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GRAT Legislation Update

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This week, the Senate considered the House's version of the Small Business Jobs Tax Relief Act of 2010. Going into the hearings, there was considerable speculation that the Senate was going to pass its bill with the GRAT restrictions in place, meaning the minimum term for GRATs would be 10 years, and the remainder interests of any GRATs would have to have a value greater than zero.

The speculation was incorrect. The Senate's version of the House Bill currently does not contain the GRAT restrictions, so for now, short term GRATs remain a viable technique. The House bill and the Senate version of the bill will ultimately have to be reconciled. It is unclear whether the GRAT restrictions will be included. Thus, if you are planning to implement a short term GRAT, it is advisable to do it as soon as possible due to the uncertainty of the legislation.

We will continue to advise you on GRAT legislation as it happens.

Cole, Schotz, Meisel, Forman & Leonard, P.A.

Court Plaza North
25 Main Street
Hackensack, NJ 07601
Phone: (201) 489-3000

900 Third Avenue
16th Floor
New York, NY 10022
Phone: (212) 752-8000

500 Delaware Avenue
Suite 1410
Wilmington, DE 19801
Phone: (302) 652-3131

300 East Lombard Street Suite 2000
Baltimore, MD 21202
Phone: (410) 230-0660

301 Commerce Street
Suite 1700
Fort Worth, TX 76102
Phone: (817) 810-5250