DISCUSSION OUTLINE - IMPACT OF PORTABILITY AND INCREASED FET EXEMPTION
Philadelphia Probate & Trust Section Tax Committee
March 25, 2014 Meeting

1. Portability as safety net or planning tool?

2. IRA beneficiary planning (SS vs. Bypass Trust).

3. 100% Marital Deduction Plan (in part to allow 100% step-up on SS’s death).
   a. Beware - QTIP Trust must pay own tax even if portability elected (unless there is agreement w/ SS to apply exemption).
   b. Remarriage of SS terminates benefits.
   c. State estate tax considerations (i.e., NJ).
   d. Risk losing use of first spouse’s GST exemption (unless have reverse QTIP election).
   e. Arbitrage of capital gains tax savings from step-up vs. exposure to FET on appreciation. (Part of risk is that portion of gains may be realized and taxed during SS’s lifetime.)

4. Independent Executor/Trustee to make QTIP & Portability election.

5. Portability election extension until the end of 2014 for prior year deaths.

6. Experience w/ clients making portability election (CYA if no election?)

7. Experience w/ clients making gifts of DSUE amount from first spouse to die?

8. Trusts on first spouse’s death for clients w/ assets under $10M?
   a. Disclaimer Trusts, Classic A/B Trust structure, Single QTIP Trust?
   b. Single family unit vs. blended family.
   c. Risk of potential reduced exemptions.
   d. Risk of appreciation of assets or unexpected wealth.
   e. Risk of remarriage & no prenup (or dissipation of assets despite prenup.)
   f. Creditor protection considerations.