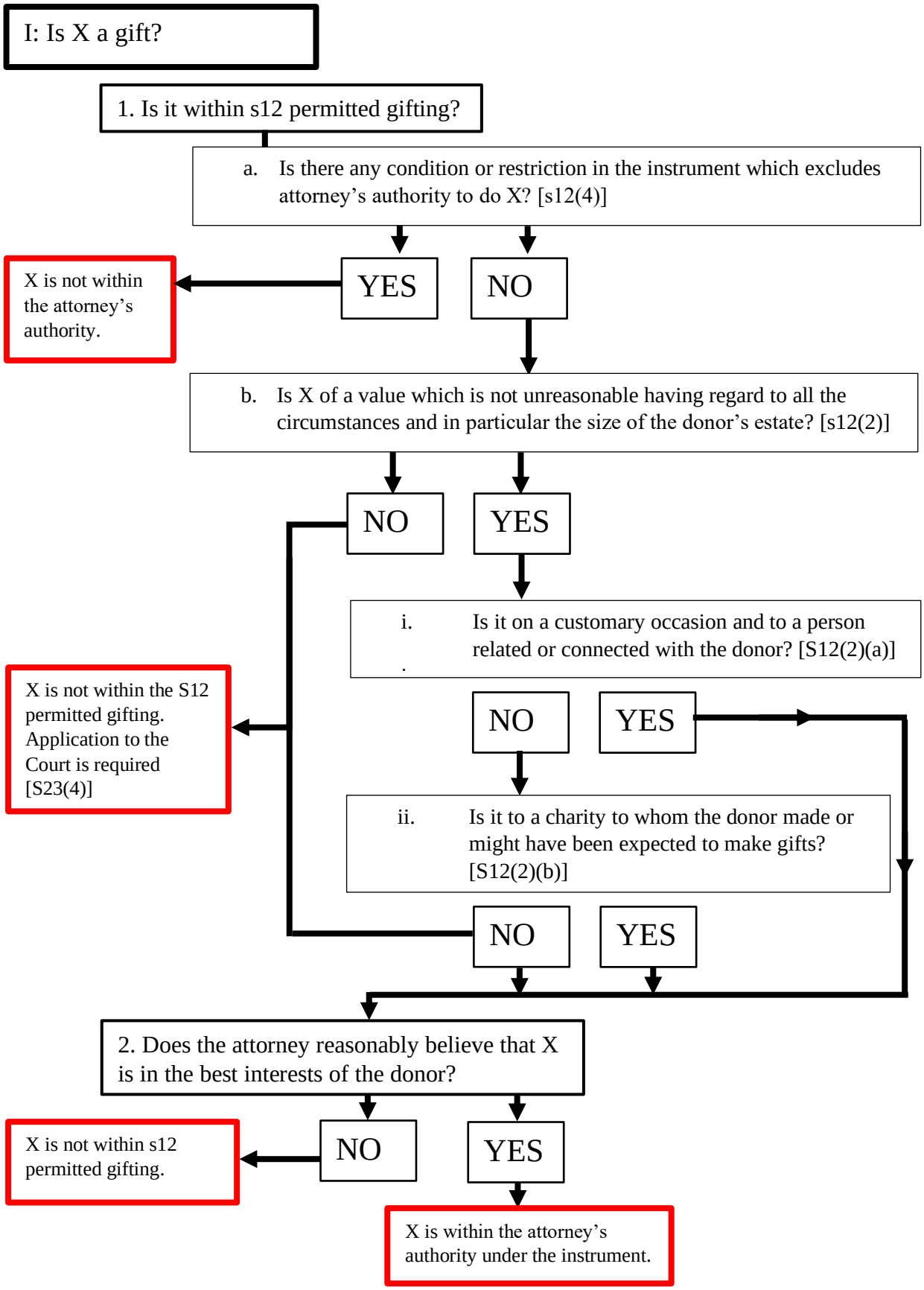
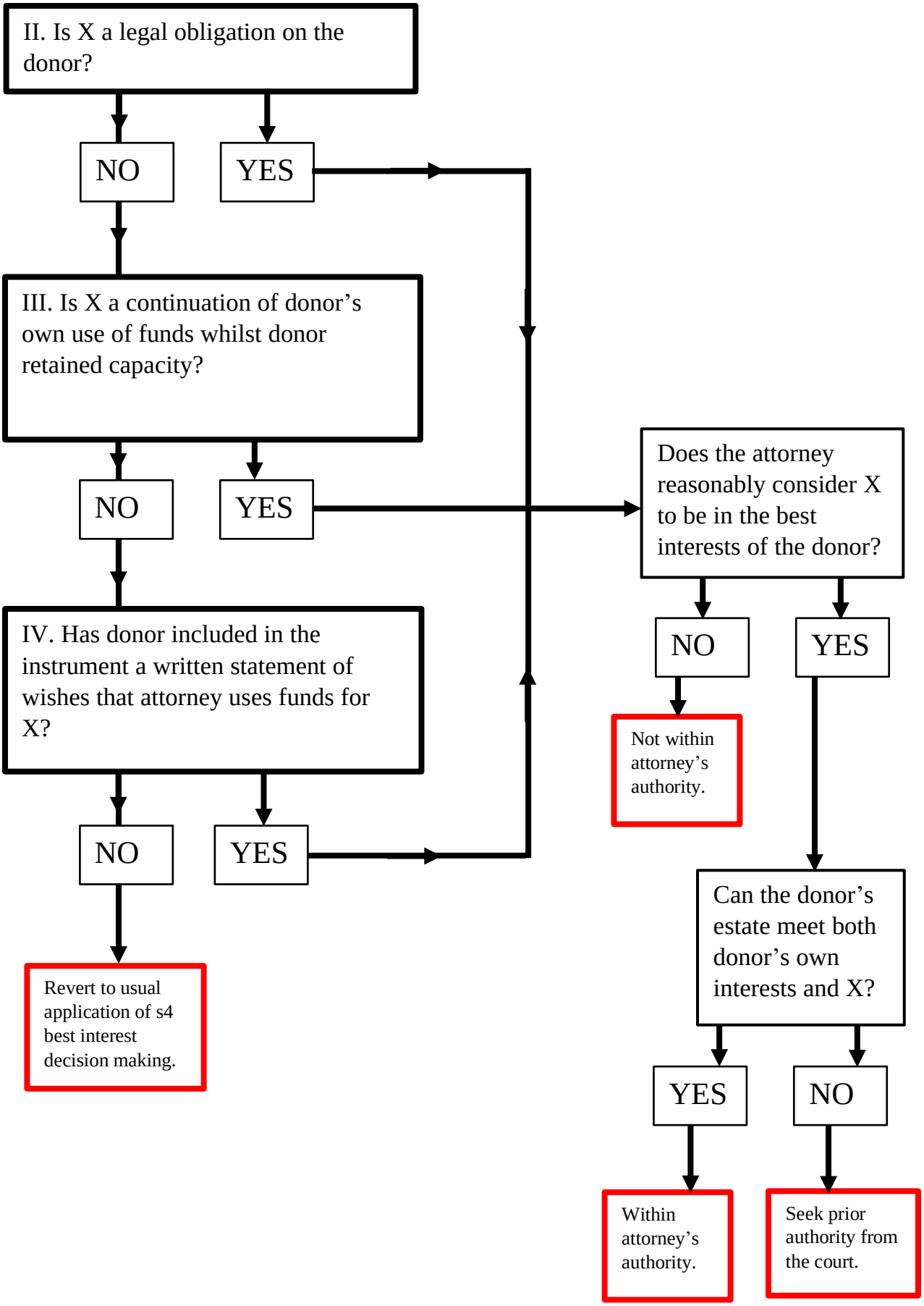
Lasting Powers of Attorney

Using Donors' Funds to Benefit Others: An Attorney's Decision Tree (where X is the Use of Funds Under Consideration)




II. Is X a legal obligation on the donor?
NO
YES
III. Is X a continuation of donor's own use of funds whilst donor retained capacity?
NO
YES
IV. Has donor included in the instrument a written statement of wishes that attorney uses funds for X?
NO
YES
Revert to usual application of s4 best interest decision making.
Does the attorney reasonably consider X to be in the best interests of the donor?
NO
YES
Not within attorney's authority.
Can the donor's estate meet both donor's own interests and X?
YES
NO
Within attorney's authority.
Seek prior authority from the court.