Table of Contents

CHAPTER 1. BASIC PREMISES AND CLIENT EDUCATION

§ 1:1 Purpose of the textual approach
§ 1:2 Provide basic information
§ 1:3 Analyze mechanical techniques
§ 1:4 Provide sample documents of all types
§ 1:5 The need to use technical language
§ 1:6 The value of visual aids

CHAPTER 2. THE MARKET PLACE

§ 2:1 Introduction
§ 2:2 Avoiding probate
§ 2:3 Methods of communicating your services to the public

CHAPTER 3. FOUNDATIONAL INFORMATION IN THE USE OF A TRUST AND OVERVIEW

§ 3:1 Four areas to be considered
§ 3:2 Importance of trusts in United States society
§ 3:3 Three categories of trusts
§ 3:4 Illustration of property interests
§ 3:5 Further illustration of property interests
§ 3:6 Use of diagrams in explaining arrangements to clients
§ 3:7 Additional examples of use of diagrams
§ 3:8 —Four basic elements of a trust
§ 3:9 —Creating a trust
§ 3:10 Historical diagraming of a trust arrangement
§ 3:11 Use of diagraming for a specific trust
§ 3:12 The distinguishing factors of a fiduciary relationship
§ 3:13 Components of a trust
§ 3:14 Using the restatement as a guide to trust design
§ 3:15 Bringing the trust into existence
§ 3:16 Administrative and miscellaneous provisions of the trust
§ 3:17 Use of term *settlor*
§ 3:18 Naming the trustee
§ 3:19 Four major categories of irrevocable trusts by use
§ 3:20 Weighing benefits and burdens—Comparison of revocable and irrevocable trusts
§ 3:21 Use of the More family for illustrative purposes

CHAPTER 4. USING A GLOSSARY WITH EACH IRREVOCABLE TRUST

§ 4:1 Introduction

§ 4:2 Sample glossaries
§ 4:3 Table of contents

CHAPTER 5. CHOOSING A TRUSTEE

§ 5:1 Introduction
§ 5:2 The individual trustee
§ 5:3 —Administrative powers
§ 5:4 The institutional trustee
§ 5:5 —Administration costs
§ 5:6 Overview of institutional investment policies
§ 5:7 Consideration of co-trusteeships
§ 5:8 Tax consideration in choosing the trustee
§ 5:9 Other considerations in choosing a trustee
§ 5:10 Presenting alternatives to the client
§ 5:11 Drafting considerations

CHAPTER 6. CERTAIN CONCERNS WITH FINANCIAL INSTITUTIONS

§ 6:1 Overview of three major problems
§ 6:2 Drafting problems
§ 6:3 Methods of certifying a trust

CHAPTER 7. VALUATION

§ 7:1 Introduction
§ 7:2 Purpose and scope
§ 7:3 Fair market value in real life
§ 7:4 Treasury positions
§ 7:5 —The IRS training manual position
§ 7:6 Valuation considerations—Business interests
§ 7:7 Comparison of valuation cases
§ 7:8 A relevant ruling
§ 7:9 Valuation of real estate
§ 7:10 Specific methods of valuation of real property
§ 7:11 —Market data approach
§ 7:12 —Income approach
§ 7:13 —Cost approach
§ 7:14 —Formula approach
§ 7:15 Valuation of collectibles
§ 7:16 Valuation rules for annuities, life estates, remainder interests, and reversionary interests
§ 7:17 Minority discounts and lack of marketability
§ 7:18 Stock valuation can differ for gross estate and marital deduction purposes
§ 7:19 Estate freeze guidelines—Special valuation rules
§ 7:20 Minority discounts allowed in inter-business stock gifting
§ 7:21 A useful case for examining varying approaches to valuing stock of a family-controlled bank
§ 7:22 Valuing Life Insurance Contracts

CHAPTER 8. WORKING WITH THE INTERNAL REVENUE SERVICE

§ 8:1 Introduction
§ 8:2 Origins of the Internal Revenue Service
§ 8:3 The historical power of the Internal Revenue Service and interpretation of tax law
§ 8:4 Principles and premises of the Internal Revenue Service
§ 8:5 —Implementation of tax laws
§ 8:6 Change in definitions
§ 8:7 The sources and functioning of tax law
§ 8:8 Use of private letter rulings
§ 8:9 —Advisability of requesting a ruling
§ 8:10 —When a ruling will not be issued
§ 8:11 *Private Ruling* defined
§ 8:12 Methods of appeal within the Internal Revenue Service and courts
§ 8:13 —Explanation of appeal procedures
§ 8:14 Overview of tax law
§ 8:15 Common forms of simplistic thinking
§ 8:16 —The fallacy of simplistic thinking
§ 8:17 A more rational approach to tax law interpretation
§ 8:18 The form over substance argument
§ 8:19 The case for the taxpayer
§ 8:20 Business purpose or economic reality test
§ 8:21 A realistic approach
§ 8:22 Overall lesson to be learned
§ 8:23 Retroactive application of rules
§ 8:24 Shifting the burden of proof on valuation to the Internal Revenue Service
§ 8:25 Obtaining publications from the Treasury direct and from the Internet
§ 8:26 Understanding the Internal Revenue Service publications
§ 8:27 Establishment of the office of the Taxpayer Advocate within the Internal Revenue Service

CHAPTER 9. DESIGN OF AN IRREVOCABLE TRUST

§ 9:1 Introduction
§ 9:2 Using the four basic elements of every trust
§ 9:3 Choosing the trustee
§ 9:4 Authority for trustee to purchase various kinds of assets
§ 9:5 Distribution to beneficiaries
§ 9:6 The “walk around” provision
§ 9:7 Need to designate trust as irrevocable
§ 9:8 Trust powers
§ 9:9 General provisions
§ 9:10 —Trust committees
§ 9:11 Use of privacy arrangements

§ 9:12 Overview of the trust design and characteristics
§ 9:13 Details of recommended design of an irrevocable trust

CHAPTER 10. CHILDREN'S TRUST UNDER § 2503(C)

§ 10:1 Introduction
§ 10:2 Rationale for gifting
§ 10:3 Methods of making gifts to minors
§ 10:4 —Direct gifts to a minor
§ 10:5 —Guardianship transfers
§ 10:6 —Uniform Transfers to Minors Act
§ 10:7 —Advantages and disadvantages of the Uniform Transfers to Minors Act
§ 10:8 —Use of Internal Revenue Code § 2503
§ 10:9 —Use of Internal Revenue Code § 2503(c)
§ 10:10 Diagraming a § 2503(c) trust
§ 10:11 Candidates for trustors
§ 10:12 Choice of trustees
§ 10:13 Grantor retained right to change corporate trustee acceptable
§ 10:14 Assets for making gifts to minors
§ 10:15 Valuation of transferred gifts
§ 10:16 Delivering the draft to the trustors and trustees
§ 10:17 —Explanation for illustration 10-7
§ 10:18 Instructions to interested parties
§ 10:19 Reporting requirements
§ 10:20 Analysis of the trust agreement
§ 10:21 —Substantive provisions
§ 10:22 Trustee authorized to modify ministerial language
§ 10:23 —Administrative provisions
§ 10:24 Purchase of life insurance
§ 10:25 The kiddie tax
§ 10:26 A prohibited transaction
§ 10:27 Trusts to use calendar year only
§ 10:28 Transferring real property to an irrevocable trust

CHAPTER 11. CHILDREN'S TRUSTS UNDER § 2503(B)

§ 11:1 Introduction
§ 11:2 Distinction between § 2503(b) and § 2503(c) trusts
§ 11:3 Overview of other pertinent issues
§ 11:4 A specific example of the use of a § 2503(b) trust
§ 11:5 Instructions to interested parties and reporting requirements
§ 11:6 The trust agreement and pertinent provisions
§ 11:7 Trustee authorized to modify ministerial language
§ 11:8 Grantor retained right to change corporate trustee

CHAPTER 12. *CRUMMEY* TRUSTS

§ 12:1 Introduction
§ 12:2 Nature of a *Crummey* trust
§ 12:3 The original *Crummey* case
§ 12:4 —Tax court decision
§ 12:5 —Determination by 9th Circuit
§ 12:6 —Key section of the trust agreement
§ 12:7 Tax consequences
§ 12:8 —Income tax consequences
§ 12:9 —Gift tax consequences
§ 12:10 —Estate tax consequences as indicated under the gift tax section
§ 12:11 Pertinent revenue rulings
§ 12:12 Drafting a *Crummey* provision
§ 12:13 Trustee authorized to modify ministerial language
§ 12:14 Use of life insurance
§ 12:15 New opportunities with life insurance and *Crummey* trusts
§ 12:16 *Crummey* "hanging powers"
§ 12:17 Continued attacks on use of Crummey Trusts

CHAPTER 13. INTERNAL REVENUE CODE § 2503(E) TRUST

§ 13:1 Introduction
§ 13:2 Use of Internal Revenue Code § 2503(e) Trust
§ 13:3 Potential problems and solutions
§ 13:4 Eliminating generation-skipping tax problems
§ 13:5 Alternate use of *Crummey* provision
§ 13:6 Other uses of I.R.C. § 2503(e)
§ 13:7 Final observations

CHAPTER 14. OVERVIEW OF ESTATE AND GIFT TAX EXCLUSIONS AND EXEMPTIONS

§ 14:1 Introduction
§ 14:2 Helping clients understand exclusions and exemptions
§ 14:3 Gifts counting against the annual exclusion limit
§ 14:4 Potential problems
§ 14:5 Gifts to fund higher education

CHAPTER 15. EDUCATIONAL TRUSTS WITH USE OF GIFT AND LEASE ARRANGEMENT

§ 15:1 Introduction
§ 15:2 Scope of analysis
§ 15:3 Approach usable in other circumstances
§ 15:4 Assumed facts and documents to be utilized
§ 15:5 —Explanation of illustration 15-1
§ 15:6 Specific documents to be drafted
§ 15:7 Reviewing the arrangement with clients

§ 15:8 Review of case law
§ 15:9 —Important case law
§ 15:10 —Problems in the 4th and 5th Circuits
§ 15:11 —Utilization of the four-pronged test
§ 15:12 —Comparison of *Mathews* rules
§ 15:13 —Confirmation of *Mathews* rules
§ 15:14 Analysis of the risk
§ 15:15 Need to appoint guardian
§ 15:16 Special recommendation for community property states
§ 15:17 Reporting requirements

CHAPTER 16. SPRINKLING OR SPRAY TRUSTS

§ 16:1 Introduction
§ 16:2 Object of arrangement
§ 16:3 Overview of benefits available
§ 16:4 Testamentary trusts
§ 16:5 Establishment of irrevocable living trust
§ 16:6 Establishment of irrevocable sprinkling trust as portion of revocable living trust
§ 16:7 Breakdown of benefits under children's trust
§ 16:8 Choice of trustee
§ 16:9 Grantor retained right to change corporate trustee acceptable
§ 16:10 Right to distribute income or principal
§ 16:11 Distribution requirements
§ 16:12 Distribution to charities on sprinkling basis
§ 16:13 Class of beneficiaries
§ 16:14 Change of fiscal year to calendar year

CHAPTER 17. ACCUMULATION TRUSTS—APPLICABLE TO CERTAIN TRUSTS CREATED BEFORE MARCH 1, 1984

§ 17:1 Introduction
§ 17:2 Basic aim
§ 17:3 History of throwback rules
§ 17:4 General application of throwback rules
§ 17:5 Differentiation between complex versus simple trusts
§ 17:6 The importance of state law
§ 17:7 Complex trust per se
§ 17:8 Special exemptions for minors
§ 17:9 Application of throwback rules to foreign trusts
§ 17:10 Functional operation of throwback rules
§ 17:11 Penalty imposed
§ 17:12 Calculation of taxes under throwback rules
§ 17:13 —First example
§ 17:14 —Second example

§ 17:15 Special tax on sale of appreciated property
§ 17:16 Throwback rules applicable to trusts only
§ 17:17 Use of pour-over arrangements
§ 17:18 Capital gain and distributable net income (DNI) combined
§ 17:19 Necessity to maintain accurate records
§ 17:20 Possible continued advantages of accumulation trusts
§ 17:21 The lesson to be learned
§ 17:22 Change of fiscal year to calendar year
§ 17:23 Attribution of taxation of income of simple trust

CHAPTER 18. TESTAMENTARY TRUSTS

§ 18:1 Introduction
§ 18:2 Comparison to inter vivos trust
§ 18:3 Fundamental differences
§ 18:4 Choice of trustee
§ 18:5 —The beneficiary as trustee
§ 18:6 —Institutional trustee
§ 18:7 Explaining the testamentary trust to the client
§ 18:8 Income tax factors
§ 18:9 Gift tax and estate tax factors
§ 18:10 Ultimate beneficiaries
§ 18:11 Reporting requirements
§ 18:12 Life insurance to trustee of irrevocable testamentary trust
§ 18:13 Court involvement through probate proceedings
§ 18:14 Change of fiscal year to calendar year

CHAPTER 19. UNFUNDED TRUSTS—REVOCABLE TO IRREVOCABLE

§ 19:1 Introduction and the constancy of change
§ 19:2 Using the More family model
§ 19:3 Available options
§ 19:4 Allowing the child to be in control
§ 19:5 Benefits of using the trust as irrevocable
§ 19:6 The possible use of a Special Needs Trust
§ 19:7 Generation skipping transfer tax
§ 19:8 Testamentary power of appointment
§ 19:9 Overview

CHAPTER 20. GENERATION SKIPPING TRUSTS

§ 20:1 Introduction—Important but limited purpose
§ 20:2 —Imposition of Generation-Skipping Transfer Tax
§ 20:3 Certain definitions
§ 20:4 Computation of the GST tax

CHAPTER 21. THE USE OF LIFE INSURANCE PRODUCTS WITH IRREVOCABLE TRUSTS

§ 21:1 Overview of insurance products and irrevocable trusts

§ 21:2 Methods of funding death taxes
§ 21:3 Building an estate with life insurance products
§ 21:4 Insurance as an investment
§ 21:5 Using life insurance for collateral in borrowing
§ 21:6 The mechanics of purchasing insurance in a tax efficient way
§ 21:7 Choosing the insurance carrier
§ 21:8 Exchanging of life insurance policies
§ 21:9 Three-year contemplation of death statute
§ 21:10 Becoming acquainted with life insurance products—Second-to-die life insurance policies
§ 21:11 —Provisions
§ 21:12 The unfunded trust as beneficiary
§ 21:13 Nondeductibility of interest
§ 21:14 Valuation of life insurance
§ 21:15 Incidents of ownership
§ 21:16 Conclusion

CHAPTER 22. INSURANCE TRUSTS

§ 22:1 Providing authority to purchase life insurance
§ 22:2 The four types of insurance trust
§ 22:3 Utilization of testamentary trust
§ 22:4 Presently established irrevocable life insurance trust
§ 22:5 Explanation of events of Figure 22-3
§ 22:6 The problem of spouses owning life insurance on the other
§ 22:7 Specific documents to be utilized
§ 22:8 Cooperation with the estate planning team
§ 22:9 Choice of trustee
§ 22:10 Grantor-retained right to change corporate trustee acceptable
§ 22:11 Methods of acquiring life insurance
§ 22:12 Income tax considerations
§ 22:13 Estate tax considerations
§ 22:14 Payment of trust owned life insurance premiums
§ 22:15 Change of fiscal year to the calendar year
§ 22:16 Case law regarding three-year contemplation of death statute
§ 22:17 Trustee authorized to modify ministerial language
§ 22:18 Illegal act is not an incident of ownership

CHAPTER 23. THE LIFE INSURANCE PRODUCT

§ 23:1 Introduction
§ 23:2 Definition and a short history
§ 23:3 Characteristics of life insurance companies
§ 23:4 Kinds of life insurance
§ 23:5 Where does the money go?
§ 23:6 Mortality tables

§ 23:7 Knowledge concerning life insurance companies
§ 23:8 The amount of life insurance needed by any family
§ 23:9 Various trusts used for the purchase of life insurance
§ 23:10 Taxation of life insurance
§ 23:11 Helping clients understand their options
§ 23:12 Transferring a life insurance policy to a new trust
§ 23:13 Conclusion

CHAPTER 24. CREDITOR PROTECTION THROUGH IRREVOCABLE TRUST AND LIFE INSURANCE

§ 24:1 Introduction
§ 24:2 Creative use of life insurance
§ 24:3 Basic assumptions of the arrangement
§ 24:4 Recommended sequence of events
§ 24:5 Establishing the banking system
§ 24:6 Critical elements in the insuring process
§ 24:7 Sequence of events
§ 24:8 Summary—Benefits to wife after death of husband
§ 24:9 A grantor's retained right to change the corporate trustee

CHAPTER 25. IRREVOCABLE TRUSTS FOR STOCK PURCHASE

§ 25:1 Introduction
§ 25:2 Illustration
§ 25:3 Problem with usual approaches
§ 25:4 Use of irrevocable trust as a solution
§ 25:5 Use of team approach
§ 25:6 Example of the use of an irrevocable trust
§ 25:7 —Explanation of transactions of illustration 25-3
§ 25:8 Implementation of arrangement
§ 25:9 Choice of trustee
§ 25:10 Assignment to trustee
§ 25:11 Purchase of insurance
§ 25:12 Applicable law

CHAPTER 26. GRANTOR RETAINED ANNUITY TRUSTS (GRATS) AND GRANTOR RETAINED UNITRUSTS (GRUTS)

§ 26:1 Introduction
§ 26:2 General valuation rule
§ 26:3 I.R.C. § 2702 valuation rules
§ 26:4 Qualified interest—GRATs and GRUTs
§ 26:5 Duration of GRATs and GRUTs
§ 26:6 Computing the value of the interests
§ 26:7 Zero-out GRATs

§ 26:8 Layered zero-out GRATS
§ 26:9 Amount included in gross estate
§ 26:10 Gift tax consequences of zero-out GRATs
§ 26:11 Sample GRAT form

CHAPTER 27. MEDICAID TRUSTS

§ 27:1 Introduction
§ 27:2 Medicaid background
§ 27:3 Skilled care vs. custodial care
§ 27:4 Paying for long term custodial care
§ 27:5 Ethical issues
§ 27:6 Spend down
§ 27:7 Direct transfer
§ 27:8 Transfer in trust
§ 27:9 History of the irrevocable trust in the Medicaid context
§ 27:10 Medicaid trust provisions
§ 27:11 Medicaid standard for determining availability
§ 27:12 Tax issues
§ 27:13 Medicaid estate claims

CHAPTER 28. SPECIAL NEEDS TRUSTS

§ 28:1 Introduction
§ 28:2 Why a third-party funded special needs trust should be irrevocable
§ 28:3 Public benefits
§ 28:4 Special needs trust alternatives
§ 28:5 Optimal funding of an irrevocable third-party special needs trust
§ 28:6 Sources of funding for an irrevocable third-party special needs trust
§ 28:7 No irrevocable third-party special needs trust for spouse
§ 28:8 Distinctive provisions of an irrevocable third-party special needs trust
§ 28:9 Conclusion

CHAPTER 29. CHARITABLE REMAINDER TRUSTS

§ 29:1 Introduction
§ 29:2 Two kinds of charitable remainder trusts
§ 29:3 Brief history of charitable remainder trust
§ 29:4 Specific example of use of charitable remainder trust
§ 29:5 —Explanation of transactions of Illustration 29-1
§ 29:6 Selection of a trustee
§ 29:7 Sample CRAT and CRUT forms
§ 29:8 Sample charitable remainder annuity trust forms
§ 29:9 Sample charitable remainder unitrust forms
§ 29:10 Charitable remainder annuity trust versus charitable remainder unitrust

§ 29:11 Assets to be utilized in purchasing charitable remainder interests
§ 29:12 Income tax consequences of CRATs and CRUTs
§ 29:13 Gift tax consequences of CRATs and CRUTs
§ 29:14 Estate tax consequences of CRATs and CRUTs
§ 29:15 Taxation of distributions from charitable remainder trusts
§ 29:16 Pooled income funds
§ 29:17 Summary of benefits
§ 29:18 Problems of charities using split dollar arrangement
§ 29:19 Making an effective gift to a charitable institution and maximizing deductibility
§ 29:20 Result of improper administration of charitable remainder trust (CRT)
§ 29:21 Grantor(s) not appropriate trustee

CHAPTER 30. MASSACHUSETTS BUSINESS TRUSTS

§ 30:1 Overview of a unique system
§ 30:2 The legal nature of the Massachusetts business trust
§ 30:3 Some illogical aspects of the common law
§ 30:4 The Mesabi Trust example
§ 30:5 Terminology used in Massachusetts business trust
§ 30:6 The legal foundations of the business trust
§ 30:7 Taxation of a business trust
§ 30:8 The benefits of a business trust
§ 30:9 Business trust form

CHAPTER 31. LAND HOLDING TRUST

§ 31:1 Introduction
§ 31:2 Basic design of the land trust
§ 31:3 Definitions
§ 31:4 Summary of characteristics
§ 31:5 Analysis of land trust as a contract
§ 31:6 Historical background
§ 31:7 Method of utilization

CHAPTER 32. RABBI TRUSTS

§ 32:1 History of the Rabbi trust
§ 32:2 Nature of a Rabbi trust
§ 32:3 Optional forms of deferred plans
§ 32:4 Establishment of a Rabbi trust
§ 32:5 Taxation of a Rabbi trust
§ 32:6 Uncertainty of availability of funds
§ 32:7 Treatment of benefits after retirement
§ 32:8 Obtaining a private letter ruling
§ 32:9 Drafting of a Rabbi trust
§ 32:10 Conclusion

CHAPTER 33. DYNASTY TRUST

§ 33:1 History and nature of a Dynasty Trust
§ 33:2 Method of creating a Dynasty Trust
§ 33:3 Taxation of Dynasty Trust
§ 33:4 Assets to be used in funding a Dynasty Trust
§ 33:5 Using the dynasty trust for incentives

CHAPTER 34. CHARITABLE LEAD TRUSTS

§ 34:1 Overview
§ 34:2 Income tax consequences of charitable lead trusts
§ 34:3 Estate and gift tax consequences
§ 34:4 CLATs and CLUTs—IRS sample forms

CHAPTER 35. SURVIVOR LIFE INSURANCE TRUST

§ 35:1 Introduction
§ 35:2 Specific family example - Thomas O. More and Jane C. More Trust to purchase second to die policy
§ 35:3 Background in the basics of life insurance
§ 35:4 The detail of the More Trust for purchasing second to die life insurance

CHAPTER 36. QUALIFIED TUITION PROGRAMS UNDER I.R.C. § 529 (QTP)

§ 36:1 Introduction
§ 36:2 Specific provisions of QTP § 529
§ 36:3 Comparison of the two approaches

CHAPTER 37. SUMMARY OF REPORTING REQUIREMENTS FOR IRREVOCABLE TRUSTS

§ 37:1 Introduction
§ 37:2 Historical method for obtaining EIN for a trust
§ 37:3 The use of the internet in obtaining EIN
§ 37:4 Filing Form 1041, Fiduciary Tax Return
§ 37:5 Reporting for grantor trusts
§ 37:6 Forms of accounting for trusts
§ 37:7 Use of courts for accounting
§ 37:8 Obtaining receipts and releases
§ 37:9 Trust drafting concerning issues of accounting
§ 37:10 Review and recognition of fiduciary responsibility in accounting and reporting

CHAPTER 38. COMMUNICATIONS WITH CLIENTS REGARDING IRREVOCABLE TRUSTS

§ 38:1 Introduction
§ 38:2 Initial communications

§ 38:3 Subsequent communications
§ 38:4 Third communication
§ 38:5 Fourth communication
§ 38:6 Requesting client meeting

CHAPTER 39. QUALIFIED PERSONAL RESIDENCE TRUSTS (QPRTS)

§ 39:1 Generally
§ 39:2 IRS sample QPRT form
§ 39:3 Qualification requirements—Provisions applicable to PRTs and QPRTs
§ 39:4 Qualification requirements applicable to QPRTs
§ 39:5 Gift tax aspects
§ 39:6 Estate tax aspects
§ 39:7 Income tax aspects
§ 39:8 Generation-skipping tax aspects
§ 39:9 Planning considerations
§ 39:10 —Repurchase of residence
§ 39:11 Modification of trust

CHAPTER 40. INCOME TAX PLANNING FOR IRREVOCABLE TRUSTS

§ 40:1 Irrevocable trusts treated as grantor trusts
§ 40:2 Compression of trust and estate income tax brackets
§ 40:3 Trust charitable deduction through partnership
§ 40:4 Charitable contributions look back period
§ 40:5 Planning for the trust 65-day rule
§ 40:6 Deduction for bundled fiduciary fees

CHAPTER 41. TOTAL RETURN TRUSTS (UNITRUSTS)

§ 41:1 Easing the friction between life and remainder beneficiaries
§ 41:2 The Uniform Prudent Investor Act (UPIA)
§ 41:3 Total return trusts

CHAPTER 42. INCENTIVE TRUSTS

§ 42:1 Introduction
§ 42:2 Choice of trustee
§ 42:3 Specificity critical in incentive trusts

CHAPTER 43. TRUST PROTECTOR

§ 43:1 Introduction
§ 43:2 The what and why of the protector
§ 43:3 Power to the protector
§ 43:4 The protector's role in trust administration
§ 43:5 The fiduciary issue

§ 43:6 Litigation issues
§ 43:7 Tax considerations with the protector
§ 43:8 Drafting issues—Introduction
§ 43:9 —Powers
§ 43:10 —Monitoring
§ 43:11 —Succession
§ 43:12 —Litigation
§ 43:13 —Agents/Attorneys
§ 43:14 —Letter of wishes
§ 43:15 Conclusion

CHAPTER 44. GIFTING FROM FOREIGN NON-RESIDENTS NOT U.S. CITIZENS

§ 44:1 Generally
§ 44:2 Exception applicable to foreign stock received from certain expatriates
§ 44:3 Payment of gift and estate tax by transferees on transfers from covered expatriates
§ 44:4 Gift splitting
§ 44:5 Gift tax exclusion for transfers to non-citizen spouse
§ 44:6 Notice of large gifts received from foreign persons

CHAPTER 45. TRUSTS AS S CORPORATION SHAREHOLDERS

§ 45:1 Generally
§ 45:2 S corporation requirements
§ 45:3 Permitted trusts as S corporation shareholders
§ 45:4 Termination of S status
§ 45:5 S Corporation built-in gains tax
§ 45:6 S Corporation accumulated earnings and profits and excessive passive income—§ 1375 corporate level tax

CHAPTER 46. SPECIAL PURPOSE TRUSTS

§ 46:1 Introduction
§ 46:2 Self-settled trusts
§ 46:3 Blind trusts
§ 46:4 Decanting: Transfers from one irrevocable trust to another irrevocable trust

APPENDICES

APPENDIX A. Introduction to Appendices
APPENDIX 1. Federal Reserve Bank's Triennial Survey of Consumer Finances
APPENDIX 2. Estate Planning Questionnaire
APPENDIX 2A. Estate Planning Questionnaire (Blank)
APPENDIX 3. Section 2503(c) Trust: Declaration of Trust by Two Trustees for Child—*[Name]*

APPENDIX 4. Section 2503(c) Trust: Declaration of Trust by Singular Trustor for Child—*[Name]*

APPENDIX 5. Glossary for Section 2503(c)

APPENDIX 6. States Adopting the Uniform Prudent Investor Act

APPENDIX 7. Certification of Trusteeship

APPENDIX 8. Certification of Trusteeship (Successor Trustee)

APPENDIX 9. Merrill-Lynch Certification

APPENDIX 10. Statutory Certification—Trustee

APPENDIX 11. California Probate Code § 18100.5—Certification of Trust

APPENDIX 12. Revenue Ruling 59-60

APPENDIX 13. Revenue Ruling 68-609

APPENDIX 14. Revenue Ruling 80-213

APPENDIX 15. Revenue Ruling 83-120

APPENDIX 16. Appeals Officer Valuation Training Program

APPENDIX 17. Revenue Procedure 66-49

APPENDIX 18. Rev. Proc. 2026-1 Rulings and Determination Letters

APPENDIX 19. Rev. Proc. 2026-3 (IRS RPR) Rulings and Determination Letters

APPENDIX 20. *[Deleted]*

APPENDIX 21. Taxpayer Appeal Rights — Publication 5

APPENDIX 22. Letter of Explanation Concerning § 2503(c) Trust

APPENDIX 23. Correspondence with Fundamental Characteristics of an I.R.C. § 2503(c) Trust

APPENDIX 24. Fundamental Characteristics of an I.R.C. § 2503(c) Trust

APPENDIX 25. Letter to Clients Regarding Transfer of Assets to an Irrevocable Trust

APPENDIX 26. Transfer of Assets to an Irrevocable Trust

APPENDIX 27. Letter to Brokerage Firm

APPENDIX 28. Informational Letter to Accountant

APPENDIX 29. Form SS-4—Application for Employer Identification Number and Instructions

APPENDIX 30. Letter to Internal Revenue Service Regarding SS-4

APPENDIX 31. Letter of Explanation Concerning Irrevocable Trust

APPENDIX 32. Section 2503(b) Trust: Declaration of Trust by Two Trustors for Child—*[Beneficiary]*

APPENDIX 33. Section 2503(b) Trust: Declaration of Trust by Singular Trustor for Child—*[Beneficiary]*
APPENDIX 34. Declaration of Trust by Two Trustors for the Benefit of *[Beneficiary]*
APPENDIX 35. Declaration of Trust by Singular Trustor for the Benefit of *[Beneficiary]*
APPENDIX 36. Declaration of Gift
APPENDIX 37. Individual Grant Deed to Trust
APPENDIX 38. Lease
APPENDIX 39. Letter of Explanation Concerning Irrevocable Trust
APPENDIX 40. Gift Tax Return for *[Name]* and *[Name]*
APPENDIX 41. Testamentary Trust for Grandchildren Beneficiaries
APPENDIX 42. Letter of Explanation Regarding Testamentary Trust
APPENDIX 43. Form 1041—Fiduciary Income Tax Return for Estate of *[Name]*
APPENDIX 44. The *[Name]* Trust
APPENDIX 45. The *[Name]* Trust by Singular Trustor
APPENDIX 46. Transmittal Letter to IRS for Form SS-4 for Trust
APPENDIX 47. Letter to Trustee
APPENDIX 48. Letter to Beneficiary
APPENDIX 49. Revenue Ruling 81-7
APPENDIX 50. Revenue Ruling 83-108
APPENDIX 51. *[Name]* Trust Agreement by Two Trustors
APPENDIX 52. *[Name]* Trust Agreement by Singular Trustor
APPENDIX 53. Sample Trust for Stock Purchase
APPENDIX 54. Sample Cross-Purchase Agreement
APPENDIX 55. Assignment of Cross-Purchase Agreement
APPENDIX 56. *[Deleted]*
APPENDIX 57. Grantor Retained Annuity Trust
APPENDIX 58. *[Deleted]*
APPENDIX 59. *[Deleted]*
APPENDIX 60. Janet Reno Letter Re: Non enforcement of "Granny Lawyer Goes to Jail."
APPENDIX 61. The *[Name]* and *[Name]* Benefit Trust by Singular Trustor
APPENDIX 62. Third Party Funded Supplemental Needs Trust
APPENDIX 63. Rev. Proc. 2003-53 Inter Vivos CRAT One Measuring Life

APPENDIX 64. Rev. Proc. 2003-58 Testamentary CRAT Term of Years
APPENDIX 65. Rev. Proc. 2005-52 Inter Vivos CRUT One Measuring Life
APPENDIX 66. Rev. Proc. 2005-57 Testamentary CRUT Term of Years
APPENDIX 67. Goldwater v. Oltman
APPENDIX 68. Declaration of Business Trust— General Purpose
APPENDIX 69. Sample Land Trust in Common Use
APPENDIX 70. Revised and Simplified Land Trust Used by *[Name]* Family
APPENDIX 71. Grant Deed
APPENDIX 72. General Direction
APPENDIX 73. Gift Assignment
APPENDIX 74. Revenue Procedure 92-64
APPENDIX 75. Notice 2000-56 Rabbi Trusts
APPENDIX 76. Revenue Ruling 95-58
APPENDIX 77. Rev. Proc. 2007-45 Sample Forms for Inter Vivos Grantor and Nongrantor CLATs
APPENDIX 78. Rev. Proc. 2007-46 Sample Form for Testamentary CLAT
APPENDIX 79. Rev. Proc. 2008-45 Sample Forms for Inter Vivos Grantor and Nongrantor CLUTs
APPENDIX 80. Rev. Proc. 2008-46 Sample Form for Testamentary CLUT
APPENDIX 81. Letter Regarding Right to Withdraw Share of Gift
APPENDIX 82. Rev. Rul. 2008-22 Substitution Power
APPENDIX 83. *[Deleted]*
APPENDIX 84. Trust Instructional Letter
APPENDIX 85. *[Deleted]*
APPENDIX 86. *[Deleted]*
APPENDIX 87. Declaration of Trust for *[Name]* Children by Two Trustors
APPENDIX 88. Declaration of Trust for *[Name]* Children by Singular Trustor
APPENDIX 89. Instructions for Form 1041
APPENDIX 90. Form of Receipt and Release
APPENDIX 91. Sample Qualified Personal Residence Trust
APPENDIX 92. Revenue Procedure 2003–42
APPENDIX 93. Irrevocable Trust Instructional Letter

APPENDIX 94. *[Deleted]*
APPENDIX 95. *[Deleted]*
APPENDIX 96. Revenue Ruling 2004-64: Tax Reimbursement Clause
APPENDIX 97. The Ten Most Frequently Used Publications Within the Internal Revenue Service
APPENDIX 98. Various Abbreviations Used by the Internal Revenue Service
APPENDIX 99. Written Declaration of Gift
APPENDIX 100. Alaska Statute
APPENDIX 101. Trust Provision for Trust Protector
APPENDIX 102. Internal Revenue Code Section 2501
APPENDIX 102A. Internal Revenue Code Section 2801
APPENDIX 103. Return and Instructions for Form 3520 Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts
APPENDIX 104. Declaration of Gift by Non-Resident/Non-Citizen
APPENDIX 105. Form 2553 Election by a Small Business Corporation
APPENDIX 106. Instructions for Form 2553 Election by a Small Business Corporation
APPENDIX 107. Qualified Subchapter S Trust
APPENDIX 108. Self-settled Trust—Married Individual
APPENDIX 109. Blind Trust
APPENDIX 110. Ethics in Government, Reporting Requirements § 102(f)
APPENDIX 111. Annual Indexed Amounts
APPENDIX 112. Notice 2011-101 Transfers by a Trustee From an Irrevocable Trust to Another Irrevocable Trust
APPENDIX 113. Uniform Trust Decanting Act
APPENDIX 114. New York Estates, Powers and Trusts Law § 10-6.6

Glossary

Table of Laws and Rules

Table of Cases

Index