

# COCHRAN ✦ ALLAN

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Dear Friend,

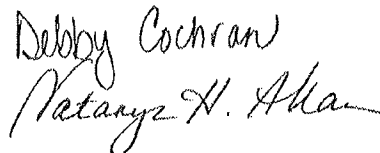
We know that many of our clients focus on financial matters during the last quarter of the year, so we want to update you on a few recent developments that may be important for your planning. We have included updates relating to estate tax law changes, terminating trusts that may no longer be needed to save estate taxes, the 3.8% net investment income tax, inherited IRAs and digital assets.

Please contact us if your personal or financial situation has changed since we last met or with any other questions or concerns you may have. Sweeping changes were made to the Federal estate tax laws in 2012 and, if you have not revised to your estate plan since then, please contact us, your financial advisor or your CPA to review your situation and confirm your plans are in order and as you intend.

Also, please let us know if any of your contact information has changed so we can update our records. We alert clients of developments by email and postings on our website, so feel free to contact our office and confirm the email address we have for you is correct.

It has been another great year at Cochran Allan, due in large part to your continued confidence in us. We are appreciative of the wonderful relationships we enjoy with our clients and fellow advisors and look forward to seeing you again soon!

Sincerely,



Cochran Allan

## ESTATE TAX UPDATES

- **Federal Estate, Gift and GST Taxes.** In 2014, the Federal gift tax annual exclusion amount is \$14,000. The Federal estate, gift and generation-skipping transfer tax exemption amounts are \$5,340,000, and transfers in excess of this amount, during life or upon death, will be taxed at a 40% rate. These numbers are indexed for inflation and the exemption amount is currently projected to be \$5,430,000 in 2015.
- **Virginia Estate Tax.** Virginia continues to have no estate tax.
- **District of Columbia Estate Tax.** In 2014 and 2015, the D.C. estate tax exemption amount is and will be \$1,000,000. However, earlier this year, the D.C. Council approved legislation to increase the exemption amount over time. Due to contingencies in the D.C. legislation, delays are possible, but we are hopeful the improvements will be implemented so the exemption amount increases to \$2,000,000 in 2016 and matches the Federal amount in 2018.
- **Maryland Estate Tax.** Like D.C., Maryland also recently increased its estate tax exemption, thereby reducing the estate tax for Maryland residents. In 2014, the Maryland estate tax exemption amount is still \$1,000,000 but, beginning next year, the exemption amount will increase each year until 2019, when it will match the Federal exemption amount. For the next few years, the Maryland estate tax exemption amounts will be: \$1,500,000 in 2015, \$2,000,000 in 2016, \$3,000,000 in 2017 and \$4,000,000 in 2018.

Maryland also imposes an inheritance tax, independent of its estate tax, on property a decedent leaves to persons other than close family members. The inheritance tax rate is 10% and the tax is assessed on property passing to beneficiaries other than the decedent's spouse or domestic partner, parents, siblings, lineal descendants and their spouses.

- **Portability.** We are pleased that portability is now a permanent feature of the estate planning landscape. Portability allows a surviving spouse to add a deceased spouse's unused Federal estate tax exemption to his or her own exemption amount. Thanks to portability, estate planning has become much simpler for many of our clients because so-called credit shelter or bypass trusts often are not needed to minimize a family's estate tax exposure.

Portability is not automatic. The executor of a deceased spouse's estate must affirmatively transfer the deceased spouse's unused estate tax exemption to the surviving spouse by making an election on a timely-filed estate tax return (returns are due 9 months after the date of death). Even if an estate owes no taxes, the tax return must be filed in order to take advantage of portability.

Please note that special rules apply for spouses who are not U.S. citizens, even if the spouse has a green card and is a permanent resident.

## **UPDATING ESTATE PLANS FOR PORTABILITY AND EXISTING TRUSTS THAT ARE NO LONGER NEEDED**

We continue to encourage our clients who have credit shelter trusts, life insurance trusts or other irrevocable trusts in their estate plans to contact us so we can review your documents and determine if the trusts are still the best choice. Many considerations, including state death tax laws, asset protection, generation-skipping transfer tax and income tax issues, must be examined to determine whether a particular trust is still advisable.

Additionally, many of our clients are beneficiaries of credit shelter or other irrevocable trusts that were established in an effort to preserve a parent or deceased spouse's estate tax exemption and lower a family's overall estate tax exposure. Some of these clients and their families stand to benefit, financially and personally, if these trusts are terminated and "vested" in the surviving spouse or beneficiary's estate.

*Please contact us if you have a credit shelter or other irrevocable trust that you would like to review in light of the new tax laws.*

## **TAX ON NET INVESTMENT INCOME**

The net investment income tax, also known as the 3.8% Medicare surtax, is imposed on certain individuals, estates and trusts. For trusts (other than grantor trusts, simple trusts and certain charitable trusts), the tax is imposed at a rate of 3.8% on the lesser of (1) the trust's undistributed net income for the tax year, and (2) the excess of the trust's adjusted gross income over the dollar amount at which the highest tax bracket for trusts begins for the tax year (\$12,150 for 2014).

The threshold for imposition of the net investment income tax is significantly higher for individuals than for trusts (\$250,000 for married couples filing jointly and \$200,000 for individuals, as opposed to \$12,150 for trusts), so in many cases it makes sense for trustees to distribute more trust income going forward. This is particularly important to consider for trusts with beneficiaries who have lower incomes or investment assets (as is often the case for younger beneficiaries), although a trustee must always weigh tax and non-tax considerations in making distributions. A trustee's ability to adjust distributions will depend on the terms of the trust and the circumstances of trust beneficiaries.

*Please contact us or your tax advisor to learn more about mitigating the impact of the net investment income tax on your trusts.*

## **INHERITED IRAs**

Earlier this year, in a unanimous decision, the Supreme Court held in Clark v. Rameker that inherited IRAs are not protected from creditors in bankruptcy. Resolving a conflict between the Circuit Courts of Appeals, the Supreme Court ruled that the bankruptcy protection afforded to retirement accounts does not extend to “inherited IRAs” because once the original owner of an IRA dies, the IRA no longer represents retirement funds. This does not include IRAs a spouse inherits and rolls into his or her own name, therefore spouses can remain protected. In some states, like Florida, inherited IRAs may still be protected in bankruptcy, but this is not the case in Virginia, Maryland and D.C.

*Many of our clients already provide that their IRAs will pass to trusts for their children or other beneficiaries, rather than outright, but we nevertheless encourage our clients to consider this issue. If a potential beneficiary is young or may face financial distress, the account owner should consider passing his or her IRA to a trust for the beneficiary, rather than to the beneficiary directly.*

## **DIGITAL ASSETS**

Delaware recently became the first state to enact a law authorizing fiduciaries to access online accounts and other digital content belonging to persons who have died or are incapacitated. We do not yet have a similar statute in Virginia, Maryland or D.C., although Virginia grants the parents of a deceased minor access to the minor’s digital assets.

Several years ago, we began including provisions for digital assets in our clients’ powers of attorney, revocable trusts and wills, but we wish to alert clients we have not seen in some time of this issue. Please feel free to contact us to discuss your situation. In all cases, we encourage our clients to keep track of their accounts, including online accounts and passwords, so their loved ones can identify and collect assets and information, if needed.