing so. The recent market downturn allows you to transfer wealth at a reduced gift tax cost, while removing all of the appreciation of the transferred asset from your estate.
2. **Create GRATs.** Grantor retained annuity trusts (commonly known as GRATs) are particularly effective in low-interest-rate environments and depressed markets. Typically, you transfer to the GRAT those assets that you expect to increase in value, and the trust makes an annuity payment to you for a fixed number of years. The GRAT is structured so that the gift tax cost is minimal or virtually zero. At the end of the annuity period (typically two to three years), any property

remaining in the trust passes to the ultimate beneficiaries of the trust (e.g., your children). A GRAT is successful when the appreciation of the assets exceeds the “hurdle rate,” which for April 2020 is only 1.2%.

3. **Swap Assets Out of Existing GRATs.** You might have created a GRAT last year that is now “underwater.” If the terms of the GRAT permit, you might be able to substitute cash for the lower-value assets and then simply “re-GRAT” those same assets to a different trust and start the process over. For the reasons set forth in the preceding paragraph, the new GRAT could be far more successful than the original GRAT.
4. **Refinance Intrafamily Notes.** Promissory notes are commonly used in estate planning. In the current environment, it is possible to refinance those notes at a much lower rate.

Please reach out to your Loeb estate planning attorney if you would like to make any changes to your current documents or discuss any of the planning opportunities described above. Most important, stay safe and healthy.

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