

Big Issues for Estate Planning Practices in the Current Environment

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- I. Legislative Developments-Basis Consistency Legislation
 - §1014(f) basis consistency requirement
 - §6035 reporting requirement
2. What's Going on at the IRS?; Treasury-IRS Priority Guidance Plan
 - QTIP trusts and portability (Rev. Proc. 2001-38)
 - New Items: 1) CRATs;
 - 2) Basis of assets in grantor trust after grantor's death;
 - 3) Valuation of notes; and
 - 4) Defined value clauses
 - Section 2704 anticipated proposed regulations
 - Closing letters
3. Overview of Practice Trends in the Current Environment
 - Effective repeal for most
 - Cannot ignore GST tax
 - Fear of uncertainty not a driver
 - Income tax relative increased importance
 - Routine use of CST/QTIP is out; Portability more prominent
 - Planning is more difficult
 - Transfer planning still important for wealthy families
 - Be very careful in giving low basis assets

- Grantor trust planning still advantageous

- Undoing prior strategies

- Basis adjustment planning

- Trust planning

- Estate and trust distribution planning

- Broad spectrum of services

4. Structuring Trusts

5. Portability

- Major factors

- Flexibility

- Address when both spouses are living

6. Unwinding Transactions

7. Basis Adjustment Flexibility Planning

8. Basis Adjustment Limitations if Donee Dies Within One Year

9. IRS's Radar Screen

- Kitchen sink approach

- Sales to grantor trusts

- FLPs/LLCs

- Defined value clauses

- Valuation of notes

- GRATs