

ALERTS AND UPDATES

U.S. House Passes Legislation That Would Modify Grantor Retained Annuity Trust (GRAT) Rules

March 25, 2010

On March 24, 2010, the U.S. House of Representatives passed H.R. 4849—known as the Small Business and Infrastructure Jobs Tax Act. The bill was sponsored by Rep. Sander M. Levin (D-Mich.) and is characterized as legislation that seeks to strengthen the American economy, assist small businesses and create jobs. However, seemingly unrelated to these goals, H.R. 4849 also would modify the Grantor Retained Annuity Trust (GRAT) rules contained in section 2702 of the Internal Revenue Code.

If passed by the U.S. Senate in its present form and enacted into law, section 307 of H.R. 4849 would add the following additional GRAT requirements, which would apply to transfers made after the date of the law's enactment:

- The retained annuity term must be ten years or greater in duration;
- The annuity, determined on an annual basis, may not decline relative to any prior year during the first ten years of the annuity term; and
- The remainder interest must have a value greater than zero, determined at the time of the transfer.

The proposed modifications to section 2702 of the Internal Revenue Code contained in H.R. 4849 originally were set forth in President Obama's Fiscal Year 2010 and Fiscal Year 2011 Revenue Proposals.

Previously on March 19, 2010, when H.R. 4849 was before the House Committee on Ways and Means, Rep. Kevin Brady (R-Tex.) advocated an amendment to H.R. 4849 that would have stricken the proposed modifications to section 2702 from the legislation. However, this amendment failed in a pure party-line voice vote.

H.R. 4849 will now be sent to the U.S. Senate for its consideration.

For Further Information

If you have any questions regarding this *Alert* or would like more information, please contact any of the [attorneys](#) in the [Estates and Asset Planning Practice Group](#), or the attorney in the firm with whom you are regularly in contact.

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