

February 2021

We are mindful of the adversity suffered by many of our clients and their family members this past year including social isolation, loss of loved ones and financial hardship and uncertainty. We are hopeful that in 2021 we will see the pandemic fade from the forefront of our daily lives and that we can begin living in a post COVID-19 world.

We are pleased to send you this annual summary of the most significant changes to federal and New Hampshire laws that affect estate planning and estate and trust administration. We hope that you find this information helpful.

Despite the pandemic, our clients continued to contact us for legal assistance throughout the year and we are grateful. We modified our office procedures for in-person, video and telephone meetings starting in March and were able to continue to assist clients with estate planning and trust and estate administration uninterrupted.

As a result of a law passed in 2020, we are now temporarily able to notarize and witness clients' estate planning documents remotely via video conference. In order for the notarization to be effective under the law, the notarial officer must be the attorney who drafted the instrument, licensed and in good standing in New Hampshire, or an attorney or paralegal acting under the supervision of the drafting attorney. The person whose documents are being notarized remotely, the presiding notarial officer and any witnesses must be able to communicate simultaneously by sight and sound through an electronic device at the time of the notarial act. Remote notarization remains possible under this law only until the state of emergency due to COVID-19 ends. There is proposed legislation in New Hampshire to allow a remote notarization process to continue in some form after the state of emergency is lifted.

Our clients who are concerned about possibly developing dementia, and want to direct their treatment if they do, will be pleased to learn about the Dartmouth Dementia Directive. The Dartmouth Dementia Directive is a supplemental document that may be used in conjunction with, and not as a replacement for, the standard New Hampshire Advance Directive. This document is designed to address the gradual loss in decision-making ability which is associated with dementia. The Directive contains separate sections of instructions covering the different stages of dementia: mild, moderate, and severe. A detailed description of the general characteristics of each of these stages of dementia is defined within the Directive. Each section contains directions that can be given as to medical care, nutrition and fluids, and location of care. The Directive also allows for additional comments and instructions to be written into the document. The final section allows for the executing party to determine

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whether they want to give final authority for decisions contemplated by the Directive to their health care agent, or if they want the directions given within the document to be final and binding. You can access a copy of the Dartmouth Dementia Directive at our website, <https://ansellpa.com/what-we-do/estate-planning-attorneys>. The Directive can be found at the bottom of the Advance Directives for Health Care page, which is found under the heading Estate Planning. If you would like to speak with Alyssa or Christine to discuss incorporating the Dartmouth Dementia Directive into your estate planning, call the office and we will schedule a time to discuss the Directive with you.

There were no changes to the estate, gift and generation skipping transfer tax law in 2020. Under current law, each person has a credit against federal gift and estate taxes, which allows you to transfer property to your family without tax. An \$11,700,000 exemption is applicable in 2021, to be indexed for inflation in future years through 2025, with portability of the unused exemption by a surviving spouse. Under current law, in 2026, the exemption reverts to \$5,000,000 as adjusted for inflation.

With a Democrat in the White House and both the Senate and the House controlled by the Democrats, there is discussion that the estate, gift and generation skipping transfer tax credit will be reduced sooner than 2026 and/or to an exemption below \$5,000,000. Joe Biden has indicated that he would favor a law that would eliminate the so called “step-up in basis” which is a tax basis adjustment to fair market value that occurs with respect to inherited assets. While it is certainly possible that the change in administration will result in changes to the tax code, there is no current legislation proposed that would implement these changes.

Because there has been concern about the reduction of the wealth transfer tax exemption amounts, at a client’s request, we have had discussions about whether it makes sense to make gifts to fully utilize the gift tax exemption in anticipation that the exemption will be reduced. Whether making gifts to fully use the \$11,700,000 exemption makes sense for a client is specific to a client’s asset profile and family situation. If you would like to consider these issues and how they apply in your situation, please contact the office and we will schedule a time for a discussion with you.

As always, it is important that your estate pass to your intended beneficiaries, whether by will, trust, beneficiary designation or joint tenancy. We encourage each of you to review your estate plan every year. This should include a review of your current documents, ownership of assets and accounts, and confirmation of beneficiary designations. You should consider whether any changes are needed at this time.

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Alyssa is expecting the birth of her second child in April. She will be on maternity leave through mid-June. Christine and our staff will strive to hold down the fort and take care of all of our clients' estate planning and estate and trust administration needs during Alyssa's leave.

We appreciate the positive feedback that we receive from so many clients regarding our staff. They each work hard to provide our clients with superior service. We are thankful for the assistance of our paralegals, Jennifer Pierce, Robin Davison and Victoria Farren and for our receptionist, Michele Folsom. We could not serve our clients without their efforts, which we greatly appreciate.

Christine was again honored to be counted among the best trust and estate attorneys in New Hampshire and New England. Christine is thankful for all of our clients and peers who have helped her to achieve these distinctions.

We appreciate your loyalty and referrals of other family members and friends for our services. Best wishes for a healthy and peaceful 2021.

A handwritten signature in cursive script that reads "Christine".A handwritten signature in cursive script that reads "Alyssa".