YEAR END TAX PLANNING SUMMARY

December 2019

Executive Summary

In review of 2019, there were not a lot of meaningful tax-related legislative developments. However, despite the ongoing impeachment saga and political discourse, the most noteworthy tax-related event of the year occurred just prior to Christmas. Congress and the President expeditiously approved a bipartisan tax package addressing tax extenders, retirement savings and various technical corrections to the 2017 Tax Cuts and Jobs Act ("2017 TCJA"). The tax provisions were part of a broader year-end government spending bill to avoid another government shutdown. The two most impactful tax legislative provisions are summarized below and discussed in more detail throughout this memorandum:

- Retroactive and current renewal of over two dozen temporary tax breaks, known as tax extenders, which have expired or are soon-to-be expired, spanning from 2017 to 2019. Generally, the renewed tax breaks are extended through 2020, and some are extended until 2022;

- The Setting Every Community Up for Retirement Enhancement bill (HR 1994) ("Secure Act"), which makes sweeping changes to retirement savings and employer retirement contribution provisions. Most notably, the Secure Act includes the following provisions:

  - Pushes back the age at which retirement plan participants are required to take required minimum distributions (RMDs) to age 72 after 2019

  - Requires that beneficiaries inheriting IRAs (after 2019) distribute all inherited IRA assets within a ten-year period (eliminates so-called "stretch-IRAs" subject to certain exceptions)

  - Allows individuals to contribute to IRAs and Roth IRAs indefinitely

  - Allows distributions up to $5,000 for the adoption or birth of a child

  - Part-time workers will be eligible to participate in employer plans if they work either 1,000 hours or have three consecutive years of service with 500 hours of service.

  - Employers can automatically set up 401(k)s for employees at 15% of wages to encourage retirement savings

  - Allows distributions from tax-advantaged 529 accounts for qualified student loan repayments up to $10,000 annually

Summary of Key Planning Items for 2019

Income Tax & Alternative Minimum Tax Planning

- Compare 2019 and 2020 marginal tax rates (considering Alternative Minimum Tax), and evaluate benefits of accelerating or deferring income and/or deductions
- For assets in trust, evaluate the following:
  - Allocation of non-deductible investment advisory fees and deductible trustee fees
  - Applicable tax rate of the complex trust and beneficiary to determine whether trust distributions (including a 65-day election) would reduce the overall tax burden
  - Situs of trusts and state tax implications based upon the grantor or non-grantor trust status of the trust

IRAs & Charitable Planning

- Facilitate annual IRA contributions, Required Minimum Distributions and related tax withholding
- Facilitate charitable contributions (e.g., utilization of RMDs from IRAs and appreciated securities)
- Consider Roth conversions

Investment & Estate Planning

- Recognize unrealized capital losses (subject to wash-sale rules) to offset capital gains
- Facilitate annual exclusion gifts and utilization of remaining lifetime exemptions
- Accelerate intra-family sales/gifts to take advantage of valuation discount opportunities to transfer wealth more efficiently before the new tax law sunsets
- Consider Spousal Lifetime Access Trusts (SLATs) to shift wealth outside the taxable estate while retaining indirect access to the transferred asset via the spouse's beneficial interest
- Consider basis step-up planning now that estate and gift tax exemption amounts are higher

The Secure Act

Some of the more popular provisions of the Secure Act are summarized below.

IRA Contributions and Distributions

The most significant change made by the Secure Act is to replace the five-year rule for required minimum distributions (RMD) from qualified retirement plans and IRAs made to non-spouse beneficiaries within a ten-year window. The ten-year period applies regardless of whether the plan participant or IRA owner dies before or after reaching the required beginning date (RBD). Thus, the change will severely limit, if not eliminate, the use of so-called "stretch IRAs" as an effective planning tool. Limited exceptions are available. The change is effective for distributions made with respect to plan participants and IRA owners who die after December 31, 2019.

On the other hand, the RMD beginning date for employer plans and for IRAs is moved from the year the owner reaches age 70½ to the year the owner reaches age 72. The new law also provides an exception to the ten-percent early withdrawal tax from a qualified plan in the case of the birth of a child or adoption of a child. Qualified birth or adoption distributions may be recontributed to an individual's applicable eligible retirement plans, subject to certain requirements.

The maximum age limitation of 70½ for making deductible traditional IRA contributions is eliminated, allowing individuals to continue employment beyond more traditional retirement age. Compensation for purposes of determining an individual's eligibility to make IRA contributions is expanded to include stipends and non-tuition fellowship payments received by graduate and postdoctoral students.

401(k) Changes

Under the new law, employers with 401(k) plans must offer employees who work between 500 and 1,000 hours a year an additional means to participate in the plan. Employees must be able to satisfy participation requirements by completing either: (i) one year of service (with the 1,000-hour rule), or (ii) three consecutive years of service where the employee completes at least 500 hours of service. Additional changes will impact the administration of 401(k) plans, including certain safe-harbor provisions and employer notice requirements. If you have specific questions about 401(k) changes, we encourage you to contact us and/or your tax advisor.

Kiddie Tax Changes

A child's unearned income is generally subject to the kiddie tax. The 2017 TCJA amended the rules to make it easier to calculate kiddie tax. However, the 2017 TCJA created unintended technical consequences because it created higher tax liabilities for certain low and middle-income families.

The new law corrects these perceived problems by repealing the 2017 TCJA changes. A child's net unearned income will return to being taxed at the parents' tax rate if higher than the tax rate of the child. Thus, the kiddie tax will be calculated by computing the child's share of the "allocable parental tax," which is affected not only by the tax situation of the child's parents but also the unearned income of any siblings. The change applies to tax years beginning after 2019, but taxpayers may elect to apply the change to tax years 2018 and 2019.

Itemized Deductions

Taxpayers have a choice when filing their returns. They can take the standard deduction or itemize their deductions. The latter option can be far more time-consuming, and whether it's worth doing depends on whether their itemized deductions are greater than the standard deduction. In 2020, the standard deduction for a married couple increases to $24,800. Since deductions for state and local taxes (SALT) are now capped at $10,000 per year, many taxpayers may find it hard to itemize without large charitable contributions. Here's a recap of some of the rules related to certain itemized deductions from the 2017 TCJA:

- The floor for deductible medical expenses is 7.5% of AGI. It makes sense to schedule discretionary medical procedures in 2019 and 2020 if doing so will lead to a medical expense deduction.

- Although existing mortgages in effect prior to December 16, 2018, are grandfathered to the previous cap of $1 million, interest expense on acquisition indebtedness for up to two homes is now capped at $750,000 in total for loans incurred after December 15, 2018, through 2025. Interest on home equity loans is not deductible through 2025 unless the loan is used to pay for things such as an addition or improvement to the taxpayer's home that secures the loan.

- The percentage limitation for charitable contributions of cash was increased from 50% to 60% of adjusted gross income (assuming only cash gifts are made during the year). The previous charitable deduction for payments connected to the purchase of tickets and preferential seating at college athletic events was repealed.

- Miscellaneous itemized deductions, such as tax preparation fees, investment advisory fees and unreimbursed employee expenses are now disallowed. Trustee fees remain fully deductible.

- Alimony and separate maintenance payments pursuant to divorce are no longer deductible by the payor spouse or includible in the income of the payee spouse.

Netting Gains/Losses

Throughout the year, Colony Family Offices has reviewed portfolios to determine appropriate securities that qualify for tax loss harvesting based on the following IRS mandated "netting" process (in the order listed) where applicable:

- Net short-term gains and short-term losses
- Net long-term gains and long-term losses
- Net short-term gain/loss against net long-term gain/loss
- Taxpayers incur higher taxes on net short-term gains (after netting against net long-term gains and losses)
- Taxpayers incur more favorable tax on net long-term gains (after netting against net short-term gains and losses)
- Regardless of whether net short or net long-term losses are projected, taxpayers may only deduct up to $3,000 of excess net losses against ordinary income each year
- All unused net losses are carried forward and may be applied against future tax years

Income & Expense Deferral/Acceleration

Throughout the year, Colony Family Offices proactively identified and recommended (as applicable) one or more of the following strategies to defer income and accelerate deductions for clients:

- Accelerate income to utilize available carry forward losses
- Defer or accelerate payment of bonuses before January
- Accumulate/declare dividends (especially C corporation owners)
- Delay/accelerate Roth IRA conversions
- Pay bills in 2019 and/or postpone receipts until 2020
- Increase withholding of state and federal taxes to minimize exposure to estimated tax underpayment penalties on W-2 and "non-wage" income
- Accelerate/delay charitable gifts and/or medical expenses
- Consider charitable gifts of appreciated securities to avoid tax on imbedded capital gains
- Consider "bunching" charitable contributions to increase itemized deductions now that the standard deduction is $24,000 for a married couple (which will go to $24,800 in 2020)

Estate, Gift and Generation-Skipping Tax Changes

The exemption amounts for the estate, gift and generation-skipping taxes will increase in 2020 to $11.58 million per individual ($23.16 million per couple). The annual exclusion amount for gifts will remain $15,000 per year. These changes provide high net worth individuals a significant planning window to make gifts, set up irrevocable trusts and analyze strategies to swap high basis assets included in their taxable estate with low basis assets currently titled in irrevocable trusts. This can be done without "clawback" when the exemption amount reverts to the lower levels in 2026.

State Income Tax Planning With Irrevocable Non-Grantor Trusts – Why Jurisdiction Matters

Now that Colony Trust Company has been established, we think there are significant opportunities to reposition assets away from high tax states to avoid or minimize state income taxes via the creation of one or more non-grantor irrevocable trusts that name the spouse as a permissible beneficiary. States impose income taxes on trusts differently. Analyzing each state's rules could result in significant state income tax savings with proper planning. See Appendix D for a survey of various states and how they define a "resident trust" for purposes of imposing state income taxes.

Appendix A: Key Income, Net Investment Tax, AMT Exemptions and Rates

The following tables reflect applicable ordinary income, long and short-term capital gains, qualifying dividends and net investment income tax brackets for 2019 and 2020 tax years.

2019 Total Income		2020 Total Income		Long Term Capital Gains Rate
Single Filers	Married Filing Joint	Single Filers	Married Filing Joint	
Up to $39,375	Up to $78,750	Up to $40,000	Up to $80,000	0%
$39,376 to $434,550	$78,751 to $488,850	$40,001 to $441,450	$80,001 to $496,600	15%
More than $434,550	More than $488,850	More than $441,550	More than $496,600	20%

2019 Federal Income Tax Brackets					
Single	Married Filing Jointly	Married Filing Separate	Head of Household	Estates & Trusts	Marginal Rate
Up to $9,700	Up to $19,400	Up to $9,700	Up to $13,850	Up to $2,600	10%
$9,701 to $ 39,475	$19,401 to $78,950	$9,701 to $ 39,475	$13,851 to $52,850	NA	12%
$39,476 to $ 84,200	$78,951 to $168,400	$39,476 to $ 84,200	$52,851 to $84,200	NA	22%
$84,201 to $160,725	$168,401 to $321,450	$84,201 to $160,725	$84,201 to $160,700	$2,601 to $9,300	24%
$160,726 to $ 204,100	$321,451 to $408,200	$160,726 to $ 204,100	$160,701 to $ 204,100	NA	32%
$204,101 to $ 510,300	$408,201 to $612,350	$204,101 to $306,175	$204,101 to $510,300	$9,301 to $12,750	35%
Over $510,300	Over $612,350	Over $306,175	Over $510,300	Over $12,750	37%

2020 Federal Income Tax Brackets					
Single	Married Filing Jointly	Married Filing Separate	Head of Household	Estates & Trusts	Marginal Rate
Up to $9,875	Up to $19,750	Up to $9,875	Up to $14,100	Up to $2,600	10%
$9,876 to $40,125	$19,751 to $80,250	$9,876 to $40,125	$14,101 to $53,700	NA	12%
$40,126 to $85,525	$80,251 to $171,050	$40,126 to $85,525	$53,701 to $85,500	NA	22%
$85,526 to $163,300	$171,051 to $326,600	$85,526 to $163,300	$85,501 to $163,300	$2,601 to $9,450	24%
$163,301 to 207,350	$326,601 to $414,700	$163,301 to $207,350	$163,301 to $207,350	NA	32%
$207,351 to $518,400	$414,701 to $622,050	$207,351 to $311,025	$207,351 to $518,400	$9,451 to $12,950	35%
Over $518,400	Over $622,050	Over $311,025	Over $518,400	Over $12,950	37%

2019 and 2020 Top Federal Income Tax Rates	
Ordinary earned income, not including short-term capital gains or passive income [1]	37.0%
Net investment income (interest, short-term capital gains, non-qualified dividends and other passive income) [2]	40.8%
Long-term capital gains [3]	23.8%
Qualified dividends [4]	23.8%

Notes:

1 Medicare surcharge of 0.9% applied to wages and self-employment income that exceeds $200K for singles and $250K for couples
2 Includes interest, dividends, royalties, net rental income and other passive income
3 Includes 3.8% surtax on net investment income over $200K for singles and over $250K for couples

4 Includes 3.8% surtax on net investment income over $200K for singles and over $250K for couples

Source: Internal Revenue Service

Alternative Minimum Tax (AMT)	2019	2020
Maximum AMT exemption amount	Married, Filing Joint $111,700 Single $71,700	Married, Filing Joint $113,400 Single $72,900
Exemption phaseout threshold	Married, Filing Joint $1,020,600 Single $510,300	Married, Filing Joint $1,036,800 Single $518,400
26% rate applies to AMT income (AMTI) at or below this amount (28% rate applies to AMTI above this amount)	Married, Filing Joint $194,800 Single $97,400	Married, Filing Joint $197,900 Single $98,950

Alternative Minimum Tax (AMT)

The AMT is a separate tax calculation that requires taxpayers to add back certain deductions that would otherwise be deductible against their regular tax calculation. The AMT tax rate is generally lower than the highest regular income tax rate, but the base upon which the tax is applied is higher due to the addback of various deductions. While there are several factors that could contribute to a taxpayer being subject to AMT, a combination of the following preferences typically will trigger an AMT liability now that the deduction for state and local taxes is capped at $10,000:

- Significant long-term capital gains
- Exercise of Incentive Stock Options
- Accelerated depreciation deductions

To the extent that a taxpayer is subject to AMT, a common practice is to consider deferring certain deductions (preference items) into the subsequent year and/or accelerating income into the current year if doing so is favorable when factoring in the lower AMT tax rates versus the higher regular ordinary income tax rates.

Appendix B: Key Exemptions and Estate, Gift & GST Tax Rates – 2019 and 2020 Tax Years

The following tables reflect Estate, Gift and GST Exemptions and Tax Rates for 2019 and 2020 tax years.

Calendar Year	Estate Tax Exemption (Less Lifetime Gift Tax Exemption Utilized)	Gift Tax Exemption	Generation Skipping Transfer Exemption	Tax Rate
2019	$11,400,000	$11,400,000	$11,400,000	40%
2020	$11,580,000	$11,580,000	$11,580,000	40%

** In addition to the foregoing exemptions, annual exclusion gifts for 2020 remain $15,000 ($30,000 for married couples who elect to split their gifts)*

Appendix C: Retirement Plan and IRA Key Numbers

The following tables reflect IRS elective deferral limits, IRA contribution limits and income phase-out ranges for traditional and Roth IRAs.

Elective Deferral Limits	2019	2020
401(k), 403(b), 457(b), Profit-Sharing Plans	Lesser of $19,000 or 100% of participant's compensation ($25,000 if age 50 or older)[2]	Lesser of $19,500 or 100% of participant's compensation ($26,000 if age 50 or older)[2]
SEPs	Lesser of $56,000 or 100% of participant's compensation	Lesser of $57,000 or 100% of participant's compensation
SIMPLE 401(k) plans and SIMPLE IRA plans[1]	Lesser of $13,0000 or 100% of participant's compensation ($16,000 if age 50 or older)	Lesser of $13,500 or 100% of participant's compensation ($16,500 if age 50 or older)

1 Must aggregate employee deferrals to all 401(k), 403(b) and SIMPLE plans of all employers; 457(b) contributions are not aggregated.
2 Special catch-up limits may also apply to 403(b) and 457(b) plan participants.

Spousal IRA Planning

A contribution to a Traditional or Roth IRA is allowed only if the taxpayer has compensation from earned income. An exception exists for non-working spouses as long as the couple has at least $12,000 of combined earned income. Unless deduction limits apply because the taxpayer's income is too high, a couple may qualify for up to a $12,000 deduction in 2019 if the working spouse contributes $6,000 to their own IRA and another $6,000 to an IRA created for their non-working spouse. Deductible contributions for 2019 are allowed until the return due date (April 2020 plus extensions).

The chart below compares the 2019 and 2020 IRA contribution limits.

IRA contribution limits	2019	2020
Traditional and Roth IRAs	Lesser of $6,000 or 100% of earned income ($7,000 if age 50 or older)	Lesser of $6,000 or 100% of earned income ($7,000 if age 50 or older)

Income phaseout range for determining deductibility of traditional IRA contributions for taxpayers:	2019	2020
1. Covered by an employer-sponsored plan and filing as:		
Single/Head of household	$64,000 - $74,000	$65,000 - $75,000
Married filing jointly	$103,000 - $123,000	$104,000 - $124,000
Married filing separately	$0 - $10,000	$0 - $10,000
2. Not covered by an employer-sponsored retirement plan, but filing joint return with a spouse who is covered by a plan	$193,000 - $203,000	$196,000 - $206,000

Income phaseout range for determining ability to fund a Roth IRA for taxpayers filing as:	2019	2020
Single/Head of household	$122,000 - $137,000	$124,000 - $139,000
Married filing jointly	$193,000 to $203,000	$196,000 to $206,000

Source: Internal Revenue Service

Appendix D: Why Irrevocable Non-Grantor Trust Jurisdiction Matters

The chart below depicts how various states define a "resident trust" for purposes of imposing a state income tax on the undistributed income of an irrevocable non-grantor trust.

State	Taxing Statute	Top 2019 Tax Rate	Under What Conditions Does The State Tax a Non-Grantor Trust?
AL	Ala. Code 40-18-1(33)	5.00%	If the trust is set up by the Will of an AL resident or settlor was an AL resident at time trust became irrevocable <u>and</u> an AL resident is a beneficiary or trustee for more than seven months during the tax year
FL	No tax	0.00%	No tax
GA	O.C.G.A. 48-7-22	6.00%	If there is trust property located in GA <u>or</u> if the trustee is "managing funds for the benefit of a resident of" GA
MS	Miss. Code Ann. 27-7-5(1)	5.00%	If the trust is administered in MS
NC	N.C. Gen Stat. 105-160.2	5.25%	If there is a NC beneficiary (but see <u>*Kaestner*</u> where US Supreme Ct ruled unconstitutional if only connection is NC beneficiary without other factors)
SC	S.C. Code Ann. 12-6-30(5)	7.00%	If the trust is administered in SC

State	Taxing Statute	Top 2019 Tax Rate	Under What Conditions Does The State Tax a Non-Grantor Trust?
VA	Va. Code Ann. 58.1-302	5.75%	If the trust is set up by the Will of a VA resident, <u>or</u> if a trust was created by a settlor who was a VA resident, <u>or</u> a trust which is being administered in VA
TN	Tenn. Code Ann. 67-2-110(a)	3.00% (int./div. only)	If there is a TN beneficiary
DE	30 Del. Code. 1601(8)-(9)	6.60%	If the trust is set up by the Will of a DE resident, <u>or</u> settlor of trust was a DE resident, <u>or</u> the majority of the trustees are DE residents for more than ½ the year; <u>in all of such cases only if there is a DE beneficiary</u>

Disclaimer

This material is furnished for informational purposes only and does not constitute investment, legal or tax advice and should not be used as a substitute for the advice of a professional legal or tax advisor. This material does not constitute an offer to sell, or a solicitation of an offer to buy, any interest in any investment vehicle, and should not be relied on as such.

Colony Family Offices does not accept any responsibility or liability arising from the use of this material. No representation or warranty, express or implied, is being given or made that the information presented herein is accurate, current or complete, and such information is at all times subject to change without notice. This material may not be copied, reproduced or distributed without prior written consent of Colony Family Offices. Information was obtained from third party sources which we believe to be reliable but are not guaranteed as to their accuracy or completeness.

This information is limited in scope and is not intended to provide an exhaustive analysis. Colony Family Offices and its directors, officers, agents and employees are not permitted to render tax or legal advice. Please consult with your tax and legal advisors prior to entering into or implementing any financial transactions. Specific tax strategies may or may not have been applied to your portfolio and/or accounts. Please reach out to Colony Family Offices for more information regarding strategies implemented during 2019 specific to your situation.

Unless otherwise specifically indicated, any tax advice contained in this presentation (including attachments) has not been prepared to be used, and cannot be used, by any person for the purpose of avoiding any penalties that may be imposed by the Internal Revenue Service.

Colony Family Offices is a registered investment advisor. Registration does not imply a certain level of skill or training. More information about the firm, including its investment strategies and objectives, can be found in our ADV Part 2, which is available, without charge, upon request. Our Form ADV contains information regarding our Firm's business practices and the backgrounds of our key personnel.

Colony Trust Company is an independent, publicly chartered state trust company regulated by the North Carolina Commissioner of Banks, and is an affiliate of Colony Family Offices.

Colony reserves the right to modify its current investment strategies and techniques based on changing market dynamics or client needs. There is no assurance that any securities, sectors or industries discussed herein will be included in or excluded from an account's portfolio. CFO-19-69