

Index

A SUM GREATER THAN TEN THOUSAND DOLLARS

Generally, **9:41**

120-HOUR SURVIVORSHIP RULE

Generally, **11:6**

Exceptions, **11:13**

ABATEMENT

Generally, **28:26-28:30**

For detailed treatment see index heading
DIVISION OF TESTATOR'S NET
ESTATE

ABSENTEE IN MILITARY SERVICE

Generally, **25:1-25:26**

For detailed treatment see index heading
MILITARY ABSENTEES

ACCEPTING AN INTEREST

Renunciation, **15:16**

ACCOUNTANTS

See index heading CERTIFIED PUBLIC
ACCOUNTANTS

ACCOUNTS AND ACCOUNTING

Annual accounts. See index heading
ANNUAL ACCOUNTS

Checklist for settlement. See index
heading CHECKLISTS

Data gathering and recordkeeping, **4:15**

Ethics, **3:12**

Filing of inventories and accounts

generally, **32:1-32:33**

for detailed treatment see index head-
ing FILING OF INVENTORIES AND
ACCOUNTS

Final accounts. See index heading FINAL
ACCOUNTS

Military absentees, annual inventory and
account, **25:13, 25:14**

Nonprobate assets, joint ownership with
right of survivorship, **6:19**

ACCOUNTS RECEIVABLE

Probate assets, **5:42**

ACKNOWLEDGMENTS

Advancement of intestate shares,
acknowledgment of full share,
17:10

Illegitimate children. See index heading
ILLEGITIMATE CHILDREN

Personal representatives, notary public,
2:100

ACTS OF INDEPENDENT SIGNIFICANCE

Generally, **31:21**

ADEMPTION

Generally, **28:31-28:34**

For detailed treatment see index heading
DIVISION OF TESTATOR'S NET
ESTATE

ADOPTED CHILDREN

Generally, **20:19, 29:20, 31:9**

Construction and interpretation of wills,
31:9

Revocation of wills, **23:17**

Special devisees and children
generally, **29:20**

for detailed treatment see index head-
ing SPECIAL DEVISEES AND CHIL-
DREN

Special heirs and children, **20:19**

ADVANCEE

Generally, **17:4**

ADVANCEMENT OF INTESTATE SHARES

Generally, **1:63, 17:1-17:13**

Acknowledgment of full share, **17:10**

Checklist for settlement, investigation of
potential advancements, **1:63**

Death of advancee before intestate,
17:12

**ADVANCEMENT OF INTESTATE
SHARES—Cont'd**

Definitions
 generally, **17:2-17:5**
 advancee, **17:4**
 advancement, **17:3**
 heir, **17:5**
 Effect of advancement, **17:11**
 Inventory, **17:13**
 Prospective heirs, advancing shares to,
 17:6, 17:7
 Spouse, advancing shares to, **17:7**
 Valuation, **17:8-17:10**

**ADVANTAGES OF ASSET
SUBSTITUTION**

Generally, **22:12**

AFFIDAVITS

Caveat proceedings, testimony by affidavit, **24:52**
 Checklist for settlement, notice to creditors, **1:54**
 Collector, affidavit by, **12:4**
 Notice to creditors, **1:54**
 Payment of obligations of decedent and estate. See index heading **PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE**
 Personal representatives, notary public, **2:102**
 Probate. See index heading **PROBATE**
 Small estates. See index heading **SMALL ESTATES**

**AFTER-BORN, AFTER-ADOPTED
AND OTHER AFTER-ENTITLED
CHILDREN**

Devisees
 generally, **29:15-29:19**
 for detailed treatment see index heading **SPECIAL DEVISEES AND CHILDREN**
 Revocation of wills, **23:17**

AGREEMENTS

See index heading **CONTRACTS AND AGREEMENTS**

AGRICULTURE

See index heading **FARMS AND FARMING**

AIRPLANES

Probate assets, **5:56**

ALIMONY

Generally, **27:5**

ALTERATION OF WILL

Tort actions, **36:6**

ALTERNATE BENEFICIARIES

Simultaneous deaths, **11:7**

ALTERNATE VALUATION DATE

Generally, **1:35, 34:7**
 Checklist for settlement, meeting with tax advisor, **1:35**

ALTERNATIVE PROCEDURE

Small estates
 generally, **12:20-12:22**
 for detailed treatment see index heading **SMALL ESTATES**

AMENDED TAX RETURNS

Generally, **8:78**

ANATOMICAL GIFTS

Generally, **21:85, 21:90**
 Health care power of attorney, conflict with, **21:60**

ANCILLARY ADMINISTRATION

Generally, **1:49, 14:1-14:22**
 Appointment of other than foreign personal representative as ancillary personal representative, **14:14-14:16**
 Bond, **14:19**
 Checklist for settlement, **1:49**
 Death of North Carolina resident leaving property in foreign state, **14:22**
 Debtor's procedure where no ancillary administration begun in North Carolina, **14:17, 14:18**
 Definitions
 generally, **14:2-14:10**
 ancillary administration, **14:6**
 ancillary personal representative, **14:7**
 domiciliary administration, **14:3**
 domiciliary personal representative, **14:4**
 foreign state, **14:9**
 home state, **14:10**

INDEX

ANCILLARY ADMINISTRATION—Cont'd

Definitions—Cont'd

nonresident decedent, **14:8**

resident decedent, **14:5**

Known or unknown domiciliary

personal representative, notice,
14:15, 14:16

Nonresident decedents

generally, **14:13-14:22**

appointment of other than foreign
personal representative as ancil-
lary personal representative,
14:14-14:16

bonding requirement, **14:19**

death of North Carolina resident leav-
ing property in foreign state,
14:22

debtor's procedure where no ancillary
administration begun in North
Carolina, **14:17, 14:18**

definition, **14:8**

duties of ancillary personal represen-
tative, **14:20, 14:21**

notice, below

payment of claims by ancillary
personal representative, **14:21**

Notice

known or unknown domiciliary
personal representative, **14:15,
14:16**

resident debtor, notice by resident
creditor to, **14:18**

Payment of claims by ancillary personal
representative, **14:21**

Resident decedents, **14:5, 14:11, 14:12**

ANCILLARY PERSONAL REPRESENTATIVE

Generally, **14:7**

Duties, **14:20, 14:21**

ANNUAL ACCOUNTS

Generally, **1:71, 32:6-32:9**

Checklist for settlement, **1:71**

Clerk's audit, **32:15**

Filing of inventories and accounts
generally, **32:6-32:9**

ANNUAL ACCOUNTS—Cont'd

Filing of inventories and accounts

—Cont'd

for detailed treatment see index head-
ing **FILING OF INVENTORIES AND
ACCOUNTS**

Form, **32:27**

Time limitations, **33:17**

ANNUITIES

Generally, **5:34, 5:51, 6:11, 6:12**

Forfeiture by heirs and beneficiaries,
slayers, **16:27**

Nonprobate assets

generally, **6:8-6:12**

for detailed treatment see index head-
ing **NONPROBATE ASSETS**

ANNULMENT OF MARRIAGE

Revocation of wills, **23:14-23:16**

ANTICAVEAT PROVISIONS

Generally, **24:57**

ANTI-LAPSE STATUTE

Generally, **28:21-28:25**

For detailed treatment see index heading
**DIVISION OF TESTATOR'S NET
ESTATE**

ANTIQUES

Probate assets, **5:57**

APPEALS

Elective share, appeal from order of
clerk, **26:24**

APPEARANCE

Mediation before clerk of superior court,
35:10, 35:12

APPLICATIONS

Checklist for settlement

generally, **1:17-1:19**

for detailed treatment see index head-
ing **CHECKLISTS**

Personal representatives. See index
heading **PERSONAL REPRESENTA-
TIVES**

Probate, **24:14-24:16, 24:59**

Small estates, administration by clerk,
12:27

APPLICATIONS—Cont'd

Summary administration for surviving spouses, **13:22**
Year's allowance, **10:8-10:10, 10:25, 10:27**

APPOINTMENT

Ancillary administration, appointment of other than foreign personal representative as ancillary personal representative, **14:14-14:16**
Checklist for settlement generally, **1:17-1:19**
for detailed treatment see index heading CHECKLISTS
Small estates, personal representative, **12:19**
Springing or durable power of attorney, **21:80**

APPORTIONMENT OF ESTATE TAX

Generally, **8:80**

ARBITRATION

Payment of obligations of decedent and estate, disputed claims, **8:53**

ARTWORK

Probate assets, **5:57**

ASCERTAINABLE CREDITORS

Generally, **9:5**

ASSET PROTECTION

Generally, **34:1-34:21**

ASSET SUBSTITUTION

Generally, **22:9-22:11**
Advantages, **22:12**
Insurance funding, **22:14**
Malpractice trap, **22:13**

ASSIGNMENT OF FUTURE DEVISE

Generally, **28:37**

ASSUMPTION OF LIABILITIES

Summary administration for surviving spouses, **13:17, 13:18**

A SUM GREATER THAN TEN THOUSAND DOLLARS

Generally, **9:41**

ATTESTED WRITTEN WILLS

Generally, **21:19-21:24**
For detailed treatment see index heading WILLS AND OTHER ESTATE PLANNING DOCUMENTS

ATTORNEY IN FACT

See index heading POWER OF ATTORNEY

ATTORNEYS

Beneficiaries, ethical issues concerning drafting attorneys as, **3:21**
Filing of inventories and accounts, professional fees of attorney-personal representative, **32:20**
Personal representatives, renunciation of right to act, **2:86**
Springing or durable power of attorney generally, **21:68-21:83**
for detailed treatment see index heading SPRINGING OR DURABLE POWER OF ATTORNEY
Wrongful acts, tort actions, **36:8**

ATTORNEYS' FEES

Caveat proceedings, **24:56**

AUDITS

Filing of inventories and accounts. See index heading FILING OF INVENTORIES AND ACCOUNTS
Military absentees, **25:15**

AUNTS AND UNCLES

Intestate estates generally, **19:37-19:39**
for detailed treatment see index heading INTESTATE ESTATES

AUTOMOBILES AND OTHER VEHICLES

Boats. See index heading BOATS
Probate assets, **5:55**
Protection of estate assets, **7:6**

AVOIDANCE OF CREDITORS

Tax saving and asset protection techniques, qualified disclaimer/renunciation, **34:4**

BANK ACCOUNTS

Generally, **5:28**
Checklist for settlement, **1:39**

INDEX

BANK ACCOUNTS—Cont'd

Estates, **2:66**

BECOMING A PERSONAL REPRESENTATIVE

Generally, **2:1-2:124**

BENEFICIARIES

Ethics, drafting attorney as beneficiary, **3:21, 3:29**

Forfeiture by heirs and beneficiaries generally, **16:1-16:39**
for detailed treatment see index heading **FORFEITURE BY HEIRS AND BENEFICIARIES**

Probate assets, real estate transfers by beneficiaries, **5:21**

Renunciation by heirs and beneficiaries generally, **15:1-15:25**
for detailed treatment see index heading **RENUNCIATION BY HEIRS AND BENEFICIARIES**

BENEFITS

Termination, **7:15**

BEQUESTS

Elective share. See index heading **ELECTIVE SHARE**

Executor, bequeath of real estate to, **5:17**

Payment of obligations of decedent and estate, testate debts, **8:63, 8:64, 8:66**

BEST PRACTICES RULES

Ethics
generally, **3:26-3:29**
for detailed treatment see index heading **ETHICS**

BIFURCATED CLAIMS

Generally, **9:25**

BIFURCATED PROBATE TIME LIMITATION

Generally, **9:25**
Wrongful death claims against estate, **9:25**

BIOLOGICAL PARENT

Generally, **20:10**

BIRTH

Revocation of wills, **23:17**

BOATS

Generally, **5:56**
Protection of estate assets, **7:6**

BONA FIDE PURCHASERS

Simultaneous deaths, **11:15**

BONDS

Generally, **1:19, 2:49-2:58**
Absentee in military service, **25:10**
Ancillary administration, **14:19**
Caveat proceedings, **24:50**
Checklist for settlement. See index heading **CHECKLISTS**
Collector, **12:11**
Elective share, **26:31**
Military absentees, **25:10**
Personal representatives
generally, **2:49-2:58**
for detailed treatment see index heading **PERSONAL REPRESENTATIVES**
Refund, **1:74**

BROTHERS AND SISTERS

Intestate estates, **19:7, 19:12, 19:35**

BURIAL PLOTS

Payment of obligations of decedent and estate, care of plot, **8:46**

BUSINESS

Receivership, **7:11**

BYPASS TRUST

Generally, **13:9**

CASH

Generally, **5:29, 7:7**

CAVEAT

Defined, **24:6**
Tax saving and asset protection techniques, **34:14**

CAVEAT PROCEEDINGS

Generally, **24:39-24:58**
Affidavit, testimony by, **24:52**
Anticaveat provisions, **24:57**
Attorneys' fees, **24:56**
Bond, **24:50**

CAVEAT PROCEEDINGS—Cont'd

- Construction and interpretation of wills, **31:22**
- Definition, **24:6**
- Distribution of successful caveat proceeding, **24:54, 24:55**
- Entry of caveat proceeding, **24:47**
- Entry of final judgment, **24:53**
- Estate taxes, **24:55**
- Execution improper, **24:44**
- Filing, **24:51**
- Final judgment, entry of, **24:53**
- Forgery, **24:42**
- Fraud, **24:42**
- Grounds, generally, **24:39-24:45**
- Mistake, **24:43**
- Notice, **24:51**
- Persons with standing to challenge, **24:49**
- Procedure, generally, **24:46-24:62**
- Revocation, **24:45**
- Settlement agreements, **24:58**
- Testamentary capacity, lack of, **24:40**
- Time limitations, **33:21**
- Time limit on challenge, **24:48**
- Trial, **24:51**
- Undue influence, **24:41**

CERTIFICATE OF PROBATE

- Generally, **2:44, 24:15, 24:16**

CERTIFICATES AND CERTIFICATION

- Death certificates. See index heading DEATH CERTIFICATES
- Filing of inventories and accounts, certification of estate tax, **32:28**
- Probate, **2:44, 2:110, 24:15, 24:16, 24:35, 24:60**

CERTIFIED PUBLIC ACCOUNTANTS

- Filing of inventories and accounts, professional fees of CPA-personal representative, **32:20**
- Personal representatives, renunciation of right to act, **2:86**

CHALLENGES TO VENUE

- Generally, **33:7**

CHALLENGING A WILL

- See index heading PROBATE

CHANGE OF ADDRESS

- Checklist for settlement, gathering and protection of property of estate, **1:29**
- Protection of estate assets, **7:16**

CHANGE OF CIRCUMSTANCES

- Revocation of wills, **23:19**

CHARGE ACCOUNTS

- Protection of estate assets, **7:12**

CHARITABLE TRANSFERS

- Retirement accounts, **22:4**

CHECKING ACCOUNTS

- Personal representatives, **2:66, 2:67**

CHECKLISTS

- Generally, **1:1-1:77**
- Accounts
 - annual account, filing of, **1:71**
 - final account, filing of, **1:72**
- Advancements, investigation of potential, **1:63**
- Advice to survivors of right of renunciation, **1:60**
- Alternate valuation date, meeting with tax advisor, **1:35**
- Ancillary administration, conduct of, **1:49**
- Annual account, filing of, **1:71**
- Application. Appointment with probate clerk for presentment of application and preliminary inventory, below
- Appointment with probate clerk for presentment of application and preliminary inventory
 - generally, **1:17-1:19**
 - bond of personal representative, **1:19**
 - probate will, **1:18**
- Assets of decedent, gathering of information on, **1:16**
- Bank accounts for estate, opening of, **1:39**
- Bond of personal representative
 - appointment with probate clerk for presentment of application and preliminary inventory, **1:19**

INDEX

CHECKLISTS—Cont'd

- Bond of personal representative
 - Cont'd
 - premium refund, obtaining of, **1:74**
- Business, establishment of receivership for ongoing, **1:42**
- Change of address, gathering and protection of property of estate, **1:29**
- Claims of creditors, acceptance or rejection of, **1:53**
- Closing of estate, **1:73**
- Collection of money owed, gathering and protection of property of estate, **1:26**
- Commission of personal representative, renunciation of, **1:58**
- Data gathering and recordkeeping. See index heading DATA GATHERING AND RECORDKEEPING
- Death certificates, obtaining, **1:44**
- Debts of decedent, identification of, **1:46**
- Definitions
 - generally, **1:3-1:8**
 - intestate, **1:4**
 - partially testate and partially intestate estates, **1:6**
 - personal representative, **1:7**
 - statutes of limitation, **1:8**
 - testacy and intestacy, **1:3-1:6**
 - testate, **1:5**
- Deposit cards for joint bank accounts, **1:14**
- Distribution of net estate, **1:68**
- Documentation necessary to become personal representative
 - generally, **1:10-1:15**
 - deposit cards for joint bank accounts, **1:14**
 - preliminary inventory, **1:12**
 - renunciation of right to act, **1:11**
 - small estates or summary administration procedure, determination of applicability, **1:15**
 - will, **1:13**
- Elective life estate and elective share, advice to spouse of, **1:50**
- Elective life estate and elective share, advice to spouse of right to take, **1:51**

CHECKLISTS—Cont'd

- Experts, retention of, **1:32**
- Farm, establishment of receivership for ongoing, **1:42**
- Final account, filing of, **1:72**
- First month, generally, **1:9-1:46**
- Fourth through ninth months, generally, **1:57-1:61**
- Government benefits, activation or termination of, **1:41**
- Information on decedent and decedent's probate assets, gathering of, **1:16**
- Insurance, maintenance to protect property of estate, **1:24**
- Insurance payable to estate, gathering and protection of property of estate, **1:27**
- Inventory
 - preliminary inventory, **1:12**
 - safe deposit box, **1:21**
 - three month inventory, **1:55**
- Legal debts of decedent, identification of, **1:46**
- Major nonprobate assets, generally, **6:28**
- Major probate assets, generally, **5:66**
- Meeting with probate clerk, **1:20**
- Ninth month, generally, **1:62-1:66**
- Nonprobate assets, determination of value of, **1:36**
- Notice of fiduciary relationship
 - filing, **1:38**
 - termination, **1:76**
- Notice to creditors
 - generally, **1:48**
 - filing of affidavit, **1:54**
 - publication, **1:45**
- Payment of debts of decedent, **1:61**
- Payment of obligations of decedent and estate. See index heading PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE
- Pending litigation, gathering and protection of property of estate, **1:31**
- Personal representatives, locating of will, **2:104**
- Postmortem techniques, review of, **1:56**
- Preliminary inventory, **1:12**
- Premium refund, bond of personal representative, **1:74**

CHECKLISTS—Cont'd

- Probate assets, generally, **4:21, 5:66**
- Property of estate, gathering and protection of
 - generally, **1:23-1:31**
 - change of address, **1:29**
 - collection of money owed, **1:26**
 - insurance, maintenance of, **1:24**
 - insurance payable to estate, **1:27**
 - pending litigation, **1:31**
 - return of property, **1:25**
 - unneeded services, **1:30**
- Publication of notice to creditors, **1:45**
- Real property, transfer of title to, **1:70**
- Receipt for disbursement, **1:66**
- Receivership for ongoing business or farm, establishment of, **1:42**
- Renunciation
 - advice to survivors of right of renunciation, **1:60**
 - commission of personal representative, **1:58**
 - right to act, **1:11**
- Retirement accounts, discussion of options regarding, **1:64**
- Return of property, gathering and protection of property of estate, **1:25**
- Review powers and responsibilities of personal representative, **1:22**
- Safe deposit box, inventory of, **1:21**
- Sale of assets, **1:52**
- Second month, generally, **1:47-1:56**
- Settlement of estate, generally, **1:1-1:77**
- Simultaneous deaths, **1:65**
- Small estates procedure, determination of applicability, **1:15**
- Spouse, advice of elective life estate and elective share, **1:50**
- Spouse, advice of right to take elective life estate and elective share, **1:51**
- Summary administration procedure, determination of applicability, **1:15**
- Tax advisor, meeting with
 - generally, **1:33-1:35**
 - alternate valuation date, **1:35**
 - time of filing, **1:34**
- Taxation
 - alternate valuation date, **1:35**

CHECKLISTS—Cont'd

- Taxation—Cont'd
 - filing of estate taxes, **1:66**
 - IRS Form 1099 for personal representative's commission, issuance of, **1:75**
 - meeting with tax advisor, **1:33-1:35**
 - preparation for filing of tax returns, **1:59**
 - prior tax returns, obtaining of, **1:43**
 - tax advisor, meeting with, above
 - tax identification number, obtaining of, **1:38**
 - time of filing, **1:34**
 - Tenth through twelfth months, generally, **1:67-1:70**
 - Third month, generally, **1:47-1:56**
 - Three month inventory, **1:55**
 - Time frames, **1:2**
 - Time of filing, meeting with tax advisor, **1:34**
 - Unneeded services, gathering and protection of property of estate, **1:30**
 - Wrongful death claim, investigation of potential, **1:37**
 - Year's allowance, payment of, **1:40**
- ## CHILDREN AND MINORS
- Adopted children. See index heading
ADOPTED CHILDREN
 - Construction and interpretation of wills
 - generally, **31:8-31:12**
 - for detailed treatment see index heading CONSTRUCTION AND INTERPRETATION OF WILLS
 - Forfeiture by heirs and beneficiaries
 - loss of parent's right to share in child's estate, **16:19, 16:20**
 - slayer, juvenile as, **16:22**
 - Health care power of attorney, **21:66**
 - Illegitimate children
 - generally, **20:20-20:26**
 - for detailed treatment see index heading ILLEGITIMATE CHILDREN
 - Intestate estates, **19:30, 19:33, 19:34**
 - Meaning of child, **10:12, 31:8**
 - Special devisees and children
 - generally, **29:1-29:28**

INDEX

CHILDREN AND MINORS—Cont'd

Special devisees and children—Cont'd
for detailed treatment see index heading SPECIAL DEVISEES AND CHILDREN

Special heirs and children
generally, **20:1-20:32**
for detailed treatment see index heading SPECIAL HEIRS AND CHILDREN

Support agreements or orders, **27:6**

Year's allowance
generally, **10:11-10:15**
for detailed treatment see index heading YEAR'S ALLOWANCE

CHILD SUPPORT

Generally, **27:6**

CHURCH MEMBERS

Ethics, wills, **3:19**

CITATION

Probate by, **24:29-24:31**

CLAIMS

Against the estate, generally, **9:1 et seq.**
Bifurcated, **9:25**

Disputed, **1:53, 8:52, 8:53, 33:6**

Illegitimate children, claims by, **33:12**

Payment of, **8:41-8:51**

Personal representative. claims of, **8:57**

Presentation of, **9:6-9:11, 9:20**

Priority of, **8:40**

Rejected, **1:53, 8:52, 33:6**

State, claims of the state, **8:47**

CLASS

Payment of obligations of decedent and estate
generally, **8:40, 8:42-8:51**
for detailed treatment see index heading PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE

Simultaneous deaths, class members, **11:8**

CLERK OF COURT

Definition, **2:7**

Election to take life estate, clerk's duties when election is made, **18:16**

Fees, **2:40**

CLERK OF COURT—Cont'd

Interested party, **2:7**

Mediation

generally, **35:1-35:23**

for detailed treatment see index heading MEDIATION BEFORE CLERK OF SUPERIOR COURT

Probate assets, clerk's order authorizing sale of real property, **5:15**

Small estates, distribution of assets recovered by small estate collector, **12:16**

Will depository, **21:17**

Year's allowance, application, **10:9**

CLOSELY HELD STOCK

Generally, **5:38**

CLOSING THE ESTATE

Generally, **32:21**

Checklist for settlement, **1:73**

Filing of inventories and accounts

generally, **32:21-32:25**

for detailed treatment see index heading FILING OF INVENTORIES AND ACCOUNTS

CODICILS

Generally, **21:32**

After-born, after-adopted and other after-entitled children, **29:17**

COIN AND OTHER COLLECTIONS

Probate assets, **5:58**

COLLATERAL ATTACK OF LETTERS

Generally, **2:62**

COLLATERAL DEVISEES

Generally, **29:3, 29:11**

COLLATERAL HEIRS

Generally, **19:14, 20:5, 29:21**

COLLATERAL SUCCESSION

Generally, **20:12-20:15**

Special heirs and children

generally, **20:12-20:15**

for detailed treatment see index heading SPECIAL HEIRS AND CHILDREN

COLLECTION

Letters of, **2:95**

COLLECTION OF MONEY OWED

Checklist for settlement, gathering and protection of property of estate, **1:26**

COLLECTOR

Generally, **8:13**
Affidavit, collector by, **12:4**
Bond, **12:11**

COMMINGLING OF FUNDS

Personal representatives, **2:67**

COMMISSIONS AND FEES

Attorneys' fees, caveat proceedings, **24:56**
Caveat proceedings, attorneys' fees, **24:56**
Checklist for settlement, renunciation, **1:58**
Clerk, **2:40**
Ethics, **3:7, 3:17**
Filing of inventories and accounts generally, **32:17-32:20**
for detailed treatment see index heading FILING OF INVENTORIES AND ACCOUNTS
IRS Form 1099, commissions paid, **32:23**
Personal representatives. See index heading PERSONAL REPRESENTATIVES
Renouncing, **1:58, 32:19**
Small estates, **12:10**
Springing or durable power of attorney, **21:79**
Tax saving and asset protection techniques, **34:5**

COMMON ANCESTORS

Special heirs and children, limitation on collateral succession, **20:6, 20:14**

COMMON FORM, PROBATE IN

Generally, **24:17-24:28**
For detailed treatment see index heading PROBATE

COMMON LAW

Forfeiture by heirs and beneficiaries, slayers, **16:39**

COMMUNICATION

Ethics, **3:6**

COMMUNITY PROPERTY

Generally, **5:63, 5:64, 34:8**
Statute, **34:8**
Tax saving and asset protection techniques, **34:8**

COMPENSATION

See index heading WAGES AND COMPENSATION

COMPETENCE

Ethics, **3:4**

COMPLAINTS AND PETITIONS

Elective share, **26:36, 26:37**
Military absentees, appointment of receiver, **25:4, 25:5, 25:24-25:26**
Missing persons, **30:7, 30:8**
Personal representatives, resignation, **2:122**
Summary administration for surviving spouses, **13:10, 13:11, 13:21, 13:22**

CONCEALMENT

Valid wills, **36:5**

CONDITIONAL SALES CONTRACT

Generally, **18:5**

CONFIDENTIALITY

Ethics, **3:8, 3:16, 3:23, 3:28**

CONFLICT OF INTEREST

Ethics, **3:10, 3:22**

CONSTRUCTION AND INTERPRETATION OF WILLS

Generally, **31:1-31:23**
Adopted children, **31:9**
Caveat proceedings, **31:22**
Children generally, **31:8-31:12**
adopted children, **31:9**
heirs, **31:12**
illegitimate children, **31:11**

INDEX

CONSTRUCTION AND INTERPRETATION OF WILLS

—Cont'd

- Children—Cont'd
 - issue, **31:10**
- Declaratory judgments, **31:23**
- Definitions, **31:2**
- Division of net estate
 - generally, **28:17-28:19**
 - for detailed treatment see index heading DIVISION OF TESTATOR'S NET ESTATE
- Doctrine of acts and events of independent significance, **31:21**
- Heirs, **31:12**
- Husbands, **31:7**
- Illegitimate children, **31:11**
- Incorporation by reference, **31:20**
- Independent significance, doctrine of acts and events of, **31:21**
- Intent of testator, **31:5**
- Intestacy, construction against, **31:17**
- In terrorem clauses, **31:15**
- Issue, **31:10**
- Latent ambiguity, **31:3**
- Patent ambiguity, **31:4**
- Presumption of revocation, **31:19**
- Property, **31:13, 31:14**
- Real estate, **31:13**
- Reference, incorporation by, **31:20**
- Requests or wishes, **31:16**
- Revocation, presumption of, **31:19**
- Simultaneous deaths, **31:18**
- Spouses, **31:7**
- Wills speaks at death, **31:6**
- Wishes or requests, **31:16**
- Wives, **31:7**

CONTINGENT CLAIMS

- Payment of obligations of decedent and estate, **8:61**

CONTINGENT INTERESTS

- Forfeiture by heirs and beneficiaries, slayers, **16:33**

CONTRACTS AND AGREEMENTS

- Division of net estate, contract to make will, **28:38**

CONTRACTS AND AGREEMENTS

—Cont'd

- Mediation before clerk of superior court, **35:20**
- Personal representative, contract claims with, **33:15**
- Real estate, contracts with decedent, **5:19**
- Revocation, contract not to revoke a will, **28:38**
- Rights, executory, **5:45**
- Time limitations, contract claims with personal representative, **33:15**
- To make a will, **28:38**

CONTRIBUTIONS

- Elective share, contribution to satisfy elective share, **26:25, 26:26**

CONVERSION OF ESTATE ASSETS

- Generally, **36:10**

CONVICTED FELONS

- Generally, **2:29**

COSTS AND EXPENSES

- Data gathering and recordkeeping, **4:17**
- Elective share, **26:30**
- Intestate estates, payment, **19:18**
- Mediation before clerk of superior court, **35:16**
- Payment of obligations of decedent and estate, **8:43**

COUNSEL

- See index heading ATTORNEYS

COVER SHEET

- Personal representatives, **2:105**

CREDITORS

- Ascertainable, **9:5**
- Devisees, **29:14**
- Known, **9:5**
- Renunciation by heirs and beneficiaries, **15:23, 34:4**

CUTOFF DATE

- Generally, **8:7, 8:13, 8:16**

DATA GATHERING AND RECORDKEEPING

- Generally, **4:1-4:22**

**DATA GATHERING AND
RECORDKEEPING—Cont'd**

Accounts required by statute, **4:15**

Checklists

nonprobate assets that decedent might
leave at his or her death, **4:22**

probate assets that decedent might
leave at his or her death, **4:21**

Decedent, data on, **4:10**

Definitions

generally, **4:2-4:8**

joint tenancy without right of
survivorship, **4:7**

joint tenancy with right of survivor-
ship, **4:6**

nonprobate assets, **4:4**

probate assets, **4:3**

tenancy by entireties, **4:5**

tenancy in common, **4:8**

Expenditures and payments, **4:17**

Filed documents, **4:20**

Income and receipts, **4:16**

Inventories required by statute, **4:15**

Liabilities of decedent, **4:19**

Life insurance, **4:13**

Nonprobate assets, **4:4, 4:12-4:14**

Notebook of personal representative

generally, **App. B, 4:9-4:20**

decedent, data on, **4:10**

expenditures and payments, **4:17**

filed documents, **4:20**

inventories and accounts required by
statute, **4:15**

liabilities of decedent, **4:19**

life insurance, **4:13**

nonprobate assets, **4:12-4:14**

probate assets, **4:11**

receipts and income, **4:16**

tax returns, **4:18**

tenancy by entireties property, **4:14**

Payments and expenditures, **4:17**

Probate assets, **4:3, 4:11**

Receipts and income, **4:16**

Tax returns, **4:18**

Tenancy by entireties property, **4:5,
4:14**

DATE

See index heading **TIME AND DATE**

Index-12

DEADLINE DATE

Generally, **8:7, 8:16**

DEATH BENEFITS

Employer, **5:47**

Government, **5:47**

DEATH CERTIFICATES

Annuities payable to the estate, **5:51**

Checklist for settlement, **1:44**

Personal representatives, **2:64**

DEBT OWED DECEDENT

Generally, **5:52**

DEBTS OF DECEDENT OR ESTATE

Checklist for settlement, identification,
1:46

Division of net estate, specific devise
subject to debt, **28:36**

Protection of estate assets

generally, **7:12-7:14**

for detailed treatment see index head-
ing **PROTECTION OF ESTATE
ASSETS**

DECLARATORY JUDGMENT ACT

Construction and interpretation of wills,
31:23

DEDUCTIONS

Tax returns, **34:16**

DEED OF TRUST

Generally, **5:9**

DEFAULT OF RECEIVER

Military absentees, **25:16**

DEFICIENCY JUDGMENT

Year's allowance, **10:26**

DEFINITIONS

Administrator C.T.A., **2:11, 21:6, 24:5**

Advancee, **17:4**

Advancement, **17:3**

Advancement of intestate shares, **17:2-
17:5**

After-adopted, **23:4, 29:8**

After-born, **23:3, 29:7**

After-entitled illegitimate, **23:5, 29:9**

Ancillary administration, **14:2-14:10**

Ancillary personal representative, **14:7**

INDEX

DEFINITIONS—Cont'd

Beneficiary, **2:14**
Biological father, **20:10**
Caveat, **24:6**
Checklist for settlement, **1:3-1:8**
Claims, **26:4**
Clerk, **2:7, 13:4, 21:9, 26:5, 35:3**
Collateral devisees, **29:3**
Collateral heirs, **19:14, 20:5**
Common ancestor, **20:6**
Conditional sales contract, **18:5**
Construction and interpretation of wills, **31:2**
Co-owners with rights of survivorship, **11:3**
Creditor, **8:6**
Data gathering and recordkeeping, **4:2-4:8**
Deadline date, **8:7**
Death taxes, **8:12**
Decedent, **2:19**
Demonstrative devise, **28:14**
Department of Revenue, **8:11**
Devise, **2:15, 21:8, 28:9**
Devisee, **21:7, 28:5**
Disclaimer, **34:2**
Distribution, **19:11**
Division of net estate, **28:2-28:16**
Divorce from bed and board, **16:3**
Domicile, **2:34**
Domiciliary administration, **14:3**
Domiciliary personal representative, **14:4**
Election to take life estate, **18:2-18:7**
Elective share, **26:2-26:7**
Escheat, **20:7**
Estate, **2:8, 19:5, 21:14, 28:4**
Estate settlement statutes, **2:16, 21:10**
Ethics, **3:2**
Executor, **2:10, 21:5, 24:4**
Fiduciary, **35:4**
Foreign state, **14:9**
Forfeiture by heirs and beneficiaries, **16:2-16:13**
General devise, **28:15**
General power of appointment, **15:4, 16:12, 28:10**
Governing instrument, **11:4**

DEFINITIONS—Cont'd

Gross intestate estate, **19:8**
Half-blood, **20:8, 29:4**
Health care power of attorney, **21:50**
Heir, **2:12, 17:5, 19:6**
Home state, **14:10**
Innocent spouse, **16:5**
Intestate, **1:4, 2:17, 19:4**
Intestate estates, **19:2-19:16**
Intestate share, **19:10**
IRC, **26:3**
IRS, **8:10**
I.S.A., **19:3, 28:3**
Issue, **28:12**
Joint tenancy without right of survivorship, **4:7, 5:7**
Joint tenancy with right of survivorship, **4:6, 5:6, 6:5, 16:7, 18:7**
Letters, **2:21, 21:12**
Life estate, **5:4, 6:6, 16:8-16:11, 18:3**
Life tenant, **16:9**
Lineal ascendants, **19:13, 20:4**
Lineal descendant, **19:7, 20:3, 28:6, 29:6**
Living wills, **21:36**
In loco parentis, **10:3**
Mediation, **35:6**
Mediation before clerk of superior court, **35:2-35:7**
Mediation rules, **35:5**
Military absentees, **25:2**
Missing persons, **30:2**
Mortgage, **5:9, 18:4**
N.C. Gen. Stat., **2:22, 21:11**
Net estate, **28:7**
Net intestate estate, **19:9**
Neutral observers, **35:7**
Nonprobate assets, **4:4, 6:2-6:6**
Nonresident alien, **29:10**
Nonresident decedent, **14:8**
Notice to creditors, **8:5**
Partially testate and partially intestate estates, **1:6**
Payment of obligations of decedent and estate, **8:3-8:12**
Payor, **11:5**
Personal representative, **1:7, 2:6-2:23, 26:6**

DEFINITIONS—Cont'd

Probate, **24:2-24:6**
 Probate assets, **4:3, 5:2-5:9**
 Putative father, **20:11**
 Real estate, **5:5**
 Remainderman, **16:10**
 Renouncer, **15:3**
 Renunciation by heirs and beneficiaries, **15:2-15:5**
 Resident decedent, **14:5**
 Residuary, **28:11**
 Residuary devise, **28:16**
 Retirement accounts, **22:2**
 Reversionary right, **16:11**
 Revocation of wills, **23:2-23:5**
 Service, **2:23, 21:13**
 Siblings, **19:12**
 Simultaneous deaths, **11:2-11:5**
 Slayer, **16:22**
 Small estate collector, **12:4**
 Small estates, **12:2-12:4**
 Sole surviving spouse, **13:3**
 Special devisees and children, **29:2-29:10**
 Special heirs and children, **20:2-20:11**
 Special power of appointment, **15:5, 16:13**
 Specific devise, **28:13**
 Spoliation, **36:3**
 Spouse, **19:16**
 Springing or durable power of attorney, **21:68**
 Statutes of limitation, **1:8**
 Step-relationship, **20:9, 29:5**
 Summary administration for surviving spouses, **13:2-13:4**
 Surviving spouse, **26:7**
 Tax authorities, **8:9**
 Tenancy by entireties, **4:5, 6:4, 18:6**
 Tenancy by entireties property, **16:6**
 Tenancy in common, **4:8, 5:8**
 Testacy and intestacy, **1:3-1:6**
 Testate, **1:5, 2:20, 21:4**
 Testate share, **28:8**
 Testator, **2:18, 21:3**
 Time limitations, **8:4**
 Tort actions, **36:3**

DEFINITIONS—Cont'd

Wills and other estate planning documents, **21:2-21:14**
 Wrongdoing spouse, **16:4**
 Year's allowance, **8:8, 10:2, 10:3, 19:15**

DEGREES OF COLLATERAL KINSHIP

Generally, **20:13, 20:15**

DELEGATION OF RESPONSIBILITY

Personal representatives, **2:72**

DEMONSTRATIVE DEVISE

Generally, **28:14**
 Abatement, **28:28**
 Funded, **28:28**
 Unfunded, **28:28**

DEPOSIT CARDS

Checklist for settlement, joint bank accounts, **1:14**

DESTRUCTION OF WILLS

Probate of destroyed will, **24:33, 24:34**
 Tort actions, wrongful destruction of will, **36:11**
 Voluntary revocation, **23:11**

DEVISEES

Generally, **28:5**
 Defined, **21:7**
 Minor, **29:27**
 Missing, **29:23**
 Per capita, **29:25**
 Per stirpes, **29:26**
 Unlocatable, **29:23**

DEVISES

Generally, **28:9**
 Division of net estate. See index heading
 DIVISION OF TESTATOR'S NET ESTATE
 Notice to devisees of admission to probate, **24:16**
 Outright, **28:18**
 Revoked, **28:25**
 Special devisees and children
 generally, **29:1-29:28**
 for detailed treatment see index heading SPECIAL DEVISEES AND CHILDREN

INDEX

DEVICES—Cont'd

Void, **28:24**

DILIGENCE

Ethics, **3:9**

DISBURSEMENT RECEIPT

Generally, **1:69**

DISCHARGE

Small estate collector, **12:17**

DISCIPLINE

Mediation before clerk of superior court,
35:15

DISCLAIMER AVOIDING CREDITORS

Generally, **34:4**

DISCLAIMER TRUST

Generally, **13:9**

DISCOUNTS

Tax saving and asset protection
techniques, **34:19**

DISCOVERY

Generally, **9:17, 9:42**

Tort claims against estate. See index
heading TORT CLAIMS AGAINST
ESTATE

DISINHERITANCE

Generally, **21:1**

DISPUTED CLAIMS

Generally, **1:53, 8:52, 8:53, 33:6**

DISTRIBUTIONS

Generally, **1:68**

Caveat proceedings, **24:54, 24:55**

Checklist for settlement, **1:68**

Election to take life estate, **18:19**

Missing persons, **30:18**

Renunciation by heirs and beneficiaries,
liability for distribution in reliance
on improper renunciation, **15:17**

Small estates, assets recovered by small
estate collector, **12:15-12:17**

DISTRIBUTION WITH ABATEMENT

Generally, **28:27-28:29**

DIVIDEND INCOME

Generally, **5:49**

DIVISION OF TESTATOR'S NET ESTATE

Generally, **28:1-28:38**

Abatement

generally, **28:26-28:30**

demonstrative devises, **28:28**

distribution when abatement occurs,
28:27-28:29

other statutes, effect of, **28:30**

specific and demonstrative devises,
28:28, 28:29

specific devises, **28:28**

Ademption

generally, **28:31-28:34**

extinction, ademption by, **28:33,**
28:34

general devises, **28:32**

intent of testator, ademption by
extinction, **28:34**

lifetime gifts, generally, **28:31-28:34**

satisfaction, ademption by, **28:32**

specific devises, **28:33, 28:34**

Anti-lapse statute

generally, **28:21-28:25**

class member, renunciation or death
of, **28:23**

renunciation or death of individual
prior to testator's death, **28:21-**
28:23

residuary clause referencing
predeceased devisee, effect of,
28:22

revoked devises, **28:25**

void devises, **28:24**

Assignment of future devise, **28:37**

Class member, renunciation or death of
prior to testator's death, **28:23**

Construction of will

generally, **28:17-28:19**

presumption that devise is outright,
28:18

will speaks at testator's death, **28:19**

Contract to make will, **28:38**

Death of individual prior to testator's
death, **28:21-28:23**

Debts, specific devise subject to, **28:36**

DIVISION OF TESTATOR'S NET ESTATE—Cont'd

Definitions

generally, **28:2-28:16**
 demonstrative devise, **28:14**
 devise, **28:9**
 devisee, **28:5**
 estate, **28:4**
 general devise, **28:15**
 general power of appointment, **28:10**
 I.S.A., **28:3**
 issue, **28:12**
 lineal descendant, **28:6**
 net estate, **28:7**
 residuary, **28:11**
 residuary devise, **28:16**
 specific devise, **28:13**
 testate share, **28:8**

Demonstrative devises. Specific and demonstrative devises, below

Exoneration, specific devise subject to debts, **28:36**

Extinction, ademption by, **28:33, 28:34**

General power of appointment executed by will, **28:35**

Intent of testator, ademption by extinction, **28:34**

Lifetime gifts. Ademption, above

Presumption that devise is outright, **28:18**

Property that cannot pass by will, **28:20**

Renunciation of individual prior to testator's death, **28:21-28:23**

Residuary clause referencing predeceased devisee, anti-lapse statute, **28:22**

Revoked devises, anti-lapse statute, **28:25**

Satisfaction, ademption by, **28:32**

Specific and demonstrative devises

abatement, **28:28, 28:29**

ademption, **28:33, 28:34**

definitions, **28:13, 28:14**

Void devises, anti-lapse statute, **28:24**

Will speaks at testator's death, **28:19**

DIVORCE

From bed and board, **16:3**

Revocation of wills, **23:14-23:16**

DOCTRINE OF ACTS AND EVENTS OF INDEPENDENT SIGNIFICANCE

Construction and interpretation of wills, **31:21**

DOMICILIARY PERSONAL REPRESENTATIVE

Generally, **14:4**

DURABLE POWER OF ATTORNEY

Generally, **21:68-21:83**

For detailed treatment see index heading
 SPRINGING OR DURABLE POWER OF
 ATTORNEY

DWELLING HOUSE OPTION

Generally, **34:9**

DWELLING HOUSE RULE

Elective life estate, **18:9, 18:11**

EFFECT OF A CODICIL

After-adopted children, **29:17**

After-born children, **29:17**

After-entitled illegitimate, **29:17**

EFFECT OF NOTICE TO CREDITORS

Generally, **8:15**

ELECTIONS

Elective share

generally, **26:1-26:39**

for detailed treatment see index heading
 ELECTIVE SHARE

Life estate, election to take

generally, **18:1-18:22**

for detailed treatment see index heading
 ELECTION TO TAKE LIFE
 ESTATE

Small estates, determination of net value, **12:7**

Summary administration procedure, **13:7**

Tax saving and asset protection techniques. See index heading
 TAX
 SAVING AND ASSET PROTECTION
 TECHNIQUES

ELECTION TO TAKE LIFE ESTATE

Generally, **18:1-18:22**

INDEX

ELECTION TO TAKE LIFE ESTATE

—Cont'd

- Authorization to give notice of election, **18:21**
- Checklist for settlement, advice to spouse, **1:50, 1:51**
- Clerk's duties when election is made, **18:16**
- Definitions
 - generally, **18:2-18:7**
 - conditional sales contract, **18:5**
 - joint tenancy with rights of survivorship, **18:7**
 - life estate, **18:3**
 - mortgage, **18:4**
 - tenancy by entireties, **18:6**
- Distribution of property after elective life estate is chosen, **18:19**
- Dwelling house rule, **18:9, 18:11**
- Elective life estate, generally, **1:50, 18:8-18:19, 34:9**
- Forms
 - generally, **18:20-18:22**
 - authorization to give notice of election, **18:21**
 - notice of election, **18:20**
 - notice of right to elect, **18:22**
- General debts, freedom from, **18:10**
- Jury duties, notice to elect life estate, **18:17**
- Notice to elect life estate
 - generally, **18:14-18:17**
 - clerk's duties when election is made, **18:16**
 - forms, above
 - jury duties, **18:17**
 - persons who may file notice, **18:15**
- Persons who may file notice to elect life estate, **18:15**
- Real estate not subject to elective life estate, **18:12**
- Real estate subject to elective life estate, **18:9-18:11**
- Special dwelling house rule, **18:9, 18:11**
- Time limits, **18:13, 18:18, 33:22**
- Valuation, special dwelling house rule, **18:11**

ELECTIVE SHARE

- Generally, **1:51, 26:1-26:39, 34:10**
- Appeal from order of clerk, **26:24**
- Bequests
 - retention from bequests, **26:27**
 - uncollectible bequests, **26:28**
- Bond, **26:31**
- Checklist for settlement, advice to spouse, **1:50, 1:51**
- Contribution, **26:25, 26:26, 26:29**
- Definitions
 - generally, **26:2-26:7**
 - claims, **26:4**
 - clerk, **26:5**
 - IRC, **26:3**
 - personal representative, **26:6**
 - surviving spouse, **26:7**
- Determination of elective share, **26:35**
- Expenses, **26:30**
- Federal estate tax return, optional draft of, **26:21**
- Forms
 - generally, **26:36-26:39**
 - order for elective share, **26:39**
 - petition for elective share, **26:36**
 - petition for standstill order, **26:37**
 - standstill order, **26:38**
- Hearing to determine elective share, **26:20**
- Life estate, **26:32**
- Method by which contributions are made, **26:29**
- Method for filing of claim, **26:11**
- Order for elective share, **26:23, 26:24, 26:39**
- Personal representative's contribution to satisfy elective share, **26:26**
- Persons who may file claim, **26:9**
- Petition for elective share, **26:36**
- Petition for standstill order, **26:37**
- Place to file claim, **26:11**
- Power of attorney, **26:9**
- Premarriage will, **26:34**
- Procedure for determining elective share, generally, **26:8 et seq.**
- Property passing to surviving spouse (PPSS), **26:16, 26:17, 26:22**

ELECTIVE SHARE—Cont'd

- Reductions for property passing to surviving spouse, **26:17**
- Retention from bequests, **26:27**
- Satisfaction, **26:25 et seq.**
- Share of total net assets, **26:19**
- Standstill orders, **26:12, 26:38**
- Status of surviving spouse, **26:18**
- Time limitations, **33:13**
- Time to file claim, **26:10**
- Total assets of decedent, **26:14**
- Total net assets, **26:15**
- Uncollectible bequests, **26:28**
- Valuation of total net assets and property passing to surviving spouse (PPSS), **26:22**
- Waiver of right, **26:13**
- Year's allowance, **26:33**

ELECTRONIC STORAGE

- Ethics, wills, **3:24**

EMPLOYEES

- Ethics, wills, **3:20**

ENLARGEMENT OF STATUTE OF LIMITATIONS

- Generally, **9:14**

EQUITABLE ADOPTION

- Generally, **27:10, 29:20**

EQUITABLE DISTRIBUTION

- Generally, **8:36, 8:50, 27:8, 27:12**
- Family law. See index heading **FAMILY LAW**
- Orders, **27:8**
- Payment of obligations of decedent and estate. See index heading **PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE**

ERISA

- Generally, **8:36**

ESCHEAT

- Generally, **20:7**
- Intestate estates, aunts and uncles and lineal descendants, **19:38**

ESTATE BANK ACCOUNTS

- Generally, **1:39, 2:66**

ESTATE CHECKLIST

- See index heading **CHECKLISTS**

ESTATE PLANNING DOCUMENTS

- Generally, **21:1-21:92**
- For detailed treatment see index heading **WILLS AND OTHER ESTATE PLANNING DOCUMENTS**

ESTATE SAFE DEPOSIT BOX

- Generally, **7:8**

ESTATES OF MISSING PERSONS

- Generally, **25:23, 30:1-30:20**
- For detailed treatment see index heading **MISSING PERSONS**

ESTATE TAXES

- Generally, **1:66, 8:68-80, 33:14**
- Apportionment of, **8:80**
- Caveat proceeding, **24:55**
- Timetable, **8:79, 8:81**

ETHICS

- Generally, **3:1-3:29**
- Accounting, **3:12**
- Beneficiary, drafting attorney as, **3:21, 3:29**
- Best practices rules
 - generally, **3:26-3:29**
 - beneficiary of trust, drafting attorney as, **3:29**
 - confidentiality of nonclient information, **3:28**
 - preparation of related documents, **3:27**
- Church members, wills for, **3:19**
- Communication, **3:6**
- Competence, **3:4**
- Confidentiality, **3:8, 3:16, 3:23, 3:28**
- Conflict of interest, **3:10, 3:22**
- Definitions, **3:2**
- Diligence, **3:9**
- Document preparation, **3:15**
- Dual representation of spouses, **3:22**
- Electronic storage of wills, **3:24**
- Employees of organization, wills for, **3:20**
- Fees, **3:7, 3:17**
- Health information, confidentiality of, **3:16**

INDEX

ETHICS—Cont'd

- Independence, **3:13, 3:15**
- Personal representatives
 - confidentiality, **3:23**
 - representation, **3:25**
- Preparation of related documents, **3:27**
- Records, **3:12**
- Referral fees, **3:17**
- Related documents, preparation of, **3:27**
- Representation of personal representative, **3:25**
- Safekeeping of property, **3:11**
- Scope of representation, **3:5**
- Spouses, dual representation of, **3:22**
- Trade names, **3:18**

EVENTS OF INDEPENDENT SIGNIFICANCE

- Generally, **31:21**

EVIDENCE

- Death, **11:14**
- Living wills, **21:42**
- Presumptions. See index heading PRESUMPTIONS
- Simultaneous deaths, **11:4**
- Witnesses. See index heading WITNESSES

EXCLUSION OF ASSETS

- Probate assets
 - generally, **5:60-5:65**
 - for detailed treatment see index heading PROBATE ASSETS

EXECUTORS

- Nonresident, **2:49**
- Notice, **9:4**

EXECUTORY CONTRACTS RIGHTS

- Generally, **5:45**

EXEMPTION AMOUNT

- Federal estate tax, **22:1**

EXONERATION

- Division of net estate, specific devise subject to debts, **28:36**
- Specific devise, **28:36**

EXPECTANCY

- Malicious interference, **36:4**

EXPENDITURES AND PAYMENTS

- Generally, **4:17**

EXPENSES

- See index heading COSTS AND EXPENSES

EXPERTS

- Generally, **1:32**
- Checklist for settlement, retention of experts, **1:32**

EXTINCTION

- Ademption by extinction, **28:33, 28:34**

FAILURE TO ATTEND MEDIATION

- Sanctions, **35:12**

FAMILY LAW

- Generally, **27:1-27:12**
- Alimony, **27:5**
- Child support agreements or orders, **27:6**
- Equitable adoption, **27:10**
- Equitable distribution
 - compromises, **27:12**
 - orders, **27:8**
- Marital agreements, **27:4**
- Notice of claim requirement, **27:11**
- Postnuptial agreements, **27:3, 27:4**
- Prenuptial agreements, **27:2, 27:4**
- Property settlement agreements, **27:9**
- Separation agreements, **27:7**
- Spousal support orders, **27:5**

FAMILY SETTLEMENTS

- Tax saving and asset protection techniques, **34:14**

FARMS AND FARMING

- Checklist for settlement, establishment of receivership for ongoing farm, **1:42**
- Payment of obligations of decedent and estate, **8:60**
- Probate assets
 - generally, **5:44**
 - for detailed treatment see index heading PROBATE ASSETS

FEDERAL ESTATE TAX

- Exemption amount, **22:1**

**FEDERAL TAX IDENTIFICATION
NUMBER**

Generally, **2:65**

FEES

See index heading COMMISSIONS AND
FEES

FELONS

Convicted, **2:29**

FIDUCIARY OBLIGATIONS

Personal representatives, **2:77**

FIDUCIARY RELATIONSHIP

Generally, **1:76**

Notice concerning, **1:76, 2:120, 8:76**

Notice of termination, **32:24**

**FIDUCIARY'S REVIEW OF
RENUNCIATION**

Generally, **15:7**

**FILING OF INVENTORIES AND
ACCOUNTS**

Generally, **32:1-32:33**

Annual accounts

generally, **32:6-32:9**

audit by clerk, **32:8**

compelling of annual account, **32:9**

contents, **32:7**

form, **32:27**

Attorney-personal representative,
professional fees, **32:20**

Audit by clerk

annual accounts, **32:8**

final account, **32:15**

Certification of estate tax, **32:28**

Closing of estate

generally, **32:21-32:25**

IRS Form 1099 for commission,
32:23

reopening of estate, **32:25**

surety, release of, **32:22**

termination of notice of fiduciary rela-
tionship, **32:24**

Commissions and fees

generally, **32:17-32:20**

attorney-personal representative or
CPA-personal representative,
professional fees, **32:20**

**FILING OF INVENTORIES AND
ACCOUNTS—Cont'd**

Commissions and fees—Cont'd

order for payment of commission to
personal representative, **32:31**

payment prior to closing estate,
personal representative, **32:18**

personal representative, **32:17-32:19**

petition for payment of commission to
personal representative, **32:30**

renouncing of commission by
personal representative, **32:19**

Compelling of annual account, **32:9**

Compelling of final account, **32:16**

CPA-personal representative, profes-
sional fees, **32:20**

Failure to file inventories, **32:5**

Fees. Commissions and fees, above

Final account

generally, **32:10-32:16**

audit by clerk, **32:15**

compelling of final account, **32:16**

contents, **32:13, 32:14**

due date, **32:11**

tax clearance, **32:12**

vouchers, **32:14**

Forms

generally, **32:26-32:33**

annual account, **32:27**

certification of estate tax, **32:28**

notice to surety of settlement, **32:32**

order for payment of commission to
personal representative, **32:31**

petition for payment of commission to
personal representative, **32:30**

receipt by heir/beneficiary, **32:29**

reopening of estate, petition and
order, **32:33**

three month inventory, **32:26**

Notice to surety of settlement, **32:32**

Payment of commissions and fees prior
to closing estate, personal represen-
tative, **32:18**

Personal representative, commissions
and fees, **32:17-32:19, 32:30,
32:31**

Preliminary inventory, **32:2**

Receipt by heir/beneficiary, **32:29**

INDEX

FILING OF INVENTORIES AND ACCOUNTS—Cont'd

- Renouncing of commission by personal representative, **32:19**
- Reopening of estate, **32:25, 32:33**
- Supplemental inventories, **32:4**
- Surety, release of, **32:22**
- Tax clearance, final account, **32:12**
- Termination of notice of fiduciary relationship, **32:24**
- Three month inventory, **32:3, 32:4, 32:26**
- Vouchers, final account, **32:14**

FILING SUIT

- Notice of claim, **9:10**

FINAL ACCOUNTS

- Checklist for settlement, **1:72**
- Filing of inventories and accounts
 - generally, **32:10-32:16**
 - for detailed treatment see index heading **FILING OF INVENTORIES AND ACCOUNTS**

FOREIGN HEALTH CARE POWER OF ATTORNEY

- Generally, **21:65**

FOREIGN PROBATE PROCEEDINGS

- Generally, **24:37**

FOREIGN WILLS

- Generally, **21:34**
- Validity, **21:34**

FORFEITURE BY HEIRS AND BENEFICIARIES

- Generally, **16:1-16:39**
- Acts, generally, **16:14**
- Annuity proceeds, slayers, **16:27**
- Beneficiaries or heirs of slayer, **16:25**
- Child's estate, loss of parent's right to share in, **16:19, 16:20**
- Common law remedy, slayers, **16:39**
- Contingent interests, slayers, **16:33**
- Definitions
 - generally, **16:2-16:13**
 - divorce from bed and board, **16:3**
 - general power of appointment, **16:12**
 - innocent spouse, **16:5**

FORFEITURE BY HEIRS AND BENEFICIARIES—Cont'd

- Definitions—Cont'd
 - joint tenancy with rights of survivorship, **16:7**
 - life estate, **16:8-16:11**
 - life tenant, **16:9**
 - remainderman, **16:10**
 - reversionary right, **16:11**
 - slayer, **16:22**
 - special power of appointment, **16:13**
 - tenancy by entireties property, **16:6**
 - wrongdoing spouse, **16:4**
- Heirs or beneficiaries of slayer, **16:25**
- Husband and wife. Spouses, below
- Innocent spouse, **16:18**
- Insurance proceeds, slayers, **16:27**
- Joint tenancy with or without rights of survivorship, slayers, **16:29-16:31**
- Juvenile, **16:22**
- Parents, **16:19, 16:20**
- Powers of appointment, slayers, **16:35**
- Records determining status of slayer, **16:37**
- Reversions, slayers, **16:32**
- Rights lost, generally, **16:15, 16:16**
- Rights not lost, generally, **16:17**
- Simultaneous death, slayers, **16:38**
- Slayers
 - generally, **16:21-16:39**
 - common law remedy, **16:39**
 - contingent interests, **16:33**
 - defined, **16:22**
 - heirs or beneficiaries of slayer, **16:25**
 - insurance and annuity proceeds, **16:27**
 - joint tenancy without rights of survivorship, **16:29-16:31**
 - joint tenancy with rights of survivorship, **16:30, 16:31**
 - persons dealing with slayer, **16:24**
 - powers of appointment, **16:35**
 - property subject to being divested, **16:34**
 - records determining status of slayer, **16:37**
 - reversions and vested remainders, **16:32**

**FORFEITURE BY HEIRS AND
BENEFICIARIES—Cont'd**

- Slayers—Cont'd
 - rights lost by slayer, generally, **16:26-16:36**
 - simultaneous death, **16:38**
 - tenants by entireties property, **16:28**
 - willful and unlawful killing, **16:23**
- Spouses
 - generally, **16:14-16:18**
 - acts of forfeiture, **16:14**
 - innocent spouse, **16:18**
 - rights lost due to forfeiture, **16:15, 16:16**
 - rights not lost to wrongdoing spouse, **16:17**
 - wrongful death or workers' compensation death benefits, **16:16**
- Tenants by entireties property, slayers, **16:28**
- Vested remainders, slayers, **16:32**
- Willful and unlawful killing, slayers, **16:23**
- Workers' compensation death benefits, spouses, **16:16**
- Wrongful death benefits, spouses, **16:16**

FORGERY

- Caveat proceedings, **24:42**
- Wills, **36:6**

FORMS

- Accounts. Filing of inventories and accounts, below
- Election to take life estate
 - generally, **18:20-18:22**
 - authorization to give notice of election, **18:21**
 - notice of election, **18:20**
 - notice of right to elect, **18:22**
- Elective share
 - generally, **26:36-26:39**
 - order for elective share, **26:39**
 - petition for elective share, **26:36**
 - petition for standstill order, **26:37**
 - standstill order, **26:38**
- Filing of inventories and accounts
 - generally, **32:26-32:33**
 - annual account, **32:27**

FORMS—Cont'd

- Filing of inventories and accounts
 - Cont'd
 - certification of estate tax, **32:28**
 - notice to surety of settlement, **32:32**
 - order for payment of commission to personal representative, **32:31**
 - petition for payment of commission to personal representative, **32:30**
 - receipt by heir/beneficiary, **32:29**
 - reopening of estate, petition and order, **32:33**
 - three month inventory, **32:26**
- Health care power of attorney, **21:88**
- Inventories. Filing of inventories and accounts, above
- Life estates. Election to take life estate, above
- Living wills, **21:87**
- Notebook of personal representative.
 - Probate assets, below
- Payment of obligations of decedent and estate
 - generally, **8:82-8:84**
 - affidavit of notice to known or ascertainable creditors, **8:83**
 - affidavit of publication, **8:84**
 - notice to creditors, **8:82**
- Personal representatives
 - generally, **2:105-2:124**
 - administration, applications for letters of, **2:106**
 - applications for letters
 - administration, letters of, **2:106**
 - probate and letters, **2:107, 2:108**
 - trusteeship under will, letters of, **2:109**
 - certificate of probate, **2:110**
 - estates action cover sheet, **2:105**
 - IRS Form 56, **2:120**
 - IRS Form SS-4, **2:119**
 - issuance of letters, standard order authorizing, **2:117**
 - letters
 - generally, **2:118**
 - applications for letters, above in this group
 - locating of will, **2:113**

INDEX

FORMS—Cont'd

Personal representatives—Cont'd
modification of bond, application and order for, **2:116**
oath of personal representative, **2:112**
petition of executor to resign, **2:122**
probate and letters, applications, **2:107, 2:108**
renunciation of right to qualify for letters, **2:121**
resident process agent, appointment of, **2:111**
resignation
order, **2:123**
petition of executor, **2:122**
standard bond form, **2:115**
trusteeship under will, applications for letters of, **2:109**
verification, **2:124**
waiver of bond of personal representative, **2:114**

Probate

generally, **24:59-24:65**
application for probate and letters, **24:59**
certificate of probate, **24:60**
holographic will, affidavit for probate, **24:65**
notice to beneficiary, **24:61**
self-proving clause, **24:62**
subscribing witness, affidavit for probate of will, **24:63**
unavailable witness, affidavit for probate of will, **24:64**

Probate assets

generally, **5:67-5:71**
account information, sample letter requesting, **5:70**
notebook of personal representative entry for solely owned real estate, **5:67**
sample page, **5:71**
order authorizing possession, custody and control of real estate, **5:69**
petition to take possession, custody and control of real estate, **5:68**

Renunciation by heirs and beneficiaries
notice of renunciation and qualified disclaimer, **15:24**

FORMS—Cont'd

Renunciation by heirs and beneficiaries—Cont'd
notice of right to renounce, **15:25**

Small estates

generally, **12:23-12:27**
affidavit for collection of personal property, **12:23-12:25**
affidavit of collection, disbursement and distribution, **12:26**
application for administration by clerk, **12:27**
instructions, affidavit for collection of personal property, **12:25**

Springing or durable power of attorney, **21:89**

Summary administration for surviving spouses

generally, **13:21-13:23**
application for probate and petition for summary administration, **13:22**

order of summary administration, **13:23**

petition for summary administration of estate without will, **13:21**

Year's allowance

generally, **10:25-10:27**
application for allowance, **10:25, 10:27**
deficiency judgment, **10:26**
excess of statutory amount, application for allowance in, **10:27**

FRAUD

Caveat proceedings, **24:42**
Wills, **36:7**

FUNDED, DEMONSTRATIVE DEVISE

Generally, **28:28**

FUNERAL ARRANGEMENTS

Health care agent, **2:69**
Personal representative, **2:69**

FUNERAL EXPENSES

Payment of obligations of decedent and estate, **8:45**

FUTURE DEVISE

Assignment, **28:37**

GENERAL CLAIMS

Generally, **8:51**

GENERAL DEVISE

Generally, **28:15**

Ademption by satisfaction, **28:32**

**GENERAL POWER OF
APPOINTMENT**

Generally, **15:4, 16:12, 28:10**

Executed by will, **28:35**

Renunciation, **15:19**

GENERAL POWER OF ATTORNEY

Requirements, **21:69**

Statutory form, **21:70**

GEN.STAT. 1-22

Generally, **9:18**

GIFTS

Ademption

generally, **28:31-28:34**

for detailed treatment see index heading
DIVISION OF TESTATOR'S NET
ESTATE

Anatomical gifts. See index heading
ANATOMICAL GIFTS

Causa mortis gifts, **6:26, 6:27**

Retirement accounts, **22:8**

Springing or durable power of attorney,
21:73

GOOD FAITH PURCHASERS

Probate, time limit in which to probate
will, **24:12**

GOVERNING INSTRUMENT

Generally, **11:4**

GOVERNMENT BENEFITS

Checklist for settlement, activation or
termination, **1:41**

GRANDPARENTS

Intestate estates, **19:36**

GRAVESTONES

Payment of obligations of decedent and
estate, **8:46**

GROSS INTESTATE ESTATE

Generally, **19:8**

GUARDIANSHIP

Health care power of attorney, **21:58**

Springing or durable power of attorney,
21:77

HALF-BLOOD DEVISEES

Generally, **29:4, 29:12**

HALF-BLOOD HEIRS

Generally, **20:8, 20:16**

HEALTH CARE AGENT

Funeral arrangements, **2:69**

**HEALTH CARE POWER OF
ATTORNEY**

Generally, **21:50-21:67**

Activation, **21:55**

Anatomical gift declaration, conflict
with, **21:60**

Definition, **21:50**

Foreign health care power of attorney,
21:65

Form, **21:88**

General powers of attorney
conflict with power, **21:61**

incorporation into power, **21:62**

Guardianship appointment, effect of,
21:58

Living wills

conflict with living will, **21:59**

incorporation into living will, **21:63**

Minors, **21:66**

Persons who may act as health care
attorney-in-fact, **21:52**

Persons who may make health care
power of attorney, **21:51**

Purpose, **21:50**

Reliance on health care power of
attorney, **21:64**

Requirements, **21:53**

Revocation, **21:56**

Scope, **21:54**

Spouse as agent, **21:57**

Statutory form, **21:67**

Validity, **21:53**

INDEX

HEALTH INFORMATION

Ethics, confidentiality, **3:16**

HEALTH INSURANCE

PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

Generally, **21:50**

Release, form, **21:92**

HEARINGS

Elective share, hearing to determine
elective share, **26:20**

Military absentees, **25:6, 25:7**

Personal representatives, revocation,
2:90, 2:91

HEIRS

Construction and interpretation of wills,
31:12

Forfeiture by heirs and beneficiaries
generally, **16:1-16:39**
for detailed treatment see index head-
ing FORFEITURE BY HEIRS AND
BENEFICIARIES

Probate assets, real estate transfers by
heirs, **5:21**

Renunciation by heirs and beneficiaries
generally, **15:1-15:25**
for detailed treatment see index head-
ing RENUNCIATION BY HEIRS
AND BENEFICIARIES

Special heirs and children
generally, **20:1-20:32**
for detailed treatment see index head-
ing SPECIAL HEIRS AND CHIL-
DREN

HOLOGRAPHIC WILLS

Generally, **21:25-21:29**

Probate, **24:26, 24:65**

Property passed, **21:29**

Safekeeping requirement, **21:28**

Signature requirement, **21:27**

Writing requirement, **21:26**

HOME STATE

Generally, **14:10**

HOTCHPOTTING

Generally, **17:11**

HOUSEHOLD GOODS

Lease by personal representative, **5:27**

Sale by personal representative, **5:27**

HUSBAND AND WIFE

Advancement of intestate shares to
spouse, **17:7**

Checklist for settlement, advice of elec-
tive life estate and elective share,
1:50

Checklist for settlement, advice of right
to take elective life estate and elec-
tive share, **1:51**

Community property. See index heading
COMMUNITY PROPERTY

Construction and interpretation of wills,
31:7

Elective share
generally, **26:1-26:39**
for detailed treatment see index head-
ing ELECTIVE SHARE

Ethics, dual representation of spouses,
3:22

Family law. See index heading FAMILY
LAW

Forfeiture by heirs and beneficiaries
generally, **16:14-16:18**
for detailed treatment see index head-
ing FORFEITURE BY HEIRS AND
BENEFICIARIES

Health care power of attorney, **21:57**

Intestate estates
generally, **19:27-19:32**
for detailed treatment see index head-
ing INTESTATE ESTATES

Marital agreements, **27:4**

Marriage. See index heading MARRIAGE

Postnuptial agreements, **27:3, 27:4**

Prenuptial agreements, **27:2, 27:4**

Separation agreements, **27:7**

Summary administration for surviving
spouses
generally, **13:1-13:23**
for detailed treatment see index head-
ing SUMMARY ADMINISTRATION
FOR SURVIVING SPOUSES

Support, spousal, **27:5**

Year's allowance
generally, **10:4-10:10**

HUSBAND AND WIFE—Cont'd
 Year's allowance—Cont'd
 for detailed treatment see index heading YEAR'S ALLOWANCE

ILLEGITIMATE CHILDREN
 Generally, **20:20-20:26, 29:18, 31:11**
 Adverse judgment in paternity action, **20:23**
 Claims, **33:12**
 Construction and interpretation of wills, **31:11**
 Formal acknowledgment of paternity, **20:21**
 Informal acknowledgment of paternity, **20:24-20:26**
 Marriage of reputed father and illegitimate's mother, **20:22**
 Time limitations, **33:12**
 Written acknowledgment of paternity, **20:25**

ILLEGITIMATE DEVISEES
 Generally, **29:22**

ILLEGITIMATE INTESTATES
 Generally, **20:27**

ILLEGITIMATE SPOUSES
 Generally, **20:28**

IMMUNITY
 Mediator, **35:14**

IMPLIED RENUNCIATION
 Generally, **2:79-2:82**

IMPROPER EXECUTION
 Generally, **24:44**

INADMISSIBILITY
 Mediation negotiations, **35:17**

INCOME
 Data gathering and recordkeeping, **4:16**

INCOME IN RESPECT OF DECEDENT
 Tax saving and asset protection techniques, **34:15**

INCOME TAX REFUND CHECKS
 Probate assets, **5:53**

INCONSISTENT REVELATORY WRITING
 Subsequent, **23:7**

INCONSISTENT WILL
 Subsequent, **23:7**

INCORPORATION BY REFERENCE
 Construction and interpretation of wills, **31:20**

INDEPENDENCE
 Ethics, **3:13, 3:15**

INDEPENDENT SIGNIFICANCE, DOCTRINE OF ACTS AND EVENTS
 Construction and interpretation of wills, **31:21**

INFANTS
 See index heading CHILDREN AND MINORS

INFORMAL ACKNOWLEDGMENT
 Paternity, **20:24-20:26**

INITIAL INVENTORY
 Absentee in military service, **25:11**

IN LOCO PARENTIS
 Generally, **10:3**

INNOCENT SPOUSE
 Forfeiture by heirs and beneficiaries, **16:18**

INSOLVENT ESTATES
 Nonprobate assets, recovery of nonprobate property, **6:26, 6:27**
 Year's allowance, setting out statutory allowance, **10:17**

INSTRUCTIONS
 Small estates, affidavit for collection of personal property, **12:25**

INSURANCE
 Generally, **8:58**
 Checklist for settlement, **1:24, 1:27**
 Coverage, **9:6**
 Estate assets, **7:10**
 Forfeiture by heirs and beneficiaries, slayers, **16:27**

INDEX

INSURANCE—Cont'd

- Life insurance. See index heading LIFE INSURANCE
- Living wills, **21:47**
- Maintenance of, **1:24**
- Missing persons, **30:19**
- Payable to estate, **1:27**
- Payment of obligations of decedent and estate, **8:58**
- Protection of estate assets, **7:10**
- Renunciation, **15:18**
- Wrongful death claims against estate, three month probate time limitation, **9:6**

INTENT

- Ademption by extinction, **28:34**
- Construction and interpretation of wills, **31:5**
- Nonprobate assets, intent to defraud, **6:26, 6:27**
- Revocation of wills, divorce or annulment, **23:15**

INTERESTED DEVEISEES

- Witnesses, as, **29:28**

INTEREST INCOME

- Probate assets, **5:49**

INTERPRETATION OF WILLS

- Generally, **31:1-31:23**
- For detailed treatment see index heading CONSTRUCTION AND INTERPRETATION OF WILLS

IN TERROREM CLAUSES

- Generally, **24:57, 31:15**

INTESTATE ESTATES

- Generally, **19:1-19:39**
- Advancements
 - generally, **17:1-17:13**
 - for detailed treatment see index heading ADVANCEMENT OF INTESTATE SHARES
- Aunts and uncles and lineal descendants
 - generally, **19:37-19:39**
 - escheat, **19:38**
 - special problems, **19:39**
- Brothers, sisters and lineal descendants, **19:7, 19:12, 19:35**

INTESTATE ESTATES—Cont'd

- Children, **19:34**
- Construction and interpretation of wills, **31:17**
- Costs of administration, payment of, **19:18**
- Definitions
 - generally, **19:2-19:16**
 - collateral heirs, **19:14**
 - distribution, **19:11**
 - estate, **19:5**
 - gross intestate estate, **19:8**
 - heir, **19:6**
 - intestate, **19:4**
 - intestate share, **19:10**
 - I.S.A., **19:3**
 - lineal ascendants, **19:13**
 - lineal descendant, **19:7**
 - net intestate estate, **19:9**
 - siblings, **19:12**
 - spouse, **19:16**
 - year's allowance, **19:15**
- Diagram, division of estate, **19:25**
- Division of estate, rules of, **19:24-19:26**
- Escheat, aunts and uncles and lineal descendants, **19:38**
- Grandparents, **19:36**
- Husband and wife. Spouses, below
- Intestate Succession Act, generally, **19:21**
- Lawful debts and claims, **19:19**
- Lineal descendants, **19:22, 19:34, 19:35**
- Multiple surviving lineal descendant, effect on share of spouse, **19:32**
- Net intestate estate
 - generally, **19:17-19:21**
 - costs of administration, payment of, **19:18**
 - Intestate Succession Act, **19:21**
 - lawful debts and claims, **19:19**
 - taxes, payment of, **19:20**
 - year's allowances, payment of, **19:18**
- Parents, **19:30, 19:33**
- Partial intestacy, **1:6, 13:6, 19:4**
- Personal representatives, effective renunciation of right to act, **2:84**
- Priority of heirs, **19:22, 19:23**
- Prior marriages, **19:29**

INTESTATE ESTATES—Cont'd

- Siblings and lineal descendants, **19:7, 19:12, 19:35**
- Single surviving lineal descendant, effect on share of spouse, **19:31**
- Sisters, brothers and lineal descendants, **19:7, 19:12, 19:35**
- Sole heir, surviving spouse as, **19:28, 19:29**
- Spouses
 - generally, **19:27-19:32**
 - definition, **19:16**
 - multiple surviving lineal descendant, effect of, **19:32**
 - prior marriages, **19:29**
 - single surviving lineal descendant, effect of, **19:31**
 - sole heir, surviving spouse as, **19:28, 19:29**
 - surviving parents, effect of, **19:30**
- Taxes, payment of, **19:20**
- Uncles. Aunts and uncles and lineal descendants, above
- Year's allowances, payment of, **19:15, 19:18**

INVENTORIES

- Advancement of intestate shares, **17:13**
- Checklist for settlement. See index heading **CHECKLISTS**
- Data gathering and recordkeeping, **4:15**
- Filing of inventories and accounts
 - generally, **32:1-32:33**
 - for detailed treatment see index heading **FILING OF INVENTORIES AND ACCOUNTS**
- Military absentees, **25:11, 25:13, 25:14**
- Missing persons, **30:11**
- Personal representatives, filing of application for letters, **2:39**
- Preliminary inventory. See index heading **PRELIMINARY INVENTORIES**

INVESTMENTS

- Personal representatives, bonds, **2:56**
- Probate assets
 - generally, **5:36-5:38**
 - for detailed treatment see index heading **PROBATE ASSETS**
- Protection of estate assets, **7:9**

INVESTMENTS—Cont'd

- Surety, as, **2:56**

INVOLUNTARY REVOCATION OF WILLS

- Generally, **23:13-23:21**
- For detailed treatment see index heading **REVOCATION OF WILLS**

IRC § 691

- Income in respect of decedent, **22:1, 34:15**

IRS FORM 56

- Generally, **1:76, 2:120, 8:76**

IRS FORM 1099

- Commissions paid, **1:75, 32:23**

ISSUE

- Construction and interpretation of wills, **31:10**
- Definition, **28:12**

JOINT BANK ACCOUNTS

- Generally, **1:14**

JOINT INCOME TAX RETURNS WITH DECEDENT

- Generally, **34:21**

JOINT OWNERSHIP

- Forfeiture by heirs and beneficiaries, slayers, **16:29-16:31**
- Nonprobate assets
 - generally, **6:13-6:19**
 - for detailed treatment see index heading **NONPROBATE ASSETS**
- Probate assets, **5:20, 5:23**

JOINT PERSONAL REPRESENTATIVES

- Generally, **2:75, 2:76**

JOINT TENANCY

- Generally, **4:6, 4:7, 5:6, 5:7, 5:20, 16:7, 18:7**

JOINT WILLS

- Generally, **28:38**

JUDGMENT LIENS

- Malpractice traps, **9:37, 9:39**
- Payment of obligations of decedent and estate, **8:48**

INDEX

JUDGMENTS

- Liens. See index heading JUDGMENT
LIENS
- Probate assets, **5:54**

JURISDICTION

- Personal representatives, **2:43**

JURY

- Notice to elect life estate, **18:17**

JUVENILES

- See index heading CHILDREN AND
MINORS

KINDS OF WILLS

- Generally, **21:18-21:31**

KNOWN CREDITORS

- Generally, **9:5**

KNOWN OR ASCERTAINABLE CREDITORS

- Generally, **8:26-8:30**

LACK OF TESTAMENTARY CAPACITY

- Generally, **24:40**

LANDLORD'S RIGHTS

- Generally, **12:18**

LANDOWNER AS SURETY

- Generally, **2:54**

LATENT AMBIGUITY

- Construction and interpretation of wills,
31:3

LAWYERS

- See index heading ATTORNEYS

LEASES

- Generally, **5:43**
- Probate assets, **5:18, 5:25-5:27, 5:43**
- Small estates, **12:18**

LEGAL DISABILITIES

- Generally, **9:43**

LEGITIMIZATION

- Revocation of wills, **23:17**

LETTERS

- Administration, letters of, **2:24**
- Application, **2:32**

LETTERS—Cont'd

- Application content, **2:36**
- Clerk's approval, **2:41, 2:59, 2:60, 2:62**
- Collateral attack, **2:62**
- Collection, letters of, **2:95**
- County of application, **2:33**
- Death of personal representative, **2:31**
- Domicile, **2:34**
- Filing, **2:37-2:40**
- Notification of beneficiaries, **2:42**
- Personal representatives
 - generally, **2:24-2:40, 2:59-2:62**
 - for detailed treatment see index head-
ing PERSONAL REPRESENTATIVES
- Qualification, **2:26, 2:27, 2:29, 2:30**
- Revocation, **2:61, 2:90-2:94**

LIABILITIES OF THE DECEDENT

- Generally, **4:19**

LIENS

- Judgment liens. See index heading
JUDGMENT LIENS
- Medicaid liens, **8:40, 8:48**
- Payment of obligations of decedent and
estate, **8:48, 8:59**

LIFE ESTATES

- Definition, **5:4, 16:9, 18:3**
- Election to take life estate
 - generally, **18:1-18:22**
 - for detailed treatment see index head-
ing ELECTION TO TAKE LIFE
ESTATE
- Elective share, **26:32**
- Forfeiture by heirs and beneficiaries,
16:8-16:11
- Probate assets, generally, **5:4, 5:48, 5:62**

LIFE INSURANCE

- Data gathering and recordkeeping, **4:13**
- Nonprobate assets
 - generally, **6:8-6:12**
 - for detailed treatment see index head-
ing NONPROBATE ASSETS
- Probate assets. See index heading
PROBATE ASSETS
- Renunciation by heirs and beneficiaries,
15:18
- Retirement accounts, **22:6**

LIFETIME GIFTS

Ademption, **28:31-28:34**

LIMITATION OF LIABILITY

Payment of obligations of decedent and estate, notice to creditors known or ascertainable, **8:28**

LIMITED PERSONAL REPRESENTATIVE

Generally, **8:13**

LINEAL ASCENDANT

Generally, **19:13, 20:4**

LINEAL DESCENDANT

Generally, **19:22, 19:34, 19:35, 20:3, 28:6, 29:6**

LIVE BIRTH

After-born children, **29:16**

LIVING WILLS

Generally, **21:36-21:49**

Activation

generally, **21:44-21:46**

cause of death, **21:45**

implementation of living will terms as not constituting suicide, **21:46**

Cause of death, **21:45**

Definition, **21:36**

Form, **21:87**

Health care power of attorney. See index heading HEALTH CARE POWER OF ATTORNEY

Insurance coverage, preconditions to, **21:47**

Notarization, **21:42**

Physician authorization, **21:40**

Proof, **21:42**

Purpose, **21:36**

Requirements, generally, **21:38-21:42**

Revocation, **21:43**

Right to natural death, **21:37**

Stated desire of declarant, **21:39**

Statutory form, **21:49**

Suicide, implementation of living will terms as not constituting, **21:46**

Witnesses, **21:41**

LOCATING WILL

Generally, **1:13**

LOCATION

See index heading PLACE OR LOCATION

LOST WILLS

Probate of, **24:33, 24:34**

MAKE A WILL

Contract, **28:38**

MALICIOUS INTERFERENCE WITH AN EXPECTANCY

Generally, **36:4**

MALPRACTICE TRAPS

Retirement accounts, **22:13**

Tort claims. See index heading TORT AGAINST THE ESTATE

MARITAL AGREEMENTS

Generally, **27:2-27:4**

MARRIAGE

Illegitimate children, marriage of reputed father and illegitimate's mother, **20:22**

Revocation of wills, **23:13**

MEDIATION BEFORE CLERK OF SUPERIOR COURT

Generally, **35:1-35:23**

Agreements, **35:20**

Appearance required, **35:10, 35:12**

Breadth, **35:9**

Definitions

generally, **35:2-35:7**

clerk, **35:3**

fiduciary, **35:4**

mediation, **35:6**

mediation rules, **35:5**

neutral observers, **35:7**

Discipline of mediator, **35:15**

Expenses, **35:16**

Immunity of mediator, **35:14**

Negotiations

generally, **35:21**

inadmissibility, **35:17**

Notice of mediation, **35:11**

Probate clerk, generally, **35:1-35:23**

Purpose, **35:8**

Rules, **35:5, 35:23, App. E**

Sanctions for failure to attend, **35:12**

Selection of mediator, **35:13**

INDEX

MEDIATION BEFORE CLERK OF SUPERIOR COURT—Cont'd

- Supplementation of procedural details,
35:22
- Supreme Court mediation rules, 35:23
- Testimony
 - limitation on testimony, 35:18
 - requirement, 35:19

MEDICAID LIENS

- Generally, 8:40, 8:48

MEDICAL EXPENSES

- Generally, 8:40, 8:49

MENTAL HEALTH TREATMENT INSTRUCTIONS

- Generally, 21:86, 21:91

MENTAL INCOMPETENCE OR INCAPACITY

- Revocation of wills, 23:20
- Springing or durable power of attorney,
21:72

METHOD OF PRESENTATION

- Generally, 9:9

METHODS OF PROBATE

- Generally, 24:17-24:35

MILITARY ABSENTEES

- Generally, 25:1-25:26
- Annual inventory and account, 25:13,
25:14
- Appointment of receiver, generally, 25:3
et seq.
- Audit by clerk, 25:15
- Bond, 25:10
- Contents of annual inventory and
account, 25:14
- Contents of petition to appoint receiver,
25:5
- Default of receiver, 25:16
- Definitions, 25:2
- Duties of receiver, 25:12
- Hearing on petition, 25:6, 25:7
- Initial inventory, 25:11
- Misconduct of receiver, 25:16
- Missing persons, estates of
generally, 25:23-25:26

MILITARY ABSENTEES—Cont'd

- Missing persons, estates of—Cont'd
 - petition for appointment of receiver,
25:24-25:26
 - summary receivership, 25:25, 25:26
- Notice of hearing, 25:6
- Petition for appointment of receiver,
25:4, 25:5, 25:24-25:26
- Place to file petition to appoint receiver,
25:4
- Powers of receiver, 25:12
- Priority, appointment of receiver, 25:9
- Removal of receiver, 25:17
- Resignation of receiver, 25:18
- Successor receiver, 25:19
- Summary receivership, 25:21, 25:22,
25:25, 25:26
- Termination of receiver, 25:20

MINORS

- See index heading CHILDREN AND
MINORS

MINOR'S HEALTH CARE POWER OF ATTORNEY

- Generally, 21:66

MISCONDUCT OF RECEIVER

- Military absentees, 25:16

MISSING PERSONS

- Generally, 30:1-30:20
- Action to establish presumption of
death, generally, 30:5-30:20
- Administration of estate, 30:18-30:20
- Alive, finding of person, 30:20
- Claims against missing person, 30:16
- Complaints, 30:7, 30:8
- Definitions, 30:2
- Devisees, 29:23
- Distribution of property, 30:18
- Estates of missing persons, generally,
30:1-30:20
- Exposure to specific peril, 30:4
- Factors considered, 30:3, 30:4
- Final judgment, 30:17
- Finding of death, 30:17
- Finding of person alive, 30:20
- Heirs, 20:31
- Insurance policies, 30:19

MISSING PERSONS—Cont'd

- Inventory, **30:11**
- Judgment of death, **30:17**
- Military absentees
 - generally, **25:1-25:26**
 - for detailed treatment see index heading MILITARY ABSENTEES
- Notice, **30:13, 30:15, 30:16**
- Parties to action, **30:9**
- Permanent receivers, **30:12**
- Personal representatives, **2:3**
- Persons who may file action, **30:5**
- Place to file action, **30:6**
- Procedure, generally, **30:5-30:20**
- Search for missing person, **30:15**
- Service of process and response, **30:14**
- Specific peril, exposure to, **30:4**
- Temporary receivers, **30:10**
- Time element, **30:3**

MISTAKE

- Caveat proceedings, **24:43**

MOBILE HOMES

- Nonprobate assets, tenancy by entireties property, **6:15**

MODIFICATION OF BOND

- Personal representatives, application and order, **2:116**

MORTALITY TABLES

- Generally, **App. C**

MORTGAGES

- Definition, **5:9, 18:4**
- Nonprobate assets, entireties property, **6:14**
- Probate assets, **5:9, 5:18**

MOTOR VEHICLES

- See index heading AUTOMOBILES AND OTHER VEHICLES

MUTUAL WILLS

- Generally, **28:38**

NATURAL DEATH

- Generally, **21:37**

NEGOTIATIONS

- Mediation before clerk of superior court generally, **35:21**

NEGOTIATIONS—Cont'd

- Mediation before clerk of superior court—Cont'd
 - for detailed treatment see index heading MEDIATION BEFORE CLERK OF SUPERIOR COURT

NET INTESTATE ESTATE

- Generally, **19:17-19:21**
- For detailed treatment see index heading INTESTATE ESTATES

NET TESTATE ESTATE

- Generally, **28:1-28:38**
- For detailed treatment see index heading DIVISION OF TESTATOR'S NET ESTATE

NET VALUE

- Small estates
 - generally, **12:5-12:7**
 - for detailed treatment see index heading SMALL ESTATES

NEUTRAL OBSERVERS

- Generally, **35:7**

NON-CLAIM STATUTES

- Generally, **9:27, 9:28**
- Statutes of limitation, **9:28**

**NON-CONTRACTUAL CLAIMS
WITH PERSONAL
REPRESENTATIVE**

- Generally, **33:16**

NONPROBATE ASSETS

- Generally, **6:1-6:28**
- Annuities. Life insurance and annuities, below
- Checklists
 - major nonprobate assets, **6:28**
 - settlement, determination of value, **1:36**
- Creditors of estate, life insurance payable to, **6:9**
- Data gathering and recordkeeping, **4:4, 4:12-4:14**
- Definitions
 - generally, **6:2-6:6**
 - joint tenancy with right of survivorship, **6:5**

INDEX

NONPROBATE ASSETS—Cont'd

Definitions—Cont'd

life estate, **6:6**

nonprobate assets, **6:3**

tenancy by entireties, **6:4**

Federal income tax refund checks where there is surviving spouse, **6:23, 6:24**

Income tax refund checks where there is surviving spouse generally, **6:22-6:25**

federal income tax refund from joint returns, **6:23**

federal income tax refunds from separate returns, **6:24**

state income tax refunds, **6:25**

Insolvent estate, recovery of nonprobate property of, **6:26, 6:27**

Intent to defraud, recovery of nonprobate property of insolvent estate, **6:26, 6:27**

Jointly owned survivorship property generally, **6:13-6:19**

definition, **6:5**

joint ownership with right of survivorship, **6:18, 6:19**

personal property and accounts, joint ownership with right of survivorship, **6:19**

tenancy by entireties property, below

Life insurance and annuities

generally, **6:8-6:12**

annuities payable to beneficiaries, **6:11, 6:12**

creditors of estate, insurance payable to, **6:9**

estate, insurance payable to, **6:9**

IRS reporting requirements, **6:10**

life of decedent, insurance owned by decedent, **6:8-6:10**

nonliving beneficiaries, insurance payable to, **6:9**

valuation of annuities payable to beneficiaries, **6:12**

Major nonprobate assets, generally, **6:7-6:25**

Mobile homes, tenancy by entireties property, **6:15**

Mortgages on entireties property, **6:14**

NONPROBATE ASSETS—Cont'd

Personal property and accounts, joint ownership with right of survivorship, **6:19**

Probate assets, assets not to be included as part of, **5:65**

State income tax refund checks where there is surviving spouse, **6:25**

Tax refunds. Income tax refund checks where there is surviving spouse, above

Tax reporting requirements

life insurance and annuities, **6:10**

tenancy by entireties property, **6:16**

Tenancy by entireties property

generally, **6:13-6:17**

definition, **6:4**

mobile homes, **6:15**

mortgages on entireties property, **6:14**

property held by husband and wife other than entireties property, **6:17**

tax reporting requirements, **6:16**

Valuation of annuities payable to beneficiaries, **6:12**

Workers' compensation death proceeds, **6:20, 6:21**

Wrongful death action, proceeds of, **6:20, 6:21**

NONPUBLIC CORPORATIONS

Probate assets, **5:38**

NONRESIDENT ALIEN DEVISEES

Generally devisees, **29:10, 29:13**

NONRESIDENT ALIEN HEIRS

Generally, **20:18**

NONRESIDENT DECEDENTS

Ancillary administration

generally, **14:13-14:22**

for detailed treatment see index heading ANCILLARY ADMINISTRATION

NONRESIDENT EXECUTOR

Generally, **2:49**

NONSELF-PROVED WILLS

Probate, **24:23**

NO PERSONAL REPRESENTATIVE APPOINTED

Generally, **9:16**

NOTARY PUBLIC

Living wills, **21:42**

Personal representatives

generally, **2:99-2:103**

for detailed treatment see index heading PERSONAL REPRESENTATIVES

NOTEBOOK OF PERSONAL REPRESENTATIVE

Data gathering and recordkeeping

generally, **App. B, 4:9-4:20**

for detailed treatment see index heading DATA GATHERING AND RECORDKEEPING

Probate assets. See index heading PROBATE ASSETS

NOTES, PROMISSORY

Generally, **5:39**

NOTICE

Ancillary administration. See index heading ANCILLARY ADMINISTRATION

Caveat proceedings, **24:51**

Checklist for settlement. See index heading CHECKLISTS

Claim, notice of

family law, notice of claim requirement, **27:11**

by filing suit, **9:10**

time for giving, **8:37, 9:2-9:26**

Creditors, notice to

generally, **1:45, 1:48, 8:5, 8:13-8:31, 33:2, 33:9**

affidavit of, **1:54**

effect, **8:15**

form and requirements, **9:4**

Election to take life estate

generally, **18:14-18:17**

for detailed treatment see index heading ELECTION TO TAKE LIFE ESTATE

Family law, notice of claim requirement, **27:11**

Fiduciary relationship, **1:76, 2:120, 8:76**

NOTICE—Cont'd

Filing of inventories and accounts, notice to surety of settlement, **32:32**

Mediation before clerk of superior court, **35:11**

Military absentees, hearings, **25:6**

Missing persons, **30:13, 30:15, 30:16**

Payment of obligations of decedent and estate

generally, **8:13-8:31**

for detailed treatment see index heading PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE

Personal representatives. See index heading PERSONAL REPRESENTATIVES

Probate. See index heading PROBATE

Renunciation by heirs and beneficiaries.

See index heading RENUNCIATION BY HEIRS AND BENEFICIARIES

Time limitations, **33:2, 33:4, 33:9**

NUNCUPATIVE WILLS

Generally, **21:30**

Probate, **24:27**

OATH OF PERSONAL REPRESENTATIVES

Generally, **2:45-2:47, 2:112**

For detailed treatment see index heading PERSONAL REPRESENTATIVES

OBJECTIONS

Personal representatives, issuance of letters, **2:60**

120-HOUR SURVIVORSHIP RULE

Generally, **11:6**

Exceptions, **11:13**

ORAL WILLS

See index heading NUNCUPATIVE WILLS

ORDER FOR SALE

Real estate, **5:15**

ORGAN DONATION

See index heading ANATOMICAL GIFTS

OUTRIGHT DEVICES

Generally, **28:18**

INDEX

PARENTS

See also index heading CHILDREN AND MINORS

Forfeiture by, **16:19, 16:20**

PARTIAL INTESTACY

Generally, **1:6, 13:6, 19:4**

PARTIALLY TESTATE

Generally, **1:6**

PARTIAL RENUNCIATION

Generally, **15:9**

PARTIES

Caveat proceedings, **24:49**

Missing persons, **30:9**

PARTNERSHIP INCOME

Probate assets, **5:41**

PASSING REAL ESTATE

Recording of will, **24:38**

PATENT AMBIGUITY

Construction and interpretation of wills, **31:4**

PATERNITY ACTION

Generally, **20:23**

PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE

Generally, **8:1-8:84**

Actions against estate, **8:38, 8:39**

Affidavits

notice to known or ascertainable creditors, **8:83**

publication, **8:84**

Amendment of tax returns, **8:78**

Ancillary administration, payment of claims by ancillary personal representative, **14:21**

Apportionment of federal estate tax, **8:80**

Arbitration of disputed claims, **8:53**

Burial plot, care of, **8:46**

Checklists

settlement, **1:61**

timetable for estate taxation, **8:81**

Class and priority

generally, **8:40-8:51**

costs of administration, **8:43**

PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE

—Cont'd

Class and priority—Cont'd

equitable distribution, **8:50**

funeral expenses, **8:45**

general claims, **8:51**

gravestone and care of burial plot, **8:46**

judgment liens, **8:48**

secured claims, **8:44**

taxes, **8:47**

wages and medical fees, **8:49**

year's allowances, **8:42**

Contingent claims, **8:61**

Costs of administration, **8:43**

County of administration, notice to creditors in newspaper published in, **8:22**

Creditors known or ascertainable.

Notice to creditors, below

Data gathering and recordkeeping, **4:17**

Debts not payable, **8:2**

Definitions

generally, **8:3-8:12**

creditor, **8:6**

deadline date, **8:7**

death taxes, **8:12**

Department of Revenue, **8:11**

IRS, **8:10**

notice to creditors, **8:5**

tax authorities, **8:9**

time limitations, **8:4**

year's allowance, **8:8**

Disputed claims, **8:52, 8:53**

Encumbered assets, payment of testate debts with, **8:65-8:67**

Equitable distribution

claims, **8:54**

class and priority, **8:50**

Exempt claims, presentment of claims for payment, **8:36**

Extension of deadline, notice to creditors known or ascertainable, **8:29**

Farming operations, **8:60**

Filing of inventories and accounts, payment of commissions and fees prior to closing estate, **32:18**

**PAYMENT OF OBLIGATIONS OF
DECEDENT AND ESTATE**

—Cont'd

Forms

generally, **8:82-8:84**
affidavit of notice to known or
ascertainable creditors, **8:83**
affidavit of publication, **8:84**
notice to creditors, **8:82**

Funeral expenses, **8:45**

General bequests, testate debts, **8:64**

General circulation of newspaper in
county, notice to creditors, **8:23,**
8:24

General claims, **8:51**

Gravestone, **8:46**

Insurance, claims covered by, **8:58**

Judgment liens, **8:48**

Lien, transfer of decedent's property
subject to, **8:59**

Limitation of liability, notice to creditors
known or ascertainable, **8:28**

Medical fees, **8:49**

Method of payment, **8:41**

Multiple personal representatives, notice
to creditors, **8:17**

Notice concerning fiduciary relationship,
Form 56, **8:76**

Notice to creditors

generally, **8:13-8:31**
arising of claim at or after death of
decedent, **8:31**
contents of notice, **8:20**
county of administration, newspaper
published in, **8:22**
creditors known or ascertainable
generally, **8:26-8:29**
affidavit of notice, **8:30, 8:83**
exception for valid claims, **8:27**
extension of deadline, **8:29**
limitation of liability, **8:28**
deadline date, **8:16**
effect of notice, **8:15, 8:16**
exception for estate having wrongful
death claim as only asset, **8:14**
extension of deadline, creditors
known or ascertainable, **8:29**
form, **8:82-8:84**

**PAYMENT OF OBLIGATIONS OF
DECEDENT AND ESTATE**

—Cont'd

Notice to creditors—Cont'd

general circulation of newspaper in
county, **8:23, 8:24**
limitation of liability, creditors known
or ascertainable, **8:28**
multiple personal representatives,
8:17
personal delivery or service, **8:25**
posting at courthouse, **8:23**
procedure for giving notice, generally,
8:19-8:30
proof of publication or affidavit of
notice, **8:30, 8:83, 8:84**
providing of notice, **8:21**
publication in newspaper, **8:22-8:24,**
8:30
requirement that notice to creditors be
given, **8:13-8:17**
time for notice, **8:18**
wrongful death claim as only asset of
estate, **8:14**

Pending actions against estate, **8:38**

Personal delivery or service, notice to
creditors, **8:25**

Personal representative, claims of, **8:57**

Postdeath actions against estate, **8:39**

Posting at courthouse, notice to credi-
tors, **8:23**

Presentment of claims for payment

generally, **8:32-8:37**
affidavit concerning claim, **8:33**
exempt claims, **8:36**
time for presenting claims arising at
or after death, **8:37**
time for presenting claims arising
before death, **8:34-8:36**
tolling of time limitation, **8:35**

Priority. Class and priority, above

Probate time limitations where no notice
to creditors is given, **8:55**

Proof of publication or affidavit of
notice, notice to creditors, **8:30,**
8:83, 8:84

Publication in newspaper, notice to cred-
itors, **8:22-8:24, 8:30**

Secured claims, **8:44, 8:56**

INDEX

PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE

—Cont'd

- Social Security number of decedent, taxation, **8:74, 8:75**
- Source of payment, **8:41**
- Special bequests, testate debts, **8:63**
- Special rules, generally, **8:52-8:67**
- Specific bequests of encumbered property, testate debts, **8:66**
- Taxation
 - generally, **8:47, 8:68-8:80**
 - amendment of returns, **8:78**
 - apportionment of federal estate tax, **8:80**
 - notice concerning fiduciary relationship, Form 56, **8:76**
 - procedure for obtaining tax identification number, **8:73**
 - returns to be filed, **8:69, 8:74-8:76**
 - Social Security number of decedent, **8:74, 8:75**
 - state tax assistance, **8:70**
 - tax experts, **8:77**
 - tax identification numbers, **8:71-8:75**
 - timetable for estate taxation, **8:79, 8:81**
- Testate debts
 - generally, **8:62-8:67**
 - encumbered assets, payment with, **8:65-8:67**
 - general bequests, will containing only, **8:64**
 - special bequests, existence of, **8:63**
 - specific bequests of encumbered property, **8:66**
- Time and date
 - notice to creditors, **8:18**
 - presentment of claims for payment, **8:34-8:37**
 - taxation of estate, **8:79, 8:81**
- Unliquidated claims, **8:61**
- Wages, **8:49**
- Wrongful death claim as only asset of estate, notice to creditors, **8:14**
- Year's allowances, **8:8, 8:42**

PAY-ON-DEATH (POD)

DESIGNATIONS

- Generally, **4:6, 5:28, 5:32, 6:18, 11:4, 15:6**

PAY-ON-DEATH (POD)

DESIGNATIONS—Cont'd

- Checklist, **6:28**

PENDING ACTIONS

- Checklist for settlement, gathering and protection of property of estate, **1:31, 1:37**
- Payment of obligations of decedent and estate, **8:38**
- Probate assets, **5:46**

PENSION BENEFITS

- Probate assets, **5:50**

PER CAPITA DEVISEES

- Generally, **29:25**

PERIODIC PAYMENTS

- Protection of estate assets, **7:13**

PERSONAL DELIVERY OR SERVICE

- Payment of obligations of decedent and estate, notice to creditors, **8:25**

PERSONAL PROPERTY

- Nonprobate assets, joint ownership with right of survivorship, **6:19**
- Probate assets
 - generally, **5:22-5:27**
 - for detailed treatment see index heading PROBATE ASSETS

PERSONAL REPRESENTATIVES

- Generally, **1:7, 2:1-2:124**
- Acknowledgment, notary public, **2:100**
- Administration, applications for letters of, **2:106**
- Applications for letters. Forms, below
- Attorney as personal representative, renunciation of right to act, **2:86**
- Becoming, generally, **2:1-2:124**
- Bond
 - generally, **2:49-2:58**
 - actions by bonding company against personal representative, **2:74**
 - amount of bond, **2:57**
 - forms, **2:114, 2:115**
 - investments, deposits of, **2:56**
 - North Carolina landowner as surety, **2:55**

PERSONAL REPRESENTATIVES

—Cont'd

Bond—Cont'd

- personal sureties, **2:54**
- posting of bond, generally, **2:49-2:57**
- purpose, **2:50**
- qualified corporate surety, **2:53**
- sources, **2:51**
- standard bond form, **2:115**
- types of sureties, **2:52-2:56**
- waiver of bond of personal representative, **2:114**

Certificate of probate, **2:44, 2:110**

Checking account for estate, opening of, **2:66, 2:67**

Checklist, locating of will, **2:104**

Commingling of funds, avoidance of, **2:67**

Commissions and fees

- generally, **32:17**
- application for letters, filing of, **2:40**
- inventories and accounts, filing of, **32:17-32:19, 32:30, 32:31**
- payment prior to closing, **32:18**
- renunciation of commission, **1:58, 32:19, 33:10, 34:5**

Compensation of public administrators, **2:98**

Copies required, filing of application for letters, **2:38**

County of application. Letters, below

CPA as personal representative, renunciation of right to act, **2:86**

Death certificates, **2:64**

Death of personal representative, letters, **2:31**

Definitions

- generally, **2:6-2:23**
- administrator C.T.A., **2:11**
- beneficiary, **2:14**
- clerk, **2:7**
- decedent, **2:19**
- devise, **2:15**
- domicile, **2:34**
- estate, **2:8**
- estate settlement statutes, **2:16**
- executor, **2:10**
- heir, **2:12**

PERSONAL REPRESENTATIVES

—Cont'd

Definitions—Cont'd

- intestate, **2:17**
- letters, **2:21**
- N.C. Gen. Stat., **2:22**
- personal representative, **2:13**
- service, **2:23**
- testate, **2:20**
- testator, **2:18**

Delegation of responsibility, **2:72**

Distribution of estate, generally, **2:4**

Elective share, contribution to satisfy elective share, **26:26**

Estates action cover sheet, **2:105**

Ethics. See index heading ETHICS

Federal tax identification number, **2:65**

Fees. Commissions and fees, above

Fiduciary obligations, **2:77**

Filing

- letters, below
- oath, **2:47**

Filing of inventories and accounts, commissions and fees, **32:17-32:19, 32:30, 32:31**

Formal appointment, **2:59-2:62**

Forms

- generally, **2:105-2:124**
- administration, applications for letters of, **2:106**
- applications for letters
 - administration, letters of, **2:106**
 - probate and letters, **2:107, 2:108**
 - trusteeship under will, letters of, **2:109**
- certificate of probate, **2:110**
- estates action cover sheet, **2:105**
- IRS Form 56, **2:120**
- IRS Form SS-4, **2:119**
- issuance of letters, standard order authorizing, **2:117**
- letters
 - generally, **2:118**
 - applications for letters, above in this group
- locating of will, **2:113**
- modification of bond, application and order for, **2:116**

INDEX

PERSONAL REPRESENTATIVES

—Cont'd

Forms—Cont'd

oath of personal representative, **2:112**

petition of executor to resign, **2:122**

probate and letters, applications,
2:107, 2:108

renunciation of right to qualify for
letters, **2:121**

resident process agent, appointment
of, **2:111**

resignation

order, **2:123**

petition of executor, **2:122**

standard bond form, **2:115**

trusteeship under will, applications
for letters of, **2:109**

verification, **2:124**

waiver of bond of personal represen-
tative, **2:114**

Funeral arrangements, **2:69**

Hearing, revocation after, **2:90, 2:91**

Implied renunciation of right to act,
2:79-2:82

Initial steps in administration of the
state, **2:63-2:68**

Intestate estates, effective renunciation
of right to act, **2:84**

Inventory, filing of application for let-
ters, **2:39**

Investments, bonds, **2:56**

IRS Form 56, **2:120**

IRS Form SS-4, **2:119**

Issuance of letters, standard order
authorizing, **2:117**

Joint personal representatives, **2:75,**
2:76

Jurisdiction and authority of clerk, **2:43**

Landowner as surety, bond, **2:55**

Leasing personal property, **5:25-5:27**

Letters

generally, **2:24-2:40, 2:59-2:62**

collection, letters of, **2:95**

contents of application, **2:36**

copies required, filing of application,
2:38

county of application

generally, **2:33-2:35**

domicile, defined, **2:34**

PERSONAL REPRESENTATIVES

—Cont'd

Letters—Cont'd

county of application—Cont'd

time for challenge to venue, **2:35**

death of personal representative, **2:31**

domicile, defined, **2:34**

fees, filing of application, **2:40**

filing of application

generally, **2:37-2:40**

copies required, **2:38**

fees, **2:40**

inventory, **2:39**

formal appointment, **2:59-2:62**

forms, above

inventory, filing of application, **2:39**

issuance, **2:59-2:62**

objections to issuance, **2:60**

persons appointed, **2:25-2:31**

persons not qualified to serve as
personal representative, **2:29,**
2:30

qualification as administrator, **2:26**

qualification as executor, **2:27**

renunciation of right to act, **2:28**

revocation of letters, below

subsequently arising conditions, **2:30**

time

application, **2:32**

challenge to venue, **2:35**

Liability for loss, **2:73, 2:74**

Lien against, **8:39**

Limited, **8:13**

Locating of will, **2:48, 2:104, 2:113**

Loss, liability for, **2:73, 2:74**

Missing persons, **2:3**

Modification of bond, application and
order for, **2:116**

Notary public

generally, **2:99-2:103**

acknowledgment, **2:100**

affidavit, **2:102**

signature, proof of, **2:101**

verification, **2:103**

Notebook, **App. B**

Notice

petition for resignation, **2:88**

preliminary approval by clerk, **2:42**

PERSONAL REPRESENTATIVES

—Cont'd

- Notice—Cont'd
 - renunciation of right to act, **2:80**
- Oath
 - generally, **2:45-2:47, 2:112**
 - filing, **2:47**
 - requirements, **2:46**
- Objections to issuance of letters, **2:60**
- Partial testacy, **2:2**
- Payment of obligations of decedent and estate, claims, **8:57**
- Personal sureties, bond, **2:54**
- Petition of executor to resign, **2:122**
- Posting of bond. Bond, above
- Powers, generally, **App. A, 1:22, 2:63-2:77**
- Preliminary approval by clerk
 - generally, **2:41-2:44**
 - certificate of probate, issuance of, **2:44**
 - jurisdiction and authority of clerk, **2:43**
 - notice to beneficiaries, **2:42**
- Probate assets, sale of real property conveyed to personal representative, **5:17**
- Procedure for estate settlement, generally, **2:5**
- Public administrators, **2:97, 2:98**
- Qualification as administrator, **2:26**
- Qualification as executor, **2:27**
- Qualified corporate surety, bond, **2:53**
- Renunciation of commission, **1:58, 32:19, 33:10, 34:5**
- Renunciation of right to act
 - generally, **2:78-2:86**
 - attorney or CPA as personal representative, **2:86**
 - checklist, **1:11**
 - clerk's authority were no application for letters made after death, **2:81, 2:82**
 - express renunciation, **2:83-2:85**
 - implied renunciation, **2:79-2:82**
 - intestate estates, effective renunciation in, **2:84**
 - letters, **2:28**
 - notice, **2:80**

PERSONAL REPRESENTATIVES

—Cont'd

- Renunciation of right to act—Cont'd
 - testate estates, effective renunciation in, **2:85**
- Renunciation of right to qualify for letters, **2:121**
- Resident process agent, appointment of, **2:111**
- Resignation
 - generally, **2:87-2:89**
 - effective date of resignation, **2:89**
 - forms, above
 - notice of petition for resignation, **2:88**
- Responsibilities, generally, **2:63-2:77**
- Revocation of letters
 - generally, **2:61, 2:90-2:94**
 - effective revocation, **2:94**
 - hearing, revocation after, **2:90, 2:91**
 - procedure, **2:91, 2:93**
 - summary revocation, **2:92, 2:93**
- Savings account for estate, opening of, **2:66, 2:67**
- Selling personal property, **5:25-5:27**
- Selling real estate, **5:14-5:17**
- Signature, notary public, **2:101**
- Standard bond form, **2:115**
- Subsequently arising conditions, letters, **2:30**
- Successor personal representatives, **2:96**
- Summary revocation of letters, **2:92, 2:93**
- Tax identification number, **2:65**
- Tax returns for prior years, obtaining of, **2:68**
- Testacy and intestacy, **2:1, 2:2, 2:4, 2:5**
- Time. Letters, above
- Trusteeship under will, applications for letters of, **2:109**
- Verification
 - generally, **2:124**
 - notary public, **2:103**
- Waiver of bond of personal representative, **2:114**
- Will, locating of, **2:48, 2:104**
- Will, powers granted by, **2:70**
- Year's allowance, **10:24**

INDEX

PERSONAL SURETIES

Personal representatives, bonds, **2:54**

PER STIRPES DEVISEES

Generally, **29:26**

PETITIONS

See index heading COMPLAINTS AND PETITIONS

PHYSICAL ACT

Revocation, **23:9-23:11**

PHYSICIAN AUTHORIZATION

Living wills, **21:40**

PLACE OR LOCATION

Elective share, filing of claim, **26:11**
Military absentees, filing of petition to appoint receiver, **25:4**
Missing persons, filing of action, **30:6**
Personal representatives, locating of will, **2:48, 2:104, 2:113**

POSTDEATH CLAIMS

Generally, **8:37, 8:39**

POSTDEATH SUITS

Generally, **8:39**

POSTING AT COURTHOUSE

Payment of obligations of decedent and estate, notice to creditors, **8:23**

POSTMORTEM TECHNIQUES

Checklist for settlement, **1:56**

POSTNUPTIAL AGREEMENTS

Generally, **27:3, 27:4**

POTENTIAL LAWSUITS

Generally, **8:39**

POWER OF APPOINTMENT

Forfeiture by heirs and beneficiaries, slayers, **16:35**
Renunciation by heirs and beneficiaries, **15:19**
Springing or durable power of attorney, **21:74**

POWER OF ATTORNEY

Elective share, **26:9**
Gifts, **21:73**

POWER OF ATTORNEY—Cont'd

Health care power of attorney
generally, **21:50-21:67**
for detailed treatment see index heading HEALTH CARE POWER OF ATTORNEY
Renunciation, **15:6, 21:83**
Wrongful acts, **36:8**

POWER OF SALE

Real estate, **5:16**

POWERS AND DUTIES OF THE MILITARY ABSENTEE RECEIVER

Generally, **25:12**

POWERS OF PERSONAL REPRESENTATIVES

See index heading PERSONAL REPRESENTATIVES

PRECATORY LANGUAGE

Generally, **31:16**

PRELIMINARY INVENTORY

Generally, **2:39, 32:2**
Checklist for settlement, **1:12**
Filing of inventories and accounts, **32:2**

PREMIUMS

Checklist for settlement, bond of personal representative, **1:74**

PRENUPTIAL AGREEMENTS

Generally, **27:2, 27:4**

PRESENTMENT

Payment of obligations of decedent and estate
generally, **8:32-8:37**
for detailed treatment see index heading PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE
Tort claims against estate. See index heading TORT CLAIMS AGAINST ESTATE

PRESENT WORTH OF ANNUITIES

Generally, **App. D**

PRESUMPTIONS

Construction and interpretation of wills, **31:19**

PRESUMPTIONS—Cont'd

Division of net estate, presumption that devise is outright, **28:18**
Revocation of will, **23:12, 31:19**

PRETERMITTED HEIRS

Generally, **29:15**

PRIORITY

Heirs, **19:23**
Military absentees, appointment of receiver, **25:9**
Payment of obligations of decedent and estate
generally, **8:40, 8:42-8:51**
for detailed treatment see index heading PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE

PRIOR TAX RETURNS

Generally, **1:43, 2:68**

PROBATE

Generally, **24:1-24:65**
Affidavits. Forms, below
Application for probate, **24:14-24:16, 24:59**
Assets
generally, **5:1-5:71**
for detailed treatment see index heading PROBATE ASSETS
Attested written wills, **24:21-24:25**
Caveat proceedings
generally, **24:39-24:58**
for detailed treatment see index heading CAVEAT PROCEEDINGS
Certificate of probate, **2:44, 24:15, 24:16, 24:60**
Certified copy of will, **24:35**
Challenges
common form, probate in, **24:20**
solemn form, probate by citation without caveat, **24:30, 24:31**
Checklist, appointment with probate clerk for presentment of application and preliminary inventory, **1:18**
Citation, probate by
solemn form, probate by citation with caveat, **24:32**
solemn form, probate by citation without caveat, below

PROBATE—Cont'd

Common form, probate in
generally, **24:17-24:28**
attested written wills, **24:21-24:25**
challenges, **24:20**
holographic wills, **24:26**
issuance of certificate of probate, **24:19**
nonself-proved wills, **24:23**
no witness available, attested written wills, **24:25**
nuncupative wills, **24:27**
procedure, **24:18-24:20**
self-proved wills, **24:22**
servicemen's wills, **24:28**
single witness available, attested written wills, **24:24**
Definitions
generally, **24:2-24:6**
administrator C.T.A., **24:5**
caveat, **24:6**
executor, **24:4**
probate, **24:3**
Destroyed wills, **24:33, 24:34**
Examination of witnesses by affidavit, **24:36**
Foreign probate proceedings, recognition of, **24:37**
Forms
generally, **24:59-24:65**
application for probate and letters, **24:59**
certificate of probate, **24:60**
holographic will, affidavit for probate, **24:65**
notice to beneficiary, **24:61**
self-proving clause, **24:62**
subscribing witness, affidavit for probate of will, **24:63**
unavailable witness, affidavit for probate of will, **24:64**
Good faith purchasers of estate property, time limit in which to probate will, **24:12**
Holographic wills, **24:26, 24:65**
Issuance of certificate of probate, **24:19**
Lost wills, **24:33**
Methods of probate, generally, **24:17-24:35**

INDEX

PROBATE—Cont'd

- Nonself-proved wills, **24:23**
- Notice
 - admission to probate, notice to devisees of, **24:16**
 - beneficiary, notice to, **24:61**
- No witness available, attested written wills, **24:25**
- Nuncupative wills, **24:27**
- Persons who may offer will for probate
 - generally, **24:7-24:9**
 - person other than named executor, **24:9**
 - self-proved wills, **24:8**
- Public records, probate documents as, **24:10**
- Real estate, recordation of will passing, **24:38**
- Self-proved wills
 - generally, **24:22, 24:62**
 - persons who may offer will for probate, **24:8**
- Servicemen's wills, **24:28**
- Single witness available, attested written wills, **24:24**
- Solemn form, probate by citation with caveat, **24:32**
- Solemn form, probate by citation without caveat
 - generally, **24:29-24:31**
 - challenges, **24:31**
 - procedure, **24:30**
- Subscribing witness, affidavit for probate of will, **24:63**
- Suppressed wills, **24:33**
- Time limit in which to probate will
 - generally, **24:11-24:13**
 - good faith purchasers of estate property, **24:12**
 - tolling of time limits, **24:13**
- Tolling of time limit in which to probate will, **24:13**
- Unavailable witness, affidavit for probate of will, **24:64**

PROBATE ASSETS

- Generally, **5:1-5:71**
- Account information, sample letter requesting, **5:70**

PROBATE ASSETS—Cont'd

- Accounts receivable due decedent, **5:42**
- Airplanes, **5:56**
- Annuities. Life insurance and annuities, below
- Antiques, **5:57**
- Artwork, **5:57**
- Bank accounts, **5:28**
- Beneficiaries, real estate transfers by, **5:21**
- Boats, **5:56**
- Cash on hand, **5:29**
- Checklists of major probate assets, **5:66**
- Clerk's order authorizing sale of real property, **5:15**
- Coin and other collections, **5:58**
- Community property, **5:63, 5:64**
- Contracts of decedent, real estate, **5:19**
- Data gathering and recordkeeping, **4:3, 4:11**
- Death benefits from employer or government entity, **5:47**
- Definitions
 - generally, **5:2-5:9**
 - joint tenancy without right of survivorship, **5:7**
 - joint tenancy with right of survivorship, **5:6**
 - life estate, **5:4**
 - mortgage, **5:9**
 - probate assets, **5:3**
 - real estate, **5:5**
 - tenancy in common, **5:8**
- Dividends, **5:49**
- Exclusion of assets
 - generally, **5:60-5:65**
 - community property, **5:63, 5:64**
 - life estates held by decedent, **5:62**
 - nonprobate assets, **5:65**
 - property held by decedent that belongs to another, **5:61**
- Executory contract rights, **5:45**
- Farming operations, equipment, products, etc.
 - generally, **5:44**
 - obtaining possession, custody and control of operations, **5:13**

PROBATE ASSETS—Cont'd

Forms

- generally, **5:67-5:71**
- account information, sample letter requesting, **5:70**
- notebook of personal representative entry for solely owned real estate, **5:67**
- sample page, **5:71**
- order authorizing possession, custody and control of real estate, **5:69**
- petition to take possession, custody and control of real estate, **5:68**

Heirs, real estate transfers by, **5:21**

Household goods, sale or lease of, **5:27**

Income tax refund checks, **5:53**

Interest income, **5:49**

Investments

- generally, **5:36-5:38**
- nonpublic corporations, interests in, **5:38**
- publicly traded stocks and bonds, **5:36, 5:37**

United States savings bonds, **5:37**

Jointly owned nonsurvivorship personal property, **5:23**

Jointly owned nonsurvivorship real estate, **5:20**

Judgments in favor of decedent, **5:54**

Leases, **5:18, 5:25-5:27, 5:43**

Life estates for life of another, **5:48**

Life estates held by decedent, **5:62**

Life insurance and annuities

- policies on another's life owned by decedent, **5:35**
- policies payable to decedent's estate, **5:34, 5:51**

Major probate estates, generally, **5:10-5:59**

Mortgages, **5:9, 5:18**

Motor vehicles, **5:55**

Nonprobate assets, **5:65**

Nonpublic corporations, interests in, **5:38**

Notebook of personal representative. Forms, above

Order authorizing possession, custody and control of real estate, **5:69**

Partnerships, income from, **5:41**

PROBATE ASSETS—Cont'd

Pay-on-death (POD) designations, **5:31, 5:32**

Pending actions against others, **5:46**

Pension benefits, **5:50**

Personal property

- generally, **5:22-5:27**
- household goods, sale or lease of, **5:27**

jointly owned nonsurvivorship personal property, **5:23**

lease of property, **5:25-5:27**

sale of property, **5:25-5:27**

sole ownership by decedent, **5:22**

Personal representative, sale of real property conveyed to, **5:17**

Petition to take possession, custody and control of real estate, **5:68**

Potential actions against others, **5:46**

Promissory notes owed to decedent, **5:39**

Property held by decedent that belongs to another, **5:61**

Proprietorships, income from, **5:41**

Publicly traded stocks and bonds, **5:36, 5:37**

Real estate

generally, **5:11-5:21**

beneficiaries, real estate transfers by, **5:21**

clerk's order authorizing sale of property, **5:15**

contracts of decedent, **5:19**

definition, **5:5**

farming operations, obtaining possession, custody and control of, **5:13**

heirs, real estate transfers by, **5:21**

jointly owned nonsurvivorship real estate, **5:20**

lease of property by personal representative, **5:18**

mortgage of property by personal representative, **5:18**

notebook of personal representative, entry for solely owned real estate, **5:67**

order authorizing possession, custody and control of real estate, **5:69**

INDEX

PROBATE ASSETS—Cont'd

- Real estate—Cont'd
 - personal representative, sale of property conveyed to, **5:17**
 - petition to take possession, custody and control of real estate, **5:68**
 - sale of property, **5:14-5:17**
 - testamentary power, sale of property under, **5:16**
 - title to property, **5:12-5:20**
- Retirement benefits, **5:50**
- Safe deposit box, **5:30**
- Salary due decedent, **5:40**
- Sale of personal property, **5:25-5:27**
- Sale of real property, **5:14-5:17**
- Secured promissory notes owed to decedent, **5:39**
- Stamp and other collections, **5:58**
- Testamentary power, sale of real property under, **5:16**
- Third person, property held by decedent that belongs to, **5:61**
- Title to real property, **5:12-5:20**
- Transfer-on-death (TOD) designations, **5:31, 5:33**
- United States savings bonds, **5:37**
- Unsecured debts owed to decedent, **5:52**
- Vehicles, **5:55**
- Wages due decedent, **5:40**

PROCEDURE AFTER CLAIM PRESENTED

- Generally, **9:26**

PROCESS AGENT

- Generally, **2:49**

PROFESSIONAL FEES

- Attorneys, **32:20**
- CPAs, **32:20**

PROMISSORY NOTES

- Generally, **5:39**
- Probate assets, **5:39**

PROPERTY PASSING TO SURVIVING SPOUSE

- Generally, **26:16**

PROPERTY SETTLEMENT AGREEMENTS

- Generally, **27:9**

PROPRIETORSHIP INCOME

- Probate assets, **5:41**

PROTECTION OF ESTATE ASSETS

- Generally, **7:1-7:17**
- Actions on behalf of estate, **7:17**
- Automobiles and other vehicles, **7:6**
- Boats, **7:6**
- Change of address, **7:16**
- Charge accounts, **7:12**
- Debts due to decedent's estate, **7:3**
- Debts of estate
 - generally, **7:12-7:14**
 - charge accounts, **7:12**
 - periodic payments, **7:13**
 - unnecessary expenses, **7:14**
- Excess estate cash, **7:7**
- Insurance protection, **7:10**
- Investments owned by decedent, **7:9**
- Liability for failure to protect assets, **7:2**
- Obligations of personal representative, **7:1**
- Ongoing business, **7:11**
- Periodic payments, **7:13**
- Property due to decedent's estate, **7:3**
- Real estate, **7:4, 7:5**
- Safe deposit box of estate, **7:8**
- Termination of benefits, **7:15**
- Unnecessary expenses, **7:14**
- Unoccupied real estate, **7:5**

PUBLIC ADMINISTRATOR

- Generally, **2:97, 2:98**

PUBLICATION

- Checklist for settlement, notice to creditors, **1:45**
- Payment of obligations of decedent and estate, notice to creditors, **8:22-8:24, 8:30**
- Time limitations, notice to creditors, **33:2**
- Tort claims against estate. See index heading TORT CLAIMS AGAINST ESTATE

PUBLICLY TRADED STOCKS AND BONDS

- Probate assets, **5:36, 5:37**

PUBLIC RECORDS

Probate documents, **24:10**

QUALIFICATIONS

Attested written wills, qualifications of witnesses, **21:23**

Personal representatives, **2:26, 2:27, 2:29, 2:30, 2:53**

Small estates, **12:9**

Summary administration for surviving spouses, qualified spouse, **13:5**

QUALIFIED DISCLAIMER

Generally, **34:3**

QUALIFIED DOMESTIC TRUSTS

Tax saving and asset protection techniques, **34:6**

QUALIFIED RENUNCIATION

Generally, **34:3**

REAL ESTATE

Construction and interpretation of wills, **31:13**

Contracts with decedent, **5:19**

Election to take life estate, **18:9-18:12**

Leasing, **5:18**

Probate assets

generally, **5:11-5:21**

for detailed treatment see index heading PROBATE ASSETS

Protection of estate assets, **7:4, 7:5**

Recordation of will passing real estate, **24:38**

Renunciation, **15:15**

Selling by heirs and beneficiaries, **5:21**

Selling by personal representative, **5:14-5:17**

Small estates. See index heading SMALL ESTATES

Transfer of title, **1:70**

Unoccupied, **7:5**

RECEIPTS

Checklist for settlement, disbursement, **1:69**

Data gathering and recordkeeping, **4:16**

RECEIVERS AND RECEIVERSHIP

Generally, **1:42**

RECEIVERS AND RECEIVERSHIP

—Cont'd

Checklist for settlement, establishment for ongoing business or farm, **1:42**

Military absentees

generally, **25:3-25:26**

for detailed treatment see index heading MILITARY ABSENTEES

Ongoing business, **7:11**

RECORDATION OF WILL

Passing real estate, **24:38**

RECORDED, JUDGMENT LIENS

Generally, **9:39**

RECORDS AND RECORDKEEPING

Data gathering and recordkeeping

generally, **4:1-4:22**

for detailed treatment see index heading DATA GATHERING AND RECORDKEEPING

Ethics, **3:12**

Forfeiture by heirs and beneficiaries, records determining status of slayer, **16:37**

Springing or durable power of attorney, **21:78**

RECOVERY OF ASSETS TO PAY DEBTS

Generally, **6:26, 6:27**

REDUCTION OF STATUTES OF LIMITATION

Generally, **9:13**

REFERENCE, INCORPORATION BY

Construction and interpretation of wills, **31:20**

REFERRAL FEES

Ethics, **3:17**

REGISTRATION

Springing or durable power of attorney, **21:75**

REJECTED CLAIMS

Generally, **1:53, 33:6**

RELIANCE

Health care power of attorney, **21:64**

INDEX

REMAINDERMAN

Generally, **16:10, 16:32**

REMARRIAGE

Nullification of revocation arising from divorce or annulment, **23:16**

REMOVAL OF MILITARY ABSENTEE RECEIVER

Generally, **25:17**

RENUNCIATION

Anti-lapse statute, renunciation of individual prior to testator's death, **28:21-28:23**

Checklist for settlement. See index heading **CHECKLISTS**

Heirs and beneficiaries
generally, **15:1-15:25**
for detailed treatment see index heading **RENUNCIATION BY HEIRS
AND BENEFICIARIES**

Personal representatives
generally, **2:78-2:86**
for detailed treatment see index heading **PERSONAL REPRESENTATIVES**

Time limitations, **33:10, 33:11**

RENUNCIATION BY HEIRS AND BENEFICIARIES

Generally, **15:1-15:25**

Accepting an interest, **15:16**

Avoiding creditors, **15:23, 34:4**

Beneficiaries of renouncement, **15:20**

Binding nature of renunciation with regard to renouncer and prospective heirs and beneficiaries, **15:11**

Creditors, **15:23, 34:4**

Definitions

generally, **15:2-15:5**

general power of appointment, **15:4**

renouncer, **15:3**

special power of appointment, **15:5**

Delivery of, **15:14**

Disallowance of renunciation, **15:16**

Distribution in reliance on improper renunciation, liability for, **15:17**

Effect of renunciation, **15:10-15:12**

Fiduciary's review of renunciation, **15:7**

RENUNCIATION BY HEIRS AND BENEFICIARIES—Cont'd

Forms

notice of renunciation and qualified disclaimer, **15:24**

notice of right to renounce, **15:25**

General power of appointment, **15:19**

Insurance, **15:18**

Items that may or may not be renounced, **15:8, 15:9**

Liability for distribution in reliance on improper renunciation, **15:17**

Life insurance proceeds, **15:18**

Notice

renunciation and qualified disclaimer, **15:24**

right to renounce, **15:25**

Partial renunciation, **15:9**

Persons who may renounce, **15:6**

Power of appointment, rights under, **15:19**

Power of attorney, **15:6**

Procedure, generally, **15:13-15:17**

Real estate, **15:15**

Receipt of greater share not prohibited, **15:12**

Service of renunciation, **15:14**

Simultaneous death, **15:10**

Special power of appointment, **15:19**

Tax purposes, **15:22**

Time limitations, **15:15, 33:11**

Waiver of right to renounce, **15:21**

RENUNCIATION TRUST

Generally, **13:9**

REOPENING OF ESTATE

Generally, **32:25, 32:33**

REPUTED FATHER

Generally, **20:11**

Marriage, **20:22**

REQUESTS OR WISHES

Construction and interpretation of wills, **31:16**

REQUIRED APPEARANCE AT MEDIATION

Generally, **35:10**

RESIDENT DECEDENT

Generally, **14:5**

RESIDENT PROCESS AGENT

Personal representatives, **2:111**

RESIDUARY

Generally, **28:11**

Anti-lapse statute, **28:22**

Devise, **28:16**

RESIGNATION

Military absentee receiver, **25:18**

Personal representative, **2:87-2:89**

Personal representatives

generally, **2:87-2:89**

for detailed treatment see index heading PERSONAL REPRESENTATIVES

RESPONSIBILITIES OF PERSONAL REPRESENTATIVE

Generally, **2:71-2:77**

RETIREMENT ACCOUNTS

Generally, **1:64, 8:36, 22:1-22:15**

Asset substitution

generally, **22:9-22:12**

advantages, **22:12**

example, **22:11**

problem and solution, **22:10**

Charitable transfers, **22:4**

Checklist for settlement, discussion of options, **1:64**

Definitions, **22:2**

Gifts, **22:8**

Life insurance funding, **22:6**

Malpractice trap, **22:13**

Professional insurance and financial advice, **22:14**

Roth conversion, **22:7**

Stretching programs, **22:5**

Traditional solutions, generally, **22:3-22:8**

RETIREMENT BENEFITS

Probate assets, **5:50**

RETURN OF PROPERTY

Checklist for settlement, gathering and protection of property of estate, **1:25**

REVERSIONS

Forfeiture by heirs and beneficiaries, slayers, **16:11, 16:32**

REVIVAL OF REVOKED WILLS

Generally, **23:22**

REVOCATION

Anti-lapse statute, revoked devises, **28:25**

Caveat proceedings, **24:45**

Devises, **28:25**

Health care power of attorney, **21:56**

Living wills, **21:43**

Personal representatives

generally, **2:61, 2:90-2:94**

for detailed treatment see index heading PERSONAL REPRESENTATIVES

Springing or durable power of attorney, **21:83**

Wills

generally, **23:1-23:22**

for detailed treatment see index heading REVOCATION OF WILLS

REVOCATION OF WILLS

Generally, **23:1-23:22**

Adoption, **23:17**

After-adopted children, **23:17**

After-born children, **23:17**

After-entitled legitimates, **23:17**

Annulment of marriage, **23:14-23:16**

Authorized person, physical act of, **23:10**

Birth, **23:17**

Caveat proceedings, **24:45**

Change of circumstances, **23:19**

Construction and interpretation of wills, presumption, **31:19**

Definitions

generally, **23:2-23:5**

after-adopted, **23:4**

after-born, **23:3**

after-entitled illegitimate, **23:5**

Divorce, **23:14-23:16**

Intent not to revoke, **23:15**

Involuntary revocation

generally, **23:13-23:21**

birth, adoption or legitimization, **23:17**

INDEX

REVOCATION OF WILLS—Cont'd

- Involuntary revocation—Cont'd
 - change of circumstances, **23:19**
 - divorce or annulment, **23:14-23:16**
 - intent not to revoke, divorce or annulment, **23:15**
 - marriage, **23:13**
 - mental incapacity, **23:20**
 - remarriage as nullification of revocation arising from divorce or annulment, **23:16**
 - subsequent conveyance, **23:18**
 - suspension of proceedings by clerk, **23:21**
- Legitimization, **23:17**
- Marriage, **23:13**
- Mental incapacity, **23:20**
- Physical act, **23:9-23:11**
- Presumption, **23:12, 31:19**
- Remarriage as nullification of revocation arising from divorce or annulment, **23:16**
- Revival of revoked will, **23:22**
- Subsequent conveyance, **23:18**
- Subsequent inconsistent written will or revocatory writing, **23:7**
- Suspension of involuntary revocation proceedings by clerk, **23:21**
- Undue influence, **36:9**
- Validity of subsequent will, voluntary revocation, **23:8**
- Voluntary revocation
 - generally, **23:6-23:12**
 - authorized person, physical act of, **23:10**
 - methods and extent of destruction, **23:11**
 - physical act, **23:9-23:11**
 - presumption of revocation, **23:12**
 - subsequent inconsistent written will or revocatory writing, **23:7**
 - validity of subsequent will, **23:8**

RIGHT TO RENOUNCE

- Waiver, **15:16**

ROTH CONVERSION

- Retirement accounts, **22:7**

RULES OF ESTATE DIVISION

- Generally, **19:24-19:26**

SAFE DEPOSIT BOX

- Generally, **1:13, 1:21, 5:30**
- Checklist for settlement, inventory, **1:21**
- Protection of estate assets, **7:8**
- Will, **5:30**

SAFEKEEPING

- Ethics, **3:11**
- Holographic wills, **21:28**
- Wills, **21:17, 21:28**

SALARIES

- See index heading **WAGES AND COMPENSATION**

SALE OF PROPERTY

- Checklist for settlement, **1:52**
- Personal representative, **5:21**
- Probate assets, generally, **5:14-5:17, 5:25-5:27**

SANCTIONS

- Mediation, failure to attend, **35:12**

SATISFACTION

- Ademption by satisfaction, **28:32**

SAVINGS ACCOUNT

- Personal representatives, **2:66, 2:67**

SEALS

- Wills and other estate planning documents, **21:16**

SECURED CLAIMS

- Generally, **8:36, 8:44, 8:56**

SELECTION OF MEDIATOR

- Generally, **35:13**

SELF-PROVED WILLS

- Generally, **21:33**
- Probate
 - generally, **24:22, 24:62**
 - for detailed treatment see index heading **PROBATE**

SELLING ASSETS

- Generally, **1:52**

SEPARATION AGREEMENTS

- Generally, **27:7**

SERVICEMAN'S WILLS

Generally, **21:31**
 Probate in common form, **24:28**

SERVICE OF PROCESS AND PAPERS

Missing persons, **30:14**
 Renunciation by heirs and beneficiaries, **15:14**

SETTLEMENT

Caveat proceedings, **24:58**
 Checklist for settlement generally, **1:1-1:77**
 for detailed treatment see index heading CHECKLISTS
 Negotiations, **35:21**

SEVEN RULES OF ESTATE DIVISION

Generally, **19:24-19:26**

SIBLINGS

Generally, **19:12**
 Intestate estates, **19:7, 19:12, 19:35**

SIGNATURES

Attested written wills, **21:21**
 Holographic wills, **21:27**
 Personal representatives, notary public, **2:101**

SIMULTANEOUS DEATHS

Generally, **11:1-11:15**
 Alternate beneficiaries, **11:7**
 Bona fide purchasers, **11:15**
 Checklist for settlement, **1:65**
 Class members, **11:8**
 Construction and interpretation of wills, **31:18**
 Co-owners with rights of survivorship, **11:9, 11:10**
 Definitions
 generally, **11:2-11:5**
 co-owners with rights of survivorship, **11:3**
 governing instrument, **11:4**
 payor, **11:5**
 Event, survival of, **11:11**
 Evidence of death or status, **11:4**

SIMULTANEOUS DEATHS—Cont'd

Forfeiture by heirs and beneficiaries, slayers, **16:38**
 120-hour survivorship rule, **11:6, 11:13**
 Renunciation, **15:10**
 Slayers, **11:12, 16:38**
 Third parties, protection of, **11:15**

SISTERS AND BROTHERS

Intestate estates, **19:7, 19:12, 19:35**

SIX-MONTH PROBATE TIME LIMITATION

Generally, **9:19-9:23**

SLAYERS

Forfeiture by heirs and beneficiaries generally, **16:21-16:39**
 for detailed treatment see index heading FORFEITURE BY HEIRS AND BENEFICIARIES
 Simultaneous death, **11:12, 16:38**

SMALL ESTATES

Generally, **12:1-12:27**
 Affidavits
 administration of small estate, **12:11, 12:12**
 collection, disbursement and distribution, **12:26**
 collection of personal property, **12:23-12:25**
 Alternative procedure
 generally, **12:20-12:22**
 exceeding of statutory minimum, **12:21**
 payment of debts to clerk, **12:20, 12:21**
 real estate, **12:22**
 Application, contents, **12:11**
 Application for administration by clerk, **12:27**
 Appointment of personal representative, **12:19**
 Assets of estate, gathering of, **12:13**
 Checklist for settlement, determination of applicability, **1:15**
 Clerk may compel compliance, distribution of assets recovered by small estate collector, **12:16**
 Collector, **12:4**

INDEX

SMALL ESTATES—Cont'd

Debtors of estate, **12:14**

Definitions

generally, **12:2-12:4**

small estate, **12:3**

small estate collector, **12:4**

Discharge of small estate collector,
12:17

Distribution of assets recovered by small
estate collector, **12:15-12:17**

Election of procedure, **12:7-12:12**

Exceeding of statutory minimum,
alternative procedure, **12:21**

Fees, **12:10**

Filing of affidavit, **12:12**

Forms

generally, **12:23-12:27**

affidavit for collection of personal
property, **12:23-12:25**

affidavit of collection, disbursement
and distribution, **12:26**

application for administration by
clerk, **12:27**

instructions, affidavit for collection of
personal property, **12:25**

Gathering of assets of estate, **12:13**

Instructions, affidavit for collection of
personal property, **12:25**

Landlord's rights, **12:18**

Net value, determination of
generally, **12:5-12:7**

election of procedure, **12:7**

real property, **12:6**

Payment of debts to clerk, alternative
procedure, **12:20, 12:21**

Procedure, generally, **1:15, 12:5 et seq.,
34:12**

Qualifications, **12:9**

Real property

alternative procedure, **12:22**

net value, determination of, **12:6**

Tax saving and asset protection
techniques, **34:12**

Transferors to estate, **12:14**

SOCIAL SECURITY NUMBER

Payment of obligations of decedent and
estate, taxation, **8:74, 8:75**

SOLEMN FORM, PROBATE BY CITATION WITH CAVEAT

Generally, **24:32**

SOLEMN FORM, PROBATE BY CITATION WITHOUT CAVEAT

Generally, **24:29-24:31**

For detailed treatment see index heading
PROBATE

SPECIAL BEQUESTS

Payment of obligations of decedent and
estate, testate debts, **8:63**

SPECIAL DEVISEES AND CHILDREN

Generally, **29:1-29:28**

Adopted children

generally, **29:20**

after-born, after-adopted and other

after-entitled children, below

collateral heirs and lineal descen-
dants, effect on, **29:21**

After-born, after-adopted and other
after-entitled children

generally, **29:15-29:19**

after-adopted children, generally,
23:4, 29:8, 29:15

after-born children, generally, **23:3,
29:7, 29:15**

after-entitled illegitimate child, gener-
ally, **23:5, 29:9, 29:18**

codicil, effect of, **29:17**

definitions, **29:7-29:9**

illegitimate children, **29:18**

live birth, requirement of, **29:16**

revocation of wills, **23:17**

source of share, **29:19**

special devisees and children

generally, **29:15-29:19**

Codicil, effect on after-born, after-
adopted and other after-entitled
children, **29:17**

Collateral devisees, **29:3, 29:11**

Collateral heirs and lineal descendants,
effect of adopted children on, **29:21**

Creditor devisees, **29:14**

Definitions

generally, **29:2-29:10**

after-adopted, **29:8**

SPECIAL DEVISEES AND CHILDREN—Cont'd

Definitions—Cont'd
 after-born, **29:7**
 after-entitled illegitimate, **29:9**
 collateral devisees, **29:3**
 half-blood, **29:4**
 lineal descendant, **29:6**
 nonresident alien, **29:10**
 step-relationship, **29:5**
 Half-blood devisees, **29:4, 29:12**
 Illegitimate children, **29:18**
 Illegitimate devisees, **29:22**
 Interested devisees as witnesses to will, **29:28**
 Live birth, after-born children, **29:16**
 Minor devisees, **29:27**
 Missing devisees, **29:23**
 Per capita devisees, **29:25**
 Per stirpes devisees, **29:26**
 Step-relation devisees, **29:5, 29:13**
 Unknown beneficiaries, **29:24**
 Unlocatable devisees, **29:23**

SPECIAL DWELLING HOUSE RULE

Election to take life estate, **18:9-18:11**

SPECIAL HEIRS AND CHILDREN

Generally, **20:1-20:32**
 Adopted children, **20:19**
 Collateral succession, limitation on
 generally, **20:12-20:15**
 common ancestor, **20:6, 20:14**
 definition, **20:5**
 degrees of collateral kinship, **20:13, 20:15**
 degrees of kinship, **20:14, 20:15**
 Common ancestor, limitation on collateral succession, **20:6, 20:14**
 Definitions
 generally, **20:2-20:11**
 biological father, **20:10**
 collateral heirs, **20:5**
 common ancestor, **20:6**
 escheat, **20:7**
 half blood, **20:8**
 lineal ascendant, **20:4**
 lineal descendant, **20:3**
 putative father, **20:11**

SPECIAL HEIRS AND CHILDREN—Cont'd

Definitions—Cont'd
 step-relationship, **20:9**
 Degrees of collateral kinship, **20:13, 20:15**
 Degrees of kinship, **20:14, 20:15**
 Half-blood heirs, **20:8, 20:16**
 Illegitimate children
 generally, **20:20-20:26**
 for detailed treatment see index heading ILLEGITIMATE CHILDREN
 Illegitimate intestates, **20:27**
 Illegitimate spouses, **20:28**
 Minor heirs, **20:32**
 Missing heirs, **20:31**
 Nonresident alien heirs, **20:18**
 Step-relations, **20:9, 20:17**
 Unborn children, **20:29**
 Unknown heirs, **20:30**
 Unlocatable heirs, **20:31**

SPECIAL POWER OF APPOINTMENT

Generally, **15:5, 16:13**
 Renunciation, **15:19**

SPECIAL USE VALUATION

Tax saving and asset protection techniques, **34:18**

SPECIFIC AND DEMONSTRATIVE DEVISES

See index heading DIVISION OF TESTATOR'S NET ESTATE

SPECIFIC BEQUESTS

Payment of obligations of decedent and estate, testate debts, **8:66**

SPECIFIC DEVISES

Abatement, **28:28**
 Ademption by extinction, **28:33**
 No exoneration, **28:36**

SPOILIATION

Generally, **36:3**

SPOUSES

See index heading HUSBAND AND WIFE

INDEX

SPRINGING OR DURABLE POWER OF ATTORNEY

Generally, **21:68-21:83**
Appointment, **21:80**
Cessation of effectiveness, **21:82**
Commissions, **21:79**
Definition, **21:68**
Determination of incapacity or mental incompetence, **21:72**
Form, **21:89**
Gifting, **21:73**
Guardianship, effect of, **21:77**
Incapacity or incompetency, **21:72**
Power of appointment, **21:74**
Purpose, **21:68**
Recordkeeping, **21:78**
Registration requirement, **21:75**
Replacement of attorneys-in-fact, **21:81**
Requirements, **21:69**
Revocation, **21:83**
Statutory form, **21:70**
Substitution, **21:80**
Termination of effectiveness, **21:82**
Third persons, protection of, **21:76**

STAMP AND OTHER COLLECTIONS

Probate assets, **5:58**

STANDING

See index heading **PARTIES**

STANDSTILL ORDERS

Elective share, **26:12, 26:38**

STATUS OF SURVIVING SPOUSE

Elective share, **26:18**

STATUTE OF LIMITATION

Enlargement, **9:14**
Indefinite suspension, **9:24**
Reduction, **9:13**

STEP-RELATIONS

Generally, **20:9, 20:17, 29:5, 29:12**

STEP-UP IN BASIS

Generally, **22:3**

STOCKS AND BONDS

Generally, **5:37**

STREAMLINED SUMMARY ADMINISTRATION

Generally, **13:5-13:20**
For detailed treatment see index heading
SUMMARY ADMINISTRATION FOR
SURVIVING SPOUSES

STRETCHING OF RETIREMENT ACCOUNTS

Generally, **22:5, 34:20**

SUBSCRIBING WITNESS

Probate, affidavit for probate of will,
24:63

SUBSEQUENT INCONSISTENT REVELATORY WRITING

Generally, **23:7**

SUBSEQUENT WILL

Inconsistent will, **23:7**
Validity, **23:8**

SUBSTITUTION

Springing or durable power of attorney,
21:80

SUCCESSOR MILITARY ABSENTEE RECEIVER

Generally, **25:19**

SUCCESSOR PERSONAL REPRESENTATIVE

Generally, **2:96**

SUICIDE

Living wills, implementation as not
constituting suicide, **21:46**

SUMMARY ADMINISTRATION FOR SURVIVING SPOUSES

Generally, **13:1-13:23, 34:13**
Alternative administration not
precluded, **13:13**
Application for probate and petition for
summary administration, **13:22**
Assumption of liabilities by surviving
spouse, **13:17, 13:18**
Checklist for settlement, determination
of applicability, **1:15**
Contents of petition, **13:11**
Definitions
generally, **13:2-13:4**

SUMMARY ADMINISTRATION FOR SURVIVING SPOUSES—Cont'd

- Definitions—Cont'd
 - clerk, **13:4**
 - sole surviving spouse, **13:3**
- Discharge of sole surviving spouse where personal representative or collector is appointed, **13:20**
- Effect, **13:14**
- Election of summary administration procedure, **13:7**
- Forms
 - generally, **13:21-13:23**
 - application for probate and petition for summary administration, **13:22**
 - order of summary administration, **13:23**
 - petition for summary administration of estate without will, **13:21**
- Letters, **2:24**
- Limitation on assumption of debt by surviving spouse, **13:18**
- Nonsummary administration, **13:19**
- Optional nature of summary administration, **13:8**
- Order of clerk, **13:12, 13:14, 13:23**
- Partial intestacy, **13:6**
- Persons dealing with surviving spouse, **13:15**
- Petition, **13:10, 13:11, 13:21, 13:22**
- Qualified spouse, **13:5**
- Refusal to honor petition, **13:16**
- Restrictions, **13:9**
- Streamlined summary administration, generally, **13:5-13:20**
- Tax saving and asset protection techniques, **34:13**

SUMMARY RECEIVERSHIP

- Military absentees, **25:21, 25:22, 25:25, 25:26**

SUMMARY REVOCATION

- Personal representatives, letters, **2:92, 2:93**

SUPPLEMENTAL INVENTORIES

- Filing of inventories and accounts, **32:4**

SUPPRESSED WILLS

- Probate, **24:33**

SUPREME COURT MEDIATION RULES

- Mediation before clerk of superior court, **35:23**

TAX ADVISOR

- Generally, **1:33**

TAXATION

- Caveat proceedings, distribution of successful, **24:55**
- Checklist for settlement. See index heading **CHECKLISTS**
- Data gathering and recordkeeping, tax returns, **4:18**
- Elective share, optional draft of federal estate tax return, **26:21**
- Final account, tax clearance, **32:12**
- Intestate estates, payment, **19:20**
- Nonprobate assets. See index heading **NONPROBATE ASSETS**
- Payment of obligations of decedent and estate
 - generally, **8:47, 8:68-8:80**
 - for detailed treatment see index heading **PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE**
- Refund checks, **5:53, 6:22-6:25**
- Renunciation by heirs and beneficiaries, **15:22**
- Returns. See index heading **TAX RETURNS**
- Tax saving and asset protection techniques
 - generally, **34:1-34:21**
 - for detailed treatment see index heading **TAX SAVING AND ASSET PROTECTION TECHNIQUES**

TAX EXPERTS

- Generally, **8:77**

TAX IDENTIFICATION NUMBERS

- Generally, **1:38, 8:71-8:75**

TAX REFUND CHECKS

- Generally, **5:53, 6:22-6:25**

INDEX

TAX RETURNS

- Generally, **1:34, 1:59, 4:18**
- Amended tax returns, **8:78**
- Deductions, **34:16**
- Prior tax returns, **1:43, 2:68**

TAX SAVING AND ASSET PROTECTION TECHNIQUES

- Generally, **34:1-34:21**
- Avoidance of creditors, qualified disclaimer/renunciation, **34:4**
- Caveats, **34:14**
- Commission, renunciation of, **34:5**
- Community property statute, **34:8**
- Date of death vs. alternate valuation date, **34:7**
- Disclaimer, defined, **34:2**
- Discounts, **34:19**
- Election of estate administration method generally, **34:11-34:13**
 - small estates procedure, **34:12**
 - summary administration, **34:13**
- Elections
 - correct federal tax returns for deductions, **34:16**
 - tax deferrals, **34:17**
- Elective life estate, **34:9**
- Elective share, **34:10**
- Family settlements, **34:14**
- Income in respect of decedent deduction, **34:15**
- Joint income tax return with decedent, **34:21**
- Qualified disclaimer/renunciation, **34:3, 34:4**
- Qualified domestic trusts, **34:6**
- Renunciation of commission, **34:5**
- Small estates procedure, **34:12**
- Special use valuation, **34:18**
- Stretching out of retirement accounts, **34:20**
- Summary administration, **34:13**
- Tax deferrals, election, **34:17**

TEMPORARY RECEIVERS

- Missing persons, **30:10**

TENANCY BY ENTIRETIES

- Data gathering and recordkeeping, **4:5, 4:14**

TENANCY BY ENTIRETIES—Cont'd

- Election to take life estate, **18:6**
- Forfeiture by heirs and beneficiaries, slayers, **16:6, 16:28**
- Nonprobate assets
 - generally, **6:13-6:17**
 - for detailed treatment see index heading NONPROBATE ASSETS

TENANCY IN COMMON

- Generally, **4:8, 5:8**

TERMINATION OF NOTICE OF FIDUCIARY RELATIONSHIP

- Generally, **32:24**

TERMINATION OF RECEIVER

- Military absentees, **25:20**

TERROREM CLAUSES

- Generally, **24:57, 31:15**

TESTATE

- Definition, **1:3, 1:5, 21:4**

TESTATE SHARE

- Generally, **28:8**

TESTATOR

- Defined, **21:3**

THEFT

- Estate assets, **36:10**

THIRD PERSONS

- Probate assets, property held by decedent that belongs to third person, **5:61**
- Simultaneous deaths, **11:15**
- Springing or durable power of attorney, **21:76**

THREE-MONTH INVENTORY

- Generally, **1:55, 32:3, 32:4, 33:5**

THREE-MONTH PROBATE TIME LIMITATIONS

- Generally, **9:2-9:17**

TIME AND DATE

- Caveat proceedings, time limit on challenge, **24:48**
- Checklist for settlement, **1:2, 1:34**
- Election to take life estate, **18:13, 18:18**

TIME AND DATE—Cont'd

- Elective share, filing of claim, **26:10**
- Limitations
 - generally, **33:1-33:22**
 - for detailed treatment see index heading TIME LIMITATIONS
- Missing persons, **30:3**
- Notice of claim, time for giving, **8:37, 8:38, 9:2-9:26**
- Payment of obligations of decedent and estate. See index heading PAYMENT OF OBLIGATIONS OF DECEDENT AND ESTATE
- Probate
 - generally, **24:11-24:13**
 - for detailed treatment see index heading PROBATE
- Renunciation by heirs and beneficiaries, **15:15**
- Wills, requirement of date, **21:16**

TIME LIMITATIONS

- Generally, **33:1-33:22**
- Annual account, **33:17**
- Caveat proceedings, **33:21**
- Claims against estate, **33:8, 33:18**
- Contract claims with personal representative, **33:15**
- Death taxes, **33:14**
- Election to take life estate, **33:22**
- Elective share, **33:13**
- Estates, **33:1-33:22**
- Fourth through ninth month of administration
 - generally, **33:10-33:16**
 - contract claims with personal representative, **33:15**
 - death taxes, **33:14**
 - elective share, **33:13**
 - illegitimate children, claims by, **33:12**
 - non-contractual claims with personal representative, **33:16**
 - renunciation by beneficiaries, **33:11**
 - renunciation of personal representative's commission, **33:10**
- Illegitimate children, claims by, **33:12**
- Life estate, election to take, **33:22**

TIME LIMITATIONS—Cont'd

- Non-contractual claims with personal representative, **33:16**
- Notice to creditors, publication of, **33:2**
- Notification to creditors, **33:4**
- Notified creditors, **33:9**
- One to three years from death of the decedent
 - generally, **33:18-33:22**
 - caveat proceedings, **33:21**
 - claims against estate were no notice to creditors filed, **33:18**
 - election to take life estate, **33:22**
 - wrongful death, **33:19**
 - year's allowance ordered by superior court, **33:20**
- Probate, **9:2**
- Publication of notice to creditors, **33:2**
- Rejected claim, **33:6**
- Renunciation by beneficiaries, **33:11**
- Renunciation of personal representative's commission, **33:10**
- Tenth through twelfth month of administration, annual account, **33:17**
- 30 days following qualification
 - publication of notice to creditors, **33:2**
 - year's allowance, **33:3**
- 30 to 90 days following qualification
 - generally, **33:4-33:9**
 - claims against estate, **33:8**
 - notification to creditors, **33:4**
 - notified creditors, **33:9**
 - rejected claim, **33:6**
 - three month inventory, **33:5**
 - venue, challenges to, **33:7**
- Three month, **9:3-9:17, 33:5**
- Venue, challenges to, **33:7**
- Wrongful death, **33:19**
- Year's allowance, **33:3, 33:20**

TITLE

- Probate assets, **5:12-5:20**

TOLLING

- Probate, time limit in which to probate will, **24:13**

INDEX

TORT ACTIONS INVOLVING WILLS AND RELATED DOCUMENTS

Generally, **36:1-36:11**
Alteration of will, **36:6**
Attorney-in-fact, wrongful acts by, **36:8**
Concealment of valid will, **36:5**
Conversion of estate assets, **36:10**
Definitions, **36:3**
Forgery of will, **36:6**
Fraud, **36:7**
Malicious interference with expectancy,
36:4
Revocation of will, undue influence,
36:9
Spoliation, defined, **36:3**
Theft of estate assets, **36:10**
Undue influence to revoke will, **36:9**
Withholding of valid will, **36:5**
Wrongful destruction of will, **36:11**

TORT CLAIMS AGAINST ESTATE

Generally, **9:1-9:45**
Admission of validity of claim by
personal representative, three
month probate time limitation, **9:11**
Bifurcated probate time limitation, **9:25**
Checklist for settlement, investigation of
potential claims, **1:37**
Claimants known or ascertainable, **9:5,**
9:22, 9:30
Correct probate time limitations, use of,
9:33
Damage claim in sum greater than
\$10,000, **9:41**
Discovery statutes
reliance on to extend statute of limita-
tions, **9:42**
three month probate time limitation,
9:17
Enlargement of standard personal injury
statute of limitations, three month
probate time limitation, **9:14, 9:15**
Filing of action
filing after deceased tortfeasor's
personal representative has
rejected plaintiff's claim, **9:38**
presentation of claim, **9:10**
recorded judgment liens, **9:39**

TORT CLAIMS AGAINST ESTATE

—Cont'd

Indefinite suspension of nonclaim statute
and statute of limitations, **9:24**
Insurance coverage, three month probate
time limitation, **9:6**
Known or ascertainable claimants, **9:5,**
9:22, 9:30
Legal disabilities, use in effort to extend
time limitation, **9:43**
Malpractice traps
generally, **9:37-9:44**
damage claim in sum greater than
\$10,000, **9:41**
discovery statute, reliance on to
extend statute of limitations,
9:42
filing of timely action after deceased
tortfeasor's personal representa-
tive has rejected plaintiff's claim,
9:38
filing of timely action for recorded
judgment liens, **9:39**
legal disabilities, use in effort to
extend time limitation, **9:43**
publication of notice of creditors,
assumption of, **9:40**
tortfeasor as alive, assumption of,
9:44
Missing of deadline date, three month
probate time limitation, **9:12, 9:15**
Nonclaim statutes vs. statutes of limita-
tions, **9:27, 9:28**
Overcoming potential untimely claim
defense
generally, **9:29-9:36**
claimants known or ascertainable,
9:30
contents of notice to creditors, defects
in, **9:31**
correct probate time limitations, use
of, **9:33**
file claim and see if untimely claim
defense will be raised, **9:34**
publication of notice to creditors,
defects in, **9:32**
remedy that does not involve recovery
from tortfeasor's estate, **9:35**
starting date of probate time limita-
tion, **9:36**

TORT CLAIMS AGAINST ESTATE

—Cont'd

- Personal representative not appointed, three month probate time limitation, **9:16**
- Presentation of claim
 - six month probate time limitation, **9:20, 9:21**
 - three month probate time limitation, **9:7 et seq.**
- Publication of notice to creditors
 - assumption, **9:40**
 - defects, **9:32**
- Reduction of standard personal injury statute of limitations, three month probate time limitation, **9:13**
- Six month probate time limitation
 - generally, **9:19-9:23**
 - presentation of claim, **9:20, 9:21**
- Starting date of probate time limitation, **9:36**
- Three month probate time limitation
 - generally, **9:2-9:17**
 - admission of validity of claim by personal representative, **9:11**
 - claimants known or reasonably ascertainable by personal representative, **9:5, 9:22**
 - discovery statutes, effect of, **9:17**
 - enlargement of standard personal injury statute of limitations, **9:14, 9:15**
 - failure to provide timely notice to creditors, **9:15**
 - filing of action, presentation of claim by, **9:10**
 - form and requirements of notice to creditors, **9:4**
 - form of claim, **9:8**
 - insurance coverage, **9:6**
 - method of presentation of claim, **9:9**
 - missing of deadline date, effect of, **9:12, 9:15**
 - personal representative not appointed, **9:16**
 - presentation of claim, **9:7 et seq.**
 - reduction of standard personal injury statute of limitations, **9:13**

TORT CLAIMS AGAINST ESTATE

—Cont'd

- Three month probate time limitation
 - Cont'd
 - standard tort statutes of limitation, effect on, **9:23**
- Time limitations
 - generally, **9:2-9:26**
 - bifurcated probate time limitation, **9:25**
 - indefinite suspension of nonclaim statute and statute of limitations, **9:24**
 - N.C. Gen. Stat. Ann. § 1-22 effect on statutes of limitation, **9:18**
 - procedure after notice of claim presented, **9:26**
 - six month probate time limitation, above
 - three month probate time limitation, above
- Tortfeasor as alive, assumption of, **9:44**

TOTAL ASSETS OF DECEDENT

- Generally, **26:14**

TOTAL NET ASSETS

- Valuation of, **26:22**

TOTAL NET ASSETS OF DECEDENT

- Generally, **26:15**

TRADE NAMES

- Ethics, **3:18**

TRANSFER ON DEATH

- Generally, **4:6, 5:28, 5:31, 5:33, 11:4, 15:6**
- Checklist, **6:28**

TRUSTEESHIP UNDER WILL

- Personal representatives, applications for letters, **2:109**

ULTIMATE DISTRIBUTION

- Year's allowance, effect of, **10:7**

UNAVAILABLE WITNESS

- Probate, affidavit for probate of will, **24:64**

UNBORN CHILDREN

- Generally, **20:29**

INDEX

UNCOLLECTIBLE BEQUESTS

Elective share, **26:28**

UNDUE INFLUENCE

Caveat proceedings, **24:41**

Revocation of will, **36:9**

UNFUNDED DEMONSTRATIVE DEVISE

Generally, **28:28**

UNHARVESTED CROPS

Generally, **5:44**

UNITED STATES SAVINGS BONDS

Probate assets, **5:37**

UNKNOWN BENEFICIARIES

Generally, **29:24**

UNKNOWN HEIRS

Generally, **20:30**

UNLIQUIDATED CLAIMS

Payment of obligations of decedent and
estate, **8:61**

UNLOCATABLE DEVISEES

Generally, **29:23**

UNLOCATABLE HEIRS

Generally, **20:31**

UNOCCUPIED REAL ESTATE

Generally, **7:5**

UNTIMELY CLAIM DEFENSES

Generally, **9:29, 9:31-9:36**

U.S. SAVINGS BONDS

Generally, **5:37**

VALIDITY OF CLAIM

Generally, **9:11**

VALIDITY OF FOREIGN WILLS

Generally, **21:34**

VALIDITY OF SUBSEQUENT WILL

Generally, **23:8**

VALID WILL

Concealing, **36:5**

Withholding, **36:5**

VALUATION

Advancement of intestate shares, **17:8-17:10**

Election to take life estate, special
dwelling house rule, **18:11**

Elective share, valuation of total net
assets and property passing to
surviving spouse (PPSS), **26:22**

Nonprobate assets

generally, **6:1-6:28**

for detailed treatment see index head-
ing NONPROBATE ASSETS

Probate assets

generally, **5:1-5:71**

for detailed treatment see index head-
ing PROBATE ASSETS

VEHICLES

See index heading AUTOMOBILES AND
OTHER VEHICLES

VENUE

Challenge to venue, **2:35, 33:7**

VERIFICATION

Personal representatives

generally, **2:124**

for detailed treatment see index head-
ing PERSONAL REPRESENTATIVES

VESTED REMAINDERS

Forfeiture by heirs and beneficiaries,
slayers, **16:32**

VOID DEVISES

Anti-lapse statute, **28:24**

VOLUNTARY REVOCATION OF WILLS

Generally, **23:6-23:12**

For detailed treatment see index heading
REVOCATION OF WILLS

VOUCHERS

Final account, **32:14**

WAGES AND COMPENSATION

Commissions and fees. See index head-
ing COMMISSIONS AND FEES

Payment of obligations of decedent and
estate, **8:49**

Personal representatives, public
administrators, **2:98**

WAGES AND COMPENSATION

—**Cont'd**

Probate assets, **5:40**

WAIVER

Elective share, **26:13**

Personal representatives, bond of
personal representative, **2:114**

Renunciation by heirs and beneficiaries,
15:16, 15:21

WIFE AND HUSBAND

See index heading **HUSBAND AND WIFE**

**WILLS AND OTHER ESTATE
PLANNING DOCUMENTS**

Generally, **21:1-21:92**

Alteration of will, tort actions, **36:6**

Anatomical gift declaration, **21:85,**
21:90

Attested written wills

generally, **21:19-21:24**

probate, **24:21-24:25**

property passed, **21:24**

requirements, **21:19-21:23**

signature requirement, **21:21**

witnessing requirement, **21:22, 21:23**

writing requirement, **21:20**

Church members, **3:19**

Codicils

generally, **21:32**

for detailed treatment see index head-
ing **CODICILS**

Concealment of valid will, **36:5**

Construction and interpretation of wills
generally, **31:1-31:23**

for detailed treatment see index head-
ing **CONSTRUCTION AND INTER-
PRETATION OF WILLS**

Date requirement, **21:16**

Definitions

generally, **21:2-21:14**

administrator C.T.A., **21:6**

clerk, **21:9**

devise, **21:8**

devisee, **21:7**

estate, **21:14**

estate settlement statutes, **21:10**

executor, **21:5**

letters, **21:12**

**WILLS AND OTHER ESTATE
PLANNING DOCUMENTS**

—**Cont'd**

Definitions—**Cont'd**

N.C. Gen. Stat., **21:11**

service, **21:13**

testate, **21:4**

testator, **21:3**

Destruction. See index heading

DESTRUCTION OF WILLS

Durable power of attorney

generally, **21:68-21:83**

for detailed treatment see index head-
ing **SPRINGING OR DURABLE**

POWER OF ATTORNEY

Foreign wills, **21:34**

Forgery of will, **36:6**

Forms

anatomical gift declaration, **21:90**

Health Insurance Portability and
Accountability Act (HIPAA)
release, **21:92**

mental health treatment instruction,
21:91

Health care power of attorney

generally, **21:50-21:67**

for detailed treatment see index head-
ing **HEALTH CARE POWER OF
ATTORNEY**

Health Insurance Portability and
Accountability Act (HIPAA)
release, **21:92**

Holographic wills

generally, **21:25-21:29**

for detailed treatment see index head-
ing **HOLOGRAPHIC WILLS**

Joint, **28:38**

Kinds of wills, generally, **21:18-21:31**

Living wills

generally, **21:36-21:49**

for detailed treatment see index head-
ing **LIVING WILLS**

Locating, **1:13, 2:48**

Mental health treatment instruction,
21:86, 21:91

Mutual, **28:38**

Nuncupative wills

generally, **21:30**

INDEX

WILLS AND OTHER ESTATE PLANNING DOCUMENTS

—Cont'd

- Nuncupative wills—Cont'd
 - for detailed treatment see index heading NUNCUPATIVE WILLS
- Persons who may make will, **21:15**
- Probate. See index heading PROBATE
- Property passed, attested written wills, **21:24**
- Qualifications of witnesses, attested written wills, **21:23**
- Receptacle, **21:17**
- Revocation of wills
 - generally, **23:1-23:22**
 - for detailed treatment see index heading REVOCATION OF WILLS
- Safe deposit box, **5:30**
- Safekeeping, **21:17, 21:28**
- Seal, requirement of, **21:16**
- Self-proved wills
 - generally, **21:33**
 - for detailed treatment see index heading SELF-PROVED WILLS
- Servicemen's wills
 - generally, **21:31**
 - for detailed treatment see index heading SERVICEMEN'S WILLS
- Signature, attested written wills, **21:21**
- Speak at death, **28:19, 31:6**
- Springing power of attorney
 - generally, **21:68-21:83**
 - for detailed treatment see index heading SPRINGING OR DURABLE POWER OF ATTORNEY
- Tort actions. See index heading TORT ACTIONS INVOLVING WILLS AND RELATED DOCUMENTS
- Who may make, **21:15**
- Withholding of valid will, **36:5**
- Witnesses. See index heading WITNESSES
- Wrongful destruction of will, **36:11**

WISHES OR REQUESTS

- Construction and interpretation of wills, **31:16**

WITHHOLDING A VALID WILL

- Generally, **36:5**

WITNESSES

- Attested written wills, **21:22, 21:23**
- Interested devisees, **29:28**
- Living wills, **21:41**
- Mediation before clerk of superior court.
 - See index heading MEDIATION BEFORE CLERK OF SUPERIOR COURT
- Wills, generally, **24:25**

WORKERS' COMPENSATION

- Forfeiture by heirs and beneficiaries, spouses, **16:16**
- Nonprobate assets, death proceeds, **6:20, 6:21**

WRONGDOING SPOUSE

- Generally, **16:4**

WRONGFUL ACTS BY ATTORNEY-IN-FACT

- Generally, **36:8**

WRONGFUL ALTERATION OF WILL

- Generally, **36:6**

WRONGFUL DEATH

- Checklist for settlement, investigation of potential claims, **1:37**
- Forfeiture of rights by heirs and beneficiaries, spouses, **16:16**
- Nonprobate assets, proceeds of action, **6:20, 6:21**
- Notice to creditors, exception for estate having a wrongful death claim as its only asset, **8:14**
- Time limitations
 - one to three years from decedent's death, time limitations that expire within, **33:19**

WRONGFUL DESTRUCTION OF WILL

- Generally, **36:11**

YEAR'S ALLOWANCE

- Generally, **10:1-10:27**
- Amount of allowance
 - children, **10:13**
 - special proceeding, determination of allowance by, **10:21**
 - surviving spouse, **10:5**

YEAR'S ALLOWANCE—Cont'd

- Application for allowance, **10:8-10:10, 10:25, 10:27**
- Checklist for settlement, **1:40**
- Children
 - generally, **10:11-10:15**
 - amount of allowance, **10:13**
 - qualifying children, **10:12**
 - special in loco parentis rule, **10:14**
- Deficiency judgment, **10:26**
- Definitions, **8:8, 10:2, 10:3, 19:15**
- Determination of allowance, **10:16-10:21**
- Elective share, **26:33**
- Entitlement, **10:4-10:7**
- Exceptions to commissioners' award, **10:22**
- Excess of statutory amount, allowance in, **10:18, 10:19, 10:27**
- Forms
 - generally, **10:25-10:27**
 - application for allowance, **10:25, 10:27**
 - deficiency judgment, **10:26**
 - excess of statutory amount, application for allowance in, **10:27**
- Insolvent estates, setting out statutory allowance, **10:17**
- Intestate estates, **19:15, 19:18**
- In loco parentis, defined, **10:3**

YEAR'S ALLOWANCE—Cont'd

- Loss of right to be paid allowance, **10:23**
- Magistrate or clerk, application to, **10:9**
- Payment of obligations of decedent and estate, **8:8, 8:42**
- Personal representative's credit, **10:24**
- Setting out statutory allowance, **10:16, 10:17**
- Special in loco parentis rule, children, **10:14**
- Special proceeding, determination of allowance by
 - generally, **10:18-10:21, 33:20**
 - allowance in excess of statutory amount, **10:18, 10:19**
 - amount of allowance, **10:21**
 - court order, **10:20, 10:21**
- Surviving spouse
 - generally, **10:4-10:10**
 - amount of allowance, **10:5**
 - application for allowance, **10:8-10:10**
 - contents of application for allowance, **10:10**
 - entitlement to allowance, **10:4-10:7**
 - funds available for payment of allowance, **10:6**
 - magistrate or clerk, application to, **10:9**
 - ultimate distribution, effect on, **10:7**
- Time limitations, **33:3, 33:20**
- Ultimate distribution, effect on, **10:7**