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Subject: Martin M. Shenkman, Alan S. Gassman, Joy Matak and Lee Slavutin: 2019 Estate & Financial Planning Resolutions

"This newsletter is designed to provide advisors with resolutions that can help clients approach difficult planning issues in 2019. It can also be used as a mailing or email directly to clients."

In their commentary, **Martin Shenkman**, **Alan Gassman**, **Joy Matak** and **Lee Slavutin**[i] remind **LISI** members that 2019 can be the perfect time to help clients revisit and improve their estate and financial planning goals.

Martin M. Shenkman, **CPA**, **MBA**, **PFS**, **AEP**, **JD** is an attorney in private practice in Fort Lee, New Jersey and New York City who concentrates on estate and closely held business planning, tax planning, and estate administration. He is the author of 42 books, more than 1,200 articles, and, is a Director Emeritus for the National Association of Estate Planners & Councils.

Alan Gassman, JD, LL.M is the founding partner of the law firm of **Gassman, Crotty & Denicolo, P.A.** in Clearwater, Florida. Alan is a frequent contributor to LISI and has authored several books and many articles on Estate and Estate Tax Planning, Trust Planning, Creditor Protection Planning, and associated topics. Most recently, Alan is the coauthor of The Section 199A (and 1202) Handbook: The Advisor's Guide to Saving Taxes on Business and Investment, with **Brandon Ketron**, **Martin Shenkman**, **Jonathan Blattmachr** and **Robert Schenck**.

Joy Matak, JD, LLM, is a principal at **CohnReznick** and Co-Leader of the Firm's Trusts and Estates Practice. She has more than 20 years of diversified experience as a wealth transfer strategist with an extensive background in providing tax services to multi-generational wealth families, owners of closely-held businesses, and high-net-worth individuals and their trusts and estates. Joy provides clients with wealth transfer strategy planning to accomplish estate planning and business succession goals. She also performs tax compliance including gift tax, estate tax, and income

tax returns for trusts and estates as well as consulting services related to generation skipping including transfer tax planning, asset protection, life insurance structuring, and post-mortem planning. Before joining CohnReznick, Joy was a senior tax manager at a Top 20 accounting firm. Early in her career, she was a principal in a Virginia-based law firm and also worked as a senior associate in the growing trusts and estates groups of one of the leading commercial law firms in New Jersey.

Lee J. Slavutin is a principal in **Stern Slavutin 2, Inc.**, a life insurance and estate planning firm in New York. He graduated from Monash University Medical School in Melbourne, Australia in 1974 and became a Fellow of the Royal College of Pathologists of Australia and a Diplomat of the American Board of Pathology in 1981. Dr. Slavutin left the practice of medicine in 1982 and entered the life insurance business in 1983. He is a member of the Association of Advanced Life Underwriting and the Million Dollar Round Table and is a Chartered Life Underwriter with the American College. Dr. Slavutin has published 170 articles on insurance and estate planning topics for CCH, Warren Gorham and Lamont, Practitioners Publishing Company (PPC), New York Law Journal and others. He is a member of the CCH Estate and Financial Planning Advisory Board, and the Advisory Panels of PPC and Bottom Line Personal. He is the Author of "PPC's Guide to Life Insurance Strategies", 19 th edition (2017), published by Thomson Reuters. Dr. Slavutin has spoken before the American Law Institute/American Bar Association, the New York County Lawyers' Association, the American Institute of Certified Public Accountants (CPAs), the New Jersey State Society of CPAs, the Association of Advanced Life Underwriting, the Million Dollar Round Table, and the UJA-Federation Annual Tax and Estate Planning Conference, as well as many New York accounting and law firms. He was invited to testify before the New York State Senate on the effectiveness of the insurance rating firms and worked with the U.S. General Accounting Office on a similar project. He is married to Dee and they have two children, Aaron and Lydia. He can be contacted at ls@sternslavutin.com

Here is their commentary:

COMMENT:

Resolution 1: ***Reduce Your Taxes and Protect Your Wealth***

The federal estate tax exemption as of January 1, 2019 is $11.4 million. This exemption is scheduled to be reduced by half in 2026. If the so-called "blue wave" of 2018 continues through the 2020 elections, the federal estate tax exemption could be changed much earlier than current law requires. A Democratic administration in Washington could push for the $3.5M exemption that was in place under President Obama and was to continue under Clinton's plan. Taking obvious actions before then makes good sense, in case the opportunities we have now are no longer available.

No one knows how to predict what might happen in Washington. There is a perception that the 2017 Tax Act favored the wealthy unfairly. Often in Washington, tax legislation is subject to wide pendulum swings. Exemptions could be dramatically reduced, so why not use them now to get assets out of your taxable estate?

Responsible planning may be structured to reduce your taxable estate, save income taxes and protect your assets from creditors, in a way that permits you to continue to have access to your assets if there are harsh financial reversals.

Even if you already have a plan in place, it's important to revisit your plan to make sure that it still works for you.

2019 should be a planning year. By making discounted gifts using permissible valuation techniques in 2019, you will know well before 2025 if the IRS intends to challenge the values of reported gifts and sales, so that you can continue executing your gifting plan before the exemption is reduced in 2026.

Resolution 2: *Create (or Strengthen) Your Team of Advisors and Collaborate*

If you don't have a team, create one. Have them meet and coordinate, so that you can foster a better plan with better coordination and checks and balances.

Pulling together your team of planning advisors can reduce the "what ifs," particularly in an instance of an untimely death or unforeseen illness or disability. You may want to be able to call on a team of people rather than to rely on one person. One of the biggest tragedies, and unnecessary

difficulties, is when someone dies or becomes disabled and nobody knows what decisions to make or where to pick up the pieces.

Now is the time to collaborate closely with everyone on your planning team: your investment advisor, CPA, insurance advisor, and your attorney. Your team should meet as a unit to review the plan in place and strategize to maximize opportunities available under the current laws. Meeting together is crucial, even if by web-conference or conference call, so that your advisors can work together and guide your plan most efficiently and effectively.

On the low end of the spectrum, if you really want to keep the cost down (*and who doesn't?*), you could prepare your own tax return and fill the role of the tax preparer. A good CPA may be willing to review the return you have prepared for a lower cost than if she prepared it for you. That said, CPAs serve a crucial role in planning, and the alternative of not having a good CPA could be very costly to many "DIYers" who do not realize the difference this might make. As you advance in age having a CPA to monitor your planning is critical to reducing risks of elder financial abuse. On the opposite end of the wealth spectrum, having a CPA work hand-in-hand with your wealth adviser and estate planner to optimize trust income tax planning, charitable contribution planning and more is critical, especially in light of the dramatic changes made by the 2017 Tax Act.

Resolution 3: *Take Steps to Avoid Becoming a Victim of Identity Theft*

If you don't have the right blocking for your credit cards, put it in place. Card skimming is real. People have devices that they zap your wallet or purse and get the data off the chips on your credit cards. For a few dollars, you can buy little holders, RFID sleeves, that block those devices. Get your laptop encrypted. Get a laptop camera lens cover and make sure your virus protection is up to date.

Use secure, password-protected cloud servers for sensitive data which you can share with your trusted family and members of your consulting team. This is particularly useful in an emergency. Someone has access to important documents; like your healthcare proxy, for example. Make sure you have copies accessible for those that need copies, such as family advisors, family members, fiduciaries, et cetera, because too often, people have no idea where to locate these items when the time comes. It ends up

turning up in a safe or a safe deposit box that becomes costly and complicated to retrieve.

Resolution 4: ***Update Your Plan***

If you have a trust that's even five years old, you may need a more modern trust which can be drafted to be more powerful, robust, tailored, and flexible. Flexibility is key, because the world keeps changing, as do the stock market and tax laws. Trusts that were set up more than a few years ago are unlikely to provide the robust terms that modern trusts provide, such as a modification provision, having trust protectors who can monitor trustees and make mid-course changes, and more. In an updated directed trust, you can engage a myriad of different provisions. Talk to your team of advisors and see whether you can improve an old trust by decanting it or merging it into a new trust.

There's a similar construct called a non-judicial modification. If you have irrevocable trusts that are more than a few years old, review them and assess how to improve them. Oftentimes, the improvements of the administrative provisions can make the trust much more powerful. Often, people will sign an old insurance trust and never look at it for 15 or 20 years. It's highly unlikely that kind of old trust is going to serve the current environment or needs. Examine your trustees and fiduciaries for efficacy and relevance.

People in blended families should consider whom to name as trustee to minimize any potential friction between various family members. Evaluate which institutions and family members have a role to play. Too often, people feel a sense of obligation to name a certain family member as a fiduciary. Really consider if that person is the best choice from multiple angles. Look at your Will and the people named in it. Ask yourself if you still trust the named parties and if they possess the integrity to carry out your Will as you intended. Every two or three years, your Will should be revisited for these reasons. Blended families make this review even more pertinent.

Resolution 5: ***Review Your Life, Disability and Property Insurance and Confirm that You Are Covered***

Review your life insurance, and its ownership and beneficiary designations with your team of advisors. Back up key data and documents. Set up

power of attorney, a living will, a health proxy will, revocable trust, life insurance and an insurance trust. Those should be on your resolution list of financial and estate planning steps to help you rebalance and harvest gains and losses.

Regarding your life insurance, a good rule of thumb is to have an amount equal to 20 times your *after-tax* income to provide adequate coverage for your dependents.

Regarding your disability insurance, make sure you have an amount equal to 60% of your *pre-tax* income.

If you are over 50, consider buying long term care insurance either as a stand-alone policy or linked to a life insurance policy.

Do not cancel or surrender life insurance policies without careful consideration even though you may not have a taxable estate under current law. Remember that the estate tax exemption is scheduled to revert to the 2017 level, adjusted for inflation, in 2026. Also, whole life policies usually accumulate substantial cash after they have in effect for 15-20 years and can provide supplemental income in retirement.

Consider taking advantage of the increased gift exemption to pre-fund future life insurance premiums for those policies owned by an irrevocable trust.

Consider taking advantage of the lower 21% C corporation income tax rate, by funding life insurance through a split dollar arrangement. The corporation pays most or all the premiums with after tax dollars taxed at 21% compared to the top 37% personal income tax rate.

If you sold a life insurance policy to a third-party investor (life settlement) in the last three years you may be able to claim an income tax refund on any taxable gain. The new law changed the rules favorably and retroactively. Consult your accountant on this.

Regarding insurance, make sure you have enough liability coverage and don’t let anyone drive your car if this may cause liability beyond your limits. Also keep in mind that someone who hurts you with a car may not have enough liability coverage, so make sure that you have plenty of underinsured motorist coverages.

Raising deductibles can provide a good savings and, in many cases, you won't want to file a small claim. It's just not worth the headache and having it on your record.

If you have not reviewed your coverage in years, there may be new forms of coverage that you may be lacking. Also, your circumstances might have evolved, and you need to be certain that your coverage has.

Property casualty and liability insurance is critical but often gets ignored. Don't ignore it. Address it in the coming year. It doesn't necessarily have to take much time, effort, and may cost nothing. Even if wind up paying consultants to help you, it won't cost a lot. Review all the coverage. It's helpful to procure a summary of all your property casualty and liability coverage from your carrier.

Resolution 6: ***Consider Converting a Portion of Your IRA(s) to a Roth IRA(s)***

The tax benefits of a Roth conversion can be significant. Review with your financial planner whether you want to convert some of your regular IRA to a Roth. Have your accountant evaluate the tax benefits of making the conversion and go through those numbers with your accountant. Perhaps you can use a charity, other deductions, or harvesting losses, depending where you are in the market, to offset some of the gain that would result from converting taxable IRA to Roth IRA holdings.

Keep in mind you want to keep some as a regular IRA for charitable planning benefits. Under the new tax law, the standard deductions are much higher, so you may not get a tax benefit for making modest charitable contributions. When you turn 70½ years old, you may wish to make direct distributions of your regular IRA to charity. Under current law, this offers the equivalent of a dollar-for-dollar deduction.

Further, if you ever have medical bills that significantly exceed your non-IRA taxable income, you may be able to pay these from a taxable IRA and deduct the otherwise applicable IRA income.

It is essential that you review your IRA and pension beneficiary designations with your estate planning advisors to be sure that these will carry out your intentions in the best possible way.

Resolution 7: ***Generate a Personal Budget (even if you're wealthy)***

Use the new year to generate a budget; perhaps using Quicken. Compare last year to this year and make necessary adjustments to confirm your financial health. If you don't have a financial planner, you should. You can certainly do budget preparation and forecasting yourself, but the objectivity of a planner is more ideal.

Do a financial forecast model based on your current balance sheet, especially your investment assets, based on your expense level, and review the results. Longevity is a critical piece, amid the changing face of estate, financial, retirement, insurance planning. Talk to your financial advisor. You want at least a minimum confidence of a roughly 80 percent likelihood that you will not run out of money by age 95 or 100. The sooner you start forecasting that, the sooner you can adjust. If you're 60 and you are planning out to 100, 40 years is a long time. It doesn't take much to veer off track. Little changes today, through the magic of compounding, can make a big difference down the road.

Everyone has different levels of income, spending, expenses, assets, net worth planning, and family to consider. Your resolution checklist should be tailored specifically to you. This is a process and should be engaged annually. The best first step is to talk to your advisors, who are familiar with the range of your set of circumstances, and laws in your state, before making any decisions.

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

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