Proskauer

Modification of Grantor Trust to Include an Income Tax Reimbursement Provision Can Result in a Taxable Gift

Leimberg Information Services Inc. on **January 3, 2024**

On December 29, 2023, the Internal Revenue Service Office of Chief Counsel released CCA 202352018, which concluded that the judicial modification of a grantor trust, with the beneficiaries' consent, to add a tax reimbursement clause would constitute a taxable gift by the beneficiaries to the grantor. Looking beyond the particular facts of the CCA, this new IRS guidance may have far-reaching implications that will force estate planners and their clients to rethink conventional wisdom regarding the gift tax consequences of amending, modifying and decanting irrevocable trusts.

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