Michael S. Arlein

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Michael Arlein is Chair of the Firm's Trusts and Estates group and has been with the Firm since 2000. Mr. Arlein focuses his practice on estate and tax planning for high net worth individuals and families, including founders and entrepreneurs, Wall Street professionals, principals at private equity firms and hedge funds, real estate developers, corporate executives, professional athletes, entertainers and artists. A former investment banker, Mr. Arlein brings to his clients insight and business sense that distinguishes him among lawyers. He works closely with clients and their other trusted advisors to identify their objectives and provide creative and practical solutions designed to meet their specific goals. Collaborating with lawyers from the Firm's other practice areas, Mr. Arlein often serves as "general counsel" for his clients, coordinating all of their personal legal needs.

Mr. Arlein's practice extends to all aspects of sophisticated planning, wealth preservation and philanthropy. He has extensive experience preparing wills and trusts and implementing complex strategies involving grantor-retained annuity trusts (GRATs), family partnerships and limited liability companies, life insurance, Delaware trusts, and other wealth transfer techniques. Mr. Arlein frequently represents clients in administering large estates and trusts and in resolving complex estate and gift tax audits. He also has considerable experience negotiating and preparing prenuptial agreements, designing estate plans for international clients, and counseling clients on estate planning opportunities that arise in connection with the sale of privately held businesses.

Mr. Arlein leads the Firm's practice group devoted to Founders and Entrepreneurs and, in recent years, has worked with the founders of numerous venture-backed companies in connection with their estate and tax planning. Among others, he has worked with some of the founders of the following companies (who have given permission to be included on this list): 305 Fitness,Alleviant Medical, Alma, Anchor, AppNexus, Attentive, Bay Dynamics, Beeswax, Care/of, Casper, Cometeer,Dia & Co., Daily Harvest, Dash,Digital Ocean,Flatiron Health, Frida Baby, Formsort, fubuTV, Gimlet, H1, Harry's, Hubble Contacts, Imperfect Foods, Influenster, Kard, Kingdom Supercultures, Koneksa Health, Maestro, Magic Spoon, mParticle, Mohawk Group,MoneyLion, Pearl Health, Rhone Apparel, Roman Health, ShopKeep, Slack, Sollis Health, Standard Bots, StellaService, Transfix, Vestwell,Voray, and Xwing. In that context, Mr. Arlein has developed deep experience implementing planning strategies for Qualified Small Business Stock.

Mr. Arlein has received Martindale-Hubbell's highest rating of "AV Preeminent" based on both peer reviews and numerous client reviews. Mr. Arlein was recognized as a Rising Star in the area of Estate Planning and Probate in the 2013 New York-Metro edition of *Super Lawyers*. Mr. Arlein frequently publishes articles and lectures on various estate planning topics. He served on the Board of Directors of the Estate Planning Council of New York City and is a member of the Society of Trust and Estate Practitioners (STEP). He is a Guest Lecturer on the Practice of Wealth Management for High Net Worth Clients at Columbia Business School. Mr. Arlein also serves on the Association of the Bar of the City of New York's Trusts, Estates & Surrogate's Courts Committee, as well as the New York-Presbyterian Planned Giving Advisory Council.

In 2018 Mr. Arlein received the Jeremy G. Epstein Award for Outstanding Pro Bono Service for his work with clients of the Planning and Estates Law Project (PELP). PELP offers free legal assistance with end-of-life planning, probate, and estate matters to low-income individuals in New York City.

Education

- Harvard Law School (J.D., *magna cum laude*, 2000)
- Duke University (B.A., *summa cum laude*, 1995)

Admissions

- New York
- Connecticut
- New Jersey

Professional Activities

MEMBERSHIPS: Chair, Summit Hometown Heroes Banner Committee; New York-Presbyterian Planned Giving Advisory Council; New York State Bar Association (Trusts & Estates Law Section, Committee on International Estate Planning); Association of the Bar of the City of New York (Trusts, Estates & Surrogate's Courts Committee); Estate Planning Council of New York City (Board of Directors); Society of Trust and Estate Practitioners (STEP); Instructor, "Art as a Family Asset: Value, Gifts and Transactions," Sept 21, 2011, Artelligence Conference (New York, NY); "Divorce and Trusts: How to Effectively Represent Your Client," October 13, 2012, ABA Section of Family Law Fall Conference (Philadelphia, PA)

In the Media

- *The Washington Post,* "You've won the Mega Millions jackpot! Time to hide" (October 23, 2018)
- *Town & Country Magazine,* "Executor's Song: The Tricky Business of Choosing Someone to Oversee Your Estate When You're Gone" (October 18, 2017)
- *NPR,* "Learning the Importance of Estate Planning the Hard Way" (June 2, 2017)

Publications

- Co-Author, "Estate Planning for Founders and Investors in Venture-backed Companies: Transfers of Qualified Small Business Stock by Gift," *Tax Stringer* (May 2020)
- Co-Author, "Cybercrime: Rethinking Estate Planning and Asset Protection for Family Offices, High Net Worth Families and Executives," *Family Office Exchange* (November 2016)
- Co-Author, "Asset Protection Wake Up Call: Data Security Top Concern for High Net Worth Investors," *Data Security Law Blog* (September 2016)
- Co-Author, "The Net, Net Gift: A Technique for Reducing Gift Tax on Lifetime Transfers," *Trusts & Estates Journal* (August 2008)
- Author, "Will State Farm Be There? Often Overlooked Property and Casualty Insurance Aspects of Common Estate Planning Transactions," *The Practical Tax Lawyer* (Summer 2007)

Speaking Engagements

- Panelist, “State Residency & Domicile Planning and Pitfalls and Other State Issues Impacting Family Offices," New York Society of CPAs (February 24, 2021)
- Panelist, “Understanding and Planning with Qualified Small Business Stock," New York Estate Planning Council (February 3, 2021)
- Co-Speaker, “Trusts and Real Estate," 2020 Wealth Preservation Symposium (October 1, 2020)
- Co-Speaker, “Estate and Tax Planning for Founders of Venture-Backed Companies," Trust and Estate Taxation Conference of the Foundation for Accounting Education (December 4, 2019)

Founders & Entrepreneurs

Patterson Belknap has a multi-disciplinary team of lawyers who are focused on the legal needs of founders and entrepreneurs. The Firm's offerings are led by Michael S. Arlein and Brian M. Sweet, lawyers in the Firm's Trusts & Estates Group, who have deep experience implementing strategies designed to minimize taxes in connection with liquidity events while achieving other long-term planning objectives. The work of our team is complemented by attorneys from other practice groups, including corporate, tax-exempt organizations, real estate, and tax.

The Firm's services are responsive to the legal needs of founders at all stages of a company's lifecycle, from formation to exit. Our lawyers understand that a founder's time is always in short supply, and our focus is on delivering practical solutions efficiently and effectively. Our lawyers believe that a founder is best served when we collaborate with the founder's other professional advisors, including accountants, financial advisors and bankers. Given the volume of our practice, in many instances the Firm is able to offer project-based flat fees rather than traditional hourly billing.

Representative services provided to founders and entrepreneurs include:

- Design and implementation of trust strategies designed to reduce or eliminate income tax due upon liquidity events by taking maximum advantage of the Qualified Small Business Stock (QSBS) exemption and structuring trusts to qualify as exempt from state-level income tax.
- Design and implementation of trust strategies to transfer wealth to children, grandchildren and more remote descendants while minimizing or avoiding estate tax.
- Preparation of core estate planning documents to ensure that a founder's family is protected in the event of his or her death or incapacity.
- Preparation of prenuptial and postnuptial agreements to protect a founder's company interests.
- Advice in connection with tax optimization strategies for a sponsor’s equity interests in a special purpose acquisition company (SPAC).
- Advice on optimal strategies to meet philanthropic goals, including gifts of stock to donor-advised funds, private foundations, public charities and supporting organizations, to engage in impact investments (including both mission and program-related investments), and to support the development of long-term planning and governance goals for such organizations.
- Counseling on employment-related matters, including employment and consulting agreements, board advisory and indemnification agreements, equity grants, secondary sales, shareholder loans, restrictive covenants, and separation agreements.

- Advice in connection with planning in advance of initial public offerings and other public listings, including coordination with company counsel to provide information for securities law disclosures related to family trusts and entities.
- Advice in connection with company financings, mergers and acquisitions, and other significant corporate events that affect founders' and executives' personal interests, holdings and control.
- Review and negotiation of personal investments, including angel investments, venture investments in equity and convertible debt, SAFEs, investment management agreements with financial advisors, and direct investments in hedge funds, venture capital funds, debt funds, real estate funds, and private equity funds.
- Review and negotiation of personal loans and credit facilities.
- Counseling on income tax matters, including change of domicile.
- Advice in connection with the acquisition or sale of real estate, including negotiation of listing agreements, contracts for purchase or sale, architect agreements, and construction agreements.
- Advice in connection with household employees, including hiring, firing, confidentiality agreements, benefits and compliance with employment, tax and other regulatory matters.
- Formation and structuring of family offices.
- Formation, structuring and startup services for the next venture.

The Firm's founder and entrepreneur clients include individuals from a diverse list of companies across a wide range of industries and geographic locations. Although the majority of our clients are confidential, select publishable clients include the founders of: 305 Fitness, Alleviant Medical, Alma, Anchor, AppNexus, Attentive, Bay Dynamics, Beeswax, Care/of, Casper, Cometeer, Dia & Co., Daily Harvest, Dash, Digital Ocean, Flatiron Health, Frida Baby, Formsort, fubuTV, Gimlet, H1, Harry’s, Hubble Contacts, Imperfect Foods, Influenster, Kard, Kingdom Supercultures, Koneksa Health, Maestro, Magic Spoon, mParticle, Mohawk Group, MoneyLion, Pearl Health, Rhone Apparel, Roman Health, ShopKeep, Slack, Sollis Health, Standard Bots, Stella Connect, Transfix, Vestwell, and Xwing.

In addition to providing personal legal services to founders and entrepreneurs, the Firm is often called upon to provide services to their companies. Our corporate and litigation attorneys provide a broad range of sophisticated services across more than 20 practice areas of both commercial law and litigation. The depth and breadth of experience of our nationally-recognized litigators and our corporate attorneys allows the Firm to act as a single point of contact for our clients’ diverse legal needs.

Family Offices

Family offices, and the high-net-worth families they serve, face a unique set of legal issues that require sophisticated, multi-disciplinary advice. Patterson Belknap’s Family Office team provides a full range of services focused on meeting the evolving needs of family offices, high-net-worth families and individuals, and related charitable activities.

Operating from a single office in New York, our trusts and estates, tax-exempt organizations, tax, and corporate attorneys collaborate seamlessly to provide a single point of contact for a wide range of family office legal concerns. Serving as trusted advisors to our clients, we provide family offices with holistic and tailored advice on a broad array of issues, including structuring family offices and investments; SEC compliance; complex tax arrangements; estate planning and charitable giving; risk mitigation; and philanthropic structuring, among other issues.

As a full-service law firm, our real estate, intellectual property, employment law, and employee benefits attorneys have significant experience advising our clients on the diverse operational requirements of family offices. When our clients' assets include valuable collections of art, attorneys in our nationally-recognized Art and Museum Law practice provide guidance on a range of issues, including the most appropriate way to value works of art for a variety of purposes, including tax and estate planning. And should the need arise, members of our leading litigation practice are attuned to the unique problems and challenges facing both family offices and tax-exempt organizations, and we regularly consult with them to resolve disputes long before they reach litigation.

Our legal services for family offices include:

Trust and Estate Administration and Planning

- Multi-generational trust and estate planning, including advice on techniques designed to minimize estate, gift, and generation-skipping transfer taxes and federal, state and local income taxes
- Advice regarding governance of family trusts and investment entities, including trust modifications and consideration of directed trust structures, family governing entities, and private trust companies
- Fiduciary advice to executors and trustees, including probate and estate and trust administration and accounting matters

Tax-Exempt Organizations

- Ongoing compliance with tax and regulatory matters and governance and fiduciary matters
- Advice on philanthropic activities including grantmaking, advocacy, conservation easements, endowments, named gifts, cross-border philanthropy, impact investing, and joint ventures
- Structuring charitable gifts
- Advice on multi-generational philanthropic strategies
- Development of and structuring of complex philanthropic vehicles to maximize potential impact, including private family foundations, donor advised funds (DAFs), limited liability companies, and other multi-entity structures
- Advice on the compliance and fiduciary issues associated with implementing and maintaining program and mission-related investment programs to increase impact

Tax

- Individual, trust, corporate and partnership tax planning and compliance
- Tax planning for charitable gifts
- Advising both U.S. and non-U.S. clients on cross-border income tax matters
- Representing clients in connection with audits and appeals

Corporate Law

- Formation and maintenance of entities for estate planning and business purposes
- Succession planning for family businesses
- Review and negotiation of public and private investments, including investments in hedge funds, venture capital funds, debt funds, real estate funds, and private equity funds
- Review and negotiation of personal and commercial credit facilities
- SEC compliance for family offices, corporate executives, insiders and large investors, including preparation of Forms 3, 4 and 5, Form 144, Form 13F, Form 13H, Schedule 13D and Schedule 13G

- Advice on Intellectual Property (IP) transactions and related counseling, including IP licensing, IP disputes and infringement, concerns about publicity, and other intellectual property ownership issues

Art & Museum Law

- Review and negotiation of private and auction consignment sales agreements
- Structuring gifts of art to museums and other charitable institutions
- Advice in connection with art assets held in estates, trusts and foundations

Real Estate

- Purchases, sales, joint ventures, leasing, financing and gifts of real estate held for personal use or investment (whether residential or commercial)
- Administration of real estate in estates, trusts and foundations
- Architect agreements, construction agreements, co-tenancy agreements and conservation easements

Employment and Employee Benefits Law

- Review and negotiation of employment contracts for key employees and severance agreements for departing employees
- Creation or updating of personnel handbooks and prevention training relating to discrimination and harassment claims in the workplace
- Advice in connection with household employees, including hiring, firing, benefits and compliance with employment, tax and other regulatory matters