Warner Norcross + Judd

Summer 2019

ESTATE PLANNING *focus*

ATTORNEY SPOTLIGHT: SARA NICHOLSON

What kind of law do you practice and what do you enjoy about it?

I practice in the Trusts and Estates group, doing tax and estate planning, and estate administration work. I love helping families find a way to work together. Trusts and Estates is one of the few areas of the law that is truly constructive – it gives families peace of mind to know that they have a structure in place to guide their survivors into the future, be it the family ethos or the family business or the family cottage. My clients often tell me they feel a weight lifted off their shoulders after we complete or revise their plan or when we have devised a strategy to meet their goals. It's a great feeling to help with that.

Tell us about your background and why you decided to become an attorney.

I have always loved language and writing. I was an English major with a French minor, so communicating has always been important to me. Working in a field where I get to communicate with clients – on why I am recommending a particular estate plan or a step in an estate administration – is so fulfilling for me. I understand that I live and breathe this trusts and estates world every day, and I know it inside and out. Often my clients don't, and my role is to translate that "estate-plan-speak" to those who don't speak that language, much as I do when speaking French. Devising the plan is only half of my job – the other half is communicating that plan to the client and making sure that they understand and are comfortable with it, and that it meets their goals. I want to ensure that all that they have built up over their lifetime is taken care of the way that they would like after their death.

Why do you enjoy working for Warner Norcross + Judd?

I joined Warner last summer and found that the Trusts and Estates group and the Kalamazoo office both have great synergy. I can really see myself growing with the Kalamazoo office, and

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SARA NICHOLSON AND HER FAMILY

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the Trusts and Estates group is fantastic – such a deep bench to draw experiences and expertise from, and a wonderful group of people. The focus at Warner is truly on the client and obtaining the best and right result for the client, and that's what drives me to come in every day and do my best.

What do you think people would be surprised to learn about you?

I have twins who are four years old and an almost six-year-old kindergartener. They amaze me every day (for better or for worse) and keep me going!

What are your hobbies and interests?

I love French – speaking and reading French and spending time in France. I've lived there three different times. In Kalamazoo, I participate in the Alliance Française to keep up my language skills. Thanks to my new officemates, I have also become addicted to Orangetheory fitness classes, and I often see folks from the Warner office at the Orangetheory studio.

6 TIPS FOR MAXIMIZING THE TAX BENEFITS OF RETIREMENT ASSETS

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During this time of high estate tax exemption, most people can maximize the tax and other benefits of their retirement accounts without any estate tax consequences. See the six tips below to help you start getting the most from your retirement assets.

Tip #1: Keep rollovers from employer plans separate from other IRA funds for asset protection

Creditor protection is limited to one IRA in Michigan so leave retirement funds in the employer's plan if possible. But, if you must roll over an account from an employer's plan into an IRA, create a separate IRA for these rollover funds. Do not mingle funds from previous employer plans with funds currently being contributed directly into an IRA as this will cause you to lose the bankruptcy and creditor protection afforded to IRAs containing only employer plan benefits.

Tip #2: Name your spouse as the sole, primary beneficiary

If you are married, naming your spouse as the beneficiary for your retirement assets usually provides the best tax result. This allows your spouse to roll your account into his own IRA (instead of into an inherited IRA), use a more favorable required minimum distribution (RMD) calculation, and defer RMDs until the surviving spouse reaches age 70 ½.

In some cases delaying the rollover into the surviving spouse's IRA may be preferable because:

- If the surviving spouse is the older spouse, the inherited IRA allows her to defer RMDs until the year the deceased spouse would have reached age 70½.

WILLS FOR VETERANS

In January, over a dozen law students partnered with attorneys at Warner Norcross + Judd to draft wills and other essential estate planning documents for more than 100 veterans and their families.

Warner partner Brian Lennon, a veteran himself, stated, "As lawyers, this is our way to offer something tangible and valuable to say thank you to the men and women who have served our country."

- If the surviving spouse is younger than age 59½, an inherited IRA allows her to take distributions without incurring the 10% tax on early withdrawals.

The IRA can then be rolled into the surviving spouse's IRA at any time.

Non-tax factors may favor naming a non-spouse beneficiary, such as children in a second marriage or a desired charitable gift after the first death.

Tip #3: Never name an estate or non-"see-through" trust as a beneficiary

"Designated beneficiaries" of an IRA can calculate RMDs based on the beneficiary's life expectancy, which is a desirable deferral of the income tax otherwise due on that account balance. Estates, charities, and trusts that don't meet certain requirements, however, can never be designated beneficiaries. Naming individuals directly as beneficiaries usually provides better income tax deferral than a trust does, but a carefully drafted trust (a "see-through" trust) may be a better option if you wish to provide benefits to a charity, minors, children from multiple marriages or people receiving government benefits.

Tip #4: Create separate accounts for multiple beneficiaries

If the account owner named multiple beneficiaries, a separate account should be created for each beneficiary, ideally by September 30 of the year after the owner's death. This would allow each beneficiary to calculate RMDs on his or her own life expectancy, rather than on the beneficiary with the shortest expectancy. If beneficiaries fail to establish separate accounts by December 31 of the year after the owner's death, the RMDs will be based on the beneficiary with the shortest life expectancy.

Tip #5: Roll over an estate's or trust's account to the surviving spouse if he or she is the sole fiduciary and beneficiary

If your spouse named a trust or the estate as the beneficiary of his retirement account instead of you, you still may be able to roll over the account into your own IRA if you fully control the trust or estate as the sole fiduciary and you are the sole beneficiary. While some account custodians will treat a spouse in this situation as the account's beneficiary, this rollover may require an opinion letter from an attorney or a private letter ruling from the IRS.

Tip #6: Defer or stretch the payout of a Roth account after death

A non-spouse beneficiary of your Roth IRA must take RMDs after your death.

- Once the account has been open for at least five years (including before your death), withdrawals are not taxable, so liquidating the account does not incur tax liability.
- Even though distributions are not taxable, keeping the funds in the account as long as possible has the benefit of allowing continued tax-deferred growth.

If you haven't checked your IRA beneficiaries or your estate plan lately, now is a good time to verify the beneficiaries of your retirement assets and how they fit with your larger estate plan. Your attorney can help you fix issues with beneficiaries or trusts to avoid problems later and allow your beneficiaries to maximize the tax benefits from your retirement assets.

Note: The U.S. House of Representatives recently passed the SECURE Act, which would change some benefit rules. We will update you as this bill moves through the Senate.

LESSONS FROM THE 2018 TAX SEASON

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Now that we have completed the first tax filing season following the 2017 Tax Cuts and Jobs Act (TCJA) changes, we can reflect on the surprises and the lessons learned to help in planning for 2019. Note that making changes to your tax strategy now gives you more time to spread out the impact from these changes.

Hopefully, the "Top 10 Lessons" below from 2018 can help you start conversations with your planning professionals about your tax strategy for 2019.

1. ORGANIZING RECEIPTS NOT NECESSARY FOR MANY

Gone are the days of presenting your accountant with a shoebox of receipts at tax time. The higher standard deduction and the loss of some common itemized deductions mean that many people no longer have enough deductions to itemize.

2. AMT IS GONE FOR MOST

The changes to the Alternative Minimum Tax (AMT) excluded most middle-class taxpayers from having to pay it this year and resulted in excessive withholding for some.

3. WITHHOLDING SHOULD BE UPDATED

The TCJA's changes led the IRS to update the withholding tables used by employers. This update caused some people to have too much withheld (thus giving Uncle Sam a nice interest-free loan for the year) or too little withheld (making them owe taxes and underpayment penalties). Use the withholding calculator available at www.irs.gov to determine your needs this year, and complete a new W-4 form for your employer, if needed.

4. BUNDLING DONATIONS CAN HURDLE THE STANDARD DEDUCTION

If you don't have enough deductions to itemize anymore (or you expect a future large tax bill), you can save up and "bundle" the charitable contributions you would have made over multiple years into one donation large enough that you can itemize that year and take the deduction. Consider using a Donor Advised Fund for this, as it provides a write off for the donation year but allows you to spread your support to charities over multiple years.

5. BIGGER RETIREMENT CONTRIBUTIONS ALLOWED

Utilize the $500 increase to the maximum annual retirement plan contributions to put additional money into both your 401(k) and IRA. Adjust your contribution amount ASAP to spread it over as many paychecks as possible.

6. HSAS PROVIDE TRIPLE TAX BENEFITS

With the high standard deduction, many families do not accumulate enough medical expenses to be able to deduct them. In 2019, a health savings account (HSA) plan lets you make up to $7,000 in tax-favored contributions to an account for a family's medical expenses ($3,500 for an individual). The best part: the money goes in pre-tax, it grows tax-free and withdrawals for medical expenses are not taxed. If your plan deductible is at least $1,350 for individuals or $2,700 for a family, you qualify to open an HSA.

7. 529 PLANS — NOT JUST FOR COLLEGE ANYMORE

The TCJA allows using up to $10,000 per 529 account per year toward K-12 tuition for private or parochial schools. A 529 contribution is a great way to use up some of that $15,000 annual gift tax exclusion for each child or grandchild.

8. CHANGING BUSINESS CLASSIFICATION MAY LOWER TAXES

Whether you are starting a business or already own one, the changes to business taxes from TCJA should be discussed with your attorney to determine if you are using the entity classification that provides you with the best tax advantages.

9. SAVE BY CONTRIBUTING RMDS DIRECTLY TO CHARITY

If you choose to donate all or part of your required minimum distribution or RMD (up to $100,000) directly from your traditional IRA to charity, rather than receiving the RMD and paying tax on it first, the donation still counts as your RMD, but it does not add to your taxable income and goes to the charity tax-free. This has the added benefit of not only reducing your federal taxes, but also your state taxes.

10. HOME MORTGAGE SIZE MATTERS

If you are shopping for a home this year, keep in mind that interest can only be deducted on the first $750,000 of your mortgage.

If your taxes owed were larger or smaller than you expected for 2018, it is time to make the changes to improve your situation for the 2019 filing season. Of course, there are plenty of caveats to understand for each of these action items, so discuss items of interest with your attorney before implementing to make sure you understand how each will affect your overall tax situation and estate planning.

Helping Others Achieve Goals

Dan Borst presented "Inherited Retirement Accounts" at the West MI Tax Symposium, and "Drafting and Litigating Prenuptial/Postnuptial Agreements" to the Lake Michigan Estate Planning Council.

Sean Cook spoke about family business succession planning on WJR's Family Nation radio show in March.

Gregory Demers presented a "Planning for Life" workshop for the Mackinac Center for Public Policy.

Mark Harder presented "Selecting the Right Trustee: Know Your Options" for the Family Office Exchange. He published "Important changes coming to Michigan trust code" in the *Grand Rapids Business Journal* and "Tax reform changes up some family succession plans" in *MiBiz*. Mark was recently appointed editor of the *Michigan Estate Planning Handbook*.

Catherine Jacobs presented "Elder Law 101" for the Caregiver Resource Network.

Laura Jeltema published "Incorporate estate planning into New Year's resolutions" for the *Grand Rapids Business Journal.*

David Klippert presented the "Real Estate Issues" segment at a recent ICLE Fundamentals of Estate Administration seminar.

William Lentine presented "Pre-Sale Planning" at a MICPA conference and "Understanding M&A Deal Documentation" and "Taxation: Section 280E: Planning & Considerations" at State Bar of Michigan Taxation Section seminars.

Susan Meyers presented a webinar for the Family Office Exchange on "Starting (and Sustaining) Family Meetings," and presented the program "Two Transitions for a Family Foundation" for Attorneys for Family Held Enterprises. She also participated in the "Prenup Workshop" for the Family Business Alliance.

Sara Nicholson appeared on WWMT Channel 3 to discuss the need for estate planning for everyone. She presented on maximizing tax benefits of IRA accounts for MICPA and an ICLE webinar "Plan for the Future Federal Estate Tax."

Beth O'Laughlin presented "A Trustee's Perspective on Trust Advisors" for ICLE and a program on succession planning for the West Coast Chamber.

Jennifer Remondino and a client presented at the Family Business Alliance's 12th Annual Family Business Forum, detailing how the family developed and implemented best practices for managing the family and their portfolio of businesses.

David Skidmore presented the "Trust & Estate Case Law Update" at ICLE's recent Probate and Estate Planning Institute events.

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DO I NEED TO KEEP THIS PIECE OF PAPER?

Spring Cleaning Your Files in 4 Steps

Hopefully, you have finished your spring cleaning by now and your taxes are filed for another year. That makes this a great time to turn your attention to cleaning out your file cabinet and those boxes of papers that are cluttering up your home office, basement or attic.

Sound like a daunting task? Tackle these steps slowly, using an hour here and there as time permits.

1. Categorize your paper

Documents (digital or paper) to be kept usually fall into one of six categories. Note: You do not need to keep most documents in paper form, even for the IRS. Rather you can scan them and save them electronically.

Common Documents and Retention periods:

KEEP PERMANENTLY

- Birth certificates
- Adoption papers
- Social Security cards
- Passports
- Marriage licenses
- Divorce decrees
- Military discharge papers
- Death certificates
- Will, POA, trust documents
- Inheritance documents
- Gift tax returns
- Business Licenses
- Life insurance policies
- Retirement/pension docs
- Legal filings

KEEP 7 YEARS (OR MORE)

- Tax returns & all documents supporting the income, credits or deductions claimed, including medical bills
- Certified mailing receipts to show taxes were filed on time
- Home purchase, mortgage & sale documents – keep for at least 7 years after the home is sold
- Home improvement receipts & records for larger projects (in MI keep for longer of 7 years or sale of house)
- Loan papers – until paid off
- Statements for investment & health savings accounts

KEEP WHILE YOU OWN THE ITEMS

- Vehicle loans & titles
- Property deeds
- Warranties & receipts
- Leases – until your security deposit is returned
- Investment purchase confirmations (to prove cost basis & holding period)

KEEP FOR THE CALENDAR YEAR

- Pay stubs until W2 is received
- Bank statements
- Credit card statements
- Medical bills
- Utility, cell phone, internet bills (for tax purposes if self-employed)

KEEP LESS THAN A YEAR

- Utility, cell phone and other bills – until payment is processed
- Bank withdrawal and deposit slips – until verified on monthly statement

KEEP MOST RECENT

- Social Security statements
- Annual insurance policy statements
- Annual retirement plan statement and last monthly statement

2. Protect your identity by shredding:

- Anything containing personal or financial information like name, address, mobile number, SSN, signature, account info or card number
- Used airline tickets, itineraries, luggage tags
- Credit reports and preapproved credit card or loan applications
- Employment papers for previous jobs
- Pharmacy instructions and bottle/box labels

Cross-cut or confetti shredders are most secure. Also look for free shredding events in your area.

3. Store documents appropriately

Store permanent documents in a fireproof safe or a safe-deposit box. Electronic files containing personal and financial information should be password protected. (Make sure someone has access to your storage areas and passwords upon your death.) Documents can be filed based on the type of document (bills, statements, etc.) or based on how long to keep it.

4. Update old estate planning documents

As you are filing your documents, consider:

- Has it been more than 5 years since I created my medical power of attorney? If so, health providers may not accept it anymore. You should execute a new one every three to five years.
- Has it been more than 5 years since I reviewed my estate plan? Make sure it accurately reflects the people that you wish to inherit and administer your estate. Updates may be needed to documents or beneficiary designations to account for deaths, marriages, divorces, and changes in the law.

Of course, if you work at home, own a business, have properties or businesses in other states or have other circumstances, different retention rules may apply. Please contact your attorney with specific questions.

Did You Hear?

- **Carl Dufendach** has been named Board Chairman of David's House Ministries, a residential community for adults with special needs.
- **Frank Henke** recently helped clients to establish the John and Marilyn Bishop Charitable Foundation, and the Foundation's endowed position for innovative Alzheimer's research at the Beaumont Research Institute.
- **Mark Harder** was recently appointed to the Business Planning Committee and the Practice Committee for the American College of Trust and Estate Counsel (ACTEC). He was also elected Treasurer of the Community Foundation of the Holland/Zeeland Area.
- **Catherine Jacobs** was awarded the Jerry O'Bee Award by the Caregiver Resource Network. She was also recently appointed to the Forest Hills Public Schools Foundation Board and to the Board of Directors for Heartside Ministries.
- **Laura Morris** is a graduate of the Leadership Grand Rapids program, Class of 2018.
- **Sara Nicholson** has been selected to the Leadership Kalamazoo program's class of 2019.
- **Jennifer Remondino** has been appointed as the Treasurer for Lakeshore Advantage.
- **David Skidmore** has been appointed as the Secretary for the Probate and Estate Planning Council of the State Bar of Michigan.

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FROM THE PRACTICE CHAIR

As you can see from Sara's article on page 2, understanding the role of beneficiaries in tax planning is extremely important. Even more important – understanding who will inherit those assets. Regardless of what your Will and Trust provide, the beneficiary designations on your IRA, 401(k) and life insurance policies control who will inherit those assets when you pass away. You will want to regularly review these beneficiary designations to ensure they are consistent with your overall estate plan.

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