

Contents

PART I ESTATE PLANNING: A PRACTICE-ORIENTED APPROACH

CHAPTER 1 HOW TO USE THIS BOOK	1-1
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
CHAPTER 2 ESTATE PLANNING: ESSENTIAL OBJECTIVES	2-1
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
4.4	4.3.8	Key Action Subjects for Strategic Planning	4-48
		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 THE COMBINED LIFETIME EXEMPTIONS (APPLICABLE EXCLUSION AMOUNT)

	CHAPTER 5 STRATEGIC PLANNING WITH CREDIT SHELTER/ BYPASS TRUSTS	5-1
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 \$10,000,000**

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	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	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, <i>per Stirpes</i>	
	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, <i>per Stirpes</i>	
	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, <i>per Stirpes</i>	
	Form TP-12W: Companion Will to TP-12H	

	*Form TP-10–12: Template Form for Testator with Adult Children: Marital (Pecuniary) Bequest to Marital (QTIP) Trust for Benefit of Spouse of Amount in Excess of Unified Credit Equivalent; Residuary Estate to Credit Shelter 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
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 Bequest to Credit Shelter/Bypass Trust During Lifetime of Wife, Spray Trust for Benefit of Wife and Descendants, Remainder to Trusts for Children (Alternative Clauses for 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 Bequest to Credit Shelter/Bypass Trust—During Lifetime of Wife, Spray Trust for Benefit of Wife and Descendants, Remainder to Trusts for Children (Alternative Clauses for 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

CHAPTER 10 STRATEGIC PLANNING WITH “FLEXIBLE” DISCLAIMER TRUSTS. 10-1

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 Disclaim 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

CHAPTER 11 TAX PLANNING WILLS WITH DISCLAIMER TRUSTS. 11-1

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, Spry 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

CHAPTER 12	STRATEGIC PLANNING WITH		
	GENERATION-SKIPPING TRUSTS		12-1
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, <i>per Stirpes</i>	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, <i>per Stirpes</i> (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, <i>per Stirpes</i>	
	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)

CHAPTER 14	WILLS FOR UNMARRIED INDIVIDUALS (SINGLE, WIDOWED, DIVORCED)	14-1
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, *per Stirpes*

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

15.3	15.2.7	Pour-Over Will	15-6
		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 TRUIRJCA, 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 *Crummey* Notices and Avoiding the 3-Year Rule 22-3

22.2.1 The *Crummey* 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
CHAPTER 23 TRUSTS FOR MINORS		23-1
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

	STOCK	24-1
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

CHAPTER 25 RETAINED INTEREST TRUSTS: QPRTS AND GRATs 25-1

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

CHAPTER 26 SPECIAL NEEDS TRUSTS 26-1

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**

CHAPTER 27 ALTERNATIVE DRAFTING FORMS 27-1

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)	27-8
	*Form 27-7: Qualified Domestic Trust (QDOT)	27-9
27.1.6	QTIP Trust Provisions for Spouse in Nursing Home.	27-11
	*Form 27-8: QTIP Trust Provisions for Spouse in a Nursing Home	27-12
27.1.7	Generation-Skipping Trust—General Power of Appointment upon Child’s Death to Prevent Imposition of GST Tax	27-14
	*Form 27-9: Generation-Skipping Trust—Providing for General Power of Appointment upon Child’s Death to Prevent Imposition of GST Tax	27-15
27.1.8	Trust for Client’s Parents after Client’s Death	27-16
	*Form 27-10: Trust for Client’s Parents after Client’s Death (Broad)	27-16
	*Form 27-11: Narrow Form (Distribution to Parents Only after Proper Provision for Spouse and Children)	27-17
27.1.9	Graduated Distribution of Net Income to Child	27-17
	*Form 27-11A: Graduated Distribution of Net Income to Child	27-17
27.1.10	Bypass Trust to Supplement Spouse’s Other Income (from Spouse’s Family Trust Fund)	27-19
	*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
27.1.11	Discretion of Trustee to Withhold Trust Distributions in Certain Adverse Circumstances for Beneficiary (e.g., Drug Abuse, Marital Dissolution Pending).	27-20
	*Form 27-11C: Guidelines to Trustee on Interest Regarding Education	

		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

	CHAPTER 28 SELECT ESTATE PLANNING SUMMARIES:	
	PENNSYLVANIA AND FEDERAL LAW	28-1
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	28-5
	Figure 28-1: Graphic Depiction of Pennsylvania Intestacy Law	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	28-64.1
	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
29.13	Tax Cuts and Jobs Act: What Comes Next?	29-23
	*Form 29-1: Spousal Lifetime Access Trust (SLAT).	29-26

**PART XI
POWERS OF ATTORNEY**

CHAPTER 30	DURABLE POWERS OF ATTORNEY FOR FINANCIAL MATTERS	30-1
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 31-1

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**

CHAPTER 32	CHARITABLE GIFT PLANNING	32-1
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

CHAPTER 33	PRENUPTIAL AGREEMENTS	33-1
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
	*Form 33-5: Unrepresented Spouse	33-53
CHAPTER 34	ESTATE PLANNING FOR RETIREMENT BENEFITS	34-1
34.1	Beneficiary Designations	34-1
34.2	The SECURE Act of 2020	34-1
34.3	Conduit Trusts for Qualified Plans	34-2.1
	*Form 34-1: Conduit Trust for IRA Benefits	34-2.2
CHAPTER 35	TRUSTS FOR GIVING	35-1
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
CHAPTER 36	DIGITAL ASSETS	36-1
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	Uniform Law Enacted by Pennsylvania	36-6
36.7	Will Provisions	36-8
	*Form 36-1: Memorandum of Digital Assets (Example). .	36-9

**CHAPTER 37 ASSISTED REPRODUCTIVE TECHNOLOGY AND
OTHER PARENT IDENTIFICATION ISSUES 37-1**

37.1 Children Conceived After a Parent’s Death 37-2

37.2 Using a Surrogate Gestational Carrier 37-3

37.3 Including a “By Any Means” Clause 37-4

37.4 What About the Grandparents? 37-4

37.5 Uniform Parentage Act (2017) 37-4

37.6 Drafting Now to Prevent Problems 37-5

37.7 Alternate Definition 37-6

 *Form 37-1: Suggestions for Questions in your
 Estate Planning Questionnaire 37-7

**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