

# Index to Text

## A

### A TRUSTS

Disclaimers, **37:21**

### ABATEMENT

Estate assets, **18:8**

### ACCELERATION

Deferred estate tax payments  
generally, **36:21**  
disposition of stock, effect, **4:42**

### ACCOUNTANTS

Privileged communications  
generally, **1:16**  
planning team, **1:17**  
Retirement plan rules, **3:85**

### ACCOUNTING METHODS

Change of accounting to adopt cash method, **3:23**  
Change of period, natural business year permitted, **4:6**  
Ranchers and farmers, **4:6**

### ACCOUNTING PRACTICES

Valuation, **35:55**

### ACCOUNTING YEAR

C corporation, changing to calendar year, **3:103**

### ACCRUAL BASIS

Charitable contributions, **12:7**

### ACCRUAL METHOD OF ACCOUNTING

Farmers, **4:6**

### ACCURACY-RELATED PENALTY

Abatement of interest, **39:31**  
Interest abatement, worth of estate before distributions, **39:31**  
Revenue Reconciliation Act of 1989, Improved  
Penalty Administration and Compliance Act, **39:31**

### ACKNOWLEDGED CHILD

Family member, **4:15**

### ACTIVE INCOME

Definition, **25:2**  
Determination, **6:11**  
Net active income, definition, **6:11**

### ACTIVE NATURE OF BUSINESS

Real estate management, installment tax payments, **23:15**

### ADDITIONS TO TAX

Abatement of interest, **39:31**  
Interest abatement, worth of estate before distributions, **39:31**

### ADDITIONS TO TAX—Cont'd

Interest and penalties, **39:31**

### ADEQUATE DISCLOSURE

Gift tax, installment sales to grantor trusts, **29:31**  
Gifts, begin statute of limitations period, **16:22**  
Income tax, installment sales to grantor trusts, **29:28**

### ADJUSTABLE WHOLE LIFE INSURANCE

Insurance products, **7:47 to 7:49**

### ADJUSTED GROSS ESTATE

Farmers, **4:34**

### ADJUSTED TAXABLE GIFTS

See also index heading GIFTS  
Definition, **16:2**  
Estate tax computation, **16:59**  
Estate tax nonapplicability, **16:40**  
Purpose of concept and designation, **16:2**  
Split gifts, **16:2**

### ADMINISTRATION EXPENSES

Deductibility, liquidity issues, **36:02**  
Effect of deduction, estate tax marital deduction, **21:75**  
Estate tax deduction, **16:52**  
Estate's income tax return, deduction, **33:23**  
Interest  
installment payments of estate tax, **36:13**  
interest loans to estate, **36:05**  
Interest paid, **33:23**  
Marital gifts, payment of expenses, **21:54**  
State law governing, **34:93**  
Trade of support rights, **16:52**  
Will provisions on payment  
generally, **18:6**  
source of funds, **18:8**

### ADMINISTRATION OF ESTATES

Generally, **20:24 to 20:27**  
See also index heading ANCILLARY ADMINISTRATION  
Administration expenses, estate tax deduction, **33:20**  
Ancillary administration  
generally, **20:24 to 20:27**  
avoiding, **20:25 to 20:27, 31:21**  
disadvantages, **20:25**  
Community property, **20:13**  
Conflict of laws, **20:5**  
Domicile, multiple locations, **20:22**  
Domicile changes  
generally, **20:4**  
timing, **20:19**  
Domicile choice, planning, **20:5 to 20:23**  
Domicile choice of state  
generally, **20:5**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### ADMINISTRATION OF ESTATES—Cont'd

Domicile choice of state—Cont'd  
estate taxes, **20:20 to 20:23**  
Domicile concepts, **20:2**  
Domicile declarations, **20:3**  
Domicile determination, **20:2 to 20:4, 31:21**  
Elections by surviving spouse, **20:7**  
Executor qualifications, **20:9**  
Gifts to minors, **20:10**  
In testate succession, **20:6**  
Marital agreements, **20:12**  
Minors' gifts, **20:10**  
Multiple jurisdictions, **20:1**  
Payment of taxes and expenses, sufficiency of assets, **31:27**  
Personal property, **31:21**  
Planning domicile choice, **20:5 to 20:23**  
Real estate, **31:21**  
Real property, situs determines governing law, **20:5**  
Spousal rights, **20:7**  
State and local taxes, **20:15**  
State law, **20:11**  
Succession without a will, **20:6**  
Terminally ill clients  
ancillary administration, avoidance, **31:21**  
domicile, determination, **31:20**  
facilitation, **31:19**  
Validity of will, **20:8**

### ADMINISTRATIVE EXPENSES

Charitable deduction  
Regulations affecting, **21:54**  
Service's position on effect, **21:54**  
Deductions  
Pre-*Hubert* decision decedents, **16:66**  
Regulations affecting, **21:54**  
Service's position on effect, **21:54**  
Extension to apply regulations, **16:55**  
Maintenance of residence held for sale, sufficient liquidity, **36:02**  
Marital deduction  
Regulations affecting, **21:54**  
Service's position on effect, **21:54**  
Marital deduction reduction, **16:55**  
Pre-*Hubert* decision decedents, **16:66**

### ADMINISTRATIVE FEES

Charitable gifts, effect on, will provisions, **18:8**  
Marital deduction, effect on, will provisions, **18:8**  
Supplemental returns, **33:23**

### ADMINISTRATORS OF ESTATES

Types of fiduciaries, **30:08**

### ADMISSION TICKETS

Deductibility, **12:36**

### ADOPTED CHILDREN

Estate planning considerations, **17:16**

### ADOPTION EXPENSES

Tax credit, exclusion from income, **2:46**

### ADVERSE PARTY

Definition, **19:26**  
Trustee as, **19:56**

Index to Text-2

### ADVERTISING

Corporate sponsorship arrangements, **12:16**

### ADVERTISING AGENCIES

Valuation, **35:55**

### ADVISERS

Cotrustee comparison, considerations in selection, **30:58**  
Family members as advisers, **30:31**  
Fiduciary character, **30:31**  
Function, **30:58**  
Grantors as advisers, **30:31**  
Investment adviser for independent trustee action, **30:36**  
Liability, **30:58**  
Powers, **30:31**  
Quasi-fiduciary status, **30:58**

### AFFILIATED SERVICE GROUPS

Definition, **3:85**  
Leased employees, retirement plans, **3:87**  
Management functions, performance, **3:86**  
Retirement plans, **3:85**  
Safe harbor provisions, **3:87**

### AFR

See index heading APPLICABLE FEDERAL RATES (AFR)

### AFTER-TAX THRIFT PLANS

Qualified retirement plans, **5:10, 5:11**

### AGE DISCRIMINATION

Damage awards, excludability, **2:5**

### AGENCY RELATIONSHIP

Exclusion from income tax, **32:10**  
Life insurance. See index heading LIFE INSURANCE

### AGREED VALUE

Corporate buy-sell agreements, **23:29**

### AIRPLANES

Dry lease, tax advantaged investment, **6:13**  
Employer-owned, use by employee, **2:49**

### ALIENS

Income taxation, **1:4**  
Marital deduction, **18:41**

### ALIMONY

See also index heading SPOUSAL SUPPORT  
Arrearages payment, claim on estate, **32:49**  
Minimum term rule, **11:5**  
Payments in trust, **11:5**  
Recapture rules, **11:5**  
Redefined by Domestic Relations Tax Reform Act of 1984, **11:5**  
Separation agreements and decrees, **11:31**  
Tax consequences, pre-1984, **11:2**  
Tax Cuts and Jobs Act of 2017, treatment of alimony following, **11:6**

### ALLOCATIONS

Generation skipping tax exemption, extension to make election, **26:11**

## INDEX TO TEXT

### **ALLOCATIONS—Cont'd**

GST exemption  
    curing ineffective allocation, **26:11**  
    gift to existing trust, **26:11**  
Partnership items, made after the fact, **3:37**  
Partnerships, nonrecourse liability, **3:73**  
Property owned jointly by nonspouses, **10:29**

### **ALTERNATE VALUATION**

Estate tax return election, **34:74**  
Gross estate assets, **16:58**  
Inherited property, **10:19**

### **ALTERNATIVE MINIMUM TAX (AMT)**

Charitable contributions, effect, **12:90**  
Computation, **32:64**  
Estates, applicability, **32:64**  
Farmers, installment payments, **4:6**  
Fiduciary income tax return, **34:28**  
Incentive stock options, **2:64**  
Purpose, **32:64**  
Residential rental property, applicability, **6:39**  
Tangible gifts, **12:90**  
Tax advantaged investments, limitations, **6:6**  
Tax Cuts and Jobs Act, **2:1**  
Trusts, applicability, **32:64**

### **ALTERNATIVE PAYEE**

Definition, **3:84**

### **AMERICAN DEPOSITORY RECEIPTS (ADRs)**

Foreign tax credit, **3:23**

### **ANATOMICAL GIFTS**

Will preparation, **18:5**

### **ANCILLARY ADMINISTRATION**

Ancillary executors  
    letters of administration, **20:24**  
    procedures for, **20:26**  
Avoiding, **20:25 to 20:27**  
Community property, **20:13**  
Conflict of laws, **20:5**  
Creditors' claims, **20:24**  
Disadvantages, **20:25**  
Distribution of assets, **20:24**  
Domicile, multiple locations, **20:22**  
Domicile changes  
    generally, **20:4**  
    timing, **20:19**  
Domicile choice of state  
    generally, **20:5**  
    estate taxes, **20:20 to 20:23**  
Domicile concepts, **20:2**  
Domicile declarations, **20:3**  
Executor qualifications, **20:9**  
Gifts to minors, **20:10**  
In testate succession, **20:6**  
Incorporation as alternative, **20:27**  
Joint tenancy as alternative, **20:27**  
Land trust as alternative, **20:27**  
Letters of ancillary administration, **20:24, 20:26**  
Marital agreements, **20:12**  
Minors' gifts, **20:10**  
Necessity, **20:24, 20:25**

### **ANCILLARY ADMINISTRATION—Cont'd**

Nonresident creditors' claims, **20:24**  
Personal representative, appointment authorization, **30:18**  
Principal administration's relationship, **20:24**  
Probate avoidance, **20:27**  
Procedures in summary administration, **20:26**  
Spousal rights, **20:7**  
State and local taxes, **20:15**  
State law, **20:11**  
Streamlined procedures, **20:26**  
Succession without a will, **20:6**  
Summary administration, **20:26**  
Terminally ill clients, **31:21**  
Trust creation during life as alternative, **20:27**  
Validity of will, **20:8**

### **ANCILLARY PERSONAL REPRESENTATIVES**

Authority, **20:24**  
Domiciliary executor's relationship, **20:24**  
Letters of ancillary administration, **20:24**  
Liability of, **20:26**  
Necessity, **18:55**  
Powers, **20:24**  
Qualification requirements, **18:55**  
Title to estate property, **20:24**

### **ANCILLARY SUMMARY ADMINISTRATION**

Generally, **20:26**

### **ANNUAL LEASE VALUE METHOD**

Employer provided automobile, **2:49**

### **ANNUITIES**

Asset freeze technique  
    generally, **29:37 to 29:45**  
    comparative chart, **29:50**  
    estate tax issues, **29:44**  
    form for agreement, **29:49**  
    gift tax issues, **29:44**  
    income tax consequences, **29:39**  
    overview, **29:38**  
    Section 2702, effect, **29:45**  
    security arrangements, **29:42**  
    stock transfers, **29:43**  
    tax for annuitant, **29:40**  
    tax for obligor, **29:41**  
Automatic QTIP election, **16:30**  
Borrowed funds for payments, **28:19**  
Charitable contributions  
    generally, **16:54**  
    insurance, **12:78**  
Charitable remainder trusts, defined, **12:77**  
Disclaimer timing requirements, **37:7**  
Divorce, transfer of annuity to spouse for support, **11:15**  
Estate tax, **16:30**  
Extent of client's holdings, **15:8**  
Gift valuation, retained interest deductible, **28:17**  
Individual Retirement Annuities  
    generally, **5:57**  
    estate tax, **16:30**

## **ANNUITIES—Cont'd**

IRD characterization, excess over investment in annuity, **32:49**  
 IRS valuation tables  
     Certain Estate Assets, **35:75**  
 Joint and survivor annuities  
     electing out, **16:20**  
     gift tax waived, **16:10**  
     marital deduction, estate tax, **21:12**  
 Marital deduction, estate tax, **21:13, 21:15, 21:44**  
 Payment as income in respect of decedent, **32:51**  
 Power of appointment over proceeds, estate tax marital deduction, **21:44**  
 QTIP election, qualifying income interest, **16:30**  
 Qualified interest, stated term, **28:18**  
 Qualified joint and survivor annuities, **16:10**  
 Qualified preretirement survivor annuities, **16:10**  
 Refunds, estate tax, **16:30**  
 Sales in return for, gifting consideration, **16:13**  
 Spousal, revocable, Section 2702(b), **28:18**  
 Survivor annuities, estate tax, **16:30**  
 Valuation tables, terminally ill clients, use, **31:40**  
 Waivers of certain rights, gift tax, **16:10**

## **ANNUITY CONTRACTS**

Decedent's IRD characterization, excess over investment in annuity, **32:49**  
 Tax free exchanges, **22:8**

## **ANNUITY INTERESTS**

Formula provision, charitable bequest, **24:26**

## **ANNUITY TRUSTS**

Actual payment required, **12:57**  
 Charitable grantor lead trust, **12:45**  
 Charitable remainder  
     generally, **12:54**  
     income payment, **12:57**  
     unitrusts, comparison, **12:68**  
 Charitable remainder trusts, sample form, **12:95**  
 Grantor retained, **28:13 to 28:22**  
 Income interest transfers, **12:44**

## **ANTI-ABUSE REGULATIONS**

Partnerships, **3:34**

## **ANTILAPSE STATUTES**

Will preparation, **18:53**

## **APPEAL**

Right of taxpayer to administrative appeal, **39:16**

## **APPEALS FROM TAX COURT**

Bonds, **39:21**  
 Jeopardy bonds, **39:21**  
 Jurisdiction of appellate court, **39:21**  
 Notice of appeal, **39:21**  
 Requirements, **39:21**  
 Right to appeal, **39:2, 39:21**  
 Stay of tax assessment and collection, **39:21**  
 Supreme Court review, **39:2, 39:21**  
 Time limit, **39:21**  
 United States Court of Appeals, **39:2, 39:21**  
 Venue, **39:21**  
 Writ of certiorari for review of appellate decisions, **39:2, 39:21**

## **APPEALS OFFICE HEARINGS**

Burden of proof, **39:16**  
 Evidence, **39:16**  
 Informality, **39:16**  
 New issues, **39:16, 39:17**  
 Purpose, **39:16**  
 Relationship to administrative and judicial process, **39:2**  
 Settlements, **39:2, 39:16**  
 Witnesses, **39:16**

## **APPLIANCES**

Valuations, **35:11**

## **APPLICABLE EXCLUSION AMOUNT**

EGTRRA 2001  
     generally, **17:41**  
     unmarried client planning, **14:9**  
 Table, **16:68**

## **APPLICABLE FEDERAL INTEREST RATE**

Below market loans, **9:19**

## **APPLICABLE FEDERAL RATES**

Interest and penalties rates, **39:31**  
 Monthly rates, **9:19**

## **APPORTIONMENT**

Community and separate property  
     generally, **10:7**  
     life insurance proceeds, **10:42**  
 Estate tax apportionment, marital devise reduction avoidance, **21:49 to 21:51**  
 Estate taxes  
     generally, **18:9**  
     apportionment, **21:49**  
     language in will, **18:9**  
     protecting gifts, **18:10**  
 Inheritance taxes, **18:9**

## **APPRAISALS**

Buy-sell agreements, **23:29**  
 Charitable gifts, adequacy of submission, **35:8**  
 Valuations, generally, **35:5**

## **APPRAISERS**

Selection, **35:9**

## **APPRECIATED PROPERTY**

Basis adjustment, community property, **10:52**  
 Closely held business value enhancement, **10:46**  
 Enhanced separate property, **10:45 to 10:49**  
 Improvements to separate property, **10:47**  
 Partnership interest value enhancement, **10:46**  
 Reimbursement right, **10:46, 10:47**  
 Sole proprietorship value enhancement, **10:46**

## **ARTICLES OF INCORPORATION**

Form, **12:100**

## **ARTISTIC INTANGIBLES**

Valuations, **35:60**

## **ARTWORK**

Appraisal, necessity, **35:12**  
 Blockage issue, **35:13**

## INDEX TO TEXT

### ARTWORK—Cont'd

- Charitable deductions, **24:14, 35:12**
- Charitable gift, **12:24**
- Definition, **24:28**
- Discount in value, **35:13**
- Estate tax charitable deduction, eligibility, **24:28**
- Expert opinion of value, **12:35**
- Gifts
  - charitable gift, **12:24**
  - copyrights, **12:35**
- Loans by nonresidents, excluded from estates, **16:70**
- Loans to charity
  - deemed gift in estate freeze, **16:11**
  - gift of present interest, **12:35**
  - separate property, **24:28**
- Premium in value, **35:13**
- Special estate problems, **38:17**
- Special planning, **31:79**
- TAMRA
  - charitable gift of present interest, **12:35**
  - deemed gift in estate freeze, **16:11**
  - separate property, **24:28**
- Valuation, expert opinions, **35:12**

### ASSESSMENTS

- Secretary, **39:32**
- Tax Court, **39:20, 39:32**
- Timely mailing rules, **39:32**

### ASSET FREEZES

See also index heading ENTITY FREEZING

- Annuities, private
  - comparative chart, **29:50**
  - estate tax issues, **29:44**
  - gift tax issues, **29:44**
  - income tax consequences, **29:39**
  - overview, **29:38**
  - Section 2702, effect, **29:45**
  - security arrangements, **29:42**
  - stock transfers, **29:43**
  - tax for annuitant, **29:40**
  - tax for obligor, **29:41**
- Anti-freeze statute, **31:78**
- Bargain sales
  - basic structure, **29:47**
  - comparative chart, **29:50**
  - overview, **29:46**
- Comparative chart, **29:50**
- Definition, **29:01**
- EGTRRA 2001, **29:03**
- Forms
  - installment note, **29:48**
  - installment sale agreement, **29:48**
  - private annuity agreement, **29:49**
- Gift tax treatment, **29:02**
- Gifts
  - asset selection, **29:04**
  - basis considerations, **29:05**
  - benefit of paying tax, **29:03**
  - definition, **29:02**
  - GRITs, **29:06**
- Grantor trusts, defective, comparative chart, **29:50**
- Income tax treatment, **29:02**
- Installment sales
  - cancellation provision, drafting, **29:18**

### ASSET FREEZES—Cont'd

- Installment sales—Cont'd
  - comparative chart, **29:50**
  - definition, **29:02**
  - depreciable property, related person, **29:11**
  - disposing of obligation, **29:09**
  - donative dispositions, **29:10**
  - drafting cancellation provision, **29:18**
  - estate planning problems, **29:16**
  - grantor trust as buyer, **29:19**
  - imputed interest, **29:14**
  - income tax consequences, **29:08**
  - intrafamily, second disposition, **29:12**
  - loss deduction, losing, **29:13, 29:15**
  - overview, **29:07**
  - self-canceling obligations, **29:17**
  - testamentary dispositions, **29:10**
- Installment sales to trust
  - achieving grantor trust treatment, **29:25**
  - adequate disclosure, **29:28**
  - defective trusts, **29:24**
  - estate tax considerations, **29:32**
  - form of trust, **29:36**
  - gift tax consequences, **29:29**
  - gift tax reporting, **29:31**
  - GRAT compared, **29:35**
  - GST tax considerations, **29:33**
  - income tax during grantor's life, **29:26**
  - income tax issues, **29:23**
  - income tax on trust earnings, **29:30**
  - income tax reporting, **29:28**
  - other benefits, **29:22**
  - sample trust, **29:36**
  - structuring transaction, **29:34**
  - tax upon grantor's death, **29:27**
  - technique overview, **29:20**
  - transfer tax benefits, **29:21**
- Overview, **29:01**
- Private annuities
  - comparative chart, **29:50**
  - definition, **29:02**
  - estate tax issues, **29:44**
  - gift tax issues, **29:44**
  - income tax consequences, **29:39**
  - overview, **29:38**
  - Section 2702, effect, **29:45**
  - security arrangements, **29:42**
  - stock transfers, **29:43**
  - tax for annuitant, **29:40**
  - tax for obligor, **29:41**
- Usefulness, **29:01**

### ASSET PROTECTION

- Entity freezes, family limited partnerships, **27:68**

### ASSETS

- Estate planning considerations, **17:27**

### ASSETS OF ESTATE

- Deceased spousal unused election (DSUE), **33:21.50**
- Special assets, overview, **38:01**

### ASSIGNMENT OF INCOME

- Contingent legal fees, deductibility, **2:5**

## **ASSIGNMENT OF PROPERTY TO TRUSTEE**

Form, **19:11**

## **AT RISK RULES**

Business planning, **3:74**

## **ATHLETIC TICKETS**

Disallowance of deduction, **12:36**

## **ATTORNEY-CLIENT PRIVILEGE**

Material prepared by accountant, **1:17**

Protecting client identity, **1:16**

## **ATTORNEYS**

Attorney-client privilege, **1:16, 1:17**

Fees, condemnation awards, **6:38**

Identity of clients, **1:16**

Practice with associate, malpractice prevention, **1:31**

## **ATTORNEYS' FEES**

Contingency fees, deductibility, **2:5**

Deductibility

business claims, **2:5**

capitalization, **2:5**

division of property theory, **2:5**

prejudgment interest awards, **2:5**

Divorce and separation, tax planning, **11:25**

Transfer to another, assignment of income principles, **1:3**

## **ATTORNEYS-IN-FACT**

See index heading **POWER OF ATTORNEY**

## **ATTRIBUTION RULES**

Minority discounts

generally, **35:66**

family ownership, **17:50**

Waiver by estate or trust, **21:66**

## **AUDITS**

Agreed cases, **39:2, 39:8 to 39:12**

Agreements with examiner, **39:7**

Amended waiver of agreed issues, **39:7**

Appeals Office hearings, **39:2, 39:16**

Bonds for unpaid taxes, **39:10, 39:12**

Change proposals by examiner, **39:7**

Closed cases, **39:5**

Closing agreements, **39:16**

Closing letters, **39:5, 39:9**

Contact with taxpayer not constituting audit, **39:5**

Correspondence audits, **39:7**

Discharge from personal liability, application, **39:10**

Estate tax examiner's common areas of scrutiny, **39:7**

Evidence of satisfaction of tax liability, agreed cases, **39:9**

Examination process, **39:2**

Executor's request for waiver of personal inspection, **39:7**

Extensions of thirty-day letter's reply period, **39:14**

Field audits, **39:7**

Fifth Amendment right, **39:7**

Forum choice for litigation, **39:12, 39:17**

Information gathering by examiner, **39:2, 39:7**

Interest on deficiencies in agreed cases, **39:8, 39:9**

Interest suspension with cash bonds, **39:12**

## **AUDITS—Cont'd**

IRS document demands, relevancy, **39:7**

Issues frequently raised by examiners, **39:3**

Ninety-day letters, **39:2, 39:17, 39:18**

Office audits, **39:7**

Partially agreed cases, **39:12**

Payment methods for tax, **39:9**

Payment time in agreed cases, **39:9**

Personal inspections, **39:7**

Preliminary notices of proposed deficiency, **39:2, 39:13**

Preparation by taxpayer, **39:6**

Production of records, Fifth Amendment privilege, **39:6**

Protests, **39:15**

Relationship to administrative and judicial process, **39:2**

Reopening agreed issues in Tax Court, **39:12**

Reopening of closed cases, **39:5**

Reports detailing adjustments to return, agreed cases, **39:9**

Selection likelihood, **39:3**

Selection process for returns, **39:4**

Settlement negotiation with examiner, **39:7**

Settlements with Appeals Office, **39:2, 39:16**

Statute of limitations on deficiency assessments extension, **39:4, 39:14**

waiver, **39:3, 39:4**

Statutory notice of deficiency, **39:2, 39:17**

Survey of return by examiner, **39:7**

Survey of return without assignment to examiner, **39:4**

Tax Court, **39:2, 39:17 to 39:21**

Thirty-day letters, **39:2, 39:13 et seq.**

Types, **39:7**

Unagreed cases, **39:13 to 39:16**

Waivers

agreed issues, **39:7**

notice of deficiency, agreed cases, **39:2, 39:8**

restrictions on assessment and collection, **39:8, 39:12**

statute of limitations on deficiency assessments, **39:3, 39:4**

## **AUGMENTED ESTATE**

Revocable trusts, **19:18**

## **AUGMENTED ESTATES**

Choice of domicile, **20:7**

## **AUGMENTED RESIDUE OF ESTATE**

Will preparation, **18:42**

## **AUTO REPAIR GARAGES**

Valuations, **35:55**

## **AUTO WRECKING YARDS**

Valuations, **35:55**

## **AUTOMOBILES**

Employer-owned, use by employee, **2:49**

Expense deduction, **2:51**

Gifts of tangible personal property, **12:25**

Rentals, tax advantaged investment, **6:13**



## INDEX TO TEXT

### B

#### **B TRUSTS**

Disclaimers, **37:21**

#### **BAD DEBT DEDUCTION**

Loans from shareholders, **3:70**

Shareholder loans, **3:70**

#### **BALANCE SHEET ADJUSTMENTS**

Necessity, **35:49**

#### **BAND OF INVESTMENT**

##### **CAPITALIZATION METHOD**

Valuations, **35:19**

#### **BANK ACCOUNTS**

Community property joint accounts, **10:41**

Joint tenancy, source of liquidity, **17:36**

#### **BANKRUPTCY**

Discharge of tax liability, **39:10**

Innocent spouse liability, **11:21**

Passive losses, **6:49**

#### **BARGAIN SALES**

Asset freeze technique

    basic structure, **29:47**

    comparative chart, **29:50**

    overview, **29:46**

Definition, **12:91**

Rules, **12:79**

Use, **12:91**

#### **BARS**

Valuations, **35:55**

#### **BASIS**

Adjusted basis of property, no “loss” if insurance proceeds exceed, **16:53**

Assets for gifting, **29:05**

Gifts, **29:05**

Gifts v. inheritance, transfer tax paid, **16:3**

Shareholders, excluded COD income, **3:76**

#### **BASIS DETERMINATIONS**

Shareholders

    loan guarantees, **3:76**

#### **BASIS FOR GAIN OR LOSS**

See also index heading **GAIN OR LOSS**

Accrual basis, **12:7**

Alternate valuation, effect, **10:19**

Cessation of marriage, transfers considered related to, **11:10**

Community property, basis adjustment, **10:52**

Credit shelter arrangements, step-up at death, **38:02**

Decedent’s interest restrictions, basis determination, **38:02**

Depreciable property, S corporations, **3:76**

Depreciation purposes, **32:26**

Distributions to beneficiaries, **32:41**

Divorce or separation, **11:10**

Gifts, imminent death planning, **31:50**

Individually held property, **10:19**

Inherited property, alternate valuation, **10:19**

#### **BASIS FOR GAIN OR LOSS—Cont’d**

Inside, definition, **25:4**

Land trusts, **10:38**

Nonspousal joint ownership property, **10:29**

Outside, definition, **25:4**

Partnership interests, postmortem adjustment, **33:35**

Personal property, sale by personal representative, **32:13**

Principal residences, **20:19**

Property contributed to partnership, **3:106**

Real property, **32:12**

Restrictions on decedent’s interest, basis determination, **38:02**

S corporations, depreciable property, **3:76**

Solely owned property, **10:19**

Spousal joint ownership property, **10:21**

Third party joint ownership property, **10:29**

#### **BEDDING**

Valuations, **35:11**

#### **BELOW MARKET LOANS**

Applicable federal rates, **9:19**

Corporations to shareholders, **9:23**

Definition, **9:19**

Income tax treatment, **9:18**

Qualified continuing care facilities, **13:19**

Safe harbor interest rate, gifts, **9:17**

Scope of statutory regulation, **9:20**

Statutory exemption, **9:22**

Transfer tax treatment, **9:18**

#### **BENEFICIARIES**

Adopted children, **17:16**

Ages at time of distribution, **17:17**

Alternative beneficiary will designations, **18:13**

Antilapsed provisions, **18:53**

Charitable organizations, exempt status, **18:13**

Charitable remainder trusts, eligibility, **12:56**

Children of client, planning considerations, **17:16**

Collateral relatives, **17:16**

Considerations in planning, **17:14**

Contingent interests, Crummey withdrawal powers, **19:58**

Death before testator, **18:53**

Debtors of decedent as will beneficiaries, **18:30**

Disability, consideration, **17:23**

Disclaimers

    A trusts, **37:21**

    B trusts, **37:21**

    family share trusts, **37:21**

    fiduciary disclaimer’s effect, **37:15**

    Generation-Skipping Transfer Tax reduction or avoidance, **37:24**

    marital share trusts, **37:21**

    partial disclaimers, **37:16**

    qualified terminable interest property (QTIP) trust creation, **37:21, 37:27**

Distributions

    determination, **17:17**

    inclusion in income, **32:37**

Financial ability, consideration, **17:20**

Gifts, powers retained by grantor, **16:42 to 16:46**

Grandchildren, **17:16**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### **BENEFICIARIES—Cont'd**

Grantor, defined, gratuitous transfers by beneficiaries, **32:59**  
Income tax on inherited personal property, **18:22**  
Lapsed gifts, **18:53**  
Liability for unpaid estate taxes upon distribution, **39:11**  
Marital deduction trusts, **21:37**  
Planning considerations, **17:14**  
Power to remove trustee, **19:43**  
Power to remove trustee or appoint successor, **18:54**  
Precatory distribution, gift tax liability, **18:24**  
Separate share treatment, **32:68**  
Separate trust for education of beneficiary, form, **17:18**  
Special considerations, **17:19 to 17:25**  
Spendthrift clause  
    form, **17:22**  
    use, **17:21**  
Spouses, provision, **17:15**  
Standby trust for incompetent beneficiary, form, **17:24**  
Supplemental needs trust, form, **17:25**  
Tax refund claims, **39:25**  
Testamentary trust will designations, **18:45**  
Trust beneficiaries as trustees, taxation, **30:29**  
Trust income taxation, **30:24**  
Trustee removal power, **18:54, 30:33**  
Will designations, **18:13**

### **BEQUESTS**

Term usage, **18:12**

### **BLACK SCHOLES VALUATION METHOD**

Call options, **35:29**

### **BOATS**

Boat charter, tax advantaged investment, **6:13**  
Charitable gift, **12:24**

### **BODY DISPOSITION DIRECTIONS**

Cremation  
    generally, **18:4**  
    codicil, form, **18:74**  
Wills  
    generally, **18:4**  
    anatomical gifts, **18:5**

### **BONDS**

Actively traded bonds, valuation, **35:30**  
Cash bonds to suspend interest accrual on unpaid taxes, **39:12**  
Charitable gifts, **12:33**  
Deferred estate tax, **39:10, 39:33**  
Definition, **30:12**  
Executors, **20:9, 39:10, 39:33**  
Extent of client's holdings, **15:8**  
Fiduciary bonds, **18:56, 30:12**  
Individual Retirement Bonds, **5:66**  
Lien substitution, deferred estate tax, **39:10, 39:33**  
Option sales strategies, deductions denied, **6:47**  
Personal representative bonds, **18:56**  
Savings bond, valuation, **35:30**  
Security for estate taxes, installment payments, **36:10**  
Tax lien release, **39:33**

### **BONDS—Cont'd**

Treasury bonds, valuation, **35:30**  
Trustee bonds, **18:56**  
Value, **35:61**  
Waiver of fiduciary's bond by will, **18:56**

### **BOOK VALUE SHARES**

Compensation arrangements, **2:74**

### **BORROWED FUNDS**

Charitable contributions, **12:21**

### **BREEDING ANIMALS**

Depreciation, **4:9**

### **BROKERAGE ACCOUNTS**

Fees, **30:49**  
Gift tax liability, **10:35**  
Joint accounts, **10:35**  
May Day rates for broker services, **30:49**

### **BUILT-IN GAINS**

Transfer taxes, provisions for avoiding, **35:65**  
Valuation consideration, closely held businesses, **35:65**

### **BUILT-UP METHOD OF CAPITALIZATION**

Valuations, **35:19**

### **BURDEN OF PROOF**

Value, **35:65**

### **BURIAL ARRANGEMENTS**

Preparation, **31:08**

### **BUSINESS BAD DEBT**

Shareholder loans, **3:70**

### **BUSINESS ENTITIES**

Accident and health plans, factor in choice, **3:93**  
Attributes effecting valuation, **27:26**  
Capitalization rules; deductibility, **3:55 to 3:69**  
Choice of fiscal year as factor in choice, **3:101 to 3:103**  
Continuity of existence, factor in choice, **3:12, 3:13**  
Corporations. See index heading **CORPORATIONS**  
Deductibility of losses, consideration in choice, **3:54**  
Expenses and formalities of organization, factor in choice, **3:16, 3:17**  
Formation, factor in choice, **3:104 to 3:106**  
Forms, **8:2 to 8:5**  
Freezing value  
    attributes effecting valuation, **27:26**  
    historical background, **27:28**  
    valuation, generally, **27:25**  
Fringe benefits, factor in choice, **3:78 to 3:92**  
Liquidation, factor in choice, **3:114 to 3:117**  
Management and control, factor in choice, **3:10, 3:11**  
Nontax considerations in choice, **8:6 to 8:18**  
Partnerships. See index heading **PARTNERSHIPS**  
Personal liability, factor in choice, **3:8, 3:9**  
Retirement or death of shareholder or partner, factor in choice, **3:109 to 3:113**  
Retirement plans of S corporations, **3:89**  
S corporations. See index heading **S CORPORATIONS**  
Sale of interest in business, factor in choice, **3:107**



## INDEX TO TEXT

### **BUSINESS ENTITIES—Cont'd**

Sources of capital, **3:18, 3:19**  
Start-up expenses; deductibility, **3:56**  
Tax considerations as factor in choice, **3:20 to 3:121**  
Tax rates, factor in choice, **3:24**  
Taxation of income, **3:23**  
Termination, factor in choice of entity, **3:118 to 3:121**  
Transferability of interests, factor in choice, **3:14, 3:15**  
Valuation principles generally, **27:25**

### **BUSINESS EXPENSES**

See also index heading **DEDUCTIONS**  
Deductibility, restrictions, **2:51**  
Directly related expenditures, **2:51**  
Entertainment facilities, **2:51**  
Estates, deduction, **32:21**  
Excursion fares, **2:51**  
Home office deductions, **2:53**  
Per diem amounts, **2:51**  
Tax Cuts and Jobs Act, **2:51**  
Travel, per diem amounts, **2:51**  
Trusts, deduction, **32:21**  
Vehicles, leased, **2:51**

### **BUSINESS PURPOSE**

Economic effects of transaction, intermediary insurance company, **3:23**  
Entity freezes, **27:12**  
Insurance intermediary, **3:23**

### **BUSINESS TRAVEL**

Frequent flyer miles, additional income, **2:54**  
Per diem amounts, **2:51**

### **BUSINESS TRUSTS**

Abusive use of devise, **19:1**

### **BUSINESS VALUATION**

Professional practices, **35:71 to 35:74**

### **BUY-OUT AGREEMENTS**

Entity freezes, methods to accomplish, **27:58**

### **BUY-SELL AGREEMENTS**

Generally, **23:25**  
Accumulated funds to finance repurchase, **23:37**  
Agreed value valuation method, **23:29**  
Appraisal valuation, **23:29, 35:64**  
Basis election, partnerships, **23:36**  
Bona fide business arrangement requirement, **23:31**  
Borrowing from third party lenders, **23:37**  
Business considerations in drafting, **23:34**  
Closely held business, Section 2036(c), **31:68**  
Consent requirements, **23:34**  
Consideration, adequacy, **23:31**  
Constituent documents, **23:25**  
Corporations, **23:25 et seq., 23:41**  
Cross purchase agreements, **23:33, 23:36, 23:37**  
Disability insurance, funding business interest purchase, **23:37**  
Disability of shareholder-employee, **23:34**  
Drafting, **23:32 to 23:35**  
Employment termination, **23:34**  
Entity purchase agreements, **23:33**  
Estate planning considerations, **17:29**

### **BUY-SELL AGREEMENTS—Cont'd**

Estate planning during life, **23:38 to 23:41**  
First refusal right, **23:30, 23:34**  
Formula for valuation, **23:29**  
Funding business interest purchase, **23:37**  
Installment sales, **23:37**  
Involuntary transfers, **23:34**  
Life insurance, funding business interest purchase, **23:37**  
Life insurance considerations, **23:33**  
Liquidity advantages, **23:7**  
Objectives, **23:26**  
Options to buy or sell  
    generally, **23:28**  
    estate valuation, **23:25**  
    inclusion in estate, **23:25**  
Partnerships  
    cross purchase plans, **23:36**  
    funding, **23:37**  
    nature of agreement, **23:25**  
    partnership agreement's relationship, **23:25, 23:26**  
    partnership purchase plans, **23:36**  
    practical considerations, **23:36**  
    Section 751 asset considerations, **23:10**  
    Section 754 election provisions, **23:36**  
Redemption agreement structure, **23:33**  
Restraints on lifetime transfers, **23:30, 23:34**  
S election protection and termination provisions, **23:41**  
Sales price formulas  
    generally, **23:25**  
    corporate, **23:27**  
    valuation of corporate shares, **23:29**  
Second class of stock restriction for S corporations as planning consideration, **23:41**  
Section 751 asset considerations, **23:10**  
Section 754 election provisions, **23:36**  
Sinking fund to finance repurchase, **23:37**  
Stock provisions  
    encumbrances, **23:34**  
    installment sales, **23:28**  
    partial sales, **23:28**  
    redemption, **23:33**  
    repurchase, **23:34**  
    transfer limitations, **23:30, 23:34**  
    valuation, **23:27, 23:29**  
Subscription requirement for purchaser, **23:30**  
Substantial modification, **23:25**  
Terminally ill clients, use, **31:35**  
Triple appraisal method of valuation, **23:29**  
Valuation  
    generally, **35:64**  
    business, **23:29, 23:30, 23:41**  
    estate freezes, **23:35**  
    S corporations, **23:41**  
    stock, **23:27, 23:29**  
Valuation, Section 2703, **27:30**  
Voting agreement provisions, **23:35**

### **BYLAWS**

Form, **12:101**

### **BYPASS TRUSTS**

Terminally ill clients, **31:23**

## C

### C CORPORATIONS

Entity freezes, basic structure, **27:10**  
Freeze entities, **27:09**

### CAFETERIA PLANS

Generally, **2:47, 2:48**  
Taxable benefits provided, **3:100**

### CALL OPTIONS

Black Scholes value method, **35:29**  
Closely held businesses, **23:22**

### CALLS

Closely held businesses, **23:22**

### CANCELLATION OF INDEBTEDNESS

Insolvency exclusion  
shareholder basis, effect on, **3:76**  
S corporations, treatment of losses, **3:76**  
Spouse's tax liability on cancellation of joint debt  
income, **11:9**

### CAPITAL GAINS AND LOSSES

Compensation issues, **2:60**  
Compensatory stock options, **2:57**  
Conversion of ordinary income, **25:2**  
Estates, income taxation, **32:14**  
Fiduciary income tax return schedule, **34:16**  
Grantor retained income trusts, treatment, **28:5**  
Holding period, **32:15**  
Includable gain, recognition, **32:16**  
Income items of estates and trusts, **32:14**  
IRA withdrawals, eligibility for treatment, **13:15**  
Life insurance, **22:5**  
Partnership gains, **3:117**  
Partnership interests, **23:10**  
Pension plans, lump sum distributions, **5:48**  
Postmortem income taxation, **33:04**  
Principal residence exclusion, **33:08**  
Sale of interest in corporation, **3:107**  
Sale of partnership interest, **3:108**  
Tax rates  
generally, **1:3**  
income shifting considerations, **9:3**  
Tax treatment, **25:2**  
Two year sale rule, **32:16**

### CAPITAL GAINS PROPERTY

Charitable donation, limitations, **12:14 to 12:16**  
Disposition  
estate or trust income taxation, **32:14**  
holding period, **32:15**  
Long term, charitable gift, **12:26**  
Publishers clippings library, **12:8**

### CAPITALIZATION

Deductibility, **3:55 to 3:69**  
Definition, **35:18**  
Uniform capitalization rules, nursery growers, **4:8**

### CARE OF BENEFICIARY

Estate planning considerations, **17:25**

### CAREGIVERS

Compensation, deductibility, **16:52**  
Elder abuse, misappropriation by caregiver, **8:54**  
Trade of support rights, **16:52**

### CARPETS

Valuations, **35:11**

### CARRYOVERS

Charitable deductions, **12:17**

### CARS

Depreciation limits, **2:51**

### CASH

Extent of client's holdings, **15:8**  
Gifts, **12:21**

### CASUALTY OR THEFT LOSSES

Adjusted basis of property, no "loss" if insurance  
proceeds exceed, **16:53**  
Deductibility, **3:58, 3:67, 3:68**  
Estate tax deduction  
generally, **16:51, 16:53**  
availability, **33:20**  
Estate's income tax return, deduction, **33:23**  
Orange groves, deductibility, **3:67**

### CATTLE

Depreciation, **4:9**

### CDP HEARING

Generally, **39:32**  
See index heading COLLECTION DUE PROCESS HEARING

### CEMETERIES

Gifts to, **16:52**

### CERTIFICATES

Release of tax lien, **39:33**  
Subordination of tax lien, **39:33**

### CHAPTER 14 (IRC)

Buy/sell agreements, **23:35**

### CHAPTER 14 VALUATIONS

Historical background, **27:04**

### CHARITABLE CONTRIBUTIONS

Generally, **12:2**  
See also index heading INCOME TAX CHARITABLE  
CONTRIBUTIONS  
Acquired (appreciated) property, **12:26**  
Administrative expenses  
deductibility  
general concepts, **16:54**  
will provisions, **18:8**  
regulations affecting, **24:8**  
service's position on effect, **21:54**  
Alternative minimum tax, **12:90**  
Appraisals of value, **12:8**  
Automobiles, **12:25**  
Benefit to donor, de minimis rules, **12:36**  
Borrowed funds, **12:21**  
Cemeteries, **16:52**  
Charitable remainder trusts  
estate tax, **16:54, 16:55**

## INDEX TO TEXT

### CHARITABLE CONTRIBUTIONS

#### —Cont'd

Charitable remainder trusts—Cont'd  
gift tax  
    generally, **16:19**  
    marital deduction, **16:20**  
Cumulative list of charitable organizations, use, **18:13**  
Deductions. See index heading **DEDUCTIONS**  
Defective trusts, curing, **34:45**  
Disclaimed testamentary personal property gifts, **18:26**  
Easements, valuation, **35:24**  
Estate planning, overview, **24:1**  
Estate tax deduction  
    application of deduction, **16:51**  
    availability, **32:24**  
    gift tax compared, **16:3**  
    split gift between charity and spouse, **21:45**  
Expense of contributing services, **12:6**  
Foreign country donee, **24:5**  
Gift and estate tax, differences, **16:3**  
Gift and generation skipping tax (GST) returns line, **34:45**  
Gift tax deduction  
    amount, **16:19**  
    annual exclusion's relationship, **16:17, 16:19**  
    applicability, **16:19**  
    estate tax deduction comparison, **16:3**  
    return requirements, **16:21**  
Gifts to charity and spouse, marital deduction, **16:20**  
Imminent death planning, **31:49**  
Improved property, deduction limitation, **12:8**  
Income tax deductions  
    bargain sales, **12:91**  
    conditional gifts, **12:93**  
    encumbered property, **12:92**  
Insubstantial benefits, **12:6**  
Insurance  
    annuities as, **12:78**  
    split-dollar, **7:16**  
Inter vivos gift element, **12:6**  
Keogh distribution, characterization of proceeds, **5:63**  
Missionaries  
    benefiting, **12:6**  
    specific, **12:6**  
Missionary support trusts, **12:6**  
Mortmain statutes, **20:10**  
Nullification by will beneficiaries, **20:10**  
Partial interest, use of mobile education unit, **12:42**  
Personal benefit contracts, **7:16, 12:42**  
Pledges as claims against estate, **16:52**  
Pooled income funds, **16:54**  
Postmortem planning, reforming for deductibility, **33:20**  
Securities, deduction for full market value, **31:56**  
Services, **12:6**  
Settlement of will contests, deduction, **24:8**  
Special election, availability to fiduciary, **32:24**  
Split gifts  
    charity and surviving spouse, estate tax, **16:55, 21:45**  
    charity and third party, estate tax, **16:54**  
Split-dollar insurance, **7:16**  
State estate taxes on contributions, estate tax deduction, **16:62**

### CHARITABLE CONTRIBUTIONS

#### —Cont'd

Substantiation, **12:8**  
Tax basis, publishers clippings library, **12:8**  
Tax-exempt status of charity, determination, **18:13**  
Terminally ill clients  
    double deductions, **31:54**  
    use, **31:53**  
Timing, **12:7**  
Token benefits, **12:36**  
Trust transfers, gift tax charitable deduction, **16:19**  
Trusts  
    availability of deduction, **32:24**  
    curing defects, **34:45**  
Valuation  
    IRS statement of value, **12:8**  
    negotiated settlement agreement, **12:8**  
    overstatement on property, penalty, **39:31**  
    partial interests, **12:43**

### CHARITABLE CORPORATIONS

See also index headings **CHARITABLE CONTRIBUTIONS**;  
**CHARITABLE ORGANIZATIONS**

Articles of incorporation, form, **12:100**  
Bylaws, form, **12:101**

### CHARITABLE DEDUCTIONS

Ability to make noncharitable transfers, effect, **24:5**  
Administrative expenses  
    Regulations affecting, **24:8**  
    Service's position on effect, **21:54**  
Artwork, gifted with conditions placed on display of, **24:14**  
Conservation easement, where deceased co-tenant's estate takes estate tax exclusion, **12:88, 24:19**  
Donor advised funds, **12:89.50**  
Organization not listed in Publication 78, **18:13**  
Tuition, payment of tuition to private religious institution as charitable deduction, **12:6**

### CHARITABLE GIFT ANNUITIES

Appreciated property, use, **12:79**  
Bargain sale rules, **12:79**  
Definition, **12:77**  
Income beneficiary, taxation, **12:80**  
Remainder trusts distinguished, **12:77**  
Value, **12:78**

### CHARITABLE LEAD ANNUITY TRUST

See also index heading **CHARITABLE TRUSTS**  
Beneficiaries, unrelated, **12:46**  
Formula provisions, **24:26**  
Measuring life, permitted beneficiaries, **12:46**  
Payout of stated sum, variation when substantial appreciation, **12:57**  
Unrelated beneficiaries, **12:46**  
Valuation of gift, **12:46**

### CHARITABLE LEAD TRUSTS

Adjusted GST exemption, **24:35**  
Advantages, **19:65**  
Allocations of income interest, **12:44**  
Annuity interests, formula provision, **24:26**  
Commutation provisions, **12:45**  
Deductibility, **19:65**  
Definitions, **19:65**

### **CHARITABLE LEAD TRUSTS—Cont'd**

Estate tax consequences, **12:48**  
 Estate tax deduction, **24:26**  
 Generation skipping tax, avoidance, **24:35**  
 Gift tax consequences, **12:48**  
 Governing instrument, requirements, **12:49**  
 Guaranteed annuity interest, **12:45**  
 Income interest, transfer, **12:44**  
 Income taxation rules, applicability, **24:26**  
 Nature trusts, **12:45**  
 Non-statutory annuity trusts, form, **12:94**  
 Non-statutory lead trusts, comparison, **12:51**  
 Private foundation rules, applicability, **24:26**  
 Recapture of deduction, **12:47**  
 Reversionary interest in grantor, impact, **19:65**  
 Split interest trust, **12:49**  
 Taxation, **12:52**  
 Terminally ill clients, use, **31:55**  
 Termination of trust, liability for GST tax, **24:35**  
 Trustee's powers, **16:54**  
 Unclear terms, effect on deduction, **24:26**  
 Unmarried clients, use in estate plans, **14:17**  
 Use in planning, **12:50**  
 Valuation of deduction, **12:46**

### **CHARITABLE LEAD UNITRUST**

See also index heading **CHARITABLE TRUSTS**  
 Beneficiaries, unrelated, **12:46**  
 Drafting provisions, **28:13 to 28:22**  
 Grantor trusts, generally, **12:45**  
 Measuring life, permitted beneficiaries, **12:46**  
 Unrelated beneficiaries, **12:46**  
 Valuation of gift, **12:46**

### **CHARITABLE ORGANIZATIONS**

See also index headings **CHARITABLE CONTRIBUTIONS**;  
**CHARITABLE CORPORATIONS**  
 Educational organizations, **24:5**  
 Eligibility, **12:5**  
 Fifty percent organizations, **12:11**  
 "For use of" deduction, **12:12**  
 Fraternal societies, **24:5**  
 Generation assignment, **26:6**  
 Literary organizations, **24:5**  
 Political subdivisions, **24:5**  
 Private foundations, **12:11**  
 Public charities, **12:11**  
 Relation to donor, officers and directors, **12:6**  
 Religious organizations, **24:5**  
 Scientific organizations, **24:5**  
 Types, **12:4**  
 Veterans' organizations, **24:5**

### **CHARITABLE PLEDGES**

Claims against the estate, **34:94**

### **CHARITABLE REMAINDER TRUSTS**

Additional contributions, **12:62**  
 Amendments by compromise agreement, **12:82**  
 Annuity trusts  
     generally, **12:54**  
     sample form, IRS, **12:95**  
 Appreciated assets for funding, distributions as return  
     of corpus, **12:53**

### **CHARITABLE REMAINDER TRUSTS —Cont'd**

Assets  
     inaccurate valuation, **12:59**  
     investment, **12:64**  
 Beneficiaries, unrelated, **12:46**  
 Code requirements, **12:55**  
 Contributions, additional, terms of instrument, curing  
     violations, **12:62**  
 CRUTs, multiple with related beneficiaries, self-deal-  
     ing prohibition, **24:26**  
 Deductions  
     income interest, **12:57**  
 Definition, **19:65**  
 Distributions, annuity amounts, **12:55**  
 Drafting considerations, **12:71**  
 Estate tax  
     generally, **16:54, 16:55**  
     payment out of trust, **12:66**  
 Estate tax deductions  
     generally, **21:45**  
     advantages of contributions, **24:21**  
     disclaimer, use, **24:23**  
     eligibility, **24:20**  
     marital gifts, combination, **24:24**  
     non-charitable beneficiary, protection, **24:23**  
     settlement of defective trusts, **24:22**  
 Federal income tax exemptions, **12:69**  
 Final year, provision, **12:60**  
 Five percent probability test, **12:65**  
 Form, **12:95**  
 Funding  
     business interests, **12:60**  
     retirement plan payout, **12:55**  
 General power of appointment, trustee powers, **12:67**  
 Generation skipping tax, exception, **26:17**  
 Gift tax  
     charitable deduction, **16:19**  
     considerations, **19:65**  
     considerations with remainder interests, **12:73**  
     marital deduction applicability, **16:20**  
 High payout trusts, funding with appreciated assets,  
     **12:53**  
 Income beneficiaries  
     generally, **12:56**  
     Federal income taxation, **12:69**  
     other than donor or spouse, **12:73**  
 Income interests  
     actual payment required, **12:57**  
     annuity trusts, **12:57**  
     pooled income funds, value, **12:75**  
     termination, **12:61**  
     unitrusts, **12:58**  
 Income tax deductibility, **19:65**  
 Interrelated computations, **24:34**  
 Investment limitations, **12:67**  
 IRA beneficiary, effect, **19:65**  
 IRS Guidelines, **12:72**  
 Judicial interpretations, **12:82**  
 Measuring life, permitted beneficiaries, **12:46**  
 Nature, **12:53**  
 Noncharitable beneficiary, requirement, **12:56**  
 Permitted trustees, **12:67**  
 Pooled income funds  
     income taxation, **12:76**

## INDEX TO TEXT

### CHARITABLE REMAINDER TRUSTS

#### —Cont'd

Pooled income funds—Cont'd  
    use, **12:74**  
    value, **12:75**  
Powers of trustees, **12:67**  
Private foundation rules, **12:63**  
Private foundations, grantor family member as director, **12:89**  
Qualified disclaimers, preservation of deduction, **24:12**  
Reformation of partial interest, **12:82**  
Remainder interest, change beneficiary by will, **24:20**  
Short trust years, provision, **12:60**  
Short-term trusts, funding with appreciated assets, **12:53**  
Tax payments benefiting others, **12:66**  
Terminally ill clients, use, **31:55**  
Termination, **12:83**  
Transfers to trust, value of deduction, **12:70**  
Trustee powers, naming remainder charitable organization, **24:20**  
Trustees  
    choosing charitable beneficiary, **12:67**  
    grantor ability to remove, **12:67**  
Unitrusts  
    generally, **12:54**  
    catch-up provision, **12:58**  
    form, **12:96**  
    income interest, **12:58**  
Unmarried clients, use in estate planning, **14:17**  
Unrelated beneficiaries, **12:46**  
Valuation of gift, **12:46**

### CHARITABLE REMAINDER UNITRUSTS

Multiple with related parties, self-dealing rules, **12:53**  
Related parties of multiple CRUTs, self-dealing rules, **12:53**

### CHARITABLE TRANSFERS

Loans of artwork, **16:11**

### CHARITABLE TRUSTS

Abusive use of devise, **19:1**  
Form, **12:99**  
Split interest charitable lead trust, distributions to charitable beneficiary, **19:65**  
Trust reformation  
    effect on deduction, **19:65**  
    time limitations, **24:27**

### CHECKLISTS

Additional planning information, **15:12**  
Business assessment of closely held business, **23:42**  
Domicile change, **20:4**  
Information needed for plans, **15:12**  
Irrevocable trust, preparation, **15:20**  
Preresiduary pecuniary marital QTIP trust, preparation, **15:20**  
Retirement expenses, **13:5**  
Retirement resources, **13:6**

### CHECKS

Gifts, **12:20**  
Valuation in estate, undelivered checks, **35:10**  
Year end transfers, **16:14**

### CHECK-THE-BOX SYSTEM

Classification of entities, generally, **3:2**  
Prior law, **3:5**

### CHILD SUPPORT

Custodial parent, defined, **11:8**  
Dependency exemption, **11:8, 11:30**  
Domestic Relations Tax Reform Act of 1984  
    generally, **11:7**  
    custodial parent, defined, **11:8**  
    dependency exemption, **11:8**  
    low-income taxpayers, dependency exemption and EITC, **11:8**  
    medical expenses, deduction for, **11:8**  
    presumption that payments are for child support, **11:7**  
    qualifying child, uniform definition, **11:8**  
    release of dependency exemption, **11:8**  
    shortfall in payments, **11:7**  
    trust, support by means of, **11:7**  
Historical background, **11:1**  
Low-income taxpayers, dependency exemption and EITC, **11:8**  
Medical expenses, deduction for, **11:8**  
Presumption that payments are for child support, **11:7**  
Qualifying child, uniform definition, **11:8**  
Release of dependency exemption, **11:8**  
Separation agreements and decrees, **11:29**  
Shortfall in payments, **11:7**  
Tax consequences, pre-1984, **11:1, 11:3**  
Tax credit for qualifying children, **11:8**  
Trust, support by means of, **11:7**

### CHILDREN AND MINORS

Custodianship accounts, **30:20, 30:21**  
Custodianship of property, **8:45**  
De minimis exception, **9:26**  
Disclaimers, **37:5, 37:17**  
Domicile, **20:2**  
Estate planning considerations, **17:16**  
Family partnerships, tax implications, **9:27**  
Gifts of tangible personal property, **18:25**  
Gifts to minors and others under 21, gift tax, **16:18**  
Gifts under Uniform Acts, **16:18, 20:10, 30:06**  
Guardian of property, responsibilities, **30:04**  
Guardian of the person, responsibilities, **30:03**  
Guardianship accounts, **30:20, 30:21**  
Guardianship for gifts, **18:25**  
Kiddie tax provisions, **9:26**  
Receipt of gifts on minor's behalf, **18:25**  
Section 2503(c) and (e) transfers, gift tax, **16:18**  
Terminable interest rule, third party diversion powers for support, **21:37**  
Testamentary guardians, **18:52**  
Testamentary trusts for minor beneficiaries, **18:46**  
Uniform Gifts to Minors Act, **8:46, 16:18, 20:10, 30:06**  
Uniform Gifts (Transfers) to Minors Act accounts, **30:20, 30:21**  
Uniform Transfers to Minors Act, **8:47, 16:18, 18:25, 20:10**

### CHILD'S SOCIAL SECURITY BENEFITS

Eligible beneficiaries, **13:7**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### **CIRCULAR 230**

Tax shelter opinions, **6:19**

### **CITIZENS (UNITED STATES)**

Aliens, income tax, **1:4**

### **CITIZENSHIP**

Artwork exception to taxation, **16:70**

Estate and gift taxation, nonresidents, **16:70**

Expatriation, **1:4**

Marital deduction

death planning, **31:18.50**

eligibility, **31:18.50**

will drafting, **18:41**

Residents of U.S. possessions, **16:70**

### **CIVIL SERVICE RETIREMENT SYSTEM**

Benefits, **13:14**

### **CLAIMS AGAINST ESTATE**

Consideration requirement, **16:52**

Estate tax deduction, **16:52**

### **CLAIMS COURT**

Full payment jurisdictional requirement, installment  
payment of estate tax, **39:30**

### **CLAIMS COURT TAX REFUND LITIGATION**

Appeals, **39:2**

Commencement, **39:30**

Complaints, **39:30**

Discovery, **39:28**

District Court comparisons, **39:28 to 39:30**

Forum selection considerations, **39:28 to 39:30**

Jurisdiction and creation of court, **39:28**

Jury trial unavailability, **39:28**

Place of trial and pretrial proceedings, **39:28**

Precedents, **39:28**

Supreme Court review of appeals, **39:2**

Trials, **39:28, 39:30**

Writs of certiorari for Supreme Court review of  
appeals, **39:2**

### **CLASS GIFTS**

Antilapse provisions, **18:53**

Beneficiary designations in wills, **18:13**

Distributions

generally, **18:24**

beneficiary designations, **18:13**

Precatory distributions, **18:24**

Will provisions

beneficiary designations, **18:13**

failure of class to agree on division, **18:24**

### **CLASSIFICATION FOR TAX PURPOSES**

Limited liability companies, **3:6**

### **CLASSIFICATION OF ENTITIES**

Check-the-box system, **3:2**

Corporations, **3:2**

Limited liability companies, **3:6**

Limited partnerships, **3:5**

Partnerships, **3:4**

S corporations, **3:3**

### **CLAT**

See index heading CHARITABLE LEAD ANNUITY TRUST

### **CLAUSES**

See index heading FORMS

### **CLIENTS**

Initial conference, estate planning, **15:7**

### **CLIENT'S OBJECTIVES**

Entity freezes

generally, **27:32**

assets involved, **27:35**

design process, **27:36**

simple solutions, **27:33**

timing considerations, **27:34**

### **CLIFFORD TRUSTS**

See also index heading TRUSTS

Income shifting, use, **9:7**

Nature, **19:66**

### **CLOSELY HELD BUSINESS VALUATIONS**

See also index headings CLOSELY HELD BUSINESSES; VALU-  
ATION

Accounting practices, **35:55**

Advertising agencies, **35:55**

Approaches to valuation, **35:39 to 35:74**

Arm's length sale or exchange method, **35:40**

Artistic intangibles, **35:60**

Asset-based formulas, **35:55**

Auto repair garages, **35:55**

Auto wrecking yards, **35:55**

Balance sheet adjustments, **35:49**

Bars, **35:55**

Bonds, **35:61**

Book value, **35:48**

Burden of proof, **35:35**

Business intangibles, methods, **35:59**

Buy-sell agreements, **35:64**

Capitalization of gross revenues, **35:54**

Categories of interest, **35:37**

Closely held business interests, definition, **35:36**

Cocktail lounges, **35:55**

Comparable companies, use, **35:41**

Contingent legal fees, **35:61**

Contractual properties, **35:61**

Controlling interest, **35:37**

Controlling stock, **35:62**

Convenience groceries, **35:55**

Copyrights, **35:60**

Corporate earnings, definition, **35:42**

Cost of creation formula, **35:59**

Deferred compensation, **35:61**

Delaware block approach, **35:53**

Discounted cash flow, **35:59**

Discounted future earnings method, **35:44**

Discounts, **35:65**

Dividend-paying capacity, **35:47**

Estimated future earnings, **35:42**

Excess earnings, definition, **35:58**

Family attribution principle, **35:63**

Funeral homes, **35:55**



## INDEX TO TEXT

### CLOSELY HELD BUSINESS VALUATIONS—Cont'd

Goodwill  
    generally, **35:57**  
    excess earnings, **35:58**  
Gross revenue multipliers, **35:54**  
High asset value, reconciliation with modest profitability, **35:37**  
Holding company interest, **35:37**  
Hotels, **35:55**  
Income capitalization, **35:59**  
Income statement adjustments, **35:43**  
Insurance agencies, **35:55**  
Intangible assets, **35:56**  
Interest with limited marketability, valuation methodology, **35:38**  
Key man loss, **35:69**  
Lack of marketability, discount, **35:67**  
Legal practices, **35:55**  
Life insurance proceeds paid to company, impact, **35:69**  
Liquidation value, **35:50**  
Liquor stores, **35:55**  
Majority holdings, **35:62**  
Market rate of return capitalization, **35:46**  
Methods of valuation, **35:39 to 35:74**  
Minority holdings, **35:66**  
Mobile home parks, **35:55**  
Mortgages, **35:61**  
Motels, **35:55**  
Noncontrolling interest, **35:37**  
Nursing homes, **35:55**  
Operating company interest, **35:37**  
Patents, **35:60**  
Preferred stock, **35:70**  
Premium for control, **35:62**  
Price-earnings of comparable publicly traded stocks, **35:45**  
Price-to-book value approach, **35:51**  
Principal manager, loss, **35:69**  
Professional practices  
    balance sheet adjustments, **35:72**  
    closely held corporation, comparison, **35:71**  
    practice goodwill, **35:73**  
    professional goodwill, **35:73**  
    valuation techniques, **35:74**  
Promissory notes, **35:61**  
Ratio analysis of comparable companies, **35:41**  
Representative sales, use, **35:40**  
Return on equity, **35:46**  
Rules of thumb, **35:55**  
S corporations, cash flow adjustment, **35:42**  
Sales of stock, required usage, **35:40**  
Savings capitalization, **35:59**  
Selling restrictions, discount, **35:68**  
Transfer taxes, provisions for avoiding, **35:65**  
Valuation methods, **35:39 to 35:74**  
Weighted average formula, **35:53**

### CLOSELY HELD BUSINESSES

See also index headings BUY-SELL AGREEMENTS; CLOSELY HELD BUSINESS VALUATIONS  
Assessment of business  
    generally, **23:5**  
    checklist form, **23:42**

### CLOSELY HELD BUSINESSES—Cont'd

Asset freeze techniques, annuities, private, **29:43**  
Business plan integration with estate plan, **23:2 et seq.**  
Buy-sell agreements  
    estate planning tool, **17:29**  
    estate tax value, **35:64**  
    use by terminally ill client, **31:35**  
Calls, **23:22**  
Cash-flow after death, **23:3, 23:6 et seq.**  
Checklist for assessment of business  
    generally, **23:5**  
    preliminary information assembly, form, **23:42**  
Classes of ownership or control, **23:18 to 23:21**  
Community property interests, **10:46**  
Control, **23:4, 23:16 et seq.**  
    estate plan provision, **17:30**  
Corporations. See index heading CORPORATIONS  
Cross purchase agreements, **23:33, 23:36, 23:37**  
Debt interests of nonparticipating owners, **23:23**  
Devise equalization among beneficiaries, **23:24**  
Discounts in value, availability, **35:65**  
Discretion over business clause, form, **17:33**  
Divorce, transfers of property between spouses, **11:13**  
Earnings distributions, **23:22**  
Equity interest of nonparticipating owner, transfer to debt interest, **23:23**  
Estate planning  
    considerations, **15:2**  
    lifetime, **23:1 et seq.**  
    problems, **17:28**  
Estate tax deferral  
    acceleration of unpaid tax, **4:42**  
    amount deferred, **4:41**  
    attribution rules, **4:39**  
    eligibility, **4:34**  
    interest in closely held business, definition, **4:34**  
    lease of farm real property, eligibility, **4:36**  
    liquidity of estate, **23:15**  
    manner of election, **4:40**  
    payment of interest, **4:41**  
    personal holding company, eligibility, **4:38**  
    restructuring business, **23:17**  
    third-party management, eligibility, **4:37**  
    time of election, **4:40**  
    trade or business test, **4:35**  
Examination during planning process, **23:5**  
Extent of client's holdings, **15:8**  
Forms  
    assessment of closely held business, checklist, **23:42**  
    corporate resolution adopting redemption agreement, **23:43**  
    cross purchase agreement for shareholders, **23:45**  
    qualified S trust article, **23:46**  
    stock redemption agreement, **23:44**  
    trust provision, ownership of S corporation stock, **23:47**  
    will provision, ownership of S corporation stock, **23:47**  
Funding of purchase of interest, **23:22**  
Going-concern value, goodwill distinguished, **35:57**  
Goodwill, use in valuing, **35:57**

## **CLOSELY HELD BUSINESSES—Cont'd**

Imminent death planning  
 ability of executor to continue, **31:66**  
 buy-sell agreement, consideration, **31:68**  
 management issues, **31:65**  
 review, **31:64**  
 salary continuation agreement for surviving spouse, **31:70**  
 stock redemption, **31:69**  
 transfer of ownership, consideration, **31:67**  
 valuation, **31:71**  
 Installment payment of estate taxes  
 election, **33:19**  
 qualifications, **13:28**  
 Interest divestment planning, **23:1, 23:5, 23:25 et seq.**  
 Interest retention planning, after owner's death, **23:5 et seq.**  
 Interest retention planning following owner's death, **23:1**  
 Key employees, provision, **17:32**  
 Limited partnerships, **23:9, 23:20**  
 Liquidation planning, **23:1, 23:5**  
 Liquidity of estate, **23:9**  
 Liquidity planning for estate  
 generally, **23:3**  
 business as source, **23:7 et seq.**  
 sources, **23:6 et seq.**  
 Management succession, **23:16**  
 Minority discount creation, **23:17 to 23:21**  
 Noncontrolling parties, **23:22 to 23:24**  
 Nonparticipating owners' interests, **23:23**  
 Options, **23:22**  
 Ownership, **23:4, 23:16 et seq.**  
 Passive and active beneficiaries, estate distribution equalization, **23:34**  
 Passive owners, **23:22**  
 Puts, **23:22**  
 Restructure of ownership and control, **23:16 et seq.**  
 Retirement considerations, **13:21**  
 S corporations, **23:21, 23:39 et seq.**  
 Separate property interests, **10:46**  
 Sole proprietorships  
 liquidity of estate, **23:8**  
 restructure of business ownership and control, **23:16, 23:18, 23:19**  
 Special use valuation, preservation of eligibility, **13:27**  
 Stock devises to surviving spouse, **21:66**  
 Stock redemption  
 postmortem estate planning option, **33:33**  
 use during retirement, **13:21**  
 Terminally ill client  
 estate tax value, **31:71**  
 major asset of estate, **31:38**  
 valuation issues, **31:71**  
 Terminating shareholder's interest, stock redemption, **23:14**  
 Termination of shareholder's interest with stock redemption, **23:12**  
 Transfer of equity interest, **17:29**  
 Transfer taxes, provisions for avoiding, **35:65**  
 Valuation, discounts applicable, **35:65 to 35:69**  
 Value  
 determination, **17:31**

Index to Text-16

## **CLOSELY HELD BUSINESSES—Cont'd**

Value—Cont'd  
 enhancement as community or separate property, **10:46**

## **CLOSELY HELD CORPORATIONS**

See also index heading **CLOSELY HELD BUSINESSES**  
 Accumulated earnings tax, **3:32**  
 At risk rules, **3:74**  
 Buy-sell agreements, **23:25 et seq.**  
 Capital expenditures, **23:11**  
 Capital stock, valuation methodology, **35:36**  
 Death or retirement of shareholder, **3:110**  
 Federal estate tax return listings, **34:69**  
 Liquidation, recognition of gains and losses, **3:115**  
 Liquidity of estate, **23:6, 23:7, 23:11 to 23:14**  
 Marketability discount, **35:67**  
 Material participation test, **6:30**  
 Minority discount, **35:66**  
 Passive activity loss rules, application, **6:30**  
 Passive loss rules, applicability, **3:70**  
 Personal liability of shareholders, **3:8**  
 Qualified appraisals, **12:8**  
 Redemption of stock  
 generally, **23:11 to 23:14**  
 capital expenditures, **23:11**  
 corporate resolution, form, **23:43**  
 postmortem planning, **33:33**  
 Restructure of corporate ownership and control, **23:21**  
 Restructure ownership and control, **23:16 to 23:18**  
 Tax advantaged investment, form, **6:30**  
 Valuation methods  
 comparable companies, **35:41**  
 weighted average, **35:53**

## **CLOSELY HELD STOCK**

Charitable gift, **12:31**  
 Charitable remainder trusts, **12:60**  
 Redemption, **23:11 et seq., 33:33**  
 Valuation  
 comparable companies, **35:41**  
 methodology, **35:38**

## **CLOSING AGREEMENTS**

Use, **39:16**

## **CLOSING LETTERS**

Generally, **39:5**

## **CLOTHING**

Valuations, **35:11**

## **CLUT**

See index heading **CHARITABLE LEAD UNITRUST**

## **COAL**

Trust property, **19:26**  
 Valuation of coal interests, **35:22**

## **COCKTAIL LOUNGES**

Valuations, **35:55**

## **COD**

See also index heading **CANCELLATION OF DEBT**

## **CODICILS**

Advantages and disadvantages, **18:65**

## INDEX TO TEXT

### **CODICILS—Cont'd**

Cremation instructions  
    generally, **18:4**  
    form, **18:74**  
Drafting recommendations, **18:65**  
Execution, generally, **18:63, 18:65**  
Guardian's execution for incompetent, **18:65**  
Revocation, drafting provisions, **18:65**  
Self-proving, **18:64**

### **COIN COLLECTIONS**

Valuations, **35:11**

### **COLLAPSIBLE CORPORATION**

Generally, **3:107**

### **COLLATERAL ASSIGNMENT**

Split dollar insurance, tax implications, **2:24**

### **COLLATERAL HEIRS**

Deceased child rule, generation skipping tax, **26:19**

### **COLLECTION DUE PROCESS (CDP) HEARING**

Notify taxpayer, collection actions, **39:32**  
Tax Court review, **39:32**

### **COMMODITIES**

Charitable gift, **12:33**

### **COMMON DISASTER PROVISIONS**

Estate tax marital deduction qualification, **21:19**  
Reverse presumption clauses  
    generally, **21:21**  
    form, **21:24**  
    survivorship, **21:23**

### **COMMON STOCK**

See also index heading **STOCKS**  
Tax treatment, **6:47**

### **COMMON TRUST FUND INTERESTS**

Valuations, **35:34**

### **COMMUNITY DEBTS**

Generally, **10:13**

### **COMMUNITY PROPERTY**

Generally, **10:39 et seq.**  
See also index heading **SEPARATE PROPERTY**  
Advantages, **20:13**  
Apportionment of ownership  
    generally, **10:7**  
    life insurance proceeds, **10:42**  
Bank accounts, joint, **10:41**  
Basis adjustment, **10:52**  
Burden of proof, **20:13**  
Classification determination, **20:13**  
Closely held business value enhancement, **10:46**  
Commingling of property  
    community property, effect, **10:7**  
    conversion to community property, **10:52**  
    effect on property characteristics, **10:2**  
    income with other property, **10:57**  
    presumption of ownership, **20:13**  
Community debts, **10:13**  
Concept, **20:13**

### **COMMUNITY PROPERTY—Cont'd**

Conversion to or from separate property, **10:52, 10:58**  
Creditors' claims, **10:13**  
Debts, community, **10:13**  
Deductibility of rent paid to spouse, **10:7**  
Deductions in respect of decedent, **10:53**  
Deemed gifts by surviving spouse, **10:40 to 10:44, 10:46**  
Definition, **20:13**  
Disclaimers, **10:54, 10:55**  
Disposition at death, **10:7**  
Divorce, effect on ownership, **10:7**  
Domicile change's effect on classification, **20:13**  
Election by surviving spouse, **10:44**  
Enhanced value of separate property, **10:45 to 10:49**  
Estate tax  
    life insurance, **10:42**  
    widow's election, effect, **10:44**  
Forms  
    partition agreements, **10:61**  
    postnuptial agreement, **10:61**  
Gifts, **10:40 et seq., 10:58**  
Improvements to separate property, **10:47**  
Inception of title rule  
    generally, **10:7**  
    life insurance proceeds, **10:42**  
Income  
    commingling, **10:57**  
    distributions from trusts, **10:49**  
    estate administration period as time for income, **10:60**  
    income in respect of decedent, **10:53**  
    splitting, **10:51**  
Income tax, postmortem planning, **10:50 to 10:53**  
Individually held property in community property state, **10:2**  
Innocent spouse liability, community income relief, **11:24**  
Joint bank accounts with third parties, **10:41**  
Joint management community property, **10:7, 10:13**  
Joint tenancy with right of survivorship, creation, **10:6**  
Life insurance  
    generally, **10:40**  
    interpolated terminal reserve value, **10:42**  
    ownership, **10:42**  
    proceeds, **16:29**  
Lifetime transfers as deemed gifts, **10:41**  
Management, **10:7**  
Marital gifts, **18:40**  
Marriage requirement, **10:7**  
Partition  
    generally, **10:59**  
    agreement forms, **10:61**  
Partnerships, **10:46**  
Personal property, **10:57**  
Postnuptial agreements  
    generally, **10:58**  
    form, **10:61**  
Prenuptial agreements, **10:58**  
Presumption of ownership, **20:13**  
Real property, **10:57**  
Reimbursement right, **10:7, 10:46 to 10:48**  
Removal from state, **10:7**  
Retirement plan benefits, **10:43**

## **COMMUNITY PROPERTY—Cont'd**

Separate property  
     apportionment, **10:7, 10:42**  
     appreciation in value, **10:45 et seq.**  
     commingling, **10:2, 10:52, 20:13**  
     conversion, **10:52, 10:58**  
     enhancement of value, **10:45 et seq.**  
     improvements, **10:47**  
     Sole management, **10:7, 10:13**  
     Sole proprietorships, **10:46**  
     Surviving spouse's election, **10:44**  
     Tracing, **10:2, 10:7**  
     Transfers  
         deemed gifts by surviving spouse, **10:40 et seq.**  
         lifetime transfers, **10:41**  
     Trusts accumulations and distributions, **10:49**  
     Uniform Disposition of Community Property Rights at Death Act, **10:57**  
     Uniform Marital Property Act, **10:52**  
     Widow's election, **10:44**  
     Widow's settlement, effect on GST, **26:5**

## **COMMUNITY RENEWAL ACT OF 2000**

CPI index correction, **9:3**  
     State and local governments as beneficiaries for an ESBT, **23:39**

## **COMMUTING A TRUST**

Avoiding gross estate, **31:76**

## **COMPANION WILLS**

Preparation of wills, **18:72**

## **COMPARATIVE UNIT METHOD**

Real property valuation, **35:20**

## **COMPENSATION**

Fiduciaries. See index heading **FIDUCIARIES**  
     Gift from employer, characterization, **16:5**

## **COMPENSATION METHODS**

Highly compensated employee, defined, **2:2**  
     Overview, **2:2**  
     Planning for the highly compensated, **2:1**

## **COMPENSATORY STOCK OPTIONS**

Capital gain deduction, effect, **2:69**  
     Compensatory element, **2:61**  
     Financial accounting treatment, **2:70**  
     Incentive stock options  
         generally, **2:62**  
         alternative minimum tax preference item, **2:64**  
         capital gain deduction, effect, **2:69**  
         disqualifying transfers, **2:65**  
         employment requirement, **2:63**  
         exercise of option, **2:65**  
         holding period requirement, **2:63**  
         inadvertent options, **2:66**  
         nontransferability, **2:63**  
         option price, **2:63**  
         pyramiding options, **2:67**  
         qualifying transfers, **2:64**  
         sequential exercise rule, **2:63**  
         shareholder approval, requirement, **2:63**  
         ten percent shareholders, **2:63**  
         term of option agreement, **2:63**

## **COMPENSATORY STOCK OPTIONS—Cont'd**

Incentive stock options—Cont'd  
     term of plan, **2:63**  
     vesting limit, **2:63**  
     Nonqualifying stock options, **2:68**

## **COMPENSATORY STOCK TRANSFERS**

Election to treat stock as completely vested, **2:55**  
     Employer deductions, **2:59**  
     Formula value transfers, **2:58**  
     Holding period, commencement, **2:55**  
     Lapse restrictions, **2:56**  
     Nonlapse restrictions, **2:58**  
     Purpose, **2:55**  
     Recognition of fair market value, **2:57**  
     Reduction in income tax rates, impact of, **2:60**  
     Section 83(b) election, **2:57**  
     Shareholders to employees on behalf of corporation, **2:59**  
     Substantial risk of forfeiture, **2:56**  
     Tax basis of employee, **2:55**  
     Taxability, **2:55**  
     Valuing, **2:61**

## **COMPLAINTS, TAX REFUND LITIGATION**

Claims Court, **39:30**  
     District Court, **39:29**

## **COMPLEX TRUSTS**

Taxation, generally, **32:8**

## **COMPUTER PROGRAMS**

Product reference list, **1:26**  
     Protection against malpractice, **1:31**

## **COMPUTER SOFTWARE ROYALTIES**

Personal holding tax exception, **3:33**

## **COMPUTERS**

Administration of estate, **1:25**  
     Client-data retrieval, **1:25**  
     Document indexing, **1:25**  
     Document preparation, **1:24**  
     Product reference list, **1:26**  
     Tax analysis, use, **1:23**  
     Tax returns, use, **1:23**  
     Use in estate planning, **1:22**

## **CONDEMNED PROPERTY**

Legal expenses, **6:38**

## **CONDITIONING OF LAND**

Deductibility, **4:8**

## **CONDUCT OF BUSINESS**

Grouping of assets, **23:15**

## **CONFLICT OF INTEREST**

Estate planning process  
     generally, **1:27**  
         business associates, **1:30**  
         husband and wife, **1:28**  
         multiple family members, **1:29**

## INDEX TO TEXT

### CONFLICT OF LAWS

Election by surviving spouse, **20:7**  
Estate administration, **30:39**  
Fiduciary selection, **30:02, 30:38 et seq.**  
Personal property disposition, **20:5, 20:7**  
Real property disposition, **20:5, 20:7**  
Separate property, **20:13**  
Trust validity, construction, and administration  
    inter vivos trusts, **30:41**  
    testamentary trusts, **30:40**  
Wills  
    administration, **30:39**  
    interpretation, **30:39**  
    validity, **20:8, 30:39**

### CONSERVATION EASEMENT

Co-ownership where one owner deceased, **12:88, 24:19**  
Election to exclude from estates  
    generally, **24:19**  
    filing requirements, **34:81**  
Gross estate determination, amount of exclusion, **34:92**  
Property used for QPRT, effect, **28:6**  
Specially valued farmland, recapture tax, **4:30**  
Valuation  
    charitable gifts, **35:24**  
    qualified conservation contributions, **12:88**

### CONSERVATORS

Generally, **30:04**

### CONSTITUTIONALITY

Taxation of social security benefits, nonresident aliens, **13:12**

### CONSTRUCTIVE DIVIDENDS

Overview, **3:27**

### CONSTRUCTIVE FRAUDULENT TRANSFERS

Generally, **19:19**

### CONSTRUCTIVE RECEIPT

Nonqualified deferred compensation plans, **2:7**

### CONSULTING ARRANGEMENTS

Golden parachute payments, **2:79**

### CONTINGENCY FEES

Division of property theory, **2:5**  
Return preparers, **39:2**

### CONTINGENT INTERESTS

Generally, **18:45**

### CONTRACT FOR DEED

Installment sales, completed sale treatment, **6:38**

### CONTRACTUAL PROPERTIES

Valuations, **35:61**

### CONTRIBUTION BASE

Limits on charitable deduction, **12:10**

### CONTRIBUTIONS

Amount of compensation taken into account to determine contributions as limited by statute, **3:82**  
Charitable remainder trusts, **12:62**  
401(k) plans, “catch up” contributions, **5:29**  
Individual Retirement Accounts  
    deductible, **5:59**  
    excess, **5:62**  
    nondeductible, **5:61**  
Roth IRAs, **5:73**  
Tax-free growth in IRA, **5:73**

### CONTROL OF BUSINESS

Estate planning considerations, **17:30**

### CONTROLLED CORPORATION

Life insurance, incidents of ownership, **2:23**

### CONVENIENCE ACCOUNTS

Brokerage accounts, **10:35**  
Joint bank accounts, **10:33**

### CONVENIENCE GROCERY STORES

Valuations, **35:55**

### CONVERSION RIGHTS

Corporate group insurance, inclusion in gross estate, **7:17**

### CONVERTIBLE DEBENTURES

Compensation agreements, **2:73**

### CONVERTIBLE TRUST

Trust preparation, **19:16**

### COPYRIGHTS

Duration, **38:17**  
Estate tax charitable deduction, **24:28**  
Valuation, **35:60**

### CORPORATE CAPITAL EXPENDITURES

Liquidity planning, **23:11**

### CORPORATE CHARITABLE GIFTS

Accrual basis, **12:7**  
Advertising or publicity, corporate sponsorship arrangements, **12:16**  
Capital gains property, limitation on deduction, **12:16**  
Carryover of excess, **12:17**  
Excess contributions, carryover, **12:17**  
Inventory, **12:28**  
Scientific property, **12:28**  
Timing, **12:7**

### CORPORATE EARNINGS

Definition, **35:42**

### CORPORATE FREEZES

Forms for transactions  
    articles of amendment, corporation, **27:119**  
    joint action without a meeting, **27:121**  
    recapitalization plan, corporation, **27:120**  
    shareholders and directors action, **27:121**

### CORPORATE GROUP INSURANCE

Conversion rights, inclusion in gross estate, **7:17**

## **CORPORATE INCOME TAX**

Generally, **4:4**  
Rates, **3:24**

## **CORPORATIONS**

Accident and health plans, **3:93 to 3:100**  
Accounting period, selection, **3:101**  
Accumulated earnings tax, **3:32**  
Acquisition of assets of subsidiary, **3:115**  
Affiliated service groups  
    income tax avoidance, principal purpose, **3:88**  
    leased employees, retirement benefits, **3:87**  
    management functions, performance, **3:86**  
    special rules, **3:85**  
Articles of incorporation, preparation and filing, **3:16**  
Assessment of closely held corporation  
    generally, **23:5**  
    checklist form, **23:42**  
At-risk rules, **3:74**  
Balance sheet adjustments, **35:49**  
Bargain sale of assets to shareholders, **3:27**  
Book value, definition, **35:48**  
Buy-sell agreements  
    generally, **23:25 et seq.**  
    estate planning during life, **23:38 to 23:41**  
    S corporations, **23:41**  
    stock, **23:39, 23:41, 23:46, 23:47**  
Calls, closely held corporations, **23:22**  
Capital expenditures, **23:11**  
Capital gain from sale of interest, **3:107**  
Capital losses, deductibility, **3:54**  
Capitalization rules; deductibility, **3:55 to 3:69**  
Centralized management, **3:10**  
Child care assistance, **3:99**  
Classes of ownership or control, **23:18, 23:21**  
Classification for tax purposes, **3:2**  
Closely held corporations, estate planning, **23:1 et seq.**  
Collapsible corporation, definition, **3:107**  
Constructive dividends, **3:27**  
Continuity of existence, **3:12**  
Conversion to S corporation, LIFO recapture, **3:46**  
Corporate earnings, **35:42**  
Corporate loans to shareholders, **3:25**  
Corporate losses, at risk rules, **3:74**  
Corporate property, **10:9**  
Cross purchase agreements  
    generally, **23:33**  
    form, **23:45**  
Death or retirement of shareholder, **3:110**  
Debt instruments, issuance, **3:18**  
Debt interests, closely held corporations, **23:23**  
Deductibility of losses, **3:53 to 3:69**  
Definition, **3:2**  
Dental reimbursement plans, **3:94**  
Dependent care assistance, **3:99**  
Disability retirement benefits, deductibility, **3:95**  
Distribution of corporate property, income tax treatment, **3:26 to 3:31**  
Distributions to shareholders, **23:11**  
Dividends  
    generally, **23:11, 23:14, 23:21**  
    definition, **3:26**  
Double taxation  
    generally, **3:2, 3:25**

## **CORPORATIONS—Cont'd**

Double taxation—Cont'd  
    gift cards, merchant's income on sale of, **3:31**  
    mitigation techniques, **3:28 to 3:31**  
Earnings distributions, closely held corporations, **23:22**  
Employee death benefits, lump-sum exclusions, **3:97**  
Entity purchase agreements, **23:33**  
Equity interest transfer to debt interest, **23:23**  
Equity securities, issuance, **3:18**  
Estate planning during life, closely held corporations, **23:1 et seq.**  
Excessive payments for shareholder's property, **3:27**  
Expenses and formalities of organization  
    generally, **3:16**  
    amortization, **3:105**  
Farming operations, tax treatment, **4:7**  
Fiduciary powers, **30:14, 30:15**  
Fiduciary qualifications, **30:14 to 30:16**  
Fiscal year, factor in choice of entity, **3:101**  
Fringe benefits of partnerships, compared distributions, **3:83**  
    participation standards, **3:81**  
    top-heavy plans, **3:82**  
Functions, **3:2**  
Funding business interest purchase, closely held corporations, **23:22**  
Gift cards, merchant's income on sale of, **3:31**  
Gift tax  
    corporate donors, **16:15**  
    overview corporate donors, **16:5**  
Group-term life insurance, deductibility of premiums, **3:96**  
Income tax rates, **3:24**  
Interest rates, over and under payments of tax, **39:31**  
Land trusts treated as corporations, **10:38**  
Life insurance on majority stockholder, **22:20**  
Limited liability, **3:8**  
Liquidation  
    recognition of gains and losses, **3:115**  
    taxable event, **4:5**  
    value, **35:50**  
Loans to shareholders  
    generally, **9:23**  
    short-term capital loss treatment, **3:70**  
Lodging for convenience of employer, **3:98**  
Losses, limitations on recognition, **3:115**  
Management and control, **3:10**  
Maximum income tax rate, **4:4**  
Meals for convenience of employer, **3:98**  
Medical reimbursement plans, **3:94**  
Minority discount creation, **23:17 to 23:21**  
Net operating loss carryovers, **3:70**  
Noncontrolling parties, closely held corporations, **23:22 to 23:24**  
Nonqualified deferred compensation plans, **3:90**  
Nonrecognition rule, **3:115**  
Options, closely held corporations, **23:22**  
Organizing transaction, tax treatment, **3:105**  
Partnerships and S corporations compared; chart, **3:122**  
Passive owners of closely held corporations, **23:22**  
Payment to nonshareholder, benefit of shareholder, treatment, **3:27**  
Personal holding company tax, **3:33**



## INDEX TO TEXT

### **CORPORATIONS—Cont'd**

Personal use of property by shareholder, **3:27**  
Postmortem liquidation, **33:34**  
Preferred stock, Section 351 boot characterization, **3:105**  
Professional corporations, special rules, **3:85**  
Property of corporation, **10:9**  
Puts, closely held corporations, **23:22**  
Qualified retirement plans  
    distributions, **3:83**  
    nondiscriminatory rules, **3:81**  
    participation standards, **3:81**  
    Retirement Equity Act, provisions, **3:83**  
Qualified S subsidiaries, election, effect on corporation, **3:46**  
Recapitalization, Section 306 stock, **23:14**  
Redemption agreements  
    generally, **23:33**  
    form, **23:44**  
    resolution of adoption, form, **23:43**  
Redemption of corporate stock  
    buy-sell agreements, **21:34**  
    dividend treatment comparison, **23:11**  
    estate tax payment funding, **23:13**  
    retirement or death of shareholder, **3:110**  
    sale or exchange treatment, **23:12**  
    Section 302 redemptions, **23:12**  
    Section 303 redemptions, **23:13**  
    Section 306 stock, **23:14**  
    significance to corporation, **23:11**  
    surviving spouse's stock, **21:66**  
    terminating shareholder's interest, **23:14**  
    termination of shareholder's interest, **23:12**  
Registration to do business in foreign state, **3:16**  
REITs, Section 355 separations, **3:115**  
Resolution for redemption agreement adoption, form, **23:43**  
Restructure of ownership and control, closely held corporations, **23:21, 23:22**  
Restructure ownership and control, closely held corporations, **23:16 to 23:18**  
Retroactive allocations, applicability, **3:75**  
S corporations, advantages, **23:21**  
S stock  
    dispositions, **38:05**  
    form, trust or will provision on ownership, **23:47**  
    ownership, **23:39, 23:46, 23:47**  
    second class restriction, **23:41**  
Salary hedge agreements, **3:30, 3:31**  
Sale of interest, tax treatment, **3:107**  
Sale or exchange of stock, **23:12**  
Section 306 stock, **23:14**  
Section 351 transaction, boot treatment, preferred stock, **3:105**  
Section 1244 stock provision, purpose, **3:71**  
Shareholder-employees, reasonable compensation, **3:29**  
Shareholders, compensatory stock transfers to employees, **2:59**  
Shareholder's death, effects, **3:12**  
Small business stock statute, purpose, **3:71**  
Sources of capital, **3:18**  
Start-up expenses; deductibility, **3:56**  
State of incorporation, **3:16**  
Statutory procedures, compliance, **3:16**

### **CORPORATIONS—Cont'd**

Stock option plans, availability, **3:91**  
Subsidiary control, timing of spin-off, **3:115**  
Tax advantaged investment, **6:30**  
Taxable entity, **3:2**  
Taxable incorporation, methods, **3:105**  
Term insurance, premium sharing for close-corporation buy-out, **7:27**  
Termination of S election  
    generally, **3:119**  
    inadvertent termination, **3:120**  
    recapitalization, **3:110**  
Top-heavy plans, requirements, **3:82**  
Transferability of interests, **3:14**

### **CORRESPONDENCE AUDITS**

Generally, **39:7**

### **COST OF LIVING ADJUSTMENTS**

Items subject to COLA, **9:3**  
Rates of income tax, **9:3**

### **COSTS**

Litigation, taxpayers', **39:20**

### **COTENANCY**

See also index heading **JOINT TENANCY**  
United States savings bonds, **10:36**

### **COTRUSTEES**

See also index heading **TRUSTEES**  
Adviser comparison, practical considerations in fiduciary selection, **30:58**  
Compensation, **18:58, 30:34**  
Family member cotrustees, **30:31**  
Grantor cotrustees, **30:31**  
Joint action requirement, **30:34**  
Liability, **30:34**  
Responsibilities, **30:34**

### **COURT OF APPEALS TAX LITIGATION**

Generally, **39:2, 39:21**

### **COVENANTS NOT TO COMPETE**

Golden parachute payments, **2:79**

### **“COVERED COMPENSATION”**

Defined, **5:25**

### **CREDIT CARDS**

Gifts, **12:20**

### **CREDIT SHELTER FORMULA**

Estate tax marital deduction  
    advantages and disadvantages, **21:64, 21:66**  
    form, **21:65**  
    planning considerations, **21:66**  
    use, **21:55, 21:64, 21:66**

### **CREDIT SHELTER TRUSTS**

Definition, **17:41**  
EGTRRA 2001 considerations, **17:41**  
Form, **21:65**  
Nonmarital devises, **21:64**

### **CREDITORS' CLAIMS**

Ancillary administration, **20:26**

### **CREDITORS' CLAIMS—Cont'd**

Brokerage accounts, joint, **10:35**  
 Community debts, **10:13**  
 Community property, **10:13**  
 Estate tax deduction, **16:52**  
 Estate trusts, **21:46**  
 Joint brokerage accounts, **10:35**  
 Joint management community property, **10:13**  
 Joint stock accounts, **10:35**  
 Joint tenancy with right of survivorship, **10:13**  
 Rabbi trusts, **2:9**  
 Secular trusts, **2:9**  
 Sole management community property, **10:13**  
 Stock accounts, joint, **10:35**  
 Tenancy by the entirety, **10:13**  
 Totten trusts, **10:34**  
 Trade of support rights, **16:52**  
 Will provisions on payment, generally, **18:6, 18:8**

### **CREDITS**

Education expenses, **2:46**  
 State estate taxes, table of amounts, **16:69**

### **CREDITS AGAINST TAX**

Energy conservation, **3:21**  
 Estate tax, filing schedules, **34:99 to 34:104**  
 Estate tax credits, **16:60 et seq.**  
 Foreign estate taxes, estate tax credit, **16:64**  
 Foreign tax credit, **21:14**  
 Gift tax credits, **16:23**  
 Gift taxes paid, estate tax credit, **16:63**  
 Historic properties, renovation, **6:40**  
 Income tax paid to other state, **20:15**  
 Low-income housing, **6:40**  
 Simultaneous deaths, **16:65**  
 State estate taxes, Federal estate tax credit, **16:62**  
 State income tax credit, **20:15**  
 Tax on prior transfers, **16:65**  
 Unified credit, estate tax, **16:61**

### **CREMATION INSTRUCTIONS**

Codicils  
     generally, **18:4**  
     form, **18:74**  
 Decedent's rights, **18:4**

### **CROPS**

See also index heading **FARMERS AND RANCHERS**  
 Preproductive carrying expense deduction, **4:8**  
 Trust property, **19:26**

### **CROSS PURCHASE AGREEMENTS**

Closely held businesses, **23:33, 23:36**  
 Closely held corporations, **23:37**  
 Form, **23:45**  
 Funding of purchase, **23:37**  
 Partnerships, **23:36**

### **CROSSOVER POINT**

Definition, **25:5**

### **CRUMMEY POWERS**

Contingent beneficiaries, **19:58**  
 Overview of right to withdraw, **8:15**  
 Present interest, **8:15**  
 Primary beneficiaries, limited to, **8:15**

### **CRUMMEY POWERS—Cont'd**

Time period to exercise, specific, finite period, **8:15**  
 Trust preparation, **19:58**  
 Withdrawal notices, **8:15**

### **CUMULATIVE LIST OF CHARITABLE ORGANIZATIONS**

Beneficiary designation, **18:13**

### **CUMULATIVE PREFERRED EQUITY INTERESTS**

Entity freezes, **27:107**

### **CURRENT ASSUMPTION WHOLE LIFE INSURANCE**

Insurance product, **7:50 to 7:52**

### **CURTESY**

Abolition, **20:6**  
 Election by surviving spouse, estate tax marital deduction, **21:71**  
 Estate tax, **16:50**  
 Marital deduction, estate tax, **21:6, 21:12**

### **CUSTODIAL PROPERTY**

Review for terminally ill client, **31:30**

### **CUSTODIAL PROPERTY TRANSFERS**

Accounts under statute, **30:20, 30:21**  
 Authority, **20:10**  
 Bond requirement, **30:12**  
 Custodianship accounts, **30:20, 30:21**  
 Duties, **20:10, 30:06**  
 Fiduciary selection tax impact, **30:20, 30:21**  
 General powers of appointment, **30:21**  
 Liability, **30:06**  
 Relationship to minor, **30:11**  
 Residency as not required, **30:10**  
 Successor qualification requirements, **30:11**  
 Uniform Gifts to Minors Act, **20:10, 30:06, 30:10 to 30:12**  
 Uniform Transfers to Minors Act, **20:10, 30:06**

### **CUSTODIANSHIP ACCOUNTS**

Donor as custodian, **30:20, 30:21**  
 Fiduciary selection tax impact, **30:20, 30:21**  
 Gifts to and from account, **30:20**  
 Support of minor from account, **30:21**  
 Uniform Gifts (Transfers) to Minors Act accounts, **30:20, 30:21**

### **CUSTODIANSHIPS**

Exclusion from income tax, **32:10**  
 Gifts, use in income shifting, **9:15**  
 Purpose, **8:45**  
 Uniform Gifts to Minors Act, **8:46**  
 Uniform Transfers to Minors Act, **8:47**

### **CUSTOM-MADE ESTATE PLANS**

Creation, **15:4**

## **D**

### **DAMAGE RECOVERIES**

Generally, **2:5**  
 Withholding requirements, **2:5**

## INDEX TO TEXT

### DAMAGES

Breach of employment contract, golden parachute payments, **2:79**  
Exclusion for personal injury, **2:5**

### DE MINIMIS RULES

Charitable contributions, benefit to donor, **12:36**  
Kiddie tax, **9:26**  
Special use valuation, nonqualified use, **38:09**

### DEADLINES

Presidentially-declared disasters, deadlines postponed for taxpayers affected by, **34:6, 39:23**

### DEATH

Beneficiary, reformation of will, **12:82**  
Grantor retained interest trusts, risk planning, **28:8, 28:11**

### DEATH BENEFITS

Estate includability, **18:36**  
Life insurance  
    inclusion in gross estate, **7:17**  
    taxation, **7:7**  
State income tax, **20:19**  
Statutory fringe benefits, **2:46**

### DEATH CERTIFICATES

Domicile recitation, **20:4**

### DEATH TAXES

Choice of domicile, **20:20 to 20:23**  
Credit against generation skipping tax, **26:22**

### DEBT INSTRUMENTS

Contingent payment agreements, prepaid tuition plans, **2:46**

### DEBTS

Community property, **10:13**  
Consideration for entity freeze, **27:17**  
Deduction of business debt, decedent guarantor, **34:94**  
Guaranteeing, gift treatment, **8:7**  
Payment before death, **31:41**

### DECEASED SPOUSAL UNUSED

#### ELECTION (DSUE)

Postmortem estate planning, **33:21.50**

### DECLARATION OF REPRESENTATIVE

Form 2848, power of attorney and declaration of representative, **34:135**

### DECLARATIONS OF DOMICILE

Changing, **20:4**  
Elements, **20:3**

### DEDUCTIBLE CHARITABLE ORGANIZATIONS

Generally, **12:4**

### DEDUCTIBLE INTERESTS

Estate tax marital deduction, **21:13**

### DEDUCTIONS

Abnormal retirement of business property, **3:62**

### DEDUCTIONS—Cont'd

Administrative expenses  
    effect on estate tax marital deduction, **21:75**  
    estate tax, **16:52**  
    state law, **34:93**  
Alimony, **16:55**  
Attorneys' fees  
    estate tax, **16:52**  
Business losses, **32:25**  
Capitalization rules, **3:55 to 3:69**  
Caregiver compensation, **16:52**  
Cars for business, **2:51**  
Casualty losses  
    generally, **3:58**  
    estate tax, **16:51, 16:53, 32:25**  
Charitable deductions  
    capitalization rules, **3:59**  
    differences as to gift tax or estate tax, **16:3**  
    estate tax, **16:3, 16:51, 16:54**  
    gift tax  
        generally, **16:3**  
        overview, **16:19**  
    split gifts between charity and spouse, **21:45**  
Claims against estate, **16:52**  
Compensatory stock transfers, withholding requirement, **2:59**  
Corporations, generally, **3:53 to 3:69**  
Court costs, estate tax, **16:52**  
Deductions in respect of decedent, **16:52**  
Depreciation  
    automobile limitations, **2:51**  
    capitalization rules, **3:61**  
Distribution of estate or trust, **32:18**  
Entertainment facilities, **2:51**  
Environmental cleanup expenses, **2:50**  
Equity versus security interest, **3:57**  
Estate tax  
    administrative expenses, **16:52**  
    attorneys' fees, **16:52**  
    casualty losses, **16:51, 16:53, 32:25**  
    charitable deduction, **16:3, 16:51, 16:54**  
    claims against estate, **16:52**  
    court costs, **16:52**  
    deductions in respect of decedent, **16:52**  
    expenses, **16:51, 16:52**  
    family owned businesses  
        calculating amount, **34:99**  
        filing requirements, **34:80**  
    filing schedules, **34:92 to 34:98**  
    funeral expenses, **16:52, 18:7**  
    indebtedness, **16:51, 16:52**  
    marital deduction, **16:51, 16:55, 21:1 et seq.**  
    medical expenses, **18:7**  
    mortgages, **16:52**  
    state estate taxes on charitable contributions, **16:62**  
    taxes, **16:51, 16:52**  
Estates, income tax, **32:17 to 32:34**  
Executive compensation, **2:40**  
Expenses, estate tax, **16:51, 16:52**  
Expenses relating to tax exempt income, allocation, **32:31**  
Funeral expenses, estate tax, **16:52, 18:7**  
Generation skipping taxes, **34:24**

## **DEDUCTIONS—Cont'd**

Group life insurance costs, **2:30 to 2:35**  
 Health or life care facilities fees, **13:19**  
 Home office, **2:53, 3:63**  
 Income tax  
     deductions in respect of decedent, **16:52**  
     last illness of taxpayer's wife, **18:7**  
 Indebtedness, **16:51, 16:52**  
 Individual retirement contributions, **5:59**  
 Inheritance taxes, **16:52**  
 Insurance premiums paid, **3:64**  
 Interest payments, tax deficiencies, **2:50, 39:31**  
 Investment interest, **6:17**  
 Key man insurance premiums, **2:15**  
 Leased vehicles, **2:51**  
 Life insurance premiums, **7:16**  
 Malpractice insurance, year of retirement, **2:50**  
 Marital deduction  
     differences as to gift and estate tax, **16:3**  
     estate tax, **16:51, 16:55, 21:1 et seq.**  
     gift tax, **16:20**  
 Medical expenses  
     child care deductions, **11:8**  
     estate tax, **18:7**  
     income tax of surviving husband, **18:7**  
 Mortgages, **16:52**  
 Net operating losses, **3:65, 31:58**  
 Nonresident aliens  
     artwork exception, **16:70**  
     gross estate, **16:70**  
 Partnership interest payments, **23:36**  
 Per diem expenses, **2:51**  
 Personal benefit contracts, **7:16**  
 Points, on mortgages, **33:08**  
 Rabbi trust contributions, **2:9**  
 Real estate taxes, **6:38**  
 Related party transactions, **3:69**  
 Rental payments, community property building, **10:7**  
 Rented vehicles, **2:51**  
 Salary continuation plan payments, **2:18**  
 Section 274 limitations, **2:51**  
 Secular trust contributions, **2:9**  
 Security interest versus equity, **3:57**  
 Spousal support, pre-1984 deductions, **11:2**  
 Start-up expenses, **3:56**  
 State and local taxes, **32:23**  
 State estate taxes on charitable contributions, **16:62**  
 Tax assistance, **2:51**  
 Tax Cuts and Jobs Act, **1:3**  
 Taxes, generally, **16:51, 16:52**  
 Theft losses, **3:68**  
 Tip income, **3:66**  
 Trade of support rights, **16:52**  
 Travel and entertainment, **2:51**  
 Trucks for business, **2:51**  
 Trusts  
     generally, **32:17 to 32:34**  
     investment advice, deductibility, **32:30**  
 2 percent floor for miscellaneous deductions, **32:30**  
 Vehicle use, **2:51**  
 Waiver, **16:52, 16:53**

Index to Text-24

## **DEDUCTIONS IN RESPECT OF DECEDENT**

Business expenses, **32:47**  
 Definition, **32:47**  
 Depletion deduction, **32:54**  
 Interest, **32:54**  
 Taxes, **32:54**  
 Waiver of deduction rule, application, **16:52**

## **DEEMED DISTRIBUTIONS**

Individual Retirement Accounts, **5:64**

## **DEEMED GIFTS BY SURVIVING SPOUSE**

Bank accounts with third parties, **10:41**  
 Elections by surviving spouse, **10:44**  
 Estate tax, **10:44**  
 Gift tax, **10:40, 10:43**  
 Life insurance proceeds, **10:42**  
 Lifetime transfers, **10:41**  
 Reimbursement right, **10:46**  
 Retirement plan benefits, **10:43**  
 Surviving spouse's election, **10:44**  
 Widow's election, **10:44**

## **DEEMED IRAs**

Generally, **5:58**

## **DEFAULT JUDGMENTS**

Tax Court, **39:20**

## **DEFECTIVE GRANTOR TRUSTS**

Asset freeze technique, comparative chart, **29:50**

## **DEFECTIVE TRUSTS**

Installment sales to  
     achieving grantor trust treatment, **29:25**  
     adequate disclosure, **29:28**  
     asset freeze technique, **29:24**  
     estate tax considerations, **29:32**  
     form of trust, **29:36**  
     gift tax consequences, **29:29**  
     gift tax reporting, **29:31**  
     GRAT compared, **29:35**  
     GST tax considerations, **29:33**  
     income tax during grantor's life, **29:26**  
     income tax on trust earnings, **29:30**  
     income tax reporting, **29:28**  
     sample trust, **29:36**  
     structuring transaction, **29:34**  
     tax upon grantor's death, **29:27**

## **DEFERRED COMPENSATION**

Definition, **13:16**  
 Divorce, effect of dividing rights, **11:16**  
 FICA taxes, **13:16**  
 Plans, definition, **2:6**

## **DEFERRED ESTATE TAX PAYMENTS**

Election for deferred payments, timing of, **36:14**  
 Sale of assets, acceleration, **4:42**

## **DEFERRED ESTATE TAX SPECIAL LIENS**

Agreements, **39:33**  
 Bond requirement satisfaction, **39:10, 39:33**

## INDEX TO TEXT

### DEFERRED ESTATE TAX SPECIAL LIENS—Cont'd

Closely held corporation stock, **39:11**  
Election by executor, **39:33**  
Filing requirement for notice, **39:33**  
Notice, **39:33**  
Substitution for general estate and gift tax liens, **39:33**  
Validity, **39:33**  
Value of property, **39:33**

### DEFERRED GIFTS

Generally, **12:53**

### DEFICIENCIES

Estate tax installment payments, deferral, **34:77**

### DEFINED BENEFIT PENSION PLANS

Advantages, **5:12**  
Change in funding method, **5:6**  
“Covered compensation” defined, **5:25**  
Definition, **5:6**  
Distribution date, **5:38**  
Factor in choice of business entity, **3:79**  
Funding method, changing, **5:6**  
In-service distributions, **5:35**  
    taxation, **5:44**  
Loans to participants, **5:36**  
Qualified preretirement survivor annuities, payment, **5:41**  
Required distributions, **5:37**  
Retirement Equity Act, provisions, **3:83**  
Risk of loss, **5:13**  
Top-heavy  
    determination, **5:31**  
    minimum benefit rules, **5:32**

### DEFINED BENEFIT PLANS

Contribution limits, **5:29**

### DEFINED CONTRIBUTION PENSION PLANS

Advantages, **5:12**  
Change in funding method, **5:6**  
Definition, **5:6**  
Discrimination testing, **5:25**  
Distribution date, **5:38**  
Factor in choice of business entity, **3:79**  
Funding method, changing, **5:6**  
In-service distributions  
    generally, **5:35**  
    taxation, **5:44**  
Loans to participants, **5:36**  
Required distributions, **5:37**  
Risk of loss, **5:13**  
Top-heavy  
    determination, **5:31**  
    minimum benefit rules, **5:32**

### DEFINED CONTRIBUTION PLANS

Contribution limits, **5:29**

### DEFINITIONS

Active income, **25:2**  
    passive activities, **6:11**  
Adjusted taxable gifts, **16:2**  
Administration of estates, **20:2**

### DEFINITIONS—Cont'd

Adverse party, trusts, **19:26**  
Affiliated service groups, **3:85**  
Alimony, redefined by Domestic Relations Tax Reform Act of 1984, **11:5**  
Alternative payee, domestic relations orders, **3:84**  
Annuities, qualified joint and survivor, **16:10**  
Art works, charitable contributions, **24:28**  
Asset freeze, **29:01**  
At-risk individual, **6:7**  
Average pay, retirement planning, **13:14**  
Bargain sales, charity, **12:91**  
Basis for gain or loss, **25:4**  
Below market loans, **9:19**  
Beneficiaries, trusts, **19:3**  
Blockage, valuations, **35:33**  
Bonds, **30:12**  
Book value, corporate valuation, **35:48**  
Cafeteria plans, **2:47**  
Capital account  
    real estate limited partnerships, **25:4**  
    tax shelters, **25:4**  
Capitalization, **35:18**  
Charitable contributions, estate taxes, **24:26**  
Charitable deduction, gifts in trust, **16:19**  
Charitable gift annuities, **12:77**  
Charitable lead trusts, **19:65**  
Charitable remainder annuities, **12:77**  
Charitable share, effect of estate administration expenses, **24:8**  
Closely held business interests, valuation, **35:36**  
Collapsible corporation, **3:107**  
Community property, **10:7, 20:13**  
Complex trusts, **32:8**  
Contribution base, charitable contributions, **12:10**  
Corporate earnings, **35:42**  
Corpus, trusts, **19:3**  
Creator of trust, no gratuitous transfers, required, **32:60**  
Credit shelter trust, **17:41**  
Custodial parent, **11:8**  
Deductions in respect of decedent, **32:47**  
Deferred compensation, **13:16**  
Deferred compensation plans, **2:6**  
Defined benefit pension plans, **5:6**  
Defined contribution pension plans, **5:6**  
Demand loan, **9:18**  
Demonstrative gifts, **18:16**  
Direct skips  
    disclaimed interests, **37:24**  
    generation skipping transfer tax, **26:10**  
Disclaimers, **37:2**  
Distributable net income, **32:3**  
Dividends, **3:26**  
Domicile, estates, **20:2**  
Double taxation, **3:2**  
Durable power of attorney, **13:24**  
Durable powers of attorney, **17:8**  
Employee stock ownership plans, **5:9**  
Equitable adjustment, estates, **33:48**  
Estate tax, **16:25**  
Estate tax planning, **1:5**  
Estate trusts, **16:55, 18:45**  
Estate valuation, **35:3**  
Excess earnings, corporate value, **35:58**

**DEFINITIONS—Cont'd**

Executors, **16:66**  
 Fair market value, **16:58**  
     estates, **35:3**  
 Family share trusts, **17:41**  
 Farm, special use valuation, **38:09**  
 Farming use, special use valuation, **4:14**  
 Fiduciaries, trusts, **19:3**  
 Fraudulent transfers, **19:19**  
 Funded welfare benefit plan, **2:30 to 2:35**  
 General powers of attorney, **17:8**  
 Generation skipping transfer, **26:4**  
 Gift loan, **9:18**  
 Gift transfers, **16:6 et seq.**  
 Gifts, **8:2**  
     adjusted taxable, **16:2**  
     trusts, **19:57**  
 Gifts taxable, **17:51**  
 Golden parachutes, **2:3**  
 Goodwill, **35:57**  
 Grantor retained interest trusts (GRITs), **28:3**  
 Grantor to a trust, **32:59**  
 Grantors, trusts, **19:3**  
 Gross estate, **16:26, 17:37**  
 Highly compensated employee, **2:2**  
 Highly-compensated employee, qualified deferred compensation plans, **5:10**  
 Incentive stock option, **2:62**  
 Income in respect of a decedent, **24:31**  
 Income in respect of decedent, **32:47**  
 Independent trustees, **30:30**  
 Individual retirement accounts, **5:55**  
 Inside basis, **25:4**  
 Intangible personal property, **10:1**  
 Inter vivos, trusts, **19:3**  
 Investment interest, **6:17**  
 Investment losses, passive activities, **6:9**  
 IRAs, **5:55**  
 IRD, **32:47**  
 Irrevocable life insurance trusts, **22:27**  
 Joint and survivor annuities, qualified, **16:10**  
 Joint tenancy, **17:45**  
 Joint ventures, valuation, **35:36**  
 Joint wills, **21:47**  
 Life insurance, **7:2**  
 Life insurance policy, **22:14**  
 Life insurance trusts, **22:27**  
 Limited partnerships, **3:5**  
 Marital share, effect of estate administration expenses, **21:54**  
 Material participation, **6:10**  
 Money purchase plans, **5:6**  
 Mutual wills, **21:47**  
 Net income, trusts, **19:34**  
 Nonadverse parties, trusts, **19:26**  
 Nonlapse restrictions, **2:58**  
 Opportunity zones, **6:50**  
 Outside basis, **25:4**  
 Owner, trusts, **19:3**  
 Parachute payments, **2:78**  
 Partnerships, **3:4**  
 Passive activities, **6:8**  
 Passive activity losses, **6:8**  
 Personal benefit contracts, **7:16**

**DEFINITIONS—Cont'd**

Personal property, **10:1**  
 Personal representatives, **30:08**  
 Personal service corporation, **6:31**  
 Pooled income funds, **24:25**  
 Portfolio income, **25:2**  
 Power of attorney, durable, **13:24, 17:8**  
 Powers of appointment, wills, **18:31**  
 Powers of attorney, **17:7**  
 Precatory distributions, wills, **18:24**  
 Preresiduary gifts, wills, **18:39**  
 Present interest, for gifts, **8:10**  
 Private foundations, **12:89**  
 Profit sharing plans, **5:8**  
 Property  
     trusts, **19:3**  
     types of property ownership, **10:1**  
     will usage, **18:12**  
 Public charities, **12:89**  
 QDRO, **3:84**  
 Qualified domestic relations order, **3:84**  
 Qualified family-owned business interest, calculating deduction, **34:99**  
 Qualified heir, special use valuation, **4:18, 38:09**  
 Qualified joint interests, spouses, **10:23**  
 Rabbi trusts, **2:9**  
 Real property, **10:1**  
 Recharacterization, Roth IRAs, **5:73**  
 Related party, trusts, **19:26**  
 Residuary gifts, **18:18**  
 Revocable trusts, **19:14**  
 S corporation, **3:3**  
 Secular trusts, **2:9**  
 Separate property, **10:2, 20:13**  
 Separation agreements, **10:2**  
 Settlor, trusts, **19:3**  
 Simple trusts, **32:7**  
 Specific gifts, will usage, **18:15**  
 Split gifts, **8:27**  
 Stock appreciation rights, **2:68**  
 Stock bonus plans, **5:8**  
 Subordinate party, trusts, **19:26**  
 Sureties, **30:12**  
 Tax advantaged investments, **6:3**  
 Taxable estate, **16:51 et seq.**  
 Taxable gifts, **16:16, 17:51**  
 Taxable termination, generation skipping transfer, **26:8**  
 Tenancy by the entirety, **17:45**  
 Tenancy in common, **17:45**  
 Term life insurance, **7:18**  
 Terminable interest rule, estates, **21:9**  
 Terminable interests  
     generally, **16:55**  
     estates, **21:7**  
     gifts to charity, **16:20**  
 Testamentary, trusts, **19:3**  
 Testamentary dispositions, **14:13**  
 Title, trusts, **19:3**  
 Top-heavy compensation plans, **5:31**  
 Trust preparation, **19:3**  
 Trust res, **19:3**  
 Trusts  
     generally, **19:3**



## INDEX TO TEXT

### DEFINITIONS—Cont'd

Trusts—Cont'd  
charitable gifts, **16:19**  
complex, **32:8**  
simple, **32:7**  
Valuations, estates, **35:3**  
Value  
fair market, **16:58**  
fair market on estates, **35:3**  
Will provisions, **18:62**

### DELIVERY

Gifts, **16:14**

### DEMONSTRATIVE GIFTS

Accretions after testator's death, **18:16**  
Category distinction, **18:14**  
Definition, **18:16**  
Elements, **18:16**  
Example, **18:16**  
Payment source, **18:16**

### DEMUTALIZATION

Life insurance, **22:4**

### DEPENDENCY EXEMPTION

Generally, **11:8**  
Allocation of exemptions, **11:30**

### DEPENDENT CARE ASSISTANCE BY EMPLOYER

Factor with respect to choice of entity, **3:99**  
Tax exemption, **2:46**

### DEPRECIABLE PROPERTY

Recovery of cost, **4:9**

### DEPRECIATION

Automobiles, luxury, limitations, **2:51**  
Basis of property, **32:26**  
Business property, **3:61**  
Cattle, **4:9**  
Community property, basis adjustment, **10:52**  
Electric vehicles, **2:51**  
Farm buildings and equipment, **4:9**  
Goats, **4:9**  
Horses, **4:9**  
Income tax deduction, **32:26**  
Recapture of partner's distributive share, **3:39**  
Section 179 allowance, election of partnership, **3:41**  
Sheep, **4:9**

### DERIVATIVE BENEFITS

Social security, **13:7**

### DESIGNATED BENEFICIARIES

Qualified pension plans, timing of determination, **5:39**

### DETERMINATION OF TAX

Partnerships, settlements with partners, **39:16**

### DEVISES

Buy-sell agreements, valuation, Section 2703, **27:30**  
Crummey powers of withdrawal, **8:15**  
Entity freezes, **27:12**  
Term usage, **18:12**

### DIFFICULT-TO-VALUE PROPERTY

Disposition, **31:24**

### DIRECT CAPITALIZATION METHOD

Valuations, **35:19**

### DIRECT SKIPS

Definition, **26:10, 37:24**  
Disclaimer use, **37:24**

### DIRECTORS OF PRIVATE FOUNDATIONS

Family member of grantor, **12:63**

### DISABILITY

Termination payments, **2:54**

### DISABILITY INSURANCE

Employee contributions, taxation, **2:38**  
Payments  
income of employee, inclusion, **2:38**  
income of employer, inclusion, **2:37**  
Premiums, deductibility, **2:37**  
Use, **2:36**

### DISABILITY RETIREMENT BENEFITS

Deductibility of costs, **3:95**

### DISASTERS

Presidentially-declared disasters, deadlines postponed for taxpayers affected by, **34:6, 39:23**

### DISCHARGED FARM DEBT

Exclusion from gross income, **4:11**

### DISCLAIMER WILLS

Form, **18:73**

### DISCLAIMERS

A trusts, **37:21**  
Annuities, timing requirements, **37:7**  
B trusts, **37:21**  
Built-in loss property, **37:12**  
Charity, in favor of, officers or directors of charity, **37:15**  
Common law v. statute, **37:2**  
Community property, **10:54, 10:55**  
Consideration, **37:11**  
Corpus, **37:13**  
Definition, **37:2**  
Direct skip transfers, **37:24**  
Direction of disclaimant as forbidden, **37:4, 37:14, 37:16**  
Disclaimer wills, **18:73**  
Economic Recovery Tax Act of 1981, **37:3**  
Effect of defective disclaimer, generation skipping trusts, **26:33**  
Estate planning device, **37:19 et seq.**  
Estate size reduction, **37:20**  
Estate tax, generally, **21:15, 21:46, 37:19 et seq.**  
Exemption amounts, **37:22**  
Fair market value, **37:22**  
Family share trusts, **37:21**  
Federal statute, **37:2**  
Fiduciaries, **37:15**  
Filing, **37:6**

## DISCLAIMERS—Cont'd

Forms  
     disclaimer creating trust, qualified terminal interest property (QTIP), **37:27**  
     formula disclaimer, **37:26**  
     general disclaimer, **37:25**  
     trustee's disclaimer, **37:28**  
 Formula disclaimer form, **37:26**  
 Fractional portion of interest  
     generally, **37:16**  
 General disclaimer form, **37:25**  
 Generation-skipping transfer tax  
     generally, **26:37, 37:24**  
 Gift tax, **16:12**  
 Guardian requirement, incompetent or minor disclaimant, **37:5**  
 Implied promise, effect, **37:11**  
 Income disclaimers  
     generally, **37:13, 37:20**  
     trustee, form, **37:28**  
 Income tax reduction, **37:20**  
 Inter vivos transfers, timing requirements, **37:8**  
 Interests subject to disclaimer, **37:12, 37:14**  
 Joint bank accounts, timing requirements, **37:10**  
 Joint brokerage account, acceptance of benefits exception, **37:11**  
 Joint tenancy between spouses, death of cotenant, **37:9**  
 Joint tenancy interests  
     revocable joint tenancy, **37:10**  
     spouses' interests, **37:9, 37:11**  
     timing of disclaimer, **37:9**  
     timing requirements, **37:9 to 37:11**  
     use of property prior to disclaimer, **37:11**  
 Jointly owned property, **37:7**  
 Legislative history, **37:3**  
 Life estates, **37:16**  
 Life insurance, timing requirements, **37:7, 37:8**  
 Lifetime transfers, disclaimer timing requirements, **37:6, 37:8 to 37:10**  
 Mailing, **37:6**  
 Marital deduction, estate tax  
     disclaimer use to optimize deduction, **21:72**  
     increasing, **21:12**  
     marital share funding, **37:23**  
     passage requirement for interest transfer, **21:12**  
     qualified terminable interest property (QTIP) qualifying trust, **37:27**  
     qualified terminable interest property (QTIP) trust creation, **37:21, 37:27**  
 Marital share trusts, **37:21**  
 Minor disclaimant, **37:5**  
 Minors, **37:17**  
 Nine-month requirement  
     death of beneficiary, **37:20**  
     minors and others under age 21, **37:17**  
     powers over property, **37:14**  
     revocable joint tenancies, **37:10**  
     statutory basis, **37:6**  
 Officers or directors of charity, **37:15**  
 Overview, **37:1**  
 Partial disclaimers, fractional portion of interest, **37:16**

## DISCLAIMERS—Cont'd

Passage of disclaimed property to another, requirement  
     powers over property, **37:14**  
     statutory basis, **37:3**  
     title transfer, **37:18**  
 Personal representatives, **37:5, 37:20**  
 Planning strategies, **37:19 et seq.**  
 Powers of appointment, **37:11, 37:14**  
 Powers over property, **37:14**  
 QTIP trusts  
     generally, **37:15, 37:21**  
     creation, form, **37:27**  
     property, **37:6**  
 Qualified disclaimers, **37:3 et seq.**  
 Recording, **37:6**  
 Refusal requirement, **37:17**  
 Relation back, predating gift tax, **35:66**  
 Remainder interests, **37:13, 37:14, 37:16**  
 Requirements  
     consideration for disclaimer, absence, **37:11**  
     disclaimant's direction, absence, **37:4, 37:14, 37:16**  
     filing, **37:6**  
     guardian, **37:5**  
     passage of disclaimed property to another, **37:4, 37:14, 37:16, 37:18**  
     recording, **37:6**  
     refusal of benefits, **37:11, 37:17**  
     signature, **37:5**  
     statutory basis, **37:4**  
     timing, **37:6 to 37:10, 37:14**  
     writing, **37:5**  
     written transfers treated as disclaimers, **37:18**  
 Revenue Act of 1978 provision, **37:3**  
 Revocable joint tenancy interests, timing requirements, **37:10**  
 Signature requirement, **37:5**  
 Spousal joint ownership interests  
     timing requirements for disclaimer, **37:9**  
     use of property prior to disclaimer, **37:11**  
 Spousal rollovers, qualification, **33:11**  
 State disclaimers statutes, **37:18**  
 State law  
     defeating tax liens, **37:2**  
     filing requirement, **37:6**  
     importance, **37:3, 37:18**  
     recording requirement, **37:6**  
     title passage, **37:18**  
     writing requirement, **37:5**  
 Statutory requirements, **37:5**  
 Survivorship rights, **37:9 to 37:11**  
 Taxable transfers, timing requirement, **37:6 to 37:10, 37:14**  
 Tenancy by the entirety interests, timing requirements, **37:9**  
 Terminable interest rule, third party diversion powers, **21:37**  
 Testamentary transfers, timing requirements, **37:6, 37:7, 37:9**  
 Timing requirements, **37:6 to 37:10, 37:14**  
 Trusts  
     A trusts, **37:21**  
     B trusts, **37:21**  
     family share trusts, **37:21**

## INDEX TO TEXT

### DISCLAIMERS—Cont'd

Trusts—Cont'd  
    fiduciary disclaimers, **37:15**  
    fractional portion of interest, **37:16**  
    generation-skipping tax avoidance, **37:24**  
    marital share trusts, **37:21**  
    partial disclaimers, **37:16**  
    powers of appointment, **37:14**  
    QTIP treatment, form, **37:27**  
    qualified terminable interest property (QTIP)  
        trust creation, **37:21, 37:27**  
        timing requirements, **37:7 to 37:9**  
        trustee's disclaimer, form, **37:28**  
Undivided portions of interests, **37:16**  
Unified credit funding  
    generally, **37:22**  
    marital deduction, using, **21:12**  
Untimely, gift tax liability, **37:8**  
Use of property prior to disclaimer, **37:11**  
Writing requirement, **37:5**  
Written transfers treated as disclaimers, **37:18**

### DISCLOSURE

Exempt organizations, **12:89**  
Gifts, adequately, information required to begin SOL,  
    **16:22**  
Private foundations, postings permitted, **12:89**

### DISCOUNTS

Business valuation, key man loss, **35:69**  
Business valuations, **35:65 to 35:69**  
Closely held business application, **35:65 to 35:69**  
Interpreting provisions restricting transfer, **35:65 to 35:69**  
Key man loss, **35:69**  
Marital joint tenancies, **35:14**  
Marketability issues, **35:67**  
Minority holdings, **35:66**  
Restrictions on interest, **35:68**  
Stock marketability, **35:65 to 35:69**  
Transfer taxes, provisions for avoiding, **35:65 to 35:69**  
Valuations of closely held businesses, **35:65 to 35:69**

### DISCOVERY

Tax refund litigation, **39:28**

### DISCRIMINATION

Employment-based, damage awards, **2:5**

### DISGRUNTLED BENEFICIARIES

Alleviation, **31:09**

### DISINHERITANCE

Estate planning considerations, **17:26**

### DISMISSALS

Tax Court, **39:20**

### DISQUALIFIED INDIVIDUALS

Parachute payments, exemption, **2:78**

### DISTRIBUTABLE NET INCOME

Definition, **32:3**  
Electing small business trusts, **9:29**  
Spouse's elective share, **32:37**  
Trusts, **30:24**

### DISTRIBUTIONS

Charitable remainder trusts, requirements, **12:55**  
Deemed, Individual Retirement Accounts, **5:64**  
Individual Retirement Accounts, **5:63**  
Properly paid, **32:18**  
Qualified plans  
    generally, **5:47**  
    capital gain treatment, **5:48**  
    date determination, **5:38**  
    death benefits, **5:41**  
    delay until retirement, **5:44**  
    early distributions, **5:50**  
    eliminate pre-retirement right to distributions,  
        **5:38**  
    excess distributions, excise tax, **5:51**  
    failure, excise tax, **5:49**  
IRAs  
    generally, **5:63**  
    deemed distributions, **5:64**  
    multiple plans, top-heavy rules, **5:33**  
    requirements, **5:37**  
    retirement benefits, taxation of, **5:45**  
    rollovers, **5:46**  
    Roth account distributions, **5:53**  
    selection of methods, **5:52**  
    taxation of, **5:44**  
    taxation of in-service distributions, **5:35**  
    withholding requirements, **5:65**  
Retirement plans, equal periodic payments, **5:50**  
Roth account distributions, **5:53**

### DISTRIBUTIONS BY CORPORATIONS

Liquidity planning, **23:11**

### DISTRICT COURT TAX REFUND LITIGATION

Appeals, **39:2**  
Claims Court comparisons, **39:28 to 39:30**  
Commencement, **39:29**  
Complaints, **39:29**  
Discovery, **39:28**  
Forum selection considerations, **39:28 to 39:30**  
Jury demands, **39:29**  
Jury trials, **39:28, 39:29**  
Jury waivers, **39:29**  
Place of trial, **39:28**  
Precedents, **39:28**  
Service of summons and complaint, **39:29**  
Supreme Court review of appeals, **39:2**  
Writs of certiorari for Supreme Court review of  
    appeals, **39:2**

### DIVIDENDS

Capital expenditures, **23:11**  
Capitalization as valuation methodology, **35:47**  
Constructive dividends, **3:27**  
Corporate stock, **23:11, 23:14, 23:21**  
Definition, **3:26**  
Failure to declare, **16:5**  
Fiduciary income tax return  
    exclusion, **34:23**  
    preparation, **34:12**  
Redemption treatment, comparison for stock, **23:11**  
Section 306 stock, **23:14**  
Tax treatment, **6:47**

## **DIVISION OF PROPERTY**

See index heading **DIVORCE AND SEPARATION**

## **DIVORCE AND SEPARATION**

See also index headings **ALIMONY**; **CHILD SUPPORT**; **SEPARATION AGREEMENTS**

Annuities, transfers between spouses, **11:14**

Apportionment of refunds, **10:7**

Attorney's fees, **11:25**

Closely held businesses, planning for transfer of assets, **11:13**

Community property, **10:7, 10:59**

Deferred compensation rights, **11:16**

Division of property

pension funds, **3:84**

separation agreements and decrees, **11:32**

tax consequences, historical background, **11:1**

transfers of property, below

Domestic relations order, **3:84**

Estate and gift tax considerations. Transfers of property between spouses, below

Filing status, determination of, **11:20**

Income tax treatment. Transfers of property between spouses, below

Incomplete gifts, use, **8:33**

Individual Retirement Accounts, **5:63**

Innocent spouse liability

generally, **11:21 to 11:24**

abatement of tax, **11:21**

bankruptcy, **11:21**

community income relief, **11:24**

election of separate liability treatment, **11:21**

equitable relief

generally, **11:22**

limitations period, **11:23**

Tax Court jurisdiction, **11:22**

notice of rights to relief, **11:21**

proposed regulations, **11:21, 11:23**

quick look treatment, **11:21**

res judicata, **11:21**

Tax Court jurisdiction, **11:21, 11:22**

understatements, **11:21**

Joint returns

filing status, determination of, **11:20**

refunds after separation, **10:7**

separation agreements and decrees, **11:35**

Life insurance, transfer between spouses, **11:15**

Marital deduction, estate tax, **21:11**

Marital home. Transfers of property between spouses, below

Nonmarital assets, transfers between spouses, **11:17**

Partnership property, **10:10**

Pension plans, ERISA rules, **5:42**

Property transfers and divisions

community property, **10:7, 10:59**

third parties, transfer to on behalf of spouse, **11:9**

transfers of property between spouses, below

Retirement benefits, **11:16**

Stock options, nonstatutory, **11:16**

Tax consequences prior to Domestic Relations Tax Reform Act of 1984

generally, **11:1 to 11:3**

alimony or spousal support, **11:2**

child support, **11:3**

## **DIVORCE AND SEPARATION—Cont'd**

Tax planning under Domestic Relations Tax Reform Act of 1984

generally, **11:4 et seq.**

alimony, **11:5, 11:6**

attorney's fees, **11:25**

child support, **11:7, 11:8**

filing status, determination of, **11:20**

innocent spouse liability, above

transfers of property between spouses, below

Transfers of property between spouses

generally, **11:9 to 11:19**

annuities, **11:14**

closely held businesses, **11:13**

deferred compensation rights, **11:16**

estate and gift tax considerations

generally, **11:18**

transfer tax planning, **11:19**

income tax treatment

generally, **11:9**

basis, **11:10**

life insurance, **11:15**

marital home

generally, **11:11**

allowable deductions, **11:11**

default and re-acquisition, **11:12**

principal residence rules, **11:11**

nonmarital assets, **11:17**

nonrecognition of gain or loss, **11:9**

retirement benefits, **11:16**

stock options, nonstatutory, **11:16**

transfer tax planning, **11:19**

Unmarried, planning for, **11:42**

Will for troubled marriage, **11:43**

## **DOCUMENTS**

Basic for estate planning, **1:9**

Business agreements, overview, **1:12**

Changes, **15:19**

Complete estate plan, **1:14**

Estate planning, decision making basis, **1:31**

Indexing by computers, **1:25**

Marital agreements, overview, **1:13**

Order, estate tax return, **34:82**

Preparation by computers, **1:25**

Preparation by program, **1:24**

Review by client, **15:19**

Standardized checklists, **1:31**

Trusts, overview, **1:11**

Wills, overview, **1:10**

## **DOMESTIC IRON ORE**

Trust property, **19:26**

## **DOMESTIC RELATIONS ORDER**

Fringe benefit distributions, **3:84**

## **DOMESTIC RELATIONS TAX REFORM**

### **ACT OF 1984**

Generally, **11:4 et seq.**

Alimony redefined, **11:5**

Child support

generally, **11:7**

see also index heading **CHILD SUPPORT**

## INDEX TO TEXT

### DOMESTIC RELATIONS TAX REFORM ACT OF 1984—Cont'd

Child support—Cont'd  
    dependency exemption and other child care provisions, **11:8, 11:30**  
Effective date, **11:4**  
Tax Cuts and Jobs Act of 2017, treatment of alimony following, **11:6**  
Transfers of property between spouses incident to divorce  
    generally, **11:9 to 11:19**  
    see also index heading DIVORCE AND SEPARATION

### DOMESTIC TRUSTS

Provisions generally, **19:50**

### DOMICILE

See also index heading RESIDENCY  
Arbitration in dual, state estate tax disputes, **20:23**  
Burden of proof upon change, **20:4**  
Change, **20:4**  
Checklist for change, **20:4**  
Children, **20:2**  
Death certificate recitation, **20:4**  
Declarations of domicile, **20:3, 20:4**  
Definition, **20:2**  
Determination, **20:2 to 20:4, 31:20**  
Dual domicile, state estate taxes, **20:22, 20:23**  
Elements, **20:3**  
Factors in determining, **20:3**  
Health or life care facilities, **13:19**  
Hospital stay in different domicile, **20:4**  
Intent as element, **20:2 to 20:4**  
Multiple domiciles, **20:4**  
Multiple state contacts, state estate tax problems, **20:22**  
Nursing home in different domicile, **20:4**  
Presumption, **20:4**  
Residence as factor, **20:2 to 20:4**  
Residency distinguished, **20:15, 20:18**  
Retraction of decedent as domiciliary after probate, estoppel, **20:22**  
Spouses, **20:2**  
State law considerations in choice  
    generally, **20:5 to 20:19**  
    community property, **20:13**  
    estate administration, **20:11**  
    estate taxes, **20:20 to 20:23**  
    executor qualifications, **20:9**  
    in testate succession, **20:6**  
    lifetime taxes, **20:14 to 20:19**  
    marital agreement validity, **20:12**  
    Mortmain Statutes, **20:10**  
    powers of attorney, **20:10**  
    property dispositions in general, **20:5**  
    surviving spouse's statutory rights, **20:7**  
    taxes, **20:14 to 20:23**  
    trustee qualifications, **20:9**  
    Uniform Gifts to Minors Act, **20:10**  
    Uniform Transfers to Minors Act, **20:10**  
    will validity, **20:8**  
Termination, **20:4**  
Timing domicile change, **20:19**  
Will provisions, **18:3, 20:4**

### DONEES

Children, **8:4, 8:42**  
Consideration, **8:35**  
Grandchildren, **8:42**  
Identity, **8:4**  
Lineal descendants, **8:42**  
Parents of donor, **8:43**  
Spouses  
    generally, **8:36**  
    critically ill, **8:37**

### DONOR ADVISED FUNDS

Defined, **12:89.50**

### DOUBLE TAXATION

Choice of business entity, factor, **3:25**  
Definition, **3:2**  
Mitigation techniques, **3:28 to 3:31**  
S corporations, avoidance, **3:47**

### DOWER

Abolition, **20:6**  
Election, enforceable rights for spouse, **21:12**  
Election by surviving spouse, estate tax marital deduction, **21:71**  
Estate tax, **16:50**  
Marital deduction, estate tax, **21:6, 21:12**

### DRAFTING

Charitable remainder trusts, considerations, **12:71**  
Defective QTIP provision, reforming will to cure, **21:74**  
Malpractice actions, **1:31**

### DURABLE POWERS OF ATTORNEY

Generally, **20:10, 30:05**  
Attorney-in-fact, choice, **30:05**  
Creation, **17:8**  
Defined, retirement planning, **13:24**  
Definition, **17:8**  
Domicile, factor in choice, **20:10**  
Form  
    generally, **17:9**  
    retirement planning, **13:25**  
General powers, **30:05**  
Real property transactions, **17:11**  
Retirement planning, **13:23**  
Revocable living trust, use, **19:16**  
“Sprung” power, **31:06**  
Terminally ill client, execution, **31:06**  
Termination of authority, **17:11**  
Uses, **17:8**  
Validity of transactions, **17:11**

## E

### EARNINGS AND PROFITS

Corporate owner diverting, tax evasion threshold, **3:28**

### EASEMENTS

Estate tax charitable deduction, **24:19**

### ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT

See index heading EGTRRA

## **ECONOMIC RECOVERY TAX ACT OF 1981**

Disclaimers, **37:3**  
 Gross estate, transfers within three years of death, **16:48**  
 Marital deduction, percentage limitation removal, **21:1**  
 Maximum marital deduction formula, **21:69**  
 Qualified joint interests, prior law, before 1982, **10:27**  
 Spousal joint ownership  
     estate tax  
         generally, **10:20**  
         before 1982, **10:27**  
     gift tax, **10:20, 10:22**  
     prior law  
         before 1982, **10:24**  
         income tax, **10:25**

## **EDUCATION SAVINGS PLANS**

Contribution limits, **5:74**  
 Named beneficiary, **5:74**  
 Purpose, **5:74**

## **EDUCATIONAL EXCLUSION**

Gift tax, **8:11**

## **EDUCATIONAL EXPENSES**

Charitable deduction, payment of tuition to private religious institution as, **12:6**  
 Estate planning considerations, **17:18**  
 Savings bonds, tuition savings bonds, **6:44**  
 Tuition. See index heading TUITION

## **EDUCATIONAL ORGANIZATIONS**

Charitable giving, **24:5**  
 Tuition savings bonds, **6:44**

## **EGTRRA**

Adoption expenses, deductibility, **2:46**  
 Applicable exclusion amount  
     generally, **17:41**  
     table, **16:68**  
     unmarried client planning, **14:9**  
 Asset freezes, **29:03**  
 Catch up contributions to IRAs, **5:59**  
 Contribution limits, **5:29**  
 Credit shelter trust considerations, **17:41**  
 Education savings plans, rules liberalized, **5:74**  
 Estate tax rates, **16:62**  
 Estate transfers to spouses, **21:8**  
 401(k) plans, **5:29**  
 Generation skipping transfer tax, automatic allocation rules, **26:11**  
 Gift tax, rates, **16:23**  
 Gifts, tax-free amount, **16:23**  
 Highly compensated taxpayers, **2:2**  
 Income shifting, tax rates, **9:3**  
 IRA contribution limitations, **5:59**  
 Nonqualified retirement plan limitations, **5:3**  
 Postmortem planning, **33:21**  
 Qualified retirement plans, **5:29**  
 Qualified trust severances, **26:45**  
 Retroactive allocation of GST exemption  
     generally, **26:11**  
     postmortem planning, **33:21**

## **EGTRRA—Cont'd**

Special needs children, adoption expenses, **2:46**  
 State estate taxes, **16:69**  
 Tax rates, **1:3**  
 Trust severances, **26:45**

## **ELDER ABUSE**

Misappropriation by caregiver, **8:54**

## **ELECTING INVESTMENT PARTNERSHIPS (EIPs)**

Restrictions on partnership allocations, **3:43**

## **ELECTING SMALL BUSINESS TRUSTS (ESBTs)**

Comparison with QSST, **9:29**  
 Distributions, effect, **9:29**  
 S corporation shareholders, requirements, **23:39**  
 S corporations, **38:06**  
 Trusts, overview, **19:26**  
 Trusts as shareholders, estates, special assets, **38:06**

## **ELECTIONS**

Administration expenses, current regulations apply, **16:55**  
 Check-the-box entity classification, **3:2**  
 Deferral of income, nonqualified deferred compensation plans, **2:8**  
 Executors  
     alternate valuation, **34:74**  
     ESOP elections, **34:79**  
     form 706 filings, **34:74 to 34:79**  
     installment tax payments, **34:77**  
     QTIP election, **34:76**  
     reversionary interest postponement, **34:78**  
     special use valuation, **34:75**  
 Expenses of administration, current regulations apply, **16:55**  
 401(k) contributions, “opt out” election, **5:10**  
 Incentive stock option not treated as one, **2:63**  
 Innocent spouse, election of separate liability treatment, **11:21**  
 “Late” elections, allowance of, **4:22**  
 Protective election, special use valuation, **38:10**  
 QTIP  
     contingent on election, **21:38 et seq.**  
     life estate, **21:38 et seq.**  
 S corporations, **3:46**  
 Special use valuation  
     estate tax return, **4:22**  
     recapture agreement, **34:75**  
 Surviving spouse  
     augmented estate, **20:7**  
     capital gain by estate to satisfy elective share, **20:7**  
     checklist, **20:7**  
     community property, **10:44**  
     conflict of laws, **20:7**  
     curtesy, **21:71**  
     dower, **21:71**  
     elective share, **20:7**  
     fraud by decedent in previous transfers, **20:7**  
     homestead, **20:7**  
     life estate as form of elective share, **20:7**  
     marital deduction qualification, **20:7**



## INDEX TO TEXT

### **ELECTIONS—Cont'd**

Surviving spouse—Cont'd  
more than one state, elections in, **20:7**  
probate estate of decedent, limitation, **20:7**  
size and form, **20:7**  
state law variances, **20:7**  
statutory share, **21:71**  
time and manner, **20:7**  
trusts precluding elective share, **20:7**  
waiver, **20:7**  
will renunciation as requirement, **20:7**  
Trust status, foreign or domestic, **32:63**

### **ELECTIVE SHARE CLAIMS**

Marital deduction qualification, **33:12**

### **ELECTRIC VEHICLES**

Depreciation deduction, **2:51**

### **ELECTRONIC FILING PROGRAM**

Who may participate, **1:23**

### **ELIGIBLE WORKER-OWNED COOPERATIVES**

Administrator's estate tax return filing requirement,  
**16:57**  
Revenue Reconciliation Act of 1989  
executor elections, **34:79**

### **EMPLOYEE BENEFIT PLANS**

Continuation coverage, penalties for failure to  
provide, **2:43, 2:46**  
Control over assets in account, subject to fiduciary  
rules, **5:43**  
Estate tax effects, **5:43**  
Frozen deposits, **5:65**  
Loans, **5:36**  
Nondiscrimination requirement, **2:35**  
Postmortem estate planning, **33:36 to 33:40**  
Reporting requirements, **2:35**  
Rollovers, **5:46**  
Separation agreements, **11:33**  
Statutory conditions, **2:35**  
Statutory requirements, **2:43**  
Withholding, **5:65**

### **EMPLOYEE BUY-OUTS**

Tenured faculty positions, property right v. employee  
compensation, **3:20**

### **EMPLOYEE COMPENSATION PLANS**

Book value shares, **2:74**  
Convertible debentures, **2:73**  
Golden parachute payments, **2:77 to 2:79**  
Junior common stock, use, **2:72**  
Non-common stock, equity-based compensation, **2:71**  
to **2:76**  
Phantom stock, **2:76**  
Stock appreciation rights, **2:75**  
Top paid group, elected treatment, **2:2**

### **EMPLOYEE FRINGE BENEFITS**

See index heading **FRINGE BENEFITS**

### **EMPLOYEE STOCK OWNERSHIP PLANS**

Administrator's estate tax return filing requirement,  
**16:57**  
Definition, **5:9**  
Partial interest exclusion, stock ownership, **5:9**  
Postmortem planning, use, **33:17**  
Revenue Reconciliation Act of 1989  
executor elections, **34:79**  
postmortem transfer tax options, **33:17**  
Sale of securities, estate tax deduction, **33:17**

### **EMPLOYEE STOCKS**

Availability, **3:91**

### **EMPLOYEE TRUST ACCOUNTS**

Retirement contributions, **5:56**

### **EMPLOYEE WELFARE BENEFIT PLANS**

Reporting requirements, **2:44**

### **EMPLOYER IDENTIFICATION NUMBER (EIN)**

Form SS-4, **34:117**  
Necessity, **34:116**  
Obtaining, **34:10**  
Series or block  
fiduciary income tax return, **34:10**  
Form SS-4, **34:116**

### **EMPLOYER PROVIDED MEALS**

Exclusion from income, **2:54**

### **EMPLOYERS**

Identification number, application form (SS-4),  
**34:118**

### **EMPLOYMENT CONTRACTS**

Form, **2:4**  
Necessity, **2:3**

### **EMPLOYMENT TAXES**

Buy-outs of employees, tenured faculty position, **3:20**  
Divorce or separation, allocation of taxes, **11:20**  
Method of deposit, **3:20**

### **ENCUMBERED PROPERTY**

Charitable contribution deduction, **12:8**

### **ENDORSEMENT METHOD**

Split dollar insurance, tax implications, **2:24**

### **ENDOWMENT CONTRACTS**

Tax free exchanges, **7:7, 22:8**

### **ENDOWMENT POLICIES**

Powers of appointment over proceeds, **21:44**

### **ENERGY CONSERVATION**

Credits against tax, **3:21**

### **ENTERPRISE**

Joint purchases, unmarried client, **14:19**  
Sale of remainder interest, unmarried client, **14:19**

### **ENTERTAINMENT EXPENSES**

Deductibility, restrictions, **2:51**

## ENTERTAINMENT EXPENSES—Cont'd

OBRA 93, **2:51**

Reporting requirements, **2:52**

## ENTIRE INTEREST CONCEPT

Estate tax marital deduction, **21:33**

## ENTITY CLASSIFICATION

Check-the-Box system, **3:2**

Corporations, **3:2**

Limited liability companies, **3:6**

Limited partnerships, **3:5**

Partnerships, **3:4**

Prior law analysis, **3:5**

S corporations, **3:3**

## ENTITY FREEZES

Generally, **27:01**

See also index headings ASSET FREEZES; HOLDING

COMPANY FREEZES; PARTNERSHIP FREEZES; PREFERRED STOCK  
RECAPITALIZATIONS

Asset protection, family partnerships

generally, **27:99**

charging order effect, **27:101**

creditor of partner, **27:100**

tax consequences of charging order, **27:102**

Attributes effecting valuation, **27:26**

Basic structure

corporate freeze, **27:10**

partnership freezes, **27:11**

Business purpose, **27:12**

Buy-out arrangements, **27:58**

Buy-sell agreements, valuation, Section 2703, **27:30**

Chapter 14 overview, **27:04**

Children not in business, providing for, **27:111**

Choice of design

generally, **27:32**

assets involved, **27:35**

design process, **27:36**

simple solutions, **27:33**

timing considerations, **27:34**

Choice of entity, **27:09**

Corporations, family controlled

business purpose requirement, **27:38**

buy-outs, **27:58**

continuity requirement, **27:39**

distributions of stock, **27:37**

estate tax payments, **27:59**

holding company issues, **27:56**

income tax issues, **27:43**

loss of S election, **27:42**

plan of reorganization requirement, **27:40**

preferred stock redemptions, **27:55**

Section 305 stock

generally, **27:44**

application to recapitalization, **27:53**

common and preferred stock, **27:48**

conversion privilege, **27:54**

convertible preferred stock, **27:50**

disproportionate distributions, **27:47**

distributing preferred stock, **27:49**

distributions other than money, **27:46**

exceptions to nonrecognition, **27:45**

excess redemption premium, **27:52**

imputed distributions, **27:51**

## ENTITY FREEZES—Cont'd

Corporations, family controlled—Cont'd

Section 306 stock, generally, **27:55**

step transactions, **27:41**

tax free formation, **27:57**

Cumulative preferred equity interest, **27:107**

Debt as consideration, **27:17**

Devise prohibition, **27:12**

Entity choice, **27:09**

Estate tax imposition

generally, **27:14**

adverse interest approval, **27:22**

alterable transfers, **27:21**

Byrum doctrine, **27:20**

consideration given, **27:23**

decendent's interest in property, **27:15**

lapsing interests, **27:16**

Section 2036, **27:18**

Section 2036(b), **27:19**

Section 2038, **27:21**

string provisions, **27:17**

transferees with limited funds, **27:24**

Estate tax payments, **27:59**

Family limited partnerships, sale of remainder interest, **27:108**

Family partnerships, life insurance, use with

generally, **27:103**

general rules, **27:104**

ownership by partnership, **27:105**

transfers to fund premiums, **27:106**

Family succession planning

children not in business, providing for, **27:111**

management continuity, **27:109**

surviving spouse, providing for, **27:110**

Forms for transactions

agreement of limited partnership, **27:114, 27:115**

articles of amendment, corporation, **27:119**

certificate of limited partnership, **27:113**

guidelines, **27:112**

IRS request for information, **27:118**

joint action without a meeting, **27:121**

minutes of commencing operation plan, **27:116**

minutes of operation plan, **27:117**

recapitalization plan, corporation, **27:120**

shareholders and directors action, **27:121**

Grantor income trusts, **27:02**

Grantor retained income trusts, alternative, **28:3**

Gratuitous transfer principles, **27:13**

Historical background, **27:02**

Holding company issues, **27:56**

Information request, IRS estate tax examination, **27:118**

Interfamily sales, **27:02**

Lapses of liquidation rights, **27:31.10**

Lapses of voting rights, **27:31.10**

Leveraged gifts, **27:06, 27:108**

Liquidation right restrictions, **27:31.20**

Liquidation value, Section 2704, **27:31**

Outright gift, **27:02**

Partner recognition

conduct of business, **27:73.40**

income distributions, **27:73.30**

management participation, **27:73.20**

retained controls, **27:73.10**

summary, **27:73.50**

## INDEX TO TEXT

### ENTITY FREEZES—Cont'd

- Partnerships, family controlled
  - generally, **27:60**
  - asset protection, **27:68**
  - capitalization, **27:80**
    - disguised sales, **27:83**
    - investment company, **27:82**
    - nonrecognition rule, **27:81**
- Chapter 14 valuations
  - generally, **27:94**
  - Section 2701, **27:95**
- Chapter 14 valuations, Section 2702, **27:96, 27:97**
- Chapter 14 valuations, Section 2704, **27:98**
- check-the-box regulations, **27:71**
- death of partner, **27:86**
  - basis determination, **27:90**
  - distributive share, **27:87**
  - losses, **27:88**
- death of partner, IRD, **27:89**
- distributions, **27:84**
- estate tax reduction, **27:66**
- fiduciary accounting issues
  - generally, **27:91**
  - distributions to fiduciaries, **27:92**
  - estate tax allocations, **27:93**
- FLP regulations, **27:72**
- gifting, **27:64**
- gifts before partnership exists, **27:64**
- gifts of future interests, **27:78**
- gifts of interests, **27:76**
  - completed, **27:77**
  - income tax, **27:79**
- income tax planning, **27:63**
- income tax principles, **27:70**
- liquidations, **27:84**
  - marketable securities, **27:85**
- management and control, **27:65**
- minors as partners, **27:74**
- organization, **27:69**
- overview of benefits, **27:62**
- partner recognition, **27:73**
- state tax avoidance, **27:67**
- structure of freeze, **27:61**
- trusts as partners, **27:75**

- Postmortem freezes, **27:08**
- Preferred ownership interest, **27:02**
- Purpose, **27:02**
- Recapitalizations
- business purpose requirement, **27:38**
- continuity requirement, **27:39**
- distributions of stock, **27:37**
- income tax issues, **27:43**
- loss of S election, **27:42**
- overview, **27:07**
- partnerships
  - generally, **27:60**
  - asset protection
    - generally, **27:68, 27:99**
    - charging orders, **27:100**
    - general v. limited, **27:101**
    - tax consequences of charging order, **27:102**
  - capitalization, **27:80**
  - disguised sales, **27:83**

### ENTITY FREEZES—Cont'd

- Recapitalizations—Cont'd
  - partnerships—Cont'd
    - capitalization, **27:80**—Cont'd
      - investment company, **27:82**
      - nonrecognition rule, **27:81**
  - Chapter 14 valuations
    - generally, **27:94**
    - Section 2701, **27:95**
  - Chapter 14 valuations, Section 2702, **27:96, 27:97**
  - Chapter 14 valuations, Section 2704, **27:98**
  - check-the-box regulations, **27:71**
  - creditor protection benefits, **27:99**
  - death of partner, **27:86**
    - basis determination, **27:90**
    - distributive share, **27:87**
    - losses, **27:88**
  - death of partner, IRD, **27:89**
  - distributions, **27:84**
  - estate tax reduction, **27:66**
  - fiduciary accounting issues
    - generally, **27:91**
    - distributions to fiduciaries, **27:92**
    - estate tax allocations, **27:93**
  - FLP regulations, **27:72**
  - gifting, **27:64**
  - gifts of future interests, **27:78**
  - gifts of interests, **27:76**
    - completed, **27:77**
    - income tax, **27:79**
  - income tax planning, **27:63**
  - income tax principles, **27:70**
  - life insurance, use with
    - generally, **27:103**
    - general rules, **27:104**
    - ownership by partnership, **27:105**
    - transfers to fund premiums, **27:106**
  - liquidations, **27:84**
    - marketable securities, **27:85**
  - management and control, **27:65**
  - minors as partners, **27:74**
  - organization, **27:69**
  - overview of benefits, **27:62**
  - partner recognition, **27:73**
  - retention of preferred interest, **27:107**
  - state tax avoidance, **27:67**
  - structure of freeze, **27:61**
  - trusts as partners, **27:75**
- plan of reorganization requirement, **27:40**
- preferred stock redemptions, **27:55**
- Section 305 stock
  - generally, **27:44**
  - application to recapitalization, **27:53**
  - common and preferred stock, **27:48**
  - conversion privilege, **27:54**
  - convertible preferred stock, **27:50**
  - disproportionate distributions, **27:47**
  - distributing preferred stock, **27:49**
  - distributions other than money, **27:46**
  - exceptions to nonrecognition, **27:45**
  - excess redemption premium, **27:52**
  - imputed distributions, **27:51**
- Section 306 stock, generally, **27:55**

## **ENTITY FREEZES—Cont'd**

Recapitalizations—Cont'd  
     step transactions, **27:41**  
 Remainder interest sale, family limited partnerships,  
     **27:108**  
 Retention of preferred interest, **27:107**  
 Reverse freezes, retention of preferred interest,  
     **27:107**  
 Section 351 transactions, **27:57**  
 Section 2036(c), background, **27:03**  
 Section 2701 valuation, **27:29**  
     generally, **27:29**  
     compounding rule, **27:29.50**  
     elections, **27:29.50**  
     exceptions to application, **27:29.40**  
     lower value rule, **27:29.10**  
     minimum value rule, **27:29.20**  
     subtraction method, **27:29.30**  
 Section 2703 valuation, buy-sell agreements, **27:30**  
 Section 2704 valuation  
     lapse of rights, **27:31.10**  
     liquidation right restrictions, **27:31.20**  
     liquidation value, **27:31**  
 Sections 2701-2704, overview, **27:04**  
 State law default rules, **27:31.30**  
 Strategy determination  
     generally, **27:32**  
     assets involved, **27:35**  
     design process, **27:36**  
     simple solutions, **27:33**  
     timing considerations, **27:34**  
 Surviving spouse, providing for, **27:110**  
 TAMRA 1988, statutory restriction of valuation  
     freezes, **27:03**  
 Timing of gift of partnership interest, **27:64**  
 Types of transactions, **27:05**  
 Valuation  
     dividend coverage, **27:28.20**  
     historical background, **27:28**  
     liquidation coverage, **27:28.30**  
     other factors, **27:28.50**  
     Section 2701, **27:29**  
     state law default rules, **27:31.30**  
     stated yield, **27:28.10**  
     voting rights, **27:28.40**  
 Valuation principles generally, **27:25**

## **ENTITY PURCHASE AGREEMENTS**

Closely held corporations, **23:33**

## **ENTRY OF JUDGMENT ON TAX LIABILITY**

Limitations period, starting of, **1:31**

## **ENVIRONMENTAL LIABILITY**

Planning opportunities, **31:80**

## **EQUALIZATION CLAUSES**

Advisability, **18:50**  
 Reverse presumption clause combination  
     form, **21:24**  
     survivorship, **21:23**  
 Spouses with nearly equal estates  
     form, **21:28**  
     survivorship clauses, **21:27**

## **EQUIPMENT LEASING**

Tax advantaged investment, **6:42**

## **EQUIPMENT TRUSTS**

Abusive use of devise, **19:1**

## **EQUITABLE ADJUSTMENT**

Definition, **33:48**

## **EQUITABLE RECOUPMENT DOCTRINE**

Period of limitations, **39:23**

Tax Court, **39:23**

## **EQUITY SECURITIES**

Compensation arrangements, **3:18**

## **EQUITY SPLIT DOLLAR ARRANGEMENTS**

Income and gift tax effects, **2:24**

## **ERISA**

Divorcing spouses, **11:16**

Marital property rights, **5:42**

Nonqualified deferred compensation plans, require-  
     ments, **5:5**

Vesting rules, choices, **5:24**

## **ESBT**

See index heading ELECTING SMALL BUSINESS TRUSTS

## **ESCROW LETTER**

Power of attorney form, **17:10**

## **ESTATE ADMINISTRATION**

Generally, **20:1, 20:2**

See also index heading ADMINISTRATION OF ESTATES

## **ESTATE FREEZES**

Deemed gifts, **16:11**

Revenue Reconciliation Act of 1990, generally, **27:03**

Valuation, buy/sell agreements, **23:35**

## **ESTATE PLANNING**

See also index heading ESTATE PLANNING FOR FARMERS

Additional estate tax, imposition, **31:63**

Administration costs, cash needs, **17:35**

Adopted children, **17:16**

Age of beneficiary at distribution, **17:17**

Alternative valuation, return filed late, **33:14**

Annual gift exclusion, **17:39**

Asset freezing techniques, installment sales to grantor  
     trusts, **29:19 to 29:36**

Assets of client

    effect on specific plan, **17:27**

    listing, **15:8**

Basic estate planning letter, form, **15:17**

Basic objective, **15:1**

Basic restrictions, **17:2**

Beneficiaries, considerations, **17:14**

Business plan integration, closely held businesses,  
     **23:2 et seq.**

Businesses, discretion over business clause, **17:33**

Charitable contributions

    income tax contributions, contrast, **24:3**

    planning, **24:2**

Children, considerations, **17:16**

## INDEX TO TEXT

### ESTATE PLANNING—Cont'd

#### Clients

- assets, **15:8**
- attitudes, determination, **15:2**
- conflicts, resolution, **15:5**
- identity, **15:5**
- initial conference, attendance, **15:7**
- intent determination, **15:2**
- liquidity, **17:34**
- motivation, **15:1**
- planning process, discussion, **15:7**
- relationships, importance, **15:5**

#### Closely held businesses

- generally, **17:28, 23:1 et seq.**
- buy-sell agreement, use, **17:29**
- considerations, **15:2**
- control of operations, provision, **17:30**
- corporate form as determining control of business, **17:30**
- key employees, provision, **17:32**
- transfer of equity interest, **17:29**
- value of interest, **17:31**

#### Collateral relatives, **17:16**

#### Complex estate planning letter, form, **15:18**

#### Computer programs available, **1:26**

#### Computer use, **1:22**

#### Concerns of surviving spouse, **17:15**

#### Credit shelter trust, use, **17:41**

#### Custom-made plans, creation, **15:4**

#### Diagrams, use, **15:16**

#### Disabled beneficiary, consideration, **17:23**

#### Disinheriting specific family member, **17:26**

#### Documents, review by client, **15:19**

#### Election of surviving spouse, **17:26**

#### Estate freezing techniques, **14:20**

#### Estate planning guide, form, **15:11**

#### Estate taxes, factor in liquidity, **17:35**

#### Existing documents, review, **15:8**

#### Explanation of plan, **15:16**

#### Farmers. See index heading ESTATE PLANNING FOR FARM-

ERS

#### Federal credit, **17:39**

#### Fees

- deductibility, **15:22**
- determination, **15:22**
- discussion, **15:7**
- ranges, **15:22**

#### Financial ability of beneficiary, consideration, **17:20**

#### Financial list, review, **15:8**

#### Foregoing of business opportunity, use of tactic, **17:39**

#### Funeral costs, cash needs, **17:35**

#### Gifts, usefulness, **17:49 to 17:52**

#### Grandchildren, **17:16**

#### Grantor trusts, installment sales to, **29:19 to 29:36**

#### Gross estate, estimation, **15:8**

#### Health care surrogate, designation of, **17:12, 17:13**

#### Imminent death

- access to will, **31:13**
- administration of estate, facilitation, **31:19 to 31:27**
- advisors, identification, **31:05**
- ancillary administration, avoidance, **31:21**
- annual gift tax exclusion, **31:43**

### ESTATE PLANNING—Cont'd

#### Imminent death—Cont'd

##### assets

- disposition, **31:24**
- location and extent, **31:04**
- sufficiency for taxes and expenses, **31:27**

##### basis of gifts, consideration, **31:50**

##### beneficial interests in trust, review, **31:76**

##### burial arrangements, preparation, **31:08**

##### bypass trusts, eligibility for tax savings, **31:23**

##### changed circumstances, redrafting, **31:15**

##### charitable gifts, **31:49**

##### client as beneficiary under other's will, **31:32**

##### closely held business as major asset, **31:38**

##### closely held businesses, review, **31:64 to 31:71**

##### commuting trust to avoid estate, **31:76**

##### current income tax returns, timely filing, **31:60**

##### current litigation, review, **31:26**

##### custodial property, review, **31:30**

##### debts, payment before death, **31:41**

##### difficult-to-value property, disposition, **31:24**

##### disgruntled beneficiaries, alleviation, **31:09**

##### distributions, importance of timing, **31:09**

##### domicile, determination, **31:20**

##### durable power of attorney, execution, **31:06**

##### elements of gift, **31:51**

##### employee benefits, review, **31:63**

##### estate taxes, review, **31:33**

##### exercise of power of appointment, form, **31:11**

##### existing powers of appointment, review, **31:10**

##### farm estate, increasing liquidity, **31:38**

##### fiduciary appointments, **31:18**

##### fiduciary relations, **31:28 to 31:32**

##### flower bonds, payment of estate tax, **31:34**

##### funeral arrangements, preparation, **31:08**

##### "gain" property transfers, **31:56**

##### gift tax returns, **31:48**

##### gifts, use, **31:42**

##### gifts in excess of annual exclusion, **31:45**

##### in terrorem clause, use, **31:09**

##### income in respect of decedent, tax treatment, **31:59**

##### insurance beneficiaries, review, **31:62**

##### inter vivos trusts, use, **31:25**

##### interests in trusts or estates of others, disclaimer, **31:23**

##### interrelationship between competing interests, minimizing, **31:09**

##### IRA funding, possibility, **31:63**

##### joint tenancy property, disposition, **31:36**

##### life-sustaining procedures, withholding, **31:07**

##### liquidity of estate, determination, **31:27**

##### living trusts, use, **31:25**

##### living will, execution, **31:07**

##### location of will, **31:13**

##### "loss" property transfers, use, **31:57**

##### marital agreements, determination of existence, **31:22**

##### minority ownership, gifts to achieve, **31:46**

##### net operating losses, deduction, **31:58**

##### partnership interests, **31:74**

##### passive loss activities, **31:77**

##### payment of debts, **31:41**

##### personal representative, review of choice, **31:29**

##### persons named as fiduciary in will, review, **31:29**

**ESTATE PLANNING—Cont'd**

Imminent death—Cont'd  
     physicians, special provisions, **31:17**  
     previously taxed property estate tax credit, **31:37**  
     private annuities, use, **31:40**  
     property, reduction of estate tax value, **31:35**  
     psychological factors, **31:03**  
     publicly traded stock as major asset, **31:38**  
     qualified plan benefits, charitable gift, **31:63**  
     resignation of client as fiduciary, **31:31**  
     S corporation interests, **31:72, 31:73**  
     sole proprietorship, disposition, **31:75**  
     specific assets, determination of action, **31:61**  
     specific devises, use, **31:16**  
     split gifts, advantages, **31:44**  
     split-interest gifts, **31:55**  
     state gift taxes, **31:47**  
     trustee, review of choice, **31:29**  
     trusts, review and revision, **31:14**  
     unified credit, funding, **31:39**  
     will contests, preparation of defense, **31:09**  
     will preparation, **31:12 to 31:18**  
 Implementation of plan, **15:19**  
 In testate succession, avoidance, **17:3**  
 Income in respect of decedent techniques, **32:55**  
 Information analysis, **15:13**  
 Information needed, checklist, **15:12**  
 Inheritance taxes, factor in liquidity, **17:35**  
 Initial conference, **15:7**  
 Installment obligations, **15:8**  
 Installment sales to grantor trusts, **29:19 to 29:36**  
 Intended beneficiaries, information, **15:9**  
 Inter vivos trusts  
     characteristics, **17:5**  
     use, **1:11**  
 Joint death planning, **17:43**  
 Joint property  
     death of first joint tenant, impact, **17:48**  
     estate tax treatment, **17:47**  
     gift tax treatment, **17:46**  
     income tax treatment, **17:48**  
     use, **17:45**  
 Joint revocable trusts, use, **17:42**  
 Key employee, provision, **17:32**  
 Life insurance, source of liquidity, **17:36**  
 Liquidity  
     cash requirements of surviving family members, **17:35**  
     determination, **17:34**  
 Marital bequest, use of in-kind distribution to fund, **32:45**  
 Medical costs, cash needs, **17:35**  
 Objectives of client, **17:2**  
 Overview of techniques, **17:1**  
 Passive activity losses, **32:70 et seq.**  
 Plan development, **15:13**  
 Planning process  
     generally, **15:1**  
     discussion with client, **15:7**  
 Planning team  
     generally, **1:15**  
     coordination of professions, **1:21**  
 Portability election, **33:21.50**  
 Postmortem planning  
     generally, **33:01 et seq.**

**ESTATE PLANNING—Cont'd**

Postmortem planning—Cont'd  
     administration expenses estate tax deduction, **33:20, 33:23**  
     alternate valuation, **33:14**  
     capital losses, income tax deduction, **33:29**  
     casualty losses, estate tax deduction, **33:20**  
     casualty or theft losses, deduction, **33:23**  
     closely held stock redemption, **33:33**  
     corporate liquidation, **33:34**  
     disclaimers, use, **33:11**  
     distributions from estate  
         impact, **33:41**  
         timing, **33:42**  
     election to take against will, **33:12**  
     employee stock ownership plans, **33:17**  
     employer-paid death benefit exclusion, **33:37**  
     equitable adjustments, **33:48**  
     estate as separate taxpayer, **33:26**  
     estate fiscal year, election, **33:26**  
     estate tax exclusions, **33:39**  
     estate tax return  
         elections available, **33:13**  
         extension of time to file, **33:18**  
         filing, **33:10**  
     estates taxes, extension of time to pay, **33:19**  
     estimated income tax payments, **33:05, 33:27**  
     excess income tax deduction, treatment, **33:28**  
     filing status of decedent, **33:03**  
     final gift tax returns, **33:09**  
     final income tax returns, **33:02 to 33:08**  
     importance, **33:01**  
     income earned by estate, reporting, **33:22**  
     income in respect of decedent, distributions, **33:46**  
     income tax return, preparation, **33:22**  
     interest expense, income tax deduction, **33:23**  
     liquidation of corporation, **33:34**  
     marital clauses, funding, **33:44**  
     medical expenses, estate tax deduction, **33:20**  
     million-dollar generation skipping tax exemption, **33:21**  
     net operating losses, income tax deduction, **33:29**  
     partnership basis adjustment, **33:35**  
     payment of estate taxes, responsibility, **33:20**  
     personal representative fees, waiver, **33:25**  
     property not subject to claims, administration expenses, **33:24**  
     QTIP trust, qualification for marital deduction, **33:16**  
     qualified deferred compensation plans, lump-sum distributions, **33:38**  
     recognition of gain on income tax return, **33:30**  
     S corporation shares, election, **33:32**  
     sale of securities to ESOP, deduction, **33:17**  
     shifting taxable income by distributions, **33:43**  
     special use valuation, **33:15**  
     specific devises, funding, **33:44**  
     surviving spouse election, **33:12**  
     trapping distributions, **33:45**  
     treasury bond interest, accrual, **33:07**  
     unused loss carryovers, treatment, **33:29**  
 Powers of appointment, usefulness, **17:53**  
 Powers of attorney, use, **17:7**



## INDEX TO TEXT

### ESTATE PLANNING—Cont'd

Prenuptial agreements, use, **17:26**  
Presumption of survivorship  
    form, **17:44**  
    provision in will, use, **17:43**  
Primary purpose, **17:2**  
Problems. See index heading ESTATE PLANNING PROBLEMS  
Profit-sharing plans, source of liquidity, **17:36**  
Qualified pension plans, source of liquidity, **17:36**  
Questionnaires, use, **15:6**  
Recommendations to client, **15:13**  
Relevant information, obtaining, **15:6**  
Salary continuation plan, source of liquidity, **17:36**  
Second marriage situations, **17:26**  
Selling expenses, income tax deduction, **33:23**  
Separate trust for education of beneficiary, form, **17:18**  
Simultaneous deaths, use of PTP credit, **31:37**  
Special needs of beneficiaries, **15:9**  
Spendthrift provisions  
    form, **17:22**  
    use, **17:21**  
Spouse, providing security, **17:15**  
Status of plan, review, **15:21**  
Stock purchase agreement, source of liquidity, **17:36**  
Subsequent conferences, **15:10**  
Surviving spouse rights, **31:63**  
Tax-free transfers, **17:39**  
Techniques, overview, **17:1**  
Testamentary trusts, characteristics, **17:5**  
Transfer taxes, minimization, **15:3**  
Trusts  
    outright gifts, comparison, **17:6**  
    use, **17:4**  
Unified credit, use by both spouses, **17:42**  
Unified tax, **17:38**  
Uniform Simultaneous Death Act, presumptions, **17:43**  
Unmarried clients, **14:1 to 14:21**  
Update of plan, **15:21**  
Wills, use, **17:3**  
Written explanation, advantages, **15:16**

### ESTATE PLANNING FOR FARMERS

Alternate valuation, **4:12**  
Disclaimers, **4:12**  
Marital deduction, **4:12**  
Qualified terminable interest election, **4:12**  
Special use valuation, **4:12, 4:13**  
Unified estate and gift tax credit, **4:12**

### ESTATE PLANNING PROBLEMS

Installment sales  
    asset freeze technique, **29:16**  
    cancellation provision, drafting, **29:18**  
    self-canceling obligations, **29:17**

### ESTATE TAX

See also index heading FEDERAL ESTATE TAX RETURNS  
Abatement of interest, **39:31**  
“Additional” estate tax, imposition, **31:63**  
Additions, **39:31**  
Adjusted gross estate, definition, **4:34**  
Adjusted taxable gifts, estate tax computation, **16:59**  
Administration expenses deduction, **16:52**

### ESTATE TAX—Cont'd

Alimony trust, value, **8:53**  
Alternate valuation, **16:58**  
Alternative valuation, return filed late, **33:14**  
Amendable transfers during life, **16:45**  
Annuities  
    individual retirement annuities, **16:30**  
    refunds on annuities, **16:27**  
    survivor annuities, **16:30**  
Appeals, **39:2, 39:3, 39:16 et seq.**  
Applicable exclusion amount table, **16:68**  
Apportionment  
    generally, **18:9**  
    protecting gifts, **18:10**  
Artwork exception for nonresidents, **16:70**  
Attorneys' fees deduction, **16:52**  
Audits, **39:2 et seq.**  
Automatic QTIP election, **16:30**  
Basis adjustment, community property, **10:52**  
Beneficiary liability upon distribution, **39:11**  
Brokerage accounts, joint, **10:35**  
Business interest retention after transfer, **16:42**  
Casualty losses, **16:51, 16:53**  
Chapter 14 valuations, background, **27:04**  
Charitable deduction, **16:3, 16:51, 16:54**  
Charitable gifts, reforming for deductibility, **33:20**  
Charitable pledges, **16:52**  
Claims against estate, deduction, **16:52**  
Closely held business  
    major asset, **31:38**  
    value, **31:71**  
Closely held stock, valuation, **23:27 to 23:29**  
Computation, **16:59**  
Conservation easement, where deceased's co-tenant  
    takes charitable income tax deduction, **12:88, 24:19**  
Court costs deduction, **16:52**  
Credit shelter trusts and marital deduction, use of, **28:1**  
Credits against tax, **16:60 et seq.**  
Curtesy, **16:50**  
Custodianship accounts, **30:20, 30:21**  
Deductions  
    administration expenses, **16:52, 33:20**  
    attorneys' fees, **16:52**  
    casualty losses, **16:51, 16:53, 33:20**  
    charitable deduction, **16:3, 16:51, 16:54**  
    charitable pledges, **31:49**  
    claims against estate, **16:52**  
    court costs, **16:52**  
    deductions in respect of decedent, **16:52**  
    expenses, **16:51, 16:52**  
    funeral expenses, **16:52, 18:7**  
    indebtedness, **16:51, 16:52**  
    marital deduction, **16:51, 16:55, 21:1 et seq.**  
    medical expenses, **18:7, 33:20**  
    mortgages, **16:52**  
    state estate taxes on charitable contributions, **16:62**  
    taxes, **16:51, 16:52**  
    waiver, **16:52, 16:53**  
Deductions in respect of decedent, **16:52**  
Deemed gifts by surviving spouse, community property  
    life insurance, **10:42**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### ESTATE TAX—Cont'd

Deemed gifts by surviving spouse, community property—Cont'd  
widow's election, effect, **10:44**

Deferral of liability, closely held businesses, **23:15, 23:17**

Disclaimers, **37:19 et seq.**

Disposition of limited partnership interest, **25:13**

Divorce, transfers of property between spouses. See index heading **DIVORCE AND SEPARATION**

Dower, **16:50**

Estate tax, retained interests or rights on gifts, **16:40**

Estate tax of another, estate tax credit, **16:65**

Estate trusts  
marital deduction, **16:55, 21:15, 21:46**  
surviving spouse's tax, **16:49**

Executor's liability, **39:10**

Expenses deduction, **16:51, 16:52**

Extension of time to pay  
application, filing, **36:08**  
approval, reasons, **36:07**  
automatic deferral, **36:06**  
coordination with generation skipping transfer tax, **26:40**  
discretionary deferral, **36:06**  
portions attributable to remainder or reversionary interests, **36:09**  
qualifications, **36:06**  
reasonable cause, **36:06**

Federal credit, **17:39**

Fiduciaries  
incidents of ownership over life insurance policy, **16:29**  
retained interests in property transferred, **16:42**

Fiduciary income tax return deduction, **34:24**

Fifteen-year deferral  
acceleration of deferred tax, **4:42**  
amount deferred, **4:41**  
attribution rules, **4:39**  
interest in closely held business, requirement, **4:34**  
interest on deferred tax, **4:41**  
manner of election, **4:40**  
time of election, **4:40**  
trade or business test, **4:35**

Flower bonds  
use as payment, **18:11, 31:34**  
value, **33:20**

Foreign estate taxes credit, **16:64**

Funeral expenses deduction, **16:52, 18:7**

General powers of appointment  
general powers at death, **16:32**  
gross estate includibility, **16:27, 16:31 to 16:34, 16:36**  
powers to a class of persons, **16:32**

Generation skipping tax, coordination, **26:38**

Gift tax  
credit on estate tax, **16:63**  
differences, **16:3**  
significance to estate tax planning, **16:4**  
unification with estate tax, **16:2, 17:38**

Gifts  
donor retention of interests or rights, **16:40, 30:25**  
lifetime, estate tax computation, **16:59**

### ESTATE TAX—Cont'd

Gifts—Cont'd  
possession or enjoyment right retained, **16:44**  
within three years of donor's death, **16:48**

Grantor retained income trusts, treatment, **28:3**

Grantor trust installment sales, issues with asset freeze devise, **29:32**

Grantor trusts, income tax paid by trust, **16:42**

Gross estate, **16:26 et seq., 16:58**

Guardianship accounts, **30:20, 30:21**

Hypothetical gift tax, estate tax computation, **16:59**

Income interest or right retention, after lifetime transfer, **30:25**

Income interest retained after transfer, **16:42 to 16:44**

Income shifting, effect, **9:4**

Indebtedness deduction, **16:51, 16:52**

Individual retirement accounts or annuities, **16:30**

Individually held property, **10:19**

Inheritance taxes  
credit, **16:62**  
deductibility, **16:52**

Installment payments  
acceleration, **36:21**  
acceleration of payments, **36:21**  
business interests, inclusion, **36:10**  
charitable deduction, effect of election, **36:20**  
deficiencies, interest rate, **36:15**  
deficiency election, **36:15**  
election, **34:77, 36:10, 36:14**  
exchanges of stock, effect, **36:21**  
gifts within three years of death, inclusion, **36:10**  
interest on installments, **36:13**  
interest on unpaid balance, **36:12**  
interest rates, **4:41**  
judicial review, **36:16**  
notice of election to pay in installments, form, **36:17**  
overpayments, **36:11**  
portion payable in installments, **36:11**  
protective election, filing, **36:12**  
protective notice of election, **36:18**  
qualification, **13:28**  
redemption of stock to pay taxes, effect, **36:21**  
requirements, **36:10**  
review by IRS, **36:16**  
tax attributable to closely-held business interests, **36:11**  
tax on prior transfers, credit, **36:19**  
thirty-five percent test, **36:10**  
time, **36:12**

Insurance, surviving spouse taxation, **16:49**

Interpolated terminal reserve value, life insurance, **10:42**

Irrevocable life insurance trusts, **22:28**

Irrevocable trust property, **19:59**

Joint bank accounts, **10:33**

Joint brokerage accounts, **10:35**

Joint stock accounts, **10:35**

Joint tenancy with right of survivorship, **16:37 to 16:39**

Jointly held property, **10:23**

Land trusts, **10:38**

Legacy taxes  
credit, **16:62**  
deductibility, **16:52**

## INDEX TO TEXT

### ESTATE TAX—Cont'd

Letter for discharge from liability for estate tax, **34:134**  
Liability, **16:66, 39:10, 39:33**  
Liability of executor, errors of agent, **16:66**  
Liens  
    general liens, **39:33**  
    priority over state tax liens, **16:66**  
    Section 6324A, deferred payments, **36:10**  
    special liens, **16:66, 39:10, 39:11, 39:33**  
Life estates  
    power of appointment exercise or release, retain life estate, **16:34 to 16:36**  
    retention after transfer of remainder interest, **16:40 to 16:44**  
Life insurance  
    generally, **22:12 to 22:16**  
    community property, **10:42**  
    gifts of policies on donor's life, **16:48**  
    gross estate includability, **16:27**  
    ownership of proceeds, **22:18, 22:24**  
    proceeds of insurance on decedent's life, **16:29**  
    recovery of tax on proceeds by personal representative, **18:9**  
Lifetime transfers with retained interests, **16:40 et seq.**  
Limitation of charitable deduction, **24:13**  
Loans for payment, **36:05**  
Marital deduction  
    generally, **16:3, 16:51, 16:55, 21:1 et seq.**  
    use, **17:40**  
Marital deduction trusts, **16:49, 19:36**  
Maximum bracket, **4:13**  
Medical expense deduction, **18:7**  
Minimizing, **15:3**  
Mortgages, deduction, **16:52**  
Mutual fund shares, valuation, **35:31**  
Nonprobate assets, **16:28 et seq.**  
Nonresidents, **16:70**  
Nonspousal joint interests, **10:31**  
Nonspousal joint ownership with right of survivorship, **16:37, 16:39**  
One-half rule, tenancies between spouses, **16:38**  
Overview, **16:1**  
Partnership interests, gross estate includability, **16:27**  
Payment  
    charitable trust, use, **12:66**  
    responsibility, **33:20**  
    sufficiency of assets, **31:27**  
Payment source, will or state law provisions, **18:8**  
Planning strategies, **1:5 to 1:7**  
Possession or enjoyment right retained, **16:43**  
Postmortem planning  
    disclaimers, use, **33:11**  
    election to take against will, **33:12**  
    partial exclusion from estate's income, **33:39**  
    surviving spouse election, **33:12**  
Powers of appointment  
    general powers, **16:27**  
    gross estate includability, **16:31 et seq.**  
    nongeneral powers, gross estate includability, **16:31 et seq.**  
    retain interest at exercise or release, **16:35**  
Powers over enjoyment  
    retained transfer, **16:46**

### ESTATE TAX—Cont'd

Powers over enjoyment—Cont'd  
    retention after lifetime property transfer, **30:25**  
    retention after property transfer, **16:45**  
Powers to change beneficiaries, retained transfer, **16:46**  
Previously taxed property credit  
    generally, **26:39**  
    terminally ill client, application, **31:37**  
Probate assets, gross estate includability, **16:27**  
Property taxes, deductibility, **16:52**  
Publicly traded stock as major asset, **31:38**  
QTIP election, qualifying income interest, **16:30**  
QTIP life estates, **16:55, 21:38 et seq.**  
Qualified joint interests  
    generally, **10:23**  
    prior law, before 1982, **10:27**  
Qualified plans, **16:30**  
Rates, **16:2, 16:59**  
Recapture of savings, **4:30**  
Recovery by executor, estate tax from others, **16:66**  
Recovery by executor of estate tax from others, **18:9**  
Reduction of charitable deduction, **24:13**  
Refund claims, **39:22 et seq.**  
Restricted securities, valuation, **35:31**  
Retained interests in property transferred, **16:40 et seq.**  
Retained interests transferred during life, **30:25**  
Retained right to alter lifetime transfer, **16:40**  
Retroactive increase in rate, **16:1**  
Returns  
    adjusted taxable gifts, **34:63**  
    alternate valuation  
        generally, **33:14**  
        election, **34:74**  
    audits, **39:2 et seq.**  
    basic information, **34:62**  
    close corporation interests, **34:69**  
    completed forms, **34:112 to 34:115**  
    computation of tax, **16:59**  
    credits, **34:99 to 34:104**  
    deductions, **34:92 to 34:98**  
    discharge of execution from personal liability, **34:132**  
    document filing with returns, **39:6**  
    domicile, **34:62**  
    elections available, **33:13**  
    elections by executor, **34:74 to 34:79**  
    employer identification number, necessity, **34:116**  
    ESOP election, **34:79**  
    extension of time to pay estate tax, application, **34:128**  
    failure to file, **39:31**  
    family-owned business interest deduction, **34:99**  
    filing  
        generally, **33:10**  
        extension of time, **33:18, 34:126**  
    filing place, **39:4**  
    filing requirements, **34:60**  
    Form 56: notice concerning fiduciary relationship, **34:120**  
    Form 712: life insurance statement, **34:122**  
    Form 1310: refund due deceased taxpayer, **34:125**

## ESTATE TAX—Cont'd

### Returns—Cont'd

Form 2758: application for extension of time to file, **34:127**  
 Form 4810: request for prompt assessment, **34:131**  
 Form SS-4: employer identification number, **34:117**  
 gathering information, **34:59**  
 generation-skipping tax  
     completed form, **34:113**  
     computations, **34:105 to 34:110**  
 gift tax credit, **34:102**  
 gift tax returns previously filed, **34:67**  
 gross estate, **34:80 to 34:91**  
 information about decedent, **34:64**  
 installment payments of tax, election, **34:77**  
 late filing, effect, **33:14**  
 life insurance policies, **34:68**  
 life insurance statement, filing, **34:121**  
 lifetime transfers by decedent, **34:70**  
 necessity, **39:31**  
 notice of fiduciary relationship, necessity, **34:119**  
 other forms to file, **34:116 to 34:134**  
 partnership interests, **34:69**  
 personal information about decedent, **34:65**  
 place of filing, **34:60**  
 powers of appointment, **34:72**  
 QTIP election, **34:76**  
 QTIP property in surviving spouse's estate, **34:66**  
 rate of tax, **16:59**  
 refund due deceased taxpayer, claim, **34:124**  
 request for prompt assessment, **34:130**  
 requirements, **16:57, 16:66**  
 reversionary interests, postponement of tax, **34:78**  
 revocable living trust, completed form, **34:112**  
 Schedule A: real estate valuation, **34:83**  
 Schedule A-I: special use valuation, **34:83**  
 Schedule B: stocks and bonds, **34:84**  
 Schedule C: mortgages, notes receivable and cash, **34:85**  
 Schedule D: insurance on decedent's life, **34:86**  
 Schedule E: joint property, **34:87**  
 Schedule F: miscellaneous, **34:88**  
 Schedule G: transfers during life, **34:89**  
 Schedule H: powers of appointment, **34:90**  
 Schedule I: annuities, **34:91**  
 Schedule J: funeral and administrative expenses, **34:93**  
 Schedule K: debts, **34:94**  
 Schedule L: net loss during administration, **34:95**  
 Schedule M: marital deduction, **34:96**  
 Schedule N: ESOP deduction, **34:97**  
 Schedule O: charitable deduction, **34:98**  
 Schedule P: foreign estate tax credit, **34:103**  
 Schedule Q: prior transfer tax credit, **34:104**  
 Schedule R: GST tax computation, **34:106**  
 Schedule R-I: notice to trustee, **34:110**  
 Schedule T: family-owned business interest deduction, **34:99**  
 signatures, **34:62**  
 small estates, **34:61**

## ESTATE TAX—Cont'd

### Returns—Cont'd

sole proprietorship interests, **34:69**  
 special use valuation  
     generally, **33:15**  
     election, **34:75**  
 state estate tax credit, **34:101**  
 trusts, interests held by decedent, **34:71**  
 unified credit, **34:100**  
 Revenue Act of 1987, business interest retention, **16:42**  
 Reversion retained with property transfer, **16:47**  
 Reversionary interests  
     power of appointment exercise or release, retain reversionary interest, **16:34 to 16:36**  
     survival required for transferred interest, **16:47**  
     survivor required for transferred interest, **16:48**  
     survivorship, for transferred interest, **16:40**  
     trustor's reversion in gift in trust, **30:25**  
 Revocable transfers, during life, **16:45**  
 Ruling requests, addresses of IRS, **39:2 et seq.**  
 Sale of securities to ESOP, deduction, **33:17**  
 Section 302 exchange redemption, **36:28**  
 Section 6324A  
     bond requirement, **36:10**  
     special lien for estate taxes, **36:10**  
 Sections 2036 and 2038, compared, **16:46**  
 Significance, **16:25**  
 Simultaneous deaths  
     effect on tax credit, **16:65**  
     use of PTP credit, **31:37**  
 Solely owned property, **10:19**  
 Special interests retained, power of appointment's exercise, **16:36**  
 Special liens, **16:66, 39:10, 39:11, 39:33**  
 Special use valuation, notice of election, **4:22**  
 Split gifts from spouses to third parties during life, **16:2**  
 Spousal joint interests  
     generally, **10:23**  
     prior law, before 1982, **10:27**  
 Spousal joint ownership property with right of survivorship, **16:37 to 16:39**  
 State estate tax credit  
     availability, **16:62**  
     refunds on Federal tax for additional state taxes, **39:23**  
     state taxation, **20:20 to 20:23**  
 State tax credits, table of amounts, **16:69**  
 Statute of limitations extendibility, **39:14, 39:27**  
 Statutory share of spouse, **16:50**  
 Step-children as members of decedent's family, **4:15**  
 Stock accounts, joint, **10:35**  
 Stock redemption to pay estate taxes  
     acceleration of installment payments, coordination, **36:26**  
     cautions in making redemption, **36:27**  
     distributions four years after death, limitations, **36:23**  
     financial stability of business, consideration, **36:27**  
     limitations on qualifying amount, **36:23**  
     qualifying stock, **36:24**  
     time to redeem, **36:25**  
     treatment, **36:22**

## INDEX TO TEXT

### ESTATE TAX—Cont'd

Strings retained on transferred interests, **16:40 et seq.**  
Succession taxes  
    credit, **16:62**  
    deductibility, **16:52**  
Surviving spouses, interests in marital deduction trusts, **16:49**  
Survivor annuities and other payments, **16:30**  
Survivorship requirement  
    property transfers, **16:47**  
    retained right to alter lifetime transfer, **16:40**  
    reversion retained, property transfers, **16:48**  
Tax on prior transfers as estate tax credit, **16:65**  
Taxable estate, **16:51 et seq.**  
Taxable gifts  
    donor retention of interests or rights, **16:40**  
    estate tax computation, **16:59**  
Tenancy by the entirety, **10:23, 16:37 to 16:39**  
Tenancy in common, **17:47**  
Tentative taxes, **16:59**  
Terminally ill clients  
    closely held business, value, **31:71**  
    debts, payment before death, **31:41**  
    previously taxed property credit, application, **31:37**  
    private annuities, use, **31:40**  
    restrictions on property, **31:35**  
    review, appropriateness, **31:33**  
Testamentary transfers to surviving spouse, **21:1 et seq.**  
Third parties, property held jointly with, **10:31**  
Transferred property during life, retained interests or rights, **16:40 et seq., 30:25**  
Transfers effective at death, **16:47**  
Treasury bills and notes, **10:36**  
Trusts, inclusion of assets in gross estate, **16:27**  
Unified credit  
    generally, **16:2, 16:3, 16:59, 16:61**  
    gift tax credit, distinguished, **8:31**  
    use by both spouses, **17:42**  
Valuation  
    buy-sell agreements, **23:26 et seq.**  
    credit for another's estate taxes, **16:65**  
    definition, **35:3**  
    fair market value, **35:3**  
    gifts, **8:31**  
    gross estate, **16:58**  
    overstatement penalties, **35:4**  
    principles, **35:1 to 35:74**  
    reversionary interests, **16:47**  
    stock, closely held corporation, **23:27 to 23:29**  
    understatement penalties, **35:5**  
    understatements, **39:31**  
Voting rights retained after stock transfer, **16:42 to 16:44**  
Waiver of deduction, **16:52, 16:53**

### ESTATE TAX CHARITABLE CONTRIBUTIONS

See also index heading INCOME TAX CHARITABLE CONTRIBUTIONS  
Art work, separate property, **24:28**  
Bequest by decedent, requirement, **24:7**  
Charitable lead trusts, **12:48**

### ESTATE TAX CHARITABLE CONTRIBUTIONS—Cont'd

Charitable remainder trusts  
    benefits of deduction, **24:21**  
    disclaimer, drafting, **24:23**  
    marital gifts, combination, **24:24**  
    non-charitable beneficiary, protection, **24:23**  
    payment of tax, **12:66**  
    settlement of defective trusts, **24:22**  
Contribution to qualifying charities, **24:10**  
CRUTs, multiple with related beneficiaries, self-dealing prohibition, **24:26**  
Deduction requirements, **24:6**  
Definition, **24:26**  
Disqualification of deduction, **24:15**  
Educational organizations, eligibility, **24:5**  
Eligible organizations, **24:4**  
Enforceable pledges, deductibility, **24:32**  
Estate taxes, reduction of deduction, **24:13**  
Forms used, **24:36**  
Fraternal societies, eligibility, **24:5**  
Generation skipping tax, applicability, **24:35**  
Gifts of partial interest  
    charitable remainder trusts, **24:20 to 24:24**  
    easements, **24:19**  
    farm, transfer of remainder interest, **24:17**  
    personal residence, transfer of remainder interest, **24:17**  
    pooled income funds, **24:25**  
    qualified real property, limitation, **24:19**  
    qualifying, **24:16**  
    undivided portion of entire interest, **24:18**  
Life insurance bequests, **24:30**  
Termination of charitable lead trust, liability for GST tax, **24:35**

### ESTATE TAX LIENS

Attachment, **16:66, 39:33**  
Bankruptcy stay provisions, **39:33**  
Certificates of release, **39:33**  
Cumulation with other liens, **39:33**  
Deferred tax, **39:10, 39:11, 39:33**  
Divestment, **16:66, 39:33**  
Duration, **16:66, 39:33**  
General liens, **39:33**  
Notice and demand, **39:33**  
Priority, **16:66, 39:33**  
Priority over state tax liens, **16:66**  
Reattachment after divestment, **16:66, 39:33**  
Special use valuation additional tax, **39:33**  
Validity, **39:33**

### ESTATE TAX PAYMENTS

Entity freezes, methods to accomplish, **27:59**

### ESTATE TRANSFERS TO SPOUSES

EGTRRA 2001, **21:8**

### ESTATE TRUSTS

Characteristics, **18:45**  
Definition, **16:55**  
Marital deduction, estate tax, generally, **16:55, 21:15, 21:46**  
Marital deduction trusts, qualifications, **19:36**  
Surviving spouse's estate tax, **16:49**

## ESTATE TRUSTS—Cont'd

Use, **18:45, 21:46**

## ESTATES

See also index headings ESTATE TAX; EXECUTORS; INCOME TAXATION OF ESTATES AND TRUSTS; LIQUIDITY OF ESTATES; PERSONAL REPRESENTATIVES; SPECIAL ASSETS

Abatement of interest, error in estate tax determination, **39:31**

### Administration

ancillary administration, **20:24 to 20:27**  
avoidance or short-cuts, **20:11**  
computers, use, **1:25**  
conflict of laws, **30:39**  
expenses, deductibility, **19:27**  
state law variances, **20:11**

### Administration expenses

effect on marital share, **21:54**  
effect on marital share valuation, **21:53**

Alternative minimum tax, applicability, **32:64**

Alternative valuation, return filed late, **33:14**

Ancillary administration, **20:24 to 20:27**

Attorneys, personal representatives for estate, **18:59**

Augmented estates, **20:7**

Augmented residue, **18:42**

Blockage, definition, **35:33**

### Business entities

valuation  
attributes effecting valuation, **27:26**  
historical background, **27:28**

### Capital gains

holding period, **32:15**  
includable gain, recognition, **32:16**  
income taxation, **32:14**  
sale within two years of transfer, **32:16**  
tax rates, **1:3**

Closely held businesses, planning, **23:3, 23:6 et seq.**

Closely held stock, postmortem redemption, **33:33**

Collections, appraisal, **35:12**

Community debts, **10:60**

### Community property

definition, **10:7**  
income during administration, **10:60**  
partition, **10:59**

Conflict of laws rule for administration, **30:39**

Contingent claims, effect on estate value, **16:52**

Corporations, postmortem liquidation, **33:34**

### Corpus

disclaimers, **37:13, 37:28**  
form, disclaimer by trustee, **37:28**

Death benefits inclusion, **18:36**

Decedent's final return, joint return limitations, **33:04**

Deductions in respect of decedent, **10:53, 32:54**

### Disclaimers

generally, **37:1**  
creating trust that qualifies for QTIP treatment, form, **37:27**  
formula, form, **37:26**  
general, form, **37:25**  
postmortem planning, use, **33:11**  
trustee, **37:28**

### Distributions

basis of property, **32:41**  
character after distribution, **32:38**  
fractional share formula, **33:44**

## ESTATES—Cont'd

### Distributions—Cont'd

included in income, **32:37**  
income in respect of decedent, **33:46**  
pecuniary fairly representative clause, **33:44**  
pecuniary fixed sum formula, **33:44**  
shifting taxable income, **33:43**  
tax impact, **33:41**  
tier system, **32:39**  
timing, **33:42**  
trapping distributions, **33:45**

Equitable adjustments, **33:48**

Estate assets, listing, **15:8**

### Estate tax returns

alternate valuation, **33:14**  
elections available, **33:13**  
filing  
generally, **33:10**  
extension of time, **33:18**  
special use valuation, **33:15**

Estate taxes, payment, **33:20**

Estate trusts, **19:36**

### Estimated income tax

addition for failure to pay, **39:31**  
payments, **32:65**

Expenses for production of income, **32:27**

Expenses relating to tax exempt income, allocation, **32:31**

### Extension of time to pay estate taxes

application, filing, **36:08**  
approval, reasons, **36:07**  
automatic deferral, **36:06**  
discretionary deferral, **36:06**  
portions attributable to remainder or reversionary interests, **36:09**  
qualifications, **36:06**  
reasonable cause, **36:06**

### Fiduciary income tax returns

accrued wages, **34:18**  
adjusted total income, **34:22**  
alternative minimum tax, **34:28**  
amortization, allocation, **34:14**  
balance due, **34:30**  
business income, **34:15**  
capital gain or loss, **34:16**  
charitable deduction, **34:21**  
computation of tax, **34:26 to 34:30**  
credits, **34:27**  
deductions, **34:19 to 34:25**  
depletion, allocations, **34:14**  
depreciation, allocations, **34:14**  
dividend exclusion, **34:23**  
dividend income, **34:12**  
election to recognize gain, **34:33**  
employer identification number, **34:10**  
estate open for two or more years, explanation, **34:33**  
estate tax deduction, **34:24**  
exemption, **34:25**  
farm income, **34:15**  
fiduciary fees, deductions, **34:21**  
filing requirements, **34:4**  
general identifying information, importance of accuracy, **34:11**  
gross tax, computation, **34:26**



## INDEX TO TEXT

### ESTATES—Cont'd

#### Fiduciary income tax returns—Cont'd

- income and losses from other estates or trusts, **34:13**
- income distribution deduction, **34:22**
- income or loss, **34:12 to 34:18**
- individual retirement account distributions, **34:18**
- interest deductions, **34:20**
- interest income, **34:12**
- investment credit, recapture, **34:28**
- management of property expenses, deduction, **34:21**
- net rent income, **34:14**
- ordinary gain or loss, **34:17**
- partnership income or losses, **34:13**
- payment of tax, **34:8**
- payments, listing, **34:29**
- place to file, **34:7**
- preparation tips, **34:34**
- professional service fees, deduction, **34:21**
- profit-sharing plan distributions, **34:18**
- reduction of deductions, **34:19**
- retirement plan distributions, **34:18**
- royalty income, **34:14**
- S corporation distributions, **34:18**
- Schedule A: charitable deduction, preparation, **34:31**
- Schedule B: income distribution deduction, preparation, **34:32**
- tax rate, **34:26**
- taxable year, choice, **34:9**
- time to file, **34:6**

#### Forgiven debts, income to estate, **18:30**

#### Funeral expense liability, **18:7**

#### Gross estate

- generally, **16:26 et seq.**
- powers of appointment, **16:31 et seq.**

#### Holding periods, capital gains, **1:3**

#### Income

- administration expense payments from income, **18:8, 18:11**
- administrative and judicial proceedings, **39:1 et seq.**
- claim payments from income, **18:8, 18:11**
- community property, **10:53, 10:60**
- disclaimer by trustee, form, **37:28**
- disclaimers, **37:13, 37:28**
- earned by estate, reporting, **33:22**
- exemption, **34:25**
- forgiveness of debts, **18:30**
- liability of executor for income tax, **39:10**
- state and municipal taxation, **20:18**
- tax determination, **39:1 et seq.**
- tax payments from income, **18:8, 18:11**

#### Income in respect of decedent

- generally, **10:53**
- acceleration of tax, **32:53**
- character of income, **32:50**
- classification factors, **32:48**
- death benefits, **32:51**
- definition, **32:47**
- examples, **32:49**
- exception, **32:53**
- installment obligation, exception, **32:53**

### ESTATES—Cont'd

#### Income in respect of decedent—Cont'd

- partnership receipts, **32:52**
- planning techniques, **32:55**
- salary payments, **32:51**

#### Income tax returns

- administration expenses, deduction, **33:23**
- casualty or theft losses, deduction, **33:23**
- closely held corporation stock, redemption, **33:33**
- corporate liquidations, **33:34**
- employer-paid death benefit exclusion, **33:37**
- estimated payments, **33:27**
- excess deductions, treatment, **33:28**
- excess retirement accumulations, **33:40**
- excise tax, former law, **33:40**
- fiscal year, election, **33:26**
- interest expenses, deduction, **33:23**
- partnership basis adjustment, **33:35**
- preparation, **33:22**
- property not subject to claims, deduction, **33:24**
- qualified deferred compensation plans, lump sum distributions, **33:38**
- recognition of gain, election, **33:30**
- S corporation election, **33:32**
- selling expenses, deduction, **33:23**
- separate taxpayer, advantages, **33:26**
- unused loss carryovers, **33:29**

#### Income taxation

- administration expenses, deduction, **32:27**
- alternative minimum tax, **32:64**
- applicability of rules, **32:5**
- beneficiaries' gross income, inclusion of distribution, **32:37**
- bequest of personal effects, **32:36**
- bookkeeping, **32:9**
- business expense deduction, **32:21**
- capital gains and losses, **32:14**
- charitable deduction, **12:18, 32:24**
- common deductions, **32:20 to 32:30**
- deductions, **32:17 to 32:34, 34:19 to 34:25**
- depreciation and depletion deduction, **32:26**
- distributable net income, **32:3**
- distribution deduction, **32:18**
- distributions to beneficiaries, **32:35 to 32:46**
- election between estate and income tax deduction, **32:32**
- estate tax deduction, **32:28**
- estimated payments, **32:65**
- excess deductions, **32:33**
- excise and stamp taxes, deduction, **32:23**
- exclusions, **32:10**
- Federal import duties, deduction, **32:23**
- fiduciary accounting income, taxable income distinguished, **32:4**
- foreign taxes, deduction, **32:23**
- income items, **32:11 to 32:16**
- in-kind distributions, **32:40**
- interest deduction, **32:22**
- losses, deduction, **32:25**
- monetary bequests, **32:36**
- personal exemption, **32:19**
- personal property income, **32:13**
- personal property taxes, deduction, **32:23**
- qualified plan distributions, **32:46**

## ESTATES—Cont'd

Income taxation—Cont'd  
 real estate taxes, deduction, **32:23**  
 real property income, **32:12**  
 return, duty to file, **32:2**  
 sales taxes, deduction, **32:23**  
 specific gifts, exclusion from income, **32:36**  
 tax credits, availability, **32:34**  
 taxable entity, **32:9**  
 taxable year, **32:66**  
 2 percent limitation for miscellaneous deductions, **32:30**  
 unused loss carryovers, **32:33**  
 Individually held property, **10:2**  
 In-kind distributions  
     generally, **32:40**  
     gain or loss, **32:42**  
     gain recognition election, **32:43**  
     Kenan gains, **32:44**  
     marital bequests, funding, **32:45**  
     pecuniary legacies, **32:44**  
     Section 643(e) election, **32:43**  
 Installment payment of estate taxes  
     acceleration of payments, **36:21**  
     bond requirement, **36:10**  
     business interests, consideration, **36:10**  
     charitable deductions, effect of election, **36:20**  
     deficiency election, **36:15**  
     election, **36:10, 36:14**  
     exchanges of stock, effect, **36:21**  
     gifts within three years of death, consideration, **36:10**  
     interest on installments, **36:13**  
     judicial review, **36:16**  
     notice of election to pay in installments, form, **36:17**  
     portion payable in installments, **36:11**  
     protective notice of election, **36:18**  
     redemption of stock to pay taxes, effect, **36:21**  
     requirements, **36:10**  
     review by IRS, **36:16**  
     tax on prior transfers credit, **36:19**  
     taxes attributable to closely-held businesses, **36:11**  
     thirty-five percent test, **36:10**  
     time, **36:12**  
 Investment advice, deductibility, **32:30**  
 Leaseholds, valuation, **35:21**  
 Liability of executor for estate's income taxes, **39:10**  
 Liens, Section 6324A, deferred payments, **36:10**  
 Life insurance proceeds inclusion, **18:36**  
 Liquid assets, necessity, **36:02**  
 Liquidity  
     accumulation of income, **36:03**  
     buy-sell agreements, **23:7**  
     closely held corporations, **23:6**  
     corporate recapture tax, **23:12**  
     corporate redemptions, **23:11**  
     employee benefit plan distributions, **36:03**  
     enhancement, methods, **36:03**  
     flower bonds, redemption, **36:03**  
     leasing assets, **36:04**  
     life insurance proceeds, **36:03**  
     loans to estate, **36:05**  
     minimization of estate taxes, **36:03**

## ESTATES—Cont'd

Liquidity—Cont'd  
     partnerships, **23:10**  
     planning for limited partnerships, **23:9**  
     redemption agreements, **23:11 to 23:14**  
     sales of assets, **36:03, 36:04**  
     sole proprietorships, **23:8**  
 Loans between beneficiaries and estates  
     income shifting, **9:24**  
     interest payments, **36:05**  
     related taxpayer issues, **36:05**  
 Marital clauses, funding, **33:44**  
 Marital deduction, **21:1 et seq.**  
 Medical expense liability, **18:7**  
 Mineral interests, valuation, **35:22**  
 Net operating losses, deductibility, **31:58**  
 Nonprobate assets, **16:28 et seq., 18:19**  
 Partition of community property, **10:59**  
 Partnership basis adjustment, **33:35**  
 Partnership interests, close of partnership year, **32:52**  
 Payment of estate tax, extension of time, **33:19**  
 Personal exemption, **32:19**  
 Personal representative fees, waiver, **33:25**  
 Planning during life, **23:1 et seq.**  
 Pooled income fund, inclusion, **24:25**  
 Postmortem liquidity, **36:02**  
 Probate assets, **16:27**  
 Probate procedures, state law variations, **20:11**  
 Qualified plan distributions, tax treatment, **32:46**  
 Residuary assets, payment of expenses, **19:28**  
 Residue  
     assets included, **18:42**  
     augmented residue, **18:42**  
     dispositions with and without will, **18:42**  
 Restricted securities, valuation, **35:32**  
 S corporation shares, postmortem election, **33:32**  
 Section 302 exchange redemption, **36:28**  
 Section 6324A, special lien for estate taxes, **36:10**  
 Size reduction by disclaimer, **37:20**  
 Small estates, **34:61**  
 Special assets  
     disposition of S corporation stock, **38:05**  
     estate as S corporation shareholder, **38:04**  
     farmland, **38:08 to 38:11**  
     flower bonds, **38:07**  
     installment payments and income items, **38:19**  
     life insurance on another, **38:18**  
     overview, **38:01**  
     partnership interests, **38:12 to 38:15**  
     physician's estate, **38:16**  
     problems, **38:02**  
     S corporation stock, **38:03 to 38:06**  
     tax shelters, **38:12 to 38:15**  
     trusts as S corporation shareholder, **38:06**  
 Special interests, effect, trusts as shareholders, **38:06**  
 Special use valuation, **35:25**  
 Specific devises, funding, **33:44**  
 State law variations in administration, **20:11**  
 Stock redemption to pay estate taxes  
     acceleration of installment payments, coordination, **36:26**  
     cautions in making redemption, **36:27**  
     distributions four years after death, limitations, **36:23**

## INDEX TO TEXT

### ESTATES—Cont'd

Stock redemption to pay estate taxes—Cont'd  
financial stability of business, consideration, **36:27**  
limitations on qualifying amount, **36:23**  
qualifying stock, **36:24**  
time to redeem, **36:25**  
treatment, **36:22**

Tax attributes, contingent claims, **16:52**

Taxable estate, **16:51 et seq.**

Throwback rules, accumulation of income, **32:57**

Transfers to surviving spouse, **21:1 et seq.**

Trusts as shareholders, electing small business trusts, **38:06**

Valuation  
agricultural personalty, **35:10**  
appraisals, use, **35:8 to 35:9**  
appraiser, selection, **35:9**  
artwork, appraisal, **35:12**  
burden of proof, **35:8**  
comparable properties omitted, **35:26**  
crops, **35:10**  
equity issues, **35:29**  
farm machinery, **35:10**  
farms, **35:26**  
fungibles, **35:34**  
generally, **27:25**  
household articles, **35:11**  
investment properties, **35:15**  
investment value approach, **35:18**  
livestock, **35:10**  
market data approach, **35:17**  
methods for real property, **35:16 to 35:20**  
motorized vehicles, **35:10**  
noninvestment properties, **35:15**  
overstatement penalties, **35:4**  
personal effects, **35:11**  
real property, **35:14 to 35:27**  
securities other than stocks and bonds, **35:34**  
similar real properties, comparison, **35:17**  
stocks, **35:29**  
tangible personal property, **35:10**  
timberland, **35:23**  
understatement penalties, **35:5**

### ESTB

See index heading ELECTING SMALL BUSINESS TRUSTS (ESTB)

### ESTIMATED INCOME TAX PAYMENTS

Estates, **32:65**  
Final income tax return of decedent, **33:05**  
Temporary relief from, **33:27**  
Trusts, **32:65**

### ESTIMATED TAX

Failure to pay, **39:31**

### ESTOPPEL

Spouse's prior position, **39:3**

### EXAMINATION GUIDELINES

SEP IRAs, **5:67**

### EXCESS CONTRIBUTIONS

Individual Retirement Accounts, **5:62**

### EXCESS DISTRIBUTIONS

Excise tax  
grandfathered amounts, **5:51**  
marital deduction, effect, **5:51**

### EXCESS EARNINGS

Definition, **35:58**

### EXCISE TAXES

Charitable organizations, extracting value from, **12:6**

### EXCLUSIONS FROM GROSS ESTATE

Adoption expenses, **2:46**  
Conservation easement  
amount of exclusion, **34:92**  
filing requirements, **34:81**  
Damage awards, **2:5**  
Principal residence sale gains, **20:19**  
Use in gift planning, **8:9 to 8:34**

### EXCLUSIONS FROM INCOME

Disability insurance benefits, **2:38**

### EXCURSION FARES

Deductibility restrictions, **2:51**

### EXECUTORS

See also index headings FIDUCIARIES; PERSONAL REPRESENTATIVES

Agent errors, liability of executor, **16:66**

Ancillary executors, **20:24**

Applications for prompt determination of tax, **39:10**

Bonds  
deferred estate taxes, **39:10, 39:33**  
fiduciary bonds, **20:9**

Deferred estate tax special lien election, **39:33**

Definition, **16:66**

Discharge from personal liability for unpaid taxes, **39:10**

Elections, special use valuation, **34:75**

Estate tax payment requirement, **16:66**

Estate tax return filing requirement, **16:57, 16:66**

Incumbency evidence requirement for tax refund claims, **39:25**

Interest liability, tax deficiency for distributions, **16:66**

Liability for unpaid taxes  
generally, **39:10**  
errors of agent, **16:66**

Personal representative as inclusive term, **30:08**

Powers determined, state law, will, or appointing document, **20:11**

Qualifications, **20:9**

Recovery rights from others, **16:66**

Refund claims for tax overpayments, **39:25**

Residency requirement, **20:9**

Resubmission of request for discharge from personal liability, **39:10**

### EXEMPT ORGANIZATIONS

Personal benefit contracts, **12:42**

### EXEMPT PROPERTY

Allowance  
funding, **18:21**  
will provisions, **18:38**

## **EXEMPT PROPERTY—Cont'd**

Family allowance, **20:7**  
 Homestead, **10:14, 18:33, 20:7**  
 Personal property, **18:21**  
 Personal property allowance of surviving spouse, **20:7**  
 Surviving spouse's rights, **20:7**  
 Testamentary gifts, **18:21**  
 Uniform Probate Code, surviving spouse's personal property allowance, **20:7**

## **EXEMPTIONS**

Section 2033A, family owned businesses, gross estate determination, **38:20**  
 Tax Cuts and Jobs Act, **1:3**

## **EXORDIUM**

Wills, **18:2**

## **EXPATRIATES**

Unified credit, **16:70**

## **EXPATRIATION**

Tax motivation, **1:4**

## **EXPENSE DEDUCTIONS**

Charitable services, **12:6**  
 Environmental cleanup, **2:50**  
 Executive compensation, **2:40**  
 Interest payments, tax deficiencies, **2:50, 39:31**  
 Leased vehicles, **2:51**  
 Malpractice insurance, year of retirement, **2:50**  
 Substantiation methods, **2:51**  
 Tax assistance, **2:51**  
 Travel and entertainment, **2:51**

## **EXPENSES**

Joint tenancy property expense allocation, **10:6**  
 Nonspousal joint ownership property expense allocation, **10:29**  
 Retirement considerations, **13:5**

## **EXPERT OPINIONS**

Charitable gifts, works of art, **12:35**  
 Valuation, works of art, **35:12**

## **EXPRESS TRUSTS**

See also index heading **TRUSTS**  
 Acceptance of property, necessity, **19:12**  
 Consideration, necessity, **19:7**  
 Personal property, Statute of Frauds, impact, **19:13**  
 Real property, Statute of Frauds, impact, **19:13**

## **EXTENSION OF TIME**

Deferred payments, timing of election for, **36:14**  
 Form 4768, application of extension of time, **34:129**  
 Form 7004, application for automatic extension of time to file certain business income tax, information, and other returns, **34:126**  
 Roth IRA, recharacterization of, **5:73**  
 Special use election, **4:22**

# **F**

## **FAMILY ALLOWANCE**

Amount, **20:7**

## **FAMILY ALLOWANCE—Cont'd**

Marital deduction, estate tax, **18:38, 21:12, 21:16**  
 Payment form, **20:7**  
 Petition requirement, **20:7**  
 Purpose, **20:7**  
 Will provisions, **18:38**

## **FAMILY ATTRIBUTION PRINCIPLE**

Redemption of corporate stock, **23:12**  
 Valuation technique, **35:63**

## **FAMILY BUSINESS ASSETS**

Estate exclusion election, historical development, **38:20**  
 Estate tax deduction, calculating amount, **34:99**  
 Section 2033A, exemption permitted estates, **38:20**

## **FAMILY BUSINESSES**

Advantages of family partnership, **23:20**  
 Bona fide business arrangement requirement, buy/sell agreements, **23:31**  
 Cross purchase agreements, **23:33**  
 Equalization of estate distributions, **23:24**  
 Estate tax deduction  
     calculating amount, **34:99**  
     filing requirements, **34:80**  
 Family attribution, redemption of corporate stock, **23:12**  
 Family partnerships, **23:20**  
 Recapture tax, **23:12**  
 Redemption of corporate stock, **23:12**  
 Section 2033A, exemption permitted estates, **38:20**

## **FAMILY LIMITED PARTNERSHIPS**

Chapter 14 application, valuation of interests, **27:98**  
 Entity freezes  
     asset protection  
         generally, **27:68, 27:99**  
         charging orders, **27:100**  
         general v. limited, **27:101**  
         tax consequences of charging order, **27:102**  
 capitalization, **27:80**  
     disguised sales, **27:83**  
     investment company, **27:82**  
     nonrecognition rule, **27:81**  
 Chapter 14 valuations  
     generally, **27:94**  
     Section 2701, **27:95**  
 Chapter 14 valuations, Section 2702, **27:96, 27:97**  
 Chapter 14 valuations, Section 2704, **27:98**  
 check-the-box regulations, **27:71**  
 creditor protection benefits, **27:99**  
 death of partner, **27:86**  
     basis determination, **27:90**  
     distributive share, **27:87**  
     losses, **27:88**  
 death of partner, IRD, **27:89**  
 distributions, **27:84**  
 distributions to fiduciaries, estate tax allocations, **27:93**  
 estate tax reduction, **27:66**  
 fiduciary accounting issues  
     generally, **27:91**  
     distributions to fiduciaries, **27:92**

## INDEX TO TEXT

### FAMILY LIMITED PARTNERSHIPS

#### —Cont'd

Entity freezes—Cont'd  
    FLP regulations, **27:72**  
    gifts of future interests, **27:78**  
    gifts of interests, **27:76**  
        completed, **27:77**  
        income tax, **27:79**  
    income tax principles, **27:70**  
    liquidations, **27:84**  
        marketable securities, **27:85**  
    management and control, **27:65**  
    minors as partners, **27:74**  
    organization, **27:69**  
    partner recognition  
        generally, **27:73**  
        conduct of business, **27:73.40**  
        income distributions, **27:73.30**  
        management participation, **27:73.20**  
        retained controls, **27:73.10**  
    partner's creditors  
        protection from, **27:100, 27:101**  
        tax consequences of charging order, **27:102**  
    state tax avoidance, **27:67**  
    trusts as partners, **27:75**  
Leveraged gifts, **27:108**  
Life insurance, use with  
    generally, **27:103, 27:104**  
    ownership by partnership, **27:105**  
    transfers to fund premiums, **27:106**  
Retention of preferred interest, **27:107**  
Sale of remainder interest, **27:108**  
Section 2704 valuation, **27:98**  
Valuation issues, assignee interests, **27:98**

### FAMILY OWNED BUSINESS INTERESTS

Estate tax deduction  
    calculating amount, **34:99**  
    filing requirements, **34:80**  
Interest deduction, **34:99**  
Section 2033A, exemption permitted estates, **38:20**

### FAMILY PARTNERSHIPS

See also index heading **FAMILY BUSINESSES**  
Advantages, **23:20**  
De minimis exception, **9:26**  
Income shifting vehicle, **9:27**

### FAMILY RESIDENCE TRUSTS

Abusive use of devise, **19:1**

### FAMILY SHARE TRUSTS

Creation, **19:32**  
Definition, **17:41**  
Description, **18:45**  
Disclaimers, **37:21**  
Estate tax reduction, **21:3**  
Formula marital deduction clauses, combination use, **21:55**

### FAMILY SUCCESSION PLANNING

Children not in business, providing for, **27:111**  
Management continuity, **27:109**  
Surviving spouse, providing for, **27:110**

### FAMILY TRANSFERS

Attributed ownership, minority discount, **17:50**  
Grantor retained interest trusts, **28:5**

### FANNIE MAE'S

Tax advantaged investment, **6:44**

### FARM BUILDINGS AND EQUIPMENT

Depreciation, **4:9**

### FARM METHOD OF VALUATION

Special use valuation, allowable deductions, **4:26**

### FARM OPERATIONS

See also index heading **FARMERS AND RANCHERS**  
Capitalization of expenses, **4:8**  
Deductible expenses, **4:8**  
Fiscal year, considerations, **4:7**  
Hobby loss concerns, **4:10**  
Nonactive owner, choice of entity, **4:4**  
Non-profitable activities, limitations on deductions, **4:10**  
Personal and business use, allocations, **4:8**  
Prepayment of expenses, **4:8**  
Preproductive carrying expenses, one-time deduction, **4:8**  
Profit-making intentions, factors, **4:10**

### FARM PROPERTY

Special use valuation, **4:13 to 4:32**  
Valuation, fractional interest discount, **35:14**

### FARMERS AND RANCHERS

Generally, **4:1 et seq.**  
Accounting methods, availability, **4:6**  
Accrual method of accounting, **4:6**  
AMT calculations, installment payments, **4:6**  
Buildings, depreciation, **4:9**  
Business considerations in choice of entity, **4:3**  
Business operation, form of entity, **4:2**  
Capitalization-of-rent valuation formulas, **35:26**  
Cash method of accounting, **4:6**  
Cattle, depreciation, **4:9**  
Comparable properties omitted, multiple factor method used, **35:26**  
Conditioning of land, deductibility, **4:8**  
Conservation Reserve Program (CRP), rent equivalency, **4:11**  
Corporation as form of entity, **4:3**  
Crops and livestock, deductibility, **4:8**  
Crop-sharing arrangement, effect on estate tax deferral eligibility, **4:36**  
Discharged debt, exclusion from gross income, **4:11**  
Estate planning, application, **4:12**  
Estate tax deferral  
    eligibility requirements, **4:34**  
    trade of business test issue, **4:35**  
Farm, definition, **38:09**  
Farm income, fiduciary income tax return line, **34:15**  
Farm method of valuation, **4:26**  
Farming syndicates, deductibility, **4:8**  
Farm-price inventory method of accounting, **4:6**  
Feed, deductibility, **4:8**  
Fertilizer, deductibility, **4:8**  
Fractional share marital deduction formula, use, **4:12**  
Gasoline excise tax credit, **4:10**

## **FARMERS AND RANCHERS—Cont'd**

Gift program, use, **4:12**  
 Goats, depreciation, **4:9**  
 Gross cash rentals, definition, **35:26**  
 Horses, depreciation, **4:9**  
 Income tax  
     considerations in choice of entity, **4:4**  
     rates, consequences, **4:4**  
 Incorporation, estate tax deferral eligibility, **4:36**  
 Installment payments, AMT calculations, **4:6**  
 Leasing property during retirement, **13:26**  
 Limitation of liability, importance, **4:3**  
 Limited partnership as form of entity, **4:3**  
 Liquidation, **4:5**  
 Machinery and equipment, depreciation, **4:9**  
 Marital deduction, application, **4:12**  
 Multiple factor method, **35:26**  
 Multiple-factor method of valuation, **35:27**  
 Net share rentals, valuation, **35:26**  
 Nonactive interest in farm operation, **4:4**  
 Ordinary and necessary expenses, deductibility, **4:8**  
 Postmortem estate planning, **4:12**  
 Primary assets, **4:1**  
 Proprietorship as form of entity, **4:3**  
 Remainder interest in farm, eligibility for estate tax deduction, **24:17**  
 Rental income, Conservation Reserve Program (CRP), **4:11**  
 Residual marital deduction, **4:12**  
 Sale in bulk, **4:5**  
 Seed, deductibility, **4:8**  
 Selection of entity, **4:3**  
 Sheep, depreciation, **4:9**  
 Soil and water conservation expenditures, deductibility, **4:8**  
 Special use valuation  
     generally, **4:12, 4:13**  
     cessation of qualified use, **38:11**  
     election, procedure, **38:10**  
     eligibility, **38:09**  
     farm, definition, **38:09**  
     leases, effect on eligibility, **13:27**  
     multiple-factor method, **35:27**  
     notice of election, **4:22**  
     percentage tests, **38:09**  
     premature disposition, **38:11**  
     qualified use, **38:09**  
 Tax treatment, goal, **4:2**  
 Tax years, **4:7**  
 Terminally ill client, liquidity of estate, **31:38**  
 Underpayment of estimated taxes, penalty avoidance, **4:11**  
 Unified tax credit, use, **4:12**  
 Unit-livestock-price inventory method of accounting, **4:6**  
 Valuations, asset and earnings values, **35:16**

## **FARMS**

FICA taxes, agricultural products, **4:11**  
 Rental income characterization, Conservation Reserve Program (CRP), **4:11**  
 Special use valuation, protective election, **38:10**  
 Valuations, asset and earnings values, **35:16**

## **FEDERAL DEPOSITS**

Employment taxes, **3:20**  
 Method of deposit, **3:20**

## **FEDERAL ESTATE TAX RETURNS**

See also index headings ESTATE TAX; PREPARATION AND

### **FILING OF FORMS**

Adjusted taxable gifts, **34:63**  
 Administrative expense deductions, **34:93**  
 Alternate valuation, election, **34:74**  
 Basic information, **34:62**  
 Charitable deductions, **34:98**  
 Claims against estate, **34:93**  
 Close corporation interests, **34:69**  
 Completed form  
     generally, **34:113**  
     computation, **34:106**  
     exemption, **34:108**  
     filing requirements, **34:107**  
     grandchild exclusion, **34:109**  
 Completed sample forms  
     generation-skipping tax, **34:113**  
     revocable living trust, **34:112**  
 Debt deductions, **34:94**  
 Domicile, **34:62**  
 Employer identification number  
     Form SS-4, **34:117**  
     necessity, **34:116**  
 ESOP deductions, **34:97**  
 ESOP election, **34:79**  
 Excess retirement accumulations, **34:111**  
 Extension of time to pay tax  
     generally, **34:128**  
 Family-owned business interest deduction, **34:99**  
 Filing requirements, **34:60**  
 Foreign estate tax credit, **34:103**  
 Funeral expense deductions, **34:93**  
 Gathering information, **34:59**  
 Gift tax credit, **34:102**  
 Gift tax returns previously filed, listing, **34:67**  
 Gross estates  
     annuities, **34:91**  
     bonds, **34:84**  
     cash, **34:85**  
     household furnishings, **34:88**  
     joint property, **34:87**  
     life insurance on decedent, **34:86**  
     miscellaneous, property, **34:88**  
     mortgages, **34:85**  
     order of documents, **34:82**  
     personal property, **34:88**  
     powers of appointment, **34:90**  
     promissory notes, **34:85**  
     real property, physical description and valuation, **34:83**  
     stocks, **34:84**  
     transfers during decedent's life, **34:89**  
 Information about decedent, **34:64**  
 Installment payments of estate tax, election, **34:77**  
 Life insurance policies, **34:68**  
 Life insurance statement  
     filing, **34:121**  
     Form 712, **34:122**  
 Lifetime transfers by decedent, **34:70**  
 Marital deductions, **34:96**



## INDEX TO TEXT

### FEDERAL ESTATE TAX RETURNS

#### —Cont'd

Net loss deductions, **34:95**  
Notice of fiduciary relationship  
    Form 56, **34:120**  
    necessity, **34:119**  
Partnership interests, **34:69**  
Personal information about decedent, **34:65**  
Place of filing, **34:60**  
Powers of appointment, **34:72**  
Prior transfer tax credit, **34:104**  
Prompt assessment  
    Form 4810: request for prompt assessment, **34:131**  
    necessity of request, **34:130**  
QTIP election, **34:76**  
QTIP property in surviving spouse's estate, **34:66**  
Refund due deceased taxpayer  
    claim, **34:124**  
    Form 1310: refund due deceased taxpayer, **34:125**  
Reversionary interests, postponement of tax payment, **34:78**  
Revocable living trust, completed form, **34:112**  
Schedule A: real estate valuation, **34:83**  
Schedule A-1: special use valuation, **34:83**  
Schedule B: stocks and bonds, **34:84**  
Schedule C: mortgages, notes receivable and cash, **34:85**  
Schedule D: insurance on decedent's life, **34:86**  
Schedule E: joint property, **34:87**  
Schedule F: miscellaneous property, **34:88**  
Schedule G: transfers during life, **34:89**  
Schedule H: powers of appointment, **34:90**  
Schedule I: annuities, **34:91**  
Schedule J: funeral and administrative expenses, **34:93**  
Schedule K: debts, **34:94**  
Schedule L: net loss during administration, **34:95**  
Schedule M: marital deduction, **34:96**  
Schedule N: ESOP deduction, **34:97**  
Schedule O: charitable deduction, **34:98**  
Schedule P: foreign estate tax credit, **34:103**  
Schedule Q: prior transfer tax credit, **34:104**  
Schedule R: GST tax computation, **34:106**  
Schedule R-1: notice to trustee, **34:110**  
Schedule T: family-owned business interest deduction, **34:99**  
Signatures, **34:62**  
Small estates, filing requirements, **34:61**  
Sole proprietorship interests, **34:69**  
Special use valuation, election, **4:22, 34:75**  
State estate tax credit, **34:101**  
Trusts, interests held by decedent, **34:71**  
Unified credit, **34:100**

### FEDERAL FARM BANK LOANS

Special use valuation, annual interest rate, **4:26**

### FEDERAL SECURITIES LAWS

Resale restrictions, discount, **35:32**

### FEDERAL SHORT-TERM RATE

Tax underpayment interest, **39:31**

### FEE SCHEDULES

Corporate fiduciaries, **30:46, 30:47**

### FEED COSTS

Deductibility, **4:8**

### FEES

Fiduciaries. See index heading **FIDUCIARIES**  
Health or life care facilities, deductibility, **13:19**  
Return preparers, **39:2**

### FERTILIZER

Deductibility, **4:8**

### FICA TAXES

Agricultural products, **4:11**  
Deferred compensation, **13:16**

### FIDUCIARIES

See index headings **CUSTODIANS, PROPERTY TRANSFERRED TO MINORS; EXECUTORS; FIDUCIARY INCOME TAX RETURNS; GUARDIANS OF PROPERTY; GUARDIANS OF THE PERSON; PERSONAL REPRESENTATIVES; TRUSTEES**  
Accounting fees, family member fiduciaries, **30:49**  
Accounting income, **32:4**  
Actions favorable to beneficiaries, tainted gifts, **16:14**  
Advisers to trustees as limited function fiduciaries, **30:31**  
Attorneys-in-fact, durable power of attorney, **30:05**  
Bond waiver, will provisions, **18:56**  
Bonds, **20:9**  
Brokerage commissions, family member fiduciaries, **30:49**  
Cofiduciaries' fees, **30:48**  
Compensation  
    generally, **30:45 et seq.**  
    corporate, form, **30:51**  
    corporate and individual cofiduciary, form, **30:53**  
    individual, form, **30:52**  
Conflict of interest disqualification, **30:13**  
Conflict of law rules, selection considerations, **30:02**  
Conflict of law rules and considerations in selection, **30:38 et seq.**  
Conservators, **30:04**  
Corporate fiduciaries  
    advantages and disadvantages in use, **30:54**  
    bond excuse or waiver, **18:56**  
    compensation, **30:46 et seq.**  
    drafting suggestions for compensation, **30:50**  
    fee schedules, **30:46, 30:47**  
    hidden charges in fees, **30:47**  
    individual cofiduciary compensation, form, **30:51**  
    individual fiduciary comparison, practical considerations, **30:54**  
    qualification requirements, **20:9, 30:14 to 30:16**  
    trust instrument compensation provisions, forms, **30:53**  
Criminal record disqualification, **30:13**  
Deferred estate tax special lien election, **39:33**  
Definitions, **19:3**  
Designation, **19:43**  
Disclaimers, **37:15**  
Disclosures on returns, penalty avoidance, **39:31**  
Drafting suggestions for compensation provisions, **30:50 to 30:53**

## **FIDUCIARIES—Cont'd**

Duties of particular types, **30:03 et seq.**  
 Extraordinary services, **30:47**  
 Family members as fiduciaries, hidden costs, **30:49**  
 Fees  
     agreements, **30:48**  
     clauses in governing instruments, **30:48**  
     corporate fiduciary, **30:46**  
     individual fiduciary, **30:48**  
     management fees, below  
 Fiduciary relationship, definition, **19:3**  
 Form 1041, explained, **34:36**  
 General partner to limited partners, completed gifts, **8:33**  
 General powers, **18:60**  
 Grantor, power to spray or sprinkle income, **30:26**  
 Guardian ad litem fees of corporate fiduciary, **30:47**  
 Hidden charges in corporate fiduciary fees, **30:47**  
 Hidden costs with family member fiduciaries, **30:49**  
 Income tax refund claims, **39:22**  
 Incumbency evidence requirement for tax refund claims, **39:25**  
 Individual fiduciaries  
     advantages and disadvantages in use, **30:54**  
     compensation, **30:48 to 30:50, 30:52, 30:53**  
     corporate fiduciary comparison, **30:54**  
     qualification requirements, **20:9, 30:09, 30:13**  
     relatives versus nonrelatives, practical considerations, **30:55**  
 Joint fiduciaries. See index heading **JOINT FIDUCIARIES**  
 Legal fees of corporate fiduciary, **30:47**  
 Life insurance policy incidents of ownership in fiduciary, estate tax, **16:29**  
 Local fiduciaries, advantages and disadvantages, **30:57**  
 Management fees  
     corporate fiduciaries, **30:47**  
     family member fiduciaries, **30:49**  
 Minors as disqualified, **30:13**  
 Multiple fee control by state, **30:45**  
 Multiple fiduciaries, advantages and disadvantages, **30:56**  
 Multiple services by one fiduciary, fees, **30:48**  
 Nonresident corporate fiduciaries, **30:14 to 30:16**  
 Nonresident's authorization to serve, table, **30:16**  
 Notice to IRS of relationship to deceased taxpayer, **39:32**  
 Planning suggestions for selection, **30:17**  
 Powers, determination, **18:60, 20:11**  
 Practical considerations in selection  
     cotrustees versus advisors, **30:58**  
     individuals versus corporations, **30:54**  
     local versus remote, **30:57**  
     relatives versus nonrelatives, **30:55, 30:56**  
     single versus multiple, **30:56**  
     small banks as fiduciaries, **30:54**  
 Qualification requirements, **20:9, 30:03, 30:09 et seq.**  
 Reasonable compensation allowed by law, **30:48**  
 Reasonableness of fees, **30:48**  
 Refund claims for tax overpayments, **39:25**  
 Relatives, practical considerations in selection  
     multiple fiduciaries, **30:56**  
     nonrelatives, comparison, **30:55**  
 Remote fiduciaries, advantages and disadvantages, **30:57**

## **FIDUCIARIES—Cont'd**

Removal of assets from jurisdiction, **30:13**  
 Residency requirement  
     corporate fiduciaries, **20:9, 30:14 to 30:16**  
     individuals, **20:9, 30:16**  
 Review of appointment, **31:18**  
 Selection considerations, generally, **30:01 et seq., 30:02**  
 Selection effect on taxes, **30:19 et seq.**  
 Separate share treatment, allocation rules, **32:68**  
 Services required, **30:45**  
 Small banks as fiduciaries, **30:54**  
 Sprinkling power, **30:28**  
 Statutory powers, **18:60**  
 Subcontracting of services  
     charges, **30:48**  
     corporate fiduciaries, **30:46**  
     individual fiduciaries, **30:45, 30:48**  
 Successor fiduciary, requirements for individual, **30:09**  
 Sweep fees, **30:47**  
 Tax impact of selection, **30:03, 30:19 et seq.**  
 Types, **30:03, 30:26 et seq.**  
 Will provisions on powers and duties, **18:60**

## **FIDUCIARY INCOME TAX RETURNS**

See also index heading **PREPARATION AND FILING OF FORMS**  
 Accrued wages, **34:18**  
 Adjusted total income, **34:22**  
 Allocation of expenses to tax exempt interest income, **34:37**  
 Alternative minimum tax, **34:28**  
 Balance due, **34:30**  
 Capital gain or loss, **34:16**  
 Charitable deduction, **34:21**  
 Completed sample form and schedules, **34:35**  
 Components, **34:2**  
 Computation of tax, **34:26 to 34:30**  
 Credits, **34:27**  
 Deductions, necessity of reducing, **34:19**  
 Dividends  
     exclusion, **34:23**  
     income, **34:12**  
 Election to recognize gain, **34:33**  
 Employer identification number  
     Form SS-4, **34:116**  
     obtaining, **34:10**  
     series or block, **34:10**  
 Estate open for two or more years, explanation, **34:33**  
 Estate tax deduction, **34:24**  
 Estates, filing requirements, **34:4**  
 Exemption, **34:25**  
 Farm income, **34:15**  
 Fiduciary fees deductions, **34:21**  
 Filing requirements, **34:3**  
 Form 2758: application for extension of time to file, **34:127**  
 General identifying information, importance of accuracy, **34:11**  
 Gross tax, computation, **34:26**  
 Income distribution deduction, **34:22**  
 Income or loss from other estates or trusts, **34:13**  
 Individual retirement account distributions, **34:18**  
 Interest  
     deductions, **34:20**

## INDEX TO TEXT

### **FIDUCIARY INCOME TAX RETURNS —Cont’d**

Interest—Cont’d  
income, **34:12**  
Management of property expenses, deductions, **34:21**  
Monitoring of entity, **34:34**  
Net business income, **34:15**  
Net rent income, depreciation, **34:14**  
Ordinary gain or loss, **34:17**  
Partnership income or loss, **34:13**  
Payments of tax  
generally, **34:8**  
listing, **34:29**  
Place of filing, **34:3, 34:7**  
Preparation tips, **34:34**  
Professional service fees, deduction, **34:21**  
Profit-sharing plan distributions, **34:18**  
Recapture of investment credit, **34:28**  
Refund claims, **39:22**  
Retirement plan distributions, **34:18**  
S corporation distributions, **34:18**  
Schedule A: charitable deduction, preparation, **34:31**  
Schedule B: income distribution deduction, preparation, **34:32**  
Sixty-five day rule, election, **34:33**  
Tax rates, **34:26**  
Taxable year, choice, **34:9**  
Time to file, **34:6**  
Trusts, filing requirements, **34:5**  
Waiver of estate deductions, form, **34:38**

### **FIDUCIARY POWERS**

Acts constituting exercise, **30:14, 30:16**  
Authority for exercise, **30:15**  
Estate administration, **20:11**  
Joint fiduciaries, actions, **18:57**  
Reciprocal statutes governing exercise, **30:15**  
Section 678 trusts, beneficiary power, **9:12**  
Will provisions, **18:60**

### **FIDUCIARY STANDARDS**

Plan beneficiary’s control exercise, majority shareholder, **5:43**

### **FIELD AUDITS**

Description, **39:7**

### **FIFTH AMENDMENT**

Audits, **39:7**  
Production of records, third-party recordkeeper, **39:6**

### **FIFTY-PERCENT ORGANIZATIONS**

Charitable deduction limits, **12:11**

### **FILING RULES**

Electronic filing, **1:23**  
Mailing date, **39:23**

### **FINAL INCOME TAX RETURN OF DECEDENT**

Capital losses, **33:04**  
Estimated payments, **33:05**  
Filing status, **33:03**  
Income earned by estate, reporting, **33:22**  
Increasing reportable income, **33:08**  
Joint return, election to file, **33:03**

### **FINAL INCOME TAX RETURN OF DECEDENT—Cont’d**

Medical expenses, deductibility, **33:06**  
Net operating losses, **33:04**  
Passive activity losses, **33:04**  
Personal liability of executor, **33:08**  
Preparation, **33:02**  
Principal residence capital gains exclusion, election, **33:08**  
Requirement, **33:02**  
Treasury bond interest, accrual, **33:07**  
Unamortized mortgage loan costs, deduction, **33:08**  
Unrecovered investment deduction, **33:08**  
Unused loss carryforwards, **33:04**

### **FINANCIAL NEEDS OF BENEFICIARIES**

Estate planning considerations, **17:20**

### **FINANCIAL NEEDS OF CLIENT**

Retirement forecast, **13:4**

### **FINANCIAL PLANNERS**

Planning team, **1:20**  
Retirement planning, **13:18**

### **FISCAL YEAR**

Use in income shifting, **9:16**

### **FIVE AND FIVE POWERS**

Description, **16:7**  
Gift tax, **16:7**  
Lapse of power prior to death, estate tax, **16:34**

### **FIVE PERCENT PROBABILITY TEST**

Remainder interests, **12:65**

### **FLOWER BONDS**

Estate tax payment, **18:11, 38:07**  
Interest rate, **38:07**  
Ownership requirement for estate tax liability, **18:11**  
Payment of estate tax, **31:34**  
Purchase before death, **38:07**  
Redemption, **18:11**  
Value, **38:07**

### **FLPs**

See index heading FAMILY LIMITED PARTNERSHIPS

### **“FOR USE OF” DEDUCTIONS**

Charitable deduction limits, **12:12**

### **FOREIGN COUNTRIES**

Charitable gift to, **24:5**  
Postmarks, applicability of timely mailing rules, **39:23**

### **FOREIGN ESTATE TAX**

Credit against estate tax, **34:103**

### **FOREIGN GIFT TAX CREDIT**

Gift and generation skipping tax (GST) returns line, **34:48**

### **FOREIGN MARKETS**

Valuations, **35:34**

### **FOREIGN REAL PROPERTY**

Like-kind exchanges, **6:49**

## FOREIGN TAX CREDIT

American Depository Receipts (ADRs), **3:23**  
 Availability to estates and trusts, **32:34**  
 Estate tax credit, foreign estate taxes, **16:64**  
 Estate tax marital deduction, effect, **21:14**  
 Expatriation, consideration of, **1:4**

## FOREIGN TRUSTS

Grantor trust rules, **32:62**  
 Outbound transfers, **32:62**  
 Owner of trust, excepted from tax, **32:62**

## FORFEITURE PROVISIONS

Federal tax lien as surviving reclamation of property by seller, **39:33**

## FORMS

Additional planning information, checklist, **15:12**  
 Agreement to special use valuation, **4:23**  
 Assignment from grantor to trustee, **19:11 to 19:13**  
 Authorization to create separate trusts, GST purposes, **26:55**  
 Authorize executor to allocate GST exemption, **26:53**  
 Automatic extension of time to file certain business income tax, information, and other returns, Form 7004, **34:126**  
 Basic estate planning letter, **15:17**  
 Business assessment of closely held business, checklist, **23:42**  
 Charitable annuity lead trust (non-statutory), **12:94**  
 Charitable corporations  
     articles of incorporation, **12:100**  
     bylaws, **12:101**  
 Charitable remainder annuity trust, **12:95**  
 Charitable remainder unitrust, **12:96**  
 Charitable trust, **12:99**  
 Closely held businesses  
     assessment checklist, **23:42**  
     corporate resolution adopting redemption agreement, **23:43**  
     cross purchase agreement for shareholders, **23:45**  
     qualifying S trust article, **23:46**  
     redemption agreement, **23:44**  
     S corporation stock ownership, trust or will provision, **23:47**  
 Codicil on cremation, **18:74**  
 Community property  
     partition agreement, **10:61**  
     postnuptial agreement, **10:61**  
 Complex estate planning letter, **15:18**  
 Continue Section 2503(c) trust beyond age 21, **9:14**  
 Corporate resolution adopting redemption agreement, **23:43**  
 Credit shelter formula, marital deduction, **21:65**  
 Cross purchase agreement for shareholders, **23:45**  
 Crummey trusts  
     Crummey notice with life insurance trust, **8:23**  
     Crummey power with hanging power, **8:20**  
     Crummey power with special power of appointment, **8:18**  
     Crummey powers, **8:16**  
     standard Crummey notice, **8:22**  
     supplemental Crummey power, **8:26**  
 Deed from grantor to trustee, **19:10**

## FORMS—Cont'd

Disclaimers  
     disclaimer will, **18:73**  
     qualified terminable interest property (QTIP) trust creation, **37:27**  
 Discretion over business clause, **17:33**  
 Divorce. Separation agreements, below  
 Durable power of attorney, retirement planning, **13:25**  
 Educational trust provisions, **8:50**  
 Employment contract, **2:4**  
 Entity freeze transactions  
     agreement of limited partnership, **27:114, 27:115**  
     articles of amendment, corporation, **27:119**  
     certificate of limited partnership, **27:113**  
     guidelines, **27:112**  
     IRS request for information, **27:118**  
     joint action without a meeting, **27:121**  
     minutes of commencing operation plan, **27:116**  
     minutes of operation plan, **27:117**  
     recapitalization plan, corporation, **27:120**  
     shareholders and directors, action, **27:121**  
 Equalization clauses, estates, **21:24, 21:28**  
 Escrow letter for power of attorney, **17:10**  
 Estate planning guide, **15:11**  
 Estate tax payment  
     preresidual marital bequest, **21:51**  
     tax payable from residue, **21:51**  
 Estate tax return  
     generation-skipping tax, completed sample, **34:113**  
     revocable living trust, completed sample, **34:112**  
 Estate tax returns, form 706, completed forms, **34:112, 34:113, 34:115**  
 Estate tax returns, form 706, uncompleted forms, **34:114**  
 Federal gift and generation skipping tax return  
     generation skipping tax, completed form, **34:54**  
     gift tax, completed form, **34:54**  
 Fiduciary compensation trust instrument provisions  
     corporate and individual cofiduciary compensation, **30:53**  
     corporate fiduciary, **30:51, 30:53**  
     individual fiduciary, **30:52, 30:53**  
 Fiduciary income tax returns  
     allocation of expenses to tax-exempt interest income, **34:37**  
     completed sample Form 1041, **34:35**  
     waiver of estate deductions, **34:38**  
 Filing of forms. See index heading PREPARATION AND FILING OF FORMS  
 Formula marital deduction clauses  
     credit shelter formula, **21:65**  
     estate tax, fractional share formula, **21:58**  
     pecuniary fairly representative formula, **21:60**  
     pecuniary fixed sum formula, **21:62**  
 Fractional share formula, estate tax marital deduction, **21:58**  
 General powers of appointment, ascertainable standards, form language, **16:32**  
 Gift annuity agreement, **12:98**  
 Grantor retained income trust, **28:12**  
 Health care surrogate, designation of, **17:13**  
 Individual revocable trust  
     with marital deduction gift, outright or in trust, **19:50**

## INDEX TO TEXT

### FORMS—Cont'd

Individual revocable trust—Cont'd  
    without marital deduction provisions, **19:49**  
Information needed for plans, checklist, **15:12**  
Investment adviser for independent trustee, trust instrument provision, **30:36**  
Irrevocable trust, provision, **19:61**  
Irrevocable trusts  
    administering after grantor's death, **22:33**  
    inclusion in gross estate, **19:63**  
    irrevocable family support trust, **19:69**  
    irrevocable life insurance trust, **19:68**  
    preparation, **15:20**  
IRS forms  
    Form 56: notice concerning fiduciary relationship, **34:120**  
    Form 706 (1988), **34:122**  
    Form 706: Estate tax return, **34:112**  
    Form 706, uncompleted form, **34:114**  
    Form 706-QDT, **34:115**  
    Form 709 (1988), **34:121**  
    Form 709: gift tax return and supporting schedules, **34:55**  
    Form 709: United States gift (and generation-skipping transfer) tax return and supporting schedules, **34:56**  
    Form 712: life insurance statement, **34:122**  
    Form 712, uncompleted form, **34:123**  
    Form 1041  
        generally, **34:1**  
        computation of tax, **34:26**  
        deduction calculation, **34:19**  
        income or loss calculation, **34:12**  
        preliminary considerations, **34:2**  
        schedules and other requirements, **34:31**  
        when to file, **34:6**  
    Form 1041: explained, **34:36**  
    Form 1041: fiduciary income tax, **34:35**  
    Form 2758: application for extension of time to file, **34:127**  
    Form 4768, application for extension of time, **34:129**  
    Form 4810: request for prompt assessment, **34:131**  
    Form 5495: discharge from personal liability, **34:133**  
    Form 8869, designating QSub status, **34:46**  
    Form SS-4  
        generally, **34:118**  
        employer identification number, **34:117**  
        pooled income fund, **12:97**  
Joint revocable trust with marital deduction provisions, **19:51**  
Letter for discharge from liability for estate tax, **34:134**  
Life estate with general power of appointment for spouse, will provisions, **21:30**  
Living will, **18:75**  
Marital deduction wills  
    power of appointment trust, **18:70**  
    QTIP trust, **18:69**  
Notice of election of special use valuation, **4:24**  
Notice of election to pay in installments, **36:17**  
Notice of protective election, special use valuation, **4:25**

### FORMS—Cont'd

Partition of community property, postnuptial agreement, **10:61**  
Pecuniary fairly representative formula, estate tax marital deduction, **21:60**  
Pecuniary fixed sum formula, estate tax marital deduction, **21:62**  
Personal representative appointment authorization, ancillary administration, **30:18**  
Pooled income fund instrument of transfer, **12:97**  
Postnuptial agreement with partition of community property, **10:61**  
Pour-over will, **18:71**  
Power of attorney, durable powers, **13:25**  
Power to divide trust with inclusion ratio of less than one, **26:54**  
Power to hold insurance on spouse's life, **18:35**  
Power to incorporate as S corporation, **31:73**  
Powers of appointment  
    durable power of attorney, **13:25, 17:9**  
    exercise of power of appointment, **17:56, 31:11**  
    exercise of power of appointment to pay marital increase, **17:61**  
    nonexercise of power of appointment, **17:57**  
Prenuptial agreement, **11:41**  
Preparation of forms. See index heading PREPARATION AND FILING OF FORMS  
Preresiduary pecuniary marital QTIP trust, checklist for preparation, **15:20**  
Presumption of survivorship, **17:44**  
Protective notice of election, **36:18**  
Provision for paying tax from QTIP, spouse's death, **26:59**  
QTIP trusts  
    partial election authorization, **21:41**  
    severance authorization, **21:41**  
Qualified domestic trust  
    generally, **19:50**  
    Form 706-QDT, **34:115**  
Qualified S trust article, **23:46**  
Redemption agreement, stock, **23:44**  
Request for statement of social security earnings, **13:8**  
Retirement expenses checklist, **13:5**  
Retirement resources checklist, **13:6**  
Reverse presumption clause, survivorship, **21:24**  
S corporation stock ownership  
    credit shelter trust, **21:65**  
    trust or will provision  
        generally, **23:47**  
        disclaimer by trustee, **37:28**  
        qualified Subchapter S trust (QSST) article, **23:46**  
Salary continuation agreement, **13:17**  
Salary continuation plan, **2:20**  
Separate property  
    partition agreement, **10:61**  
    postnuptial agreement, **10:61**  
Separate trust for education of beneficiary, **17:18**  
Separation agreements  
    generally, **11:27**  
    alimony clause, **11:31**  
    breach of warranties or representations, remedies for, **11:38**  
    child support clause, **11:29**



## FORMS—Cont'd

Separation agreements—Cont'd  
     dependency exemptions, allocation of, **11:30**  
     life insurance clause, **11:34**  
     pension and employee benefit plans, **11:33**  
     property division clause, **11:32**  
     returns, **11:35 to 11:37**  
 Simple will with standby trust, **18:68**  
 Spendthrift clause, **17:22**  
 Split dollar life insurance  
     collateral assignment method, **2:29**  
     endorsement method, **2:28**  
     letter to Department of Labor, **2:27**  
 Standard presumption, survivorship, **21:26**  
 Standby trust for incompetent beneficiary, **17:24**  
 Supplemental needs trust, **17:25**  
 Survivorship provisions  
     generally, **21:24, 21:26**  
     spouses with nearly equal estates, **21:28**  
 Testamentary life insurance trust, **22:22**  
 Trust amendment of particular provisions, **19:52**  
 Trust amendment of trust in its entirety, **19:53**  
 Trustee authorization, confer general power on child, **26:58**  
 Trustee's resignation and removal, **30:37**  
 Trusts  
     choice of law trust instrument provision, **30:44**  
     independent trustee's investment adviser, trust instrument provision, **30:36**  
     irrevocability provision, **19:61**  
     multiple trustee division of duties, trust instrument provision, **30:35**  
     QTIP trusts, partial election, **21:41**  
     S corporation stock ownership provision, **23:47**  
     situs change due to new corporate fiduciary, trust instrument provision, **30:44**  
     standby trust provisions, simple will, **18:68**  
     trustee's resignation and removal, **30:37**  
 Use for wills, **18:67**  
 Use of GST exemption on first spouse's death, **26:56**  
 Use of surviving spouse's GST exemption, **26:57**  
 Wills  
     credit shelter marital deduction formula clause, **21:65**  
     disclaimer will, **18:73**  
     estate tax payment, **21:51**  
     fractional share marital deduction, **21:58**  
     life estate, general power of appointment for spouse, **21:30**  
     living will, **18:75**  
     marital deduction formula clause, **21:62**  
     marital deduction formula clauses, **21:58, 21:60, 21:62, 21:65**  
     marital deduction will  
         power of appointment trust, **18:70**  
         QTIP trust, **18:69**  
     pecuniary fairly represented clause, **21:60**  
     pecuniary fixed sum, **21:62**  
     pour-over will, **18:71**  
     power to hold insurance on spouse's life, **18:35**  
     preresidual marital bequest with tax payable from residue, **21:51**  
     residuary clause for total gift equalization among beneficiaries, **18:43**  
     S corporation stock ownership provision, **23:47**

## FORMS—Cont'd

Wills—Cont'd  
     simple will with standby trust, **18:68**  
     use of, **18:67**  
**FORMULA MARITAL DEDUCTION CLAUSES**  
 Credit shelter formula  
     generally, **21:55, 21:64**  
     form, **21:65**  
 Family share trusts, combination use, **21:55**  
 Forms  
     credit shelter formula, **21:65**  
     fractional share formula, **21:58**  
     pecuniary fairly representative formula, **21:60**  
     pecuniary fixed sum formula, **21:62**  
 Fractional share formula, **21:55 to 21:58**  
 In-kind distribution of assets provision, combination with pecuniary formula, **21:67**  
 Pecuniary fairly representative formula  
     generally, **21:55, 21:59**  
     form, **21:60**  
 Pecuniary fixed sum formula  
     generally, **21:55, 21:61 to 21:63**  
     form, **21:62**  
 Planning considerations, **21:66**  
 Pretax formula, **21:57**  
 Reduce-to-zero formula, **21:4**  
 Revenue Procedure 64-19, **21:67**  
 Transition rule, change in law, **21:69**  
 True residuary formula, **21:57**  
 Types, **21:55 et seq.**  
 Use, **18:40**

## FORMULA SALES PRICE

Buy-sell agreements, **23:25**  
 Corporate buy-sell agreements  
     generally, **23:27**  
     bona fide business arrangements, **23:31**  
     valuation, **23:29**

## 401(k) PLANS

"Catch up" contributions, **5:29**  
 Elective deferral limits, **5:29**  
 SIMPLE 401(k) plans, **5:11**  
 Thrift and cash or deferred (401(k)) plans, **5:10, 5:11**

## FRACTIONAL INTEREST DISCOUNTS

Real property valuation, **35:14**

## FRACTIONAL SHARE FORMULA

Advantages, **21:56, 21:66**  
 Disadvantages, **21:66**  
 Form, **21:58**  
 Fractionalization of assets, **21:56, 21:57**  
 Planning considerations, **21:66**  
 Pretax formula, **21:57**  
 True residuary formula, **21:57**  
 Types of fractional formula devises, **21:57**

## FRATERNAL SOCIETY

Charitable organization, **24:5**

## FRAUD PENALTY

Revenue Reconciliation Act of 1989, Improved  
 Penalty Administration and Compliance Act, **39:31**



## INDEX TO TEXT

### FRAUDULENT TAX DEFICIENCIES

Generally, **39:31**

### FRAUDULENT TRANSFERS

Definition, **19:19**

### FREEZE TRANSACTIONS

Basic structure, **27:10**

Business purpose, **27:12**

Devise prohibition, **27:12**

Gratuitous transfer principles, **27:13**

Transferees with limited funds, **27:24**

Types to consider, **27:05**

### FREEZING VALUE

See index headings ASSET FREEZES; HOLDING COMPANY  
FREEZES; PARTNERSHIP FREEZES; PREFERRED STOCK  
RECAPITALIZATIONS

### FREQUENT FLYER MILES

Income, additional, **2:54**

### FRINGE BENEFITS

Generally, **3:78**

Airplanes, use by employee, **2:49**

Automobile of employer, use by employee, **2:49**

Cafeteria plans

classification requirements, **3:100**

definition, **2:47**

election among benefits offered, requirements,  
**3:100**

exclusion from gross income of employee, **2:47**

factor in choice of entity, **3:100**

former employees, coverage, **3:100**

funding, **2:47**

nondiscrimination requirements, **2:47, 3:100**

permissible benefits, **3:100**

recordkeeping requirements, **2:48**

written requirements, **2:47, 3:100**

Compensatory stock options, **2:61 to 2:70**

Compensatory stock transfers, **2:55 to 2:60**

De minimis fringes, **2:54**

Death benefits, lump-sum exclusions, **3:97**

Deferred compensation arrangements, **3:90**

Dependent care assistance by employer

generally, **2:46**

tax exemption, **3:99**

Educational assistance by employer, **2:46**

Exemptions from employee income, **2:46**

Group legal services plans, retirement planning ser-  
vices, **2:46**

HR 10 plans, **3:80**

Insurance, use, **2:11**

Keogh plans, **3:80**

Keyman insurance, **2:13 to 2:20**

Life insurance, **2:12**

Lodging for convenience of employer, exclusion from  
income, **3:98**

Meals for convenience of employer, exclusion from  
income, **3:98**

Medical reimbursement and health plans

generally, **2:40**

claims procedures, **2:44**

continuation coverage, requirement, **2:43**

costs, deductibility by employer, **2:41**

disability retirement benefits, deductibility, **3:95**

### FRINGE BENEFITS—Cont'd

Medical reimbursement and health plans—Cont'd

discriminatory policies, **2:42**

exemptions, **2:44**

payments under policy, income exclusion, **2:42**

premiums

deductibility by employer, **3:94**

income inclusion, **2:42**

reporting requirements, **2:44**

savings, health savings accounts, **2:45**

statutory requirements, **2:43**

No-additional-cost services, **2:54**

Nonqualified plans, **3:90**

Personal legal services, tax exemption, **2:46**

Property of employer, use by employee, **2:49**

Qualified employee discounts, **2:54**

Qualified retirement plans, **3:79**

Retirement Equity Act of 1984, **3:83**

Retirement plans, income limitations, **2:54**

S corporations, **3:92**

Savings, health savings accounts, **2:45**

Statutory benefits, **2:46**

Stock options, **3:91**

Top-heavy plans, **3:82**

Tuition reduction plans, **3:78**

Use, **2:39**

Working condition fringes, **2:54**

### FUEL-RELATED TAX CREDITS

Availability to estates and trusts, **32:34**

### FUNDED WELFARE BENEFIT PLAN

Definition, **2:30 to 2:35**

### FUNERAL ARRANGEMENTS

Preparation, **31:08**

### FUNERAL EXPENSES

Estate tax deduction, **16:52**

Married woman's expenses, liability, **18:7**

### FUNERAL HOMES

Valuations, **35:55**

### FURNITURE

Valuations, **35:11**

### FURS

Valuations, **35:11**

### FUTURE INTERESTS

Charitable deductions, **12:35**

Contingencies, **18:45**

Debt forgiveness, corporate loan, **8:10**

Rule against perpetuities, **18:45**

Testamentary trusts, **18:45**

### FUTURES PRICES

Valuations, **35:34**

## G

### G REORGANIZATION

Transfer to an LLC, **36:22**

## **GAIN OR LOSS**

See also index heading **BASIS FOR GAIN OR LOSS**

Income shifting, **9:2**

Principal residence sales, **20:19**

Sales, right to receive proceeds, **9:2**

## **GALLO GENERATION SKIPPING TAX EXCLUSION**

Generally, **26:18**

## **GAS INTERESTS**

Valuations, **35:22**

## **GASOLINE EXCISE TAX**

Farm credit, **4:10**

## **GEMS**

Valuations, **35:11**

## **GENERAL GIFTS**

Category distinction, **18:14**

Example, **18:17**

Presumption, **18:17**

Satisfaction from estate, general assets, **18:17**

Shares of corporate stock, presumption, **18:31**

## **GENERAL PARTNERSHIPS**

Forms of ownership, **6:29**

## **GENERAL POWERS OF APPOINTMENT**

See also index heading **POWERS OF APPOINTMENT**

Additions to trust, GST implications, **26:31**

Ascertainable standards, post-October 21, 1942 powers, **16:32**

Contingencies, post-October 21, 1942 powers, **16:32**

Definitions

overview, **16:7**

post-October 21, 1942 powers, **16:32**

Estate tax, gross estate includibility, **16:31 to 16:34**

Exercise, **17:55**

Exercise in conjunction with other, **16:33**

Exercise only in conjunction with other person, post-October 21, 1942 powers, **16:32**

Exercise or possession at death

post-October 21, 1942 powers, **16:32**

pre-October 21, 1942 powers, **16:33**

Exercise prior to death, post-October 21, 1942 powers, **16:34**

Generation skipping tax, effective date rules, **26:31**

Gift tax

generally, **16:14**

overview, **16:7**

Judicial injunction, effect, **16:32**

Lapsed powers, GST implications, **26:31**

Life estates, estate tax marital deduction, **21:29 et seq.**

Marital deduction, life estates with power, **21:29 et seq.**

Powers to a class of persons, **16:32**

Precatory directions, post-October 21, 1942 powers, **16:32**

Requirements for estate tax marital deduction, **21:36**

## **GENERATION SKIPPING TRANSFER TAX**

Abbreviations, **26:3**

## **GENERATION SKIPPING TRANSFER TAX—Cont'd**

Additional contributions, **26:33**

Additions to trust, lapsed power of appointment, **26:31**

Administration

generally, **26:35**

expenses, deduction, **26:21**

Adoptive relationship, treatment, **26:6**

Allocation of exemption, **26:11**

retroactive allocations, after 2000, **26:11**

Applicable fraction, **26:11**

Applicable rate, **26:11**

Apportionment, **26:24**

Authorization to create separate trusts, form, **26:55**

Authorize executor to allocate exemption, form, **26:53**

Automatic allocation, **26:11**

Automatic allocation rules, EGTRRA 2001, **26:11**

Calculation of rate, **26:21**

Changes to trust

Proposed Regulations, **26:33**

regulatory authorization, **26:33**

Charitable interests, exceptions, **26:17**

Charitable lead trust, use, **24:35**

Charitable organization, generation assignment, **26:6**

Charity's interest, **26:7**

Chronicle generation assignment, **26:6**

Citizenship of deemed transferor, **26:36**

Consideration given, reduction in value by amount, **26:23**

Consolidating trusts, **26:11**

Constructive additions, **26:31**

Contributions to trusts, non-exempt additions, **26:33**

Curing ineffective allocations, **26:11**

Debts, deduction, **26:21**

Deceased spousal unused election (DSUE), **33:21.50**

Decedent as transferor, **26:5**

Deductions, **26:21, 34:24**

Direct skips

collateral heirs, **26:19**

definition, **26:10**

determination, **26:8**

extension of time to pay, **26:40**

income tax deduction, **26:43**

mental disability of decedent, effect, **26:29**

reporting, **26:34**

taxable amount, **26:21**

valuation of property, **26:23**

Disclaimers

generally, **26:37, 37:24**

remainder interests, **26:26**

usage, diverting property from trust, **26:33**

Disinheritance of specific family member, treatment, **17:26**

Effective date rules

generally, **26:25 to 26:33**

addition to grandfathered trust, **26:30**

death prior to 1987, **26:27**

existing insurance trusts, **26:33**

general power of appointment, **26:31**

general rule, **26:25**

inter vivos transfers, **26:27**

irrevocable trusts, **26:26**

mental disability of decedent, **26:29**

## INDEX TO TEXT

### GENERATION SKIPPING TRANSFER TAX—Cont'd

Effective date rules—Cont'd  
    post-September 25, 1985 inter vivos transfers, **26:28**  
    QTIP trusts, **26:32**  
    reformation of trust, **26:33**  
    transition rule, **26:27**  
Election of exemption, **26:11**  
Estate tax  
    coordination, **26:38**  
    exceptions, **26:14**  
    substitution, **26:46**  
Estate tax returns  
    computation, **34:106**  
    exemption, **34:108**  
    filing requirements, **34:107**  
    form 706 preparation, **34:105 to 34:110**  
    grandchild exclusion, **34:109**  
    notice to trustee, **34:110**  
Exemption  
    exempt trust for “wife and issue,” **26:33**  
    leveraging use, **26:49**  
    unitrust amount, **26:33**  
    utilization, **26:44**  
Extension of time to pay, **26:40**  
Extension to make election, **26:11**  
Forms  
    authorization to create separate trusts, GST purposes, **26:55**  
    authorize executor to allocate GST exemption, **26:53**  
    Form 706, **34:113, 34:114**  
    Form 709, **34:56, 34:57**  
    power to divide trust with inclusion ratio of less than one, **26:54**  
    provision for paying tax from QTIP, spouse's death, **26:59**  
    trustee authorization, confer general power on child, **26:58**  
    use of GST exemption on first spouse's death, **26:56**  
    use of surviving spouse's GST exemption, **26:57**  
Gallo exclusion, **26:18**  
Generation assignment, **26:6**  
Generation skipping transfer, definition, **26:4**  
Gift and generation skipping tax (GST) returns  
    exemption, **34:51**  
    filing requirements, **34:50**  
    gift tax filing requirements, **34:39**  
    grandchild exclusion, **34:52**  
    inter vivos direct skip, requirement, **34:50**  
    marital deduction, **34:46**  
    notice of allocation, requirement, **34:51**  
    Schedule A: computation of taxable gifts, **34:43**  
    Schedule B: gifts from prior periods, **34:44**  
    Schedule C: GST tax computation, **34:54**  
    situations giving rise to generation skipping tax, **34:49**  
    situations giving rise to tax, **34:49**  
    skip person, requirement, **34:50**  
    split gifts, **34:53**  
        gift tax treatment, **34:41**  
    unified credit, **34:47**  
Gift planning, **8:32**

### GENERATION SKIPPING TRANSFER TAX—Cont'd

Gift tax  
    coordination, **26:38**  
    substitution, **26:46**  
    taxable transfers, exceptions, **26:14**  
Gifts to trust  
    defective disclaimer, **26:33**  
    existing trusts, allocating exemption, **26:11**  
Giving children mandatory income interests, **26:51**  
Grandchild exclusion  
    generally, **26:18**  
    correct use, **26:18**  
Grandfathered trusts  
    additions, **26:30**  
    changes permitted by regulations, **26:33**  
    constructive addition, **26:32**  
    permitted changes, **26:33**  
    preservation, **26:52**  
    reformation, effect, **26:33**  
Grantor retained income trust, **28:10**  
Grantor trust installment sales, issues with asset freeze devise, **29:33**  
Inclusion ratio, **26:11**  
Income tax  
    basis adjustment, **26:42**  
    coordination, **26:38**  
    deduction, **26:43**  
    double taxation, prevention, **26:43**  
Incompetent decedents, exempt from tax, **26:29**  
Individual exemption, **26:11**  
Inter vivos direct skip, filing requirement, **34:50**  
Interest in property, requirement, **26:7**  
Interest on tax liability, **26:21**  
Lapsed power of appointment, addition to trust, grandfathered, **26:31**  
Legislative history, **26:2**  
Liability, **26:21, 26:34**  
Limited powers of appointment, use, **26:47**  
Mental disability rule, **26:29**  
Million dollar exemption, **33:21**  
Minimizing, **15:3**  
Minor's interest, **26:7**  
Minors' trusts, **26:15**  
Modifications of trust, Proposed Regulations, **26:33**  
“Move down” rule, **26:20**  
Multiple skips, **26:20**  
Natural generation assignment, **26:6**  
Nonresident aliens, **26:36**  
Nonskip person trust for grandchild, **26:50**  
Nonskip persons, **26:7**  
Nontaxable gift rule, **26:48**  
Nontaxable gifts, **26:15**  
Partition to isolate exempt trust, **26:45**  
Power to divide trust, inclusion ratio of less than one, form, **26:54**  
Powers of appointment, use, **17:53**  
Predeceased child rule, application, **26:19**  
Previously taxed property credit, **26:39**  
Prior transfers exclusion, **26:16**  
Provision for paying tax from QTIP, spouse's death, form, **26:59**  
Purpose, **26:2**  
QSST grandfathering, **26:33**

## GENERATION SKIPPING TRANSFER TAX—Cont'd

- QTIP trust
  - additional election, **33:21**
  - QTIP marital trusts, treatment, **26:32, 26:33**
  - use, **26:12**
- Qualified disclaimer rules, **26:37**
- Redemption of stock, treatment, **26:41**
- Reformation of will by executor, **26:44**
- Returns, filing, **26:34**
- Reverse QTIP treatment, effect on, **26:5**
- Schedule C: GST tax computation, **34:44, 34:54**
- Separate exempt and nonexempt trusts, creation, **26:45**
- Separate share rule, **26:8**
- Severing partial interests, after 2000, **26:45**
- Situations giving rise to tax, **34:49**
- Skip persons
  - generally, **26:7**
  - filing requirement, **34:50**
- Source of tax, **26:24**
- Spousal share, effect on, **26:5**
- State estate tax credit, **26:22**
- Statutory transfers, **26:13 to 26:20**
- Tax base, **26:21**
- Tax rate, **26:21**
- Tax Reform Act of 1986, **37:24**
- Taxable distribution
  - generally, **26:9**
  - amount, **26:21**
  - income tax deduction, **26:43**
  - qualified disclaimers, **26:37**
- Taxable terminations
  - amount, **26:8**
  - definition, **26:8**
  - income tax basis adjustment, **26:42**
  - qualified disclaimers, **26:37**
- Termination of charitable lead trust, liability for GST tax, **24:35**
- Terminology, **26:3**
- Transferor, definition, **26:5**
- Trust equivalents, **26:7**
- Trustee authorization form, confer general power on child, **26:58**
- Trustees
  - liability, **26:21**
- Untimely death, mitigation of effect, **26:51**
- Use of exemption on first spouse's death, form, **26:56**
- Use of surviving spouse's exemption, form, **26:57**
- Valuation of property, **26:23**
- Valuation principles, **35:1 to 35:74**

## GENERATION SKIPPING TRANSFERS

- Failure to exercise power, **26:18**
- Unitrust approach, investment returns, court-ordered reformations, **26:33**

## GENERATION SKIPPING TRUSTS

- Exempt and nonexempt, creation, **26:45**
- Modifications permitted, regulatory authorization, **26:33**
- Partition, **26:33**
- Partition to isolate exempt trust, **26:45**
- QTIP trusts, election, **26:12**
- Use in planning, **19:37**

## GIFT AND GENERATION SKIPPING TAX (GST) RETURNS

- See also index headings GENERATION SKIPPING TRANSFER TAX; GIFT TAX; PREPARATION AND FILING OF FORMS
- Annual donee exclusions, **34:40**
- Basic computations of form, **34:42**
- Calendar year, choice, **34:39**
- Charitable deduction, **34:45**
- Completed sample forms
  - generation skipping tax, **34:56**
  - gift tax, **34:55**
- Defective trusts, curing, **34:45**
- Depreciation of net rent income, form, **34:14**
- Educational expenses exclusions, **34:40**
- Extension of time to pay tax, **34:39**
- Foreign gift tax credit, **34:48**
- Format of return, **34:42**
- Generation skipping tax
  - exemptions, **34:51**
  - filing requirements, **34:50**
  - grandchild exclusion, **34:52**
  - inter vivos direct skip, necessity of filing return, **34:50**
  - skip person, necessity, **34:50**
  - split gifts, **34:53**
- Gift tax filing requirements, **34:39**
- Joint gifts by spouses, **34:41**
- Marital deduction, **34:46**
- Medical expenses exclusions, **34:40**
- Schedule A: computation of taxable gifts, **34:43**
- Schedule B: gifts from prior periods, **34:44**
- Schedule C: generation skipping transfer tax, **34:54**
- Situations giving rise to generation skipping tax, **34:49**
- Split gifts, gift tax treatment, **34:17**
- Trusts, curing defects, **34:45**
- Unified credit, lifetime gifts, **34:47**

## GIFT ANNUITY AGREEMENT

- Form, **12:98**

## GIFT OR DEMAND LOANS

- Corporations to shareholders, **9:23**
- Income shifting effect, **9:21**
- Income tax treatment, **9:18**
- Planning strategies, **9:22**
- Scope of statutory coverage, **9:20**
- Statutory exemption, **9:22**
- Transfer tax treatment, **9:18**

## GIFT PLANNING

- See also index headings GIFT TAX; SPLIT GIFTS
- Adult children, outright gifts, **8:44**
- Alimony trusts, **8:53**
- Annual exclusion, **8:10, 8:42**
- Available exclusions, use, **8:9 to 8:12**
- Avoidance of gift tax, **8:17**
- Benefit maximizing techniques, **8:9 to 8:34**
- Crummey power of withdrawal
  - advantages, **8:15**
  - form, **8:16**
  - hanging power, **8:19**
  - lapse, taxation, **8:24**
  - notice of right, **8:21**
  - purpose, **8:15**

## INDEX TO TEXT

### GIFT PLANNING—Cont'd

- Crummey power of withdrawal—Cont'd
  - special power of appointment, **8:17**
  - supplemental powers, **8:25**
- Custodianship
  - purpose, **8:45**
  - Uniform Gifts to Minors Act transfers, **8:46**
- Debt forgiveness, **8:10**
- Demand power of withdrawal, trust ownership changes, **8:24**
- Disadvantages of gifts, **8:3**
- Donees
  - generally, **8:4**
  - consideration, **8:35**
- Educational exclusion
  - generally, **8:11**
  - educational trust, qualification, **8:49**
- Elder abuse, misappropriation by caregiver, **8:54**
- Factors to be considered, **8:2**
- Form of gift, **8:7**
- Generation-skipping tax, **8:32**
- Gift, definition, **8:2**
- Gift splitting
  - consenting spouse, effect, **8:30**
  - election, methods, **8:29**
  - qualifications, **8:28**
  - requirements, **8:28**
  - use, **8:27**
- Gifts by grandparents, **8:32**
- Gifts in trust
  - advantages, **8:48**
  - alimony trusts, **8:53**
  - educational trusts, **8:49**
  - life insurance trusts, **8:51**
  - purpose, **8:48**
  - Totten trusts, **8:52**
- Gifts includable in gross estate, value, **8:31**
- Gifts of present interest, **8:13 to 8:26**
- Gifts to children
  - generally, **8:4**
  - generation skipping tax, **8:42**
  - Uniform Transfers to Minors Act, **8:47**
- Hanging power, **8:19**
- Incomplete transfers, maximizing gifts, **8:33**
- Introduction, **8:1**
- Life insurance trusts, **8:51**
- Lineal transfers, Crummey trusts, **8:42**
- Marital deduction
  - generally, **8:39**
  - interest retained by donor, **8:41**
  - power of appointment, retention by donor, **8:41**
  - terminable interest, exclusion, **8:40**
- Marital gifts
  - critically ill spouses, **8:37**
  - equalization of estates, **8:36**
  - interests retained by donor, **8:41**
  - joint ownership, severance, **8:36**
  - motive, **8:36**
  - tenants in common ownership, use, **8:36**
  - transfers between spouses, **8:38**
- Medical exclusion, **8:12**
- Misappropriation by caregiver, **8:54**
- Net gifts, **8:34**
- Overview, **8:1**
- Parents of donors, **8:43**

### GIFT PLANNING—Cont'd

- Powers of attorney
  - pattern of giving, **8:33**
  - powers required for gifting, **8:33**
- Purposes of gift, **8:3**
- Special power of appointment, **8:17**
- Subject property, **8:5**
- Tax computation, **8:8**
- Timing of gift, **8:6**
- Totten trusts, **8:52**
- Transfers to lineal descendants, **8:42**
- Transfers to minors, **8:45**
- Types of gifts, **8:44 to 8:53**
- Unified gift tax credit, use, **8:31**
- Uniform Transfers to Minors Act, gifts, **8:47**
- Upward lineal transfers, **8:43**
- Withdrawal powers, lapse changes ownership, **8:24**

### GIFT TAX

See also index headings GIFT AND GENERATION SKIPPING TAX (GST) RETURNS; GIFT PLANNING; GIFT TAX ANNUAL EXCLUSION; SPLIT GIFTS

- Abatement of interest, **39:31**
- Additions, **39:31**
- Administrative determination, **39:1 et seq.**
- Adult children, outright gifts, **8:44**
- Allocation of credit amount, after reporting gift, **16:23**
- Annual exclusion
  - generally, **8:10, 16:17, 17:39**
  - gift splitting, **8:27**
  - gifts to lineal descendants, **8:42**
  - income shifting, **9:4**
  - land trusts, **10:38**
  - present interest transfers, **16:18**
  - Section 2503(c)(3) trusts, use, **9:13**
- Application in general, **16:5**
- Artwork exception for nonresidents, **16:70**
- Avoidance
  - generally, **8:17**
  - hanging power, **8:19**
- Brokerage accounts, joint, **10:35**
- Charitable contributions of partial interests, **12:81**
- Charitable deduction, generally, **16:3, 16:17, 16:19, 16:21**
- Charitable devise, double deductions, **31:54**
- Charitable gifts, effect, **12:41**
- Charitable remainder trusts
  - marital deduction, **16:20**
  - overview, **16:19**
  - planning for giving, **12:73**
- Checks, time of gift, **16:14**
- Closed years, valuation of taxable estate, **8:31**
- Complete gift, transfer of trust corpus, effect, **16:14**
- Completed gifts, **16:14**
- Computation
  - generally, **8:8**
  - overview, **16:23**
- Consideration, adequacy, **16:13**
- Corporate donors
  - generally, **16:15**
  - overview, **16:5**
- Credit against estate tax, **34:102**
- Credits
  - overview, **16:23**

## GIFT TAX—Cont'd

Credits—Cont'd  
     reallocation on reported gifts, **16:23**  
 Debt forgiveness, overview, **16:5**  
 Deemed gifts by surviving spouse, community property, **10:40, 10:43**  
 Defective trusts, curing, charitable contributions, **34:45**  
 Direct gifts, overview, **16:5**  
 Disclaimers, **16:12**  
     untimely, **37:8**  
 Divorce, transfers of property between spouses. See index heading **DIVORCE AND SEPARATION**  
 Donee organizations, eligibility for deduction, **12:5**  
 Donee's liability, **16:24, 39:33**  
 Donor's identity, **16:15**  
 Economic Recovery Tax Act of 1981, **10:22**  
 Educational exclusion, **8:11**  
 Estate tax  
     credit for paid gift taxes, **16:63**  
     differences, **16:3**  
     unification, **16:2, 17:38**  
 Executor's liability, **39:10**  
 Family members, pre-arranged plan for re-transfer, **16:17**  
 Family S corporation, **27:12**  
 Federal credit, **17:39**  
 Filing related to estate tax refund claim, **39:3**  
 Final return of decedent, **33:09**  
 Foreign gift tax credit, Federal gift tax return line, **34:48**  
 Form 5495: discharge from liability for gift and income tax, **34:133**  
 Generation skipping tax, coordination, **26:38**  
 Gift and generation skipping tax (GST) returns  
     charitable deduction, **34:45**  
     foreign gift tax credit, **34:48**  
     format of return, **34:42**  
     marital deduction, **34:46**  
     Schedule A: computation of taxable gifts, **34:43**  
     Schedule B: gifts from prior periods, **34:44**  
     split gifts, gift tax treatment, **34:41**  
     unified credit, **34:47**  
 Gift tax marital deduction, retained interest by donor, **8:41**  
 Gift tax returns  
     filing requirement, **34:39**  
     terminally ill client, **31:48**  
 Gifts as part of estate plan, **17:50**  
 Grantor retained annuity trusts, **28:13, 28:16**  
 Grantor retained income trusts  
     treatment, **28:3**  
 Grantor retained unitrusts, **28:13**  
 Grantor trust installment sales  
     adequate disclosure, **29:31**  
     tax consequences, **29:29**  
 Hypothetical gift tax, estate tax computation, **16:59**  
 Imminent death planning  
     gift tax returns, **31:48**  
     state taxes, effect, **31:47**  
 Inaction as taxable transfer, **16:5**  
 Inclusion in donor's estate, **16:66**  
 Income shifting transfers, taxable event, **9:31**  
 Incomplete gifts, **16:14**  
 Incomplete transfers, maximizing gifts, **8:33**

## GIFT TAX—Cont'd

Indirect gifts, overview, **16:5**  
 Individual as donor, requirement, **16:5**  
 Individually held property, **10:19**  
 Installment sales, defective grantor trust use, **29:29**  
 Irrevocable trust property, **19:57**  
 Joint bank accounts, completed gifts, **16:14**  
 Joint brokerage accounts, **10:35**  
 Joint stock accounts, **10:35**  
 Joint tenancy with right of survivorship interests, prior law, before 1982, **10:26**  
 Judicial determination, **39:1 et seq.**  
 Land trusts, **10:38**  
 Liability, **16:24, 39:10, 39:33**  
 Liens, **16:24, 39:33**  
 Life insurance  
     generally, **22:10**  
     transfer of ownership, **7:17**  
 Loans without interest, overview, **16:5**  
 Marital deduction  
     generally, **8:39, 16:3, 16:20**  
     nonresidents, **16:70**  
     terminable interest, exclusion, **8:40**  
 Marital gifts, **8:38**  
 Medical care payments for another, **16:9**  
 Minimizing, **15:3**  
 Minors and others under 21 as donees, annual exclusion, **16:18**  
 Net gifts, **8:34**  
 Nonresidents, **16:70**  
 Nonspousal joint ownership property, **10:30**  
 Originating before gift tax, **16:5**  
 Overview, **16:1**  
 Parents of donor, **8:43**  
 Pension right waivers, **16:10**  
 Political organizations as donors, **16:5**  
 Powers of appointment  
     generally, **17:63, 37:14**  
     overview, **16:7**  
 Precatory distribution beneficiaries, **18:24**  
 QTIP income interest transfers, **16:8**  
 QTIP rule, **16:20**  
 Qualified joint and survivor annuities, **16:10**  
 Qualified preretirement survivor annuities, **16:10**  
 Qualified transfers, **16:9**  
 Rate charts, **16:67**  
 Rates  
     overview, **16:23**  
     unification, **16:2**  
 Reallocation of credits, **16:23**  
 Reciprocal transactions, **16:5**  
 Refund claims, **39:22 et seq.**  
 Related parties as donor and donee, **16:5**  
 Requirements for taxation, in general, **16:5**  
 Retirement plan benefits, community property, **10:43**  
 Returns  
     audits, **39:2 et seq.**  
     failure to file, **39:31**  
     filing by executor or examiner, **39:3**  
     liability, **16:24**  
     necessity, **39:31**  
     previously filed by decedent, listing on estate tax return, **34:67**  
     requirements, **16:21**  
     terminally ill clients, **31:48**



## INDEX TO TEXT

### GIFT TAX—Cont'd

- Ruling requests, addresses of IRS, **39:2 et seq.**
- Sales, effect, **16:13**
- Savings bonds, **10:36**
- Scope, overview, **16:5**
- Section 2515 rule, prior law, before 1982, **10:26**
- Section 2515A rule, prior law, before 1982, **10:26**
- Shareholders as donors, **16:5**
- Significance, **16:4**
- Solely owned property, **10:19**
- Special liens, **39:33**
- Split gifts from spouses to third parties, **16:15**
- Spousal joint interests
  - generally, **10:22, 37:9**
  - prior law, before 1982, **10:26**
- State tax
  - administration of estates, **20:17**
  - change of domicile, **20:19**
  - effect on imminent death planning, **31:47**
- Statutory definitions of transfers and nontransfers, **16:6 et seq.**
- Step transactions, **16:5**
- Stock accounts, joint, **10:35**
- Taxable gifts
  - generally, **16:16 to 16:20**
  - revocable living trusts, transfer, **19:27**
- Tenancy by entirety property, prior law, before 1982, **10:26**
- Tenancy in common purchases, completed gifts, **16:14**
- Tentative taxes, overview, **16:23**
- Terminable interests, marital deduction, **16:20**
- Terminally ill clients, annual exclusion, **31:43**
- Third parties, property owned jointly with, **10:30**
- Transfer after gift, pre-arranged plans, **16:17**
- Transfer by gift requirement, **16:5 et seq.**
- Transfers between spouses, **8:38**
- Trust creation, transfers, and distributions, completed gifts, **16:14**
- Trusts, charitable, curing defects, **34:45**
- Tuition to educational organization for another, **16:9**
- Unified credit
  - computation, **16:23**
  - estate and gift tax compared, **16:3**
  - overview, **16:2**
  - planning strategies, **8:31**
  - use by both spouses, **17:42**
- Uniform Gifts to Minors Act
  - generally, **16:18**
  - transfers, **8:46**
- Uniform Transfers to Minors Act, **16:18**
- Untimely disclaimers, **37:8**
- Upward lineal transfers, **8:43**
- Valuation
  - gifts made in prior years, **16:23**
  - principles, **35:1 to 35:74**
  - relevancy, **16:22**
  - understatement penalties, **39:31**
- Value of property, **17:38**

### GIFT TAX ANNUAL EXCLUSION

- See also index heading **GIFT TAX**
- Amount per donee, **16:17**
- Charitable deductions
  - relationship, **16:17**

### GIFT TAX ANNUAL EXCLUSION—Cont'd

- Charitable deductions—Cont'd
  - taxable gift defined, **16:19**
- Creation of trust exempt from generation skipping tax, **26:48**
- Cross-gifts, related parties, **16:17**
- Excessive gifts, terminally ill clients, **31:45**
- Future interests in property
  - applicability of exclusion, **16:17**
  - donees under 21, **16:18**
- Gift splitting
  - generally, **8:27**
  - use with exclusion, **17:52**
- Gifts to lineal descendants, **8:42**
- Grantor retained income trusts, application, **28:3**
- Income shifting, **9:4**
- Land trusts, **10:38**
- Life estate transfers, annual exclusion, effect, **16:17**
- Marital deduction relationship
  - generally, **16:20**
  - effect on annual exclusion, **16:17**
- Number per donor, **16:17**
- Optimum use, **15:3**
- Pre-arranged plan, recipient transfers to another, **16:17**
- Present interest requirement
  - generally, **16:18**
  - effect on annual exclusion, **16:17**
- Qualifications, **8:10**
- Reciprocal gifts, **16:17**
- Section 2503(c)(3) trusts, use, **9:13**
- Terminally ill clients, use, **31:43**
- Trust transfers
  - generally, **16:18**
  - annual exclusion, effect, **16:17**

### GIFT TAX SPECIAL LIENS

- Generally, **39:33**

### GIFTING NONFARM ASSETS BY FARMER

- Special valuation planning, **4:32**

### GIFTS

- See also index headings **GIFT PLANNING**; **GIFT TAX**; **GIFT TAX ANNUAL EXCLUSION**; **SPLIT GIFTS**
- Abatement of interest, error in gift tax determination, **39:31**
- Acceptance, requirement, **31:51**
- Adequate disclosure, requirements, **16:22**
- Adjusted taxable gifts, **16:2**
- Adult children, outright gifts, **8:44**
- Alimony trusts, **8:53**
- Anatomical gifts, **18:5**
- Asset freeze technique
  - generally, **29:02**
  - basis considerations, **29:05**
  - GRITS, **29:06**
  - paying gift tax, benefit, **29:03**
  - selecting assets, **29:04**
- Bank accounts, joint, **10:41**
- Basis, consideration, **31:50**
- Below market loans, safe harbor interest rate, **9:17**
- Brokerage accounts, joint, **10:35**
- Built-in loss property, disclaimers, **37:12**

## GIFTS—Cont'd

Charitable contribution deduction  
     easements valuation, **35:24**  
     elements of bona fide inter vivos gift, **12:6**  
 Checks, completed gifts, **16:14**  
 Checks uncashed, relation back rule inapplicable, **8:33**  
 Class gifts  
     antilapse provisions, **18:53**  
     beneficiary designations, **18:13**  
     distributions, **18:24**  
 Community property  
     conversion to or from separate property, **10:58**  
     deemed gifts by surviving spouse, **10:40 et seq.**  
     life insurance proceeds, **10:42**  
     retirement plan benefits, **10:43**  
     surviving spouse's election, **10:44**  
 Competency, requirement, **31:51**  
 Completed, consent of independent trustee, **16:14**  
 Computation of tax, **8:8**  
 Conditional, church payment of first mortgage, **12:6**  
 Conditions precedent or subsequent, **12:6**  
 Consideration for transfer, **16:13**  
 Contingent reversion interests, **28:17**  
 Continuing a pattern of giving, powers of attorney, **8:33**  
 Corporate donors, **16:15**  
 Court ordered, effect on estate, **16:14**  
 Custodianship, nature of gift, **8:45**  
 Deceased spousal unused election (DSUE), application to lifetime gifts, **33:21.50**  
 Deemed gifts  
     community property, deemed gifts by surviving spouse, **10:40 to 10:44, 10:46**  
     estate freezes, **16:11**  
     overview, **16:5**  
 Defective trusts, curing, charitable contributions, **34:45**  
 Definition  
     generally, **19:57**  
     gift planning, **8:2**  
 Delivery, requirement, **31:51**  
 Demonstrative gifts  
     generally, **18:16**  
     overview, **18:14**  
 Description, **19:33**  
 Direct gifts, overview, **16:5**  
 Disclaimers, **16:12**  
 Donative intent, necessity, **8:2**  
 Donee, identity, **8:4**  
 Donee pays tax, **8:34**  
 Donor, identity, **16:15**  
 Election by surviving spouse, community property, **10:44**  
 Elements, **31:51**  
 Employer to former employee, characterization, **16:5**  
 Entity freezes, partnerships, family controlled, **27:64**  
 Estate planning tool, **17:49**  
 Estate tax  
     computation on lifetime gifts, **16:59**  
     gifts within three years of donor's death, **16:48**  
     life insurance on donor's life within three years of donor's death, **16:48**  
     retention by donor of interests or rights, **30:25**  
     savings, **17:50**

## GIFTS—Cont'd

Existing trusts, allocating GST exemption, **26:11**  
 Federal gift tax return  
     annual exclusions, **34:40**  
     basic computations, **34:42**  
     calendar year, **34:39**  
     charitable deduction, **34:45**  
     exclusions, **34:40**  
     extension of time to pay, **34:39**  
     filing requirements, **34:39**  
     foreign gift tax credit, **34:48**  
     format, **34:42**  
     marital deduction, **34:46**  
     Schedule A: computation of taxable gifts, **34:43**  
     Schedule B: gifts from prior periods, **34:44**  
     split gifts, **34:41**  
     unified credit, **34:47**  
 Form, **8:7**  
 Freezing asset value, leveraged gifts, **27:06**  
 General gifts  
     generally, **18:17**  
     overview, **18:14**  
 Generation skipping tax exceptions, **26:15**  
 Gift tax treatment, **29:02**  
 Gifts in trust  
     alimony trusts, **8:53**  
     educational trusts, **8:49**  
     life insurance trusts, **8:51**  
     monetary gifts, **19:33**  
     purpose, **8:48**  
     shares of trust, **19:33**  
     Totten trusts, **8:52**  
 Guaranteeing debt, **8:7**  
 Holding period, **9:26**  
 Income tax advantages, **17:50**  
 Income-producing property, **8:5**  
 Incomplete, grantor as trustee, **16:14**  
 Incomplete gifts, **16:14**  
 Incomplete transfers  
     general concepts, **8:2**  
     maximizing gifts, **8:33**  
 Indirect gifts, overview, **16:5**  
 Insurance policies, estate-included, **22:15**  
 Intent, requirement, **31:51**  
 Interest rate, safe harbor, **9:17**  
 Interest-free demand loans, valuation, **9:17**  
 Irrevocable trust transfers, taxability, **19:60**  
 Joint bank accounts  
     generally, **10:33, 10:41**  
     completed gifts, **16:14**  
 Joint brokerage accounts, **10:35**  
 Joint interests  
     disclaimers, **37:9**  
     revocable joint tenancy interests, **37:10**  
 Joint stock accounts, **10:35**  
 Land trusts, **10:38**  
 Lapse, **18:53**  
 Leveraged gifts, **27:06**  
 Life insurance  
     estate tax, policies on donor's, life within three years of donor's death, **16:48**  
     payment of premiums, **2:23**  
     proceeds, **10:42**  
 Life insurance trusts, **8:51**

## INDEX TO TEXT

### GIFTS—Cont'd

Marital deduction  
    generally, **8:39**  
    interests retained by donor, **8:41**  
    power of appointment, retention by donor, **8:41**  
    terminable interest, exclusion, **8:40**

Marital gifts  
    charitable remainder trusts, combination, **24:24**  
    critically ill spouses, **8:37**  
    equalization of estates, **8:36**  
    interest retained by donor, **8:41**  
    joint ownership, severance, **8:36**  
    marital deduction, effect, **8:36**  
    purpose, **8:36**  
    tenants in common ownership, use, **8:36**  
    transfers between spouses, **8:38**

Medical care payments for another, **16:9**

Merchant's income on sale of gift cards, **3:31**

Minor donees under uniform acts, **16:18, 20:10, 30:06**

Net gifts, advantages, **8:34**

Nontaxable gift rule, **26:48**

Option transfers, after employment terminated, **2:61**

Ordinary income property, publishers clippings library, **12:23**

Overview, planning, **8:1**

Parents of donor, medical expenses, **8:43**

Partnership interests, **8:13**

Partnerships  
    timing of transfers, family controlled partnerships, **27:64**  
    transfers of property to family partnerships as gift, **27:64**

Passive activity, **6:15**

Pattern of giving, powers of attorney, **8:33**

Pension right waivers, **16:10**

Planning, overview, **8:1**

Pour-over gifts, **18:44**

Power of appointment  
    generally, **16:7**  
    disclaimers, **37:14**

Power of attorney  
    generally, **17:7**  
    wording of power, **8:33**

Power of trustee removal in grantor, **23:17**

Property sharing arrangements, title determination, **16:5**

QTIP income interest transfers, **16:8**

Qualified transfers, **16:9**

Reasons, **8:3**

Reciprocal transactions, overview, **16:5**

Relation back for uncashed checks, noncharitable donees, **8:33**

Release of rights, as, **8:7**

Residuary gifts, **18:42 to 18:44**

Retaining rights to transfers  
    estate tax determination, **16:44**  
    gross estate determination, **16:43**

Retirement plan benefits, community property, **10:43**

Revocable joint tenancy interests, **37:10**

Revocable transfers, estate tax considerations, **16:45**

S corporation as vehicle, **9:28**

Sales, effect, **16:13**

Savings bonds, **10:36**

### GIFTS—Cont'd

Specific gifts  
    generally, **18:14, 18:15, 18:22**  
    exclusion from income of estate or trust, **32:36**

Split gifts  
    generally, **16:15**  
    calendar year, election applying for, **8:27**  
    final gift tax return of decedent, availability, **33:09**  
    generation skipping tax return, **34:53**  
    gift tax returns, **31:48**  
    terminally ill clients, advantages, **31:44**  
    use in planning, **8:27 to 8:30**

Split gifts between spouse and charity, estate tax marital deduction, **21:45**

Split-interest gifts, use, **31:55**

Spousal joint interests, disclaimers, **37:9**

Step transactions, overview, **16:5**

Stock accounts, joint, **10:35**

Subject property, **8:5**

Surviving spouse's election, community property, **10:44**

Tax advantages, **8:3**

Tax free transfers, **17:51**

Tax payment, donee liability, **8:34**

Taxable gifts, definition, **16:16 to 16:20, 17:51**

Tenancy in common purchases, completed gifts, **16:14**

Terminally ill clients  
    annual gift tax exclusion, use, **31:43**  
    basis of gifts, consideration, **31:50**  
    charitable gifts, **31:49**  
    excess of annual gift tax exclusion, **31:45**  
    "gain" property transfers, **31:56**  
    highly appreciated property, **31:56**  
    "loss" property transfers, use, **31:57**  
    minority ownership, creation, **31:46**  
    split gifts, **31:44**  
    split-interest gifts, use, **31:55**  
    use in estate planning, **31:42**

Testamentary gifts, generally, **18:14 et seq.**

Testamentary personal property gifts, **18:20 et seq.**

Timing, **8:6**

Totten trusts, **8:52**

Transfer of title, requirement, **31:51**

Trust creation and transfers, completed gifts, **16:14**

Trusts  
    charitable, curing defects, **34:45**  
    comparison, **17:6**

Tuition to educational organization for another, **16:9**

Types, **8:44 to 8:53**

Uniform Gifts to Minors Act, **8:46, 16:18, 20:10, 30:06**

Uniform Transfers to Minors Act, **8:47, 16:18, 20:10, 30:06**

Unintended, **9:31**

Unitrust, children's succession to parent's unitrust interest as incomplete gift, **37:13**

Unmarried client's estate plan, strategies, **14:11**

Upward lineal transfers, **8:43**

Valuation  
    contingent reversion interests, **28:17**  
    gifts made in prior years, **16:23**  
    relevancy, **16:22**  
    revaluation at death of donor, **16:22**

## **GIFTS—Cont'd**

Valuation—Cont'd  
     understatement penalties, **39:31**  
 Value, determination, **8:2**  
 Widow's election, community property, **10:44**  
 Will provisions protecting, estate, **18:10**

## **GIFTS IN TRUST**

Gift planning, **8:48 to 8:53**

## **GIFTS OF PARTIAL INTEREST**

Generally, **24:16 to 24:28**  
 Charitable lead trusts, **24:26**  
 Charitable remainder trusts, **24:23**  
 Easements, **24:19**  
 Marital gifts, **24:24**  
 Pooled income funds, **24:25**  
 Qualified real property interest, **24:19**  
 Qualifying charitable contributions, **24:16**  
 Transfer of remainder in farm, **24:17**  
 Undivided portion of entire interest, **24:18**

## **GIFTS OF PRESENT INTEREST**

Generally, **12:20 to 12:41**  
 Admission tickets, **12:36**  
 Alimony trusts, qualification, **8:53**  
 Annual exclusion qualifications, **8:10**  
 Bonds, **12:33**  
 Cash, **12:21**  
 Checks, **12:20**  
 Closely held stock  
     generally, **12:31**  
     prior to change in ownership, **12:32**  
 Commodities, **12:34**  
 Corporate inventory, **12:28**  
 Credit cards, **12:20**  
 Crummey trusts  
     generally, **8:15**  
     form, **8:16**  
 Debt forgiveness, corporate loan, **8:10**  
 Donations to private foundations, **12:27**  
 Future interest rule, **12:35**  
 Gift tax consequences, **12:41**  
 Individual retirement accounts, tax free distributions  
     from, **12:21.50**  
 Installment sales contract, **12:37**  
 Intellectual property, **12:38**  
 Life insurance, **12:29**  
 Long term capital gain property, **12:26**  
 Minor's trusts, **8:14**  
 Non-cash property, **12:22**  
 Ordinary income property, **12:23**  
 Partnership interests, **8:13, 12:39**  
 Phone payments, **12:20**  
 Pledges, **12:20**  
 Present interest defined, **8:10**  
 Promissory notes, **12:20**  
 Real estate, **12:20**  
 Reduction rules, **12:22 to 12:39**  
 Scientific property, **12:28**  
 Securities, **12:20, 12:30**  
 Tangible personal property, **12:24, 12:25**  
 Tax free distributions from individual retirement  
     accounts, **12:21.50**  
 Timing, **12:20**

## **GIFTS OF PRESENT INTEREST—Cont'd**

Use in planning, **8:13**  
 Withdrawal power, **8:15**  
 Words of art, **12:35**

## **GINNIE MAE'S**

Tax advantaged investments, **6:44**

## **GOATS**

Depreciation, **4:9**

## **GOLDEN HANDCUFFS**

Employment contracts, **2:3**

## **GOLDEN PARACHUTES**

Application, **2:78**  
 Definition, **2:3**  
 Disqualified individuals, exemption, **2:78**  
 Employment agreement, drafting, **2:79**  
 Excess payments, avoidance, **2:79**  
 Excise tax, small business corporation, exception,  
     **2:78**  
 Future services, compensation for, **2:79**  
 Parachute payment, definition, **2:78**  
 Payments  
     disqualified individuals, exemption, **2:78**  
     future services, compensation for, **2:79**  
     parachute payment, definition, **2:78**  
     stock options, valuing, **2:79**  
     vesting of option, **2:78**  
 Purpose, **2:77**  
 Requirements, **2:78**  
 Stock options, valuing, **2:79**  
 Vesting of option, **2:78**

## **GOODWILL**

Definition, **35:57**

## **GRANDCHILD EXCLUSION**

Scope, **26:18**

## **GRANDCHILDREN**

Estate planning considerations, **17:16**  
 Generation skipping tax exclusion  
     estate tax return, **34:109**  
     tax return line, **34:52**  
 Gift splitting for generation skipping tax purposes,  
     **34:53**

## **GRANDPARENTS**

Direct gifts, taxability, **8:32**  
 Educational exclusion, use, **8:11**  
 Generation skipping  
     generally, **8:32**  
     grandchild exclusion, **26:18**  
 Life insurance trust, creation, **8:32**

## **GRANTOR**

Fiduciary selection, power to spray or sprinkle  
 income, **30:26**

## **GRANTOR RETAINED ANNUITY TRUSTS (GRATs)**

Borrowed funds for annuity payments, **28:19**  
 Compared to installment sales, **29:35**  
 Considerations for using, **28:16**

## INDEX TO TEXT

### GRANTOR RETAINED ANNUITY TRUSTS (GRATs)—Cont'd

- Contingent spousal annuities, effect on value of remainder, **28:14**
- Contingent spousal annuity, **28:18**
- Form for trust, **28:21**
- Freeze vehicles, **27:06**
- Gift tax, **28:16**
- Grantor retained unitrust
  - generally, **28:20**
  - form for provisions, **28:22**
- Income tax treatment, **28:5, 28:15**
- Installment sales, comparing freeze techniques, **29:35**
- Payment by note prohibited, **28:13**
- Promissory notes, usage, **28:13**
- S shareholder status, **19:26**
- Short-term GRATs, funding of, **28:16**
- Transfer tax benefits, **28:14**
- Trust as shareholder of S corporation, **28:16**
- Valuation issues, **28:17**
- “Zeroed-out” GRAT
  - revocable spousal interest, necessity of using, **28:14**
  - taxpayer and estate treated as same person, provision that remaining annuity payments made to estate, **28:17**

### GRANTOR RETAINED ANNUITY TRUSTS AND UNITRUSTS

- Generally, **28:13**
- Benefits of using, **28:15**
- Borrowed funds for annuity payments, **28:19**
- Charitable grantor lead trust, **12:45**
- Charitable remainder
  - generally, **12:54**
  - annuity trusts, comparison, **12:68**
  - catch-up provision, **12:58**
  - income interest, **12:58**
- Gift tax rules, **28:13**
- Grantor retained unitrusts, **28:13 to 28:22**
- Income interest transfers, **12:44**
- Payment by note prohibited, **28:13**
- Promissory notes, usage, **28:13**
- Transfer tax rules, **28:13**

### GRANTOR RETAINED INCOME TRUSTS (GRITs)

- Generally, **28:3**
- Advantages, **28:2, 28:7**
- Alternative to recapitalization, **28:3**
- Annual gift tax exclusion, application, **28:3**
- Annuity trusts, **28:13 to 28:22**
- Asset freeze technique, minimize risk of death, **29:06**
- Benefit analysis, **28:8**
- Benefits, **28:9**
- Capital gains, income tax treatment, **28:5**
- Considerations for using, **28:6**
- Death risk planning, **28:8**
- Definition, **28:2, 28:3**
- Drafting, **28:2**
- Family transfer rules, **28:6**
- Form, **28:12**
- Form for trust, **28:12**
- Freeze vehicles, **27:06**

### GRANTOR RETAINED INCOME TRUSTS (GRITs)—Cont'd

- Generation skipping
  - generally, **28:10**
  - issues, **28:10**
- Generation skipping rules, **28:10**
- Gift tax rules, **28:4**
- Gift tax treatment, **28:3**
- Gross estate of grantor, inclusion, **28:3**
- Income tax rules, **28:6**
- Income tax treatment, **28:5**
- Income term, property within grantor's estate, **28:6**
- IRS tables, use in valuing retained interest, **28:6**
- Mortality risk planning, **28:8, 28:11**
- Personal residences
  - generally, **28:7**
  - allocation of expenses, **28:9**
  - control of residence, **28:9**
  - retaining use of residence in trust, **28:8**
- Qualified interest rules, **28:5**
- Reducing death risk, **28:8**
- Reduction in value of remainder interest, advantage, **28:7**
- Retained interest, termination as taxable gift, **28:6**
- Scope of chapter, **28:1**
- Section 2702, **28:6**
- Tax benefits generally, **28:9**
- Techniques generally, **28:2**
- Transfer tax benefits, **28:4**
- Transfer tax rules, **28:4**
- Unitrusts, **28:13 to 28:22**
- Use by family, **28:7**
- Value of remainder interest, determination, **28:3**

### GRANTOR RETAINED UNITRUST

- Generally, **28:20**
- Form for provisions, **28:22**

### GRANTOR TRUST RULES

- Application, **32:59**
- Attribution rule, **32:60**
- Beneficiary trustees, **30:29**
- Creator of trust, no gratuitous transfers, required, **32:60**
- Exception to substantial owner rule, **32:61**
- Foreign trusts, **32:62**
- Grantor, defined, **32:59**
- Grantor as substantial owner, **32:60**
- Independent trustees, **30:30**
- Outbound transfers, **32:62**
- Owner of trust, excepted from tax, **32:62**
- Ownership of trust, **30:24**
- Parent trustee taxation, **30:27**
- Related party trustees, **30:28**
- Reversionary interest, effect of retention, **32:60**
- Substantial owner, **32:59**
- Third party as substantial owner, **32:61**
- Trustee removal power in grantor or spouse, **30:33**
- Trustee service by grantor or spouse, **30:26**

### GRANTOR TRUSTS

- Generally, **32:59 to 32:64**
- Advisers to trustees, **30:31**
- Asset freeze technique
  - achieving grantor trust treatment, **29:25**

## GRANTOR TRUSTS—Cont'd

Asset freeze technique—Cont'd  
adequate disclosure, **29:28**  
comparative chart, **29:50**  
defective trusts, **29:24**  
estate tax considerations, **29:32**  
form of trust, **29:36**  
gift tax consequences, **29:29**  
gift tax reporting, **29:31**  
GRAT compared, **29:35**  
GST tax considerations, **29:33**  
income tax during grantor's life, **29:26**  
income tax issues, **29:23**  
income tax on trust earnings, **29:30**  
income tax reporting, **29:28**  
installment sale, using, **29:20**  
other benefits, **29:22**  
sample trust, **29:36**  
structuring transaction, **29:34**  
tax upon grantor's death, **29:27**  
transfer tax benefits, **29:21**  
Beneficiary trustee taxation, **30:29**  
Cotrustees, **30:31**  
Estate tax, grantor or spouse as trustee, **30:26**  
Estimated income tax payments, **32:65**  
Gift tax, grantor or spouse as trustee, **30:26**  
Grantor or spouse as cotrustee or adviser, **30:31, 30:32**  
Grantor or spouse as trustee, **30:26, 30:32**  
Independent trustees, **30:30**  
Installment sales, asset freeze technique, **29:19**  
Irrevocable  
rabbi trusts, **2:9**  
secular trusts, **2:9**  
Powers resulting in grantor taxation, grantor or spouse as trustee, **30:26**  
Related party trustees, **30:28**  
Rules, **30:24 et seq.**  
S corporation shareholder, eligibility, **38:06**  
S corporation shareholders, **12:45**  
S corporation stock ownership, **23:39**  
Shareholder classification, S corporation stock ownership, **23:39**  
Trustee removal power, tax impact, **30:33**  
Trustee selection planning, **30:32**  
Trustee service by grantor or spouse, **30:26, 30:32**

## GRAVEL INTERESTS

Valuations, **35:22**

## GROSS ESTATES

Generally, **27:23**  
See also index headings ESTATE TAX; TAXABLE ESTATE  
Adjusted taxable gifts, estate tax return line, **34:63**  
Adjusted values, definition, **38:09**  
Alternate valuation, return filed late, **33:14**  
Artwork exception for nonresidents, **16:70**  
Death benefits, inclusion, **7:17**  
Definition, **16:26, 17:37**  
Determining, form 706 filing, **34:80 to 34:91**  
Estate tax returns  
filing requirements, **34:60**  
order of documents, **34:82**  
Schedule A: real estate valuation, **34:83**  
Schedule A-1: special use valuation, **34:83**

## GROSS ESTATES—Cont'd

Estate tax returns—Cont'd  
Schedule B: stocks and bonds, **34:84**  
Schedule C: mortgages, notes receivable and cash, **34:85**  
Schedule D: insurance on decedent's life, **34:86**  
Schedule E: joint property, **34:87**  
Schedule F: miscellaneous, **34:88**  
Schedule G: transfers during life, **34:89**  
Schedule H: powers of appointment, **34:90**  
Schedule I: annuities, **34:91**  
Estimated size, **15:8**  
General powers of appointment, exercise causing inclusion, **17:60**  
Gifts with continued use, proportion of property retained, **16:42**  
Grantor retained income trusts, **28:3**  
Grantor trust provisions, **22:30**  
Grantor trusts, income tax paid by trust, **16:42**  
Illegal drugs, inclusion, overview, **16:26**  
Inclusions, **19:59**  
Irrevocable trust property, inclusion in grantor's estate, **19:59**  
Key man insurance proceeds, **2:16**  
Land trusts, power to direct disposition, **16:45**  
Life insurance proceeds  
decedent-owned, **22:24**  
deemed transfer rule, **22:29**  
executor as beneficiary, **22:13**  
inclusion, **22:12**  
ownership transfers, **22:15**  
payment of premium, effect, **22:16**  
policies payable to third persons, **12:10**  
possession of incidents of ownership, **22:14**  
receivable by executor, **22:13**  
Nonprobate assets and interests, **16:28 et seq.**  
Nonresident aliens, deductions, **16:70**  
Ownership interest in property, requirement, **17:37**  
Probate assets and interests, overview, **16:27**  
Retained life estates, implied agreements, **16:42**  
Revocable living trust property, inclusion, **19:27**  
Revocable or amendable transfers, transferor retention, **16:45**  
Salary continuation payments, **2:19**  
Settlement trusts, overview, **16:27**  
Split dollar life insurance proceeds, **2:23**  
Valuation  
generally, **16:58**  
date, **33:14**

## GROSS INCOME

Group-term life insurance costs, exclusion, **2:32**  
Key man insurance premium, **2:16**  
Key man insurance proceeds, **2:15**  
Recipient of life insurance proceeds, exclusion, **22:3**

## GROSS REVENUES MULTIPLIERS

Use in valuations, **35:54**

## GROUP LEGAL SERVICES

Retirement planning services, **2:46**

## GROUP LIFE INSURANCE

See also index heading LIFE INSURANCE  
Advantages, **2:30**  
Classification, requirements, **2:30**



## INDEX TO TEXT

### GROUP LIFE INSURANCE—Cont'd

Cost of purchase, deductibility, **2:30 to 2:35**  
Discriminatory coverage, smokers, **2:32**  
Employee eligibility, **2:30**  
Employee income tax considerations, **2:32**  
Excess benefit, definition, **2:35**  
Group term  
    costs, exclusion from income, **2:32**  
    dependent coverage, **2:34**  
    income tax benefits, **2:30**  
    premiums, deductibility, **3:96**  
    requirements, **2:30**  
    transfer tax consequences, employee, **2:33**  
    value of policy, **2:33**  
Income tax benefits, requirements, **2:30**  
Nondiscrimination requirement, **2:35**  
Payments, deductibility, **2:30 to 2:35**  
Permanent insurance plans  
    premium payments, deductibility, **2:30 to 2:35**  
    use, **2:30**  
Premiums, smokers vs. nonsmokers, **2:30**  
Reporting requirements, **2:35**  
Statutory conditions, **2:35**  
Uniform rates, **2:32**  
Use, **2:30**

### GST TAX

See index heading GENERATION SKIPPING TRANSFER TAX

### GUARANTEED ANNUITY INTEREST

Charitable lead grantor trusts, **12:45**

### GUARANTEEING DEBT

Gift treatment, **8:7**

### GUARANTORS

Decedents, business debts, **34:94**

### GUARDIANS

See also index heading GUARDIANS OF PROPERTY  
Bond waiver by will, **18:56**  
Disclaimers, **37:5**  
Guardians ad litem, **30:47**  
Guardians of the person, **18:52, 30:03, 30:10 to 30:12**  
Minor's guardian for gift receipt, **18:25**  
Testamentary guardians, **18:52**

### GUARDIANS AD LITEM

Generally, **30:47**  
General powers of appointment, **30:21**  
Guardianship accounts, **30:20, 30:21**  
Nonresident guardian restrictions, **30:10**  
Parent as guardian of child's property, **30:11**  
Responsibilities, **30:04**

### GUARDIANS OF THE PERSON

Appointment by will, **18:52**  
Authority, **30:03**  
Bond as not required, **30:12**  
Parent as child's guardian, **30:11**  
Relative as child's guardian, **30:11**  
Residency requirement, **30:10**  
Responsibilities, **30:03**  
Selection, importance, **30:03**

### GUARDIANSHIP ACCOUNTS

Donor as guardian, **30:20, 30:21**  
Exclusion from income tax, **32:10**  
Fiduciary selection tax impact, **30:20, 30:21**  
Gifts to and from account, **30:20**  
Income tax, **30:20**  
Support, maintenance, and education of minor with income, **30:21**  
Tax treatment, **30:20, 30:21**

### GUIDELINE PREMIUM LIMITATION REQUIREMENTS

Error in computation, effect, **7:7**

## H

### HANGING POWER

Withdrawals from trust, **8:15 et seq.**

### HARD MINERAL INTERESTS

Valuation, **35:22**

### HEALTH CARE FACILITIES

Investment of savings, **13:19**

### HEALTH CARE SURROGATE

Estate planning tools, designation of health care surrogate, **17:12, 17:13**

### HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Expatriation, tax motivated, **1:4**

### HIGHLY COMPENSATED TAXPAYERS

Generally, **2:1 et seq.**  
Compensatory stock options. See index heading COMPENSATORY STOCK OPTIONS  
Compensatory stock transfers. See index heading COMPENSATORY STOCK TRANSFERS  
Defined, **2:2**  
Fringe benefits. See index heading FRINGE BENEFITS  
Golden parachutes. See index heading GOLDEN PARACHUTES  
Group life insurance. See index heading GROUP LIFE INSURANCE  
Incentive stock options. See index heading INCENTIVE STOCK OPTIONS  
Key person insurance. See index heading KEY PERSON INSURANCE  
Nonqualified deferred compensation plans. See index heading NONQUALIFIED DEFERRED COMPENSATION PLANS  
Split dollar life insurance. See index heading SPLIT DOLLAR LIFE INSURANCE

### HIGHLY-COMPENSATED EMPLOYEE

Compensation techniques, overview, **2:2**  
Qualified deferred compensation plans, **5:10**

### HISTORIC PROPERTIES

Renovation tax credits, **6:40**

### HISTORICAL BACKGROUND

Chapter 14, **27:02**  
Chapter 14 valuations, **27:04**  
Entity freeze valuation  
    dividend coverage, **27:28.20**

## **HISTORICAL BACKGROUND—Cont'd**

Entity freeze valuation—Cont'd  
 liquidation coverage, **27:28.30**  
 other factors, **27:28.50**  
 overview, **27:28**  
 stated yield, **27:28.10**  
 voting rights, **27:28.40**  
 Entity freezes, **27:02**  
 Legislative history, generally, **27:03**  
 Section 2036, **27:02**  
 Section 2036(c), **27:03**  
 Sections 2701-2704, **27:04**

## **HOBBY LOSSES**

Farmers, **4:10**  
 Ranchers, **4:10**  
 Tax treatment, **6:5**

## **HOLDING COMPANY FREEZES**

Basic structure, **27:10**  
 Entity freezing, overview, **27:01**  
 Overview of entity freezing, **27:01**  
 Recapitalization impractical, **27:56**  
 Types of transactions, **27:05**

## **HOLDING PERIODS**

Capital gains, **1:3**  
 Estates and trusts, income items, **32:14**

## **HOLOGRAPHIC WILLS**

Construction of terms, **18:12**  
 Validity, **20:8**

## **HOME AFFORDABLE MODIFICATION PROGRAM (HAMP)**

Tax planning, **1:3**

## **HOME EQUITY**

Retirement planning, **13:20**

## **HOME OFFICE DEDUCTIONS**

Generally, **2:53**  
 Deductibility of losses, **3:63**

## **HOMESTEAD**

Allowance, **20:7**  
 Cooperatives, **20:7**  
 Creditors' claims, **10:14**  
 Debts, **10:14**  
 Domicile determination, **20:4, 20:7**  
 Liens and encumbrances, **10:14**  
 Life estate of surviving spouse, **20:7**  
 Limitations on devise, estate administration, **18:33, 20:7**  
 Personal property prohibition, **20:7**  
 Real property limitation, **20:7**  
 Remainder rights, decedent's lineal descendants, **20:7**  
 State law variances, **20:7**  
 Surviving spouse's right or allowance, **20:7**  
 Uniform Probate Code, **20:7**

## **HOPE SCHOLARSHIP CREDIT**

Postsecondary education expenses, **2:46**

## **HORSES**

Depreciation, **4:9**  
 Horseracing losses, **4:10**

## **HOT ASSETS**

Charitable gifts, ordinary income property, **12:23**

## **HOTELS**

Valuations, **35:55**

## **HOUSING ALLOWANCE**

Surviving spouse, **20:7**

## **HR 10 PLANS**

Fringe benefits, **3:80**  
 Individual retirement accounts, **5:72**

## **HUSBAND AND WIFE**

See also index headings COMMUNITY PROPERTY; DIVORCE AND SEPARATION; SEPARATE PROPERTY; SEPARATION AGREEMENTS; SURVIVORS AND SURVIVORSHIP

Alimony trusts, **8:53**  
 Apportionment of refunds, **10:7**  
 Citizenship, marital deduction, **18:41**  
 Curtesy  
     generally, **21:12, 21:71**  
     probate transfers, **21:6**  
 Deceased spousal unused election (DSUE), **33:21.50**  
 Deemed gifts by surviving spouse, **10:40 et seq.**  
 Disclaimers, **37:9, 37:11**  
 Domicile determination, **20:2**  
 Dower  
     generally, **21:12, 21:71**  
     probate transfers, **21:6**  
 Election by surviving spouse, **20:7**  
 Estate planning considerations, **17:15**  
 Funeral and medical expenses, liability, **18:7**  
 Gifts, consideration for transfer, **16:13**  
 In testate share of surviving spouse, **20:6**  
 Individual Retirement Accounts, **5:60**  
 Individual retirement accounts, wives, **5:60**  
 Joint death, estate planning, **17:43**  
 Joint gifts to third parties, **16:63**  
 Joint ownership  
     estate tax, **16:37 to 16:39**  
     flexibility for survivor, **10:16**  
     joint tenancy with right of survivorship, **10:6**  
     tax consequences, **10:20 et seq.**  
     tenancy by the entirety, **10:5**  
 Joint revocable trusts, use, **17:42**  
 Marital deduction, historical overview, **21:2**  
 Marital deduction trusts, **16:49, 21:29 et seq.**  
 Marital deductions  
     estate tax, **16:51, 16:55, 21:1 et seq.**  
     gift tax, **16:17, 16:20**  
 Marital gifts  
     critically ill spouses, **8:37**  
     gift tax marital deduction, **8:39**  
     transfers between spouses, **8:38**  
 Marriage tax, **21:2**  
 Medical expenses of deceased spouse, **18:7**  
 Ownership of life insurance policy, **22:1**  
 Partition of community property, **10:59, 10:61**  
 Prenuptial agreements, use, **17:26**  
 Renunciation of will by survivor, **20:7**  
 Same sex marriage, definition of terms for tax purposes, **11:4**  
 Second marriage situations, **17:26**  
 Separation agreements, disclaimers, **37:9**

## INDEX TO TEXT

### HUSBAND AND WIFE—Cont'd

Split gifts to third parties, **16:2, 16:15, 16:21, 16:24**  
Spousal remainder trusts, use, **9:8**  
Tenancy by the entirety, **10:5**  
Testamentary transfers  
    generally, **21:1 et seq.**  
    estate taxes, **16:55**  
Widow's election, community property, **10:44**

### HYPOTHETICAL GIFT TAX

Estate tax computation, **16:59**

## I

### IDENTIFICATION

Employer's, application, Form SS-4, **34:118**

### IDENTIFYING CLIENTS

Attorneys, **1:16**

### ILLINOIS LAND TRUSTS

Types of property ownership, **10:12**

### IMMINENT DEATH PLANNING

See also index heading TERMINAL ILLNESS  
Additional estate tax, imposition, **31:63**  
Administration of estate, facilitation, **31:19**  
Advisors, identification, **31:05**  
Ancillary administration, avoidance, **31:21**  
Annual gift tax exclusion, use, **31:43**  
Assets, sufficiency, for taxes and expenses, **31:27**  
Beneficial interests in trust, **31:76**  
Burial arrangements, preparation, **31:08**  
Bypass trusts, eligibility for tax savings, **31:23**  
Charitable pledges, **31:49**  
Client as beneficiary under other's will, notification of condition, **31:32**  
Closely held businesses  
    buy-sell agreement, use, **31:68**  
    decision as to disposition, **31:64**  
    estate tax value, **31:71**  
    inter vivos gift to reduce value, **31:71**  
    major asset, **31:38**  
    management duties, assumption, **31:65**  
    ownership transfer, **31:67**  
    post death redemption, **31:69**  
    salary continuation agreement for spouse, **31:70**  
    stock redemption, **31:69**  
    valuation issues, **31:71**  
Commuting trust to avoid estate, **31:76**  
Current litigation, review, **31:26**  
Debts, payment before death, **31:41**  
Difficult-to-value property, disposition, **31:24**  
Disposition of assets, consideration, **31:24**  
Distributions, importance of timing, **31:09**  
Domicile, determination, **31:20**  
Durable power of attorney, execution, **31:06**  
Employee benefits  
    identification, **31:04**  
    review, **31:63**  
Estate tax  
    flower bonds, use for payment, **31:34**  
    previously taxed property credit, application, **31:37**  
    review, **31:33**

### IMMINENT DEATH PLANNING—Cont'd

Exercise of power of appointment, form, **31:11**  
Existing powers of appointment, review, **31:10**  
Farm estate, increasing liquidity, **31:38**  
Fiduciaries  
    appointments, review, **31:18**  
    persons named in will, **31:29**  
    relations, analysis, **31:28**  
Flower bonds, use for payment of estate tax, **31:34**  
Funeral arrangements, preparation, **31:08**  
"Gain" property transfers, **31:56**  
Gifts  
    acceptance, requirement, **31:51**  
    basis, consideration, **31:50**  
    charitable gifts, **31:49**  
    competency, requirement, **31:51**  
    delivery, requirement, **31:51**  
    elements, **31:51**  
    excess of annual exclusion, **31:45**  
    "gain" property, use, **31:56**  
    gift tax returns, **31:48**  
    highly appreciated property, transfer, **31:56**  
    intent, requirement, **31:51**  
    minority ownership, creation, **31:46**  
    transfer of title, requirement, **31:51**  
    use, **31:42**  
In terrorem clause, use, **31:09**  
Income in respect of decedent, tax treatment, **31:59**  
Income tax considerations  
    charitable gifts, use, **31:53**  
    double deductions, **31:54**  
    "gain" property transfers, **31:56**  
    income in respect of decedent, **31:59**  
    joint return, filing, **31:52**  
    "loss" property transfers, **31:57**  
    net operating losses, deduction, **31:58**  
    returns, timely filing, **31:60**  
    taxable year, **31:52**  
Insurance policies, review, **31:04**  
Inter vivos trusts, use, **31:25**  
Interests in trusts or estates of others, disclaimer, **31:23**  
Interrelationships among competing interests, minimizing, **31:09**  
IRA funding, possibility, **31:63**  
Joint tenancy property, disposition, **31:36**  
Liabilities, specification, **31:04**  
Life insurance policies  
    beneficiary designations, review, **31:62**  
    policy loans, repayment, **31:62**  
    transfer of ownership, **31:62**  
Life-sustaining procedures, withholding, **31:07**  
Liquidity of estate, determination, **31:27**  
Living trusts, use, **31:25**  
Living will, execution, **31:07**  
"Loss" property, transfer, **31:57**  
Management trust, use of limited power of attorney, **31:06**  
Marital agreements, determination of existence, **31:22**  
Military papers, location, **31:08**  
Net operating losses, deductibility, **31:58**  
Partnership interests, review, **31:74**  
Passive loss activities, review, **31:77**  
Payment of debts, **31:41**  
Personal property, place of administration, **31:21**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### IMMINENT DEATH PLANNING—Cont'd

- Personal representative
  - choice, **31:05**
  - review of choice, **31:29**
- Physicians, special provisions, **31:17**
- Private annuities, use, **31:40**
- Property
  - location and value, **31:04**
  - reduction of estate tax value, **31:35**
- Psychological factors, **31:03**
- Publicly-traded stock as major asset, **31:38**
- Qualified plan benefits, funding charitable gift, **31:63**
- Real estate, place of administration, **31:21**
- Resignation of client as fiduciary, **31:31**
- Review of estate plan, **31:01**
- S corporation interests
  - fiduciary power to incorporate, form, **31:73**
  - successor in interest, eligibility as shareholder, **31:72**
  - trust as recipient, **31:72**
- Safe deposit boxes, location, **31:04**
- Simultaneous deaths, use of PTP credit, **31:37**
- Sole proprietorship, disposition, **31:75**
- Specific assets, action to be taken, **31:61**
- Split gifts, advantages, **31:44**
- Split-interest gifts, **31:55**
- “Sprung” power of attorney, use, **31:06**
- State gift taxes, effect, **31:47**
- Surviving spouse rights, **31:63**
- Trustee, review of choice, **31:29**
- Trusts, review and revision, **31:14**
- Unified credit, funding, **31:39**
- Veterans’ benefits, availability, **31:08**
- Will contests, preparation of defense, **31:09**
- Wills
  - access, **31:13**
  - importance, **31:12**
  - location, **31:13**
  - redrafting for changed circumstances, **31:15**
  - review and revision, **31:14**
  - specific devises
    - income tax advantages, **31:16**
    - use, **31:16**

### IMPLIED AGREEMENTS

- Retained life estates
  - proportion of property retained, **16:42**
  - retained interests or rights, **16:42**

### IMPROVED PENALTY ADMINISTRATION AND COMPLIANCE ACT

- Accuracy-related penalty, **39:31**
- Fraudulent failure to file return penalty, **39:31**
- Negligence penalty, **39:31**
- Tax Court penalty, improper proceedings, **39:21**
- Valuation overpayment penalty, **39:31**
- Valuation understatement, **39:31**

### IMPUTED INTEREST

- Shareholder loans, applicable rules, **9:23**

### IN TERROREM CLAUSES

- Disgruntled beneficiaries, **31:09**
- Validity of will, **20:8**

### IN TERROREM CLAUSES—Cont'd

- Will preparation, beneficiary designations, **18:13**

### IN TESTATE SUCCESSION

- See also index heading MARITAL DEDUCTION, GIFT TAX
- Avoidance, **17:3**
- Marital deduction, estate tax, **21:6**

### INADVERTENT INCENTIVE STOCK OPTIONS

- Elimination of problem, Technical and Miscellaneous Revenue Act of 1988, **2:66**

### INCAPACITATION

- Durable power of attorney
  - generally, **13:24**
  - form, **13:25**
- Retirement planning, **13:23**

### INCENTIVE STOCK OPTIONS

- Acceleration provisions, **2:63**
- Advantages, **2:62**
- Alternative minimum taxable income (AMTI), **2:64**
- Capital gain deduction, effect, **2:69**
- Conversion to nonqualifying stock options, advantages, **2:66**
- Defined, **2:62**
- Disqualifying dispositions, **2:67**
- Election not to treat as incentive stock option, **2:63**
- Employment requirement, **2:63**
- Exercise of option, **2:65**
- Financial accounting treatment, **2:70**
- Holding period requirement, **2:63**
- Inadvertent options, **2:66**
- Nonqualifying transfers, **2:65**
- Nontransferability, **2:63**
- Option price, **2:63**
- Pyramiding options, **2:67**
- Qualifying transfers, **2:64**
- Sequential exercise rule, **2:63**
- Shareholder approval, requirement, **2:63**
- Ten percent shareholders, **2:63**
- Term of option agreement, **2:63**
- Term of plan, **2:63**
- Vesting limit, **2:63**

### INCEPTION OF TITLE RULE

- Community property, **10:7**
- Life insurance proceeds, **10:42**

### INCIDENTAL EXPENSES

- Charitable services, **12:6**

### INCIDENTS OF OWNERSHIP

- Insured as trustee, **22:23**

### INCIDENTS OF OWNERSHIP OF LIFE INSURANCE

- Deemed transfers of insurance policies, **22:29**
- Inclusion of proceeds in gross estate, **16:29**
- Life insurance policy, definition, **22:14**
- Split dollar life insurance, **2:23**
- Transfer of ownership, **22:15**

### INCOME

- Active, **25:2**

## INDEX TO TEXT

### **INCOME—Cont'd**

- Allocation, nonspousal joint property, **10:29**
- Cancel of debt, shareholder basis, effect on, **3:76**
- Community property
  - commingling in common law state, **10:57**
  - income splitting, **10:51**
- Disclaimers
  - generally, **37:13**
  - trustee's disclaimer, form, **37:28**
- Distributable net income, **32:3**
- Distributions to beneficiaries, **32:37**
- Gifts, retained income interests or rights, **16:42 to 16:44**
- Joint tenancy property, **10:5, 10:6**
- Leased vehicles, amounts includable, **2:51**
- Marital deduction trust, **21:34**
- Marital deduction trusts, **21:35**
- Passive, **25:2**
- Portfolio, **25:2**
- QTIP income interest transfers, gift tax, **16:8**
- Retained income interests, after lifetime transfer of property, **30:25**
- Splitting community property income, **10:51**
- Spousal support payments, pre-1984, **11:2**
- Tenancy by the entirety property, **10:5**
- Tenancy in common property, **10:3**
- Totten trusts, **10:34**
- Trusts, characterization, **32:11**
- Unused loss carryovers, **33:29**

### **INCOME AVERAGING**

- Qualified deferred compensation plans, **5:47**

### **INCOME DISTRIBUTION DEDUCTION**

- Fiduciary income tax return line, **34:22**

### **INCOME IN RESPECT OF DECEDENT (IRD)**

- Acceleration of tax, **32:53**
- Alimony arrearages, **32:49**
- Alternatives, **31:59**
- Annuity proceeds, excess over investment in annuity, **32:49**
- Avoiding classification, **31:59**
- Beneficiary liability for tax, **16:66**
- Character of income, **32:50**
- Classification factors, **32:48**
- Community property, **10:53**
- Corresponding deductions, **32:54**
- Crop inventory, **32:47**
- Death benefits, **32:51**
- Definition, **24:31, 32:47**
- Distributions, postmortem planning, **33:46**
- Distributive share of partnership income, **32:49**
- Dividends
  - generally, **32:49**
  - fiduciary income tax return line, **34:12**
- Employee benefit plan payments, **32:49**
- Estate tax charitable contribution use
  - generally, **24:31**
  - defects, reformation, **24:27**
- Estate tax deduction
  - generally, **32:29**
  - determination, **32:28**
- Estate taxes paid, income tax deduction, **33:46**

### **INCOME IN RESPECT OF DECEDENT (IRD)—Cont'd**

- Exception to rule, **32:53**
- Final paycheck, **32:47**
- Gratuitous transfer at death, factor, **32:48**
- Inclusion in gross income, **32:47**
- Income tax contributions, contrast, **24:3**
- Individual retirement accounts, **35:7**
- Installment obligations
  - distribution, **33:47**
  - exception, **32:53**
- Installment sale payments, **32:49**
- Interest accrued, **32:49**
- Interrelated computations, **24:34**
- IRA rollovers, **32:47**
- Keogh plan, transfer to charity, **24:31**
- Limitation to value of property, **24:14**
- Literary organizations, eligibility, **24:5**
- Made "for the use of" donee organization, requirement, **24:5**
- Made "to" donee organization, requirement, **24:5**
- Marital deduction
  - application, **24:29**
  - estate tax, **21:14**
- Matured interest coupons, **32:47**
- Maturity, factor, **32:48**
- Partnership interests, **38:15**
- Partnership receipts, **32:52**
- Planning, necessity, **24:3**
- Planning techniques, **32:55**
- Political subdivisions, eligibility, **24:5**
- Power of charity to consume property, effect, **24:11**
- Private foundations
  - generally, **24:33**
  - termination tax, **24:15**
- Promissory notes, deductibility, **24:32**
- Property actually reaching charity, requirement, **24:10**
- Property passing by power of appointment, eligibility, **24:9**
- Public charities, **24:4**
- Qualified disclaimers, preservation of deduction, **24:12**
- Qualifying charities, **24:5**
- Real estate limited partnerships
  - categories, **25:9**
  - effect on basis, **25:9**
- Recovery of taxes from beneficiaries, **16:66**
- Reformation of defective partial interests, **24:27**
- Religious organizations, **24:5**
- Salary, **32:49**
- Salary payments, **32:51**
- Scientific organizations, eligibility, **24:5**
- Separate share rule, fiduciary allocation, **32:68**
- Short sales of stock, **32:48**
- Statutory scheme, **24:4**
- Taxability to decedent, factor, **32:48**
- Terminally ill clients, treatment, **31:59**
- Termination of power to consume, **24:11**
- Transfer by decedent
  - passing by power of appointment, **24:9**
  - settlement of will dispute as transfer, **24:8**
- Use of income, **24:31**
- Veterans' organizations, eligibility, **24:5**
- Will dispute settlement as transfer, **24:8**

## **INCOME INTERESTS**

Charitable remainder trusts, termination, **12:61**

## **INCOME SHIFTING**

Annual gift tax exclusion, effect, **9:4**

Below market loans

generally, **9:18**

definition, **9:19**

scope of statutory coverage, **9:20**

Clifford trusts, **9:7, 19:66**

Corporate loans to shareholders, **9:23**

Credit shelter trust, use, **17:41**

Family partnerships, **9:27**

Family share trust, use, **17:41**

Fiscal year, use, **9:16**

Gift or demand loans

generally, **9:18**

income shifting effect, **9:21**

scope of statutory coverage, **9:20**

Gift tax taxable event, **9:31**

Gifts to custodianships, **9:15**

Interest free loans, **9:17**

Irrevocable trust, use, **19:56**

Kiddie tax provisions, **9:26**

Loans

between estates and beneficiaries, **9:24**

between trusts and beneficiaries, **9:24**

gift or demand, **9:18**

interest free, **9:17**

low interest, **9:17**

Section 7872, **9:18 to 9:25**

Marginal tax rates, **9:3**

Nonreversionary trusts, use, **9:11**

Personal exemptions, effect of phaseout, **9:3**

Purpose, **9:2**

Reversionary trusts

creation after 1986, **9:9**

death of beneficiary before majority, **9:10**

statutory history, **9:6**

use, **9:5**

S corporations

qualified trusts, **9:29**

use, **9:28**

Sales and leasebacks, **9:30**

Section 678 trusts, **9:12**

Section 7872 loans

applicable statute, **9:18**

below market loan, defined, **9:19**

between estates and beneficiaries, **9:24**

between trusts and beneficiaries, **9:24**

consequences of compliance, **9:25**

corporations, to shareholders, **9:23**

gift loans, income tax effect, **9:21**

loans covered, **9:20**

planning strategies, **9:22**

Spousal remainder trusts

income shifting vehicle, **9:8**

use, **19:66**

Tax incentives, **9:3**

Tax incident to transfer, **9:2**

Tax rates

effect of reduction, **9:3**

EGTRRA 2001, **9:3**

Transfer tax implications, **9:4**

## **INCOME SHIFTING—Cont'd**

Trusts, incentive to use, **9:3**

Unmarried clients, **14:4**

Withdrawal rights of trust beneficiary, **9:12**

## **INCOME SPLITTING**

Community property, **10:51**

## **INCOME STATEMENT ADJUSTMENTS**

Valuation of small business interests, **35:43**

## **INCOME TAX**

See also index headings INCOME TAX CHARITABLE

CONTRIBUTIONS; INCOME TAXATION OF ESTATES AND TRUSTS

Additions, **39:31**

Alternate valuation of inherited property, **10:19**

Basis for gain or loss

generally, **10:19**

allocation, nonspousal joint ownership property, **10:29**

Charitable deductions

capital gains property, **12:15, 12:16**

donee organizations, **12:4**

double deductions, **31:54**

estate and trust contributions, **12:18**

excess contributions, carryover, **12:17**

gift tax ramifications, **12:5**

legislative history, **12:3**

limitations, **12:9 to 12:10**

property valuation overstatements, penalty, **39:31**

reduction rules, **12:19, 12:22 to 12:39**

Community property income splitting, **10:51**

Corporate rates, **3:24**

Decedent's income tax, proceedings to determine, **39:3**

Deductions

charitable deduction valuation overstatements, **39:31**

deductions in respect of decedent, **16:52**

Disclaimers, **37:20**

Distributions to beneficiaries, **32:35 to 32:46**

Divorce, transfers of property between spouses incident to, **11:9**

Employer identification number, necessity, **34:10**

Estates

administration expenses, deduction, **32:27**

applicability of rules, **32:5**

basis of property to beneficiaries, **32:41**

beneficiaries' gross income, inclusion of distributions, **32:37**

bequest of personal effects, **32:36**

bookkeeping, **32:9**

business expense deduction, **32:21**

capital gains and losses, **32:14**

charitable deduction, **32:24**

common deductions, **32:20 to 32:30**

deductions, **32:17 to 32:34**

deductions in respect of decedent, **32:54**

depreciation and depletion deduction, **32:26**

distributable net income, **32:3**

distribution deduction, **32:18**

distributions to beneficiaries, **32:35 to 32:46**

election between estate and income tax deduction, **32:32**



## INDEX TO TEXT

### INCOME TAX—Cont'd

Estates—Cont'd  
estate tax deduction, **32:28**  
estimated payments, **32:65**  
excess deductions, **32:22**  
excise and stamp taxes, deduction, **32:23**  
exclusions, **32:10**  
expenses for production of income, deduction, **32:27**  
expenses relating to tax exempt income, allocation, **32:31**  
Federal import duties, deduction, **32:23**  
fiduciary accounting income, taxable income distinguished, **32:4**  
foreign taxes, deduction, **32:23**  
gain or loss on in-kind distributions, **32:42**  
income items, **32:11 to 32:16**  
in-kind distributions, **32:40**  
interest deduction, **32:22**  
Kenan gains, **32:44**  
losses, deduction, **32:25**  
monetary bequests, **32:36**  
personal exemption, **32:19**  
personal property income, **32:13**  
personal property taxes, deduction, **32:23**  
qualified plan distributions, **32:46**  
real estate taxes, deduction, **32:23**  
real property income, **32:12**  
sales taxes, deduction, **32:23**  
specific gifts, exclusion from income, **32:36**  
state and local taxes, **20:18**  
tax credits, availability, **32:34**  
tax return, duty to file, **32:2**  
taxable entity, **32:9**  
taxable year, **32:66**  
2 percent limitation for miscellaneous deductions, **32:30**  
unused loss carryovers, **32:33**  
Estate's income tax return  
administration expenses, deduction, **33:23**  
casualty losses, deduction, **33:23**  
preparation, responsibility, **33:22**  
responsibility for filing, **33:22**  
Estimated payments, fiduciary income tax return, **34:8**  
Expense allocation, nonspousal joint ownership property, **10:29**  
Final return of decedent  
capital losses, **33:04**  
estimated payments, **33:05**  
filing status, **33:03**  
income earned by estate, reporting, **33:22**  
increasing reportable income, **33:08**  
joint return, election to file, **33:03**  
medical expenses, deductibility, **33:06**  
net operating losses, **33:04**  
passive activity losses, **33:04**  
personal liability of executor, **33:08**  
preparation, **33:02**  
principal residence capital gains exclusion, election, **33:08**  
requirement, **33:02**  
treasury bond interest, accrual, **33:07**  
unamortized mortgage loan costs, deduction, **33:08**

### INCOME TAX—Cont'd

Final return of decedent—Cont'd  
unrecovered investment deduction, **33:08**  
unused loss carryforwards, **33:04**  
Form 5495: discharge from liability for gift and income tax, **34:133**  
Generation skipping tax  
basis adjustment, **26:42**  
coordination, **26:38, 26:43**  
double taxation, prevention, **26:43**  
Gift or demand loans, effect, **9:21**  
Grantor trust installment sales  
adequate disclosure, **29:28**  
earnings of trust, **29:30**  
income tax during grantor's life, **29:26**  
income tax reporting, **29:28**  
tax upon grantor's death, **29:27**  
Guardianship accounts, **30:20**  
Income allocation, nonspousal joint ownership property, **10:29**  
Income splitting, community property, **10:51**  
Individual rates, **3:24**  
Individually held property, **10:19**  
Installment sales  
asset freeze technique, **29:08**  
depreciable property, related person, **29:11**  
disposing of obligation, **29:09**  
donative dispositions, **29:10**  
imputed interest, **29:14**  
loss deduction, losing, **29:13, 29:15**  
second disposition, **29:12**  
testamentary dispositions, **29:10**  
Joint bank accounts, **10:33**  
Land trusts, **10:38, 20:27**  
Life insurance proceeds  
generally, **7:7 to 7:15, 22:3 to 22:16**  
additional riders creating new contracts, **7:11**  
correcting inadvertent failure to comply with diversification rules, **7:9**  
demutualization of policy holder's insurance company, **7:15**  
diversification rules, **7:8, 7:9**  
gratuitous transfer, **22:6, 22:7**  
profit, policies acquired for, **7:12**  
rebate of commissions, **7:10**  
safe harbor, **7:7**  
surrender or sale of term-life policy, **7:13**  
termination of policy, **7:14**  
variable contract accounts; diversification rules, **7:8, 7:9**  
Local tax, **20:15**  
Nonqualified deferred compensation plans, **2:7**  
Nonspousal joint ownership property, **10:29**  
Partnerships  
generally, **3:34 to 3:45**  
general liability, **3:34**  
partnership level adjustments, **3:34**  
rates, **3:24**  
Penalties, **39:31**  
Personal exemptions, phaseout, **9:3**  
Planning strategies  
generally, **1:3**  
computer programs available, **1:26**  
Powers of appointment, treatment, **17:65**  
Principal residence sales, **20:19**

## **INCOME TAX—Cont'd**

Reduction of rates, effect on income shifting, **9:3**  
 Refund claims for fiduciary's tax, **39:22**  
 Returns filed late, **39:31**  
 Returns of estate  
     additional estate tax, former law, **33:40**  
     closely held corporation stock, redemption, **33:33**  
     corporate liquidations, **33:34**  
     employer-paid death benefit exclusion, **33:37**  
     estate as separate taxpayer, **33:26**  
     estate fiscal year, election, **33:26**  
     estate tax, partial exclusion, **33:39**  
     estimated payments, **33:27**  
     excess deductions, treatment, **33:28**  
     excess retirement accumulations, **33:40**  
     excise tax, former law, **33:40**  
     interest expense, deduction, **33:23**  
     partnership basis adjustment, **33:35**  
     personal representative fees, waiver, **33:25**  
     property not subject to claims, deduction, **33:24**  
     qualified deferred compensation plans, lump sum distributions, **33:38**  
     recognition of gain, election, **33:30**  
     S corporation election, **33:32**  
     selling expenses, deduction, **33:23**  
 S corporations, rates, **3:24**  
 Savings bonds, **10:36**  
 Section 751 property, **23:10**  
 Selection of trust assets, impact, **19:9**  
 Social security benefits, **13:9**  
 Solely owned property, **10:19**  
 Spousal joint ownership  
     prior law  
         generally, **10:25**  
         before 1982, **10:24**  
     stepped-up value, **10:21**  
 State and local taxes, **20:15, 20:18**  
 Tax shelters, postmortem planning, **25:14**  
 Terminally ill clients  
     charitable gifts, use, **31:53**  
     current returns, timely filing, **31:60**  
     "gain" property transfers, **31:56**  
     income in respect of decedent, **31:59**  
     joint return, filing, **31:52**  
     "loss" property transfers, **31:57**  
     net operating losses, deductibility, **31:58**  
     taxable year, **31:52**  
 Timing of distributions from estates, **33:42**  
 Transfers for valuable consideration, **22:6**  
 Treasury bills and notes, **10:36**  
 Trusts  
     administration expenses, deduction, **32:27**  
     alternative minimum tax, **32:64**  
     applicability of rules, **32:5**  
     basis of property to beneficiaries, **32:41**  
     beneficiaries' gross income, inclusion of distributions, **32:37**  
     business expense deduction, **32:21**  
     capital gains and losses, **32:14**  
     charitable deduction, **32:24**  
     classification, effect, **32:6**  
     common deductions, **32:20 to 32:30**  
     complex trusts, **32:8**

## **INCOME TAX—Cont'd**

Trusts—Cont'd  
     deductions, **32:17 to 32:34**  
     deductions in respect of decedent, **32:54**  
     depreciation and depletion deduction, **32:26**  
     distributable net income, **32:3**  
     distribution deduction, **32:18**  
     distributions to beneficiaries, **32:35 to 32:46**  
     election between estate and income tax deduction, **32:32**  
     estate tax deduction, **32:28**  
     estimated payments, **32:65**  
     excess deductions, **32:33**  
     excise and stamp taxes, deduction, **32:23**  
     exclusions, **32:10**  
     expenses for production of income, deduction, **32:27**  
     expenses relating to tax exempt income, allocation, **32:31**  
     Federal import duties, deduction, **32:23**  
     fiduciary accounting income, taxable income distinguished, **32:4**  
     foreign taxes, deduction, **32:23**  
     gain or loss on in-kind distributions, **32:42**  
     generation skipping tax rules, **26:8**  
     gift of personal effect, **32:36**  
     grantor trust rules, **32:59 to 32:64**  
     includable gain, recognition, **32:16**  
     income items, **32:11 to 32:16**  
     in-kind distributions, **32:40**  
     interest deduction, **32:22**  
     Kenan gains, **32:44**  
     losses, deduction, **32:25**  
     monetary bequests, **32:36**  
     multiple trusts, **32:69**  
     personal exemption, **32:19**  
     personal property income, **32:13**  
     personal property taxes, deduction, **32:23**  
     qualified plan distributions, **32:46**  
     real estate taxes, deduction, **32:23**  
     real property income, **32:12**  
     sales taxes, deduction, **32:23**  
     separate share rule, **26:8, 32:68**  
     simple trusts, determination, **32:7**  
     sixty-five day rule, **32:67**  
     specific gifts, exclusion from income, **32:36**  
     state and local taxes, **20:18**  
     tax credits, availability, **32:34**  
     tax return, duty to file, **32:2**  
     taxable year, **32:66**  
     2 percent limitation for miscellaneous deductions, **32:30**  
     unused loss carryovers, **32:33**  
 Unearned income of child, **30:20**  
 Uniform Gifts (Transfers) to Minors Act accounts, **30:20**  
 Valuation overstatement penalties, **39:31**  
 Valuation principles, **35:1 to 35:74**  
**INCOME TAX CHARITABLE CONTRIBUTIONS**  
 Admission tickets, **12:36**  
 Alternative minimum tax, effect, **12:90**  
 Artwork, **12:24**  
 Bargain sale, use, **12:91**

## INDEX TO TEXT

### INCOME TAX CHARITABLE CONTRIBUTIONS—Cont'd

- Boats, **12:24**
- Bonds, **12:33**
- Capital gains property limitations
  - cash contribution, **12:15**
  - corporate deductions, **12:16**
  - fifty percent organizations, **12:14**
  - long term property, **12:15, 12:26**
  - public charities, **12:14**
  - reduction rules, effect, **12:14**
  - thirty percent organizations, **12:14**
- Carryover of excess, **12:17**
- Cash
  - generally, **12:24**
  - substantiation, **12:8**
- Charitable lead trusts, valuation, **12:46**
- Charitable remainder trusts
  - generally, **12:53 to 12:80**
  - introduction, **12:2**
  - value of deduction, **12:70**
- Checks, timing, **12:20**
- Closely held stock
  - generally, **12:31**
  - prior to change in ownership, **12:32**
- Commodities, **12:34**
- Conditioned upon deductibility, **12:93**
- Contribution base, definition, **12:10**
- Corporate contributions
  - generally, **12:7**
  - capital gains property, limitations, **12:16**
- Credit cards, timing, **12:20**
- CRUTs, multiple and related, self-dealing rules, **12:53**
- Dealings with multiple CRUTs, **12:53**
- Deductible organizations
  - basis of deduction, **12:5**
  - overview, **12:4**
- Deductions
  - gift tax ramifications, **12:5**
  - statutory scheme, **12:4**
- Delivery of property, **12:7**
- Divided property, **12:87**
- Donative intent, importance, **12:6**
- Easements, value, **12:88**
- Encumbered property, effect, **12:92**
- Estate percentage limitation, **12:18**
- Excess, carryover, **12:17**
- Fair market value, definition, **12:8**
- Fiduciary income tax return
  - line, filling out, **34:21**
  - Schedule A, preparation, **34:31**
- Future interest rule, **12:35**
- Gift tax consequences, **12:41**
- Gifts of present interest, **12:20 to 12:41**
- Income interest transfers
  - generally, **12:44**
  - charitable lead grantor trust, **12:45**
  - estate tax consequences, **12:48**
  - gift tax consequences, **12:48**
  - recapture, **12:47**
  - valuation, **12:46**
- Individual percentage limitation
  - generally, **12:9**
  - both fifty and thirty percent, **12:13**

### INCOME TAX CHARITABLE CONTRIBUTIONS—Cont'd

- Individual percentage limitation—Cont'd
  - contribution base, **12:10**
  - fifty percent organizations, **12:11**
  - “for use of” deduction, **12:12**
  - private foundations, **12:11**
  - public charities, **12:11**
  - thirty-percent limitation, **12:12**
- Installment sales contracts, **12:37**
- Legislative history, **12:3**
- Life insurance, **12:29**
- Local law, impact, **12:1**
- Long term capital gain property, **12:26**
- Non-cash property
  - generally, **12:22**
  - substantiation, **12:8**
- Ordinary income property, **12:23**
- Out-of-pocket expenses, **12:40**
- Partial interests
  - generally, **12:42**
  - gift tax considerations, **12:81**
  - outside of trusts, **12:84**
  - reformation, **12:82**
- Partnership interests, **12:39**
- Percentage limitations, **12:9 to 12:13**
- Phone payments, timing, **12:20**
- Pledges, timing, **12:20**
- Private foundations, use, **12:89**
- Promissory notes, timing, **12:20**
- Property beyond control of donor, **12:20**
- Property in excess of \$5,000, substantiation, **12:8**
- Property less than \$5,000, substantiation, **12:8**
- Publicly-traded securities, substantiation, **12:8**
- Qualified conservation contributions, value, **12:88**
- Real estate, timing, **12:20**
- Real estate limited partnership interest, **25:7**
- Recapture of income, **12:47**
- Records maintenance, **12:8**
- Reduction rules, **12:19**
- Related use, **12:24**
- Remainder interest in farm, value, **12:86**
- Remainder interest in personal residence, value, **12:86**
- Securities
  - generally, **12:30**
  - timing, **12:20**
- State law, impact, **12:1**
- Substantiation, **12:8**
- Tangible personal property, **12:24, 12:25**
- Timing of contributions, **12:7**
- Trust percentage limitation, **12:18**
- Undivided portion of entire interest, value, **12:87**
- Unmarried clients
  - generally, **14:4**
  - use in estate plans, **14:17**
- Use in lifetime planning, introduction, **12:2**
- Valuation
  - generally, **12:8**
  - deduction, **12:85**
  - services provided, **12:40**
- Works of art, **12:35**

### INCOME TAX PLANNING

- Computer programs available, **1:26**

## INCOME TAXATION OF ESTATES AND TRUSTS

Generally, **32:1**  
 Accountant fees, deduction, **32:27**  
 Administration expense deduction  
     generally, **33:23**  
     personal representatives' fees, waiver, **33:25**  
     property not subject to claims, **33:24**  
 Administration expenses, deduction, **32:27**  
 Alcohol used as fuel credit, **32:34**  
 Alternative minimum tax, applicability, **32:64**  
 Amounts permanently set aside for charitable purposes, deduction, **32:24**  
 Attorney fees, deduction, **32:27**  
 Beneficiaries, inclusion of distribution in income, **32:37**  
 Beneficiaries' gross income, inclusion of distributions, **32:37**  
 Bequest of personal effects, **32:36**  
 Business expense deduction, **32:21**  
 Business loss, deduction, **32:25**  
 Capital gains and losses  
     adjustment, **32:3**  
     holding period, **32:15**  
     includable gain, recognition, **32:16**  
     sale within two years of transfer, **32:16**  
     taxable item, **32:14**  
 Casualty or theft loss, deduction, **32:25, 33:23**  
 Charitable deduction, **32:24**  
 Common deductions, **32:20 to 32:30**  
 Complex trusts  
     definition, **32:8**  
     sixty-five day rule, **32:67**  
     throwback rules, application, **32:56**  
 Creator of trust, no gratuitous transfers, required, **32:60**  
 Death benefits, **32:51**  
 Deductions, **32:17 to 32:34**  
 Deductions in respect of decedent  
     availability, **32:54**  
     business expenses, **32:47**  
     definition, **32:47**  
 Depreciation and depletion deduction, **32:26**  
 Distributable net income  
     generally, **32:3**  
     deduction in excess, **32:18**  
     inclusion in beneficiaries' gross income, **32:37**  
 Distribution deduction  
     generally, **32:18**  
     adjustment, **32:3**  
 Distributions to beneficiaries  
     generally, **32:35 to 32:46**  
     basis of property, **32:41**  
     character after distribution, **32:38**  
     inclusion in income, **32:37**  
     in-kind distributions, **32:40**  
     tier system, **32:39**  
 Earned income credit, availability, **32:34**  
 Election between estate and income tax deduction, **32:32**  
 Entities subject to taxation, **32:5**  
 Estate taxes, deduction, **32:28**  
 Estates, taxable entity, **32:9**

## INCOME TAXATION OF ESTATES AND TRUSTS—Cont'd

Estate's income tax return  
     closely held corporation stock, redemption, **33:33**  
     corporate liquidation, **33:34**  
     distribution of property in kind, recognition of gain, **33:30**  
     employer-paid death benefit exclusion, **33:37**  
     estate taxes, partial exclusion, **33:39**  
     estimated tax payments, **33:27**  
     excess deductions, treatment, **33:28**  
     excise taxes, former law, **33:40**  
     fiscal year, selection, **33:26**  
     partnership basis adjustment, **33:35**  
     qualified deferred compensation plans, lump sum distributions, **33:38**  
     S corporation election, **33:32**  
     unused loss carryovers, **33:29**  
 Estimated tax payments, **32:65**  
 Excess deductions, **32:33**  
 Excise and stamp taxes, deduction, **32:23**  
 Exclusions, **32:10**  
 Expenses of litigation, deduction, **32:27**  
 Expenses relating to tax exempt income, allocation, **32:31**  
 Extraordinary dividends, adjustment, **32:3**  
 Fiduciaries  
     accounting income, taxable income distinguished, **32:4**  
     commissions, deduction, **32:27**  
     income tax return, duty to file, **32:2**  
 Foreign tax credit, availability, **32:34**  
 Foreign taxes, deduction, **32:23**  
 Foreign trusts, adjustment, **32:3**  
 Gain or loss on in-kind distributions, **32:42**  
 Grantor, defined, **32:59**  
 Grantor trust rules  
     application, **32:59**  
     attribution rule, **32:60**  
     exception to substantial owner rule, **32:61**  
     foreign trusts, **32:62**  
     grantor as substantial owner, **32:60**  
     outbound transfers, **32:62**  
     reversionary interest, effect of retention, **32:60**  
     substantial owner, **32:59**  
     third party as substantial owner, **32:61**  
 Import duties, deduction, **32:23**  
 Income in respect of decedent  
     acceleration of tax, **32:53**  
     character of income, **32:50**  
     classification factors, **32:48**  
     crop inventory, **32:47**  
     definition, **32:47**  
     estate tax deduction, **32:28, 32:29**  
     examples, **32:49**  
     exception, **32:53**  
     final paycheck, **32:47**  
     inclusion in gross income, **32:47**  
     installment obligation, exception, **32:53**  
     IRA rollovers, **32:47**  
     matured interest coupons, **32:47**  
     partnership receipts, **32:52**  
     planning techniques, **32:55**  
 Income items, **32:11**

## INDEX TO TEXT

### **INCOME TAXATION OF ESTATES AND TRUSTS—Cont'd**

Income tax return, duty to file, **32:2**  
Increasing research activities credit, availability, **32:34**  
In-kind distributions  
    generally, **32:40**  
    gain recognition election, **32:43**  
    Kenan gains, **32:44**  
    marital bequests, funding, **32:45**  
    pecuniary legacies, **32:44**  
    Section 643(e) election, **32:43**  
Interest deduction, **32:22**  
Investment advice, deductibility, **32:30**  
Investment interest deduction, **32:22**  
IRA rollovers, **32:47**  
Loss deduction, **32:25**  
Monetary bequests, exclusion from income, **32:36**  
Multiple trusts, treatment, **32:69**  
Outbound transfers, **32:62**  
Owner of trust, excepted from tax, **32:62**  
Person receiving benefit of taxable item, **32:2**  
Personal exemption adjustment, **32:3**  
Personal exemptions, **32:19**  
Personal interest deduction, **32:22**  
Personal property income, taxable item, **32:13**  
Personal property taxes, deduction, **32:23**  
Political contributions tax credit, availability, **32:34**  
Production of fuel from nonconventional source, availability of tax credit, **32:34**  
Qualified plans, distributions, **32:46**  
Real estate tax deduction, **32:23**  
Real property income, taxable item, **32:12**  
Salary payments, **32:51**  
Sales taxes, deduction, **32:23**  
Separate share rule, **32:68**  
Simple trusts  
    definition, **32:7**  
    throwback rules, application, **32:56**  
Sixty-five day rule, **32:67**  
Specific gifts, exclusion from income, **32:36**  
Targeted jobs credit, availability, **32:34**  
Tax credit for elderly, availability, **32:34**  
Tax exempt interest, adjustment, **32:3**  
Tax return preparer fees, deduction, **32:27**  
Taxable income, fiduciary accounting income distinguished, **32:4**  
Taxable year, **32:66**  
Throwback rules  
    accumulation of income, requirement, **32:57**  
    application, **32:56**  
    exceptions, **32:58**  
Title to assets, vesting, **32:6**  
Trusts, classification, **32:6**  
2 percent floor for miscellaneous deductions, **32:30**  
Unused loss carryovers, **32:33**

### **INCOMPETENT BENEFICIARIES**

Distribution of trusts, **19:38**  
Estate planning considerations, **17:24**

### **INCOMPETENT PERSONS**

Attorney-in-fact's representation, **30:05**  
Guardian of property, responsibilities, **30:04**  
Guardianship accounts, **30:20**

### **INCOMPETENT PERSONS—Cont'd**

Power of attorney, gift making authority, **16:14**

### **INDEPENDENT INSURANCE AGENTS**

Overview, **7:4**

### **INDEPENDENT TRUSTEES**

Completed gift, consent, **16:14**  
Definition, **30:30**  
Discretionary powers without tax consequences, **30:30**  
Division of duties with multiple trustees, form, **30:35**  
Multiple trustees, drafting suggestions, **30:34, 30:35**  
Removal power, **30:33**  
Selection planning suggestions, **30:32, 30:33**

### **INDIVIDUAL INCOME TAX**

Maximum rate, **4:4**

### **INDIVIDUAL OWNERSHIP**

Tax advantaged investments, **6:33**

### **INDIVIDUAL PERCENTAGE LIMITATIONS**

Charitable donations, **12:9 to 12:13**

### **INDIVIDUAL RETIREMENT ACCOUNTS (IRAs)**

Contribution limitations  
    generally, **5:59**  
    spousal IRAs, **5:60**  
Contributions, participation in employer plan, **5:59**  
Deemed IRAs, **5:58**  
Distributions  
    estate and trust income taxation, **32:46**  
    fiduciary income tax return line, **34:18**  
    previously received, spousal rollovers, **5:65**  
    repeal of five-year averaging rule, **13:15**  
Divorcing spouses, **11:16**  
Education savings plans, **5:74**  
Estate tax, **16:30**  
Excess contributions, investment in the contract, **5:62**  
Fiduciaries, qualified rollovers, **5:55**  
Five-year averaging, **13:15**  
Gifts of present interest, tax free distributions from IRAs, **12:21.50**  
Modifications, QDRO allocations, **5:63**  
Prior receipt of distributions, spousal rollovers, **5:65**  
QTIP  
    contingent on election, **21:38**  
    life estate received by spouse, **21:38**  
Recharacterize unqualified contributions, Roth IRA contributions, **5:73**  
Rollovers  
    generally, **5:46**  
    inclusion in gross estate, **5:65**  
    like-kind rollovers, **5:65**  
    qualified fiduciary requirements, **5:55**  
    repeal of five-year averaging rule, **5:47**  
Rollovers by beneficiary, IRD considerations, **32:47**  
Roth IRAs  
    recharacterize unqualified contributions, **5:73**  
    requirements, **5:73**  
    separate trusts required, **5:73**  
Simple IRA requirements, **5:57**  
SIMPLE plans, application and use, **5:57**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### INDIVIDUAL RETIREMENT ACCOUNTS (IRAs)—Cont'd

Spousal rollovers  
generally, **5:65**  
IRD considerations, **32:47**  
Tax free distributions from IRAs, gifts of present  
interest, **12:21.50**  
Tax-free growth in account, requirements, **5:73**  
Valuation, **35:7**  
Withdrawals, **13:15**

### INDIVIDUAL RETIREMENT ARRANGEMENTS

Generally, **5:54**  
See also index heading INDIVIDUAL RETIREMENT ACCOUNTS  
(IRAs)  
Account defined, **5:55**  
Annuities, **5:57**  
Bonds, **5:66**  
Contributions  
deductible, **5:59**  
excess, **5:62**  
nondeductible, **5:61**  
Deductible contributions, **5:59**  
Deemed distributions, **5:64**  
Distributions  
generally, **5:63**  
deemed, **5:64**  
Divorce settlements, **5:63**  
Employee trust accounts, **5:56**  
Excess contributions, **5:62**  
HR 10 Plans, **5:72**  
Keogh Plans, **5:72**  
Nondeductible contributions, **5:61**  
Prohibited transactions, **5:64**  
Rollovers, **5:65**  
Salary reduction arrangements, **5:71**  
SEPs, **5:67 to 5:70**  
Spousal IRAs, **5:60**  
Spousal rollovers, **5:65**

### INDIVIDUAL TAXPAYER IDENTIFICATION NUMBERS (ITIN)

Nonresident aliens, issuance and use, **1:4**

### INDIVIDUALLY HELD PROPERTY

Basis for gain or loss, **10:19**  
Conveyance, **10:2**  
Disposition at death, **10:2**  
Married person as titleholder, **10:2**  
Rights incident to ownership, **10:2**  
Tax consequences, **10:19**  
Transfer, **10:2**

### INFLATION ADJUSTMENTS

Items permitted, annual Revenue Procedure, **9:3**

### INFORMATION GATHERING

Estate planning, generally, **15:6**

### INHERITANCE TAX

Apportionment, **18:9**  
City, deduction of, **16:52**  
Credit, Federal estate tax, **16:62**  
Deductibility, Federal estate tax, **16:52**  
Description, **20:21**

### INHERITANCE TAX—Cont'd

Dual domicile cases, **20:22**  
Imposition by states, **20:20 to 20:23**

### IN-KIND DISTRIBUTIONS OF ASSETS

Estate tax marital deduction, **21:67**

### INSIDE BASIS

See also index heading BASIS FOR GAIN OR LOSS  
Death of investor, **25:10**  
Definition, **25:4**

### INSTALLMENT ESTATE TAX PAYMENTS

Active business requirement, **23:15**  
Election for deferred payments, timing of, **36:14**  
Interest deductions, **36:13**

### INSTALLMENT OBLIGATIONS

Postmortem planning, **33:47**  
Safe harbor interest rates, **16:22**

### INSTALLMENT PAYMENT OF ESTATE TAXES

Acceleration, **36:21**  
Deficiencies, interest rate, **36:15**  
Judicial review, **36:16**  
Overpayments, **36:11**

### INSTALLMENT SALES

Asset freeze technique  
cancellation provision, drafting, **29:18**  
comparative chart, **29:50**  
depreciable property, related person, **29:11**  
disposing of obligation, **29:09**  
donative dispositions, **29:10**  
estate planning problems, **29:16**  
form for agreement, **29:48**  
form for note, **29:48**  
grantor trust, overview, **29:20, 29:21**  
grantor trust as buyer, **29:19**  
imputed interest, **29:14**  
income tax consequences, **29:08**  
loss deduction, losing, **29:13, 29:15**  
overview, **29:07**  
second disposition, intrafamily, **29:12**  
self-canceling obligations, **29:17**  
testamentary dispositions, **29:10**

Benefits, sale to grantor trust  
generally, **29:22**  
achieving grantor trust treatment, **29:25**  
defective trusts, **29:24**  
income tax issues, **29:23**

Contract, charitable deduction, **12:37**

Contract for deed, completed sale treatment, **6:38**

Grantor trust as buyer

adequate disclosure, **29:28**  
estate tax considerations, **29:32**  
form of trust, **29:36**  
gift tax consequences, **29:29**  
gift tax reporting, **29:31**  
GRAT compared, **29:35**  
GST tax considerations, **29:33**  
income tax during grantor's life, **29:26**  
income tax on trust earnings, **29:30**



## INDEX TO TEXT

### INSTALLMENT SALES—Cont'd

- Grantor trust as buyer—Cont'd
  - income tax reporting, **29:28**
  - sample trust, **29:36**
  - structuring transaction, **29:34**
  - tax upon grantor's death, **29:27**
- Income tax considerations
  - achieving grantor trust treatment, **29:25**
  - sale to grantor trust, **29:23**
- Qualified debt, **14:18**
- Transfer tax benefits, sales to grantor trust, **29:21, 29:22**
- Unmarried client, use in estate plans, **14:18**

### INSUBSTANTIAL VALUE

- Charitable gift benefit, **12:36**

### INSURANCE

- Generally, **22:1**
- See also index headings **LIFE INSURANCE**; **SPLIT DOLLAR LIFE INSURANCE**
- Adjusted basis of property, no "loss" if insurance proceeds exceed, **16:53**
- Charitable gift annuities, **12:78**
- Employee benefit policies, separate contracts, treatment, **2:32**
- Employer accident and health plans, **2:46**
- Equity split dollar arrangements, income and gift tax effects, **2:24**
- Equity split dollar plans, premium rates, **2:24**
- Excess value payments, economic benefit analysis, **3:23**
- Gift tax, estate-included, **22:15**
- Kickback of premiums, **2:2**
- Loan interest, deductibility, **2:31**
- Premiums paid, deductibility, **3:64**
- Retirement planning, **13:22**
- Split dollar plans, premium rates, **2:24**
- Transfers
  - exchanged for partnership interest, **2:15**
  - right to determine trustee compensation, **22:14**

### INSURANCE AGENCIES

- Valuations, **35:55**

### INSURANCE TRUSTS

- Insured as trustee, **22:14**

### INTANGIBLE ASSETS

- Use in valuations, **35:56**

### INTANGIBLE PERSONAL PROPERTY

- Definition, **10:1**
- Examples, **10:1**

### INTELLECTUAL PROPERTY

- Gifts of present interest, **12:38**

### INTER VIVOS GIFTS

- Basis, consideration, **31:50**
- Elements, charitable contribution deduction, **12:6**
- Use in unmarried client's estate plan, **14:11**

### INTER VIVOS POWER OF APPOINTMENT

- Gift tax treatment, **17:63**

### INTER VIVOS TRUSTS

- Characteristics, **17:5**
- Creation, **19:4**
- Life insurance policy, ownership, **22:21**
- Terminally ill client, use, **31:25**
- Trustees, appointment, **19:43**
- Use, **1:11**

### INTEREST

- Additional amount tax assessments, **39:31**
- Additions to tax, **39:31**
- Administration expense, **33:23**
- Below market loans, safe harbor rate, **9:17**
- Cash bond for suspension on unpaid taxes, **39:12**
- Deductions, fiduciary income tax return line, **34:20**
- Estimated tax payments, **39:31**
- Federal short-term rate, **39:31**
- Generation skipping tax, effect on calculation, **26:21**
- Home mortgages, **1:3**
- Income, fiduciary income tax return line, **34:12**
- Jeopardy assessments, **39:31**
- Mortgages for residences, **1:3**
- Penalty assessments in tax collection, **39:31**
- Prejudgment award, ordinary income characterization, **2:5**
- Rate for tax underpayments, **39:31**
- Rates
  - overpayments of tax, **39:31**
  - pension plan loans, **5:36**
  - underpayments of tax, **39:31**
- Tax deficiencies in agreed cases, **39:8, 39:9**
- Taxes, transferee liability, **16:66**
- Taxes not paid by due date, **39:31**
- Treasury bond, reporting on final income tax return of decedent, **33:07**
- Underpayments, deductibility, **39:31**

### INTEREST DEDUCTIONS

- Estate income tax, **32:22**
- Life insurance policy loans, **7:16**
- Trust income tax, **32:22**

### INTEREST INCOME

- Tuition savings bonds, **6:44**

### INTEREST PAYMENTS

- Installment tax payments, **36:13**

### INTEREST RATES

- Applicable Federal rates, below market loans, **9:19**

### INTEREST-FREE DEMAND LOANS

- Valuation of gift element, **9:17**

### INTEREST-FREE LOANS

- Income shifting vehicle, **9:17**

### INTERPOLATED TERMINAL RESERVE VALUE

- Life insurance, community property, **10:42**

### INTERRELATED COMPUTATIONS

- Testamentary charitable planning, **24:34**

### INTESTACY

- Avoiding in testate succession, **17:3**

## **INTESTACY—Cont'd**

Estate administration, **20:6**  
 Marital deduction  
     estate taxes, **21:6**  
     increasing, **21:12**  
 Succession without a will, **20:6**

## **INVENTORY**

Partnership interest sale, proceeds attributable,  
     ordinary income, **3:108**  
 Real estate, taxable income, **3:23**

## **INVESTMENT ADVISORS**

Fees  
     miscellaneous deductions, **33:23**  
     2 percent floor limitation, fees subject to, **32:30**

## **INVESTMENT COMPANIES**

Capitalization, partnership nonrecognition provisions,  
     **27:82**  
 Valuations, **35:31**

## **INVESTMENT IN THE CONTRACT**

Individual retirement accounts, excess contributions,  
     **5:62**

## **INVESTMENT INTEREST**

Deduction, **32:22**  
 Definition, **6:17**

## **INVESTMENT LETTER STOCK**

Valuations, **35:32**

## **INVESTMENT LOSSES**

At-risk rules, **6:7**  
 Determination, **6:11**  
 Offsetting against income, **6:5**  
 Passive activities  
     definition, **6:8, 6:9**  
     phase-in rules, applicability, **6:16**  
     rules, **6:6**  
     transfer of activity with unused losses, **6:15**  
 Portfolio income, offsetting rules, **6:12**

## **INVESTMENT PROPERTIES**

Valuations, **35:15**

## **INVESTMENT TAX CREDIT**

Fiduciary income tax return, **34:28**  
 S corporations, **3:47**

## **INVESTMENTS**

Business expense deductions, **2:50**  
 Charitable remainder trusts, **12:64**  
 Foreign sourced income, **6:2**  
 Tax shelter type, penalty exposure, **6:2**  
 Total return investment strategies, income  
     characterization, **32:11**

## **INVESTOR CONTROL DOCTRINE**

Life insurance, **22:5**

## **IRAs**

See index heading **INDIVIDUAL RETIREMENT ACCOUNTS**  
     (IRAs)

## **IRD**

See index heading **INCOME IN RESPECT OF DECEDENT (IRD)**

## **IRREVOCABLE LIFE INSURANCE TRUSTS**

Treatment of, **22:25 to 22:33**

## **IRREVOCABLE TRUSTS**

Generally, **19:54**  
 See also index headings **REVOCABLE TRUSTS; TRUSTS**  
 Advantages, **19:55, 19:60**  
 Asset freezes, installment sale technique, **29:19 to 29:36**  
 Charitable trusts, **19:65**  
 Clifford trusts, **19:66**  
 Crummey powers, **19:58**  
 Disclaimers of remainder interests, **26:26**  
 Drafting of agreement, **19:60**  
 Educational trust, **19:66**  
 Family support trust, form, **19:69**  
 Generation skipping transfer tax  
     effective date, **26:26**  
     transition rule, **26:27**  
 Gift  
     definition, **19:57**  
     present interest, qualifications, **19:57**  
 Gift tax liability, **19:57**  
 Grantors, control, **19:56**  
 Grantor's gross estate  
     form, **19:63**  
     inclusion, **19:59**  
 Income payment by trust, **19:59**  
 Income shifting, **19:56**  
 Income taxation, **19:56**  
 Insurance policy proceeds, provisions, **19:62**  
 Irrevocability provision, **19:61**  
 Life insurance trusts  
     administering after grantor's death, form, **22:33**  
     advantages, **22:25**  
     Crummey powers, **22:10**  
     deemed transfer rule, **22:29**  
     deemed transfers of insurance policies, **22:29**  
     definition, **22:27**  
     distinguishing features, **22:26**  
     estate taxation, **22:28**  
     form, **19:68**  
     formal requirements, **22:26**  
     grantor trust provisions, **22:30**  
     large estate, use, **22:27**  
     liquidity of estate, **22:32**  
     ownership by insured as trustee, **22:23**  
     Section 2036(c) application, **22:25**  
     special powers of appointment, **22:31**  
     super trust, definition, **22:27**  
     transfer of ownership, **22:15**  
     use, **19:64**  
 Mortgaged real estate, use, **19:9**  
 Overall treatment, **19:54 to 19:69**  
 Overview, **19:55**  
 Pour over provisions, **19:60**  
 Powers of withdrawal, **19:58**  
 Property subject to depreciation recapture, use, **19:9**  
 Qualified compensation plan, proceeds, provision,  
     **19:62**  
 Reformation for mistake, life insurance trust, **22:26**  
 Section 2037 property, inclusion in gross estate, **19:59**  
 Split dollar life insurance policy, transfer, **2:23**

## INDEX TO TEXT

### IRREVOCABLE TRUSTS—Cont'd

Spousal remainder trusts, **19:66**  
Transfer of limited partnership interest, tax treatment, **25:8**  
Treatment, **19:54 to 19:69**  
Trust agreements, preparation, **19:60**  
Use, **1:11, 19:54**

### IRS FORMS

Form 56: notice concerning fiduciary relationship, **34:120**  
Form 706 (1988), **34:122**  
Form 706: Estate tax return, **34:112**  
Form 706, uncompleted form, **34:114**  
Form 706-QDT, **34:115**  
Form 709 (1988), **34:121**  
Form 709: gift tax return and supporting schedules, **34:55**  
Form 709: United States gift (and generation-skipping transfer) tax return and supporting schedules, **34:56**  
Form 712: life insurance statement, **34:122**  
Form 712, uncompleted form, **34:123**  
Form 1041  
    generally, **34:1**  
    computation of tax, **34:26**  
    deduction calculation, **34:19**  
    income or loss calculation, **34:12**  
    preliminary considerations, **34:2**  
    schedules and other requirements, **34:31**  
    when to file, **34:6**  
Form 1041: explained, **34:36**  
Form 1041: fiduciary income tax, **34:35**  
Form 2758: application for extension of time to file, **34:127**  
Form 4768, application for extension of time, **34:129**  
Form 4810: request for prompt assessment, **34:131**  
Form 5495: discharge from personal liability, **34:133**  
Form 8869, designating QSub status, **3:46**  
Form SS-4  
    generally, **34:118**  
    employer identification number, **34:117**  
Pooled income fund, **12:97**

### IRS RESTRUCTURING AND REFORM ACT OF 1998

Roth IRA rollovers, **5:73**

### IRS TABLES

Generally, **35:75**

## J

### JEOPARDY ASSESSMENTS

Interest, **39:31**

### JEOPARDY BONDS

Tax Court appeals, **39:21**

### JEWELRY

Valuations, **35:11**

### JOINT AND MUTUAL WILLS

Estate tax marital deduction, **21:47**

### JOINT AND SURVIVOR ANNUITIES

Marital deduction, estate tax, **21:12**

### JOINT AND SURVIVOR ANNUITIES—Cont'd

Qualified joint and survivor annuities, gift tax, **16:10**  
Terminable interest character, **21:16**

### JOINT BANK ACCOUNTS

Characteristics, **10:33**  
Community property funds, **10:41**  
Disclaimer timing requirements, **37:10**  
Gift tax, completed gifts, **16:14**  
Testamentary dispositions, **18:29**

### JOINT BROKERAGE ACCOUNTS

Disclaimer of, acceptance of benefits exception, **37:11**

### JOINT COMMITTEE ON TAXATION

Authority, **39:26**

### JOINT FIDUCIARIES

See also index headings FIDUCIARIES; PERSONAL REPRESENTATIVES  
Power and responsibility determination, **18:57**  
Selection considerations, **30:56**  
Will provisions, powers and responsibilities, **18:57**

### JOINT MANAGEMENT

Community property, creditors claims, **10:7, 10:13**

### JOINT OWNERSHIP

See also index headings NONSPOUSAL JOINT OWNERSHIP; SPOUSAL JOINT OWNERSHIP  
Conservation easement, charitable income tax deduction where deceased co-tenant's estate takes estate tax exclusion, **12:88, 24:19**  
Spousal on-half rule, **16:38**

### JOINT PERSONAL REPRESENTATIVES

See also index headings FIDUCIARIES; PERSONAL REPRESENTATIVES  
Concurrence requirement, **18:57**  
Failure of one to serve, **18:54**  
Nomination power transfer to another by will, **18:54**  
Nominations by will, **18:54**  
Successor nominations by will, **18:54**

### JOINT PURCHASE VALUE SHIFTING

Generally, **28:23**  
Case law developments and responses, **28:25**  
Fair market value, **28:24**  
Gifts, **28:24**  
Income tax rules, **28:23**  
Retained interest, trust, **28:24**  
Section 2702, **28:24**  
Tax legislation impact, **28:24**

### JOINT PURCHASES

See also index heading VALUE SHIFTING  
Analysis of benefits, **28:23**  
Enterprise, Section 2036(c), **14:19**  
Section 2036(c)  
    enterprise, **14:19**  
Use, **14:19**  
Value shifting techniques, **28:23**

### JOINT RETURNS

Divorce or separation  
    filing status, determination of, **11:20**

## **JOINT RETURNS—Cont'd**

Divorce or separation—Cont'd  
     refunds after separation, **10:7**  
     separation agreements and decrees, **11:35**  
 Nonresident alien, income tax, **1:4**  
 Spousal joint ownership property, **10:21**

## **JOINT REVOCABLE TRUSTS**

Use, **17:42**

## **JOINT TAX LIABILITY**

Innocent spouse liability. See index heading **DIVORCE AND SEPARATION**

## **JOINT TENANCY**

See also index headings **JOINT TENANCY WITH RIGHT OF SURVIVORSHIP**; **TENANCY BY THE ENTIRETY**

Advantages, **17:45**  
 Allocation of income, **10:29**  
 Bank accounts, liquidity of estate, **17:36**  
 Basis for gain or loss, allocation, **10:29**  
 Brokerage accounts, **10:35**  
 Convenience accounts, **10:33**  
 Creation, **10:4 to 10:6**  
 Creditors' claims, **10:13**  
 Death, disposition at, **10:4 to 10:6**  
 Death of first joint tenant, impact, **17:48**  
 Deemed one-half interest rule, disclaimer of joint tenancy, **37:9**  
 Definition, **17:45**  
 Disclaimer timing requirements  
     generally, **37:9 to 37:11**  
     revocable joint tenancy, **37:10**  
 Disclaimers  
     death of cotenant, **37:9**  
     prior law, **37:9**  
 Disclaimers of interest, basis determination, **38:02**  
 Estate tax  
     generally, **17:47**  
     nonspousal joint ownership, **10:31**  
 Expenses, **10:6**  
 Flexibility for survivor, **10:16**  
 Gift  
     determination, **17:46**  
     value, **17:46**  
 Gift tax  
     generally, **17:46**  
     nonspousal joint ownership, **10:30**  
     spousal joint ownership, **10:26, 37:9**  
 Income, **10:5, 10:6**  
 Income allocation, **10:29**  
 Income tax treatment, **17:48**  
 Joint bank accounts, **10:33**  
 Joint tenancy with right of survivorship  
     characteristics, **10:6**  
     estate tax, **16:37**  
     flexibility, **10:16**  
     gift tax marital deduction, **16:20**  
     gift tax treatment, **10:26**  
 Marital deduction, estate tax, **21:12**  
 Nonspousal co-owner treatment, **17:47**  
 Nonspousal joint ownership, **10:28 et seq.**  
 Probate avoidance, **20:27**  
 Regulations, **37:9**

## **JOINT TENANCY—Cont'd**

Revocable joint tenancy, disclaimer timing requirements, **37:10**  
 Savings bonds, **10:36**  
 Severance, **10:4 to 10:6**  
 Spousal gifts, **10:26, 37:9**  
 Spousal joint ownership, **10:5, 10:6, 10:20 et seq.**  
 Spouse's disclaimers, **37:9, 37:11**  
 Stock accounts, **10:35**  
 Surviving co-owner's flexibility, **10:16**  
 Survivorship, **10:4 to 10:6**  
 Tenancy by the entirety  
     estate tax, **16:37 to 16:39**  
     gift tax marital deduction, **16:20**  
 Terminally ill clients, disposition of property, **31:36**  
 Totten trusts, **10:34**  
 Treasury bills and notes, **10:36**

## **JOINT TENANCY WITH RIGHT OF SURVIVORSHIP**

Community property states, **10:6**  
 Creation, **10:6**  
 Creditors' claims, **10:13**  
 Disclaimer timing requirements, **37:9**  
 Disposition at death, **10:6**  
 Estate tax, **10:23**  
 Expenses, **10:6**  
 Flexibility for survivor, **10:16**  
 Gift disclaimer timing requirements, **37:9**  
 Gift tax  
     marital deduction, **16:20**  
     prior law, before 1982, **10:26**  
 Inclusion in gross estate, **16:37**  
 Income from property, **10:6**  
 Income tax, **10:21**  
 Nonspousal joint ownership, **10:28 et seq.**  
 Qualified joint interests, **10:23**  
 Severance, **10:6**  
 Surviving coowner's flexibility, **10:16**

## **JOINT TRUSTEES**

Sharing of powers, **18:57**

## **JOINT VENTURES**

Definition, **35:36**

## **JOINT WILLS**

See also index heading **MUTUAL WILLS**  
 Definition, **21:47**

## **JOINTLY HELD PROPERTY**

Mortgages, value included in estate, **16:55**  
 Value included in estate, equity value, **16:55**

## **JOINTLY OWNED PROPERTY**

Amortization deduction, **10:29**  
 Disclaimers, **37:7**

## **JUDGMENTS ON THE PLEADINGS**

Tax Court, **39:20**

## **JUNIOR COMMON STOCK**

Compensation elements, **2:72**

## INDEX TO TEXT

### JURY TRIALS

Tax refund litigation  
availability, **39:28, 39:29**  
demand, **39:29**  
waiver, **39:29**

## K

### KEOGH PLANS

Beneficiary, private foundation, **5:63**  
Individual retirement arrangements, **5:72**  
Use by partnerships, **3:80**

### KEY PERSON DISCOUNTS

Amounts permitted, **35:69**

### KEY PERSON EMPLOYEE

Provision in estate plan, **17:32**

### KEY PERSON INSURANCE

See also index heading **LIFE INSURANCE**  
Accumulated earnings tax, **2:15**  
Amount of risk, determination, **2:14**  
Insurable interest, **2:14**  
Ownership, **2:13**  
Premiums  
    employer deductions, **2:15**  
    exclusion from employee's income, **2:16**  
Proceeds paid to corporation, effect on value, **35:69**  
Purchase of policy by employee, **2:16**  
Purpose, **2:13**  
Salary continuation plans  
    form, **2:20**  
    funding, **2:17**  
    income taxation, **2:18**  
    payments included in gross estate, **2:19**  
    salary payments, deductibility, **2:18**  
Term insurance, use, **2:13**  
Transfer for value rules, applicability, **22:7**

### KICKBACKS

Insurance premiums, **2:2**

### KIDDIE TAX

Coordination with tax on trust's income, **9:26**  
De minimus exception, **9:26**  
Family partnerships, effect, **9:27**  
Gifts to custodianships, impact, **9:15**  
Joint custody, **9:26**  
Noncustodial parent, refusal to cooperate, **9:26**  
Requirements of loan, **9:26**  
S corporations, use, **9:28**

## L

### LAND

Conservation easement exclusion  
    amount of exclusion, **34:92**  
    election to exclude from estates, **24:19**  
    filing requirements, **34:81**  
Estate exclusions, qualified conservation easements, **24:19**  
Primary asset of rancher or farmer, **4:1**

### LAND TRUSTS

Advantages, **20:27**  
Ancillary administration avoidance, **20:27**  
Conveyance, **10:12**  
Corporation treatment by IRS, **20:27**  
Creation, **10:12**  
Gifts, **10:38**  
Illinois land trusts, **10:12**  
Income tax  
    generally, **10:38**  
    returns, **20:27**  
Ownership, **10:12**  
Taxation, **10:38**  
Transfer, **10:12**

### LAPSED GIFTS

Anti-lapse provision in will, **18:53**

### LAST SURVIVOR WHOLE LIFE INSURANCE

Insurance products, **7:65 to 7:67**

### LAWYERS

Retirement plan rules, **3:85**

### LEASED EMPLOYEES

Classification, **3:87**

### LEASED VEHICLES

Business expenses, **2:51**  
Income inclusion amounts, **2:51**

### LEASEHOLDS

Valuations, **35:21**

### LEASES

Specially valued property, recapture, **4:30**

### LEGACY TAXES

Credit, Federal estate tax, **16:62**  
Deductibility, Federal estate tax, **16:52**

### LEGAL PRACTICES

Valuations, **35:55**

### LEGAL SERVICES

Nontaxable employee fringe benefits, retirement planning legal services, **2:46**

### LEGEND STOCK

Valuations, **35:32**

### LEGISLATIVE HISTORY

See index heading **HISTORICAL BACKGROUND**

### LESS ACTIVELY FUTURES MARKETS

Valuations, **35:34**

### LETTER STOCK

Valuations, **35:32**

### LETTERS OF ANCILLARY ADMINISTRATION

Generally, **20:24**  
Procedures, **20:26**

## **LEVERAGED EMPLOYEE STOCK OWNERSHIP PLAN**

Qualified retirement plans, **5:9**

## **LEVERAGED GIFTS**

Entity freezes, closely held businesses, **27:108**

## **LIBRARY ORGANIZATION**

Charitable organization, **24:5**

## **LICENSES**

Transfer from decedent, **38:17**

## **LIEN AGREEMENTS**

Deferred estate tax special liens  
generally, **39:33**  
agreed cases, **39:10**

## **LIENS**

Bankruptcy stay provisions, **39:33**  
Deferred estate tax special liens, **39:10, 39:11, 39:33**  
Disclaimers  
conflicting state law, **39:33**  
effect on, **37:2**  
Estate tax, **16:66, 39:10, 39:11, 39:33**  
Estate taxes deferred, Section 6324A lien, **36:10**  
General tax liens, **39:33**  
Gift tax, **16:24, 39:33**  
Mechanic liens, priority, **16:66**  
Priority of liens over estate tax liens, **16:66**  
Priority over state tax liens, **16:66**  
Security interests, priority, **16:66**  
Tax liens  
estate tax, **16:66, 39:10, 39:11, 39:33**  
gift tax, **16:24, 39:33**  
Withdrawal of notice of lien, situations permitting, **39:33**

## **LIFE CARE FACILITIES**

Investment of savings, **13:19**

## **LIFE ESTATES**

Disclaimers, **37:16**  
Estate tax  
power of appointment  
exercise or release, retained life estate, **16:36**  
exercise or release with retained life estate, **16:34**  
retention with transfer of remainder interest, **16:40 to 16:44**  
General powers of appointment, marital deduction, terminable interest rule exception, **16:55, 21:29 et seq.**  
Gift tax marital deduction, **16:20**  
Homestead of surviving spouse, **20:7**  
IRS valuation tables  
Certain estate Assets, **35:75**  
Marital deduction  
estate tax  
deductibility, **21:16**  
life estates with general power of appointment, terminable interest rule exception, **16:55, 21:19, 21:29 et seq.**  
terminable interest rule, in general, **21:15**  
gift tax, **16:20**

## **LIFE ESTATES—Cont'd**

Power of appointment rule, gift tax marital deduction, **16:20**  
QTIP, **21:38 et seq.**  
Retention with transfer of remainder interest, **16:40 to 16:44**  
Terminable interest rule, estate tax marital deduction deductibility, **21:15, 21:16**  
exemption to rule, **21:19, 21:29 et seq.**  
Wasting asset, **28:25**

## **LIFE ESTATES WITH GENERAL POWER OF APPOINTMENT**

Terminable interest rule exception  
advantages, **21:29**  
entire interests, **21:33**  
form, **21:30**  
income interest requirement, **21:34**  
marital deduction trusts, **21:29 et seq.**  
powers of appointment required, **21:36**  
requirements generally, **21:29**  
specific portion limitation, **21:31 to 21:33**  
surviving spouse's estate tax, **16:49**  
third party powers, **21:37**

## **LIFE INSURANCE**

Accounted for separately, **2:31**  
Additional riders creating new contracts, **7:11**  
Adjustable whole life, **7:47 to 7:49**  
Agents  
independent, **7:4**  
organization membership, importance, **7:5**  
rebate of commissions, **7:10**  
traditional, **7:4**  
types of, **7:4 to 7:6**  
use by policyholders, **7:6**  
Annual premium excess interest life, **7:59 to 7:61**  
Annuity option, surrender of policy, **22:8**  
Another's life, ownership by decedent  
generally, **38:18**  
decedent's life, inclusion in gross estate, **18:36**  
Borrowing on cash value, taxation, **7:7**  
Business-paid premiums, deductibility, **7:16**  
Buy-out agreements, funding, **22:7**  
Buy-sell agreement funding, closely held corporations, **23:33**  
Cash value  
borrowing on, **7:7**  
use in retirement, **13:22**  
Charitable bequest, estate tax deduction, **24:30**  
Charitable gift, **12:29**  
Community property, **10:40, 10:42**  
Companies, evaluation, **7:3**  
Conversion rights, corporate group insurance, inclusion in gross estate, **7:17**  
Convertibility of term insurance, **7:20**  
Corporate liability funding, use, **7:2**  
Current assumption whole life, **7:50 to 7:52**  
Death benefits  
inclusion in gross estate, **7:17**  
taxation, **7:7**  
Deemed gifts by surviving spouse, community property, **10:40**  
Definition, **7:2**  
Demutualization, **22:4**



## INDEX TO TEXT

### LIFE INSURANCE—Cont'd

- Demutualization of policy holder's insurance company, **7:15**
- Deposit term, **7:23**
- Disclaimers, timing requirements, **37:7, 37:8**
- Divorce or separation
  - separation agreements and decrees, **11:34**
  - transfer of life insurance between spouses, **11:15**
- Estate planning considerations, **17:36**
- Estate preservation, use, **7:2**
- Estate tax
  - executor as beneficiary, **22:13**
  - face value of policy, **22:12**
  - gifts of policies on donor's life, within three years of donor's death, **16:48**
  - gross estate, inclusion, **16:27**
  - incidents of ownership, **22:14**
  - ownership by insured, **22:18**
  - ownership by person other than insured, **22:12**
  - payment of premium, effect, **22:16**
  - policy payable to third persons, **22:13**
  - proceeds of insurance on decedent's life, **16:29**
  - proceeds receivable by executor, **22:13**
  - recovery of tax on proceeds by personal representative, **18:9**
  - transfer of ownership, **22:15**
- Evaluation, **7:3**
- Extent of client's coverage, **15:8**
- Family limited partnerships, entity freeze use
  - generally, **27:103**
  - general rules, **27:104**
  - ownership by partnership, **27:105**
  - transfers to fund premiums, **27:106**
- Forced sale of estate assets, avoidance, **22:2**
- Form 712, uncompleted form, **34:123**
- Gift tax
  - beneficiary, taxation, **22:11**
  - creation of present interest, **22:10**
  - Crummey trusts, **22:11**
  - life insurance trust, use, **22:11**
  - taxable transfers, **22:10**
  - value of policy, **22:10**
- Gifts, estate tax, policies on donor's life, given within three years of death, **16:48**
- Graded premium whole life, **7:25**
- Gratuitous transfers of policy, **22:6**
- Gross estate of insured, inclusion of proceeds, **22:12**
- Gross income of beneficiary, exclusion, **22:3**
- Group life insurance, deductibility, **2:30 to 2:35**
- Incidents of ownership
  - controlled corporation, **2:23**
  - definition, **22:14**
  - estate tax purposes, **16:29**
  - rights of participation, **22:14**
- Income tax. See index heading **INCOME TAX**
- Income tax advantages, **22:3**
- Income taxation of proceeds, guideline premium limitation requirements, **7:7**
- Income-replacement, use, **7:2**
- Insured, obligations, **7:2**
- Insurer, obligations, **7:2**
- Interpolated terminal reserve value, **10:42**
- Investor control doctrine, **22:5**
- Irrevocable life insurance trusts
  - administering after grantor's death, form, **22:33**

### LIFE INSURANCE—Cont'd

- Irrevocable life insurance trusts—Cont'd
  - advantages, **22:25**
  - characterization, **19:64**
  - deemed transfers, **22:29**
  - definition, **22:27**
  - estate tax consequences, **22:28**
  - formal requirements, **22:26**
  - grantor trust provisions, **22:30**
  - liquidity of estate, **22:32**
  - present interest, necessity, **22:11**
  - reformation for mistake, **22:26**
  - special powers of appointment, **22:31**
  - super trust, definition, **22:27**
  - transfers of ownership, **22:15**
- Key man insurance, **2:13 to 2:20**
- Last survivor whole life, **7:65 to 7:67**
- Ledger proposal analysis
  - generally, **7:68**
  - current assumption whole life, **7:69**
  - universal whole life, **7:70**
- Life insurance trusts
  - administration after death of insured, **19:64**
  - expenses, provision for payment, **19:64**
  - form, **19:68**
  - nontax advantages, **19:64**
  - present interest, necessity, **22:10**
- Liquidity of estate, providing, **22:2**
- Long-term care coverage, **22:9**
- Marital deduction qualification, estate tax
  - joint and mutual will restrictions, **21:47**
  - nondeductible interests, **21:13**
  - nonprobate transfers generally, **21:7**
  - passage from decedent requirement, **21:12**
  - powers of appointment over payments, **21:19, 21:44**
- Modified endowment contracts, **7:7**
- Nonqualified deferred compensation plans, use of, **2:12**
- Open Transaction Doctrine, **22:4**
- Ownership of policy
  - generally, **7:2**
  - community property states, **10:42**
  - corporate, insured majority stockholder, **22:20**
  - family member, **22:19**
  - importance, **22:17**
  - insured, **22:18**
  - insured as trustee, **22:23**
  - inter vivos trust, **22:21**
  - purchase by third party, **22:19**
  - surviving spouse, **22:19**
  - unlimited marital deduction, **22:19**
- Participating general portfolio whole life. Permanent insurance, below
- Partnerships, **23:36**
- Payment of premium
  - generally, **22:16**
  - gift tax consequences, **2:23**
- Permanent insurance
  - generally, **7:29 to 7:67**
  - adjustable whole life, **7:47 to 7:49**
  - annual premium excess interest life, **7:59 to 7:61**
  - commissioners tables, **7:32**
  - components, **7:30**
  - considerations, **7:31**

## **LIFE INSURANCE—Cont'd**

Permanent insurance—Cont'd  
 current assumption whole life, **7:50 to 7:52**  
 last survivor whole life, **7:65 to 7:67**  
 nature, **7:30**  
 nonparticipating guaranteed, **7:34 to 7:36**  
 nonparticipating indeterminate premium, **7:37 to 7:39**  
 participating general portfolio whole life  
     generally, **7:40 to 7:46**  
     comparison factors, **7:45**  
     dividends, use of, **7:41**  
     loan rates, **7:42**  
     minimum deposit approach, **7:43**  
     vanishing premium, **7:44**  
     when to use, **7:46**  
 policy features and structure, **7:30**  
 purpose, **7:29**  
 single premium excess interest life, **7:62 to 7:64**  
 structure, **7:30**  
 universal life, **7:53 to 7:55**  
 variable whole life insurance, **7:56 to 7:58**  
 when to use, **7:33**  
 Personal benefit contracts, deductible expenses, **7:16**  
 Policies  
     deductibility, **7:16**  
     deemed transfers, **22:29**  
     dividends, taxability, **22:3**  
     listing on estate tax return, **34:68**  
     loan interest, **7:16**  
     loan proceeds, taxability, **22:3**  
     transfer for value, **22:6**  
     transfers within three years of death, **22:15**  
 Post-death earnings, taxation, **7:7**  
 Potential beneficiaries, **22:17**  
 Premiums  
     generally, **2:2**  
     deductibility, **7:16**  
     term insurance, premium sharing for close-  
         corporation buy-out, **7:27**  
 Private placement, **22:5**  
 Proceeds  
     community property laws, **16:29**  
     excludability from gross income, **22:6**  
     recovery of estate tax, **18:9**  
     testamentary trust, direct payment, **19:64**  
 Products and use in estate planning, generally, **7:1 to 7:70**  
 Profit, policies acquired for, **7:12**  
 PS 58 rates, use in valuation, **2:31**  
 Reasons to purchase, **7:2**  
 Recovery of estate tax on proceeds, **18:9**  
 Reentry provision, **7:22**  
 Reevaluation, **13:22**  
 Replacement of lost income, use, **22:2**  
 Retirement considerations, **13:22**  
 Revocable trust provisions, **19:31**  
 Savings plan, use, **7:2**  
 Separation agreements and decrees, **11:34**  
 Separation of coverage, **2:31**  
 Single premium excess interest life, **7:62 to 7:64**  
 Source of liquidity, **17:36**  
 Split dollar life insurance, **2:21 to 2:29**  
 Surrender of policy, cash value, **22:8, 22:9**

## **LIFE INSURANCE—Cont'd**

Surrender or sale of term-life policy, **7:13**  
 Tax free exchanges, **7:7, 22:8, 22:9**  
 Term insurance  
     generally, **7:18 to 7:28**  
     comparison factors, **7:10**  
     convertibility, **7:20**  
     definition, **7:18**  
     deposit term, **7:23**  
     extraordinary term, **7:24**  
     graded premium whole life, **7:25**  
     participating term, **7:21**  
     policy features and structure, **7:19**  
     premium sharing for close-corporation buy-out,  
         **7:27**  
     reentry provision, **7:22**  
     surrender or sale of, **7:13**  
     when to use, **7:28**  
 Terminally ill clients, **31:62**  
 Termination of policy, **7:14**  
 Testamentary trust  
     form, **22:22**  
     proceeds, use, **18:45**  
     receipt of proceeds, **22:21**  
 Testator's policies on others  
     generally, **18:34**  
     holding power for policy on spouse's life, form,  
         **18:35**  
 Third party owner, **7:2**  
 Transfer of ownership  
     gift tax, **7:17**  
     within three years of death, **22:15**  
 Universal life, **7:53 to 7:55, 7:70**  
 Unmarried clients, use in estate plan, **14:15**  
 Uses, **22:2**  
 Variable whole life insurance, **7:56 to 7:58**  
 Veterans, **13:22**

## **LIFE UNDERWRITER**

Planning team, **1:18**

## **LIFE-SUSTAINING PROCEDURES**

Withholding, **31:07**

## **LIFETIME LEARNING CREDITS**

Postsecondary education expenses, **2:46**

## **LIKE-KIND EXCHANGES**

Investments, planning opportunities, **6:49**  
 Ranchland, three party exchange, **4:5**  
 Reversed, delayed exchanges, qualified exchange  
     accommodation arrangement (QEAA), **6:49**  
 Safe harbor, delayed exchange, **6:49**  
 Timber cutting rights, fee interest exchange, **6:49**

## **LIMITATIONS PERIOD**

Entry of judgment on tax liability, start of limitations  
     period upon, **1:31**  
 Innocent spouse liability, equitable relief, **11:23**  
 Partnerships, **3:34**  
 Refund claims, **39:23**  
 Refunds, no return filed, **39:18**  
 Withheld taxes, deemed payment period, **39:23**

## **LIMITED LIABILITY**

Limited partnership safe harbor, **3:9**

## INDEX TO TEXT

### LIMITED LIABILITY COMPANIES

Generally, **3:6**  
Ensuring family control, GST tax, **26:33**  
Freeze entities, **27:09**  
Substantial beneficial interest, change, stock exchange for LLC interest, **26:33**

### LIMITED PARTNERSHIP FREEZES

Basic structure, **27:11**

### LIMITED PARTNERSHIPS

See also index headings CLOSELY HELD BUSINESSES;  
PARTNERSHIPS; REAL ESTATE LIMITED PARTNERSHIPS; TAX  
SHELTERS

Advantages, **23:20**  
Agreement to indemnify general partners, sufficiency, **3:73**  
Assignment of interest, **3:15**  
Basis of partner, **3:73**  
Capital structure, **3:19**  
Centralized management, **3:11**  
Characteristics, **6:27**  
Classification for tax purposes, **3:5**  
Death of limited partner, effect, **3:13**  
Definition, **3:5**  
Dissolution, **3:13**  
Duration, **3:13**  
Expenses and formality of organization, **3:17**  
Freeze entities, **27:09**  
General partners, limitation of liability, **3:9**  
Income and losses, special allocations, **6:27**  
Income taxation, **3:5**  
Incorporation of general partner, **3:9**  
Limited liability safe harbor, **3:4**  
Liquidity planning for estate, **23:9**  
Management and control, **3:11**  
Material participation, presumption, **3:72**  
Net partnership passive income, impact, **6:27**  
Nonparticipation, presumption, **3:5**  
Nonrecourse liability allocations, **3:73**  
Partnership losses, treatment, **3:72**  
Passive activity rule, applicability, **6:8**  
Personal liability, **3:9**  
Qualified income offset, **6:27**  
Restriction of liability, **3:5**  
Restructure of ownership and control, **23:20**  
Sources of capital, **3:19**  
Statutory formalities of organization, strict compliance, **3:17**  
Tax advantaged investments, treatment, **6:27**  
Tax classification, requirements, **3:5**  
Tax exempt partners, test, **6:27**  
Transferability of interests, **3:15**  
Venture capital transactions, **3:19**  
Withdrawal of limited partner, effect, **3:13**

### LIMITED POWERS OF APPOINTMENT

See also index heading POWERS OF APPOINTMENT  
Generation skipping transfer  
addition, **26:31**  
use, **26:47**

### LIQUIDATED DAMAGES

Damage recovery, **2:5**

### LIQUIDITY OF CLIENT

Assets for, **17:36**  
Cash requirements of survivors, **17:35**  
Determination, **17:34**  
Estate planning considerations, **17:34**  
Sources, **17:35**  
Sources of assets, **17:36**  
Terminally ill clients, importance of determining, **31:27**

### LIQUIDITY OF ESTATES

Accumulation of income, **36:03**  
Employee benefit plan distributions, **36:03**  
Enhancement methods, **36:03**  
Extension of time to pay estate taxes  
application, filing, **36:08**  
approval, reasons, **36:07**  
automatic deferral, **36:06**  
discretionary deferral, **36:06**  
portions attributable to remainder or reversionary interests, **36:09**  
qualifications, **36:06**  
reasonable cause, **36:06**  
Flower bonds, redemption, **36:03**  
Installment payment of estate taxes  
acceleration of payments, **36:21**  
bond requirement, **36:10**  
business interests, inclusion, **36:10**  
charitable deductions, effect of election, **36:20**  
deficiency, election, **36:15**  
election, **36:10, 36:14**  
exchanges of stock, effect, **36:21**  
gifts within three years of death, inclusion, **36:10**  
interest on installments, **36:13**  
interest on unpaid balance, **36:12**  
judicial review, **36:16**  
notice of election to pay in installments, form, **36:17**  
portion payable in installments, **36:11**  
protective election, filing, **36:12**  
protective notice of election, form, **36:18**  
redemption of stock to pay taxes, impact, **36:21**  
requirements, **36:10**  
review by IRS, **36:16**  
tax attributable to closely-held business interests, **36:11**  
tax on prior transfers credit, **36:19**  
thirty-five percent test, **36:10**  
time to pay, **36:12**  
Lease of assets, **36:04**  
Life insurance proceeds, **36:03**  
Loans to estate, **36:05**  
Minimization of estate taxes, **36:03**  
Postmortem needs, **36:02**  
Sales of assets  
generally, **36:03**  
buy-sell agreements, **36:04**  
consent of beneficiary, **36:04**  
court approval, **36:04**  
possible consequences, **36:04**  
sale of securities, **36:04**  
Section 302 redemption, **36:28**  
Stock redemption to pay estate taxes  
acceleration of installment payments, coordination, **36:26**

## **LIQUIDITY OF ESTATES—Cont'd**

Stock redemption to pay estate taxes—Cont'd  
     cautions in making redemption, **36:27**  
     distributions four years after death, limitations, **36:23**  
     financial stability of business, consideration, **36:27**  
     limitations on qualifying amount, **36:23**  
     qualifying stock, **36:24**  
     time to redeem, **36:25**  
     treatment, **36:22**

## **LIQUOR STORES**

Valuations, **35:55**

## **LISTED OPTIONS**

Valuations, **35:34**

## **LITIGATION COSTS**

Recovery by taxpayer, **39:20**

## **LIVESTOCK**

See also index heading **FARMERS AND RANCHERS**  
 Preproductive carrying expense deduction, **4:8**  
 Trust property, **19:26**

## **LIVING TRUSTS**

Retirement planning, **13:23**  
 Selecting fiduciaries, **30:07**

## **LIVING WILLS**

See also index heading **WILLS**  
 Execution, **31:07**  
 Form, **18:75**  
 Physician or health facility liability, **18:66**  
 Signing, **18:66**  
 Statutory authority, **18:66**  
 Witnesses, **18:66**

## **LLC**

See index heading **LIMITED LIABILITY COMPANIES (LLC)**

## **LOANS**

Artwork to charity  
     deemed gift in estate freeze, **16:11**  
     gift of present interest, **12:35**  
     separate property, **24:28**  
 Below market loans, defined, **9:19**  
 Between beneficiaries and estates, **9:24**  
 Corporations to shareholders  
     income shifting, **9:23**  
     income tax treatment, **3:27**  
 Deductibility of interest, insurance policies, **2:31**  
 Gift or demand loan, defined, **9:18**  
 Income shifting vehicle, **9:18**  
 Interest free, gift tax, **16:5**  
 Interest-free, **9:17**  
 Pension plans, **5:36**  
 Qualified plans  
     missed payments, **5:36**  
     residential mortgage, **5:36**  
 Scope of statutory coverage  
     generally, **9:20**  
     income, effect, **9:21**  
     statutory exemption, **9:22**

## **LOCKED-IN GAIN**

Basic concepts, **25:4**

## **LONDON METAL EXCHANGE PRICES**

Valuations, **35:34**

## **LOSSES**

Casualty or theft losses. See index heading **CASUALTY OR THEFT LOSSES**  
 For profit test, factors, **4:10**  
 NOL carrybacks, three years for eligible losses, **3:70**  
 Section 179 expenses, **3:60**

## **LOTTERY WINNINGS**

Value in decedent's estate, use of annuity tables, **35:6**

## **LOW-INCOME HOUSING**

Tax credits, **6:40**

## **LOW-INTEREST LOANS**

Income shifting, **9:17**  
 Pension plans, **5:36**

## **LOW-LOAN INVESTMENT COMPANIES**

Valuations, **35:31**

## **LUMP SUM DISTRIBUTIONS**

Error in computation, **1:31**  
 Excise tax, **13:15**  
 Qualified plan, **5:47**

# **M**

## **MAILING**

Foreign postmarks, applicability of timely mailing rules, **39:23**  
 Timeliness, **39:23**

## **MAILING DATE**

Assessments, **39:32**  
 Returns, **39:23**

## **MALPRACTICE ACTION**

Tax consultant error, statute of limitations, **1:31**

## **MALPRACTICE PREVENTION**

Abusive tax shelters, **6:5**  
 Computer programs and software, **1:31**  
 Estate planning issues, **1:31**  
 Insurance expense, deductibility, **1:31**  
 Tax shelter investors, **1:31**

## **MANDAMUS ACTIONS**

Use against IRS, **16:64**

## **MARITAL AGREEMENTS**

See also index headings **POSTNUPTIAL AGREEMENTS**; **PRE-NUPTIAL AGREEMENTS**  
 Basic estate planning, **1:13**  
 Community property stipulations, **20:13**  
 Consideration requirement, **20:12**  
 Counsel requirement, **20:13**  
 Disclosure requirement, **20:13**  
 Domicile change, effect on validity, **20:12**  
 Enforceability requirements, **20:12, 20:13**  
 Form, requirements, **20:12, 20:13**  
 Purpose, **20:12**

## INDEX TO TEXT

### MARITAL AGREEMENTS—Cont'd

Separate property stipulations, **20:13**  
State law as governing, **20:12**  
Terminally ill clients, review, **31:22**  
Unconscionability, **20:13**  
Uniform Probate Code, **20:12**  
Validity, **20:12**

### MARITAL DEDUCTION

See also index headings MARITAL DEDUCTION, ESTATE TAX;  
MARITAL DEDUCTION, GIFT TAX

Administration expenses, generally, deductibility,  
**16:55**

Administrative expenses  
    payment source, limitation on gift, **21:54**  
    payment source's effect, **21:52, 21:53**  
    reducing marital deduction, **16:55**  
    Regulations affecting, **21:54**  
    Service's position on effect, **21:54**

Administrative expenses as tax deduction, **21:75**

Administrative fees, deduction by estate, will provi-  
sions, **18:8**

Alien spouse, **18:41**

Amount of transfer, **21:5, 21:8**

Annuities  
    generally, **21:13**  
    powers of appointment over payments, **21:44**  
    terminable interest rule, **21:15**

Charitable deduction, application, **24:29**

Citizenship requirement, **21:9**

Common disaster provisions, terminable interest rule  
exception, **21:11, 21:19**

Conditional marital devises, **21:12, 21:74**

Copyrights, terminable interest rule, **21:16**

Cost of tax deferral, **21:76**

Curtesy, **21:6, 21:12**

Debts payable from marital devise, **21:52**

Deductible interest requirement, **21:13**

Defective marital gift, reforming will to cure, **18:47**

Deferral of taxation, **21:3**

Desirability of utilization, planning considerations,  
**21:4**

Differences as to gift tax and estate tax, **16:3**

Disclaimers  
    maximization of deduction, **21:72, 37:23**  
    third party disclaimers, **21:12, 21:72**

Divorce, **21:11**

Dower  
    generally, **21:12**  
    probate transfers, **21:6**

Dower elected properly, enforceable rights for spouse,  
**21:12**

Economic Recovery Tax Act of 1981, **21:1**

Election by surviving spouse, **20:7**

Elective share claims, qualifying for deduction, **33:12**

Encumbrances payable from marital devise, **21:52**

Equalization clauses  
    generally, **21:23**  
    form, **21:24**

Estate tax, generally, **21:1 et seq.**

Estate trusts  
    generally, **21:46**  
    terminable interest rule, **21:15**

Family allowances

    generally, **20:7, 21:12**

### MARITAL DEDUCTION—Cont'd

Family allowances—Cont'd  
    terminable interest rule, **21:16**

Farmers, use, **4:12**

Foreign property, **21:14**

Forms  
    equalization clause, **21:24**  
    estate tax payment from residue, preresiduary  
    marital devise, **21:51**  
    reverse presumption clause, **21:24**

Formula clauses  
    generally, **18:40, 21:4, 21:55 et seq.**  
    probate transfers, **21:6**

General power of appointment with life estate, termi-  
nable interest rule exception, **21:29 et seq.**  
    generally, **21:19**  
    terminable interest rule applicability in general,  
    **21:15**

Gift and generation skipping tax (GST) returns line,  
**34:46**

History, treatment of marital transfers, **21:2**

Income in respect of decedent, **21:14**

Income interests owned by decedent, **21:15**

Insurance proceeds, power of appointment, **21:44**

Insurance proceeds with power of appointment, **21:19**

Interest in property requirement, **21:12**

Interest passing from decedent, **21:12**

Intestacy, **21:6**

Joint and mutual wills, **21:47**

Joint and survivor annuities  
    generally, **21:12**  
    terminable interest rule, **21:16**

Joint tenancy, **21:12**

Jointly held property, valuing property passing, **16:55**

Killing one's spouse, **21:14**

Leasehold interests  
    generally, **21:18**  
    terminable interest rule, **21:15**

Life estates, deductibility, **21:16**

Life insurance  
    joint and mutual will restrictions, **21:47**  
    nondeductible interests, **21:13**  
    nonprobate transfers generally, **21:7**  
    passage from decedent requirement for deduc-  
    tion, **21:12**  
    powers of appointment over payments, **21:19,**  
    **21:44**

Limitations, **16:55**

Loss-deductible property interests, **21:13**

Marital deduction trusts, **21:29 et seq.**  
    generally, **16:49**  
    testamentary transfers, **21:29 et seq.**

Marital relationship requirement, **21:11**

Maximization through administrative elections, **21:75**

Maximum formulas, **21:69**

Mortgaged marital property, **16:70**

Noncitizen spouses, denial of deduction, **18:41,**  
**21:10, 31:18.50**

Nondeductible interests, **21:13**

Nonprobate transfers, **21:7**

Nonresident aliens, gift taxes, **16:70**

Optimum marital deduction, **21:3**

Overmaritalization of estate  
    generally, **21:5, 21:76**  
    probate transfers, **21:6**

## MARITAL DEDUCTION—Cont'd

Patents, terminable interest rule, **21:15, 21:16**  
 Pitfalls, **17:40**  
 Planning considerations, **21:76**  
 Pooled income fund interest, qualification, **24:25**  
 Postmortem planning, **21:70 et seq.**  
 Powers of appointment  
     life estate with general power, **21:19, 21:29 et seq.**  
     life insurance with power over payment, **21:19, 21:44**  
     passage from decedent requirement for deductibility, **21:12**  
 Practical considerations in use, **21:4, 21:76**  
 Preresiduary marital devise  
     generally, **21:50**  
     form, **21:51**  
 Probate transfers in general, **21:6**  
 Purchase of terminable interest for surviving spouse, **21:17**  
 Purpose, **17:40**  
 QTIP life estates, **21:38 et seq.**  
 QTIP trust, use in postmortem estate planning, **33:16**  
 Qualifying transfers, **21:5 to 21:7**  
 Reforming defective gift, **18:47**  
 Rehabilitation of trust, disclaimers from disqualified beneficiaries, **33:11**  
 Requirements, **16:55, 21:9 et seq.**  
 Residency requirement for decedent, **21:9**  
 Revenue Act of 1948, **21:2**  
 Reverse presumption clauses  
     generally, **21:11, 21:21 et seq.**  
     form, **21:24**  
 Salvaging deduction after death, **21:74**  
 Savings clauses, **21:68**  
 Settlements, maintaining marital deduction, **21:12**  
 Simple wills, **21:8**  
 Simultaneous death provisions, **21:11, 21:21**  
 Special use valuation, farm included in gross estate, **35:26**  
 Split gifts  
     surviving spouse and charity split gifts, **16:55**  
     terminable interest rule exception, **21:45**  
 Standard presumption for order of death  
     generally, **21:25**  
     form, **21:26**  
 Statutory basis, **21:9**  
 Statutory share elections, **20:7**  
 Statutory share of surviving spouse  
     generally, **20:6**  
     inter vivos trust transfer, **21:12**  
     probate transfers, **21:6**  
 Survivorship conditions to marital devise  
     generally, **21:74**  
     terminable interest rule, **21:16**  
 Survivorship presumptions, **21:21 et seq.**  
 Survivorship provisions, terminable interest rule exception, **21:19 et seq.**  
     form, standard presumption, **21:26**  
     standard presumption, **21:25, 21:26**  
 Tainted asset rule, **21:18**  
 Tax considerations in general, **21:3**  
 Tax payment from marital devise, effect, **21:49**  
 Tax Reform Act of 1976, **21:2**

## MARITAL DEDUCTION—Cont'd

Terminable interest rule, generally, **21:9, 21:15 et seq.**  
 Time clauses, presumption as to order of death, **21:21**  
 Transfer of interest, requirement, **21:12**  
 Trust rehabilitated, disclaimers from disqualified beneficiaries, **33:11**  
 Trustee's purchase of terminable interest for surviving spouse, **21:17**  
 Uniform Simultaneous Death Act, **21:11, 21:22**  
 Using, planning considerations, **21:76**  
 Valuation of marital devise, **21:48 et seq.**  
 Will contests resulting in transfer of property, **21:12, 21:73**  
 Will forms  
     power of appointment trust, **18:70**  
     QTIP trust, **18:69**  
 Wills, allocation between principal and income, **18:8**

## MARITAL DEDUCTION, GIFT TAX

See also index headings MARITAL DEDUCTION; MARITAL DEDUCTION, ESTATE TAX  
 Administrative expenses, Regulations affecting, **21:54**  
 Amount, **16:20**  
 Annual exclusion, relationship, **16:17, 16:20**  
 Life estate with power of appointment rule, **16:20**  
 Qualified terminable interest property (QTIP) rule, **16:20**  
 Terminable interests, **16:20**

## MARITAL DEDUCTION TRUSTS

Generally, **19:36**  
 Advantages, testamentary transfers, **21:29**  
 Entire interest concept's relationship to specific portion limitation, **21:33**  
 Fiduciary powers, **19:44**  
 Forms  
     will with power of appointment trust, **18:70**  
     will with QTIP trust, **18:69**  
 Income during administration, **21:35**  
 Income interest requirement, **21:34, 21:35**  
 Nonproductive property, **21:34**  
 Powers of appointment required, **21:36**  
 Qualifications, **19:36**  
 Requirements in general, terminable interest rule exception, **21:29**  
 Savings clauses, **21:68**  
 Specific portion limitation, **21:31 to 21:33**  
 Spendthrift clauses, **21:34**  
 Surviving spouse interests, estate tax, **16:49**  
 Third party beneficiaries, testamentary transfers, **21:37**  
 Third party powers, testamentary transfers, **21:37**  
 Trustee's discretion, **21:34**

## MARITAL DEDUCTION WILLS

Power of appointment trust, form, **18:70**  
 QTIP trust, **18:69**

## MARITAL HOME

Transfers of property between spouses. See index heading DIVORCE AND SEPARATION

## MARITAL PROPERTY SETTLEMENTS

Pension funds, **3:84**



## INDEX TO TEXT

### MARITAL RIGHTS

Estate tax deduction, claim against the estate, **16:52**

### MARITAL SHARE TRUSTS

Disclaimers, **37:21**

### MARITAL TRUSTS

Funding of, closely held stock, **21:38**

Spendthrift clause, **19:39**

### MARKET CAPITALIZATION METHOD

Valuations, **35:19**

### MARKET DATA VALUATION

Generally, **35:17**

### MARKET DISCOUNT BONDS

Tax advantaged investment, **6:46**

### MARKETABILITY DISCOUNT

Closely held businesses, **35:67**

### MARRIAGE TAX

Historical overview, **21:2**

### MASTER LIMITED PARTNERSHIPS

Characteristics, **6:28**

Property ownership, **6:28**

Tax treatment, **6:28**

### MATERIAL PARTICIPATION

Definition, **6:10**

Lease to nonfamily member, **4:16**

Special use valuation requirement, **4:16**

### MAXIMUM MARITAL DEDUCTION FORMULAS

ERTA changes, **21:69**

### MAY DAY RATES

Fiduciary compensation, **30:49**

### MEALS

Deductibility, **2:51**

Employer provided, de minimis fringe benefit, **2:54**

### MEASUREMENT DATE

Stock option renewals, **2:66**

### MECHANIC LIENS

Priority over estate tax liens, **16:66**

### MEDICAL EXCLUSION

Gift planning, **8:12**

### MEDICAL EXPENSES

Damage awards, exclusion from income, **2:5**

Deduction

estate tax, **18:7**

surviving husband's income, **18:7**

Estate tax deductions, availability, **33:20**

Final income tax return of decedent, deduction, **33:06**

Gifts to parents, **8:43**

Spouse's liability, **18:7**

### MEDICAL RECORDS

Custody after physician's death, **31:17**

### MEDICAL REIMBURSEMENT AND HEALTH BENEFIT PLANS

Claims procedures, **2:44**

Continuation coverage, requirement  
generally, **2:43**

discriminatory policies, **2:42**

Costs, deductibility by employer, **2:41**

Disability retirement benefits, **3:95**

Exemptions, **2:44**

Factor in choice of business entity, **3:94**

Payments under policy, exclusion from income, **2:42**

Premiums, inclusion in employee income, **2:42**

Reporting requirements, **2:44**

Statutory requirements, **2:43**

### MEDICARE

Additional Medicare tax, **3:22**

Reimbursing retirees, **13:10**

Supplemental insurance, **13:10**

### MEDICARE CATASTROPHIC COVERAGE ACT

Retirement planning, **13:10**

### MILITARY SURVIVOR BENEFITS

Election for survivor's annuity, **16:30**

### MINERAL INTERESTS

Valuations, **35:22**

### MINIMUM REQUIRED DISTRIBUTIONS

Uniform table, payouts to taxpayers, **5:39**

### MINORITY DISCOUNTS

Actively traded bonds, **35:30**

Appliances, **35:11**

Appraisals

importance, **35:8**

selection of appraiser, **35:9**

Arm's length sales transaction in active market, **35:3**

Art works

appraisal, **35:12**

blockage, **35:13**

discount in value, **35:13**

premium in value, **35:13**

Attribution rules, **35:66**

Band of investment method of capitalization, **35:19**

Bedding, **35:11**

Blockage, definition, **35:33**

Built-up method of capitalization, **35:19**

Burden of proof, **35:8**

Carpets, **35:11**

Charitable contributions, **12:8**

Closed-end investment companies, **35:31**

Closely held business interests

arm's length exchange, **35:40**

arm's length sale, **35:40**

artistic intangibles, **35:60**

balance sheet adjustments, **35:49**

bonds, **35:61**

book value, **35:48**

buy-sell agreements, **35:64**

comparable companies, use, **35:41**

contingent legal fees, **35:61**

contractual properties, **35:61**

## MINORITY DISCOUNTS—Cont'd

Closely held business interests—Cont'd  
controlling stock, **35:62**  
copyrights, **35:60**  
cost of creation, formula, **35:59**  
deferred compensation, **35:61**  
Delaware block approach, **35:53**  
discounted cash flow, **35:59**  
discounted future earnings, **35:44**  
discounts, **35:65**  
dividend-paying capacity, **35:47**  
estimated future earnings, **35:42**  
excess earnings, calculation, **35:58**  
family attribution principle, **35:63**  
goodwill, **35:57**  
income capitalization, **35:59**  
income statement adjustments, **35:43**  
key man, loss, **35:69**  
lack of marketability, discount, **35:67**  
liquidation value, **35:50**  
majority holdings, **35:62**  
minority holdings, **35:66**  
mortgages, **35:61**  
patents, **35:60**  
preferred stock, **35:70**  
price-earnings of comparable publicly traded stock, **35:45**  
price-to-book-value approach, **35:51**  
principal manager, loss, **35:69**  
promissory notes, **35:61**  
savings capitalization, **35:59**  
selling restrictions, discount, **35:68**  
weighted average formula, **35:53**  
Closely held businesses, **23:17 to 23:21, 35:66**  
Clothing, **35:11**  
Coal interests, **35:22**  
Coin collections, **35:11**  
Collections, appraisals, **35:12**  
Corporations, **23:17 to 23:21**  
Definition, **12:8, 31:46, 35:3**  
Direct capitalization, **35:19**  
Family attribution, **35:3**  
Family farm, incorporated, special use valuation, **35:25**  
Family limited partnerships  
interpreting provisions restricting transfer generally, **35:65**  
See also index heading VALUATION  
treasury bonds, **35:30**  
understatement, penalties, **35:5**  
valuation methods, **35:16 to 35:20**  
willing-buyer, willing-seller rule, **35:3**  
Family ownership, attribution rules, **17:50**  
Farms, **35:26**  
Federal estate taxes, basis, **19:27**  
Furniture, **35:11**  
Gas interests, **35:22**  
Government bonds, **35:30**  
Gravel interests, **35:22**  
Gross estate valuation, use, **16:58**  
Household articles, **35:11**  
Jewelry, **35:11**  
Leaseholds, **35:21**  
Market capitalization, **35:19**

Index to Text-94

## MINORITY DISCOUNTS—Cont'd

Marketable securities, **35:28**  
Merchantable timber, **35:23**  
Mineral interests, **35:22**  
Mortgage-equity method of capitalization, **35:19**  
Mutual funds, **35:31**  
Oil interests, **35:22**  
Oriental rugs, **35:11**  
Overstatement penalties, **35:4**  
Paintings, **35:11**  
Personal effects, **35:11**  
Precommercial timber, **35:23**  
Professional practices  
balance sheet adjustments, **35:72**  
closely held corporation, comparison, **35:71**  
goodwill, **35:73**  
valuation techniques, **35:74**  
Real estate limited partnership interest, **25:15**  
Real property  
capitalization rate, **35:18**  
condemnation actions, **35:14**  
easements, **35:24**  
estimation in anticipation of highest and best use, **35:14**  
fractional interests, **35:14**  
investment properties, **35:15**  
investment value approach, **35:18**  
market data approach, **35:17**  
multiple-factor method, **35:27**  
noninvestment, **35:15**  
replacement cost approach, **35:20**  
similar properties, comparison, **35:17**  
special use valuation, **35:25**  
subjective analysis, **35:14**  
Residual capitalization, **35:19**  
Restricted securities, **35:32**  
Retail price, **35:10**  
Savings bonds, **35:30**  
Special use valuation  
generally, **35:25**  
application, **4:29**  
real property, **35:25**  
Stocks, **35:29**  
Summation method of capitalization, **35:19**  
Swing vote characteristics, **35:3**  
Tangible personal property  
agricultural personalty, **35:10**  
crops, **35:10**  
farm machinery, **35:10**  
livestock, **35:10**  
motorized vehicles, **35:10**  
retail price, **35:10**  
Timberland, **35:23**  
Transfer taxes, provisions for avoiding, **35:65**  
Valuing closely held businesses, **35:67**

## MINORITY OWNERSHIP

Special use valuation, **4:29**

## MINORITY SHAREHOLDERS

Value of holding, **35:66**

## MINORS' TRUSTS

Distribution of income, **19:38**

## INDEX TO TEXT

### MISCELLANEOUS DEDUCTIONS

Investment advisor fees, **33:23**

### MISCELLANEOUS EXPENSES

Tax assistance, **2:51**

### MISSIONARIES

Charitable contributions to, **12:6**

Support of, charitable deduction, **12:6**

### MISTAKES OF FACT

Section 83(b) election, revocation of, **2:64**

### MOBILE EDUCATION UNIT

Charitable contribution of use, **12:42**

### MOBILE HOME PARKS

Valuations, **35:55**

### MODIFIED ADJUSTED GROSS INCOME

Taxing retirement benefits, **13:12**

### MODIFIED ENDOWMENT CONTRACTS

Taxing life insurance, **7:7**

### MONEY PURCHASE PLANS

Change in funding method, **5:6**

Definition, **5:6**

Distribution date, **5:38**

In-service distributions, **5:35**

Loans to participants, **5:36**

Required distributions, **5:37**

### MORTALITY

Grantor retained interest trusts, risk planning, **28:8, 28:11**

### MORTGAGE-EQUITY METHOD OF CAPITALIZATION

Real estate valuation, **35:19**

### MORTGAGES

Estate tax deduction, **16:52**

Marital deduction, **16:70**

Points, refinancing, **33:08**

Value, **35:61**

### MORTMAIN STATUTES

Choice of domicile, **20:10**

### MOTELS

Valuations, **35:55**

### MOTIONS FOR SUMMARY JUDGMENT

Tax Court, **39:20**

### MOTOR VEHICLES

See index heading **AUTOMOBILES**

### “MOVE DOWN” RULE

Generation skipping tax, **26:20**

### MULTI-DISCIPLINARY TEAM

Planning for individuals, **1:15**

### MUTUAL FUNDS

Closed-end investment company, valuation, **35:31**

Tax advantaged investment, **6:24**

### MUTUAL FUNDS—Cont’d

Valuation, **35:31**

### MUTUAL WILLS

See also index heading **JOINT WILLS**

Definition, **21:47**

## N

### NAME

Deceased’s, valuation, **35:6**

### NATURAL DISASTER

Replacement period, **19:26**

### NEGATIVE TAX

QTIP trusts, **21:38**

### NEGLIGENCE PENALTY

Revenue Reconciliation Act of 1989, Improved

Penalty Administration and Compliance Act, **39:31**

### NEGLIGENT TAX DEFICIENCIES

Penalty, **39:31**

### NEGOTIATED SETTLEMENT AGREEMENT

Valuation, charitable deduction, **12:8**

### NET GIFTS

Maximizing tax benefits, **8:34**

### NET OPERATING LOSSES (NOLS)

Carrybacks, period for eligible losses, **3:70**

Deductibility, **3:65, 31:58**

Postmortem income taxation, **33:04**

### NINETY-DAY LETTERS

Authority to issue, **39:17**

Effect, **39:2, 39:17, 39:18**

Payment of deficiency before or after mailing, effect, **39:17**

Relationship to administrative and judicial process, **39:2**

Requests by taxpayer, **39:17**

Tax Court access, **39:2, 39:17**

Time for issuance, **39:17**

### NO-LOAD OPEN-END INVESTMENT COMPANIES

Valuations, **35:31**

### NONADVERSE PARTIES

Definition, **19:26**

Related party trustees, **30:28**

### NONCASH PROPERTY

Gifts, **12:22**

### NONDEDUCTIBLE CONTRIBUTIONS

Individual Retirement Accounts, **5:61**

### NONDEDUCTIBLE INTERESTS

Estate tax marital deduction, **21:13**

Terminable interests, **21:15 et seq.**

## **NONFAMILY USE**

Special use value, impact on, **4:15**

## **NONINVESTMENT PROPERTIES**

Valuations, **35:15**

## **NONLAPSE RESTRICTIONS**

Valuation of stock transfers, **2:58**

## **NONPROBATE ASSETS**

Examples, **18:19**

Gross estate interests and assets, **16:28 et seq.**

Passage by operation of law, **18:19**

## **NONQUALIFIED DEFERRED COMPENSATION PLANS**

Advance ruling, requirements, **2:8**

Advantages over qualified plans, **2:2**

Changing tax brackets, effect, **2:10**

Constructive receipt doctrine, avoidance, **2:9**

Constructive receipt of benefits, **5:4**

Contribution restrictions, **5:3**

Corporations, requirements, **3:90**

Distributions

benefits payable, **5:40**

form, **5:40**

required amounts, **5:39**

Economic benefit doctrine, **3:90**

ERISA requirements, **5:5**

Funding, **5:4**

Insurance benefits, **2:11**

Irrevocable trust agreement, use, **2:9**

Life insurance, **2:9, 2:12 to 2:35**

Necessity, **2:6**

Nonforfeitable rights, **5:4**

Partnerships, requirements, **3:90**

Penalties for failure to comply with Section 409A, **2:89**

Planning considerations, **13:16**

Possible advantages, **5:3**

QTIP treatment, **5:3**

Qualified plans, compared, **5:4**

Rabbi trusts

generally, **3:90**

use by highly compensated clients, **2:9**

Requirements for tax deferral, **2:6**

S corporations, requirements, **3:90**

Section 409A

generally, **2:80 to 2:90**

delay of payments to "specified employees" of public companies, **2:88**

equity-based compensation, special rules for, **2:87**

exemption of plans from Section 409A, **2:82, 2:83**

form of payments, **2:84**

initial changes to deferral elections, **2:85**

penalties for failure to comply with Section 409A, **2:89**

stock options, special rules for, **2:87**

subsequent changes to deferral elections, **2:86**

time of payments, **2:84**

transition period planning opportunities, **2:90**

Secular trusts, **2:9**

Substantial risk of forfeiture, **2:6**

## **NONQUALIFIED DEFERRED COMPENSATION PLANS—Cont'd**

Surety bond, use, **2:9**

Taxation, **2:7**

Top-hat group, **2:6**

Unfunded, **2:6**

## **NONQUALIFIED RETIREMENT PLANS**

Limitations, EGTRRA 2001, **5:3**

## **NONQUALIFIED STOCK OPTIONS**

Employer withholding requirements, shares of stock used, **2:68**

Stock appreciation rights issued with, **2:68**

## **NONRENTAL ACTIVITIES**

Passive activity losses, **6:9**

## **NONRESIDENT ALIENS**

Artwork exception, **16:70**

Estate and gift tax, **16:70**

Income taxation, **1:4**

## **NONRESIDENTS**

Aliens. See index heading **NONRESIDENT ALIENS**

Mortgaged property, marital deduction, **16:70**

S corporation shareholder, nonresident spouse, **3:46**

## **NONREVERSIONARY TRUSTS**

Income shifting, support obligation discharged, **9:11**

Income-shifting advantages, **9:11**

## **NONSKIP PERSONS**

Generation skipping tax, **26:7**

## **NONSPOUSAL JOINT OWNERSHIP**

See also index headings **OWNERSHIP OF PROPERTY; SPOUSAL JOINT OWNERSHIP**

Basis for gain or loss, allocation, **10:29**

Brokerage accounts, **10:35**

Convenience accounts, **10:33**

Estate tax

generally, **10:31**

interests with right of survivorship, **16:37, 16:39**

Expense allocation, **10:29**

Gift tax, **10:30**

Income allocation, **10:29**

Income tax, **10:29**

Joint bank accounts, **10:33**

Tax consequences, **10:28 et seq.**

Totten trusts, **10:34**

## **NONSTATUTORY LEAD TRUSTS**

Purpose, **12:51**

Taxation, **12:52**

## **NOTICE OF DEFICIENCIES**

Date taxpayer must file, omissions ignored, **39:17**

## **NOTICE OF ELECTION**

Special use valuation substantial compliance

executor elections, **34:75**

rancher/farmer, **4:22**

## **NOTICES**

Crummey power, withdrawal rights, **8:15**

## INDEX TO TEXT

### NOTICES OF DISALLOWANCE, TAX REFUND CLAIMS

Issuance, **39:26**  
Limitations period commencement with mailing,  
**39:27**  
Waivers, **39:26, 39:27**

### NURSERY GROWERS

Deductibility of costs, **4:8**

### NURSING HOMES

Valuations, **35:55**

## O

### OFFICE AUDITS

Generally, **39:7**

### OFFICERS AND DIRECTORS

Charitable organizations, relation to donor, **12:6**

### OIL AND GAS

Advantages, **6:41**  
Alternative minimum tax passive loss limitation, **6:14**  
Availability as investment, **6:41**  
Passive activity rule, applicability, **6:8**  
Reserves, purchase, **6:41**  
Risks, **6:41**  
Tax treatment, **6:41**  
Working interests, passive activity exception, **6:14**

### OIL INTERESTS

Valuations, **35:22**

### OLD-AGE SOCIAL SECURITY BENEFITS

Eligible beneficiaries, **13:7**

### OPEN TRANSACTION DOCTRINE

Life insurance, **22:4**

### OPEN-SPACE EASEMENTS

Valuation, charitable gifts, **35:24**

### OPPORTUNITY ZONES

Tax advantaged investments, **6:50**

### OPTIMUM MARITAL DEDUCTION

Estate tax, **21:3**

### OPTIONS

Closely held businesses, **23:22**  
Compensatory stock transfers  
    valuation, **2:61**  
    valuation of gifts, **16:22**  
Employment termination, transfer before exercising,  
**2:61**  
Parachute payments, **2:78**  
Sales with bonds strategies, IRS position, **6:47**  
Transfers, after employment terminated, **2:61**

### ORCHARDS

Capitalization of start-up costs, **4:8**

### ORDINARY GAINS

Fiduciary income tax return line, **34:17**

### ORDINARY INCOME

Partnership terminations, controlled partnerships,  
**3:106**

### ORDINARY INCOME PROPERTY

Gifts, publishers clippings library, **12:23**

### ORIENTAL RUGS

Valuations, **35:11**

### OUTRIGHT GIFTS

Gift planning, **8:44**

### OUTSIDE BASIS

See also index heading BASIS FOR GAIN OR LOSS  
Death of investor, **25:9**  
Definition, **25:4**

### OVERMARITALIZATION OF ESTATE

Avoidance, **21:6, 21:76**  
Conditions for occurrence, **21:5**

### OVERPAYMENTS

Apportionment of refunds, **10:7**  
Rates of interest, **39:31**

### OVERSTATEMENT PENALTIES

Surtax basis, degree of valuation error, **35:4**

### OVERSTATEMENTS OF PROPERTY VALUE

Penalty, **39:31**

### OWNERSHIP CHANGES

Parent control of subsidiary, timing for a spin-off,  
**3:115**  
Partnerships, deemed terminations, **3:108**

### OWNERSHIP OF PROPERTY

Brokerage accounts, joint, **10:35**  
Community property  
    generally, **10:7, 10:13, 10:39 et seq.**  
    basis adjustment, **10:52**  
Corporate property, **10:9**  
Homestead, **10:14**  
Illinois land trusts, **10:12**  
Individually held property, **10:2, 10:19**  
Joint brokerage accounts, **10:35**  
Joint stock accounts, **10:35**  
Land trusts, **10:12, 10:38**  
Nonspousal joint ownership  
    generally, **10:28**  
    estate tax, interests with right of survivorship,  
    **16:37, 16:39**  
    estate tax treatment, **10:31**  
    gift tax treatment, **10:30**  
    income tax treatment, **10:29**  
Partnership property, **10:10**  
Publicity, avoidance of, **10:15**  
Qualified joint interests, **10:23**  
Savings bonds, **10:36**  
Sole ownership, **10:2, 10:19**  
Spousal joint ownership  
    community property, **10:7**  
    contribution rule, **10:21**  
    estate tax, interests with right of survivorship,  
    **16:37 to 16:39**

**OWNERSHIP OF PROPERTY—Cont'd**

Spousal joint ownership—Cont'd  
     estate tax treatment, **10:23**  
     gift tax treatment, **10:22**  
     income tax treatment, **10:21**  
     joint tenancy with right of survivorship, **10:6**  
     tenancy by the entirety, **10:5**  
 Stock accounts, joint, **10:35**  
 Tax considerations, generally, **10:18 et seq.**  
 Third parties. Nonspousal joint ownership, above  
 Totten trusts, **10:34**  
 Treasury bills and notes, **10:36**  
 Trust property, **10:11**  
 Uniform Partnership Act, **10:10**

**P**

**PAINTINGS**

Valuations, **35:11**

**PARENTS**

Gifts to donors, **8:43**

**PARENT'S SOCIAL SECURITY BENEFITS**

Eligible beneficiaries, **13:7**

**PARTIAL INTEREST EXCLUSION**

ESOPs, stock ownership, **5:9**

**PARTIAL INTERESTS**

Charitable contributions, valuation, **12:43**

Gifts in trust

    governing instrument, **12:49**  
     IRA benefits, effect, **12:69**  
     private foundation rules, **12:63**

**PARTICIPATING GENERAL PORTFOLIO WHOLE LIFE INSURANCE**

Insurance products, **7:40 to 7:46**

**PARTITION OF COMMUNITY PROPERTY**

Agreement, use, **10:59**

Methods, **10:59**

Postnuptial agreement, **10:61**

**PARTNERS**

Basis allocation, Regulations, **3:108**

Characterization as

    generally, **27:73**  
     conduct of business, **27:73.40**  
     income distributions, **27:73.30**  
     management participation, **27:73.20**  
     retained controls, **27:73.10**

Deceased partner's interest, liquidation or dissolution, discounts, **38:12**

**PARTNERSHIP AGREEMENTS**

Buy-sell agreement's relationship, **23:25, 23:36**

**PARTNERSHIP FREEZES**

Generally, **27:60**

Asset protection

    generally, **27:68, 27:99**

**PARTNERSHIP FREEZES—Cont'd**

Asset protection—Cont'd

    charging orders

        generally, **27:100**

        general v. limited, **27:101**

        tax consequences of charging order, **27:102**

Basic structure, **27:11**

Capitalization

    generally, **27:80**

    disguised sales, **27:83**

    investment company characterization, **27:82**

    nonrecognition rule, **27:81**

Chapter 14 valuations

    generally, **27:94**

    Section 2701, **27:95**

    Section 2702, **27:96**

    Section 2703, **27:97**

    Section 2704, **27:98**

Charging orders, protection for partners, **27:100**

Check-the-box regulations, **27:71**

Creditor protection benefits

    generally, **27:99**

    charging orders

        generally, **27:100**

        tax consequences of charging order, **27:102**

Death of partner

    generally, **27:86**

    basis determination, **27:90**

    distributive share, **27:87**

    income in respect of decedent, **27:89**

    losses, **27:88**

Distinction between general v. limited partnership, **27:101**

Distributions, **27:84**

Entity freezing, overview, **27:01**

Estate tax reduction, **27:66**

Family succession planning

    children not in business, providing for, **27:111**

    management continuity, **27:109**

    surviving spouse, providing for, **27:110**

Fiduciary accounting issues

    generally, **27:91**

    distributions to fiduciaries, **27:92**

    estate tax allocations, **27:93**

FLP regulations, **27:72**

Forms for transactions

    agreement of limited partnership, **27:114, 27:115**

    certificate of limited partnership, **27:113**

    guidelines, **27:112**

    IRS request for information, **27:118**

    minutes of commencing operation plan, **27:116**

    minutes of operation plan, **27:117**

Gifting, **27:64**

Gifting interest in partnership, timing, related to funding partnership, **27:64**

Gifts of interests

    generally, **27:76**

    completion of gift, **27:77**

    future interests, **27:78**

    income tax issues, **27:79**

Income tax planning, **27:63**

Income tax principles, **27:70**

Information request, IRS estate tax examination, **27:118**



## INDEX TO TEXT

### **PARTNERSHIP FREEZES—Cont'd**

- Life insurance, use with
  - generally, **27:103**
  - general rules, **27:104**
  - ownership by partnership, **27:105**
  - transfers to fund premiums, **27:106**
- Liquidations
  - generally, **27:84**
  - marketable securities, **27:85**
- Management and control, **27:65**
- Minors as partners, **27:74**
- Organization, **27:69**
- Overview of benefits, **27:62**
- Overview of entity freezing, **27:01**
- Partner recognition
  - generally, **27:73**
  - conduct of business, **27:73.40**
  - income distributions, **27:73.30**
  - management participation, **27:73.20**
  - retained controls, **27:73.10**
- Retention of preferred interest, **27:107**
- State tax avoidance, **27:67**
- Structure of freeze, **27:61**
- Trusts as partners, **27:75**
- Types of transactions, **27:05**

### **PARTNERSHIP INTERESTS**

- Charitable remainder trusts, **12:60**
- Life insurance exchanged for, **2:15**
- Passive activity loss rules, **32:80**

### **PARTNERSHIP PURCHASE PLANS**

- Cross purchase distinction, **23:36**
- Funding, **23:37**
- Tax treatment considerations, **23:36**

### **PARTNERSHIPS**

- Accident and health plans, **3:93 to 3:100**
- Accrual method of accounting, use by farmers, **4:6**
- Adjusted basis of partner, distributions, tax treatment, **3:45**
- Agreements
  - necessity, **3:4**
  - permanent existence, provision, **3:13**
- Allocation of nonrecourse liabilities, **3:73**
- Allocations to partners, made after the fact, **3:37**
- Anti-abuse regulations
  - generally, **3:34**
  - disposing tax shelter investments, **25:4**
- Appreciation in value, **10:46**
- Assignee's right to force liquidation, **35:65**
- At risk rules, **3:74**
- Audits, bankruptcy exceptions, **3:34**
- Balance sheet adjustments, **35:49**
- Basis allocation, Regulations, **3:108**
- Basis of partner
  - liabilities, effect, **3:73**
  - partnership interest, **3:72**
- Built-in loss property, **3:42**
- Business income, **4:4**
- Business loss, **4:4**
- Business transactions with partners, non-partner capacity, **3:38**
- Buy-out agreements, use, **32:52**

### **PARTNERSHIPS—Cont'd**

- Buy-sell agreements
  - cross purchase plans, **23:36**
  - funding, **23:37**
  - nature of agreement, **23:25**
  - partnership agreement, relationship, **23:25, 23:36**
  - partnership purchase plans, **23:36**
  - practical considerations, **23:36**
  - Section 754 election provisions, **23:36**
- Calls, **23:22**
- Capital accounts, determination and maintenance, **3:37**
- Capital gains
  - generally, **23:10**
  - tax rates, **1:3**
  - tax treatment, **3:117**
- Capital structure, **3:19**
- Cash distributions, **3:45**
- Centralized management, **3:11**
- Change in ownership, deemed terminations, **3:108**
- Charitable gift of partnership interest, **12:39**
- Child care assistance, **3:99**
- Claims, personal liability, **3:9**
- Classification for tax purposes, **3:4**
- Close of partnership year, death of partner, **32:52**
- Closely-held business interest, inclusion in definition, **35:36**
- Community property, **10:46**
- Conversion to limited liability company, **3:121**
- Corporations and S corporations compared, **3:122**
- Cross purchase plans, **23:36**
- Death of a partner, close of partnership year, **32:52**
- Death or retirement of partner
  - generally, **3:108, 23:9**
  - disposition of partner's interest, **3:113**
- Debt interests of nonparticipating owners, **23:23**
- Deceased partner, distribution to estate, **32:52**
- Deductibility of losses, consideration in choice of entity, **3:54**
- Definition, **3:4**
- Dental reimbursement plans, **3:94**
- Dependent care assistance, **3:99**
- Depreciation, deduction recapture, **3:38**
- Disability retirement benefits, deductibility, **3:95**
- Discounted value, deceased partner's interest, **38:12**
- Dissolutions
  - deceased partner's interest, **38:12**
  - termination, effect, **3:13**
- Distributions, income in respect of decedent, **33:46**
- Earnings distributions, **23:22**
- Electing investment partnerships (EIPs), **3:43**
- Employee death benefits, lump-sum exclusions, **3:97**
- Enhancement of value, **10:46**
- Equity interest transfers to debt interest, nonparticipating owners, **23:23**
- Estate planning during partner's life, **23:1 et seq.**
- Estate tax on partnership interests, **16:27**
- Existence, uncertain duration, **3:13**
- Expenses and formalities of organization, **3:17**
- Family partnership as income shifting vehicle, **9:27**
- Farming operations, tax year, **4:7**
- Federal estate tax return listing, **34:69**
- Fiscal year
  - factor in choice of entity, **3:102**

**PARTNERSHIPS—Cont'd**

Fiscal year—Cont'd  
     use for income shifting, **9:16**  
 Formation, basis of property contributed by partner, **3:106**  
 Freeze entities, **27:09**  
 Fringe benefits of corporations  
     compared  
         distributions, **3:83**  
         participation standards, **3:81**  
     comparison, top-heavy plans, **3:82**  
 Funding of business interest purchase, **23:22**  
 General, **6:29**  
 General partners, limitation of liability, **3:9**  
 Gifts  
     interest, gift of  
         annual exclusion qualification, **8:13**  
         completed gifts, **8:33**  
     transfers of property to family partnerships as, **27:64**  
 Group-term life insurance, deductibility of premiums, **3:96**  
 Guaranteed payments to partner, **3:44**  
 Holding periods, capital gains, **1:3**  
 HR10 plans, establishment, **3:80**  
 Inadvertent termination, adverse tax consequences, **3:121**  
 Income in respect of decedent, applicability, **32:52**  
 Income or loss, computation, **3:35**  
 Income tax  
     generally, **3:4, 3:34 to 3:45**  
     general liability, **3:34**  
     partnership level adjustments, **3:34**  
     rates, **3:24**  
 Keogh plans, establishment, **3:80**  
 Land trusts, **10:38**  
 Life insurance transfers, **23:36**  
 Limitations period, **3:34**  
 Limited liability company, **3:6**  
 Limited partner's basis, **38:14**  
 Limited partnerships, **23:9, 23:20**  
 Liquidation  
     generally, **3:108**  
     deceased partner's interest, **38:12**  
     partnership interests, deductions, **23:36**  
     recognition of gains or losses, **3:117**  
 Liquidity of partner's estate, **23:7, 23:9, 23:10**  
 Lodging provided for convenience of employer, **3:98**  
 Management and control, **3:11**  
 Master limited partnerships, **6:28**  
 Meals provided for convenience of employer, **3:98**  
 Medical reimbursement plans, **3:94**  
 Net active income, determination, **6:11**  
 Noncontrolling parties, **23:22 to 23:24**  
 Nonparticipating owners, **23:22, 23:23**  
 Nonqualified deferred compensation plans, permissibility, **3:90**  
 Options, **23:22**  
 Partnership agreements, relationship to buy-sell agreement, **23:25, 23:36**  
 Partnership income, fiduciary income tax return line, **34:13**  
 Partnership losses  
     allowance, **3:34**  
     at risk rules, **3:74**

**PARTNERSHIPS—Cont'd**

Partnership losses—Cont'd  
     retroactive allocation, **3:75**  
     treatment, **3:72**  
 Partnership purchase plans, **23:36**  
 Passive income or loss, **4:4**  
 Passive owners, **23:22**  
 Percentage depletion allowance, **3:40**  
 Postmortem basis adjustment, **33:35**  
 Professional corporations as partnership, **3:88**  
 Property  
     generally, **10:10, 10:46**  
     conveyance, **10:10**  
     divorce allocations, **10:10**  
     ownership, **10:10**  
     title, **10:10**  
     transfer, **10:10**  
     Uniform Partnership Act, **10:10**  
 Publicly traded, **6:28**  
 Puts, **23:22**  
 Qualified retirement plans  
     distributions, **3:83**  
     nondiscriminatory rules, **3:81**  
     participation standards, **3:81**  
     Retirement Equity Act, **3:83**  
     service credits, **3:81**  
 Receipts as income in respect of decedent, **32:52**  
 Restructure of ownership and control  
     buy-sell agreement provisions, **23:20**  
     devices, **23:22**  
     feasibility, **23:18**  
     general considerations, **23:16**  
 Retroactive allocation of losses, **3:75**  
 S corporations  
     comparison, **3:47, 3:122, 38:03**  
     shareholder, **3:46**  
 Sale of partnership interest  
     gain, taxation, **23:10**  
     gain or loss recognition, **38:14**  
     inventory element, **3:108**  
     source of liquidity, **23:9**  
     tax treatment, **3:108**  
 Section 179 depreciation allowance, **3:41**  
 Section 751 assets, **23:10**  
 Section 754 elections, buy-sell agreement provisions, **23:36**  
 Separate property, **10:46**  
 Settlement agreement terms, individual partners, **3:34**  
 Special allocations of partnership items  
     generally, **3:37**  
     restrictions, **3:37 to 3:43**  
 Special asset treatment  
     disposal of interest, **38:13**  
     income in respect of decedent, **38:15**  
     "inside" basis, **38:14**  
     "outside" basis, **38:14**  
     problems, **38:12**  
     taxable year, closing, **38:13**  
 Step-up basis, election, **38:14**  
 Substantial economic effect rule, **3:37**  
 Tax characteristics, **3:4**  
 Tax classification, requirements, **3:4**  
 Tax Reform Act of 1997, **32:52**  
 Taxable year  
     choice, **3:102**

## INDEX TO TEXT

### **PARTNERSHIPS—Cont'd**

Taxable year—Cont'd  
closing, **38:12**  
Tax-free distributions, **3:45**  
Tax-free formation, **3:106**  
Termination for tax purposes, **3:121**  
Top-heavy plans, requirements, **3:82**  
Transferability of interests, **3:15**  
Uniform Partnership Act  
death of partner, **23:9**  
title to real property, **10:10**  
Valuation of interest, **35:36**  
Wrongful acts of copartners, liability, **3:9**

### **PASSIVE ACTIVITIES**

See also index heading **TAX ADVANTAGED INVESTMENTS**

### **PASSIVE ACTIVITY LOSSES**

See also index heading **TAX ADVANTAGED INVESTMENTS**  
Active income, **6:11**  
Aggregation of activities, **6:9**  
Definition, **6:9**  
Depreciable property, S corporations, **3:76**  
Disposition at death, **32:71**  
Disposition by gift, **32:73**  
Estates and trusts  
generally, **32:70 et seq.**  
consolidation of income tax returns for estate  
and revocable trust, **32:81**  
joint return, **32:79**  
material participation, **32:75**  
partnership interests, **32:80**  
passive activities  
generally, **32:76**  
year of death, **32:78**  
planning considerations, **32:77**  
rental real estate, **32:72**  
reporting requirements, **32:82, 32:83**  
when to make an election, **32:84**  
Individual ownership, impact, **6:33**  
Material participation, **6:10**  
Oil and gas, working interest, **6:14**  
Phase-in rules, **6:16**  
Portfolio income, **6:12**  
Postmortem income taxation, **33:04**  
Rental activities, **6:13**  
Residential rental property, applicability, **6:39**  
Self rental, in business, **6:13**  
Tax return preparation, **6:18**  
Terminally ill client, review, **31:77**  
Trade or business, applicability of rules, **6:48**  
Transfers, **6:15**

### **PASSIVE INCOME**

S corporations, **3:47**  
Tax shelter investments, **25:2**

### **PASSIVE LOSSES**

Bankruptcy, **6:49**

### **PATENTS**

Valuations, **35:60**

### **PATIENT CHARTS**

Custody after physician's death, **31:17**

### **PAYMENTS**

Characterization of, statute of limitations issues, **39:23**  
Withheld taxes, deemed payment period, **39:23**

### **PECUNIARY DATE OF DISTRIBUTION FORMULA**

Marital deduction clauses, **21:61**

### **PECUNIARY FAIRLY REPRESENTATIVE FORMULA**

Advantages and disadvantages, **21:59, 21:66**  
Form, **21:60**  
Planning considerations, **21:66**

### **PECUNIARY FIXED SUM FORMULA**

Advantages and disadvantages, **21:66**  
Fixed sum devise advantages, **21:63**  
Form, **21:62**  
Planning considerations, **21:66**

### **PENALTIES**

Disclosure to avoid, **39:31**  
Excess retirement plan distributions, **13:15**  
Foreign sourced income, **6:2**  
Frivolous positions taken by taxpayers, additional sanctions for, **39:31**  
Imposition in tax collection, **39:31**  
Interest rate, enhanced, tax avoidance motive, **6:19**  
No tax liability claims, **6:2**  
Overstatements of property value, **39:31**  
Revenue Reconciliation Act of 1989  
accuracy-related penalty, **39:31**  
fraudulent failure to file a return, **39:31**  
negligence, **39:31**  
Tax Court improper proceedings, **39:20**  
valuation overpayment, **39:31**  
valuation understatement, **39:31**  
Section 409A, penalties for noncompliance with Section 409A, **2:89**  
Tax advantage investments, **6:19**  
Tax avoidance motive, **6:19**  
Tax Court, **39:20**  
Tax penalty due date, **39:31**  
Tax shelters, **6:2**  
Taxpayer identification number, failure to furnish, **39:31**  
Understatements of property value, **39:31**

### **PENSION PLANS**

See also index headings **NONQUALIFIED DEFERRED COMPENSATION PLANS**; **QUALIFIED DEFERRED COMPENSATION PLANS**; **QUALIFIED RETIREMENT PLANS**  
Advantages, **5:2**  
Amendments to plans, model for 2001 distribution rules, **5:39**  
Beneficiary, designation, **5:42**  
Benefits, limits, **5:29**  
Change in funding method, **5:6**  
Contribution limitations, IRAs, **5:59**  
Contribution limits, **5:29**  
Death benefits, **5:41**  
Defined benefit plans, **5:6**  
Defined contribution plans, **5:6**  
Designated beneficiary determination, **5:39**

## **PENSION PLANS—Cont'd**

Discrimination testing, **5:25**  
 Distribution requirements, **5:6**  
 Distributions  
     method of payment, **5:40**  
     withholding, **5:65**  
 Employer contributions, limits, **5:29**  
 Factor in choice of business entity, **3:79, 3:81**  
 401(k) elections, **5:10, 5:11**  
 Funding method, changing, **5:6**  
 Funding obligation, discharge, **5:12**  
 Incidental nonretirement benefits, **5:7**  
 Income limits, phaseouts, **5:59**  
 In-service benefits, **5:7**  
 In-service distributions, taxation, **5:44**  
 Marital property rights, **5:42**  
 Medicare reimbursement, **13:10**  
 Minimum distribution requirement, **5:39**  
 Model amendments, distribution rules of 2001, **5:39**  
 Money purchase plans, **5:6**  
 Postmortem estate planning, **33:36 to 33:40**  
 QDROs, **3:84**  
 Qualification rules, **5:14 to 5:29**  
 Retirement benefits, taxation, **5:45**  
 Separation agreements and decrees, **11:33**  
 Survivor benefits, **5:7**  
 Welfare benefit plans, contribution limitations, **5:29**

## **PER CAPITA DISTRIBUTIONS**

Will preparation, beneficiary designations, **18:13**

## **PER DIEM EXPENSES**

Current amounts, **2:51**

## **PER STIRPES DISTRIBUTIONS**

Will preparation, beneficiary designations, **18:13**

## **PERSONAL EXEMPTIONS**

Estate income tax, **32:19**  
 Phaseout, **9:3**  
 Tax Cuts and Jobs Act, **1:3**  
 Trust income tax, **32:19**

## **PERSONAL HOLDING COMPANY**

Tax, **3:33**

## **PERSONAL INJURIES**

Settlement agreements for damages, **2:5**

## **PERSONAL INTEREST**

Deduction, **32:22**

## **PERSONAL PROPERTY**

Administration of estate, **31:21**  
 Assignment from grantor to trustee, form, **19:11**  
 Community property moved to common law state, **10:57**  
 Conflict of laws as to disposition, **20:5, 20:7**  
 Definitions, **10:1**  
 Exemptions, **18:21**  
 Extent of client's holdings, **15:8**  
 Gift tax, tenancy by the entirety creation and termination, prior law, before 1982, **10:26**  
 Gifts, **12:24**  
 Gifts by will, **18:20 et seq.**  
 Income, taxable item to estates and trusts, **32:13**

## **PERSONAL PROPERTY—Cont'd**

Intangible personal property, **10:1**  
 Section 2515A rule, prior law, before 1982, **10:26**  
 Taxes, deduction, **32:23**  
 Title as ownership, individually held property, **10:2**

## **PERSONAL REPRESENTATIVES**

Accountability, **30:08**  
 Accountings, **30:08**  
 Accumulation of income, **36:03**  
 Alternate nominations by will, **18:54**  
 Ancillary administration appointment, authorization form, **30:18**  
 Ancillary personal representatives, **18:55**  
 Attorney as, **18:59**  
 Beneficiaries as representatives  
     compensation, **18:58**  
     taxation on estate assets, **30:22**  
 Bond requirements and conditions, **30:12**  
 Bond waiver by will, **18:56**  
 Choice of terminally ill client, **31:05**  
 Common law terms included in term, **30:08**  
 Compensation, **18:58**  
 Copyright of decedent, protection, **38:17**  
 Death of representative prior to distribution, **30:22**  
 Definition, **30:08**  
 Disclaimers, **37:5, 37:20**  
 Disposition of S corporation stock, duties, **38:05**  
 Duties, **30:08**  
 Estate fiscal year, election, **33:26**  
 Estate income tax, excess deductions, **33:28**  
 Estate tax, payment requirements, **16:66**  
 Estate tax return, filing requirements, **16:57, 16:66**  
 Farmland, valuation considerations, **38:08**  
 Fees, waiver, **33:25**  
 Fiduciary income tax return, tax year, **34:4**  
 Gifts, contingent upon service without compensation, **18:58**  
 Income tax of estate, estimation, **33:27**  
 Income tax return, recognition of gain, **33:30**  
 Installment obligations, postmortem distribution, **33:47**  
 Inventory of liquid assets, **36:02**  
 Joint personal representatives  
     generally, **18:57**  
     nominations by will, **18:54**  
 Licenses of decedent, protection, **38:17**  
 Life insurance policy incidents of ownership in representative, estate tax, **16:29**  
 Nominations by will, **18:54, 18:55**  
 Payment of estate taxes, responsibility, **33:20**  
 Postmortem elections, **33:31**  
 Purchase of terminable interests for surviving spouse, estate tax marital deduction prohibition, **21:17**  
 QTIP elections with trusts, **21:40, 21:41, 21:74**  
 Relatives of decedent, individual representatives, **30:11**  
 Renunciation of will provisions on compensation, **18:58**  
 Residency requirement for individuals, **30:10, 30:11**  
 Royalties of decedent, protection, **38:17**  
 Sale of estate assets, court approval, **36:04**  
 Selection  
     planning suggestions, **30:17**  
     tax impact, **30:22**

## INDEX TO TEXT

### PERSONAL REPRESENTATIVES—Cont'd

Special assets of estate, consideration, **38:02**  
Successor nominations by will, **18:54**  
Support obligation to beneficiaries, **30:22**  
Taxation of compensation, **18:58**  
Terminally ill clients, review of choice, **31:29**

### PERSONAL RESIDENCE

Grantor retained interest trusts  
    regulations, **28:7**  
    use by family, **28:7**  
Qualified personal residence trusts (QPRTs),  
    considerations for using, **28:6**

### PERSONAL SERVICE CORPORATIONS

Calendar year, requirement, **6:31**  
Definition, **6:31**  
Income tax avoidance, **3:88**  
Leased employees, **3:87**  
Management functions, performance, **3:86**  
Passive activity loss rules, application, **6:31**  
Qualified appraisals, **12:8**  
Retirement plans, **3:85**  
Safe harbor provisions, **3:87**  
Taxable year, **3:101**

### PETITIONS FOR REDETERMINATION OF TAX DEFICIENCY

Content, **39:18**  
Filing method, **39:18**  
Format, **39:18**  
Mail filing, **39:18**  
Place for filing, **39:18**  
Place of trial preference request, **39:18**  
Time for filing, **39:2, 39:17, 39:18**

### PHANTOM GAIN

Basic concepts, **25:4**

### PHANTOM STOCK

S corporation qualification, **2:76**

### PHONE PAYMENTS

Gifts, **12:20**

### PHYSICAL INJURIES

Damage awards, excludability, **2:5**

### PHYSICIANS

Estates, special problems, **38:16**  
Wills, special problems, **31:17**

### PICKUP TAXES

Credit against tax, **16:62**  
State tax type, **20:21**

### PLANNING

Generally, **15:1**  
Accountant, role, **1:17**  
Ancillary administration avoidance, **20:25 to 20:27**  
Asset appreciation, shifting, **27:01**  
Attorney, role, **1:16**  
Business agreements, **1:12**  
Charitable contributions, testamentary, **24:1**  
Charitable lead trusts, **12:50**  
Charitable remainder trusts, **12:42**  
    use of, **12:50**

### PLANNING—Cont'd

Client discussion questions  
    generally, **15:14**  
    post-interview checklist, **15:15**  
Closely held businesses, **23:1, 23:1 et seq.**  
Complete estate plan, **1:14**  
Computers, use  
    generally, **1:22**  
    administration of estate, **1:25**  
    client-data retrieval, **1:25**  
    document indexing, **1:25**  
    document preparation, **1:24**  
    tax analysis, **1:23**  
    tax returns, **1:23**  
Conflicts of interest  
    generally, **1:27**  
    business associates, **1:30**  
    husband and wife, **1:28**  
    multiple family members, **1:29**  
Disclaimers as estate planning device, **37:19 et seq.**  
Divorce and separation, **11:1 et seq.**  
Documents, **1:9**  
Domicile choice, **20:5 to 20:23**  
Entity freezes, partnerships, family controlled, **27:63**  
Estate planning overview, **17:1**  
Estate tax marital deductions, **21:66**  
Estate tax planning  
    definition, **1:5**  
    foundation, **1:5**  
    lifetime of client, **1:6**  
    postmortem, **1:7**  
Farmers, **4:12**  
Fiduciary selection, **30:01 et seq.**  
Financial planner, role, **1:20**  
Generation skipping transfers  
    children, mandatory income interests and powers, **26:51**  
    estate tax substitution, **26:46**  
    exempt trust, created by gift tax annual exclusion, **26:48**  
    exemptions, utilization, **26:44**  
    gift tax, substitution, **26:46**  
    leveraged use of exemption, **26:49**  
    nonskip person trust, consideration, **26:50**  
    preservation of grandfathered trusts, **26:52**  
    separate exempt and nonexempt trusts, creation, **26:45**  
    untimely death, mitigation of effect, **26:51**  
Gift loans, use, **9:22**  
Gifting plans, **8:3**  
Goals, **1:8**  
Grantor retained income trusts (GRITs), **28:8, 28:11**  
Imminent death planning, **31:01**  
Income in respect of decedent techniques, **32:55**  
Income shifting, gift or demand loans, **9:22**  
Income tax planning, **1:3**  
Initial client questionnaire, **15:11**  
Investments, **6:49**  
Life insurance products, generally, **7:1 to 7:70**  
Life underwriter, role, **1:18**  
Malpractice prevention, **1:31**  
Marital agreements, **1:13**  
Marital deduction, use, **21:4**  
Marital deduction trusts  
    generally, **16:49**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### PLANNING—Cont'd

Marital deduction trusts—Cont'd  
testamentary transfers, **21:29 et seq.**  
Marital deduction utilization, estate tax, postmortem planning, **21:70 et seq.**  
Multi-disciplinary team, **1:15**  
Passive activity losses, **32:70 et seq.**  
Planning team, coordination, **1:21**  
Postmortem income tax planning, **10:50 to 10:53**  
Postmortem planning for marital deduction, **21:70 et seq.**  
Questionnaire for client, **15:11**  
Ranchers, **4:1 et seq.**  
Residuary direction, lifetime gifts, effect on balance, **18:9**  
Retirement issues, **13:2**  
Retirement planning, **13:1**  
Separation and divorce, **11:1 et seq.**  
Single clients, **14:1**  
Special use valuation, **4:32**  
Successor planner, intent of testator, **18:2**  
Tax shelters upon death, **25:13**  
Terminally ill clients, **31:39**  
Testamentary estate planning, **24:1**  
Trust officer, role, **1:19**  
Trusts, **1:11**  
Unmarried clients, **14:1**  
Wills, necessity, **1:10**

### PLEADINGS

Tax protestor litigation, attorney liability, **1:31**

### PLEDGES AS GIFTS

Generally, **12:20**

### POINTS (MORTGAGES)

Refinanced loan, **33:08**

### POLITICAL SUBDIVISION

Charitable organization, **24:5**

### POLLUTION LIABILITY

Planning for testator, **31:80**

### POOLED INCOME FUNDS

Charitable remainder trusts  
use with, **12:74**  
value, **12:75**  
Definition, **24:25**  
Estate tax charitable deduction, **16:54**  
Form (IRS sample), **12:97**  
Generation skipping tax, exceptions, **26:17**  
Gift tax charitable deduction, **16:20**  
Gross estate, inclusion, **24:25**  
Income taxation, **12:76**  
Instrument of transfer, form, **12:97**  
Value, **12:75**

### PORTABILITY

Health Insurance Portability and Accountability Act, **1:4**  
Postmortem estate planning, **33:21.50**

### PORTFOLIO INCOME

Definition, **25:2**  
Tax treatment, **6:12**

### POSTBOX RULE

Private delivery services, permissibility, **39:23**

### POSTMORTEM ESTATE PLANNING

Generally, **33:01 et seq.**

See also index headings ESTATE PLANNING; TERMINAL ILLNESS

Alternate valuation date, return filed late, **33:14**  
Ancillary administration, avoiding, **10:56**  
Closely held stock, redemption, **33:33**  
Community property income tax, **10:50, 10:52, 10:53**  
Corporate liquidation, **33:34**  
Disclaimers  
generally, **37:1**  
use, **33:11**  
Distributions  
fractional share formula, **33:44**  
funding specific devises, **33:44**  
income in respect of decedent, **33:46**  
pecuniary fixed sum formula, **33:44**  
pecuniary-fairly representative clause, **33:44**  
shifting taxable income, **33:43**  
tax impact, **33:41**  
timing, **33:42**  
trapping, **33:45**

Election to take against will, **33:12**

Employee stock ownership plans, use, **33:17**

Equitable adjustments, **33:48**

Estate as separate taxpayer, advantages, **33:26**

Estate tax return  
alternate valuation, **33:14**  
elections available, **33:13**  
extension of time to file, **33:18**  
filing, **33:01**

Estate taxes, payment, **33:20**

Final gift tax return, **33:09**

Final income tax return  
capital losses, **33:04**  
estimated payments, **33:05**  
filing status of decedent, **33:03**  
increasing reportable income, **33:08**  
joint return, election by surviving spouse, **33:03**  
medical deductions, **33:06**  
net operating losses, **33:04**  
passive activity losses, **33:04**  
personal liability of executor, **33:08**  
preparation, **33:02**  
principal residence capital gains exclusion, election, **33:08**  
requirements, **33:02**  
treasury bond interest, accrual, **33:07**  
unamortized mortgage loan costs, deduction, **33:08**  
unrecovered investment deduction, **33:08**  
unused loss carryforwards, **33:04**

Fractional share formula, **33:44**

Generation skipping tax, exemption, **33:21**

Importance, **33:01**

Income earned by estate, reporting, **33:22**

Income tax planning, **10:50 to 10:53**

Income tax returns of estate  
additional estate tax, former law, **33:40**  
administration expenses, deductibility, **33:23**  
capital losses, treatment, **33:29**  
casualty or theft losses, deductibility, **33:23**



## INDEX TO TEXT

### POSTMORTEM ESTATE PLANNING—Cont'd

Income tax returns of estate—Cont'd  
corporate liquidations, **33:34**  
corporate redemptions, **33:33**  
employer-paid death benefit exclusion, **33:37**  
estate fiscal year, election, **33:26**  
estate tax, partial exclusion, **33:39**  
estimated payments, **33:27**  
excess deduction, treatment, **33:28**  
excess retirement accumulations, **33:40**  
excise taxes, former law, **33:40**  
interest expense, deduction, **33:23**  
net operating losses, treatment, **33:29**  
partnership basis adjustment, **33:35**  
preparation, **33:22**  
property not subject to claims, deductions, **33:24**  
qualified deferred compensation plans, lump sum distributions, **33:38**  
recognition of gain, election, **33:30**  
S corporation election, **33:32**  
selling expenses, deduction, **33:23**  
unused loss carryovers, **33:29**  
Liquidation of corporation, **33:34**  
Marital clauses, funding, **33:44**  
Marital deduction utilization, **21:70 et seq.**  
Maximizing number of beneficiaries, **33:43**  
Mobile clients, **10:57**  
Partnership basis adjustment, **33:35**  
Payment of estate taxes, **33:19**  
Pecuniary fixed sum formula, **33:44**  
Pecuniary-fairly representative clause, **33:44**  
Personal representative fees, waiver, **33:25**  
Portability election, **33:21.50**  
QTIP trust, use for marital deduction, **33:16**  
Reversionary interest in closely held business, payment of estate taxes, **33:19**  
S corporation shares, termination of election, **33:32**  
Sale of securities to ESOP, estate tax deduction, **33:17**  
Surviving spouse election, **33:12**  
Will contests, **33:12**

### POSTMORTEM MATERIAL PARTICIPATION

Special use valuation, **4:20**

### POSTMORTEM PLANNING

Allocation of GST exemption, EGTRRA 2001, **33:21**  
EGTRRA 2001, **33:21**  
Generation skipping transfer tax, retroactive allocation of exemption, **33:21**

### POSTMORTEM QUALIFIED USE PROPERTY

Special use valuation, **4:19**

### POSTNUPTIAL AGREEMENTS

Generally, **11:39**  
See also index headings MARITAL AGREEMENTS; PRENUPTIAL AGREEMENTS  
Community property  
generally, **10:58**  
partition agreement, form, **10:61**  
Election right against spouse's will, **20:7**  
Partition of community property, form, **10:61**

### POSTNUPTIAL AGREEMENTS—Cont'd

Requirements, **20:12**  
Separate property, **10:58, 10:61**  
Tax aspects, **11:40**

### POUR-OVER CLAUSES

Will preparation, **18:44**

### POUR-OVER GIFTS

Lapse by revocation or termination of inter vivos trust before death, **18:44**  
Requirements for validity, **18:44**

### POUR-OVER WILLS

Description, **18:44**  
Form, **18:71**  
Importance to estate plan, **18:44**  
Incorporation by reference of trust instrument, **18:44**  
Revocable living trusts, use, **19:28**  
Trust instrument's relationship, **18:60**

### POWER OF APPOINTMENT TRUSTS

Characteristics, **18:45**  
Marital deduction  
qualification requirements, **18:45**  
surviving spouse powers, **19:36**

### POWER OF ATTORNEY

Actions authorized, **8:33**  
Attorneys-in-fact, durable powers, **30:05**  
Bond, necessity, **30:12**  
Business transactions, use, **17:7**  
Continuing a pattern of giving, **8:33**  
Definition, **17:7**  
Durable powers of attorney. See index heading DURABLE POWERS OF ATTORNEY  
Escrow letter, form, **17:10**  
Estate planning tool, **17:7**  
Exercise for benefit of power-holder, **17:2**  
Flexibility, **17:7**  
Form 2848, power of attorney and declaration of representative, **34:135**  
General powers, definition, **17:8**  
Gifts by  
pattern of principal's conduct, **8:33**  
specific powers required, **8:33**  
Gifts from incompetent person, **16:14**  
Medical expenses, authorization, **17:7**  
Pattern of giving, **8:33**  
Power of attorney, enumeration of powers, **30:05**  
Powers, **30:05**  
Qualifications, **30:11**  
Real property transactions, **17:11**  
Residency as not required, **30:10**  
Revocability, **17:7**  
Revocable gifts, **17:7**  
Revocable or amendable transfers, gross estate, **16:45**  
Taxpayer representatives, **39:3, 39:6**  
Termination of authority, **17:11**  
Testimony of attorney, **8:33**  
Unmarried client, use, **14:10**  
Validity of transactions, **17:11**

### POWERS OF APPOINTMENT

Annuity contract proceeds, estate tax marital deduction, **21:44**

**POWERS OF APPOINTMENT—Cont'd**

Ascertainable standards, post-October 21, 1942 powers, **16:32**  
 Classes of persons, **16:32**  
 Creation, gift tax, overview, **16:7**  
 Decedent's estate, inclusion, **17:60**  
 Definitions, general powers, **16:7, 18:31**  
 Disclaimers, **17:62, 37:11, 37:14**  
 Discretion standard of trustee, change in as avoiding general power of appointment, **16:32**  
 Dollar amount expression, **21:31, 21:36**  
 Donor's intention, testimony of drafter, **16:32**  
 Endowment policy proceeds, estate tax marital deduction, **21:44**  
 ESBT beneficiaries, **23:39**  
 Estate tax charitable deduction, eligibility, **24:9**  
 Exclusive powers, **17:54**  
 Exercise  
     by specific reference, **17:55**  
     creation of other power, **16:35**  
     estate tax, **16:32 to 16:35**  
     exercise to pay marginal tax increase, form, **17:61**  
     form, **17:56, 31:11**  
     gift tax, **16:7**  
     in conjunction with other, pre-1942, **16:33**  
     in conjunction with other person, post-1942, **16:32**  
 Federal estate tax return listing, **34:72**  
 Five and five powers  
     overview, **16:7**  
     post-October 21, 1942 powers, **16:34**  
 General power with life estate  
     powers qualifying, **21:36**  
     requirements for deductibility, **21:29 et seq.**  
     requirements for power, **21:36**  
 General powers  
     ascertainable standards, **16:32**  
     definitions, **16:7**  
     exercise only in conjunction with other, **16:33**  
     exercise only in conjunction with other person, **16:32**  
     generation skipping tax, effective date rules, **26:31**  
     gift tax, **16:7, 16:14**  
     gross estate  
         inclusion, **16:27, 16:31 to 16:34**  
         inclusion prior to 1942, **16:36**  
     marital deduction, life estates with general power, **21:29 et seq.**  
     post-October 21, 1942 powers, **16:32, 16:34**  
     pre-October 21, 1942, powers held or exercised at death, **16:33**  
     reforming original document, **16:32**  
     taxability, **17:59**  
 Generation skipping rules, applicability, **17:53**  
 Gift tax  
     generally, **17:63, 37:14**  
     completed gifts, **16:14**  
     overview, **16:7**  
 Gross estate, inclusion  
     generally, **16:31 et seq.**  
     overview, **16:27**  
 Income tax treatment, **17:65**

**POWERS OF APPOINTMENT—Cont'd**

Insurance proceeds, estate tax marital deduction, **21:44**  
 Inter vivos powers, **17:54**  
 Interests retained at exercise or release  
     generally, **16:35**  
     post-October 21, 1942 powers, **16:34**  
 Invasion or consumption of principal, good faith rule, **21:36**  
 Judicial injunction, effect, **16:32**  
 Lapsed powers  
     generally, **17:62**  
     estate tax  
         inclusion prior to 1942, **16:36**  
         post-October 21, 1942, **16:34**  
     gift tax, **16:7**  
 Life estate with general power, testamentary transfers, **21:29 et seq.**  
 Life insurance, powers over payments, **21:19, 21:44**  
 Marital deduction, estate tax  
     insurance proceeds with power, **21:44**  
     life estates with general power, **21:29 et seq.**  
     mental capacity of holder, **16:32**  
 Necessity, **17:58**  
 Nonexclusive  
     generally, **17:54**  
     form, **17:57**  
 Nongeneral powers  
     gift tax, **16:7**  
     post-October 21, 1942 powers  
         generally, **16:31**  
         exercised to create other power, **16:35**  
     pre-October 22, 1942 general power, partial releases, **16:36**  
 Nontaxable powers, **17:58**  
 Passage from decedent, requirement, **21:12**  
 Permissible appointees, **17:54**  
 Power to use or distribute property in satisfaction of legal obligation, **17:58**  
 Pre-1942 powers, **17:64**  
 Presently held by client, review, **31:10**  
 QTIP elections, **21:38**  
 QTIP trust conversion, rights of surviving spouse, **21:38**  
 QTIP trusts, **16:55, 21:38**  
 Reformation in state court, general powers, **16:32**  
 Releases  
     generally, **17:62**  
     estate tax  
         inclusion prior to 1942, **16:36**  
         post-October 21, 1942, **16:34**  
     gift tax, **16:7**  
 Retention by donor, **8:41**  
 Scope of power for tax purposes, **17:58**  
 Terminable interest rule exceptions, **21:44**  
 Testamentary powers, inclusion in donee's estate, **17:60**  
 Third party powers, estate tax marital deduction, **21:37**  
 Trusts, **19:36**  
 Types of powers for tax purposes, **17:58**  
 Unnecessary elections, **21:38**  
 Uses in estate planning, **17:53**  
 Will exercise, **18:51**

## INDEX TO TEXT

### POWERS RETAINED ON GIFTS

Gross estate determination, **16:42 to 16:46**

### POWERS TO ALTER, AMEND, REVOKE, OR TERMINATE

Contingency for exercise, estate tax, **16:45, 16:46**

Estate tax

generally, **16:45**

fiduciary selection, **30:25**

Estate tax considerations, **16:46**

Judicially enforceable standards, **16:45**

### PRACTITIONERS

Tax shelter opinions, Circular 230 amendments, **6:19**

### PRECATORY DISTRIBUTIONS

Advantages and risk, **18:24**

Beneficiary's gift tax liability, **18:24**

Definition, **18:24**

Testamentary gifts of tangible personal property for minors, **18:25**

### PRECIOUS METALS

Valuations, **35:11**

### PREDECEASED CHILD RULE

Generation skipping tax, **26:19**

### PREFERRED SHARES

Entity freezes, basic structure, **27:10**

Tax treatment, **6:47**

Valuation, **35:70**

### PREFERRED STOCK

Transfers upon organizing entity, **3:105**

Treatment in Section 351 transaction, **3:105**

### PREFERRED STOCK

#### RECAPITALIZATIONS

Generally, **27:07**

Entity freezing, overview, **27:01**

Grantor retained income trust as alternative, **28:3**

Overview of entity freezing, **27:01**

Types of transactions, **27:05**

### PRELIMINARY NOTICES OF

#### PROPOSED TAX DEFICIENCY

Generally, **39:2**

30-day letter, **39:13**

### PRENUPTIAL AGREEMENTS

Generally, **11:39**

See also index headings **MARITAL AGREEMENTS**; **POSTNUP-TIAL AGREEMENTS**

Community property, **10:58, 20:13**

Estate planning considerations, **17:26**

Form, **11:41**

Requirements, **20:12**

Tax aspects, **11:40**

Waiver of election against will, **20:7**

### PREPAID TUITION PLANS

State sponsored plans, exclusion from debt instrument treatment, **2:46**

### PREPARATION AND FILING OF FORMS

Generally, **34:52**

### PREPARATION AND FILING OF FORMS

#### —Cont'd

See also index heading **FORMS**

Computation of tax, **34:26 to 34:30**

Discharge from personal liability

filing, **34:132**

Form 5495: income and gift taxes, **34:133**

letter, estate tax, **34:134**

Federal estate tax returns

adjusted taxable gifts, **34:63**

alternate valuation, election, **34:74**

basic information, **34:62**

closely held corporations interest, **34:69**

completed forms, **34:112 to 34:115**

computation of generation skipping tax, **34:106**

credits, **34:99 to 34:104**

deductions, **34:92 to 34:98**

domicile, **34:62**

elections by executor, **34:74 to 34:79**

employer identification number, **34:116**

ESOP plan, election, **34:79**

excess retirement accumulations, **34:111**

extension of time to pay estate tax, application, **34:128**

family-owned business interest deduction, **34:99**

filing requirements, **34:60**

Form 56: notice concerning fiduciary relationship, **34:120**

Form 712: life insurance statement, **34:122**

Form 1310: refund due deceased taxpayer, **34:125**

Form 2758: extension of time to file fiduciary income tax return, **34:127**

Form 4810: request for prompt assessment, **34:131**

Form SS-4: employer identification number, **34:117**

gathering information, **34:59**

generation skipping tax

completed form, **34:113**

filing requirements, **34:107**

generation skipping tax computations, **34:105 to 34:110**

generation skipping tax exemption, **34:108**

generation skipping tax grandchild exclusion, **34:109**

gift tax credit, **34:102**

gift tax returns previously filed, **34:67**

gross estate, **34:80 to 34:91**

information about decedent, **34:64**

installment payments of tax, **34:77**

life insurance policies, **34:68**

statement, **34:121**

lifetime transfers by decedent, **34:70**

notice of fiduciary relationship, **34:119**

other forms to file, **34:116 to 34:134**

partnership interests, **34:69**

personal information about decedent, **34:65**

place of filing, **34:60**

powers of appointment, **34:72**

QTIP property election, **34:76**

QTIP property in surviving spouse's estate, **34:66**

real property, physical description and valuation, **34:83**

## PREPARATION AND FILING OF FORMS

### —Cont'd

- Federal estate tax returns—Cont'd
  - refund due deceased taxpayer, claim, **34:124**
  - request for prompt assessment, **34:130**
  - reversionary interests, postponement of tax, **34:78**
  - revocable living trust, completed form, **34:112**
  - Schedule A: real estate valuation, **34:83**
  - Schedule A-I: special use valuation, **34:83**
  - Schedule B: stocks and bonds, **34:84**
  - Schedule C: mortgages, notes receivable and cash, **34:85**
  - Schedule D: insurance on decedent's life, **34:86**
  - Schedule E: joint property, **34:87**
  - Schedule F: miscellaneous property, **34:88**
  - Schedule G: transfers during life, **34:89**
  - Schedule H: powers of appointment, **34:90**
  - Schedule I: annuities, **34:91**
  - Schedule J: funeral and administrative expenses, **34:93**
  - Schedule K: debts, **34:94**
  - Schedule L: net loss during administration, **34:95**
  - Schedule M: marital deduction, **34:96**
  - Schedule N: ESOP deduction, **34:97**
  - Schedule O: charitable deduction, **34:98**
  - Schedule P: foreign estate tax credit, **34:103**
  - Schedule Q: prior transfer tax credit, **34:104**
  - Schedule R: GST tax computation, **34:106**
  - Schedule R-I: notice to trustee, **34:110**
  - Schedule T: family-owned business interest deduction, **34:99**
  - signatures, **34:62**
  - small estates, filing requirements, **34:61**
  - sole proprietorship interest, **34:69**
  - special use valuation, **34:75**
  - state estate tax credit, **34:101**
  - trusts, interests held by decedent, **34:71**
  - unified credit, **34:100**
- Fiduciary income tax returns
  - accrued wages, **34:18**
  - adjusted total income, **34:22**
  - alternative minimum tax, **34:28**
  - balance due, **34:30**
  - capital gain or loss, **34:16**
  - charitable deduction, **34:21**
  - components, **34:2**
  - credits, **34:27**
  - deductions, **34:19 to 34:25**
  - depreciable property, necessary form, **34:14**
  - dividend exclusion, **34:23**
  - dividend income, **34:12**
  - election to recognize gain, **34:33**
  - employer identification number, obtaining, **34:10**
  - estate open for two or more years, explanation, **34:33**
  - estate tax deduction, **34:24**
  - estates, **34:4**
  - estimated tax, payment, **34:8**
  - exemption, **34:25**
  - fiduciary fees deduction, **34:21**
  - filing requirements, **34:3**
  - general identifying information, importance of accuracy, **34:11**

## PREPARATION AND FILING OF FORMS

### —Cont'd

- Fiduciary income tax returns—Cont'd
  - gross tax, computation, **34:26**
  - income and losses from other estates or trusts, **34:13**
  - income distribution deduction, **34:22**
  - income or loss, **34:12 to 34:18**
  - individual retirement account distributions, **34:18**
  - interest deductions, **34:20**
  - interest income, **34:12**
  - management of property expenses, deduction, **34:21**
  - monthly monitoring of entity, **34:34**
  - net business income, **34:15**
  - net farm income, **34:15**
  - net rent income, **34:14**
  - ordinary gain or loss, **34:17**
  - partnership income or loss, **34:13**
  - payment of tax, **34:8**
  - payments, listing, **34:29**
  - place to file, **34:7**
  - preparation tips, **34:34**
  - professional service fees, deduction, **34:21**
  - profit-sharing plan distributions, **34:18**
  - recapture of investment credit, **34:28**
  - reduction of deductions, **34:19**
  - retirement plan distributions, **34:18**
  - royalty income, **34:14**
  - S corporation income, **34:18**
  - Schedule A: charitable deduction, **34:31**
  - Schedule B: income distribution deduction, **34:32**
  - sixty-five day rule election, **34:33**
  - tax rates, **34:26**
  - taxable year, selection, **34:9**
  - time to file, **34:6**
  - trusts, **34:5**
- Gift and generation skipping tax (GST) returns
  - annual donee exclusion, **34:40**
  - basic computations, **34:42**
  - calendar year, choice, **34:39**
  - charitable deduction, **34:45**
  - extensions for payment of tax, **34:39**
  - filing requirements, **34:39**
  - foreign gift tax credit, **34:48**
  - format of return, **34:42**
  - generation skipping tax exemption, **34:51**

## PRERESIDUARY CLAUSES

- Will preparation, **18:39**

## PRERESIDUARY GIFTS

- Definition, **18:39**
- Marital gifts, **18:40**
- Use, **18:39**

## PRESENT INTEREST OF PROPERTY TO BE ACQUIRED IN FUTURE

- Trust preparation, **19:9**

## PRESENT INTERESTS

- Crummey powers, **8:15**
- Gift planning, **8:13 to 8:26**

## INDEX TO TEXT

### PRETAX FORMULA

Estate tax marital deduction, **21:57**

### PREVIOUSLY TAXED PROPERTY CREDIT (PTP CREDIT)

Planning for imminent death, **31:37**  
Simultaneous deaths, **31:37**

### PRIMARY BENEFICIARIES

Crummey powers, **8:15**

### PRINCIPAL RESIDENCE

Multiple residences, ownership of, **20:19**  
Sales. See index heading **PRINCIPAL RESIDENCE SALES**

### PRINCIPAL RESIDENCE SALES

Choice of domicile, **20:19**

### PRIOR TRANSFER TAX CREDIT

Estate tax, **34:104**

### PRIVATE ANNUITIES

Asset freeze technique  
    generally, **29:37 to 29:45**  
    comparative chart, **29:50**  
    form for agreement, **29:49**  
Death imminent, Section 2036(c), **31:40**  
Imminent death planning, use, **31:40**  
Qualified debt, **14:18**  
Terminally ill clients, use, **31:40**  
Unmarried clients, use, **14:18**

### PRIVATE FOUNDATIONS

Capital gains property, limitations on gifts, **12:14**  
Charitable contributions, limitations, **12:11**  
Charitable gifts, issues to consider, **12:89**  
Charitable lead trusts, rules, **24:26**  
Charitable purpose, **24:33**  
Charitable remainder trusts  
    remainder interests, **12:53**  
    rules, **12:63**  
Charitable remainders, change beneficiary by will, **24:20**  
CRUTs, multiple with related beneficiaries, self-dealing prohibition, **24:26**  
Definition, **12:89**  
Director of foundation, family member of grantor, **12:63**  
Disclosure rules, exempt organization standards, **12:89**  
Dissolution, **24:33**  
Estate tax charitable deduction, **24:33**  
Exempt status, application, **24:33**  
Expenses of board members, permissible payments, **12:89**  
Form of entity, **24:33**  
Managers, succession, **24:33**  
Nonexempt activities, **24:33**  
Prohibitions, **24:33**  
Termination issues, **12:89**  
Termination tax, **24:15**  
Testamentary provisions, **24:33**  
Trustee powers, naming remainder charitable organization, **24:20**  
Use, **12:89**

### PRIVATE LETTER RULINGS

Requests, expatriation motivation, **1:4**

### PRIVATE NURSING CARE

Medicare coverage, **13:10**

### PRIVATE PLACEMENT

Life insurance, **22:5**

### PRIVATE PLACEMENT STOCK

Valuations, **35:32**

### PRIVILEGE

Attorney-client  
    generally, **1:16**  
    accountant material transferred, **1:17**  
Work product, **1:16**

### PRIVILEGED COMMUNICATIONS

Accountants  
    generally, **1:16**  
    transfers to attorneys, **1:17**  
Attorneys, **1:16**

### PROBATE

Gross estate interests and assets, overview, **16:27**  
Revocable living trusts, avoidance, **19:15**

### PROBATE ESTATE

Alimony for recipient, not included in estate, **16:27**

### PROFESSIONAL CORPORATIONS

Income tax avoidance as principal purpose, **3:88**  
Leased employees, retirement compensation, **3:87**  
Management functions, performance, **3:86**  
Retirement plans, special rules applicable, **3:85**  
Single partnership entity, treatment, **3:88**

### PROFESSIONAL PRACTICES

Valuation methods, **35:71 to 35:74**

### PROFIT SHARING PLANS

Advantages, **5:2**  
Definition, **5:8**  
Distributions  
    date, **5:38**  
    estate income taxation, **32:46**  
    fiduciary income tax return line, **34:18**  
    form of payment, **5:40**  
    trust income taxation, **32:46**  
In-service distributions  
    generally, **5:35**  
    taxation, **5:44**  
Loans to participants, **5:36**  
Qualification rules, **5:14 to 5:29**  
Required distributions, **5:37**

### PROHIBITED TRANSACTIONS

Individual Retirement Accounts, **5:64**

### PROMISSORY NOTES

Gifts, **12:20**  
Value, **35:61**

### PROPERLY MAILED DOCUMENT PRESUMPTION

Special use valuation, executor elections, **34:75**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### PROPERTY

See also index headings PERSONAL PROPERTY; REAL PROPERTY

Community property, **10:2, 10:7, 10:39 et seq.**

Conservation easement exclusion

amount of exclusion, **34:92**

filing requirements, **34:81**

Corporate property, **10:9**

Definitions, **10:1, 18:12**

Dividing fractional interests, charitable contributions, **12:87**

Division of property. See index heading DIVORCE AND SEPARATION

Exempt property

generally, **18:21**

homestead, **10:14, 18:33, 20:7**

Inception of title rule, **10:7**

Individually held property, **10:2**

Intellectual property, gifts of present interest, **12:38**

Joint management community property, **10:7, 10:13**

Marital property, **10:52**

Nonresidents, situated in United States, **16:70**

Ownership types

generally, **10:1 et seq.**

tax considerations, **10:18 et seq.**

Partnership property, **10:10**

Separate property, **10:2, 10:7, 10:45 et seq.**

Sole management community property, **10:7, 10:13**

Tax considerations, types of property ownership, **10:18 et seq.**

Taxes, estate tax deduction, **16:52**

Tenured faculty position, property right, **3:20**

### PROPERTY TAXES

Estate tax deductibility, **16:52**

### PROTECTIVE CLAIMS

Tax refund, **39:24**

### PROTECTIVE ELECTION

Special use valuation, **38:10**

### PROTESTS

Avoidance with requested 90-day letter, **39:17**

Contents, **39:15**

Filing, **39:2, 39:15**

Form, **39:15**

Information requirements, **39:15**

Necessity, **39:15**

Place for filing, **39:15**

Relationship to administrative and judicial process, **39:2**

Review, **39:15**

Taxpayer representative's declaration, **39:15**

Technical advice requests, **39:15**

Time for filing, **39:2, 39:15**

Transfer, **39:15**

Undue hardship as ground for transfer request, **39:15**

### PROTOTYPE PLANS

Opinion letters, application for, **5:14**

### PROVISIONS

Generally, **19:61**

See index heading FORMS

### PRUDENT MAN RULE

Fiduciary selection, **30:07**

### PS 58 RATES

Valuing life insurance, "carve out" arrangements, **2:31**

### PS-58 TABLES

Valuing life insurance, Notice 2001-10, **2:24**

### PTP CREDIT

See index heading PREVIOUSLY TAXED PROPERTY CREDIT

### PUBLIC CHARITIES

Definition, **12:89**

### PUBLICATION 5

Thirty-day letter enclosure, **39:13**

### PUBLICATION 78

Charitable deductions, organization not listed, **18:13**

Charitable gifts, tax exempt status of charity, **12:11**

### PUBLICITY

Corporate sponsorship arrangements, **12:16**

Property ownership, avoidance of publicity, **10:15**

### PUBLISHERS CLIPPINGS LIBRARY

Tax basis, **12:8**

### PUNITIVE DAMAGES

Generally, **2:5**

### PUTS

Closely held businesses, **23:22**

## Q

### QEAA

See index heading QUALIFIED EXCHANGE ACCOMMODATION ARRANGEMENT (QEAA)

### QMDM

See index heading QUANTITATIVE MARKETABILITY DISCOUNT MODEL (QMDM)

### QPRT

Generally, **28:7**

See also index headings QUALIFIED PERSONAL RESIDENTIAL TRUSTS; GRANTOR RETAINED INCOME TRUSTS; GRANTOR RETAINED ANNUITY TRUSTS; TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988

### QSSTs

See index heading QUALIFIED SUBCHAPTER S TRUSTS

### QSUB DESIGNATION

Form 8869, **3:46**

### QTIP LIFE ESTATES

Election, contingent on election, **21:38**

### QTIP TRUSTS

Advantages, **18:45**

Authorization of partial election, form, **21:41**

Avoiding inclusion in second estate, testamentary transfers, **21:39**

Beneficiary is trustee, powers of spouse, **5:65**



## INDEX TO TEXT

### QTIP TRUSTS—Cont'd

- Characteristics, **18:45**
- Contingent interests, **21:38**
- Conversion of trust assets to other property, **21:43**
- Disclaimers
  - generally, **37:6, 37:15, 37:21**
  - disclaimer to create qualifying trust, form, **37:27**
- Drafting requirements, testamentary transfers, **21:39**
- Election
  - generally, **16:20, 16:21**
  - amended return, **21:40**
  - method, **21:40**
  - personal representative, **21:40, 21:41, 21:74**
- Estate tax
  - generally, **16:55**
  - surviving spouse, **21:39**
- Estate tax election, **21:38 et seq.**
- Estate tax marital deduction, qualifications, **19:36**
- Estate tax return election, **34:76**
- Fiduciary powers, **19:44**
- Forms
  - disclaimer to create trust, **37:27**
  - partial election authorization, **21:41**
  - severance of trust authorization, **21:41**
- Fractional share formula, qualifying devise, form, **21:58**
- Generation skipping tax
  - additional election, **33:21**
  - effective date rules, **26:32**
  - exemption, **33:21**
- Gift tax marital deduction, **16:20**
- Gifts
  - income interest, **21:43**
  - third parties, **21:38**
- Homestead life estate, **20:7**
- Inclusion in surviving spouse's estate, presumption, **21:42**
- Income interest
  - dispositions, **21:43**
  - transfers, gift tax, **16:8**
- Income payments, testamentary transfers, **21:39**
- Life estates
  - generally, **21:38 et seq.**
  - drafting requirements, **21:39**
  - limitations, **21:38**
- Marital deduction qualification, **18:45**
- Negative tax, **21:38**
- Net gift characterization, **21:43**
- Nonqualified deferred compensation plans, **5:3**
- Partial elections
  - generally, **21:40**
  - form for authorization, **21:41**
- Partitioning trust, **21:43**
- Personal representative, **21:40**
- Postmortem estate planning, use, **33:16**
- Powers of appointment
  - executor discretion, effect, **21:38**
- Property includable, **21:38**
- Provision for paying tax from QTIP, spouse's death, form, **26:59**
- Qualified income interest for life requirement, **21:38**
- Qualified Sub S trust (QSSTs) qualification, **23:40**
- Rehabilitation of trust, disclaimers from disqualified beneficiaries, **33:11**
- Remainder interest transfers, **21:43**

### QTIP TRUSTS—Cont'd

- Requirements
  - generally, **21:38**
  - drafting provisions, **21:39**
- Return requirements, **16:21**
- Right of first refusal to buy trust asset, effect on election, **21:38**
- Section 2207A, net gift characterization, **21:43**
- Severance
  - generally, **21:40**
  - authorization, form, **21:41**
- Split gifts between spouse and charity, **21:45**
- State taxes, owner of remainder interest, **16:69**
- Surviving spouse's estate
  - estate tax, **16:49**
  - inclusion, **21:42**
- Time, **21:40**
- Trust rehabilitated, disclaimers from disqualified beneficiaries, **33:11**
- Use
  - generally, **21:74**
  - election, **21:40**
- Use of transfers, **26:12**
- Valuation
  - debts and encumbrances, effect, **21:52**
  - gift of QTIP interest, **21:43**
- Valuation in surviving spouse's estate, **21:42**
- Will form, **18:69**
- Withdrawal power in surviving spouse, **21:38**

### QUALIFIED APPRAISALS

- Qualified contributions, closely held and personal service corporations, **12:8**

### QUALIFIED CONSERVATION EASEMENT EXCLUSION

- Gross estate determination
  - amount of exclusion, **34:92**
  - filing requirements, **34:81**

### QUALIFIED CONTINUING CARE FACILITIES

- Below market loans, **13:19**

### QUALIFIED CONTRIBUTIONS

- Charitable gifts, qualified appraisals, **12:8**

### QUALIFIED DEBT

- Private annuities, **14:18**

### QUALIFIED DEFERRED COMPENSATION PLANS

- Generally, **5:1**
- See also index heading **NONQUALIFIED DEFERRED COMPENSATION PLANS**
- Accrual of benefits, service requirement, **5:18**
- Advantages, **5:2**
- Affiliated service groups, special rules, **3:85**
- After-tax thrift plans, **5:10, 5:11**
- Age requirements, **5:22**
- Average benefits tests, **5:23**
- Beneficiary, designation, **5:42**
- Benefits, limits, **5:29**
- Breaks in employee service, **5:21**
- Capital gain treatment, **5:48**
- Choice of plans, **5:12**

**QUALIFIED DEFERRED  
COMPENSATION PLANS—Cont'd**

Contribution limits, **5:29**  
 Control over assets in account, subject to fiduciary rules, **5:43**  
 Death benefits, **5:41**  
 Defined benefit plans  
     advantages, **5:12**  
     risk of loss, **5:13**  
 Defined contribution plans  
     advantages, **5:12**  
     risk of loss, **5:13**  
 Delays in participation, **5:22**  
 Determination letter on plan amendments, **5:38**  
 Discrimination testing, **5:25**  
 Distributions  
     generally, **5:34 to 5:42**  
     capital gain treatment, **5:48**  
     corporations and partnerships compared, **3:83**  
     date, **5:38**  
     death of participant, **3:83**  
     early distributions, **5:50**  
     estate income taxation, **32:46**  
     excess, excise tax, **5:51**  
     failure, excise tax, **5:49**  
     five-year averaging, eligibility, **13:15**  
     joint and survivor annuity, **13:15**  
     planning considerations, **13:15**  
     qualified domestic relations orders, **3:84**  
     Roth account distributions, **5:53**  
     selection of methods, **5:52**  
     trust income taxation, **32:46**  
 Early distributions, taxation, **5:50**  
 Eligibility for participation, service requirement, **5:16**  
 Employee stock ownership plans, **5:9**  
 Employer contributions, limits, **5:29**  
 Excess distributions, excise tax  
     grandfather rule, **5:51**  
     spousal exception, **5:51**  
 Excluded employees, **5:23**  
 Factor in choice of business entity  
     generally, **3:79**  
     participation standards, **3:81**  
 Failure to distribute, excise tax, **5:49**  
 Five-year averaging, **5:47**  
 Forfeiture, **5:24**  
 Highly compensated employees, **5:28**  
 Highly-compensated employee, defined, **5:10**  
 In-service distribution  
     generally, **5:35**  
     taxation, **5:44**  
 Irrevocable trust provisions, **19:62**  
 Loans to participants, **5:36**  
 Minimum coverage, **5:23**  
 Minimum participation standards, **5:22**  
 Minimum service requirement, **5:16**  
 Multiple plans  
     comparability, **5:27**  
     effect, **5:23**  
     top-heavy rules, application, **5:33**  
 Nature, **5:2**  
 Nondiscrimination, requirement, **5:25**  
 Nonqualified plans, compared, **5:4**  
 Partially vested participants, **5:24**

**QUALIFIED DEFERRED  
COMPENSATION PLANS—Cont'd**

Pension plans, **5:6, 5:7**  
 Percentage coverage tests, **5:23**  
 Postmortem estate planning, **33:36 to 33:40**  
 Profit sharing plans, **5:8**  
 Qualification rules, **5:14 to 5:29**  
 Qualifications, **5:2**  
 Qualified joint and survivor annuity, requirement, **3:83**  
 Qualified preretirement survivor annuity, requirements, **3:83**  
 Required aggregation group, top-heaviness, **5:31**  
 Required distributions, **5:37**  
 Retirement benefits, taxation, **5:45**  
 Retirement Equity Act of 1984 provisions  
     distributions, **3:83**  
     domestic relations orders, **3:84**  
 Revocable trust provisions, **19:31**  
 Risk of loss, **5:13**  
 Rollovers, taxation, **5:46**  
 Roth account distributions, **5:53**  
 Savings plans, **5:10**  
 Service of employee  
     accrual purposes, **5:18**  
     breaks, **5:21**  
     credit for vesting, **5:24**  
     credit received, **3:81, 5:20**  
     hourly credit, **5:20**  
     required period, **5:15**  
     vesting period, computation, **5:17**  
 Social Security integration, **5:26**  
 Stock bonus plans, **5:8**  
 Taxation of distributions  
     five-year averaging, **5:47**  
     in-service distributions, **5:44**  
     receipt of benefits, **5:43**  
     retirement benefits, **5:45**  
     rollovers, **5:46**  
 Thousand hour standard, **5:19**  
 Thrift and cash (401(k)) plans, **5:10, 5:11**  
 Top-heavy, **5:30 to 5:34**  
 Use, **5:1**  
 Vesting  
     computation period, **5:17**  
     rules, **5:24**  
     service requirement, **5:17**  
     time, **5:15**  
 Welfare benefit plans, contribution limitations, **5:29**

**QUALIFIED DISCLAIMERS**

Generally, **37:3 et seq.**  
 Acceptance of benefits, **37:11**

**QUALIFIED DOMESTIC RELATIONS  
ORDER (QDRO)**

Nonassignability of benefits and divorce, **11:16**  
 Pension plan funds, **3:84**

**QUALIFIED DOMESTIC TRUST**

Generally, **18:41, 21:10**  
 Estate tax marital deduction, **5:65**  
 Form, **19:50**  
 Form 706-QDT, **34:115**

## INDEX TO TEXT

### **QUALIFIED EXCHANGE ACCOMMODATION ARRANGEMENT (QEAA)**

Requirements for reverse like-kind exchange, **6:49**  
'Starker' exchanges, safe harbor, **6:49**

### **QUALIFIED HEIR**

Planning with farmland, **38:09**  
Special use valuation  
    lease of property by qualified heir, **4:19**  
    member of the family, **4:18**

### **QUALIFIED INTEREST RULES**

Grantor retained interest trusts, **28:5**

### **QUALIFIED JOINT AND SURVIVOR ANNUITIES**

Definition, **16:10**  
Distributions, **3:83**  
Gift tax, **16:10**  
Waiver, gift tax, **16:10**

### **QUALIFIED JOINT INTERESTS**

Definition, **10:23**  
Economic Recovery Tax Act of 1981, prior law,  
    before 1982, **10:27**  
Tax Reform Act of 1976  
    generally, **10:23**  
    prior law, before 1982, **10:27**

### **QUALIFIED NONRECOURSE FINANCING OF REAL ESTATE**

At-risk rules, **6:7**

### **QUALIFIED OPPORTUNITY ZONES**

Tax advantaged investments, **6:50**

### **QUALIFIED PERSONAL RESIDENCE TRUSTS (QPRTs)**

Generally, **28:7**  
Allocation of expenses, **28:9**  
Conservation easement on property, **28:3**  
Considerations for using, **28:6**  
Control of residence, **28:9**  
Form for trust, **28:12**  
Rental of residence, short terms permitted, **28:7**  
Retaining use of residence in trust, **28:8**  
Use by family, **28:7**

### **QUALIFIED PLANS**

Loans, residential mortgage, **5:36**

### **QUALIFIED PRERETIREMENT SURVIVOR ANNUITIES**

Death benefits, **5:41**  
Definition, **16:10**  
Gift tax, **16:10**  
Waiver, gift tax, **16:10**

### **QUALIFIED REAL PROPERTY INTEREST**

Easements, **24:19**

### **QUALIFIED RETIREMENT PLANS**

See also index headings **NONQUALIFIED DEFERRED**  
    **COMPENSATION PLANS; PENSION PLANS; QUALIFIED DEFERRED**

### **QUALIFIED RETIREMENT PLANS —Cont'd**

**COMPENSATION PLANS; RETIREMENT BENEFIT PLANS**

Basic qualification rules, prohibited transactions, **5:14**  
Contribution limits, **5:29, 5:59**  
Designated beneficiary determination, **5:39**  
Excess distributions tax, **5:51**  
Income limitations, transportation fringe benefits,  
    **2:54**  
Limitations, EGTRRA 2001, **5:29**  
Limits on contributions and benefits, **5:29**  
Loans of plan funds, **5:36**  
Minimum coverage, separate lines of business rules  
    ("SLOB"), **5:23**  
Minimum distribution requirement, **5:39**  
Salary reduction agreements, income limitations,  
    determining, **2:54**

### **QUALIFIED SUB S TRUSTS (QSSTs)**

See also index heading **TRUSTS**  
QTIP trusts, qualification, **23:40**

### **QUALIFIED SUBCHAPTER S SUBSIDIARIES (QSSs)**

Election, effect on corporation, **3:46**  
SBJPA 1996 enactment, **3:46**

### **QUALIFIED SUBCHAPTER S TRUSTS (QSSTs)**

See also index heading **TRUSTS**  
Distribution of income, **9:29**  
Form for trust article, **23:46**  
Generation skipping transfer tax, additions, **26:33**  
Qualification, **9:29**  
Requirements, **23:39**  
Transfer of stock, **23:39**

### **QUALIFIED TERMINABLE INTEREST PROPERTY (QTIP)**

See also index headings **QTIP LIFE ESTATES; QTIP TRUSTS**  
Contingent interests  
    generally, **16:55**  
    election for life estate, **21:38**  
Duty of consistency, **39:3**  
Executor's discretion, effect, **21:38**  
Stub period income, **16:55**  
Waiver of will contest rights, **31:09**

### **QUALIFIED TRANSFERS**

Gift tax, **16:9**

### **QUALIFIED TRUST SEVERANCES**

EGTRRA 2001, **26:45**

### **QUALIFIED USE**

Conversion of lease, effect, **4:19**  
Land ownership requirements, **4:14**  
Material participation, lease to nonfamily member,  
    **4:16**  
Special use valuation  
    lease of property by qualified heir, **4:19**  
    time requirements, **4:14**  
Termination, **4:19**

### **QUALIFIED WORK OF ART**

Loans of artwork, gift tax, **16:11**

**QUANTITATIVE MARKETABILITY  
DISCOUNT MODEL (QMDM)**

Valuation method, validity of method, **35:67**

**QUANTITY SURVEY METHOD**

Land valuation, **35:20**

**R**

**RABBI TRUSTS**

See also index heading **TRUSTS**

Definition, **2:9**

Funding arrangements, tax treatment, **3:90**

Model trust, **2:9**

Safe harbor, **2:9**

Taxation of benefits, **5:4**

Use, **2:9**

**RACEHORSES**

Depreciation, **4:9**

**RAILROAD RETIREMENT BENEFITS**

Eligibility, **13:11**

Full benefits, payment, **13:11**

Loss of benefits, **13:11**

Medicare hospital insurance, availability, **13:10**

Medicare medical insurance, **13:10**

Modified adjusted gross income, **13:12**

Taxation of benefits, **13:12**

**RANCHERS**

Generally, **4:1 et seq.**

For detailed treatment see index heading **FARMERS AND RANCHERS**

**RANCHING**

Qualifying assets, **4:12**

**RATE OF TAX**

Brackets, **9:3**

Estate tax, **16:67**

Gift tax, **16:67**

Income tax, **9:3**

**RATES OF INTEREST**

Corporations, over and under payments of tax, **39:31**

**REAL ESTATE BROKERS**

Retirement plan rules, **3:85**

**REAL ESTATE INVESTMENT TRUSTS  
(REITs)**

Section 355 separations, active, substantial management, **3:115**

Tax advantaged investments, **6:25**

**REAL ESTATE LIMITED  
PARTNERSHIPS**

See also index headings **LIMITED PARTNERSHIPS**; **PARTNERSHIPS**

Active income, **25:2**

Alternative minimum tax, applicability, **25:6**

Book value, usefulness, **25:15**

Capital account, definition, **25:4**

Capital gains, tax treatment, **25:2**

Crossover point, **25:5**

**REAL ESTATE LIMITED PARTNERSHIPS  
—Cont'd**

Death of investor

inside basis, **25:10**

outside basis, **25:9**

planning for transfer, **25:13**

Disposition of interest

estate taxes, consideration, **25:13**

lifetime, **25:6 to 25:8**

Fair market value, determination, **25:15**

Gift of partnership interest, **25:7**

“Grandfathered” investments, **25:2**

Hypothetical limited partnership, **25:3**

Income in respect of decedent, effect on basis, **25:9**

Inside basis

generally, **25:4**

step-up at death of investor, **25:10**

Joint ownership with right of survivorship, **25:12**

Limited partner, choice, **25:12**

Locked-in gain, **25:4**

Outside basis

generally, **25:4**

step-up on death of investor, **25:9**

Ownership, importance, **25:12**

Passive income, **25:2**

Passive loss rules, applicability, **25:2**

Phantom gain, **25:4**

Portfolio income, **25:2**

Postmortem income tax planning, **25:14**

Sale of partnership assets, Section 754 election, **25:11**

Sale of partnership interest, **25:6**

Section 754 election

inside basis, effect, **25:10**

sale of partnership assets, effect, **25:11**

willingness of partnership to make, importance, **25:12**

Step-up basis at death of investor

inside basis, **25:10**

outside basis, **25:9**

Successor in interest, designation, **25:13**

Transfer of interest to irrevocable trust, **25:8**

**REAL ESTATE MORTGAGE  
INVESTMENT CONDUITS**

Tax advantaged investments, **6:24**

**REAL PROPERTY**

Administration, **31:21**

Approaches to valuation, **35:16 to 35:20**

Assessed value, state and local taxation, **20:16**

Basis, **32:12**

Community property, **10:57**

Comparative unit method of valuation, **35:20**

Conflict of law rules, disposition of estate, **20:7**

Conflict of law rules for disposition, **20:5, 30:39**

Conservation easements, election to exclude from estates, **24:19**

Deed from grantor to trustee, form, **19:10**

Definition, **10:1**

Disclaimers by spouses

timing requirements, **37:9**

use of property before disclaimer, **37:11**

Equity, use during retirement, **13:20**

Estate exclusions, qualified conservation easements, **24:19**

## INDEX TO TEXT

### REAL PROPERTY—Cont'd

- Estate tax, special use valuation, **16:58**
- Extent of client's holdings, **15:8**
- Fractional interests, valuation, **35:14**
- Gain or loss, determination, **32:12**
- Gifts, **12:20**
- Homestead, **18:33, 20:7**
- Illinois land trusts, **10:12**
- Income, taxable item, **32:12**
- Land trusts, **10:12, 10:38**
- Methods of valuation, **35:16 to 35:20**
- Multiple-factor method of valuation, **35:27**
- Quantity survey method evaluation, **35:20**
- Raw land, appreciation, **6:38**
- Residential rental property, investment, **6:39**
- Situs determining governing law, **20:5, 20:7, 30:39**
- Special use valuation
  - additional estate tax liens, **39:33**
  - election, **4:22**
  - estate tax, **16:58**
  - methods available, **4:26**
  - notice of election, **4:22**
- State and local taxation, assessed value, **20:16**
- Tax advantaged investments
  - availability, **6:37**
  - raw land, availability, **6:38**
- Taxes, deductibility, **6:38**
- Tenancy by the entirety, creation and termination,
  - prior law, before 1982, **10:26**
- Testamentary gifts, **18:32**
- Title as ownership, individually held property, **10:2**
- Trade breakdown method of valuation, **35:20**
- Undeveloped land, **6:38**
- Unit-in-place method of valuation, **35:20**
- Vacant land, appraisal, **35:17**
- Valuation
  - band of investment method, **35:19**
  - built up method, **35:19**
  - capitalization right, **35:18**
  - condemnation actions, **35:14**
  - direct capitalization, **35:19**
  - estimation in anticipation of highest and best use, **35:14**
  - fractional interests, **35:14**
  - generally, **35:14 to 35:27**
  - investment properties, **35:15**
  - investment value approach, **35:18**
  - market capitalization, **35:19**
  - market data approach, **35:17**
  - mortgage equity method, **35:19**
  - multiple-factor method, **35:27**
  - noninvestment properties, **35:15**
  - replacement cost approach, **35:20**
  - residual capitalization method, **35:19**
  - similar properties, comparison, **35:17**
  - subjective analysis, **35:14**
  - summation method, **35:19**

### REASONABLE CAUSE

- Estate tax return, failure to file, **39:31**

### RECAPITALIZATIONS

- Entity freezes
  - adjustment provision, **27:10**
  - business purpose requirement, **27:38**

### RECAPITALIZATIONS—Cont'd

- Entity freezes—Cont'd
  - continuity requirement, **27:39**
  - distributions of stock, **27:37**
  - form for plan and agreement, **27:120**
  - income tax issues, **27:43**
  - joint action without a meeting, form, **27:121**
  - loss of S election, **27:42**
  - overview, **27:07**
  - plan of reorganization requirement, **27:40**
  - postmortem, **27:08**
  - preferred stock redemptions, **27:55**
- Section 305 stock
  - generally, **27:44**
  - application to recapitalization, **27:53**
  - common and preferred stock, **27:48**
  - conversion privilege, **27:54**
  - convertible preferred stock, **27:50**
  - disproportionate distributions, **27:47**
  - distributing preferred stock, **27:49**
  - distributions other than money, **27:46**
  - exceptions to nonrecognition, **27:45**
  - excess redemption premium, **27:52**
  - imputed distributions, **27:51**
- Section 306 stock, **27:55**
- shareholders and directors, action form, **27:121**
- step transactions, **27:41**
- Freeze transactions, **27:08**

### RECAPTURE AGREEMENTS

- Special use value election, **34:75**

### RECAPTURE TAX

- Alimony and settlement agreements, **11:5**
- Conservation easement, specially valued farmland, **4:30**
- Corporate redemptions, **23:12**
- Lease of specially valued property, **4:30**
- Special use valuation
  - cash leasing, **4:19**
  - substantial compliance, **4:22**

### RECIPROCAL TRANSACTIONS

- Gift tax, overview, **16:5**

### RECIPROCAL TRUSTS

- Doctrine examined, **19:59**
- Income payment by trust, **19:59**

### RECIPROCAL WILLS

- See also index heading **WILLS**
- Contract treatment, **18:61**
- Marital deduction, estate tax, **18:61**
- Third-party beneficiary enforcement, **18:61**

### RECORDKEEPERS

- Production of records, Fifth Amendment privilege, **39:6**

### RECORDKEEPING

- Determining business motive, **4:10**

### REDEMPTION AGREEMENTS

- See also index headings **CLOSELY HELD BUSINESSES;**  
**CORPORATIONS**
- Closely held corporations, **23:33**

## **REDEMPTION AGREEMENTS—Cont'd**

Corporate resolution for adoption, form, **23:43**

Forms

agreement provisions, **23:44**

corporate resolution for adoption, **23:43**

## **REDEMPTION OF CORPORATE STOCK**

See also index heading **CORPORATIONS**

Agreements

generally, **23:33**

forms, **23:43, 23:44**

Attribution rule, waiver, **21:66**

Buy-sell agreements, **23:33**

Capital expenditures, **23:11**

Closely held business, marketability discount, **35:67**

Closely held corporations

buy-sell agreements, **21:34**

dividend treatment comparison, **23:11**

estate tax payment funding, **23:13**

sale or exchange treatment, **23:12**

Section 302 redemptions, **23:12**

Section 303 redemptions, **23:13**

Section 306 stock, **23:14**

significance for corporation, **23:11**

surviving spouse's stock, **21:66**

Dividend treatment comparison, **23:11**

Estate tax payment funding, **23:13**

Marital deduction, estate tax, **21:66**

No equivalency to dividends, sale or exchange treatment, **23:12**

Partial liquidations, **23:12**

Sale or exchange treatment, **23:12**

Section 302 redemptions, **23:12, 23:14**

Section 303 redemptions, **23:13**

Section 306 stock, **23:14**

Stockholder's devise to surviving spouse, estate tax marital deduction, **21:66**

Substantially disproportionate redemption, **23:12**

Tax Equity and Fiscal Responsibility Act of 1982, **21:66**

Terminating shareholder's interest, **23:14**

Termination of shareholder's interest, **23:12**

## **REDEMPTIONS**

Stock, retirement planning, **13:21**

## **REDUCE-TO-ZERO FORMULA**

Surviving spouse transfers, **21:4**

## **REDUCING DEATH RISK**

Grantor retained interest trusts, **28:8, 28:11**

## **REFINANCED LOANS**

Points, deduction of, **33:08**

## **REFORMATION (WILLS)**

Charitable gifts, effect on, **12:82**

Death of beneficiary, **12:82**

## **REFORMATION SUIT**

Noncitizen spouses, transfers to, **21:10**

## **REFUND CLAIMS**

See also index heading **REFUND LITIGATION**

Amended claims, **39:22**

Amending refund claim, statute of limitations, **39:27**

## **REFUND CLAIMS—Cont'd**

Amount limitations, **39:23**

Beneficiary's standing, **39:25**

Contents, **39:22**

Date of filing, **39:23**

Disallowance, **39:26**

Drafting requirements and recommendations, **39:22**

Estate tax refunds, **39:23**

Estate taxes, **39:22 et seq.**

Examination, issues and grounds, **39:26**

Executor's authority to file, **39:25**

Extensions of time for filing, **39:23**

Fiduciary claims, **39:25**

Fiduciary income taxes, **39:22**

Filing, **39:22 et seq.**

Filing related to estate tax refund claim, **39:3**

Forms for filing, **39:22**

Gift tax claim, effect on estate tax claim, **39:3**

Gift taxes, **39:22 et seq.**

Incumbency evidence requirement for fiduciary claims, **39:25**

IRS procedures, **39:26**

Limitations period, **39:23**

Litigation, **39:27 to 39:30**

Multiple beneficiary claims, **39:25**

New or additional grounds in late claims, **39:22**

Notices of disallowance, **39:26**

Party entitled to file, **39:25**

Party entitled to receive refund, **39:25**

Payment characterization, **39:23**

Place for filing, **39:22**

Prerequisite for litigation, **39:27**

Protective claims, **39:24**

Reconsideration requests, presentation, **39:26**

Reformed will, **12:82**

Requests for immediate issuance of claim disallowance, **39:26**

Settlement agreement as affecting ability to make refund claim, **38:16**

Signing requirement with coexecutors, **39:25**

Specificity requirement, **39:22**

Standing, **39:25**

Survey by IRS, **39:26**

Time for filing, **39:22, 39:23**

Waivers of notice of disallowance, **39:26**

Withdrawal requests, **39:26**

Withheld taxes, deemed payment period, **39:23**

## **REFUND LITIGATION**

See also index heading **REFUND CLAIMS**

Amending refund claim, statute of limitations, **39:27**

Claim prerequisite, **39:27**

Claims Court, **39:2, 39:28 to 39:30**

Commencement of limitations period, **39:27**

District Court, **39:2, 39:28 to 39:30**

Extensions of limitations period, **39:27**

Forum choice considerations, **39:28 to 39:30**

Full payment jurisdictional requirement, Claims Court, **39:30**

Interest payment prerequisite, **39:27**

Payment of tax prerequisite, **39:27**

Preclusion by Tax Court suit, **39:27**

Time limitations, **39:27**



## INDEX TO TEXT

### REFUNDS

Apportioned between spouses, **10:7**  
Joint returns, after separation, **10:7**  
Limitations period, no return filed, **39:18**

### REGULATED INVESTMENT COMPANIES

Statutory restriction of valuation freezes, **6:24**

### REHABILITATION TAX CREDITS

Historic properties, **6:40**

### REITs

See index heading **REAL ESTATE INVESTMENT TRUSTS**

### RELATED PARTIES

Deductibility of transactions, **3:69**  
Definition, **19:26**  
Income tax, depreciation or amortization of term interest, **28:23**  
Trustees, **30:28**

### RELIGIOUS ORGANIZATION

Charitable organization, **24:5**

### REMAINDER TRUSTS

Taxation of, capital gains considerations, **12:69**

### REMAINDERS

Charitable gifts, generally, **12:53**  
Charitable remainder trusts, eligible income beneficiaries, **12:56**  
Developments in the law, **28:25**  
Gifts, **28:25**  
Income tax rules, **28:23**  
IRS valuation tables  
    Certain Estate Assets, **35:75**  
Joint purchases, value shifting, **28:23**  
Sale of interest, **28:23**

### REMOVAL OF TRUSTEES

Power, **30:33**

### RENTAL ACTIVITIES

Passive activity losses  
    generally, **6:9**  
    self rental, in business, **6:13**

### RENTAL INCOME

Fiduciary income tax return line, **34:14**

### REPLACEMENT COST METHOD

Land valuation, **35:20**

### REPLACEMENT PERIOD

Natural disaster, **19:26**

### REPORTING REQUIREMENTS

Partnership basis adjustments, **3:108**

### REQUESTS FOR DISCHARGE FROM PERSONAL LIABILITY

Audited returns, **39:30**

### RESIDENCES

Trusts, placing in, considerations for using, **28:6**

### RESIDENCY

See also index heading **DOMICILE**  
Domicile distinguished, **20:15, 20:18**  
Domicile's relationship, estate administration, **20:2 to 20:4**  
Estates, state and local income taxation, **20:18**  
Fiduciaries. See index heading **FIDUCIARIES**  
Multiple residences, **20:15**  
State and local income taxes, **20:18**  
State and municipality, requirements for tax, **20:15**  
Trusts, state and local income taxation, **20:18**

### RESIDENT ALIEN

Income taxation, **1:4**  
Marital deduction, **18:41**

### RESIDENTIAL MORTGAGE LOANS

Qualified plans, **5:36**

### RESIDUAL CAPITALIZATION METHOD

Valuations, **35:19**

### RESIDUARY CLAUSES

Absence, resulting dispositions, **18:42**  
Drafting, **18:42, 18:43**  
Equalization of total distributions, **18:42**  
Form, **18:43**

### RESIDUARY GIFTS

Administrative expenses, effect on, will provisions, **18:8**  
Category distinction, overview, **18:14**  
Clauses, **18:42, 18:43**  
Definition, **18:18**  
Equalization of total distributions among beneficiaries, form, **18:43**  
General gift treatment, **18:17**  
Lifetime gifts effecting, balance left for direction, **18:9**  
Marital gifts, **18:40**  
Pour-over clauses, **18:44**  
Tangible personal property, disadvantages, **18:22**  
Use, **18:42**

### RESTRICTED SECURITIES

Resale restrictions, Federal securities laws, **35:32**

### RETAINED LIFE ESTATES

Gift to children, proportion of property retained, **16:42**  
Retained rights or interests, implied agreements, **16:42**

### RETAINED RIGHTS OR INTERESTS

Stock in a controlled corporation, **16:42**

### RETENTION OF RIGHTS

Gifts, determining gross estate, **16:43**

### RETIREMENT

Deductible cost, continuing malpractice insurance, **1:31**  
Distributions, equal periodic payments, **5:50**  
Nonqualified plans, limitations, **5:3**  
Planning considerations, **13:8**  
Qualified plans, limitations, **5:29**

## RETIREMENT BENEFIT PLANS

See also index headings NONQUALIFIED DEFERRED COMPENSATION PLANS; PENSION PLANS; QUALIFIED DEFERRED COMPENSATION PLANS; QUALIFIED RETIREMENT PLANS  
Changes to plan by employer, affect on participants, **5:24**  
Designated beneficiary determination, **5:39**  
Distributions, fiduciary income tax return line, **34:18**  
Divorcing spouses, **11:16**  
Excess distributions, penalties, **13:15**  
Income in respect of decedent, character of payment, **32:51**  
Minimum distribution requirement, **5:39**  
Private plans, factors to consider, **13:13**  
Qualified plans, **5:1 to 5:13**  
Railroad retirement benefits, **13:10**  
Salary continuation agreement, form, **13:17**  
Social security, **13:6 to 13:8**  
Spousal rollovers, grandfathering provisions applicable, **5:51**

## RETIREMENT DOMICILE

Choice considerations, **13:19**

## RETIREMENT EQUITY ACT OF 1984

Alternative payee, definition, **3:84**  
Domestic relations order, definition, **3:84**  
Pension plan distributions, **3:83**  
Qualified domestic relations order, definition, **3:84**

## RETIREMENT PLANNING

Accumulations, community and separate property, **10:49**  
Acute illnesses, Medicare coverage, **13:10**  
Average pay, defined, **13:14**  
Benefits, **10:43**  
Capital transactions, **20:19**  
Chronic illnesses, Medicare coverage, **13:10**  
Civil service retirement system benefits, **13:14**  
Closely held businesses, use, **13:21**  
Community property, **10:43**  
Corporate liquidations, **20:19**  
Deferred compensation, definition, **13:16**  
Durable power of attorney  
drafting considerations, **13:24**  
eligibility, **13:24**  
form, **13:25**  
Employee fringe benefits, nontaxable legal services, **2:46**  
Estate taxes, installment payments, **13:28**  
Expenses  
checklist, **13:5**  
estimating, **13:4**  
Farm leases  
generally, **13:26**  
special use valuation, preservation of eligibility, **13:27**  
Finances while incapacitated  
durable power of attorney, **13:24**  
life insurance, use of cash value, **13:22**  
power of attorney, form, **13:25**  
professional management, **13:23**  
Financial needs, forecast, **13:4**  
Financial planner, choice, **13:18**  
Financial security, ensuring, **13:18 to 13:22**

## RETIREMENT PLANNING—Cont'd

Governmental retirement benefits, **13:14**  
Home equity, use, **13:20**  
Income distributions from trust, community and separate property, **10:49**  
Income estimating, **13:4**  
IRA withdrawals, **13:15**  
Life insurance, reevaluation, **13:22**  
Medicare, necessity to supplement, **13:10**  
Necessity, **13:2**  
Nonfinancial considerations, **13:3**  
Nonqualified deferred compensation agreements, **13:16**  
Overview, **13:1**  
Private employee benefit plans, factors to consider, **13:13**  
Qualified employee benefit plans, withdrawals, **13:15**  
Railroad retirement benefits, **13:11**  
Resources, checklist, **13:6**  
Retirement domicile, choice, **13:19**  
Salary continuation agreement, form, **13:17**  
Savings investments, **13:18**  
Social Security benefits  
additional wages and income, effect, **13:9**  
availability of benefits, **13:7**  
eligibility, **13:6**  
Special use valuation, **13:27**  
State income tax on distributions, **20:19**  
Veterans life insurance, **13:22**

## RETROACTIVE ALLOCATION OF GST EXEMPTION

EGTRRA 2001, **26:11**  
Extension to make election, **26:11**

## RETROACTIVE TAX INCREASES

Constitutionality, estate taxes, **16:1**

## RETURN PREPARERS

Disclosures, penalty avoidance, **39:31**  
Fees, **39:2**  
Standards of practice, **39:2**

## RETURNS

See also index headings FEDERAL ESTATE TAX RETURNS; GIFT AND GENERATION SKIPPING TAX (GST) RETURNS; FIDUCIARY INCOME TAX RETURNS; FINAL INCOME TAX RETURN OF DECEDENT; FORMS; PREPARATION AND FILING OF FORMS  
Amendments filed before spouse becomes citizen, **21:10**  
Audits, **39:2 et seq.**  
Decedent's final return, joint return limitations, **33:04**  
Disclosures, penalty avoidance, **39:31**  
Divorce or separation  
determination of filing status, **11:20**  
separation agreements and decrees, **11:35 to 11:37**  
Electronic filing, **1:23**  
Eligible worker-owned cooperative, filing requirement, **16:57**  
Employee stock ownership plan, filing requirement, **16:57**  
Estate tax  
audits, **39:2 et seq.**  
computation of tax, **16:59**  
documents, filing with return, **39:6**

## INDEX TO TEXT

### RETURNS—Cont'd

Estate tax—Cont'd  
    failure to file, **39:31**  
    filing place, **39:4**  
    necessity, **39:31**  
    rate of tax, **16:59**  
    requirements, **16:57, 16:66**  
Extensions, deemed payment of withholdings, **39:23**  
Failure to file, reasonable cause, **39:31**  
Filing date  
    generally, **39:32**  
    mailing rules, **39:23**  
Filing place  
    determination, **39:4**  
    domicile establishment, **20:4**  
Gift tax  
    audits, **39:2 et seq.**  
    failure to file, **39:31**  
    filing by executor or examiner, **39:3**  
    necessity, **39:31**  
    requirements, **16:21, 16:24**  
Income tax, decedent's income, **39:3**  
Land trust income tax, **20:27**  
Nonresidents, state and local tax, **20:4, 20:19**  
Passive activity losses, **6:18**  
Penalties in preparation or preparation assistance, **39:31**  
Preparation for audit, **39:6**  
Required returns, **39:31**  
Special use valuation, estate tax return, **4:22**  
State income tax, domicile change, **20:19**  
Taxpayer identification number (TIN) requirement, **39:31**

### REVENUE PROCEDURE 64-19

In-kind distributions, marital deduction clauses, **21:67**

### REVENUE RECONCILIATION ACT OF 1989

ESOPs  
    executor elections, **34:79**  
    postmortem transfer tax options, **33:17**  
EWOCs  
    executor elections, **34:79**  
Low-income housing, adjusted gross income phase out, **6:40**  
Penalties  
    accuracy-related penalty, **39:31**  
    fraudulent failure to file return, **39:31**  
    negligence, **39:31**  
    Tax Court improper proceedings, **39:21**  
    valuation overstatement, **39:31**  
    valuation understatement, **39:31**

### REVENUE RECONCILIATION ACT OF 1990

Buy/sell agreements, **23:35**

### REVERSE PRESUMPTION CLAUSES

Content, **21:23, 21:24**  
Equalization clause combination, **21:23**  
Form, **21:24**  
Statute's effect, **21:23**  
Time clause combination, **21:21**  
Use, **21:11, 21:21, 21:23**

### REVERSE QTIP ELECTION

GST tax, effect, **26:12**

### REVERSIONARY TRUSTS

Creation after 1986, **9:9**  
Death of beneficiary before majority, **9:10**  
Income shifting, use, **9:5**  
Statutory history, **9:6**

### REVERSIONS

Estate tax  
    generally, **16:47**  
    insurance policy gifts, **16:48**  
Fiduciary selection, **30:25**  
IRS valuation tables  
    Certain Estate Assets, **35:75**  
Surviving spouses, **28:14**

### REVOCABLE TRUSTS

See also index headings IRREVOCABLE TRUSTS; TRUSTEES; TRUSTS

Administration delays, **19:15**  
Adverse party, definition, **19:26**  
Amendments  
    consistency, necessity, **19:46**  
    execution, **19:45**  
    particular provisions, form, **19:52**  
    trust in its entirety, form, **19:53**  
Assets  
    generally, **19:27**  
    coal, **19:26**  
    discretionary, **19:34**  
    domestic iron ore, **19:26**  
    mandatory, **19:34**  
    manner, **19:32**  
    multiple beneficiaries  
        disposition of income, **19:34**  
        disposition of principal, **19:35**  
    net income, **19:34**  
    powers of trustees, **19:34**  
    principal, **19:35**  
    standards, **19:34**  
    time, **19:32**

Augmented estate, **19:18**

Beneficiaries  
    designation, **19:32**  
    survival, **19:42**  
Coal, trust asset, **19:26**  
Construction, governing law, **19:24**  
Contingency provisions, **19:42**  
Continuity of ownership, **19:20**  
Convertible, **19:16**  
Corpus, identity, **19:29**  
Costs savings, **19:15**  
Court administration, waiver, **19:41**  
Creditors, effect, **19:19**  
Debts of beneficiary, payment, **19:19**  
Definition, **19:14**  
Dispositive provisions, **19:32 to 19:47**  
Distributions, **19:34**  
Domestic iron ore, **19:26**  
Durable powers of attorney, use, **19:16**  
Employee death benefits, **19:31**  
Enjoyment of trust by grantor, **19:30**  
Estate administration expenses, deductibility, **19:27**

## REVOCABLE TRUSTS—Cont'd

Execution, **19:45**  
 Expenses, payment, **19:32**  
 Factors to consider, **19:14**  
 Family share trust, creation, **19:32**  
 Fraudulent transfers, **19:19**  
 Generation skipping trusts, **19:37**  
 Gift property, holding period, **19:26**  
 Gifts, description, **19:33**  
 Governing law, choice, **19:24**  
 Grantors  
     expression of intent, **19:29**  
     principal, right to receive, **19:35**  
     trustees, **19:23**  
 Gross estate of grantor, inclusion, **19:27**  
 Homestead real property, gift, **19:33**  
 Incapacitation of beneficiary, **19:16**  
 Income, reporting, **19:26**  
 Incompetency of grantor, provisions, **19:30**  
 Incompetent beneficiaries, **19:38**  
 Individual with marital deduction gift, form, **19:50**  
 Individual without marital deduction provision, form, **19:49**  
 Insurance proceeds, provisions, **19:31**  
 Joint, advantages, **17:42**  
 Joint with marital deduction provisions, form, **19:51**  
 Lapsed gifts, **19:42**  
 Life insurance trusts, duties of trustee, **22:21**  
 Livestock, **19:26**  
 Marital deduction trusts, **19:36**  
 Minors, **19:38**  
 Monetary gift, **19:33**  
 Multiple beneficiaries, distribution of principal, **19:35**  
 Net income, definition, **19:34**  
 Nonadverse party, definition, **19:26**  
 Nonspousal property transfers, gift taxation, **19:27**  
 Operating costs, **19:22**  
 Origination costs, **19:22**  
 Outright gifts, kinds, **19:33**  
 Partial vesting, tax impact, **19:26**  
 Pecuniary gifts, **19:33**  
 Personal exemption, amount, **19:26**  
 Pour-over wills, use, **19:28**  
 Preparation of agreement, **19:29**  
 Privacy, maintenance, **19:17**  
 Probate, avoiding, **19:15**  
 Property management  
     generally, **19:20**  
     management by trustee, evaluation, **19:21**  
 Protection against incapacity, **19:16**  
 QTIP property, eligibility, **19:27**  
 Qualifying S trust treatment, use, **19:26**  
 Related parties, **19:26**  
 Revocation, **19:47**  
 Rights of grantor, retention, **19:30**  
 Shares of trust, gift, **19:33**  
 Situs, **19:40**  
 Spendthrift clauses, **19:39**  
 Spendthrift provision, use, **19:19**  
 Standby, **19:16**  
 Supervision of court, waiver, **19:41**  
 Surviving spouse's statutory right of election, **19:18**  
 Survivorship clause, **19:42**  
 Tax issues, **19:25**

## REVOCABLE TRUSTS—Cont'd

Taxes, payment, **19:32**  
 Termination, **19:47**  
 Timber, **19:26**  
 Title vesting in grantor, effect, **19:26**  
 Transfer of property, taxable gift, **19:27**  
 Trust instrument  
     contents, **19:29**  
     corpus, **19:29**  
     distribution of assets, **19:30**  
     incompetency of grantor, **19:30**  
     revocation provisions, **19:47**  
 Trustees  
     absence or illness, **19:43**  
     administrative powers, **19:44**  
     appointment, **19:43**  
     distribution powers, **19:44**  
     executor of estate, **19:27**  
     investment powers, **19:44**  
     selection, **19:23**  
     statutory powers, **19:44**  
 Unharvested crops, treatment, **19:26**  
 Unmarried client's estate plan, use, **14:12**  
 Use, **1:11**

## RIGHT OF FIRST REFUSAL

Buy-sell agreements, **23:30**  
 Closely held corporations, **23:34**  
 Purchase of QTIP trust asset, effect on election, **21:38**

## RIGHT OF REIMBURSEMENT

Appreciation of separate property, **10:48**  
 Closely-held businesses, **10:46**  
 Community property, **10:7**  
 Creation, **10:7**  
 Improvements to separate property, **10:47**  
 Separate property  
     appreciation, **10:48**  
     creation of right, **10:7**  
     improvements, **10:47**

## ROLLOVERS

Annuity paid to surviving spouse, **5:65**  
 Individual Retirement Accounts, **5:65**  
 IRA, inclusion in gross estate, **5:65**  
 IRAs, **5:46**  
 Proceeds of qualified plan, funds received from estate, **33:38**  
 Qualified fiduciary requirement, **5:55**  
 Roth IRAs, **5:73**  
 Spousal rollovers, **5:65**  
 Tax-free growth IRA, **5:73**

## ROTH IRAs

Converted conventional IRAs, timing of distributions, **5:73**  
 Distributions, **5:53, 5:73**  
 Extension of time for recharacterization of, **5:73**  
 Recharacterization, defined, **5:73**  
 Section 9100 relief, timing of election, **5:73**  
 Separate trusts required, **5:73**  
 Tax-free growth in account, requirements, **5:73**

## ROYALTIES

Generally, **3:20**  
 Right to receive, **38:17**

## INDEX TO TEXT

### ROYALTY INCOME

Fiduciary income tax return line, **34:14**

### RULE AGAINST PERPETUITIES

Failure to vest within period, **18:45**

Provisions, **18:45**

State law variations, **30:42**

Testamentary trusts, **18:45**

Time for period's beginning, **18:45**

### RULING REQUESTS

Expatriation motivation, **1:4**

Qualified plan amendments, tax law changes, **5:14**

### RULINGS (REVENUE)

Addresses for requests, **39:2**

Procedures for issuing, **39:2**

## S

### S CORPORATIONS

See also index headings CORPORATIONS; PREFERRED

SHARES; SHAREHOLDERS; S STOCK; STOCKS

Accident and health plans, **3:93 to 3:100**

Adjusted basis of shareholders, computation, **3:48**

Advantages, **23:21**

Affiliated group membership, **3:3**

At risk rules, **3:74**

Automatic relief, no election filed, **3:46**

Buy-sell agreements, **23:41**

Capital gains, tax rates, **1:3**

Carryforward or carryback losses, deductibility, **3:76**

Cash distributions

with accumulated earnings and profits, **3:51**

without accumulated earnings and profits, **3:50**

Centralized management, **3:10**

Change in taxable year, effect on shareholders, **3:103**

Child care assistance, **3:99**

Classification for tax purposes, **3:3**

Collapsible corporation rules, applicability, **3:107**

Continuing relationship as creditor; death or retirement of shareholder, **3:112**

Converting a QSST, **9:29**

Corporate gain, recognition, **3:49**

Corporate losses

at risk rules, **3:74**

tax treatment, **3:76**

Corporations compared, **3:122**

Court-ordered beneficiary, **3:46**

Death or retirement of shareholder, **3:111, 3:112**

Deductibility of losses, consideration in choice of entity, **3:54**

Definition, **3:3**

Dental reimbursement plans, **3:94**

Dependent care assistance, **3:99**

Depreciation, **3:48**

Disability retirement benefits, deductibility, **3:95**

Disposition of stock by estate, **38:05**

Distributions, **3:49 to 3:52**

Double taxation, avoidance, **3:47**

Electing small business trusts, **38:06**

Elections, **3:46**

Eligibility to elect, **3:3**

Employee death benefits, lump-sum exclusions, **3:97**

Estate as shareholder, **38:04**

### S CORPORATIONS—Cont'd

Estate planning during life, **23:38 to 23:41**

ESTB for prior QSST, **9:29**

Expenses of organizing, amortization, **3:105**

Expensing depreciable business assets  
extension of time for making, **3:46**

Farming operations, tax year, **4:7**

Fiduciary power to incorporate, form, **31:73**

Fiscal year, factor in choice of entity, **3:103**

Freeze entities, **27:09**

Fringe benefit rules, **3:92**

Gift tax, family S corporation, **27:12**

Grantor retained annuity trusts, **28:16**

Grantor trusts, as shareholders, **12:45**

Group-term life insurance, deductibility of premiums,  
**3:96**

Holding periods, capital gains, **1:3**

Inadvertent termination of election, **33:32**

Income, fiduciary income tax return line, **34:18**

Income shifting vehicle

generally, **9:28**

qualified trusts, **9:29**

Income tax

generally, **3:3, 3:46, 3:47**

rates, **3:24**

treatment, **38:03**

Investment tax credit, recapture, **3:47**

Limited liability, **3:8**

Liquidation, recognition of gains or losses, **3:116**

Lodging provided for convenience of employer, **3:98**

Loss pass-through, deductibility, **3:76**

Management and control, **3:10**

Management fees, offset against revenues, **3:76**

Meals provided for convenience of employer, **3:98**

Medical payments, deductibility, **3:92**

Medical reimbursement plans, **3:94**

Net active income, determination, **6:11**

Net operating losses, per share pass-through, **3:76**

Net passive income, taxation, **3:47**

Nonqualified deferred compensation plans, **3:90**

Nonresident spouse, **3:46**

Organizing transaction, tax treatment, **3:105**

Ownership restrictions, **38:03**

Partnerships

comparison, **3:47, 3:122, 38:03**

shareholders, **3:46**

Passive activity losses

applicability of rule, **6:32**

deductibility, **3:48**

Pass-through rules, Regulations, **3:48**

Permitted taxable year, requirement, **3:103**

Phantom stock, **2:76**

Postmortem termination of S election, **33:32**

Preferred stock, Section 351 boot characterization,  
**3:105**

Property distributions, **3:52**

Purposes, **3:3**

QSSS election, Regulations, **3:46**

QSST converting to ESTB, **9:29**

Qualified retirement plans, participation standards,  
**3:81**

Qualified subsidiaries, making election, **3:46**

Redemption of stock, **3:111**

Requirements, **3:3**

## **S CORPORATIONS—Cont'd**

Restrictions on flow through of income and losses, **6:32**  
 Retirement plan considerations, **3:89**  
 Retirement plans, factor in choice of entity, **3:89**  
 Retroactive allocations, **3:75, 3:77**  
 S elections, **23:41**  
 Sale of interest, tax treatment, **3:107**  
 Sale or distribution of property, taxation on gain, **3:47**  
 Second class of stock restriction, **23:41**  
 Section 351 transaction, boot treatment, preferred stock, **3:105**  
 Section 1244 election, advantages, **3:76**  
 Self employment tax, **3:80**  
 Shareholders  
     grantor trust as shareholder, **23:40**  
     GRATs, status, **19:26**  
     items passing through, **3:48**  
     limitations, **23:39**  
     pass-through rules, effect, **3:48**  
     pro rata share of income, **3:48**  
     stock dispositions, **38:05**  
     terminally ill shareholder  
         fiduciary power to incorporate, form, **31:73**  
         successor in interest, eligibility, **31:72**  
         trust as recipient, **31:72**  
 Special status, **6:32**  
 Status, relief for not filing election, **3:46**  
 Stock option plans, availability, **3:91**  
 Straight debt instrument, treatment, **3:3**  
 Structure of organization, **3:46**  
 Subsidiaries, **3:46**  
 Tax advantaged investment, **6:32**  
 Taxable income, computation, **3:48**  
 Taxable incorporation, methods, **3:105**  
 Taxable years, **3:103**  
 Terminally ill shareholder  
     fiduciary power to incorporate, form, **31:73**  
     successor in interest, eligibility, **31:72**  
     trust as recipient, **31:72**  
 Termination of S election  
     inadvertent termination, **3:120**  
     recapitalization, option, **3:119**  
 Terminations, **3:119**  
 Top heavy plans, requirements, **3:82**  
 Trusts as shareholders, **38:06**  
 Valuation  
     cash flow adjustment, **35:42**  
     discounts applicable, **35:65 to 35:69**  
 Wholly owned subsidiaries, **3:3**

## **S STOCK**

See also index headings CORPORATIONS; PREFERRED SHARES; S CORPORATIONS; STOCKS  
 Grantor trust ownership, **23:39**  
 Ownership, **23:39**  
 Ownership limitations, **23:39**  
 Qualified Subchapter S trust (QSST) ownership, **23:39**  
 Second class restriction, **23:41**  
 Special asset of estate, **38:03**  
 Testamentary trust ownership, **23:39**  
 Trust or will provision on ownership, form, **23:47**  
 Trust ownership, **23:39, 23:46, 23:47**  
 Trust provision on ownership, form, **23:47**

## **S STOCK—Cont'd**

Trusts as shareholders, **38:06**  
 Valuing, **35:42**  
 Voting trust ownership, **23:39**  
 Will provision on ownership, form, **23:47**

## **S SUB STATUS**

Qualification as QSub, **3:46**

## **SAFE DEPOSIT BOXES**

Location and inventory, **31:04**  
 Storage of will, **31:13**

## **SAFE HARBORS**

Interest rates, gifts, **9:17**  
 Leased employees, fringe benefits, **3:87**  
 Rabbi trusts, **2:9**  
 Stock options, safe harbor valuation, **2:79**

## **SALARY CONTINUATION AGREEMENTS**

Form, **13:17**  
 Source of liquidity for estate, **17:36**  
 Terminally ill client, use for surviving spouse, **31:70**

## **SALARY HEDGE AGREEMENTS**

Double taxation mitigation, **3:30, 3:31**

## **SALARY REDUCTION AGREEMENTS**

Individual retirement arrangements, **5:71**  
 Simple retirement accounts, contribution limits, **5:71**  
 Transportation fringe benefits, qualified plan income limitations, **2:54**

## **SALE OF BUSINESS ASSETS**

Deferred tax payments, acceleration of, **4:42**

## **SALES**

Bargain sales, asset freeze technique, **29:47**

## **SALES OF REMAINDER INTERESTS**

See also index heading VALUE SHIFTING  
 Disadvantages, **28:23**  
 Enterprise, unmarried client, **14:19**  
 Gifts, **28:25**  
 Use, **14:19**

## **SALES-LEASEBACKS**

Use as income shifting vehicle, **9:30**

## **SAME SEX MARRIAGE**

Definition of terms for tax purposes, **11:4**  
 Employment taxes, **11:20**

## **SAVINGS BONDS**

Transferring bonds to trust, **10:37**  
 Tuition savings, **6:44**  
 Types of ownership, **10:36**

## **SAVINGS CLAUSES**

Marital deduction, estate tax, **21:68**  
 Rule against perpetuities, **18:45, 18:46**  
 Testamentary trusts, **18:45, 18:46**

## **SCHOOLS**

See index heading EDUCATIONAL ORGANIZATIONS



## INDEX TO TEXT

### SCIENTIFIC ORGANIZATION

Charitable organization, **24:5**

### SCINS (SELF-CANCELING INSTALLMENT NOTES)

Gift characterization, **16:40**

### SECRETARY'S TAX ASSESSMENT

Collection Due Process (CDP) hearing, **39:32**

Collection of tax, **39:32**

Notify taxpayer, collection actions, **39:32**

Tax Court review, **39:32**

### SECTION 23

Adoption expense, tax credit, **2:46**

### SECTION 25A

Postsecondary education expenses, tax credits, **2:46**

### SECTION 83 PROPERTY

Split dollar arrangements, **2:24**

### SECTION 83(b) ELECTION

Compensatory stock transfers, **2:57**

Mistake of fact as to underlying transaction, revocation of Section 83(b) election for, **2:64**

### SECTION 104(a)(2)

Excludable damage awards, **2:5**

### SECTION 108

Shareholder basis, excluded COD income, **3:76**

### SECTION 121 EXCLUSION

Late return filed, **33:08**

### SECTION 132

Nontaxable employee fringe benefits, retirement planning legal services, **2:46**

### SECTION 137

Exclusion from income, **2:46**

### SECTION 179

Deductions, loss allowances, **3:60**

### SECTION 221

Interest on education loans, tax credits, **2:46**

### SECTION 351

Tax-free treatment of transfers, exchange of stock or securities, **3:105**

### SECTION 351 TRANSACTIONS

Entity freezes, **27:57**

### SECTION 355 SEPARATIONS

REITs, active, substantial management, **3:115**

### SECTION 409A

See index heading NONQUALIFIED DEFERRED COMPENSATION PLANS

### SECTION 419

Single plans, exception to contribution limits, **5:29**

### SECTION 457

Rulings on changes in law, **5:14**

### SECTION 529 PLANS

Education savings accounts, **5:74**

### SECTION 678 TRUSTS

Income shifting, **9:12**

### SECTION 704(c)

Interest purchased, effect on basis, **3:108**

### SECTION 751 ASSETS

Liquidity planning, **23:10**

### SECTION 751 PROPERTY

Liquidity planning  
partnerships, **23:10**

### SECTION 754 ELECTIONS

Buy-sell agreements, **23:36**

### SECTION 1031

Replacement property, interest in single member LLC, **6:49**

### SECTION 1035 EXCHANGES

General rules, **7:7, 22:8**

Life insurance, **22:8**

### SECTION 1362(f)

Relief for subsidiary election, **3:46**

### SECTION 2033

Estate tax considerations, entity freezes, **27:15**

### SECTION 2033A

Exemption from gross estate, **38:20**

### SECTION 2035

Split gifts, inter vivos, **8:31**

### SECTION 2036

Entity freeze application, **27:03**

Legislative history, **27:03**

Retained interest, family partnerships, **27:71**

### SECTION 2036(c)

Closely held business, buy-sell agreements, **31:68**

Corporate buy-sell agreements, agreed value safe harbor, **23:29**

Irrevocable life insurance trusts, **22:25**

Private annuities, death imminent, **31:40**

Section 2036(a) differences, **27:03**

Statutory restriction of valuation freezes, **27:03**

TAMRA 1988, statutory restriction of valuation freezes, **27:03**

### SECTION 2038

Transfers of property, power exercisable in conjunction with another, **10:12**

### SECTION 2043

Entity freezes, consideration issue, **27:23**

### SECTION 2207A

QTIP transfers, net gift characterization, **21:43**

### SECTION 2503(c)(3) TRUSTS

Income shifting, **9:13**

## **SECTION 2504**

Prior gift valuation, **27:14**

## **SECTION 2519**

Avoidance, **21:43**

## **SECTION 2701**

Transactions outside of, **27:05**

## **SECTION 2701 VALUATION**

Entity freezes

- compounding rule, **27:29.50**
- elections, **27:29.50**
- exceptions to application, **27:29.40**
- lower value rule, **27:29.10**
- minimum value rule, **27:29.20**
- subtraction method, **27:29.30**

## **SECTION 2702**

Grantor retained interest trusts, **28:6**  
Private annuities, effect on, **29:45**

## **SECTION 2703 VALUATION**

Buy-sell agreements, **27:30**

## **SECTION 2704**

Family limited partnerships, valuation discounts, **27:98**  
Lapsing interests, entity freezes, **27:16**

## **SECTION 2704 VALUATION**

Lapse of rights, **27:31.10**  
Liquidation right restrictions, **27:31.20**  
Liquidation value, **27:31**

## **SECTION 4941**

Personal benefit contracts, **12:42**

## **SECTION 6050S**

Postsecondary education expenses, reporting for institutions, **2:46**

## **SECTION 6213**

Notice of deficiencies, date requirement, **39:17**

## **SECTION 6324A**

Special lien for estate taxes, installment payments, **36:10**

## **SECTION 7580A**

Deadlines, postponement of, **29:23**

## **SECTION 7872**

Below market loans  
income shifting effect, **9:21**  
scope of coverage, **9:20**  
statutory exemption, **9:22**

## **SECTION 9100 RELIEF**

Roth IRAs elections, **5:73**

## **SECTIONS 2036-2038**

Debt as consideration, **27:17**  
Entity freezes, overview, **27:17**

## **SECTIONS 2701-2704**

Historical background, **27:04**

## **SECULAR TRUSTS**

Nonqualified deferred compensation plans, **2:9**  
Taxation, **2:9**

## **SECURITIES**

Charitable deduction for full fair market value, **31:56**  
Charitable gifts, use, **12:20, 12:30**  
Common trust fund interests, valuation, **35:34**  
Death or retirement of shareholder, **3:110**  
Foreign markets, valuation, **35:34**  
Futures prices, valuation, **35:34**  
Less actively futures market, **35:34**  
Listed options, valuation, **35:34**  
London metal exchange prices, valuation, **35:34**  
Redemptions, types, **3:110**  
Restricted securities, **35:32**  
Sales to ESOP, estate tax deduction, **33:17**  
Section 351 treatment, **3:105**  
Valuation, **35:28**

## **SECURITY INTERESTS**

Priority over estate tax liens, **16:66**

## **SEED COSTS**

Deductibility, **4:8**

## **SELF-CANCELING INSTALLMENT NOTES (SCINS)**

Gift characterization, **16:40**

## **SELF-DEALING**

CTRs, tax on self-dealing transactions, **12:83**  
Section 4941, personal benefit contracts, **12:42**

## **SELF-EMPLOYED INDIVIDUALS**

Insurance deductions, **3:93**

## **SELF-EMPLOYMENT INCOME**

Fiduciary's fees, **30:48**

## **SELF-EMPLOYMENT TAX**

Generally, **3:20**  
S corporation earnings, **3:80**

## **SELF-PROVING AFFIDAVITS**

Advantage, **18:64**  
Notary public as will witness, **18:64**  
Signing, **18:64**  
Wills

- effect, **20:8**
- signing, **20:8**
- state law variations, **20:8**

## **SELF-PROVING WILLS**

Admission to probate, **18:64**  
Affidavit, **18:64, 20:8**  
Notary public for affidavit as witness, **18:64**

## **SEPARATE LINES OF BUSINESS ("SLOB")**

Qualified plans, minimum coverage, **5:23**

## **SEPARATE PROPERTY**

Apportionment  
generally, **10:7**  
life insurance proceeds, **10:42**  
Appreciation, **10:45 to 10:49**

## INDEX TO TEXT

### SEPARATE PROPERTY—Cont'd

Classification determination, **20:13**  
Closely-held businesses, **10:46**  
Community property  
    commingling, **10:7, 10:52, 20:13**  
    conversion, **10:52, 10:58**  
    partition, **10:59, 10:61**  
    postnuptial agreements, **10:58, 10:61**  
Conflict of laws, **20:13**  
Conversion, **10:52, 10:58**  
Definition, **10:2, 20:13**  
Domicile change, effect, **20:13**  
Encumbrance payment with community property, **10:7**  
Enhancement of value, **10:45 to 10:49**  
Forms  
    postnuptial agreement, **10:61**  
Gifts, **10:58**  
Improvements, **10:47**  
Inception of title rule, **10:7, 10:42**  
Income distributions from trusts, **10:49**  
Income from property, **10:7**  
Life insurance proceeds, **10:42**  
Partition of community property, **10:59, 10:61**  
Partnerships, **10:46**  
Personal property, **10:57**  
Postnuptial agreements  
    generally, **10:58**  
    form, **10:61**  
Prenuptial agreements, **10:58**  
Real property, **10:57**  
Reimbursement right, **10:7, 10:46**  
Sole proprietorships, **10:46**  
Title, **20:13**  
Trusts  
    accumulations, **10:49**  
    income distributions, **10:49**

### SEPARATE SHARE RULE

Fiduciary treatment, **32:68**

### SEPARATION AGREEMENTS AND DECREES

Generally, **11:26 to 11:38**  
Alimony clause, **11:31**  
Alimony redefined, pre-2019 agreements, **11:5**  
Breach of warranties or representations, remedies, **11:38**  
Child support clause, **11:29**  
Dependency exemptions, allocation of, **11:30**  
Earlier years' returns, **11:36**  
Employee benefit plans clause, **11:33**  
Form of agreement, **11:27**  
Future years' returns, **11:37**  
Joint return clause, **11:35**  
Life insurance clause, **11:34**  
Payments as taxable income, pre-1984, **11:2**  
Pensions clause, **11:33**  
Property division clause, **11:32**  
Returns  
    earlier years' returns, **11:36**  
    future years' returns, **11:37**  
    joint return, **11:35**  
Specific clauses, **11:28 to 11:38**

### SEPARATION AGREEMENTS AND DECREES—Cont'd

Warranties or representations, remedies for breach, **11:38**

### SEPARATION OF SPOUSES

See index headings DIVORCE AND SEPARATION; SEPARATION AGREEMENTS

### SERVICE CONTRIBUTIONS (CHARITABLE)

Expense deductions, **12:6**

### SERVICES

Contribution, valuation of, **12:40**  
Performance of, election to defer income, nonqualified deferred compensation plan, **2:8**

### SETTLEMENT AGREEMENTS

See also index heading SEPARATION AGREEMENTS  
Charitable deduction, will contests, **24:8**

### SETTLEMENTS

Damage claims, **2:5**  
Refund claim, ability to make, **38:16**  
Third parties, taxability of settlement payments to, **32:36**

### SETTLEMENTS WITH APPEALS OFFICE

Administrative and judicial processes, relationship, **39:2**  
Closing agreements, **39:16**  
Form usage, **39:16**  
Litigation hazards, **39:2**  
Reopening case after settlement, **39:16**

### SHARECROPPING

UBTI, **12:69**

### SHAREHOLDER LOANS

Imputed interest, applicable rules, **9:23**

### SHAREHOLDERS

See also index heading STOCKS  
Adjusted basis  
    reduction by distribution, **3:26**  
    S corporations, **3:48**  
Compensatory stock transfers to employees on behalf of corporation, **2:59**  
Corporate property, personal use, **3:27**  
Corporate shareholders, deduction of dividends from gross income, **3:26**  
Double taxation  
    generally, **3:25**  
    effect on corporation, **3:12**  
    repurchase of stock, **3:110**  
Fiscal year, use for income shifting, **9:16**  
Life insurance, corporate ownership, **22:20**  
Limited liability, **3:8**  
Loans from corporation  
    income shifting, **9:23**  
    short-term capital loss treatment, **3:70**  
    tax treatment, **3:27**  
Losses, recognition, **3:70**  
Purchase of corporate assets, **3:27**

## **SHAREHOLDERS—Cont'd**

S corporations  
     grantor trust as shareholder, **23:40**  
     GRATs, status, **19:26**  
     items passing through, **3:48**  
     limitations, **23:39**  
     pass-through rules, effect, **3:48**  
     pro rata share of income, **3:48**  
     stock dispositions, **38:05**  
     terminally ill shareholder  
         fiduciary power to incorporate, form, **31:73**  
         successor in interest, eligibility, **31:72**  
         trust as recipient, **31:72**  
 Salary hedge agreements, **3:30, 3:31**  
 Sale or lease of property to corporation, income tax treatment, **3:27**  
 Shareholder-employees, payment of reasonable compensation, **3:29**  
 Transferability of interests, **3:14**

## **SHOPPING CENTERS**

Analyzing investments, **6:35**

## **SHORT TAXABLE YEARS**

Trusts and estates, estimated income tax payments, **32:65**

## **SIMPLE 401(k) PLANS**

Generally, **5:11**

## **SIMPLE IRAs**

Application and use, **5:57**  
 Employers entitled to establish, **5:57**  
 Requirements, **5:57**

## **SIMPLE RETIREMENT ACCOUNTS**

Contributions permitted, **5:71**

## **SIMPLE TRUSTS**

Definition, **32:7**

## **SIMPLE WILLS**

Marital deduction, estate tax, **21:8**  
 Personal representative powers, **18:60**  
 Will with standby trust, form, **18:68**

## **SIMPLIFIED EMPLOYEE PENSIONS (SEP)**

Generally, **5:67**  
 Contributions, **5:70**  
 Deductions, **5:70**  
 Examination guidelines, **5:67**  
 Nondiscrimination rules, **5:69**  
 Participation rules, **5:68**

## **SIMULTANEOUS DEATH**

Child, **17:43**  
 Equalization clauses  
     generally, **21:23**  
     form, **21:24**  
 Marital deduction, estate tax, **21:11, 21:21**  
 Reverse presumption clauses  
     generally, **21:21, 21:23**  
     form, **21:24**  
 Statute applicability, **18:50**  
 Uniform Simultaneous Death Act, **21:11, 21:22**

## **SIMULTANEOUS WILLS**

Preparation, **18:61**

## **SINGLE CLIENTS**

Asset considerations, **14:3**  
 Charitable gift planning, **14:17**  
 Employee benefits, **14:16**  
 Estate planning considerations, **14:1 to 14:21**  
 Estate planning overview, **14:1**  
 Estate plans, revised, **14:21**  
 Freeze techniques, **14:20**  
 Gifts during life, **14:11**  
 Hypothetical fact patterns, **14:5**  
 Implementing plans, **14:8 to 14:21**  
 Joint property, **14:14**  
 Joint purchases, **14:19**  
 Power of attorney, use, **14:10**  
 Private annuities, **14:18**  
 Testamentary dispositions, **14:13**  
 Trusts during life, **14:12**

## **SINGLE PARTNERSHIP ENTITY**

Tax treatment, **3:88**

## **SINKING FUNDS**

Buy-sell agreements, **23:37**

## **SITUS OF TRUST**

Trust preparation, **19:40**

## **SKIP PERSONS**

Generation skipping tax, **26:7**

## **SMALL BUSINESS INVESTMENT COMPANIES**

Characteristics, **6:26**

## **SMALL BUSINESS JOB PROTECTION ACT OF 1996 (SBJPA)**

Distributions, after age 70 and one half, **5:38**  
 Electing small business trusts (ESTB), S corporation shareholder, **23:39**  
 Eliminate pre-retirement right to distributions, **5:38**  
 Foreign transfers, **16:70**  
 Rollovers of spousal IRAs, **5:47**  
 S corporation subsidiaries, **3:46**  
 SIMPLE IRAs, application and use, **5:57**  
 Trust status, foreign or domestic, **32:63**

## **SMALL BUSINESS STOCK PROVISION**

Corporate losses, **3:71**

## **SMALL ESTATES**

Tax return filing requirements, **34:61**

## **SOCIAL SECURITY**

Additional wages and income, effect, **13:9**  
 Availability, **13:8**  
 Child's benefits, **13:7**  
 Derivative benefits  
     generally, **13:7**  
     reduction, **13:8**  
 Divorce or separation, allocation of income for benefit qualification purposes, **11:20**  
 Farm leases, effect on benefits, **13:26**  
 Father's benefits, **13:7**

## INDEX TO TEXT

### **SOCIAL SECURITY—Cont'd**

Full benefits, calculation, **13:8**  
Fully insured individual, **13:7**  
Increases, **13:8**  
Medicare hospital insurance, availability, **13:10**  
Medicare medical insurance, availability, **13:10**  
Modified adjusted gross income, **13:12**  
Mother's benefits, **13:7**  
Nonqualified deferred compensation agreements,  
    impact on benefits, **13:16**  
Old-age benefits  
    generally, **13:7**  
    reduction, **13:8**  
Parent's benefits, **13:7**  
Payment prior to retirement age, effect, **13:8**  
Qualified requirement plans, integration, **5:26**  
Quarters of coverage, **13:7**  
Request for statement of earnings, form, **13:8**  
Retirement age, **13:8**  
Surviving spouse's, **13:7**  
Taxation of benefits, **13:12**  
Wage base, defined benefit plan, "covered compensa-  
    tion" defined, **5:25**

### **SOIL CONSERVATION**

Deductibility, **4:8**

### **SOLE MANAGEMENT COMMUNITY PROPERTY**

Creditors' claims, **10:13**  
Debts, **10:13**  
Nature of control, **10:7**

### **SOLE PROPRIETORSHIPS**

Appreciation, **10:46**  
Balance sheet adjustments, **35:49**  
Closely held business interest, inclusion in definition,  
    **35:36**  
Community property, **10:46**  
Death of owner, **23:8**  
Enhancement of value, **10:46**  
Federal estate tax return listings, **34:69**  
Liquidity of estate, **23:8**  
Restructure of ownership and control, **23:16, 23:18,**  
    **23:19**  
Separate property, **10:46**  
Terminally ill owner, disposition, **31:75**  
Use by farmers, **4:3**  
Valuation methodology, **35:36**

### **SPECIAL ASSETS OF ESTATE**

See also index heading **ESTATES**  
Artwork, **38:17**  
Copyrights, duration, **38:17**  
Farmland  
    cessation of qualified use, **38:11**  
    percentage tests, **38:09**  
    premature disposition, **38:11**  
    protective election of special use valuation,  
        **38:10**  
    special use valuation, eligibility, **38:09**  
    valuation problems, **38:08**  
Flower bonds, **38:07**  
Installment payments and income items, **38:19**  
Licenses, **38:17**

### **SPECIAL ASSETS OF ESTATE—Cont'd**

Life insurance on another, **38:18**  
Narcotics belonging to deceased physician, **38:16**  
Partnership interests  
    discounted value, **38:12**  
    disposal of interest, **38:13**  
    general partner's basis, **38:14**  
    income in respect of decedent, **38:15**  
    limited partner's basis, **38:14**  
    problems, **38:12**  
    taxable year, closing, **38:13**  
Patient records, **38:16**  
Physician's practice, **38:16**  
Problems, **38:02**  
Royalties, **38:17**  
S corporation stock  
    disposition, **38:05**  
    estate as shareholder, **38:04**  
    income taxation, **38:03**  
    ownership restrictions, **38:03**  
    partnerships, comparison, **38:03**  
    trusts as shareholders, **38:06**

### **SPECIAL LIENS**

Bankruptcy stay provisions, **39:33**  
Deferred estate tax, **39:10, 39:11, 39:33**  
Estate tax, **16:66, 39:10, 39:11, 39:33**  
Gift tax, **39:33**  
Priority over state tax liens, **16:66**  
Special use valuation, additional estate tax, **39:33**

### **SPECIAL POWER OF APPOINTMENT**

Maximizing gift benefits, **8:17**

### **SPECIAL USE VALUATION**

Acquisition of property by qualified heir, **4:18**  
Additional estate tax, imposition, **35:25**  
Adjusted value percentages, **4:21**  
Agreement, form, **4:23**  
Appraisals necessary, **35:25**  
Businesses other than farming, availability, **4:28**  
Cessation of qualified use, **38:11**  
Comparable properties lacking, multiple factors  
    considered, **4:26**  
Comparable properties omitted, multiple factor  
    method used, **35:26**  
Corporate-owned property, **4:29**  
Correcting defective elections, Section 2032A(d)(3)  
    changes, **4:26**  
Crop-share lease as material participation, **4:16**  
Deferral of estate taxes, disqualification, **4:36**  
Dispositions, qualified conservation easements, **24:19**  
Election  
    disqualification, **4:22**  
    estate tax return, **4:22**  
    extension to allow, **4:22**  
    procedure, **38:10**  
Estate tax  
    generally, **16:58**  
    election, **34:75**  
    savings, **4:30**  
Farm, definition, **38:09**  
Farm method of valuation  
    Federal Land Bank loans interest rate, **4:26**  
    marital deduction valuation, **35:26**

## **SPECIAL USE VALUATION—Cont'd**

Farm property  
     availability, **4:13**  
     eligibility, **38:09**  
 Gifting nonfarm assets, advantages, **4:32**  
 Gross estate, adjusted value percentage, **4:21**  
 Land held in corporation, **4:29**  
 Liens for additional tax, **39:33**  
 Limitations, **35:25**  
 Marital deduction property, **21:48**  
 Material participation requirement, **4:16**  
 Maximum reduction in fair market value, **4:13**  
 Minority discount, incorporated family farm, **35:25**  
 Minority discounts, **4:29**  
 Minority ownership discount, **4:29**  
 Multiple factor method, **4:26, 4:27, 35:27**  
 Nonfamily use, **4:15**  
 Nonqualified heirs  
     generally, **4:15**  
     minor interests in property, **4:18**  
 Nonqualified use, **38:09**  
 Notice of election, form, **4:24**  
 Notice of protective election, form, **4:25**  
 Oil leases as disqualifying property, **4:20**  
 Partial election, unified credit equivalent, **4:14**  
 Partnership owned property, **4:29**  
 Percentage tests, **38:09**  
 Planning situations, **4:32**  
 Postmortem estate planning, use, **33:15**  
 Postmortem material participation, **4:20**  
 Postmortem qualified use property, **4:19**  
 Pre-death requirements, **4:13 to 4:32**  
 Premature disposition, **38:11**  
 Problems, **4:31**  
 Procedure for election, **38:10**  
 Property acquired from decedent, **4:17**  
 Property held in trust, **4:29**  
 Protective election, **38:10**  
     filing, **33:15**  
 Qualified conservation easements, no disposition, **24:19**  
 Qualified heir  
     definition, **4:18, 38:09**  
     member of the family, **4:18**  
 Qualified real property, **4:14**  
 Qualified use  
     generally, **38:09**  
     family member, **4:15**  
     land ownership requirements, **4:14**  
 Real property passing in trust, availability, **4:18**  
 Recapture agreement, **34:75**  
 Recapture of estate tax savings, **4:30**  
 Requirements, **4:14**  
 Special power of appointment, effect on qualifying property, **4:18**  
 Substantial compliance  
     executor elections, **34:75**  
     rancher/farmer, **4:22**  
 Unpaid tax, acceleration, **4:42**  
 Use for farming purposes, definition, **4:14**

## **SPECIFIC GIFTS**

See also index heading **GIFTS**  
 Ademption, **18:14, 18:15**  
 Burden of proof, **18:17**

## **SPECIFIC GIFTS—Cont'd**

Category distinction, **18:14**  
 Definition, **18:15**  
 Encumbrances, **18:37**  
 Example, **18:15**  
 Income after death, **18:15**  
 Property included, **18:15**  
 Shares of corporate stock, **18:31**  
 Tangible personal property, description requirement, **18:22**

## **SPECIFIC PORTION LIMITATION**

See also index heading **MARITAL DEDUCTION**  
 Entire interest concept, relationship, **21:33**  
 Freeze of value of surviving spouse's interest, **21:31**  
 Qualification for deduction, **21:32**

## **SPENDTHRIFT CLAUSES**

Financially irresponsible beneficiary, use, **17:21**  
 Form, **17:22**  
 Marital deduction trusts, testamentary transfers, **21:34**

## **SPENDTHRIFT TRUSTS**

Avoidance of conflict with beneficiary's general power of appointment, **18:47**  
 Provisions, **19:39**  
 Purpose, **18:47**  
 Recognition by states, **30:42**  
 Testamentary trusts, **18:47**  
 Validity, **18:47**

## **SPLIT DOLLAR LIFE INSURANCE**

See also index heading **LIFE INSURANCE**  
 Annual value of benefit as income, **2:24**  
 Collateral assignment method  
     generally, **2:22**  
     form, **2:29**  
 Definition, **2:21**  
 Economic benefits, **2:21**  
 Employee Welfare Benefit Plan status, **2:26**  
 Endorsement method  
     generally, **2:22**  
     form, **2:28**  
 Estate tax consequences, employee, **2:23**  
 Incident of ownership of policy, **2:23**  
 Irrevocable trust, GST exemption, **2:23**  
 Irrevocable trust, transfer of policy, **2:23**  
 Private arrangement, **2:11**  
 PS 58 cost, effect, **2:24**  
 Reporting requirements  
     generally, **2:26**  
     letter to Department of Labor, form, **2:27**  
 Right to borrow, effect, **2:24**  
 Section 83 treatment, avoidance of, **2:25**  
 Structural methods, **2:22**  
 Tax implications, **2:24**  
 Termination provisions, **2:25**  
 Transfer for value rules, applicability, **22:7**  
 Trusts, **22:27**  
 Variations, **2:21**

## **SPLIT DOLLAR PLANS**

Premium rates, interim guidance, **2:24**

## **SPLIT GIFTS**

See also index headings **GIFT PLANNING; GIFTS; GIFT TAX**



## INDEX TO TEXT

### **SPLIT GIFTS—Cont'd**

Annual exclusion, use, **17:52**  
Charitable and noncharitable split gifts, **16:54**  
Charity and spouse, **21:45**  
Consenting spouse, **8:30**  
Definition, **8:27**  
Election, methods, **8:29**  
Generation skipping transfer tax purposes, **34:53**  
Gift tax return, requirements, spouses' gifts to third parties, **16:2, 16:15, 16:21, 16:24**  
Requirements, **8:28**  
Restrictions, **8:28**  
Spouse and charity, **21:45**  
Spouses' gifts to third parties  
    estate tax, **16:2**  
    gift tax, **16:2, 16:15, 16:21, 16:24**  
    income tax, **16:15**

### **SPLIT-INTEREST CHARITABLE LEAD TRUST**

Distributions to charitable beneficiary, **19:65**

### **SPLIT-INTEREST CHARITABLE TRUSTS**

Estate tax deductions, **21:45**

### **SPLIT-INTEREST GIFTS**

Imminent death planning, **31:55**

### **SPONGE TAXES**

Choice of domicile, **20:21**  
State estate tax type, **16:62**

### **SPOUSAL JOINT OWNERSHIP**

See also index headings NONSPOUSAL JOINT OWNERSHIP;  
OWNERSHIP OF PROPERTY

Community property  
    generally, **10:39 et seq.**  
    creditors claims, **10:13**  
    overview, **10:7**

Disclaimers  
    timing requirements, **37:9**  
    use of property before disclaimer, **37:11**

Economic Recovery Tax Act of 1981, **10:20 et seq.**

Estate tax  
    gross estate inclusion, **10:23**  
    interests with right of survivorship, **16:37 to 16:39**  
    marital deduction, **10:23, 21:12, 21:47**  
    prior to 1982  
        gross estate inclusion, **10:27**  
        qualified joint interests, **10:27**  
    qualified joint interests, **10:23**

Flexibility for survivor, **10:16**

Gift tax  
    generally, **10:22**  
    prior law, before 1982, **10:26**

Gifts, **37:9**

Income tax, **10:21, 10:25**

Joint tenancy with right of survivorship  
    generally, **10:6**  
    estate tax, **16:37 to 16:39**

Marital deduction, estate tax, **10:23, 21:12, 21:47**

One-half rule, estate tax, **16:38**

Prior law, before 1982, **10:24**

### **SPOUSAL JOINT OWNERSHIP—Cont'd**

Qualified joint interests  
    generally, **10:23**  
    prior law, before 1982, **10:27**  
Section 2515 and 2515A rule, prior law, before 1982, **10:26**  
Tax consequences, **10:20 et seq.**  
Tax Reform Act of 1976, **10:23, 10:27**  
Tenancy by the entirety  
    generally, **10:5**  
    estate tax, **16:37 to 16:39**

### **SPOUSAL REMAINDER TRUSTS**

Income shifting, **9:8**  
Nature, **19:66**

### **SPOUSAL ROLLOVERS**

Disclaimers, use of, **33:11**  
Five-year averaging rule repealed, **5:47, 37:9**  
Gifts, **37:9**  
Gross estate inclusion, **5:65**  
Permissibility, **5:65**  
Prior receipt of distributions, election permitted, **5:65**  
Retirement benefit plans, grandfathering provisions applicable, **3:81**

### **SPOUSAL SUPPORT**

See also index headings ALIMONY  
Historical background, **11:1**  
Tax consequences, pre-1984, **11:2**

### **SPOUSES**

See index heading HUSBAND AND WIFE

### **SPOUSE'S SOCIAL SECURITY BENEFITS**

Eligible beneficiaries, **13:7**

### **“SPRUNG” DURABLE POWER OF ATTORNEY**

Imminent death planning, **31:06**

### **STANDARD DEDUCTION**

Phase-out levels, **9:3**  
Tax Cuts and Jobs Act, **1:3**

### **STANDARD PRESUMPTION OF SURVIVORSHIP**

Form, **21:26**  
Use, **21:25**

### **STANDBY TRUSTS**

Form with simple will, **18:68**  
Protection against incapacity, **19:16**  
Use, **18:46**

### **START-UP EXPENSES**

Deductibility, **3:56**

### **STATE AND LOCAL TAXES**

Avoid by changing domicile, **20:17, 20:19**  
Credit to estates, subsequent refund, treatment, **16:62**  
Estate taxes, **20:20 to 20:23**  
    credit amounts, **16:69**  
Gift taxes, **20:17**  
Income of estates and trusts, **20:18**  
Income taxes, **20:15, 20:18, 20:19**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### STATE AND LOCAL TAXES—Cont'd

Inheritance taxes  
    apportionment, **18:9**  
    Federal estate tax treatment, **16:52, 16:62**  
    imposition by states, **20:20 to 20:23**  
Legacy taxes, **16:52, 16:62**  
Pickup taxes, **16:62, 20:21**  
QTIP interests, owner of remainder interest, **16:69**  
Real property, **20:16**  
Residency required for income tax, **20:15**  
Sponge taxes, **16:62, 20:21**  
State estate tax credit, Federal estate tax, **16:62**  
Succession taxes, **16:52, 16:62**  
Trust income, **20:18**

### STATE ESTATE TAXES

Domicile requirement, **20:22**  
Double taxation, **20:20, 20:23**  
Dual domicile cases, arbitration, **20:23**  
Dual domicile of decedent, **20:22**  
Estate tax, **20:20, 20:21**  
Estate tax credit  
    generally, **34:101**  
    additional state taxes, **39:23**  
    Federal tax, **16:62**  
Federal estate tax credit, **16:62**  
Inheritance taxes  
    apportionment, **18:9**  
    Federal estate tax treatment, **16:52**  
Intangible personal property, **20:20, 20:22**  
Multistate taxation, **20:22**  
Nonresident decedents, **20:20**  
Pickup taxes, **16:62, 20:21**  
Requirements for imposition, **20:20**  
Sponge taxes, **16:62, 20:21**  
Types, **20:21**  
Uniform Act on Interstate Arbitration of Death Taxes, **20:23**  
Uniform Act on Interstate Compromise of Death Taxes, **20:23**

### STATE GIFT TAX

Intangible personal property, **20:17**

### STATE INCOME TAX

Avoid by changing domicile, **20:19**  
Credit for tax paid to other state, **20:15**  
Death benefits, **20:19**  
Domicile change during tax year, **20:19**  
Double taxation  
    more than one state, **20:15**  
    multiple states, **20:19**  
Estates, **20:18**  
Nonresidents, **20:15, 20:19**  
Residency requirement, **20:15**  
Retirement benefits, **20:19**  
Returns, **20:19**  
Stock dividends, **20:19**  
Trusts, **20:18**

### STATE LAW

Administrative expenses, reasonableness of deduction, **34:93**  
Construction of for GST purposes, no change in beneficial interest, **26:33**

### STATE LAW—Cont'd

Disclaimers of interest, ultimate takers, intestacy laws, **37:23**  
State law default rules, **27:31.30**  
Statute of limitations, Federal tax collections, effect on, **39:32**  
Trust income characterization, total return investment strategies, **32:11**  
Trusts, choice of fiduciary and situs, **30:42**  
Valuation of business entities, **27:31.30**

### STATE SPONSORED PREPAID TUITION PLANS

Income tax liability, **2:46**

### STATE TAX LAWS

Estate tax credit, generation skipping tax, **26:22**  
Tax advantaged investments, effect, **6:22**

### STATE TAX LIENS

Priority of estate tax liens, **16:66**

### STATUTE OF FRAUDS

Express trust in real property, impact, **19:13**  
Express trust of personality, impact, **19:13**  
Nature, **19:13**  
Property interests covered, **19:13**

### STATUTE OF LIMITATIONS

Amending refund claims, **39:27**  
Disability of taxpayer, equitable tolling, **30:04**  
Disallowance of tax refund claim, waiver of notice, **39:26, 39:27**  
Equitable tolling  
    incompetency of taxpayer, **30:04**  
    refund claims, **39:23**  
Extensions by agreement, **39:14, 39:27**  
Extensions for refund claims, **39:23**  
Gifts, adequate disclosure required, **16:22**  
Partnerships, **3:34**  
Payments v. deposits, **39:23**  
Refund claims, **39:23, 39:24**  
    amending, **39:27**  
Refund litigation for tax overpayment, **39:26, 39:27**  
Refunds, no return filed, **39:18**  
State statutes, effect on Federal tax collection, **39:32**  
Tax shelters, **6:19**  
Withheld taxes, deemed payment period, **39:23**

### STATUTE OF USES

Consideration for trusts, **19:7**

### STATUTORY FRINGE BENEFITS

Generally, **2:46**

### STATUTORY NOTICES OF TAX DEFICIENCY

Generally, **39:2**  
Burden of proof, **39:2**  
90-day letter, **39:17**

### STATUTORY REQUIREMENTS

Disclaimers, **37:5**

### STATUTORY SHARE ELECTIONS

Marital deduction, **20:7**

## INDEX TO TEXT

### STATUTORY SHARE OF SURVIVING SPOUSE

Augmented estate, **20:7**  
Election, **20:7**  
Estate tax, includibility in gross estate, **16:50**  
Form, **20:7**  
Inter vivos trust transfer, **21:12**  
Marital deduction qualification  
    generally, **20:6**  
    dower elected properly, **21:12**  
Settlements, maintaining marital deduction, **21:12**  
Size, **20:6, 20:7**  
State law variances, **20:7**  
Uniform Probate Code, **20:6, 20:7**

### STEP TRANSACTIONS

Gift tax, overview, **16:5**  
S corporation subsidiaries, effect on election, **3:46**

### STEP-CHILDREN AS FAMILY MEMBERS

Special use valuation, **4:15**

### STOCK

See also index headings **SHAREHOLDERS; CORPORATIONS**  
Blockage, definition, **35:33**  
Book value, definition, **35:48**  
Compensatory stock transfer, election to treat as  
    completely vested, **2:55**  
Controlling shares, value, **35:62**  
Dividends, **23:11, 23:14, 23:21**  
Extent of client's holdings, **15:8**  
Joint accounts, **10:35**  
Marital deduction, estate tax, **21:66**  
Market rates of return, **35:46**  
Price adjustment factors, **35:33**  
Publicly held stock selling "ex-dividend," valuation, **35:29**  
Redemption agreements  
    generally, **23:43, 23:44**  
    attribution rule waiver by estate or trust, **21:66**  
    buy-sell agreements, **23:33**  
    capital expenditures, **23:11**  
    closely held corporations, **21:34, 21:66, 23:11 to 23:14**  
    dividend treatment comparison, **23:11**  
    estate tax payments  
        generally, **36:21, 36:22 to 36:27**  
        funding, **23:13**  
    generation skipping tax treatment, **26:41**  
    marital share satisfaction, **21:66**  
    no equivalency to dividends, **23:12**  
    partial liquidations, **23:12**  
    sale or exchange treatment, **23:12**  
    Section 302 exchange treatment, **36:28**  
    Section 302 redemptions, **23:12, 23:14**  
    Section 303 redemptions, **23:13**  
    Section 306 stock, **23:14**  
    substantially disproportionate redemption, **23:12**  
    Tax Equity and Fiscal Responsibility Act of 1982, **21:66**  
    terminating shareholder's interest, **23:14**  
    termination of shareholder's interest, **23:12**  
S corporation, dispositions, **38:05**  
S corporation stock, **23:39 et seq.**

### STOCK—Cont'd

Section 302 redemptions, **23:12, 23:14**  
Section 303 redemptions, **23:13**  
Section 306 stock, **23:14**  
Section 351 treatment, **3:105**  
Short sales, income in respect of decedent, **32:48**  
Substantially disproportionate redemption, **23:12**  
Tax Equity and Fiscal Responsibility Act of 1982, **21:66**  
Transfer taxes, provisions for avoiding, **35:65**  
Valuation  
    generally, **23:27, 23:29, 35:29**  
    nonlapse restrictions, **2:58**  
Valuing, control blocks, **35:65**

### STOCK APPRECIATION RIGHTS

Accounting for, **2:75**  
Nonqualified stock options issued with, **2:68**

### STOCK BONUS PLANS

Definition, **5:8**  
Distributions  
    dates, **5:38**  
    estate income taxation, **32:46**  
    form of payment, **5:40**  
    income in respect of decedent, **32:51**  
    trust income taxation, **32:46**  
In-service distributions  
    generally, **5:35**  
    taxation, **5:44**  
Loans to participants, **5:36**  
Qualification rules, **5:14 to 5:29**  
Required distributions, **5:37**

### STOCK OPTIONS

Compensatory stock transfers, valuation, **2:61**  
Divorce, effect of dividing nonstatutory options, **11:16**  
Golden parachute payments, **2:79**  
Nonqualified, **2:68**  
Reporting value on employee's W-2 form, **2:68**  
Section 409A, special rules for stock options, **2:87**

### STOCK REDEMPTIONS

Retirement planning, **13:21**

### STRAIGHT DEBT INSTRUMENT

S corporations, **3:3**

### STRAWMEN

Tenancy by the entirety, **10:5**

### STRING PROVISIONS

Consideration given, **27:23**  
Entity freeze application, **27:03**  
Entity freezes  
    alterable transfers, **27:21**  
    overview, **27:17**  
Section 2038  
    adverse interest approval, **27:22**  
    alterable transfers, **27:21**  
    Section 2038, **27:21**  
Sections 2036, retained rights, entity freezes, **27:18**  
Sections 2036-2038, **27:17**  
Sections 2036(b), retained rights  
    Byrum doctrine, **27:20**

## **STRING PROVISIONS—Cont'd**

Sections 2036(b), retained rights—Cont'd  
equity transfers, **27:19**  
Sections 2043, consideration, freeze transactions,  
**27:23**  
Transferees with limited funds, **27:24**

## **STRINGS RETAINED**

Transferred interests in property, **16:40**

## **STUB PERIOD INCOME**

QTIP election, **16:55**

## **SUBSIDIARIES**

S corporations, **3:46**  
Spin-off after gaining control, **3:115**

## **SUBSTANTIAL COMPLIANCE**

Special use valuation  
executor elections, **34:75**  
rancher/farmer, **4:22**

## **SUBSTANTIAL PRESENCE TEST**

Resident alien income tax, **1:4**

## **SUBSTANTIAL RISK OF FORFEITURE**

Incentive stock options, alternative minimum taxable  
income, **2:64**  
Nonlapse restrictions, **2:58**  
Nonqualified deferred compensation plans, **2:6**  
Stock subject to repurchase agreement, **2:56**

## **SUBSTANTIATION RULES**

Business expenses, substantiation methods, **2:51**  
Charitable gifts, **12:8**

## **SUCCESSION**

State law variances, **20:6**

## **SUCCESSION TAXES**

Credit, Federal estate tax, **16:62**  
Deductibility, Federal estate tax, **16:52**

## **SUMMARY JUDGMENTS**

Tax Court, **39:20**

## **SUMMARY RECORDS OF ASSESSMENT**

Notice and demand for payment, **39:32**

## **SUMMATION METHOD OF CAPITALIZATION**

Valuations, **35:19**

## **SUPER TRUST**

Irrevocable life insurance trust, **22:27**

## **SUPPLEMENTAL RETURNS (ESTATE)**

Later-discovered expenses, **33:23**

## **SUPREME COURT TAX LITIGATION**

Appeals, **39:2, 39:21**

## **SURETIES**

Definition, **30:12**

## **SURFACE TRANSPORTATION ACT**

Fringe benefits, exclusions from income, **2:46**

## **SURGERY**

Medicare coverage, **13:10**

## **SURVIVORS AND SURVIVORSHIP**

Generally, **17:26**  
Augmented estate, **19:18**  
Clauses, **21:19 et seq.**  
Contingent reversions, **28:14**  
Creditors' claims, **10:13**  
Deceased spousal unused election (DSUE), **33:21.50**  
Deemed gifts, **10:40 et seq.**  
Disclaimers, **37:9 to 37:11**  
Elections, **10:44, 20:7, 21:71**  
Estate planning considerations, **17:15**  
Exempt personal property allowance, **20:7**  
Family allowance, **20:7**  
Flexibility for survivor, **10:16**  
Homestead right or allowance, **20:7**  
In testate share size determination, **20:6**  
In testate succession survivorship requirements, **20:6**  
Joint interests with right of survivorship, estate tax,  
**16:37 to 16:39**  
Joint tenancy, **10:4 to 10:6**  
Marital deduction, estate tax, **16:51, 16:55**  
Marital deduction trusts  
generally, **16:49**  
testamentary transfers, **21:29 et seq.**  
Marital devise conditions, **21:74**  
Presumptions, **21:21 et seq.**  
Reverse presumption, **21:11**  
Rights provided by statute, **20:7**  
Simultaneous death, **21:11, 21:21 to 21:24**  
Social security benefits, **13:7**  
Statutory right of election, revocable living trust,  
**19:18**  
Statutory rights, **20:7**  
Statutory share, **16:50, 20:6, 20:7**  
Statutory share of surviving spouse  
generally, **21:71**  
probate transfers, **21:6**  
Surviving coowner's flexibility, **10:16**  
Survivor annuities and other payments, **16:30**  
Tenancy by the entirety, **10:5**  
Terminable interest rule exception, estate tax marital  
deduction, **21:19 et seq.**  
Testamentary dispositions, **18:29**  
Testamentary transfers to, **21:1 et seq.**  
Testamentary transfers to surviving spouse, **16:55**  
Uniform Simultaneous Death Act, **21:11, 21:22**  
Widow's election, community property, **10:44**

## **SURVIVORSHIP CLAUSES**

Common disasters, **21:19, 21:20**  
Equalization, **21:23 et seq.**  
Estate tax minimization, **18:50**  
Forms  
equalization clause combination, **21:24, 21:28**  
reverse presumption, **21:24**  
spouses with nearly equal estates, **21:28**  
standard presumption, **21:26**  
Marital deduction  
estate tax, **21:19 et seq.**  
preservation, **18:50**  
Omission from will, **18:50**

## INDEX TO TEXT

### **SURVIVORSHIP CLAUSES—Cont'd**

Reverse presumption  
    generally, **21:21, 21:24**  
    use, **21:23**  
Spouses with nearly equal estates, **21:27, 21:28**  
Standard presumption, **21:25, 21:26**  
Statutory requirements, overriding of, **18:50**  
Time clauses, **21:21**  
Uses, **18:50**

### **SUSPENDED LOSSES**

Shareholder basis, excluded COD income, **3:76**

### **SWEEP FEES**

Fiduciary compensation, **30:47**

## **T**

### **TAINTED ASSET RULE**

Testamentary spousal transfers, **21:18**

### **TARGETED JOBS TAX CREDIT**

Availability to estates and trusts, **32:34**

### **TAX ADVANTAGED INVESTMENTS**

Generally, **6:1 to 6:50**  
See also index heading **TAX SHELTERS**  
Abusive tax shelters, malpractice liability, **6:5**  
Access, **6:4**  
Acquisition, **6:4**  
Airplane, dry lease, **6:13**  
Alternative minimum tax, effect, **6:6**  
Analysis, **6:34**  
At-risk individual, definition, **6:7**  
At-risk rules, **6:7**  
Boat charter, **6:13**  
Carrying charges, **6:49**  
Civil penalties, **6:19**  
Closely held corporations, **6:30**  
Code provisions, penalty for noncompliance, **6:19**  
Common stock, **6:47**  
Corporate bonds, **6:46**  
Deferring gain, **6:49**  
Definition, **6:3**  
Equipment leasing, availability, **6:42**  
Equities, **6:47**  
Failure to register, penalty, **6:19**  
Fannie Mae's, **6:44**  
Federal bonds, **6:46**  
Financing, **6:49**  
Forms of ownership  
    comparisons, **6:21**  
    importance, **6:3**  
    nontax implications, **6:20**  
    state tax laws, effect, **6:21**  
Fraud, penalties, **6:19**  
General business reputation, review, **6:34**  
General partnerships, **6:29**  
Ginnie Mae's, **6:44**  
Individual ownership, implications, **6:33**  
Inherent nature of tax advantage, **6:3**  
Investment advisers, use, **6:4**  
Investment amounts, limitations, **6:19**  
Investment interest, definition, **6:17**  
Legislative history, **6:2**

### **TAX ADVANTAGED INVESTMENTS —Cont'd**

Limitations on tax benefits, **6:6**  
Limited partnerships  
    characteristics, **6:27**  
    net partnership passive income, impact, **6:27**  
    qualified income offset, **6:27**  
    requirement, **6:27**  
    substantial economic effect, **6:27**  
Losses, tax treatment, **6:5**  
Market discount bonds, **6:46**  
Master limited partnerships, **6:28**  
Material participation, requirement, **6:10**  
Mutual funds, **6:24**  
Negligence, penalties, **6:19**  
Net active income, **6:11**  
Offering memorandum, review, **6:36**  
Overstatement of values, penalties, **6:19**  
Partial ownership, effect on value, **6:23**  
Passive activity losses  
    deduction, **6:15**  
    definition, **6:8, 6:9**  
    phase-in rules, **6:16**  
Payment for significant services, **6:13**  
Personal service corporations, **6:31**  
Portfolio income, treatment, **6:12**  
Preferred stock, **6:47**  
Private placements, **6:4**  
Promoters, Code requirements, **6:19**  
Promoters, income tax preparers, liability, **6:5**  
Promotion of abusive tax shelters, civil penalty, **6:19**  
Prospectus  
    analysis, **6:34**  
    review, **6:36**  
Qualified nonrecourse financing, **6:7**  
Qualified opportunity zones, **6:50**  
Raw land, availability, **6:38**  
Real estate  
    availability, **6:37**  
    raw land, **6:38**  
Real estate investment trusts, **6:25**  
Real estate mortgage investment conduits, **6:24**  
Regular corporation, **6:30**  
Regulated investment companies, **6:24**  
Rental activities, **6:13**  
Research and development activities, passive activity  
    rule, **6:8**  
Residential rental property, **6:39**  
Role in investor's portfolio, **6:2**  
S corporations, **6:32**  
Securities, **6:43 to 6:47**  
Shopping centers, **6:35**  
Short sales of stock, **6:47**  
Short-term leases of tangible property, **6:13**  
Small business investment companies, **6:26**  
Sources of offerings, **6:4**  
Tax Cuts and Jobs Act, **6:50**  
Tax deficiencies, risks, **6:19**  
Taxation, tradeoffs, **6:35**  
Tax-exempt bonds, **6:43**  
Tax-motivated transactions, **6:19**  
Trade or business, comparison, **6:48**  
Tradeoffs, **6:35**  
Transfer of passive activity to related party, **6:15**

## **TAX ADVANTAGED INVESTMENTS**

### **—Cont'd**

United States government obligations, **6:44**  
 United States savings bonds, **6:44**  
 Value, partial ownership, **6:23**

## **TAX AVOIDANCE**

Economic substance test, elements to consider, **9:11**

## **TAX BASIS**

Charitable contributions, publishers clippings library, **12:8**

## **TAX BRACKETS**

Inflation adjustments, **9:3**

## **TAX COLLECTION**

See also index headings AUDITS; TAX COURT

Additional amounts and additions, **39:31**

Assessment, **30:20, 39:32**

Collection Due Process (CDP) hearing, **39:32**

Interest rates, **39:31**

Liens

generally, **39:10, 39:11, 39:33**

priority over state tax liens, **16:66**

Notice and demand, **39:32**

Notify taxpayer, collection actions, **39:32**

Penalties, **39:31**

Statute of limitations, state law effect on Federal tax, **39:32**

Summary records of assessment, **39:32**

Tax Court review, **39:32**

Time and place for payment, **39:32**

Transferee liability, statute of limitations, **39:32**

## **TAX CONSULTANT ERROR**

Malpractice action, **1:31**

## **TAX COURT**

Additional assessments, **39:20**

Alternate forums, **39:2, 39:17**

Appeals, **39:2, 39:21**

Assessment of tax or other liability, **39:20, 39:32**

Burden of proof, **39:17**

Collection actions, jurisdiction, **39:32**

Computation submission and arguments, **39:20**

Cost awards, **39:19, 39:20**

Decision date, **39:20**

Default judgments, **39:20**

Deficiency or overpayment, stipulation, **39:19**

Deficiency redetermination, petition, **39:2, 39:17, 39:18**

Determination, **39:20**

Dismissals, **39:20**

District counsel case referrals and settlement attempts, **39:19**

Fact finding, **39:20**

Finality of decision, **39:20**

Forum availability, **39:2, 39:17**

Hearings, **39:20**

Judgments on pleadings, **39:20**

Judicial review of IRS actions, **39:32**

Jurisdiction

innocent spouse liability, **11:21, 11:22**

review of installment payment denial, **36:16**

Motions for summary judgment, **39:20**

## **TAX COURT—Cont'd**

New issues during settlement procedures, **39:19**

Penalties, **39:20**

Place of hearing, **39:18**

Powers, **39:20**

Publication of reports, **39:20**

Reports, **39:20**

Settlement procedures, **39:19**

Small tax cases, **39:20**

Summary judgments, **39:20**

Tax period reviewable, **39:20**

Time for settlement procedures, **39:19**

Transfer to Appeals Office for settlement, **39:19**

Waiver of restrictions on assessment and collection with settlements, **39:19**

## **TAX CREDITS**

Education expenses, **2:46**

Gift tax liabilities, equitable defenses of IRS, **34:102**

## **TAX CUTS AND JOBS ACT**

Alternative minimum tax, **2:1**

Business expenses, **2:51**

Itemized deduction, **2:51**

Tax advantaged investments, **6:50**

Tax rates, **1:3**

Treatment of alimony following enactment, **11:6**

## **TAX EVASION**

Corporate owner diverting funds, earnings and profits threshold, **3:28**

## **TAX FREE EXCHANGES**

Life insurance, **7:7, 22:8**

## **TAX HOME**

Travel expense deductibility, **2:51**

## **TAX LIABILITY**

Transfers of income, **1:3**

## **TAX LIENS**

Bankruptcy stay provisions, **39:33**

Certificates of subordination, **39:33**

Deferred estate tax special liens, **39:10, 39:11, 39:33**

Discharge, **39:33**

Estate tax

generally, **39:10, 39:11, 39:33**

priority over state tax liens, **16:66**

Forfeiture provisions, federal tax lien as surviving reclamation of property by seller, **39:33**

General, **39:33**

Gift tax, **16:24, 39:33**

Notice requirement, **39:33**

Releases, issued in error, **39:33**

Special, **16:66, 39:10, 39:11, 39:33**

Special use valuation, additional estate tax, **39:33**

Withdrawal of notice of lien, situations permitting, **39:33**

## **TAX MOTIVATED TRANSACTIONS**

Compliance provisions, **6:19**

## **TAX ON PRIOR TRANSFERS**

Credit against tax, **16:65**



## INDEX TO TEXT

### TAX PRACTICE

Injunction by IRS, **39:2**

### TAX PROTESTERS

Attorneys in litigation, **1:31**

### TAX RATES

Capital gains

generally, **1:3**

income shifting considerations, **9:3**

Capital gains v. ordinary income, choice of business entity, **3:109**

Cost of living adjustments, **9:3**

Estate tax, **16:67**

Estates, trusts and individuals compared, **9:3**

Gift tax, **16:67**

Gift taxes, EGTRRA 2001, **16:23**

Individual income tax, **9:3**

Individuals, trusts, and estates compared, **9:3**

Inflation adjustments, **9:3**

Trusts, estates, and individuals compared, **9:3**

2001 tax act

estate tax rates, **16:62**

phased in rates, **1:3**

### TAX REFORM ACT OF 1986

Compensatory stock transfers, effect on, **2:60**

### TAX REFORM ACT OF 1997

Death of partner, effect on partnership tax year, **32:52**

### TAX SHELTER INVESTORS

Malpractice prevention, **1:31**

### TAX SHELTERS

See also index heading TAX ADVANTAGED INVESTMENTS

Active, **25:2**

Alternative minimum tax, applicability, **25:6**

Book value, usefulness, **25:15**

Capital accounts, definition, **25:4**

Criminal prosecution exposure, **6:2**

Crossover point, **25:5**

Death of investor

inside basis, **25:10**

outside basis, **25:9**

planning for transfer, **25:13**

Disposition of interest

generally, **25:13**

lifetime, **25:6 to 25:8**

Extent of client's holdings, **15:8**

Fair market value, determination, **25:15**

Foreign sourced income, **6:2**

Gift of interest, **25:7**

Hypothetical real estate limited partnership, **25:3**

Income in respect of decedent, effect on basis, **25:9**

Inside basis

generally, **25:4**

step-up on death of investor, **25:10**

Joint ownership with right of survivorship, **25:12**

Leverage, use, **25:2**

Limitations period, **6:19**

Limited partner, choice, **25:12**

Locked-in gain, **25:4**

Opinions issued by practitioner, **6:19**

Ordinary income, conversion to capital gains, **25:2**

### TAX SHELTERS—Cont'd

Outside basis

generally, **25:4**

step-up on death of investor, **25:9**

Ownership, importance, **25:12**

Passive loss provisions, **25:2**

Penalty exposure, **6:2**

Phantom gain, **25:4**

Planning for disposition, generally, **25:1 to 25:15**

Portfolio, **25:2**

Postmortem income tax planning, **25:14**

Promotion of abusive tax shelters, penalties, **6:19**

Sale of interest, **25:6**

Sale of partnership assets, **25:11**

Section 754 election

inside basis, effect, **25:10**

sale of partnership assets, **25:11**

willingness to make, importance, **25:12**

Successor in interest, designation, **25:13**

Transfer of interest to trust, **25:8**

### TAX YEARS

C corporation, changing to calendar year, **3:103**

Change of tax year, **3:2**

Farmers, **4:7**

### TAXABLE ESTATE

Debt as consideration, string provisions, **27:17**

Deduction for income taxes, prohibition against double deduction, **16:52**

Definition, **16:51 et seq.**

Determination, **17:37**

Entity freezes

generally, **27:13, 27:17**

adverse interest approval, **27:22**

alterable transfers, **27:21**

Byrum doctrine, **27:20**

consideration given, **27:23**

decedent's interest in property, **27:15**

determination considerations, **27:14**

lapsing interests, **27:16**

Section 2036, **27:18**

Section 2036(b), **27:19**

Section 2038, **27:21**

transferees with limited funds, **27:24**

Freeze transactions, **27:13**

State estate tax, **20:21**

### TAXABLE GIFTS

Definition, **16:16**

Donor retention of interests or rights, **16:40**

Estate tax applicability, donor retention of interests or rights, **16:40**

Estate tax computation, **16:59**

Estate tax credit, paid gift taxes, **16:63**

### TAXABLE TERMINATION

Generation skipping tax, **26:8**

### TAX-DEFERRED ANNUITY

Secular trust compared with, **2:9**

### TAX-EXEMPT BONDS

Amortization for life interest, **10:29**

Tax advantaged investment, **6:43**

## **TAX-EXEMPT INCOME**

Expenses attributable to, damage recovery, **2:5**

## **TAXPAYER ADVISORS**

Criminal prosecution exposure, **6:2**

Penalty exposure, **6:2**

## **TAXPAYER IDENTIFICATION NUMBER**

Dependents, **39:11**

Failure to furnish, **39:31**

## **TAXPAYER RELIEF ACT OF 1997**

Applicable credit amount, testamentary transfers, **21:1**

Boot characterization when organizing, **3:105**

Capital gains, tax rates, **1:3**

Charitable gifts of easements, basis in gift, **35:24**

Collateral heirs, deceased child rule, GST, **26:19**

Conservation easements, **24:19**

Consistent reporting, beneficiaries, estates, and trusts, **39:3**

Contributions to IRAs, combined limitations, **5:60**

Estate taxes, installment payments, **36:13**

Excess retirement accumulations, **33:40**

Family business assets, qualified, **38:20**

Holding periods, property acquired from decedents, **32:15**

IRAs contributions, combined limitations, **5:60**

Preferred stock, treatment in Section 351 transaction, **3:105**

Qualified conservation easements, **24:19**

Residence sale

gain exclusion, **20:19**

Return positions, consistency requirements, **39:3**

Sale of partnership interest, inventory element, **3:108**

Sale of principal residence

gain exclusion, **20:19**

Spousal IRAs, **5:60**

Throwback rules, repealed, **32:56**

## **TAXPAYER REPRESENTATIVES**

Authorization, filing requirements, **39:3**

Declaration of status, **39:3**

Power of attorney, requirements, **39:6**

Protest preparation and filing, **39:15**

Tax information authorization forms, **39:3**

Thirty-day letter

extension, **39:14**

issuance, **39:13**

## **TAXPAYER'S BILL OF RIGHTS**

Cost awards, **39:19**

## **TECHNICAL ADVICE REQUESTS**

Protests, **39:15**

## **TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988 (TAMRA)**

Generally, **28:3**

Alternative minimum tax (AMT), incentive stock options, **2:64**

Annuities, joint and survivor annuities, **16:20**

Asset freezes, anti-freeze statute, **31:78**

Athletic tickets, disallowance of deduction, **12:36**

Buy-sell agreements, options to buy or sell, inclusion in estate, **23:25**

## **TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988 (TAMRA)**

### **—Cont'd**

Cafeteria plans, benefit selection, **2:47**

Charitable lead grantor trusts, valuation of deduction, **12:46**

Citizenship status, marital deduction, eligibility, **31:18.50**

Employee benefit plans, continuation coverage, penalties, failure to provide, **2:43, 2:46**

Estate freeze transactions, deemed gifts, **16:11**

Estimated income tax payments, temporary relief from, **33:27**

Gifts, deemed gifts, **16:5**

Golden parachutes, excise tax, small business corporation exception, **2:78**

Group life insurance, uniform rates, **2:32**

Inadvertent incentive stock options, problem eliminated, **2:66**

Incentive stock option plans, \$100,000 limit as plan requirement deleted, **2:63**

Incentive stock options, alternative minimum taxable income (AMTI), **2:64**

Kiddie tax

coordination with tax on trusts' income, **9:26**

joint custody, **9:26**

Life insurance, modified endowment contracts, **7:7**

Loan of artwork to charity

deemed gift in estate freeze, **16:11**

gift of present interest in artwork, **12:35**

separate property, **24:28**

Marital deduction, estate tax, noncitizen spouses, denial of deduction, **18:41, 21:10, 31:18.50**

Modified endowment contracts, **7:7**

Qualified debt definition, **14:18**

Qualified deferred compensation plans, excess distributions, excise tax

grandfather rule, **5:51**

spousal exception, **5:51**

Qualified domestic trust, **18:41, 21:10**

Section 2036(c), statutory restriction of valuation freezes, **27:03**

Section 2036(c) background, **27:03**

Tax Court, cost awards, **39:19**

Taxpayer's Bill of Rights, cost awards, **39:19**

## **TENANCY BY THE ENTIRETY**

Advantages, **17:45**

Characteristics, **10:5**

Community property states, **10:5**

Creation, **10:5**

Creditors' claims, **10:13**

Death of first joint tenant, impact, **17:48**

Definition, **17:45**

Disclaimer timing requirements, **37:9**

Estate tax

generally, **10:23**

nonprobate assets, **16:37**

Flexibility for survivor, **10:16**

Gift tax

marital deduction, **16:20**

prior law, before 1982, **10:26**

Income from property, **10:5**

Income tax, **10:21, 17:48**

Ownership form, **10:7**

## INDEX TO TEXT

### TENANCY BY THE ENTIRETY—Cont'd

Personal property gift taxation, prior law, before 1982, **10:26**  
Qualified joint interests, **10:23**  
Real property gift taxation, prior law, before 1982, **10:26**  
Severance, **10:5**  
Surviving coowner's flexibility, **10:16**  
Survivorship, **10:5**  
Tax consequences, **10:20 et seq.**  
Uniform Simultaneous Death Act, **21:22**

### TENANCY IN COMMON

Characteristics, **10:3**  
Creation, **10:3**  
Definition, **17:45**  
Disclaimer timing requirements for spouses, **37:9**  
Estate tax treatment, **17:47**  
Income from property, **10:3**  
Married person's acquisition of title, **10:3**  
Ownership form, **10:3**  
Possessory rights, **10:3**  
Real property valuation, fractional interest discount, **35:14**  
Spouse's disclaimers, timing requirements, **37:9**  
Use by terminally ill client, **31:36**

### TENTATIVE TAXES

Estate tax computation, **16:59**  
Gift tax computation, overview, **16:23**

### TERM LIFE INSURANCE

See index heading **LIFE INSURANCE**

### TERM OF YEARS

IRS valuation tables  
Certain Estate Assets, **35:75**

### TERMINABLE INTEREST RULE

Annuities, **21:15**  
Application, **16:55**  
Common disaster provisions, exception, **21:19 et seq.**  
**21:21**  
Copyrights, **21:16**  
Definition, **21:9**  
Estate trusts, **21:15, 21:46**  
Exceptions, **16:55, 21:15, 21:19 et seq., 21:74**  
Family allowance, **21:16**  
Income interests owned by decedent, **21:15**  
Insurance proceeds with power of appointment, **21:44**  
Joint and mutual wills, **21:47**  
Joint and survivor annuities, **21:16**  
Leasehold interests, **21:15**  
Life estates  
deductibility, **21:15**  
exception to rule, **21:19, 21:29 et seq.**  
general power of appointment, **16:55, 21:29 et seq.**  
types of interests, **21:16**  
Marital deduction trusts, exception, **16:49**  
Patents  
generally, **21:15, 21:29**  
types of interests, **21:16**  
Purchase for surviving spouse, **21:17**  
Purpose, **21:15**

### TERMINABLE INTEREST RULE—Cont'd

QTIP life estates  
contingent on election, **21:38 et seq.**  
testamentary transfers, **21:38 et seq.**  
Reverse presumption clauses  
form, **21:24**  
use, **21:23**  
will provisions, **21:21**  
Simultaneous death provisions  
form, **21:24**  
use, **21:23**  
will provisions, **21:21**  
Split gifts between spouse and charity, exception, **21:45**  
Survivorship of spouse, condition, **21:16**  
Survivorship provisions, exception, **21:19 et seq.**  
Tainted asset rule, **21:18**  
Terminable interests, types, **21:16**  
Third party diversion powers  
minors support, **21:37**  
spouse's incapacity, **21:37**  
Time clauses, presumption as to order of death, **21:21**  
Will contests, resulting in property transfers, **21:73**

### TERMINABLE INTERESTS

See also index heading **TERMINABLE INTEREST RULE**

Annuities, **16:20**  
Charitable remainder trusts, **16:20**  
Definition, **16:20, 16:55, 21:7, 21:9**  
Examples, **16:55**  
Exceptions to gift tax treatment, **16:20**  
Gift tax marital deduction  
generally, **16:20**  
exclusion, **8:40**  
Joint tenancy with right of survivorship transfers, **16:20**  
Nondeductible interest requirements, **21:15**  
Purchase for surviving spouse by trustee, **21:17**  
Tenancy by the entirety transfers, **16:20**  
Types, **21:16**

### TERMINAL ILLNESS

See also index headings **ESTATE PLANNING**; **POSTMORTEM PLANNING**

Additional estate tax, imposition, **31:63**  
Administration of estate, facilitation, **31:19**  
Advisors, identification, **31:05**  
Annual gift tax exclusion, use, **31:43**  
Annuity valuation, use for measuring life, planning for imminent death, **31:40**  
Beneficial interests in trust, review, **31:76**  
Burial arrangements, preparation, **31:08**  
Bypass trust, eligibility for tax savings, **31:23**  
Client as beneficiary, notification of client's condition, **31:32**  
Closely held business interests  
buy-sell agreement, possibility, **31:68**  
decision as to disposition, **31:64**  
estate tax value, **31:71**  
executor's ability to carry on business, **31:66**  
inter vivos gift to reduce value, **31:71**  
management duties, assumption, **31:65**  
ownership, transfer, **31:67**  
post death redemption, **31:69**  
salary continuation agreement for spouse, **31:70**

## **TERMINAL ILLNESS—Cont'd**

Closely held business interests—Cont'd  
     stock redemption, **31:69**  
     valuation issues, **31:71**  
 Current litigation, review, **31:26**  
 Custodial property, review, **31:30**  
 Debts, payment before death, **31:41**  
 Difficult-to-value property, disposition, **31:24**  
 Disgruntled beneficiaries, anticipation, **31:09**  
 Disposition of assets, consideration, **31:24**  
 Durable power of attorney, execution, **31:06**  
 Emotional stages, **31:03**  
 Employee benefits, review, **31:63**  
 Estate taxes, review, **31:33**  
 Existing powers of appointment, review, **31:10**  
 Fiduciary relations  
     analysis, **31:28**  
     appointments, review, **31:18**  
     persons named in client's will, **31:29**  
 Funeral arrangements, preparation, **31:08**  
 Gift tax returns, **31:48**  
 Gifts  
     charitable gifts, **31:49**  
     excess of annual exclusion, **31:45**  
     minority ownership, creation, **31:46**  
     use in estate planning, **31:42**  
 Income in respect of decedent, tax treatment, **31:59**  
 Income tax planning  
     charitable gifts, use, **31:53**  
     double deductions, **31:54**  
     gain property transfers, **31:56**  
     income in respect of decedent, **31:59**  
     income tax returns, filing, **31:60**  
     joint return, filing, **31:52**  
     "loss" property transfers, use, **31:57**  
     net operating losses, deductibility, **31:58**  
     split-interest gifts, **31:55**  
     taxable year, **31:52**  
 Inter vivos trusts, use, **31:25**  
 Interests in estates or trusts of others, disclaimer, **31:23**  
 IRA funding, possibility, **31:63**  
 Joint tenancy property, disposition, **31:36**  
 Life insurance policies  
     beneficiary designations, review, **31:62**  
     policy loans, repayment, **31:62**  
     transfer of ownership, **31:62**  
 Life-sustaining procedures, withholding, **31:07**  
 Living trusts, use, **31:25**  
 Living will, execution, **31:07**  
 Location of assets, **31:04**  
 "Loss" property, transfer, **31:57**  
 Marital agreements, determining existence, **31:22**  
 Military papers, location, **31:08**  
 Partnership interests  
     income or loss distribution, determination, **31:74**  
     review, necessity, **31:74**  
     unmarried partner, disposition of interest, **31:74**  
 Passive loss activities, review, **31:77**  
 Payment of debts, **31:34**  
 Personal representative, choice, **31:05**  
 Planning for specific assets, **31:61**  
 Private annuities, use, **31:40**  
 Property  
     location and extent, **31:04**

## **TERMINAL ILLNESS—Cont'd**

Property—Cont'd  
     reduction of estate tax value, **31:35**  
 Psychological needs, **31:03**  
 Qualified plan benefits, funding charitable gifts, **31:63**  
 Regulations, **12:43**  
 Resignation as fiduciary, **31:31**  
 Review of estate plan, **31:01**  
 S corporation interests  
     fiduciary power to incorporate, form, **31:73**  
     successor in interest, eligibility as shareholder, **31:72**  
     trust as recipient, **31:72**  
 Sole proprietorship, disposition, **31:75**  
 Split gifts, advantages, **31:44**  
 Split-interest gifts, use, **31:55**  
 "Sprung" power of attorney, use, **31:06**  
 State gift taxes, effect, **31:47**  
 Surviving spouse rights, **31:63**  
 Unified credit, funding, **31:39**  
 Veterans' benefits, availability, **31:08**  
 Wills  
     importance, **31:12**  
     redrafting for changed circumstances, **31:15**

## **TERMINATION PAYMENTS**

Taxability, **2:54**

## **TERMINATION TAX**

CTRs, **12:83**

Private foundations, **24:15**

## **TERRORISM**

Presidentially-declared disasters, deadlines postponed  
     for taxpayers affected by, **34:6, 39:23**

## **TESTAMENTARY CHARITABLE PLANNING**

Bequest by decedent, requirement, **24:7**

Charitable remainder trusts

    benefits of deduction, **24:21**  
     disclaimer, drafting, **24:23**  
     marital gifts, combination, **24:24**  
     noncharitable beneficiary, protection, **24:23**  
     settlement of defective trusts, **24:22**

Contribution requirements, **24:5**

Copyrights, separate property, **24:28**

Deduction requirements, **24:6**

Disqualification of deduction, **24:15**

Educational organizations, eligibility for deduction, **24:5**

Eligible organizations, **24:4**

Enforceable pledges, deductibility, **24:32**

Estate taxes, reduction of deduction, **24:13**

Farm, transfer of remainder interest, **24:17**

Forms used, **24:36**

Fraternal societies, eligibility, **24:5**

Generation skipping taxes, avoidance, **24:35**

Gifts of partial interest

    generally, **24:16 to 24:28**  
     charitable lead trusts, **24:26**  
     charitable remainder trusts, **24:20 to 24:24**  
     defects, reformation, **24:27**  
     easements, **24:19**  
     pooled income funds, **24:25**

## INDEX TO TEXT

### TESTAMENTARY CHARITABLE PLANNING—Cont'd

Gifts of partial interest—Cont'd  
    qualified real property interest, limitations, **24:19**  
    qualifying, **24:16**  
    undivided portion of entire interest, **24:18**  
Goals of client, **24:2**  
Income in respect of decedent, use, **24:31**  
Income tax charitable contributions, contrast, **24:3**  
Interrelated computations, **24:34**  
Life insurance bequests, **24:30**  
Limitation of deduction to value of property, **24:14**  
Literary organizations, eligibility for deduction, **24:5**  
Marital deduction, application, **24:29**  
Personal residence, transfer of remainder interest, **24:17**  
Political subdivisions, eligibility for deductions, **24:5**  
Power of charity to consume property, effect, **24:11**  
Private foundations  
    generally, **24:33**  
    termination tax, **24:15**  
Promissory notes, deductibility, **24:32**  
Property actually reaching charity, requirement, **24:10**  
Property passing by power of appointment, eligibility for deduction, **24:9**  
Property passing to qualifying charity, requirement, **24:10**  
Public charities, eligibility for deduction, **24:4**  
Qualified disclaimers, preservation of deduction, **24:12**  
Qualifying charities, **24:5**  
Reformation of defective partial interests, **24:27**  
Religious organizations, **24:5**  
Scientific organizations, eligibility for deduction, **24:5**  
Termination of charitable lead trust, liability for GST tax, **24:35**  
Termination of power to consume, **24:11**  
Transfer by decedent  
    passing by power of appointment, **24:9**  
    settlement of will dispute as transfer, **24:8**  
Veterans' organizations, eligibility, **24:5**  
Will dispute settlement as transfer, **24:8**

### TESTAMENTARY DISPOSITIONS

Definition, **14:13**

### TESTAMENTARY GUARDIANS

Appointment, **18:52**

### TESTAMENTARY TRANSFERS

Death benefit annuity, **21:12**  
Devises using marital deduction, **21:1 et seq.**  
Disclaimer timing requirements, **37:6, 37:7**  
Disclaimers, **21:72**  
Estate tax overview, **16:25 et seq.**  
Freeze transactions, **27:08**  
Gift categories, **18:14 et seq.**  
Marital deduction, estate tax, **21:1 et seq.**  
Marital deduction qualification, dower elected properly, **21:12**  
Noncitizen spouses, reformation suit, **21:10**  
Personal property gifts, **18:20 et seq.**  
Postmortem freezes, **27:08**  
Settlements, maintaining marital deduction, **21:12**

### TESTAMENTARY TRUSTS

Advantages, **19:71**  
Appointment, **18:54**  
Beneficiary  
    designations in will, **18:45**  
    identity, **19:6**  
    necessity, **19:70**  
Characteristics, **17:5**  
Conflict of law rules, **30:40**  
Constructive trusts, imposition, **19:6**  
Contents, **19:70**  
Contingent interests, **18:45**  
Creation, **19:4, 19:6**  
Death benefits, payment to trustee, **18:36**  
Disposition, clarity, **19:70**  
Estate trusts, **18:45**  
Execution, **19:45**  
Family share trusts, **18:45**  
Fiduciary powers and duties, provision drafting, **18:60**  
Freeze transactions, **27:08**  
Intent of testator, **19:70**  
Life insurance  
    ownership of policy, **22:21**  
    payments to trustee, **18:36**  
    policies on life of another, planning, **18:34**  
    power to hold insurance on spouse's life, **18:35**  
    proceeds receipt, holding, and distribution, **18:45**  
Life insurance trust, form, **22:22**  
Minor beneficiaries  
    advantages, **18:46**  
    provisions of trust in general, **18:46**  
    separate trust advisability, **18:46**  
    standby trust for alternate beneficiaries, **18:46**  
Nonmarital trusts, **18:45**  
Postmortem freezes, **27:08**  
Pour-over arrangement, **19:6**  
Power of appointment trusts, **18:45**  
Preparation, **19:70**  
Property, identity, **19:6**  
QTIP trusts, **18:45**  
Requirements, **19:6**  
Residency requirements  
    fiduciary income tax purposes, **30:40**  
    individuals, **30:10**  
    selection planning suggestions, **30:17**  
S corporation stock ownership, **23:39**  
Savings, **19:71**  
Savings clauses, **18:45, 18:46**  
Situs, **18:48**  
Spendthrift provisions, **18:47**  
Terms  
    generally, **19:6**  
    included by will, **18:45**  
Trustees  
    generally, **18:54**  
    appointment, **19:43**  
Types, **18:45**  
Unmarried client, use, **14:9**  
Use in planning, **1:11**  
Vested interests, **18:45**  
Will  
    incorporation by reference, **19:70**  
    provisions in general, **18:45**

## **TESTAMENTARY TRUSTS—Cont'd**

Writing, requirement, **19:6**

## **TESTIMONIUM**

Wills, **18:2**

## **THEFT**

Casualty or theft losses. See index heading **CASUALTY OR THEFT LOSSES**

Elder abuse, misappropriation by caregiver, **8:54**

## **THIRD PARTIES**

Community property, joint bank accounts with third parties, **10:41**

Property owned jointly with third parties, tax considerations

generally, **10:28 et seq.**

see also index heading **NONSPOUSAL JOINT OWNERSHIP**

Transfer of property to third party on behalf of spouse, nonrecognition of gain or loss, **11:9**

## **THIRD PARTY GUARANTEES OF PAYMENT**

Nonqualified deferred compensation, **13:16**

## **THIRD-PARTY BENEFICIARIES**

Marital deduction trusts, testamentary transfers, **21:37**

Settlement payments to third-party beneficiaries, taxability of, **32:36**

## **THIRD-PARTY RECORDKEEPERS**

Producing taxpayer records, Fifth Amendment privilege, **39:6**

## **THIRTY-DAY LETTERS**

Administrative and judicial process, relationship, **39:2**

Avoidance with requested 90-day letter, **39:17**

Counsel's right to receive, **39:13**

Extension of reply period, **39:14**

Mailing, **39:13**

Publication 5 enclosure, **39:13**

Purpose, **39:13**

Subsequent action, **39:2, 39:13, 39:14**

Waiver form enclosure, **39:13**

## **THRIFT (401(K)) PLANS**

Generally, **5:10, 5:11**

In-service distributions, **5:35**

## **TIMBER**

Discount, **35:23, 35:65**

Trust property, **19:26**

Valuation, **35:23**

## **TIMBERLAND**

Valuations, **35:23**

## **TIME CLAUSES**

Presumption for order of death, **21:21**

## **TIME SHARE PROPERTY**

Profit interest objective, **6:34**

## **TIMELY MAILING RULES**

Private delivery services, permissibility, **39:23**

## **TIMING OF CONTRIBUTIONS**

Year deductible, **12:7**

## **TIPS**

Deductibility, **3:66**

## **TITLE TO PROPERTY**

Community property, **10:7**

Corporate property, **10:9**

Illinois land trusts, **10:12**

Inception of title rule, **10:7, 10:42**

Individually held property, **10:2**

Land trusts, **10:12**

Partnership property, **10:10**

Separate property, **20:13**

Solely owned property, **10:2**

Tenancy in common, **10:3**

Trustees

Illinois land trusts, **10:12**

land trusts, **10:12**

necessity of showing trustee status, **10:11**

Trusts

coordination with type of ownership, **10:17**

Illinois land trusts, **10:12**

land trusts, **10:12, 10:38**

trustee's title, **10:11**

Uniform Partnership Act, **10:10**

Will, coordination with type of ownership, **10:17**

## **TOKEN BENEFITS**

Charitable contributions, **12:36**

## **TOP-HAT GROUP**

Nonqualified deferred compensation plans, **2:6**

## **TOP-HEAVY COMPENSATION PLANS**

Definition, **5:31**

Key employees, determination, **5:31**

Minimum benefits rules, **5:32**

Multiple plans, application of rules, **5:33**

Required aggregation group, **5:31**

Requirements, **3:82**

Top-heaviness, determination, **5:31**

Use, **5:30**

Vesting rules, **5:32**

## **TOTTEN TRUSTS**

See also index heading **TRUSTS**

Creditors' claims, **10:34**

Description, **10:34, 18:19**

Tax consequences, **10:34**

Usage with bank accounts, **18:19**

## **TRADE BREAKDOWN METHOD**

Real property valuation, **35:20**

## **TRADE OR BUSINESS**

Investment activities, **2:50**

Nonresident alien, income tax, **1:4**

## **TRANSACTIONS**

Under power of attorney, **17:11**

## **TRANSFER OF PROPERTY**

Community property

deemed gifts by surviving spouse, **10:40 et seq.**

joint accounts with third parties, **10:41**

partition, **10:59, 10:61**

Corporate property, **10:9**



## INDEX TO TEXT

### TRANSFER OF PROPERTY—Cont'd

Deemed gifts by surviving spouse, **10:40 et seq.**  
Disclaimers, **37:1**

Divorce, transfer incident to. See index heading  
DIVORCE AND SEPARATION

Illinois land trusts, **10:12**

Individually held property, **10:2, 10:19**

Joint tenancy property  
generally, **10:4**  
with right of survivorship, **10:6**

Land trusts, **10:12, 10:38**

Retained interests or rights  
generally, **16:40**  
lifetime transferor, **30:25**

S corporation stock, **23:39**

Savings bonds, transferring to trust, **10:37**

Sole proprietorships, **23:8**

Solely owned property, **10:2, 10:19**

Tenancy by the entirety property, **10:5**

Tenancy in common property, **10:3**

Testamentary gifts, **18:14 et seq.**

Testamentary transfers to surviving spouse, **16:55**

Transfers to surviving spouse, **21:1 et seq.**

Trusts

Illinois land trusts, **10:12**  
land trusts, **10:38**

### TRANSFeree LIABILITY

Deducting tax paid, **16:22**

Executor use of agent, errors made by agent, **16:66**

Interest on taxes, **16:66**

Procedural requirements, **39:11**

### TRANSFERORS

Definition, generation skipping tax, **26:5**

Gross estate, revocable or amendable transfers, **16:45**

### TRANSFERS

Incomplete gifts, gift planning, **8:33**

Rights retained by transferor, valuation rules,  
overview, **27:04**

### TRANSPORTATION

Employer provided, **2:49**

Exclusions, fringe benefits, **2:46**

### TRAPPING DISTRIBUTIONS

Postmortem estate planning, **33:45**

### TRAVEL BENEFITS

Frequent flyer miles, additional income, **2:54**

### TRAVEL EXPENSES

Charitable deductions, **12:40**

Deductibility, restrictions, **2:51**

Judge's tax home, **2:51**

OBRA 93, **2:51**

Reporting requirements, **2:52**

### TREASURY BILLS AND NOTES

Property ownership, **10:36**

### TRIALS, TAX REFUND LITIGATION

Claims Court, **39:28, 39:30**

District Court, **39:28, 39:30**

Juries, **39:28, 39:30**

### TRUE RESIDUARY FORMULA

Estate tax marital deduction, **21:57**

### TRUST OFFICER

Planning team, **1:19**

### TRUST REFORMATION

Charitable contribution, effect on, **19:65**

### TRUST SEVERANCES

EGTRRA 2001, **26:45**

### TRUSTEES

See also index headings FIDUCIARIES; TRUSTS

Absence or illness, **18:54**

Acceptance of property, **19:12**

Administrative duties, **19:21**

Adverse party status, **19:56**

Advisers to trustees, **30:31, 30:58**

Appointment, **18:54**

Beneficiary

parent as trustee, **30:32**

power to remove, **19:43**

taxation, **30:29**

trustee or with removal power, **18:54, 30:29**

Bond, **18:56, 30:12**

Charitable beneficiary, choosing, **12:67**

Charitable lead trusts, **16:54**

Charitable remainder trusts

permissible, **12:67**

power to name charitable beneficiary, **12:67**

Compensation, **18:58**

Conveyances, **10:11**

Cotrustees

generally, **30:31, 30:34, 30:58**

compensation, **18:58**

Disclaimers

generally, **37:15**

form, **37:28**

Discretion, exercise, **19:12**

Drafting suggestions for trustee provisions, **30:34 to 30:37**

Duties, **30:07**

Exercise of discretion, standards, **30:28**

Fees paid for revocable trust, deductibility, **33:24**

Forms

disclaimer, **37:28**

investment adviser to independent trustee, provision, **30:36**

multiple trustees, division of duties, **30:34**

resignation and removal, provision, **30:37**

Generation skipping tax, liability, **26:21**

Grantor as trustee, **19:23**

Grantor/spouse, **30:26**

Independent trustees, **30:30, 30:32, 30:33**

Inter vivos trust trustee selection planning suggestions, **30:17**

Investment adviser to independent trustee, form trust instrument provision, **30:36**

Investment limitations, **12:67**

Joint trustees, **18:57**

Land trusts, conveyances, **10:12**

Liability, **30:07, 30:58**

Life insurance

incidents of ownership in trustee, **16:29**

## **TRUSTEES—Cont'd**

Life insurance—Cont'd  
insured as trustee, **22:23**  
Living trusts, **30:07**  
Managerial duties, **19:23**  
Marital deduction trusts, testamentary transfers, **21:34**  
Multiple trustee drafting suggestions  
generally, **30:34**  
division of duties, form, **30:35**  
Parent-trustee, taxation, **30:27**  
Power to adjust income, characterizing receipts on investment, **32:11**  
Powers  
generally, **30:07**  
determination by state law, **20:11**  
Powers of distribution, **19:34**  
Private foundations, grantor family member as director, **12:89**  
Property management  
generally, **19:20**  
evaluation, **19:21**  
Prudent man rule, **30:07**  
Purchase of terminable interest for surviving spouse, **21:17**  
Qualifications, estate administration, **20:9**  
Related trustees, **30:28**  
Removal power, **18:54, 30:33**  
Resignation  
generally, **18:54**  
form, **30:37**  
Selection  
generally, **19:23**  
planning, **30:17, 30:32, 30:42**  
tax impact, **30:23 et seq.**  
Signature on trust agreement, **19:12**  
Subordinate party trustees  
generally, **30:28**  
residency requirement, **30:10**  
third party powers to appoint successor, **18:54**  
Successor appointments, **18:54**  
Terminally ill client, review of choice, **31:29**  
Testamentary trust trustees, selection, **30:17**  
Title to trust property, **10:11, 10:12**  
Transfers of property, **10:11, 10:12**  
Trustees ad litem, **30:47**  
Types, **30:26 et seq.**  
Vacancies, **18:54**  
Waiver of compliance with qualification laws, **18:49**  
Will, provisions on appointment, **18:54**

## **TRUSTEE-TO-TRUSTEE TRANSFERS**

Rollover of retirement account, **5:55**  
Roth IRA recharacterizations, **5:73**  
Spousal rollovers, **5:51**

## **TRUSTS**

A trusts, disclaimers, **37:21**  
Generally, **30:47**  
Abusive use of devise, **19:1**  
Accumulations, **10:49**  
Administrative cost state variations, **30:42**  
Advantages, **19:1**  
Agreement, signature by trustee, **19:12**  
Alimony income, payments in trust, **11:5**  
Alimony trusts, **8:53**

## **TRUSTS—Cont'd**

Allocations, charitable lead trusts, **12:44**  
Alternative minimum tax, application, **32:64**  
Amendments  
consistency, necessity, **19:46**  
execution, **19:45**  
particular provisions, form, **19:52**  
trust in entirety, form, **19:53**  
Amendments by compromise agreement, **12:82**  
Ascertainable property  
drafting provisions, **19:29**  
requirement, **19:5**  
Asset freezes, installment sale technique, **29:19 to 29:36**  
Assets, selection, **19:9**  
B trusts, disclaimers, **37:21**  
Beneficiaries  
death before age of majority, **9:10**  
definition, **19:3**  
disclaimers, **37:15, 37:16, 37:21, 37:24**  
identity, requirement, **19:5**  
marital deduction trust third party beneficiaries, **21:37**  
requirement, **19:5**  
survivorship, **19:42**  
taxation on income, **30:24**  
Bypass trusts, use by terminally ill client, **31:23**  
Capital gains  
holding period, **32:15**  
includable gain, recognition, **32:16**  
income taxation, **32:14**  
sale within two years of transfer, **32:16**  
tax rates, **1:3**  
Changes to trust, GST implications, **26:33**  
Charitable deduction for gifts in trust, definitions, **16:19**  
Charitable lead grantor, use, **12:42**  
Charitable remainder trusts  
generally, **12:53 to 12:80, 21:45**  
beneficiaries eligible, **12:56**  
business interests, **12:60**  
contributions, **12:62**  
distributions, **12:55**  
estate tax, **16:54, 16:55**  
gift tax, **16:20**  
overview, **16:19**  
income interests, termination, **12:61**  
income payments, **12:57**  
investments, **12:64**  
private foundation rules, **12:63**  
remainder interest rules, **12:65**  
tax payments, **12:66**  
use in planning, **12:42**  
valuing assets, **12:59**  
various types, **12:54**  
Charitable trusts, disagreement of beneficiaries on charity, **19:65**  
Child support by means of trust, **11:7**  
Choice of law instrument provisions  
drafting suggestions, **30:43, 30:44**  
form, **30:44**  
inter vivos trusts, **30:41**  
planning suggestions, **30:42**  
testamentary trusts, **30:40**  
Classification, effect on income taxation, **32:6**

## INDEX TO TEXT

### TRUSTS—Cont'd

Clifford, use in income shifting, **9:7**  
Community property, **10:41, 10:44, 10:51**  
Commuting a trust, avoiding gross estate, **31:76**  
Complex trusts  
    definition, **32:8**  
    separate share rule, **32:68**  
    sixty-five day rule, **32:67**  
Compromise agreement changes, **12:82**  
Conflict of law rules  
    inter vivos trusts, **30:41**  
    testamentary trusts, **30:40**  
Consideration, necessity, **19:7**  
Construction, governing law, **19:24**  
Constructive trusts, creation, **19:4**  
Contingency provisions, **19:42**  
Coordination with type of property ownership, advisability, **10:17**  
Corpus  
    acceptance by trustee, **19:12**  
    assets, selection, **19:9**  
    assignment to trustee, **19:11 to 19:13**  
    deed transferring to trustee, form, **19:10**  
    definition, **19:3**  
    identity, **19:29**  
    ownership, requirement, **19:5**  
    selection, **19:9**  
Court administration, waiver, **19:41**  
Court supervision, **18:49**  
Creation  
    generally, **19:4**  
    methods, **30:07**  
Creator of trust, no gratuitous transfers, required, **32:60**  
Credit shelter trusts  
    generally, **17:41, 21:64**  
    form, **21:65**  
Crummey powers, **19:58**  
Crummey trusts  
    generally, **8:15**  
    creation of present interest, **22:11**  
    educational trust, **8:49**  
    form, **8:16**  
    generation skipping tax, exemption, **26:48**  
    gifts to lineals, **8:42**  
    hanging power, form, **8:20**  
    income shifting consequences, **9:12**  
    incomplete gifts, **8:33**  
    irrevocable trusts, use, **19:58**  
    lapse, taxation, **8:24**  
    life insurance trusts, **8:51**  
    notice of withdrawal right, **8:21**  
    powers of holder, **22:11**  
    special power of appointment, form, **8:18**  
    supplemental powers, **8:25**  
CRUTs, multiple and related, self-dealing rules, **12:53**  
Dealings with multiple CRUTs, **12:53**  
Declaration by property owner creating, **19:4**  
Deductions in respect of decedent, **32:54**  
Deeds  
    evidence of delivery, **19:8**  
    form, **19:10**  
Defective trusts. See index heading DEFECTIVE TRUSTS  
Definition, **19:3**

### TRUSTS—Cont'd

Demand power of withdrawal, trust ownership changes, **8:24**  
Director, private foundation, family member of grantor, **12:63**  
Disabled beneficiary, **17:23**  
Disclaimers  
    A trusts, **37:21**  
    B trusts, **37:21**  
    family share trusts, **37:21**  
    fiduciary disclaimers, **37:15**  
    form, trustee's disclaimer, **37:28**  
    generation-skipping transfer tax reduction or avoidance, **37:24**  
    marital share trusts, **37:21**  
    partial disclaimers, **37:16**  
    powers of appointment, **37:14**  
    qualification for QTIP treatment, **37:27**  
    timing requirements, **37:7 to 37:9**  
    trust creation, **37:21, 37:27**  
    trustee's disclaimer, form, **37:28**  
Distributable net income, **30:24**  
Distributions of income, order prescribed, **24:26**  
Distributions to beneficiaries  
    basis of property, **32:41**  
    character of distributions, **32:38**  
    charitable beneficiaries, deduction, **32:18**  
    included in income, **32:37**  
    throwback rules, **32:57**  
    tier system, **32:39**  
Domestic, **19:50**  
Educational trusts  
    educational exclusion, **8:49**  
    forms, **8:50**  
Electing small business trusts, overview, **19:26**  
Estate claim, inter vivos trusts, **18:8**  
Estate planning tool, **17:4**  
Estate tax  
    charitable remainder trusts, **21:45**  
    community property, **10:44**  
    power to alter, amend, revoke, or terminate, **16:45**  
    split-interest charitable trusts, **21:45**  
Estate trusts  
    definition, **18:45**  
    dispositive provisions, **19:36**  
    marital deduction, estate tax, **21:15, 21:46**  
Estimated income tax payments, **32:65**  
Execution, **19:45**  
Expense payments, inter vivos trusts, **18:8**  
Express trusts, creation, **19:4**  
Expression of intent, requirement, **19:5**  
Family share  
    generally, **17:41, 37:21**  
    creation, **19:32**  
    marital deduction, use, **21:3, 21:55**  
    will provision, **18:45**  
Family support trust, form, **19:69**  
Fiduciary, definition, **19:3**  
Fiduciary income tax returns  
    accrued wages, **34:18**  
    adjusted total income, **34:22**  
    alternative minimum tax, **34:28**  
    balance due, **34:30**  
    business income, **34:15**

## TRUSTS—Cont'd

### Fiduciary income tax returns—Cont'd

- capital gain or loss, **34:16**
- charitable deduction, **34:21**
- computation of tax, **34:26 to 34:30**
- credits, **34:27**
- deductions, **34:19 to 34:25**
- depreciable property, necessary form, **34:14**
- dividend exclusion, **34:23**
- election to recognize gain, **34:33**
- employer identification number, **34:10**
- estate tax deduction, **34:24**
- exemption, **34:25**
- farm income, **34:15**
- fiduciary fees, deduction, **34:21**
- filing requirements, **34:5**
- general identifying information, importance of accuracy, **34:11**
- gross tax, computation, **34:26**
- income and losses from other estates or trusts, **34:13**
- income distribution deduction, **34:22**
- income or loss, **34:12 to 34:18**
- individual retirement account distributions, **34:18**
- interest deductions, **34:20**
- investment credit, recapture, **34:28**
- management of property expenses, deduction, **34:21**
- net rent income, **34:14**
- ordinary gain or loss, **34:17**
- partnership income or loss, **34:13**
- payment of tax, **34:8**
- payments, listing, **34:29**
- place to file, **34:7**
- preparation tips, **34:34**
- professional service fees, deduction, **34:21**
- profit-sharing plan distributions, **34:18**
- reduction of deductions, **34:19**
- retirement plan distributions, **34:18**
- royalty income or loss, **34:14**
- S corporation distributions, **34:18**
- Schedule A: charitable deduction, preparation, **34:31**
- Schedule B: income distribution deduction, **34:32**
- sixty-five day rule election, **34:33**
- tax rates, **34:26**
- taxable year, choice, **34:9**
- time to file, **34:6**

### Fiduciary relationship, definition, **19:3**

### Forms

- choice of law provision, **30:44**
- corporate and individual cofiduciaries, compensation provision, **30:53**
- corporate fiduciary, compensation provisions, **30:51**
- credit shelter trust, **21:65**
- disclaimer by trustee, **37:28**
- disclaimer for QTIP treatment qualification, **37:27**
- individual fiduciary, compensation provisions, **30:52, 30:53**
- investment adviser requirement for independent trustee, **30:36**

## TRUSTS—Cont'd

### Forms—Cont'd

- QTIP trusts, partial election, **21:41**
- qualified subchapter S trust article, **23:46**
- S corporation stock ownership provision, **23:47**
- situs change due to new corporate fiduciary provision, **30:44**
- standby trust provisions, simple will, **18:68**
- Generation skipping tax, Proposed Regulations on changing trust, **26:33**
- Generation skipping transfer tax disclaimers, **37:24**
- Generation skipping transfers, overview, **26:1**
- Generation skipping trusts, **19:37**
- Gifts in trust
  - generally, **8:48 to 8:53**
  - donor with power retention over gift, **30:25**
  - minors and others under 21 as donees, **16:18**
  - nondonor with general powers of appointment, **30:25**
- Governing law, choice, **19:24**
- Grantor, defined, **32:59**
- Grantor retained income trusts, **28:2 to 28:12**
- Grantor trust rules
  - generally, **30:24**
  - application, **32:59**
  - attribution rule, **32:60**
  - exception to substantial owner rule, **32:61**
  - foreign trusts, **32:62**
  - grantor as substantial owner, **32:60**
  - outbound transfers, **32:62**
  - reversionary interest, effect of retention, **32:60**
  - S corporation shareholder, eligibility, **38:06**
  - S corporation stock ownership, **23:39**
  - substantial owner, **32:59**
  - third party as substantial owner, **32:61**
- Grantor trusts, tax of trust paid by trust, gross estate determination, **16:42**
- Grantors
  - definition, **19:3**
  - situs of trust, choice, **19:40**
- Hanging power, **8:19**
- Historical developments, **19:2**
- Holding periods, capital gains, **1:3**
- Holding property for benefit of beneficiary, requirement, **19:5**
- Illinois land trusts, **10:12**
- Implied trusts, creation, **19:4**
- Income
  - disclaimer by trustee, form, **37:28**
  - disclaimers, **37:13, 37:28**
  - distributable net income, **30:24**
  - distributions, **10:49**
  - exemption, **34:25**
  - taxation, **20:18, 30:24**
- Income characterization, total return investment strategies, **32:11**
- Income in respect of decedent
  - acceleration of tax, **32:53**
  - character of income, **32:50**
  - classification factors, **32:48**
  - death benefits, **32:51**
  - definition, **32:47**
  - examples, **32:49**
  - exception, **32:53**
  - installment obligation, exception, **32:53**

## INDEX TO TEXT

### TRUSTS—Cont'd

Income in respect of decedent—Cont'd  
    partnership receipts, **32:52**  
    planning techniques, **32:55**  
    salary payments, **32:51**  
Income payment by trust, **19:59**  
Income payments, order prescribed, **24:26**  
Income shifting, tax incentives, **9:3**  
Income shifting vehicles  
    Clifford trusts, **9:7**  
    reversionary trusts after 1986, **9:9**  
    Section 678 trusts, **9:12**  
    Section 2503(c)(3) trusts, **9:13**  
    spousal remainder trusts, **9:8**  
Income taxation  
    administration expenses, deduction, **32:27**  
    alternative minimum tax, **32:64**  
    applicability of rules, **32:5**  
    beneficiaries' gross income, inclusion of distribution, **32:37**  
    bequest of personal effects, **32:36**  
    business expense deduction, **32:21**  
    capital gains and losses, **32:14**  
    charitable deductions, **12:18, 32:24**  
    classification, effect, **32:6**  
    common deductions, **32:20 to 32:30**  
    complex trusts, **32:8**  
    deductions, **32:17 to 32:34, 34:19 to 34:25**  
    deductions in respect of decedent, **32:54**  
    depreciation and depletion deduction, **32:26**  
    distributable net income, **32:3**  
    distribution deduction, **32:18**  
    distributions to beneficiaries, **32:35 to 32:46**  
    election between estate and income tax deduction, **32:32**  
    estate tax deduction, **32:28**  
    estimated payments, **32:65**  
    excess deductions, **32:33**  
    excise and stamp taxes, deduction, **32:23**  
    exclusions, **32:10**  
    expenses for production of income, deduction, **32:27**  
    expenses relating to tax exempt income, allocation, **32:31**  
    Federal import duties, deduction, **32:23**  
    fiduciary accounting income, taxable income distinguished, **32:4**  
    foreign taxes, deduction, **32:23**  
    grantor trust rules, **32:59 to 32:64**  
    income in respect of decedent, **32:47 to 32:55**  
    income items, **32:11 to 32:16**  
    in-kind distributions, **32:40**  
    interest deduction, **32:22**  
    losses, deduction, **32:25**  
    monetary bequests, **32:36**  
    multiple trusts, **32:69**  
    personal exemption, **32:19**  
    personal property income, **32:13**  
    personal property taxes, deduction, **32:23**  
    qualified plan distributions, **32:46**  
    real estate taxes, deduction, **32:23**  
    real property income, **32:12**  
    return, duty to file, **32:3**  
    sales taxes, deduction, **32:23**  
    separate share rule, **26:8, 32:68**

### TRUSTS—Cont'd

Income taxation—Cont'd  
    simple trusts, determination, **32:7**  
    sixty-five day rule, **32:67**  
    specific gifts, exclusion from income, **32:36**  
    tax credits, availability, **32:34**  
    taxable year, **32:66**  
    throwback rules, **32:56 to 32:58**  
    2 percent limitation for miscellaneous deductions, **32:30**  
    unused loss carryovers, **32:33**  
Incompetent beneficiaries, dispositive provisions, **19:38**  
In-kind distributions  
    generally, **32:40**  
    gain or loss, **32:42**  
    gain recognition election, **32:43**  
    Kenan gains, **32:44**  
    marital bequests, funding, **32:45**  
    pecuniary legacies, **32:44**  
    Section 643(e) election, **32:43**  
Instruments, **19:29 et seq.**  
Insurance proceeds  
    power of appointment, **21:44**  
    provisions, **19:31**  
Intent  
    expression, **19:29**  
    outward manifestation, **19:5**  
Inter vivos  
    definition, **19:3**  
    flower bond funding of estate tax, **18:11**  
    payment of estate tax, **18:8, 18:10**  
    terminally ill client, use, **31:25**  
    use in planning, **1:11**  
Interests held by decedent, Federal estate tax return listing, **34:71**  
Investment advice, deductibility, **32:30**  
Investments, charitable remainder trusts, **12:64**  
IRA rollovers, surviving spouses, **32:47**  
Irrevocable trusts  
    generally, **19:54 to 19:69**  
    advantages, **19:55, 19:60**  
    crummy powers, **19:58**  
    drafting of agreement, **19:60**  
    gift tax liability, **19:57**  
    grantors, control, **19:56**  
    gross estate inclusion, **19:63**  
    income shifting, **19:56**  
    income taxation, **19:56**  
    insurance policy proceeds, provisions, **19:62**  
    irrevocability provision, **19:61**  
    pour over provisions, **19:60**  
    qualified compensation plans, provision, **19:62**  
    Section 2037 property, inclusion in gross estate, **19:59**  
    single transfers, **19:57**  
    trust agreements, preparation, **19:60**  
    use in planning, **1:11**  
Judicial interpretations, **12:82**  
Lack of delivery, effect, **19:8**  
Land trusts  
    generally, **10:12**  
    ancillary administration avoidance, **20:27**  
    gifts of, **10:38**  
Lapsed gifts, **19:42**

## TRUSTS—Cont'd

Life insurance  
 administering after grantor's death, **22:33**  
 advantages, **22:25**  
 deemed transfers, **22:29**  
 grantor trust provisions, **22:30**  
 insured as trustee, **22:23**  
 inter vivos trust, **22:21**  
 irrevocable, estate tax, **22:28**  
 liquidity of estate, **22:32**  
 reformation for mistake, **22:26**  
 special powers of appointment, **22:31**  
 Life insurance payments to trustee, **18:36**  
 Life insurance trusts  
 generally, **19:64**  
 form, **19:68**  
 purpose, **8:51**  
 split dollar arrangements, **22:27**  
 Living trusts, **30:07**  
 Loans between beneficiaries and trusts, **9:24**  
 Marital deduction trusts  
 generally, **16:49**  
 dispositive provisions, **19:36**  
 testamentary transfers, **21:29 et seq.**  
 Marital share trusts, disclaimers, **37:21**  
 Minor beneficiaries  
 gift tax, **16:18**  
 testamentary trusts, **18:46**  
 Minors  
 dispositive provisions, **19:38**  
 gifts of present interests, **8:14**  
 Modifications of trust, GST implications, **26:33**  
 Multiple trusts, **32:69**  
 Nonbeneficiary taxation on trust income, **30:24**  
 Nonmarital trusts, **18:45**  
 Nonresident trust income, taxation by state, **20:18**  
 Nonreversionary, income-shifting advantages, **9:11**  
 Operating costs, **19:22**  
 Order of payment of income, **24:26**  
 Origination costs, **19:22**  
 Outbound transfers, **32:62**  
 Owner, definition, **19:3**  
 Owner of foreign trust, excepted from excise tax, **32:62**  
 Owner taxation on income, **30:24**  
 Ownership of property, form of, **10:11**  
 Ownership under grantor trust rules, **30:24**  
 Parent trustee taxation, **30:27**  
 Partition, as exercise of POA, creation of trustee powers, **16:33**  
 Partners in an FLP, **27:75**  
 Permissive investment state variations, **30:42**  
 Personal exemption, **32:19**  
 Personal residences, regulations, **28:7**  
 Pour-over will, relationship  
 generally, **18:44**  
 fiduciary powers, **18:60**  
 Power of appointment trusts  
 generally, **18:45**  
 dispositive provisions, **19:36**  
 Power to alter, amend, revoke, or terminate, **16:45**  
 Powers, choice of charity, **12:45**  
 Powers of appointment  
 disclaimers, **37:14**

## TRUSTS—Cont'd

Powers of appointment—Cont'd  
 use in creating, **19:4**  
 Promises, use in creating, **19:4**  
 Property, definition, **19:3**  
 QTIP interest, transfers for gift tax, **16:8**  
 QTIP trusts  
 generally, **18:45**  
 contingent on election, **21:38 et seq.**  
 disclaimers, **37:15, 37:21, 37:27**  
 marital deduction, estate tax, **21:38 et seq.**  
 qualified Subchapter S trust qualification, **23:40**  
 Qualified compensation plans  
 distributions, treatment, **32:46**  
 provisions, **19:31**  
 Qualified domestic, **19:50**  
 Qualified Subchapter S trusts  
 closely held businesses, **23:39, 23:40, 23:46**  
 shareholder, eligibility, **38:06**  
 use, **9:29**  
 Rabbi trusts, **2:9**  
 Reciprocal, **19:59**  
 Reformation for mistake, life insurance trust, **22:26**  
 Reformation period, **12:82**  
 Related party trustees, **30:32**  
 Remainder interest, valuing sale of interest, **16:40**  
 Requirements, **19:5**  
 Residence for tax purposes  
 inter vivos trusts, **20:18, 30:41**  
 testamentary trusts, **20:18, 30:40**  
 Residences put in, regulations, **28:7**  
 Resulting trusts, creation, **9:4**  
 Reversionary  
 death of beneficiary before majority, **9:10**  
 income shifting, use, **9:5 to 9:10**  
 Revocable  
 unmarried client, use, **14:12**  
 Revocable, advantages, **1:11**  
 Rule against perpetuities, choice of fiduciary and situs, **30:42**  
 S corporation stock ownership  
 generally, **23:39, 23:46**  
 trust provision on ownership, form, **23:47**  
 S corporations, grantor trust as shareholder, **23:40**  
 Savings bonds, transferring to trust, **10:37**  
 Section 678 trusts, eligibility, **38:06**  
 Section 2503(c)(3) trusts  
 continuation beyond age 21, **9:14**  
 disadvantages, **9:13**  
 income shifting vehicle, **9:13**  
 statutory requirements, **9:13**  
 Secular trusts, **2:9**  
 Separate share rule, fiduciary allocation, **32:68**  
 Separate trust for education of beneficiary, form, **17:18**  
 Settlor, definition, **19:3**  
 Severing partial interests, after 2000, **26:45**  
 Simple trusts, definition, **32:7**  
 Situs  
 generally, **19:40**  
 change, **18:48, 30:43**  
 change due to new corporate fiduciary, form, **30:43**  
 choice of fiduciary and situs, **30:42**  
 inter vivos trusts, **30:41**



## INDEX TO TEXT

### TRUSTS—Cont'd

Situs—Cont'd  
    selection, **18:48**  
Special power of appointment, **8:17**  
Spendthrift clause  
    generally, **19:39**  
    form, **17:22**  
    marital deduction trusts, **21:34**  
    testamentary trusts, **18:47**  
    use, **17:21**  
Spendthrift trusts, choice of fiduciary and situs, **30:42**  
Split dollar life insurance, **22:27**  
Split-interest charitable trusts, **21:45**  
Spousal remainder trusts, **9:8**  
Standby trust for incompetent beneficiary, form, **17:24**  
Standby trusts  
    generally, **18:46**  
    simple will with trust, form, **18:68**  
State and local taxes  
    generally, **20:18**  
    choice of fiduciary and situs, **30:42**  
Status, foreign or domestic, **12:45, 32:63**  
Statute of frauds, impact, **19:13**  
Supervision of court, waiver, **19:41**  
Supplemental Crummey power, form, **8:26**  
Supplemental needs trust, form, **17:25**  
Support obligation discharge through trust, parent trustee taxation, **30:27**  
Support obligation discharged, nonreversionary trust, **9:11**  
Survivorship clause, **19:42**  
Terminally ill beneficiary, review, **31:76**  
Terminally ill clients  
    beneficiary, notification of condition, **31:32**  
    changed circumstances, redrafting, **31:15**  
    review and revision, **31:14**  
Termination, **19:47, 34:6**  
Terms, definition, **19:3**  
Testamentary  
    generally, **18:45**  
    advantages, **19:71**  
    court administration, waiver, **18:49**  
    definition, **19:3**  
    minors, **18:46**  
    preparation, **19:70**  
    S corporation stock ownership, **23:39**  
    situs, **18:48**  
    spendthrift provisions, **18:47**  
    use in planning, **1:11**  
Throwback rules  
    accumulation of income, requirement, **32:57**  
    exceptions, **32:58**  
Timing in creation, importance, **19:5**  
Title  
    definition, **19:3**  
    vesting in beneficiary, **32:6**  
Totten trusts, **8:52, 10:34, 18:19**  
Transfer of property, necessity, **19:8**  
Trapping distributions, **33:45**  
Trust agreement, termination provisions, **19:47**  
Trust res, definition, **19:3**  
Trust status, foreign or domestic, **32:63**  
Trustees  
    absence or illness, **19:43**

### TRUSTS—Cont'd

Trustees—Cont'd  
    administrative powers, **19:44**  
    appointment, **19:43**  
    distribution powers, **19:44**  
    investment powers, **19:44**  
    statutory powers, **19:44**  
Uniform Testamentary Additions to Trusts Act, **18:44**  
Use in planning, **1:11**  
Uses, **17:4**  
Valuing sale of interest, remainder interest, **16:40**  
Voting trusts  
    closely held corporations, **23:35**  
    S corporation stock ownership, **23:39**  
Waiver of court administration, **18:49**  
Will coordination for payment of taxes at death  
    generally, **18:11**  
    protecting gifts, **18:10**  
Withdrawal powers  
    Crummey, **8:15**  
    hanging power, **8:19**  
    income shifting consequences, **9:12**  
    lapse changes ownership, **8:24**  
    special power of appointment, **8:17**  
Withdrawal rights of beneficiary, time period to exercise, **8:15**

### TUITION

Charitable donation, payment of tuition to private religious institution, **12:6**  
Prepaid plans, state sponsored plans, exclusion from debt instrument treatment, **2:46**  
Qualified gift transfers, **16:9**  
Reduction plans, fringe benefits, **3:78**  
Savings bonds, interest exclusion, **6:44**

## U

### UNDERPAYMENTS OF TAX

Interest, deductibility, **39:31**  
Rates of interest, **39:31**

### UNDERSTATEMENT PENALTIES

Surtax basis, degree of valuation error, **35:5**

### UNDERSTATEMENTS OF PROPERTY

#### VALUE

Penalty, **39:31**

### UNDEVELOPED LAND

Tax advantaged investments, **6:38**

### UNEARNED INCOME OF CHILD

Fiduciary selection, **30:20**

### UNHARVESTED CROPS

Trust property, **19:26**

### UNIFIED CREDIT

Allocation of credit amount, after reporting gift, **16:23**  
Amount, **16:61**  
Companion wills, **18:72**  
Differences dependent on purpose, **16:3**  
Disclaimers  
    generally, **37:22**

## **UNIFIED CREDIT—Cont'd**

Disclaimers—Cont'd  
     use in postmortem planning, **33:11**  
 Estate tax computation, **16:59, 16:61**  
 Estate tax credit, distinguished, **8:31**  
 Farmers, use, **4:12**  
 Funding, **31:39**  
 Gift tax, overview, **16:23**  
 Implementation, **16:2**  
 Marital deduction, estate tax, **21:1, 21:3**  
 Nonresident aliens, **16:70**  
 Phase-ins, effect on gift taxes for prior years, overview, **16:23**  
 Rate changes during life, **16:2**  
 Replacement of prior exemptions, **16:2**  
 Special use valuation, partial election, **4:13**  
 Terminally ill client, **31:39**  
 Testamentary transfers to surviving spouse, **21:3**  
 Transfers to surviving spouse, **21:1**  
 Use by both spouses, **17:42**  
 Utilization, **15:3**

## **UNIFORM ACT ON INTERSTATE ARBITRATION OF DEATH TAXES**

Dual domicile, state estate taxes, **20:23**

## **UNIFORM ACT ON INTERSTATE COMPROMISE OF DEATH TAXES**

Dual domicile, state estate taxes, **20:23**

## **UNIFORM CAPITALIZATION RULES**

Nursery growers, **4:8**

## **UNIFORM GIFTS TO MINORS ACT**

Accounts, **30:20, 30:21**  
 Custodians  
     authority, **20:10**  
     bond, **30:12**  
     duties, **20:10, 30:06**  
     liability, **30:06**  
     relationship to minor, **30:11**  
     residency as not required, **30:10**  
     successor qualification requirements, **30:11**  
 Gift tax annual exclusion, **16:18**  
 Purpose, **20:10**  
 Transfers of property, **8:46**

## **UNIFORM GIFTS (TRANSFERS) TO MINORS ACT ACCOUNTS**

Generally, **30:20**  
 Custodial accounts, **30:21**

## **UNIFORM MARITAL PROPERTY ACT**

Community property basis adjustment, **10:52**

## **UNIFORM PARTNERSHIP ACT**

Death of partner, **23:9**  
 Partnership property, **10:10**

## **UNIFORM PROBATE CODE**

Elective share of surviving spouse, **20:7**  
 Homestead, **20:7**  
 Housing allowance, **20:7**  
 Marital agreement, validity, **20:12**  
 Power of appointment, exercise by will, **18:51**  
 Situs of trusts, **19:40**

## **UNIFORM PROBATE CODE—Cont'd**

Succession without a will, **20:6**  
 Surviving spouse in testate share, determination, **20:6**  
 Surviving spouse's exempt allowance, **20:7**  
 Trust situs changes, **18:48**

## **UNIFORM SIMULTANEOUS DEATH ACT**

Generally, **17:43, 21:11**  
 Survivorship clauses, **21:22**

## **UNIFORM TRANSFERS TO MINORS ACT**

Accounts, **30:20, 30:21**  
 Custodians, **20:10, 30:06**  
 Domicile considerations, **20:10**  
 Gift tax annual exclusion, **16:18**  
 Gift vehicle, **8:47**  
 Scope, **20:10**  
 Tangible personal property  
     testamentary gifts, **18:25**  
     unregistered, property, applicability, **18:25**

## **UNINTENDED GIFTS**

Expatriates, **16:70**  
 Income shifting, **9:31**

## **UNITED STATES POSSESSIONS**

Residents of, estate and gift taxation, **16:70**

## **UNITED STATES REAL PROPERTY**

Like-kind exchanges, **6:49**

## **UNITRUSTS**

Charitable grantor lead trust, **12:45**  
 Charitable remainder  
     generally, **12:54**  
     annuity trusts, comparison, **12:68**  
     catch-up provision, **12:58**  
     income interest, **12:58**  
 Grantor retained unitrusts, **28:13 to 28:22**  
 GST exemption, **26:33**  
 Income interest transfers, **12:44**  
 Incomplete gift, children's succession to parent's unitrust interest as, **37:13**  
 Payment by note prohibited, **28:13**  
 Promissory notes, used for annuity payment, **28:13**  
 Transfer tax rules, **28:13**

## **UNIVERSAL LIFE INSURANCE**

Insurance products, **7:53 to 7:55**

## **UNMARRIED CLIENT ESTATE PLANNING**

Generally, **14:1 to 14:21**  
 Acceleration of income, **31:57**  
 Achievement of goals, **14:1**  
 Asset list, compilation, **14:3**  
 Charitable contributions, **14:4**  
 Charitable gifts, **14:17**  
 Charitable lead trusts, use, **14:17**  
 Charitable remainder trusts, use, **14:17**  
 Cohabitation, considerations, **14:2**  
 Employee benefits, **14:16**  
 Employee pension plan, effect on estate plan, **14:16**  
 Estate freezing techniques, **14:20**

## INDEX TO TEXT

### UNMARRIED CLIENT ESTATE PLANNING—Cont'd

- Estate taxes, reduction, **14:4**
- Federal estate tax treatment, **14:9**
- Funeral arrangements, **14:2**
- Future disability of client, consideration, **14:2**
- Hypothetical fact patterns
  - generally, **14:5**
  - current estate plans, **14:7**
  - old estate plans, **14:6**
  - revised estate plans, **14:21**
- Imminent death, **31:74**
- Implementing plans, **14:8 to 14:21**
- Income in respect of decedent, importance, **14:16**
- Income shifting, **14:4**
- Income taxes, reduction, **14:4**
- Installment sales, use, **14:18**
- Inter vivos gifts, use, **14:11**
- Joint property, use, **14:14**
- Joint purchases, use, **14:19**
- Life insurance, use, **14:15**
- Living will, use, **14:2**
- Nontax issues, **14:2**
- Organs, bequests, **14:2**
- Partnership interests, disposition, **31:74**
- Power of attorney, use, **14:10**
- Private annuities, use, **14:18**
- Property ownership, discussion, **14:3**
- Revocable trusts, use, **14:12**
- Sale of remainder interest, use, **14:19**
- Tangible personal property, bequests, **14:13**
- Taxable estate, reduction, **14:4**
- Testamentary dispositions, **14:13**
- Testamentary trust, use, **14:9**

### UNREGISTERED STOCK

- Valuations, **35:32**

### UNRELATED BUSINESS TAXABLE INCOME

- Crop sharing lease, **12:69**

### UNUSUAL ASSETS

- Planning generally, **31:79**

### USE OF PROPERTY

- Annual lease value method, **2:49**
- Employer provided transportation, **2:49**

## V

### VACANT LAND

- Appraisal, **35:17**

### VALUATION

- Agribusiness corporation, asset and earnings values, **35:16**
- Alternate valuation inherited property
  - generally, **10:19**
  - gross estate assets, **16:58**
- Annuities
  - term interest, valuing gift, **28:17**
  - terminally ill, planning for imminent death, **31:40**
- Appliances, **35:11**

### VALUATION—Cont'd

- Appraisals
  - charitable contributions, **12:8**
  - closely held corporation stock, **23:29**
  - importance, **35:8**
  - selection of appraiser, **35:9**
- Arm's length sales transaction in active market, **35:3**
- Artworks
  - blockage issue, **35:13**
  - discount in value, **35:13**
  - necessity of appraisal, **35:12**
  - premium in value, **35:13**
- Attributes effecting valuation, entity freezes, **27:26**
- Band of investment method, **35:19**
- Blended valuation, agribusiness, **35:16**
- Blockage, **35:33**
- Bona fide business arrangement requirement, **23:31**
- Bonds, **35:30**
- Built up method, **35:19**
- Burden of proof
  - generally, **35:8**
  - closely held corporations, **35:35**
- Business entities, generally
  - attributes effecting valuation, **27:26**
  - dividend coverage, **27:28.20**
  - historical background, **27:28**
  - liquidation coverage, **27:28.30**
  - other factors, **27:28.50**
  - Section 2701, **27:29**
  - stated yield, **27:28.10**
  - voting rights, **27:28.40**
- Business interest with limited marketability, methodology, **35:38**
- Business valuations, **35:65 to 35:69**
- Buy-sell agreements
  - generally, **23:26, 23:29 to 23:31**
  - corporate generally, **23:27**
  - corporate shares valuation, **23:29**
  - formulas generally, **23:25**
  - substantial modification, **23:25**
  - valuation, Section 2703, **27:30**
- Capitalization, definition, **35:18**
- Carpets, **35:11**
- Charitable contributions
  - conservation easement, **12:88**
  - easements, **35:24**
  - negotiated settlement agreement, **12:8**
  - partial interests, **12:43**
  - property subject to encumbrance, **12:8**
- Checks, undelivered, **35:10**
- Closed-end investment company, **35:31**
- Closely held business
  - comparable companies method of valuation, **35:41**
  - marketability discount, **35:67**
  - minority discount, **35:66**
  - weighted average valuation method, **35:53**
- Closely held business application, **35:65 to 35:69**
- Closely held business interests
  - arm's length exchange, **35:40**
  - arm's length sale, **35:40**
  - artistic intangibles, **35:60**
  - asset-based formulas, **35:55**
  - balance sheet adjustments, **35:49**

## ESTATE, TAX, & PERSONAL FINANCIAL PLANNING

### VALUATION—Cont'd

#### Closely held business interests—Cont'd

- bonds, **35:61**
- book value, **35:48**
- burden of proof, **35:35**
- buy-sell agreements, **35:64**
- capitalization of gross revenues, **35:54**
- comparable companies, use, **35:41**
- contingent legal fees, **35:61**
- contractual properties, **35:61**
- controlling stock, **35:62**
- copyrights, **35:60**
- cost of creation, formula, **35:59**
- deferred compensation, **35:61**
- Delaware block, **35:53**
- discounted cash flow, **35:59**
- discounted future earnings, **35:44**
- discounts, **35:65**
- dividend-paying capacity, **35:47**
- estimated future earnings, **35:42**
- excess earnings, calculations, **35:58**
- family attribution principle, **35:63**
- goodwill, **35:57**
- gross revenue multipliers, **35:54**
- income capitalization, **35:59**
- income statement adjustments, **35:43**
- intangible assets, **35:56**
- interpreting provisions restricting transfer, **35:65**
- key man loss, **35:69**
- lack of marketability, discount, **35:67**
- liquidation value, **35:50**
- majority holdings, **35:62**
- market rate of return capitalization, **35:46**
- methods, **35:39 to 35:74**
- minority holdings, **35:62**
- mortgages, **35:61**
- patents, **35:60**
- preferred stock, **35:70**
- premium application, **35:62**
- price-earnings of comparable publicly-traded stocks, **35:45**
- price-to-book value approach, **35:48**
- principal manager, loss, **35:69**
- promissory notes, **35:61**
- rules of thumb, **35:55**
- sales of stock, **35:40**
- savings capitalization, **35:59**
- selling restrictions, discount, **35:68**
- weighted average formula, **35:53**

#### Closely held businesses

- built-in gains, **35:65**
- estate planning considerations, **17:31**
- interpreting provisions restricting transfer, **35:65**

#### Clothing, **35:11**

#### Coal interests, **35:22**

#### Coin collections, **35:11**

#### Collectibles, necessity for appraisal, **35:12**

#### Common trust fund interests, **35:34**

#### Compensatory stock transfers, valuation, **2:61**

#### Corporate loan forgiven, **8:10**

#### Crops, **35:10**

#### Debt forgiveness, **8:10**

#### Debt issues, **35:30**

#### Definition, **35:3**

#### Direct capitalization method, **35:19**

### VALUATION—Cont'd

#### Discounts

- generally, **35:65 to 35:69**
- marital joint tenancies, **35:14**
- minority and marketability, compared, **35:67**

#### Distribution rights, overview, **27:04**

#### Entities, generally, **27:25**

#### Equity issues, **35:29**

#### Estate freezes, buy/sell agreements, **23:35**

#### Estate tax

- credit for another's tax, value of transfer, **16:65**
- gifts during life, includibility, **16:40**

#### Experts, methods of valuation, **35:40**

#### Fair market value

- definition, **16:58**
- gross estate valuation, **16:58**

#### Family limited partnerships

- Chapter 14 application, **27:98**
- minority discount, **35:65**

#### Farm machinery, **35:10**

#### Farms, **35:26**

#### Flower bonds, **38:07**

#### Foreign markets, **35:34**

#### Form 706 value, minority holdings, **35:65 to 35:69**

#### Formulas

- closely held business buy-sell agreements, **23:29, 23:41**
- S corporation buy-sell agreements, **23:41**

#### Futures prices, **35:34**

#### Gas interests, **35:22**

#### General principles, entity freezes, **27:25**

#### Gifts

- closed years, **6:49**
- contingent reversion interests, **28:17**
- prior years, **16:23**
- reallocation of credit amount, **16:23**
- relevancy of value, **16:22**
- retention of interests or rights by donor, **16:40**
- revaluation at death of donor, **16:22**

#### Government bonds, **35:30**

#### Gravel interests, **35:22**

#### Gross estate, contingencies affecting asset collection, **16:58**

#### Historical background, entity freezes, **27:28**

#### Household articles, **35:11**

#### Individual retirement accounts, **35:7**

#### Interest-free demand loan, gift element, **9:17**

#### Internal Revenue Manual guidance, analysis for taxpayers, **35:2**

#### Interpreting provisions restricting transfer, **35:65**

#### Investment companies, **35:31**

#### IRAs, **35:7**

#### IRS valuation tables

- Certain Estate Assets, **35:75**

#### Jewelry, **35:11**

#### Lapse of rights, Section 2704, **27:31.10**

#### Leaseholds, **35:21**

#### Less-actively traded futures market, **35:34**

#### Liquidation right restrictions, Section 2704, **27:31.20**

#### Liquidation value, Section 2704, **27:31**

#### Listed options, **35:34**

#### Livestock, **35:10**

#### London metal exchange prices, **35:34**

#### Lottery proceeds, use of annuity tables, **35:6**

#### Marital devise, **21:48 et seq.**

## INDEX TO TEXT

### VALUATION—Cont'd

- Marital joint tenancies, discounts, **35:14**
- Market capitalization, **35:19**
- Marketable securities, **35:28**
- Merchantable timber, **35:23**
- Methods permitted, validity of QMDM, **35:67**
- Mineral interests, **35:22**
- Minority discounts
  - attribution rules, **17:50, 35:66**
  - family limited partnerships, **35:65**
  - interpreting provisions restricting transfer, **35:65**
- Mortgage equity method, **35:19**
- Motor vehicles, **35:10**
- Mutual funds, **35:31**
- Name, deceased artist, **35:6**
- Oil interests, **35:22**
- Orange grove, capitalizing income of trees, **35:23**
- Oriental rugs, **35:11**
- Overstatement penalties, **35:4**
- Overstatements, resulting additions to tax and penalties, **39:31**
- Paintings, **35:11**
- Partial interest discount, **35:14**
- Personal effects, **35:11**
- Precommercial timber, **35:23**
- Price formulas
  - buy-sell agreements, **23:25**
  - corporate buy-sell agreements, **23:27, 23:29**
- Professional practices
  - generally, **35:71 to 35:74**
  - balance sheet adjustments, **35:72**
  - closely held corporation, comparison, **35:71**
  - goodwill, **35:73**
  - valuation techniques, **35:74**
- Property under restoration, insurance proceeds, taxability, **35:2**
- Purchase price, **35:11**
- Purpose, **35:2**
- QTIP, generally, **21:48**
- QTIP interest gifts, beneficiary payment of tax, **21:43**
- QTIP property in surviving spouse's estate, **21:42**
- Quantitative Marketability Discount Model (QMDM), validity of method, **35:67**
- Real property
  - capitalization rate, **35:18**
  - comparative unit method, **35:20**
  - condemnation proceedings, **35:14**
  - estimation in anticipation of highest and best use, **35:14**
  - fractional interests, **35:14**
  - investment properties, **35:15**
  - investment value approach, **35:18**
  - leases, **35:21**
  - market data approach, **35:17**
  - multiple-factor method, **35:27**
  - noninvestment properties, **35:15**
  - quantity survey method of valuation, **35:20**
  - replacement cost approach, **35:20**
  - similar properties, comparison, **35:17**
  - special use valuation, **35:25**
  - state and local taxes, **20:16**
  - subjective analysis, **35:14**
  - trade breakdown method, **35:20**
  - unit in place method, **35:20**
- Residual capitalization method, **35:19**

### VALUATION—Cont'd

- Restricted securities, **35:32**
- Restrictions on transfer, **35:40**
- Reversionary interests, estate tax, **16:47**
- Rights retained by transferor, overview, **27:04**
- S corporations
  - generally, **23:41**
  - cash flow adjustment, **35:42**
- Savings bonds, **35:30**
- Section 2701 application
  - generally, **27:29**
  - compounding rule, **27:29.50**
  - elections, **27:29.50**
  - exceptions to application, **27:29.40**
  - lower value rule, **27:29.10**
  - minimum value rule, **27:29.20**
  - subtraction method, **27:29.30**
- Section 2703 valuation, buy-sell agreements, **27:30**
- Section 2704 valuation
  - generally, **27:31**
  - lapse of rights, **27:31.10**
  - liquidation right restrictions, **27:31.20**
- Single economic unit theory, orange groves, **35:23**
- Special use
  - marital deduction property, **21:48**
  - minority ownership discount, **4:29**
  - qualified real property, **16:58**
  - safe harbor interest rates, **16:22**
- Special use valuation, farms, **35:26**
- State law default rules, **27:31.30**
- Stock marketability, **35:65 to 35:69**
- Stocks
  - generally, **35:29**
  - control blocks, **35:65**
- Summation method, **35:19**
- Tangible personal property, retail price, **35:10**
- Timber interests, **35:23**
- Timberland, **35:23**
- Transfer restrictions, **35:40**
- Transfer taxes, provisions for avoiding, **35:65**
- Treasury bonds, **35:30**
- Triple appraisal method, **23:29**
- Understatement penalties, **35:5**
- Understatements, resulting additions to tax and penalties, **39:31**
- Valuations of closely held businesses, **35:65 to 35:69**
- Willing-buyer, willing-seller rule, **35:3**

### VALUATION OVERSTATEMENT PENALTY

Revenue Reconciliation Act of 1989, Improved  
Penalty Administration and Compliance Act, **39:31**

### VALUATION UNDERSTATEMENT PENALTY

Revenue Reconciliation Act of 1989, Improved  
Penalty Administration and Compliance Act, **39:31**

### VALUE

- Black Scholes method, **35:29**
- Charitable gifts, substantiation, **12:8**
- Gifts, below market loans, **9:17**
- Market data approach, **35:17**
- Minority ownership discount, special use property,  
**4:29**

## **VALUE—Cont'd**

Special use valuation, minority discounts, **4:29**  
Token benefits, charitable gifts, **12:36**

## **VALUE SHIFTING**

See also index headings **ASSET FREEZES**; **ENTITY FREEZING**

Goal, **28:1**

Grantor retained income trusts

- advantages, analysis, **28:7**
- benefit, **28:2**
- definition, **28:2**
- drafting, **28:2**
- estate tax treatment, **28:3**
- form, **28:12**
- gift tax treatment, **28:3**
- income tax treatment, **28:5**

Joint purchases, analysis of benefits, **28:23**

Payment by note prohibited, **28:13**

Promissory notes, used for annuity payment, **28:13**

Sales of remainder interest

- generally, **28:25**
- income tax treatment, **28:23**

Techniques

- generally, **28:1**
- grantor retained annuity trust
  - use of promissory notes, **28:13**
- grantor retained income trusts, **28:3**
- joint purchases, **28:23**
- paying annuity by note, regulations prohibit, **28:13**
- qualified personal residence trust
  - generally, **28:7**
  - form for trust, **28:12**
- sale of remainder interests, **28:23**

Ten percent tables, use, **28:2**

## **VARIABLE WHOLE LIFE INSURANCE**

Insurance products, **7:56 to 7:58**

## **VESTED INTERESTS**

Will preparation, **18:45**

## **VETERANS' ORGANIZATION**

Charitable organization, **24:5**

## **VICTIMS OF TERRORISM TAX RELIEF ACT**

Presidentially-declared disasters, deadlines postponed for taxpayers affected by, **34:6, 39:23**

## **VOTING TRUSTS**

S corporation stock, **23:39**

# **W**

## **WAIVERS OF NOTICE OF DISALLOWANCE**

Tax refund claims

- advisability, **39:26**
- effect, **39:26, 39:27**
- statute of limitations effect, **39:26, 39:27**

## **WAIVERS OF RESTRICTIONS ON ASSESSMENT AND COLLECTION**

Agreed cases, **39:8**

## **WAIVERS OF RESTRICTIONS ON ASSESSMENT AND COLLECTION —Cont'd**

Partially agreed cases, **39:12**

## **WARDS**

Guardian of person, **30:03**

Guardian of property, responsibilities, **30:04**

## **WATER CONSERVATION**

Deductibility, **4:8**

## **WELFARE BENEFIT PLANS**

Contribution limitations, **5:29**

## **WIDOW OF DESCENDANT**

Family members, **4:15**

## **WIDOW'S ELECTION**

Community property, **10:44**

## **WIFE**

See index heading **HUSBAND AND WIFE**

## **WILLS**

Abatement avoidance, **18:8**

Access, **31:13**

Administration expense payment provisions, source of funds, **18:8**

Advantages, **17:3**

Affidavits for self-proof, **18:64**

After-acquired property, **18:32**

Allocation of expenses between principal and income, marital deduction, **18:8**

Alternate representative nominations, **18:54**

Alternative beneficiary designations

- advisability, **18:13, 18:24**
- precatory distributions, **18:24**

Anatomical gifts, **18:5**

Ancillary personal representative appointments, **18:55**

Antilapse provisions, **18:53**

Apportionment provisions for estate taxes

- generally, **18:9**
- protecting gifts, **18:10**

Attorneys, personal representatives for estate, **18:59**

Bank and savings accounts, **18:29**

Beneficiary designations

- generally, **18:13**
- class gifts, **18:24**

Beneficiary taxation avoidance with specific tangible personal property gifts, **18:22**

Body disposition directions

- generally, **18:4**
- anatomical gifts, **18:5**

Burial instructions, **18:4**

Business property gifts

- generally, **18:20**
- separate writings, **18:23**

Changed circumstances, redrafting, **31:15**

Charitable beneficiary designations, **18:13**

Charitable contributions, nullified by will beneficiaries, **20:10**

Claim payment directions

- generally, **18:6**
- source of funds, **18:8**



## INDEX TO TEXT

### WILLS—Cont'd

Class gifts  
    beneficiary designations, **18:13**  
    distributions, **18:24**  
Codicils, **18:74**  
Common disaster provisions  
    estate tax marital deduction qualification, **21:19, 21:20**  
    reverse presumption clauses  
        generally, **21:21**  
        form for, **21:24**  
        use of, **21:23**  
Companion wills, **18:72**  
Conflict of laws  
    administration, **30:39**  
    interpretation, **30:39**  
    validity  
        generally, **20:8**  
        fiduciary selection, **30:39**  
Contests  
    generally, **31:09**  
    charitable deduction, **24:8**  
    disgruntled beneficiaries, **31:09**  
    immediate payments to charity, deductibility of, **24:8**  
    preparation of defense, **31:09**  
Contractual wills, **18:61**  
Coordination with property ownership type, **10:17**  
Corporate beneficiary designations, **18:13**  
Credit shelter trusts, **21:64**  
Cremation instructions, **18:4**  
Death benefits, **18:36**  
Debt discharge by gift, **18:6**  
Debt forgiveness provisions, **18:30**  
Definition provisions, **18:62**  
Demonstrative gifts, generally, **18:14, 18:16**  
Disclaimer wills, **18:73**  
Dispositive provisions, preparation, **18:12 et seq.**  
Document of title gifts, **18:23**  
Domicile provision  
    generally, **18:3**  
    change of domicile, **20:4**  
Donor's intention, testimony of drafter, **16:32**  
Election to take against will, **33:12**  
"Entire estate" disposition clauses, **18:18**  
Equalization clauses  
    form  
        reverse presumption clause, **21:24**  
        spouses with nearly equal estates, **21:28**  
        provisions, **18:50**  
        reverse presumption clause, **21:23 et seq.**  
Estate tax payment  
    funding source designations  
        generally, **18:11**  
        marital deduction, effect, **18:8**  
    marital devise reduction avoidance, **21:49 to 21:51**  
    provisions, **18:6 to 18:11**  
Estoppel from retracting decedent as state domiciliary after probate, **20:22**  
Evidence of indebtedness gifts  
    generally, **18:20**  
    separate writings, **18:23**  
Execution, drafting provisions, **18:63**

### WILLS—Cont'd

Executor's powers provision, **20:11**  
Exempt property  
    allowance provisions, **18:38**  
    gifts, **18:21**  
Exordium, **18:2**  
Expenses of administration payment directions  
    generally, **18:6**  
    source of funds, **18:8**  
Family allowance provisions, **18:38**  
Fiduciaries  
    bond waiver provisions, **18:56**  
    compensation provisions, **18:58**  
    powers and duties provisions  
        generally, **18:60**  
        actions by joint fiduciaries, **18:57**  
Flower bond funding of estate tax payment, **18:11**  
Forgiveness of debt provisions, **18:30**  
Form use, **18:67**  
Format, **18:2**  
Forms  
    credit shelter marital deduction formula clause, **21:65**  
    disclaimer will, **18:73**  
    estate tax payment, preresidual marital bequest, tax payable from residue, **21:51**  
    formula marital deduction clauses, **21:59**  
    fractional share marital deduction clause, **21:58**  
    life estate, general power of appointment for spouse, **21:30**  
    living will, **18:75**  
    marital deduction formula clause, **21:62**  
    marital deduction formula clauses  
        credit shelter formula, **21:65**  
        fractional share formula, **21:58**  
        pecuniary fairly representative, **21:60**  
        pecuniary fixed sum, **21:62**  
    marital deduction will  
        power of appointment trust, **18:70**  
        QTIP trust, **18:69**  
    pecuniary fairly clause, **21:60**  
    pecuniary fixed sum, **21:62**  
    pour-over will, **18:71**  
    power to hold insurance on spouse's life, **18:35**  
    QTIP trusts, partial election, **21:41**  
    residuary clause for total gift equalization among beneficiaries, **18:43**  
    S corporation stock ownership, **23:47**  
    simple will with standby trust, **18:68**  
    survivorship  
        spouses with nearly equal estates, **21:28**  
        standard presumption, **21:26**  
Formula for gift equalization from residue with specific beneficiary, **18:42**  
Formulas, marital deduction clauses, form, **21:59**  
Fractional share formula, advantages, **21:56**  
Funeral expense payment provisions, married women, **18:7**  
General gifts, **18:14, 18:17**  
Gift categories, **18:14 et seq.**  
Gift protection from estate tax, **18:10**  
Gift-over clauses, **18:28**  
Gifts with encumbrances, **18:37**  
Guardian appointments, **18:52**

## WILLS—Cont'd

Holographic wills, validity of will, **20:8**  
 Homestead limitations, **18:33**  
 In terrorem clause, use, **31:09**  
 In terrorem clauses  
     beneficiary designations, **18:13**  
     validity of will, **20:8**  
 Incorporation by reference of separate writing, **18:23**  
 Insured property gifts, **18:20**  
 Inter vivos trust disposition by will, validity of will, **20:8**  
 Introductory provisions, **18:2 et seq.**  
 Joint accounts, **18:29**  
 Joint and mutual wills, estate tax marital deduction, **21:47**  
 Joint fiduciaries, powers and duties provisions, **18:57**  
 Joint personal representative nominations, **18:54**  
 Joint tenancy property provisions, **18:19**  
 Joint wills, definition, **21:47**  
 Judicial injunction, effect, **16:32**  
 Land identification and description, **18:32**  
 Lapse clauses, **18:28**  
 Legal counsel designation, **18:59**  
 Legal descriptions of land, **18:32**  
 Life estate with general power of appointment for spouse, form, **21:30**  
 Life insurance dispositions  
     policies on testator's life, **18:36**  
     power to hold insurance on spouse's life, **18:35**  
     testator's policies on lives of others, **18:34, 18:35**  
 Living wills, generally, **18:66, 18:75**  
 Loans against insurance policies, payment, **18:37**  
 Location, **31:13**  
 Marital deduction  
     formula clauses, **21:6, 21:55 et seq.**  
     monetary gifts, consideration, **18:28**  
     protection from estate tax, **18:10**  
 Marital deduction trusts, **16:49**  
 Marital deduction will forms  
     power of appointment trust, **18:70**  
     QTIP trust, **18:69**  
 Marital gifts, **18:40**  
 Marital transfers, **16:55**  
 Medical expense payment provisions, married women, **18:7**  
 Minor beneficiaries  
     tangible personal property gifts, **18:25**  
     testamentary trusts, **18:46**  
 Monetary gifts  
     generally, **18:20, 18:28**  
     separate writings, **18:23**  
 Mortmain statutes, **20:10**  
 Mutual wills, definition, **21:47**  
 Name of testator, **18:3**  
 Named fiduciaries, review, **31:29**  
 Objectives, **1:10**  
 Ordering liability of probate assets, **18:6**  
 Pecuniary fixed sum formula, fixed sum devise advantages, **21:63**  
 Per capita distribution provisions, **18:13**  
 Per stirpes distribution provisions, **18:13**  
 Percentage of estate as gift, **18:39**  
 Personal property gifts, **18:20 et seq.**  
 Personal representative, review of choice, **31:29**

## WILLS—Cont'd

Personal representative provisions  
     compensation, **18:58**  
     nominations, **18:54**  
     use of income and principal, **18:8**  
 Personal representatives, powers and duties provisions, **18:60**  
 Physicians, disbanding of practice, **31:17**  
 Planner succession, intent of testator, **18:2**  
 Pour-over clauses, **18:44**  
 Pour-over wills  
     generally, **18:44**  
     form, **18:71**  
 Power of appointment, exercise, estate tax, **16:35**  
     pre-October 21, 1942 powers, **16:33**  
 Power of appointment exercise  
     classes of persons, **16:32**  
     drafting, **18:51**  
     estate tax  
         inclusion prior to 1942, **16:36**  
         post-October 21, 1942 powers, **16:32**  
         inadvertent, avoidance, **18:51**  
         requirements for effectiveness, **18:51**  
         second trust estate creation, **18:51**  
         Uniform Probate Code, **18:51**  
 Precatory distribution provisions, class gifts, **18:24**  
 Precatory gifts for minors, **18:25**  
 Preparation, **1:10, 18:1 et seq.**  
 Preresiduary clauses, **18:39**  
 Preresiduary gifts, **18:18, 18:39, 18:40**  
 Presumption of survival clause  
     form, **17:44**  
     use, **17:43**  
 Probate avoidance, **18:36**  
 Probate place  
     determination, **30:39**  
     state estate tax considerations, **20:22**  
 Publishing clause, **18:3**  
 Real estate gifts, **18:32**  
 Reciprocal wills, **18:61**  
 Rental property gifts, **18:20**  
 Renunciation by surviving spouse, **20:7**  
 Residuary clauses  
     generally, **18:42**  
     form, **18:43**  
 Residuary direction, lifetime gifts, effect on balance, **18:9**  
 Residuary gifts  
     generally, **18:42 to 18:44**  
     total gift equalization among beneficiaries, form, **18:43**  
 Residue disposition in absence of residuary clause, **18:42**  
 Reverse presumption clauses  
     generally, **21:11**  
     form, **21:24**  
     local law presumptions, **21:21 et seq.**  
 Revocation  
     prior wills and codicils, **18:3**  
     validity of will, **20:8**  
 S corporation stock ownership, form, **23:47**  
 Safety deposit box contents, gift, **18:20**  
 Savings clauses  
     marital deduction, estate tax, **21:68**

## INDEX TO TEXT

### WILLS—Cont'd

- Savings clauses—Cont'd
  - rule against perpetuities, protection of gifts in trust, **18:45**
- Second trust estate creation by power of appointment holder, **18:51**
- Securities gifts, **18:20, 18:23**
- Self-proving affidavits
  - drafting provision, **18:64**
  - validity of will, **20:8**
- Share or percentage of estate as gift, **18:39**
- Shares of corporate stock as gifts, **18:31**
- Signatures
  - drafting provisions, **18:63**
  - validity of will, **20:8**
- Simple wills
  - generally, **21:8**
  - will with standby trust, form, **18:68**
- Simultaneous death provisions
  - generally, **21:11**
  - survivorship clauses, **21:21 to 21:24**
- Simultaneous wills, **18:61**
- Situs of trust provisions, **18:48**
- Sound mind provisions, **18:3**
- Specific devises, use, **31:16**
- Specific gifts
  - generally, **18:15**
  - overview, **18:14**
  - tangible personal property, **18:22**
- Spendthrift clauses
  - marital deduction trusts, **21:34**
  - testamentary trusts, **18:47**
- Standby trusts
  - generally, **18:46**
  - simple will with trust, form, **18:68**
- Successor personal representative nominations, **18:54**
- Surviving spouse election, **33:12**
- Surviving spouse renunciation, **20:7**
- Survivorship accounts, **18:29**
- Survivorship provisions, **21:19 et seq.**
- Tangible personal property
  - schedule, **18:23**
  - separate gift, **18:22**
  - separate writings, **18:23**
  - shipping costs limitation, **18:27**
- Terminally ill clients
  - access, **31:13**
  - existing will, review and revision, **31:14**
  - fiduciary appointments, review, **31:18**
  - importance of will, **31:12**
  - location, **31:13**
  - personal representative, review of choice, **31:29**
  - redrafting, **31:15**
  - specific devises, use, **31:16**
  - unified credit, funding provisions, **31:39**
- Terminology
  - generally, **18:14**
  - definition provisions, **18:62**

### WILLS—Cont'd

- Terminology—Cont'd
  - use of terms, **18:12**
- Testamentary trust, trustee as beneficiary of life insurance on testator's life, **18:36**
- Testamentary trusts
  - generally, **18:45 to 18:49**
  - requirements, **19:6**
- Testimonium, **18:2**
- Time clauses, presumption as to order of death, **21:21**
- Troubled marriage, will for, **11:43**
- Trust beneficiary designations, **18:13**
- Trustee compensation provisions, **18:58**
- Trusts as source of payment
  - estate tax, **18:11**
  - expenses, **18:8**
  - protecting gifts, **18:10**
- Uniform Probate Code
  - power of appointment exercise, **18:51**
  - trust situs changes, **18:48**
- Uniform Testamentary Additions to Trusts Act, **18:44**
- Unwanted personal effects provision, **18:26**
- Validity determined by domicile, **20:8**
- Witnesses
  - drafting provisions, **18:63**
  - validity of will, **20:8**

## WITHDRAWAL OF ASSETS FROM BUSINESS

Sale as, **4:42**

## WITHDRAWAL POWER

Primary beneficiary, limited to, **8:15**

## WITHDRAWAL RIGHTS

- Crummey powers
  - generally, **8:15**
  - lapse changes ownership, **8:24**
- 401(k) plans, **5:44**
- Time period to exercise, specific, finite period, **8:15**

## WITHHOLDING

Rollovers of IRAs, **5:65**

## WITHHOLDING OF TAXES

- Assessable interest and penalties, **39:31**
- Compensatory stock transfers, employer deduction prerequisite, **2:59**
- Damage awards, **2:5**
- Nonqualified stock options, shares of stock used, **2:68**

## WORK PRODUCT PRIVILEGE

Proceedings applicable, **1:16**

## WORKS OF ART

Loan to museum, **12:35**

## WRITS OF CERTIORARI

- Tax litigation
  - generally, **39:2**
  - Tax Court appeals, **39:21**