

# Form 1041

## A roadmap to preparing the fiduciary return

Presented by  
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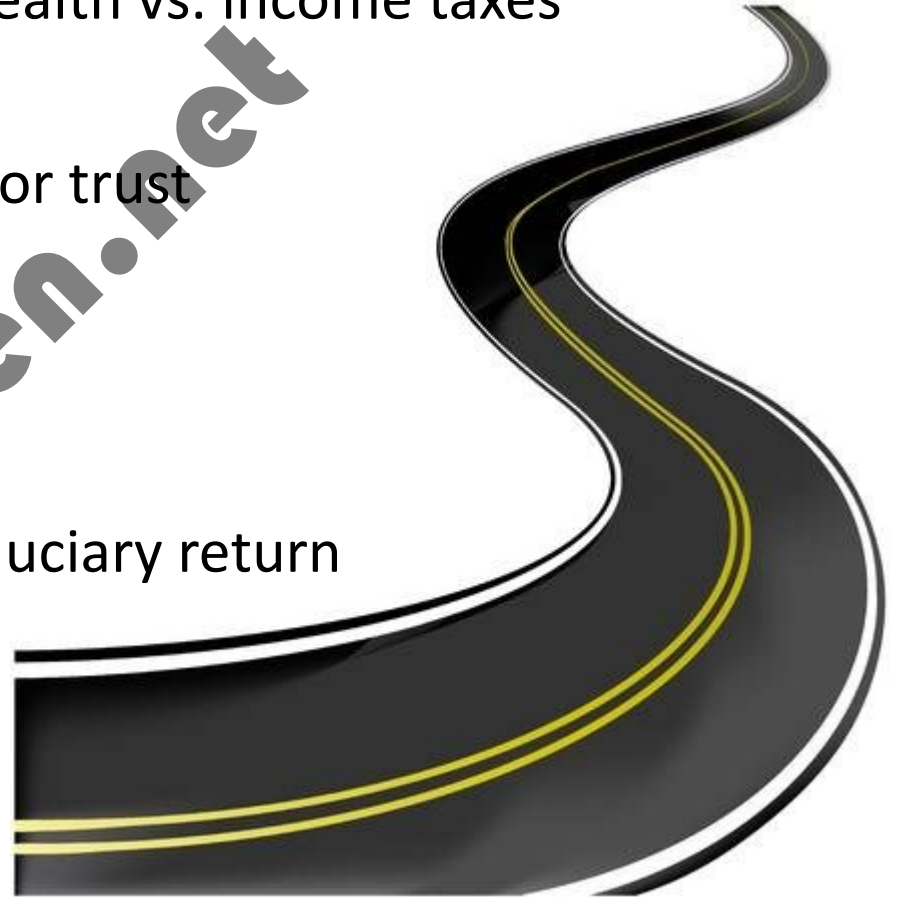


# Learning Objectives

- Understand the fiduciary's tax filing requirements.
- Identify reportable items of income and deductible expenses.
- Distinguish between accounting, distributable and taxable income.
- Recognize the overlap & interplay amongst differing tax regimes.

# The road we'll follow

- First you die, then you pay: Wealth vs. income taxes
- Speaking from the grave: Will or trust
- Who's job is it?
- Reporting in: Preparing the fiduciary return
- Breathe: It's all done!



▶ Estate of a citizen or resident of the United States (see instructions). To be filed for decedents dying after December 31, 2018.  
▶ Go to [www.irs.gov/Form706](http://www.irs.gov/Form706) for instructions and the latest information.

# Estate Tax

Part 1 — Decedent and Executor

1a	Decedent's first name and middle initial (and maiden name, if any)	1b	Decedent's last name	2	Decedent's social security no.
3a	Name of executor (or administrator or other person in charge of the estate) and address (number and street including apartment or suite no.; city, town, or post office; state and ZIP or foreign postal code)	4	Date of birth	5	Date of death
6a	Name of executor (or administrator or other person in charge of the estate)	6b	Executor's address (number and street including apartment or suite no.; city, town, or post office; state and ZIP or foreign postal code) and		
6c	Executor's social security number (see instructions)	Phone no.			
6d	If you have multiple executors, check here <input type="checkbox"/> and attach a list showing the names, addresses, telephone numbers, and SSNs of the additional executors.				
7a	Name and location of court where the will was probated or estate administered	7b	Case number		
8	If decedent died testate, check here <input type="checkbox"/> and attach a certified copy of the will.			9	If you extended the time to file this Form 706, check here <input type="checkbox"/>
10	If you are filing this Form 706 as a result of a notice to file, check here <input type="checkbox"/>				
1	Total gross estate less exclusion (from Part 5, including capitation, item 13)	1			
2	Tentative total allowable deductions (from Part 5, including capitation, item 24)	2			

- Assessed on value of decedent's holdings
- FMV determined at DOD or AVD (can be elected only if valuation decreases tax liability)
- 2022: \$12.06 million exemption
- Tax rate starts at 18%; rises to 40% on estates over \$1 million
- Form 706 due 9 months after DOD
- Filing can be extended 6 mo.s (Form 4768) but tax liability remains due 9 months after DOD

**Gift Tax****2019**

Part 1 — General Information

1 Donor's first name and middle initial	2 Donor's last name	3 Donor's social security number
4 Address (number, street, and apartment number)		5 Legal residence (domicile)
6 City or town, state or province, country, and ZIP or foreign postal code		7 Citizenship (see instructions)
8 If the donor is not filing this return, check whether <input type="checkbox"/> "Yes" or <input type="checkbox"/> "No" skip line 11b	9 If you extended the time to file this Form 709, check here ▶ <input type="checkbox"/>	
10 Enter the total number of donees listed on Schedule A. Count each person only once ▶		
11a Have you (the donor) previously filed a Form 709 (or 709-A) for any other year? If "No," skip line 11b		
11b <b>Annual exclusion (\$16K) &amp; lifetime exemption (\$12.06 million)</b>		
12 Gifts by husband or wife to third parties. Do you consent to have gifts (including generation-skipping transfers) made by you and by your spouse to third parties during the calendar year considered as made one-half by each of you? (See instructions.) If the answer is "Yes," the following information must be furnished and your spouse must sign the consent		
13 <b>Gift-splitting allows married couple to treat gift made by one spouse as though made by both</b>	14 SSN	
15 Were you married to one another during the entire calendar year? See instructions		
16 If line 15 is "No," check whether <input type="checkbox"/> married <input type="checkbox"/> divorced <input type="checkbox"/> widowed/deceased, and give date. See instructions ▶		
17 <b>Gift tax is cumulative – tax on each successive gift is computed on total value of all gifts made</b>		
18 Consent to spouse, present or future, to treat gifts made by you and by your spouse to third parties during the calendar year as made one-half by each of you. This consent is irrevocable and applies to all gifts made by you or your spouse during the calendar year of the joint and several liability for tax created by the execution of this consent.		
Consenting spouse's signature ▶		Date ▶
19 Have you applied a DCLIF amount received from a predecessor spouse to a gift or gifts reported on this or a previous Form 709?		

- Form 709 due 4/15 after year of gift; filing can be extended 6 mo.s (Form 4868)

# Inheritance Tax

- Legacy or Succession Tax charged to heir
- Assessed by state in which decedent was domiciled (not resident)
- State may assess Pick-up Tax instead (calculated as percentage of federal tax liability)

**NOTE:** Since federal credit for state tax repealed in 2004, many states no longer assess pick-up tax



# Generation-Skipping Tax

- Assessed on value of property transferred to skip person ( $\geq 2$  generations below transferor )
- 2022: \$12.06 million exemption (not portable)
- Reported on Form 709 if made during lifetime; Form 706 if made at death
- Rate = top estate tax rate (40%), not graduated



**NOTE:** GST often exceeds estate tax that would have been computed at graduated rates if property had been transferred & taxed at each generation

# Income Tax

**Filing Status**  Single  Married filing jointly  Head of household (HOH)  Qualifying widow(er) (QW)

Check only one box.  
 If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶

Your first name and middle initial: \_\_\_\_\_ Last name: \_\_\_\_\_ Your social security number: \_\_\_\_\_

• Report income attributable to decedent on Form 1040; income attributable to estate on Form 1041.

Home address: \_\_\_\_\_ Apt. no.: \_\_\_\_\_ Presidential Election Campaign  
 Check here if you, or your spouse if filing jointly, want \$3 to go to this fund.  
 City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).  
 Checking a box below will not change your tax or refund.  You  Spouse

Foreign country name: \_\_\_\_\_ Foreign province/state/country: \_\_\_\_\_ Foreign postal code: \_\_\_\_\_  
 If more than four dependents, list them on a separate sheet and ✓ here ▶

• Marginal tax rates for estate are comparable to those for individual taxpayers, but effective tax rate is higher since brackets are narrower

**Standard Deduction**  You as a dependent  Spouse itemizes on a separate return or you were a guardian of the property

**Age/Blindness**  Are blind  Was born before January 2, 1955  Is blind

**Dependents (see instructions):**

(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) ✓ if qualifies for (see instructions):
				Child tax credit <input type="checkbox"/> Credit for other dependents <input type="checkbox"/>

TY'22	10%	12%	22%	24%	32%	35%	37%
Single	<10,275	<41,775	<89,075	<170,050	<215,950	<539,900	>539,900
Married Joint	<20,550	<83,550	<178,150	<340,100	<431,900	>647,850	>647,850
Estates/Trusts	<2,750	N/A	N/A	<9,850	N/A	<13,450	>13,450





# Polling Question # 1

Wealth taxes include all of the following except:

- Estate Tax
- Gift Tax
- Income Tax
- Generation-Skipping Tax

***When a man on his deathbed was asked what he wanted done with his ashes after being cremated, he answered:***

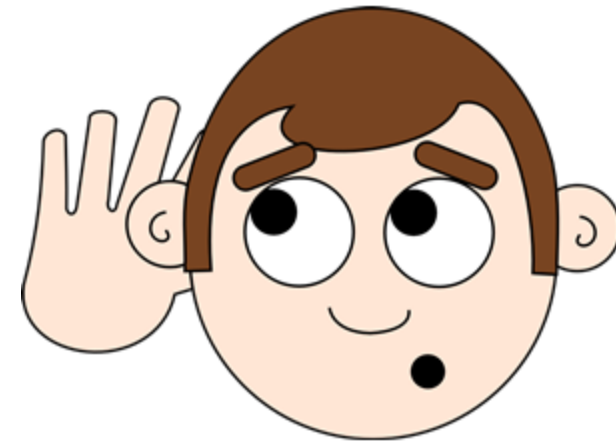
***Just put them in an envelope and mail them to the IRS. Make sure to write on the envelope, 'Now you have everything!'***

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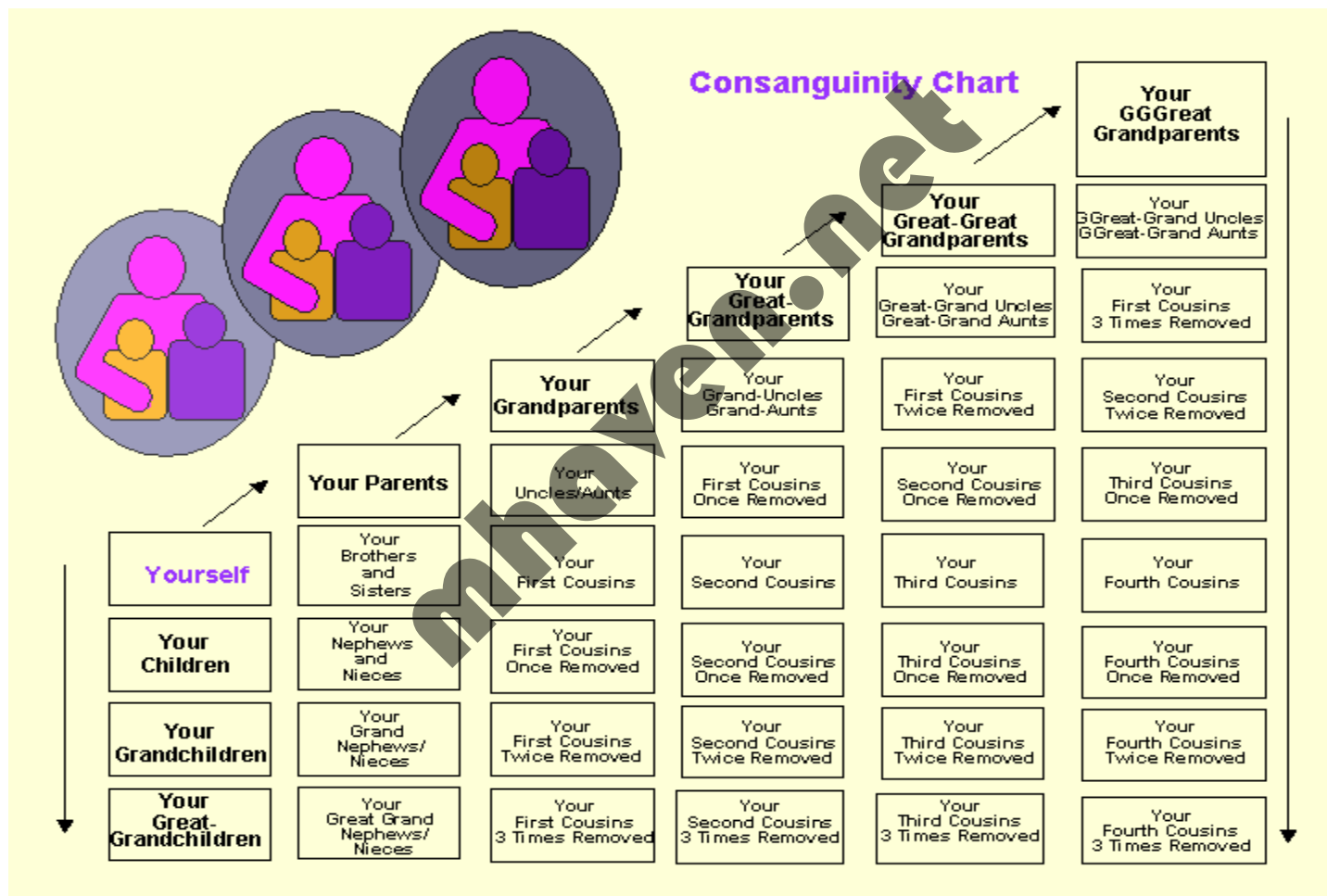


# What did he say?

- Decedent can speak from the grave via
  - Will (must be probated)
  - Trust (must be funded)
- Or, not at all
  - Intestate (local statutes govern)



# Ranking Heirs

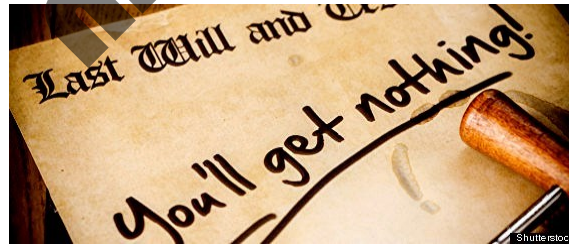


# Last Testament (Will)

- Can be used to name:
  - Heirs (but not contrary to local law)
  - Guardian (care of minor children) & Conservator (incapacity)
  - Executor to carry out wishes diligently
- Must be probated (time-consuming & costly, but provides supervision & validation)
- Cannot dispose of non-probate property (e.g., joint assets & retirement accounts)
- Cannot self-update

***An elderly man was fitted for a set of hearing aids that allowed him to hear perfectly for the first time in years. On a return visit, his doctor commented "Your hearing is terrific. Your family must be really pleased that you can hear again."***

***The old man replied, "Oh, I haven't told my family yet. I just sit around and listen to the conversations. I've changed my will three times!"***



# Trusts: Basic Format

- Creation of new entity
- Ownership is divided between:
  - Legal title (vested in trustee)
  - Beneficial interest (managed by trustee on behalf of beneficiary)
- Revocable or irrevocable
- Grantor or third party (e.g., Special Needs Trust)



# Grantor Trust

- Other names: Family, Living or inter vivos
- Revocable (changeable) during lifetime; becomes irrevocable at death
- Grantor is also trustee; but names successor to manage assets if grantor cannot act due to incapacitation or death
- Avoids probate (if fully funded); but assets are counted in decedent's gross estate (Form 706 due?)
- Omitted assets subject to pour-over will (must be probated)





# Trusts: EIN

- New EIN required for every trust
  - EXCEPT** Grantor trust while grantor is also trustee; income attributed to grantor's SSN
- Request EIN for grantor trust *as soon as* successor trustee assumes duties (at incapacity or death) → Form 1041 required
  - If grantor alive, complete only basic id info on Page 1 & attach statement that all reportable tax items will be included on grantor's Form 1040
  - If grantor deceased, complete Form 1041 in its entirety

A large, 3D, red and white graphic of the word "OOPS!" with a shadow underneath, positioned in the top left corner of the slide.

# EIN Errors

- Grantor/Trustee erroneously applies for EIN at the time that grantor trust is established & provides EIN to payers
  - Either request corrected 1099s from payers [ha!], or
  - File 1041 with attribution statement attached
- Grantor dies; successor trustee does not timely provide payers with new EIN; all income is attributed to grantor's SSN
  - File 1040 with all 1099 income included; then subtract nominee distributions
  - Issue 1099s to trustee; report nominee distributions on 1041



## Polling Question # 2

A grantor trust should always be identified with an:

- EIN
- SSN
- Neither

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# Marital Estate Planning

- Grantor trusts serve to avoid probate but do not minimize taxes for unmarried grantors
- Spouses can draft living trust to take advantage of:
  - Unlimited marital deduction (assets can pass tax-free between citizen spouses), and
  - Lifetime exclusion

# A-B Trusts

- When 1<sup>st</sup> spouse dies, fund:
    - B-Trust (a.k.a. Credit Shelter, Bypass or Family) with assets equal to decedent's available exclusion
    - A-Trust (a.k.a. Survivor's, Marital or QTIP) with all remaining assets
  - "A" = above ground; "B" = below ground
  - Assets in B-Trust are permanently sheltered from estate taxation; assets in A-Trust will be subject to estate when 2<sup>nd</sup> spouse dies
- NOTE 1:** Fund B-Trust with appreciating assets
- NOTE 2:** Ask attorney to interpret trust document and provide funding instructions *in writing*

# Qlfd. Domestic Trust

- No unlimited marital deduction if non-citizen spouse *unless* decedent's assets are transferred into a trust
- Must make irrevocable QDOT election on Form 706
- Can defer estate tax due upon death of 1<sup>st</sup> spouse until death of surviving non-citizen spouse

***Last night, my wife and I were sitting in the living room and I said to her, “I never want to live in a vegetative state, dependent on some machine and fluids from a bottle. If that ever happens, just pull the plug.”***

***So she got up, unplugged the TV, and threw out my wine.***

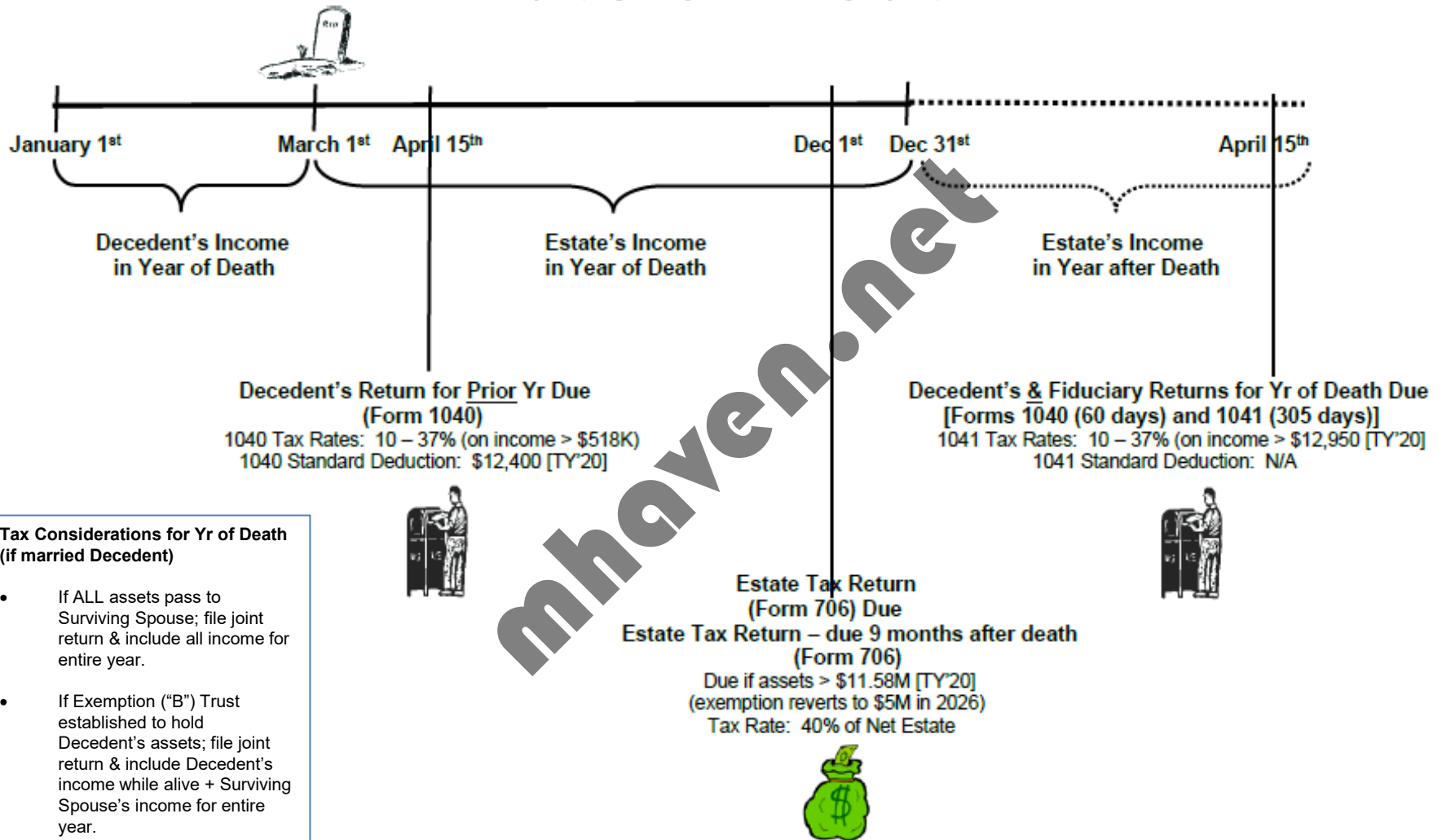


# Decedent

- Residency – based on domicile – determines tax exposure
- US citizens & resident aliens
  - All assets are part of gross estate; all income is taxable
- Non-resident aliens
  - Gross estate includes all tangible & intangible property *in US*
  - Estate tax exclusion is only \$60K (Form 706-NA)
  - Deduction for administration expenses limited to ratio of US to worldwide gross estate
  - Subject to gift tax (Form 709) on gifts of cash and US-situated real & tangible personal property (but not intangibles)



# Date of Death





## Polling Question # 3

The decedent's date of death determines the due date for filing:

- Form 706
- Form 1041
- Form 1040

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# Fiduciary

- Personal Representative who must act on behalf of another
  - Executor: Named in will to manage “estate”
  - Administrator: Court-appointed to manage “estate”
  - Trustee: Named in governing instrument to manage “trust”
  - Guardian: Charged with care of a minor
  - Conservator: Court-appointed to manage affairs of *living* person
  - Custodian: Must safe-guard assets
- Duty of Loyalty – avoid conflicts of interest & self-dealing
- Duty of Care – act prudently & cannot delegate fundamental responsibilities

# Fiduciary Duties

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- Carry out burial or cremation arrangements
  - Notify friends and relatives
  - Post an announcement in the obituary section of the local paper *[optional]*
  - Select a charity to enable contributions to be made in memory of the decedent
- Request certified Death Certificates *[suggested amount: 10]*
  - Contact County Department of Health Services *[call (562) 462-2137 or [recorder@rrcc.lacounty.gov](mailto:recorder@rrcc.lacounty.gov)]*
- Locate will & codicils or trust document
  - Inventory all personal and financial assets *[use Estate Inventory Worksheet]*
  - Determine the value of these assets at the date of death *[obtain requisite appraisals]*
  - Identify which assets are held in the name of the decedent only, held jointly or in community property, or held in the name of a trust
  - Separate assets into probate and non-probate assets *[use Estate Inventory Worksheet]*
- Apply for Employer Identification Number (EIN) *[Submit Form SS-4 to IRS or online at [www.irs.gov](http://www.irs.gov)]*
  - Notify IRS of fiduciary relationship of executor/administrator
- Open estate checking account and transfer assets to cover expenses – provide EIN to bank
- Contact accountant and other financial advisors to decedent – provide Death Certificate
  - Notify financial institutions of death – provide EIN and Letters Testamentary, if requested
  - Request basis adjustment for value of assets on date of death
  - Request that Form 1099s be issued to the decedent for income received through the date of death and to the estate for income received after the date of death

# Fiduciary Duties (cont'd.)

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- Contact attorney – obtain controlling estate planning documents (e.g., trust or will)
  - Open Probate within 30 days after date of death, if needed
  - Contact local County Superior Court [*In Los Angeles, call (213) 830-0850 or <http://www.lacourt.org/division/efiling/efiling2.aspx#probate>*]
  - Receive Letters Testamentary or Letters of Administration
  - Discuss use of Spousal Disclaimer, if applicable
- Notify Social Security Administration at (800) 772-1213 – provide Death Certificate
- Make claims for insurance benefits – provide Death Certificate
- Check with State Controller if decedent had any unclaimed property (in California, call (916) 464-0641 or <https://ucpi.sco.ca.gov/UCP/Default.aspx>)
- Manage property during probate period [*Use Reconciliation of Income Worksheet*]
  - Publish Notice of Petition to Administer Estate
  - List decedent's liabilities as of the date of death and notify creditors
  - Pay all administrative expenses and collect income due to the estate or decedent
  - File Estate Tax Return, if assets in excess of Lifetime Exclusion or to claim DSUE, if applicable
  - File income tax returns for decedent and fiduciary as they become due [*see Checklist of Forms and Due Dates*]
  - Make required estimated payments for both the decedent and the estate
  - Settle claims against the state after the probate creditor period expires
  - Pay any gifts or charitable contributions specified by the will or trust
  - Distribute assets with uncontested beneficiary designations (e.g., IRAs, TOD & JTWROS accounts)
- Close the estate after final payment of any tax liability and other expenses
  - Account to and distribute the remaining assets to the heirs and beneficiaries
  - Use Form 56 to notify IRS that the fiduciary relationship is now terminated

# Ancillary Proceedings

- If decedent owned out-of-state property
- Based on applicable state law: May be required to use *resident* representative
- Both domiciliary and ancillary reps will have to file Form 1041
  - Domiciliary reports *all* income & expenses
  - Ancillary reports *apportioned* income & expenses



# Notifying the IRS

## Part I Identification

Name of person for whom you are acting (as shown on the tax return) Identifying number Decedent's social security no.

Address of person for whom you are acting (number, street, and room or suite no.)

- Use Form 56 at start and end of relationship

City or town, state, and ZIP code

- File with Service Center where decedent would file returns

Fiduciary's name

Address of fiduciary (number, street, and room or suite no.)

- All powers of attorney are voided at death

City or town, state, and ZIP code Telephone number (optional)  
( )

- Form 2848

## Section A. Authority

- State forms

- 1 Authority for fiduciary relationship. Check applicable:
- a  Court appointment or testate estate (valid if will exists)
  - b  Court appointment of intestate estate (no valid will exists)
  - c  Court appointment as guardian or conservator
  - d  Fiduciary of intestate estate
  - e  Valid trust instrument and amendments
  - f  Bankruptcy or assignment for the benefit of creditors
  - g  Other. Describe ►
- Blue-back documents drafted by attorney

# Beneficiary

- Non-resident Alien (NRA): Form 1041 must be filed even if no filing requirement otherwise
- Out-of-State: Non-resident state cannot tax trust unless beneficiary receives distributions or has control of assets
  - But apportionment of income may be okay based on residency of beneficiary & trustee







## Polling Question # 4

Form 2848 may be used in lieu of Form 56 to notify the IRS of the executor's fiduciary relationship:

- True
- False

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# The Fiduciary Return (Form 1041)

A Check all that apply:

- Decedent's estate
- Simple trust
- Complex trust
- Qualified disability trust
- ESBT (S corporation)
- Grantor type trust
- Bankruptcy estate—Ch. 7
- Bankruptcy estate—Ch. 11
- Pooled income fund

For calendar year 2019 or fiscal year beginning 2019 and ending , 20

Name of estate or trust (or grantor (S corporation))

Name and title of fiduciary

C Employer identification number

D Date entity created

- Must file if gross income > \$600 (estate) or *any* taxable income (trust)

City or town, state or province, country, and ZIP or foreign postal code

Described in sec. 4947(a)(1). Check here if not a private foundation

Described in sec. 4947(a)(2)

B Number of schedules attached (see instructions) ▶

- Trusts must use calendar yr (due 4/15); estates may use fiscal yr

Change in trust's name  Change in fiduciary's name  Change in fiduciary's address

G Check here if the estate or filing trust made a section 645 election  Trust TIN ▶

Income	1	Interest income	1
	2a	Total ordinary dividends	2a
	b	Qualified dividends allocable to: (1) Beneficiaries (2) Estate or trust	
	3	Business income or (loss). Attach Schedule C (Form 1040 or 1040-SR)	3
	4	Capital gain or (loss). Attach Schedule D (Form 1040 or 1040-SR)	
	5	Rents, royalties, partnerships, estates, trusts, S corporations, and REMICs. Attach Schedule E (Form 1040 or 1040-SR)	5
	6	Farm income or (loss). Attach Schedule F (Form 1040 or 1040-SR)	6
	7	Ordinary gain or (loss). Attach Form 707	7
	8	Other income. List type and amount	8
9	Total income (loss) from lines 1, 2a, and 3 through 8	9	

- 5½-month extension available (Form 7004) – due 9/30

- No estimated tax payments due for 1<sup>st</sup> 2 years after DOD (estate) or when tax liability < \$1,000 (trust)

## Exemptions

- Estate: \$600
- Simple Trust: \$300 [req'd to distribute all income currently]
- Complex Trust: \$100 [all other trusts]

# §645 Election

## Part I Estate (or Filing Trust) Information

Name of estate (or the filing trust, if applicable (see instructions))

- Trustee may elect to treat trust as part of decedent's estate

Employer identification number

Name of executor (or trustee, if applicable) – File Form 8855 by due date (+ extensions) of estate's 1<sup>st</sup> year return (even if estate has no filing requirement)

– Election period begins on DOD; ends when trust is terminated (all assets distributed)

 Domestic estate trust  
 Foreign estate trust

Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address)

City or town, state, and ZIP code (if a foreign address, see instructions)

Date of executor's appointment

- Must be a Qualified Revocable Trust (QRT) – a grantor trust that becomes irrevocable at death
- File combined return under EIN of estate
  - Unless no probate estate; then file under EIN for trust but use estate rules





# Benefits of §645 Election

- File only one return (rather than two)
- Apply more liberal rules for estate:
  - File using fiscal year; trustee may even wind up affairs before 1<sup>st</sup> return would be due (!)
  - Passive losses
  - S-Corp stock may be held through entire administration period (estate); trusts may only hold such stock for 2 years from DOD
  - Charitable distributions may be deferred since estate may claim deduction for amounts set aside but not yet paid
  - Estates may use higher exemption amount
  - No ES taxes due during 1<sup>st</sup> 2 years
- Net income and expenses from trust against estate
- Taxes attributable to distributions may be deferred



# Disadvantages of §645 Election

- Election is irrevocable
- Cannot separate trust from estate once elected
- Payers report on calendar-year basis; trustee will have to apportion income for fiscal year
- Election is valid for only 2 years; if trust administration not yet completed, income distributions will be pushed onto final 1041 potentially resulting in higher tax for beneficiary
  - Trust reverts to calendar-year filing
  - Short-year returns (2) would be required
  - Beneficiaries would receive 2 K-1s

# EXAMPLE: §645 Election

- *Trustee assessed penalties & interest for late payment of tax*
  - *DOD: June 4, 20XX*
  - *Calendar year-end: December 31, 20XX*
  - *Due date: April 15, 20YY*
  - *Extension for filing (not payment): September 15, 20YY*
  - *Date of payment: August 1, 20YY*
- *Excuses but not “reasonable cause”*
  - *Administration was more complex than anticipated*
  - *Difficult to locate assets*
  - *Tax liability uncovered late in administration period*
- *If election...*
  - *Fiscal year-end: May 31, 20YY*
  - *Due date: September 15, 20YY [5 extra months!!!]*

## TAX PENALTY FOR FILING LATE

The penalty is 5% of the amount of unpaid tax per month (or partial month) the return is late, up to a maximum of 25%.





# Polling Question # 5

The IRC §645 Election is revocable.

- Yes
- No

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# Gross Income

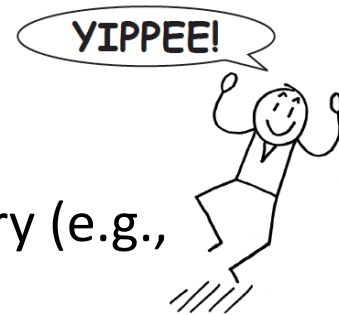
- Amounts earned by trust (estate); reported as on Form 1040

## Example

*Tax practitioner died. Fiduciary continued to run business during period of estate administration.*

→ Report on Form 1041, Schedule C but no SE Tax due!

- Does not include income that passes directly to beneficiary (e.g., retirement account distributions)
- Reporting period: DoD until all assets distributed (termination)





# Capital Transactions

Check box if this is a supplemental filing

- Report on Schedule D

## Part I Decedent and Executor Information

1 Decedent's name	2 Decedent's date of death	3 Decedent's SSN
4 Executor's name (see instructions)	5 Executor's phone no.	6 Executor's TIN
7 Executor's address (number and street including apartment or suite no.; city, town, or post office; state or province; country; and ZIP or foreign postal code)		
8 If there are multiple executors, check here <input type="checkbox"/> and attach a statement showing the names, addresses, telephone numbers, and TINs of the additional executors.		

- Basis = Value as reported on Form 706 or FMV on DOD if no estate tax return filed
- Must provide Form 8971, Schedule A to beneficiaries
- Holding period on assets acquired from decedent always LT
- Capital Gains are allocated to fiduciary unless (1) distributed to beneficiary, or (2) used to make charitable contribution, or (3) based on governing instrument or applicable law
- 9 If the estate elected alternate valuation, indicate the alternate valuation date: \_\_\_\_\_
- Capital losses may only be allocated to fiduciary
  - May deduct \$3K against ordinary income & then carry forward
  - Unused losses may be passed through to beneficiaries in year of termination
- IRC §643(e)(3) Election
  - Fiduciary can choose to recognize gain on distribution of non-cash property and give basis step-up to beneficiary

# Sale of Home

## Example 1

- Decedent's personal residence was appraised at \$1 million on DOD
- Sold by fiduciary 1 year later for \$900K

→ Loss is not deductible since sale of personal property

**NOTE:** IRS generally accepts that sales price of property sold within 9 months after DOD equals FMV at death

## Example 2

- Same facts except sale of rental property held by decedent
- Continued to be rented by fiduciary prior to sale

→ Loss is deductible

- Subject to \$25K passive loss limitation (estate)
- Not subject to \$25K limitation but loss can only be used to offset passive gains (trust)



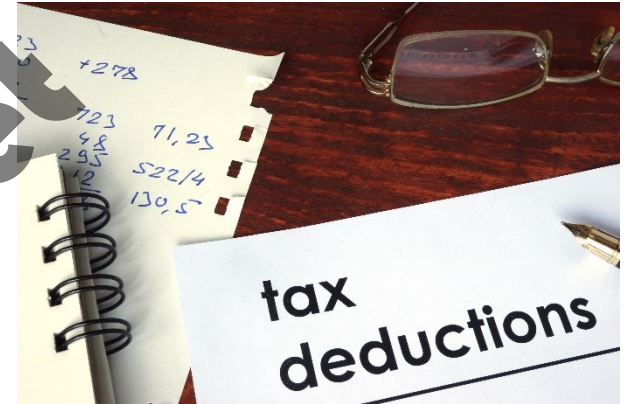


# Related Party Transactions

- Parties can include:
  - Trustee & grantor
  - Trustee (executor) & beneficiary of same trust or different trusts created by same grantor
  - Trustees of different trusts created by same grantor
  - Trustee & corporation owned by trustee or grantor
- Gains are treated as ordinary income
- Losses are not deductible

# Deductions

- Trust (estate) entitled to many of same deductions as individual taxpayer
- Claim on either 1041 or 706 (not both)
- Include:
  - Investment interest
  - Home mortgage interest *if* secured by home owned by trust (estate) & beneficiary with residual interest uses home as 1° or 2° residence
    - NOTE:** Fiduciary is not entitled to §121 Exclusion of Gain
  - State, local & property taxes [subject to SALT limitation]
    - NOTE:** Can deduct RE taxes regardless of beneficiary's residual interest
- Must pro-rate deductible expenses if trust (estate) has tax-exempt inc.



# EXAMPLE: Mortgage Interest

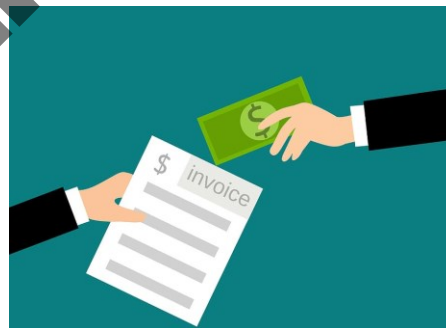
## FACTS:

- *Son was living with Mom when she died*
- *House became part of the probate estate*
- *Estate continued to make Mom's mortgage payments during probate*
- *Son continued to live in the house*
- *Estate will pass to her four children equally under state law because she had no will*

*→ Interest is deductible because Son used House as 1° residence & he is a beneficiary with a residual interest*

# Administration Expenses

- Include legal, accounting, tax prep, investment advisory (*if* more than what individual investor would pay), appraisal, court & trustee fees
- These expenses are unique to trust (estate)
- Fully deductible; not subject to 2% AGI limitation [*not* eliminated by TCJA] (IR 2020-90, proposed, 5/7/20)



# Deductible?

## Facts:

- Decedent's empty home was sold one year after death
  - During that time, fiduciary paid for HO insurance, gardening & utilities
- Deduct as Administration Expense (no 2% AGI limit) or Investment Expense (subject to 2% AGI limit), as applicable
- NOTE:** No deduction if beneficiary moves in (1° residence)

# Depreciation

- Depreciation/depletion must be allocated between trust & income beneficiaries on same basis as accounting income is allocated unless reserve is required and maintained

## Example 1

*Trust instrument requires the following distributions: 30% to Beneficiary #1, 20% to Beneficiary #2, 50% accumulated by fiduciary. Depreciation of \$4,000...*

1,200	<i>Depreciation to Bene 1</i>
800	<i>Depreciation to Bene 2</i>
2,000	<i>Depreciation to Trust</i>

## Example 2

*Trust instrument requires trust to maintain a 75% reserve, which the trustee does. Income, however, is distributed as follows: 30% to Beneficiary #1, 20% to Beneficiary #2, 50% accumulated by fiduciary. Depreciation of \$4,000...*

300	<i>Depreciation to Bene 1</i>
200	<i>Depreciation to Bene 2</i>
3,500	<i>Depreciation to Trust</i>

- Trust (estate) may not claim §179 expenses deduction



# Charitable Deduction

- Deduction allowed only if:
  - Contribution required by governing instrument, and
  - Payment is made from taxable gross income

## Example 1

*Decedent makes specific bequest of XYZ stock to local museum. As per local law, post-death dividends earned must pass beneficiary of bequest. Executor distributes stock and dividends to museum...*

*Gift of stock is not deductible since not required to be paid from gross income; gift of dividends is deductible.*

## Example 2

*Same facts except decedent bequests ABC mutual fund that earned post-death capital gain distributions...*

*Stock is still not deductible, but gift of capital gains is (even if allocated to principal since income reported on Form 1041).*



## Polling Question # 6

Deductible administration expenses that are unique to the estate are not subject to the 2% AGI limitation and remain deductible after TCJA.

- True
- False

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# NOT Deductible

## Facts

*Executor donated decedent's household furnishings to Goodwill and got receipt.*

- *Not deductible on Form 1041 since donation was not mentioned in the will and was not made from taxable income*
- *Deductible on Form 1040, if receipt issued in beneficiary's name*

# Charitable Deduction Rules

Name of trust \_\_\_\_\_  
Employer identification number \_\_\_\_\_  
Name of trustee \_\_\_\_\_

Number of streets \_\_\_\_\_  
City or town, state, and ZIP code \_\_\_\_\_

**Part I** Income (see instructions for details on reporting income from Form 5227.) If total income is \$25,000 or less, skip lines 1–8 and enter total income on line 9.

Income	1	Interest income (attach Form 1099-INT)	2	
	2	Dividends	3	
	3	Business income or (loss) (attach Schedule C or C-EZ (Form 1040))	4	
	4	Capital gain or (loss) (attach Schedule D (Form 1041))	5	
	5	Rents, royalties, partnerships, other estates and trusts, etc. (attach Schedule E (Form 1040))	6	
	6	Farm income or (loss) (attach Schedule F (Form 1040))	7	
	7	Other income (state type of income)	8	
	8	Total income	9	

- §642(c)(1) Election:
  - Trust may elect to report some (all) of current-year charitable contribution on prior-year Form 1041
  - Election must be made by attaching statement to timely filed current-year return
- Reporting requirements for deductions claimed:
  - Form 1041-A must be filed annually by complex trust
  - Form 5227 must be filed by charitable remainder and charitable lead trusts
  - No filings required for estate or simple trust

# Charitable Contributions

	Individuals	Trusts & Estates
Ceiling	50% AGI	Unlimited
Recipient	Qualified Org.	Any charitable purpose
Locale	US only	Worldwide
Deductible Amount	Amount Paid	Amount set aside (if estate)
When deductible?	In year paid	In year paid or prior (if elected)
Source of funds	Any income	Taxable income only
Authorization	n/a	Controlling Instrument

# Accounting Income

- Amount of trust (estate) income that income (not remainder) beneficiary is entitled to receive based on governing instrument or applicable law
- Includes dividends & interest but not capital gains  
**NOTE:** If CGs taxed to trust, then trust's basis increased
- Does not establish taxable income or liability for tax

## Example

*Trust earned \$3,000 interest income & \$2,000 capital gains; paid \$600 fiduciary fees. Trust instrument allocates interest & dividends to "income;" capital gains to "principal"; requires administrative costs to be allocated equally; all income be distributed to income beneficiary.*

*Beneficiary receives \$2,700 (= \$3,000 interest - \$300 trustee fees).*

# Distributable Net Income (DNI)

- DNI is max amount of trust income that can be taxable to beneficiary  
**NOTE:** Any excess distributed is treated as tax-free distribution of principal
- DNI determines max amount of income for which fiduciary can claim Income Distribution Deduction (IDD)  
**NOTE:** Beneficiary is liable for tax on lesser of DNI or actual distribution received
- Beneficiary will receive K-1 and must include DNI or IDD (if lesser) on Form 1040 in the tax year in which trust (estate) year ends

## Example

*Decedent died 2/17/20XX → fiscal year ends 1/31/20YY*

*Estate files 1<sup>st</sup> Form 1041 for TY'XX → issues K-1 to beneficiary on 5/15/YY*

*Beneficiary reports allocated income from TY'XX on Form 1040 for TY'YY*

# DNI Computation

Gross Income (Page 1, Line 9)

- Allowable Expenses (Page 1, Line 16)

= Adjusted Total Income (Page 1, Line 17)

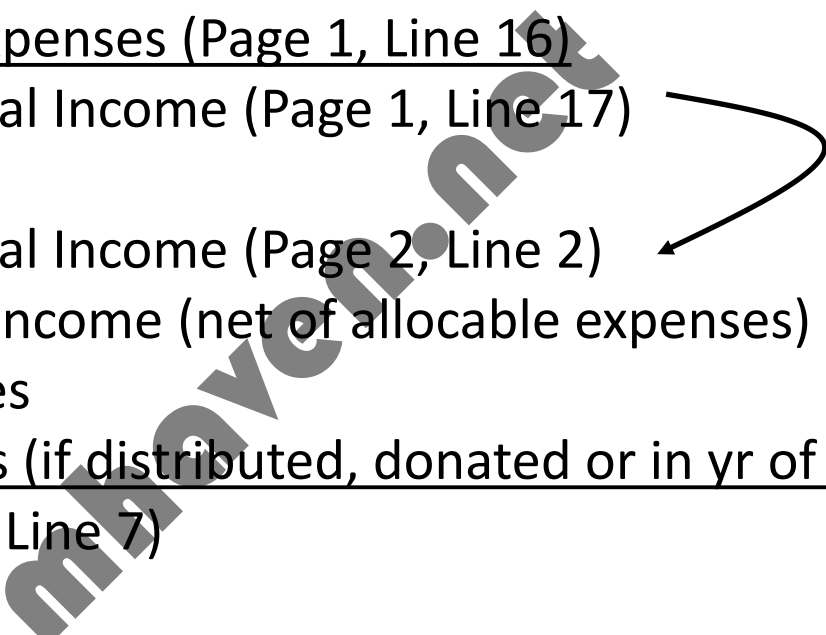
Adjusted Total Income (Page 2, Line 2)

+ Tax-exempt Income (net of allocable expenses)

+ Capital Losses

- Capital Gains (if distributed, donated or in yr of termination)

= DNI (Page 2, Line 7)

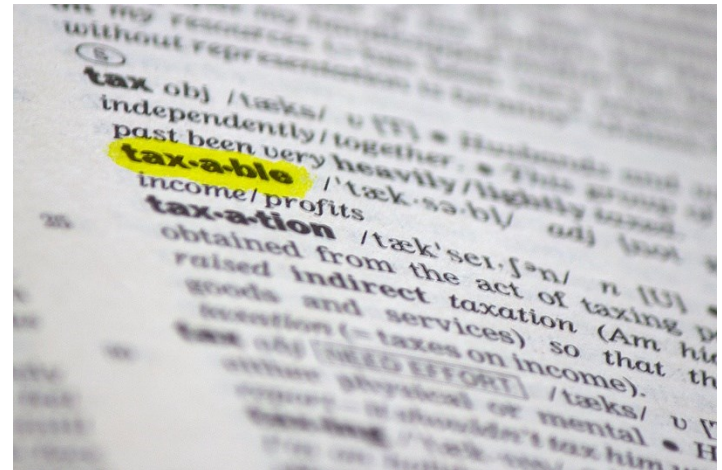


**NOTE:** If CGs are taxed to trust, then trust's basis is increased



# Trust's Taxable Income

- Adjusted Total Income (Page 1, Line 17)
- Inc Distrib Ded (smaller of DNI from Page 2 or actual inc distrb'd)
- Estate Tax Deduction (Page 1, Line 19)
- §199A Qualified Business Income Deduction (Page 1, Line 20)
- Exemption (Page 1, Line 21)
- = Taxable Income (Page 1, Line 23)



**A** Check all that apply:

<input type="checkbox"/> Decedent's estate	For calendar year 2019 or fiscal year beginning , 2019, and ending , 20	<b>C</b> Employer identification number
<input type="checkbox"/> Simple trust	Name of estate or trust (if a grantor type trust, see the instructions.)	<b>D</b> Date entity created
<input type="checkbox"/> Complex trust	Name and title of fiduciary	<b>E</b> Nonexempt charitable and split-interest trusts, check applicable box(es). See instructions.
<input type="checkbox"/> Qualified disability trust	Number, street, and room or suite no. (if a P.O. box, see the instructions.)	<input type="checkbox"/> Described in sec. 4947(a)(1). Check here if not a private foundation . . . ▶ <input type="checkbox"/>
<input type="checkbox"/> ESBT (S portion only)	City or town, state or province, country, and ZIP or foreign postal code	<input type="checkbox"/> Described in sec. 4947(a)(2)
<input type="checkbox"/> Grantor type trust		
<input type="checkbox"/> Bankruptcy estate—Ch. 7		
<input type="checkbox"/> Bankruptcy estate—Ch. 11		
<input type="checkbox"/> Pooled income fund		

**B** Number of Schedules K-1 attached (see instructions) ▶

**F** Check applicable box(es):

<input type="checkbox"/> Initial return	<input type="checkbox"/> Final return	<input type="checkbox"/> Amended return	<input type="checkbox"/> Net operating loss carryback
<input type="checkbox"/> Change in trust's name	<input type="checkbox"/> Change in fiduciary	<input type="checkbox"/> Change in fiduciary's name	<input type="checkbox"/> Change in fiduciary's address

**G** Check here if the estate or filing trust made a section 645 election . . . ▶  Trust TIN ▶

<b>Income</b>	<b>1</b> Interest income . . . . .	<b>1</b>
	<b>2a</b> Total ordinary dividends . . . . .	<b>2a</b>
	<b>b</b> Qualified dividends allocable to: (1) Beneficiaries (2) Estate or trust	
	<b>3</b> Business income or (loss). Attach Schedule C (Form 1040 or 1040-SR)	<b>3</b>
	<b>4</b> Capital gain or (loss). Attach Schedule D (Form 1041)	<b>4</b>
	<b>5</b> Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040 or 1040-SR)	<b>5</b>
	<b>6</b> Farm income or (loss). Attach Schedule F (Form 1040 or 1040-SR)	<b>6</b>
	<b>7</b> Ordinary gain or (loss). Attach Form 4797	<b>7</b>
	<b>8</b> Other income. List type and amount	<b>8</b>
<b>9</b> Total income. Combine lines 1, 2a, and 3 through 8	<b>9</b>	
<b>Deductions</b>	<b>10</b> Interest. Check if Form 4952 is attached ▶ <input type="checkbox"/>	<b>10</b>
	<b>11</b> Taxes . . . . .	<b>11</b>
	<b>12</b> Fiduciary fees. If only a portion is deductible under section 67(e), see instructions	<b>12</b>
	<b>13</b> Charitable deduction (from Schedule A, line 7)	<b>13</b>
	<b>14</b> Attorney, accountant, and return preparer fees. If only a portion is deductible under section 67(e), see instructions	<b>14</b>
	<b>15a</b> Other deductions (attach schedule). See instructions for deductions allowable under section 67(e)	<b>15a</b>
	<b>b</b> Net operating loss deduction. See instructions	<b>15b</b>
	<b>16</b> Add lines 10 through 15b	<b>16</b>
	<b>17</b> Adjusted total income or (loss). Subtract line 16 from line 9	<b>17</b>
	<b>18</b> Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)	<b>18</b>
	<b>19</b> Estate tax deduction including certain generation-skipping taxes (attach computation)	<b>19</b>
<b>20</b> Qualified business income deduction. Attach Form 8995 or 8995-A	<b>20</b>	
<b>21</b> Exemption . . . . .	<b>21</b>	
<b>22</b> Add lines 18 through 21	<b>22</b>	
<b>Tax and Payments</b>	<b>23</b> Taxable income. Subtract line 22 from line 17. If a loss, see instructions	<b>23</b>
	<b>24</b> Total tax (from Schedule G, Part I, line 9)	<b>24</b>
	<b>25</b> 2019 net 965 tax liability paid from Form 965-A, Part II, column (k), line 3	<b>25</b>
	<b>26</b> Total payments (from Schedule G, Part II, line 17)	<b>26</b>
	<b>27</b> Estimated tax penalty. See instructions	<b>27</b>
	<b>28</b> Tax due. If line 26 is smaller than the total of lines 24, 25, and 27, enter amount owed	<b>28</b>
	<b>29</b> Overpayment. If line 26 is larger than the total of lines 24, 25, and 27, enter amount overpaid	<b>29</b>
	<b>30</b> Amount of line 29 to be: <b>a</b> Credited to 2020 ▶ <b>b</b> Refunded ▶	<b>30</b>

**Sign Here**

Under penalty of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of fiduciary or officer representing fiduciary	Date	EIN of fiduciary if a financial institution	May the IRS discuss this return with the preparer shown below? See Instr. <input type="checkbox"/> Yes <input type="checkbox"/> No
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**Paid Preparer Use Only**

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name ▶				
Firm's address ▶				
				Firm's EIN ▶
				Phone no. ▶

<b>Schedule A Charitable Deduction.</b> Don't complete for a simple trust or a pooled income fund.	
1	Amounts paid or permanently set aside for charitable purposes from gross income. See instructions
2	Tax-exempt income allocable to charitable contributions. See instructions
3	Subtract line 2 from line 1
4	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes
5	Add lines 3 and 4
6	Section 1202 exclusion allocable to capital gains paid or permanently set aside for charitable purposes. See instructions
7	<b>Charitable deduction.</b> Subtract line 6 from line 5. Enter here and on page 1, line 13

<b>Schedule B Income Distribution Deduction</b>	
1	Adjusted total income. See instructions
2	Adjusted tax-exempt interest
3	Total net gain from Schedule D (Form 1041), line 19, column (1). See instructions
4	Enter amount from Schedule A, line 4 (minus any allocable section 1202 exclusion)
5	Capital gains for the tax year included on Schedule A, line 1. See instructions
6	Enter any gain from page 1, line 4, as a negative number. If page 1, line 4, is a loss, enter the loss as a positive number
7	<b>Distributable net income.</b> Combine lines 1 through 6. If zero or less, enter -0-
8	If a complex trust, enter accounting income for the tax year as determined under the governing instrument and applicable local law
9	Income required to be distributed currently
10	Other amounts paid, credited, or otherwise required to be distributed
11	Total distributions. Add lines 9 and 10. If greater than line 8, see instructions
12	Enter the amount of tax-exempt income included on line 11
13	Tentative income distribution deduction. Subtract line 12 from line 11
14	Tentative income distribution deduction. Subtract line 2 from line 7. If zero or less, enter -0-
15	<b>Income distribution deduction.</b> Enter the smaller of line 13 or line 14 here and on page 1, line 18

**Schedule G Tax Computation and Payments** (see instructions)

<b>Part I - Tax Computation</b>	
<b>1 Tax:</b>	
a	Tax on taxable income. See instructions
b	Tax on lump-sum distributions. Attach Form 4972
c	Alternative minimum tax (from Schedule I (Form 1041), line 54)
d	<b>Total.</b> Add lines 1a through 1c
2a	Foreign tax credit. Attach Form 1116
b	General business credit. Attach Form 3800
c	Credit for prior year minimum tax. Attach Form 8801
d	Bond credits. Attach Form 8912
e	<b>Total credits.</b> Add lines 2a through 2d
3	Subtract line 2e from line 1d. If zero or less, enter -0-
4	Tax on the ESBT portion of the trust (from ESBT Tax Worksheet, line 17). See instructions
5	Net investment income tax from Form 9960, line 21
6	Recapture taxes. Check if from: <input checked="" type="checkbox"/> Form 4255 <input type="checkbox"/> Form 8611
7	Household employment taxes. Attach Schedule H (Form 1040 or 1040-SR)
8	Other taxes and amounts due
9	<b>Total tax.</b> Add lines 3 through 8. Enter here and on page 1, line 24

<b>Part II - Payments</b>	
10	2019 estimated tax payments and amount applied from 2018 return
11	Estimated tax payments allocated to beneficiaries (from Form 1041-T)
12	Subtract line 11 from line 10
13	Tax paid with Form 7004. See instructions
14	Federal income tax withheld. If any is from Form(s) 1099, check here <input type="checkbox"/>
15	2019 net 965 tax liability from Form 965-A, Part I, column (f), line 3
16	Other payments: a Form 2439 ; b Form 4136 ; <b>Total</b>
17	<b>Total payments.</b> Add lines 12 through 15 and 16c. Enter here and on page 1, line 26

<b>Other Information</b>		<b>Yes</b>	<b>No</b>
<b>1</b>	Did the estate or trust receive tax-exempt income? If "Yes," attach a computation of the allocation of expenses. Enter the amount of tax-exempt interest income and exempt-interest dividends . . . ▶ \$ _____		
<b>2</b>	Did the estate or trust receive all or any part of the earnings (salary, wages, and other compensation) of any individual by reason of a contract assignment or similar arrangement? . . .		
<b>3</b>	At any time during calendar year 2019, did the estate or trust have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? See the instructions for exceptions and filing requirements for FinCEN Form 114. If "Yes," enter the name of the foreign country ▶ _____		
<b>4</b>	During the tax year, did the estate or trust receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the estate or trust may have to file Form 3520. See instructions . . .		
<b>5</b>	Did the estate or trust receive, or pay, any qualified residence interest on seller-provided financing? If "Yes," see the instructions for the required attachment . . .		
<b>6</b>	If this is an estate or a complex trust making the section 663(b) election, check here. See instructions . . . ▶ <input type="checkbox"/>		
<b>7</b>	To make a section 643(e)(3) election, attach Schedule D (Form 1041), and check here. See instructions . . . ▶ <input type="checkbox"/>		
<b>8</b>	If the decedent's estate has been open for more than 2 years, attach an explanation for the delay in closing the estate, and check here . . . ▶ <input type="checkbox"/>		
<b>9</b>	Are any present or future trust beneficiaries skip persons? See instructions . . .		
<b>10</b>	Was the trust a specified domestic entity required to file Form 9938 for the tax year (see the instructions for Form 9938)? . . .		
<b>11a</b>	Did the estate or trust distribute S corporation stock for which it made a section 965(j) election? . . .		
<b>b</b>	If "Yes," did each beneficiary enter into an agreement to be liable for the net tax liability? See instructions . . .		
<b>12</b>	Did the estate or trust make a section 965(i) election for S corporation stock held on the last day of the tax year? See instructions . . .		
<b>13</b>	<b>ESBTs only.</b> Does the ESBT have a nonresident alien grantor? If "Yes," see instructions . . .		
<b>14</b>	<b>ESBTs only.</b> Did the S portion of the trust claim a qualified business income deduction? If "Yes," see instructions . . .		

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# Polling Question # 7

All statements about Distributable Net Income (DNI) are true except:

- DNI = maximum trust income taxable to beneficiary.
- DNI = maximum income eligible for Income Distribution Deduction.
- DNI = taxable income included on beneficiary's Form 1040.

# Who pays the tax?



## Facts:

- Trust has \$10K dividends, \$10K LTCGs & \$1,200 fiduciary fees
- Trust is a simple trust required to distribute all income incl. CGs

Trust Inc.  $10,000 + 10,000 - 1,200 = 18,800$

DNI  $18,800$

→ Beneficiary's taxable income = 18,800

→ Trust's taxable inc =  $18,800 - 18,800 = 0$

- If trust is not required to distribute capital gains...

Trust Inc.  $10,000 + 10,000 - 1,200 = 18,800$

DNI  $18,800 - 10,000 = 8,800$

→ Beneficiary's taxable income = 8,800

→ Trust's taxable income =  $18,800 - 8,800 = 10,000$

# Whose income is it?

	Trust's Inc.	DNI	Taxable Inc.
Ordinary Income	✓	✓	✓
Tax-exempt Inc.	x	✓	x
Dividends	✓	✓	✓
Capital Gains	✓	x	✓
Fiduciary Fees	✓	✓	✓
Exemptions	x	x	✓
Inc. Dist. Ded.	x	x	DNI – TE Inc.

# Termination of Trust (Estate)

Decedent's name		Date of death	Social security number
Requester's name		Kind of Tax	
Title		<input type="checkbox"/> Income <input type="checkbox"/> Gift <input type="checkbox"/> Estate	
Number, street, and		Daytime phone number	
City, town, or post office, state, and ZIP code			

- Terminated when all assets have been distributed
  - Can keep nominal amount (in tax-free account) for contingent liabilities
  - Tax liability shifts to beneficiary

Tax Returns for Which Discharge From Personal Liability is Requested

Form Number	Tax Period Ended	SSN/EIN on Return	Name and Address on Return	Service Center Where Filed	Date Filed
•	Fiduciary can file Form 5495 to request discharge of liability				
–	Can attach to Form 706				
–	Must file with Service Center after all other returns have been filed				
–	Shorten SOL from 3 years to 9 months				



# Excess Deductions on Termination

- Fiduciary can pass unused trust (estate) deductions to beneficiary in final year
- Previously treated as Miscellaneous Itemized Deductions (subject to 2% AGI limitation) → available only to beneficiary who filed Schedule A but eliminated by TCJA (2018 – 25)
- Proposed Reg 113295-18 (5/11/20) no longer aggregates & instead categorizes excess deductions on termination into 3 categories:
  1. Capital losses, NOLs, & administrative expenses → may be claimed as adjustment to income on bene's Form 1040 **NOTE:** Bene entitled to customary loss carry-forwards
  2. Deductible state or local taxes → treated as non-miscellaneous itemized deduction on bene's Schedule A
  3. Miscellaneous itemized deductions → currently disallowed as per TCJA

**USE LEFTOVERS**  
... – mark of a Good Cook



## Polling Question # 8

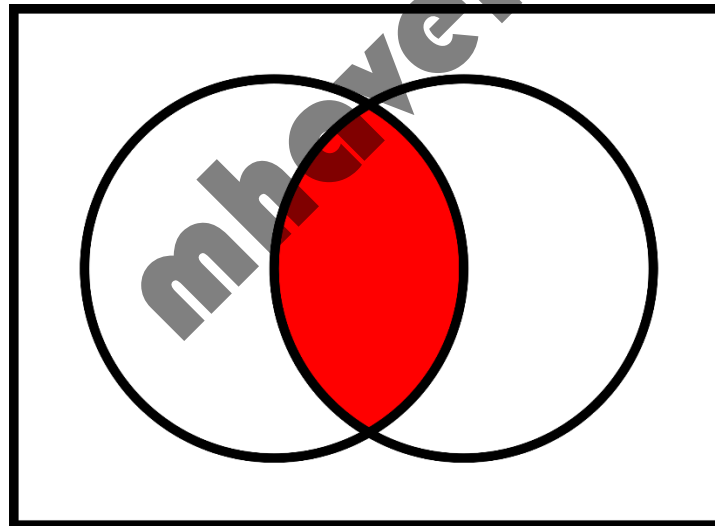
Unused trust deductions may be passed through to the beneficiaries each year.

- Yes
- No

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# Cross-over Items

- Inter-relationship between Form 1041 and Form 706
  - Income-in-Respect-of-Decedent (IRD)
  - Estate Tax Deduction (ETD)



# IRD

- Income earned by decedent *before* death but paid to estate *after* death reportable on Form 1041 (& Form 706)
  - Deferred compensation & bonuses
  - Retirement plan distributions & annuity payments
- Retains same character when reported by estate as it would have if reported by decedent
- May be reduced by Deductions-in-Respect-of-Decedent (DRD)
  - Business expenses (IRC § 162)
  - Interest (IRC § 163)
  - Income and property taxes (IRC § 164), and
  - Expenses for the production of income (IRC § 212)

## Example

- *Decedent died before paying tax preparer for work already performed*
- *Fiduciary pays outstanding invoice*

→ *Expense is deductible on 1041 and claimed on 706 (if filed) as a debt of decedent*

# ETD

- IRD is income but is also deemed to be an asset of the estate (reportable on Form 706)
  - Subject to double taxation



- Estate tax attributable to net IRD is deductible as expense by recipient of IRD distribution
  - Form 1041, Line 19 (if fiduciary)
  - Form 1040, Schedule A, Line 16 (if beneficiary)

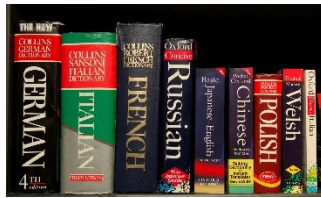
**NOTE:** Miscellaneous expenses was not eliminated by TCJA

- ETD computed by re-calculating 706 twice, once with IRD inclusion and then without

***The only difference between death and taxes  
is that death doesn't get worse  
every time Congress meets.***

***-Will Rogers***





# Glossary

## **Accounting Income**

Includes income and expense items that are used to calculate the amount of income beneficiaries are entitled to receive from the trust each year—items allocated to principal are not used in the calculation.

## **Administrator**

Appointed by a court to manage the assets and liabilities of an intestate decedent.

## **Bypass Trust**

Also known as the Credit-shelter Trust, or B-Trust, its assets are protected from estate taxation by the decedent's applicable exclusion.

## **Complex Trust**

A trust that may (but is not required to) distribute income or principal to its beneficiaries or make charitable contributions.

## **Distributable Net Income (DNI)**

This is maximum amount of trust income that can be taxed to the beneficiary.

## **Estate**

All property—regardless where situated—owned by an individual.

# Glossary (cont'd)

## **Executor**

Named in the decedent's will to manage the estate.

## **Fiduciary**

An individual charged with the responsibility for acting in the best interests of another. Held to the highest standards, the fiduciary is both ethically and legally obligated to discharge his duties in good faith, with diligence and care, and may become liable for any breach.

## **Grantor Trust**

A trust over which the grantor (creator) continues to exercise control or receive beneficial enjoyment.

## **Qualified Domestic Trust (QDOT)**

Trust that can be used to defer the estate tax on assets transferred at death to a non-citizen spouse.

## **Qualified Revocable Trust (QRT)**

An election (IRC §645) to treat trust assets as part of an estate, thereby combining the trust's tax filing requirements with those of the estate.

## **Qualified Terminable Int Property Trust (QTIP)**

This trust allows the grantor to provide for a surviving spouse and still specify how the trust's assets will be distributed once the surviving spouse passes.



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