2016 year-end planning guide

The end of the year presents unique tax and estate planning opportunities that may be useful along the way toward your short and long-term financial goals.

In today's world, pursuing your life's goals is being challenged in new ways. Which makes now the perfect time to review your goals in terms of "Advice. Beyond investing." Because when we collaborate on what matters most to you, we can create a plan tailored for you.

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As we approach the end of 2016, it is a good time to take stock of the past year and plan for the future. On the one hand, the economy seems to be improving—the U.S. stock market is at or near an all-time high, wages are rising, unemployment is low, and consumers are spending money. On the other hand, we are in year seven of a sluggish economic recovery, and we are emerging from an election year that featured the two most controversial candidates in recent history. Investment in businesses is shrinking, worker productivity is down, and some Wall Street insiders believe that stocks and bonds are overvalued.

In light of our country's current state of affairs, it's not surprising that some Americans feel unsure about the future. However, as Benjamin Franklin famously said that there are just two certainties in life—death and taxes. We are well-equipped to help you plan for the latter.

Year-end tax planning includes a review of gains and losses and the active management of your portfolio to help minimize income tax consequences of this year's market activity. It is also a good time to position your holdings for next year and, where appropriate, realize gains, harvest losses, and make family and philanthropic gifts. You may wish to consider transferring interests in family-owned businesses using valuation discounts, which may not be an option for long. Taking some of these steps now may help add value to your portfolio and increase your family's wealth.

Legislation watch

The 2016 election makes it particularly difficult to predict what changes (if any) will be made to the tax code next year. At the time of publication the election is just days away and the UBS U.S. Office of Public Policy believes that the most likely outcome will be a continuation of divided government, with neither party able to win control of the White House and both chambers of Congress. Therefore, 2017 may bring some revisions to the tax code, but not a revolution.

The Democratic and Republican presidential candidates have vastly different tax policy positions. Broadly speaking, Hillary Clinton wants to increase the amount of taxes paid by top earners. She has offered specific proposals to achieve this end, including (i) implementing the so-called "Buffet Rule," which would impose a minimum 30% effective tax rate on those who earn more than $1 million a year; (ii) creating additional tax brackets for high earners, (iii) taxing capital gains at ordinary income tax rates for assets held less than two years, with the effective capital gain rate gradually decreasing each year an investment is held until it equals the current capital gains rate for assets held for six years or more, and (iv) introducing estate tax rates of 50%, 55% and 65%. While Donald Trump has provided a less detailed tax plan, he has proposed reducing the number of tax brackets, reducing the top income tax rate, and eliminating the estate tax entirely.

Both candidates appear to support an elimination of the so-called "carried interest exception," which allows hedge fund and private equity principals to recognize a portion of their income as capital gains.

Both candidates appear to support an elimination of the so-called "carried interest exception," which allows hedge fund and private equity principals to recognize a portion of their income as capital gain. A modest revision in the way multi-national corporations are taxed could also be an area of compromise.

Currently pending legislation that would require the full distribution of some inherited IRAs and defined contribution plan accounts over five years (instead of over the inheriting-beneficiary's lifetime) could generate revenue to offset a larger piece of legislation in the future.

Tax proposals and the legislative process are dynamic and can catch even the most diligent observers off guard. The UBS U.S. Office of Public Policy will continue to report on developments in these areas.

Tax figures to note

	2016	2017
Maximum income tax	39.6%	39.6%
Maximum capital gains rate	20%	20%
Maximum qualified dividends rate	20%	20%
Net investment income tax[1]	3.8%	3.8%
Medicare payroll tax rate on employees[1]	2.35%	2.35%
Estate tax exemption	$5.45 million	$5.49 million
Maximum estate tax rate	40%	40%
Gift tax exemption	$5.45 million	$5.49 million
Maximum gift tax rate	40%	40%
Generation-skipping transfer (GST) tax exemption	$5.45 million	$5.49 million
Maximum GST rate	40%	40%
Annual gift tax exclusion	$14,000 per donee	$14,000 per donee
Annual exclusion gift to non-citizen spouse	$148,000	$149,000

[1] Applies to taxpayers with income over certain threshold amounts.

Tax planning strategies

Net gains and losses. Examine your 2016 short-term gains and losses and long-term gains and losses and determine your capital gains and loss carryforwards to ensure that you are aligning them to the greatest extent possible. You may be able to use up to $3,000 of net capital losses to offset ordinary income for 2016.

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Harvest tax losses. Traditionally, investors consider end-of-year sales of assets held in taxable (i.e., nonretirement) accounts that have losses. Capital losses first offset capital gains, and if capital losses exceed capital gains, they can offset up to $3,000 of other income. Note that if you sell securities in order to recognize a loss, you cannot immediately repurchase the same security to reestablish your market position and still deduct the loss (see discussion below on the "wash sale" rule).

Review deductions. Consider with your advisors whether to accelerate deductions that may result in less tax payable this year or whether you might realize a greater benefit from deferring those deductions to future years when income tax rates could be higher. Coordinate the payments of deductible expenses (e.g., unreimbursed medical expenses and property taxes) to accommodate timing issues.

Taxpayers who are age 70 ½ or older can exclude up to $100,000 of their IRA distributions from gross income each year if the distributions are "qualified charitable distributions."

Mutual fund capital gain distribution estimates. Mutual funds are required to distribute 98.2% of their net capital gains each year in order to avoid an excise tax. Mutual funds generally post their distribution estimates beginning in October. Once you have reviewed this information with your advisors, you may wish to estimate the potential tax liability related to your mutual fund holdings and consider offsetting a capital gain with losses or selling the shares in advance of a distribution. In addition, you may wish to consider waiting to purchase the shares of a mutual fund until after the fund distributes a substantial capital gain.

Roth IRA conversion. Discuss with your tax advisor and Financial Advisor whether it makes sense to convert a traditional IRA to a Roth IRA. When converting to a Roth IRA, the converted amount of the traditional IRA will be taxed as ordinary income in the conversion year. A Roth IRA can offer significant benefits, most notably tax-free growth of assets, tax-free distributions, and no required minimum distributions (RMDs) during the original account holder's lifetime. Some factors to consider when deciding whether to make a conversion include the following:

- *Potential changes to the account holder's applicable tax rate over time.* A conversion may not be ideal for taxpayers who expect to pay income tax in a lower bracket (or at a lower rate) at retirement age.
- *Liquidity analysis.* Any potential benefits of a conversion may be less impactful if the taxpayer must draw from the converted account assets (instead of other liquid assets) to satisfy the additional tax.

A traditional IRA converted to a Roth IRA in 2016 can be re-characterized as a traditional IRA until October 15, 2017. This provides time to monitor market conditions, undo the Roth conversion if the account value decreases significantly from the time of conversion, and avoid income tax liability imposed on the higher account value on the conversion date. This flexibility can be enhanced by allocating the Roth IRA assets into separate accounts that are invested in non-correlated asset classes. The decision whether to re-characterize one or more of the separate accounts can be based on the performance of the particular investments in each account rather than on the performance of a single diversified Roth IRA.

Provision for IRA distributions donated to charity. A "qualified charitable distribution" from a traditional IRA or a Roth IRA is any otherwise taxable distribution that is made directly from the IRA trustee to a qualified charity (generally, public charities but not private foundations or donor advised funds) after the IRA owner has attained age 70½. Taxpayers who are age 70½ or older can exclude up to $100,000 of their IRA distributions from gross income each year if the distributions qualify as "qualified charitable distributions." This provision was made permanent with the passage of the PATH Act of 2015.

Assess alternative minimum tax (AMT) liability. Work with your tax advisor to determine if you may be impacted by AMT in 2016. Those who are subject to tax in states that have high income taxes or high property taxes are more likely to be affected. If you are subject to AMT, your marginal federal income tax rate is 26% or 28% compared with a top marginal bracket rate of 39.6% for regular tax. If you expect to be subject to AMT in 2016 but not 2017, consider accelerating ordinary and short-term capital gain income in order to take advantage of the lower AMT tax rate. Additionally, you may consider deferring certain deductions to 2017 when the deductible tax benefit may be greater (to include any deductions not deductible for AMT, such as state and local income taxes and property taxes).

Trustees may be able to take advantage of the "65-day rule," which permits a trustee to treat distributions made during the first 65 days of 2017 as though made on the last day of 2016.

Conversely, if you are not subject to AMT in 2016 but expect to be in 2017, you may wish to consider reversing the acceleration of income and deferral of deductions previously mentioned. In short, shifting income and expenses between tax years can result in tax savings, but it is crucial to work with your tax advisor to review a "before and after" tax projection prior to implementing a strategy.

Year-end distributions from non-grantor trusts. Trustees of irrevocable trusts that are treated as separate taxpayers may consider making income distributions to trust beneficiaries who are taxed at lower rates. This can be particularly beneficial in light of the compressed income tax brackets applicable to trusts and the lower threshold at which the 3.8% net investment income tax applies to trusts. Depending on the terms of the trust agreement and applicable state law, it may also be beneficial to distribute capital gains to beneficiaries in lower income tax brackets. Note that trustees may be able to take advantage of the "65-day rule," which permits a trustee to treat distributions made during the first 65 days of 2017 as though made on the last day of 2016. Trustees must consider the tax status, goals and objectives of the trust and beneficiaries before making any tax-motivated distributions to beneficiaries.

Bonus depreciation. The tax break allowing taxpayers to deduct an amount of the depreciable basis of certain tangible property over and above regular depreciation was extended with the passage of the PATH Act of 2015. This "bonus" allowance permits businesses to write off their costs more quickly—the benefit is 50% bonus depreciation for qualified property placed in service in 2015, 2016 and 2017, 40% in 2018, and 30% in 2019.

ABLE Accounts. Congress passed legislation in 2014 to establish the framework for ABLE accounts (i.e., 529A plans). These accounts are intended for certain individuals who were diagnosed with significant disabilities prior to attaining age 26. The PATH Act allows individuals to invest non-deductible cash contributions on a tax-free basis—so long as the account assets are applied to qualified expenses—without having to forfeit certain public benefits. Eligible beneficiaries may be able to choose among several states' plans, allowing for more control over investment options and expenses (the individual states' legislatures are in various stages of enacting or developing laws to establish ABLE Act programs). The PATH Act also permits rollovers from a 529 plan to an ABLE account if certain requirements are met.

2016 state tax law changes. Contact your accountants, attorneys, and other advisors to review tax law changes in states where you are subject to tax. It is important to determine how these changes may affect your individual, fiduciary, and corporate income tax situation for 2016 and beyond. The following are examples of recent state law changes:

- The state income taxation of trusts continues to evolve. In *Kaestner 1992 Family Trust v. North Carolina Department of Revenue*, the North Carolina Court of Appeals concluded that it was unconstitutional for the state to impose income tax on a trust merely because one of the beneficiaries resided there.
- A number of states changed their estate tax systems in 2016. In Vermont, for example, state level estate tax is now only imposed on amounts over $2.75 million. Previously, that figure was essentially a filing threshold, and estates having a value in excess of $2.75 million were taxed on the value of the entire estate.

The New Jersey estate tax will be repealed as to estates of decedents who die after January 1, 2018.

- The Maine estate tax exemption now matches the inflation-adjusted federal estate tax exemption.
- The New Jersey estate tax exemption will be increased from $675,000 to $2 million on January 1, 2017. The estate tax will be repealed as to estates of decedents who die after January 1, 2018. Note that New Jersey imposes a separate inheritance tax, which will continue to be charged against the value of certain transfers made at death.
- The Revised Uniform Fiduciary Access to Digital Assets Act has been adopted by at least 18 states and others are scheduled to consider adopting the Act this year or next. The Act clarifies who can access the digital assets (e.g., e-mail and digital photographs) of a deceased person. Historically, most estate planning documents have failed to address this issue.
- New Jersey adopted the Uniform Trust Code (UTC), which impacts the rights and obligations of trustees, beneficiaries, and trust grantors. More than 30 states have adopted the UTC.

Your tax advisors will be able to discuss the impact of relevant changes on your personal circumstances.

Investment planning

Concentrated stock positions. With capital gain tax rates and the 3.8% net investment income tax, the tax cost of diversifying out of a particular appreciated position has increased. Investors who have concentrated positions may also be concerned about liquidity, cash flow, volatility and more. Your Financial Advisor can help you consider strategies that may help to reduce the tax impact of diversification or hedge against the downside of continued concentration. Investment and planning strategies to consider may include systematic sales, equity collars, exchange funds, prepaid variable forwards and gifts to charity or charitable remainder trusts (discussed further in the charitable planning section).

Wash sale rule. In general, the "wash sale" rule prohibits you from recognizing the loss on a sale of securities if you purchase substantially identical securities within the period beginning 30 days before the sale date and ending 30 days after the sale date. Investors who don't want to wait 31 days to buy the same stock or security, may consider replacing the investment sold at a loss with an exchange traded fund (ETF) tied to the company's industry or sector. Ownership of the ETF can serve as a temporary approximate proxy for an individual stock holding while allowing for the loss on the original position to be recognized. Actively managed mutual fund shares sold at a loss can also be replaced with an ETF; however if one ETF is substituted for another, it is important to ensure that the funds track different indices to avoid triggering the wash sale rule.

Dates to note

November 29: Since the last trading day of the year is December 30, November 29 is the last day to "double up" for 2016. Doubling-up on a security means buying a second lot of a security in the same amount of shares as the original holding. A loss can be recognized in 2016 by selling the original holding on December 30 and there would be a benefit from any potential appreciation during the wash sale period. Note: undertaking this strategy will result in holding twice the level of stock during the "doubling up" period and exposure to twice as much gain or loss in the stock during this time.

Fourth quarter estimated tax payments are due on January 17, 2017, so this is a good time to revisit your credit line needs.

December 30: Last day to sell a security in 2016 for a loss.

January 31: If you sold a security for a loss on December 30 without previously "doubling up," you must wait until at least January 31, 2017 to repurchase the same or substantially similar security in order to avoid the wash sale rule.

Securities backed lending. Fourth quarter estimated tax payments are due on January 17, 2017, so this is a good time to revisit your credit line needs. Interest rates remain at historically low levels. Taxpayers with short-term cash requirements frequently borrow in order to satisfy their need for cash. Establishing a credit line before it's needed allows for immediate reaction to time-sensitive opportunities, as well as planned (e.g., taxes) and unplanned liabilities. Moreover, borrowing against eligible securities in a portfolio provides access to needed funds while still allowing you to pursue your long-term financial strategy.

Portfolio review. The end of the year is an excellent time to reevaluate the goals of your portfolio, risk levels, and liquidity needs that will influence the next two, five or 10+ years of your financial life. Market volatility over the past several years may give you pause and it is important for you to discuss your concerns with your Financial Advisor. Reassessing your portfolio may provide you with a sense of comfort and help you to identify appropriate tax planning techniques.

Estate planning

Using the gift tax exemption to make substantial lifetime gifts. The federal estate and gift tax exemption is $5,450,000 per taxpayer in 2016 and will increase to $5,490,000 in 2017. This exemption is indexed for inflation and may be used during your lifetime and/or at death to make gifts and reduce or eliminate estate taxes. A substantial portion (or even all) of the gift tax exemption can be used to make gifts to family members or others. Such gifts could remove the value of the gifted assets—plus any future appreciation on those assets—from the transferor's estate. Also, gifts made in the past may not be subject to estate tax upon your death if the exemption decreases in the future (as proposed by Secretary Clinton). Remember to inform your tax advisor of all gifts you made in 2016 so he/she can prepare a gift tax return if one is required.

Annual exclusion gifts. Consider making annual exclusion gifts on or before December 31 each year. The annual exclusion is $14,000 ($28,000 for a married couple) in 2016; annual gifts up to this amount can be made to an unlimited number of individuals, free from gift tax and without using any of the estate and gift tax exemption. If such gifts are made to an irrevocable trust (e.g., a life insurance trust) that provides beneficiaries with limited withdrawal rights (often referred to as "Crummey rights"), the trustee should notify beneficiaries of their rights and keep appropriate documentation. Your legal advisors can help should you pursue this strategy.

Fund education through 529 plans. Contributions made to 529 plans by December 31 can qualify for 2016 annual gift tax exclusion treatment. 529 plans can be "front-loaded" by making five years' worth of annual exclusion gifts to a 529 plan (i.e., in 2016, an individual could transfer $70,000—a married couple could contribute $140,000—to a 529 plan without generating gift tax or using any of the estate and gift tax exemption). 529 plan contributions should be coordinated with other gifting.

A gift of up to $5,500 can be made to a traditional or Roth IRA for children or grandchildren who are not funding their own IRAs but have enough earned income to do so.

Establishing and funding IRAs for the next generation. A gift of up to $5,500 can be made to a traditional or Roth IRA for children or grandchildren who are not funding their own IRAs but have enough earned income to do so. Contributions to IRAs for family members are taxable gifts and should be coordinated with other gifting. While IRA contributions for the 2016 tax year may be made until April 15, 2017, the gift must be completed by December 31, 2016 in order to qualify for 2016 annual gift exclusion treatment.

Proposed Treasury Regulations

Overview. In August, the IRS issued proposed regulations under IRC Section 2704 that, if enacted, may eliminate most discounts on transfers of entity interests (including family limited partnerships, corporations, LLCs and others). Discounts can be substantial and result in significant estate tax savings—assuming they withstand an audit challenge from the IRS. If implemented, the proposed regulations would have a significant impact on wealth transfer techniques commonly used by wealthy families.

Scope. Most estate planning attorneys and commentators interpreted the language of the proposed regulations to broadly eliminate the ability to claim discounts for lack of marketability or lack of control on transfers of interests in a Family Limited Partnership, Family Limited Liability Company, and an operating business that is controlled by family members. Note that the proposed regulations state that even if a transfer of a family entity is made before the new rules take effect, a three-year look-back provision would disallow valuation discounts if the donor dies within three years of making the gift.

Timing. The IRS will hold a public hearing on the proposed regulations on December 1, 2016; the IRS can issue final regulations thereafter that would take effect 30 days after they are issued. Accordingly, the earliest date on which the new rules could take effect is December 31, 2016. Industry publications have reported on statements made by Catherine Hughes—an Attorney Advisor with the Treasury Department's Office of Tax Policy—in September at the American Bar Association Joint Fall Meeting in Boston and again in October at the 42nd Annual Notre Dame Tax and Estate Planning Institute suggesting that the proposed regulations have been construed too broadly and are not intended to eliminate all discounts. Instead, she suggested, the purpose was to eliminate taxpayers' ability to apply discounts based on certain partnership agreement (or operating agreement) provisions that artificially limit or restrict the transfer of interests in these entities. The IRS has received a significant number of comments and it appears to suggest that the final regulations will not be issued by early 2017 and they could be different in their final form. Clients who have used or are considering this type of planning structure should consult their legal advisors to discuss how the new proposed regulations might apply to their specific situations.

Understanding estate planning strategies that are under scrutiny. If you have considered using certain estate planning strategies targeted by adverse legislation or regulations, discuss with your estate planning attorney the potential benefit (and any other considerations) of implementing the strategy sooner rather than later in case possible future changes will be made prospectively. In addition to valuation discount planning mentioned above, the use of GRATs, dynasty trusts, and certain grantor trusts have all come under recent scrutiny

End-of-year family meeting. Family meetings can help you coordinate financial and other matters and can be valuable learning experiences for children and grandchildren to help them understand the benefits and burdens of wealth. As the end of the year approaches, consider arranging a family meeting to discuss investments, planning, philanthropy and more. Your Financial Advisor can talk to you about best practices for organizing family meetings and engaging in productive discussions with children about money and the stewardship of wealth.

Charitable planning

Take note of limitations on the charitable income tax deduction:

Gifts to public charities. Cash contributions are deductible up to 50% of the taxpayer's adjusted gross income (AGI). The full fair market value of contributions of appreciated property (other than certain tangible personal property contributed) held for over one year is generally deductible up to 30% of AGI.

Gifts to private foundations. Cash contributions are deductible up to 30% of AGI. The full fair market value of publicly traded securities (if owned for over a year) is deductible up to 20% of AGI. The deduction for gifts of other appreciated property (other than for contributions of marketable securities) may be limited to the taxpayer's cost basis.

In order to obtain an income tax charitable deduction for 2016, gifts must be made by December 31.

Charitable income tax deduction. In order to obtain an income tax charitable deduction for 2016, gifts must be made by December 31. In the case of a gift of property that requires an appraisal (generally required for gifts of property with a value in excess of $5,000, other than publicly traded securities), you should start the process as soon as possible. Also bear in mind that it may take several weeks for a transfer of stock via physical stock certificate or stock power to be completed.

It is important to obtain a proper receipt for any gifts in excess of $250 before filing your tax return, even if the donation was made to your own private foundation. Such a receipt must be in writing, state the amount donated, describe any non-cash donations and indicate the value of any goods or services provided by the charity as consideration for the donation. A canceled check does not meet these requirements. Several court cases in recent years have denied taxpayers a charitable deduction for failing to strictly comply with these substantiation requirements.

Selecting assets to give to charity. Giving certain types of appreciated property to charity (as opposed to selling the property, recognizing the gain and 3.8% net investment income tax, and contributing the cash proceeds to charity) may provide an income tax deduction equal to the fair market value of the property (subject to AGI limitations). The charity can then sell the property and pay no capital gain tax because it is a tax-exempt entity. It is critical that the appreciated property qualify as long-term capital gain property (i.e., the property should be held for more than one year prior to the time it is gifted). Otherwise, the deduction will be limited to the donor's basis in the property (subject to AGI limitations). The deduction will also be limited to the donor's basis if real estate or nonmarketable appreciated property (such as shares in a privately held company) is contributed to a private foundation (as opposed to a public charity), even if the property qualifies for long-term capital gain treatment.

Contributing assets to a donor advised fund may allow donors to receive an immediate charitable income tax deduction while affording them time to determine the ultimate charitable beneficiaries.

Donor advised funds. Contributing assets to a donor advised fund may allow donors to receive an immediate charitable income tax deduction (at the maximum amount allowed for gifts to public charities), while affording them time to determine the ultimate charitable beneficiaries. At UBS, we can help establish a donor advised fund as late as December 31; however, additional time may be needed if the account is funded with anything other than cash.

Private foundations. Founders and managers of private foundations may wish to discuss the following ideas with their tax advisors to help optimize the efficiency of the foundation:

- In order to minimize the 1% – 2% excise tax on net investment income, consider making grants of low-basis stock instead of selling the stock to raise cash for the grants, which could trigger gains.
- Consider offsetting gains with losses. Private foundations cannot carry forward capital losses. A foundation that has significant losses can sell appreciated securities, recognize the gain, and buy the securities back in order to establish a higher basis in the assets. The wash sale rule does not apply here because the foundation is recognizing a gain (not triggering a loss).
- Approximately 5% of the value of a foundation's net investment assets for the prior year must be distributed for charitable and administrative purposes each year. Foundation managers should determine liquidity needs to meet the payout requirements.
- Consider granting to a donor advised fund prior to the end of the year if you run out of time and cannot decide which charities should receive some (or all) of the 5% grant requirement.
- UBS, through its relationship with Foundation Source, can facilitate the formation of a private foundation in 2016 if you inform us of your intent before December 28, 2016. Contact your Financial Advisor for more information.

Charitable remainder trust planning. If you hold a low basis concentrated position and would like to diversify your holding in a tax-efficient manner while also benefitting charity, consider speaking with your attorney and tax advisor about establishing a charitable remainder trust (CRT) and contributing the appreciated securities to it. A CRT is a tax-exempt entity and so the trustee can sell trust assets without paying any capital gains tax. The donor retains the right to receive a fixed amount from the trust each year—either an annuity or a unitrust payment—of at least 5% but not more than 50% of the trust assets (in any event, the present value of the remainder interest must equal at least 10% of the fair market value of contributed property at the time of contribution). Although the trust is tax-exempt, the payments to the donor will be taxable upon receipt (allowing for deferral of the capital gains tax associated with the sale of the appreciated assets inside the trust). At the end of the trust term (either upon the donor's death or after a term of up to 20 years), the trust assets will pass to one or more charitable organizations that the donor or trustee designate. The donor is also entitled to an income tax charitable deduction for the present value of the charitable beneficiaries' remainder interest at the time the trust is created and funded.

Charitable donations and the AMT. Taxpayers who are subject to the AMT in certain years but not others should consider whether a charitable deduction would be more valuable this year or next. Charitable deductions are permitted under the AMT regime, but they are generally less valuable at the top AMT tax rate of 28% than at the top regular income tax rate of 39.6%. Therefore, taxpayers who are not consistently subject to the AMT might consider delaying their donations. While tax planning does not generally drive charitable giving, it may be appropriate to consult your tax advisors to determine the potential tax consequences of making a donation in January 2017 instead of December 2016.

Qualified conservation property. In December 2015, Congress passed legislation (the PATH Act) to permanently extend enhanced income tax benefits for gifts of conservation easements. A donor can take a charitable income tax deduction for the donation of "qualified conservation property" up to 50% of AGI (100% of AGI for qualified farmers and ranchers), subject to a 15-year carryforward for any excess deductions. Typically, this donation takes the form of an easement that restricts future development, but the easement can permit farming, timber, harvesting or other uses of a rural nature to continue. The restrictions must generally be perpetual.

Retirement planning

2016 contributions to Roth or traditional IRAs can be made until the income tax filing due date—not including extensions.

Maximize contributions to retirement accounts. 2016 contributions to Roth or traditional IRAs can be made until the income tax filing due date—not including extensions. The following chart summarizes the 2016 annual contribution limits to IRAs and retirement plans:

Plan	Under age 50	Age 50 or older
IRA (traditional or Roth)[1]	$5,500	$6,500
401(k), 403(b), 457(b), SAR-SEP[2]	$18,000	$24,000
SIMPLE[2]	$12,500	$15,500

[1] The maximum contribution or deductible contribution may be reduced depending on your modified adjusted gross income.
[2] Salary deferral contributions.

RMDs. For individuals over age 70½, required minimum distributions must generally be taken from IRAs, profit sharing, 401(k), 403(b), and 457(b) plans, as well as other retirement plans, by December 31 (there are no required minimum distributions for Roth IRAs prior to the original accountholder's death).

- *Exceptions:* The first RMD can be delayed until April 1 of the year following the year in which the taxpayer turns age 70½. Additionally, RMDs for employer-sponsored qualified retirement plans may be delayed if the taxpayer is still employed and the plan permits RMDs to begin at the later of age 70½ or retirement.
- *Aggregation:* If you have more than one IRA (of which you are the original account owner), you can take the RMDs for multiple IRAs from one account. The same holds true for 403(b) plans, but not for other types of employer-sponsored retirement plans like 401(k) and 457(b) plans. Also, if you inherited an IRA as a beneficiary, you have separate RMD requirements for the inherited IRA and cannot aggregate those distributions with those from your own IRA. For inherited IRAs, the decedent's RMD for the year of death must be distributed to you if he or she did not take it prior to death; in subsequent years, the RMD will be calculated separately from your own IRA RMDs.

Charitable distributions from IRAs. Congress made permanent the law enabling individuals over age 70½ to exclude up to $100,000 of their required minimum distribution from income if the RMD is made payable directly to a qualified public charity.

Check beneficiary designations. Significant life events such as marriage, divorce, and births can impact beneficiary designations. Consider whether any changed circumstances could affect the disposition of your retirement assets. For example: under federal law, a surviving spouse is the default beneficiary for a qualified retirement plan. Moreover, a spouse's written consent is required if you wish to name someone else as a beneficiary of your ERISA-governed retirement plan account. Additionally, if you have not designated beneficiaries, then the assets will pass according to the retirement plan default. Review your designations on a regular basis.

Stretch IRA legislation

Congress is considering legislation that would place a five-year limit on post-death payments from inherited IRAs, but only for that portion of the IRA in excess of $450,000. As proposed, the $450,000 is determined by aggregating all of a decedent's IRAs and defined contribution accounts. Then, if someone other than the surviving spouse (or certain other limited classes of beneficiaries) inherits an IRA, the amount by which the aggregate value of all of that decedent's accounts exceeds $450,000 would have to be paid out to him or her—and be subject to income tax—within a five-year period rather than over his or her lifetime as was previously the case. If enacted, this bill would largely eliminate the so-called stretch IRA provision, which permits payments to be spread over many years—this is especially beneficial if grandchildren are named as beneficiaries (although there would still be a limited exclusion for minors). Although this legislation has been pending in one form or another for a number of years, the UBS U.S. Office of Public Policy forecasts that the bill has a decent chance of passing by the close of 2016. You may wish to consult your legal counsel if this proposed legislation might impact you.

An employee may be able to make up to $35,000 in after-tax contributions to a 401(k)—in addition to $18,000 in pre-tax contributions—before December 31.

After-tax 401(k) contributions. The total of all contributions to a 401(k) cannot exceed $53,000 in 2016, which means that an employee may be able to make up to $35,000 in after-tax contributions before December 31 (in addition to $18,000 in pre-tax contributions). Moreover, the IRS has indicated that an employee may be able to rollover after-tax amounts into a Roth IRA, with the remainder to a traditional IRA. This could result in a significant amount of funds going to the Roth IRA.

Roth conversions. For a Roth conversion (as discussed previously), pre-tax amounts that are converted—and the earnings on those amounts—are included as part of taxable income in the conversion year. Therefore, consider whether a Roth conversion may make better sense in 2016 or 2017. This decision should be made in consultation with your tax advisor, based on your specific investment history, other tax attributes, and more (remember that you have until October 15 of the year following the conversion to undo the conversion if circumstances change).

Review your 2016 spending and create a budget for 2017.

Annual reminders—the end of the year is a great time to review various aspects of your financial and estate plan.

- Request a free credit report. The Fair Credit Reporting Act (FCRA) requires each of the nationwide credit reporting companies to provide you with a free copy of your credit report once every 12 months. This can be done through *annualcreditreport.com* at no charge (be wary of other websites that offer similar "free" reports as they may come with strings attached). While you may request a copy of your credit report from all three reporting companies at the same time, you may also choose to request the report at different times during the year and request a different company's report each time. For instance, you may choose to order your free credit report from Experian in December, then from Equifax in April, and then from TransUnion in August so you can keep an eye open for issues year round. For more information, see the Federal Trade Commission website at *consumer.ftc.gov/articles/0155-free-credit-reports.*
- Review your 2016 spending and create a 2017 budget. This should include reviewing any large planned asset sales or purchases so that you can plan for where the proceeds will be deployed or how the expenses will be covered. If liquid investment assets need to be sold to cover a purchase, this will give you and your Financial Advisor the opportunity to discuss the timing of these sales and whether to complete the sales before or after the end of the year to address income tax ramifications and/or planning opportunities. Or, if debt is going to be used, you can review loan options and ensure your credit report is accurate (see above).
- Review your outstanding debt (including interest rates and terms) to determine if there is an opportunity to refinance at better terms or whether to consider converting a variable rate loan to a fixed rate loan.
- Update your financial statement/balance sheet. Having a complete listing of your assets and liabilities is becoming more important as we move away from receiving paper statements and instead rely on information provided electronically. There may no longer be a file cabinet full of paper statements that people can reference to determine what you own and what you owe in the event that you are not able to manage your own financial affairs.
- Review your insurance portfolio with a qualified professional to determine whether or not your current life, long-term care and liability insurance continue to efficiently meet your coverage needs.
- Take a look at your Will and/or revocable living trust to ensure that you remain comfortable with bequests and dispositions, executors, trustees and guardians. Communicate the location and intention of your estate planning documents with the appropriate individuals. Documents should be placed somewhere safe and easily accessible by the individuals you have named to handle your affairs (e.g., executor, trustee and agents under financial or medical powers of attorney).
- Review agents named under financial and medical powers of attorney to ensure they are still appropriate. Review living wills to ensure you are comfortable with the healthcare and end-of-life-related instructions therein. If your documents are more than 8–10 years old, consult with your attorney about the advisability of executing new documents.

- Revisit your beneficiary designations for your insurance policies, as well as your retirement plans, to ensure the assets will pass according to your wishes. Likewise, evaluate with your attorney the titling of your other assets to ensure they too are distributed according to your goals and objectives (and are coordinated with your estate plan). For example, titling assets as "tenants in common" or in the name of a revocable trust rather than as "joint tenants with right of survivorship" can help to ensure assets pass according to the terms of a Will or trust rather than by operation of the titling itself.

2016 year-end planning checklist

High income earners

- ☐ Monitor AMT liability
- ☐ Review your deductions from a timing perspective
- ☐ Analyze mutual fund capital gain distribution estimates
- ☐ Assess a Roth IRA conversion
- ☐ Consider timing of charitable gifts, particularly if your income in 2016 and/or anticipated income in future years is (or will be) particularly high
- ☐ Review liquidity available for estimated tax payments, if required

Investors

- ☐ Net short- and long-term gains and losses
- ☐ Time loss recognition, remaining aware of the wash sale rule
- ☐ Analyze concentrated stock positions to determine if diversification or hedging is desired
- ☐ If you plan to make charitable gifts, consider contributing highly-appreciated securities instead of cash
- ☐ Review portfolio for current risk level and circumstances

Wealth transferors

- ☐ Consider using the $5.45 million gift tax exemption
- ☐ Make annual exclusion ($14,000) gifts, and consider various gifting vehicles (e.g., 529 Plan accounts, IRAs or Roth IRAs for children and grandchildren)
- ☐ Consider funding IRAs for family members

Philanthropists

- ☐ Review optimal timing of charitable gifts with respect to year of deductions as well as AMT
- ☐ Select optimal assets to give to charity
- ☐ Consider utilizing the charitable rollover to grant up to $100,000 of your RMD directly to charity (if you are over age 70 ½)
- ☐ Consider charitable vehicles such as donor advised funds or private foundations
- ☐ Be sure to leave sufficient time for year-end gifts to be implemented properly

Business owners, employees and retirees

- ☐ Maximize contributions to retirement plans
- ☐ Withdraw RMDs
- ☐ Think about making gifts of interests in family entities in advance of finalization of proposed regulations

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