NOTATIONS FOR FORM 209

This form gives the trust estate to the surviving spouse outright. If the spouse predeceases the settlor, a child’s share can be
- Given to the child outright (see right page main form), or
- Added to the trust that will be created for the child under the predeceased spouse’s estate planning document
  (see left page alternate provision).

This form is designed for a settlor who will execute a will patterned on FORM 110: WILL–Pour-over.

For community property states: This form assumes that the trust estate will consist solely of settlor’s separate property. If the
trust estate will include community property, or if community property will be added to the trust upon the death of the settlor
(e.g., community property life insurance proceeds), use FORM 307: REVOCABLE TRUST AGREEMENT–Community
Property-Outright for Married Settlors.

If the settlor is to be the initial trustee of the trust, (i) use the alternate trustee succession provision on page 201-20 and the
alternate testimonium provision on page 201-36, and (ii) substitute for the first paragraph:

1 I, JOHN DOE, of ________, ________, as settlor, make this agreement with myself, as trustee, this _____ day of
   ___________, 20 ____.

If community property state, substitute for first sentence of second paragraph:

2 I hereby transfer to the trustee the property listed in the attached schedule and am causing the trustee to be designated as beneficiar
   of the life insurance policies described therein, all of which is my separate property.

If the trust will be funded during settlor’s lifetime and is to have sole responsibility for paying settlor’s death taxes and
expenses, (i) revise settlor’s will so his or her estate does not pay those taxes and expenses and (ii) substitute for first paragraph
of SECOND:

3 SECOND: Upon my death the trustee shall make the following payments from the trust estate. The trustee shall pay all expenses
   of my last illness and funeral, costs of administration including ancillary, costs of safeguarding and delivering devises, claims
   allowable against my estate (excluding debts secured by real property or life insurance), and unsatisfied pre–residuary devises under
   my will if my will contains a residuary devise to this trust. The trustee shall also pay all estate and inheritance taxes assessed by reason
   of my death, including such taxes on property passing outside this agreement, except that the amount, if any, by which the estate and
   inheritance taxes shall be increased as a result of the inclusion of property in which I may have a qualifying income interest for life or
   over which I may have a power of appointment shall be paid by the person holding or receiving that property. Such payments, including
   interest and penalties on any tax, shall be charged against principal or income as provided by applicable state law. The trustee may
   make payment directly or to the personal representative of my estate, as the trustee deems advisable. The trustee shall make these
   payments without apportionment or reimbursement.

If it is desired to reserve apportionment rights for death taxes generated not only by marital trusts but also by other property
passing outside the revocable trust, substitute for first paragraph of SECOND:

4 SECOND: Upon my death, if I have no probate estate, or to the extent that the cash and readily marketable assets in the principal
   of the residue of my probate estate are insufficient, the trustee shall make the following payments from the trust estate. The trustee
   shall pay the expenses of my last illness and funeral, costs of administration including ancillary, costs of safeguarding and delivering
   devises, claims allowable against my estate (excluding debts secured by real property or life insurance), and pre–residuary devises
   under my will if my will contains a residuary devise to this trust. Except as hereinafter provided, the trustee shall also pay the estate
   and inheritance taxes and generation-skipping taxes on direct skips which are assessed by reason of my death, including such taxes on
   property passing outside this agreement. Such payments, including interest and penalties on any tax, shall be charged against principal
   or income as provided by applicable state law. The trustee may make payment directly or to the personal representative of my estate,
   as the trustee deems advisable. The trustee shall make these payments without apportionment or reimbursement or charging any direct
   skip property.

   The trustee shall not pay death taxes caused by:

   (a) Property over which I may have a power of appointment,
TRUST AGREEMENT

I, JOHN DOE, of _______, _______, as settlor, make this agreement with NORTHERN TRUST [insert full legal name of applicable NORTHERN TRUST bank throughout the instrument], of _______, _______, as trustee, this _______ day of __________________, 20_____.

I hereby transfer to the trustee the property listed in the attached schedule and am causing the trustee to be designated as beneficiary of the life insurance policies described therein. That property, the proceeds of those policies, all additional property received by the trustee from any person by will or otherwise, and all investments and reinvestments thereof, are herein collectively referred to as the “trust estate” and shall be held upon the following trusts:

FIRST: During my lifetime the trustee shall pay so much or all of the income and principal of the trust estate to me or otherwise as I direct.

If at any time or times I shall be unable to manage my affairs, the trustee may use such sums from the income and principal of the trust estate as the trustee deems necessary or advisable for the health and maintenance in reasonable comfort of myself and any person dependent upon me, or for any other purpose the trustee considers to be for my best interests.

For purposes of this agreement, I shall be considered to be unable to manage my affairs if I am under a legal disability or by reason of illness or mental or physical disability am unable to give prompt and intelligent consideration to financial matters. The determination as to my inability at any time shall be made by ___________ and my physician, or the survivor of them, and the trustee may rely upon written notice of that determination.

Any excess income of the trust shall be added to principal.

SECOND: Upon my death, if I have no probate estate, or to the extent that the cash and readily marketable assets in the principal of the residue of my probate estate are insufficient, the trustee shall make the following payments from the trust estate. The trustee shall pay the expenses of my last illness and funeral, costs of administration including ancillary, costs of safeguarding and delivering devises, claims allowable against my estate (excluding debts secured by real property or life insurance), and pre–residuary devises under my will if my will contains a residuary devise to this trust. The trustee shall also pay the estate and inheritance taxes assessed by reason of my death, including such taxes on property passing outside this agreement, except that the amount, if any, by which the estate and inheritance taxes shall be increased as a result of the inclusion of property in which I may have a qualifying income interest for life or over which I may have a power of appointment shall be paid.
(b) Property in which I may have a qualifying income interest for life, unless for generation-skipping tax purposes the property has an inclusion ratio of zero and is treated as if the qualified terminable interest property election had not been made,

(c) Property constituting a direct skip for generation-skipping tax purposes which is caused by a disclaimer or which is from a trust not created or appointed by me,

(d) ___________________________________________________________________, and

[ List additional property passing outside the instrument against which tax apportionment rights should be asserted. ]

(e) ___________________________________________________________________.

The person holding or receiving the above-described property shall pay, either directly or to the trustee, the amount, if any, by which the death taxes are increased as a result of the taxation of that property. If two or more properties cause an increase in a tax, the increase shall be allocated among the properties in proportion to their respective taxable values.

If there may be after-born children, add to THIRD:

5 I intend by this agreement to provide for all my children, including any hereafter born or adopted.

____________________

If special gifts of money are desired, add the following after THIRD and renumber the succeeding articles:

6 FOURTH: Upon my death the trustee shall distribute from the principal of the trust estate:

(a) $5,000 to my sister, JANE DOE, of __________, _________, if she is then living;

(b) $2,500 to the OLD PEOPLE’S HOME, of __________, _________, if then in existence; and

(c) $5,000 to each of my grandchildren who is then living; if a grandchild is a minor, payment may be made for the benefit of the grandchild to a custodian under a Uniform Transfers or Gifts to Minors Act.

No interest or share of income shall be paid on these distributions. The balance of the trust estate which remains after the foregoing distributions have been made or provided for shall be held and disposed of as hereinafter provided.
by the person holding or receiving that property. Such payments, including interest and penalties on any tax, shall be charged against principal or income as provided by applicable state law. The trustee may make payment directly or to the personal representative of my estate, as the trustee deems advisable. The trustee shall make these payments without apportionment or reimbursement.

Assets or funds otherwise excludable from my gross estate for federal estate tax purposes shall not be used to make the foregoing payments. The trustee’s selection of assets to be sold for that purpose or to satisfy any pecuniary gifts, and the tax effects thereof, shall not be subject to question by any beneficiary.

The trustee shall make such elections and allocations under the tax laws as the trustee deems advisable, without regard to the relative interests of the beneficiaries and without liability to any person. No adjustment shall be made between principal and income or in the relative interests of the beneficiaries to compensate for the effect of elections or allocations under the tax laws made by the personal representative of my estate or by the trustee.

The balance of the trust estate which remains after the foregoing payments have been made or provided for shall be held and disposed of as hereinafter provided.

THIRD: My wife’s name is MARY DOE, and she is herein referred to as “my wife.”
I have three children now living, namely:

JOHN DOE, JR., born ______(date)______;
DOROTHY DOE, born ______(date)______; and
DAVID DOE, born ______(date)______.
In the simultaneous death sentence in SECTION 1 of FOURTH, determine whether husband or wife is the poorer spouse, and provide that such spouse is deemed to have died last. The estate planning documents of husband and wife should each provide that such spouse is deemed to have died last.

If a retained share is of sufficient size to warrant distribution in two stages, substitute for SECTION 2 of FOURTH:

SECTION 2: Each share of the trust estate which is distributable to a beneficiary who has not reached the age of 30 years shall immediately vest in the beneficiary, but the trustee shall retain possession of the share as a separate trust, paying to or for the benefit of the beneficiary so much or all of the income and principal of the share as the trustee deems necessary or advisable from time to time for his or her health, maintenance in reasonable comfort, education (including postgraduate) and best interests, adding to principal any income not so paid (except that after the beneficiary has reached the age of 21 years, the trustee shall pay to him or her all the income from the share in convenient installments, at least quarterly), and distributing 1/2 in value of the principal of the share to the beneficiary when he or she has then reached or at such time thereafter as he or she reaches the age of 25 years and the balance to the beneficiary when he or she reaches the age of 30 years or to the estate of the beneficiary if he or she dies before receiving the share in full.

Addition to Bypass Trust Created by Settlor’s Spouse:

If the spouse predeceases the settlor, the spouse’s estate planning document may establish a bypass trust which will continue for the benefit of children after the death of the settlor. The settlor may desire that if the spouse predeceases the settlor, a child’s share shall not be given to the child outright, but rather shall be added to the bypass trust. If that is desired, insert the following after FOURTH and renumber the succeeding articles of the agreement:

FIFTH: If my wife does not survive me and if under FOURTH of this agreement any share of the trust estate is distributable to a child or other descendant for whom the Bypass Trust or any part thereof is to be held under the trust agreement executed by my wife on ______________, 20 __, before the execution of this agreement, with NORTHERN TRUST, of ___________, __________, as trustee (designated as trust number ___________), then notwithstanding anything in FOURTH I give that share to the then acting trustee under that trust agreement as in effect at my death, to be added to the trust or part to be held for that child or descendant.

or if addition is to bypass trust created under revocable trust agreement with spouse as initial trustee:

FIFTH: If my wife does not survive me and if under FOURTH of this agreement any share of the trust estate is distributable to a child or other descendant for whom the Bypass Trust or any part thereof is to be held under the trust agreement executed by my wife on ______________, 20 __, before the execution of this agreement, with herself as trustee, and under which NORTHERN TRUST, of ___________, __________, is named as successor trustee, then notwithstanding anything in FOURTH I give that share to the then acting trustee under that trust agreement as in effect at my death, to be added to the trust or part to be held for that child or descendant.

or if addition is to bypass trust created under spouse’s will:

FIFTH: If my wife does not survive me and if under FOURTH of this agreement any share of the trust estate is distributable to a child or other descendant for whom the Bypass Trust or any part thereof is to be held in trust under the will executed by my wife on ______________, 20 __, before the execution of this agreement, then notwithstanding anything in FOURTH I give that share to the then acting trustee under my wife’s will, to be added to the trust or part to be held for that child or descendant.
FOURTH: After my death the balance of the trust estate shall be held and disposed of as follows:

SECTION 1: The trustee shall forthwith distribute the balance of the trust estate to my wife if she survives me, otherwise in equal shares to such of my children as shall be living at my death, except that the then living descendants of a deceased child of mine shall take per stirpes the share which the child would have received if living. Distributions under this section shall be subject to postponement of possession as provided below. For purposes of this agreement, my wife shall be deemed to have survived me if the order of our deaths cannot be proved.

SECTION 2: Each share of the trust estate which is distributable to a beneficiary who has not reached the age of 21 years shall immediately vest in the beneficiary, but the trustee shall (a) establish with the share a custodianship for the beneficiary under a Uniform Transfers or Gifts to Minors Act, or (b) retain possession of the share as a separate trust, paying to or for the benefit of the beneficiary so much or all of the income and principal of the share as the trustee deems necessary or advisable from time to time for his or her health, maintenance in reasonable comfort, education (including postgraduate) and best interests, adding to principal any income not so paid, and distributing the share to the beneficiary when he or she reaches the age of 21 years or to the estate of the beneficiary if he or she dies before receiving the share in full.

For ADMINISTRATIVE PROVISIONS, TRUSTEE POWERS, ADDITIONS, RIGHT TO REVOKE, GOVERNING LAW, TESTIMONIUM, ATTESTATION and ACKNOWLEDGMENT, refer to FORM 201: REVOCABLE TRUST AGREEMENT-One Settlor-Fractional Share Marital.