

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

The Tax Relief ... Act of 2010 opened up a new paradigm of planning for clients with the greatly increased gift (and estate) tax exemption to \$5 million. The window of opportunity of using that increased exemption amount may be closing. If Congress does not pass transfer tax legislation by December 31, 2012, we revert to a \$1 million exemption/55% top bracket system in 2013. Planning issues in light of this uncertainty are addressed in addition to other current developments. Developments that will be addressed in my presentation include—

- *Legislative developments and predictions, including specific legislative proposals
- *Administration's Fiscal Year 2013 Revenue Proposals (including proposal to revert back to a \$3.5 million estate exemption and \$1 million gift exemption, with a top rate of 45%, and including proposal to treat all grantor trusts created after the date of enactment as being included in the grantor's gross estate at the grantor's death)
- *Treasury/IRS Priority Guidance Plan of projects for regulations, rulings or other guidance from the IRS
- *Gift planning issues for 2012, 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)
- *Planning issues surrounding portability of the estate exemption if the first decedent spouse has unused exemption
- *Ways of maximizing control and flexibility in the estate plan, including giving beneficiaries maximum control while still achieving desired goals, and using powers of appointment and trust protectors
- *Strategy for having local court construction actions respected by the IRS despite the *Bosch* rule that the IRS generally only respects decisions of the highest court in the state
- *New developments with gift tax audits
- *Family limited partnership planning issues
- *Best practices for using defined value clauses to minimize the risk of having to pay gift taxes
- *Developments in using "Graegin loans" and special tips in negotiating with the IRS regarding estate tax deductions for interest paid on estate loans
- *Recent proposed and final regulations and IRS rulings

