Volume 1

CHAPTER 1. FAMILY ESTATE PLANNING

§ 1:1	Definition of family estate planning
§ 1:2	General objectives of client
§ 1:2.50	Development of an estate plan
§ 1:3	Minimization of taxes
§ 1:4	Reducing cost of transmission
§ 1:5	Insuring liquidity
§ 1:6	Business problems
§ 1:7	Mathematical problems
§ 1:8	Human factors
§ 1:9	Gramm-Leach-Bliley Act
§ 1:10	Health Insurance Portability and Accountability Act ("HIPAA") and Estate Planning Implications
§ 1:11	Tax practice and the family estate planner—Generally
§ 1:12	—Covered opinions and other written advice
§ 1:13	—Tax doctrines and tax planning
§ 1:14	—Private letter rulings
§ 1:15	—Tax returns
§ 1:16	—I.R.S. disputes
§ 1:17	—U.S. Tax Court, District Court or Court of Claims
§ 1:18	—Substantial Compliance Doctrine
§ 1:19	Civil penalties
§ 1:20	Cloud computing
§ 1:21	Health reform legislation
§ 1:22	Retirees' biggest wealth planning challenge: Health care expenses!
§ 1:23	Wealth planning for single persons and cohabitating couples
§ 1:24	Changes to Social Security have eliminated a wealth planning technique

CHAPTER 2. TOOLS OF THE FAMILY ESTATE PLANNER

- § 2:1 General considerations
- § 2:2 Wills
- § 2:3 Trusts
- § 2:4 Gifts

§ 2:5	Powers of appointment
§ 2:6	Private annuity sales, installment sales, and self
	cancelling installment notes
§ 2:7	Business plans
§ 2:8	Insurance
§ 2:9	Durable powers of attorney
§ 2:10	Advance health care directives
§ 2:11	Drafting considerations
§ 2:12	Selected year-end tax planning strategies

CHAPTER 3. PREPARATION FOR THE INITIAL INTERVIEW § 3:1(a) Necessity for obtaining all the facts—Fact gathering

§ 3:1(a)	Necessity for obtaining all the facts—Fact gathering
§ 3:1(b)	—Communicating with the client
§ 3:1(c)	—Questions to ask
§ 3:2(a)	The family estate planning questionnaire—General
§ 3:2(b)	—Why use a questionnaire?
§ 3:3	Family estate planning questionnaire—Details required
§ 3:4(a)	Domicile—General
§ 3:4(b)	—Dual residences and ancillary probate
§ 3:4(c)	—Community property
§ 3:5(a)	Property—Safety deposit boxes
§ 3:5(b)	—Personal property
§ 3:5(c)	—Real estate
§ 3:5(d)	—Insurance
§ 3:5(e)	—Family business interests
§ 3:5(f)	—Restrictions on the sale of stock and other securities
§ 3:5(g)	—Information concerning securities
§ 3:5(h)	—Encumbrances
§ 3:5(i)	—Jointly held property and custodianships
§ 3:5(j)	—Employee benefits and deferred compensation arrangements
§ 3:5(k)	—Other beneficial interests and powers
§ 3:5(1)	—Prior gifts
§ 3:5(m)	—Bank accounts
§ 3:5(n)	—Intellectual property and mineral rights
§ 3:5(o)	—Contracts
§ 3:5(p)	—Creditors
§ 3:5(q)	—Spouse's assets
§ 3:6(a)	Beneficiaries—Family tree
§ 3:6(b)	—Detailed information about the members of the family
§ 3:6(c)	—Will(s)

§ 3:6(d)	Matrimonial and support agreements
§ 3:6(e)	—Other matrimonial issues
§ 3:7	Individual objectives of client
§ 3:8(a)	Documentary proof required—Examination of
	documents or instruments
§ 3:8(b)	—Use of the questionnaire
§ 3:8(c)	—Prior wills
§ 3:8(d)	—Marital agreements
§ 3:8(e)	—Deeds
§ 3:8(f)	—Insurance policies
§ 3:8(g)	—Financial statements
§ 3:8(h)	—Securities and brokerage statements
§ 3:8(i)	—Pledge agreements
§ 3:8(j)	—Jointly held property
§ 3:8(k)	—Trust accounts and custodianships
§ 3:8(1)	—Employee benefit and deferred compensation
	arrangements
§ 3:8(m)	—Power(s) of appointment
§ 3:8(n)	—Remainder interest(s)
§ 3:8(o)	—Gift tax return(s)
§ 3:8(p)	—Bank books
§ 3:8(q)	—Intellectual property and mineral rights
§ 3:9	Balance sheet
§ 3:10	Use of questionnaire and balance sheet to establish client's financial plan
§ 3:11	Identification of client(s) and waivers of conflicts of interest
§ 3:12	Necessity of attorney's presence
§ 3:13	Legacy planning

CHAPTER 4. FAMILY ESTATE PLANNING

§ 4:1(a)	in general—Potential clients
§ 4:1(b)	—Prompt billing
§ 4:1(c)	—Factors that influence the amount of the fee
§ 4:2(a)	Fees for family estate planning services—Hourly
	rates
§ 4:2(b)	—Fixed fees
§ 4:2(c)	—Other methods of setting fees
§ 4:2(d)	—Increasing efficiency
§ 4:2(e)	—Conclusion
§ 4:3	Income tax deductibility of family estate planning

CHAPTER 5. USE OF TRUSTS IN FAMILY **ESTATE PLANNING**

General

fees

Family Estate Planning Guide

Ş	5:2	Testamentary trusts for the surviving spouse
-	5:3	Marital deduction trusts
-	5:4	Testamentary trusts for the spouse's non-marital
S	5:5	share Trusts for minor descendants
-	5:6	Testamentary trusts and tax planning for issue
-	5:7	Revocable living trusts
-	5:8	Irrevocable inter vivos trusts
-	5:9	Short-term trusts created prior to March 2, 1986
8	5:10	Use of multiple trusts, discretionary trusts, and accumulation trusts: The throwback rule
§	5:11	Estate freezing trusts and Chapter 14
§	5:12	Generation-skipping trusts: Planning considerations
§	5:13	Proper use and drafting of trustees' discretionary powers
8	5:14	The spendthrift trust
-	5:15	Pour-over trusts
_	5:16	Savings account trusts
_	5:17	Trusts in community property states
_	5:18	Disclaimer trust
§	5:19	Qualified domestic trust
-	5:20	Miscellaneous trusts
§	5:21	The rule against perpetuities
§	5:22	The rule against accumulations
§	5:23	Rule against perpetuities reform
§	5:23.50	Perpetual trusts
§	5:24	Independent trustee
§	5:25	Delaware and other asset protection trusts
§	5:26	Trust decanting
(CHAI	PTER 6. POWERS OF APPOINTMENT
§	6:1	General considerations
§	6:2	Definition of a power of appointment
8	6:3	Evolution of the tax provisions relating to powers of
Ĭ		appointment
§	6:4	Non-tax reasons for the use of powers of appointment
§	6:5	Definition of terms
§	6:6	General power of appointment
§	6:7	Power limited by ascertainable standard
§	6:8	Jointly exercisable powers created on or before October 21, 1942
§	6:9	Jointly exercisable powers created after October 21, 1942
§	6:10	Creation of power of appointment: Tax consequences
§	6:11	Exercise or nonexercise of a power of appointment

Tax consequences of exercise or nonexercise of general powers of appointment
Release or partial release of general power of appointment
Disclaimer or renunciation of general powers of appointment
Lapse of general powers of appointment: "Five-and-five" power
Summary of tax consequences of power of appointment
Rights of others in appointive property
Gifts in default of appointment
Powers in trust
Powers of successor trustees
Generation-skipping transfer tax planning and powers of appointment
Details to be considered in drafting powers of appointment

CHAPTER 7. OVERVIEW OF THE TRANSFER TAXES: ESTATE, GIFT & GENERATION-SKIPPING

§ 7:1 § 7:1.50	Introduction American Taxpayer Relief Act of 2012
§ 7:2(a)	The estate tax: The gross estate—General
§ 7:2(b)	—Property owned at death
§ 7:2(c)	—Property transferred by decedent during life
§ 7:2(d)	—Inclusion of certain non-probate assets
§ 7:2(e)	—Valuation
§ 7:2(f)	—Conclusion
§ 7:3	The estate tax: The taxable estate
§ 7:4	The estate tax: Computation and payment of the tax
§ 7:5	The gift tax: Transfers subject to the gift tax
§ 7:6	The gift tax: The taxable gifts
§ 7:7	The gift tax: Computation and payment of the tax
§ 7:8	Basic gift and estate tax computations: Examples
§ 7:9	The generation-skipping transfer tax: Generation-skipping transfers
§ 7:10	The generation-skipping transfer tax: Exclusions and deductions
§ 7:11	The generation-skipping transfer tax: Computation
	and payment of the tax
§ 7:12	Basic planning considerations
§ 7:13	Taxpayers' rights

CHAPTER 8. USE OF GIFTS: GENERAL CONSIDERATIONS

§ 8:1(a) Practical tax and non-tax considerations: The

Family Estate Planning Guide

	advantages of gifts in family estate planning— General
§ 8:1(b)	—Unified credit
§ 8:1(c)	—Annual exclusion
§ 8:1(d)	—Example of operation of gift tax exclusions and credits
§ 8:1(e)	—Tax reasons for lifetime gifts
§ 8:1(f)	—Non-tax reasons for lifetime gifts
§ 8:2	Practical tax and non-tax considerations: The disadvantages of gifts in family estate planning
§ 8:3	Persons subject to federal gift tax
§ 8:4	Legal requirements for an effective gift
§ 8:5	Federal gift tax; Definition of gift—Generally
§ 8:6	Direct gifts
§ 8:7	Delivery
§ 8:8	Completion
§ 8:9	Waiver of fiduciary's fees
§ 8:10	Forgiveness of indebtedness
§ 8:11	Powers of appointment
§ 8:12	Joint accounts
§ 8:13	Joint ownership of United States savings bonds
§ 8:14	Tenancy by the entirety in real property
§ 8:15	Community property gifts
§ 8:16	Transfer by trustee
§ 8:17	Transfers by corporations
§ 8:18	Disclaimers as indirect gift
§ 8:19	Transfers for insufficient consideration
§ 8:20	Political organizations
§ 8:21	Interest-free loans
§ 8:22	Valuation of the gift for federal gift tax purposes— Generally
§ 8:23	Real estate
§ 8:24	Stocks and bonds
§ 8:24(a)	—Blockage as an element of valuation
§ 8:24(b)	—Control as an element of valuation
§ 8:24(c)	—Market thinness as an element of valuation
§ 8:25	Closely held stock
§ 8:26	Unincorporated business interest
§ 8:27	Notes
§ 8:28	Open-end investment company shares (mutual fund shares)
§ 8:29	Annuities, life estates, remainders, and reversions
§ 8:30	Life insurance and annuity contracts
§ 8:31	Copyrights and patents
§ 8:32	United States silver coins
§ 8:33	Effect of excise tax on valuation

CHAPTER 9. GIFT TAX COMPUTATI		
§ 8:37	Overvaluation and undervaluation penalties	
§ 8:36	Statute of limitations on valuation disputes	
§ 8:35	IRS obligation to disclose basis for valuation	
§ 8:34	Valuation of net gifts	

ON

§ 9:1	Computation	of the	gift	tax
3 0.1	Companion	OI UIIC	5110	CCLIL

- § 9:2 The annual exclusion: General requirements
- § 9:3 Annual exclusion: Present or future interests
- § 9:4 Present or future interests: Transfers for the benefit of a minor
- § 9:5 Gift-splitting by spouses
- § 9:6 The gift tax marital deduction
- § 9:7 The gift tax charitable deduction
- The unlimited exclusion for educational or medical § 9:8
- § 9:9 Necessity for filing gift tax return
- § 9:10 Conclusion

CHAPTER 10. GIFTS: PITFALLS TO AVOID

8 10:1	Introduction
§ 10:2	Gifts to minors: Income, estate, and gift tax problems—Generally
§ 10:3	Estate taxation
§ 10:4	Income taxation
§ 10:5	Joint ownership of property before the Economic Recovery Tax Act of 1981—Generally
§ 10:6	Tenancies by the entirety in real property
§ 10:7	Jointly owned property
§ 10:8	Severing joint tenancies or tenancies by the entirety
§ 10:9	Tenancies by the entirety in personal property
§ 10:10(a)	Joint ownership of property after the Economic Recovery Tax Act of 1981—Joint interests of husband and wife
§ 10:10(b)	—Income tax "basis" of transfers made within one year of death
§ 10:10(c)	—Nonspousal joint tenancies
§ 10:10(d)	—Conclusion
§ 10:11	Community property gifts
§ 10:12	Gifts of "excess liability" property

CHAPTER 11. CHARITABLE TRANSFERS

- § 11:1 In general
- § 11:1.50 Incorporating charitable giving into a succession plan

Family Estate Planning Guide

§ 11:2(a)	Charitable contributions: Qualified organizations—General
§ 11:2(b)	—Income tax charitable organizations
§ 11:2(c)	—Fifty percent organizations
§ 11:2(d)	—Estate and gift tax charitable organizations
§ 11:2(e)	—List of qualified organizations
§ 11:3(a)	Private foundations—Definition of "private foundation"
§ 11:3(b)	—Governing instrument requirements
§ 11:3(c)	—Reduced deductibility for donations
§ 11:3(d)	—Investment excise tax
§ 11:3(e)	—Behavioral excise taxes
§ 11:3(f)	—Termination of private foundation status
§ 11:3(g)	—Reporting requirements
§ 11:3(h)	—Status of private foundation as grantee of another foundation
§ 11:3(i)	—Use of a private foundation
§ 11:4(a)	The nature of a charitable contribution—Defining charitable contribution for income tax purposes
§ 11:4(b)	—Dual character contributions
§ 11:4(c)	—Bargained-for benefit
§ 11:4(d)	—Payment must be within one taxable year
§ 11:4(e)	—Defining charitable contribution for estate and gift tax purposes
§ 11:4(f)	 Naming a charitable organization as a beneficiary of an Individual Retirement Account or qualified plan
§ 11:4(g)	—Valuation of charitable gifts
§ 11:4(h)	—Additional considerations
§ 11:5(a)	Income tax consequences of charitable gifts— General
§ 11:5(b)	—Use of the charitable deduction in an estate plan
§ 11:5(c)	—The Tax Reform Act of 1969
§ 11:5(d)	—Substantiation and reporting requirements
§ 11:6(a)	Income tax consequences of charitable gifts: Gifts of appreciated property—Generally—Prior to the Tax Reform Act of 1969
§ 11:6(b)	— —Changes imposed by the Tax Reform Act of 1969
§ 11:6(c)	——Alternative minimum tax
§ 11:7	Ordinary income or short-term capital gain property
§ 11:8(a)	Capital gain property—General
§ 11:8(b)	—Reduction
§ 11:8(c)	—Tangible personal property
	- ·

§ 11:8(d)	—Conclusion
§ 11:9(a)	Income tax consequences of charitable gifts:
	Bargain sales to charity—Prior to the Tax
8 11 0(1)	Reform Act of 1969
§ 11:9(b)	—Changes imposed by the Tax Reform Act of 1969
§ 11:9(c)	—Scope of bargain sale rule
§ 11:3(c) § 11:10(a)	Income tax consequences of charitable gifts: The
ζ 11.10(α)	percentage limitations—General
§ 11:10(b)	—Three-tier framework
§ 11:10(c)	—Fifty percent limitation
§ 11:10(d)	—Twenty percent limitation
§ 11:10(e)	—Thirty percent limitation
§ 11:10(f)	-Election to have § 170(e)(1)(B) apply to
	contributions
§ 11:10(g)	—S Corporations
§ 11:11(a)	Transfers of split-interests: overview—General
§ 11:11(b)	—Before the Tax Reform Act of 1969
§ 11:11(c)	—Transfer of split-interests after the Tax Reform
¢ 11.11(J)	Act of 1969
§ 11:11(d) § 11:11(e)	—Treasury tables
§ 11:11(e) § 11:12(a)	—Reforming defective split-interest gifts Charitable remainder trusts—General
§ 11.12(a)	requirements—General description of a
	charitable remainder trust
§ 11:12(b)	——Governing instrument requirements
§ 11:12(c)	— — Charitable remainder unitrust or annuity
	trust must be sole function
§ 11:12(d)	——Grantor trust rules
§ 11:12(e)	——Permissible non-charitable beneficiaries
§ 11:12(f)	——Permissible charitable beneficiaries
§ 11:12(g)	——Permissible trustees
§ 11:12(h)	——Limitation on use of trust funds
§ 11:12(i)	——Terms of non-charitable payments
§ 11:12(j)	——Trust investment practices
§ 11:12(k)	——Application of certain foundation rules to
	charitable remainder trusts
§ 11:12(l)	——Last taxable year
§ 11:12(m)	——Treatment of annual distributions to
8 11 10()	recipient
§ 11:12(n)	— — Distributions in kind
§ 11:12(o)	— — Taxation of charitable remainder trust
§ 11:12(p)	— — Gift tax consequences
§ 11:12(q)	— Estate tax consequences
§ 11:12(r)	——Comparison of annuity trust vs. unitrust
§ 11:12(s)	——Spousal Waiver

§ 11:13(a)	Charitable remainder annuity trust—What is a charitable remainder annuity trust
§ 11:13(b)	—Definition of a charitable remainder annuity
§ 11:13(c)	—Annuity amount
§ 11:13(d)	—Five percent probability test
§ 11:13(e)	—Income tax charitable deduction
§ 11:13(f)	—No additions
§ 11:14(a)	Remainder interests: Charitable remainder
8 =====(==)	unitrust—Generally—What is a charitable
	remainder unitrust
§ 11:14(b)	— — Definition of charitable remainder unitrust
§ 11:14(c)	——Required payment of unitrust amount
§ 11:14(d)	— — Various unitrust arrangements
§ 11:14(e)	— —Income tax charitable deduction
§ 11:14(f)	——State law considerations
§ 11:14(g)	——Qualified contingencies
§ 11:15(a)	Remainder interests: Pooled income fund—What
	is a pooled income fund
§ 11:15(b)	—Definition of a pooled income fund
§ 11:15(c)	—Income tax charitable deduction for a pooled income fund
§ 11:15(d)	—Governing instrument
§ 11:15(e)	—Estate and gift tax consequences
§ 11:16(a)	Charitable income (lead) trusts—General
§ 11:16(b)	—Income tax charitable deduction
§ 11:16(c)	—Estate, gift, and generation-skipping transfer taxes
§ 11:16(d)	—Governing instrument requirements
§ 11:17	Remainder interests: Contributions not in trust— Generally
§ 11:18	Remainder interest in personal residence or farm
§ 11:19	Undivided portion of the taxpayer's entire interest in property
§ 11:19.5	Charitable contributions of fractional interest in tangible personal property
§ 11:20	Real property granted to a qualified charity for conservation purposes
§ 11:21	Charitable gift annuity
§ 11:22	Conclusion

CHAPTER 12. THE GROSS ESTATE

§ 12:1 Assets includible in the gross estate: An overview § 12:2(a) Assets includible in the gross estate: Property owned by the decedent at the time of his or her death—General

§ 12:2(b)	—Divided, future, and contingent interests
§ 12:2(c)	—Wrongful death recoveries
§ 12:2(d)	—State law
§ 12:2(e)	—Valuation under § 2033
§ 12:2(f)	—Dower, curtesy, and homestead rights
§ 12:2(g)	—Real estate
§ 12:2(b)	—Stocks and bonds
§ 12:2(i)	—Notes, cash, and claims
§ 12:2(1)	Miscellaneous property
§ 12.6 § 12:4	Gifts taxable in the donor's gross estate—In
§ 12.4	general
§ 12:5	—Gifts made within three years of death
§ 12:6	—Gifts with right to income retained
§ 12:7	—Gifts taking effect at death
§ 12:8	—Gifts with other retained rights
§ 12:9	Assets includible in the gross estate: Annuities and other payments
\$ 19.10(a)	1 0
§ 12:10(a)	Assets includible in the gross estate: Jointly owned property—Nonspousal joint tenancies
§ 12:10(b)	—Joint interests of husband and wife
§ 12:11	Assets includible in the gross estate: Property
	subject to a power of appointment exercisable by the decedent
§ 12:12	Assets includible in the gross estate: Insurance proceeds
§ 12:13	Assets includible in the gross estate: Valuation of assets
§ 12:14	Assets includible in the gross estate: Date of valuation
§ 12:15	Conclusion
§ 12:16	Portability of exemption effective only if made on IRS Form 706

CHAPTER 13. THE MARITAL DEDUCTION

I. OVERALL CONCEPTS AND PLANNING

- § 13:1 In general
- § 13:2 Planning possibilities for the marital deduction: Determining whether to use marital deduction
- § 13:3 —Planning for the marital deduction and the generation-skipping transfer tax exemption
- § 13:4 —Salient factors re choice of using marital deduction

II. ASPECTS PECULIAR TO INTER VIVOS GIFTS

§ 13:5 Inter vivos gifts; Creation of tenancy by the entireties; Estate trust—General

§ 13:6 —Special limitations applicable to the gift tax, but not the estate tax marital deduction

III. GENERAL REQUIREMENTS

- § 13:7 Facts required to establish right to claim gift or estate tax marital deduction
- § 13:8 Donor or decedent spouse must be citizen or resident of the United States
- § 13:9 Recipient spouse must be a citizen, or in the case of the estate tax marital deduction, a resident of the United States
- § 13:10 Marital status
- § 13:11 Survivorship of spouse and common disaster provisions
- § 13:12 Property or interests that can qualify for the marital deduction

IV. REQUIREMENT OF "PASSING" OR "TRANSFER"

§ 13:13 General

V. AVOIDING INTENDED PASSAGE OR TRANSFER

- § 13:14 Disclaimer in general. Problem with unfunded pecuniary bequest/timely disclaimer requirement/disclaimer by operation of law
- § 13:15 Effect of disclaimer on passing requirement

VI. TYPES OF PROPERTY AND INTERESTS THAT CAN AND CANNOT PASS OR BE TRANSFERRED ON A DEDUCTIBLE BASIS FROM ONE'S SPOUSE

- § 13:16 Property bequeathed to or inherited by spouse
- § 13:17 Dower, curtesy, or statutory interest
- § 13:18 Jointly held property/Uniform Simultaneous Death Act
- § 13:19 Insurance and annuity proceeds
- § 13:20 Beneficial ownership
- § 13:21 Deductible vs. non-deductible interests
- § 13:22 Inclusion in transfer base of recipient spouse required

VII. TERMINABLE INTERESTS

- § 13:23 General rule
- § 13:24 Definition of terminable interest
- § 13:25 Terminable interests that do not qualify for the marital deduction; General

- § 13:26 Actual or potential passage of terminable interests to person other than surviving spouse; The estate trust and other types of deductible terminable interests § 13:27 Purchase of terminable interests by executor or
- § 13:27 Purchase of terminable interests by executor or trustee
- § 13:28 Terminable interests conditional on survival for six months

VIII. EXCEPTIONS TO THE NONDEDUCTIBLE TERMINABLE INTEREST RULE

- § 13:29 Life estate with power of appointment in spouse
- § 13:30 Life insurance proceeds, endowment, or annuity contract with power of appointment
- § 13:31 Qualified terminable interest property (QTIP): Lifetime gifts and estates of decedents dying after 1981
- § 13:32 Gift and estate tax QTIP provisions
- § 13:33 The charitable remainder trust

IX. TAXES IMPOSED IN CONNECTION WITH DONATIVE TRANSFERS OF MARITAL DEDUCTION PROPERTY BY RECIPIENT SPOUSE

- § 13:34 Tax impact of lifetime transfers of all or part of the income interest for life of the recipient spouse and on termination of retained income interest for life in estate of recipient spouse
- § 13:35 Limitations on inter vivos transfer of income interest are permitted

X. ESTATE EQUALIZATION

- § 13:36 General
- § 13:37 Lifetime gifts between spouses, equalization

XI. COMMUNITY PROPERTY

§ 13:38 General

XII. VALUATION PROBLEMS

- § 13:39 Effect of death taxes on marital deduction
- § 13:40 Encumbrances

XIII. BASIC MARITAL DEDUCTION FORMS

§ 13:41 Example will and trust provisions utilizing the marital deduction

- § 13:42 Life estate/power of appointment and estate marital deduction trust, using fractional funding clause: Sample provisions
- § 13:43 Partial QTIP marital deduction trust, using fractional funding clause: Sample provisions

XIV. QUALIFIED DOMESTIC TRUSTS

- § 13:44 General
- § 13:45 Qualified domestic trust form: Sample provisions

XV. FUNDING MATTERS

- § 13:46 The tainted (unidentified) asset rule/required funding of marital gifts with nondeductible assets, where permissible under law
- § 13:47 Post mortem planning possibilities for the marital deduction: Re partial, complete, or foregoing QTIP election and correlation with credit for tax on prior transfers
- § 13:48 Post-mortem elections, basis, Kenan gain, and planning possibilities: Fiduciary options and their impact on the marital deduction
- § 13:49 Pre-and post-mortem planning possibilities: Disclaimers
- § 13:50 Settlor's spouse's power to disclaim: Sample provisions
- § 13:51 Types of gifts and bequests: Pecuniary and fractional share funding clauses
- § 13:52 Pecuniary bequests and the impact of Revenue Procedure 64-19
- § 13:53 Formula and funding clauses for the marital deduction and the generation-skipping transfer tax—General
- § 13:54 —Two basic types of pecuniary marital deduction formula clauses
- § 13:55 —Pecuniary funding clauses other than true worth
- § 13:56 —Two basic types of residuary fractional share marital deduction formula clauses
- § 13:57 —Analysis of fractional share funding clauses
- § 13:58 —By-pass trusts and reverse pecuniary funding clauses
- § 13:59 —Generation-skipping tax funding clause

XVI. CONCLUSION

§ 13:60 Summary

XVII. SELECTED STATUTORY SECTIONS FOR MARITAL DEDUCTION UNDER INTERNAL REVENUE CODE

§ 13:61	I.R.C. § 1014: Basis of property acquired from a decedent
§ 13:62	I.R.C. § 2044—Certain property for which marital
3 10.02	deduction was previously allowed
§ 13:63	I.R.C. § 2056. Bequests, etc., to surviving spouse
§ 13:64	I.R.C. § 2056A—Qualified domestic trust
§ 13:65	I.R.C. § 2207A—Right of recovery in the case of
	certain marital deduction property
§ 13:66	I.R.C. § 2518—Disclaimers
§ 13:67	I.R.C. § 2519—Dispositions of certain life estates
§ 13:68	I.R.C. § 2523—Gift to spouse

CHAPTER 14. FAMILY PARTNERSHIPS, CORPORATIONS, TRUSTS, AND SALES UNDER CHAPTER 14

§ 14:1	Picking suitable value-shifting methods
§ 14:2	Overview of Chapter 14
§ 14:3(a)	Transactions involving corporations, partnerships, and debt—Transactions to which Chapter 14 does not apply
§ 14:3(b)	—Transactions subject to Section 2701
§ 14:3(c)	—Effective date of Section 2701
§ 14:3(d)	—Tax counsel and business appraisers must change their analysis because of the mandatory procedures and assumptions of Section 2701 (where it applies)
§ 14:3(e)	—Mandatory "subtraction method" of valuation under Chapter 14
§ 14:3(f)	—Mandatory asumptions under Chapter 14 concerning preferred stock or partnership interests
§ 14:3(g)	—Unintended federal gift tax consequences are dependent upon proper design of preferred stock and preferred partnership interests under Chapter 14
§ 14:3(h)	—Transactions subject to Section 2703
§ 14:3(i)	—Transactions subject to Section 2704
§ 14:3(j)	—Role of a business appraiser
§ 14:4(a)	Grantor retained income trusts ("GRITs")— Overview
§ 14:4(b)	—Valuation of the retained interest under Section 2702

§ 14:4(c)	—Exceptions to Section 2702
§ 14:4(d)	—Property purchased jointly
§ 14:4(e)	—Grantor retained annuity trust (GRAT) and
	grantor retained unitrust (GRUT)
§ 14:4(f)	—Effective date of Section 2702
§ 14:5(a)	Buy-sell agreements—General rule of Section 2703
§ 14:5(b)	—Exceptions to Section 2703(a)
§ 14:5(c)	—Coverage of Section 2703
§ 14:6(a)	Family sales—Introduction
§ 14:6(b)	—Sales of interests in corporations and partnerships
§ 14:6(c)	—Sales of trust interests and property as to which
§ 14.0(C)	one or more term interests exists
§ 14:6(d)	—Inapplicability of §§ 2701 and 2702 to a sale of property within a family does not exempt the sale from other traditional gift tax rules
§ 14:7	Attempting estate freezes and value-shifting through entity freezes, trust transactions, shareholder agreements, gifts, and sales comparing and selecting appropriate alternatives

CHAPTER 15. THE GENERATION-SKIPPING TRANSFER TAX

§ 15:1	A broad overview
§ 15:2	Definitions
§ 15:3	Allocation of the \$1 million exemption
§ 15:4	Taxable amount and liability for the tax
§ 15:5	Non-generation-skipping transfer tax considerations
§ 15:6	Generation-skipping transfer tax shelters and
	fundamentals of generation-skipping transfer tax planning—Generally
\$ 15.7	
§ 15:7	—Important safe harbors
§ 15:8	—Special shelters for "direct skips" to grandchildren
§ 15:9	—The \$1 million exemption
§ 15:10	—Inclusion ratio
§ 15:11	—Duration and efficiency principles
§ 15:12	Generation-skipping transfer tax shelters: Specific
	approaches and obstacles—Generally
§ 15:13	—Efficient allocation of the \$1 million exemption
§ 15:14	—Realizing the full potential of the \$1 million
	exemption
§ 15:15	—Powers of appointment
§ 15:16	—Divisions of trusts included in the gross estate
§ 15:17	—Judicial reformation to obtain a zero inclusion ratio
§ 15:18	—Illustrative trust provisions
§ 15:19	Conclusion

CHAPTER 16. INCOME TAXATION OF ESTATES, TRUSTS, AND BENEFICIARIES

ESTATE	S, TRUSTS, AND BENEFICIARIE
§ 16:1(a)	In general—Planning considerations
§ 16:1(b)	—What is Subchapter J?
§ 16:1(c)	—Conduit principle
§ 16:1(d)	—Computing the federal income tax of an estate
	or trust
§ 16:1(e)	—Entity classification
§ 16:1(f)	—Section 102 exclusion for gifts and bequests
§ 16:1(g)	—Passive losses
§ 16:1(h)	—Fiduciary accounting income
§ 16:1(i)	—New entity for federal income tax purposes
0.40.4(1)	upon the death of the grantor
§ 16:1(j)	—When does an estate or trust come into
\$ 1C.1(L)	existence for tax purposes?
§ 16:1(k)	—When does an estate or trust terminate for tax purposes?
§ 16:1(1)	—Simple and complex trusts
§ 16:1(n)	—Taxable period for fiduciary and beneficiaries
§ 16:1(m) § 16:1(n)	—Single or multiple trusts
§ 16:1(n) § 16:1(o)	—Alternative minimum tax
§ 16:1(p)	Estimated tax payments
§ 16:1(p)	—3.8% Medicare tax on investment income
§ 16:2	Ascertaining the gross income of an estate or
3 10.2	trust
§ 16:3(a)	Credits and deductions—Generally
§ 16:3(b)	—Credits
§ 16:3(c)	—Deductions
§ 16:4	Unused loss carryovers and excess deductions on
	termination
§ 16:5	Allocation of unused loss carryovers and excess
	deductions
§ 16:6(a)	Simple and complex trusts—General
§ 16:6(b)	—Requirements to be classified a simple trust
§ 16:6(c)	—Classification as a simple trust can change
0.10.0(1)	from year to year
§ 16:6(d)	—Requirement that a simple trust distribute all
\$ 1 <i>C</i> · <i>C</i> (a)	its income currently
§ 16:6(e)	—Remainder of a simple trust payable to a charity
§ 16:6(f)	—Requirements to be classified a complex trust
=	
§ 16:6(g)	—Different statutory provisions for complex and simple trusts
§ 16:7(a)	Distributable net income—General
§ 16:7(a) § 16:7(b)	—Adjustments to an estate or trust's taxable
5 TO.1(D)	income to arrive at distributable net income
	TO WILL OUT WASHINGTON HOU HIGHING

Family Estate Planning Guide

§ 16:7(c)	—Distributable net income vs. fiduciary
	accounting income
§ 16:7(d)	—Example
§ 16:8	Deduction for distributions to beneficiaries of simple trusts
§ 16:9(a)	Simple trusts: Inclusion of amounts in income of beneficiaries—General
§ 16:9(b)	—Relationship between distributable net income and inclusion amount
§ 16:9(c)	—Characterization of items of income
§ 16:9(d)	—Year of inclusion
§ 16:10	Simple trusts: Illustration of statutory provisions
§ 16:11(a)	Estates and complex trusts: Distribution deduction—Comparision with simple trusts
§ 16:11(b)	—Computing the distribution deduction
§ 16:12	Estates and complex trusts: Character of amounts distributed
§ 16:13	Estates and complex trusts: Limitation on distribution deductions
§ 16:14(a)	Amounts includible in the gross income of the beneficiaries of estates and complex trusts: The tier system—General
§ 16:14(b)	—Comparision with simple trusts
§ 16:14(c)	—First tier distributions
§ 16:14(d)	—Second tier distributions
§ 16:14(e)	—Interplay between the tiers
§ 16:15	Estates and complex trusts: Character of income included in gross income of beneficiaries
§ 16:16	Estates and complex trusts: Illustration of the operations of §§ 661 and 662
§ 16:17	The separate share rule
§ 16:18(a)	Distributions in kind—General
§ 16:18(b)	—"Kenan" gain
§ 16:18(c)	—Disallowance of losses between related taxpayers
§ 16:18(d)	—Section 643(e) election to recognize a gain
§ 16:19	Exclusion for gifts and bequests, charitable deductions, and double deductions
§ 16:20	Distributions in first 65 days of taxable year
§ 16:21	Section 644
§ 16:22	Accumulation trusts: General application of the throwback rules
§ 16:23	The throwback rules: Undistributed net income and accumulation distributions
§ 16:24	The throwback rules: Determination of the accumulation distribution allocated to preceding years

§ 16:25	The throwback rules: Computation of the tax
§ 16:26	Special rules applicable to foreign trusts
§ 16:27	General planning considerations for estates, non- grantor trusts, and their beneficiaries
§ 16:28(a)	Grantor trusts—Overview
§ 16:28(b)	—Definition of terms
§ 16:28(c)	—Reversion to grantor
§ 16:28(d)	—Short-term trusts created prior to March 2, 1986
§ 16:28(e)	—Elimination of the short-term trust by the Tax Reform Act of 1986 as an estate planning tool
§ 16:28(f)	—Power to control beneficial enjoyment
§ 16:28(g)	—Administrative powers
§ 16:28(h)	—Power to revoke
§ 16:28(i)	—Income for benefit of grantor
§ 16:28(j)	—Income applied to support of person grantor obligated to support
§ 16:28(k)	—Person other than grantor treated as substantial owner
§ 16:28(l)	—Summary of grantor trust rules to consider to avoid taxation of trust income to grantor or other person
§ 16:29(a)	Planning opportunities using grantor trusts— General
§ 16:29(b)	—Valuation under § 2702
§ 16:29(c)	—Transfers subject to § 2702
§ 16:29(d)	—Exceptions to § 2702
§ 16:29(e)	—Reduction in taxable gifts
§ 16:29(f)	—Grantor retained unitrusts and grantor retained annuity trusts—Overview
§ 16:29(g)	—Qualified annuity interests
§ 16:29(h)	—Qualified unitrust interests
§ 16:29(i)	—Requirements applicable to both GRATs and GRUTs
§ 16:29(j)	—Personal residence trusts
§ 16:29(k)	—Tax reimbursement provisions in grantor trusts

CHAPTER 17. DRAFTING WILLS

- § 17:2 Identity of the testator
- § 17:3 Testator's domicile
- § 17:4 Revocation of prior wills
- § 17:5 Debts and funeral expenses
- § 17:6 Funeral and burial directions and anatomical gifts
- § 17:7 Masses, monuments, perpetual care, and cemetery deed

§ 17:8	Rights of surviving spouse
§ 17:9	Disinheritance
§ 17:10	Foreign and domiciliary real estate
§ 17:11	Personal and household effects
§ 17:12	Legacies: General, specific, or demonstrative
§ 17:13	Ademption, abatement, and lapse
§ 17:14	Foreign legatees
§ 17:15	Charitable bequests
§ 17:16	Annuities
§ 17:17	Dispositions to heirs, children, issue, and relatives— Identity of the beneficiaries
§ 17:18	Residuary estate
§ 17:19	Life estates
§ 17:20	Testamentary trusts
§ 17:21	Infants and guardians
§ 17:22	Common disaster provisions
§ 17:23	In terrorem clauses
§ 17:24	Conditional legacies
§ 17:25	Provision for partial invalidity
§ 17:26	Apportionment of taxes and tax provisions
§ 17:27	Appointment of executors and trustees
§ 17:28	Administrative provisions
§ 17:29	Powers of fiduciaries
§ 17:30	Joint, mutual, and reciprocal wills
§ 17:31	Conclusion and attestation
§ 17:32	Execution of the will
§ 17:33	Instructions to the testator after execution of the will
§ 17:34	Duplicate wills
§ 17:35	Destruction of prior wills
§ 17:36	Codicils
§ 17:37	Periodic review of family estate plan

CHAPTER 18. MATRIMONIAL PROBLEMS IN FAMILY ESTATE PLANNING

§ 18:1	Introduction
§ 18:2	Effect of divorce on family estate plan
§ 18:3	Introduction to general divorce issues
§ 18:4	Divorce agreements—In general
§ 18:5	—Antenuptial agreements
§ 18:6	—Unmarried cohabitants
§ 18:7	—Alternative lifestyles
§ 18:8	—Post-nuptial agreements
§ 18:9	—Separation agreements
§ 18:10	Property division—In general
§ 18:11	—Identification of property

§ 18:12	—Characterization of property
§ 18:13	—Valuation of property
§ 18:14	—Distribution of property
§ 18:15	Alimony, in general
§ 18:16	Taxation—Income taxation of alimony and separate
	maintenance payments
§ 18:17	—Alimony trusts
§ 18:18	—Dependency exemption
§ 18:19	—Property transfers
§ 18:20	—Filing the income tax return
§ 18:21	—Gift tax consequences of divorce and separation
§ 18:22	—Estate tax consequences of divorce and separation
§ 18:23	Attorney fees
§ 18:24	Managing the financial impact of divorce

CHAPTER 19. CONFLICT OF LAWS AND MULTI-STATE ESTATES IN FAMILY ESTATE PLANNING

§ 19:1	Introduction
§ 19:2	Domicile
§ 19:3	State taxation of the decedent's estate—Interstate conflicts
§ 19:4	Apportionment of the federal estate tax
§ 19:5	Conflict of laws—General principles
§ 19:6	Real property
§ 19:7	Personal property—Generally
§ 19:8	Testamentary dispositions
§ 19:9	Testamentary trusts
§ 19:10	Inter vivos trusts
§ 19:11	Powers of appointment
§ 19:12	Rule against perpetuities and rule against accumulations
§ 19:13	Charitable trusts
§ 19:14	Community property
§ 19:15	Multi-state taxation—Generally
§ 19:16	Taxation by two or more nations
§ 19:17	Wills providing for property located outside the testator's domicile
§ 19:18	Ancillary administration
§ 19:19	Ethics—Crossing state lines

CHAPTER 20. USE OF LIFE INSURANCE AND ANNUITIES IN FAMILY ESTATE PLANNING: AVAILABLE OPTIONS AND INCOME TAX CONSEQUENCES

§ 20:1 Functions and uses of insurance

§ 20:2	Types of individual life insurance policies— Generally
§ 20:3	—Term insurance
§ 20:4	—Whole life policy
§ 20:5	—Endowment policy
§ 20:6	Optional modes of settlement of policy proceeds—Gnerally
§ 20:7	—Interest option
§ 20:8	—Limited installment certain
§ 20:9	—Fixed income
§ 20:10	—Life income with period certain
§ 20:11	Life insurance settlement options: Income tax consequences
§ 20:12	Split-dollar insurance
§ 20:13	Group insurance
§ 20:14	Joint life insurance
§ 20:15	Commercial annuities—Generally
§ 20:16	—Income tax consequences
§ 20:17	Private annuities
§ 20:18	Miscellaneous policies
§ 20:18.1	Accelerated death benefits
§ 20:19	Conclusion

CHAPTER 21. USE OF LIFE INSURANCE AND ANNUITIES IN FAMILY ESTATE PLANNING: GIFT AND ESTATE TAX CONSEQUENCES

§ 21:1.1	Transfer for value
$\S 21:1.2$	Exchange of life insurance policies under I.R.C. § 1035
§ 21:2	Estate tax consequences of life insurance: General considerations
§ 21:3	Combination life insurance and annuity

- § 21:4 Amounts receivable by the executor § 21:5 Amounts receivable by other beneficiaries—The "incidents of ownership" test
- § 21:6 Life insurance: Effect of state laws§ 21:7 Insurance in community property states

Gifts of life insurance policies

- § 21:8 Social security and life insurance
- § 21:9 Use of annuities in family estate planning: General estate tax considerations
- § 21:10 Coordination of life insurance policies and annuity contracts with family estate planning objectives

CHAPTER 22. LIFE INSURANCE TRUSTS

§ 22:1 Introduction

§ 21:1

§ 22:2	Revocable life insurance trusts
§ 22:3	Irrevocable life insurance trusts—Generally
§ 22:4	—Advantages and disadvantages
§ 22:5	—Income tax consequences
§ 22:6	—Policy loans
§ 22:7	—Gift tax consequences
§ 22:8	—Crummey demand provisions
§ 22:9	—Estate tax consequences
§ 22:10	—Assignment of group life policies
§ 22:11	Generation-skipping transfer tax issues
§ 22:12	Use of partnerships and limited liability companies as an alternative to irrevocable life insurance trusts
8 22.13	Use of split-dollar insurance in a life insurance trust.

Volume 2

CHAPTER 23. BUSINESS INTERESTS AND FAMILY ESTATE PLANS

§ 23:1	Planning at the inception of the business
§ 23:2	Selecting the form of business enterprise
§ 23:3	The sole proprietorship—Continuance or liquidation and sale
§ 23:4	The partnership—Reorganization and continuance
§ 23:5	—Drafting considerations
§ 23:6	—Income tax consequences to deceased partner
§ 23:7	The close corporation—Continuance
§ 23:8(a)	—Particular tax problems—Introduction
§ 23:8(b)	——Section 306 stock
§ 23:8(c)	——Accumulated earnings tax
§ 23:8(d)	——Personal holding company
§ 23:8(e)	——Section 1244 stock
§ 23:8(f)	——Stock recapitalizations
§ 23:9	—Alternatives to continuance
§ 23:10	Business interests in community property law states
§ 23:11(a)	Limited liability companies ("LLCs") in general—Background
§ 23:11(b)	—Limited liability company statutes
§ 23:11(c)	—Taxability considerations
§ 23:11(d)	—Conversion of a Partnership to an LLC
§ 23:12(a)	LLCs versus other forms of business organizations—Limited partnerships
§ 23:12(b)	—S corporations

§ 23:12(c)	—C corporations
§ 23:13(a)	Uses of LLCs in estate planning—Planning for valuation discounts—General
§ 23:13(b)	—Planning for valuation discounts under section 2704
§ 23:13(c)	Estate freezes and Chapter 14
§ 23:13(d)	—Creditor protection
§ 23:13(e)	—Asset management
§ 23:13(f)	—LLC management powers
§ 23:13(g)	—Asset characterization
§ 23:13(h)	—Planning re insurance
§ 23:13(i)	—Buy-sell planning
§ 23:13(j)	—Fiduciary duties
§ 23:13(k)	—Insolvency—LLC/member/manager
§ 23:13(l)	—Trusts and estates as members/manager
§ 23:13(m)	—Securities aspects
§ 23:13(n)	—Taxability of LLC members
§ 23:13(o)	—Reorganizations involving LLCs
§ 23:13(p)	—Federal income tax aspects of recourse liabilities
§ 23:14	Sarbanes-Oxley Act ("SOA")
§ 23:15	Mineral rights and royalties
§ 23:16	Business succession questions for owners of automobile
	dealerships
§ 23:17	Passing the torch: Making plans for succession
§ 23:18	Valuation discounts for key employee
СНАРТ	ER 24. EMPLOYEE BENEFIT PLANS
§ 24:1	Introduction
§ 24:2	Stock options and other stock compensation
3 = 1.=	plans—Generally
§ 24:3	—Restricted stock under I.R.C. § 83
§ 24:4	—Non-qualified stock options
§ 24:5	—Tandem appreciation plans
§ 24:6	Qualified plans
§ 24:7	Non-qualified plans: The advantages of deferred
	compensation
§ 24:8	ERISA—An overview
§ 24:9	—Reporting and disclosure requirements
§ 24:10(a)	—Minimum participation and vesting standards—
	Introduction
§ 24:10(b)	——Participation
§ 24:10(c)	——Accrual of benefits
§ 24:10(d)	——Vesting standards
§ 24:10(e)	— —"Top-heavy" plans
8 91.11	Minimum funding requirements

—Minimum funding requirements

Standards of fiduciary duties

§ 24:10(e) § 24:11

§ 24:12

§ 24:13	—Administration and enforcement
§ 24:14	—Plan termination insurance
§ 24:15	Qualified plans—An overview
§ 24:16	Taxation of qualified plans—Income taxation of employees and beneficiaries
§ 24:17(a)	—Qualified joint and survivorship annuity ("QJSA") and qualified preretirement survivor annuity ("QPSA") requirements—Interests
0.04.4=(1.)	subject to the QJSA and QPSA requirements
§ 24:17(b)	——QJSA retirement benefit
§ 24:17(c)	——QPSA retirement benefit
§ 24:17(d)	— Waiver of the QJSA and QPSA
§ 24:17(e)	— Other QJSA and QPSA requirements
§ 24:18	—Income taxation of trusts
§ 24:19	—Income taxation of employers
§ 24:20	—Estate taxation of employees
§ 24:21	Types of qualified plans: Pension, profit-sharing or stock bonus plans—Generally
§ 24:22(a)	—Pension plans—Defined Benefit Pension Plans
§ 24:22(a) § 24:22(b)	— Money purchase pension plans
§ 24:22(c)	— — Target benefit plans
§ 24:23	—Profit-sharing plans
§ 24:24	—Stock bonus plans
§ 24:25	-Employee stock ownership plans
§ 24:25.50	——As effective exit strategy for business owners, as well
3 21.20.00	as a tool to increase employee engagement
§ 24:26	—Annuity plans
§ 24:27	Qualified voluntary contributions
§ 24:28	Individual retirement accounts
§ 24:29(a)	Beneficiary designations for IRAs, employee benefit plans and § 403(b) annuities—General
§ 24:29(b)	—Required beginning date
§ 24:29(c)	—The Five Year Rule
§ 24:29(d)	—Rollover to IRA by spouse and non-spouse beneficiaries
§ 24:29(e)	—Minimum distribution rules
§ 24:29(f)	—Calculating Minimum Distributions After the
	Required Beginning Date
§ 24:29(g)	—Postponing Required Beginning Date and Minimum Distribution Rules
§ 24:29(h)	—Advantages of Naming Spouse As Primary Beneficiary of Qualified Plan or IRA
§ 24:29(i)	—Recalculating Life Expectancy as of the Required Beginning Date
§ 24:29(j)	—Changing Beneficiaries
§ 24:29(k)	—Naming A Trust As Beneficiary
§ 24:29(1)	—Marital Deduction Issues
3 - 1 /	

§ 24:29(m)	—Excise Taxes
§ 24:29(n)	—Penalty for Premature Distributions
§ 24:29(o)	—Contingent Beneficiaries and Disclaimers
§ 24:29(p)	—Charitable beneficiaries
§ 24:29(q)	—Roth IRA conversions in 2010 for high income taxpayers
§ 24:30	Medical savings accounts
§ 24:31	Roth IRA
§ 24:32	Early withdrawal from IRAs for "first-time homebuyers"
§ 24:33	Early withdrawal of IRA funds for higher education expenses
§ 24:34	Tax-exempt education IRA
§ 24:34.50	Maximizing Social Security benefits
§ 24:35	Conclusion

CHAPTER 25. BUSINESS USES OF INSURANCE

- § 25:1 Introduction
- § 25:2 Methods of fixing value in buy-sell agreements
- $\S~25:3$ $\:\:$ Estate tax ramifications of buy-sell agreements funded with insurance
- § 25:4 Business insurance for the sole proprietor
- § 25:5 Business insurance for the partnership
- $\S~25:6$ Business insurance for the close corporation
- § 25:7 Surrender or exchange of policies
- § 25:8 Key man insurance
- § 25:9 Substitution of limited liability companies or partnerships for insurance trusts—Second to die policies

CHAPTER 26. INCOME TAX CONSEQUENCES OF CORPORATE ELECTIONS UNDER SUBCHAPTER S

§ 26:1	In general
§ 26:2	Eligibility for corporate election under Subchapter
	S; Generally
§ 26:3	—Number of shareholders
§ 26:4	—Type of shareholders
§ 26:5	—Qualified Subchapter S trust ("QSST")
§ 26:6	—Corporate structure
§ 26:7	Reorganizations involving S corporations
§ 26:8	The Subchapter S election
§ 26:9	Termination of the election; Generally
§ 26:10	—Nonconsenting new shareholders
§ 26:11	—Revocation

§ 26:12	—Disqualification
§ 26:13	—Foreign income
§ 26:14(a)	—Passive investment income—Introduction
§ 26:14(b)	— Royalties
§ 26:14(c)	——Rents
§ 26:14(d)	— —Interest
§ 26:14(e)	——Annuities
§ 26:14(f)	——Sale or exchanges of stock or securities
§ 26:15	Election after termination
§ 26:16	Operational rules of Subchapter S; Corporate income taxed to shareholders
§ 26:17	—Pass-through of long-term capital gains
§ 26:18	—Net operating loss pass-through
§ 26:19	—Distributions to shareholders of previously taxed income
§ 26:20	—Selection of taxable year
§ 26:21	—Recapture of investment credit
§ 26:22	Gifts of stock in a Subchapter S corporation and assignment of income
§ 26:23	The role of Subchapter S in family estate planning
§ 26:24(a)	Comparison of S corporations to partnerships and C corporations—Introduction
§ 26:24(b)	—S corporation election
§ 26:24(c)	—Receipt of boot
§ 26:24(d)	—Liabilities of the entity
§ 26:24(e)	—Mandatory allocations for contributed property and liabilities
§ 26:24(f)	—Carryover of tax attributes
§ 26:24(g)	—Receipt of an interest for services
§ 26:24(h)	—Characterization and reporting of tax attributes
§ 26:25(a)	Miscellaneous tax comparisons of partnerships versus S corporations—Doing business with one's own entity—Introduction
§ 26:25(b)	——Receiving salary from one's own entity
§ 26:25(c)	——Selling property to one's own entity
§ 26:25(d)	——Disguised payments to independent
	contractor—interest holder
§ 26:25(e)	——Recharacterizing capital as ordinary income
§ 26:25(f)	— — Effect of distributions of entity on interest holders
§ 26:25(g)	— — Distributions of cash from entity to interest holder
§ 26:25(h)	——Liquidating distributions
§ 26:25(i)	——Gains and losses on distributions
§ 26:25(j)	——Gains and losses on sale of interest in entity

§ 26:25(k)	— —Basis adjustment
§ 26:25(1)	——Sales of interest in entity
§ 26:25(m)	— — Collapsible entities
§ 26:25(n)	——Section 1244
§ 26:25(o)	— —Partnership rules
§ 26:25(p)	— — Distributions in kind on liquidation
§ 26:25(q)	— Entity termination rules
§ 26:25(r)	— — Termination of tax status
§ 26:25(s)	——Stepped-up basis rules
§ 26:25(t)	——Stepped-up basis shields S corporation stock
	from income in respect of a decedent
§ 26:25(u)	——Conclusion of flow-through treatment at
	death
§ 26:25(v)	——Allocation of gain or disposition of
	contributed property
§ 26:25(w)	— —Who may be interest holders
§ 26:25(x)	——Basis
§ 26:25(y)	——Distributions
$\S~26:25(z)$	— —Liquidation

CHAPTER 27. GENERAL PRINCIPLES OF INCOME TAXATION APPLICABLE TO PARTNERSHIPS AND LIMITED LIABILITY COMPANIES

§ 27:1	Overall
§ 27:2	Partnership taxation in general
§ 27:3(a)	Partnership defined—General
§ 27:3(b)	—Partnerships contrasted to other arrangements
§ 27:3(c)	—Co-ownership
§ 27:3(d)	—Limited opportunities to elect out from partnership tax treatment certain joint ventures
§ 27:3(e)	—Partnerships contrasted to other relationships
§ 27:3(f)	—Non-tax consequences of unanticipated partnership status
§ 27:4(a)	Taxability as an association (partnership)— Limited partnerships and unincorporated associations
§ 27:4(b)	—Partnerships that are publicly traded
§ 27:5	Partnership tax determination and reporting
§ 27:6(a)	The entity approach—Partnerships constitute separate entities
§ 27:6(b)	—Transactions involving both a partner and the partnership
§ 27:7(a)	The aggregate concept—The flow-through approach

§ 27:7(b)	—Partner-partnership transactions
§ 27:8	Transactions involving both aggregate and entity principles
§ 27:9	Entity and aggregate approaches applied to partners and partnerships
§ 27:10	Flexibility of partnership arrangement and limitations thereof
§ 27:11(a)	Principal areas of partnership flexibility—
§ 27:11(b)	Redemption of partnership interests —Special allocations
§ 27:11(b) § 27:11(c)	—Option basis election
	-
§ 27:12(a)	Flexibility restrictions—General
§ 27:12(b)	—Rules regarding family partnership
§ 27:12(c)	—Special allocations that are mandatory
§ 27:12(d)	—Newly admitted partners
§ 27:12(e)	—Attempts to change ordinary income into capital
\$ 97.19(f)	gain Diaminod color
§ 27:12(f)	—Disguised sales
§ 27:12(g)	—Selection of partnership taxable year
§ 27:12(h)	—Rules on equity/capital accounts
§ 27:13	Basic principles of partnership taxation— Formation of a partnership
§ 27:14(a)	—Fundamental rules concerning contribution of
0.05 4.41	property—Gain or loss not recognized
§ 27:14(b)	 — Inside basis of the contributed property in the hands of the partnership
§ 27:14(c)	——Partner's outside basis for his or her partnership interest
§ 27:14(d)	——Recognition of disguised sales
§ 27:14(e)	——Carryover depreciation of contributed
3 =	property
§ 27:15(a)	—Special rules regarding property contribution— Mandatory special allocations
§ 27:15(b)	——Contribution by way of an installment note
§ 27:15(c)	——Encumbered property contributions
§ 27:16(c)	—Services contributed to a partnership
§ 27:17(a)	—Instances where nonrecognition treatment is
y 21.11(a)	disallowed for capital contributions—Foreign partnerships
§ 27:17(b)	——Partnership investment companies
§ 27:18	—Method of partnership accounting
§ 27:19	—Taxable year of a partnership
§ 27:13 § 27:20	—Start-up costs
-	-
§ 27:21(a)	Operations of a partnership—Partner's outside basis for the partnership interest—Operational adjustments
8 97.91(h)	——Partnership liability adjustments
§ 27:21(b)	——I armership hability adjustments

Family Estate Planning Guide

§ 27:21(c)	——Liability allocation as between partners
§ 27:22(a)	—Allocation restrictions—General
§ 27:22(b)	——Special allocations
§ 27:23(a)	—Grounds established for special allocations—
	General
§ 27:23(b)	——Economic effect—"Substantial economic
	effect"
§ 27:23(c)	——Economic effect must be substantial
$\S 27:24$	—Allocations attributable to nonrecourse
	financing—"minimum gain" and "minimum gain
8 97.95	chargeback"
§ 27:25	—Required relationship between a partner's
	interest in the partnership and a special allocation
§ 27:26(a)	—Special restrictions on allocations to family
§ 21.20(α)	partnerships—General
§ 27:26(b)	——Service income
§ 27:26(c)	——Property income
§ 27:27(a)	Partner's admission or withdrawal—General
§ 27:27(b)	—Sale of less than all of a partner's interest in
\$ 21.21(0)	the partnership
§ 27:27(c)	—Sale of all of a partner's interest in the
3 21.21(0)	partnership
§ 27:27(d)	—Identification of the timing of partnership
3 21.21(a)	income and deductions
§ 27:27(e)	—Purchase of partnership interest through
3 = 1.1=1 (0)	contributions
§ 27:28(a)	Deferral of partnership loss deductions—
. ,	Introduction
§ 27:28(b)	—Basis limitations
§ 27:28(c)	—At-risk rules
§ 27:28(d)	—Passive loss rules
§ 27:29(a)	Transactions between partnership and partner—
0	Introduction
§ 27:29(b)	—Gains on converted assets treated as ordinary
	income
§ 27:29(c)	—Disguised sales
§ 27:29(d)	—Partner-partnership loss sales
§ 27:29(e)	—Payments for the use of property or services
§ 27:30(a)	Distributions in a partnership—General
§ 27:30(b)	—Special rules limiting nonrecognition
. ,	transferred basis
§ 27:30(c)	—Rules re inside versus outside basis in assets
	distributed
§ 27:30(d)	—Impact of partnership distributions upon the
	partnership
§ 27:31(a)	Collapsible partnership rules—Results to seller
	partner

§ 27:31(b)	—Results to buyer
§ 27:32	Results of a partnership interest redemption
§ 27:33(a)	Termination—Results of a termination of a
	partner's partnership interest
§ 27:33(b)	—Results when the partnership itself is
	terminated
$\S 27:34$	Results of a partner's death
§ 27:35	Special income taxation rules applicable to family partnerships and limited liability companies— Case law prior to the enactment of section 704(e)
§ 27:36	Scope of the family partnership rules
§ 27:37	Scope of section 704(e)(1)—Exclusion of
§ 21.01	partnership where capital is not a material
	income-producing factor or a partner does not own a capital interest
§ 27:38	Determining if capital is a material income-
5	producing factor
§ 27:39	Ownership of a capital interest
§ 27:40	Gifts disguised as sales: Effect on the "purchaser"
§ 27:41	Parties subject to section 704(e)(2) allocation rules
§ 27:42	Reallocation of partnership income: The effect of section 704(e)(2)
§ 27:43	Allocation of partnership income for the year of the gift
§ 27:44	Comparison with other income shifting techniques
§ 27:45(a)	Limited liability companies ("LLC")—A tax
	overview—Partnership classification
§ 27:45(b)	Comparison with other income shifting techniques—Continuity of life
§ 27:45(c)	—Centralization of management
§ 27:45(d)	—Limited liability
§ 27:45(e)	—Free transferability of interests
§ 27:45(f)	—Classification as a partnership
· · · · · /	

CHAPTER 28. POST-MORTEM PLANNING

§ 28:1	Introduction
§ 28:1.50	Managing finances after death
§ 28:2(a)	Disclaimers—General
§ 28:2(b)	—Definition of disclaimer
§ 28:2(c)	—Tax effects
§ 28:2(d)	—Irrevocable and unqualified
§ 28:2(e)	—Qualified disclaimer must be written
§ 28:2(f)	—Made within nine months
§ 28:2(g)	—No acceptance
§ 28:2(h)	—Passage without direction to person other than disclaimant unless disclaimant is surviving spouse of donor

Family Estate Planning Guide

8 00.0(1)	Deuti-linterents
§ 28:2(i)	—Partial interests
§ 28:2(j)	—Severable property subject to disclaimer —Conclusion
§ 28:2(k)	
§ 28:3	Other options available to beneficiaries
§ 28:4	Post-mortem planning with respect to the decedent's federal estate tax liability—Generally
§ 28:5	Valuation of the decedent's gross estate
§ 28:6(a)	—Optimal use of available deductions— Introduction
§ 28:6(b)	— —Non-deductible expenses
§ 28:6(c)	 —Expenses deductible for income tax purposes only
§ 28:6(d)	——Expenses deductible for estate tax purposes only
§ 28:6(e)	— Expenses deductible for either estate or
-	income tax purposes
§ 28:6(f)	——Expenses deductible for both income and
	estate tax purposes
§ 28:6(g)	— —Family owned business deduction
§ 28:7(a)	—Deferral of estate tax liability—Introduction
§ 28:7(b)	— Extensions for reasonable cause
§ 28:7(c)	 —Extensions for reversionary or remainder
	interests
§ 28:7(d)	— — Deferrals for closely-held business interests— Section 6166
§ 28:8(a)	—Payment of the estate tax—Introduction
§ 28:8(b)	——Flower bonds
§ 28:8(c)	——Stock redemptions
§ 28:9	Post-mortem planning with respect to the income
	taxation of the decedent, the estate, and the beneficiaries—Generally
§ 28:9(a)	— — Overpayments
§ 28:10	—Waiver of fiduciary fees
§ 28:11	—The decedent's final income tax return
§ 28:12	—Fiduciary income tax return—Selection of taxable year
§ 28:13	—Income and deductions in respect of a decedent
§ 28:14	—Elections with regard to individual retirement accounts
§ 28:15	—Subchapter "S" corporations
§ 28:16	—Keeping the estate open
§ 28:17	—Distributions from the estate—Tax
_	considerations
§ 28:17.50	—Tax credits—Relevant income tax credits
§ 28:17.51	 — Comparing tax credits to tax deductions in estate planning and administration

§ 28:17.52	——Summary of tax credits
§ 28:17.53	— —Tax procedure
§ 28:17.54	— —Additional credits
§ 28:18	Personal liability of the fiduciary
§ 28:19	Transferee liability

CHAPTER 29. TYPICAL FAMILY ESTATE PLANS

§ 29:1	Introduction
§ 29:2	The smiths
§ 29:2(a)	—Facts
§ 29:2(b)	—Estate planning objectives
§ 29:2(c)	—Suggestions
§ 29:2(d)	—Summary
§ 29:3	The corbetts
§ 29:3(a)	—Facts
§ 29:3(b)	—Estate planning objectives
§ 29:3(c)	—Suggestions
§ 29:3(d)	—Summary
§ 29:4	Concluding observations

CHAPTER 30. ELDER LAW [REVISED]

§ 30:1	Elder law in general
§ 30:2	Medicare—Generally
§ 30:3	—Part A, hospital insurance
§ 30:4	—In-patient hospital care
§ 30:5	—Skilled nursing facility services
§ 30:6	—Home health benefits
§ 30:7	—Hospice benefits
§ 30:8	—Part B, supplemental medical insurance
§ 30:9	—Part C, Medicare+Choice
§ 30:10	—Part D, prescription drug coverage
§ 30:11	—Conclusion
§ 30:12	Medicaid—Generally
§ 30:13	—Services
§ 30:14	—Eligibility, generally
§ 30:15	—Eligibility, financial need
§ 30:16	—Special rules for institutionalized persons
§ 30:17	—Estate recoveries
§ 30:18	—Planning strategies
§ 30:19	—Planning Pitfalls
§ 30:20	Health care financing—Generally
§ 30:21	—Trusts
§ 30:22	—Home equity conversion
§ 30:23	—Medigap insurance

§ 30:24	—Long-term care insurance
§ 30:25	Health maintenance organizations
§ 30:26	—Public-private partnerships
§ 30:27	—Accelerated death benefits
§ 30:28	—Support of elderly parent
§ 30:29	—Conclusion
§ 30:30	Health care planning—Generally
§ 30:31	—Home care
§ 30:32	—Long-term care
§ 30:33	—Termination of care
§ 30:34	—Conclusion
§ 30:35	Planning for the incapacitated client—Generally
§ 30:36	—Guardianship and conservatorship
§ 30:37	—Durable power of attorney
§ 30:38	—Revocable trust
8 30.39	—Ioint hank accounts

CHAPTER 31. NONRESIDENT ALIENS, FOREIGN TRUSTS, AND U.S. TAXATION

§ 31:1 Introduction § 31:2 Tax treaties § 31:3 Income tax issues § 31:4 Estate, gift, and generation-skipping transfer tax issues § 31:5 Foreign trusts § 31:6 Foreign grantor trusts Foreign trusts established by U.S. persons § 31:7 § 31:8 Qualified domestic trusts § 31:9 Expatriation § 31:10 Enforcement of foreign wills and trusts

CHAPTER 32. ESTATE PLANNING USING EMPLOYEE STOCK OWNERSHIP PLANS (ESOPS)

§ 32:1	ESOP objectives in general
§ 32:2	ESOP defined
§ 32:3	Sale of stock to ESOP is a tax-free rollover
§ 32:4	ESOP tax advantages
§ 32:5	Deduction for dividends paid
§ 32:6	Potential problems envisioned
§ 32:7	Uses of ESOPs by business owners for estate planning purposes
§ 32:8	Leveraged ESOPs
§ 32:9	S corporations using ESOPs
§ 32:10	Charitable gift transactions

xxxiv

§ 32:11 ESOPs and related estate planning concepts

CHAPTER 33. NON-TRADITIONAL ESTATE PLANNING

I. GENERAL CONSIDERATIONS

- § 33:1 Introduction
- § 33:2 Conflicts of interest
- § 33:3 Ethical issues

II. ESTATE PLANNING FOR GAY AND LESBIAN PARTNERS

§ 33:4	General
· ·	
§ 33:4.50	Same-sex marriage
§ 33:5(a)	Contractual relationships—Generally
§ 33:5(b)	—Domestic Partnership Agreement
§ 33:5(c)	—Business agreements
§ 33:5(d)	—Real estate agreements
§ 33:5(e)	—Testamentary contracts
§ 33:5.50	Tax considerations
§ 33:6(a)	Planning for incapacity—Conservatorship
§ 33:6(b)	—Durable power of attorney
§ 33:6(c)	—Guardianship
§ 33:6(d)	—Patient advocate designation
§ 33:6(e)	—Living will
§ 33:7(a)	Planning for death—Generally
§ 33:7(b)	—Last will and testament
§ 33:7(c)	—Living trusts
§ 33:7(d)	—Charitable trusts
§ 33:7(e)	—Life insurance trusts
§ 33:8	Guardian and conservator for minor children
§ 33:8.50	Custody and visitation of minor children

III. SINGLE PARENT HOUSEHOLDS

§ 33:9	Generally
§ 33:10	Custodial arrangements
§ 33:11	Financial support of the child
§ 33:12	Grandparents planning for single parent children
§ 33:12(a)	—Trusts
§ 33:12(b)	—Support orders

IV. MIXED CHILD HOUSEHOLDS

§ 33:13 Generally

§ 33:14 Custody
§ 33:15 Marital agreements
§ 33:16 Necessity of a living trust

V. ELDERLY DOMESTIC RELATIONSHIPS

- § 33:17 Second marriages for the elderly
- § 33:18 Elderly companionships

VI. ASSISTED REPRODUCTION AND ESTATE PLANNING

- § 33:19 Introduction
- § 33:20 Child of assisted reproductive technology
- § 33:21 Intestate succession
- § 33:22 Drafting considerations

VII. NATIVE AMERICAN TAX ISSUES

§ 33:23 Native American tax issues

CHAPTER 34. UNUSUAL ASSETS

§ 34:1 General

I. TYPES OF UNUSUAL ASSETS

- § 34:2 Generally
- § 34:3 Intangible property
- § 34:4 Artwork
- § 34:5 Jewelry, antiques and collectibles

II. TRANSFERS

- § 34:6 General
- § 34:7 Copyrights
- § 34:8 Patents
- § 34:9 Trademarks
- § 34:10 Tangible—Artwork, jewelry, antiques

III. VALUATION ISSUES

- § 34:11 Generally
- § 34:12 Artwork

IV. TAX CONSEQUENCES

§ 34:13 Estate and gift tax

xxxvi

- § 34:14 Capital gain -v- ordinary income taxes
- § 34:15 Charitable giving issues

V. MISCELLANEOUS

- § 34:16 Theft of unusual assets
- § 34:17 Recordation
- § 34:18 Additional planning considerations for artists and musicians
- § 34:19 Digital assets
- § 34:20 Crowdfunding
- § 34:21 Digital currencies

CHAPTER 35. CRIMINAL JUSTICE AND ESTATE PLANNING

I. GENERAL CONSIDERATIONS

§ 35:1 Introduction

II. CRIMES UNDER THE INTERNAL REVENUE CODE

- § 35:2 Generally
- § 35:3 Tax evasion
- § 35:4 Willful failure to collect or pay tax
- § 35:5 Willful failure to file return, supply information or pay tax
- § 35:6 Fraud and false statements
- § 35:7 Fraudulent returns, statements, or other documents
- § 35:8 Identity theft crimes
- § 35:9 Cash reporting
- § 35:10 Employment tax crimes
- § 35:11 Administrative crimes
- § 35:12 Miscellaneous crimes
- § 35:13 Statute of limitations

III. FRAUD AND FINANCIAL CRIMES

- § 35:14 Generally
- § 35:15 False statements and entries
- § 35:16 Mail fraud and other fraud offenses
- § 35:17 Money laundering—Generally
- § 35:18 —18 U.S.C.A. § 1956
- § 35:19 —18 U.S.C.A. § 1957
- § 35:20 False claims
- § 35:21 Currency and monetary reports—Generally

§ 35:22	—International transportation of currency or monetary instruments
§ 35:23	—Foreign bank and financial accounts
§ 35:24	—Criminal penalties
§ 35:25	Racketeering Influenced and Corrupted Organizations ("RICO")
§ 35:26	Perjury
§ 35:27	Bribery
§ 35:28	Conspiracy and aiding and abetting

IV. FINANCIAL RESPONSIBILITY FOR CRIMINAL ACTIVITIES

§ 35:29	Generally
§ 35:30	Restitution
§ 35:31	Reimbursements—Generally
§ 35:32	—Prisoner Reimbursement to the County Act
§ 35:33	—State Correctional Facility Reimbursement Act
§ 35:34	—Federal reimbursement
§ 35:35	Monetary penalties

V. ASSET FORFEITURES

§ 35:36	Generally
§ 35:37	Civil forfeitures
§ 35:38	Criminal forfeitures—State law
§ 35:39	—Federal Law
§ 35:40	Controlled substances—Generally
§ 35:41	—Michigan Controlled Substances Act
§ 35:42	—Federal Law
§ 35:43	Defenses to asset forfeiture—Generally
§ 35:44	—Spouse as innocent owner
§ 35:45	—Decedent's estate as innocent owner
§ 35:46	—Beneficiaries as innocent owners
§ 35:47	—Power of attorney as innocent owner
§ 35:48	—Donee as innocent owner
§ 35:49	—Business entities as innocent owners
§ 35:50	—Landlords as innocent owners
§ 35:51	—Bona fide purchasers as innocent owners
§ 35:52	—Secured parties as innocent owners
§ 35:53	—Unsecured creditors and the innocent owner
	defense
§ 35:54	—Attorneys as innocent owners

VI. TAX CONSEQUENCES OF CRIMINAL BEHAVIOR

§ 35:55 Generally

xxxviii

- § 35:56 Tax consequences of reimbursement payments
- § 35:57 Tax consequences of victim restitution
- § 35:58 Tax consequences of asset forfeitures

VII. EFFECT OF THE CRIMINAL LAW ON ESTATE PLANNING

- § 35:59 Generally
- § 35:60 Making property innocent

VIII. PRACTITIONER CONCERNS

- § 35:61 Generally
- § 35:62 Attributed criminal behavior
- § 35:63 Attorney-client privilege

CHAPTER 36. FAMILY ESTATE PLANNING CONCERNS AND CREDITORS

I. GENERAL CONSIDERATIONS

- § 36:1 Introduction
- § 36:2 Claims made against the client
- § 36:3 Claims made against the beneficiary
- § 36:4 Control, ownership and rights

II. EFFECT OF STATE LAW

- § 36:5 Secured creditors
- § 36:6 Statutory lienholders
- § 36:7 State as a preferred creditor
- § 36:8 Fraudulent conveyances
- § 36:9 Exemptions from creditor claims
- § 36:10 Principal residence
- § 36:11 Self-settled trusts

III. IMPACT OF FEDERAL LAW

- § 36:12 Bankruptcy Act
- § 36:13 Internal Revenue Code
- § 36:14 Federal Claims Act

IV. COMMON ESTATE PLANNING TOOLS AND CREDITOR CLAIMS

- § 36:15 Co-ownership
- § 36:16 Pay on death
- § 36:17 Contractual

§ 36:18	Retirement plans
§ 36:19	Retirement accounts
§ 36:20	Business entities
§ 36:21	Creditor protection trusts
§ 36:22	Disclaimers

V. PRACTITIONER CONCERNS

§ 36:23 Conclusion

APPENDICES

Appendix 1.	Confidential Estate Planning Questionnaire for Married Individuals			
Appendix 2.	Post Mortem Checklist			
Appendix 3.	Confidential Estate Planning Questionnaire for an Unmarried Individual			
Appendix 4.	Pour-Over Will for a Married Individual			
Appendix 5.	Revocable Living Trust for a Married Individual			
Appendix 6.	Pour-Over Will for an Unmarried Individual without Children			
Appendix 7.	Pour-Over Will for an Unmarried Individual with Children			
Appendix 8.	Revocable Living Trust for an Unmarried Individual with Children			
Appendix 9.	Certificate of Trust Existence and Authority			
Appendix 10.	General Assignment and Bill of Sale			
Appendix 11.	General Durable Power of Attorney			
Appendix 12.	Patient Advocate Designation (a/k/a Health Care Surrogate or Proxy)			
Appendix 13.	Letter to Client Regarding Estate Planning Documents and Funding for Revocable Living Trust			
Appendix 14.	Irrevocable Life Insurance Trust			
Appendix 15.	Operating Agreement for Multi-Member Limited Liability Company			
Appendix 16.	Operating Agreement for Limited Liability Company—For Husband and Wife as Tenants by the Entireties			
Appendix 17.	Agreement for Single-Member LLC and Articles of Organization			
Appendix 18.	Limited Liability Company Articles of Organization			

Appendix 19.	Letter to Client Regarding Limited Liability Company Documents and Funding for Limited Liability Company			
Appendix 20.	Prenuptial Agreement for a Husband that has Larger Estate—Includes Provision for Wife or Death or Divorce			
Appendix 21.	Prenuptial Agreement for Parties that are Similarly Situated—With No Mandatory Provision for Either Spouse on Death or Divorce			
Appendix 22.	Codicil			
Appendix 23.	Crummey Type Demand Notices			
Appendix 24.	Will with Testamentary Trust			
Appendix 25.	Spendthrift Trust			
Appendix 26.	Living Will			
Appendix 27.	Charitable Remainder Trusts			
Appendix 28.	Organizational Checklist of a Will			
Appendix 29.	Simple Will			
Appendix 30.	IRS Form 706			
Appendix 31.	IRS Form 709			
Appendix 32.	IRS Form 1041			
Appendix 33.	Family Limited Partnership Agreement			
Appendix 34.	Petition for Authorization to Divide Trust			
Appendix 35.	Special Needs Trust			
Appendix 36.	Provisions for Revocable and Irrevocable Trusts			
Appendix 37.	Testamentary Appointment			
Appendix 38.	Domestic Partnership Agreement			
Appendix 39.	Buy-Sell Agreement			
Appendix 40.	IRS Form 8300			
Appendix 41.	FinCEN Form 105			
Appendix 42.	Report of Foreign Bank and Financial Accounts			
Appendix 43.	FinCEN Form 104 [Deleted]			
Appendix 44.	Intentionally Defective Grantor Trust			
Appendix 45.	Authorization to Release Medical Records for Purposes of the Health Insurance Portability and Accountability Act			
Appendix 46.	Qualified Personal Residence Trust			
Appendix 47.	Retirement Asset Trust with Martial QTIP Trust			

Family Estate Planning Guide

Appendix 48.	Retirement Asset Trust for Single Person				
Appendix 49.	Additional Planning Questionnaire				
Appendix 50.	Estate Planning Discussion				
Appendix 51.	Revocable Living Trust with Generation- Skipping Transfer Tax Provisions				
Appendix 52.	Federal Aviation Administration (FAA) Approved Bill of Sale				
Appendix 53.	Charitable Gift Annuity Agreement				
Appendix 54.	Articles of Incorporation				
Appendix 55.	Second to Die Irrevocable Life Insurance Trust				
Appendix 56.	Alternate Forms for Distribution of Tangible Personal Property in a Revocable Living Trust				
Appendix 57.	Tax Apportionment Provisions				
Appendix 58.	Provision for Annuity for Individual Trust Beneficiary				
Appendix 59.	Option for Beneficiary of Trust to Utilize and Purchase Residence				
Appendix 60.	Trust Provisions for Inter Vivos Loans to Trust Beneficiaries				
Appendix 61.	Example Provisions for Trustee's Power to Postpone Distributions to Trust Beneficiary				
Appendix 62.	Trust Agreement to Hold Stock in Closely Held Business				
Appendix 63.	Irrevocable Trust Agreement for Minor (with trust protector)				
Appendix 64.	Sample Special Needs Trust Provisions				
Appendix 65.	Sample Copyright Assignment and Bill of Sale—Visual Artist				
Appendix 66.	Sample Royalty and License Agreement—Visual Artist				
Appendix 67.	Sample Trust Restrictions on Sale/Exploitation of Visual Artist's Works				
Appendix 68.	Sample Copyright Assignment and Bill of Sale—Musical Artist				
Appendix 69.	Sample Royalty and License Agreement— Musical Artist				
Appendix 70.	Sample Trust Restrictions on Sale/Exploitation of Musical Artist's Works				
Appendix 71.	Charitable Lead Annuity Trust				

Appendix 72.	Revocable Trust Agreement with Pet Trust for Married Couple Without Children
Appendix 73.	Appointment of Digital Administrator within Will
Appendix 74.	Instructions for Digital Administrator Appointed by Separate Writing
Appendix 75.	List of Digital Assets for Testator
Appendix 76.	QDRO—Shared Benefit (Single Life Annuity)
Appendix 77.	QDRO—Shared Benefit (Joint Survivor Annuity)
Appendix 78.	QDRO—Separate Benefit (Single Life Annuity)
Appendix 79.	QDRO—Separate Benefit (Lump-Sum)
Appendix 80.	IRA Beneficiary Designation—Outright to Kids, to Grandchildren's Trust
Appendix 81.	IRA Beneficiary Designation—To Trust for Children
Appendix 82.	Declaration of Trust Ownership and Assignment of Partnership Interest to Trust
Appendix 83.	Sample Private Letter Ruling Request
Appendix 84.	Sample Protest Letter
Appendix 85.	U.S. Tax Court Petition
Appendix 86.	Revenue Ruling 2013-17

Table of Laws and Rules

Table of Cases

Index