

# 2025 National Income Tax Workbook

## CHAPTER 1: NEW LEGISLATION



1

## Consistent Basis Reporting      P 602-603

- Recipient's basis in property acquired = property's value determined for estate
- Statutory requirements – executor reporting
- Applicable property
  - Entire property sold, exchanged, disposed of
  - Property included in another decedent's gross estate

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## Consistent Basis Reporting P 603

- Property not subject to Consistent Basis Reporting Rule
- Like-kind exchange
- Estate tax charitable or marital deduction
- Certain Partially deductible property

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## Partial Property NOT Exempted P 603

- Charitable remainder trust, charitable lead trust, or a pooled income fund
- Trust subject only to partial QTIP election under I.R.C. §2056(b)(7)
- Property divided between the decedent's surviving spouse & charity if the sum of deductions for the two-interest given to those recipients is less than the value of the property included in the value of the gross estate

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## Estate Tax

P 603

Beginning tax  
years after  
December 31,  
2025

\$ 15,000,000

Inflation Indexed  
after 2025

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## Gifts & Bequests from Expatriates P 604

- Relinquish US Citizenship
- Cease to be a lawful Permanent Resident of US
- On or after June 17, 2018
- I.R.C. §2801 – tax on US Citizen or Resident receiving gift or covered bequest
- Gift Tax
  - = excess over annual exclusion amount
  - Rate = higher of estate tax or 40%

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<div> <div>Covered Bequests</div> <div>P 604</div> <div> <div> <ul style="list-style-type: none"> <li>▪ <u>Category 1</u> <ul style="list-style-type: none"> <li>▪ Property acquired on or after Jun 17, 2008</li> <li>▪ Directly or indirectly by death of expatriate</li> <li>▪ Only if property would have been included in decedents gross estate</li> <li>▪ Expatriate was US Citizen immediately before death</li> </ul> </li> </ul> </div> <div> <ul style="list-style-type: none"> <li>▪ <u>Category 2</u> <ul style="list-style-type: none"> <li>▪ Property included in decedents gross estate</li> </ul> </li> <li>▪ <u>Category 3</u> <ul style="list-style-type: none"> <li>▪ Distributions made by reason of death</li> <li>▪ Distributions were from Nonelecting Foreign Trust</li> <li>▪ Made on or after June 17, 2008</li> </ul> </li> </ul> </div> </div> </div>
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<div> <div>Qualified Domestic Trust</div> <div>P 604</div> </div>	<div> <div>I.R.C. §2056A</div> <div>Update QDOT Regulations</div> <div>Removes outdated references</div> <div>Updated Titles of IRS Officials authorized to enter into agreements</div> </div>
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# 2025 National Income Tax Workbook

## CHAPTER 3: TRUSTS AND ESTATES



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### Chapter Issues

P 85

- Revocable Trusts
- Combined Trust & Estate Returns
- Trust & Estate Charitable Deductions
- Basis in Gifted Property
- Basis in Inherited Property
- Consistent Basis Reporting
- Estate & Gift Tax on a Nonresident Noncitizen

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## Learning Objectives P 85

- Understand the tax rules that apply to a revocable trust
- Explain the advantages of filing a combined return for an estate and a trust
- Know when a trust or an estate can claim a deduction for a charitable contribution
- Explain the definition of contingent fees and recognize when such fees are prohibited
- Determine the basis of gifted and inherited property
- Understand the consistent basis reporting requirements
- Identify when a nonresident noncitizen's estate or gifts may be subject to US estate or gift tax

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# Issue 1

REVOCABLE TRUST

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## Revocable Trust Overview

P 87

Created by  
Grantor (trustor or  
settlor)

Created under  
State Law

Avoids Probate

Managed by  
Trustee

Benefit of  
Beneficiaries

I.R.C. §676 –  
grantor has power  
to revoke & revest  
assets

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## Revocable Trusts

P 87

Grantor – all income,  
deductions, credit &  
other tax attributes  
of trust

Treas. Reg. §25.2511-  
2(c) – transfers to  
trust are incomplete  
gifts

I.R.C. §2038 –  
revocable trust  
property included in  
grantor's estate

Avoid Probate – title  
assets in trust

Other asset transfers  
– LLC membership  
interest, S Corp  
shares

Cross-Reference –  
2024 pp 67-70

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## Separate Trust vs. Joint Trust P 87

- Community Property States
  - Joint revocable trust
  - Deemed ownership –  $\frac{1}{2}$  of trust assets
  - Deceased spouses  $\frac{1}{2}$  interest = irrevocable & non-grantor trust
- Non-Community Property States
  - Each spouse has own revocable trust

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## Separate Trust vs. Joint Trust

P 88

- I.R.C. 1014 – basis of asset
  - FMV at date of death
  - Acquired from or passed from the decedent

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## Separate Trust vs. Joint Trust

P 88

- Property transferred by decedent during lifetime & pays income for life
- Property transferred by decedent on the order or direction of the decedent
- Property transferred by decedent rights reserved to the decedent before death
- Property transferred by the decedent that pays income to the grantor for life

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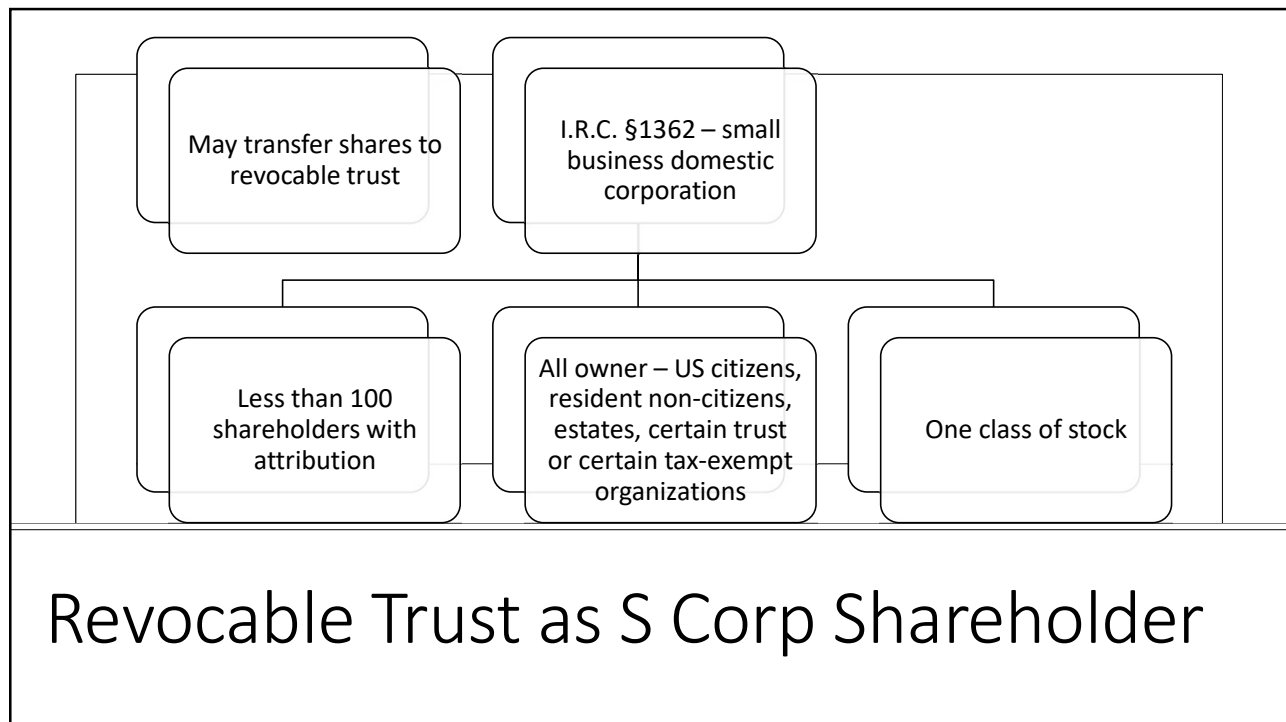
## Revocable Trust as LLC Member

P 89

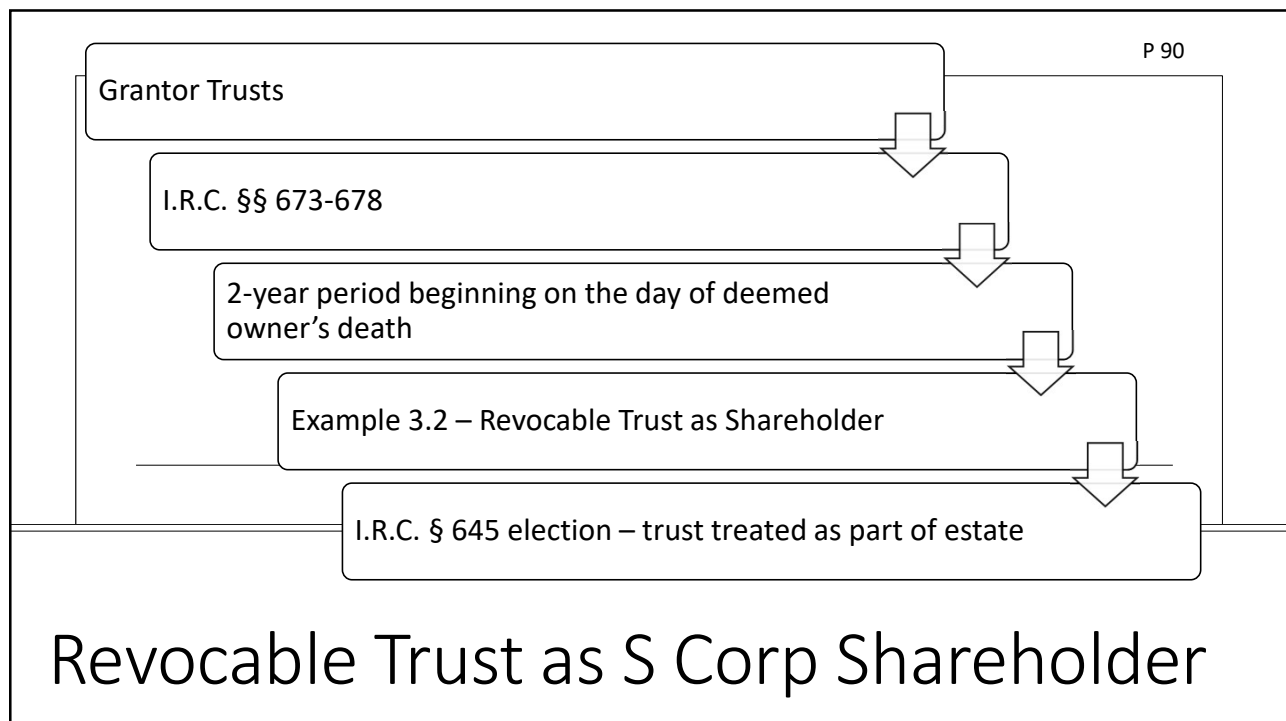


- Treas. Reg. §§ 301.7701-3, 301.7701-3(b)(1)
  - More than 1 owner = Partnership
  - Elect to be tax as corporation
  - Single-member = disregarded entity
- Rev. Proc. 2002-69, 2002-2 C.B. 831
  - Community property states
  - Characterize LLC as disregarded or a partnership
- Practitioner Note – Partnership Treatment

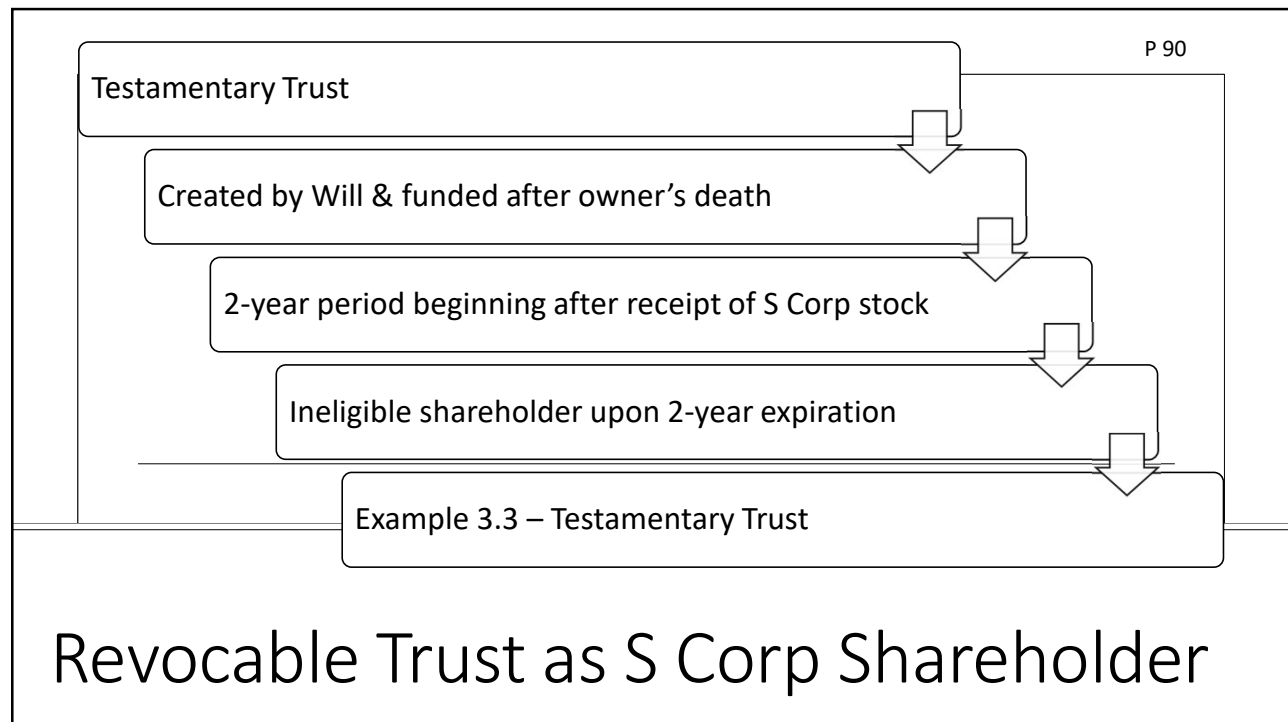
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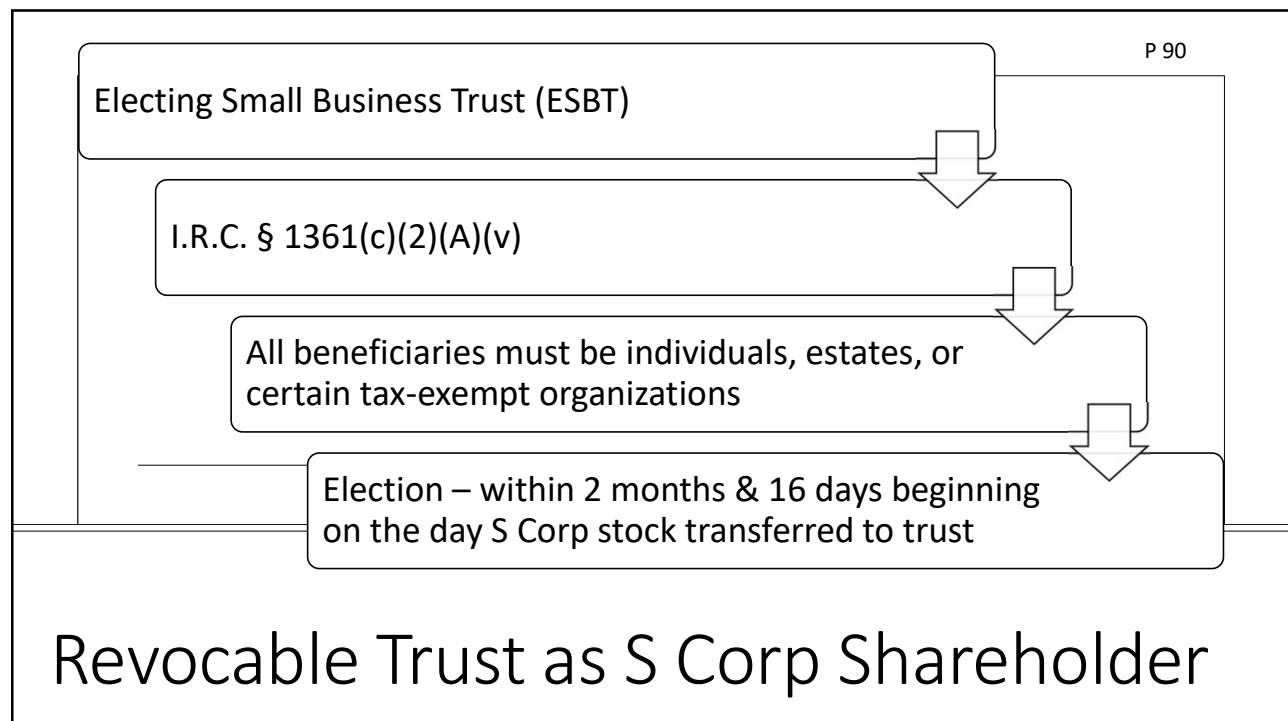
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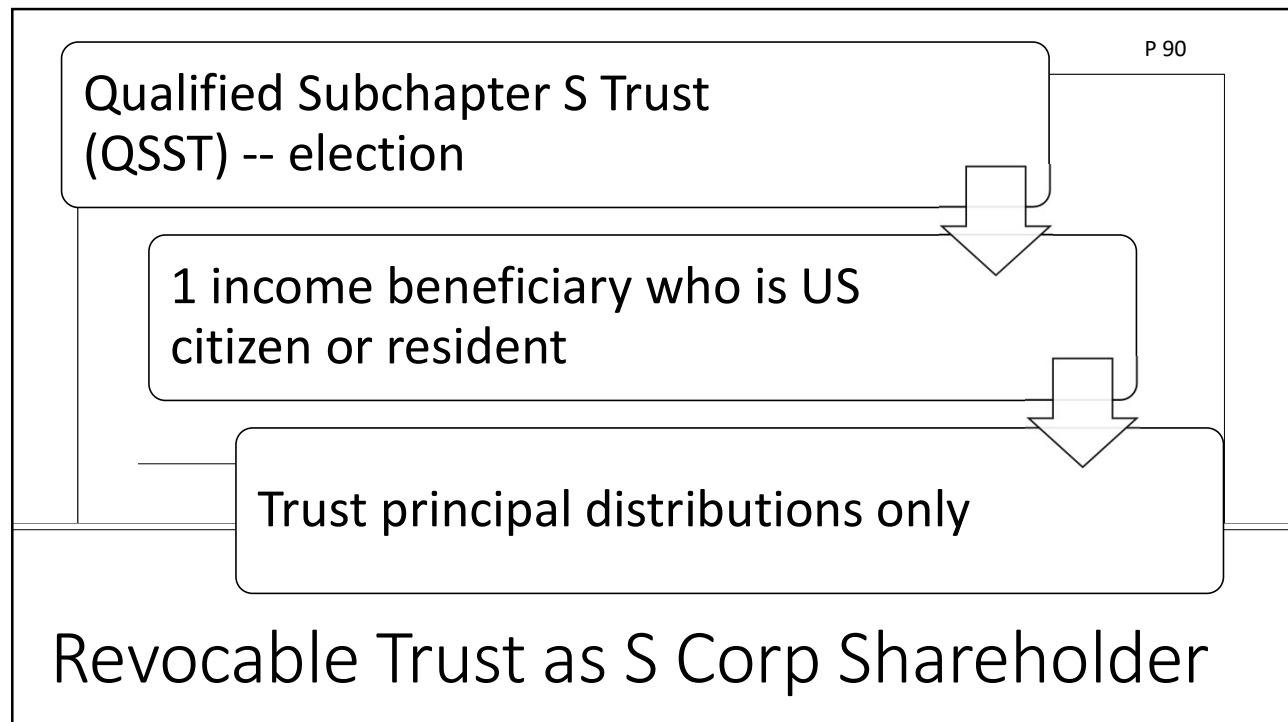
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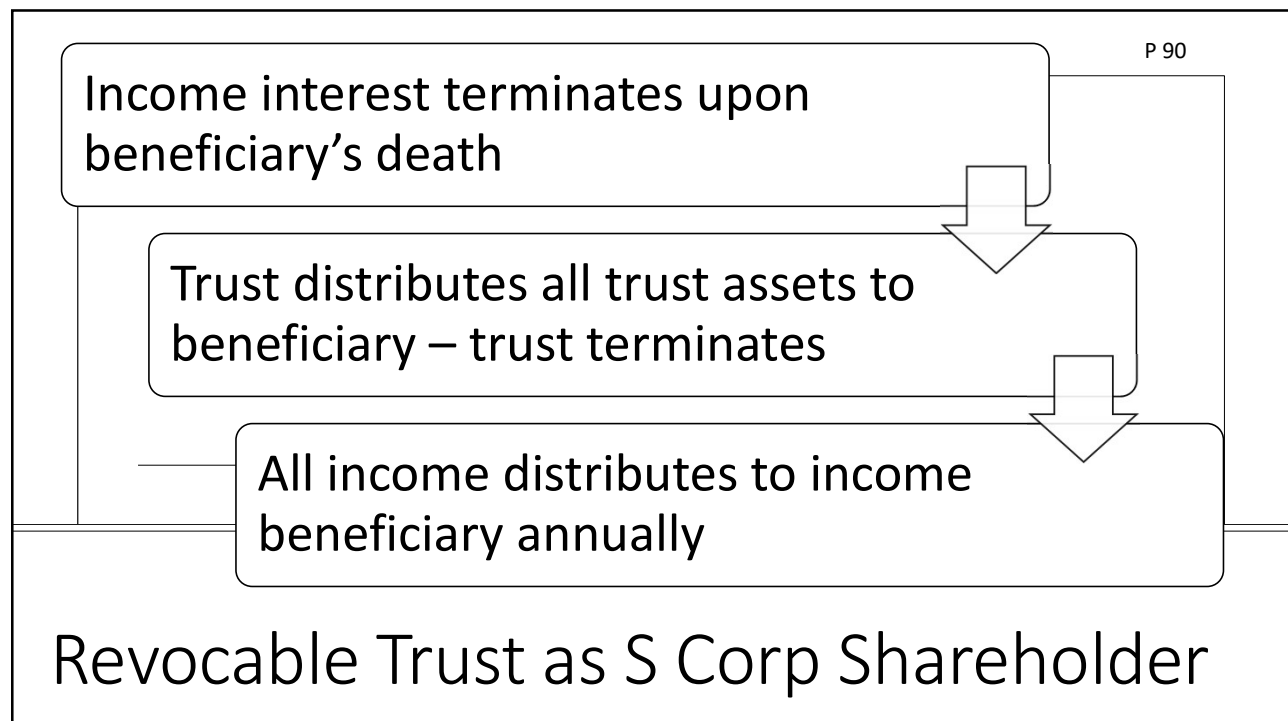
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Revocable Trust as  
S Corp  
Shareholder

P 91

- Example 3.3 – Marital Trust (QSST Election)
  - Joint Revocable Trust
  - Shares transferred from S Corp
  - Laramie dies
  - ½ of assets transfer to Irrevocable Marital Trust
  - Eleanor's ½ distributes to Revocable Survivor's Trust

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### Figure 3.3 Wolf Family Trust Clause

“If any stock of a corporation that then operates or that trustee shall deem likely to operate as an S corporation is held by a trust or becomes distributable to a trust created herein, and such trust is not eligible or qualified to hold S corporation stock, the trustee may create a separate trust (or subtrust) that qualifies as a qualified subchapter S trust (QSST) and then distribute such stock to the newly created trust. Any newly created QSST shall be as consistent as possible with the original trust, and still qualify as a QSST.”

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<p>Example 3.3 continued P 91</p>	<div data-bbox="682 268 1198 436">Survivor's trust permissible S Corp Shareholder</div> <div data-bbox="682 520 1198 688">Marital trust owns S Corp shares for 2 years</div> <ul style="list-style-type: none"> <li>• Unless QSST election is made</li> <li>• Distribute S Corp shares to QSST</li> <li>• Eleanor Sole Beneficiary = deemed owner of QSST</li> </ul>
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<p>Practitioner Note – Late Election Relief P 92</p>	<div data-bbox="682 1171 1218 1255">Failure to make election – ESBT or QSST</div> <div data-bbox="682 1297 1218 1381">Inadvertent invalid S Corp election</div> <div data-bbox="682 1423 1218 1507">Inadvertent termination of S Corp election</div> <div data-bbox="682 1549 1218 1633">Late Election available</div> <ul style="list-style-type: none"> <li>• 3 years &amp; 75 days after date effective election</li> <li>• Rev. Proc 2013-30 &amp; 2013-36</li> <li>• I.R.B. 173</li> </ul>
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## Revocable Trust as S Corp Shareholder P 92

- Grantor Trust Reporting
- File Form 1041, U.S. Income Tax Return for Estates & Trusts
- Total (gross) income > \$ 600
- Grantor – choose to report income/expenses on Form 1040
- Practitioner Note – Optional Method 2

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## Revocable Trust as S Corp Shareholder P 92

- Optional Method 1 – reporting
- Trust needs TIN
- Trust statement to Grantor or owner
  - Income, deductions, credits
  - Identifies payer of each income item
  - Explains how items used when figuring taxable income or tax on personal 1040
  - Informs that items must be included when figuring taxable income & credits on personal 1040

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# Issue 2

## COMBINED TRUST & ESTATE RETURNS

31

### Qualified Revocable Trust & Related Estate P 94

- I.R.C. § 676 – on date of death QRT treated as owned by decedent
- Decedent had power to revoke trust
- Treas. Reg. §1.645-1(b)(1) – not QRT if power held by non-adverse party or decedents spouse

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## Qualified Revocable Trust & Related Estate P 94

- Tax Benefits of Making the Election
  - Avoid probate
  - Assets pass from trust to beneficiaries
- Failure to title assets in trust
  - Subject to Probate
- Practitioner Note – Non-probate Transfers

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## Qualified Revocable Trust & Related Estate P 94

- QRT treated & taxes as part of decedents estate
- § 645 election
  - Estate & trust file single tax return
  - Combined estate & trust can use a fiscal year
  - Estimated tax payment are not required
  - Trust can claim a deduction for set aside charitable
  - Combined estate & trust is an eligible S Corp Shareholder
  - Active participation requirement is waived, \$ 25,000 offset for real estate rental losses

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## Qualified Revocable Trust & Related Estate P 97

- Practitioner Note – EIN
- Tax Treatment during Election Period
  - File one combined income tax return
  - Include all income, deductions & credits
  - One estate = electing trust & related estate

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## Qualified Revocable Trust & Related Estate P 97

- Completing the Return
- Filing Form 1041
- “Decedent’s Estate” – box A
- Box G – § 645 election
- Statement for each electing trust
  - Name of the electing trust
  - Taxpayer ID
  - Name & address of the trustee of electing trust

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## Qualified Revocable Trust & Related Estate P 97

- Termination of the Election Period
- Include income, deductions & credits for its entire year; OR
- Income, deductions & credits for period that ends with the last day of election period
- DNI – include net capital gains
- Calendar year accounting period if trust exists after termination
- Practitioner Note – Termination of the Trust

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## Issue 3

TRUST & ESTATE CHARITABLE DEDUCTIONS

38

## Trust & Estate Charitable Deduction P 99

- Income Tax Deduction – not available for Simple Trust
- Charitable contribution
  - Made under terms of governing instrument
  - Made to a qualifying organization
  - Made from gross income
  - Actually Paid
  - Permanently set aside

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## Trust & Estate Charitable Deduction P 100

- Qualifying Organization
  - State or political subdivision
  - US possession or political subdivision
  - Exclusively for public purposes
  - Corporation, trust, community chest fund, foundation
    - Exclusively for religious, charitable, scientific, literary, educational, foster national or international amateur sports, or prevention of cruelty to children or animals
- Foreign charitable organization – trusts only

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## Trust & Estate Charitable Deduction P 100

- Practitioner Note – Gifts & Bequests to Private Foundations
- Made from Gross Income
  - Deductible only to extent it was paid from gross income
  - IRD – include in gross income
  - Principal not deductible
  - *Green v. United States* – “any amount of the gross income” is ambiguous – deduction limited to basis
  - *Casco Bank & Trust Company v. United States* – practical effect of the language and allowed the deduction

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## Trust & Estate Charitable Deduction P 101

- Actually Paid or Set Aside
- Treas. Reg. § 1.642(c)-2 – permanently set aside from gross income
- Set aside under terms of governing instrument
- Treas. Reg. § 1.642(c)-1(b) – election to treat contribution as paid in a prior year
- Example 3.6 – Electing Prior-Year Deduction

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## Trust & Estate Charitable Deduction P 102

- Prior-Year Deduction Election
- Fiduciary Statement
  - The name and address of the fiduciary
  - The name of the estate or trust
  - A statement that the fiduciary is making an election under section 642(c)(1) for contributions treated as paid during such tax year
  - The name and address of each organization to which any such contribution was paid
  - The amount of each contribution and date of actual payment or, if applicable, the total amount of contributions paid to each organization during the next tax year, to be treated as paid in the prior tax year

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## Trust & Estate Charitable Deduction P 102

- Estate Tax Charitable Deduction
- I.R.C. § 2055 – general rules
- Not subject to % limitation
- Cannot exceed the value of the transferred property
- Qualifying Organization
- Definition of Charitable

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## Trust & Estate Charitable Deduction P 103

- Donor Advised Fund
- Sponsoring organization -- # 1 & 2 only
  - Cannot be Type III supporting organization
- Contemporaneous written acknowledgment
- Practitioner Note – No Dual Deduction
- Not Exclusively for Charitable Purpose – disallows estate tax charitable deduction
- Deduction = value of charitable beneficial interest only
- Example 3.7 – Transfer Subject to Contingency

45

## Issue 4

BASIS IN GIFTED PROPERTY

46

## Basis of Gifted Property

P 104

- Donee's Basis
- Calculating Gain: same as donor's
  - Calculating Loss: Basis > FMV = basis & holding period FMV on date of gift
  - Basis increased by amount of gift tax paid (not above FMV)
- Example 3.8 – FMV Exceeds Basis
- Example 3.9 – Basis Exceeds FMV

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## Basis of Gifted Property

P 104

- Part Sale & Part Gift
- Property transfer for less than FMV
- Gain on transaction
- No loss on transaction
- Transferee's Basis – unadjusted basis is the greater of
  - the amount paid by the transferee for the property; or
  - the transferor's adjusted basis for the property at the time of the transfer and the amount of increase, if any, in basis for gift tax paid.
- Example 3.10 – Carryover Basis

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## Basis of Gifted Property

P 105

- Example 3.11 – Basis Is Amount Paid
- Example 3.12 – Basis of loss Property
- Transferor's Gain – part sale & part gift
- Gain to extent amount realized exceed the adjusted basis
- Cannot claim loss if the amount realized is less than transferor's adjusted basis
- Example 3.13 – No Loss on Part Sale Part Gift

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## Issue 5

BASIS IN INHERITED ASSETS

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## 2025 Estate Tax Exclusion

P 106

▪ \$ 13,990,000

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## Determining Basis

P 106

- Inherited Basis = FMV on date of death
- I.R.C. § 1014
  - FMV on date of death
  - Alternative Valuation Date – I.R.C. § 2032 election
  - Special Use Valuation Date – I.R.C. § 2032A election
  - Qualified Conservation Easement – basis in the hands of the decedent
- Practitioner Note – Depreciation Basis

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## Property Acquired from Decedent P 106

- Bequest, devise, or inheritance, or by the decedent's estate from the decedent
- Property transferred by the decedent during lifetime to a revocable trust that pays the income for life to or on the order or direction of the decedent
- Property transferred by the decedent during his or her lifetime to a trust that pays the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his or her death to make any change in the enjoyment through the exercise of a power to alter, amend, or terminate the trust
- Property that passes without full and adequate consideration under a general power of appointment exercised by the decedent by will

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## Property Acquired from Decedent P 107

- Property that represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any state, or possession of the United States or any foreign country, if at least one-half of the whole of the community interest in such property was includable in determining the value of the decedent's gross estate
- Property [except annuities and other property described in I.R.C. § 1014(b)] acquired from the decedent after death because of death, form of ownership, or other conditions (including property acquired through the exercise or nonexercise of a power of appointment), if, as a result, the property is required to be included in determining the value of the decedent's gross estate
- Property [except annuities and other property described in I.R.C. § 1014(b)] that is in the gross estate of the decedent under section 2044 (relating to certain property for which the marital deduction was previously allowed)

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## Impact of A-B Trust Planning P 107-108

- Predate portability – A-B or A-B-B Trust Estate Plans
- B Trust Assets – NO step-up or step-down in basis
- A Trust QTIP election Assets – included in gross estate of surviving spouse
  - Step-up basis
- Example 3.14 – Trust Planning – Impact on Basis

55

## Gifts within 1 Year of Death P 108

- Decedent acquires appreciated property
- Passes to donor
- Donor's basis = adjusted basis immediately before death
- Example 3.15 – Disallowed Step-Up

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## Jointly Owned Property

P 108

- Relationship between surviving joint tenant & decedent
- Community property state OR Non-community property state
- Surviving co-owner owned property originally – was not received from decedent

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## Jointly Owned Property

P 109

- Exceptions:
  - If the property was acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and his or her spouse, then one-half of the value is treated as the decedent's interest.
  - Acquired by gift, bequest, devise, or inheritance by the decedent and any other person as joint tenants with right of survivorship and their interests are not otherwise specified or fixed by law
  - If there is a qualified joint interest of the property, the value included in the gross estate is one-half of the value of the qualified joint interest.
  - A qualified joint interest is any interest in property held by the decedent and the decedent's spouse as tenants by the entirety or joint tenants with right of survivorship, but only if the decedent and his or her spouse are the only joint tenants.

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## Nonspousal Joint Tenants

P 109

- I.R.C. § 1014
  - Step-Up OR Step-Down Basis
  - FMV on date of death
- I.R.C. § 2040
  - Include decedents proportionate share of FMV in decedents estate
- Example 3.16 – Nonspousal Joint Tenants

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## Non-Community Property

P 109

- More favorable treatment
- I.R.C. § 2040(b) – qualified joint interest
  - Married individuals – TbE or JTWROS
  - Surviving spouse receives ½ step-up basis
- I.R.C. § 1014 – surviving spouse receives step-up OR step-down
- Example 3.17 – Married Couple & Joint Tenancy

60

## Basis of a Life Estate

P 110

- More than 1 person inherits a time-related interest
- Treas. Reg. § 1.1014-4 – basis is uniform for everyone
- Treas. Reg. § 1.1015-1(b) – interest acquired by gift = uniform basis
- Life Tenant – person who has only lifetime use of the asset
- Remainderperson – person to whom it passes upon death of life tenant

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## Basis of a Life Estate

P 110

- Uniform Basis = allocation between life interest & remainder interest
- Present values
- Treas. Reg. § 20.2031-7(d) – Table S (P 111)
- Life expectancy of life beneficiary
- Assumed investment return interest rate (P 112)
- Basis of life interest = uniform basis x applicable life estate factor
- Basis of remainder interest = uniform basis – basis of life interest

62

## Basis of a Life Estate

P 112

- Example 3.19 – Basis in Life Estate
- Treas. § Reg. 1.1015-1(b) & § 1.1014-5(a)(2)
  - Life tenant ages
  - Basis adjusted
- Example 3.20 – Changing Allocation of Basis of Life Estate

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## Basis Adjustment

P 113

- Remainder interest adjustment
- Capital improvements
- Depreciation
- Basis adjustment required
- Example 3.21 – Basis Adjustments
- Observation – Depreciation Deduction

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## Sale of Life Estate

P 113

- Life tenant
- May not claim basis in separate sale to the extent it reflects
  - Gift basis
  - Basis from decedent
  - Any amount received is gain
- Example 3.22 – Sale of Life Estate
- Practitioner Note – Capital Gain

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## Sale of Remainder Interest

P 114

- Separate Sale of Life Estate – disregard basis rule
- Remainder Interest separate sale – use allocation from Example 3.22 P 113
- Example 3.23 – Sale of Remainder Interest

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## Sale of Entire Property

P 114

- Calculation of Gain changes
- Gain/Loss = uses allocable share of adjusted uniform basis
- Allocate selling price & basis between life tenant and remainderperson
- Example 3.24 – Sale of Entire Property
- Practitioner Note – Principal Residence Gain Exclusion

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## Death of Life Beneficiary or Remainder Person

P 114

- No adjustment to uniform basis
  - Neither owned the interest held by the other
- Remainder person owned interest
  - Step-up basis to FMV
  - Date of life tenant's death

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## Death of Life Tenant

P 114

- Property automatically belongs to Remainderperson
- Not included in Life Tenant's gross estate
- Included in Life Tenant's gross estate if created remainder interest
  - Retained for life
  - Period that does not end before transferor's death
  - No step-up basis
- Bona fide sale – not included in Life Tenant's gross estate

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## Death of Life Tenant

P 115

- Example 3.25 – Death of Life Tenant
- Example 3.26 – Remainder Interest Created by Gift from Life Tenant
- Example 3.27 Death of Remainderperson

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# Issue 6

CONSISTENT BASIS REPORTING

71

P 117

## Property Subject to Consistency Requirement

- Exception to Consistent Basis Requirement
- Tangible personal property – appraisal is not required
- Household & personal effects
- Property whose basis does not differ from property's face value

72

## Basis Reporting

P 117

- I.R.C. § 6035(a)(1) & (2) – requires IRS reporting and beneficiary reporting
- Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent
  - Not required if: gross estate plus adjusted taxable gifts < basic estate exclusion
  - Not required if: generation-skipping transfer tax exemption
  - Not required if: allocation or electing portability of DSUE

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## Basis Reporting

P 117

- Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent
- Reports
  - Final determined estate tax value
  - Basis of property acquired from a decedent

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# Issue 7

ESTATE & GIFT TAX ON A NONRESIDENT NONCITIZEN

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## Nonresident Noncitizen Estate Tax P 118

- Estate tax on only assets considered US-situated property
- Estate tax exclusion \$ 60,000
- Tax Treaty modifications
- Unlimited marital deduction – US property left to US citizen surviving spouse
- Qualified Domestic Trust – property transferred from US resident noncitizen to surviving noncitizen spouse

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## Nonresident Noncitizen Estate Tax P 118

- US Situated Assets
- Real estate
- Tangible personal property (excluding some art)
- Stock of corporation – organized in or under US Law
- Practitioner Note – Tax Treaties
- Real Property – property located in US

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## Tangible Personal Property P 118

- Located in US
- Works of Art – noncitizen not domiciled in US don't constitute property within US
  - Imported into US solely for exhibition purposes
  - Loaned to public gallery or museum for exhibition
  - At time of death, exhibit or in transit to or from exhibition in public gallery or museum.

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## Corporate Stock

P 119

- Corporate stock situated in US
- Issued by domestic corporation
- Foreign corporate stock – held by nonresident noncitizen NOT US asset
- Example 3.29 – Transfer with Retained Interest

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## Debt Obligations & Bank Deposits P 119

- Debts:
  - Noncitizen
  - Debt obligations (promissory notes)
  - Principal debtor is US person, state or subdivision
- Deposits:
  - Domestic branch of foreign corp
  - Engaged in commercial banking business
  - Deemed property within the US

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## Nonresident Noncitizen Issues P 119 - 120

- Life Insurance – noncitizen not domiciled in US – NOT in US
- Partnership Interest – situated where partnership's predominant business is conducted
- Practitioner Note – Nominee or Alter Ego
- Gift Tax – transfers of real or tangible personal property physically situated in US
  - 2025 annual gift tax exclusion = \$ 19,000
  - 2025 noncitizen spouse gift tax exclusion = \$ 190,000

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## Intangible Personal Property P 120

- Located within the US
  - Property issued by right
  - Enforceable against a resident of the US
  - Domestic stock
  - Debt obligations of a US person
  - Not subject to gift tax
- Practitioner Note – Stock Certificates

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## Tangible Personal Property

P 120

- Not Intangible property
- Subject to gift tax
- Real property in the United States
- Tangible personal property situated in the United States such as valuable antiques, jewelry, stamp and coin collections, art, cars, and boats
- US or foreign currency or cash within the United States

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## Questions



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