

# Contents

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

### CHAPTER 1: HOW TO USE THIS BOOK

1.1	Locating the Appropriate 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 . . . . .	1-4
1.7	Connecticut Estate Tax Considerations . . . . .	1-4
1.8	Summary . . . . .	1-4

### CHAPTER 2: ESTATE PLANNING: FUNDAMENTAL OBJECTIVE

2.1	The Fundamental Estate Planning Objective . . . . .	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 Objectives . . . . .	2-2
2.2.2	Initial Client Contact: Objectives . . . . .	2-3
	Form 2-1: Letter to Client Following Initial Client Contact — to Accompany Estate Planning Questionnaire . . . . .	2-4
	Form 2-2: Estate Planning Questionnaire—for Married Client . . . . .	2-4
	Form 2-2A: Estate Planning Questionnaire—for Single Client . . . . .	2-13
2.2.3	Effective Gathering of Client Information: The Client Estate Planning Questionnaire . . . . .	2-19
2.2.3.1	Family Information . . . . .	2-19
2.2.3.2	Assets and Liabilities . . . . .	2-19
2.2.4	Information Gathering . . . . .	2-20
2.2.5	Dispositive Goals . . . . .	2-20
2.2.6	Selection of Fiduciaries and Guardians . . . . .	2-21
2.2.6.1	Wills vs. Probate Substitutes . . . . .	2-21
	Form 2-3: Memorandum to Client Re: Advantages and Disadvantages . . . . .	

CONTENTS

		of Revocable Trusts vis-à-vis Wills in Connecticut . . . . .	2-22
	2.2.6.2	Powers of Attorney . . . . .	2-24
2.3		Nature and Scope of the Estate Planning Engagement and Attorney’s Fee . . . . .	2-25
	2.3.1	Discussing the Engagement and Fee. . . . .	2-25
		Form 2-4: Engagement/Fee Letter with Dual Representation Provisions. . . . .	2-25
	2.3.2	Establishing the Fee . . . . .	2-28
	2.3.3	Ethical Issues in Representing Both Husband and Wife. . . . .	2-28
	2.3.4	Waiver of Conflicts—Divorced Clients . . . . .	2-29
		Form 2-5: Conflicts Letter to Divorcing Clients. . . . .	2-30
		Form 2-6: Waiver of Legal Conflict Statement . . . . .	2-31

**PART II SIMPLE WILLS: FOR MARRIED COUPLES WITH  
COMBINED ESTATE NOT EXCEEDING FEDERAL  
AND CONNECTICUT ESTATE TAX EXEMPTION**

**CHAPTER 3: NON-TAX WILLS FOR MARRIED COUPLES WITH  
ADULT CHILDREN**

3.1		Overview . . . . .	3-1
	3.1.1	Overall Summary of Dispositive Provisions for Wills in Category . . . . .	3-1
3.2		Pure Simple 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 Will. . . . .	3-3
		Form NT-1: Client with Adult Children: Outright Gift of Residuary Estate to Spouse, if Surviving; if Not, Outright to Adult Children . . . . .	3-3
	3.2.5	Key Action Subjects for Strategic Planning . . . . .	3-10
3.3		Spousal/Trust Wills — To Spouse in Trust Without Tax Planning . . . . .	3-10
	3.3.1	Overall Summary of Dispositive Provisions. . . . .	3-11
	3.3.2	Terms of Residuary Trusts — How They Work . . . . .	3-12
	3.3.3	When to Use These Wills . . . . .	3-12
	3.3.4	Comparison of Spousal Residuary Trust for Spouse only vs. Discretionary Residuary Trusts for Spouse and Adult Children. . . . .	3-13
		3.3.4.1 Residuary Trust for Spouse Only. . . . .	3-13
		3.3.4.2 Residuary Trust for Spouse and Children . . . . .	3-14
	3.3.5	Estate Tax Consequences . . . . .	3-14
	3.3.6	Forms for “Spousal/Trust” Wills. . . . .	3-14
		Form NT-2: Will with Residuary Trust: Gift of	

	Residuary Estate to Trust for Benefit of Spouse for Life, Remainder to Adult Children; if Spouse Does Not Survive, Outright to Adult Children . . . . .	3-15
3.3.7	Key Action Subjects for Strategic Planning . . . . .	3-28
3.4	Wills Disposing Property Outright to Children (No Provision for Spouse) . . . . .	3-28
3.4.1	Summary of Dispositive Provisions . . . . .	3-29
3.4.2	When to Use These Wills . . . . .	3-29
3.4.3	Estate Tax Consequences . . . . .	3-29
3.4.4	Caution: Spouse’s Right of Election in Connecticut. . . . .	3-30
3.4.5	Will Forms for Outright Disposition of Children . . . . .	3-30
	Form NT-3: Client 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 . . . . .	3-30
3.4.6	Key Action Subjects for Strategic Planning . . . . .	3-36

**CHAPTER 4: NON-TAX WILLS FOR MARRIED COUPLES WITH MINOR CHILDREN**

4.1	Overview . . . . .	4-1
4.1.1	Overall Summary of Dispositive Provisions for Wills in Category . . . . .	4-1
4.2	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 . . . . .	4-2
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 Non-Tax Wills with Contingent Trusts for Children . . . . .	4-4
	Form NT-4: Will with Trusts for Children—Married Client with Minor Children: Outright Gift of Residuary Estate to Spouse, if Surviving; if Not, to Children in Trust (Separate or Undivided Spray “Pot” Trusts) . . . . .	4-5
4.2.7	Key Action Subjects for Strategic Planning . . . . .	4-18
4.3	Residuary Trust Wills — To Spouse in Trust with Contingent Trusts for Children . . . . .	4-18
4.3.1	Summary of Dispositive Provisions . . . . .	4-19
4.3.2	Dispositive Terms of Residuary Trusts. . . . .	4-20
4.3.3	Distribution Alternatives for Children’s Trusts. . . . .	4-20

CONTENTS

4.3.4 When to Use These Wills . . . . . 4-20

4.3.5 Comparison of Residuary Trust for Spouse Only vs. Residuary Trust for Spouse and Children . . . . . 4-21

4.3.6 Estate Tax Consequences . . . . . 4-21

4.3.7 Forms for NT-5 Residuary Trust Wills with Children’s Trusts . . . . . 4-21

    Form NT-5: Will with Trusts for Spouse and Children—Married Client with Minor Children: Gift of Residuary Estate to Trust for Spouse, if Surviving; if Not, to Children in Trust (Separate or Pot Trusts) . . . . . 4-22

4.3.8 Key Action Subjects for Strategic Planning . . . . . 4-37

4.4 Wills Disposing Property Outright to Trust for Minor Children (No Provision for Spouse) . . . . . 4-38

    4.4.1 Key Action Subjects for Strategic Planning . . . . . 4-38

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

**CHAPTER 5: STRATEGIC PLANNING WITH BYPASS TRUSTS**

5.1 Effective Utilization of Estate Tax Exemption Through Trusts . . . . . 5-1

5.2 Example: The All-to-Survivor Will Pitfall and the Credit Shelter/Bypass Trust Solution . . . . . 5-2

5.3 Workings of the Bypass Trust . . . . . 5-4

5.4 Alternatives for Structuring Bypass Trust . . . . . 5-5

    5.4.1 Using a Bypass Trust with a Limited Power of Appointment to Allow for Disclaimer . . . . . 5-6

5.5 THE “A-B” Will System and Formula Clauses . . . . . 5-6

**CHAPTER 6: TAX PLANNING WILLS WITH BYPASS TRUSTS IN COMBINATION WITH OUTRIGHT MARITAL BEQUEST—FOR MARRIED COUPLES WITH ADULT CHILDREN AND COMBINED ESTATES EXCEEDING APPLICABLE EXCLUSION AMOUNT**

6.1 Wills with Bypass Trust and Outright Marital Bequest—For Married Couples with Adult Children . . . . . 6-1

    6.1.1 General Description of Will . . . . . 6-1

    6.1.2 Summary of Dispositive Provisions . . . . . 6-2

    6.1.3 Graphic Summary of Dispositive Provisions of Bypass Trust and Estate Tax Effects . . . . . 6-2

    6.1.4 When to Use These Wills . . . . . 6-4

6.1.5	Federal Estate Tax Consequences . . . . .	6-4
6.1.5A	Connecticut Estate Tax Consequences . . . . .	6-5
6.1.6	Will Form TP-1 with Bypass Trust and Outright Marital— Adult Children. . . . .	6-6
	Form TP-1: Client with Adult Children: Outright (Pecuniary) Marital Deduction Bequest to Spouse of Amount in Excess of Applicable Exclusion Amount; Residuary Estate to Bypass Trust: During Lifetime of Surviving Spouse—Three Alternative Dispositive Methods of Distribution from Bypass Trust, Remainder Outright to Living Descendants, <i>per Stirpes</i> ; if Spouse Disclaims Marital Bequest, to Bypass Trust; if Spouse Does Not Survive, Residuary Estate Outright to Living Descendants, <i>per Stirpes</i> . . . . .	6-6
6.1.7	Client Presentation Charts for TP-1 . . . . .	6-20
6.1.8	Key Action Subjects for Strategic Planning . . . . .	6-22
6.2	Wills with Bypass Trust and Outright Marital Bequest for Married Couples with Minor Children. . . . .	6-22
6.2.1	General Description of Wills. . . . .	6-22
6.2.2	Overall Summary of Dispositive Provisions. . . . .	6-23
6.2.3	Outline Summary of Dispositive Provisions of Bypass Trust and Estate Tax Aspects . . . . .	6-23
6.2.4	When to Use These Wills . . . . .	6-28
6.2.5	Estate Tax Consequences . . . . .	6-28
6.2.6	Forms for Bypass Trust and Outright Marital—with Trusts for Children. . . . .	6-29
	Form TP-2: Client with Minor Children: Outright (Pecuniary) Marital Deduction Bequest to Spouse of Amount in Excess of Applicable Exclusion Amount; Residuary Estate to Bypass Trust (with Three Alternative Methods for Distribution from Bypass Trust), Remainder to Living Descendants, <i>per Stirpes</i> (with Alternatives of Separate Trusts or Pot Trust); if Spouse Disclaims Marital Bequest, to Bypass Trust; if Spouse Does Not Survive, Residuary Estate to Living Descendants, <i>per Stirpes</i> (with Alternatives for Separate Trusts or Pot Trust) . . . . .	6-30
	Form TP-3: Client with Minor Children: Outright	

CONTENTS

(Pecuniary) Marital Deduction Bequest to Spouse of Amount in Excess of Applicable Exclusion Amount; Credit Equivalent; Residuary Estate to Bypass Trust (with Three Alternative Methods for Distribution from Trust), Remainder to Living Descendants, *per Stirpes* (with Alternatives of Separate Trusts or Pot Trust); if Spouse Disclaims Marital Bequest, to Bypass Trust; if Spouse Does Not Survive, Residuary Estate to Living Descendants, *per Stirpes* Subject to Being Held in Undivided Spray “Pot” Trust) . . . . . 6-46

6.2.7 Client Presentation Charts for TP-2 and TP-3 . . . . . 6-62

6.2.8 Key Action Subjects for Strategic Planning . . . . . 6-69

**CHAPTER 7: STRATEGIC TAX PLANNING WITH QTIP MARITAL TRUSTS IN COMBINATION WITH A BYPASS TRUST: 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

7.5 Connecticut Estate Tax Planning and QTIP Trust . . . . . 7-4

**CHAPTER 8: TAX PLANNING WILLS WITH QTIP AND BYPASS TRUSTS: FOR MARRIED COUPLES WITH COMBINED ESTATES EXCEEDING APPLICABLE EXCLUSION AMOUNT (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 Bypass Trusts . . . . . 8-2

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

8.1.5 Estate Tax Consequences . . . . . 8-2

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

Form TP-4: Testator with Adult Children: Marital (Pecuniary) Bequest to Marital (QTIP) Trust for Benefit of Spouse of Amount in Excess of Applicable

	Exclusion Amount; Residuary Estate to Bypass Trust: During Lifetime of Surviving Spouse—Three Alternative Dispositive Methods of Distributions from Bypass Trust, Remainder Outright to Living Descendants, <i>per Stirpes</i> ; if Spouse Disclaims Marital Bequest, to Bypass Trust; if Spouse Does Not Survive, Residuary Estate Outright to Living Descendants, <i>per Stirpes</i> . . . . .	8-4
8.1.7	Client Presentation Charts for TP-4 . . . . .	8-19
8.1.8	Key Action Subjects for Strategic Planning . . . . .	8-23
8.2	Wills with QTIP and Bypass Trusts—Married Couples with Minor Children . . . . .	8-23
8.2.1	General Description of Wills . . . . .	8-23
8.2.2	Summary of Dispositive Provisions . . . . .	8-24
8.2.3	Summary of Dispositive Provisions and Tax Effects of Marital and Bypass Trusts . . . . .	8-24
8.2.4	When to Use These Wills . . . . .	8-24
8.2.5	Estate Tax Consequences . . . . .	8-25
8.2.6	Form Wills with QTIP and Bypass Trust—for Married Couples with Minor Children . . . . .	8-26
	Form TP-5: Testator with Minor Children: Marital (Pecuniary) Bequest to Marital (QTIP) Trust for Benefit of Spouse of Amount in Excess of Applicable Exclusion Amount which passes to Bypass Trust: During Lifetime of Surviving Spouse—Three Alternative Dispositive Methods of Distributions from Bypass Trust, Remainder Outright to Living Descendants, <i>per Stirpes</i> with Separate Trusts for Children under 30; if Spouse Disclaims Marital Bequest, to Bypass Trust; if Spouse Does Not Survive, Residuary Estate to Separate Trusts for Children . . . . .	8-27
	Form TP-6: Testator with Minor Children: Marital (Pecuniary) Bequest to Marital (QTIP) Trust for Benefit of Spouse of Amount in Excess of Applicable Exclusion Amount Which Passes to Bypass Trust: During Lifetime of Surviving Spouse—	

CONTENTS

	Three Alternative Dispositive Methods of Distributions from Bypass Trust, Remainder Outright to Living Descendants, <i>per Stirpes</i> Subject to Being Held in Undivided Spray “Pot” Trust; if Spouse Disclaims Marital Bequest, to Bypass Trust; if Spouse Does Not Survive, Residuary Estate to “Pot” Trust for Children . . . . .	8-45
8.2.7	Client Presentation Charts for TP-5 and TP-6 . . . . .	8-62
8.2.8	Key Action Subjects for Strategic Planning . . . . .	8-71

**CHAPTER 9: TAX PLANNING WILLS WITH MARITAL AND EXCLUSION SHARES: USE OF PECUNIARY BYPASS TRUST 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 . . . . .	9-1
9.2.1	General Description of Wills . . . . .	9-1
9.2.2	Summary of Dispositive Provisions of TP-7 . . . . .	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 and Adult Children . . . . .	9-3
	Form TP-7: Testator with Adult Children: Pecuniary Bequest to Bypass Trust—During Lifetime of Spouse, Spray Trust for Benefit of Spouse and Descendants, Remainder Outright to Living Descendants, <i>per Stirpes</i> ; Residuary Estate (Amount in Excess of Applicable Exclusion Amount) to Spouse; if Spouse Disclaims Marital Bequest, to Bypass Trust; if Spouse Does Not Survive, Residuary Estate Outright to Living Descendants, <i>per Stirpes</i> . . . . .	9-4
9.2.6	Client Presentation Chart for TP-7 . . . . .	9-18
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 . . . . .	9-19
9.3.3	When to Use These Wills . . . . .	9-20
9.3.4	Estate Tax Consequences . . . . .	9-20

9.3.5 Form Reverse Pecuniary Wills with QTIP and Bypass Trusts . . . . . 9-21

Form TP-8: Testator with Adult Children:  
Pecuniary Bequest to Bypass Trust—During Lifetime of Spouse, Spray Trust for Benefit of Spouse and Descendants, Remainder Outright to Living Descendants, *per Stirpes*;  
Residuary Estate (Amount in Excess of Applicable Exclusion Amount) to QTIP Marital Trust; if Spouse Disclaims Marital Trust, to Bypass Trust; if Spouse Does Not Survive, Residuary Estate Outright to Living Descendants, *per Stirpes* . . . . . 9-21

9.3.6 Client Presentation Chart for TP-8 . . . . . 9-37

9.4 “Reverse Pecuniary” Wills with Bypass Trust and Outright Marital Bequest for Married Couples with Minor Children and Two Alternate Trusts for Children (Separate Trusts and Undivided Spray (“Pot”) Trusts) . . . . . 9-38

9.4.1 General Description of Wills. . . . . 9-38

9.4.2 Summary of Dispositive Provisions TP-9. . . . . 9-39

9.4.3 When to Use These Wills . . . . . 9-39

9.4.4 Estate Tax Consequences . . . . . 9-40

9.4.5 Form TP-9 Reverse Pecuniary Wills with Bypass Trust and Outright Marital Bequest . . . . . 9-41

Form TP-9: Married Client with Minor Children:  
Pecuniary Bequest to Bypass Trust — During Lifetime of Spouse, Spray Trust for Benefit of Spouse and Descendants, Remainder to Trusts for Children (Alternative Clauses for Separate Trusts or Pot Trust); Residuary Estate (Amount in Excess of Applicable Exemption Amount) Outright to Spouse (if Disclaimed, to Bypass Trust); if Spouse Does Not Survive, Residuary Estate to Trust for Children (Alternative Clauses for Separate Trusts or Pot Trust) . . . . . 9-41

9.4.6 Client Presentation Charts for TP-9 . . . . . 9-59

9.5 “Reverse Pecuniary” Wills for Married Couples with Minor Children (with QTIP Trust) Two Alternate Trusts for Children—Separate Trusts and an Undivided Spray (“Pot”) Trust. . . . . 9-61

9.5.1 General Description of Wills. . . . . 9-61

9.5.2 Summary of Dispositive Provisions . . . . . 9-62

CONTENTS

9.5.3 When to Use These Wills . . . . . 9-62

9.5.4 Estate Tax Consequences . . . . . 9-63

9.5.5 Form Reverse Pecuniary Wills with QTIP and Bypass Trusts . . . . . 9-64

Form TP-10: Married Client with Minor Children:  
Pecuniary Bequest to Bypass  
Trust — During Lifetime of Spouse,  
Spray Trust for Benefit of Spouse  
and Descendants, Remainder to  
Trusts for Children (Alternative  
Clauses for Separate Trusts or  
Pot Trust); Residuary Estate  
(Amount in Excess of Applicable  
Exclusion Amount) to Marital/QTIP  
Trust for Benefit of Spouse  
(if Disclaimed, to Bypass Trust);  
if Spouse Does Not Survive, Residuary  
Estate to Trust for Children  
(Alternative Clauses for Separate  
Trusts or Pot Trust) . . . . . 9-64

9.5.6 Client Presentation Charts for TP-10 . . . . . 9-83

9.5.7 Key Action Subjects for Strategic Planning . . . . . 9-86

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

**CHAPTER 10: STRATEGIC PLANNING WITH “FLEXIBLE” DISCLAIMER TRUSTS**

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 Connecticut Disclaimer Law . . . . . 10-3

10.2.2.1 Classes of Individuals Who May Disclaim  
under Connecticut Law . . . . . 10-3

10.2.2.2 Time Limits and Place for Filing Disclaimer . . . . . 10-3

10.2.2.3 Jointly Held Assets . . . . . 10-4

10.2.2.4 Other Requirements under Connecticut Law . . . . . 10-5

Form 10-1: Disclaimer of Shares of Stock . . . . . 10-5

Form 10-2: Disclaimer of Interest under  
Revocable Trust . . . . . 10-6

10.3 When Is a Disclaimer Used—In General . . . . . 10-7

10.4 Reducing the Marital Deduction Through a Disclaimer: A Case Study . . . . . 10-8

10.5 Increased Use of Disclaimer Trusts under EGTRRA . . . . . 10-10

10.5.1 The Impact of the Increasing Applicable Exclusion on Formula Clause Wills and Revocable Trusts — “the EGTRRA Trap” . . . . . 10-10

10.5.2 The Flexible Disclaimer Trust Solution . . . . . 10-11

10.5.3 Some Pitfalls and Disadvantages of Disclaimer Approach. . . . . 10-11

**CHAPTER 11: TAX PLANNING WILLS WITH DISCLAIMER TRUSTS**

11.1 Disclaimer Wills for Married Couple 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 — Married Couples with Adult Children . . . . . 11-4

Form DW-1: Will with Disclaimer Trust: Gift of Residuary Estate to Spouse. If Spouse Disclaims, to Trust for Benefit of Spouse for Life, Remainder to Adult Children; if Spouse Does Not Survive, Outright to Adult Children . . . . . 11-4

11.1.6 Client Presentation Chart for DW-1 . . . . . 11-17

11.1.7 Key Action Subjects for Strategic Planning . . . . . 11-18

11.2 Disclaimer Wills for Married Couples with Minor Children . . . . . 11-18

11.2.1 Dispositive Provisions of Wills in Category. . . . . 11-18

11.2.2 Summary of Dispositive Provisions and Tax Effects of Disclaimer Trust . . . . . 11-19

11.2.3 When to Use These Wills . . . . . 11-24

11.2.4 Estate Tax Consequences . . . . . 11-24

11.2.5 Form Wills with Disclaimer Trusts for Married Couple with Minor Children . . . . . 11-25

Form DW-2: Will with Disclaimer Trusts — Married Client with Minor Children: Gift of Residuary Estate to Spouse. If Spouse Disclaims, Trust for Spouse, if Surviving; if Not, to Children in Separate Trusts . . . . . 11-25

Form DW-3: Will With Disclaimer Trusts— Married Client with Minor Children: Gift of Residuary Estate to Spouse. If Spouse Disclaims to Trust for Spouse, if Surviving; if Not, to Children in Undivided Spray “Pot” Trust. . . . . 11-40

11.2.6 Client Presentation Charts for DW-2 and DW-3. . . . . 11-54

CONTENTS

11.2.7 Key Action Subjects for Strategic Planning . . . . . 11-56

**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 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 Marital Trust . . . . . 12-6  
12.7 Use of the First Spouse’s Nonexempt Marital Trust to Allocate GST  
Exemption of Surviving Spouse. . . . . 12-7  
12.8 Ramifications and Drafting Considerations in Light of EGTRRA. . . . . 12-8

**CHAPTER 13: TAX PLANNING WILLS WITH GENERATION-  
SKIPPING TRUSTS**

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 . . . . . 13-1  
13.1.3 Considerations in Choosing GST-1 OR GST-2. . . . . 13-4  
13.1.4 Form Wills with Generation-Skipping Trust. . . . . 13-4  
Form GST-1: Couple with Adult Children:  
Marital Deduction Bequest to  
Marital (QTIP) Trust of Amount  
in Excess of Applicable Exclusion  
Amount; Marital Bequest Can Be  
Divided into Exempt Marital  
(Reverse QTIP/Generation-Skipping)  
Trust and Nonexempt Marital Trusts;  
Residuary Estate Bypass/Generation-  
Skipping) Trust for Benefit of Spouse,  
Children, and Descendants of  
Deceased Child During Lifetime  
of Spouse; upon Death of Spouse,  
Remainder of Exempt Marital Trust  
and Residuary Trust to Children  
in Separate Trusts for Life, Remainder

to Grandchildren with Limited Power of Appointment to Children; upon Death of Spouse, Remainder of Nonexempt Marital Trust Outright to Living Descendants, *per Stirpes* . . . . . 13-5

Form GST-2: Couple with Adult Children: Marital Deduction Bequest to Marital (QTIP) Trust of Amount in Excess of Applicable Exclusion Amount; Marital Bequest Can Be Divided into Exempt Marital (Reverse QTIP/Generation-Skipping) Trust and Nonexempt Marital Trusts; Residuary Estate Bypass/Generation-Skipping) Trust for Benefit of Children in Separate Trusts for Life (SPOUSE HAS NO INTEREST IN BYPASS TRUST), Remainder to Grandchildren with Limited Power of Appointment to Children; Remainder of Nonexempt Marital Trust Outright to Living Descendants, *per Stirpes* . . . . . 13-23

13.1.5 Client Presentation Charts for All GST Wills . . . . . 13-40

13.1.6 Key Action Subjects for Strategic Planning . . . . . 13-48

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

**CHAPTER 14: WILLS FOR UNMARRIED INDIVIDUALS**

14.1 Overview and Overall Dispositive Summary of Wills Selected . . . . . 14-1

14.2 Simple Wills for Unmarried Person with Adult Children . . . . . 14-3

14.2.1 Summary of Dispositive Provisions . . . . . 14-3

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 . . . 14-4

Form UM-1: Will for Single Client with Adult Children: Outright Gift of Residuary Estate to Equally Adult Children . . . . . 14-4

14.3 Wills for Unmarried Person with Minor Children . . . . . 14-10

14.3.1 Summary of Dispositive Provisions . . . . . 14-10

14.3.2 Distribution of Separate Trusts for Children . . . . . 14-10

14.3.3 Distribution of Pot Trusts for Children . . . . . 14-11

14.3.4 When to Use these Wills . . . . . 14-11

14.3.5 Estate Tax Consequences . . . . . 14-11

14.3.6 Form Simple Wills for Unmarried Persons with Minor Children . . 14-12

Form UM-2: Will for Single Client with Minor

CONTENTS

	Children: Outright Gift of Residuary Estate to Equal Separate Trusts for Children . . . .	14-12
14.4	Will for Unmarried Individuals without Children . . . . .	14-25
14.4.1	Overview . . . . .	14-25
14.4.2	Summary of Dispositive Provisions . . . . .	14-25
14.4.3	When to Use these Wills . . . . .	14-25
14.4.4	Estate Tax Consequences . . . . .	14-25
14.4.5	Form Wills for Unmarried Individuals without Children . . . . .	14-26
	Form UM-3: Unmarried Testator Who Desires to Benefit of Life Partner in a Sanctioned Civil Union: Gift of Residuary Estate to Trust for Life Partner for Life, Remainder to Nieces and Nephews (Separate Trusts if under 30) . . . . .	14-26
14.5	Pour-over Will to Revocable Trust . . . . .	14-38
14.5.1	Summary of Dispositive Provisions . . . . .	14-38
14.5.2	When to Use These Wills . . . . .	14-38
14.5.3	Estate Tax Consequences . . . . .	14-38
14.5.4	Form Pour-over Will . . . . .	14-39
	Form UM-4: Pour-over Will to Revocable Trust for an Unmarried Client . . . . .	14-39
14.6	Will for Single Individuals with Generation-Skipping Trusts . . . . .	14-44
14.6.1	Overview . . . . .	14-44
14.6.2	Overall Summary of Dispositive Provisions . . . . .	14-44
14.6.3	Objective of GST Wills for Unmarried Individuals . . . . .	14-45
14.6.4	Detailed Summary of Dispositive Provisions of GST Trusts . . . . .	14-46
14.6.5	When to Use These Wills . . . . .	14-48
14.6.6	Form Wills for Unmarried Individuals with Generation- Skipping Trusts . . . . .	14-48
	Form UM-5: Unmarried Testator with Adult Children: Residuary Bequest to be Divided into: (1) Exempt Portion—Generation-Skipping Trusts for Descendants with Alternative Dispositive Structures Including Dynasty Trust; and (2) Nonexempt Portion—Outright to Living Descendants, <i>per Stirpes</i> . . . . .	14-49
14.6.7	Key Action Subjects for Strategic Planning . . . . .	14-63

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

**CHAPTER 15: STRATEGIC PLANNING WITH REVOCABLE TRUSTS AS PRIMARY TESTAMENTARY INSTRUMENT**

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 . . . . . 15-4

        15.1.2.3 Planning for Incapacity . . . . . 15-4

        15.1.2.4 Ancillary Administration: Real Estate in More than One State . . . . . 15-4

        15.1.2.5 Potential for Will Contests . . . . . 15-4

        15.1.2.6 Younger Clients . . . . . 15-5

    15.1.3 Summary . . . . . 15-5

15.2 Mechanics and Operation of Revocable Trust/Pour-over Will Structure . . . . . 15-5

    15.2.1 Transfer of Assets to Trust . . . . . 15-5

    15.2.2 Trustee . . . . . 15-6

    15.2.3 Dispositive Provisions During Life of Settlor and upon Death . . . . . 15-6

    15.2.4 Right to Revoke . . . . . 15-6

    15.2.5 Tax Identification Number . . . . . 15-6

    15.2.6 Tax Consequences of a Revocable Trust . . . . . 15-7

        15.2.6.1 Gift Taxes . . . . . 15-7

        15.2.6.2 Income Tax . . . . . 15-7

        15.2.6.3 Estate Tax . . . . . 15-7

    15.2.7 Pour-over Will . . . . . 15-7

15.3 Overall Summary of Forms . . . . . 15-7

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

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

CONTENTS

Form PO-1: Pour-over Will to Revocable Trust Married Client with Adult Children: Outright Gift of Residuary Estate to Revocable Living Trust. . . . . 16-14

16.3 Revocable Trust and Pour-over Will for Unmarried Individuals without Children (RT-2). . . . . 16-20

16.3.1 Summary of Dispositive Provisions of RT-2. . . . . 16-20

16.3.2 When to Use This Revocable Trust. . . . . 16-20

16.3.3 Income, Gift, and Estate Tax Consequences. . . . . 16-21

16.3.4 Forms . . . . . 16-21

Form RT-2: Revocable Trust Agreement for Unmarried Settlor Who Wishes to Benefit Life Partner, Remainder to Nieces and Nephews (in Trust if Under 30). . . . . 16-22

16.4 Revocable Trusts and Pour-over Wills for Unmarried Individuals with Children—with Generation-Skipping Trusts (RT-3 and RT-4 and PO-1). . . . . 16-34

16.4.1 Summary of Dispositive Provisions of RT-3 and RT-4. . . . . 16-34

16.4.2 Objective of GST Provisions for Unmarrieds. . . . . 16-35

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. . . . . 16-35

16.4.4 When to Use These Revocable Trusts (RT-3 and RT-4). . . . . 16-37

16.4.5 Forms . . . . . 16-37

Form RT-3: Revocable Trust Agreement for Unmarried Individual with Adult Children—with GST Trusts for Children upon Death of Settlor. . . . . 16-38

Form RT-4: Revocable Trust Agreement for Unmarried Individual with Adult Children—with Dynasty Trust for Descendants for Maximum Perpetuities Period. . . . . 16-52

**CHAPTER 17: REVOCABLE TRUSTS AND POUR-OVER WILLS FOR MARRIED COUPLES WITHOUT TAX PLANNING (COMBINED ESTATE NOT EXCEEDING APPLICABLE EXCLUSION AMOUNT)**

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 . . . . . 17-3

17.5 Forms . . . . . 17-3

Form RT-5: Simple Revocable Trust Agreement for Married Settlor—Outright Disposition to Spouse upon Death of Settlor. If Spouse is Not Living, to Adult Children or Trusts for Minor Children . . . . . 17-4

**CHAPTER 17A: USE OF JOINT REVOCABLE TRUSTS FOR MARRIED COUPLES WITHOUT TAX PLANNING (COMBINED ESTATE NOT EXCEEDING APPLICABLE EXCLUSION AMOUNT)**

17A.1 Overview and Practical Considerations . . . . . 17A-1  
 17A.2 When Does a Joint Revocable Trust Become Irrevocable? . . . . . 17A-2  
 17A.3 Summary Provision of JRT-1 and JRT-2 . . . . . 17A-2  
 17A.4 When to Use this Joint Revocable Trust (JRT-1) . . . . . 17A-3  
 17A.5 When to Use this Joint Revocable Trust (JRT-2) . . . . . 17A-4  
 17A.6 Income, Gift and Estate Tax Consequences . . . . . 17A-4  
 17A.7 Use of Joint Revocable Trusts in Larger Estates . . . . . 17A-5  
 17A.8 Forms . . . . . 17A-6  
     Form JRT-1: Joint Revocable Trust Agreement for Married Settlor—Trust Continues for Spouse upon Death of first Spouse. On Death of Survivor to Trusts for Minor Children—Surviving Spouse Can Revoke . . . . . 17A-6  
     Form JRT-2: Joint Revocable Trust Agreement for Married Settlor—Trust Continues for Spouse upon Death of first Spouse. On Death of Survivor to Trusts for Minor Children—Trust Becomes Irrevocable on death of first Settlor . . . . . 17A-18

**CHAPTER 18: REVOCABLE TRUSTS AND POUR-OVER WILLS WITH BYPASS TRUSTS—FOR MARRIED COUPLES AND COMBINED ESTATES EXCEEDING APPLICABLE EXCLUSION AMOUNT**

18.1 Strategic Planning with Bypass Trusts . . . . . 18-1  
 18.2 Summary of Dispositive Provisions of RT-6 . . . . . 18-1  
 18.3 Graphic Summary of Dispositive Provisions of 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 Bypass Trust Alternate Distributions, Outright to Children or Separate Trusts for Children . . . . . 18-6

**CHAPTER 19: REVOCABLE TRUSTS AND POUR-OVER WILLS WITH MARITAL/Q-TIP TRUST IN COMBINATION WITH BYPASS TRUST (COMBINED ESTATES EXCEED APPLICABLE EXCLUSION AMOUNT)**

19.1 Strategic Planning with Marital QTIP Trust and Bypass Trust . . . . . 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 . . . . . 19-6

19.6 Income, Gift, and Estate Tax Consequences . . . . . 19-6

19.7 Forms . . . . . 19-7

    Form RT-7: Revocable Trust Agreement for Married Settlor—with QTIP and Bypass Trust. Alternate Distributions to Children or Separate Trusts for Children . . . . . 19-8

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

20.1 Strategic Planning with Disclaimer Trusts . . . . . 20-1

20.2 Summary of Dispositive Provisions of RT-8 . . . . . 20-1

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 . . . . . 20-3

20.6 Forms . . . . . 20-4

    Form RT-8: Revocable Trust Agreement for Married Settlor—Outright to Spouse with Disclaimer to Bypass Trust; Alternate Distributions to Children or Separate Trusts for Children . . . . . 20-4

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

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 (Bypass Trust). . . . . 21-3

        21.2.2.2 Exempt and Nonexempt Marital Trusts . . . . . 21-4

21.3 The “Reverse QTIP” Election . . . . . 21-5

21.3.1	Ramifications and Drafting Considerations in Light of EGTRRA . . . . .	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 . . . . .	21-7
21.6	When to Use Revocable Trust RT-9 . . . . .	21-11
21.7	Forms . . . . .	21-11
	Form RT-9: Revocable Trust Agreement for Married Settlor—QTIP Marital Trust with Generation-Skipping Trusts . . . . .	21-11

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

**CHAPTER 22: IRREVOCABLE LIFE INSURANCE TRUSTS (ILITS)**

22.1	The Life Insurance Trust—Removes Life Insurance From the Estate Tax System . . . . .	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 . . . . .	22-4
22.2.2	The 3-Year Rule and Strategies for Avoidance . . . . .	22-5
22.3	The 8-Step Procedure For Establishing and Maintaining a Life Insurance Trust . . . . .	22-6
	Form 22-1: Checklist for Establishing and Maintaining an ILIT . . . . .	22-7
22.4	Life Insurance Trust on One Life—For Married Settlor . . . . .	22-8
22.4.1	Purposes and Uses of ILIT-1 (Standard ILIT) and ILIT-2 (ILIT with Generation-Skipping Trusts) . . . . .	22-8
22.4.2	Graphic Summary of Dispositive Provisions of ILIT-1 and ILIT-2 with Estate Tax Effects . . . . .	22-8.1
22.4.3	Forms . . . . .	22-10
	Form ILIT-1: Life Insurance Trust to Hold Policy on Life of Married Settlor . . . . .	22-11
	Form ILIT-2: Life Insurance Trust to Hold Policy on Life of Married Settlor, with Generation-Skipping Trusts . . . . .	22-26
	Form 22-2: <i>Crummey</i> Notice—to Accompany Single Life ILITs . . . . .	22-43
22.5	Life Insurance Trust on One Life—for Unmarried Settlor with Children (e.g., Widowed, Divorced) . . . . .	22-44
22.5.1	Purposes and Uses of ILIT-3 (Standard ILIT) and ILIT-4 (ILIT with Generation-Skipping Trusts) . . . . .	22-44
22.5.2	Graphic Summary of Dispositive Provisions of ILIT-3 and ILIT-4 with Estate Tax Effects . . . . .	22-44

CONTENTS

22.5.3 Forms . . . . . 22-45

    Form ILIT-3: Life Insurance Trust to Hold Policy on  
    Life of Unmarried Settlor. . . . . 22-46

    Form ILIT-4: Life Insurance Trust to Hold Policy on  
    Life of Unmarried Settlor—with  
    Generation-Skipping Trusts. . . . . 22-59

22.6 Life Insurance Trusts on Two Lives (for Second-to-Die Policies) —  
    ILIT-5 and ILIT-6. . . . . 22-75

    22.6.1 Purposes and Practical Uses of Second-to-Die Policies  
    and Special Requirements. . . . . 22-75

    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) . . . . . 22-76

    22.6.3 Forms . . . . . 22-77

        Form ILIT-5: Survivorship Life Insurance Trust  
        to Hold Survivorship Policy. . . . . 22-77

        Form ILIT-6: Survivorship Life Insurance Trust to  
        Hold Survivorship Policy with  
        Generation-Skipping Trusts. . . . . 22-92

        Form 22-3: *Crummey* Notice—to Accompany  
        Second-to-Die ILITs . . . . . 22-108

**CHAPTER 23: TRUSTS FOR MINORS**

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. . . . . 23-4

    23.2.1 Requirements. . . . . 23-4

    23.2.2 Tax Issues . . . . . 23-4

    23.2.3 Planning Considerations: Extending the 2503(c) Trust  
    beyond Age 21 . . . . . 23-5

    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 *Crummey* Minor’s Trust . . . . . 23-16

    23.3.1 Requirements and Practical Uses . . . . . 23-16

    23.3.2 Combining *Crummey* Minor’s Trusts with Generation-  
    Skipping Planning. . . . . 23-16

    23.3.3 Summary of Dispositive Provisions of Forms for *Crummey*  
    Minor’s Trust. . . . . 23-17

    23.3.4 Forms for *Crummey* Minor’s Trusts . . . . . 23-21

Form 23-2: *Crummey* 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: *Crummey* Minor’s “Pot” Trust for Children of Settlor with Hanging Withdrawal Powers—Final Distribution of Principal when Youngest Child Attains Age 25 . . . . . 23-32

Form 23-4: *Crummey* 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 . . . . . 23-43

Form 23-5: *Crummey* “Dynasty” Trust for Descendants of Settlor for Maximum Perpetuities Period . . . . . 23-55

Form 23-6: *Crummey* Notice—to Accompany *Crummey* Trusts . . . . . 23-66

**CHAPTER 24: TRUSTS FOR S CORPORATION STOCK**

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 Reform under the American Jobs Creation Act of 2004 . . . . . 24-3

24.5 Eligibility of Grantor Retained Annuity Trust (“GRAT”) to Hold S Corporation Stock . . . . . 24-4

24.5 Forms . . . . . 24-4

Form 24-1: Qualified Subchapter S Trust . . . . . 24-4

Form 24-2: Sample QSST Election . . . . . 24-16

Form 24-3: Electing Small Business Trust (“ESBT”) for Descendants of Settlor for Maximum Perpetuities Period . . . . . 24-17

**CHAPTER 25: RETAINED INTEREST TRUSTS: QPRTS AND GRATs**

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 . . . . . 25-3

25.1.3 Forms . . . . . 25-4

Form 25-1: Qualified Personal Residence Trust—to Hold Residence of Grantor for 10 Years—Remainder to Child . . . . . 25-4

CONTENTS

25.2 Grantor Retained Annuity Trusts (GRATs) . . . . . 25-18  
25.2.1 Requirements and Practical Uses . . . . . 25-18  
25.2.2 Illustrations and Computer Projections/Presentation Charts. . . . . 25-19  
25.2.3 Forms . . . . . 25-20  
Form 25-2: Grantor Retained Annuity Trust—9%  
Annuity to Grantor for 5 Years—  
Terminating Distribution to the  
Settlor’s Child . . . . . 25-20

**CHAPTER 26: TRUSTS FOR INDIVIDUALS WITH SPECIAL NEEDS**

26.1 Overview: Planning Strategies for Families of Children with  
Special Needs . . . . . 26-1  
26.2 The *Zeoli* Discretionary Spray Trust: Requirements and Overview . . . . . 26-2  
26.2.1 Overview. . . . . 26-2  
26.2.2 Requirements. . . . . 26-2  
26.3 The Discretionary Special Needs Trust for a Single Beneficiary. . . . . 26-3  
26.4 Forms . . . . . 26-5  
Form 26-1: Special Needs Trust for Disabled Child . . . . . 26-5  
26.5 “Self-Settled” Special Needs Trust for Disabled Beneficiary under  
Age 65 . . . . . 26-13  
26.5.1 Overview . . . . . 26-13  
26.5.2 Requirements and Benefits . . . . . 26-13  
Form 26-2: Supplemental Needs  
Trust Agreement . . . . . 26-14

**PART IX ALTERNATIVE DRAFTING FORMS**

**CHAPTER 27: ALTERNATIVE DRAFTING FORMS**

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 Trust Primarily for Education of Descendants . . . . . 27-3  
Form 27-3: Grandchildren’s Education Trust;  
General Standards with Preference  
for Education . . . . . 27-3  
Form 27-4: Incentive and Distribution Provisions  
for Children to Attend College. . . . . 27-3

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 . . . . . 27-4

27.1.4 Bypass Trust Giving Surviving Spouse Limited Power of Appointment of Trust Remainder . . . . . 27-4

Form 27-6: Bypass Trust Giving Surviving Spouse Limited Power of Appointment of Trust Remainder . . . . . 27-4

27.1.5 Creation of Separate Disclaimer Trust (in Conjunction with a Bypass Trust) to Hold Disclaimed Assets Where a Power of Appointment Is Utilized . . . . . 27-6

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. . . . . 27-6

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. . . . . 27-6

27.1.6 Qualified Domestic Trust (QDOT) . . . . . 27-7

Form 27-7: Qualified Domestic Trust (QDOT) . . . . . 27-7

27.1.7 QTIP Trust Provisions for Spouse in Nursing Home . . . . . 27-9

Form 27-8: QTIP Trust Provisions for Spouse in a Nursing Home . . . . . 27-9

27.1.8 Generation-Skipping Trust—General Power of Appointment upon Child’s Death to Prevent Imposition of GST Tax . . . . . 27-11

Form 27-9: Generation-Skipping Trust—Providing for General Power of Appointment upon Child’s Death to Prevent Imposition of GST Tax . . . . . 27-11

27.1.9 Trust for Client’s Parents after Client’s Death . . . . . 27-12

Form 27-10: Trust for Client’s Parents after Client’s Death (Broad). . . . . 27-12

Form 27-11: Narrow Form (Distribution to Parents Only after Proper Provision for Spouse and Children). . . . . 27-13

27.1.10 Graduated Distribution of Net Income to Child . . . . . 27-13

Form 27-12: Graduated Distribution of Net Income to Child. . . . . 27-13

27.1.11 Bypass Trust to Supplement Spouse’s Other Income (from Spouse’s Family Trust Fund) . . . . . 27-15

Form 27-13: Bypass Trust to Supplemental

CONTENTS

	Spouse's Income if Spouse's Family Trust Fund Does Not Provide Adequate Support (Objective Threshold) . . . . .	27-15
27.1.12	Discretion of Trustee to Withhold Trust Distributions in Certain Adverse Circumstances for Beneficiary (e.g., Drug Abuse, Marital Dissolution Pending) . . . . .	27-16
	Form 27-14: Guidelines to Trustee on Interest Regarding Education and Premium on Gainful Employment. . . . .	27-16
27.2	Special Provisions for Closely Held Business Interest . . . . .	27-16
27.2.1	Closely Held Business Power for Fiduciaries . . . . .	27-16
	Form 27-15: Broad Closely Held Business Power for Fiduciaries . . . . .	27-17
27.2.2	Right of First Refusal . . . . .	27-17
	Form 27-16: Right of First Refusal for Disposition of Corporate Stock . . . . .	27-17
	Form 27-17: Right of First Refusal for Disposition of Interest in Limited Liability Company. . . . .	27-18
27.2.3	Compliance with "Buy-Sell". . . . .	27-19
	Form 27-18: Compliance with "Buy-Sell" . . . . .	27-19
27.3	Disposition of Bodily Parts . . . . .	27-20
27.3.1	Cremation . . . . .	27-20
	Form 27-19: Cremation. . . . .	27-20
27.3.2	Anatomical Gifts . . . . .	27-20
	Form 27-20: Anatomical Gift: Statutory Form (During Lifetime). . . . .	27-20
	Form 27-21: Anatomical Gift: Confirmation and Direction in Will . . . . .	27-21
27.4	Specific Requests . . . . .	27-21
27.4.1	Specific Bequests of Tangible Personal Property of Life Estate to Spouse . . . . .	27-21
	Form 27-22: Specific Bequest of Tangible Personal Property of Life Estate to Spouse . . . . .	27-22
27.4.2	Specific Bequests to Grandchild under Connecticut Uniform Transfers to Minors Act . . . . .	27-22
	Form 27-23: Specific Bequests to Grandchild under Connecticut Uniform Transfers to Minors Act . . . . .	27-22
27.4.3	Gift to Surviving Spouse in Trust until Death or Remarriage. . . . .	27-22
	Form 27-24: Gift to Surviving Spouse in Trust until Death or Remarriage . . . . .	27-23
27.4.4	Specific Bequest of Tangible Personal Property: Division by Lot . . . . .	27-23
	Form 27-25: Specific Bequest of Tangible Personal	

	Property: Division by Lot . . . . .	27-23
27.4.5	Cash Gifts to Individual Beneficiaries . . . . .	27-23
	Form 27-26: Cash Gifts to Individual Beneficiaries— Contingent upon Survival . . . . .	27-23
	Form 27-26A: Cash Gifts to Individual Beneficiaries with Gift over if Named Beneficiary Fails to Survive . . . . .	27-24
27.4.6	Cash Gifts to Charities . . . . .	25-24
	Form 27-27A: Cash Gifts to Charity with Suggested Allocation of Gift. . . . .	27-24
	Form 27-27B: Cash Gift to Charity—Limited by a Percentage of Estate . . . . .	27-25
27.4.7	Specific Bequest of Stock . . . . .	27-25
	Form 27-28A: Specific Bequest of Stock—No Contingent Beneficiaries . . . . .	27-25
	Form 27-28B: Specific Bequest of Stock— Contingent Beneficiaries . . . . .	27-25
27.4.8	Outright Bequest of Residuary Estate to More than One Legatee in Equal Shares . . . . .	27-25
	Form 27-29: Outright Bequest of Residuary Estate to More than One Legatee in Equal Shares . . . . .	27-26
27.4.9	Transferring Property Subject to Mortgage. . . . .	27-26
	Form 27-30: Direction to Executor to Pay Mortgage from Estate . . . . .	27-26
	Form 27-31: Authorization to Pay off Mortgage . . . . .	27-26
27.5	Special Provisions Where Estate Consists of Stock in Subchapter S Corporation . . . . .	27-27
27.5.1	Subchapter S Provisions . . . . .	27-27
	Form 27-32: Subchapter S Provisions. . . . .	27-27
27.6	Miscellaneous Provisions . . . . .	27-28
27.6.1	Specific Exercise of Testamentary Power of Appointment . . . . .	27-28
	Form 27-33: Specific Exercise of Testamentary Power of Appointment. . . . .	27-29
27.6.2	Forgiveness of Debt at Death . . . . .	27-29
	Form 27-34: Forgiveness of Debt at Death (Unrecorded Debt) . . . . .	27-29
	Form 27-35: Forgiveness of Debt at Death (Recorded Mortgage) . . . . .	27-29
27.6.3	Catch-All/Ultimate Beneficiary—to Various Charities . . . . .	27-30
	Form 27-36: Catch-All/Ultimate Beneficiary— to Various Charities . . . . .	27-30
27.6.4	Marital Deduction Equalization Clause . . . . .	27-30
	Form 27-37: Marital Deduction Equalization Clause . . . . .	27-31
27.6.5	Omitting Spouse—Second Marriage . . . . .	27-31

CONTENTS

	Form 27-38: Omitting—Spouse from Second Marriage . . . . .	27-31
27.6.6	Omittal Due to Religious Affiliation of Joining of Cult . . . . .	27-31
	Form 27-39: Omittal—Due to Religious Affiliation . . . . .	27-32
	Form 27-40: Omittal—Due to Joining of Cult . . . . .	27-32
27.6.7	Request for Use of Specific Investment Advisor . . . . .	27-32
	Form 27-41: Request for Use of Specific Investment Advisor. . . . .	27-32
27.6.8	Request for Use of Specific Attorney to Handle/Advise Estate Administration . . . . .	27-33
	Form 27-42: Request for Use of Specific Attorney to Handle/Advise Estate Administration . . . . .	27-33
27.6.9	<i>In Terrorem</i> Provision . . . . .	27-33
	Form 27-43: <i>In Terrorem</i> Provision. . . . .	27-33
	Form 27-43A: Omittal with Broad <i>in Terrorem</i> Provisions. . . . .	27-34
27.6.10	Provision Specifically Naming Children in Will . . . . .	27-34
	Form 27-44: Provision Specifically Naming Children in Will . . . . .	27-35
	Form 27-44A: Provision Specifically Referencing Children of a Prior Marriage: No Children from Current Marriage . . . . .	27-35
	Form 27-44B: Provision Specifically Referencing Children of Current Marriage and Prior Marriage . . . . .	27-35
27.6.11	Alternative Tax Clause—Apportionment for Nonprobate Property. . . . .	27-35
	Form 27-45: Alternative Tax Clause—Apportionment for Nonprobate Property . . . . .	27-36
27.6.12	Alternative Tax Clause—Exclusion of Certain Taxes. . . . .	27-36
	Form 27-46: Alternative Tax Clause—Exclusion of Certain Taxes . . . . .	27-37
27.6.13	Alternative Tax Clause—Full Appointment and “Split” Apportionment . . . . .	27-37
	Form 27-47A: Alternative Tax Clause—Apportionment for all Property under Connecticut Apportionment Statute (Unmarried Testator) . . . . .	27-37
	Form 27-47B: Alternative Tax Clause—for Probate Property, Property under Revocable Trust and Other Property (Unmarried Testator). . . . .	27-37
27.6.14	Care of Pets . . . . .	27-38
	Form 27-47C: Appointment for Care of Pet . . . . .	27-38
27.7	Provisions Dealing with Trustees. . . . .	27-38
27.7.1	Compensation of Trustee . . . . .	27-38

Form 27-48: Trustees to Serve without Compensation. . . . . 27-38.1

Form 27-49: Trustees to Receive Reasonable Compensation; Published Fee Schedule for Corporate Trustee . . . . . 27-39

Form 27-50: Fee Based upon Additional Services . . . . . 27-39

Form 27-51: Fee Schedule for Corporate Trustee; Aggregation of Trusts to Determine Fee . . . . . 27-39

27.7.2 Succession of Trustees . . . . . 27-39

Form 27-52: Corporate Trustee as Final Successor . . . . . 27-40

Form 27-53: Named Trustee Designate Successor . . . . . 27-40

Form 27-53A: Provision for Successive Trustees/Remaining Trustee to Designate Successor/Corporate Trustee as Ultimate (Comprehensive Clause) . . . . . 27-40

27.7.3 Resignation and Appointment of Trustees . . . . . 27-40

Form 27-54: Resignation of Trustee . . . . . 27-41

Form 27-55: Designation of Co-Trustee by Settlor under Revocable Trust Agreement. . . . . 27-41

Form 27-56: Designation of Co-Trustee by Remaining Trustee under Irrevocable Trust Agreement following Resignation of Trustee . . . . . 27-42

Form 27-57: Acceptance by Newly Appointed Trustee under Revocable Trust Agreement . . . . . 27-43

Form 27-58: Acceptance by Newly Appointed Trustee under Irrevocable Trust Agreement . . . . . 27-44

27.7.4 Changes in Trust Situs. . . . . 27-45

Form 27-59: Changes in Trust Situs . . . . . 27-45

27.8 Amendments and Restatements to Revocable Trust Agreements . . . . . 27-45

Form 27-60: Amendment to Revocable Trust Agreement . . . . . 27-46

Form 27-61: Amendment and Restatement of Revocable Trust Agreement. . . . . 27-48

27.9 Special Trustee Powers for Survivorship Life Insurance Trust . . . . . 27-50

Form 27-62: Provision Authorizing Trustees to Sell Insurance Policy to Children . . . . . 27-50

Form 27-63: Additional Provision Regarding Use of Insurance Proceeds. . . . . 27-50

27.10 Additional Provision for Executors after EGTRRA . . . . . 27-51

Form 27-64: Authorization to Executor to Allocate Basis to Specific Assets—with Exoneration Provision . . . . . 27-51

27.11 “CAP” in Light of EGTRRA to Limit Size of Non-Marital Share. . . . . 27-51

Form 27-65: Cap to Limit Size of Non-marital Share. . . . . 27-52

27.12 Additional Request and Guidance to Guardians of Minor Children . . . . . 27-52

CONTENTS

Form 27-66: Request That Guardians Allow Visitation by Grandparents . . . . . 27-53  
Form 27-67: Request That Children Be Raised in a Certain Religion . . . . . 27-53  
Form 27-68: Request to Preserve Relationship between Children and Both Families . . . . . 27-53  
27.13 Environmental Provisions . . . . . 27-53  
Form 27-69: Environmental Powers . . . . . 27-53  
27.14 Five and Five Powers . . . . . 27-54  
Form 27-70: Five and Five Power of Withdrawal . . . . . 27-55  
27.15 QTIP to Receive Large IRA Provisions . . . . . 27-55  
Form 27-71: QTIP for Large IRA . . . . . 27-56

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

**CHAPTER 28: SELECT ESTATE PLANNING SUMMARIES: CONNECTICUT AND FEDERAL LAW**

28.1 The Connecticut 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  
28.2 Organizational Checklist of Will: Comments and Strategic Practice Pointers . . . . . 28-6  
28.2.1 Preamble Clause (Introductory Paragraph) . . . . . 28-6  
28.2.2 Definitions and Appointment of Fiduciary . . . . . 28-7  
28.2.3 Funeral Arrangements . . . . . 28-8  
28.2.4 Debts . . . . . 28-8  
28.2.5 Specific Bequests; Disposition of Tangible Personal Property (Section 4); Principal Residence . . . . . 28-9  
28.2.6 Payment of Taxes . . . . . 28-9  
28.2.7 Residuary Estate . . . . . 28-10.1  
28.2.8 Dispositive Provisions (Other than Specific Requests) . . . . . 28-11  
28.2.9 The “Catastrophe” Provision . . . . . 28-11  
28.2.10 Fiduciary Powers/Administrative Provisions Re: Trustees and Executors . . . . . 28-12  
28.2.11 Insurance or Pension Plan . . . . . 28-13  
28.2.12 Spendthrift and Facility of Payment Provisions . . . . . 28-13  
28.2.13 Survivorship/Simultaneous Death . . . . . 28-14  
28.2.14 Rule against Perpetuities . . . . . 28-14  
28.2.15 Gender . . . . . 28-14

28.2.16 Headings . . . . . 28-15

28.2.17 Signature and Attestation Clauses (Final Paragraph) . . . . . 28-15

28.3 The Transfer Tax System under the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) . . . . . 28-15

28.3.1 The Basics and the State of Affairs before EGTRRA . . . . . 28-15

28.3.2 EGTRRA: Highlights and Summary . . . . . 28-18

28.3.3 Summary Chart: Estate, Gift, and GST Tax Changes under EGTRRA . . . . . 28-21

28.3.4 Planning for Applicable Credit Amount/Exemption Equivalent Amount—in a Nutshell . . . . . 28-24

28.3.5 Impact of EGTRRA on Forms, Formula Clauses, and Appropriate Tax Planning Trusts and Strategies . . . . . 28-25

28.3.6 Drafting for Repeal . . . . . 28-32

28.3.7 Legislative Update . . . . . 28-32

28.4 Generation-Skipping Transfer Tax—with EGTRRA Modifications . . . . . 28-32

28.4.1 Purpose . . . . . 28-32

28.4.2 Mechanics and Application . . . . . 28-32.1

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 . . . . . 28-35

28.4.6 Administration and Return Requirements . . . . . 28-36

28.5 “*Per Stirpes*” and “*Per Capita*”: Explanation and Examples . . . . . 28-36

28.6 Formula Clauses for Marital and Bypass Trusts—Some Technical Considerations . . . . . 28-39

28.7 Spousal Right of Election in Connecticut . . . . . 28-40

28.7.1 Statutory Share . . . . . 28-40

28.7.2 Statutory Share Limited to “Probate” Assets: Advantages and Disadvantages for Surviving Spouse . . . . . 28-40

28.8 QDOTs and the Non-citizen Spouse . . . . . 28-41

28.8.1 Citizenship of Donee and the Marital Deduction . . . . . 28-41

28.8.2 Gift Tax Issues . . . . . 28-41

28.8.2.1 Joint Tenancies . . . . . 28-42

28.8.2.2 Joint and Survivor Annuities . . . . . 28-42

28.8.3 Estate Tax Issues . . . . . 28-43

28.8.4 The Qualified Domestic Trust (QDOT) . . . . . 28-44

28.8.4.1 Introduction . . . . . 28-44

28.8.4.2 Distinguishing Features of a QDOT . . . . . 28-45

28.8.4.3 Requirements for QDOTs under the Treasury Regulations . . . . . 28-45

28.8.4.4 Right to Withhold Tax . . . . . 28-46

28.8.4.5 Qualified Marital Interest Requirements . . . . . 28-46

28.8.4.5.1 Property Passing to QDOT . . . . . 28-46

CONTENTS

	28.8.4.5.2	Property Passing Outright to Spouse . . . . .	28-46
28.8.4.6		Security and Other Arrangements for Payment of Tax—QDOTS with Assets over \$2 Million. . . . .	28-47
	28.8.4.6.1	Bank Trustee . . . . .	28-47
	28.8.4.6.2	Bond. . . . .	28-47
	28.8.4.6.3	Letter of Credit . . . . .	28-48
	28.8.4.6.4	Additional Governing Instrument Requirements for Bond or Letter of Credit Arrangements . . . . .	28-48
28.8.4.7		Security and Other Arrangements for Payment of Tax—QDOTs with Assets of \$2 Million or Less . . . . .	28-48
	28.8.4.7.1	Multiple QDOTs . . . . .	28-49
	28.8.4.7.2	Look-Through Rules . . . . .	28-49
	28.8.4.7.3	Fluctuations in Value. . . . .	28-49
	28.8.4.7.4	Principal Residence and Related Personal Effects . . . . .	28-49
28.8.5		Use of the Bypass Trust for Surviving Non-citizen Spouse . . . . .	28-50
28.9		Probate Assets vs. Non-Probate Assets . . . . .	28-51
28.9.1		Joint Assets . . . . .	28-51
28.9.2		Convenience Joint Accounts. . . . .	28-52
28.9.3		Severing Title to Joint Real Estate . . . . .	28-52
28.9.4		Considerations in Creating Joint Accounts With Children . . . . .	28-53
28.9.5		Joint Assets In Conservatorships . . . . .	28-54
28.9.6		Tenants In Common . . . . .	28-54
28.9.7		Beneficiary Assets. . . . .	28-54
28.9.8		Life Insurance . . . . .	28-54.1
28.9.9		Retirement and Individual Retirement Act Accounts . . . . .	28-54.2
28.9.10		Payable on Death/ In Trust for Accounts . . . . .	28-54.2
28.9.11		Funded Trusts . . . . .	28-54.3
28.9.12		Connecticut Uniform Transfers To Minors Act Accounts . . . . .	28-54.3
28.10		Proper Will Formalities in Connecticut—Execution, Revocation, and Amendment: Technical Requirements and Practical Considerations . . . . .	28-54.5
	28.10.1	Requirements of Will Execution. . . . .	28-54.5
		Form 28-1: Instruction Sheet for Client Where Attorney Does Not Supervise Execution of Will . . . . .	28-56
	28.10.2	Who May Execute a Will and Codicil . . . . .	28-57
	28.10.3	Testamentary Capacity . . . . .	28-57
	28.10.3.1	The Connecticut Standard . . . . .	28-57

28.10.3.2	Special Circumstances Affecting Testamentary Capacity . . . . .	28-57
28.10.4	Proper Will Revocation and Amendment . . . . .	28-58
28.10.4.1	Proper Will Revocation—Statement of Revocation or Obliteration . . . . .	28-58
28.10.4.2	Proper Will Amendment—The Codicil . . . . .	28-59
28.10.4.2.1	Technical Requirements . . . . .	28-59
	Form 28-2: Sample Codicil . . . . .	28-60
28.10.5	Other Important Considerations for Wills under Connecticut Law . . . . .	28-61
28.10.5.1	Holographic Wills . . . . .	28-61
28.10.5.2	Wills Executed Outside of Connecticut . . . . .	28-61
28.10.5.3	Dating and Initialing the Will . . . . .	28-61
28.11.	Considerations in Executing Revocable Trusts . . . . .	28-62
28.12.	Law on Anti-Lapse Statute . . . . .	28-62

**CHAPTER 29: SELECTED PLANNING STRATEGIES AND TECHNIQUES**

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 . . . . .	29-4
29.4	The Pitfall of Joint Ownership by Spouses and Solution . . . . .	29-5
29.5	Selection of Executors, Trustees, and Guardians: Strategies and Recommendations . . . . .	29-6
29.5.1	Executors (Executors) . . . . .	29-6
29.5.2	Trustees . . . . .	29-8
29.5.2.1	Succession, Removal, and Replacement of Trustees—Tax Aspects . . . . .	29-8
29.5.3	Guardians . . . . .	29-9
29.6	Use of Disclaimers in Planning Beneficiary Designations . . . . .	29-10
29.7	Techniques to Reduce Taxes in Connection with Specific Bequests or Cash Legacies . . . . .	29-11
29.7.1	Where Beneficiary Other than Spouse Is Intended Recipient—Planning for Reduction of Federal Estate Taxes and Connecticut Inheritance Tax . . . . .	29-11
29.7.2	Where Charity Is Intended Recipient . . . . .	29-12
29.8	Preserving Wealth with a Dynasty (GST) Trust . . . . .	29-12
29.9	Outright Marital Bequest vs. Trust for Spouse: Planning Considerations . . . . .	29-13
29.10	Revised Planning for Surviving Spouse after Death of First Spouse . . . . .	29-14
29.10.1	Planning for Remarriage: QTIP Trust/Prenuptial Agreements . . . . .	29-14
29.10.2	Use of Residence . . . . .	29-14
29.10.3	The QTIP Trust—Tax Traps upon the Surviving Spouse’s Death . . . . .	29-15

CONTENTS

29.10.4 Bypass Trusts: Strategic Use during Lifetime of Surviving Spouse . . . . . 29-16

29.11 The Bypass/Bypass Trust: Rights and Protections Available to Surviving Spouse and Asset Protection Considerations . . . . . 29-17

29.11.1 Rights of Surviving Spouse in Bypass Trust. . . . . 29-17

29.11.2 Selecting the Appropriate Allocation of Income and Principal among the Spouse and Beneficiaries. . . . . 29-18

29.11.3 Structuring Bypass Trust as Asset Protection Trust . . . . . 29-19

29.12 Strategies for Financing the Payment of Estate Taxes on the Business Entity—Statutory Elections by Executors . . . . . 29-19

29.12.1 Section 2032A Special Use Valuation for Farms . . . . . 29-20

29.12.2 Section 303 Redemption to Pay Estate Taxes and Administration Expenses . . . . . 29-21

29.12.3 Section 6166 Deferral of Estate Taxes for Closely Held Businesses . . . . . 29-22

**PART XI POWERS OF ATTORNEY**

**CHAPTER 30: DURABLE POWERS OF ATTORNEY FOR FINANCIAL MATTERS**

30.1 The Durable Power of Attorney—A Necessary 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 Attorney in Fact . . . . . 30-3

30.3.3 Gift-Giving Powers . . . . . 30-3

Form 30-1: Durable General Power of Attorney—Effective upon Execution. . . . . 30-4

Form 30-2: Durable General Power of Attorney—Effective upon Disability . . . . . 30-7

Form 30-3: Limited Power of Attorney (for Handling Real Estate Settlement) . . . . . 30-11

Form 30-4: Limited Power of Attorney for Limited Duration . . . . . 30-12

Form 30-5: Grant to Two Attorneys-in-Fact Acting Jointly or Severally . . . . . 30-14

Form 30-6: Grant to Two Attorneys-in-Fact Acting Jointly (Not Severally). . . . . 30-15

Form 30-7: Broad Gift-Giving Power with Power to Disclaim . . . . . 30-15

Form 30-8: Gifts to Children and Grandchildren Limited Annually to \$12,000 plus Tuition and Medical Costs. . . . . 30-15

Form 30-9: Gifts to Children and Grandchildren Consistent with Past Gifts . . . . . 30-15

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. . . . . 30-15

Form 30-11: Escrow Agreement for Durable Power of Attorney . . . . . 30-16

Form 30-12: Affidavit as to Power of Attorney Being in Full Force. . . . . 30-17

**CHAPTER 31: HEALTH CARE POWERS OF ATTORNEY AND MEDICAL DIRECTIVES**

31.1 General . . . . . 31-1

31.2 Summary of New Legislation on Health Care Decision-Making . . . . . 31-1

31.3 Appointment of Health Care Representative . . . . . 31-2

31.4 Advance Directives/Living Wills. . . . . 31-3

31.5 Medical Directive Forms . . . . . 31-4

    Form HC-1: Living Will . . . . . 31-4

    Form HC-2: Appointment of Health Care Agent . . . . . 31-6

    Form HC-3: Advance Directives . . . . . 31-8

31.6 Disposition of Remains . . . . . 31-11

    Form HC-4: Disposition of Remains and Appointment of Agent . . . . . 31-12

31.7 Anatomical Gifts . . . . . 31-13

**PART XII CHARITABLE GIFT PLANNING**

**CHAPTER 32: CHARITABLE GIFT PLANNING**

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

CONTENTS

32.3.3.1	Mandatory Provisions . . . . .	32-22
32.3.3.2	Optional Provisions . . . . .	32-23
	Form 32-2: Irrevocable Trust Agreement (Charitable Remainder Annuity Trust) . . . . .	32-24
32.3.4	Taxation of the Donor . . . . .	32-31
32.3.4.1	Income Tax Deduction. . . . .	32-31
32.3.4.2	Substantiation and Disclosure . . . . .	32-32
32.3.4.3	Capital Gains . . . . .	32-33
32.3.4.4	Gift Tax . . . . .	32-33
32.3.4.5	Estate Tax. . . . .	32-33
32.3.4.6	Generation-Skipping Transfer Tax . . . . .	32-33
32.3.5	Taxation of the Trust . . . . .	32-34
32.3.5.1	Reporting Requirements for a CRT . . . . .	32-34
32.3.6	Taxation of the Non-charitable Beneficiary . . . . .	32-35
32.3.7	Prohibited Transactions Rules . . . . .	32-36
32.3.8	Planning Considerations . . . . .	32-37
32.3.8.1	Funding the CRT . . . . .	32-37
32.3.8.2	Marital Deduction Planning—Spousal CRT or QTIP with Remainder to Charity . . . . .	32-39
32.3.8.3	Selecting a Trustee . . . . .	32-39
32.3.8.4	Choosing the CRUT or the CRAT . . . . .	32-40
32.3.8.5	Investment Issues . . . . .	32-40
32.3.8.6	Economics of CRT Planning Need to be Analyzed . . . . .	32-40
32.3.9	Some Applications . . . . .	32-41
32.3.9.1	Retirement Plan Supplement or Substitute . . . . .	32-41
32.3.9.2	Asset Diversification Opportunity . . . . .	32-41
32.3.9.3	Closely Held Businesses . . . . .	32-42
32.3.9.4	Charitable Giving and Wealth Replacement . . . . .	32-42
32.3.9.5	Using Life Insurance and the CRUT as a Tax-Favored Means of Providing an Annuity for Donor’s Spouse . . . . .	32-42
32.3.9.6	A Strategy for Dealing with Income in Respect of Decedent (IRD) . . . . .	32-43
32.4	Charitable Lead Trust . . . . .	32-43
32.4.1	Taxation of Lead Trusts. . . . .	32-44
32.4.2	Drafting Testamentary Lead Trusts . . . . .	32-45
32.4.3	Planning for Lead Trusts . . . . .	32-47
	Form 32-3: Provisions for Testamentary Charitable Lead Unitrust. . . . .	32-48
32.5	Gifts of Remainder Interests in Residence or Farm . . . . .	32-50
32.5.1	Split-Interests in Tangible Personal Property . . . . .	32-50

32.6 Changes to Charitable Contribution Rules Under the Pension Protection Act of 2006 . . . . . 32-52

**CHAPTER 33: THE NEW CONNECTICUT TRANSFER TAX SYSTEM AND WORKING WITH THE DECOUPLED CONNECTICUT ESTATE TAX**

33.1 Historical Background . . . . . 33-1

33.2 Overview of New Estate and Gift Tax System. . . . . 33-2

33.3 Definitions . . . . . 33-3

33.4 Resident Estates. . . . . 33-3

33.5 Non-Resident Estates . . . . . 33-6

33.6 Deductions . . . . . 33-6

33.7 Tax Rate Schedule . . . . . 33-7

33.8 Returns, Payments, and Filing Dates . . . . . 33-8

33.9 Observations on Connecticut Estate Tax . . . . . 33-8

33.10 Examination of the Estate Tax Rates . . . . . 33-9

33.11 Individuals and Couples with Modest Estates . . . . . 33-10

33.12 Married Couples with Assets in Excess of the Federal Applicable Credit Amount . . . . . 33-10

33.13 Married Couples with Large Estates . . . . . 33-12

33.14 Planning with the Connecticut QTIP Election . . . . . 33-13

33.15 Drafting Wills and Revocable Trusts for the Connecticut QTIP Trust . . . . . 33-14

33.16 Working with Clients that Do Not Want QTIP Trusts . . . . . 33-17

33.17 Disclaimer Plan . . . . . 33-19

33.18 Allocation of Assets Under *Clack* . . . . . 33-21

33.19 Unanswered Questions. . . . . 33-21

33.20 Dealing with the “Cliff Tax” . . . . . 33-22

33.21 Connecticut Department of Revenue Services Notice on QTIP Elections . . . . . 33-22

33.22 Review of the Special Connecticut Estate Tax System in Effect During 2004 . . . . . 33-23

33.23 Examples of Calculation of an Uncoupled Estate Tax. . . . . 33-25

**CHAPTER 34: NEW CONNECTICUT GIFT TAX**

34.1 New Connecticut Gift Tax System . . . . . 34-1

34.2 History of the Unpopular Gift Tax . . . . . 34-1

34.3 Overview . . . . . 34-2

34.4 Definitions Under the New Act . . . . . 34-2

34.5 Gift Tax Rates. . . . . 34-3

34.6 Similarities Between Federal and Connecticut Gift Tax Systems . . . . . 34-4

    34.6.1 Valuation . . . . . 34-4

CONTENTS

34.6.2 Connecticut Gifts ..... 34-5  
34.6.3 Gift Splitting ..... 34-5  
34.6.4 Annual Gift Exclusions ..... 34-5  
34.6.5 Deductions ..... 34-5  
34.7 Connecticut Gifts of Farmland ..... 34-6  
34.8 Returns and Due Dates ..... 34-6  
34.9 Planning Considerations with the Connecticut Gift Tax ..... 34-7

**PART XIII APPENDICES**

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

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

**PART XIV INDICES**

Subject Index ..... INDEX-1  
Forms Index ..... INDEX-25