

## PLAN NOW BEFORE LAW CHANGES



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On January 27, 2005, the Congressional Joint Committee on Taxation made its proposals for overhauling our tax system. Three of the Committee's proposals would have the following devastating effects on some of the most popular estate planning strategies:

- Eliminate valuation discounts on most family entities, such as family limited partnerships and limited liability companies;
- Substantially restrict the use of *Crummey* withdrawal powers to make annual exclusion gifts if not completely eliminating their use as a tax planning strategy; and

- Strip Dynasty Trusts of their special tax benefits by denying use of the Generation Skipping Transfer Tax exemption for transfers skipping more than one generation.

Although the current text of the proposals would provide for later effective dates, we have seen in the past that such proposals sometimes become effective immediately upon passage. Therefore, there may be only a small window of opportunity to react and implement planning ideas before the proposals may take away certain advantageous benefits. We cannot predict whether any of these proposals will ultimately become law, but the impact of these proposals is too serious to ignore. Many families would be well advised to take advantage of these powerful estate planning strategies while they are still available.

We recommend the following action steps:

- To the extent possible,

families contemplating the use of family limited partnerships or limited liability companies should proceed with the planning so transfers are completed before the new rules become applicable.

- Families who are contemplating making annual exclusion gifts to trusts using the *Crummey* gifting strategy should act now to ensure that trusts are in place prior to the enactment of the proposed legislation; otherwise, opportunities for leveraging gift tax annual exclusions may be lost; and
- Families should seriously consider creating new Dynasty Trusts and/or making additional contributions to existing Dynasty Trusts.

Please contact us to discuss these issues in more detail or if you would like to proceed with current planning opportunities.

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