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

The American Taxpayer Relief Act of 2012 (ATRA) opens a new paradigm of planning for clients in light of its permanent indexed large ($5.25 million in 2013) gift and estate tax exemptions with portability of the estate exemption that is not used by a decedent-spouse. The estate tax rates have increased from 35% to 40%. In addition, income tax rates are increased for top bracket taxpayers. Furthermore, the 3.8% "Medicare tax" on investment income applies beginning in 2013. These changes will have a significant on planning going forward. Developments that will be addressed include—

- Legislative developments and predictions, including specific legislative proposals
- Planning for donors who made large 2012 gifts
- 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% Medicare 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
- Structuring trusts so that transfers to trusts are not completed gifts