GRATs Act Section-by-Section Summary

Section 1: Short Title
This Act may be cited as the *Getting Rid of Abusive Trusts Act of 2024*.

Section 2: Required Minimum 15-Year Term, etc., for Grantor Retained Annuity Trusts
This section adds additional requirements for Grantor Retained Annuity Trusts. First, the section adds the requirement that a GRAT must have a minimum term of fifteen years and a maximum term of the life expectancy of the annuitant plus ten years. Second, this section prohibits any decrease in the annuity during the GRAT term. Finally, this section adds the requirement that the remainder interest in a GRAT at the time of transfer must have a minimum value for gift tax purposes. That minimum value is equal to the greater of: 25 percent of the fair market value of the assets transferred to the trust, or $500,000 (but not more than the value of the assets transferred).

The purpose of the additional requirements is to impose costs on the use of GRATs so they are less likely to be used entirely for tax avoidance purposes.

Section 3: Certain Transfers Between Grantor Trust and Deemed Owner
This section deals with transfers of property between a trust and the deemed owner of the trust. Transfers will be treated as a sale or exchange for income tax purposes. There are exceptions for cases where the grantor trust is fully revocable by the deemed owner, the GRAT is an asset-backed securities trust, or the GRAT is identified by the Secretary of the Treasury as appropriate to exclude from this section.

This is intended to address prevalent tax planning methods where a taxpayer's appreciating assets can be transferred in and out of a GRAT without incurring income tax or capital gains tax.

Section 4: Payment of Tax on Income of Grantor Trust
This section deals with the income tax paid on the income of the GRAT (by the deemed owner of the trust). This section designates any income tax paid on the trust's income as a gift for the purposes of the gift tax, unless the owner is reimbursed from the GRAT during the same calendar year. The amount of the gift is the net amount of income tax paid after subtracting any reimbursed amount, and the gift occurs on December 31 of the year in which income tax is paid. The gift amount cannot be reduced through the use of deductions such as the charitable deduction, marital deduction, or deductions for gifts of tuition or medical care.

This is intended to address prevalent tax planning methods where a grantor of a GRAT uses the trust to reduce the value of their estate, consequently lowering their estate tax burden while avoiding additional income or gift tax.