

Index to Subjects

ABLE ACCOUNTS

Disability planning, **10:30**

ACTUARIAL TABLES

Lifetime gifts, leveraging, **10:48-10:52**

ADEMPATION OF LEGACIES

Generally, **2:42, 2:43**

ADOPTION

Children, will affected by, **1:36**

AGENT

Beneficiary as, **4:22**

Health care proxies, **1:46, 1:47**

AMERICAN TAXPAYER RELIEF ACT OF 2012

Generally, **5:15**

ANNUITIES

Charitable gifts, forms of, **9:16**

ANNULMENT

Dispositive document provisions affected by, **1:33**

APPORTIONMENT

Estate Taxes (this index)

ASSETS

Disclaimer Trust (this index)

Dispositive provisions of will affected by, **2:23**

Gross Estate (this index)

Living trust for disposition of, **3:3-3:10**

Marital Deduction (this index)

Non-probate, **2:40**

Probate, **2:40**

ASSISTED REPRODUCTION

Will, **1:37**

ATTESTATION

Generally, **2:89**

Self-proving affidavit, **2:90**

Self-trusted revocable trusts, **3:44**

Trust used with pour-over will, **3:47**

Witnesses (this index)

ATTESTATION CLAUSE

Generally, **4:30-4:54**

Ancient document, **4:59**

Date of, **4:10**

Effect, presumption of due execution, **4:57**

Improper execution, **4:58**

Testator's use of mark noted in, **4:20**

ATTORNEY

Attesting witness, **4:35**

Disclaimers, **7:46**

Due Execution (this index)

Execution of will supervised by, **4:55, 4:71, 71**

Liability for malpractice, **1:1**

Safeguarding of will with, **4:97-4:101**

Witness, attesting, **4:35**

ATTORNEY-DRAFTER

Executor, **2:67, 2:69**

Testamentary gifts to, **2:46**

BENEFICIARIES

Agent, **4:22**

Attesting witness, **4:36-4:39**

Charitable, **2:16**

Pension plan, divorce effects on, **1:34**

Residual, estate taxes apportioned to residuary estate, **2:15**

Signature of, instead of testator's signature of will, **4:22**

Trustee removal by, **2:64, 2:65**

Witness, attesting, **4:36-4:39**

BOND

Executor appointment, **2:62**

BURIAL WISHES

Will provisions, **2:3**

BUSINESS POWERS

Fiduciaries, **2:71**

CAPITAL GAINS TAX

Generally, **11:92**

CASUALTY INSURANCE

Inclusion of, in devise, **2:28**

CEMETERY PLOT

Will provisions, perpetual care, **2:6**

CHARITABLE DEDUCTIONS

Gifts to charities, **5:83**

Gross estate, **5:82-5:85**

Leveraging, **10:38-10:44**

Split interest gifts, **5:84, 5:85**

CHARITABLE GIFTS AND GIVING

Alternate minimum tax, **9:48**

Annuities, form of charitable gift, **9:16**

Appropriation rules, **9:3, 9:4**

Cash gifts, percentage limitations for, **9:44-9:46**

Charitable lead trusts, **9:14**

Charitable name, **9:6**

Charitable remainder trusts, **9:13, 9:91-9:93**

Contributions, **9:17**

Cy pres proceeding, **9:8**

Drafting considerations, **9:5-9:8**

Estate tax deduction

generally, **9:19**

cemetery associations, **9:32**

compromise agreements, **9:23**

gift must pass from decedent, **9:22-9:28**

included in decedent's estate, **9:29**

passing to charities selected by another, **9:27**

passing to qualified charity, **9:30-9:33**

requirements for, **9:20, 9:21**

Forms of, **9:9-9:16**

Income tax deduction

generally, **9:35**

long-term capital gain, **9:39-9:43**

qualifying charities, **9:36**

reduction rules, **9:39-9:43**

short-term capital gain, reduction rules for, **9:37**

IRA used to make charitable contributions, **9:38**

Life estates, **9:11**

Limitations on, **9:2, 9:3**

Outright gifts, **9:10**

Percentage limitations for, **9:44-9:47**

Restrictions, **1:31, 9:7**

Split interest trusts, **9:12-9:15**

CHARITABLE GIFTS AND GIVING

—Cont'd

State law, **9:1**

Tax appropriation rules, **9:4**

Tax deductions

estate. Estate tax deduction, above

gift, **9:34**

income. Income tax deduction, above

potential, **9:18**

CHARITABLE LEAD TRUSTS

Generally, **9:14**

Common law lead trust, **9:113-9:116**

Funding, **11:95**

Grantor lead trust, **9:110-9:112**

Irrevocable inter vivos, **9:118**

Leveraging, **10:43, 10:44**

Regular lead trust

generally, **9:102**

excise taxes, **9:105**

generation-skipping transfer tax, **9:109**

Medicare contribution tax, **9:106**

no grantor retained interest, **9:107**

payout, **9:103, 9:104**

primary planning use is to leverage transfers, **9:108**

private foundation rules, **9:105**

Testamentary, **9:117**

Types, **9:101**

CHARITABLE REMAINDER TRUSTS

Generally, **6:57-6:61, 9:13**

Amount inducible in grantor's gross estate, **9:76**

Anti-abuse regulation, **9:85**

Capital gains, **9:56, 9:57**

Charitable deductions for, **9:67**

Common rules for, **9:59 et seq.**

Definition, **9:49**

Division of, **9:80**

Estate taxes, **9:75**

Excise taxes, **9:77, 9:78**

Final payout, **9:74**

5% probability test, **9:96, 9:97**

Funding, **9:98, 11:94**

Implications of treatment of gifts as deemed sales, **9:84**

IRS approved forms, **9:100**

Leveraging, **10:39-10:42**

Medicare contribution tax, **9:83**

Ordering rules, **9:81**

INDEX

CHARITABLE REMAINDER TRUSTS

—Cont'd

- Payout format, factors in selecting
 - certainty about the amount of payment, **9:89**
 - charitable deduction, **9:91-9:93**
 - expected yield of assets in trust, **9:90**
 - future additions to trust, **9:94**
 - inflation, **9:88**
- Payout requirements
 - generally, **9:51**
 - annuity provision, **9:52**
 - lesser of income or unitrust interest, **9:54, 9:55**
 - unitrust interest, **9:53**
- Payout targets, **9:95**
- Permissible payout recipients
 - generally, **9:59**
 - cancellation of survivor recipient's interest, **9:66**
 - class of individuals, **9:64**
 - common rules for, **9:69**
 - payments to trusts for disabled persons, **9:63**
 - persons, **9:60, 9:63 et seq.**
 - trusts, **9:62**
 - waiver of right of election, **9:61**
- Permissible remainder beneficiaries, **9:70**
- Primary use of, **9:50**
- Private foundation rules, **9:77**
- Qualified contingencies, **9:73**
- Section 2702 valuation rules, **9:86**
- Terminating a charitable remainder trust, **9:99**
- Term of interest, **9:72**
- Tier rules, **9:81**
- Timing of payments, **9:82**
- Unrelated business taxable income, **9:79**

CHARITABLE SPLIT DOLLAR ARRANGEMENTS

- Generally, **11:42**

CHILDREN

- Adoption of, will affected by, **1:36**
- Birth of, will affected by, **1:36**
- Devise of real property to, **2:25**
- Disinheritance of, **1:32**
- Guardian selection for, **2:51, 2:52**
- Pot trust for, **2:49**
- Testamentary trusts for, **2:48-2:52**

CLIENT

- Diminished capacity, disability planning by, **1:39**
- Information gathering, **1:5**
- Initial contact with, **1:2**

CODICILS

- Avoidance of, **4:95, 4:96**
- Prior, revocation of, **2:1**

COHABITATION AGREEMENT

- Generally, **1:30**

COMMON DISASTER SURVIVORSHIP

- Generally, **2:8-2:10**

COMMON LAW LEAD TRUST

- Charitable lead trusts, **9:113-9:116**

COMMON LAW MARRIAGE

- Generally, **1:27**

COMMUNITY PROPERTY

- Generally, **1:22-1:25**
- In New York estates, **1:25**
- Presumption of, **1:24**
- Spouses may have separate property, **1:23**

CONDITIONAL LEGACIES

- Generally, **2:45**

CONFIDENTIALITY

- Living trust, **3:6**

CONFLICT OF INTEREST

- Generally, **1:4**

CONSTRUCTIVE TRUST

- Non-marital partners, **1:29**

COPYING

- Generally, **4:82-4:84**

CREDIT SHELTER TRUST

- Generally, **6:15**
- Assets for
 - availability of, **6:26-6:29**
 - beneficiary designations, **6:27**
 - income in respect to decedent, **6:30, 6:31**
 - life estate interest in residence, **6:28, 6:29**
 - selection of, **6:15**
- Lifetime power of appointment, **6:20-6:22**
- Options for, **6:18-6:24**

CREDIT SHELTER TRUST—Cont'd

Size, **6:78**

Trust principal provisions, **6:19**

CRUMMEY DECISION

Generally, **5:59**

CRUMMEY POWER

Generally, **11:19**

Assets must be available for notice to be effective, **11:24**

Donees who are not current trust beneficiaries, **11:23**

Gift tax consequences of lapsing, **11:27-11:32**

Income tax consequences of, **11:26**

Minor donees, **11:22**

Notice requirement, **11:20**

Record-keeping, **11:25**

Time to exercise, **11:21**

CY PRES PROCEEDING

Charitable gifts and giving, **9:8**

DEATH TAX

Foreign, **5:109, 5:110**

State, **5:102-5:105**

DEBTS

Deductibility of, from gross estate, **5:88**

Forgiveness of, **2:36**

Will, **2:2**

DEDUCTIONS

Gross Estate (this index)

Marital Deduction (this index)

DEFICIT REDUCTION ACT OF 2005

“Lookback” disqualification, Medicaid, **1:61**

Testamentary estate planning implications of, **1:63**

DEMONSTRATIVE LEGACIES

Generally, **2:41**

DEVISE

Definition, **2:24**

DIGITAL ASSETS

Power of attorney, **1:43**

DISABILITY PLANNING

Generally, **1:38-1:49**

ABLE accounts, **10:30**

Diminished capacity, client with, **1:39**

DISABILITY PLANNING—Cont'd

Health Care Proxies (this index)

Long Term Care (this index)

Medical aid in dying legislation, **1:50**

Power of Attorney (this index)

DISABLED OR ELDERLY PERSONS

Trusts (this index)

DISASTER

Common disaster survivorship, **2:8-2:10**

DISCLAIMERS

Generally, **7:1**

Attorney-in-fact, **7:46**

Effect of, **7:47**

Estate planning uses of, **7:48-7:50**

Federal requirements

generally, **7:7-7:37**

delivery required to transferor of interest, **7:15**

disclaimer must be before acceptance of property or benefits, **7:26, 7:27**

entire interest, or entire portion, must be disclaimed

generally, **7:28-7:35**

appointment power disclaimed,

income/principal retained, **7:32**

assets from bequest or trust

disclaimed, **7:33**

income disclaimed, right to principal retained, **7:30**

pecuniary amount disclaimed, **7:34**

principal disclaimed, right to income retained, **7:31**

separate interests, **7:29**

undivided fractional interests

disclaimed, **7:35**

interest must be identified, **7:14**

property

bank accounts, **7:22**

bonds, **7:23**

passing by exercise or lapse of a general power, **7:18**

passing by exercise or lapse of a limited power, **7:20**

passing by joint tenancy, **7:21-7:25**

passing by qualified terminable interest property trust, **7:19**

real property, **7:24**

stocks, **7:23**

INDEX

DISCLAIMERS—Cont'd

- Federal requirements—Cont'd
 - property must pass without direction, **7:36, 7:37**
 - qualified disclaimers, **7:11-7:13**
 - regulations changed effective January 1, 1977, **7:8-7:10**
 - signature, **7:14**
 - timeliness gauged by nine-month rule, **7:16-7:25**
- Federal tax liens, **7:6**
- Filing
 - court discretion to extend time for, **7:42, 7:43**
 - necessity of, **7:39**
- Guardian, **7:45**
- Inability to enjoy property interest, **7:5**
- Non-tax reasons for, **7:3-7:5**
- Personal representative, **7:45**
- Planned, **7:49**
- Property
 - federal requirements, above
 - state requirements, **7:44**
 - tax reasons for disclaiming, **7:48-7:50**
- Property interests with clean-up liability, **7:4**
- Rights frequently disclaimed in estates practice, **7:2**
- State requirements
 - generally, **7:7, 7:38-7:47**
 - delivery, **7:40**
 - filing, **7:39, 7:42**
 - irrevocability of valid disclaimer, **7:39**
 - no timeliness exception for beneficiaries under 21, **7:41, 7:42**
 - property interests, **7:44**
- Unplanned, **7:50**

DISCLAIMER TRUST

- Assets for
 - availability of, **6:26-6:29**
 - beneficiary designations, **6:27**
 - income in respect to decedent, **6:30, 6:31**
 - life estate interest in residence, **6:28, 6:29**
 - selection of, **6:15**
- Options for, **6:17**
- Trust principal provisions, **6:19**

DISINHERITANCE

- Children, **1:32**

DISINHERITANCE—Cont'd

- Grandchildren, **1:32**

DISTRIBUTABLE NET INCOME

- Generally, **11:100**
- Income, definition, **11:101**
- Taxation of capital gains, **11:103**
- Tax year of trust, **11:102**

DIVORCE

- Dispositive document provisions affected by, **1:33**
- Guardian selection for children, **2:52**
- Pension plan beneficiary designation affected by, **1:34**

DRAFTING

- Attorney's knowledge about, **1:16**

DUE EXECUTION

- Generally, **4:1**
- Attestation Clause** (this index)
- Attesting witnesses
 - generally, **4:24, 4:31**
 - address of, **4:50**
 - age of, **4:34**
 - attorney as, **4:35**
 - beneficiary as, **4:36-4:39**
 - capacity to act as, **4:32**
 - ceremony involvement, **4:74**
 - conflicts in recollection of, **4:65-4:67**
 - disagreement, **4:64**
 - execution ceremony forgot by, **4:63**
 - guidance through vital steps, **4:76**
 - notary as, **4:40**
 - qualification as, no statutory requirements for, **4:33**
 - refusal to testify, **4:65-4:67**
 - signature by, **4:42-4:54**
 - substantial compliance doctrine, **4:67**
 - two witnesses are required but three are recommended, **4:41**
- Attorney
 - as attesting witness of testator's signature, **4:35**
 - execution supervised by, **4:55, 4:71, 71**
- Burden to establish, **4:4, 4:5**
- Consistent procedures used in, **4:70-4:84**
- Copying of will, **4:82-4:83**
- Date not required, **4:9, 4:10**
- Documents executed after will execution, **4:80**

DUE EXECUTION—Cont'd

- “Do-it-yourself” wills, **4:14**
- Elements, **4:2**
- Foreign jurisdiction, will signed in, **4:3**
- Holographic wills, **4:7**
- Home versus office, **4:69**
- Interlineations after, **4:78**
- Kent Rule, **4:79**
- Memorandum of, **4:92-4:94**
- Multiple languages, will in, **4:84**
- Necessity for a writing, **4:6-4:8**
- Noncupative wills, **4:8**
- Obliteration causing partial revocation, **4:79**
- Partial revocation, obliteration as cause of, **4:79**
- Presumptions, **4:55-4:59**
- Recommended practices, **4:68 et seq.**
- Self-Proving Affidavits** (this index)
- Short cuts not advised in, **4:68**
- Simultaneous signature by spouses, **4:91**
- Special circumstances, **4:85-4:90**
- Staple will together, **4:81**
- Statute, strict construction of, **4:5**
- Testator
 - attorney/beneficiary referral of, **4:90**
 - guidance through vital steps, **4:75**
 - hospitalization of, **4:87**
 - physical or mental disability, **4:86**
 - reading of documents by, **4:73**
 - referred from a bank, **4:89**
 - signature
 - generally, **4:11**
 - acknowledgment, **4:24, 4:25**
 - agent signature in lieu of
 - generally, **4:21**
 - beneficiary as agent, **4:22**
 - publication by agent, **4:29**
 - attestation clause, **4:30-4:54**
 - attesting witnesses, above
 - blindness or other disability not a bar, **4:16**
 - date not required, **4:9**
 - “do-it-yourself” wills, **4:14**
 - English, where native language of testator other than, **4:17**
 - fraud prevention reasons for, **4:13**
 - initial, mark, name or fingerprint instead of, **4:18-4:20, 4:23**

DUE EXECUTION—Cont'd

- Testator—Cont'd
 - signature—Cont'd
 - missing page of will does not compel denial of probate, **4:15**
 - “publication” by testator requirement, **4:26-4:29**
 - substitutes allowed for, **4:18-4:23**
 - witnesses. Attesting witnesses, above
- Videotaping, **4:88**

ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

- Generally, **5:13**

ELDERLY PERSONS

- Law, attorney’s familiarity with, **1:14**
- Trusts** (this index)

ELECTIVE SHARE

- Generally, **1:18-1:20**
- Net estate, **1:19**
- Steps in planning of, **1:21**

ENVIRONMENTAL POWERS

- Fiduciaries, **2:72**

ESTATE

- Liquidity needs of, will provisions, **2:7**

ESTATE PLANNING

- Generally, **1:10-1:17**
- Alternative property disposition without a will, **1:15**
- Complete information from client, **1:12**
- Disclaimers, **7:48-7:50**
- Disengagement after completion of, **1:17**
- Elder law, **1:14**
- Knowledge of correct drafting, **1:16**
- State law, **1:13**
- Taxation, **1:11**

ESTATE TAXES

- Generally, **5:8-5:10**
- Apportionment
 - by statute, **2:12**
 - by testator’s direction, **2:12**
 - residual beneficiaries, **2:15**
 - to residuary estate, **2:12-2:16**
- Attorney’s familiarity with, **1:11**
- Charitable Gifts and Giving** (this index)
- Charitable remainder trusts, **9:75**
- Computing of, **5:18-5:25**

INDEX

ESTATE TAXES—Cont'd

- Credits that reduce
 - state death tax, **5:102-5:105**
 - summary of, **5:94-5:96**
 - unified, **5:97-5:101**
- Gift tax value for, **5:91**
- Life insurance policies, **11:2**
- Lifetime Gifts** (this index)
- Loss of option to pay, **10:68**
- Planning used to reduce, **5:10**
- Pre-death transfers subject to, **5:9**
- Qualified Domestic Trust distributions,
6:67-6:73
- Transfer, **5:8-5:10**
- Unified system, **5:11, 5:12, 5:17**

ETHICS

- Power of attorney, **1:42**

EXCISE TAXES

- Charitable lead trusts, **9:105**
- Charitable remainder unitrusts, **9:77, 9:78**

EXECUTION

- Due Execution** (this index)

EXECUTORS

- Generally, **2:61-2:68**
- Attorney-drafter as, **2:67, 2:69**
- Bank as, **4:98**
- Bond requirement for, **2:62**
- Commissions, **3:9**
- Generation-skipping transfer tax exemp-
tion allocation by, **8:68-8:72**

EXPATRIATES

- Transfer taxes, **5:115-5:117**

EXPRESS CONTRACT

- Services rendered, non-marital partners,
1:28

FAMILY HEALTH CARE DECISIONS ACT

- Generally, **1:49**

FAMILY LIMITED PARTNERSHIPS

- Lifetime gifts, **10:53, 10:54**

FEDERAL GIFT TAX

- Generally, **10:69**
- Calculation of, **10:73**
- Deductions, **10:78**
- Exclusions, **10:78**
- Expatriate, defined, **10:72**

FEDERAL GIFT TAX—Cont'd

- Gifts subject to, **10:71**
- History of, **10:70**
- Rate schedule, **10:75-10:77**
- Split gifts, **10:74**
- Tax return filing
 - generally, **10:85-10:109**
 - penalty for late filing, **10:88**
 - preparer penalties, **10:89-10:109**
 - timely, **10:87**
- Unified credit, **10:77**
- Unified rate schedule, **10:76**
- Valuation of gifts
 - generally, **10:79**
 - gifts of remainder interest, **10:80**
 - life estate interest gifts, **10:82**
 - recapitalization, **10:81**
 - undervaluation penalty, **10:83, 10:84**

FEES

- Estimate of, **1:9**
- Extraordinary compensation, **3:53**
- Initial meeting, **1:6**
- Living trust effects on, **3:8**
- Ordinary compensation, **3:52**

FIDUCIARIES

- Corporate, as trustee, **3:54**
- Executors** (this index)
- Insulating, public policy preclusion from,
2:85
- Investment managers hired by
 - generally, **2:87**
 - liability for acts of, **2:88**
- Statutory liability for investments
 - generally, **2:77**
 - acts of investment agents and advisors,
2:88
 - diversification, **2:81**
 - investments made before 1/1/95, **2:78**
 - investments made on or after 1/1/95,
2:79-2:84, 2:87
 - list of factors in investment decisions,
2:80
 - prudent investor act, **2:77, 2:82-2:84,**
2:87
 - prudent man rule, **2:77**
 - will or trust modification of
responsibility or liability, **2:86**
- Statutory powers of
 - generally, **2:69**

FIDUCIARIES—Cont'd

- Statutory powers of—Cont'd
 - business powers, **2:71**
 - environmental powers, **2:72**
 - granting of, **2:70-2:72**
 - income, **2:73, 2:74**
 - power to adjust, **2:73, 2:75**
 - principal, **2:73, 2:74**
 - unitrust option, **2:73, 2:76**
- Trustees
 - generally, **2:61**
 - bond requirement for, **2:62**
 - corporate fiduciary as, **3:54**
 - limitation of powers, **2:63**
 - removal of, by beneficiaries, **2:64, 2:65**
- Trust protector, **2:66**

FILING FEES

- Living trust, **3:10**

FLIP UNITRUSTS

- Generally, **9:58**

FLORIDA

- Extraordinary compensation, **3:53**
- Legal fee structure, revisions to, **3:51**
- Ordinary compensation, **3:52**

FOREIGN DEATH TAX CREDIT

- Generally, **5:109**
- Canadian tax on appreciation at death, **5:110**

FOREIGN JURISDICTION

- Due execution of will signed in, **4:3**

FORGIVENESS OF DEBT

- Generally, **2:36**

FUNERAL ARRANGEMENTS

- Will provisions, **2:3**

FUNERAL EXPENSES

- Will provisions, **2:2-2:6**

GENERAL LEGACIES

- Generally, **2:38**

GENERATION-SKIPPING TRANSFER TAX

- Applicability
 - to trusts irrevocable on 9/25/85, **8:6, 8:7**
 - to wills executed before 10/22/86, **8:5**

GENERATION-SKIPPING TRANSFER TAX—Cont'd

- Applicable fraction
 - computation of, **8:34**
 - role of, **8:33**
 - Avoidance, interests disregarded for, **8:21**
 - Computations, **8:23-8:26**
 - Evolution of, **8:2**
 - Exclusions
 - generally, **8:42**
 - “grandfathered” trusts, **8:43-8:47**
 - medical expense gifts, **8:51**
 - tuition expense gifts, **8:51**
 - Exemptions
 - generally, **8:9, 8:10**
 - allocation of
 - automatic, under EGTRRA, **8:74**
 - by donor, **8:66, 8:67**
 - by executor, **8:68-8:72**
 - Chapter 13 application to nonresident aliens, **8:81**
 - deemed, **8:73, 8:75-8:77**
 - effective date, **8:65**
 - estate tax inclusion period exception, **8:72**
 - late, **8:67, 8:69-8:72**
 - relief provisions, **8:80**
 - retroactive, **8:78**
 - timely, **8:66-8:72**
 - challenges, **8:52**
 - inclusion ratio and, **8:40**
 - lifetime gifts, **8:53-8:55**
 - no taxable termination, **8:49**
 - planning to use, **8:52-8:61**
 - predeceased child rule, **8:48, 8:61**
 - reverse qualified terminable interest
 - property election, **8:59, 8:60**
 - severance of trusts, **8:79**
 - taxable transfers, **8:62**
 - testamentary planning, **8:56-8:58**
 - transferred property valuation, **8:63, 8:64**
 - transfers eligible for annual exclusion, **8:50**
- Generations
 - assignment of persons to, **8:28-8:32**
 - defining of, **8:14**
 - entities assigned to, **8:32**
 - lineal descendants, **8:29**
 - non-lineal, **8:15, 8:30**

INDEX

GENERATION-SKIPPING TRANSFER

TAX—Cont'd

- “Grandfathered” trusts, **8:43-8:47**
- Inclusion ratio
 - computation of, **8:35**
 - property valuation for determining, **8:36-8:39**
 - generally, **8:36**
 - charitable lead annuity trusts, **8:37**
 - estate tax inclusion period, **8:38, 8:39**
 - role of, **8:33**
- Nature of, **8:1**
- Objective of, **8:3**
- Persons responsible for paying, **8:22**
- Postponement, interests disregarded for, **8:21**
- Regular lead trust, **9:109**
- Skip persons
 - generally, **8:13**
 - inclusion ratio effects on, **8:41**
 - tax computation for, **8:26**
- State
 - generally, **10:112**
 - credit for, **8:27**
- Taxable events
 - generally, **8:11**
 - direct skips, taxability of, **8:17**
 - taxable distributions
 - generally, **8:16**
 - tax computations for, **8:25**
 - taxable terminations
 - generally, **8:12**
 - generations, **8:14, 8:15**
 - skip person, **8:13**
 - tax computations for, **8:24**
- Transactions covered by
 - income or principal used to satisfy obligations, **8:19-8:21**
 - interest in a trust, **8:18**
 - taxable events, above
- § 2 million per grandchild exemption, **8:10**

GIFT

- Charitable Gifts and Giving** (this index)
- Estate taxation, within three years of death, **3:22**
- Lifetime Gifts** (this index)
- Medical expenses, generation-skipping transfer tax exclusion for, **8:51**

GIFT—Cont'd

- Split interest, **5:84, 5:85**
- Testamentary, to attorney-drafter, **2:46**
- Tuition expenses, generation-skipping transfer tax exclusion for, **8:51**
- Valuation of, for federal gift tax
 - generally, **10:79**
 - gifts of remainder interest, **10:80**
 - life estate interest gifts, **10:82**
 - recapitalization, **10:81**
 - undervaluation penalty, **10:83, 10:84**

GIFT TAXES

- Generally, **5:7**
- Annual exclusion, **5:4**
- Charitable gifts and giving, **9:34**
- Computing of, **5:18-5:25**
- Credits that reduce
 - generally, **5:96, 5:106**
 - unified credit, **5:97-5:101**
- Crummey power, **11:27-11:32**
- Estate taxation, within three years of death, **3:22**
- Federal Gift Tax** (this index)
- Lifetime allowance, **5:5, 5:6**
- Lifetime Gifts** (this index)
- State, **5:40**
- Tentative tax reductions, **5:92**
- Transfer, **5:7**
- Unified Credit** (this index)
- Unified system, **5:11, 5:12, 5:17**
- Value, for estate tax purposes, **5:91**

GIFT TAX RETURN

- Federal Gift Tax** (this index)
- State, **10:111**

GIFT TRUSTS

- Annual withdrawal rights, **11:89**
- Funding, **11:93**
- Gifts that qualify for the annual exclusion used to fund, **11:87**
- Income paid to trust beneficiary, **11:90**
- Minors, **11:88**

GRANDCHILDREN

- Disinheritance of, **1:32**

“GRANDFATHERED” TRUSTS

- Generation-skipping transfer tax exclusions, **8:43-8:47**

GRANTOR

Living Trust (this index)

GRANTOR LEAD TRUST

Charitable lead trusts, **9:110-9:112**

GRANTOR RETAINED ANNUITY TRUST

Generally, **5:69**

Amount inducible in gross estate, **11:60**

Beneficial interest in spouse used to reduce taxable gift, **11:59, 11:60**

Estate tax consequences of, **11:58, 11:59**

Gift tax consequences of, **11:58, 11:59**

Proposals to limit, **11:62**

Sales to intentionally defective grantor trust, **11:63-11:66**

GRANTOR RETAINED INCOME TRUSTS

Generally, **5:69, 11:52**

Chapter 14 rules

generally, **11:54**

family members, **11:55**

trusts excluded from, **11:56-11:58**

Planning with, **11:53**

GRANTOR RETAINED UNITRUST

Generally, **5:69**

Amount inducible in gross estate, **11:60**

GROSS ESTATE

Adjustable taxable gifts, **5:89, 5:90**

Adjusted, 35% test for, **10:65**

Assets

generally, **5:26**

conservation easement, **5:29, 5:30**

decedent had general power of appointment, **5:51-5:58**

decedent retained an interest in, **5:43-5:46**

jointly owned property, **5:50**

life insurance proceeds, **5:60-5:62**

property located in another country, **5:27**

retirement plan benefits, **5:47-5:49**

revocable transfers, **5:46**

transfers

insufficient consideration, **5:63, 5:64**

made within three years before death included as, **5:32-5:42**

relinquishment of marital rights, **5:64**

GROSS ESTATE—Cont'd

Assets—Cont'd

transfers—Cont'd

strategies to avoid, **5:65-5:71**

valuation of, **5:28-5:31**

Charitable deductions, **5:82-5:85**

Deductions

charitable, **5:82-5:85**

closely held business interest, **5:87**

debts, **5:88**

funeral and administration expenses, **5:86**

marital deduction, below

Marital deduction

amount of, **5:72**

current, **5:77**

maximum, **5:79-5:81**

original, **5:75**

previous rules, **5:74-5:78**

qualified domestic trust for noncitizens

spouses, **5:81**

qualified terminable interest property

trust, **5:78**

spouse, definition of, **5:73**

Tax Reform Act of 1976 effects on, **5:76**

Marital Deduction (this index)

Tax, credits that reduce

state death tax, **5:102-5:105**

summary of, **5:94-5:96**

unified, **5:97-5:101**

GUARDIAN

Minor children, **2:51, 2:52**

HEALTH CARE PROXIES

Generally, **1:44**

Agent

alternative, **1:47**

selection of, **1:46**

Family Health Care Decisions Act, **1:49**

Medical Orders for Life Sustaining Treatment, **1:48**

Power of attorney and, **1:45**

HOLOGRAPHIC WILLS

Generally, **4:7**

HOME EQUITY

Medicaid eligibility, Deficit Reduction Act, **1:56**

INDEX

HOMESTEAD

Transfer, Medicaid “lookback”
disqualification, **1:59**

IMPLIED CONTRACT

Services rendered, non-marital partners,
1:28

INCLUSION RATIO

Generation-Skipping Transfer Tax (this
index)

INCOME

Generation-skipping transfer tax, **8:19-
8:21**

Qualified personal residence trusts, **11:83**

INCOME IN RESPECT TO DECEDENT ASSETS

Credit shelter trust, **6:30, 6:31**

INCOME TAX

Charitable Gifts and Giving (this index)

Crummey power, **11:26**

Irrevocable Trusts (this index)

Living trust, **3:30-3:34**

Non-grantor trusts, **11:99-11:103**

INITIAL MEETING

Generally, **1:7**

Completion date, **1:9**

Conflict of interest, **1:4**

Fees

advice regarding, **1:6**

estimate of, **1:9**

Information gathering, **1:5**

Joint representation, **1:8**

Steps before, **1:3-1:6**

INSURANCE TRUSTS

Generally, **11:8**

Crummey Power (this index)

Funding of

generally, **11:97**

with existing policies

generally, **11:10**

transfer for value rules, **11:12-11:15**

Generation-skipping considerations,
11:51

Life insurance policies

generally, **11:1**

backup marital deduction provision,
11:44-11:46

beneficiary, **11:3-11:7**

INSURANCE TRUSTS—Cont’d

Life insurance policies—Cont’d

dispositive provisions

generally, **11:43-11:50**

backup marital deduction provision,
11:44-11:46

pour-over to other trusts, **11:48**

reciprocal trust doctrine, **11:49**

segregating power of appointment
amounts from marital trust,
11:47

estate tax, **11:2**

options on funds to pay

generally, **11:18**

Crummey strategy to qualify pay-
ments as tax-exempt gifts,
11:19

split dollar arrangement, **11:33-11:42**

third party ownership, **11:3-11:7**

trust application for, **11:16, 11:17**

Sale of policies between trusts, **11:11**

“Survivorship,” **11:9, 11:50**

IN TERROREM CLAUSES

Generally, **2:17**

Discovery permitted under EPTL 0167
3-3.5, **2:19**

Discovery where bequest to attorney, **2:20**

Effectiveness of, **2:18-2:21**

INTESTACY

Asset disposition, **1:67, 1:68**

Exempt assets, **1:68**

INVASION, POWER OF

Irrevocable trusts, decanting under EPTL
0167 7-1.9, **11:124**

INVESTMENT ADVISOR

Generally, **3:50**

IRREVOCABLE INTER VIVOS CHARITABLE LEAD TRUST

Generally, **9:118**

IRREVOCABLE TRUSTS

Amendment

by third party under terms of trust,
11:120

under EPTL 0167 7-1.9, **11:121,
11:122**

Decanting under EPTL 0167 7-1.9

decanting authority

limitations on, **11:129**

IRREVOCABLE TRUSTS—Cont'd

- Decanting under EPTL 0167 7-1.9
 - Cont'd
 - decanting authority—Cont'd
 - limited discretion to invade, **11:131**
 - mechanics, **11:128**
 - provisions common to two kinds of, **11:127-11:129**
 - standard of care, **11:127**
 - unlimited discretion to invade, **11:130**
 - definitions, **11:125, 11:126**
 - overview of, **11:123**
 - power of invasion, need for, **11:124**
- Flexible dispositive terms, **11:119**
- Funding, **11:91-11:97**
- Gift trusts, **11:87-11:90**
- Grantor Retained Annuity Trust** (this index)
- Grantor Retained Income Trusts** (this index)
- Income taxation
 - distributable net income, **11:100-11:103**
 - grantor trusts
 - overview of, **11:104**
 - planning considerations with grantor trust status, **11:116, 11:117**
 - spouse's powers attributed to grantor, **11:106-11:115**
 - trustee's powers attributed to grantor, **11:105**
 - non-grantor trusts, **11:99-11:103**
 - overview of, **11:98**
- Insurance Trusts** (this index)
- Irrevocability of, **11:118**
- Reformation, **11:133**
- Severance of trusts, **11:134**
- Termination of uneconomic trusts, **11:135**
- Uneconomic trusts, termination of, **11:135**

JOINT REPRESENTATION

- Generally, **1:8**

JOINT REVOCABLE TRUSTS

- Advantages of, **3:39**
- Considerations for, **3:35**
- Contributing spouses have full revocation power, **3:36**
- Death of one grantor, **3:38**
- Subtrusts needed for sufficiently specific records, **3:37**

JOINT REVOCABLE TRUSTS—Cont'd

- Tax issues, **3:39**

KENT RULE

- Generally, **4:79**

LANGUAGE

- Testator, native language other than English, **4:17**

LEGACIES

- Ademption of, **2:42, 2:43**
- Conditional, **2:45**
- Definition, **2:37**
- Demonstrative, **2:41**
- General, **2:38**
- Living trust used to pay, **3:28**
- Payment of, when estate is insufficient, **2:44**
- Specific, **2:39**

LEGAL FEES

- Florida, **3:51**
- Living trust, **3:8**
- Ordinary compensation, **3:52**

LIFE ESTATE IN RESIDENCE

- Generally, **6:28, 6:29**

LIFE ESTATE INTEREST

- Gifts, federal gift tax for, **10:82**
- Real property, **2:31**

LIFE ESTATES

- Charitable gifts and giving, **9:11**

LIFE INSURANCE POLICIES

- Beneficiary designation, **11:3-11:7**
- Estate tax, **11:2**
- Insurance Trusts** (this index)
- Proceeds, assets in decedent's gross estate, **5:60-5:62**
- Third-party ownership, **11:3**

LIFETIME GIFTS

- ABLE accounts, **10:30**
- Appreciating assets, **10:31-10:34**
- Business continuation planning, **10:3-10:8**
- Estate taxes
 - tax exclusive, **10:57**
 - transfers that do not generate gift or estate taxes, below
- Federal Gift Tax** (this index)

INDEX

LIFETIME GIFTS—Cont'd

- Gift taxes
 - tax exclusive, **10:58-10:60**
 - transfers that do not generate gift or estate taxes, below
- IRS standards for written tax advice
 - generally, **10:13**
 - circular 230, **10:14-10:18**
 - monetary penalties, **10:14**
- Leveraging strategies
 - generally, **10:35**
 - actuarial tables, **10:48-10:52**
 - annual gift tax exclusion, **10:36**
 - charitable deductions, **10:38-10:44**
 - charitable lead trusts, **10:43, 10:44**
 - charitable remainder trusts, **10:39-10:42**
 - gift taxation of retained income interests, **10:46**
 - insurance policies, **10:37**
 - minority interest discounts, **10:47**
 - retained interests for a term of years, **10:45, 10:46**
- Loss of redemption advantages under I.R.C. 0167 303, **10:64-10:66**
- Loss of step-up in basis at death, **10:63**
- Medical care, **10:28, 10:29**
- Medical costs effect on savings, **10:9-10:11**
- Non-tax reasons for making, **10:1-10:11**
- Tax disadvantages, **10:62-10:68**
- Tax reasons for, **10:12**
- Transfers that do not generate gift or estate taxes
 - generally, **10:19**
 - “adjustable taxable gifts” versus “otherwise included gifts,” **10:33**
 - appreciating assets, **10:31-10:34**
 - family limited partnerships, **10:53, 10:54**
 - limited liability companies, **10:54**
 - medical care gifts, **10:28, 10:29**
 - “present interest” exclusion, **10:20, 10:21**
 - qualified state tuition programs, **10:27**
 - significant effect of gifts, **10:22**
 - tuition expenses, **10:24-10:26**
- Tuition expenses, **10:24-10:26**

LIVING TRUST

- Generally, **3:2**

LIVING TRUST—Cont'd

- Amendment
 - grantor's power for, **3:19**
 - pour-over will affected by, **3:26**
- Assets
 - continuity of management, **3:5**
 - creditor access to, **3:13**
 - disposition of, **3:3-3:10**
- Benefits of, **3:3-3:10**
- Choice of law, **3:45**
- Confidentiality benefits of, **3:6**
- Considerations specific to, **3:16**
- Continuity of asset management using, **3:5**
- Costs savings, **3:7, 3:8**
- Elimination or minimization of probate by using, **3:4**
- Estate taxation of gifts within three years of death, **3:22**
- Fees saved using
 - executor commissions, **3:9**
 - filing, **3:10**
 - legal, **3:8**
- Funding of, **3:48**
- Grantor
 - capacity of
 - standard needed for determining, **3:23**
 - to make valid trust, **3:46**
 - death of, **3:38**
 - estate taxation of gifts within three years of death, **3:22**
 - investment authority retained by, **3:20**
 - items affecting administration during life of, **3:19-3:23**
 - provision for payment of income and principal to, **3:21**
 - self-trustee, **3:17**
- Income, provision for payment of, **3:21**
- Income tax, **3:30-3:34**
- Investment advisor, **3:50**
- Investment authority of grantor, **3:20**
- Legacies paid out of, **3:28**
- Legal fees saved using, **3:8**
- Neutral or negative effects of
 - generally, **3:11**
 - creditor access to trust assets, **3:13**
 - no estate tax advantage, **3:12**
 - retention of document trail is necessary, **3:15**

LIVING TRUST—Cont'd

- Neutral or negative effects of—Cont'd
 - start-up legal costs, **3:14**
- Pour-over will
 - amendment or termination of trust effects on, **3:26**
 - attestation of trust used with, **3:47**
 - tax apportionment provisions, **3:27**
 - use of, **3:24**
 - valid, requirements for, **3:25**
- Power to amend or revoke, **3:19**
- Principal, provision for payment of, **3:21**
- Revoke, power to, **3:19**
- Tax apportionment provisions, **3:27**
- Termination of, pour-over will affected by, **3:26**
- Trustee
 - compensation for executor duties, **3:29**
 - description of, **3:17**
- Use, **3:24**
- Valid, grantor's capacity to make, **3:46**

LONG TERM CARE

- Generally, **1:51**
- Medicaid** (this index)

MALPRACTICE

- Attorney liability for, **1:1**

MARITAL DEDUCTION

- Amount of, **5:72, 6:6-6:11**
- Assets
 - credit shelter trust, below
 - disclaimer trust, below
- Backup, for life insurance proceeds disposition, **11:44-11:46**
- Credit shelter trust
 - generally, **6:15**
 - advantage to defining, **6:81**
 - assets for
 - availability of, **6:26-6:29**
 - beneficiary designations, **6:27**
 - income in respect to decedent, **6:30, 6:31**
 - life estate interest in residence, **6:28, 6:29**
 - selection of, **6:15**
 - lifetime power of appointment, **6:20-6:22**
 - options for, **6:18-6:24**
 - size of, **6:78**
 - trust principal provisions, **6:19**

MARITAL DEDUCTION—Cont'd

- Current, **5:77**
- Disclaimer trust
 - assets for
 - availability of, **6:26-6:29**
 - beneficiary designations, **6:27**
 - income in respect to decedent, **6:30, 6:31**
 - life estate interest in residence, **6:28, 6:29**
 - selection of, **6:15**
 - options for, **6:17**
 - trust principal provisions, **6:19**
- Expenses charged to income, consequences, **6:94**
- Inducible in decedent's estate, **6:7**
- Life estates with general power of appointment
 - generally, **6:35**
 - beneficial enjoyment, **6:39**
 - income from entire property or specific portion, **6:38**
 - life income interest, **6:37**
 - no power of appointment to any other person, **6:40**
 - qualifying income interests, **6:36**
- Maximum, **5:79-5:81**
- Non-U.S. citizens, **6:11**
- Original, **5:75**
- Passing from the decedent, **6:8, 6:9**
- Previous rules, **5:74-5:78**
- Qualified Domestic Trust for noncitizens
 - generally, **5:81, 6:63**
 - annuity payments, final regulations on, **6:76**
 - estate tax on distributions, **6:67-6:73**
 - hardship distributions, **6:68**
 - New York rule where no federal rule, **6:74**
 - no counterpart to, in gift tax law, **6:64**
 - requirements for, **6:65, 6:66**
 - timely election of, **6:73, 6:74**
 - transfers by spouse, **6:75**
- Qualified Terminable Interest Property trusts
 - generally, **5:78, 6:43**
 - effect of election as, **6:55, 6:56**
 - "exhausted interest" exception, **6:46**
 - general power of appointment exception, **6:47**

INDEX

MARITAL DEDUCTION—Cont'd

- Qualified Terminable Interest Property trusts—Cont'd
 - life estates for which QTIP election can be made, **6:53, 6:54**
 - New York only election, **6:49**
 - “six-month survivorship” exception, **6:45**
 - “terminable interest,” **6:44-6:47**
 - trusts for which QTIP election can be made, **6:48-6:52**
- Share
 - advantage to defining, **6:82**
 - as fraction of residue, **6:84, 6:90**
 - as pecuniary amount, **6:85-6:92**
 - expenses charged to income, consequences, **6:94**
 - formula used to express, **6:77-6:79**
 - hybrid pecuniary option for, **6:93**
 - state estate tax exceeds credit, **6:79**
- Spouse, definition of, **5:73, 6:1**
- Tax Reform Act of 1976 effects on, **5:76**
- Unified credit and, interplay between
 - credit shelter trust, above
 - disclaimer trust, above
 - New York estate tax, **6:16**
 - overview of, **6:12**
- U.S. citizens, **6:10**
- Vehicles
 - generally, **6:33**
 - annuities with general power of appointment, **6:41**
 - charitable remainder annuity unitrusts, **6:57-6:61**
 - charitable remainder unitrusts, **6:57-6:61**
 - estate trusts, **6:62**
 - for non-U.S. citizens, **6:11**
 - for U.S. citizens, **6:10, 6:33 et seq.**
 - life estates with general power of appointment, above
 - outright gifts, **6:34**
 - qualified terminable interest property trusts, above

MARRIAGE

- Will affected by, **1:35**

MEDICAID

- Community spouse, income and resources retained by, **1:54-1:55**
- Income first rule, **1:55**

MEDICAID—Cont'd

- “Lookback” disqualification
 - DRA rule, **1:61**
 - homestead transfers, **1:59**
 - penalty period, **1:57**
 - pre-DRA rule, **1:60**
 - transfers that do not cause ineligibility, **1:58**
- “Medically needy” standard, **1:52-1:62**
- Resources that applicant may retain personally, **1:53**
- Substantial home equity, **1:56**
- Trust effects on eligibility for, **2:56**

MEDICAL CARE

- Gifts, **10:28, 10:29**

MEDICAL ORDERS FOR LIFE SUSTAINING TREATMENT

- Generally, **1:48**

MEMORANDUM

- Execution, **4:92-4:94**

MINOR

- Devise of real property to, **2:26**

MINORS

- Tangible personal property given to, **2:35**

MONUMENTS

- Will provisions, **2:5**

MORTGAGE

- Devised property, **2:27**

NATIVE LANGUAGE

- Testator, native language other than English, **4:17**

NET ESTATE

- Components of, **1:19**
- Testamentary substitute element of, **1:20**

NEW YORK

- Community property rights in, **1:25**

NONCUPATIVE WILLS

- Generally, **4:8**

NON-MARITAL PARTNERS

- Generally, **1:26**
- Cohabitation agreement, **1:30**
- Common law marriage, **1:27**
- Constructive trust, **1:29**

NON-MARITAL PARTNERS—Cont'd

Implied or express contract for services rendered, **1:28**

NOTARY

Attesting witness, **4:40**

PENSION PLAN

Beneficiary, divorce effects on, **1:34**

PERSONAL RESIDENCE TRUSTS

Estate tax consequences of, **11:58**

Gift tax consequences of, **11:58, 11:59**

Not practically viable, **11:68**

Qualified Personal Residence Trusts
(this index)

Requirements, **11:67**

PICK-UP TAX

Generally, **5:103, 5:104**

POT TRUST

Generally, **2:49**

POUR-OVER WILL

Amendment or termination of trust effects on, **3:26**

Attestation of trust used with, **3:47**

Tax apportionment provisions, **3:27**

Use of, **3:24**

Valid, requirements for, **3:25**

POWER OF APPOINTMENT

Generally, **2:11**

Credit shelter trust, **6:20-6:22**

General, as assets in decedent's gross estate, **5:51-5:58**

POWER OF ATTORNEY

Digital assets, **1:43**

Ethical issues, **1:42**

Health care proxy and, **1:45**

Legislation, **1:40, 1:41**

PRECATORY GIFTS

Generally, **2:34**

PRINCIPAL

Generation-skipping transfer tax, **8:19-8:21**

Qualified personal residence trusts, **11:83**

PRIOR WILLS

Retaining, pros and cons of, **4:102-4:104**

Revocation of, **2:1**

PROBATE

Elimination or minimization of, living trust for, **3:4**

PROPERTY

Community Property (this index)

Real Property (this index)

Tangible Personal Property (this index)

PROPERTY DISPOSITION

Alternative, attorney's familiarity with, **1:15**

PRUDENT INVESTOR ACT

Generally, **2:77**

Compliance with, **2:82-2:84, 2:87**

PRUDENT MAN RULE

Generally, **2:77**

QUALIFIED ANNUITY INTEREST

Qualified personal residence trust conversion to, **11:84-11:86**

QUALIFIED DOMESTIC TRUST

Marital Deduction (this index)

QUALIFIED PERSONAL RESIDENCE TRUSTS

Generally, **5:70, 11:69**

Acceptance of cash to pay expenses, **11:76**

Estate tax consequences of, **11:58**

Funding, **11:96**

Gift tax consequences of, **11:58, 11:59**

Income, payment of, **11:83**

Insurance, **11:74**

Joint, **11:71**

Mortgaged property, **11:72**

No commutation, **11:73**

Principal, payment of, **11:83**

Proceeds, retention of, **11:82**

Qualified annuity interest conversion of, **11:84-11:86**

Sale of residence held by, **11:77**

Sale of residence to grantor now prohibited

generally, **11:78**

no capital gain if grantor trust as to principal, **11:79-11:81**

Taxes, payment of, **11:74, 11:75**

Two, **11:70**

Utilities, **11:74**

INDEX

QUALIFIED STATE TUITION PROGRAMS

Gifts, **10:27**

QUALIFIED TERMINABLE INTEREST PROPERTY

Generation-skipping transfer tax exemptions, **8:59, 8:60**

QUALIFIED TERMINABLE INTEREST PROPERTY TRUST

Marital Deduction (this index)

REAL PROPERTY

Devise of

casualty insurance inclusion in, **2:28**

definition, **2:24**

payment of mortgage on, **2:27**

statutory presumptions regarding, **2:29**

to minor, **2:26**

to two or more children, **2:25**

In another state, **2:30**

Life estate interest, **2:31**

RECIPROCAL TRUST

Generally, **11:49**

REGULAR LEAD TRUST

Charitable Lead Trusts (this index)

RELIGIOUS SERVICES

Will provisions, **2:4**

RETIREMENT PLAN BENEFITS

Assets, gross estate, **5:47-5:49**

REVERSE QUALIFIED TERMINABLE INTEREST PROPERTY ELECTION

Generation-skipping transfer tax, **8:59, 8:60**

REVERSE SPLIT DOLLAR ARRANGEMENTS

Generally, **11:41**

REVOCABLE TRUSTS

Amending, **3:49**

Benefits of, **3:3-3:10**

Definition, **3:1**

Joint

advantages of, **3:39**

considerations for, **3:35**

contributing spouses have full revocation power, **3:36**

REVOCABLE TRUSTS—Cont'd

Joint—Cont'd

death of one grantor, **3:38**

subtrusts needed for sufficiently specific records, **3:37**

tax issues, **3:39**

Legal fees saved using, **3:8**

Living Trust (this index)

Qualified, **3:34**

Restating, **3:49**

Self-trusteed

generally, **3:40**

attestation, **3:44**

beneficiaries, **3:43**

merger doctrine, **3:41, 3:42**

trustees, **3:43**

Types of, **3:1**

SELF-PROVING AFFIDAVITS

Generally, **4:60**

Attestation, **2:90**

Objections, **4:62**

Signature at later date, **4:61**

Witness signature on, **4:48**

SELF-TRUSTEED REVOCABLE TRUSTS

Generally, **3:40**

Attestation, **3:44**

Beneficiaries, **3:43**

Merger doctrine, **3:41, 3:42**

Trustees, **3:43**

SEVERANCE OF TRUSTS

Reformation and amendment of irrevocable trusts, **11:134**

SGH SPLIT INTEREST GIFTS

Tentative tax reductions, **5:93**

SIGNATURE

Attesting witnesses, **4:42-4:54**

Simultaneous, by spouses, **4:91**

Testator (this index)

SPECIFIC LEGACIES

Generally, **2:39**

Non-probate assets, **2:40**

Probate assets, **2:40**

SPLIT DOLLAR ARRANGEMENTS

Life insurance policies, options on funds to pay, **11:33-11:42**

Reverse, **11:41**

SPLIT INTEREST GIFTS

Generally, **5:84, 5:85**
Federal gift tax, **10:74**

SPLIT INTEREST TRUSTS

Charitable gifts and giving, **9:12-9:15**

SPOUSE

Definition, for marital deduction from gross estate, **5:73**
Dispositive provisions, **2:47**
Noncitizen, qualified domestic trust for, **5:81**
Powers, attribution to grantor, grantor trusts, **11:106-11:115**
Separate property, **1:23**
Surviving allowable gifts to, **5:80**

STATE LAW

Attorney's familiarity with, **1:13**

SUBSTANTIAL COMPLIANCE DOCTRINE

Generally, **4:67**

SUPPLEMENTAL NEEDS TRUST

Disabled or elderly persons, **2:59, 2:60**
Requirements for, **2:60**

SURVIVORSHIP

Common disaster survivorship, **2:8-2:10**

TANGIBLE PERSONAL PROPERTY

Generally, **2:32**
Dispositive language must be carefully chosen, **2:33**
Minors, **2:35**
Precatory gifts, **2:34**

TAX

Estate Taxes (this index)
Generation-Skipping Transfer Tax (this index)
Gift Taxes (this index)
Income Tax (this index)
Transfer Taxes (this index)

TAX CUTS AND JOBS ACT OF 2017

Generally, **5:16**

TAX RELIEF, UNEMPLOYMENT INSURANCE

REAUTHORIZATION, AND JOB CREATION ACT OF 2010

Generally, **5:14, 5:48**

TESTAMENTARY CHARITABLE LEAD ANNUITY TRUST

Generally, **9:117**

TESTAMENTARY DISPOSITIONS

Annulment effects on provisions in, **1:33**
Children, disinheritance of, **1:32**
Community property, **1:22-1:25**
Divorce effects on provisions in, **1:33**
Elective share, **1:18-1:20**
Grandchildren, disinheritance of, **1:32**
Non-Marital Partners (this index)

TESTAMENTARY TRUSTS

Generally, **2:48**
Children, **2:48-2:52**
Common trust, **2:49**
Pot trust, **2:49**
Separate, **2:50**

TESTATOR

Attorney/beneficiary referral of, **4:90**
Guidance through vital steps, **4:75**
Hospitalization of, **4:87**
Physical or mental disability, **4:86**
Reading of documents by, **4:73**
Referred from a bank, **4:89**
Signature
generally, **4:11**
acknowledgment, **4:24, 4:25**
agent signature in lieu of
generally, **4:21**
beneficiary as agent, **4:22**
publication by agent, **4:29**
attestation clause, **4:30-4:54**
attesting witnesses, above
blindness or other disability not a bar, **4:16**
date not required, **4:9**
"do-it-yourself" wills, **4:14**
English, where native language of testator other than, **4:17**
fraud prevention reasons for, **4:13**
initial, mark, name or fingerprint instead of, **4:18-4:20, 4:23**
missing page of will does not compel denial of probate, **4:15**
"publication" by testator requirement, **4:26-4:29**
substitutes allowed for, **4:18-4:23**
witnesses, **4:24**
witnesses. Attesting witnesses, above

INDEX

TRANSFER TAXES

- American Taxpayer Relief Act of 2012, **5:15**
- Computing of, **5:18-5:25**
- Economic Growth and Tax Relief Reconciliation Act of 2001, **5:13**
- Estate Taxes** (this index)
- Exemptions, **5:3-5:6**
- Generation-Skipping Transfer Tax** (this index)
- Gift Taxes** (this index)
- Nonresident, non-U.S. citizens, **5:2**
- Non-U.S. citizens
 - credits, **5:118, 5:119**
 - deductions, **5:120**
 - expatriates, **5:115-5:117**
 - “portfolio interest” exemption, **5:113**
 - property, **5:111-5:114**
 - rates for, **5:118, 5:119**
- Principles, **5:1-5:17**
- Prior credit, **5:107, 5:108**
- Subtractions, **5:92, 5:93**
- Taxable amount, additions made to determine, **5:89-5:91**
- Tax Cuts and Jobs Act of 2017, **5:16**
- Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, **5:14, 5:48**
- Unified system, **5:11, 5:12, 5:17**
- U.S. citizens, **5:1**

TRUST

- Charitable Lead Trusts** (this index)
- Charitable Remainder Trusts** (this index)
 - Charitable remainder unitrust payout recipient, **9:62**
- Credit Shelter Trust** (this index)
- Disabled or elderly persons
 - generally, **2:53**
 - availability of other resources, **2:56**
 - invasion of corpus for health and support costs, **2:55**
 - specific issues to consider, **2:54-2:58**
 - supplemental needs trust, **2:59, 2:60**
 - “trigger trust” provisions of EPTL 0167 7-3.1, **2:57**
 - trust principal availability to creditors, **2:58**
- Grantor Retained Annuity Trust** (this index)

TRUST—Cont’d

- Grantor Retained Income Trusts** (this index)
- Insurance Trusts** (this index)
- Irrevocable Trusts** (this index)
- Living Trust** (this index)
- Personal Residence Trusts** (this index)
- Qualified Personal Residence Trusts** (this index)
- Revocable Trusts** (this index)
- Severance, **8:79**
- Supplemental needs
 - generally, **2:59, 2:60**
 - requirements for, **2:60**
- Testamentary Trusts** (this index)
- “Trigger trust,” **2:57**

TRUSTEE

- Living trust, **3:29**

TRUSTEES

- Generally, **2:61**
- Bond requirement for, **2:62**
- Compensation for executor duties, **3:29**
- Limitation of powers, **2:63**
- Living trust, **3:17**
- Removal of, by beneficiaries, **2:64, 2:65**

TRUST PROTECTOR

- Generally, **2:66**

TUITION EXPENSES

- Gifts, **10:24-10:26**

UNECONOMIC TRUSTS

- Termination, **11:135**

UNIFIED CREDIT

- Generally, **5:3, 5:97**
- At death, **6:2-6:5**
- Federal gift tax, **10:77**
- Gifts
 - made before 9/8/76, **6:3**
 - made between 9/8/76 and 12/31/76, **6:4**
 - made on or after 1/1/77, **6:5**
- Marital Deduction** (this index)
- Portability of, **5:98, 6:13**
- Use of, **5:99-5:101**

UNITRUST OPTION

- Generally, **2:73, 2:76**

VIDEOTAPING

- Execution of will, **4:88**

WILL

- Adoption of child effects on, **1:36**
- Alternate dispositions that may obviate need for
 - generally, **1:64**
 - family exemption, **1:66**
 - intestacy laws, **1:67, 1:68**
 - non-probate assets passed by operation of law, **1:65**
- Annulment effects on, **1:33**
- Appointment, testator's exercise of power of, **2:11**
- Assisted reproduction and, **1:37**
- Birth of child effects on, **1:36**
- Burial wishes, **2:3**
- Cemetery plot, perpetual care of, **2:6**
- Codicils, prior, revocation of, **2:1**
- Common disaster survivorship presumptions, **2:8-2:10**
- Copying of, **4:82-4:84**
- Debts, payment of, **2:2**
- Dispositive provisions
 - assets effect on, **2:23**
 - Legacies** (this index)
 - Real Property** (this index)
 - spouse, **2:47**
 - Tangible Personal Property** (this index)
- Divorce effects on, **1:33**
- Drafting, **2:1 et seq.**
- Estate taxes, apportionment of
 - by statute, **2:12**
 - by testator's direction, **2:12**
 - charitable beneficiaries, **2:16**
 - non-charitable beneficiaries, **2:16**
 - to residuary estate, **2:12-2:16**
- Fiduciaries** (this index)
- Funeral arrangements, **2:3**
- Funeral expenses, **2:2-2:6**
- In terrorem clauses
 - generally, **2:17**

WILL—Cont'd

- In terrorem clauses—Cont'd
 - discovery permitted under EPTL 0167 3-3.5, **2:19**
 - discovery where bequest to attorney, **2:20**
 - effectiveness of, **2:18-2:21**
- Limited power of appointment, **2:11**
- Liquidity needs of estate, **2:7**
- Marriage effects on, **1:35**
- Monuments, **2:5**
- Pour-Over Will** (this index)
- Power of appointment, **2:11**
- Prior
 - retaining, pros and cons of, **4:102-4:104**
 - revocation of, **2:1**
- Religious services, **2:4**
- Revocation of prior wills and codicils, **2:1**
- Safeguarding, **4:97-4:101**
- Testator's exercise of power of appointment, **2:11**

WITNESSES

- Attesting
 - generally, **4:24, 4:31**
 - address of, **4:50**
 - age of, **4:34**
 - attorney as, **4:35**
 - beneficiary as, **4:36-4:39**
 - capacity to act as, **4:32**
 - conflicts in recollection of, **4:65-4:67**
 - disagreement, **4:64**
 - execution ceremony forgot by, **4:63**
 - notary as, **4:40**
 - qualification as, no statutory requirements for, **4:33**
 - refusal to testify, **4:65-4:67**
 - signature by, **4:42-4:54**
 - substantial compliance doctrine, **4:67**
 - two witnesses are required but three are recommended, **4:41**
- Testator's signature before, **4:24**