

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

A new paradigm of planning exists in light the permanent indexed large (\$5.34 million in 2014) gift and estate tax exemptions, with portability of the estate exemption that is not used by a decedent-spouse, and in light of the increased income tax rates for top bracket taxpayers. Furthermore, the 3.8% “net investment income tax” on investment income applies beginning in 2013. Developments that will be addressed include—

- Legislative developments and predictions, including specific legislative proposals
- General approaches to estate planning following AFTRA: “The New Normal”
- The complexity of portability in the planning process
- Trust and estate planning considerations for the 3.8% net investment income tax on investment income
- Impact on trust distribution decisions of higher income tax rates of undistributed income of trusts
- Importance of building flexibility into trust documents to be able to cause estate inclusion and preserve basis “step-up” upon the settlor’s, surviving spouse’s or beneficiary’s death
- Gift planning issues, including possible alternatives for building in ways that the donor or donor’s spouse may be a possible beneficiary of gifted assets in the event of financial reversals (and the creditors rights effects of such strategies)
- Best practices for structuring formula defined value transfers to minimize gift tax risks
- Recent IRS audit attacks on sales to grantor trusts
- Application of undervaluation penalties if value is not based on appraisal by a “certified appraiser”