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RE: Current Events Memorandum Proposed Legislation would limit FLP Discounts

The Certain Estate Tax Relief Act of 2009 would eliminate most discounts for family limited partnerships in trying to address the phase out and restoration of estate taxes schedule for the next few years.

IF HR 436 becomes law, appraisers would not be allowed to apply any discounts to "non-business" assets held by partnerships or other entities. Instead, those assets would be valued as though they were transferred directly to the recipient. In addition, if a family (which the bill broadly defines using the IRC 2023A attribution rules) controls an entity that is not "actively traded", in contrast to current law, no discounts will be allowed for the transferee's lack of control the entity.

The draft bill would be effective for transfers occurring after the date of enactment, but the final bill might be written to apply retroactively. GLO CPAs can help clients with FLPS consider the potential impact of this legislation on the timing of any contemplated transfers.