

**A note from faculty member Stephen R. Akers, Bessemer Trust, Dallas, Texas:**

The Tax Relief ... Act of 2010 leaves us with a changed paradigm of planning for clients. Some of the new concepts that will be addressed include--

- \* the election for a 2010 estate to be subject to carryover basis rather than the estate tax
- \* portability of the gift and estate exclusion amount for a decedent's surviving spouse (whether to use the unused exclusion for gifts, complexities created by the "last deceased spouse" requirement, and whether to rely on portability in estate planning for clients)
- \* new paradigms of testamentary planning (including how to use formulas in light of the inherent uncertainty of what exclusion amounts will be in the future and how formulas will work, and importance of building in flexibility so that a basis step-up can be achieved at a beneficiary's death if the beneficiary is not concerned with estate taxes)
- \* new paradigms of gift planning considerations in whether to take advantage of the new \$5 million gift exclusion amount (including whether a "clawback" of estate tax may result if the estate exclusion is later reduced below the \$5 million amount, creative ways of using the \$5 million gift exclusion, and ways of leaving the possibility of making gift assets available to a donor or donor's spouse as a "rainy day fund").

In addition, the legislative proposals affecting the gift, estate and GST tax in the President's 2012 Fiscal Year Budget Proposal will be addressed (including a new proposal to limit the effectiveness of GST exemptions to 90 years). Other estate planning hot topics and current developments will also be addressed.