

# 2024 STANLEY M. JOHANSON ESTATE PLANNING WORKSHOP

## LIFETIME PLANNING WITH QTIP TRUSTS

December 6, 2024

*Keri D. Brown – Baker Botts L.L.P.*

CONFIDENTIAL  
© Copyright Baker Botts 2024. All Rights Reserved.



1

## Table of Contents

01

*Estate of Anenberg*

02

*McDougall – Background Facts*

03

*McDougall – Legal Analysis*

04

*Consequences of Estate of Anenberg in  
McDougall*

05

*Addressing Petitioners' Arguments*

06

*Valuation Questions*

07

*Planning Ideas*

08

*To Be Continued...*

BAKER BOTTS

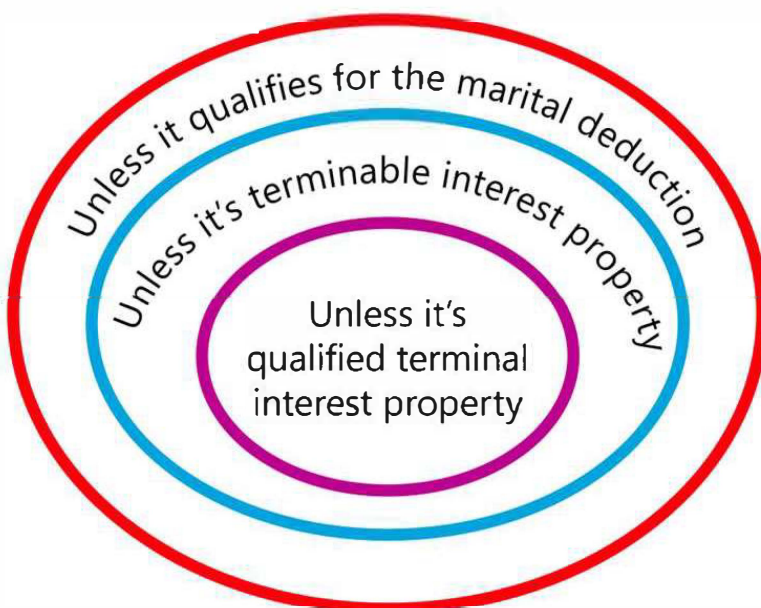
2

**QTIP:  
An Exception...  
within an Exception...  
within an Exception**

BAKER BOTTS

3

**TAX ALL THE THINGS!!!**



4

## Section 2056(b)(7) – QTIP Property

QTIP property qualifies for the marital deduction under § 2056(b)(7) if:

- ✓ The property was includible in the deceased spouse's gross estate and passed from the deceased spouse for the benefit of the surviving spouse;
- ✓ The surviving spouse received a qualifying income interest in the property for her life, as defined under § 2056(b)(7)(B)(ii);
- ✓ No person has the power to appoint any part of the property to anyone other than the surviving spouse; and
- ✓ The executor of deceased spouse's estate elected to treat the property as QTIP property on the federal estate tax return.

Surviving spouse is the "deemed owner" of QTIP for gift and estate tax purposes

QTIP property is subject to estate tax at the death of the surviving spouse under § 2044 or upon the surviving spouse's disposition of the qualifying income interest under § 2519

## Section 2519

### Section 2519:

- (a) General rule. 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 shall be treated as a transfer of all interests in such property other than the qualifying income interest.**
- (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 –
  - (1) under section 2056 by reason of subsection (b)(7) thereof, or
  - (2) under section 2523 by reason of subsection (f) thereof.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Lifetime Planning with QTIP Trusts

Also available as part of the eCourse

[2024 Stanley M. Johanson Estate Planning eConference](#)

First appeared as part of the conference materials for the  
2024 Stanley M. Johanson Estate Planning Workshop session  
"Lifetime Planning with QTIP Trusts"