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CLIENT MEMORANDUM
December, 2008

Dear Clients and Friends:
Following are some estate and tax planning items for your consideration.

1. Federal Estate Tax. The following chart illustrates the Federal Estate Tax rates under current law.

Year	Exemption	Tax Rate
2008	$2,000,000	45%
2009	$3,500,000	45%
2010	no estate tax this year	
2011 & after	$1,000,000	41% - 55%

The Federal Estate Tax is based upon the value of your estate. Generally, all assets are included - real estate, securities, retirement accounts, life insurance, etc.

It is highly likely that there will be legislation in 2009 to "fix" the Federal Estate Tax. The stated position of President-elect Obama is that the Estate Tax exemption and the tax rate should be made permanent at the 2009 levels.

No one knows for certain what will happen, but there seems to be a consensus that Congress will support the Obama proposal.

Following are some interesting facts regarding the Federal Estate Tax:

(a) Only 1.86% of all estates resulted in a taxable return in 2002; that percentage was 0.93% in 2006.

(b) In 2002, Estate and Gift Tax revenues made up 1.4% of federal revenue; in 2006, that percentage was 1.0%.

From 1998-2006, as the Estate Tax exemption increased, the number of taxable returns filed has steadily decreased, but the tax revenue has remained about the same.

2. New Jersey Inheritance Tax. The New Jersey Inheritance Tax is based on the amount passing to each beneficiary and the relationship of that beneficiary to the decedent.

Beneficiaries	Amounts	Tax Rate
Class A - spouse, descendants, stepchildren, and ancestors	all amounts exempt (Note: this also applies to a mutually-acknowledged child.)	0%
Class B	repealed	---
Class C - siblings and spouses of children	0 - $25,000 $25,000 - $1,100,00 $1,100,000 - $1,400,000 $1,400,000 - $1,700,000 $1,700,000 and over	0% 11% 13% 14% 16%
Class D - everyone else	0 - $700,000 $700,000 and over	15% 16%

3. New Jersey Estate Tax. The New Jersey Estate Tax is due only if and to the extent that it exceeds the New Jersey Inheritance Tax.

Amounts	Effective Tax Rate
$0-$675,000	0%
$675,000-$727,175	37.0% *
$727,175-$900,000	4.8%
$900,000-$1,100,000	5.6%
$1,100,000-$1,600,000	6.4%
$1,600,000-$2,100,000	7.2%
$2,100,000-$2,600,000	8.0%
$2,600,000-$3,100,000	8.8%
$3,100,000-$3,600,000	9.6%
$3,600,000-$4,100,000	10.4%
$4,100,000-$5,100,000	11.2%
$5,100,000-$6,100,000	12.0%
$6,100,000-$7,100,000	12.8%
$7,100,000-$8,100,000	13.6%
$8,100,000-$9,100,000	14.4%
$9,100,000-$10,100,000	15.2%
$10,100,000 and over	16.0%

*Note: this "bubble" is caused by the fact that the exemption becomes unavailable if the estate exceeds $675,000

The value of the gross estate for purposes of the New Jersey Estate Tax is usually the same value as is used for Federal Estate Tax purposes.

It appears unlikely that there will be any changes in the foreseeable future to the New Jersey Estate Tax law.

4. Will. It is important that you have in place a Will and estate plan so that your assets will pass to your intended beneficiaries in the relative amounts and under the terms that you desire. It is also important that you name the Executor, Trustee, and Guardian of your choice.

It is advisable to review your estate plan documents every three to five years, to ensure that they are consistent with your intentions. Updates should be made if your family circumstances change, such as a marriage, divorce, birth of a child, or death of a beneficiary; if the size of your estate changes substantially; if your health or that of a beneficiary changes; if your personal wishes change; or if (or when!) the tax law changes.

5. Power of Attorney. This is a critically-important element of all estate plans. In a Power of Attorney, you would appoint the Agent of your choice to handle your financial affairs in the event that you are incapacitated. Without a Power of Attorney, only a Court-appointed Guardian would have the authority to make decisions and act on your behalf. Note: you may want to ask your parents if they have prepared a Power of Attorney.

6. Living Will. A Living Will is also very important. It is the method by which you state your wishes regarding the maintenance or non-maintenance of artificial life support if there is a terminal illness with no hope of recovery. You should also designate a Health Care Representative, who is authorized to interpret your personal wishes and to instruct your doctors regarding maintaining or withdrawing life support. Without any Living Will, only a Court-appointed Guardian would have the authority to make these decisions for you.

7. The Annual Gift Tax Exclusion. The annual Gift Tax exclusion permits each person to gift $12,000 per donee per calendar year without any gift tax or estate tax consequence. For example, if you and your spouse have two children, and if each child has a spouse and two children, then a total of $192,000 could be gifted to the eight beneficiaries each year without any gift or estate tax consequences. The annual exclusion becomes $13,000 in 2009.

8. Use of "lifetime exemption". If you have already used up your annual exclusions, you can still make gifts tax-free, by applying up to $1M of your Estate Tax exemption during your lifetime.

9. Gift Tax Exclusions for Tuition and Medical Expenses. In addition to the $12,000 annual exclusion, you can make gifts without any gift or estate tax consequences by paying tuition and medical expenses for children or others. The payments must be made directly to the school or to the medical provider.

10. Section 529 College Savings Plans. You can contribute to a Section 529 Plan for the benefit of children, grandchildren, or any other person. This provides for totally tax-free growth! All future withdrawals would be exempt from income tax, provided that the distributions are used for "qualified higher education expenses". Also, the Section 529 account is flexible, in that you can change the beneficiary of the account at any time. You can use five years' worth of Annual Gift Tax Exclusion when contributions are made to a Section 529 Plan in any one year.

11. Grantor Retained Annuity Trust (GRAT). Interest rates are the lowest they have been in many years, and accordingly now is a great time to consider techniques that are most effective when interest rates are low. A GRAT is one such technique. A GRAT is an irrevocable trust to which you transfer assets and receive an annuity for the term of the trust. The trust can be structured as a "zeroed-out GRAT" so that you receive back all of the contributed assets in the form of annual payments, which are determined based on current interest rates. A zeroed-out GRAT carries no gift tax consequences. All income and appreciation in excess of the applicable interest rate passes to the trust beneficiaries free of any gift tax. This is particularly advisable if you think the stock market will increase in value over the coming years.

12. Sale to an Intentionally Defective Grantor Trust (IDGT). This technique is similar to a GRAT. You could sell a parcel of real estate now (while the value is presumably low!) and take back a note receivable with a low interest rate. It allows you to retain for yourself the current value of certain assets, and to transfer to your family only the future appreciation of those assets. Again, this can typically be accomplished without any gift tax consequences.

13. Charitable Lead Annuity Trust (CLATs). This type of trust is similar to the GRAT, except that the annuity is paid to a charitable organization, which results in a charitable contribution deduction at the time of trust creation.

14. Estate Planning for Married Couples. Each spouse has available a Federal Estate Tax and a New Jersey Estate Tax exemption; however, proper planning is required to take full advantage of both spouses' exemptions. Without such planning, for instance, if you were to leave your entire estate to your spouse, then the children would receive the benefit of only one spouse's exemption. A common plan to preserve both spouses' exemptions involves the use of a "By-Pass Trust". For example, the husband should leave part of his estate to a trust for the benefit of his wife. The assets in that trust would be available to the wife, but not be taxable in the wife's estate; that is, the trust assets would "by-pass" the wife's taxable estate. There are several types of By-Pass Trusts. A By-Pass Trust can be broad or restrictive, depending on your wishes. A By-Pass Trust might be established by the surviving spouse's making an election called a "disclaimer". Either way, the language for a By-Pass Trust needs to be included in your Will. A By-Pass Trust is sometimes called a Credit Shelter Trust. Even if Federal Estate Taxes are not a concern, the use of a By-Pass Trust can result in significant reduction of New Jersey Estate Taxes, and also can be used to preserve assets if your surviving spouse were to enter a nursing home.

15. QTIP Trust. This is a "Qualified Terminable Interest Property" Trust. This is a type of Trust that may be appropriate in a second marriage, where you might want to provide your spouse with the use and benefit of the assets for his/her lifetime, but also direct that upon his/her subsequent death any remaining assets would pass to your children of your prior marriage. The provisions of a QTIP Trust can be very broad or very restrictive, depending on your individual desires.

16. Re-titling Assets. In order for a By-Pass Trust plan to be most effective, it would be appropriate for each spouse to separately own some assets. Having too much in your joint names may result in an unnecessarily high estate tax for your children.

17. Generation-Skipping Transfer (GST) Trusts.

(a) For You. Any assets you may receive by gift or bequest from your parents (or from any other person) will increase the size of your taxable estate. You should consider asking your parents, for example, to leave assets to a GST Trust, sometimes called a Dynasty Trust, *for your benefit*, which would not be includable in your taxable estate. You can be the Trustee of the Trust, and have very broad powers to make withdrawals from the Trust for the benefit of yourself and your family, and retain the power to direct where the assets would pass upon your death. This technique requires that your parents make the bequest to the Trust for you. Under the Estate Tax laws, you cannot first receive the assets and then place them into such a Trust for your own benefit. Another benefit of a GST Trust for your benefit is that such assets can be protected from claims of general creditors and other such claims.

(b) For Your Children. The same concept applies when you bequeath assets to your children. If your estate plan properly directs assets into a GST Trust for the benefit of your children, you can accomplish very beneficial estate planning for your children, which planning they could not have done for themselves if they were to receive the assets outright. This would be especially appropriate if, say, your child is a surgeon or other professional who may be subjected to claims for professional liability; furthermore such a trust could protect the assets for your child from the claims of a spouse in divorce.

18. IRA and Pension Plans. It is very important to pay special attention to your IRAs and other retirement plans when planning your estate, because these involve both estate taxes and income taxes. These two taxes could consume over 70% of your retirement benefits. Your beneficiaries may extend distributions of inherited IRAs over their lifetimes, and thereby significantly defer the income taxes.

19. Conversion to a Roth IRA. All income earned by and distributions made from a Roth IRA will never be subject to Federal Income Tax. The potential benefit of long-term tax-free growth and for ultimate tax-free withdrawal is extremely significant. You can convert a traditional IRA to a Roth IRA. A conversion would require that you pay the income tax on the IRA at the time of conversion, but the long-term benefits could far outweigh the initial costs. Until 2010, a conversion is possible only if your annual income is less than $100,000. This limitation expires in 2010. A Roth IRA conversion can be extremely advantageous for a person age 70 or older.

Also, you should consider making annual gifts to your children or grandchildren by contributing to a Roth IRA for them.

20. Beneficiary Designations on Life Insurance and Retirement Plans. It is very important that proper beneficiary designations be implemented for each of your IRAs, retirement plans, life insurance policies, and annuities, to ensure that your estate plan is properly effected. Your Will alone does not cover these assets.

21. Irrevocable Life Insurance Trust (ILIT). If you own a life insurance policy on your own life, the proceeds of that policy will be includable in your estate for estate tax purposes. To remove said proceeds from your taxable estate, you can transfer the policy to an ILIT.

22. Family Limited Partnership (FLP) and Family Limited Liability Company (LLC). These are very effective tools for transferring assets to family members at reduced estate and gift tax rates. An FLP allows for gifts to be made at substantially "discounted" values.

The use of the element of valuation discounting is probably the single most significant factor to be utilized to reduce estate taxes!

23. Qualified Personal Residence Trust (QPRT). This is a very effective technique by which you can remove your house from your taxable estate, by transferring it to your children at a discounted value. You would transfer the house into the trust, which will provide that you retain the right to the full use and benefit of the house for a certain term of years, and that your children would receive the house when that term has expired. It is better to implement a QPRT when the real estate value is low, and thus now may be a very opportune time for a QPRT.

24. Medicaid Planning. In order to qualify for Medicaid payments for nursing home expenses, generally you must have assets of no more than $2,000. If you or a family member may be entering a nursing home, or otherwise anticipate applying for Medicaid, there are planning techniques available by which you can preserve assets for the benefit of your family.

25. Capital Gains on the Sale of a Primary Residence. Until January 1, 2009, married homeowners can exclude up to $500,000 ($250,000 for a single person) of capital gains upon the sale of their primary residence, provided they owned the home and lived there for an aggregate of at least two years of the five years prior to the sale. Beginning January 1, 2009, the exclusion is reduced, generally on a *pro rata* basis depending on the number of years owned-but-not-used as your primary residence.

26. FDIC Insurance. Especially during these times of economic turmoil, and bank failures, please make sure that your monies in banks are fully-insured by the FDIC (Federal Deposit Insurance Corporation). Generally, the coverage limit is $100,000 per depositor per bank. But, the amount of coverage can be increased by having more than one type of account, such as for joint accounts, trust accounts - both revocable and irrevocable, and retirement accounts.