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Trust tax review

The release of the “Pandora Papers” has stimulated an interest at the House Ways and Means Committee in the taxation of trusts. The Pandora Papers purport to document how the wealthy have been able to hide their wealth from government authorities, sometimes using the US as a tax haven. Interestingly, to date no Americans have been publicly identified in the Papers. There has been no allegation of a loss of revenue to the IRS.

Nevertheless, the Joint Committee on Taxation prepared “Present Law and Background on the Federal Taxation of Domestic Trusts” [JCX-49-21] for a December hearing of the Ways and Means Oversight Subcommittee.

Key observations:

- intentionally defective grantor trusts are being used as “estate freezing” strategies;
- grantor-retained annuity trusts have been used to successfully reduce estate and gift tax obligations;
- the generation-skipping transfer tax (GSTT) may be avoided when the GSTT exemption is applied to a perpetual dynasty trust.

The report also provides interesting data on the income taxation of trusts and estates, as well as the reporting requirements of domestic trusts.

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