### Volume 1

## CHAPTER 1. OVERVIEW OF SOME PSYCHOLOGICAL ISSUES ABOUT ESTATE PLANNING

8	1:1	Introduction
8	$\mathbf{T}:\mathbf{T}$	Introduction

- § 1:2 Actual interview with family psychologist
- § 1:3 Perceived differences between men and women in the estate planning process
- § 1:4 The problem of limiting control
- § 1:5 Older client's desire to solve family disagreements
- § 1:6 The attorney's mind set

## CHAPTER 2. BASIC AIMS OF ESTATE PLANNING AND BASIC PREMISES

- § 2:1 Introduction
- § 2:2 Intestate succession
- § 2:3 Joint tenancy and tenancy by the entirety
- § 2:4 Reciprocal wills
- § 2:5 Beneficiary designations
- § 2:6 Trusts
- § 2:7 Overview of probate problems
- § 2:8 Minimizing contests
- § 2:9 Effective estate planning
- § 2:10 The institutional trustee
- § 2:11 Committee and team approaches
- § 2:12 Definitions and basic overview of a revocable living trust
- § 2:13 Design and components of a trust
- § 2:14 Conclusion

## CHAPTER 3. FIDUCIARY RELATIONSHIP IN THE CONTEXT OF TRUST ADMINISTRATION

- § 3:1 Introduction
- § 3:2 History of concept
- § 3:3 A proper definition
- § 3:4 A practical examination of a precedent setting case— *Meinhard v. Salmon*
- § 3:5 Suggested elements of the cause of action for breach of fiduciary relationship
- § 3:6 Detailed elements of fiduciary responsibility for trustee

- § 3:7 Refinement of concepts and review of case law
- § 3:8 Conclusion

#### CHAPTER 4. BASIC TRUST CONCEPTS

- § 4:1 Introduction
- § 4:2 Specific characteristics of ownership
- § 4:3 Analysis of life estate
- § 4:4 Review of term of years
- § 4:5 Definition of primary terms
- § 4:6 Analysis of the concept of trusts
- § 4:7 Specific illustrations of the functioning of a trust
- § 4:8 Shortening of trusts on smaller estates

### CHAPTER 5. VALUATION

- § 5:1 Introduction
- § 5:2 Overview of valuations problems and tax consequences
- § 5:3 Purpose and scope
- § 5:4 Fair market value in real life
- § 5:5 Treasury positions
- § 5:6 —The IRS training manual position, or truisms that lack definition
- § 5:7 Valuation considerations—Business interests
- § 5:8 Comparison of valuation cases
- § 5:9 A relevant ruling
- § 5:10 Valuation of real estate
- § 5:11 Specific methods of valuation of real property
- § 5:12 —Market data approach
- § 5:13 —Income approach
- § 5:14 —Cost approach
- § 5:15 —Formula approach
- § 5:16 Valuation of collectibles
- § 5:17 Valuation tables for annuities, life estates, remainder interests, and reversionary interests
- § 5:18 Minority discount valuation
- § 5:19 Stock valuation can differ for gross estate and marital deduction purposes
- § 5:20 Estate freeze guidelines
- § 5:21 Taxation on a gift based on underlying assets
- § 5:22 Valuation issues concerning family limited partnerships
- § 5:23 Minority discounts allowed in inter-business stock gifting
- § 5:24 Financial sources and reference material

## CHAPTER 6. ETHICS AND CONFLICTS OF INTEREST

- § 6:1 Introduction
- § 6:2 Ethics and conflicts of interest concepts
- § 6:3 The idea of a family
- § 6:4 The missing element is legal writings

xxxviii

- $\S~6.5$  Relevant factors to be considered by an attorney in conflicts of interest
- § 6:6 A proposed rebuttable presumption
- § 6:7 A real story—Not theory
- § 6:8 Optional potential solution
- § 6:9 Disclosure, disclosure, disclosure
- § 6:10 Conflict of interest with the non-traditional families

## CHAPTER 7. PROBLEMS WITH THE PROBATE SYSTEM

- § 7:1 Introduction
- § 7:2 Cost of probate
- § 7:3 Who decides probate charges
- § 7:4 The time factor of probate
- § 7:5 Analysis of probate procedures
- § 7:6 Ancillary proceedings
- § 7:7 Complexity of the probate system
- § 7:8 Complexity and vested interests
- § 7:9 Turner's three laws
- § 7:10 The three laws and the PITA factor
- § 7:11 Solving the problem

# CHAPTER 8. THE VALUE OF THE REVOCABLE LIVING TRUST FOR A SINGLE PERSON

- § 8:1 Introduction
- § 8:2 Estate planning for the elderly and disabled
- § 8:3 Three alternative methods of planning for the elderly or infirm
- § 8:4 —Historical form of power of attorney
- § 8:5 —New approaches through durable power of attorney
- § 8:6 Status of law in United States regarding durable power of attorney for health care and living will declaration
- § 8:7 —Conservatorship and guardianship
- § 8:8 —The revocable living trust

# CHAPTER 9. FIRST MEETING WITH CLIENTS TO EXPLORE ESTATE PLANNING OPTIONS

- § 9:1 Introduction: Fear of attorneys
- § 9:2 —Love-hate relationship
- § 9:3 —The cost of fear
- § 9:4 —Fee charged by attorney
- § 9:5 —Comprehension of legal system difficult
- § 9:6 —Nature of legal education and thought processes
- § 9:7 —Conflict of interest
- § 9:8 Overcoming the problem
- § 9:9 —Charges for first meeting

§ 9:10	—Self-interest
§ 9:11	—Physical appearances
§ 9:12	—Relating incidents and stories during first meeting
§ 9:13	—What's in a name?
§ 9:14	Initial questions to be asked
§ 9:15	Use of diagrams
§ 9:16	—What happens to the trust at a death
§ 9:17	—Rights of survivor to decedent's trust
§ 9:18	—Pour-over wills
§ 9:19	—Children's trust
§ 9:20	—Keeping the discussion personal
§ 9:21	The two (or three) family situation
§ 9:22	Diagramming available alternatives
§ 9:23	Other estate planning documents to be considered
§ 9:24	Use of a questionnaire
§ 9:25	Refining of estate planning questionnaire
§ 9:26	Obtaining existing estate planning documents
§ 9:27	New documentation available for clients
§ 9:28	Discussion of fees with the client
§ 9:29	Future procedures and meetings
§ 9:30	Summary of information needed for proceeding with the estate planning
§ 9:31	Detailed memo to file: Immediately
§ 9:32	Review letter to the clients
§ 9:33	Correspondence to client following first meeting
§ 9:34	Information for clients

# CHAPTER 10. BASIC FACTS TO BE ANALYZED BY COUNSEL

§ 10:1	Introduction
§ 10:2	When to use the revocable living trust
§ 10:3	The liquidity factor
§ 10:4	Protecting values of assets transferred to the revocable
	living trust
§ 10:5	—The importance of Chapter S election status
§ 10:6	—Community property applicability in transfers
§ 10:7	Management of estate
§ 10:8	Consideration of age and health of the trustor(s)
§ 10:9	Consideration of child as successor trustee
§ 10:10	The team approach to estate planning

# CHAPTER 10A. THE USE OF DIAGRAMS AND OTHER VISUAL AIDS IN MAKING PRESENTATIONS TO CLIENTS

§ 10A:1	The importance of using visual aids
§ 10A:2	Joint tenancy of husband and wife
§ 10A:3	Two subjects of estate planning

§ 10A:4	Primary goals of estate planning
§ 10A:5	Complexity and cost of probate
§ 10A:6	Single trustor trust
§ 10A:7	Revocable living trust with pour-over wills
§ 10A:8	A, B, C trust system
§ 10A:9	Distribution of estate
§ 10A:10	Common law methods of holding property
§ 10A:11	Prenuptial and postnuptial agreements
§ 10A:12	Tax rates and exemptions
§ 10A:13	Review of estate planning in phases
§ 10A:14	Life estate and term of years with remainderman
§ 10A:15	Fiduciary responsibility and the administration of estates
§ 10A:16	Charitable lead trust
§ 10A:17	Charitable remainder trusts
§ 10A:18	I.R.C § 2503(c) trust

# CHAPTER 11. ATTORNEY-CLIENT FORMS OF ENGAGEMENT

§ 11:1	Introduction
§ 11:2	Overview of engagement approaches
§ 11:3	Specific examples of engagement agreement
§ 11:4	Approaches to billing
§ 11:5	Analyzing firm financial requirements
§ 11:6	Examples of billing approaches
§ 11:7	Being practical with clients
8 11.8	Observations

## CHAPTER 11A. A DIFFERENT APPROACH FOR THE ENGAGEMENT AGREEMENT FOR ESTATE PLANNING

§ 11A:1	Introduction to new approach
§ 11A:2	Effect of second career
§ 11A:3	The need for actual honesty by every attorney
§ 11A:4	The intimacy of the law practice in estate planning
§ 11A:5	Two kinds of contracts
§ 11A:6	No advocacy intended
§ 11A:7	The value of psychological formal training

## CHAPTER 12. GIFTS BY DONOR-TRUSTORS

§ 12:1	Introduction
§ 12:2	Gift tax regulations
§ 12:3	Kinds of property
§ 12:4	Understanding the annual exclusion and the basic exclusion amounts
§ 12:5	Portability and the applicable exclusion amount
§ 12:6	Valuation of gifts
§ 12:7	Valuation of minority interest in corporations

§ 12:8 Gifts to foreign charities
§ 12:9 Chapter 14 special valuation rules
§ 12:10 Psychological effect of gifting
§ 12:11 Gifting: An important consideration
§ 12:12 Special exemption provided for non-United States citizens not residents

# CHAPTER 13. PRIMARY ALTERNATIVE PLANNING TECHNIQUES

§ 13:1	Introduction
§ 13:2	The small estate
§ 13:3	Destruction of asset value
§ 13:4	Use of the revocable living trust for the small estate
§ 13:5	Desires of the client
§ 13:6	Administrative tasks of the revocable living trust
§ 13:7	Other meaningful alternatives to the revocable living trust
§ 13:8	—Joint tenancy or tenancy by the entirety
§ 13:9	—Simple or reciprocal wills
§ 13:10	—Intestate succession
§ 13:11	—Commercial or private annuity
8 13.12	—Combination of methods

## CHAPTER 14. PHYSICAL APPEARANCE ISSUES OF ESTATE PLANNING

§ 13:13 Use of an unfunded revocable living trust

§ 13:14 Summary

§ 14:1	Introduction
§ 14:2	Benefits of quality appearance—The office
§ 14:3	Layout and design of office
§ 14:4	Visually pleasing, quality appearance
§ 14:5	Printing styles
§ 14:6	Appearances
§ 14:7	Equipment and supplies needed for efficiency
§ 14:8	Finished product and presentation of documents to clients

# CHAPTER 15. CHOOSING THE APPROPRIATE TRUSTEE AND KINDS OF TRUSTEESHIP

§ 15:1	Four alternatives
§ 15:2	The trustor or trustors
§ 15:3	Use of nontrustor trustees
§ 15:4	—Authority for institutions to act as trustee
§ 15:5	—Authority for individuals to act as trustee
§ 15:6	Naming trustee upon death of trustor
§ 15:7	Practical considerations in naming the original and successor trustees
§ 15:8	Three primary approaches to trusteeship
§ 15:9	Individual acting with institution trustee

§ 15:10	Naming children as co-trustees
§ 15:11	The problem of the "sensitive trustee"
§ 15:12	IRS concedes power to replace corporate trustee is not includible in grantor's estate
§ 15:13	—The power of appointment problem
§ 15:14	Naming trustee upon second trustor's death
§ 15:15	Using a committee to name the successor trustee
§ 15:16	Problems to be considered concerning trust institutions
§ 15:17	Problems with beneficiaries functioning as trustees
§ 15:18	Six benefits of using institutional trustees
§ 15:19	Addressing problems of incompetency to continue to act as trustee
§ 15:20	Helping the client understand titles such as trustee and other important positions

## CHAPTER 15A. DONATION OF ORGANS

§ 15A:1	Generally
§ 15A:2	The importance of organ donation—A client and friend
§ 15A:3	Presentation utilized at first meeting with new clients
§ 15A:4	Registration with a state
§ 15A:5	Sample legislation adopted in California and Texas
§ 15A:6	Donation of the bodily remains for medical research
§ 15A:7	Enthusiasm of recipient of a donated organ
§ 15A:8	Ethical and religious considerations with donors
§ 15A:9	Decisions to make before committing to organ donation

## **CHAPTER 15B. CREMATION**

§ 15B:1	Initial interview with clients concerning cremation
§ 15B:2	Location, location
§ 15B:3	The increased cost of burial
§ 15B:4	Detailed answers from the Neptune Society
§ 15B:5	The use of a cremation directive
§ 15B:6	The benefit of conducting services
§ 15B:7	Potential benefit for United States veterans
§ 15B:8	Information needed for certified death certificate
§ 15B:9	Finding much needed information for the state of
	residence

## CHAPTER 16. CHOOSING A CORPORATE TRUSTEE

~	
§ 16:1	Introduction
§ 16:2	When to use a professional trustee
§ 16:3	Understanding trust administration
§ 16:4	Geographical location of trust organization
§ 16:5	Relationship between counsel and trust organization
§ 16:6	Investment returns
§ 16:7	Personality considerations
§ 16:8	Delivery of trust instrument to proposed corporate trustee

§ 16:9 Trust organization assuming trusteeship § 16:10 Why use a corporate trustee? § 16:11 Co-trusteeship with institutional trustee § 16:12 Information regarding a corporate trustee

## CHAPTER 17. SPECIAL OR INDEPENDENT TRUSTEE

- § 17:1 Introduction
- § 17:2 Distinction of trustees
- § 17:3 Situations where use of outside trustees may be appropriate
- § 17:4 Specific example of using a special trustee
- § 17:5 Specific example using an independent trustee

# CHAPTER 18. IMPORTANT DOCUMENTS TO BE CONSIDERED IN QUALITY PLANNING

- § 18:1 Determining facts and desires
- § 18:2 Basic documents to be used
- § 18:3 Other appropriate documents
- § 18:4 Two phases of estate planning process
- § 18:5 Second meeting may be necessary
- § 18:6 Providing the family a document and asset locator
- § 18:7 Safety deposit boxes in name of trust or entity
- § 18:8 Certification of trust
- § 18:9 Caution in the use of a holographic will

### CHAPTER 19. PREPARATION OF DRAFTS

- § 19:1 Introduction
- § 19:2 Completion of questionnaire by client
- § 19:3 Initial drafting by attorney
- § 19:4 Physical work by staff
- § 19:5 Contact with client to complete estate planning

#### CHAPTER 20. DESIGN OF TRUST

- § 20:1 Introduction
- § 20:2 Elements of the trust document
- § 20:3 Examining the trust instrument itself
- § 20:4 Analyzing events which may change basic trust provisions
- § 20:5 Administrative provisions
- § 20:6 —Powers of trustee
- § 20:7 How the powers of trustee developed
- § 20:8 Article X, dispository intent of trustors and specific provisions for disinheritance and confidentiality
- § 20:9 —Trust committees
- § 20:10 —General and miscellaneous provisions
- § 20:11 —Signature and notarization
- § 20:12 Notarization

Privacy

§ 20:13 Provision for establishing presumptions and burdens of proof

## CHAPTER 21. ANALYSIS OF SPECIFIC TRUST SECTIONS—SUBSTANTIVE PROVISIONS

~	
§ 21:1	Introduction
§ 21:2	Introductory paragraphs to the trust instrument
§ 21:3	Property to be included in trust estate
§ 21:4	The designation of original and successor trustees
§ 21:5	Authority granted to trustee to modify language
§ 21:6	Bond of trustee
§ 21:7	Rights in the initial trust estate
§ 21:8	Rights of revocation and amendment by original trustors
§ 21:9	Distribution on the death of one of the original trustors
§ 21:10	Alternate approach for drafting allocation to decedent's
	trust
§ 21:11	The applicable exclusion amount and portability
§ 21:12	Trustee authority
§ 21:13	—Qualified terminable interest property (QTIP) trust
§ 21:14	Rights of the survivor in the decedent's trust
§ 21:15	Rights of the survivor in the survivor's trust
§ 21:16	Distribution of principal and income to children
$\S 21:17$	Insurance trust provisions
§ 21:18	Disinheritance, Intent of Trustors, Confidentiality and

# CHAPTER 22. ANALYSIS OF SPECIFIC TRUST SECTIONS—ADMINISTRATIVE PROVISIONS

SECT	
§ 22:1	Introduction
§ 22:2	Support and maintenance provisions
§ 22:3	Problems of drafting ascertainable standards of support and maintenance
§ 22:4	—Qualified terminable interest property (QTIP) standards
§ 22:5	Powers of trustee
§ 22:6	—Transactions among individual trusts
§ 22:7	—Flower bond authority
§ 22:8	—Prudent person clause
§ 22:9	Drafting for problems of beneficiary rivalries
§ 22:10	Provisions concerning lifetime gifts by trustee
§ 22:11	Agents or managers acting on behalf of trustee
§ 22:12	Need to contact local financial institutions and governmental agencies
§ 22:13	Establishment of trust committees
§ 22:14	General provisions of trust
§ 22:15	New approach for drafting of situs of trust
§ 22:16	Overview of the drafting process
§ 22:17	Disinheritance intent of trustors, confidentiality and

## CHAPTER 23. SIMPLIFICATION OF LANGUAGE

- § 23:1 Public frustration
- § 23:2 Complex language vs. simplified language
- § 23:3 Possibility of some verbal relief
- § 23:4 The value of historical legal language
- § 23:5 Specific attempts of simplification

## CHAPTER 24. QDOTS AND DISCLAIMERS: SPECIAL DRAFTING PROBLEMS

- § 24:1 Introduction
- § 24:2 The qualified domestic trust (QDOT)
- § 24:3 QDOT requirements
- § 24:4 Qualified disclaimers
- § 24:5 —Disclaimer defined
- § 24:6 —Elements of the qualified disclaimer
- § 24:7 —Effect of using qualified disclaimers
- § 24:8 —Specific benefits in using qualified disclaimers

### **CHAPTER 25. GENERATION-SKIPPING**

- § 25:1 Introduction
- § 25:2 Specifics of the generation-skipping transfer tax (GSTT)
- § 25:3 Includable assets
- § 25:4 Tax reporting
- § 25:5 Assigned generation
- § 25:6 Exemption
- § 25:7 Applicable rate
- § 25:8 Liability for tax
- § 25:9 Specific examples of how the generation-skipping transfer tax (GSTT) works
- § 25:10 Pitfalls of disclaimers
- § 25:11 Recommendations

## CHAPTER 26. ELEMENTS OF POUR-OVER WILLS

- § 26:1 Tying the estate plan together
- § 26:2 Identifying paragraphs
- § 26:3 —Marital and family status
- § 26:4 Provisions of the will relating to disposition of assets
- § 26:5 —Specific bequests
- § 26:6 —Disposition of residue of estate
- § 26:7 —Interest on legacies
- § 26:8 —Omission of heirs
- § 26:9 Savings clause
- § 26:10 Naming the executor
- § 26:11 Appointment of guardian
- § 26:12 Committee to nominate guardian

§ 26:13 Payment of debts and expenses
§ 26:14 Execution provisions
§ 26:15 —Signature of testatrix or testator
§ 26:16 —Attestation clause by witnesses
§ 26:17 The need for consistency between a living trust and an accompanying pour-over will

# CHAPTER 27. QUALIFIED TERMINAL INTEREST PROPERTY TRUST (QTIP TRUST)

- § 27:1 Introduction
- § 27:2 Valuation
- § 27:3 Dual meaning of "income"
- § 27:4 Possibility of valuation discount
- § 27:5 Separate QTIP trusts for different beneficiaries

## CHAPTER 28. REVOCABLE LIFE INSURANCE TRUSTS

- § 28:1 Introduction
- § 28:2 Benefits of the revocable life insurance trust
- § 28:3 Spouse's revocable life insurance trust: Appendix 100
- § 28:4 Spouse's contingent life insurance: Appendix 100A

## CHAPTER 29. REVOCABLE TRUST TREATED AS PART OF ESTATE

- § 29:1 Generally
- § 29:2 Benefits of election
- § 29:3 Qualified revocable trust
- § 29:4 Making the election
- § 29:5 Election period
- § 29:6 Tax treatment

## CHAPTER 30. APPROACHES IN DETERMINING COMPETENCY

- § 30:1 Overview of competency
- § 30:2 Historical approaches to competency and traditional case law
- § 30:3 Practical approaches to analyzing competency
- § 30:4 Recommended procedures
- § 30:5 Final observation

# CHAPTER 31. USE OF DISCRETIONARY ADDITIONAL DOCUMENTS WITH A REVOCABLE TRUST

- § 31:1 Introduction to less traditional documents
- § 31:2 General list of instructions
- § 31:3 Personal letter of instructions—Spouse and/or family

	TUEVOCADEE TROOTS
§ 31:4	Comparing the Living Will Declaration and the Durable Power of Attorney for Health Care
§ 31:5	Contract not to revoke or modify trust
§ 31:6	Use of contract between parents and child(ren) not to
	contest
§ 31:7	The need to look for novel approaches to estate planning
	problems
§ 31:8	The use of "Letter of Wishes"
§ 31:9	Gifts from parents to children and between spouses
§ 31:10	Observations and recommendations
0	
	PTER 32. SAME-SEX MARRIAGE
§ 32:1	Introduction
§ 32:2	Basic ramifications
§ 32:3	Common-law marriage
§ 32:4	—Retroactivity
§ 32:5	Heirship determinations
§ 32:6	Conclusion
CHA	PTER 33. EXPLAINING THE DRAFTS TO
	CLIENTS
§ 33:1	Understandable confusion
§ 33:2	Use of letter of explanation
_	-
§ 33:3	Meeting with the clients to explain the drafts
§ 33:4	—Specific analyses
§ 33:5	—Taking the documents step-by-step
§ 33:6	—Pause for questions
§ 33:7	—Some legal concepts difficult to explain
§ 33:8	—Trust estate diagrammed and accentuated
§ 33:9	—Division of the children's trust
§ 33:10	—Determining clients' state of mind
§ 33:11	—Reviewing trust powers and miscellaneous provisions of trust instrument
8 99,19	
§ 33:12	—Thorough analysis needed for wills and other documents in the estate plan
§ 33:13	—Executing documents at the earliest time
-	—Encouraging full implementation of estate plan
0	The state of the s
CHA	PTER 34. THE SIGNING AND
	NESSING OF THE DOCUMENTS
§ 34:1	Introduction
§ 34:2	Counsel's responsibility in overseeing signing of documents
-	
§ 34:3	Who should handle the signing procedure?
§ 34:4	How the signing should take place
§ 34:5	Witness requirements for pour-over wills
§ 34:6	Handling the actual signing
§ 34:7	Maintaining an abstract of file activity
§ 34:8	Maintaining PDF of executed documents

§ 34:9	Maintenance of originals by clients: Location
§ 34:10	—Safe deposit boxes
§ 34:11	—Clients' home
§ 34:12	—Place of business
§ 34:13	—Attorney's office
§ 34:14	Safekeeping of duplicates by attorney
§ 34:15	Phase two of the estate planning process
§ 34:16	—Letter of instructions to clients
§ 34:17	—Copy of trust instrument may be needed by institutions
§ 34:18	—Problems which may be encountered with transfers
§ 34:19	—Standardized form letters to institutions
§ 34:20	Correspondence to client in anticipation of a death
§ 34:21	Fiduciary responsibility
§ 34:22	Additional recommended correspondence
§ 34:23	Recommendation regarding prior wills and/or trusts
§ 34:24	A final assurance to clients
§ 34:25	The need to consider destroying obsolete wills and other estate planning documents

# CHAPTER 35. RIGHTS OF LIFE TENANT—RIGHTS OF REMAINDERMAN

§ 35:1	Introduction and simple family
§ 35:2	Diagram and description of forms of ownership
§ 35:3	Rights and limitations of life tenant
§ 35:4	Prudent-Man-Rule v. Prudent-Investor-Rule
§ 35:5	The need for fiduciary to maintain regular communication with life-tenant and remainderman
§ 35:6	Complications of using two life estates
§ 35:7	Basic aims of original trustors must be analyzed
§ 35:8	Easing the friction between life and remainder beneficiaries
§ 35:9	The Uniform Prudent Investor Act (UPIA)
§ 35:10	Total return trusts

# CHAPTER 36. FUTURE AMENDMENTS TO THE REVOCABLE LIVING TRUST

§ 36:1	Introduction
§ 36:2	Categories of amendments
§ 36:3	Drafting the amendment
§ 36:4	Use of only one amendment
§ 36:5	Amending entire section preferred
§ 36:6	Clear and consistent language
§ 36:7	Updating standard text of estate planning documents
§ 36:8	Amendments as a gateway to additional client business
§ 36:9	Potential client insecurities
§ 36:10	Observations

# CHAPTER 37. THE NAME USED ON DOCUMENTS OF TITLE AND METHODS OF NOTARIZATION

- § 37:1 Introduction
- § 37:2 Legal requirements for the name
- § 37:3 Options for name or designation
- § 37:4 Use of the trust name within the trust instrument
- § 37:5 Recording the name of the trust
- § 37:6 Use of notarization for recordable instrument(\*)
- § 37:7 Conclusions and observations of combined notarization (\*)

## CHAPTER 38. METHODS OF TRANSFERRING ASSETS TO THE TRUST

- § 38:1 Introduction
- § 38:2 Explaining implementation to clients
- § 38:3 Grant deeds transferred to the trust
- § 38:4 Transferring real property to a revocable trust
- § 38:5 Due-on-sale clauses
- § 38:6 Stock transfers to the trust
- § 38:7 New methods of certification
- § 38:8 Bond transfers to the trust
- § 38:9 Notes and deeds of trust transferred to the trust
- § 38:10 Partnership arrangement documents transferred to the trust
- § 38:11 Oil, gas, and mineral rights transferred to the trust
- § 38:12 Assets without formal documents transferred to the trust
- § 38:13 Unusual assets with documentation transferred to the
- § 38:14 Accounts in banks, savings and loans, and credit unions transferred to the trust
- § 38:15 Alternative methods of providing transfer information to clients
- § 38:16 Transfer of aircraft to trust
- § 38:17 Summary of transfers to the trust
- § 38:18 Series of instructional letters to be sent to clients
- § 38:19 Transfer by declaration and scheduling assets

### CHAPTER 39. INFORMING THE CLIENT ABOUT THE TRANSFER PROCESS ON AN ONGOING BASIS

- § 39:1 Introduction
- § 39:2 Basic instructional letter
- § 39:3 Instructional information for client to use for insurance matters
- § 39:4 Changes in trust name upon a death of one of the trustors
- § 39:5 Follow-through on instructional letters

# CHAPTER 40. WORKING WITH VARIOUS COMPANIES INVOLVED WITH TITLE CONSIDERATIONS

- § 40:1 Introduction
  § 40:2 Three basic elements of trust name
  § 40:3 Working with banking institutions
  § 40:4 Insuring title and other considerations
  § 40:5 Counsel's functional involvement with trust
- § 40:6 Local legislation may help solve problems
- § 40:7 Legislation—Trust name and trustee powers

# CHAPTER 41. WORKING WITH OTHER PROFESSIONALS AND FINANCIAL INSTITUTIONS

8 41.1	Introduction
0 411	Introduction

- § 41:2 Taking charge of planning
- § 41:3 Coordinating issues with insurance underwriters and financial planners
- § 41:4 Working with stock and bonds brokerage firms
- § 41:5 Frustrations with banking institutions and trust departments
- § 41:6 Law firms serving as trustees
- § 41:7 Cooperation with accountants
- § 41:8 Appraisers and actuaries
- § 41:9 Life insurance agents and financial planners
- § 41:10 Obtaining necessary documentation and source material— Librarians
- § 41:11 Conclusion

# CHAPTER 42. REALITIES OF FAMILY PROBLEMS AND HOW TO MAKE ADMINISTRATION EASIER

- § 42:1 Opening the door early to frank discussions
- § 42:2 Reality of sibling rivalries
- § 42:3 How family disputes affect administration
- § 42:4 Alternative solutions
- § 42:5 Use of probate court or arbitration
- § 42:6 The client must be the ultimate decision maker
- § 42:7 Conclusion and recommendation

## CHAPTER 43. PROCEDURES, REPORTING REQUIREMENTS, BOOKKEEPING, AND DRAFTING OPTIONS AFTER FIRST DEATH

- § 43:1 Defining the problems of reporting
- § 43:2 Obtaining a new EIN for decedent trust
- § 43:3 Obtaining an EIN number electronically

§ 43:4	Two actual occurrences to demonstrate the issues
§ 43:5	Rights as to accountings
§ 43:6	Recommended accounting procedure
§ 43:7	Recommended alternative approach
§ 43:8	Recommendations
§ 43:9	Documents which must be located and provided to the attorney
§ 43:10	Initial steps by client
§ 43:11	Working with the employer of the decedent
§ 43:12	Contacts with insurance advisors and companies
§ 43:13	Correspondence to relatives and other beneficiaries
§ 43:14	The window of opportunity and post-mortem tax planning
§ 43:15	Use of Form 706
§ 43:16	Establishment of proper files
§ 43:17	Conclusions and observations
CITAT	

# CHAPTER 44. CERTIFICATION TECHNIQUES FOR TRUSTS 8 44:1 Nature of the problem

§ 44:1	Nature of the problem
§ 44:2	Purpose of trust certification
§ 44:3	Legal sufficiency versus style
§ 44:4	The name of trust assets
§ 44:5	Analysis of presently used certification techniques
§ 44:6	Events creating a need to change the form of certification
§ 44:7	Function of the attorney
§ 44:8	Who can certify a trust
§ 44:9	The need to maintain form files
§ 44:10	Client's responsibilities regarding trust certification
§ 44:11	Staff's responsibilities regarding trust certification

# CHAPTER 45. ESTABLISHING PROPER RECORDS FOR TRUST

§ 45:1	Introduction
§ 45:2	Necessary records in attorney's office
§ 45:3	Necessary records for clients
§ 45:4	Detail of estate planning organizer
§ 45:5	Internal content of the estate planning organizer
§ 45:6	Records on death of first spouse to die
§ 45:7	Death of second spouse
§ 45:8	Instructing clients on records
§ 45:9	Use of title companies
§ 45:10	Tax filings before death of either spouse
§ 45:11	Tax filing upon death of first spouse
§ 45:12	Design of asset records
§ 45:13	Preparing files and records with detailed accuracy
§ 45:14	Conclusion

## CHAPTER 46. ALLOCATION OF ASSETS AT DEATH OF FIRST SPOUSE

- § 46:1 Introduction
- § 46:2 The declaration of trust as the foundation document
- § 46:3 Recommended procedures of trust split and change in title document
- § 46:4 Summary

## CHAPTER 47. USE OF QUALIFIED DISCLAIMERS

- § 47:1 Introduction
- § 47:2 Definition
- § 47:3 Acts which are not qualified disclaimers
- § 47:4 Reasons for disclaiming property
- § 47:5 Problems of estate law regarding use of qualified disclaimers
- § 47:6 Potential gift tax problems
- § 47:7 Disclaimers under a formal gift versus intestate renunciation
- § 47:8 Drafting the disclaimer
- § 47:9 The value and specificity in disclaimers
- § 47:10 Disclaimers of joint tenancies
- § 47:11 State law considerations
- § 47:12 Conclusion

### CHAPTER 48. ASSETS NOT TRANSFERRED TO TRUST DURING LIFE

- § 48:1 Introduction
- § 48:2 Possible need for probate
- § 48:3 Other uses of probate court
- § 48:4 Subchapter S stock
- § 48:5 Problems of joint tenancy
- § 48:6 Improper entitlement with children
- § 48:7 Proper characterization of assets
- § 48:8 Other techniques
- § 48:9 Assistance and documentation to be obtained by client
- § 48:10 Difficulties of defining the responsibilities
- § 48:11 Conclusions and observations

#### CHAPTER 49. USE OF A NON A-B TRUST

- § 49:1 The applicable exclusion amount and portability of the DSUEA
- § 49:2 Simple trust structure

### CHAPTER 50. USE OF POWERS OF APPOINTMENT AND DISCRETIONARY POWERS

§ 50:1 Introduction

		REVOCABLE TRUSTS 5TH
§ 50:2	Discretion give	en to trustee regarding generation skipping
§ 50:3	Discussing the	parade of the horribles
§ 50:4		in use of terms
§ 50:5	Grant of discre	etionary powers to trustee
§ 50:6	Power to chan	ge trustee
§ 50:7	The arrogant i	nstitutional trustee
§ 50:8	Grant of a spe party	cial power of appointment to independent
§ 50:9	Determination	of allocation of taxes
§ 50:10	Summary	
§ 50:11	Powers of appo	pintment—Illustrative cases
		CYBER ESTATE PLANNING AND
ADM	INISTRAT	ION
§ 51:1	Introduction	
§ 51:2	Types of digital	assets
§ 51:3		lanning for digital assets
§ 51:4	Obstacles to pla drenched cultu	nning for an increasingly information- are
§ 51:5	Brief history of	fiduciary access to digital assets
§ 51:6		m Fiduciary Access to Digital Assets Act
§ 51:7	Planning sugge	
§ 51:8	Future reform a	areas
§ 51:9	Conclusion	
Append	_	state Information Sample Forms
Append	ix B. Sample D	ocument Language
Append	ix C. Sample R	equest Letter to Digital Asset Custodian®
Append	ix D. Summary	of State Statutes
CHA	<b>PTER 52.</b>	FUNDING FOR ESTATE TAXES
§ 52:1	Introduction	
§ 52:2	Options availab	le
§ 52:3	Utilization of life	ie insurance
§ 52:4	—Avoiding adve	erse gift and estate tax consequences
§ 52:5	—Specific benef	its of a second-to-die policy
§ 52:6	New kinds of in	surance policy designs
§ 52:7	Benefits of usin	g an actuary
§ 52:8	Analyzing insur	rance companies
§ 52:9	The role of the	attorney
CHA	PTER 53.	POST-MORTEM TAX PLANNING
WITI	HAREVOC	SABLE TRUST
§ 53:1	Planning to ta	ke effect at death
§ 53:2	_	en decedent's trust and survivor's trust

Utilization of principal from the two trusts

§ 53:3

§ 53:4	Gifting
§ 53:5	In-kind distributions to beneficiaries
§ 53:6	Time to divide between trusts
§ 53:7	Calendar year
§ 53:8	Distributions on the death of second trustor
§ 53:9	Distribution of income free of trust
§ 53:10	Tax returns
§ 53:11	Requesting an early determination from the internal
	rozonilo corvico

## CHAPTER 54. COMMUNICATING ESTATE PLANNING OPPORTUNITIES TO CLIENTS

- § 54:1 Introduction
- § 54:2 Four optional formats available
- § 54:3 The use of a periodic newsletter
- § 54:4 Sample personalized letter to clients

# CHAPTER 55. CREATIVE USES OF TRUSTS IN SUBSEQUENT MARRIAGES AND SPECIAL SITUATIONS

- § 55:1 Introduction
- § 55:2 The use of trust in second marriages
- § 55:3 —Specific potential benefits to the couple
- § 55:4 Use of multiple trusts in solving family problems
- § 55:5 Utilization of special or independent trustee
- § 55:6 Specific approaches for incentive planning

## CHAPTER 56. NONTRADITIONAL FAMILY RELATIONSHIPS

- § 56:1 Introduction
- § 56:2 Two major areas for exploration
- § 56:3 Nontraditional family situations
- § 56:4 —Unmarried couples
- § 56:5 —Same-gender family
- § 56:6 —Three significant advantages of using a trust
- § 56:7 —The need for other documents
- § 56:8 Same sex marriages

## CHAPTER 57. USE OF ONE TRUST INDENTURE FOR SPOUSES IN COMMON LAW STATES

- § 57:1 Introduction and overview
- § 57:2 Examining two-trust system versus one trust
- § 57:3 Community property and tenants in common can be functional equivalents
- § 57:4 Use of single trustor trusts to maintain the rights of a spouse

- § 57:5 Defining property rights through use of memorandum of property ownership
- § 57:6 What is the effect of TAM 9308002

#### CHAPTER 58. TRUST SYSTEM FOR PRIVACY

- § 58:1 Introduction
- § 58:2 The need for careful funding
- § 58:3 Review of the Smart family
- § 58:4 Series of specific agreements and trusts
- § 58:5 Use of creditor payment trust
- § 58:6 Rationale and technique of using life insurance
- § 58:7 Establishment of trust for former wife
- § 58:8 Use of cross-purchase agreement and business interest trust
- § 58:9 Overview of the entire scheme
- § 58:10 Potential opposition, cost, and allies

## CHAPTER 59. OBJECTIONS IN THE USE OF REVOCABLE LIVING TRUSTS

- § 59:1 Ten questions for consideration
- § 59:2 "Estate planning"—A broad term for many specific functions
- § 59:3 Recognizing the priorities of the public
- § 59:4 Eight common objections to the use of revocable living trusts
- § 59:5 Conclusion

## CHAPTER 60. DISABILITY—PROBLEMS AND OPTIONS

- § 60:1 Introduction
- § 60:2 Some problems with probate courts
- § 60:3 Use of the probate court for disability problems
- § 60:4 Public benefit in using the most efficient system
- § 60:5 Fallacious claim of problem with the medical institutions
- § 60:6 Rethinking the teaching of clients
- § 60:7 The useful techniques in replacing a trustee
- § 60:8 Visual comparison of the two approaches

## CHAPTER 61. KEEPING CURRENT WITH CLIENTS

- § 61:1 The problem of constant change
- § 61:2 Development of a new approach
- § 61:3 A method of education
- § 61:4 Expanded opportunities
- § 61:5 Written material for lecturing purposes

## CHAPTER 62. WORKING WITH DIFFICULT CLIENTS

§ 62:1 Introduction

- § 62:2 Times when difficulties may arise
  § 62:3 Analysis of eight areas of potential problems
  § 62:4 Conflicts between spouses
  § 62:5 Problems regarding dissolution of marriages
- § 62:6 Conclusions

### CHAPTER 63. THE TRUST SITUS

- § 63:1 Introduction
- § 63:2 Beginning situs of a trust
- § 63:3 Drafting to ensure appropriate situs
- § 63:4 Drafting for the single trustor trust
- § 63:5 Drafting for situs in a family arrangement
- § 63:6 Appropriate reasons for changing the situs of the trust
- § 63:7 Practical tax applications
- § 63:8 Expansion of trustee provisions regarding change of trust situs
- § 63:9 Institutional trustees and change of situs of trust
- § 63:10 Observations

## CHAPTER 64. ESTATE, GIFT AND GST TAX RELIEF UNDER THE AMERICAN TAXPAYER RELIEF ACT OF 2012

- § 64:1 Introduction
- $\$  64:2  $\,$  Summary of permanent changes under the 2001, 2010, and 2012 Acts

# CHAPTER 65. THE APPLICABLE CREDIT AND EXCLUSION AMOUNTS AND PORTABILITY OF THE DSUEA

- § 65:1 Generally
- § 65:2 The unified credit 1987 to 2001
- § 65:3 The Applicable credit and exclusion amounts under the 2001, 2010 and 2012 Acts
- § 65:4 Portability of applicable exclusion amount for decedents dying after December 31, 2010
- § 65:5 Portability: Final regulations clarify many issues
- § 65:6 Extension of time to make portability election for decedents dying after December 31, 2010

## CHAPTER 66. THE UNIQUE CHARACTER OF EACH FAMILY

- § 66:1 Introduction
- § 66:2 The use of two files and ongoing work with clients
- § 66:3 Managing change in client families
- § 66:4 The value of recording interviews
- § 66:5 Use of a form of Letter of Wishes
- § 66:6 Drafting with intent of providing options

§ 66:7	Introducing the potential of children's spouses
§ 66:8	Burial or cremation and nature of services
§ 66:9	Considering the change of trustees
§ 66:10	Knowing facilities in the area
§ 66:11	Familiarity with buy-sell options and key man insurance
§ 66:12	Number of trusts to be considered for recommendation
§ 66:13	Visiting clients in their home or business
§ 66:14	Knowing other attorneys in the area
§ 66:15	Did your client just move?
§ 66:16	Learning about cultures

## CHAPTER 67. SUBMISSION TO INTERNAL REVENUE SERVICE OF FORM 706

§ 67:1	Introduction
§ 67:2	Order of documents
§ 67:3	The likelihood of an estate being taxed
§ 67:4	Portability and Form 706
§ 67:5	Closing letters
§ 67:6	Basis consistency requirements

#### CHAPTER 68. USE OF NOTARIZATION

O	The control of the state of the
§ 68:1	Introduction
$\S 68:2$	Definition of will versus trust
§ 68:3	Formal execution of trusts not consistent in the United States
§ 68:4	Contradictory position between states on notary law
§ 68:5	Suggested method of solving the problem
§ 68:6	California approach regarding notarization forms and procedures®
§ 68:7	Suggested information for consistent law in defining a trust
§ 68:8	Problem of the Uniform Trust Code
§ 68:9	Model Notary Act

### CHAPTER 69. ESTABLISHING A PET TRUST

8 09.1	Introduction
§ 69:2	History
§ 69:3	Short-term planning steps
§ 69:4	Traditional trust
§ 69:5	"Statutory" pet trust
§ 69:6	Consider outright conditional gift
§ 69:7	Consider outright gift to veterinarian or animal shelter
§ 69:8	Consider gift to life care center
§ 69:9	Tax concerns
§ 69:10	"Client friendly" frequently asked questions
§ 69:11	Conclusion

# CHAPTER 70. THE EVER-INCREASING COSTS IN USE OF TRUSTS AND LITIGATION

§ 70:1 The growing cost of using trusts

- § 70:2 § 70:3 Six areas of problems with the use of trusts Details of the problems of probate litigation

## **APPENDICES**

APPENDIX 1.	Meinhard v. Salmon
APPENDIX 2.	Revenue Ruling 59-60
APPENDIX 3.	Revenue Ruling 68-609
APPENDIX 4.	Revenue Ruling 80-213
APPENDIX 5.	Revenue Ruling 83-120
APPENDIX 6.	Appeals Officer Valuation Training Program
APPENDIX 7.	Revenue Procedure 66-49
APPENDIX 8.	TAM 9719006
APPENDIX 9.	Valuation Studies
APPENDIX 10.	Engagement Letter®
APPENDIX 11.	Conflict of Interest®
APPENDIX 12.	Premarital Agreement®
APPENDIX 13.	Simplified Probate Procedures
APPENDIX 14.	Single Trustor Trust Instrument®
APPENDIX 14A.	Amendment to Declaration of Trust for a Single Person®
APPENDIX 14B.	Amendment in Its Entirety to Declaration of Trust for a Single Person®
APPENDIX 14C.	Shortened Form for Smaller Estates for an Individual®
APPENDIX 14D.	Simple Trust Single Person: Outright to Children on Grantor's Death®
APPENDIX 14E.	Amendment of Living Trust®
APPENDIX 15.	Letter of Explanation to Client Regarding Drafts  O
APPENDIX 16.	Pour-Over Will for Single Person®
APPENDIX 17.	Durable Power of Attorney for Health Care—Woman®
APPENDIX 18.	Nomination of Conservator of the Person and Estate of [Name of Client].
APPENDIX 19.	Durable Power of Attorney for Asset Management®
APPENDIX 20.	Living Will Declaration (Directive to Physician)®
APPENDIX 21.	Letter Regarding Transfer of Assets for a Single Person®
APPENDIX 21A.	The Fundamentals of Family and Individual Estate Planning

 $\begin{array}{ccc} \text{APPENDIX 21B.} & \text{Living Trusts: The Centerpiece of Estate} \\ & \text{Planning} \end{array}$ 

## Volume 2

APPENDIX 22.	Estate Planning Questionnaire (Family or Single)
APPENDIX 22A.	Choosing a Successor Trustee®
APPENDIX 22B.	Characteristics of Those You May Be Required to Trust
APPENDIX 23.	Estate Planning Questionnaire (Non-Traditional Couple)
APPENDIX 24.	Memorandum to File Regarding First Meeting with Client®
APPENDIX 25.	Letter to Clients Regarding Initial Meeting®
APPENDIX 26.	Letter of Explanation of Procedures and Costs to Clients®
APPENDIX 27.	Engagement Agreement for Estate Planning®
APPENDIX 28.	Immediate Follow-Up Letter®
APPENDIX 29.	Letter Regarding Law Firm Policies and Areas of Practice.
APPENDIX 30.	Personal Resume of Attorney
APPENDIX 31.	Fee Schedule
APPENDIX 31A.	The Fundamentals of Estate Planning®
APPENDIX 32.	Estate Planning Questionnaire
APPENDIX 33.	Engagement Letter #1®
APPENDIX 34.	Engagement Letter #2®
APPENDIX 35.	California State Bar Sample Written Fee Contract #1.
APPENDIX 36.	California State Bar Sample Written Fee Contract #2 <sup>®</sup>
APPENDIX 37.	California State Bar Sample Written Fee Contract #3 <sup>®</sup>
APPENDIX 38.	California State Bar Sample Written Fee Contract #4®
APPENDIX 39.	Engagement Contract Outline
APPENDIX 40.	Law Firm Budget (Tracking Chart)
APPENDIX 41.	Billing Approach #1®
APPENDIX 42.	Billing Approach #2®
APPENDIX 43.	Billing Approach #3®
APPENDIX 44.	Summary of All Billing®
APPENDIX 45.	Letter to Clients Regarding Joint Tenancy Form®

APPENDIX 46.	Declaration Regarding Joint Tenancy
APPENDIX 47.	Simple Will
APPENDIX 48.	Corporate Trustee Levels of Responsibility®
APPENDIX 49.	Letter to Trust Company Informing Attorney Has Signed Trust Documents®
APPENDIX 50.	Draft of Corporate Trustee Information®
APPENDIX 51.	Special Trustee
APPENDIX 52.	Independent Trustee
APPENDIX 53.	Pour-Over Will—Man®
APPENDIX 54.	Pour-Over Will—Woman®
APPENDIX 55.	Revocable Living Trust Instrument®
APPENDIX 55A.	[Name] Family Trust
APPENDIX 55B.	Shortened Form for Smaller Estates for a Family.
APPENDIX 56.	Letter of Explanation to Clients Regarding Drafts®
APPENDIX 57.	Declaration of Property Character for [Name of Husband] and [Name of Wife]—Common Law®
APPENDIX 58.	Declaration of Agreement Regarding Property Ownership—Community Property Jurisdiction®
APPENDIX 59.	Durable Power of Attorney for Health Care—Man®
APPENDIX 60.	Durable Power of Attorney for Health Care—Woman®
APPENDIX 61.	Durable Power of Attorney for Asset Management®
APPENDIX 62.	Durable Power of Attorney for Asset Management for a Woman®
APPENDIX 63.	Assignment of Furniture, Furnishings, and Personal Effects to Revocable Living Trusts®
APPENDIX 64.	Assignment of Specific Asset to Trust®
APPENDIX 65.	Nomination of Conservator of the Person and Estate of [Name of Client].
APPENDIX 66.	Declaration of Identification®
APPENDIX 67.	Declaration of Residency®
APPENDIX 68.	Instructions for Using a Holographic Will for a Man®
APPENDIX 69.	Instructions for Using a Holographic Will for a Woman®
APPENDIX 70.	Living Will—Man®
APPENDIX 71.	Living Will—Woman®

APPENDIX 72.	Burial Directive for a Man®
APPENDIX 73.	Burial Directive for a Woman®
APPENDIX 74.	Cremation Directive for a Man®
APPENDIX 75.	Cremation Directive for a Woman®
APPENDIX 75A.	California Organ and Tissue Donor Online Registry
APPENDIX 75B.	California Health and Safety Code Section 7150–7151.40, Effective 2007
APPENDIX 75C.	Texas Adoption of Uniform Anatomical Gift Act
APPENDIX 75D.	Cremation Benefits for United States Veterans
APPENDIX 76.	Letter Regarding Transfer of Assets for a Couple®
APPENDIX 76A.	Obtaining Expanded Information for Client(s)
APPENDIX 77.	Letter to Stockbroker®
APPENDIX 78.	The More Family Partnership®
APPENDIX 79.	Family Limited Partnership Diagram and Explanation®
APPENDIX 80.	[Family Name] Family Limited Partnership Procedures®
APPENDIX 81.	Letter and Instructions Regarding Transfer of Assets to Family Limited Partnership®
APPENDIX 82.	Buy-Sell (Stock Redemption) Agreement®
APPENDIX 83.	Family Document and Asset Locator
APPENDIX 84.	Certification of Trusteeship®
APPENDIX 85.	Letter Transferring Safety Deposit Box to Name of Trust
APPENDIX 85A.	Letter to Be Used at the Time of the First of the Spouses to Die, Recommending the Use of a Safety Deposit Box®
APPENDIX 86.	Second Letter Regarding Drafts to Clients®
APPENDIX 87.	Family Estate Document Order Form®
APPENDIX 88.	Optional Article V (C)—Insurance Trust Upon Death of First Spouse to Die®
APPENDIX 89.	Optional Article IX, Irrevocable Insurance Trust®
APPENDIX 90.	Revocable Living Trust Instrument Alternate Article $V(A)$
APPENDIX 91.	Trust Allocation Responsibilities®
APPENDIX 92.	Trustee Powers Provision®
APPENDIX 93.	Proposed Subsection F®
APPENDIX 94.	Alternative Revocable Living Trust Provision for Covenant Not to Sue®

APPENDIX 95.	Pour-Over Will: Addition to Article VI®
APPENDIX 96.	Revocable Living Trust Instrument: Intent of Trustor Regarding Gifts
APPENDIX 97.	Situs of Trust—Optional Form
APPENDIX 98.	Rev. Proc. 96-54: Sample Provisions to Satisfy Requirements of Estate Tax Regulations Sections 20.2056A-2(d)(1)(i) and (d)(1)(ii)
APPENDIX 98A.	Sample qualified domestic trust (QDOT)®
APPENDIX 99.	Spouse's revocable life insurance trust ${}^{\textcircled{s}}$
APPENDIX 99A.	Spouse's contingent life insurance trust®
APPENDIX 99B.	Living Wills: State Laws
APPENDIX 100.	Estate Data Organizer for Family®
APPENDIX 101.	Personal Letter of Instructions—Family
APPENDIX 102.	Distinction Between Living Will Declaration and Durable Power of Attorney for Health Care®
APPENDIX 103.	Contract Not to Revoke or Amend®
APPENDIX 104.	Letter to Clients Regarding Three-Year Review®
APPENDIX 105.	Instructions for Signing Living Trust Amendment®
APPENDIX 106.	Instructions for Signing a Last Will and Testament or Codicil to a Last Will and Testament®
APPENDIX 107.	Instructions for Signing the Living Will Declaration®
APPENDIX 108.	Instructions for Signing a Durable Power of Attorney for Health Care®
APPENDIX 109.	Letter Regarding Estate Planning Settlement Procedures for a Couple®
APPENDIX 109A.	Letter Regarding Estate Planning Settlement Procedures for a Single Person®
APPENDIX 109B.	Letter Describing Information for Certified Death Certificate®
APPENDIX 109C.	Sample Letter to New Trustee Explaining the Nature of Fiduciary Responsibility®
APPENDIX 110.	Letter Regarding Proper Funding of Trusts for a Couple (**)
APPENDIX 110A.	Letter Regarding Proper Funding of Trusts for a Single Person®
APPENDIX 111.	Letter Regarding Destruction of Superseded Estate Planning Documents for a Couple®
APPENDIX 111A.	Letter Regarding Destruction of Superseded

	Estate Planning Documents for a Single Person®
APPENDIX 112.	Expanded Professional Trustee Letter®
APPENDIX 113.	Abstract of File Activity®
APPENDIX 114.	Letter Regarding Use of Holographic Will for a Couple®
APPENDIX 114A.	Letter Regarding Use of Holographic Will for a Single Person®
APPENDIX 115.	Letter Regarding Disclosure of Trust for a Couple®
APPENDIX 115A.	Letter Regarding Disclosure of Trust for a Single Person®
APPENDIX 116.	Letter Regarding Review of Documents for a Couple   Output  Docume
APPENDIX 116A.	Letter Regarding Review of Documents for a Single Person®
APPENDIX 117.	Letter Regarding Keeping Real Estate in the Name of the Trust®
APPENDIX 118.	Letter Regarding First Anniversary—Your Estate Planning for a Couple®
APPENDIX 118A.	Letter Regarding First Anniversary—Your Estate Planning for a Single Person®
APPENDIX 119.	Declaration of Revocation of Will for (Wife) [Name of Client]
APPENDIX 120.	Declaration of Revocation of Will for (Husband) $[Name\ of\ Client]$
APPENDIX 121.	Letter to Clients Regarding Move to Another State®
APPENDIX 122.	Letter to Clients—Invitation to Seminar Regarding Changes in Tax Law®
APPENDIX 123.	Declaration by Attorney Under Penalty of Perjury for Recording Trust Name in Lieu of Recording Trust Instrument®
APPENDIX 124.	Letter to Loan Company Regarding Non- Resident Real Properties to Transfer to Trust to Solve Due-on-Sale Problem®
APPENDIX 125.	Certified Copy of Trust Instrument by Attorney in Lieu of Entire Document®
APPENDIX 126.	Trustee Certification Form—Merrill Lynch
APPENDIX 127.	California Probate Code § 18100.5— Certification of Trust
APPENDIX 128.	Statutory Certification—Trustee
APPENDIX 129.	Certification of Trusteeship®
APPENDIX 130.	Trust Provision for Certification®

APPENDIX 131.	Trust Provision Regarding Certification®
APPENDIX 132.	Letter Regarding Invitation to Review Estate Planning for a Couple®
APPENDIX 132A.	Letter Regarding Invitation to Review Estate Planning for a Single Person®
APPENDIX 133.	Letter to Insurance Company Regarding Claim Forms®
APPENDIX 134.	Letter to Insurance Company Regarding Form for Change of Ownership or Beneficiary.
APPENDIX 135.	Letter for Transferring Assets to Your Revocable Trust and Irrevocable Trust Upon the Death of the First Spouse®
APPENDIX 135A.	Instructions for Transferring Assets to Your Revocable Trust and Irrevocable Trust Upon the Death of the First Spouse®
APPENDIX 135B.	Letter of Directions and Instructions to Successor Trustee Regarding Transfer of Assets to an Irrevocable Trust Upon the Death of the Original Trustor-Trustee®
APPENDIX 136.	Letter of Acknowledgment and Appreciation®
APPENDIX 137.	Letter Regarding Tax Deductibility of Estate Planning for a Couple®
APPENDIX 137A.	Letter Regarding Tax Deductibility of Estate Planning for a Single Person®
APPENDIX 138.	Use of Holographic Will®
APPENDIX 139.	Disclosure of Your Trust®
APPENDIX 140.	Your Annual Tax Return®
APPENDIX 141.	Estate Planning Is Not an Event—It Is a Process®
APPENDIX 142.	Letter Regarding Life Insurance—Potential Tax Problems for a Couple®
APPENDIX 142A.	Letter Regarding Life Insurance—Potential Tax Problems for a Single Person®
APPENDIX 143.	Letter Regarding All Too Common Problems with Children for a Couple.
APPENDIX 143A.	Letter Regarding All Too Common Problems with Children for a Single Person®
APPENDIX 144.	Keeping Real Estate in the Name of the Trust After Refinancing®
APPENDIX 145.	Letter Regarding Request to Meet Personally for Review of Estate Planning for a Couple®
APPENDIX 145A.	Letter Regarding Request to Meet Personally for Review of Estate Planning for a Single Person®
APPENDIX 146.	Letter to Clients Regarding Parameters®

	TUEVOORDEE TIM
APPENDIX 147.	Letter Regarding Authorization to Discuss Estate Plan®
APPENDIX 148.	Draft of Corporate Trustee Information®
APPENDIX 149.	Letter from Client to Authorize Discussions With Children®
APPENDIX 150.	Letter from Attorney to Client Seeking Authorization to Discuss Estate Planning With Children®
APPENDIX 151.	Sample Simplified Form for Receipts®
APPENDIX 152.	Balance of Assets®
APPENDIX 153.	Letter to Employer Regarding Benefits®
APPENDIX 154.	Estate Settlement Questionnaire®
APPENDIX 154A.	Letter to Client Regarding Beneficiary Information®
APPENDIX 155.	Seven Rules of Survival®
APPENDIX 155A.	Letter of Instructions to the Surviving Spouse®
APPENDIX 155B.	Recommended Steps for Heirs To Take After the Death of an Individual
APPENDIX 156.	Letter of Transmittal to the Internal Revenue Service®
APPENDIX 157.	Form SS-4
APPENDIX 157A.	Instructions for Form SS-4
APPENDIX 158.	Declaration Regarding Estate Split®
APPENDIX 159.	General Form of Disclaimer®
APPENDIX 160.	New York Disclaimer®
APPENDIX 161.	Declaration Regarding Joint Tenancy®
APPENDIX 162.	Out-of-Pocket Costs to be Deposited into Trust Account
APPENDIX 163.	Journal—Client Trust Account
APPENDIX 164.	Individual Client Trust Account
APPENDIX 165.	Other Property Journal
APPENDIX 166.	Sample Receipt and General Release®
APPENDIX 166A.	Receipt and General Release®
APPENDIX 167.	Daily Cash Flow
APPENDIX 168.	Individual Progress Report
APPENDIX 169.	Sample Time Slip
APPENDIX 170.	Client Trust Accounting Journal
APPENDIX 171.	List of Estate Documents
APPENDIX 172.	Assets of Estate
APPENDIX 173.	Debts of Estate
APPENDIX 174.	Declaration of Gift®
	-

APPENDIX 175.	Declaration of Gift Between Husband and Wife®
APPENDIX 176.	Non AB Trust Instrument®
APPENDIX 177.	Discretion Given to Trustee to Exercise Power to Avoid Generation Skipping Transfer Tax®
APPENDIX 178.	Discharge or Replacement of Trustee by Beneficiaries®
APPENDIX 179.	Limitation in Sale of Stock®
APPENDIX 180.	Advancement—"Worthy Objective"®
APPENDIX 181.	Segregated Trust®
APPENDIX 182.	IRS Form 8855 Election to Treat a Qualified Revocable Trust as Part of the Estate
APPENDIX 183.	Sample IRS Form 1041
APPENDIX 183A.	Form 1041 Instructions
APPENDIX 184.	Letter to IRS Regarding Requested Audit $\odot$
APPENDIX 185.	Benefits of Gifting®
APPENDIX 186.	Trust Agreement®
APPENDIX 187.	Overview of the Estate Planning Process®
APPENDIX 188.	Table of Contents—LIVING TRUSTS—The Centerpiece of Estate Planning
APPENDIX 189.	Outline of Marital Equivalent Agreement®
APPENDIX 190.	TAM 9308002
APPENDIX 191.	Marital Settlement Agreement®
APPENDIX 192.	[Name of Trustor 1] and [Name of Trustor 2] Family Trust®
APPENDIX 193.	Premarital Agreement®
APPENDIX 194.	$[Name\ of\ Trustor]$ Beneficiaries—Creditors Trust $©$
APPENDIX 195.	Receipt and Full Release®
APPENDIX 196.	[Name of Trustor] Special Trust #1®
APPENDIX 197.	[Name of Trustor] Professional Interest Trust®
APPENDIX 198.	${\bf Cross\text{-}Purchase\ Agreement} \textcircled{\scriptsize{$\bullet$}}$
APPENDIX 199.	Letter to Client Regarding Change in Trustee at Time of Disability®
APPENDIX 200.	Declaration Regarding Health Status®
APPENDIX 201.	Letter to Client®
APPENDIX 202.	Specific Information
APPENDIX 203.	Recommendations®
APPENDIX 203A.	Description of Power of Attorney for Health Care®

APPENDIX 203B.	Description of Power of Attorney for Asset Management®
APPENDIX 203C.	Description of Living Will Declaration®
APPENDIX 203D.	Description of Declaration Regarding Property Character®
APPENDIX 203E.	Description of Burial and Cremation Directive®
APPENDIX 203F.	Description of Holographic Will®
APPENDIX 204.	Observations About Your Estate Plan®
APPENDIX 205.	Election to Retain Revocability®
APPENDIX 206.	Election to Divide Trust®
APPENDIX 207.	Letter to Client Regarding Settlement and Reporting Procedures®
APPENDIX 208.	Assignment of Assets®
APPENDIX 209.	Correspondence at Death of First Spouse to Die
APPENDIX 210.	Form 706 Return and IRS Written Instructions
APPENDIX 211.	Form 2848—Power of Attorney and IRS Written Instructions
APPENDIX 212.	Form 4768—Extension and IRS Written Instructions
APPENDIX 213.	Form 709 United States Gift (and Generation- Skipping) Tax Return and Instructions
APPENDIX 214.	Pet Trust Agreement®
APPENDIX 215.	Indiana Code § 30-4-2-18, Effective July 1, 2005
APPENDIX 216.	20 Pa. Cons. Stat. Ann. § 7738. Trust for care of animal
APPENDIX 217.	Cal. Prob. Code § 15212. Trusts for care of animals, Effective 2008
APPENDIX 218.	IRS Notice 2017-12 Guidance Relating to the Availability and Use of Account Transcript as a Substitute for an Estate Tax Closing Letter®
APPENDIX 219.	IRS Form 4506-T Request for Transcript of Tax Return
APPENDIX 220.	Checklist of Things to Accomplish Upon a Death of a Family Member
APPENDIX 221.	IRS Form 8971 Information Regarding Beneficiaries Acquiring Property from a Decedent
APPENDIX 222.	The Price Tag of Business Litigation by James Wawro
APPENDIX 223.	Anatomy of a Lawsuit
APPENDIX 224.	Annual Indexed Amounts

lxviii

Glossary
Table of Laws and Rules
Table of Cases
Index