



PROBATE & ESTATE PLANNING SECTION

Supplemental Attachments for

Friday, November 10, 2023

Meeting of the Council of the Probate and Estate Planning Section

at the University Club of Michigan State University
3435 Forest Rd, Lansing, MI 48910

Or *via* Zoom

**Probate & Estate Planning Section of the
State Bar of Michigan**

You are invited to the November meetings of the Committee on Special Projects (CSP) and
the Council of the Probate & Estate Planning Section:

Friday, November 10, beginning at 9 AM
at the University Club of Michigan State University
3435 Forest Rd, Lansing, MI 48910

Remote participation by Zoom will be available. So, you are also invited . . .

to a Zoom meeting.

When: Nov 10, 2023, 09:00 AM Eastern Time (US and Canada)

Register in advance for this meeting:

https://us02web.zoom.us/meeting/register/tZMrdo-qqTlpHtU38_F3Ehui7vzGoeBqeqww

After registering, you will receive a confirmation email containing information about joining the meeting.

*If you are calling in by phone, email your name and phone number to Angela Hentkowski
ahentkowski@stewardsheridan.com, we will put your name in a zoom user list that
will identify you by name when you call in.*

Please note that the Zoom feature of these meetings entails that they will be recorded.

This will be a regular in person and remote meetings of the Council of the Probate & Estate Planning
Section. The Council meeting will be preceded by a meeting of the Council's Committee on Special Projects
(CSP), which will begin at 9:00 AM. The CSP meeting will end at about 10:15 AM, and the Council meeting
will begin shortly thereafter. The agenda and meeting materials will be posted on the Probate & Estate
Planning Section page of the SBM website. Once those things are posted, you should be able to download
them from: <http://connect.michbar.org/probate/events/schedule>.

Richard C. Mills
Section Secretary

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Supplemental Council Materials

N O V E M B E R 2 0 2 3 T A X N U G G E T

From: Neal Nusholtz

Re: Gifts of QTIP Income Interests in December of 2025

Sec. 2010.UNIFIED CREDIT AGAINST THE ESTATE TAX

2010(a) General Rule.—

A credit of the applicable credit amount shall be allowed to the estate of every decedent against the tax imposed by section 2001.

2010(b) Adjustment to Credit for Certain Gifts Made Before 1977.—

HISTORY NOTES

The amount of the credit allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

2010(c)Applicable Credit Amount.—

HISTORY NOTES

RELATED ITEMS

2010(c)(1)In general.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

2010(c)(2)Applicable exclusion amount.—For purposes of this subsection, the applicable exclusion amount is the sum of—

2010(c)(2)(A) the basic exclusion amount, and

2010(c)(2)(B) in the case of a surviving spouse, the deceased spousal unused exclusion amount.

2010(c)(3)Basic exclusion amount.—

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2010(c)(3)(A) In general.—For purposes of this subsection, the basic exclusion amount is \$5,000,000.

2010(c)(3)(B) Inflation adjustment.—In the case of any decedent dying in a calendar year after 2011, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

2010(c)(3)(B)(i) such dollar amount, multiplied by

2010(c)(3)(B)(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 2010” for “calendar year 2016” in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.

Code Sec. 2010(c)(3)(C), below, as added by P.L. 115-97, applies to estates of decedents dying and gifts made after December 31, 2017, and before January 1, 2026.

2010(c)(3)(C) Increase in basic exclusion amount.—In the case of estates of decedents dying or gifts made after December 31, 2017, and before January 1, 2026, subparagraph (A) shall be applied by substituting “\$10,000,000” for “\$5,000,000”.

Sec. 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES

HISTORY NOTES

RELATED ITEMS

2519(a) General Rule .—

HISTORY NOTES

For purposes of this chapter and chapter 11, any disposition of all or part of a qualifying income interest for life in any property to which this section applies

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shall be treated as a transfer of all interests in such property other than the qualifying income interest.

2519(b)

Property to Which This Subsection Applies .—This section applies to any property if a deduction was allowed with respect to the transfer of such property to the donor—2519(b)(1) under section 2056 by reason of subsection (b)(7) thereof, or Sec. 2044.CERTAIN PROPERTY FOR WHICH MARITAL DEDUCTION WAS PREVIOUSLY ALLOWED

2044(a) General Rule .—The value of the gross estate shall include the value of any property to which this section applies in which the decedent had a qualifying income interest for life.

2044(b) Property to Which This Section Applies .—This section applies to any property if—

2044(b)(1) a deduction was allowed with respect to the transfer of such property to the decedent—

2044(b)(1)(A) under section 2056 by reason of subsection (b)(7) thereof, or

2044(b)(1)(B) under section 2523 by reason of subsection (f) thereof, and

2044(b)(2) section 2519 (relating to dispositions of certain life estates) did not apply with respect to a disposition by the decedent of part or all of such property.

2044(c) Property Treated as Having Passed from Decedent .—

For purposes of this chapter and chapter 13, property includible in the gross estate of the decedent under subsection (a) shall be treated as property passing from the decedent.

25.2511-2(c) A gift is incomplete in every instance in which a donor reserves the power to revest the beneficial title to the property in himself. A gift is also incomplete if and to the extent that a reserved power gives the donor the power to name new beneficiaries or to change the interests of the beneficiaries as between

NOVEMBER 2023 TAX NUGGET

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themselves unless the power is a fiduciary power limited by a fixed or ascertainable standard. Thus, if an estate for life is transferred but, by an exercise of a power, the estate may be terminated or cut down by the donor to one of less value, and without restriction upon the extent to which the estate may be so cut down, the transfer constitutes an incomplete gift. If in this example the power was confined to the right to cut down the estate for life to one for a term of five years, the certainty of an estate for not less than that term results in a gift to that extent complete. (d) A gift is not considered incomplete, however, merely because the donor reserves the power to change the manner or time of enjoyment. Thus, the creation of a trust the income of which is to be paid annually to the donee for a period of years, the corpus being distributable to him at the end of the period, and the power reserved by the donor being limited to a right to require that, instead of the income being so payable, it should be accumulated and distributed with the corpus to the donee at the termination of the period, constitutes a completed gift.