

despite the revaluation. Notwithstanding the perceived abuse, case law from the Tax Court expressly approves of this technique.

Although the Bill does not address GRATs, Congress is considering the IRS's pleas, and the Joint Committee on Taxation has indicated that a possible fix would require that every GRAT be structured such that it results in a gift equal to at least 10 percent of the value of the assets initially transferred to the trust.

The consequence of such legislation, should it be enacted, can be gleaned from the following example. Under current law, if a grantor were to settle a two-year zeroed-out GRAT with \$1 million, subject to a current statutory interest rate of 2 percent and earn a 5 percent rate of return, the GRAT could make two annuity payments of about \$515,000 each and transfer a remainder of about \$47,000 tax-free. If the law were amended to require a taxable gift of at least 10 percent of the transferred property, the grantor would receive two annuity payments of about \$463,500 each and transfer a remainder of about \$152,000. The catch, however, is that of the \$152,000 remainder, \$100,000 would be subject to gift tax. If the assets decreased in value, the grantor's gift tax exemption would be wasted

because fewer or no assets would pass to trust beneficiaries.

Dynasty Trusts

A final target for attack may be the use of dynasty trusts for generation-skipping transfer tax purposes. A dynasty trust is a trust with a potentially infinite duration. While common law requires that trusts terminate within a perpetuities period that is typically 100-125 years after the creation of the trust, modern statutory reformations in a number of states now allow trusts to last literally forever. In such jurisdictions, a grantor may create a perpetual "dynasty" trust for the benefit of his or her lineal descendants for generations to come. This both "creditor proofs" assets in perpetuity and can virtually eliminate transfer taxes as trust assets pass through the generations.

The transfer tax benefit of dynasty trusts can be dramatically enhanced from a grantor's ability to use leveraged transactions to allocate generation-skipping transfer tax exemption to such trusts. If a grantor implements proper planning such that the entire trust is generation-skipping transfer tax exempt, then the trust can exist in perpetuity without any future imposition of estate, gift or generation-

skipping transfer tax upon subsequent generations.

Some argue that this perpetual tax minimisation technique undermines the integrity of the transfer tax regime. Under current law, so long as property remains in a dynasty trust, and any amounts distributed are consumed by the beneficiaries during their lifetimes, the property will continue to escape transfer taxation. To curtail this planning opportunity, Congress may limit the application of the generation-skipping transfer tax exemption to a fixed number of generations removed from the grantor. For example, Congress might mandate that the exemption not apply to any person who is more than three generations removed from the grantor. If such a law were to apply, a distribution to the grantor's great-grandchild would be exempt from tax, but a distribution to the grantor's great-great-grandchild would be taxable.

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FREE SEMINARS at this year's Corporate Expatriate Relocation Conference & Exhibition Monday 9th November 2009 from 10.00am – 5.00pm The New Connaught Rooms 61-65 Great Queen Street, Holborn, London, WC2

10.30am The Xpat Spouse Factor - 5 Factors of Success

What are the secrets of providing the Xpat spouse with a winning formula? What are the practical and emotional success drivers to supporting expatriates through the complexities of international relocation? Join FOCUS for a panel discussion where spouses will share their positive experiences of relocation and ways they feel things could be improved. Hosted by FOCUS Information Services

11.45am Portable Children - The Impact of International Transition

Families in today's world are relocating in greater numbers than ever before. This seminar will look at the outcomes of an international childhood characterised by moves, transitions, new friendships and schools, and new languages. There are many benefits to be gained, but some challenges to be understood by families and relocation and HR consultants who are responsible for relocating them. Hosted by Mary Langford, Deputy Executive Director, ECIS (European Council of International Schools)

1.00pm Non Doms - UK Taxation; Applying the New Rules in Practice - Compliance and Opportunity

Two years ago, Alastair Darling proposed a radical change to the way in which Non Doms will be taxed in the UK. The proposal was simple, pay £30,000 or tax on worldwide income. Two years later following revision, clarification, u-turns and extensive legislation, the new basics for taxation in the UK for Non Doms is anything but simple! Our goal will be to focus on key practical aspects of complying and planning with the new rules. Hosted by Buzzacott Livingston

2.15pm Points Based Immigration: Key Employer Responsibilities & International Mobility: Corporate & Transferee Risk Exposures & Risk Management Solutions

Following the introduction of the UK's points-based immigration system, employers are now burdened with even greater responsibility for making sure immigration controls remain effective. In this session, James Walters will highlight some of the pitfalls and problems that employers face as they take on the role of policing their migrant workers and maintaining compliance with immigration law. Hosted by Smith Stone Walters

Paul Coleman, Senior Vice President of XN Financial will cover the salient points of the complex world of international insurance using layman's terms and entertaining real life examples in such a way as to illuminate the mysteries of international healthcare and property and casualty coverage for assignee population.

3.30pm Cost Management in International Assignments

This session will cover Assignment demographics; Cost saving measures being introduced by companies; Impact on policies and practices and Future trends. Hosted by ORC Worldwide

**To reserve your place in any of these free seminars, please email your contact details to helen@expatriateadviser.com
or call Helen Elliott on 0208 661 0186**