

# Instructions for REV-1649 Schedule O

## Deferral / Election of Spousal Trusts

REV-1649 EX+ (02-16)

### GENERAL INFORMATION

#### PURPOSE OF SCHEDULE

Use REV-1649 Schedule O to report all sole use trusts.

### FORM INSTRUCTIONS

#### Estate of

Enter the complete name of the estate as shown on REV-1500, Pennsylvania Inheritance Tax Return.

#### File Number

Enter the file number of the estate assigned by the Register of Wills as shown on REV-1500, Pennsylvania Inheritance Tax Return.

### GENERAL INSTRUCTIONS

#### Part A Deferring Statement

If the estate is choosing to defer the tax on the trust, the check box must be marked indicating they have read the statement and acknowledge the department's Statement of Policy set forth at 61 PA Code Ch. 94 § 94.3.

Section 9113(a) of the Inheritance & Estate Tax Act of 1991, as amended by Act 23 of 2000 provides for the inclusion of a trust or similar arrangement that benefits only the surviving spouse during the spouse's entire lifetime as a taxable transfer in the estate of the surviving spouse and not as a taxable transfer in the transferor's, or first decedent spouse's, estate. The tax on a qualified trust or life estate arrangement is not due until the death of the second spouse, at which time it becomes fully taxable in his or her estate at the rate(s) applicable to the remainder beneficiary(ies) as of the surviving spouse's date of death or the

original testator's date of death, whichever is less.

Section 9113(a) benefits the surviving spouse because the payment of tax on the decedent's assets is postponed until the death of the surviving spouse. In situations where the surviving spouse must rely on the trust assets for maintenance income, the trust assets are not depleted by the payment of tax. Instead the assets are preserved in order to provide the maximum income, and principal should an invasion of the principal, if the instrument so authorizes, become necessary for the surviving spouse's benefit. Similarly, when the trust assets are comprised of real property and limited cash assets, the tax does not impose a burden which would necessitate the sale of the real property, which is often the residence of the surviving spouse.

#### Part B Election to Tax Amounts

If the estate is electing to pay the tax on the sole use trust, the check box must be marked indicating this election.

The estate can elect to include such a trust, or similar arrangement, or portion thereof, as a taxable transfer in the transferor's, or first decedent spouse's estate. The election to tax in the estate of the first decedent spouse can be advantageous for tax purposes if there are sufficient cash assets to pay the tax without imposing a burden on the surviving spouse. Although there are numerous considerations, including estate tax consequences, it may be advantageous to make the election to tax in the first estate since the value of the surviving spouse's interest in the trust or similar arrangement is subject to tax at the spousal rate of zero percent.

 **TIP** REV-1514, Schedule K and REV-1647, Schedule M can be used to determine the value of the surviving spouse's interest.

The trust or similar arrangement for which an election to tax is being made must be clearly identified. The name of the trust, or the paragraph or item number of the instrument in which its terms are set forth should be entered on Schedule O, Part B.

 **IMPORTANT:** Values reported on this schedule must be consistent with REV-1514, Schedule K and/or REV-1647, Schedule M.

#### Description

The value of all assets should be the fair market value on the date of the decedent's death net of any deductions allocable against the interests passing to the trust or similar arrangement.

Report the value of a trust or similar arrangement that passes to the surviving spouse for the spouse's sole use during his or her entire lifetime for which a Section 9113(a) election is made. The value as calculated on REV-1514, Schedule K and REV-1647, Schedule M, net of any deductions allocable to the surviving spouse's interest, should be listed. If the election is made for more than one trust, please specifically identify the individual trusts.

#### Total

Total all items and enter value here. Enter the value on Line 13, Page 2 of REV-1500.

 **NOTE:** If you are completing this schedule, fill in oval "Deferral/Election of Spousal Trusts" on REV-1500.