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CLIENT MEMORANDUM

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Estate Planning Ideas for Year-End

The Year 1999 is fast coming to a close, and this is to remind you that it may be advisable to take certain estate planning steps before December 31st. Following are some estate planning techniques and related ideas to be considered:

1. Estate Tax "Exemption" will be *$675,000 in 2000*. The tax rates on the excess (over $675,000) start at 37% and the maximum rate is 55%.

2. Credit Shelter Trust (also known as a By-Pass Trust). If you are married, and you leave all of your assets to your spouse, the net effect is that your $675,000 exemption would be wasted. By placing this amount in a *Trust for* your spouse, your surviving spouse can utilize the assets, and your children will ultimately receive the By-Pass Trust assets free of any estate taxes. The net effect is that your children would receive $1,350,000 on a tax-free basis, rather than receiving only $675,000 on a tax-free basis. At the rate of 40%, the *potential estate tax savings is $270,000*. This is usually a "must-do" technique for any couple with assets over $675,000.

3. A Family Limited Partnership (F.L.P.). This is a means which allows you to make gifts to your family members, and to obtain *greater leverage through the use of discounting the values*. Also, non-voting interests may be transferred, so that you can *retain control* of the property which was gifted. Sometimes a Limited Liability Company (L.L.C.) is used instead.

4. Qualified Personal Residence Trust (Q.P.R.T.). This allows you to *give away your house at a discounted value*. You can retain the right to the full use and benefit of the house for a certain number of years, and provide that your children would receive the house when that term of years has expired. The gift and estate taxes on the transfer can be significantly reduced.

5. Grantor Retained Annuity Trust (G.R.A.T.). This is a technique under which you can *retain for yourself the current value* of certain assets which you currently own, and *transfer to your family only the future appreciation* with respect to those assets. For example, you could place $300,000 into a G.R.A.T., and provide that you would receive back the $300,000 amount plus a yield of 7%, over a period of 5 years. If the property were to grow at a rate higher than the 7%, the excess will accumulate in the Trust, and in effect be transferred free of any gift taxes to your children.

6. Charitable Remainder Trust (C.R.T.). This is a means to place assets into a Trust, and *retain the right to income* from the Trust for a number of years, and obtain a current charitable deduction for income-tax purposes. The remainder passes to the charity when the stated number of years expires.

7. Irrevocable Life Insurance Trust (I.L.I.T.). The face amount of life insurance is generally taxed as part of your estate. It is usually advisable to *remove the insurance from being taxed as part of your estate*, through the use of an Irrevocable Life Insurance Trust.

8. Intentionally Defective Grantor Trust (I.D.G.T.). This technique is similar to the G.R.A.T. This enables you to sell assets, in effect, to your children, taking back a promissory note for the full value of the assets sold plus 7%. You will have retained the value of your assets plus income at the current yield; and any appreciation over and above that yield will accrue directly to your children. The purpose is to have all of that *appreciation be transferred to your children without any gift or estate taxes*. The Intentionally Defective Grantor Trust is a technique by which you can avoid capital gain taxes on the sale.

9. Unified Gift and Estate Tax System. It is not possible to eliminate estate taxes, simply by gifting away your assets, because the Gift Tax rates are essentially the same as the Estate Tax rates. Utilization of *"valuation-discounting" is an extremely significant factor* in estate tax planning.

10. Annual Exclusion. You may make gifts of *$10,000 per donee per calendar year*, without paying any gift taxes and without using any part of your lifetime exemption. If you are married, the $10,000 exemption is effectively doubled to $20,000. If you make the gift by check, it is important that the check clear your account by December 31.

11. Non-Tax Estate Planning. is also extremely significant. It is important that your estate plan be established, so that your assets will pass to your beneficiaries in the *amounts and percentages as intended*, and furthermore that the assets pass under the appropriate terms, such as Trusts for minor children.

12. IRA and Pension Planning. These assets are generally subject to the estate tax at the rate of some 50%, *and* the remaining amount is then taxed as ordinary income to the beneficiary. On retirement monies, *the combined taxes frequently exceed 70%*.

13. Roth IRA. This is a type of IRA which *compounds on a totally tax-free basis*. It is possible to convert your traditional IRA into a Roth IRA; over the longer term, this can have extremely significant advantages to your family members.

14. Gifts for Tuition and Medical Expenses. In addition to the $10,000 annual exclusion, and the $675,000 exemption, you may also make gifts by way of *paying tuition and medical expenses* for your family members. This is another way to significantly transfer assets to your family members without any gift or estate tax consequences.

15. Generation-Skipping Transfer Tax Exemption (GST Tax). If you skip a generation and leave assets to grandchildren, the effect is that the assets will not be taxed in your children's estates. But this constitutes a generation-skipping transfer. You have a $1M GST exemption, but if you transfer assets of more than that amount to grandchildren then the *GST tax of 55% applies in addition to the normal estate tax of 55%*.

16. Living Trusts. There has been much publicity about Living Trusts, touting ostensibly great advantages. Usually these advantages are over-stated, but the *Living Trust can in certain circumstances be a useful estate planning tool*.

17. Powers of Attorney. If you have not already prepared a Power of Attorney, you should sign a Power of Attorney, granting to your spouse or some other trusted person the *power to handle your affairs in the event that you were to actually become legally incapacitated*. This could be worded to take effect only in the event that you were to become incapacitated.

18. Title Assets Properly. It is extremely important that your assets be titled in a manner which is coordinated with your overall estate planning. In some cases, joint ownership is appropriate. However, *in many cases, joint ownership has the effect of defeating the*

intended estate plan and causing unnecessarily high estate taxes. It is important to review this issue periodically.

19. <u>One Way of Making Gifts</u>, would be to *assist your child in funding a Roth* (or a traditional) IRA.

20. <u>Required Minimum Distributions From Your IRA</u>. It is very important that you make the best election for the payout of your IRA. The *payout election is irrevocable on April 1 of the year after that in which you reach age 70½*. If you do not affirmatively make an election, there will be an election by default.