

Table of Contents

PART I. REVOCABLE TRUSTS

CHAPTER 1. MARITAL DEDUCTION TRUST

I. TRUST

- § 1:1 Form: Marital Deduction Trust—Single grantor (either husband or wife) as both grantor and trustee; irrevocable upon death of the grantor; income plus ascertainable standard of principal to surviving spouse; children as remainder beneficiaries with QTIP election

II. COMMENTARY

- § 1:2 Definition
§ 1:3 When should this trust be used?
§ 1:4 Requirements
§ 1:5 Practice notes
§ 1:6 Example
§ 1:7 Tax implications

CHAPTER 1A. ELDER TRUST

I. TRUST

- § 1A:1 Form: Elder Trust—Marital Deduction Trust with husband and wife as grantors and trustees; provision for co-trustee and irrevocability on incapacity or diminished ability of either grantor

II. COMMENTARY

- § 1A:2 Definition
§ 1A:3 When should this trust be used?
§ 1A:4 Requirements
§ 1A:5 Practice notes
§ 1A:6 Example
§ 1A:7 Tax implications

CHAPTER 1B. ROTH IRA TRUST

I. TRUST

§ 1B:1 Form: Roth IRA Trust

II. COMMENTARY

- § 1B:2 Definition
- § 1B:3 When should this trust be used?
- § 1B:4 Requirements
- § 1B:5 Practice notes
- § 1B:6 Examples
- § 1B:7 Tax implications

CHAPTER 1C. IRA “STRETCH” TRUSTS

- § 1C:1 IRA “stretch” trusts
- § 1C:2 Definition
- § 1C:3 When should the “stretch” trust be used?
- § 1C:4 Requirements for “stretch” trusts
- § 1C:5 Practice notes
- § 1C:6 Examples
- § 1C:7 Tax implications

CHAPTER 2. MARITAL PERPETUITY TRUST

I. TRUST

- § 2:1 Form: Marital Perpetuity Trust—Single grantor (either husband or wife) as both grantor and trustee; irrevocable upon death of grantor; income plus ascertainable standard of principal to surviving spouse; children and grandchildren limited to income plus ascertainable standard of principal, descending generationally with charitable remainder

II. COMMENTARY

- § 2:2 Definition
- § 2:3 When should this trust be used?
- § 2:4 Requirements
- § 2:5 Practice notes
- § 2:6 Example
- § 2:7 Tax implications

TABLE OF CONTENTS

CHAPTER 3. CRYOGENIC TRUST

I. TRUST

- § 3:1 Form: Cryogenic Trust—Credit shelter trust in perpetuity for the benefit of grantor using bank trustee; accumulation trust for benefit of grantor, remainder to charity

II. COMMENTARY

- § 3:2 Definition
§ 3:3 When should this Trust be used?
§ 3:4 Requirements
§ 3:5 Practice notes
§ 3:6 Example
§ 3:7 Tax implications

CHAPTER 4. CREDIT SHELTER TRUST

I. TRUST

- § 4:1 Form: Credit Shelter Trust—Single person as grantor and trustee; income to grantor for life, remainder to children and grandchildren

II. COMMENTARY

- § 4:2 Definition
§ 4:3 When should this Trust be used?
§ 4:4 Requirements
§ 4:5 Practice notes
§ 4:6 Example
§ 4:7 Tax implications

CHAPTER 4A. CREDIT SHELTER TRUST WITH “VACATION” OR SECONDARY HOME PROVISIONS

I. TRUST

- § 4A:1 Form: Credit Shelter Trust with “Vacation” or Secondary Home Provisions—Single person as grantor and trustee; to hold, manage, and dispose of real property described as “vacation” or secondary home

II. COMMENTARY

- § 4A:2 Definition

- § 4A:3 When should this trust be used?
- § 4A:4 Requirements
- § 4A:5 Practice notes
- § 4A:6 Example
- § 4A:7 Tax implications

CHAPTER 4B. CREDIT SHELTER TRUST WITH FIREARM PROVISIONS

I. TRUST

- § 4B:1 Form: Credit Shelter Trust with firearm provisions—
Single person trust with grantor and trustee,
specifically for the purpose of owning firearms
regulated by the National Firearms Act and specific
state law

II. COMMENTARY

- § 4B:2 Definition
- § 4B:3 When should this trust be used?
- § 4B:4 Requirements
- § 4B:5 Practice notes
- § 4B:6 Example
- § 4B:7 Tax implications

CHAPTER 4C. CREDIT SHELTER TRUST FOR INTELLECTUAL PROPERTY

I. TRUST

- § 4C:1 Form: Credit Shelter Trust for Intellectual Property—
Single person trust with grantor and trustee

II. COMMENTARY

- § 4C:2 Definition
- § 4C:3 When should this trust be used?
- § 4C:4 Requirements
- § 4C:5 Practice notes
- § 4C:6 Example
- § 4C:7 Tax implications

CHAPTER 5. TWO PARTY CREDIT SHELTER TRUST

I. TRUST

- § 5:1 Form: Two Party Credit Shelter Trust—Two parties as

TABLE OF CONTENTS

grantors (unmarried) and trustees; income to both or survivor

II. COMMENTARY

- § 5:2 Definition
- § 5:3 When should this Trust be used?
- § 5:4 Requirements
- § 5:5 Practice notes
- § 5:6 Example
- § 5:7 Tax implications

CHAPTER 5A. QUALIFIED SUBCHAPTER S TRUST

I. TRUST

- § 5A:1 Form: Qualified Subchapter S Trust—Single person as grantor and trustee; income to grantor for life, remainder to children, funded with Subchapter S stock

II. COMMENTARY

- § 5A:2 Definition
- § 5A:3 When should this trust be used?
- § 5A:4 Requirements
- § 5A:5 Practice notes
- § 5A:6 Example
- § 5A:7 Tax implications

CHAPTER 6. QUALIFIED DOMESTIC TRUST

I. TRUST

- § 6:1 Form: Qualified Domestic Trust—Marital trust for benefit of grantor's resident alien spouse, remainder to children

II. COMMENTARY

- § 6:2 Definition
- § 6:3 When should this Trust be used?
- § 6:4 Requirements
- § 6:5 Practice notes
- § 6:6 Example
- § 6:7 Tax implications

PART II. IRREVOCABLE TRUSTS

CHAPTER 7. IRREVOCABLE “CRUMMEY” LIFE INSURANCE TRUST

I. TRUST

- § 7:1 Form: Irrevocable “Crummey” Life Insurance Trust—
“Crummey” trust for the benefit of spouse with income
to grantor’s spouse, ascertainable standard as to
principal, with remainder to children

II. COMMENTARY

- § 7:2 Definition
§ 7:3 When should this Trust be used?
§ 7:4 Requirements
§ 7:5 Practice notes
§ 7:6 Example
§ 7:7 Tax implications
§ 7:8 Crummey trust issues

CHAPTER 8. IRREVOCABLE PERPETUITY CRUMMEY TRUST

I. TRUST

- § 8:1 Form: Irrevocable Perpetuity Crummey Trust—
“Crummey” trust for the benefit of spouse with income
to grantor’s spouse, ascertainable standard as to
principal, with remainder income and principal to
grantor’s descendants in perpetuity, with charitable
remainder

II. COMMENTARY

- § 8:2 Definition
§ 8:3 When should this Trust be used?
§ 8:4 Requirements
§ 8:5 Practice notes
§ 8:6 Example
§ 8:7 Tax implications

CHAPTER 9. IRREVOCABLE “CROSS CRUMMEY” TRUST

I. TRUST

- § 9:1 Form: Irrevocable “Cross Crummey” Trust—Wife’s

TABLE OF CONTENTS

“Crummey” trust for the benefit of husband, remainder
to children utilizing “sprinkling/spray” provisions

II. COMMENTARY

- § 9:2 Definition
- § 9:3 When should this Trust be used?
- § 9:4 Requirements
- § 9:5 Practice notes
- § 9:6 Example
- § 9:7 Tax implications

CHAPTER 10. IRREVOCABLE GENERATION SKIPPING TRUST

I. TRUST

- § 10:1 Form: Irrevocable Generation Skipping Trust—
Immediate transfer of assets to children as trustees,
income to children, principal to grandchildren or
“skip” generation

II. COMMENTARY

- § 10:2 Definition
- § 10:3 When should this trust be used?
- § 10:4 Requirements
- § 10:5 Practice notes
- § 10:6 Example
- § 10:7 Tax implications

CHAPTER 11. EDUCATION TRUST

I. TRUST

- § 11:1 Form: Education Trust—Irrevocable trust for the
benefit of grantor’s grandchildren utilizing the annual
gift tax exclusion; crummey powers; trustee power to
withhold distributions upon certain trusts

II. COMMENTARY

- § 11:2 Definition
- § 11:3 When should this Trust be used?
- § 11:4 Requirements
- § 11:5 Practice notes
- § 11:6 Example
- § 11:7 Tax implications

CHAPTER 12. SUPPLEMENTAL NEEDS TRUST

I. TRUST

- § 12:1 Form: Supplemental Needs Trust—Income plus measurable standards of principal distribution to grantor's parents, qualifying for medicaid

II. COMMENTARY

- § 12:2 Definitions
§ 12:3 When should this trust be used?
§ 12:4 Requirements
§ 12:5 Practice notes
§ 12:6 Example
§ 12:7 Tax implications

CHAPTER 13. SUPPLEMENTAL SERVICES TRUST

I. TRUST

- § 13:1 Form: Supplemental Services Trust—Income plus principal distributions to an individual with physical or mental disabilities eligible according to Ohio Revised Code § 5815.28 (or similar statute)

II. COMMENTARY

- § 13:2 Definitions
§ 13:3 When should this trust be used?
§ 13:4 Requirements
§ 13:5 Practice notes
§ 13:6 Example
§ 13:7 Tax implications

CHAPTER 14. SPECIAL NEEDS TRUST

I. TRUST

- § 14:1 Form: Special Needs Trust—Income and principal to disabled beneficiary under age 65, qualifying for Medicaid

II. COMMENTARY

- § 14:2 Definitions
§ 14:3 When should this trust be used?

TABLE OF CONTENTS

- § 14:4 Requirements
- § 14:5 Practice notes
- § 14:6 Example
- § 14:7 Tax implications

CHAPTER 14A. IRREVOCABLE INTEREST ONLY TRUST

I. TRUST

- § 14A:1 Form: Irrevocable Interest Only Trust—Income only trust for the benefit of a grantor or spouse with the remainder to children

II. COMMENTARY

- § 14A:2 Definition
- § 14A:3 When should this trust be used?
- § 14A:4 Requirements
- § 14A:5 Practice notes
- § 14A:6 Example
- § 14A:7 Tax implications

CHAPTER 15. CHARITABLE REMAINDER TRUST

I. TRUST

- § 15:1 Form: Charitable Remainder Trust—Irrevocable trust for the benefit of charities, with annuity income to grantor and spouse for lives

II. COMMENTARY

- § 15:2 Definition
- § 15:3 When should this trust be used?
- § 15:4 Requirements
- § 15:5 Practice notes
- § 15:6 Mortgaged property
- § 15:7 Example
- § 15:8 Tax implications
- § 15:9 Recent changes in charitable remainder trust regulations
- § 15:10 Charitable trusts and spousal election rights
- § 15:11 IRS Forms and drafting guidelines

CHAPTER 16. CHARITABLE REMAINDER UNITRUST (REAL ESTATE)

I. TRUST

- § 16:1 Form: Charitable Remainder Unitrust (Real Estate)—
Irrevocable trust for the benefit of charity; income to grantor and spouse, using real estate

II. COMMENTARY

- § 16:2 Definition
§ 16:3 When should this trust be used?
§ 16:4 Requirements
§ 16:5 Practice notes
§ 16:6 Example
§ 16:7 Tax implications

CHAPTER 17. CHARITABLE REMAINDER ANNUITY TRUST

I. TRUST

- § 17:1 Form: Charitable Remainder Annuity Trust—
Irrevocable charitable trust for the benefit of charities with stated annuity to grantor for life, remainder to charity

II. COMMENTARY

- § 17:2 Definition
§ 17:3 When should this Trust be used?
§ 17:4 Requirements
§ 17:5 Practice notes
§ 17:6 Tax implications

CHAPTER 18. CHARITABLE LEAD TRUST

I. TRUST

- § 18:1 Form: Charitable Lead Trust—Income for stated period of years to charity of annuity amount; remainder to grantor or descendants upon completion of term

II. COMMENTARY

- § 18:2 Definition
§ 18:3 When should this trust be used?
§ 18:4 Requirements

TABLE OF CONTENTS

- § 18:5 Practice notes
- § 18:6 Example
- § 18:7 Tax implications

CHAPTER 19. QUALIFIED PERSONAL RESIDENCE TRUST

I. TRUST

- § 19:1 Form: Qualified Personal Residence Trust—Irrevocable trust for term of years with remainder to grantor's children; principal residence

II. COMMENTARY

- § 19:2 Definition
- § 19:3 When should this trust be used?
- § 19:4 Requirements
- § 19:5 Practice notes
- § 19:6 Example
- § 19:7 Tax implications
- § 19:8 IRS rules affecting QPRTs
- § 19:9 How to undo a Qualified Personal Residence Trust

CHAPTER 20. GRANTOR RETAINED INCOME TRUST

I. TRUST

- § 20:1 Form: Grantor Retained Income Trust—Trust for term of years; income and use to grantor, remainder to children at end of term

II. COMMENTARY

- § 20:2 Definition
- § 20:3 When should this trust be used?
- § 20:4 Requirements
- § 20:5 Practice notes
- § 20:6 Example
- § 20:7 Tax implications

CHAPTER 21. GRANTOR RETAINED ANNUITY TRUST

I. TRUST

- § 21:1 Form: Grantor Retained Annuity Trust—Trust for a

term of years; income and use to the grantor,
remainder to children at end of term

II. COMMENTARY

- § 21:2 Definition
- § 21:3 When should the Trust be used?
- § 21:4 Requirements
- § 21:5 Practice notes
- § 21:6 Example
- § 21:7 Tax implications

CHAPTER 22. GRANTOR RETAINED UNITRUST

I. TRUST

- § 22:1 Form: Grantor Retained Unitrust—Trust for a term of years; unitrust income to grantor, remainder to non-charitable beneficiary at end of term

II. COMMENTARY

- § 22:2 Definition
- § 22:3 When should the trust be used?
- § 22:4 Requirements
- § 22:5 Practice notes
- § 22:6 Example
- § 22:7 Tax implications

CHAPTER 23. INCENTIVE TRUST

I. TRUST

- § 23:1 Form: Incentive Trust—Growth trust for benefit of grandchildren; restricted to income and invasion of principal based upon grandchildren's earned income, remainder to charity

II. COMMENTARY

- § 23:2 Definition
- § 23:3 When should this trust be used?
- § 23:4 Requirements
- § 23:5 Practice notes
- § 23:6 Example
- § 23:7 Tax implications

CHAPTER 24. OFFSHORE TRUST

I. TRUST

- § 24:1 Form: Offshore Trust—Irrevocable trust for benefit of grantor, spouse, and children, utilizing foreign trustee, trust protector; distributions discretionary with trustee

II. COMMENTARY

- § 24:2 Definition
§ 24:3 When should this trust be used?
§ 24:4 Requirements
§ 24:5 Practice Notes
§ 24:6 Case law regarding offshore trusts
§ 24:7 Example
§ 24:8 Tax implications

CHAPTER 25. ASSET PROTECTION TRUST

I. TRUST

- § 25:1 Form: Asset Protection Trust—Trust in perpetuity, utilizing “sprinkling/spray” provisions, protection from creditors

II. COMMENTARY

- § 25:2 Definition
§ 25:3 When should this Trust be used?
§ 25:4 Requirements
§ 25:5 Practice Notes
§ 25:6 Example
§ 25:7 Tax implications

CHAPTER 25A. IRREVOCABLE DELAWARE ASSET PROTECTION TRUST

I. TRUST

- § 25A:1 Form: Irrevocable Delaware Asset Protection Trust—Single person trust with third party (individual or corporate) as trustee, utilizing “spray” income provision; protection of trust assets from future creditors; remainder to spouse or children

II. COMMENTARY

- § 25A:2 Definition

- § 25A:3 When should this trust be used?
- § 25A:4 Requirements
- § 25A:5 Practice notes
- § 25A:6 Example
- § 25A:7 Tax implications

CHAPTER 26. SHORT-TERM TRUST (REMAINDER TO GRANTOR)

I. TRUST

- § 26:1 Form: Short-Term Trust—Single person trust for a term of years, remainder to grantor

II. COMMENTARY

- § 26:2 Definition
- § 26:3 When should this trust be used?
- § 26:4 Requirements
- § 26:5 Practice notes
- § 26:6 Example
- § 26:7 Tax implications

CHAPTER 26A. SHORT-TERM TRUST (FOR BENEFIT OF PARENTS; REMAINDER TO CHILDREN)

I. TRUST

- § 26A:1 Form: Short-Term Trust—Single person trust for the benefit of parents for a term of years, remainder to children

II. COMMENTARY

- § 26A:2 Definition
- § 26A:3 When should this trust be used?
- § 26A:4 Requirements
- § 26A:5 Practice notes
- § 26A:6 Example
- § 26A:7 Tax implications

CHAPTER 27. PET TRUST

I. TRUST

- § 27:1 Form: Pet Trust—Irrevocable trust for the benefit of grantor's pets for a term of years, final distribution to charity and children

TABLE OF CONTENTS

II. COMMENTARY

- § 27:2 Definition
- § 27:3 When should this Trust be used?
- § 27:4 Requirements
- § 27:5 Practice notes
- § 27:6 Example
- § 27:7 Tax implications

PART III. CORPORATE TRUSTS

CHAPTER 28. RABBI TRUST

I. TRUST

- § 28:1 Form: Rabbi Trust—Employer-established irrevocable trust for the benefit of employees to hold deferred compensation

II. COMMENTARY

- § 28:2 Definition
- § 28:3 When should this Trust be used?
- § 28:4 Requirements
- § 28:5 Practice notes
- § 28:6 Example
- § 28:7 Tax implications

CHAPTER 29. SECULAR TRUST

I. TRUST

- § 29:1 Form: Secular Trust—Employer-established irrevocable trust for the benefit of employees to hold deferred compensation free of corporate creditors

II. COMMENTARY

- § 29:2 Definition
- § 29:3 When should this Trust be used?
- § 29:4 Requirements
- § 29:5 Practice notes
- § 29:6 Example
- § 29:7 Tax implications

PART IV. ALTERNATIVE TRUST LANGUAGE AND SELECTED PLANNING ISSUES

CHAPTER 30. ALTERNATIVE TRUST LANGUAGE

- § 30:1 Trust advisors
- § 30:2 —Practice notes
- § 30:3 Children's education
- § 30:4 —Practice notes
- § 30:5 Charitable bequest
- § 30:6 —Practice notes
- § 30:7 Stepchildren
- § 30:8 —Practice notes
- § 30:9 Disabled beneficiaries
- § 30:10 —Practice notes
- § 30:11 Medicaid provision
- § 30:12 —Practice notes
- § 30:13 Majority rules
- § 30:14 —Practice notes
- § 30:15 Environmental provisions
- § 30:16 —Practice notes
- § 30:17 Insurance advisor
- § 30:18 —Practice notes
- § 30:19 "Crummey" notice provisions
- § 30:20 —Practice notes
- § 30:21 Grantor's parents
- § 30:22 —Practice notes
- § 30:23 Self-directed trust provisions
- § 30:24 —Practice notes
- § 30:25 Trust protector
- § 30:26 —Practice notes
- § 30:27 Substance dependence
- § 30:28 —Practice notes
- § 30:29 Mandatory arbitration
- § 30:30 —Practice notes
- § 30:31 Powers of appointment
- § 30:32 —Practice notes

CHAPTER 31. SELECTED PLANNING ISSUES

- § 31:1 Disclaimers
- § 31:2 Disclaimers update
- § 31:3 Insurance traps

TABLE OF CONTENTS

§ 31:4	Illegitimate heirs
§ 31:5	Charitable trusts—Conversion regulations
§ 31:5.50	Charitable trusts—Anti-terrorist guidelines
§ 31:6	Ethics, malpractice and professionalism
§ 31:7	Flexibility for inflexible trusts
§ 31:8	Trust drafting considerations in light of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, and Tax Cuts and Job Act of 2017
§ 31:9	Private letter rulings, notices and tax cases of interest
§ 31:10	Private letters, rulings, cases
§ 31:11	Environmental concerns
§ 31:12	The effect of powers of appointment and grantor trust rules on trustee appointments
§ 31:13	State challenges to QTIP trusts
§ 31:14	New rules for charitable trusts
§ 31:15	The Economic Growth and Tax Relief Reconciliation Act of 2001, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, and the Tax Cuts and Jobs Act of 2017
§ 31:16	Cryogenic issues
§ 31:17	State taxation of trust income
§ 31:18	Marital deduction after EGTRRA, TRA 2010, ATRA 2012 and TCJA 2017
§ 31:19	SSI transfer rules
§ 31:20	The Uniform Trust Code and its impact on support trusts
§ 31:20.50	Duty to inform under the Uniform Trust Code
§ 31:21	Deficit Reduction Act
§ 31:22	Pension Protection Act
§ 31:23	Gifts of art
§ 31:24	Estate tax apportionment
§ 31:25	State estate and inheritance taxes and the effects of “decoupling”
§ 31:26	Trust termination
§ 31:27	Same sex marriages—Current state laws
§ 31:28	The Uniform Power of Attorney Act and its impact on trusts
§ 31:29	Liability of trust advisors and trust protectors
§ 31:30	Trust decanting
§ 31:31	Domicile issues
§ 31:32	Child, children and issue
§ 31:33	Trusts—Letters of wishes

- § 31:34 Choice of Trustees; Trustee duties as to missing beneficiaries
- § 31:35 Trustee compensation
- § 31:36 ATRA and taxes after 2013
- § 31:37 Portability issues
- § 31:38 Using private trust companies
- § 31:39 Uniform Trust Protector Act

PART V. TRUST FUNDING ISSUES

CHAPTER 32. FUNDING TRUSTS

I. DISCUSSION

- § 32:1 Introduction
- § 32:2 Revocable Trusts
- § 32:3 Irrevocable Trusts
- § 32:4 The role of the attorney and the client
- § 32:5 Selected State Statutes
- § 32:6 Real estate interests
- § 32:7 Tangible personal property
- § 32:8 Bank accounts, stocks and government bonds
- § 32:9 Promissory notes, mortgages and UCC securities agreements
- § 32:10 Business interests
- § 32:11 Life insurance
- § 32:12 Annuities
- § 32:13 IRA accounts, 401K plans and other qualified plans
- § 32:13.50 Memorandum of trust/Certification of trust

II. RELATED FORMS

- § 32:14 Attorney-Client Contract
- § 32:15 Letter to Mortgage Company
- § 32:16 Form to Mortgage Company
- § 32:17 Letter to Out-of-State Attorney
- § 32:18 Lease Assignment
- § 32:19 Mortgage Assignment
- § 32:20 Mineral Rights Assignment
- § 32:21 Personal Property Assignment
- § 32:22 Memorandum of Trust
- § 32:22.50 Certification of Trust
- § 32:23 Affidavit of Domicile
- § 32:24 Medallion Guarantee
- § 32:25 Letter to Transfer Agent
- § 32:26 Assignment of Promissory Note

TABLE OF CONTENTS

§ 32:27	Assignment of Security Interest
§ 32:28	Consent to Transfer Partnership Interest
§ 32:29	Amendment to Buy-Sell Agreement
§ 32:30	Letter to United States Coast Guard
§ 32:31	Affidavit of Citizenship
§ 32:32	Letter To Federal Aviation Administration

APPENDICES

Appendix A.	The Federal Transfer Tax System
Appendix B.	Marital Deduction Formulae
Appendix C.	Statutory Powers of Trustees
Appendix D.	Tables Necessary for GRIT Trusts
Appendix E.	Life Expectancy Tables
Appendix F.	Key Rates and Valuations—Short Term Rates
Appendix G.	Key Rates and Valuations—Mid Term Rates
Appendix H.	Key Rates and Valuations—Long Term Rates
Appendix I.	Federal Estate, Gift, and GST Tax Table

Index