



ESTATE PLANNING WITH PAUL HOOD

December 2019

What's your most important estate planning advice?

What I say below may shock you, but I am resolute in my position: **What you do or don't do in your estate planning will affect the relationships of those who survive you.** This is the most important advice I give everyone. Believe it or not, you wield significant power here, so be careful about its exercise.

You have an opportunity to plan so that your loved ones will still talk to one another after you're gone. Believe me, there's no

quicker way to destroy a nuclear family than with a tone-deaf estate plan, or, worse yet, no estate plan. If you don't tend to your estate planning, you'll get the state's estate plan, which usually is not what you want.

What is the difference between an RMD and an QCD?

The **Required Minimum Distribution (RMD)** is an amount that must be taken out of an IRA or qualified retirement plan annually to avoid the 50% penalty for failure to take your RMD on time. For those over the age of 70.5, the RMD is a requirement for almost all qualified retirement plans and IRAs.

How is the RMD calculated? It's a bit more complicated than this, but, essentially: The IRS takes the account holder's or the beneficiary's remaining actuarial lifetime and divides the IRA by that number of years. Voila – that's your RMD! The RMD can be larger than the \$100,000 per taxpayer qualified charitable distribution limit if the IRA is large.

While I'm on the subject of IRAs, you should **review all of your beneficiary designations** on all life insurance policies, qualified retirement plans and IRAs to make certain that they're right. If this is an average readership, at least five to ten of you will find stale beneficiary designations, wrong beneficiary designations, or, worse yet, no beneficiary designation. These errors range from former spouses to deceased parents. This is your job, and you must do it.

A **Qualified Charitable Distribution (QCD)** is a direct transfer from an IRA custodian (not from qualified retirement plans) on your behalf to a qualified public charity like the Sisters of St. Francis, of Sylvania OH. Under current law, the QCD is limited to \$100,000 per taxpayer annually. A QCD satisfies that part of the donor's RMD for the year, up to the \$100,000 per taxpayer limit. That limit covers all of your IRAs; no matter how many IRAs you have, i.e., the limit is on a per taxpayer basis. The good news about the QCD is that it doesn't phase out like many other tax benefits. The QCD is an elective decision on the donor's part, as this has the effect of a charitable contribution because the QCD will benefit the good works of qualified public charities like the Sisters of St. Francis, of Sylvania OH. You **don't** get an income tax contribution deduction for a QCD. However, you also **don't have to pay income tax** on it first, and it counts toward the RMD.

What are the five things that a person should focus on before the end of the year, to decrease their tax payment due in April, 2020? At year-end, it's most important to reflect on your good fortune. Be thankful and grateful to Almighty God and **to take stock of 2019.**

First. Pull out your estate planning documents and read them. You don't have to go to your estate planning attorney to do this. Just pull them out and read them to see if they still comport with your intentions. If there have been any significant events or changes during the year, then you may well need to revise your documents.

Second. Given that we're almost at year-end, you should have some idea about your tax position in 2019 for your upcoming tax returns that will be due in April 2020. If you've got no idea where you stand, then you've got some homework to do, which I urge you to do immediately. If you've got marketable securities and you sold some at a gain, you may want to consider selling some stock or mutual funds in which you're carrying loss positions to offset the capital gains tax on the winners. Don't forget that if you sell a losing stock before year-end, you can't buy it back for 31 days, or the wash sale rules will deny the loss, which means that you'll owe capital gains tax on the winner.

Third. Manage your cash position to ensure that you have the cash or property to make your regular year-end charitable contributions and, if your income qualifies, to fund a deductible IRA with up to \$6,000 before April 15, 2020.

Fourth. If you think that you're going to be in a lower income tax bracket in 2020, and you have some flexibility regarding when the income might be received, it might be wise to defer that flexible income until 2020. Likewise, if you expect to pay more income tax in 2019 than what you expect in 2020, and you have flexibility regarding when you might incur a deductible expense, you should incur that expense (and its deduction) in 2019, rather than 2020.

Finally, reflect on 2019 with a view toward making changes or improvements in 2020. Don't wait until January 1, 2020 to set some goals and resolutions for 2020. Anticipate the year and plan for it. You'll be glad you did when 2021 comes around! It also goes without saying that you should express your gratitude to Almighty God for your multitude of blessings.

Have there been any changes in any tax laws? There was a lot of noise earlier in the year about passage of an act that would significantly revamp and tighten the distribution rules for qualified retirement plans and IRAs and raise the age for when distributions must commence from 70½ to 72. The bill, which passed the House several months ago on a bipartisan vote, is stuck in the Senate, which is where I think it will still be at the end of the year. After that is anybody's guess, depending largely on the outcome of the 2020 elections. I don't expect any major tax legislation in the election year, but if there are any developments, I'll report back to you.

In closing, I wish each of you all the best that 2020 has to offer!

May Almighty God continue to bless you, your families, and the Sisters of St. Francis of Sylvania OH.

Consultant Paul Hood, FCEP, works with Thompson & Associates in Toledo, OH to assist charitable organizations and work with their donors on values-based estate planning.

Paul obtained his undergraduate and law degrees from Louisiana State University and an LL.M. in taxation from Georgetown University Law Center before settling down to practice tax and estate planning law in the New Orleans area. Paul has taught at the University of New Orleans, Northeastern University, The University of Toledo College of Law and Ohio Northern University Pettit College of Law. Paul has authored or co-authored seven books and over 500 professional articles on estate and tax planning and business valuation.