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CLIENT ALERT

Possible Death Knell for GRATs

To Our Clients and Friends:

We have pointed out in previous Client Alerts the significant estate planning advantages of Grantor Retained Annuity Trusts (GRATs) as a means of passing wealth to children free of estate and gift taxes. This free-ride may be coming to an end. The House Ways and Means Committee approved a bill on March 17, 2010 (H.R. 4849) which would severely limit the advantages of a GRAT. The bill provides that all GRATs must have a term of at least 10 years. This would adversely impact older persons, since the creator of a GRAT must survive the term in order to exclude the assets transferred to the GRAT from the creator's taxable estate. Most estate planning professionals (including us) have recommended short term GRATs of 2 to 3 years in order to achieve the client's planning goals. In our Client Alert of September, 2008 we pointed out several studies demonstrating that short term GRATs consistently outperform long term GRATs. See that Client Alert by clicking on the following link:

http://www.golenbock.com/docs/ClientAlert_September2008.pdf

The proposed legislation, if enacted, will apply to GRATs created after the date of enactment. This opens a short window of opportunity -- from now to the date of possible enactment -- to create a GRAT that will not be subject to the new restrictions.

If you think that a GRAT may be a planning tool appropriate for you, please contact us to discuss your options.

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