

# Contents

## PART I ESTATE PLANNING: A PRACTICE-ORIENTED APPROACH

<b>CHAPTER 1 HOW TO USE THIS BOOK</b> .....	<b>1-1</b>
1.1 Locating the Proper Form and Use of Accompanying Materials . . .	1-1
1.2 The Three Major Will and Trust Forms Headings .....	1-1
1.3 Wills as Primary Testamentary Instruments—Five Categories. . .	1-2
1.4 Revocable (Living) Trusts and Pour-Over Wills (Part VII)—Five Categories .....	1-3
1.5 Irrevocable Trusts (Part VIII)—Five Categories .....	1-3
1.6 Alternative Forms and Clauses .....	1-3
1.7 Summary .....	1-4
 <b>CHAPTER 2 ESTATE PLANNING: ESSENTIAL OBJECTIVES</b> .....	 <b>2-1</b>
2.1 The Essential Estate Planning Objectives: Disposition of Assets and Tax Avoidance .....	2-1
2.1.1 Dispositive Estate Planning .....	2-1
2.1.2 Estate Tax Planning .....	2-2
2.2 Initiating the Estate Planning Process: Strategies and Recommendations .....	2-2
2.2.1 Coordinating the Different Segments .....	2-2
2.2.2 Initial Client Contact: Objectives .....	2-2
*Form 2-1: Letter to Client Following Initial Client Contact—to Accompany Estate Planning Questionnaire .....	2-3
*Form 2-2: Estate Planning Questionnaire—for Married Client .....	2-4
*Form 2-2A: Estate Planning Questionnaire—for Single Client. ....	2-13
*Form 2-2B: Estate Planning Questionnaire—for Married Client—Shorter Alternative .....	2-19
2.2.3 Effective Gathering of Client Information: The Client Estate Planning Questionnaire .....	2-23
2.2.3.1 Family Information .....	2-24
2.2.3.2 Assets and Liabilities .....	2-24

2.2.4	Initial Client Meeting . . . . .	2-24
2.2.4.1	Information Gathering . . . . .	2-24
2.2.4.2	Dispositive Goals . . . . .	2-25
2.2.4.3	Selection of Fiduciaries and Guardians . . . . .	2-25
2.2.4.4	Wills vs. Probate Substitutes . . . . .	2-26
	*Form 2-3: Memorandum to Client Re: Advantages and Disadvantages of Revocable Trusts vis-à-vis Wills in Pennsylvania. . . . .	2-26
2.2.4.5	Powers of Attorney. . . . .	2-28
2.3	Nature and Scope of the Estate Planning Engagement and Attorney’s Fee . . . . .	2-29
2.3.1	Discussing the Engagement and Fee . . . . .	2-29
	*Form 2-4: Engagement/Fee Letter with Dual Representation Provisions . . . . .	2-29
2.3.2	Establishing the Fee . . . . .	2-32
2.3.3	Ethical Issues in Representing Both Husband and Wife . . . . .	2-33

**PART II**  
**SIMPLE WILLS: FOR MARRIED COUPLES WITH**  
**COMBINED ESTATES NOT EXCEEDING LIFETIME**  
**EXEMPTION (Federal Applicable Exclusion**  
**Amount—i.e., \$10,000,000)**

Overview of Part II: When to Use Simple Wills

**CHAPTER 3 SIMPLE WILLS FOR MARRIED COUPLES WITH ADULT CHILDREN. . . . . 3-1**

3.1	Overview . . . . .	3-1
3.1.1	Overall Summary of Dispositive Provisions for Wills in Category. . . . .	3-1
3.2	Pure “Sweetheart” Wills—Outright to Spouse . . . . .	3-2
3.2.1	Summary of Dispositive Provisions . . . . .	3-2
3.2.2	When to Use These Wills . . . . .	3-2
3.2.3	Estate Tax Consequences . . . . .	3-3
3.2.4	Forms for Simple “Sweetheart” Wills . . . . .	3-3
	*Form SW-1H: Husband with Adult Children: Outright Gift of Residuary Estate to Spouse, if Surviving; if Not, Outright to Adult Children . . . . .	3-3
	Form SW-1W: Companion Will to SW-1H	
3.2.5	Key Action Subjects for Strategic Planning . . . . .	3-11

3.3	“Sweetheart/Trust” Wills—to Spouse in Trust Without Tax Planning . . . . .	3-12
3.3.1	Overall Summary of Dispositive Provisions. . . . .	3-12
3.3.2	Terms of Marital Trusts—How They Work . . . . .	3-13
3.3.3	When to Use These Wills . . . . .	3-13
3.3.4	Comparison of Marital/QTIP vs. Marital/Power of Appointment (POA) Trust . . . . .	3-14
3.3.4.1	Marital/QTIP Trust. . . . .	3-14
3.3.4.2	Marital/POA Trust . . . . .	3-14
3.3.5	Estate Tax Consequences . . . . .	3-14
3.3.6	Forms for “Sweetheart/Trust” Wills . . . . .	3-15
	Form SW-2H: Husband with Adult Children: Gift of Residuary Estate to Marital (QTIP) Trust; if Spouse Does Not Survive, Outright to Adult Children	
	Form SW-2W: Companion Will to SW-2H	
	Form SW-3H: Husband with Adult Children: Gift of Residuary Estate to Marital POA Trust, Remainder to Distributees Appointed by Surviving Spouse; upon Failure to Exercise Power, Remainder to Adult Children; if Spouse Does Not Survive, Outright to Adult Children	
	Form SW-3W: Companion Will to SW-3H	
	*Form SW-2/3: Template Simple Will Form for Testator with Adult Children with Alternative Dispositive Provisions for Marital Trust (QTIP or POA) . . . . .	3-15
3.3.7	Key Action Subjects for Strategic Planning . . . . .	3-33
3.4	Wills Disposing Property Outright to Children (No Provision for Spouse). . . . .	3-34
3.4.1	Summary of Dispositive Provisions . . . . .	3-34
3.4.2	When to Use These Wills . . . . .	3-34
3.4.3	Estate Tax Consequences . . . . .	3-34
3.4.4	Caution: Spouse’s Right of Election in Pennsylvania . . . . .	3-35
3.4.5	Will Forms for Outright Disposition to Children . . . . .	3-35
	*Form SW-4H: Male Testator with Adult Children Whose Spouse Has Either Predeceased Him or Is Not to Be Left Anything under Will: Outright Gift of Residuary Estate to Adult Children. . . . .	3-35
	Form SW-4W: Companion Will to SW-4H	
3.4.6	Key Action Subjects for Strategic Planning . . . . .	3-43

**CHAPTER 4: SIMPLE WILLS FOR MARRIED COUPLES WITH MINOR CHILDREN..... 4-1**

4.1 Overview..... 4-1

4.1.1 Overall Summary of Dispositive Provisions for Wills in Category ..... 4-1

4.2 Pure “Sweetheart” Wills—to Spouse Outright, with Contingent Trusts for Children ..... 4-2

4.2.1 Summary of Dispositive Provisions ..... 4-2

4.2.2 Distribution of Separate Children’s Trusts ..... 4-3

4.2.3 Distribution of Pot Trust for Children..... 4-3

4.2.4 When to Use These Wills ..... 4-4

4.2.5 Estate Tax Consequences ..... 4-4

4.2.6 Forms for “Sweetheart” Wills with Contingent Trusts for Children. .... 4-4

Form SW-5H: Husband with Minor Children: Outright Gift of Residuary Estate to Spouse, if Surviving; if Not, to Separate Trusts for Children—Complete Distribution at Age 30

Form SW-5W: Companion Will to SW-5H

Form SW-5H-3: Husband with Minor Children: Outright Gift of Residuary Estate to Spouse, if Surviving; if Not, to Separate Trusts for Children—Complete Distribution at Age 35: Distribution at Three Ages

Form SW-5W-3: Companion Will to SW-5H-3

Form SW-6H: Outright Gift of Residuary Estate to Spouse, if Surviving; if Not, to Pot Trust for Children—until Youngest Child Attains Age of 25

Form SW-6W: Companion Will to SW-6H

\*Form SW-5/6: Template Simple Will Form for Testator with Minor Children with Alternative Dispositive Provisions for Children’s Trusts (Separate Trusts or Pot Trust) ..... 4-4

4.2.7 Key Action Subjects for Strategic Planning ..... 4-22

4.3 “Sweetheart/Trust” Wills—to Spouse in Trust with Contingent Trusts for Children ..... 4-22

4.3.1 Summary of Dispositive Provisions ..... 4-23

4.3.2 Dispositive Terms of Marital Trusts ..... 4-24

4.3.3 Distribution Alternatives for Children’s Trusts..... 4-24

4.3.4 When to Use These Wills ..... 4-25

4.3.5 Comparison of Marital/QTIP vs. Marital/POA Trust .. 4-25

4.3.6	Estate Tax Consequences . . . . .	4-25
4.3.7	Forms for “Sweetheart Trust” Wills with Children’s Trusts . . . . .	4-25
	Form SW-7H: Husband with Minor Children: Gift of Residuary Estate to Marital (QTIP) Trust, Remainder (or Entire Estate if Spouse Does Not Survive) to Separate Trusts for Children— Complete Distribution at Age 30	
	Form SW-7W: Companion Will to SW-7H	
	Form SW-7H-3: Husband with Minor Children: Gift of Residuary Estate to Marital (QTIP) Trust for Benefit of Spouse for Life, Remainder to Separate Trusts for Children—Complete Distribution at Age 35; If Spouse Does Not Survive, to Separate Trusts for Children—Complete Distribution at Age 35; Distribution at Three Ages	
	Form SW-7W-3: Companion Will to SW-7H-3	
	Form SW-8H: Husband with Minor Children: Gift of Residuary Estate to Marital (QTIP) Trust, Remainder (or Entire Estate if Spouse Does Not Survive) to Pot Trust for Children—Complete Distribution when Youngest Child Attains Age 25; if Spouse Does Not Survive, to Children’s Pot Trust	
	Form SW-8W: Companion Will to SW-8H	
	Form SW-9H: Husband with Minor Children: Gift of Residuary Estate to Marital Power of Appointment Trust for Benefit of Spouse for Life, Remainder to Distributees Appointed by Surviving Spouse; upon Failure to Exercise Power, Remainder to Children in Separate Trusts—Complete Distribution at Age 30; if Spouse Does Not Survive, to Separate Trusts for Children—Complete Distribution at Age 30	
	Form SW-9W: Companion Will to SW-9H	
	Form SW-9H-3: Husband with Minor Children: Gift of Residuary Estate to Marital	

	Power of Appointment Trust for Benefit of Spouse for Life, Remainder to Distributees Appointed by Surviving Spouse; upon Failure to Exercise Power, Remainder to Children in Separate Trusts—Complete Distribution at Age 35; if Spouse Does Not Survive, to Separate Trusts for Children—Complete Distribution at Age 35: Distribution at Three Ages	
	Form SW-9W-3: Companion Will to SW-9H-3	
	Form SW-10H: Husband with Minor Children: Gift of Residuary Estate to Marital Power of Appointment Trust for Benefit of Wife for Life, Remainder to Distributees Appointed by Surviving Spouse; upon Failure to Exercise Power, Remainder to Children in Pot Trust until Youngest Child Attains Age 25; if Wife Does Not Survive, to Pot Trust until Youngest Child Attains Age 25	
	Form SW-10W: Companion Will to SW-10H	
	*Form SW-7-10: Template Simple Will Form for Testator with Minor Children with Alternative Dispositive Clauses for Marital Trusts for Spouse and Trust for Children . . . . .	4-26.1
4.3.8	Key Action Subjects for Strategic Planning . . . . .	4-48
4.4	Wills Disposing Property Outright to Trust for Minor Children (No Provision for Spouse). . . . .	4-48
4.4.1	Summary of Dispositive Provisions . . . . .	4-49
4.4.2	When to Use These Wills . . . . .	4-49
4.4.3	Estate Tax Consequences . . . . .	4-49
4.4.4	Caution: Spouse’s Right of Election in Pennsylvania . . . . .	4-50
4.4.5	Forms for Wills Disposing of Property to Trust for Minor Children . . . . .	4-50
	Form SW-11H: Male Testator with Minor Children Whose Spouse Has Predeceased Him, or Is to Be Given No Interest under Will: Gift of Residuary Estate to Separate Trusts for Children—Complete Distribution at Age 30	
	Form SW-11W: Companion Will to SW-11H	

	Form SW-11H-3: Male Testator with Minor Children Whose Spouse Has Predeceased Him, or Is to Be Given No Interest under Will: Gift of Residuary Estate to Separate Trusts for Children— Complete Distribution at Age 35; Distribution at Three Ages	
	Form SW-11W-3: Companion Will to SW-11H-3	
	Form SW-12H: Male Testator with Minor Children Whose Spouse Has Predeceased Him, or Is to Be Given No Interest under Will: Gift of Residuary Estate to Pot Trust until Youngest Child Attains Age of 25	
	Form SW-12W: Companion Will to SW-12H	
	*Form SW-11/12: Template Simple Will Form with Alternative Dispositive Clauses for Testator with Minor Children, Whose Spouse Has Predeceased Him, or Is to Be Given No Interest under Will; Gift of Residuary Estate for Children (Separate Trusts or Pot Trust) . . . . .	4-50
4.4.6	Contracts to Make Wills . . . . .	4-67
	Form CW-1 Contract to Make Wills for a Same-Sex Couple . . . . .	4-67
	Form CW-2 Contract to Make Wills for a Couple with Children from Previous Marriage. . . . .	4-68
4.4.7	Key Action Subjects for Strategic Planning . . . . .	4-70

**PART III**

**TAX PLANNING WILLS WITH CREDIT SHELTER/BYPASS TRUSTS IN COMBINATION WITH MARITAL BEQUEST (OUTRIGHT OR QTIP TRUST): FOR MARRIED COUPLES WITH COMBINED ESTATES EXCEEDING LIFETIME EXEMPTION (APPLICABLE EXCLUSION AMOUNT)**

	<b>CHAPTER 5 STRATEGIC PLANNING WITH CREDIT SHELTER/BYPASS TRUSTS . . . . .</b>	<b>5-1</b>
5.1	The Changing Landscape of Estate Planning . . . . .	5-1
5.2	What is Basis?. . . . .	5-2
5.3	Credit Shelter Trust vs. Portability . . . . .	5-3

5.4	Basis Step-Up Plus Credit Shelter Trust . . . . .	5-4
5.5	Effective Utilization of Lifetime Exemption through Trusts . . .	5-7
5.6	Example: The “Sweetheart Will” Pitfall and the Credit Shelter/Bypass Trust Solution. . . . .	5-8
5.7	Workings of the Bypass Trust . . . . .	5-9
5.8	Alternatives for Structuring Bypass Trust. . . . .	5-10
5.8.1	Using a Bypass Trust with a Limited Power of Appointment to Allow for Disclaimer . . . . .	5-11
5.9	The “A-B” Will System and Formula Clauses . . . . .	5-11

**CHAPTER 6 TAX PLANNING WILLS WITH CREDIT SHELTER/ BYPASS TRUSTS IN COMBINATION WITH MARITAL BEQUEST (OUTRIGHT OR QTIP TRUST)—FOR MARRIED COUPLES WITH COMBINED ESTATES EXCEEDING LIFETIME EXEMPTION OF \$5,490,000 . . . . . 6-1**

6.1	Wills with Bypass Trust and Outright Marital Bequest—for Married Couples with Adult Children. . . . .	6-1
6.1.1	General Description of Wills . . . . .	6-1
6.1.2	Summary of Dispositive Provisions . . . . .	6-1
6.1.3	Graphic Summary of Dispositive Provisions of Credit Shelter/Bypass Trust and Estate Tax Effects. . . . .	6-2
6.1.4	When to Use These Wills . . . . .	6-3
6.1.5	Estate Tax Consequences . . . . .	6-4
6.1.6	Will Forms with Bypass Trust and Outright Marital Bequest . . . . .	6-4
	Form TP-1H: Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Income and Principal to Spouse, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i>	
	Form TP-1W: Companion Will to TP-1H	
	Form TP-2H: Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Spray of Income and Principal to Spouse and Children, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i>	
	Form TP-2W: Companion Will to TP-2H	
	Form TP-3H: Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Income	



		to Spouse, Spray of Principal to Spouse and Children, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i>	
	Form TP-3W:	Companion Will to TP-3H	
	*Form TP-1-3:	Template Form for Testator with Adult Children: with Alternative Dispositive Methods for Residuary/Bypass Trust. . . . .	6-5
6.1.7	Client Presentation Charts for TP-1, TP-2, and TP-3 . . . . .		6-21
6.1.8	Key Action Subjects for Strategic Planning . . . . .		6-23
6.2	Wills with Bypass Trust and Outright Marital Bequest for Married Couples with Minor Children . . . . .		6-24
6.2.1	General Description of Wills . . . . .		6-24
6.2.2	Overall Summary of Dispositive Provisions. . . . .		6-24
6.2.3	Graphic Summary of Dispositive Provisions of Credit Shelter/Bypass Trust and Estate Tax Effects . . . . .		6-24
6.2.4	When to Use These Wills . . . . .		6-28
6.2.5	Estate Tax Consequences . . . . .		6-29
6.2.6	Forms for Bypass Trust and Outright Marital—with Trusts for Children . . . . .		6-29
	Form TP-4H:	Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Income and Principal to Spouse, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants under 30)	
	Form TP-4W:	Companion Will to TP-4H	
	Form TP-5H:	Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Spray of Income and Principal to Spouse and Children, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants Under 30)	
	Form TP-5W:	Companion Will to TP-5H	
	Form TP-6H:	Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Income to Spouse and Spray of Principal to Spouse and Children,	

	Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants under 30)	
Form TP-6W:	Companion Will to TP-6H	
Form TP-7H:	Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Income and Principal to Spouse, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Pot Trust until Youngest Child Attains 25)	
Form TP-7W:	Companion Will to TP-7H	
Form TP-8H:	Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Spray of Income and Principal to Spouse and Children, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Pot Trust until Youngest Child Attains 25)	
Form TP-8W:	Companion Will to TP-8H	
Form TP-9H:	Marital Bequest Outright to Spouse; Credit Shelter Bequest to Residuary/Bypass Trust with Income to Spouse and Spray of Principal to Spouse and Children, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Pot Trust until Youngest Child Attains 25)	
Form TP-9W:	Companion Will to TP-9H	
*Form TP-4-9:	Template Form for Testator with Minor Children: with Alternative Dispositive Methods for Residuary/Bypass Trust and Trust for Children . . . . .	6-30
6.2.7	Client Presentation Charts for TP-4, TP-5, TP-6, TP-7, TP-8, and TP-9 . . . . .	6-51
6.2.8	Key Action Subjects for Strategic Planning . . . . .	6-56

**CHAPTER 7 STRATEGIC TAX PLANNING WITH MARITAL/QTIP TRUSTS (“A” SHARE) IN COMBINATION WITH BYPASS TRUST (“B” SHARE): THE “A-B” TRUST STRUCTURE . . . . . 7-1**

7.1	Description of the A-B Trust Structure . . . . .	7-1
7.2	The Marital Trust in General . . . . .	7-1

7.3 The Unlimited Marital Deduction and Strategic Planning with QTIP Trusts . . . . . 7-2

7.4 Federal Tax Requirements of QTIP Trust . . . . . 7-3

**CHAPTER 8 TAX PLANNING WILLS WITH QTIP AND BYPASS TRUSTS: FOR MARRIED COUPLES WITH COMBINED ESTATES EXCEEDING LIFETIME EXEMPTION (PECUNIARY FORMULA) . . . . . 8-1**

8.1 Wills with QTIP and Bypass Trusts—for Married Couples with Adult Children . . . . . 8-1

8.1.1 General Description of Wills . . . . . 8-1

8.1.2 Summary of Dispositive Provisions . . . . . 8-1

8.1.3 Summary of Dispositive Provisions and Estate Tax Effects of Marital and Credit Shelter/Bypass Trusts . . . . . 8-2

8.1.4 When to Use These Wills . . . . . 8-2

8.1.5 Estate Tax Consequences . . . . . 8-3

8.1.6 Form Wills with QTIP and Bypass Trusts—Married Couple with Adult Children . . . . . 8-3

Form TP-10H: Marital Bequest to QTIP Trust; Credit Shelter Bequest to Residuary/Bypass Trust with Income and Principal to Spouse; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, *per Stirpes*

Form TP-10W: Companion Will to TP-10H

Form TP-11H: Marital Bequest to QTIP Trust; Credit Shelter Bequest to Residuary/Bypass Trust with Spray of Income and Principal to Spouse and Children; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, *per Stirpes*

Form TP-11W: Companion Will to TP-11H

Form TP-12H: Marital Bequest to QTIP Trust; Credit Shelter Bequest to Residuary/Bypass Trust with Income to Spouse, Spray of Principal to Spouse and Children; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, *per Stirpes*

Form TP-12W: Companion Will to TP-12H

	*Form TP-10–12: Template Form for Testator with Adult Children: Marital (QTIP) Trust with Alternative Dispositive Methods for Residuary/Bypass Trust . . . . .	8-4
8.1.7	Client Presentation Charts for TP-10, TP-11, and TP-12 . . . . .	8-22
8.1.8	Key Action Subjects for Strategic Planning . . . . .	8-25
8.2	Wills with QTIP and Bypass Trusts—Married Couples with Minor Children . . . . .	8-26
8.2.1	General Description of Wills . . . . .	8-26
8.2.2	Summary of Dispositive Provisions . . . . .	8-26
8.2.3	Summary of Dispositive Provisions and Tax Effects of Marital and Credit Shelter/Bypass Trusts. . . . .	8-26
8.2.4	When to Use These Wills . . . . .	8-27
8.2.5	Estate Tax Consequences . . . . .	8-27
8.2.6	Form Wills with QTIP and Bypass Trust—for Married Couples with Minor Children . . . . .	8-28
	Form TP-13H: Marital Bequest to QTIP Trust; Credit Shelter Bequest to Residuary/Bypass Trust with Income and Principal to Spouse; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants under 30)	
	Form TP-13W: Companion Will to TP-13H	
	Form TP-14H: Marital Bequest to QTIP Trust; Residuary/Bypass Trust with Spray of Income and Principal to Spouse and Children; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants under 30)	
	Form TP-14W: Companion Will to TP-14H	
	Form TP-15H: Marital Bequest to QTIP Trust; Credit Shelter Bequest to Residuary/Bypass Trust with Income to Spouse and Spray of Principal to Spouse and Children; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants under 30)	
	Form TP-15W: Companion Will to TP-15H	
	Form TP-16H: Marital Bequest to QTIP Trust; Credit Shelter Bequest to Residuary/Bypass Trust with Income	

		and Principal to Spouse; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Pot Trust until Youngest Child Attains 25)	
	Form TP-16W:	Companion Will to TP-16H	
	Form TP-17H:	Marital Bequest to QTIP Trust; Credit Shelter Bequest to Residuary/Bypass Trust with Spray of Income and Principal to Spouse and Children; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Pot Trust until Youngest Child Attains 25)	
	Form TP-17W:	Companion Will to TP-17H	
	Form TP-18H:	Marital Bequest to QTIP Trust; Credit Shelter Bequest to Residuary/Bypass Trust with Income to Spouse and Spray of Principal to Spouse and Children; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Pot Trust Until Youngest Child Attains 25)	
	Form TP-18W:	Companion Will to TP-18H	
	*Form TP-13–18:	Template Form for Testator with Minor Children: with QTIP Trust and Alternative Dispositive Methods for Residuary/Bypass Trust and for Trusts for Children . . . . .	8-29
8.2.7	Client Presentation Charts for TP-13, TP-14, TP-15, TP-16, TP-17, and TP-18 . . . . .		8-52
8.2.8	Key Action Subjects for Strategic Planning . . . . .		8-60

**CHAPTER 9 TAX PLANNING WILLS WITH MARITAL (“A”) AND CREDIT SHELTER (“B”) SHARES: USE OF PECUNIARY CREDIT SHELTER AND RESIDUARY MARITAL BEQUESTS (REVERSE PECUNIARY FORMULA) . . . . .**

9.1	Overview and Practical Considerations . . . . .	9-1
9.2	“Reverse Pecuniary” Wills with Bypass Trust and Outright Marital Bequest—Married Couples with Adult Children. . . . .	9-2
9.2.1	General Description of Wills . . . . .	9-2
9.2.2	Summary of Dispositive Provisions . . . . .	9-2

9.2.3	When to Use These Wills . . . . .	9-2
9.2.4	Estate Tax Consequences . . . . .	9-3
9.2.5	Form Reverse Pecuniary Wills with Bypass Trust and Outright Marital Bequest . . . . .	9-3
	*Form TP-19H: Pecuniary Credit Shelter Bequest to Bypass Trust for Benefit of Spouse and Children; Marital Bequest Outright to Spouse; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> . . . . .	9-4
	Form TP-19W: Companion Will to TP-19H	
9.2.6	Client Presentation Chart for TP-19 . . . . .	9-19
9.3	“Reverse Pecuniary” Wills for Married Couples with Adult Children (with QTIP Trust). . . . .	9-19
9.3.1	General Description of Wills . . . . .	9-19
9.3.2	Summary of Dispositive Provisions . . . . .	9-20
9.3.3	When to Use These Wills . . . . .	9-20
9.3.4	Estate Tax Consequences . . . . .	9-21
9.3.5	Form Reverse Pecuniary Wills with QTIP and Bypass Trusts . . . . .	9-21
	*Form TP-20H: Pecuniary Credit Shelter Bequest to Bypass Trust; Marital Bequest to QTIP Trust; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> . . . . .	9-21
	Form TP-20W: Companion Will to TP-20H	
9.3.6	Client Presentation Chart for TP-20 . . . . .	9-38
9.4	“Reverse Pecuniary” Wills with Bypass Trust and Outright Marital Bequest for Married Couples with Minor Children . . . . .	9-40
9.4.1	General Description of Wills . . . . .	9-40
9.4.2	Summary of Dispositive Provisions . . . . .	9-40
9.4.3	When to Use These Wills . . . . .	9-41
9.4.4	Estate Tax Consequences . . . . .	9-41
9.4.5	Form Reverse Pecuniary Wills with Bypass Trust and Outright Marital Bequest . . . . .	9-42
	Form TP-21H: Pecuniary Credit Shelter Bequest to Bypass Trust for Benefit of Spouse and Children; Marital Bequest Outright to Spouse; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Children under 30)	
	Form TP-21W: Companion Will to TP-21H	

	Form TP-22H:	Pecuniary Credit Shelter Bequest to Bypass Trust for Benefit of Spouse and Children; Marital Bequest Outright to Spouse; Remainder (or Entire Estate if Spouse Does Not Survive) to Pot Trust until Youngest Child Attains 25	
	Form TP-22W:	Companion Will to TP-22H	
	*Form TP-21/22:	Template Form for Married Testator with Minor Children; Pecuniary Credit Shelter Bequests to Bypass Trust and Outright Marital Bequest with Alternative Clauses for Children’s Trusts (Separate Trusts or Pot Trust) . . .	9-43
9.4.6	Client Presentation Charts for TP-21 and TP-22 . . . .		9-62
9.5	“Reverse Pecuniary” Wills for Married Couples with Minor Children (with QTIP Trust). . . . .		9-64
9.5.1	General Description of Wills . . . . .		9-64
9.5.2	Summary of Dispositive Provisions . . . . .		9-64
9.5.3	When to Use These Wills . . . . .		9-65
9.5.4	Estate Tax Consequences . . . . .		9-66
9.5.5	Form Reverse Pecuniary Wills with QTIP and Bypass Trusts . . . . .		9-66
	Form TP-23H:	Pecuniary Credit Shelter Bequest to Bypass Trust; Marital Bequest to QTIP Trust; Remainder of Trusts (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Children under 30)	
	Form TP-23W:	Companion Will to TP-23H	
	Form TP-24H:	Pecuniary Credit Shelter Bequest to Bypass Trust; Marital Bequest to QTIP Trust; Remainder of Trusts (or Entire Estate if Spouse Does Not Survive) to Pot Trust until Youngest Child Attains 25	
	Form TP-24W:	Companion Will to TP-24H	
	*Form TP-23/24:	Template Form for Married Testator with Minor Children; Pecuniary Credit Shelter Bequest to Bypass Trust; Marital Bequest to QTIP Trust; Alternative Clauses for Children’s Trusts (Separate Trusts or Pot Trust) . .	9-67
9.5.6	Client Presentation Charts for TP-23 and TP-24 . . . .		9-88
9.5.7	Key Action Subjects for Strategic Planning . . . . .		9-92

**PART IV**  
**“FLEXIBLE” TAX PLANNING WILLS WITH DISCLAIMER TRUSTS: MARRIED COUPLES WITH COMBINED ESTATES APPROACHING OR EXPECTED TO EXCEED LIFETIME EXEMPTION OR WHO DESIRE A FLEXIBLE APPROACH**

<b>CHAPTER 10 STRATEGIC PLANNING WITH “FLEXIBLE”</b>		
	<b>DISCLAIMER TRUSTS. . . . .</b>	<b>10-1</b>
10.1	Overview of the Disclaimer Trust Technique . . . . .	10-1
10.2	Requirements of a Qualified Disclaimer. . . . .	10-2
10.2.1	Federal Tax Requirements and Consequences . . . . .	10-2
10.2.2	The Pennsylvania Disclaimer Law . . . . .	10-3
10.2.2.1	Classes of Individuals Who May Disclaimer under Pennsylvania Law . . . . .	10-3
10.2.2.2	Time Limits and Place for Filing Disclaimer . . . . .	10-3
10.2.2.3	Other Requirements under Pennsylvania Law . . . . .	10-4
	Form 10-1: Disclaimer of Shares of Stock . . . . .	10-4
	Form 10-2: Disclaimer of Interest under Revocable Trust . . . . .	10-5
10.3	When is a Disclaimer Used—in General . . . . .	10-7
10.4	Reducing the Marital Deduction through a Disclaimer: A Case Study. . . . .	10-7
10.5	Increased Use of Disclaimer Trusts under ATRA. . . . .	10-9
10.5.1	The Impact of the Increasing Lifetime Exemption on Formula Clause Wills and Revocable Trusts—“the ATRA Trap” . . . . .	10-9
10.5.2	The Flexible Disclaimer Trust Solution . . . . .	10-10
10.5.3	Some Pitfalls and Disadvantages of Disclaimer Approach. . . . .	10-10
10.6	Increased Use of Disclaimer Trusts in Light of Other States’ “Decoupled” Estate Tax . . . . .	10-11
10.7	Use of Deceased Spouse’s Unused Exemption Amount Versus Use of Trusts . . . . .	10-11
<b>CHAPTER 11 TAX PLANNING WILLS WITH</b>		
	<b>DISCLAIMER TRUSTS. . . . .</b>	<b>11-1</b>
11.1	Disclaimer Wills for Married Couples with Adult Children . . . . .	11-1
11.1.1	Summary of Dispositive Provisions . . . . .	11-1
11.1.2	Summary of Dispositive Provisions and Tax Effects of Disclaimer Trust . . . . .	11-1
11.1.3	When to Use These Wills . . . . .	11-3
11.1.4	Estate Tax Consequences . . . . .	11-3



11.1.5	Form Wills with Disclaimer Trusts—for Married Couples with Adult Children. . . . .	11-4
	Form DW-1H: Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust” for Benefit of Spouse, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i>	
	Form DW-1W: Companion Will to DW-1H	
	Form DW-2H: Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust” for Benefit of Spouse and Descendants During Spouse’s Life (Preference to Spouse), Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i>	
	Form DW-2W: Companion Will to DW-2H	
	Form DW-3H: Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust” (Income to Spouse, Spray of Principal to Spouse and Descendants), Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i>	
	Form DW-3W: Companion Will to DW-3H	
	*Form DW-1–3: Template Form for Married Testator with Adult Children: Will with “Disclaimer Trust” with Alternative Methods for Trust Distributions . . . . .	11-4
11.1.6	Key Action Subjects for Strategic Planning . . . . .	11-21
11.2	Disclaimer Wills for Married Couples with Minor Children . . . . .	11-21
11.2.1	Dispositive Provisions of Wills in Category . . . . .	11-21
11.2.2	Summary of Dispositive Provisions and Tax Effects of Disclaimer Trust . . . . .	11-22
11.2.3	When to Use These Wills . . . . .	11-26
11.2.4	Estate Tax Consequences . . . . .	11-26
11.2.5	Form Wills with Disclaimer Trusts for Married Couple with Minor Children. . . . .	11-27
	Form DW-4H: Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust” for Benefit of Spouse, Remainder (or Entire Estate	

	if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants under 30)
Form DW-4W:	Companion Will to DW-4H
Form DW-4H-3:	Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust” for Benefit of Spouse, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> ; Separate Trusts for Descendants under 35; Three Distribution Ages
Form DW-4W-3:	Companion Will to DW-4H-3
Form DW-5H:	Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust”—Spray of Income and Principal to Spouse and Descendants; Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants under 30)
Form DW-5W:	Companion Will to DW-5H
Form DW-6H:	Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust”—Income to Spouse, Spray of Principal to Spouse and Children, Remainder (or Entire Estate if Spouse Does Not Survive) to Living Descendants, <i>per Stirpes</i> (Separate Trusts for Descendants under 30)
Form DW-6W:	Companion Will to DW-6H
Form DW-7H:	Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust” for Benefit of Spouse, Remainder (or Entire Estate if Spouse Does Not Survive) to Pot Trust until Youngest Child Attains 25
Form DW-7W:	Companion Will to DW-7H
Form DW-8H:	Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust”—Spray of Income and Principal to Spouse

	and Descendants; Remainder (or Entire Estate if Spouse Does Not Survive) to Pot Trust until Youngest Child Attains 25	
Form DW-8W:	Companion Will to DW-8H	
Form DW-9H:	Gift of Residuary Estate Outright to Spouse with Disclaimer Option to “Disclaimer Trust”—Income to Spouse, Spray of Principal to Spouse and Descendants; Remainder (or Entire Estate if Spouse Does Not Survive) to Pot Trust until Youngest Child Attains 25	
Form DW-9W:	Companion Will to DW-9H	
*Form DW-4–9:	Template Form for Married Testator with Minor Children with “Disclaimer Trust” with Alternative Methods for Distribution during Lifetime of Spouse and Alternative Children’s Trusts . . . . .	11-28
11.2.6	Key Action Subjects for Strategic Planning . . . . .	11-50

**PART V  
GENERATION-SKIPPING TRANSFER (“GST”) TAX  
PLANNING WITH GENERATION-SKIPPING  
TRUSTS—FOR LARGE ESTATES**

<b>CHAPTER 12</b>	<b>STRATEGIC PLANNING WITH GENERATION-SKIPPING TRUSTS . . . . .</b>	<b>12-1</b>
12.1	Overview of Generation-Skipping Transfer Tax (GST) . . . . .	12-1
12.2	Sheltering the Tax through the GST Exemption . . . . .	12-2
12.3	Effective Use of the GST Exemption—Benefits to Children and Tax Savings . . . . .	12-3
12.4	Allocation of GST Exemption to Assets with Greatest Appreciation Potential . . . . .	12-3
12.5	Structure of Wills with Generation-Skipping Trusts . . . . .	12-4
12.6	The “Reverse QTIP” Election: Allocating First Spouse’s GST Exemption to Marital Trust . . . . .	12-6
12.7	Use of the First Spouse’s Nonexempt Marital Trust to Allocate GST Exemption of Surviving Spouse . . . . .	12-8
12.8	Ramifications and Drafting Considerations in Light of EGTRRA and TRA 2010 . . . . .	12-9

**CHAPTER 13 TAX PLANNING WILLS WITH GENERATION-SKIPPING TRUSTS . . . . . 13-1**

13.1 Wills with Generation-Skipping Trusts for Married  
 Couples with Adult Children. . . . . 13-1

13.1.1 General Description of Wills. . . . . 13-1

13.1.2 Summary of Dispositive Provisions . . . . . 13-2

13.1.3 Form Wills with Generation-Skipping Trust. . . . . 13-4

\*Form GST-1H: Marital Bequest Divided into Exempt GST and Nonexempt Trusts; Credit Shelter Bequest to Exempt Bypass GST for Benefit of Spouse and Children; Remainder—Exempt Trusts to Separate GST Trusts for Children, Nonexempt to Living Descendants, *per Stirpes*. . . . . 13-5

Form GST-1W: Companion Will to GST-1H

\*Form GST-2H: Marital Bequest Divided into Exempt GST and Nonexempt Trusts; Credit Shelter Bequest to Exempt Bypass GST Trust for Benefit of Spouse and Children; Remainder—Exempt Trusts to Separate GST Trusts for Children; Nonexempt to Living Descendants, *per Stirpes* (with Flexibility for Distribution of Remainder of Nonexempt Trust to Children’s GST Trusts). . . . . 13-28

Form GST-2W: Companion Will to GST-2H

Form GST-3H: Marital Bequest Divided into Exempt GST and Nonexempt Trusts; Credit Shelter Bequest to Separate Exempt GST Trusts for Children; Remainder—Exempt Marital to Exempt Children’s Trusts, Nonexempt Trust to Living Descendants, *per Stirpes*

Form GST-3W: Companion Will to GST-3H

Form GST-4H: Marital Bequest Divided into Exempt GST and Nonexempt Trusts; Credit Shelter Bequest to Separate Exempt GST Trusts for Children; Remainder of Exempt Trusts to Exempt

	Children’s Trusts, Nonexempt to Living Descendants, <i>per Stirpes</i> (with Flexibility for Distribution of Remainder to Nonexempt Trust to Children’s GST Trusts)
Form GST-4W:	Companion Will to GST-4H
Form GST-5H:	Marital Bequest Divided into Exempt GST and Nonexempt Trust; Credit Shelter Bequest to Exempt GST Bypass Trust for Benefit of Spouse and Children; Remainder—Exempt Trusts to GST Spray Trust for Children and Descendants, Nonexempt to Living Descendants, <i>per Stirpes</i>
Form GST-5W:	Companion Will to GST-5H
Form GST-6H:	Marital Bequest Divided into Exempt GST and Nonexempt Trusts; Credit Shelter Bequest to Exempt GST Bypass Trust for Benefit of Spouse and Children; Remainder—Exempt Trusts to GST Spray Trust for Children and Descendants, Nonexempt to Living Descendants, <i>per Stirpes</i> (with Flexibility for Distribution of Remainder of Nonexempt Trust to Children’s GST Trusts)
Form GST-6W:	Companion Will to GST-6H
Form GST-7H:	Marital Bequest Divided into Exempt and Nonexempt Trusts; Credit Shelter Bequest to Spray GST Trust for Descendants; Remainder—Exempt Marital to Descendant’s Trust; Remainder of Nonexempt Trust to Living Descendants, <i>per Stirpes</i>
Form GST-7W:	Companion Will to GST-7H
Form GST-8H:	Marital Bequest Divided into Exempt and Nonexempt Trusts; Credit Shelter Bequest to Spray GST Trust for Descendants; Remainder—Exempt Marital to Descendant’s Trust; Remainder of Nonexempt Trust to Living

	Descendants, <i>per Stirpes</i> (with Flexibility for Distribution of Remainder of Nonexempt Trust to Children’s GST Trusts)	
	Form GST-8W: Companion Will to GST-8H	
13.1.4	Client Presentation Charts for All GST Wills . . . . .	13-50
13.1.5	Key Action Subjects for Strategic Planning . . . . .	13-72

**PART VI**  
**WILLS FOR UNMARRIED INDIVIDUALS (SINGLE, WIDOWED, DIVORCED)**

<b>CHAPTER 14</b>	<b>WILLS FOR UNMARRIED INDIVIDUALS (SINGLE, WIDOWED, DIVORCED) . . . . .</b>	<b>14-1</b>
14.1	Overview and Overall Dispositive Summary of Wills Selected	14-1
14.2	Simple Wills for Unmarried Person with Adult Children . . . . .	14-2.1
14.2.1	Summary of Dispositive Provisions . . . . .	14-2.1
14.2.2	When to Use These Wills . . . . .	14-3
14.2.3	Estate Tax Consequences . . . . .	14-3
14.2.4	Form Simple Wills for Unmarried Persons with Adult Children . . . . .	14-3
	*Form UM-1M: Unmarried Male Testator with Adult Children: Outright Gift of Residuary Estate to Adult Children . . . . .	14-3
	Form UM-1F: Corresponding Will to UM-1M for Testatrix	
14.3	Wills for Unmarried Person with Minor Children . . . . .	14-11
14.3.1	Summary of Dispositive Provisions . . . . .	14-11
14.3.2	Distribution of Separate Trusts for Children . . . . .	14-11
14.3.3	Distribution of Pot Trusts for Children . . . . .	14-11
14.3.4	When to Use These Wills . . . . .	14-12
14.3.5	Estate Tax Consequences . . . . .	14-12
14.3.6	Form Simple Wills for Unmarried Persons with Minor Children . . . . .	14-12
	Form UM-2M: Unmarried Male Testator with Minor Children: Gift of Residuary Estate to Separate Trusts for Children—Complete Distribution at Age 30	
	Form UM-2F: Corresponding Will to UM-2M for Testatrix	
	Form UM-2M-3: Unmarried Male Testator with Minor Children: Gift of Residuary Estate to Separate Trusts for Children—Complete	

		Distribution at Age 35; Distribution at Three Ages	
	Form UM-2F-3:	Corresponding Will to UM-2M-3 for Testatrix	
	Form UM-3M:	Unmarried Male Testator with Minor Children: Gift of Residuary Estate to Pot Trust until Youngest Child Reaches 25	
	Form UM-3F:	Corresponding Will to UM-3M for Testatrix	
	*Form UM-2/3:	Template Form for Unmarried Testator with Minor Children with Alternative Dispositive Methods of Residuary Estate Clauses for Separate Trusts and Pot Trust. . .	14-13
14.4	Will for Unmarried Individuals without Children. . . . .		14-29
	14.4.1	Overview . . . . .	14-29
	14.4.2	Summary of Dispositive Provisions . . . . .	14-30
	14.4.3	When to Use These Wills . . . . .	14-30
	14.4.4	Estate Tax Consequences . . . . .	14-30
	14.4.5	Form Wills for Unmarried Individuals without Children. . . . .	14-30
	*Form UM-4M:	Unmarried Testator Who Desires to Benefit Friend/Companion: Gift of Residuary Estate to Trust for Friend/Companion for Life, Remainder to Nieces and Nephews (Separate Trusts if under 30). . .	14-31
	Form UM-4F:	Corresponding Will to UM-4M for Testatrix	
	Form UM-4M-3:	Unmarried Testator Who Desires to Benefit Friend/Companion: Gift of Residuary Estate to Trust for Friend/Companion for Life, Remainder to Nieces and Nephews (Separate Trusts if under 35; Distribution at Three Ages)	
	Form UM-4F-3:	Corresponding Will to UM-4M-3 for Testatrix	
14.5	Pour-Over Will to Revocable Trust. . . . .		14-46
	14.5.1	Summary of Dispositive Provisions . . . . .	14-46
	14.5.2	When to Use These Wills . . . . .	14-46
	14.5.3	Estate Tax Consequences . . . . .	14-47
	14.5.4	Form Pour-Over Will . . . . .	14-47
	*Form UM-5M:	Will for Unmarried Male Testator Pour-Over Will—to	

		Revocable Trust Created During Lifetime. . . . .	14-47
	Form UM-5F:	Corresponding Will to UM-5M for Unmarried Testatrix	
14.6	Wills for Single Individual with Generation-Skipping Trusts . . .		14-55
14.6.1	Overview . . . . .		14-55
14.6.2	Overall Summary of Dispositive Provisions . . . . .		14-56
14.6.3	Objective of GST Wills for Unmarrieds . . . . .		14-56
14.6.4	Detailed Summary of Dispositive Provisions of GST Trusts . . . . .		14-57
14.6.5	When to Use These Wills . . . . .		14-58
14.6.6	Form Wills for Unmarried Individuals with Generation-Skipping Trusts . . . . .		14-58
	Form UM-6M:	Unmarried Testator with Adult Children: Residuary Bequest to Be Divided into: (1) Exempt Portion—Separate Generation- Skipping Trusts for Children, Remainder to Grandchildren with Limited Power of Appointment to Children; and (2) Nonexempt Portion—Outright to Living Descendants, <i>per Stirpes</i>	
	Form UM-6F:	Corresponding Will to UM-6M for Testatrix	
	Form UM-7M:	Unmarried Testator with Adult Children: Residuary Bequest to Be Divided into: (1) Exempt Portion—Separate Generation-Skipping Trusts for Benefit of Each Child and Child’s Descendants during Lifetime of Child, Remainder to Grandchildren with Limited Power of Appointment to Children; and (2) Nonexempt Portion—Outright to Living Descendants, <i>per Stirpes</i>	
	Form UM-7F:	Corresponding Will to UM-7M for Unmarried Testatrix	
	Form UM-8M:	Unmarried Testator with Adult Children: Residuary Bequest to Be Divided into: (1) Exempt Portion—Dynasty Generation- Skipping Trust for Benefit of	



	Descendants for Maximum Period Allowed by Rule Against Perpetuities; and (2) Nonexempt Portion—Outright to Living Descendants, <i>per Stirpes</i>	
Form UM-8F:	Corresponding Will to UM-8M for Unmarried Testatrix	
*Form UM-6–8:	Template Will Forms for Unmarried Testator with Adult Children: with Alternative Dispositive Methods for Residuary Bequest—Division Between Exempt and Nonexempt Portions . . . . .	14-59
14.6.7	Key Action Subjects for Strategic Planning . . . . .	14-80

**PART VII  
REVOCABLE (LIVING) TRUSTS AND POUR-OVER WILLS**

**CHAPTER 15 STRATEGIC PLANNING WITH REVOCABLE TRUSTS AS PRIMARY TESTAMENTARY INSTRUMENT . . . . . 15-1**

15.1	Revocable Trusts as Will Substitutes: Advantages, Disadvantages, and Practical Considerations . . . . .	15-1
15.1.1	Overview . . . . .	15-1
15.1.2	Practical Uses, Advantages, and Disadvantages . . . . .	15-1
15.1.2.1	Probate Avoidance . . . . .	15-1
15.1.2.2	Estate and Income Taxes . . . . .	15-3
15.1.2.3	Planning for Incapacity . . . . .	15-3
15.1.2.4	Ancillary Administration: Real Estate in More than One State . . . . .	15-4.1
15.1.2.5	Potential for Will Contests . . . . .	15-4.1
15.1.3	Summary . . . . .	15-4.1
15.2	Mechanics and Operation of Revocable Trust/Pour-Over Will Structure . . . . .	15-4.2
15.2.1	Transfer of Assets to Trust . . . . .	15-4.2
15.2.2	Trustee . . . . .	15-4.2
15.2.3	Dispositive Provisions During Life of Settlor and upon Death . . . . .	15-5
15.2.4	Right to Revoke . . . . .	15-5
15.2.5	Tax Identification Number . . . . .	15-5
15.2.6	Tax Consequences of a Revocable Trust . . . . .	15-5
15.2.6.1	Gift Taxes . . . . .	15-5
15.2.6.2	Income Tax . . . . .	15-5
15.2.6.3	Estate Tax . . . . .	15-5

15.2.7	Pour-Over Will . . . . .	15-6
15.3	Overall Summary of Forms. . . . .	15-6
	*Form 15-1: Transfer to Trust—Example Deed . . . . .	15-7
	*Form 15-2: Transfer to Child—Life Estate with Powers—Example Deed . . . . .	15-9
	*Form 15-3: Transfer to Child—Life Estate without Powers—Example Deed . . . . .	15-11

**CHAPTER 16 REVOCABLE TRUSTS AND POUR-OVER WILLS FOR UNMARRIED INDIVIDUALS . . . . 16-1**

16.1	Overall Summary of Forms and Dispositive Summary . . . . .	16-1
16.2	Simple Revocable Trust and Pour-Over Will for Unmarried Individual with Adult Children (RT-1 and PO-1) . . . . .	16-2
16.2.1	Summary of Dispositive Provisions of RT-1. . . . .	16-2
16.2.2	When to Use This Revocable Trust (RT-1) . . . . .	16-3
16.2.3	Income, Gift, and Estate Tax Consequences. . . . .	16-3
16.2.4	Forms . . . . .	16-4
	*Form RT-1: Revocable Trust Agreement for Unmarried Settlor—Outright Disposition to Adult Children at Death of Settlor . . . . .	16-4
	*Form PO-1: For Unmarried Testator/Testatrix: Pour-Over Will—to Accompany RT-1 . . . . .	16-14
16.3	Revocable Trust and Pour-Over Will for Unmarried Individuals without Children (RT-2 and PO-2). . . . .	16-22
16.3.1	Summary of Dispositive Provisions of RT-2. . . . .	16-22
16.3.2	When to Use This Revocable Trust (RT-2) . . . . .	16-22
16.3.3	Income, Gift, and Estate Tax Consequences. . . . .	16-23
16.3.4	Forms . . . . .	16-24
	*Form RT-2: Revocable Trust Agreement for Unmarried Settlor Who Wishes to Benefit Friend/Companion—to Friend/Companion for Life, Remainder to Nieces and Nephews (in Trust if under 30) . . . . .	16-24
	*Form PO-2: For Unmarried Testator/Testatrix: Pour-Over Will—to Accompany RT-2 . . . . .	16-37
16.4	Revocable Trusts and Pour-Over Wills for Unmarried Individuals with Children—with Generation-Skipping Trusts (RT-3 and RT-4 and PO-3/4) . . . . .	16-45
16.4.1	Summary of Dispositive Provisions of RT-3 and RT-4 . . . . .	16-45
16.4.2	Objective of GST Provisions for Unmarrieds. . . . .	16-46

16.4.3	Detailed Summary and Estate Tax Effects of Dispositive Provisions of GST-Exempt Trusts (after Settlor’s Death) under RT-3 and RT-4 . . . . .	16-46
16.4.4	When to Use These Revocable Trusts (RT-3 and RT-4). . . . .	16-47
16.4.5	Forms . . . . .	16-48
	*Form RT-3: Revocable Trust Agreement for Unmarried Individual with Adult Children—with GST Trusts for Children upon Death of Settlor. . . . .	16-48
	*Form RT-4: Revocable Trust Agreement for Unmarried Individual with Adult Children—with Dynasty Trust for Descendants for Maximum Perpetuities Period if Any . . . . .	16-62
	*Form PO-3/4: For Unmarried Testator/Testatrix: Pour-Over Will—to Accompany RT-3 and RT-4. . . . .	16-77

**CHAPTER 17 REVOCABLE TRUSTS AND POUR-OVER WILLS FOR MARRIED COUPLES WITHOUT TAX PLANNING (COMBINED ESTATES NOT EXCEEDING LIFETIME EXEMPTION) . . . . . 17-1**

17.1	Overview and Practical Considerations . . . . .	17-1
17.2	Summary of Dispositive Provisions of RT-5. . . . .	17-1
17.3	When to Use This Revocable Trust (RT-5) . . . . .	17-2
17.4	Income, Gift, and Estate Tax Consequences . . . . .	17-2
17.5	Forms . . . . .	17-3
	*Form RT-5: Simple Revocable Trust Agreement for Married Settlor—Outright Disposition to Spouse upon Death of Settlor (to Children if Spouse Does Not Survive) . . . . .	17-3
	*Form PO-5–9: For Married Testator/Testatrix: Pour-Over Will—to Accompany RT-5–9 . . . . .	17-16
	*Form RT-5-GL: Revocable Trust for Same-Sex Couple . . . . .	17-23

**CHAPTER 18 REVOCABLE TRUSTS AND POUR-OVER WILLS WITH CREDIT SHELTER/BYPASS TRUSTS—FOR MARRIED COUPLES WITH COMBINED ESTATES EXCEEDING LIFETIME EXEMPTION . . . . . 18-1**

18.1	Strategic Planning with Credit Shelter/Bypass Trusts . . . . .	18-1
------	--	------

18.2	Summary of Dispositive Provisions of RT-6. . . . .	18-2
18.3	Graphic Summary of Dispositive Provisions of Credit Shelter/Bypass Trust under RT-6 and Estate Tax Effects . . . . .	18-2
18.4	Alternatives for Structuring Bypass Trust. . . . .	18-3
18.4.1	Using a Bypass Trust with a Limited Power of Appointment to Allow for Disclaimer. . . . .	18-4
18.5	When to Use Revocable Trust RT-6 . . . . .	18-4
18.6	Income, Gift, and Estate Tax Consequences. . . . .	18-5
18.7	Forms . . . . .	18-6
	*Form RT-6: Revocable Trust Agreement for Married Settlor—with Credit Shelter/Bypass Trust . . . . .	18-6
	*Form PO-5-9: Pour-Over Will—to Accompany RT-6. . . . .	18-16

**CHAPTER 19 REVOCABLE TRUSTS AND POUR-OVER WILLS WITH MARITAL/QTIP TRUST IN COMBINATION WITH CREDIT SHELTER/BYPASS TRUST: THE “A-B” TRUST STRUCTURE (COMBINED ESTATES EXCEED LIFETIME EXEMPTION). . . . . 19-1**

19.1	Strategic Planning with “A-B” Trust Structure. . . . .	19-1
19.2	Federal Tax Requirements of QTIP Trust . . . . .	19-2
19.3	Summary of Dispositive Provisions of RT-7. . . . .	19-3
19.4	Graphic Summary of Dispositive Provisions of Credit Shelter/Bypass Trust under RT-7 and Estate Tax Effects . . . . .	19-3
19.5	When to Use Revocable Trust RT-7 . . . . .	19-4
19.6	Income, Gift, and Estate Tax Consequences. . . . .	19-5
19.7	Forms . . . . .	19-6
	*Form RT-7: Revocable Trust Agreement for Married Settlor—with Marital and Bypass Trusts. . . . .	19-6
	*Form PO-5-9: For Married Testator/Testatrix: Pour-Over Will—to Accompany RT-7. . . . .	19-23

**CHAPTER 20 REVOCABLE TRUST AND POUR-OVER WILL FOR MARRIED COUPLE WITH DISCLAIMER TRUST OPTION UPON DEATH OF SETTLOR. . . . . 20-1**

20.1	Strategic Planning with Disclaimer Trusts . . . . .	20-1
20.2	Summary of Dispositive Provisions of RT-8. . . . .	20-2
20.3	Graphic Summary of Dispositive Provisions of Disclaimer Trust under RT-8 and Estate Tax Effects. . . . .	20-2
20.4	When to Use Revocable Trust RT-8 . . . . .	20-3
20.5	Income, Gift, and Estate Tax Consequences. . . . .	20-4
20.6	Forms . . . . .	20-4

*Form RT-8:	Revocable Trust Agreement for Married Settlor—Outright to Spouse with Option for Disclaimer Trust after Death of Settlor . . . .	20-5
*Form PO-5-9:	For Married Testator/Testatrix: Pour-Over Will—to Accompany RT-8. . . . .	20-19

**CHAPTER 21 REVOCABLE TRUST FOR MARRIED SETTLORS WITH GENERATION-SKIPPING TRUSTS . . . . . 21-1**

21.1	Strategic Planning with Generation-Skipping Trusts: Benefits and Use of GST Exemption . . . . .	21-1
21.2	Three-Trust Structure of Revocable Trust Agreement with Generation Skipping Trust (RT-9). . . . .	21-2
21.2.1	Strategic Objectives under RT-9 . . . . .	21-2
21.2.2	The Three Trusts . . . . .	21-3
	21.2.2.1 Residuary (Credit Shelter) Trust . . . .	21-3
	21.2.2.2 Exempt and Nonexempt Marital Trusts . . . . .	21-3
21.3	The “Reverse QTIP” Election. . . . .	21-4
21.3A	Ramifications and Drafting Considerations in Light of TRUIRJA, EGTRRA, TRA 2010 and ATRA 2012 . . . . .	21-6
21.4	Summary of Dispositive Provisions of RT-9. . . . .	21-7
21.5	Graphic Summary of Dispositive Provisions of Exempt and Nonexempt Generation-Skipping Trusts under RT-9 and Estate Tax Effects. . . . .	21-8
21.6	When to Use Revocable Trust RT-9 . . . . .	21-10
21.7	Forms . . . . .	21-11
	*Form RT-9: Revocable Trust Agreement for Married Settlor—with Generation-Skipping Trusts . . . . .	21-11
	*Form PO-5-9: For Married Testator/Testatrix: Pour-Over Will—to Accompany RT-5-9. . . . .	21-32

**PART VIII  
STRATEGIC ESTATE PLANNING WITH IRREVOCABLE TRUSTS**

**CHAPTER 22 IRREVOCABLE LIFE INSURANCE TRUSTS (ILITS) . . . . . 22-1**

22.1	The Life Insurance Trust—A Panacea, Indeed, for Estate Tax Savings . . . . .	22-1
22.2	Tax Strategies to Make Effective Uses of ILITs: Proper <i>Crummey</i> Notices and Avoiding the 3-Year Rule . . . . .	22-3
22.2.1	The <i>Crummey</i> Notice and the Annual Gift Exclusion . . . . .	22-3
22.2.2	The 3-Year Rule and Strategies for Avoidance . . . .	22-4

22.3	The 8-Step Procedure for Establishing and Maintaining a Life Insurance Trust . . . . .	22-5
	*Form 22-1: Checklist for Establishing and Maintaining an ILIT. . . . .	22-5
22.4	Life Insurance Trust on One Life—for Married Settlor . . . . .	22-6
22.4.1	Purposes and Uses of ILIT-1 (Standard ILIT) and ILIT-2 (ILIT with Generation-Skipping Trusts) . . . . .	22-6
22.4.2	Graphic Summary of Dispositive Provisions of ILIT-1 and ILIT-2 with Estate Tax Effects . . . . .	22-7
22.4.3	Forms . . . . .	22-9
	*Form ILIT-1: Irrevocable Trust Agreement for Married Settlor—for Benefit of Spouse and Children . . . . .	22-9
	Form ILIT-1-1T: Irrevocable Trust Agreement for Married Settlor—for Benefit of Spouse and Children; Only One Trustee Named	
	*Form ILIT-2: Irrevocable Trust Agreement for Married Settlor—with Generation-Skipping Trusts to Utilize GST Exemption. . . . .	22-30
	Form ILIT-2-1T: Irrevocable Trust Agreement for Married Settlor—with Generation-Skipping Trusts to Utilize GST Exemption; Only One Trustee Named	
	*Form 22-2: <i>Crummey</i> Notice Letter for Single Life Policy—to Accompany ILIT-1 and ILIT-2 . . . . .	22-53
22.5	Life Insurance Trust on One Life—for Unmarried Settlor with Children (e.g., Widowed, Divorced) . . . . .	22-54
22.5.1	Purposes and Uses of ILIT-3 (Standard ILIT) and ILIT-4 (ILIT with Generation-Skipping Trusts) . . . . .	22-54
22.5.2	Graphic Summary of Dispositive Provisions of ILIT-3 and ILIT-4 with Estate Tax Effects . . . . .	22-54
22.5.3	Forms . . . . .	22-55
	*Form ILIT-3: ILIT for Unmarried Settlor—for Benefit of Children . . . . .	22-56
	Form ILIT-3-1T: ILIT for Unmarried Settlor—for Benefit of Children; Only One Trustee Named	
	*Form ILIT-4: ILIT for Unmarried Settlor—with Generation-Skipping Trusts to Utilize GST Exemption. . . . .	22-74

	Form ILIT-4-1T: ILIT for Unmarried Settlor—with Generation-Skipping Trusts to Utilize GST Exemption; Only One Trustee Named	
	*Form 22-2: <i>Crummey</i> Notice Letter for Single Life Policy—to Accompany ILIT-3 and ILIT-4	
22.6	Life Insurance Trusts on Two Lives (for Second-to-Die Policies)—ILIT-5 and ILIT-6 . . . . .	22-95
22.6.1	Purposes and Practical Uses of Second-to-Die Policies and Special Requirements . . . . .	22-95
22.6.2	Graphic Summary of Dispositive Provisions of ILIT-5 (Standard ILIT for Second-to-Die Policy) and ILIT-6 (ILIT for Second-to-Die Policy with Generation-Skipping Trusts). . . . .	22-96
22.6.3	Forms . . . . .	22-97
	*Form ILIT-5: ILIT for Second-to-Die Policy	22-97
	Form ILIT-5-1T: ILIT for Second-to-Die Policy; Only One Trustee Named	
	*Form ILIT-6: ILIT for Second-to-Die Policy with Generation-Skipping Trusts . . . . .	22-117
	Form ILIT-6-1T: ILIT for Second-to-Die Policy with Generation-Skipping Trusts; Only One Trustee Named	
	*Form 22-3: Sample <i>Crummey</i> Notice Letter—to Accompany Second-to-Die ILITs . . . . .	22-140
<b>CHAPTER 23 TRUSTS FOR MINORS. . . . .</b>		<b>23-1</b>
23.1	Practical Uses and Overall Comparisons of Trusts with Custodial Transfers and Section 529 Plans. . . . .	23-1
23.1.1	Custodial Transfers . . . . .	23-1
23.1.2	Section 529 Plans . . . . .	23-2
23.2	Section 2503(c)—Minor’s Trusts . . . . .	23-3
23.2.1	Requirements . . . . .	23-3
23.2.2	Tax Issues . . . . .	23-4
23.2.3	Planning Considerations: Extending the 2503(c) Trust beyond Age 21 . . . . .	23-4
23.2.4	Forms for Section 2503(c) Minor Trust . . . . .	23-5
	*Form 23-1: Section 2503(c) Minor’s Trust for One Beneficiary Qualifying for Annual Gift Tax Exclusion . . . . .	23-5
23.3	<i>Crummey</i> Minor’s Trust . . . . .	23-18
23.3.1	Requirements and Practical Uses. . . . .	23-18

23.3.2	Combining <i>Crummey</i> Minor’s Trusts with Generation-Skipping Tax Planning . . . . .	23-18
23.3.3	Summary of Dispositive Provisions of Forms for <i>Crummey</i> Minor’s Trust. . . . .	23-19
23.3.4	Forms for <i>Crummey</i> Minor’s Trusts . . . . .	23-21
	*Form 23-2: <i>Crummey</i> Minor’s Trust for One Child with Withdrawal Power—Distribution of Principal to Child at Ages 25, 30, and 35 . . . . .	23-21
	*Form 23-3: <i>Crummey</i> Minor’s “Pot” Trust for Children of Settlor with Hanging Withdrawal Powers—Final Distribution of Principal When Youngest Child Attains Age 25 . . . . .	23-35
	*Form 23-4: <i>Crummey</i> Minor’s Trust for One Grandchild with Withdrawal Power Qualifying for Annual Exclusion from Gift Tax and GST Tax—Distribution of Principal to Grandchild at Ages 25, 30, and 35 . . . . .	23-49
	*Form 23-5: <i>Crummey</i> “Dynasty” Trust for Descendants of Settlor for Maximum Perpetuities Period. . . . .	23-63
	*Form 23-6: <i>Crummey</i> Notice—to Accompany <i>Crummey</i> Trusts . . . . .	23-77

**CHAPTER 24 TRUSTS FOR SUBCHAPTER S**

	<b>STOCK . . . . .</b>	<b>24-1</b>
24.1	Overview: Types of Subchapter S Trusts . . . . .	24-1
24.2	Qualified Subchapter S Trust (“QSST”): Requirements and Uses . . . . .	24-1
24.3	The Electing Small Business Trust (“ESBT”): Requirements and Uses . . . . .	24-2
24.4	Eligibility of Grantor Retained Annuity Trust (“GRAT”) to Hold S Corporation Stock. . . . .	24-3
24.5	Forms . . . . .	24-4
	*Form 24-1: Qualified Subchapter S Trust—with Generation-Skipping Provisions . . . . .	24-4
	*Form 24-2: Sample QSST Election . . . . .	24-19
	*Form 24-3: Electing Small Business Trust (“ESBT”) for Descendants of Settlor for Maximum Perpetuities Period . . . . .	24-20



<b>CHAPTER 25</b>		<b>RETAINED INTEREST TRUSTS: QPRTS AND GRATs</b> . . . . .	<b>25-1</b>
25.1	Qualified Personal Residence Trusts. . . . .		25-1
25.1.1	Requirements and Practical Uses . . . . .		25-1
25.1.2	Illustrations and Computer Projections/ Presentation Charts . . . . .		25-2
25.1.3	Forms . . . . .		25-3
	*Form 25-1: Qualified Personal Residence Trust Agreement. . . . .		25-4
	*Form 25-2: QPRT Calculations and Graphic Illustration from Brentmark Software . . . . .		25-20
25.2	Grantor Retained Annuity Trusts (GRATs). . . . .		25-22
25.2.1	Requirements and Practical Uses . . . . .		25-22
25.2.2	Illustrations and Computer Projections/Presentation Charts . . . . .		25-23
25.2.3	Forms . . . . .		25-23
	*Form 25-3: Grantor Retained Annuity Trust Agreement. . . . .		25-26
	*Form 25-4: GRAT Calculations and Graphic Illustration from Brentmark Software . . . . .		25-34
<b>CHAPTER 26</b>		<b>SPECIAL NEEDS TRUSTS</b> . . . . .	<b>26-1</b>
26.1	Estate Planning for Children with Special Needs. . . . .		26-1
26.1.1	Background for Planning . . . . .		26-1
26.2	Eligibility for Government Benefits . . . . .		26-1
26.2.1	Supplemental Security Income . . . . .		26-2
26.2.2	Medical Assistance . . . . .		26-3
26.3	The Need for Planning . . . . .		26-3
26.4	Special Needs Trusts. . . . .		26-4
26.4.1	Self-Settled Special Needs Trust. . . . .		26-4
26.4.2	Special Needs Trust Created by Others. . . . .		26-5
	26.4.2.1 Trust for Special Needs Child . . . . .		26-5
	Form 26-1: Trust for Special Needs Child . . . . .		26-5
26.5	Tax Relief and the Child with Special Needs . . . . .		26-7
26.6	Does the Special Needs Child Need a Guardian?. . . . .		26-8

**PART IX  
ALTERNATIVE DRAFTING FORMS**

<b>CHAPTER 27</b>		<b>ALTERNATIVE DRAFTING FORMS</b> . . . . .	<b>27-1</b>
27.1	Special Testamentary Trusts . . . . .		27-1

27.1.1	Trust for Family Residence (for Benefit of Surviving Spouse for Life, Remainder to Children) . . . . .	27-1
	*Form 27-1: Trust of Family Residence (for Benefit of Surviving Spouse for Life, Remainder to Children) . . . . .	27-1
27.1.2	Trust for Vacation Home (for Benefit of Children) . . . . .	27-2
	*Form 27-2: Trust for Vacation Home (for Benefit of Children) . . . . .	27-2
27.1.3	Trusts Primarily for Education of Descendants . . . . .	27-3
	*Form 27-3: Grandchildren’s Educational Trust: General Standards with Preference for Education . . . . .	27-3
	*Form 27-4: Incentive and Distribution Provisions for Children to Attend College. . . . .	27-4
	*Form 27-5: Flexible Guidelines for Trustee for Educational Costs. . . . .	27-4
	*Form 27-5A: Guidelines to Trustee Regarding Education and Premium on Gainful Employment . . . . .	27-5
27.1.4	Credit Shelter/Bypass Trust Giving Surviving Spouse Limited Power of Appointment of Trust Remainder . . . . .	27-5
	*Form 27-6: Credit Shelter/Bypass Trust Giving Surviving Spouse Limited Power of Appointment of Trust Remainder . . . . .	27-6
	27.1.4.1 Creation of Separate Disclaimer Trust (in Conjunction with a Bypass Trust) to Hold Disclaimed Assets Where a Power of Appointment Is Utilized . . . . .	27-7
	*Form 27-6A: Will Provision Creating Separate Disclaimer Trust (in Conjunction with a Bypass Trust) to Hold Disclaimed Assets where a Power of Appointment Is Utilized . . . . .	27-7
	*Form 27-6B: Revocable Trust Provision Creating Separate Disclaimer Trust	

	(in Conjunction with a Bypass Trust) to Hold Disclaimed Assets where a Power of Appointment Is Utilized. . . . .	27-8
27.1.5	Qualified Domestic Trust (QDOT) . . . . . *Form 27-7: Qualified Domestic Trust (QDOT) . . . . .	27-8 27-9
27.1.6	QTIP Trust Provisions for Spouse in Nursing Home . . . . . *Form 27-8: QTIP Trust Provisions for Spouse in a Nursing Home . . . . .	27-11 27-12
27.1.7	Generation-Skipping Trust—General Power of Appointment upon Child’s Death to Prevent Imposition of GST Tax . . . . . *Form 27-9: Generation-Skipping Trust—Providing for General Power of Appointment upon Child’s Death to Prevent Imposition of GST Tax . . . . .	27-14 27-15
27.1.8	Trust for Client’s Parents after Client’s Death . . . . . *Form 27-10: Trust for Client’s Parents after Client’s Death (Broad) . . . . . *Form 27-11: Narrow Form (Distribution to Parents Only after Proper Provision for Spouse and Children) . . . . .	27-16 27-16 27-17
27.1.9	Graduated Distribution of Net Income to Child . . . . . *Form 27-11A: Graduated Distribution of Net Income to Child . . . . .	27-17 27-17
27.1.10	Bypass Trust to Supplement Spouse’s Other Income (from Spouse’s Family Trust Fund) . . . . . *Form 27-11B: Bypass Trust to Supplement Spouse’s Income if Spouse’s Family Trust Fund Does Not Provide Adequate Support (Objective Threshold) . . . . .	27-19 27-19
27.1.11	Discretion of Trustee to Withhold Trust Distributions in Certain Adverse Circumstances for Beneficiary (e.g., Drug Abuse, Marital Dissolution Pending) . . . . . *Form 27-11C: Guidelines to Trustee on Interest Regarding Education	27-20

		and Premium on Gainful Employment . . . . .	27-20
27.1.12	Beneficiary's Rights of Withdrawal at Specified Ages Instead of Mandatory Distributions of Principal to Beneficiary at Specified Ages . . . . .		27-21
	*Form 27-11D: Descendant's Trust with Rights of Withdrawal at Specific Ages (25, 30 and 35), Mandatory Distribution of Income; General Distribution of Principal Per "Ascertainable Standard" . . . . .		27-21
27.2	Special Provisions for Closely Held Business Interest . . . . .		27-22.1
27.2.1	Closely Held Business Power for Fiduciaries . . . . .		27-22.1
	*Form 27-12: Broad Closely Held Business Power for Fiduciaries . . . . .		27-22.1
27.2.2	Right of First Refusal . . . . .		27-22.2
	*Form 27-13: Right of First Refusal for Disposition of Corporate Stock . . . . .		27-22.2
	*Form 27-14: Right of First Refusal for Disposition of Interest in Limited Liability Company . . . . .		27-23
27.2.3	Compliance with "Buy-Sell" . . . . .		27-25
	*Form 27-15: Compliance with "Buy-Sell" . . . . .		27-25
27.3	Disposition of Bodily Parts . . . . .		27-25
27.3.1	Cremation . . . . .		27-25
	*Form 27-16: Cremation . . . . .		27-25
27.3.2	Anatomical Gifts . . . . .		27-26
	*Form 27-17: Anatomical Gift: Statutory Form (During Lifetime) . . . . .		27-26
	*Form 27-18: Anatomical Gift: Confirmation and Direction in Will . . . . .		27-27
27.4	Specific Bequests . . . . .		27-27
27.4.1	Specific Bequest of Tangible Personal Property of Life Estate to Spouse . . . . .		27-27
	*Form 27-19: Specific Bequest of Tangible Personal Property of Life Estate to Spouse . . . . .		27-28
27.4.2	Specific Bequests to Grandchild under Pennsylvania Uniform Transfers to Minors Act . . . . .		27-28
	*Form 27-20: Specific Bequests to Grandchild under Pennsylvania Uniform Transfers to Minors Act . . . . .		27-28
27.4.3	Gift to Surviving Spouse in Trust until Death or Remarriage . . . . .		27-29

	*Form 27-21: Gift to Surviving Spouse in Trust until Death or Remarriage . . . . .	27-29
27.4.4	Specific Bequest of Tangible Personal Property: Division by Lot . . . . .	27-29
	*Form 27-21A: Specific Bequest of Tangible Personal Property: Division by Lot . . . . .	27-29
27.4.5	Cash Gifts to Individual Beneficiaries . . . . .	27-30
	*Form 27-21B: Cash Gifts to Individual Beneficiaries—Contingent upon Survival . . . . .	27-30
	*Form 27-21C: Cash Gifts to Individual Beneficiaries with Gift Over if Named Beneficiary Fails to Survive . . . . .	27-30
27.4.6	Cash Gifts to Charities . . . . .	27-31
	*Form 27-21D: Cash Gifts to Charity with Suggested Allocation of Gift . . . . .	27-31
	*Form 27-21E: Cash Gift to Charity—Limited by a Percentage of Estate . . . . .	27-31
27.4.7	Specific Bequest of Stock . . . . .	27-32
	*Form 27-21F: Specific Bequest of Stock—No Contingent Beneficiaries . . . . .	27-32
	*Form 27-21G: Specific Bequest of Stock—Contingent Beneficiaries . . . . .	27-32
27.4.8	Outright Bequest of Residuary Estate to More Than One Legatee in Equal Shares . . . . .	27-32
	*Form 27-21H: Outright Bequest of Residuary Estate to More Than One Legatee in Equal Shares . . . . .	27-33
27.4.9	Transferring Property Subject to Mortgage . . . . .	27-33
	*Form 27-21I: Direction to Personal Representative to Pay Mortgage from Estate . . . . .	27-33
	*Form 27-21J: Authorization to Pay Off Mortgage . . . . .	27-34
27.5	Special Provisions Where Estate Consists of Stock in Subchapter S Corporation . . . . .	27-34
27.5.1	Subchapter S Provisions . . . . .	27-34
	*Form 27-22: Subchapter S Provisions . . . . .	27-35
27.6	Miscellaneous Provisions . . . . .	27-36
27.6.1	Specific Exercise of Testamentary Power of Appointment . . . . .	27-36

	*Form 27-23: Specific Exercise of Testamentary Power of Appointment . . . . .	27-36
27.6.2	Forgiveness of Debt at Death . . . . .	27-37
	*Form 27-24: Forgiveness of Debt at Death (Unrecorded Debt) . . . . .	27-37
	*Form 27-25: Forgiveness of Debt at Death (Recorded Mortgage) . . . . .	27-37
27.6.3	Catch-All/Ultimate Beneficiary—to Various Charities . . . . .	27-38
	*Form 27-26: Catch-All/Ultimate Beneficiary—to Various Charities . . . . .	27-38
27.6.4	Marital Deduction Equalization Clause . . . . .	27-39
	*Form 27-27: Marital Deduction Equalization Clause . . . . .	27-39
27.6.5	Omittal of Spouse—Second Marriage . . . . .	27-39
	*Form 27-28: Omittal—Spouse from Second Marriage . . . . .	27-40
27.6.6	Omittal Due to Religious Affiliation or Joining of Cult . . . . .	27-40
	*Form 27-29: Omittal—Due to Religious Affiliation . . . . .	27-40
	*Form 27-30: Omittal—Due to Joining of Cult . . . . .	27-40
27.6.7	Request for Use of Specific Investment Advisor . . . . .	27-41
	*Form 27-31: Request for Use of Specific Investment Advisor . . . . .	27-41
27.6.8	Request for Use of Specific Attorney to Handle/Advise Estate Administration . . . . .	27-41
	Form 27-32: Request for Use of Specific Attorney to Handle/Advise Estate Administration . . . . .	27-42
27.6.9	<i>In Terrorem</i> Provision . . . . .	27-42
	*Form 27-33: <i>In Terrorem</i> Provision . . . . .	27-42
	*Form 27-33A: Omittal with Broad <i>in Terrorem</i> Provisions . . . . .	27-43
27.6.10	Provision Specifically Naming Children in Will . . . . .	27-44
	*Form 27-34: Provision Specifically Naming Children in Will . . . . .	27-44
	*Form 27-34A: Provision Specifically Referencing Children of a Prior Marriage; No Children from Current Marriage . . . . .	27-44
	*Form 27-34B: Provision Specifically Referencing Children of Current Marriage and Prior Marriage . . . . .	27-45

27.6.11	Alternative Tax Clause—Apportionment for Nonprobate Property . . . . .	27-45
	*Form 27-35: Alternative Tax Clause—Apportionment for Nonprobate Property . . . . .	27-45
27.6.12	Alternative Tax Clause—Exclusion of Certain Taxes . . . . .	27-46
	*Form 27-36: Alternative Tax Clause—Exclusion of Certain Taxes. . . . .	27-46
27.6.13	Alternative Tax Clauses—Full Apportionment and “Split” Apportionment . . . . .	27-47
	*Form 27-36A: Alternative Tax Clause—Apportionment for all Property under Pennsylvania Apportionment Statute (Unmarried Testator) . . . . .	27-47
	*Form 27-36B: Alternative Tax Clause for Probate Property, Property under Revocable Trusts, and Other Property (Unmarried Testator) . . . . .	27-47
27.7	Provisions Dealing with Trustees . . . . .	27-48
27.7.1	Compensation of Trustee . . . . .	27-48
	*Form 27-37: Trustees to Serve without Compensation. . . . .	27-49
	*Form 27-38: Trustees to Receive Reasonable Compensation; Published Fee Schedule for Corporate Trustee . . . . .	27-49
	*Form 27-39: Fee Based upon Statutory Commissions . . . . .	27-49
	*Form 27-40: Fee Schedule for Corporate Trustee; Aggregation of Trusts to Determine Fee . . . . .	27-50
27.7.2	Final Succession of Trustees. . . . .	27-50
	*Form 27-41: Corporate Trustee as Final Successor . . . . .	27-50
	*Form 27-42: Named Trustees Designate Successor . . . . .	27-50
	*Form 27-42A: Provision for Successive Trustees/ Remaining Trustee to Designate Successor/Corporate Trustee as Ultimate (Comprehensive Clause) . . . . .	27-51
27.7.3	Resignation and Appointment of Trustees . . . . .	27-51

	*Form 27-43:	Resignation of Trustee . . . . .	27-52
	*Form 27-44:	Designation of Co-Trustee by Settlor under Revocable Trust Agreement . . . . .	27-53
	*Form 27-45:	Designation of Co-Trustee by Remaining Trustee under Irrevocable Trust Agreement following Resignation of Trustee . . . . .	27-54
	*Form 27-46:	Acceptance by Newly Appointed Trustee under Revocable Trust Agreement . . . . .	27-55
	*Form 27-47:	Acceptance by Newly Appointed Trustee under Irrevocable Trust Agreement . . . . .	27-56
27.7.4	Changes in Trust Situs . . . . .		27-57
	*Form 27-47A:	Changes in Trust Situs . . . . .	27-57
27.8	Amendments and Restatements to Revocable Trust Agreements . . . . .		27-57
	*Form 27-48:	Amendment to Revocable Trust Agreement . . . . .	27-58
	*Form 27-49:	Amendment and Restatement of Revocable Trust Agreement . . . . .	27-60
27.9	Common Law Rule against Perpetuities . . . . .		27-62
27.10	Special Trustee Powers for Survivorship Life Insurance Trust . . . . .		27-63
	*Form 27-52:	Provision Authorizing Trustees to Sell Insurance Policy to Children . . . . .	27-63
	*Form 27-53:	Additional Provision Regarding Use of Insurance Proceeds . . . . .	27-63
27.11	Additional Provision for Personal Representatives after EGTRRA . . . . .		27-64
	*Form 27-54:	Authorization to Personal Representative to Allocate Basis to Specific Assets—with Exoneration Provision . . . . .	27-64
27.12	“Cap” in Light of ATRA to Limit Size of Non-Marital Share . . . . .		27-64
	*Form 27-55:	Cap to Limit Size of Non-Marital Share . . . . .	27-65
27.13	Additional Request and Guidance to Guardians of Minor Children . . . . .		27-66
	*Form 27-56:	Request That Guardians Allow Visitation by Grandparents . . . . .	27-66
	*Form 27-57:	Request That Children Be Raised in Orthodox Jewish Tradition—Rabbi to Be Consulted . . . . .	27-66



	*Form 27-58: Request to Preserve Relationship between Children and Both Families . . . . .	27-67
27.14	Trust Provision and Formula Clauses in Light of Pennsylvania’s Estate Tax . . . . .	27-67
27.15	Special Provisions when Retirement Benefits Are Payable to a Marital QTIP Trust . . . . .	27-67
	*Form 27-59A: Form for Inclusion in Marital Trust where Trust Is Designated as Beneficiary of Retirement Plan . . . . .	27-68
	*Form 27-59B: Form for Inclusion in Fiduciary Power Section Dealing with Retirement Benefits Payable to Trusts . . . . .	27-68
27.16	Attachment to Beneficiary Designation Forms to Accommodate Testamentary Planning with Trusts . . . . .	27-69
	*Form 27-60A: Attachment to IRA Beneficiary Designation Form: Disclaimed Assets to Disclaimer Trust under Will of Participant, with Provisions for Children’s/Descendants’ Share to Trust Created under Will of Participant . . . . .	27-70
	*Form 27-60B: Attachment to IRA Beneficiary Designation Form: Disclaimed Assets to Trustees under Will of Participant, with Provisions for Children’s/Descendants’ Share to Trust Created under Will of Participant . . . . .	27-73
	*Form 27-60C: Attachment to IRA Beneficiary Designation Form: Disclaimed Assets to Family Trust/Bypass Trust/Credit Shelter Trust under Will of Participant, with Provisions for Children’s/Descendants’ Share to Trust Created under Will of Participant . . . . .	27-76
27.17	Pet Trust . . . . .	27-79
	*Form 27-61: Pet Trust . . . . .	27-79

**PART X**  
**SUMMARIES OF SELECT ESTATE PLANNING PRACTICE AREAS AND STRATEGIES**

	<b>CHAPTER 28 SELECT ESTATE PLANNING SUMMARIES: PENNSYLVANIA AND FEDERAL LAW. . . . .</b>	<b>28-1</b>
28.1	The Pennsylvania Law of Intestacy and Necessity of Wills . . . . .	28-1
	28.1.1 Overview . . . . .	28-1
	28.1.2 Operation of Intestacy Law—Share of Surviving Spouse and Others . . . . .	28-1

28.1.3	Necessity of Will and Dangers of Dying Intestate . . . . .	28-2
28.1.4	Necessity of Will Even with Other Forms of Testamentary Disposition . . . . . Figure 28-1: Graphic Depiction of Pennsylvania Intestacy Law . . . . .	28-5 28-6
28.2	Organizational Checklist of Will: Comments and Strategic Practice Pointers . . . . .	28-6
28.2.1	Preamble/Exordium Clause (Introductory Paragraph) . . . . .	28-7
28.2.2	Definitions and Appointment of Fiduciary (Section 1) . . . . .	28-8
28.2.3	Funeral Arrangements (Section 2) . . . . .	28-9
28.2.4	Debts (Section 3) . . . . .	28-9
28.2.5	Specific Bequests; Disposition of Tangible Personal Property (Section 4); Principal Residence (Section 5) . . . . .	28-10
28.2.6	Payment of Taxes (Section 6) . . . . .	28-11
28.2.7	Residuary Estate (Section 8) . . . . .	28-12
28.2.8	Dispositive Provisions (Other than Specific Bequests) (Sections 7 and 9) . . . . .	28-13
28.2.9	The “Catastrophic”/“Catch-All” Provision (Section 10) . . . . .	28-13
28.2.10	Fiduciary Powers/Administrative Provisions Re: Trustees and Personal Representatives (Section 11 for Trustees and Section 13 for Personal Representatives) . . . . .	28-13
28.2.11	Insurance or Pension Plan (Section 12) . . . . .	28-14
28.2.12	Spendthrift and Facility of Payment Provisions (Section 14) . . . . .	28-15
28.2.13	Survivorship/Simultaneous Death (Section 15) . . . . .	28-15
28.2.14	Rule against Perpetuities (Section 16) . . . . .	28-16
28.2.15	Gender (Section 17) . . . . .	28-16
28.2.16	Headings (Section 18) . . . . .	28-16
28.2.17	Signature and Attestation Clauses (Final Paragraphs) . . . . .	28-16
28.3	The Transfer Tax System under EGTRRA, TRA 2010 and ATRA 2012 . . . . .	28-17
28.3.1	The Basics and the State of Affairs before EGTRRA . . . . .	28-17
28.3.2	EGTRRA: Highlights and Summary (before TRA 2010 and ATRA 2012) . . . . .	28-19
28.3.3	Summary Chart: Estate Gift, and GST Tax Changes <u>under EGTRRA</u> (before TRA 2010 and ATRA 2012) . . . . .	28-21

28.3.4	TRA 2010 (for 2010, 2011 and 2012): Highlights and Summary . . . . .	28-22
28.3.4.1	A 2010 Year-End Surprise . . . . .	28-22
28.3.4.2	Estate Tax . . . . .	28-23
28.3.4.3	Generation-Skipping Transfer (GST) Tax. . . . .	28-23
28.3.4.4	Gift Tax . . . . .	28-24
28.3.4.5	Portability. . . . .	28-24
28.3.4.6	Election for 2010 . . . . .	28-25
28.3.4.6.1	In General. . . . .	28-25
28.3.4.6.2	Making the Decisions. . . . .	28-25
28.3.4.6.3	Forms and Filing Deadlines . . . . .	28-25
28.3.4.7	Chart Summarizing Changes in TRA 2010 . . . . .	28-25
28.3.5	ATRA 2012: Highlights and Summary . . . . .	28-26
28.3.5.1	A New Year's Day 2013 Surprise . . . . .	28-26
28.3.5.2	Permanent Estate, Gift and Generation-Skipping Tax (GST) Exemptions of \$5,000,000 (with Indexing) . . . . .	28-26
28.3.5.1.1	2012 Exemptions: Unified and Permanent. . . . .	28-26
28.3.5.2.2	Comment on Significance and Effects. . . . .	28-27
28.3.5.2.2.1	No Sunset of \$1 Million and Predictability. . . . .	28-27
28.3.5.2.2.2	No Concern about "Clawback" . . . . .	28-27
28.3.5.3	Increase in Tax Rates . . . . .	28-27
28.3.5.4	Portability is Made Permanent. . . . .	28-28
28.3.5.4.1	Basic Concept Re: Utilizing Spouse's Unused Exemption Amount . . . . .	28-28
28.3.5.4.2	Electing Portability . . . . .	28-28
28.3.5.4.3	Effective Dates. . . . .	28-29
28.3.5.4.4	The <u>Last</u> Deceased Spouse Requirement . . . . .	28-29
28.3.5.5	Chart Summarizing Federal Estate Gift and GST Changes under ATRA 2012 (for 2013 and Subsequent Years) . . . . .	28-30
28.3.6	The New Era of Estate Planning After ATRA 2012 . . . . .	28-30
28.3.6.1	Impact of ATRA 2012 on Forms and Formula Clauses Due to Increased Permanent Federal Estate Tax Exemption . . . . .	28-30

28.3.6.2	Portability vs. Bypass/Credit Shelter Trusts: 9 Factors to Consider in Planning . . .	28-32.1
28.3.6.3	Selection of Forms and Strategies for Wills and Revocable Trusts to Integrate Issues with Formula Clauses and Portability. . . . .	28-32.5
28.3.6.3.1	Portability as a Game Changer but Still Need Credit Shelter Trusts . . .	28-32.5
28.3.6.3.2	Portability in Tandem with Credit Shelter Trusts . . .	28-32.5
28.3.6.3.3	Drafting Alternatives after ATRA 2012 . . . . .	28-32.5
28.3A	The Tax Cuts and Jobs Creation Act. . . . .	28-32.9
28.3A.1	A 10-Year Doubling of Transfer Tax Exemptions .	28-32.9
28.4	Generation-Skipping Transfer Tax—with ATRA Modifications . . . . .	28-32.9
28.4.1	Purpose . . . . .	28-32.9
28.4.2	Mechanics and Application. . . . .	28-32.9
28.4.3	Transfers Subject to GST Tax . . . . .	28-33
28.4.4	Transfers Exempt from GST Tax . . . . .	28-34
28.4.5	Computing GST Tax . . . . .	28-34.1
28.4.6	Administration and Return Requirements. . . . .	28-34.1
28.5	“ <i>Per Stirpes</i> ” and “ <i>Per Capita</i> ” Explanation and Examples . .	28-35
28.6	Formula Clauses for Marital and Bypass Trusts—Some Technical Considerations . . . . .	28-38
28.7	Spousal Right of Election in Pennsylvania. . . . .	28-38
28.7.1	Statutory Share . . . . .	28-38
28.8	QDOTs and the Non-Citizen Spouse . . . . .	28-39
28.8.1	Citizenship of Donee and the Marital Deduction . .	28-39
28.8.2	Gift Tax Issues. . . . .	28-40
28.8.2.1	Joint Tenancies . . . . .	28-40
28.8.2.2	Joint and Survivor Annuities . . . . .	28-41
28.8.3	Estate Tax Issues . . . . .	28-41
28.8.4	The Qualified Domestic Trust (QDOT) . . . . .	28-42
28.8.4.1	Introduction . . . . .	28-42
28.8.4.2	Distinguishing Features of a QDOT . .	28-44
28.8.4.3	Requirements for QDOTs under the Treasury Regulations . . . . .	28-44
28.8.4.3.1	Ordinary Trust . . . . .	28-44
28.8.4.3.2	Governing Law . . . . .	28-44
28.8.4.3.3	U.S. Trustee . . . . .	28-45
28.8.4.3.4	Right to Withhold Tax . .	28-45
28.8.4.3.5	Qualified Marital Interest Requirements . .	28-45

	28.8.4.3.5.1	Property Passing to QDOT . . . . .	28-45
	28.8.4.3.5.2	Property Passing Outright to Spouse . . . . .	28-45
	28.8.4.3.6	Security and Other Arrangements for Payment of Tax—QDOTs with Assets over \$2 Million. . . . .	28-46
	28.8.4.3.6.1	Bank Trustee. . . . .	28-46
	28.8.4.3.6.2	Bond . . . . .	28-46
	28.8.4.3.6.3	Letter of Credit . . . . .	28-46
	28.8.4.3.6.4	Additional Governing Instrument Requirements for Bond or Letter-of-Credit Arrangements . . . . .	28-47
	28.8.4.3.7	Security and Other Arrangements for Payment of Tax—QDOTs with Assets of \$2 Million or Less . . . . .	28-47
	28.8.4.3.7.1	Multiple QDOTs . . . . .	28-48
	28.8.4.3.7.2	Look-Through Rules . . . . .	28-48
	28.8.4.3.7.3	Fluctuations in Value . . . . .	28-48
	28.8.4.3.7.4	Principal Residence and Related Personal Effects . . . . .	28-48
	28.8.5	Use of the Bypass Trust for Surviving Non-Citizen Spouse . . . . .	28-49
28.9		Assets Passing Outside the Will (Nonprobate Assets) by Operation of Law . . . . .	28-49
	28.9.1	Jointly Owned Property . . . . .	28-50
	28.9.1.1	Tenancy-in-Common . . . . .	28-50
	28.9.1.2	Joint Tenancy with Right of Survivorship . . . . .	28-50
	28.9.1.2.1	Federal Estate Tax . . . . .	28-51
	28.9.1.2.2	Pennsylvania Inheritance Tax . . . . .	28-51
	28.9.1.3	Tenancy by the Entirety. . . . .	28-51
	28.9.2	Bank Accounts in Pennsylvania . . . . .	28-52
	28.9.3	Community Property. . . . .	28-52

	28.9.4	Life Insurance . . . . .	28-52
	28.9.5	Qualified Retirement Plan Assets . . . . .	28-53
28.10		Proper Will Formalities in Pennsylvania—Execution, Revocation, and Amendment: Technical Requirements and Practical Considerations. . . . .	28-53
	28.10.1	Requirements of Will Execution. . . . .	28-53
		*Form 28-1: Instruction Sheet for Client Where Attorney Does Not Supervise Execution of Will . . . . .	28-55
	28.10.2	Who May Execute a Will and Codicil . . . . .	28-56
	28.10.3	Testamentary Capacity . . . . .	28-56
	28.10.3.1	The Pennsylvania Standard . . . . .	28-56
	28.10.3.2	Special Circumstances Affecting Testamentary Capacity . . . . .	28-56
		28.10.3.2.1 Insane Delusion, Undue Influence, Fraud . . . . .	28-56
	28.10.4	Proper Will Revocation and Amendment . . . . .	28-57
	28.10.4.1	Proper Will Revocation—Statement of Revocation or Obliteration . . . . .	28-57
	28.10.4.2	Proper Will Amendment—the Codicil . . . . .	28-58
		28.10.4.2.1 Technical Requirements . . . . .	28-58
		*Form 28-2: Sample Codicil . . . . .	28-59
	28.10.5	Other Important Considerations for Wills under Pennsylvania Law . . . . .	28-61
	28.10.5.1	Holographic Wills . . . . .	28-61
	28.10.5.2	Wills Executed Outside of Pennsylvania . . . . .	28-61
	28.10.5.3	Dating and Initialing the Will . . . . .	28-61
28.11		Estate Tax Deduction for Qualified Family-Owned Businesses Repealed . . . . .	28-62
28.12		The Pennsylvania Inheritance Tax . . . . .	28-62
	28.12.1	Summary of the Application of the Pennsylvania Inheritance Tax . . . . .	28-62
	28.12.2	Joint Property . . . . .	28-64
	28.12.3	Retirement Plans . . . . .	28-64
	28.12.4	Future Interests . . . . .	28-65
	28.12.5	Exemption for Real Estate Used in Agriculture . . . . .	28-66
		28.12.5.1 Exemption for Farmland, Commodities, Easements and Reserves. . . . .	28-66.1
	28.12.6	Exemption for Small Business . . . . .	28-66.2
		28.12.6.1 Losing the Exception. . . . .	28-66.3

28.12.7	Valuation of Mineral Rights and Natural Gas Interests . . . . .	28-66.3
28.12.7.1	Inheritance Tax Bulletin 2012-01, Issued July 10, 2012, Clarifies the Department of Revenue’s Policy Concerning the Taxation and Valuation of Mineral Rights and Natural Gas Interests. . . . .	28-66.3
28.12.7.2	If There Is No Sale or Appraisal. . .	28-66.4
28.12.8	Comparison of Federal Estate Tax to Pennsylvania Inheritance Tax . . . . .	28-66.4
28.12.8.1	Life Insurance . . . . .	28-66.4
28.12.8.2	Retirement Plans and IRAs . . . .	28-68
28.12.8.3	When Are Lifetime Gifts Subject to Death Taxes?. . . . .	28-69
28.12.8.4	When Must a Surviving Spouse Pay Death Taxes? The Spousal Sole Use Trust . . . . .	28-71
28.12.8.5	Joint Property . . . . .	28-73
28.13	The Repealed Pennsylvania Estate Tax . . . . .	28-74
28.14	Estate Planning Issues for Same-Sex Couples in Pennsylvania . . . . .	28-76
28.14.1	2013 Developments . . . . .	28-76
28.14.1.1	The <i>Windsor</i> Decision. . . . .	28-76
28.14.1.2	<i>Revenue Ruling 2013-17</i> Clarifies Application of <i>Windsor</i> . . . . .	28-77
28.14.2	Estate Planning Implications of Same-Sex Marriages in Pennsylvania . . . . .	28-77
28.14.2.1	Pennsylvania Estate Planning Implications. . . . .	28-78
28.14.2.1.1	Pennsylvania Inheritance Tax . . .	28-78
28.14.2.1.2	Realty Transfer Tax . . . . .	28-78
28.14.2.1.3	Elective Share . . . . .	28-79
28.14.2.1.4	Intestate Distribution and Preferences as Personal Representative . . . . .	28-79
28.14.2.1.5	Federal Marital Deduction Opportunities. . . . .	28-79
28.14.2.1.6	Use of Tenancy by the Entireties Plan with Disclaimer Planning. . . . .	28-80
28.14.2.1.7	Fiduciary and Trust Construction Issues. . . . .	28-80

28.14.2.2	Federal Estate Planning Implications . . . . .	28-81
28.14.2.2.1	Unlimited Marital Deduction for Gift and Estate Tax . . . .	28-81
28.14.2.2.2	Gift Splitting . . . . .	28-81
28.14.2.2.3	Portability . . . . .	28-81
28.14.2.2.4	Rollover Rights on Spouse’s IRA . . . . .	28-82
28.14.3	References Throughout Book . . . . .	28-82

**CHAPTER 29 SELECTED PLANNING STRATEGIES AND TECHNIQUES . . . . . 29-1**

29.1	Use of 5 & 5 Powers in Trusts . . . . .	29-1
29.2	Flexible Estate Planning with Limited Powers of Appointment . . . . .	29-2
29.3	Trusts for Children—Pot Trusts vs. Separate Trusts . . . . .	29-3
29.4	The Pitfall of Joint Ownership by Spouses and Solutions . . . . .	29-4
29.4.1	The Competing Consideration of Tenants by the Entirety Protection . . . . .	29-5
29.4.2	Disclaiming Joint Property . . . . .	29-6
29.5	Selection of Personal Representatives, Trustees, and Guardians: Strategies and Recommendations . . . . .	29-6
29.5.1	Personal Representatives (Executors) . . . . .	29-6
29.5.2	Trustees . . . . .	29-8
29.5.2.1	Succession, Removal, and Replacement of Trustees—Tax Aspects . . . . .	29-9
29.5.3	Guardians . . . . .	29-9
29.6	Use of Disclaimers in Planning Beneficiary Designations . . . . .	29-10
29.6.1	RESERVED—Naming a Trust as Beneficiary of Retirement Plan Benefits . . . . .	29-11
29.7	RESERVED . . . . .	29-11
29.8	Preserving Wealth with a Dynasty (GST) Trust . . . . .	29-11
29.9	Outright Marital Bequest vs. Trust for Spouse: Planning Considerations . . . . .	29-12
29.10	Revised Planning for Surviving Spouse after Death of First Spouse . . . . .	29-13
29.10.1	Planning for Remarriage: QTIP Trust/Prenuptial Agreements . . . . .	29-13
29.10.2	Use of the Residence . . . . .	29-13
29.10.3	The QTIP Trust—Tax Traps upon the Surviving Spouse’s Death . . . . .	29-14
29.10.4	Credit Shelter/Bypass Trusts: Strategic Use During Lifetime of Surviving Spouse . . . . .	29-15



29.11	The Credit Shelter/Bypass Trust: Rights and Protections Available to Surviving Spouse and Asset Protection Considerations. . . . .	29-16
29.11.1	Rights of Surviving Spouse in Credit Shelter Trust . . . . .	29-16
29.11.2	Selecting the Appropriate Allocation of Income and Principal among the Spouse and Beneficiaries . . . . .	29-17
29.11.3	Structuring Credit Shelter/Bypass Trust as Asset Protection Trust. . . . .	29-18
29.12	Strategies for Financing the Payment of Estate Taxes on the Business Entity—Statutory Elections by Executors. . .	29-18
29.12.1	Section 2032A Special Use Valuation for Farms. . . . .	29-19
29.12.2	Section 303 Redemption to Pay Estate Taxes and Administration Expenses . . . . .	29-20
29.12.3	Section 6166 Deferral of Estate Taxes for Closely Held Businesses. . . . .	29-21

**PART XI  
POWERS OF ATTORNEY**

<b>CHAPTER 30</b>	<b>DURABLE POWERS OF ATTORNEY FOR FINANCIAL MATTERS . . . . .</b>	<b>30-1</b>
30.1	The Durable Power of Attorney—A Critical Document. . .	30-1
30.2	General vs. Limited Power . . . . .	30-1
30.3	Fundamental Issues in Preparing a Durable General Power of Attorney . . . . .	30-2
30.3.1	Effective Time of Power . . . . .	30-2
30.3.2	Designation of the Attorney-in-Fact. . . . .	30-3
30.3.3	Gift-Giving Powers. . . . .	30-3
30.3.4	Recent Developments. . . . .	30-3
	*Form 30-1: Principal General Power of Attorney . . . . .	30-5
	*Form 30-2: Durable General Power of Attorney—Effective upon Disability . . . . .	30-15
	*Form 30-3: Limited Power of Attorney (for Handling Real Estate Settlement) . . . . .	30-18
	*Form 30-4: Durable General Power of Attorney—for a Specified Time Period . . . . .	30-20
	*Form 30-5: Grant to Two Attorneys-in-Fact Acting Jointly or Severally. . . . .	30-24.7

*Form 30-6:	Grant to Two Attorneys-in-Fact Acting Jointly (Not Severally) . . . . .	30-24.7
*Form 30-7:	Broad Gift-Giving Power With Power to Disclaim. . . . .	30-24.7
*Form 30-8:	Gifts to Children and Grandchildren Limited Annually to \$15,000 plus Tuition and Medical Costs . . . . .	30-25
*Form 30-9:	Gifts to Children and Grandchildren Consistent with Past Gifts . . . . .	30-25
*Form 30-10:	Broad Gift-Giving Power with Power to Disclaim; Gifts to Attorney-in-Fact Limited to “5 & 5” Power to Avoid General Power of Appointment . . . . .	30-25
*Form 30-11:	Escrow Agreement for Durable Power of Attorney. . . . .	30-26
*Form 30-12:	Affidavit as to Power of Attorney Being in Full Force . . . . .	30-27
*Form 30-13:	POA Power to Pay Charitable Pledges . . . . .	30-28
*Form 30-14:	Deed Signature Page When Using a POA. . . . .	30-28

**CHAPTER 31 HEALTH CARE POWERS OF ATTORNEY AND ADVANCE DIRECTIVES . . . . .**

		<b>31-1</b>
31.1	General . . . . .	31-1
31.2	Health Care Powers of Attorney . . . . .	31-1
31.3	Advance Directive/Living Will . . . . .	31-2
31.4	Mental Health Power of Attorney . . . . .	31-2.1
	31.4.1 Explanatory Material . . . . .	31-2.1
	31.4.1.1 Revocation and Amendments . . . . .	31-2.2
	31.4.1.2 Termination . . . . .	31-2.2
	31.4.1.3 Treatment Preferences . . . . .	31-2.2
	31.4.1.4 Designation of an Agent or Alternative Agent. . . . .	31-2.3
31.5	Standby Guardianship . . . . .	31-2.3
	31.5.1 Explanatory Material . . . . .	31-2.3
	31.5.1.1 Parental Rights and Restored Capacity. . . . .	31-2.4
	31.5.1.2 Revocation . . . . .	31-2.4
	*Form 31-1: Medical Power of Attorney. . . . .	31-3
	*Form 31-1A: Medical Power of Attorney with Three Alternates . . . . .	31-9
	*Form 31-2: The Halachic Living Will . . . . .	31-11
	*Form 31-3: Mental Health Power of Attorney. . . . .	31-17
	*Form 31-4: Standby Guardianship Form. . . . .	31-23

**PART XII  
CHARITABLE GIFT PLANNING**

<b>CHAPTER 32</b>	<b>CHARITABLE GIFT PLANNING . . . . .</b>	<b>32-1</b>
32.1	Closely Held Corporate Charitable Contributions . . . . .	32-1
32.1.1	Constructive Dividends . . . . .	32-1
32.1.2	Redemption of Charitable Gifts of Business Interests . . . . .	32-2
32.2	Individual Gifts and Bequests . . . . .	32-4
32.2.1	Lifetime Gifts . . . . .	32-4
32.2.1.1	Income Tax Deduction Limits . . . . .	32-4
32.2.1.2	Unlimited Gift and Estate Tax Deduction . . . . .	32-5
32.3	Split-Interest Gifts and Bequests . . . . .	32-6
32.3.1	General Features of CRTs . . . . .	32-6
32.3.2	Unique Aspects of the Charitable Remainder Unitrust (CRUT) . . . . .	32-8
32.3.2.1	Mandatory Provisions . . . . .	32-11
32.3.2.2	Optional Provisions . . . . .	32-12
	*Form 32-1: Irrevocable Trust Agreement (Charitable Remainder Unitrust) . . . . .	32-14
32.3.3	Unique Aspects of the Charitable Remainder Annuity Trust (CRAT) . . . . .	32-22
32.3.3.1	Mandatory Provisions . . . . .	32-23
32.3.3.2	Optional Provisions . . . . .	32-24
	*Form 32-2: Irrevocable Trust Agreement (Charitable Remainder Annuity Trust (CRAT)) with Husband and Wife as Donors and Annuitants . . . . .	32-25
	*Form 32-2A: Irrevocable Trust Agreement (Charitable Remainder Annuity Trust (CRAT)) with Daughter as Donor and Parents as Annuitants . . . . .	32-34
32.3.4	Taxation of the Donor . . . . .	32-34.8
32.3.4.1	Income Tax Deduction . . . . .	32-34.8
32.3.4.2	Substantiation and Disclosure . . . . .	32-35

	32.3.4.3	Capital Gains . . . . .	32-35
	32.3.4.4	Gift Tax . . . . .	32-35
	32.3.4.5	Estate Tax. . . . .	32-36
	32.3.4.6	Generation-Skipping Transfer Tax . . . . .	32-36
32.3.5		Taxation of the Trust . . . . .	32-36
	32.3.5.1	Reporting Requirements for a CRT . . . . .	32-37
32.3.6		Taxation of the Non-Charitable Beneficiary. . . . .	32-37
32.3.7		Prohibited Transactions Rules . . . . .	32-39
32.3.8		Planning Considerations. . . . .	32-39
	32.3.8.1	Funding the CRT . . . . .	32-39
	32.3.8.2	Marital Deduction Planning—Spousal CRT or QTIP with Remainder to Charity . . . . .	32-41
	32.3.8.3	Selecting a Trustee. . . . .	32-41
	32.3.8.4	Choosing the CRUT or the CRAT	32-42
	32.3.8.5	Investment Issues. . . . .	32-42
	32.3.8.6	Economics of CRT Planning Need to Be Analyzed . . . . .	32-42
32.3.9		Some Applications . . . . .	32-43
	32.3.9.1	Retirement Plan Supplement or Substitute . . . . .	32-43
	32.3.9.2	Asset Diversification Opportunity	32-43
	32.3.9.3	Closely Held Businesses . . . . .	32-44
	32.3.9.4	Charitable Giving and Wealth Replacement . . . . .	32-44
	32.3.9.5	Using Life Insurance and the CRUT as a Tax-Favored Means of Providing an Annuity for Donor’s Spouse . . . . .	32-45
	32.3.9.6	A Strategy for Dealing with Income in Respect of Decedent (IRD) . . . . .	32-45
32.4		Charitable Lead Trust . . . . .	32-45
	32.4.1	Taxation of Lead Trusts . . . . .	32-47
	32.4.2	Drafting Testamentary Lead Trusts . . . . .	32-47
	32.4.3	Planning for Charitable Lead Trusts . . . . .	32-49
		*Form 32-3: Provisions for Charitable Lead Unitrust. . . . .	32-50
32.5		Gifts of Remainder Interests in Residence or Farm . . . . .	32-53
	32.5.1	Split-Interests in Tangible Personal Property . . . . .	32-53

**PART XIII  
AGREEMENTS BETWEEN SPOUSES**

<b>CHAPTER 33</b>	<b>PRENUPTIAL AGREEMENTS . . . . .</b>	<b>33-1</b>
33.1	A Brief History . . . . .	33-1
33.2	Who Should Have a Prenuptial Agreement? . . . . .	33-2
33.3	What the Contract Should Contain . . . . .	33-3
33.4	When Not to Contract . . . . .	33-4
33.5	Evolution of Case Law in Pennsylvania . . . . .	33-4
33.6	Summary . . . . .	33-5
	Form 33-1: Prenuptial Agreement, No Joint Property . . . . .	33-5
	Form 33-2: Prenuptial Agreement, Joint Property . . . . .	33-17
	Form 33-3: Postnuptial Agreement, No Joint Property . . . . .	33-29
	Form 33-4: Postnuptial Agreement, Joint Property . . . . .	33-41
<b>CHAPTER 34</b>	<b>ESTATE PLANNING FOR RETIREMENT BENEFITS . . . . .</b>	<b>34-1</b>
34.1	Beneficiary Designations . . . . .	34-1
34.2	Conduit Trusts for Qualified Plans . . . . .	34-1
	Form 34-1: Conduit Trust for IRA Benefits . . . . .	34-2
<b>CHAPTER 35</b>	<b>TRUSTS FOR GIVING . . . . .</b>	<b>35-1</b>
35.1	Gifts and the Gift and Estate Tax . . . . .	35-1
35.2	Gifts and the Income Tax . . . . .	35-1
35.3	Turning an Irrevocable Trust into an IDGT . . . . .	35-2
35.4	IDGTS Could Be Hazardous to Your Wealth . . . . .	35-2
35.5	The IDGT Antidote . . . . .	35-2
35.6	Summary . . . . .	35-3
	Form 35-1: IDGT: Trust for Giving . . . . .	35-3
<b>CHAPTER 36</b>	<b>DIGITAL ASSETS . . . . .</b>	<b>36-1</b>
36.1	What Are Digital Assets? . . . . .	36-1
36.2	The Personal Representative's Access . . . . .	36-2
36.3	Blockchain Technology and Cryptocurrency . . . . .	36-3
36.4	Terms of Service Agreements . . . . .	36-4
36.5	Federal Laws . . . . .	36-4
36.6	Proposed Uniform Law . . . . .	36-6
36.7	The Personal Representative's Dilemma . . . . .	36-6
36.8	Will Provisions . . . . .	36-7
	Form 36-1: Memorandum of Digital Assets (Example) . . . . .	36-9

**PART XIV  
APPENDICES**

**APPENDIX A AMERICAN TAXPAYER RELIEF  
ACT OF 2012 (ATRA)..... APP A-1**

A.1 Estates, Gifts, Trusts, and Generation-Skipping Tax  
Provisions of Act

A.2 Relevant Committee Reports

**APPENDIX B INTERNAL REVENUE CODE—ESTATE AND  
GIFT TAXES (SUBTITLE B, §§ 2001–2704)... APP B-1**

**APPENDIX C TREASURY REGULATIONS—ESTATE AND  
GIFT PROVISIONS (UNDER SUBTITLE B).. APP C-1**

**APPENDIX D THE DEF CODE—PENNSYLVANIA DECEDENTS,  
ESTATES AND FIDUCIARIES CODE, TITLE 20  
OF THE CONSOLIDATED STATUTES ..... APP D-1**

**PART XV  
INDICES**

Subject Index ..... INDEX-1

Forms Index ..... INDEX-17