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Yearly Letter/Estate Plan Update – December, 2016

Dear Clients:

There have been very few changes in the estate planning laws affecting most clients. With the election of Donald Trump as president, the inheritance tax laws will either stay the same or the exemption will increase over time. His plan may eliminate the death tax but keep a capital gains tax for certain inheritances over \$10 million or so. Therefore, the planning for death taxes will not be a significant concern for most of my clients. The current exemption amount per person will increase on January 1, 2017, to \$5,490,000. A married couple, through the federal portability act, can exempt almost \$11,000,000.

This year, I have had several calls and meetings from clients related to scam artists. I feel it would be appropriate to discuss several incidents occurring, as well as, highlighting some other common scams perpetrated on senior citizens.

The first incident involved an elderly client of mine. He described the phone call he received. The caller said, "Hey Granddaddy" and my client said, "Johnny, is that you?" The caller said, "Yes, it's me, I'm in the Dominican Republic." My client said, "Johnny, you sound kind of funny." The caller said, "I have a cold and a terrible hangover, and that's part of the problem. I've had a car accident and I'm in jail. I need \$2,500 to get out of jail and if I don't get out right away, I'll be stuck here for another six months waiting for the trial. It's a terrible legal system down here and I'll lose my job." My client said, "Have you talked to your dad?" and the caller responded he and his dad were not getting along and it just was not appropriate for him to call his dad. He had nowhere else to turn to get this money. My client loves his grandson and said he would help him. The caller gave my client the number for the US Embassy in the Dominican Republic. My client called the number and spoke to a gentleman who indicated he was from the embassy. After my client described the situation, the gentleman agreed the grandson was indeed, in a perilous situation and sometimes money just solves the problem so US citizens can leave the country. If the funds are not sent, his grandson may stay in jail for another six months or so, waiting for trial. Galvanized by this last call, my client hung up and drove immediately to his bank and withdrew \$2,500 in cash. He had instructions from the embassy man to go to a local pharmacy like CVS and use their money transfer system, Money Gram. It is a similar system to Western Union. The instructions had my client sending the first installment, \$1,300, to an address given to him by his grandson and confirmed by the embassy man. The \$1,300 was sent and my client had to wait two hours before he could send the second installment. While he waited, he went for a ride in his car and came to a stop at an extra-long red light. The cash was in an envelope in his pocket. He was finally able to relax a bit and think. He picked up his cell phone and called his grandson, Johnny. Johnny answered the phone and said, "Hey PaPa, is that you?" The grandson always called his grandfather PaPa. My client said, "Johnny, where are you?" and Johnny said, "I'm in Colorado." It was at that moment

my client realized he had been involved in a significant scam. He went back to the CVS pharmacy and called the company operating the Money Gram machines. He was able to recover his \$1,300. My client is a very sharp gentleman and would do anything for his grandchild. The callers are very sophisticated actors and have their story lines down extremely well. They have a credible answer for every question. This is an easy scam because the scammers do not need to do any research on you. They call and say, "Granddaddy, I need help". The grandparent will usually try to decide which of the grandchildren is calling and ask, like my client did, "Is that you, Johnny?" When the caller answers "yes" the caller has instantly established credibility. Then the scammer goes on to describe their perilous situation and why they need money and why they cannot ask their parents for money.

A second client scam involved the Publishers Clearing House \$10 million prize. The caller said, "You have won the money and don't tell anyone. You need to send a tax payment before receiving the money." The client did send money and did lose \$1,500. A daughter stepped in and prevented a second "tax payment" of \$1,500 from being sent. Publishers Clearing House NEVER notifies winners by phone and NEVER asks for tax payments.

A third client received paperwork from what appeared to be the Social Security Administration, following his wife's death. They were requesting information to verify continuing Social Security payments following the death of his wife. They requested all kinds of information including the birth certificate, death certificate, and Social Security number. When the Social Security paperwork requested information about the bank identification numbers and transaction numbers, that is when the client got a little suspicious. The client went to the Social Security Administration Office with the paperwork. No one there had seen any paperwork like that and advised they do not request that type of information and the paperwork was not from their office. The paperwork looked official and he could have easily filled in all the information, provided all the original documents requested and then left himself open for a major scam and identity theft.

Another client said they received a call from the IRS, stating he had overdue taxes and to prevent a tax lien, he should pay the tax immediately. Of course, the IRS NEVER calls and demands money. When the client started to question the alleged agent, the agent became belligerent, saying they were going to place a lien on his house and take his home and put him in jail. The client hung up and then called the IRS the next day and determined this was a total scam. Of course, the client had a sleepless night, but did not lose any money.

There are many other scams targeting senior citizens. These are several I have been involved with personally. Generally, if something is too good to be true, it usually is. The problem is, sometimes an elderly person will be scammed and embarrassed and think one of their kids may try to restrict their access to their own funds and as a result, not disclose they have been a victim of a scam. The scammers know this, and will routinely retarget a victim and take advantage of them more than once. If you are the victim of a scam and you do not want to tell your kids, you can always tell me, your lawyer.

The following are this year's observations and comments for your consideration:

1. Many of our clients select a child to be the successor Trustee. Some of our more senior clients will select a child to serve with them as Co-Trustee. I have encouraged this decision because it enables a client to turn over as much or as little of the day to day management of the Trust assets as they choose. Most of my clients still manage their financial affairs, and their adult child serving as Co-Trustee, is simply added to their accounts for the convenience of both the parent and child. Other clients have been relying on the child to help with paying bills and adding a child on as Co-Trustee, rather than co-owner on to the account, is not only convenient, but a great safety net for the rest of the family.

2. Our office does not keep copies of all original signed documents, only computer-generated unsigned copies. Please make a copy of your Trust documents, give them to your successor Trustee and inform the successor Trustee where the original Trust book is located.

3. Section 9 of your Trust book allows you to leave tangible items (furniture, jewelry, household items, cars, etc.) to your family members. Just describe the item, to whom it goes to, and then sign and date the form. Keep the signed form in section 9 of your Trust book. Remember, this section will not allow you to transfer any interest in land such as a home or leave cash, stocks, bonds, etc., to anyone.

4. Review title to all assets to determine if they are owned or payable to the Trust. Remember, any asset not titled in the Trust or payable to it, may require probate.

5. Review property deeds to determine your properties are titled to the Trust and the legal descriptions are accurate.

6. Review and save any and all digital asset information. Your login/usernames, passwords, and personal identification numbers are important to ensure family members can access important online and electronic records after your death.

7. If you have not seen me in a number of years and still have an A/B Trust, it is imperative you make an appointment with my office. Over the past 15 years, I have written about whether or not an A/B Trust is still appropriate for some clients. Please go to section three of your Trust book to determine if you have an A/B Trust. The first page, at the top, should say Declaration of Trust. Then, it should indicate the type of Trust with the capital letters A/A or A/B. If you have an A/B Trust, you should make an appointment immediately, to review whether or not this Trust is still appropriate. In most cases, the Trust can easily be converted to the joint Trust which I designate as A/A. If your spouse has died, then this conversion cannot be made and you should see me to get the general paperwork taken care of when someone passes away.

8. Please review all life insurance, IRA, and annuity beneficiaries to ensure the appropriate person or Trust has been named as beneficiary. Generally, most life insurance, annuity and IRA beneficiaries should first, be your spouse. The second or contingent beneficiary, should be your Trust. However, I may have reviewed your file with you earlier and told you to do something different. Please gather all these documents and insert them in section 4 of your Trust book so your successor Trustees can locate all important documents.

My purpose in sending this yearly letter is to get you thinking about your assets, your estate, and your decisions. If you need any clarification or have any questions, please feel free to call my office.

Sincerely,
J. Mark Fisher

P.S. I have just completed a new book, "How to Administer a Florida Trust." It is a guidebook for new successor Trustees, as well as, Trust creators and beneficiaries. An informational flyer will be sent to you in the next month or so, once the printing is completed.



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The hiring of a Lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask me to send you free written information about my qualifications and experience.

Attorney J. Mark Fisher's yearly client letter

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