### **Index**

### ABANDONMENT LOSS

**Income Taxes** (this index)

Investments, tax aspects of raw land investment, 11:90 to 11:92

### ABSOLUTE POLLUTION EXCLUSION

Environmental law, insurance policies, 15:122

### ABSTRACT OF TITLE

Underwriting and documentation of mortgage loan commitment, **6:43** 

### A/B STRUCTURED LOANS

Securitization and federal government, 8:54

### **ACCELERATION**

Foreclosure of mortgages, 14:136, 14:137

### ACCEPTANCE OR REJECTION

Bankruptcy and insolvency, rejection of executory contracts and unexpired leases, **14:117** 

Mortgage commitment, 5:22

Value and Valuation (this index)

### **ACCESS**

Americans with Disabilities Act, accessibility guidelines, 17:8

Income taxes, disabled access credit, **20:306** Investments, ground and net leases, **12:21** Ownership concerns, project access, **14:14** 

### **ACCOUNTANTS**

Condominiums, 16:225

### ACCOUNTING

**Income Taxes** (this index)

**Investments** (this index)

Management of property, 18:79 to 18:81

Office leases, 3:118 to 3:120

Securitization and federal government, 8:17, 8:87 Tax-free exchanges of real estate, 2:131 to 2:135

### ACCUMULATED EARNINGS TAX

C corporations, 16:106

### ACCURACY-RELATED PENALTIES

Income taxes, 20:376 et seq.

### ACQUISITION FINANCING

Generally, 4:9 to 4:13

Income taxes, acquisition costs, leases, **20:38 to 20:41** 

### ACRS AND MACRS PROPERTIES

Tax-free exchanges of real estate, 2:21

### ADA

Americans with Disabilities Act (ADA) (this index)

### ADDITIONS TO BUILDINGS

Investments, ground and net leases, 12:27

### ADEQUACY-OF-INTEREST RULE

Income taxes, **20:144** 

### ADEQUATE DISCLOSURE RULE

Valuation of property, gift taxes, 21:3

### ADJACENT LAND

Income tax deductions, mortgages, 20:120

### **ADJUSTMENTS**

**Income Taxes** (this index)

Purchase price, 1:38

### ADMINISTRATION OF ESTATES

Bankruptcy code chapters 7 and 11, 14:105

### **ADVERTISING**

Management of property, 18:37

### ADVICE AND ADVISORS

Income taxes, deduction for real estate tax advice, 20:227

Loan sales, performing and nonperforming, 14:93

### AFTER-ACQUIRED TITLE OR INTEREST

Underwriting and documentation of mortgage loan commitment, **6:71** 

### **AGENTS**

Lender liability, 14:85, 14:86

Sale or transfer, purchase from foreign seller, 1:27 Underwriting and documentation of mortgage loan commitment, conduct of closing through escrow agent, 6:98

### **AGRICULTURE**

Farms and Farming (this index)

### AIDING AND ABETTING

Income taxes penalties for understatements of tax, 20:382

### AIR CONDITIONING

Income taxes, residential improvements as medical deductions, 20:214

### **ALIEN SPOUSES**

Gift taxes, 21:7

### ALL-CASH EQUITY JOINT VENTURES

Generally, 7:20

### **ALLOCATIONS**

Corporate management of property, allocating costs of captive management firm, 18:78

**Income Taxes** (this index)

Limited liability companies, income property ownership, **16:77** 

Limited partnerships, allocation of loss or income, 16:58

Purchase price, 1:40 to 1:45

Syndication, allocation of taxable profits and losses, 16:203

Tax-free exchanges of real estate, changing landbuilding allocation, 2:17

### ALL-OR-NOTHING LOANS

Mortgages, 5:52

### ALTERATIONS TO BUILDINGS

Americans with Disabilities Act, 17:2 to 17:4 Investments, ground and net leases, 12:28

### ALTERNATIVE MINIMUM TAX

Income taxes, 20:392 et seq.

### AMERICANS WITH DISABILITIES ACT (ADA)

Accessibility guidelines, 17:8

Alterations to buildings, 17:2 to 17:4

Architectural considerations, 17:17

Choice of tenants, 17:13

Discrimination, what constitutes, 17:16

Employers, answers for, 17:16

Income tax aspects, 17:18 to 17:20

Leases, 17:10 to 17:12

Mortgages, 17:15

New construction, 17:3

Ownership concerns, generally, 17:1 et seq.

Penalties, 17:6

Planning suggestions, 17:7

Regulations and technical assistance materials, **App.** 17.1

Sales contracts, 17:15

Title III of Americans with Disabilities Act, transactional considerations under, 17:9 to 17:15

### **AMORTIZATION**

Mortgages, 4:40 et seq., 4:46 et seq.

Index-2

### AMOUNT OF LOAN

**Financing** (this index)

### ANNUAL OPERATING STATEMENTS

Mortgages, 5:54, 6:76

### ANNUITIES

Health care tax, 20:12

Private real estate annuities, family tax planning for real estate investors, **21:68 to 21:75, 21:77** 

Trusts. Annuity Trusts (GRATs) and Unitrusts (GRUTs) (this index)

## ANNUITY TRUSTS (GRATS) AND UNITRUSTS (GRUTS)

Defective grantor trusts, using real estate to fund, 21:93 to 21:100

Estate taxes, 21:57

Family tax planning for real estate investors, 21:54 to 21:59

Gift taxes, 21:56

Income taxes, 21:58

Oualifications, 21:55

Zero-out GRAT regulations, 21:59

### ANTI-ABUSE RULES

Limited partnerships, 16:60

### ANTICIPATED RETURNS

Joint ventures and participating debt, 7:34

### ANTICIPATION

Value and valuation, 19:28

### ANTICIPATORY REPUDIATION

Mortgage commitment, 5:77

### ANTI-RAID PROVISION

Office leases, assignment or sublease, 3:47

### ANTI-SUBROGATION RULE

Insurance, **18:92** 

### **APARTMENTS**

Cash flow, apartment developments, 14:41, 14:42

**Cooperative Housing Corporations** (this index)

Garden and high-rise apartments distinguished, 11A:2

Investments in apartment buildings

generally, 11A:1 et seq.

agents, data concerning, 11A App. D

checklist, 11A App. A, 11A App. B

community, data concerning, 11A App. D

expenditures, seller's representations about, 11A:14

financial and operating data, **11A App. C** 

financing, 11A:16

future performances, seller's guarantees concerning, 11A:15

### APARTMENTS—Cont'd

Investments in apartment buildings—Cont'd garden and high-rise apartments distinguished, 11A:2

income and expense analysis, 11A:5 inspection of premises, 11A:4

leases and tenants, seller's representations about, 11A:13

life cycle of apartment building, 11A:3 location and physical condition of property, 11A:4 operating data, 11A App. C operating expense ratio, 11A:7 owner, data concerning, 11A App. D physical condition of property, 11A:4 purchase and sale, negotiating, 11A:10 reserve for replacements, 11A:6 return on investment, measuring, 11A:1, 114:9 sale, negotiating, 11A:10, 11A:11 sales contract, drafting, 11A:12 seller's representations, 11A:13, 11A:14 tenants, data concerning, 11A App. D types of apartment buildings, 11A:1

### APPLICATIONS

**Mortgages** (this index)

### **APPRAISAL**

Generally, 19:1, 19:4, App. 19B

Consumer Financial Protection Bureau (CFPB) appraisal and valuation rules under the ECOA, **5:33** Income taxes

home losses due to natural disasters, **20:281** noncash charitable contributions, appraisal requirements, **20:341** 

Interagency rule temporarily deferring real estate appraisals, **1:4** 

Investments, reappraisal rentals, ground and net leases, 12:17

**Mortgages** (this index)

Purpose of, 19:1

Real estate appraisals, interagency rule temporarily deferring, 1:4

Reasons for, 19:4

Reports, 19:6

### ARBITRARINESS

Office leases, arbitrary refusal to consent to assignment or sublease, 3:38

### ARCHITECTS AND ARCHITECTURE

Americans with Disabilities Act, 17:17 Office leases, fees, 3:126

### ARTICLES OF INCORPORATION

Cooperative housing corporations, **16:257** 

### **ASBESTOS**

Environmental law, **1:82**, **15:100** 

Renovation and demolition requirements, 15:101

### "AS IS" CLAUSE

Environmental law, 15:110

### ASSEMBLAGE

Investments, ground and net leases, 12:21

### ASSESSMENTS

Environmental assessments, 1:79, 15:67 et seq. Taxation (this index)

### ASSET COMPOSITION TEST

Real estate mortgage investment conduits (REMICs), 8:73

### ASSET PROTECTION PLANNING

Limited partnerships, charging order, **16:54** Tax-free exchanges of real estate, **2:59** 

### ASSIGNMENT

Income property ownership, assignment of limited partnership interest and effect thereof, **16:53** 

**Investments** (this index)

Office Leases (this index)

Preforeclosure, assignment of rents and leases, 14:33 Underwriting and documentation of mortgage loan commitment, 6:21, 6:82

Value and valuation, limited partnership interests passing at death valued as assignee interests rather than as partnership interests, **19:64** 

### ASSISTED LIVING PAYMENTS

Income taxes, medical deductions, 20:217 et seq.

### **ASSOCIATIONS**

Management of property, tenant associations, **18:57** Mortgages, unincorporated associations, **5:13** 

### ASSUMPTION

Bankruptcy and insolvency, executory contracts and unexpired leases, 14:115

Income taxes, interest deductions, 20:119, 20:151

### AT-RISK LIMITATION

Income taxes, 20:250 et seq.

### **ATTORNEYS**

Condominiums, 16:225

Management of property, legal services, 18:79 to 18:81

### **ATTORNEYS' FEES**

Mortgages, 5:58

### **ATTORNMENT**

Generally, App. 14.5

### ATTORNMENT—Cont'd

Office leases, 3:88

Underwriting and documentation of mortgage loan commitment, **6:6**, **6:7**, **6:94** 

### **AUCTION RATE SECURITIES**

Tax-free exchanges of real estate, like-kind properties, 2:111

### **AUDITS**

Environmental law, **15:85**, **15:127 Leases** (this index)

### AUTOMATIC PICKUP PROVISIONS

Office leases, 3:70

### AUTOMATIC RENEWAL

Office leases, 3:68, App. 3.11

### **AUTOMATIC STAY**

Bankruptcy and insolvency, 14:109

### AVOIDANCE

Bankruptcy and insolvency, trustee's avoidance powers, 14:119

Income taxes, certain gifts of real estate identified as, 20:344

Tax-free exchanges of real estate, 2:121, 2:125, 2:126

### **BAD BOY GUARANTEES**

Mortgages, 5:49

### **BAD FAITH**

Lender's liability, 14:76, 14:77

### BALLOON LOAN

Commercial real estate, 4:42, App. 4.6

Default, 8:83, 14:65

Securitization, 8:83

Underwriting and documentation, 6:63

### BANKRUPTCY AND INSOLVENCY

Generally, 14:101 to 14:121

Assumption of executory contracts and unexpired leases, 14:115

Automatic stay, 14:109

Avoidance powers of trustee, 14:119

Chapters 7 and 11 of bankruptcy code, **14:102 to 14:107** 

Decedent's estates, administration of, 14:105

Equitable subordination doctrine, 14:121

Executory contracts and unexpired leases, 14:113 to 14:117

Financing, generally, **14:112** 

Foreclosure, 14:34, 14:35

Investments, sale-leaseback, 13:55

Junior mortgages and lien stripping, 14:122

Priority of secured lenders, 14:120, 14:121

Index-4

### BANKRUPTCY AND INSOLVENCY—Cont'd

Recapturing lease from bankrupt tenant, 14:116

Rejection of executory contracts and unexpired leases, 14:117

Reorganization, 14:103, 14:107

Secured claims

generally, 14:106

priority of secured lenders, 14:120, 14:121

Securitization and federal government, 8:37 et seq.

Shopping center rule, **14:115**, **14:116**, **14:118** 

Single asset real estate, Subchapter V and, 14:111

Single asset real estate cases, 14:110

Subchapter V, 14:108, 14:111

Subordination, equitable subordination doctrine, **14:121** 

Tax aspects of workouts, 14:73

Trustee's avoidance powers, 14:119

### **BANKS**

Distressed property, how real estate manager took distressed properties off bank's hands, 9:31 to 9:38

Joint ventures and participating debt, how banks handle construction loans, 7:11

**Refinancing** (this Index)

Skyscrapers, acquisition of, 9:48 to 9:55

Syndication, bank's expected return, 16:205

### **BARGAIN SALES**

Income taxes, charitable contributions, 20:329, 20:330

Investments, sale-leaseback, 13:33

### **BARRIERS**

Income taxes, disabled access credit for barrier removal, 20:307

### BELOW-MARKET LEASES

Selling real estate with, 1:106

### BEVERAGE AND FOOD OPERATION

Partners and partnerships, leasing out food and beverage operation, **9:11** 

### **B-HOLDER RIGHTS**

Securitization and federal government, 8:52

### BILLBOARDS

Tax-free exchanges of real estate, 2:33

### **BINDERS**

Sale or transfer, 1:18

### **BLANKET MORTGAGES**

Limited partnership, 9:32, 16:199

### BLANKET PROPERTY INSURANCE

Office leases, 3:102

### BLOCKAGE DISCOUNTS

Value and valuation, 19:51

### BLOCKS

Underwriting and documentation of mortgage loan commitment, **6:50** 

### BONDING REQUIREMENT

Estate taxes, extension of time for illiquid estates to pay federal tax, 21:20

### **BONDS AND SECURITIES**

Income taxes, tax-exempt financing, 20:345 et seq. Investments, bond leasing compared with synthetic (off-balance sheet) leases, 12:58

Mortgages, covered bonds, 4:53

Securitization and Federal Government (this index) Stock and Stockholders (this index)

Tax-free exchanges of real estate, auction rate securities, 2:111

Value and valuation, restricted securities discounts, 19:53, 19:54

### **BOOK VALUE**

Investments, return on book value of equity, 10:19

### **BOOT (NONQUALIFYING PROPERTY)**

Tax-free exchanges of real estate, 2:60 to 2:77, 2:121

### BORROWERS AND BORROWING

Financing (this index)

### **BOUNDARIES**

Underwriting and documentation of mortgage loan commitment, **6:48** to **6:51** 

## BREACH OF MORTGAGE LOAN COMMITMENT

Generally, 5:78, 5:80 to 5:83

### **BRIDGE FINANCING**

Generally, **4:27 et seq.**, **8A:7** 

### BROKERAGE AGREEMENTS

Mortgages, **5:1**, **App. 5.5** 

### **BROKERAGE COMMISSIONS**

Foreclosure, 14:135

Mortgage brokerage agreements, 5:2

### **BROKERS**

Commercial brokerage

breach of exclusive listing agreement, **3:137** renewal commissions, successor landlord's liability, **3:136** 

Independent contractors, brokers as, 8:89

### **BROWNFIELD SITES**

2018 BUILD Act, 15:130

### BROWNFIELD SITES—Cont'd

Environmental law, redevelopment, 15:129 et seq.

### BUDGET

Management planning process, 18:13

### BUILDING CONTRACTS AND WORK

**Construction Contracts and Work** (this index)

### **BUILDING VIOLATIONS**

Sale or transfer, 1:73

### **BUILD-TO-SUIT**

Tax-free exchanges of real estate, 2:24

### **BUILT-IN CAPITAL GAINS TAX**

Value and valuation, discount for built-in capital gains tax, 19:58 et seq.

### **BULK SALES**

Loan sales, performing and nonperforming, 14:92

### **BURDEN OF PROOF**

Income taxes, deduction for management services, 20:88

Value and valuation, 19:38

## BUREAU OF CONSUMER FINANCIAL PROTECTION (CFPB)

Generally, 4A:6

### **BUSINESS AND TRADE**

Financing, business decline as creating money crisis, **9:4** 

**Income Taxes** (this index)

Insurance. **Business Interruption Insurance** (this index)

Syndication, developing business plan, 16:182

**Tax-Free Exchanges of Real Estate** (this index)

### **BUSINESS INTERRUPTION INSURANCE**

Management of property, 18:103

Mortgages, 5:41, 6:32

### **BUYERS**

Sale or Transfer (this index)

### **BUY-SELL AGREEMENTS**

Underwriting and documentation of mortgage loan commitment, **6:89 to 6:93, App. 6.7** 

Value and valuation, 19:68

### **BYLAWS**

Cooperative housing corporations, 16:258

### **CALIFORNIA**

Environmental law, 15:40

### **CANCELLATION**

**Leases** (this index)

### CANCELLATION—Cont'd

Underwriting and documentation of mortgage loan commitment, tenant's option to cancel lease, 6:10

### CAPITAL GAINS

**Income Taxes** (this index)

Investments, 11:81

Value and valuation, discount for built-in capital gains tax, 19:58 et seq.

### CAPITALIZATION RATE (CAP RATE)

Value and Valuation (this index)

### CAPITAL MARKETS

Expansion, 8:16

Securitization and federal government, 8:13 to 8:21

### CAPITAL STOCK

Securitization and federal government, 8:52

### CAPTIVE MANAGEMENT FIRM

Corporate management of property, allocating costs of captive management firm, 18:78

### CARES ACT (CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT)

Generally, 4A:6

### CARRYFORWARD OF LOSSES

Income taxes, 20:254

### CARRYING CHARGES

Investments, capitalization, 11:89

### CARVE-OUTS

Real estate loan guaranties, 5:48

### CASH BOOT

Tax-free exchanges of real estate, 2:65, 2:66

### CASH FLOW

Analysis, App. 2.4

Discounted cash flow, 19:23

### CASH FLOW MORTGAGES

Generally, 4:77

Commercial mortgage pools, 8:43 et seq.

### CASH INCENTIVES

Office leases, 3:119

### CASH-POOR BUYERS

Tax-free exchanges of real estate, 2:3

### CASUALTY OR DISASTER

**Income Taxes** (this index)

Investments, ground and net leases, casualty insurance. 12:38

**Presidentially Declared Disasters** (this index)

Index-6

### CASUALTY OR DISASTER—Cont'd

Tax-free exchanges of real estate, presidentially declared disasters, 2:40

### **C CORPORATIONS**

Accumulated earnings tax, 16:106

Close corporations

Reasons for operating with one or several corporations, 16:103

Close corporations, generally, 16:102

Executive compensation. 16:110

Income property ownership, generally, 16:101 et seq.

**Income Taxes** (this index)

Limited liability companies, income property ownership, **16:71** 

Nominee corporations, **16:104** 

Payment disguised as dividend

case studies, 16:111

Changes to the taxation of dividends and corporate

income, 16:114

role of intent, 16:112

tool of oppression, 16:113

Personal holding company tax, 16:107

S corporations compared, 16:118

Stockholder-employees, salaries of, 16:109

Straw corporations, 16:104

Tax aspects, 16:105 et seq.

Tax concerns when incorporating, 16:108

**Securitization and Federal Government** (this index)

### CERCLA (COMPREHENSIVE ENVIRONMENTAL RESPONSE

COMPENSATION AND LIABILITY ACT)

**Environmental Law** (this index)

### CERTIFICATES AND CERTIFICATION

**Mortgages** (this index)

Sale or transfer, certificate of surveyor, 1:31

Tenant estoppel certificate, App. 14.6

### CERTIFICATES OF OCCUPANCY

Generally, 1:74, App. 1.14

Mortgages, 5:68

### **CHAPTERS 7 AND 11**

Bankruptcy code, 14:102 to 14:107

### CHARITABLE CONTRIBUTIONS

Income taxes, 20:320 et seq.

Trusts. Charitable Remainder Trusts (this index)

### **CHARITABLE REMAINDER TRUSTS (CRTs)**

Appreciated property, contributing, 21:83

Compliance failure, 21:86

CRUT division, income tax consequences, 21:88

## CHARITABLE REMAINDER TRUSTS (CRTs) —Cont'd

Division of CRUT, income tax consequences, 21:88 Family tax planning for real estate investors, 21:80 to 21:88

Income tax considerations, **20:334, 21:84, 21:88** IRS regulations, **21:85** 

Limitations on deductions, 21:82

Sale of life interest, 21:87

### **CHOICE**

Election or Choice (this index)

### CHOICE OF LAW

Deficiency judgments, 14:154

### **CLEAN AIR ACT (CAA)**

Environmental law, 15:38

### **CLEANUP**

**Environmental Law** (this index)

### **CLEAN WATER ACT (CWA)**

Environmental law, 15:27 to 15:29

"Fill material," regulations redefine, 15:91

"Waters of the United States"

generally, 15:30

navigable waters protection rule (NWPR), 15:31

### CLOSELY HELD CORPORATIONS

**Income Taxes** (this index)

Value and valuation, App. 19C

### **CLOSING**

Generally, 1:89 to 1:96

Costs, duty to pay, 1:96

Default, 1:86, 1:87

Delivery of documents by seller, 1:93

Equitable conversion, specific performance against seller's estate. 1:88

Essence, time of, 1:91

Failure to close, remedies for, 1:85 to 1:87, App. 1.19

Insurance premiums, proration of, 1:95

Interest payments, proration of, 1:95

**Investments** (this index)

Loan sales, performing and nonperforming, 14:99

**Mortgages** (this index)

Proration of taxes, rents, interest payments, and insurance premiums, 1:95

Purchase price, payment at closing of title, 1:47, 1:95 Rents, proration of, 1:95

Scheduling closings to convert capital loss to ordinary

loss, **1:108** 

Sunset clause, 1:92

Syndication, raising funds to meet closing date, 9:44 to 9:47, 16:195 et seq.

Taxes, proration of, 1:95

### CLOSING-Cont'd

Time or date

generally, 1:90

essence, time of, 1:91

expenses and cash profit, investor winds up with cash he needs on closing date plus additional sum for, **9:24** 

investments, 11:50

sunset clause, 1:92

syndication, raising funds to meet closing date, 9:44 to 9:47, 16:195 et seq.

Title closing worksheet, App. 1.20

**Underwriting and Documentation of Mortgage Loan Commitment** (this index)

### CMRS

**Securitization and Federal Government** (this index)

## CMO (COLLATERALIZED MORTGAGE OBLIGATION)

Generally, 8:66, 8:67

## COASTAL ZONE MANAGEMENT ACT (CZMA)

Environmental law, 15:33

### COD INCOME DEFERRAL

Income taxes, 20:356

### **COINSURANCE**

Management of property, 18:98

Underwriting and documentation of mortgage loan commitment, **6:29** 

### **COLLATERAL ASSET MANAGER**

Generally, 8:20

## COLLATERAL ASSIGNMENT OF LEASES AND RENTS

Underwriting and documentation of mortgage loan commitment, **6:82** 

## COLLATERALIZED MORTGAGE OBLIGATION (CMO)

Generally, 8:66, 8:67

### COMBINED CAPITALIZATION RATE

Value and valuation, 19:20

### COMMERCIAL MORTGAGE POOLS

Generally, 8:43 et seq.

### COMMERCIAL REAL ESTATE

Condominiums, 16:234, 16:235

Environment site assessments, 15:80 et seq.

**Financing** (this index)

Income taxes, energy tax deduction and credit for, 20:312

### COMMERCIAL REAL ESTATE—Cont'd

Legal and accounting services, 18:79

### COMMISSIONS OF BROKERS

Foreclosure, 14:135

Mortgage brokerage agreements, 5:2

### COMMON AREAS

Leases, audits of common areas and overtime electric charges, 18:70

### **COMMON LAW**

Environmental claims, 15:58 et seq.

### COMMON TENANCIES

**Joint Tenancies** (this index)

### COMMUNICATIONS

Management and property owner, communications between, 18:61

### **COMMUNITY PROPERTY**

Income property ownership, **16:23** Self-employment tax, **20:10** 

### **COMMUTING TIME**

Investments, extension of commuting time, 11:12

### **COMPENSATION**

Wages, Salaries, and Other Compensation (this index)

### COMPETITION

Value and valuation, 19:30

### **COMPETITIVE PROJECTS**

Investments, 10:13

### COMPLETE OR COMPLETENESS

**Mortgages** (this index)

Price, allocation of noncomplete covenant, 1:43

### COMPONENT DEPRECIATION

Income taxes, 20:57, 20:75 et seq.

Limitations on, 20:79

Tax-free exchanges of real estate, 2:20

### COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT (CERCLA)

**Environmental Law** (this index)

### CONCESSIONS

Office leases, 3:116 et seq.

### CONCURRENT OWNERSHIP

Income property ownership, **16:7 et seq., 16:28** Joint tenancies

generally, 16:8 et seq. agreements, 16:9

Index-8

### CONCURRENT OWNERSHIP—Cont'd

Joint tenancies—Cont'd

comparison, tenancy-in-common and partnership, 16:10

interests securities, tenancy-in-common, **16:13** large tenancies-in-common, **16:11** outlook for tenancies-in-common, **16:14** tenancy-in-common tax rulings, **16:12** 

### CONDEMNATION

Insurance proceeds and condemnation awards for mortgaged properties, 18:108 to 18:113

**Investments** (this index)

**Sale or Transfer** (this index)

Underwriting and documentation of mortgage loan commitment, leased premises, **6:19** 

Value and valuation, built-in-capital gain discount available even though gain on condemnation is deferrable, 19:61

### CONDITION OF PREMISES

Investments, 11:43

Office leases, 3:28

Sale or transfer, 1:77

### CONDITIONS AND COVENANTS

Investments, conditions of contract of sale, 11:40 to 11:50

**Mortgages** (this index)

Office leases, expansion option, 3:72

Price, allocation of noncomplete covenant, 1:43

Purchase money mortgage, negotiating conditions to subordination, 1:52

Value and valuation, restrictive covenants, **19:67 et seq.** 

### CONDITIONS PRECEDENT

Investments, ground and net leases, 12:19 to 12:23

### **CONDOMINIUMS**

Accountants, retention of, 16:225

Attorneys, retention of, 16:225

**Board of Directors** 

Case law, fiduciary duty, 16:220

Fiduciary duty, 16:219

Role of, 16:218

Commercial condominiums, 16:234, 16:235

Comparison to cooperatives, 16:263

Construction of condominiums, 16:211

Contracts, generally, 16:223

Conversion, 16:214 et seq.

Creation, 16:210

Developer, transition from, 16:217

Documentation, 16:213

Features, 16:209

Fee ownership of time share units, 16:247

### CONDOMINIUMS—Cont'd Financing, 16:212, 16:235 Hotel structure, 16:250 Income property ownership, generally, 16:208 et seq. Income taxes, 16:228, 16:248 Insurance, 16:224, 16:277, 18:117 Leases, generally, **16:230**, **16:232** Liability of board members, 16:227 License rights, time share properties, 16:246 Management and operation, 16:221 et seq. Mixed-use condominiums, 16:236 New York's Housing Stability and Tenant Protection condominium conversions, impact on, 16:276 Operation and management, 16:216 Other types, **16:233** Rental pool, income property ownership, 16:251 Resort condominiums, 16:237 et seq. Restrictions on sale of individual units, 16:231 Sale or lease, generally, **16:230**, **16:232** Securitization and federal government, rating of loan types, **8:61 Taxation** generally, 16:228, 16:229

tax equivalency payments, 16:279
time share properties, 16:248, 16:249
Tax-free exchanges of real estate, 2:29, 2:34
Time share properties, 16:242 et seq.
Trading time share units, 16:244
Unit owners, agreements with, 16:226
Use of time share property, 16:243

### CONDUIT LOANS

Refinancing, 8:82

Securitization and federal government, 8:55, 8:84

### CONFIGURATION OF FLOOR

Office leases, effect on rentability, 3:8

### **CONFORMITY**

Value and valuation, 19:34

### CONNECTICUT

Environmental law, **15:41** 

### CONSENT

Office leases, consent to assignment or sublease, 3:37 to 3:40

### **CONSERVATION**

**Environmental Law** (this index)

### CONSERVATION EASEMENTS

Tax-free exchanges of real estate, conservation easements as like-kind properties, 2:56

### CONSTANT DOLLAR VALUE

Investments, 10:7

### CONSTANT-PAYMENT SCHEDULE

Mortgages, 4:47

### CONSTANT RENT-ACCRUAL RULES

Office leases, 3:23

### CONSTRUCTION CONTRACTS AND WORK

Americans with Disabilities Act, new construction, 17:3

Condominiums, 16:211

Financing

generally, **4:14 et seq.** inspection, **4:16, 5:71** 

interim financing of new construction, 4:29

mezzanine financing, 4:21 et seq.

**Mortgages** (this index)

ownership concerns, 14:4

repayment, 4:17 et seq.

standby commitment, 4:20

takeout commitment, 4:18, 4:19

**Income Taxes** (this index)

**Investments** (this index)

Loan commitment. **Mortgages** (this index)

Quality of construction, ownership concerns, 14:15

Rating of loan types, construction loans, 8:62

### CONSTRUCTION LOAN COMMITMENT

Mortgages (this index)

### **CONSULTANTS**

Environmental site assessments, 15:79

### **CONTAMINATION**

Tax assessments reduced due to contamination, 18:85

### CONTINGENT SALES

Income taxes, 20:292 et seq.

### **CONTINUING CARE**

Tax consequences associated with continuing care retirement communities, 20:222

### "CONTINUITY OF ENTERPRISE" THEORY

Environmental law, successor corporation liability, 15:18

### **CONTRACTS**

**Sale or Transfer** (this index)

### CONTRIBUTION

Office leases, equity participation, **3:130** Partners and partnerships, **9:6**, **9:9** Value and valuation, **19:32** 

### CONTROLLED EXPANSION

Office leases, assignment or sublease, 3:49

### **CONVENIENCE STORES**

Income taxes, depreciation, 20:58

## CONVENTIONAL SECOND MORTGAGE LOAN

Partners and partnerships, 9:10

### CONVERSION

Closing, scheduling closings to convert capital loss to ordinary loss, 1:108

Condominiums, 16:214 et seq.

Feasibility study, 16:215

Cooperative housing corporations, 16:262 et seq., 16:278

**Income Taxes** (this index)

Junior mortgage financing, 4:61

Loft building converted to co-operative apartments with minimum of investor's own money, **9:63 to 9:68** 

New York's Housing Stability and Tenant Protection Act. 16:276

Promissory note, App. 9.8

Tax-free exchanges of real estate, replacement of involuntarily converted property, 2:136 to 2:155

## CONVERSION PROTECTION AND ABUSE RELIEF ACT

Generally, **16:275** 

### **CONVERTIBLE LOANS**

Joint Ventures and Participating Debt (this index) Mortgages (this index)

### COOPERATIVE HOUSING CORPORATIONS

Articles of incorporation, 16:257

Bylaws, 16:258

Comparison to condominiums, 16:274

Conversion, 16:262 et seq., 16:278

Definition, 16:253

Development, 16:254 et seq.

Documentation, 16:256 et seq., 16:265

Financing, 16:255, 16:264, 16:266

Income property ownership, generally, 16:252 et seq.

Income taxes, **16:271** 

Insurance, 16:277, 18:117

Interest and tax deductions by shareholder-tenants, 16:271

Loft building converted to co-operative apartments with minimum of investor's own money, **9:63 to 9:68** 

Management and operation, 16:267

Offering plan, 16:260

Operation and management, 16:268

Proprietary leases, 16:261

Prospectus, 16:260

Restrictions on sale or lease, 16:272

## COOPERATIVE HOUSING CORPORATIONS —Cont'd

Securitization and federal government, rating of loan types, **8:60** 

Shares and shareholders

financing purchase of, 16:266

interest and tax deductions by shareholder-tenants, 16:271

removal of shareholder, business judgment rule, 16:273

Sponsor and cooperative housing corporations, contract between, **16:259** 

Stock and stockholders. Shares and shareholders, above

Taxation, 16:269 et seq.

Tax-free exchanges of real estate, 2:34

### **CORONAVIRUS**

**Covid-19 Pandemic** (this index)

### **CORPORATIONS**

**C** Corporations (this index)

**Cooperative Housing Corporations** (this index)

Environmental law, 15:13 et seq.

**Income Property Ownership** (this index)

**Income Taxes** (this index)

**Investments** (this index)

Management of property

allocating costs of captive management firm, 18:78

e-commerce planning, 18:77

sale-leasebacks, 18:75

synthetic leases, 18:74

**Mortgages** (this index)

**S Corporations** (this index)

Securitization and federal government, **8:57, 8:58** 

**Stock and Stockholders** (this index)

### **CORRECTIVE MAINTENANCE**

Management of property, 18:28 to 18:30

### COSIGNERS

Mortgages, 5:45 to 5:47

### COST-OF-LIVING RENTAL

Investments, ground and net leases, 12:15 Office leases, 3:18

### COSTS AND EXPENSES

Apartment buildings, investments in, 11A:5, 11A:7

Capitalization of expenditures related to tangible property, 20:183 et seq.

Closing costs, 1:96

Corporate management of property, allocating costs of captive management firm, 18:78

### COSTS AND EXPENSES—Cont'd

Environmental law, deductibility of cleanup costs, 15:124

Fees (this index)

Identifying and increasing expenses, 14:44

**Income Taxes** (this index)

Insurance, replacement cost and actual cash value, 18:99

**Investments** (this index)

Joint ventures and participating debt, 7:35

**Leases** (this index)

Mortgages (this index)

Office Leases (this index)

**Operating Expenses** (this index)

Securitization, capital market expansion and lower costs. 8:16

Start-Up Costs or Fees (this index)

**Tax-Free exchanges of Real Estate** (this index)

Value, cost approach to, 19:12

### COTENANCIES

**Joint Tenancies** (this index)

### **COVENANTS**

**Conditions and Covenants** (this index)

### **COVID-19 PANDEMIC**

Addendums in real estate contracts, **1:2**CMBS market, effect of Coronavirus on, **8:88**Coronavirus Aid, Relief, and Economic Security Act (CARES Act), **4A:6** 

### **CREDIT COMPANIES**

Financing, 4:83 et seq.

### **CREDIT LEASES**

Securitization and federal government, 8:48, 8:64

### CREDIT-RATING AGENCIES

Rating Process and Agencies (this Index)

### **CREDITS**

Income taxes, 20:296 et seq., 20:395, 20:396

**Income Taxes** (this index)

Unified Credit (this index)

### **CROPS**

Investments, 11:44

### CROSS-COLLATERALIZATION

Underwriting and documentation of mortgage loan commitment, **6:61** 

### **CROSS-DEFAULT PROVISIONS**

Underwriting and documentation of mortgage loan commitment, **6:60**, **6:80** 

### **CROWDFUNDING**

Generally, **4:91 to 4:96** 

Emerging growth company, 4:92

Exemption from 1933 and 1934 Acts, 4:94

Funding portal, **4:93** 

Syndication

Generally, 16:170

Comparison to syndication, 16:171

Tax considerations, 4:96

Trading restrictions, 4:95

### **CRTS**

**Charitable Remainder Trusts (CRTs)** (this index)

### **CUSTODIAL MAINTENANCE**

Management of property, 18:27

## CZMA (COASTAL ZONE MANAGEMENT ACT)

Caselaw, 15:35

Environmental law, 15:33

Federal agency interaction, 15:34

### **DAMAGES**

Environmental law, damages covered by insurance policies, **15:118** 

**Liquidated Damages** (this index)

Office Leases (this index)

Punitive, lender liability, 14:77

Tax-free exchanges of real estate, severance damages, 2:148

### DANGER OR DANGEROUS CONDITIONS

**Hazard or Hazardous Conditions** (this index)

### DATE

**Time or Date** (this index)

### DAVIS DECISION

Value and valuation, 19:59

### **DEADLOCK**

Income property ownership, 16:98

### **DEALERS**

Income taxes, dealer property vs. investor property, 20:22

### **DEATH**

Tax-free exchanges of real estate, death of party, 2:101

Value and Valuation (this index)

### **DEBT SERVICE**

Mortgages, 5:21

### **DECEDENTS' ESTATES**

Bankruptcy code chapters 7 and 11, administration of bankrupt estate, **14:105** 

### DECEDENTS' ESTATES—Cont'd

Equitable conversion, specific performance against seller's estate, 1:88

**Income Taxes** (this index)

Investments, 11:30

### **DECLARATORY JUDGMENTS**

Gift tax valuation, declaratory judgment to resolve, 21:16

### **DEDUCTIONS**

Charitable remainder trusts, 21:82

Environmental law, deductibility of cleanup costs, **15:124** 

Limited partnerships, deductibility of losses, **16:57 Taxation** (this index)

### **DEEDS**

Contract for deed, 1:114

Foreclosure, deed in lieu of, **14:125 to 14:128** Gift taxes, deeding fractional shares, **21:12** 

### DEEDS OF TRUST

Mortgages (this index)

### DE FACTO MERGER

Environmental law, successor corporation liability, **15:16** 

### **DEFAULT**

Closing, 1:86, 1:87

Equitable conversion, specific performance against seller's estate, 1:88

**Investments** (this index)

**Mortgages** (this index)

Office leases, 3:105 et seq.

### **DEFEASANCE**

Securitization and federal government, 8:86

### **DEFECTIVE GRANTOR TRUSTS**

Using real estate to fund, 21:93 to 21:100

### DEFECTS

Family tax planning for real estate investors, using real estate to fund defective grantor trust, 21:93 to 21:100

Investments in raw land, 11:8, 11:47

### **DEFENSES**

Environmental law, CERCLA liability, 15:7 et seq.

### DEFERRAL

COD income, income taxes, 20:356

Estate taxes, extension of time for illiquid estates to pay federal tax, **21:17 et seq.** 

**Income Taxes** (this index)

Office leases, deferred rent-accrual rules, 3:22

**Tax-Free Exchanges of Real Estate** (this index)

### Index-12

### DEFERRAL—Cont'd

Value and valuation, built-in-capital gain discount available even though gain on condemnation is deferrable, **19:61** 

### DEFERRED TAX LIABILITY

Additional tax in the form of interest on, 20:289

### DEFICIENCY JUDGMENTS

Generally, 14:151 et seq.

Anti-deficiency statutes, 14:153, 14:154

Choice of law, **14:154** 

Foreclosure sales, duty of fairness and good faith, 14:152

### **DELINQUENT RENTS**

Managers and management, 18:54

### **DELIVERY**

Closing, delivery of documents by seller, **1:93**Price, payment by execution and delivery of purchase money mortgage, **1:49** 

### **DEMOLITION**

Income taxes, deduction of demolition losses, 20:270 Investments, demolition of existing structures, 11:59

### **DEPRECIATION**

Generally, 19:7 to 19:10

**Component Depreciation** (this index)

Economic obsolescence, 19:10

Functional obsolescence, 19:9

**Income Taxes** (this index)

Investments, depreciation tax benefits, 10:12

Obsolescence, 19:9, 19:10

Physical depreciation, 19:8

Tax-free exchanges of real estate, 2:16 to 2:21

### DESCRIPTION OR IDENTIFICATION

Expenses, identifying and increasing, 14:44

**Investments** (this index)

**Mortgages** (this index)

Office leases. 3:5 to 3:8

Revenues, identifying and increasing, **14:38 to 14:43** Syndication, identifying potential acquisitions, **16:180** Tax-free exchanges of real estate, identification of

replacement property, 2:85
Underwriting and Documentation of Mortgage

# Loan Commitment (this index) DESTRUCTION OF PROPERTY

**Sale or Transfer** (this index)

### DEVELOPMENT AND DEVELOPERS

Condominiums

transition from developer to condominium association, **16:217** 

Cooperative housing corporations, 16:254, 16:255

### DEVELOPMENT AND DEVELOPERS—Cont'd

Estate taxes, sale of nonagriculture development rights triggers special use valuation recapture tax, 21:35

**Financing** (this index)

Income taxes, charitable gifts of land by developers, 20:327

**Investments** (this index)

### DEVELOPMENT RIGHTS

Estate taxes, sale of nonagriculture development rights triggers special use valuation recapture tax, 21:35

Tax-free exchange of real estate, 2:10

### DILIGENCE

**Due Diligence** (this index) Third party financing, **1:59** 

### **DIMINISHING RETURNS**

Value and valuation, 19:31

### DIRECT CAPITALIZATION

Value and valuation, **19:17 to 19:20** 

### **DIRECTORS**

Condominiums

Borrowing money, 16:222 case law, fiduciary duty, 16:220 Fiduciary duty, 16:219 Management, 16:221

Role of board, **16:218**, **16:221** Environmental law, personal liability of corporate officers, directors, and shareholders, **15:19** 

### **DISABLED PERSONS**

Americans with Disabilities Act (this index)

**Income Taxes** (this index)

Tax-free exchanges of real estate, 2:163

### **DISASTER**

Casualty or Disaster (this index)

### DISCLOSURE

**Environmental Law** (this index)

Financing, improper disclosure, 4:90

Title, disclosure by seller in contract of sale, 1:66

### **DISCOUNTS**

Family limited partnerships, 21:61

Family tax planning for real estate investors, use in connection with special use valuation, 21:38

**Taxation** (this index)

Value and Valuation (this index)

### DISCRIMINATION

Americans with Disabilities Act, 17:16

### **DISPUTES**

Mortgages, resolving disputes between borrower and lender. **5:79** 

### **DISQUALIFICATION**

Qualification or Disqualification (this index)

### DISTRESSED PROPERTY

Banks, how real estate manager took distressed properties off bank's hands, 9:31 to 9:38

Case study, 14:7

Distressed homeowners, mortgages, 4A:2

Mortgage clause to protect lender against, App. 14.1

Outside professionals, retaining of, 14:6

Ownership concerns, generally, **14:1** to **14:7**, **14:45** to **14:48** 

Receivership, 8B:5

Syndication, 16:198 et seq.

Tax-free exchanges of real estate, 2:8

### DIVERSIFICATION

**Investments** (this index)

### DIVIDENDS

Family corporations, stock redemptions in, 21:92 Income taxes, deductions, 20:92

### DIVORCE

Tax-free exchanges of real estate, 2:167, 2:169

### **DOCUMENTATION**

Cooperative housing corporations, 16:265

**Records and Recording** (this index)

### DODD-FRANK ACT

Generally, **8A:1 et seq.**Too big not to fail, **8A:8** 

## DODD-FRANK CREDIT RISK RETENTION REQUIREMENTS

Generally, 8C:1 et seq.

Final rule implementing Section 15G, 8C:2

Qualified Residential Mortgages (QRMs), exemption for, **8C:3** 

Risk retention requirements, options for meeting, **8C:4** 

Section 15G of the Securities Exchange Act of 1934, 8C·1

Sunset of hedging and transfer restrictions, 8C:5

### DOWN PAYMENT

Investments, sale-leaseback, 13:44

Purchase price, generally, 1:46

Third party financing, refund of down payment, 1:63

### DRAGNET CLAUSE

Foreclosure, 14:138

### **DRIBBLE-OUT METHOD**

Value and valuation, 19:54

### DUE DILIGENCE

Loan sales, performing and nonperforming, **14:98**Negotiating the purchase and sale of real estate, **1:3**Preforeclosure, **14:29** 

### **DUE-ON-SALE CLAUSES**

Mortgages, 5:55, 6:57, 6:79

### **DURATION**

Time or Date (this index)

### **DURESS**

Lender's liability for economic duress, 14:83

### EARNOUT PROVISIONS

Purchase price, 1:39

### **EASEMENTS**

Facade easements in registered historic districts, **20:335** 

Income taxes, estate tax exclusion for land subject to qualified easement, **20:333** 

**Tax-Free Exchanges of Real Estate** (this index) Underwriting and documentation of mortgage loan commitment, **6:69** 

### E-COMMERCE PLANNING

Corporate management of property, 18:77

# ECONOMIC GROWTH, REGULATORY RELIEF, AND CONSUMER PROTECTION ACT

Generally, 8A:9

### ECONOMIC OBSOLESCENCE

Generally, 19:10

### EISENBERG DECISION

Value and valuation, 19:60

### **ELECTION OR CHOICE**

Americans with Disabilities Act, choice of tenants, 17:13

Estate taxes, valuing real estate, 21:32

**Income Taxes** (this index)

Investments, tax aspects of raw land investment, 11:85

Mortgage loans, restructuring of, 14:55

Options, 1:13

Partnership, election not to be taxed as, 16:35

S corporation status, 16:123

Securitization and federal government, tax aspects of REMICs, **8:72** 

Tax-free exchanges of real estate, election not to exclude gain, 2:177

### ELECTRICITY

Office leases, additional rent payments, 3:17

### **ELECTRIC UTILITIES**

Leases, 18:69 to 18:71

### **ELEVATORS**

Income taxes, residential improvements as medical deductions, 20:213

### **EMERGENCY MAINTENANCE**

Management of property, 18:32

### EMERGING GROWTH COMPANY

Crowdfunding, 4:92

### EMINENT DOMAIN

**Condemnation** (this index)

### **EMOTIONAL DISTRESS**

Lender liability, 14:84

## EMPLOYEE STOCK OWNERSHIP PLANS (ESOPs)

Disposition of replacement property, 21:104
Family tax planning for real estate investors, 21:101
to 21:107

Gifts, 21:105

Replacement property, 21:103 to 21:107 Tax free rollover, 21:102, 21:103, 21:106

Valuation of stock, 21:107

### EMPLOYER AND EMPLOYEE

Americans with Disabilities Act, 17:16

**Employee Stock Ownership Plans (ESOPs)** (this index)

Home office use by employees, income taxes, 20:205 Self-Employment Tax (this index)

Stock ownership plans. Employee Stock Ownership Plans (this index)

Wages, Salaries, and Other Compensation (this index)

### **ENCUMBRANCES**

Income property ownership, tax treatment of encumbered spousal joint property, **16:24** 

**Mortgages** (this index)

### **ENDANGERED SPECIES ACT (ESA)**

Environmental law, 15:37

### **ENDORSEMENT**

Insurance, special endorsements, **18:101**Underwriting and documentation of mortgage loan commitment, hazard insurance, **6:30**, **6:38** 

### **ENERGY EFFICIENCY**

Securitization and federal government, 8:30

### **ENERGY TAX CREDITS** Generally, **20:311**, **20:312** ENTERPRISE ZONE INVESTMENTS Income taxes, 20:362 ENTIRETY, TENANCY BY Income property ownership, 16:18 to 16:20 ENTRY ON PROPERTY Investments, right of entry pending closing, 11:42 ENVIRONMENTAL LAW 2018 BUILD Act. 15:130 Generally, **15:1** et seq. Absolute pollution exclusion in insurance policies, 15:122 Asbestos, 1:82, 15:100 Asbestos, renovation and demolition requirements, "As is" clause in real estate contract, 15:110 Assessments, 1:79, 15:67 et seq. Assignment and subletting, sample clause, App. 15.14 ASTM standard for environmental site assessments in commercial real estate, 15:80 et seq. Audit clause in sales contract, App. 15.9 Audits, 15:85, 15:127 Brownfield exempted from unrelated business income tax. 15:136 Brownfield sites, redevelopment of, 15:129 et seq. California, 15:40 CERCLA. Comprehensive Environmental Response Compensation and Liability Act, below Clean Air Act (CAA), 15:38 Cleanup Brownfield sites, redevelopment of, 15:129 et seq. costs, deductibility of, 15:124 tax incentives, 15:134 et seq. Clean Water Act (CWA), 15:27 to 15:32 Coastal Zone Management Act (CZMA), 15:33 Commercial real estate, environment site assessments, 15:80 et seq. Common law environmental claims, 15:58 et seq. Community Reinvestment Act (CRA), 15:140 Comprehensive Environmental Response Compensation and Liability Act (CERCLA) generally, 15:2 et seq. jury trial, **15:107** risks, strategies for minimizing, 15:106, 15:108 Connecticut, 15:41 Consultants for environmental site assessments, selection of. 15:79 "Continuity of enterprise" theory, successor corporation liability, 15:18

Corporate liability, 15:13 et seq.

```
Cost of cleanup, deductibility of, 15:124
Damages covered by insurance policies, 15:118
Deductibility of cleanup costs, 15:124
De facto merger exception, successor corporation
  liability, 15:16
Defenses to CERCLA liability, 15:7 et seq.
Directors of corporations, personal liability of, 15:19
Disclosure
   lead, hazard information pamphlet, 15:97
   lead, hazard information pamphlet, caselaw, 15:99
   lead, sale or lease of pre-1978 housing, 15:98
   risks, minimization of, 15:111
Endangered Species Act (ESA), 15:37
Equitable defenses, 15:12
Estate taxes, recapture tax exception for conservation
  contribution, 21:34
Exemptions
   Brownfield, business income tax, 15:136
   security interest exemption, 15:11
   underground storage tanks, 15:89
Fannie Mae guidelines, environmental site assess-
  ment, 15:83
FDIC guidelines, environmental site assessment,
  15:84
Federal Environmental Offices, App. 15.1
"Fill material," regulations redefine under Clean
  Water Act, 15:91
Florida, 15:42
Foam insulation, urea formaldehyde foam insulation,
  15:103
Fraud. 15:64
Hazards
   generally, App. 1.17
   asbestos, 1:82, 15:100
   assessments, 1:79
   insurance policies, 1:83, 15:112 et seq.
   lead, 15:92 to 15:99
   lead, information pamphlet, 15:97
   lead, information pamphlet, caselaw, 15:99
   provisions in contract of sale, 1:80
   radon, 15:102
   renovation and demolition requirements, 15:101
   sale or transfer, generally, 1:78 to 1:83
   strict liability for ultrahazardous activities, 15:62
   urea formaldehyde foam insulation, 15:103
   warranties and representations, 1:81, 15:111
Illinois, 15:49
Income Taxes (this index)
Indemnification, 15:105 to 15:110, App. 15.3, App.
  15.4
Innocent landowner defense. 15:9
```

Insurance policies, 1:83, 15:112 et seq.

ENVIRONMENTAL LAW—Cont'd

### ENVIRONMENTAL LAW—Cont'd

Iowa, **15:50** 

Joint and several liability, **15:3** 

Knowledge element, caselaw, 15:65

Lead, 15:92 to 15:99

Lead, hazard information pamphlet, 15:97

Lead, hazard information pamphlet, caselaw, 15:99 Leases

lead, disclosures required in sale or lease of pre-1978 housing, **15:98** 

management of property, tenant audits, **15:127** management strategies for hotel owners, **15:128** 

Lender liability, 14:88, 15:20 to 15:22

Low-income housing credit (LIHC), 15:138

Maine, 15:43

Management of property, 15:125 to 15:127

"Mere continuation" exception, successor corporation liability, **15:17** 

Michigan, 15:44

Minnesota, 15:51

Missouri, 15:52

Mortgages, 5:63, App. 15.10, App. 15.11

National Environmental Policy Act (NEPA), 15:24

Negligence, 15:63

New Hampshire, 15:45

New Jersey, 15:53

New Markets Tax Credit (NMTC), 15:137

New York, 15:54

Nuisance, 15:60

Officers and directors of corporations, personal liability of, **15:19** 

Ohio, 15:55

Oregon, 15:56

Ownership concerns, generally, 14:11, 15:1 et seq.

Paint, lead-based paint, 15:93, 15:95

Paint, lead-based paint, caselaw, 15:94

Paint, lead-based paint, New York law, 15:96

Pennsylvania, 15:57

Pollution liability insurance, duty to defend, 15:119

Potentially responsible parties, 15:4

Private party response actions, 15:5, 15:6

Radon, 15:102

Recapture tax exception for conservation contribution, estate taxes, 21:34

Rehabilitation house tax credit, 15:139

Release provisions, **15:105 to 15:110** 

Resource Conservation and Recovery Act (RCRA), 15:25, 15:87, 15:89

Response actions, 15:5, 15:6

Rhode Island, 15:46

Risks, strategies for minimizing, 15:104 et seq.

Sale or transfer, generally, 1:78 to 1:83

Index-16

### ENVIRONMENTAL LAW—Cont'd

Securitization and federal government, environment risk, 8:34, 8:47

Security interest exemption, **15:11** 

Shareholders, personal liability of, 15:19

Site assessments, 15:67 et seq.

South Carolina, 15:47

State environmental offices, App. 15.2

State law protection of coastal areas, 15:36

State property transfer environmental laws, **15:39** et seq.

Statute of limitations, 15:66

Strict liability, 15:3, 15:62

Strict liability for ultrahazardous activities, 15:62

Subsidiary corporation liability, 15:14

Successor corporation liability, 15:15 et seq.

"Sudden and accidental" pollution exclusion in insurance policies, 15:120

Taxation

incentives, encouragement of cleanup, 15:134 et seq.

recapture tax exception for conservation contribution, estate taxes, 21:34

Tenant's compliance with laws, sample clause, **App.** 15 12

Tenant's use of hazardous or toxic materials, sample clause, **App. 15.13** 

Third party defenses, 15:8

Title and ownership, ownership concerns, generally, 14:11, 15:1 et seq.

Trespass, 15:59

Underground storage tanks, 15:86 to 15:89

Urea formaldehyde foam insulation, 15:103

Voluntary cleanup laws, 15:129 et seq.

Warranties and representations, 1:81, 15:111, App. 15.8

West Virginia, 15:48

Wetlands, 15:90

### **EQUITABLE CONVERSION**

Specific performance against seller's estate, 1:88

### **EQUITABLE SUBROGATION**

Insurance, **18:94** 

### **EOUITY**

Bankruptcy and insolvency, equitable subordination doctrine, 14:121

Environmental law, equitable defenses, 15:12

Income property ownership, equity joint venture,

Investments, return on book value of equity, **10:19** Joint ventures and participating debt, **7:20**, **7:21**, **7:23** 

to 7:25, 16:84

**Mortgages** (this index)

### EQUITY—Cont'd

Office leases, equity participation, **3:129 et seq.** Private equity funds, credit companies, **4:84 et seq.** Restructuring techniques, generally, **14:64** Tax aspects of workouts, debt-equity swaps, **14:72** 

### **ERRORS**

Foreclosure, erroneously declaring mortgage paid, 14:139

Income taxes, erroneous depreciation changes, 20:66

### ESA (ENDANGERED SPECIES ACT)

Environmental law, 15:37

### ESCALATION RENTAL

Office leases, 3:12 to 3:17, App. 3.4 et seq.

### **ESCROW**

**Mortgages** (this index)

Tax-free exchanges of real estate, 2:94, 2:117 to 2:120

### **ESOPS**

Employee Stock Ownership Plans (ESOPs) (this index)

### ESSENCE, TIME OF

Closing, 1:91

### ESTATES OF DECEDENTS

**Decedent's Estates** (this index)

### ESTATE TAXES

Acceleration of payments, extension of time for illiquid estates to pay federal tax, 21:21

Annuity trusts (GRATs) and unitrusts (GRUTs), 21:57

Bonding and security requirements, extension of time for illiquid estates to pay federal tax, **21:20** 

Conservation contribution, recapture tax exception for, **21:34** 

Defective grantor trust, using real estate to fund, 21:93 to 21:100

Deferral, extension of time for illiquid estates to pay federal tax, **21:17 et seq.** 

Development, sale of nonagriculture development rights triggers special use valuation recapture tax, 21:35

Election, valuing real estate, 21:32

Exception for qualified conservation contribution, recapture tax, 21:34

Extension of time for illiquid estates to pay federal tax, 21:17 to 21:26

Gift Taxes (this index)

Income taxes, estate tax exclusion for land subject to qualified easement, **20:333** 

Installment sale vs. option, 21:37

### ESTATE TAXES—Cont'd

IRS guidelines, real estate qualifying as trade or business for deferral of taxes, 21:26

Nonagricultural development rights, sale triggering special use valuation recapture tax, 21:35

Option vs. installment sale, 21:37

Personal residence trusts, 21:45

Oualification

deferral, 21:24 to 21:26

Recapture

exception for qualified conservation contribution, 21:34

extension of time for illiquid estates to pay federal tax, 21:21

nonagricultural development rights, sale triggering special use valuation recapture tax, 21:35

qualified conservation contribution, exception for, 21:34

valuing real estate, 21:33 to 21:35

Special use valuation, 21:28, 21:29, 21:35

Stock and stockholders

unitary interests, voting and nonvoting stock valued as unitary interest for estate tax purposes, 19:74

Valuation, 21:29

Value and valuation

alternative methods of valuing real estate, 21:27 to 21:38

special use valuation, 21:28, 21:29, 21:35 unitary interests, voting and nonvoting stock valued as unitary interest for estate tax purposes, 19:74

### **ESTIMATES**

Investments, estimating return on, 10:10 to 10:20 Management fees, estimating costs, 18:16

### **ESTOPPEL**

Waiver and Estoppel (this index)

### **EVIDENCE**

**Burden of Proof** (this index)

Underwriting and documentation of mortgage loan commitment, proof of insurance coverage, **6:39** 

### **EXCHANGE OF PROPERTY**

Sale or Transfer (this index)

### **EXCLUSIVE CLAUSES**

Underwriting and documentation of mortgage loan commitment, **6:14** 

### **EXCULPATION**

Insurance, 18:114 to 18:118

Investments, ground and net leases, 12:37

### **EXCUSE**

Taxation, excusing portion of debt, 14:67

### **EXECUTIVE COMPENSATION**

Income taxes, deductions, 20:90 et seq.

### EXECUTORY CONTRACTS

Alternatives to traditional purchase and sale, 1:114 Bankruptcy and insolvency, 14:113 to 14:117

### **EXEMPTIONS**

**Environmental Law** (this index)

Sale or transfer, purchase from foreign seller, **1:26 Taxation** (this index)

### **EXPANSION**

Office Leases (this index)

### **EXPENDITURES**

Tangible property, capitalization of expenditures related to, **20:183 et seq.** 

### **EXPENSES**

Costs and Expenses (this index)

### **EXPIRATION**

Mortgage commitment, 5:23

### **EXTENSION OF TIME**

Estate taxes, extension of time for illiquid estates to pay federal tax, 21:17 to 21:26

Investments, extension of commuting time, 11:12

### EXTRA EXPENSE INSURANCE

Underwriting and documentation of mortgage loan commitment, **6:32** 

### FAIR MARKET VALUE

Value and Valuation (this index)

### FAMILY AND RELATIVES

**Related Parties** (this index)

### FAMILY LIMITED PARTNERSHIPS (FLPs)

Generally, **21:60 to 21:67** 

Family tax planning for real estate investors, **21:60 to 21:67** 

Gifts of FLP interests, 19:81

Imminent death, 19:79

Misuse of, 19:80

Tax planning for real estate investors, **21:60 to 21:67** Transfer discounts, **21:61** 

Value and valuation, 19:78 et seq.

## FAMILY TAX PLANNING FOR REAL ESTATE INVESTORS

Generally, 21:1 et seq.

Annuity trusts (GRATs) and unitrusts (GRUTs), 21:54 et seq.

## FAMILY TAX PLANNING FOR REAL ESTATE INVESTORS—Cont'd

Charitable remainder trusts, 21:80 to 21:88

Death of partner, family limited partnerships, 21:67 Defective grantor trust, using real estate to fund, 21:93 to 21:100

Discounts, use in connection with special use valuation, 21:38

Employee stock ownership plans, 21:101 to 21:107

Estate Taxes (this index)
Expiration of QPRT term, planning after, 21:51

Family limited partnerships, 21:60 to 21:67

Freeze partnership, 21:66

Generation skipping tax, 21:47

**Gift Taxes** (this index)

Personal residence trusts, 21:39 et seq.

Private real estate annuities, 21:68 to 21:75, 21:77 Qualified personal residence trusts (QPRT), 21:39 et

seq.
Self-canceling installment notes, 21:76 to 21:79

Special use valuation, use of discounts in connection with, 21:38

Stock redemptions in family corporations, 21:89 to 21:92

Tax guide, generally, 21:1 et seq.

### **FANNIE MAE GUIDELINES**

Environmental site assessment, 15:83

### FARMS AND FARMING

Income taxes

depreciation, 2009, farm equipment treated as 5-year property for, **20:70** 

self-employment tax, farm rental income, 20:9

Investments, 11:28, 11:29, 11:44, 11:77

Self-employment tax, farm rental income, **20:9** Value, market comparison approach, **19:15** 

### FDIC GUIDELINES

Environmental site assessment, 15:84

### FEDERAL GOVERNMENT

**United States Government** (this index)

### FEES

Condominiums, fee ownership of time share units, 16:247

Distressed property, how real estate manager took distressed properties off bank's hands, **9:33** 

**Investments** (this index)

Managers and management, 18:15 to 18:20

**Mortgages** (this index)

Office leases, architectural fees, 3:126

**Start-Up Costs or Fees** (this index)

Syndication, management fees, 16:200

Tax-free exchanges of real estate, transfer fees, 2:88

FEES—Cont'd Third party financing, interest rate and loan fees, 1:57 FIDUCIARIES Borrower misconduct, lender's liability for breach of fiduciary duty, 14:82 Income Property Ownership (this index) Lender's liability for breach of fiduciary duty, 14:81, 14:82 Limited partnerships, fiduciary duties of general partner, 16:67 Mortgages, 5:16	FINANCING—Cont'd Disclosure, improper, 4:90 Down payment refund, third party financing, 1:63 Income Taxes (this index) Intercreditor agreement, mezzanine financing, 4:22 Interest on Money (this index) Interim financing generally, 4:27 et seq. joint ventures and participating debt, 7:22 junior mortgage financing, 4:60 underwriting and documentation of mortgage loan commitment, 6:90
FILES AND FILING Records and Recording (this index)	Investments (this index) IRA alternative investments guidance, 4:98 Joint Ventures and Participating Debt (this index)
FINANCIAL REPORTING Management of property, 18:58, 18:59 Tax-free exchanges of real estate, 2:135	Leasehold mortgage, <b>App. 4.10</b> Liability of lender, generally, <b>14:75 et seq.</b> Long-term options, <b>4:73</b>
FINANCING Generally, 4:1 et seq. Acquisition financing, 4:9 to 4:13 Amount and term of loan, third party financing, 1:56 Amount of loan mortgages, 5:18 third party financing, 1:56 Apartment buildings, investments in, 11A:16 Balloon payment mortgage, App. 4.6 Bankruptcy and Insolvency (this index) Bridge financing, 4:27 et seq., 8A:7 Business decline as creating money crisis, 9:4 Case studies in creative real estate financing, 9:1 et seq. Commercial real estate, generally, 4:1 et seq. Condominiums, 16:212, 16:235 Construction Contracts and Work (this index)	Mezzanine financing generally, 4:21 et seq. foreclosure, 14:144 intercreditor agreement, 4:22 sale-optionback, 4:26 value-added equity and mezzanine structures, 4:25 Mortgages (this index) Nonrecourse Provisions (this index) Nonshareholder capital contributions, state economic development grants, 4:102 Nontransferable state income tax credits, 4:101 Notice to buyer, third party financing, 1:61 Office Leases (this index) Opportunity funds, credit companies, 4:86 Options, 4:73 to 4:75 Partners and Partnerships (this index) Partnerships, entities taxed as, state economic development grants, 4:103
Construction loan, App. 4.1 Convertible Loans (this index) Cooperative housing corporations, 16:255, 16:264, 16:266 Credit companies, 4:83 et seq. Crowdfunding generally, 4:91 to 4:96 emerging growth company, 4:92 exemption from 1933 and 1934 Acts, 4:94 funding portal, 4:93 tax considerations, 4:96 trading restrictions, 4:95	Performing and nonperforming loan sales, 14:90 to 14:100  Private equity funds, credit companies, 4:84 et seq. Qualified small business stock, financing commercial real estate, 4:104  Refinancing (this index)  Refinancing in anticipation of sale, commercial real estate, 4:8  Refund of down payment, third party financing, 1:63  Refusal of lender to fund commitment, third party financing, 1:64
Development financing generally, <b>4:9 to 4:13</b> joint ventures and participating debt, <b>7:3, 7:23 to 7:25, 7:29</b> Diligent application and prosecution of loan, third party financing, <b>1:59</b>	Second mortgage, App. 4.8  Securitization and Federal Government (this index) Self-directed IRAs, 4:97, 4:98  State economic development grants, 4:102 nonshareholder cpaital contributions, 4:102 partnerships, entires taxed as, 4:103

### FINANCING—Cont'd

Syndication, **16:194** 

Takeout commitment, App. 4.2

Tax-free exchanges of real estate, exchange for more financible property, 2:6

Tax increment financing, 4:13

Term of loan

long-term options, 4:73

mortgages, 5:20

third party financing, 1:56

undeveloped land, short-term financing of, 4:31

Third parties

generally, 1:55 to 1:64, 4:12, App. 1.10

mortgages, 5:45 to 5:47

Time to obtain third party financing, 1:60

**Title and Ownership** (this index)

Transferable state income tax credits, **4:100**, **4:101** Undeveloped land, short-term financing of, **4:31** Wraparound mortgage, **App. 4.9** 

### FIRE INSURANCE

Mortgages, 5:38

### FIRE PREVENTION FEES

Income taxes, deduction for taxes for local benefits, 20:162

### FIRST REFUSAL RIGHTS

Office leases, 3:71, 3:84 to 3:86, App. 3.13

Underwriting and documentation of mortgage loan commitment, **6:20** 

### FIRST-TIME HOMEBUYERS INCENTIVES

**Income Taxes** (this index)

### FIVE-WAY EXCHANGES

Tax-free exchanges of real estate, 2:124

### FIXED RENEWAL RENTAL

Office leases, 3:65

### **FIXTURES**

Sale or transfer, 1:76

Underwriting and documentation of mortgage loan commitment, lender's waiver of rights as to trade fixtures. **6:95** 

### FLAT RENTAL

Office leases, 3:10, App. 3.2

### FLAWED PROPERTIES

Purchase and sale, 1:113

### **FLIP CONTRACTS**

Sale or transfer, 1:100 to 1:102

### FLOOD INSURANCE

Income taxes, reimbursements, 20:37

Index-20

### FLOOD INSURANCE—Cont'd

Mortgages, 5:40, 6:37

### FLOOR-AND-CEILING LOANS

Underwriting and documentation of mortgage loan commitment, **6:64** 

### FLOOR LOANS

Mortgages, 5:50

### **FLOORS**

Office Leases (this index)

### **FLORIDA**

Environmental law, 15:42

### **FLPS**

Family Limited Partnerships (FLPs) (this index)

### FOAM INSULATION

Environmental law, urea formaldehyde foam insulation, **15:103** 

### FOOD AND BEVERAGE OPERATION

Partners and partnerships, leasing out food and beverage operation, **9:11** 

### FOREBEARANCE AGREEMENT

Generally, App. 14.3

### **FORECLOSURE**

Generally, 14:123 et seq.

Acceleration of mortgages, 14:136, 14:137

Bankruptcy, 14:34, 14:35

Brokerage commissions, 14:135

CDOs, 8:21

Commissions of brokers, 14:135

Deed in lieu of foreclosure, 14:125 to 14:128

Default interest rate not penalty, 14:142

Dragnet clause, 14:138

Equitable mortgage, 14:130

Equitable mortgage, sale-leaseback to avoid foreclosure, 13:56

Erroneously declaring mortgage paid, 14:139

Fraudulent transfers, 14:131, 14:148

Friendly foreclosure, 14:133

Interest rate as penalty, 14:142

Investments, foreclosure sales, 11:31

Judicial foreclosure, 14:146

Junior mortgages and claims, 14:132

Methods, generally, 14:145 to 14:149

Mezzanine loan, 14:144

Power of sale, 14:147

Preferences, 14:131

**Preforeclosure** (this index)

Prepayment premiums payable when properly forfeited. **14:140** 

### INDEX

### FORECLOSURE—Cont'd

Redemption, 14:150

Securitization and federal government, 8:21

Standing, 14:124

Strict foreclosure, 14:149

Tax aspects of workouts, 14:74

Title insurance, 14:134

Unconscionability bars foreclosure, **14:141**Uncontested or friendly foreclosure, **14:133** 

### FOREIGN STATE OR COUNTRY

Sale or Transfer (this index)

### FOUR-WAY EXCHANGES

Tax-free exchanges of real estate, 2:123

### FRACTIONAL GIFTS

Gift taxes, family installment sales vs. fractional gifts, 21:11 to 21:14

### FRACTIONAL INTERESTS

Tax-free exchanges of real estate, 2:57 Value and valuation, 19:37 et seq.

### **FRAUD**

Environmental law, 15:64

Income tax penalties, 20:376 et seq.

Lender's liability, **14:77 to 14:80** 

Sale or transfer, 1:33, 1:34

Subprime crisis, 8:93

Title company duty to disclose, 8:93

### FRAUDULENT TRANSFERS

Foreclosure, 14:131, 14:148

### FREEZING TECHNIQUES

Estate taxes, using real estate to fund defective grantor trust. 21:95

### FRIENDLY FORECLOSURE

Generally, **14:133** 

### FUNCTIONAL OBSOLESCENCE

Generally, 19:9

### **FUTURE FINANCING**

Underwriting and documentation of mortgage loan commitment, **6:78** 

### "FUTURE INDEBTEDNESS" CLAUSES

Investments, 11:60

### **FUTURE INTERESTS**

Tax-free exchanges of real estate, 2:30

### GAIN OR LOSS

Capital Gains (this index)

Closing, scheduling closings to convert capital loss to ordinary loss, 1:108

### GAIN OR LOSS—Cont'd

Employee stock ownership plans, tax free rollover of gain on sale, 21:102, 21:103

Gift taxes, 21:15

**Income Taxes** (this index)

Investments, 11:81, 13:32, 13:33

**Office Leases** (this index)

Syndication, allocation of taxable profits and losses, 16:203

Tax-Free Exchanges of Real Estate (this index)

### **GAP LOAN COMMITMENTS**

Mortgages, 5:72, 5:73

### GAS STATIONS

Income taxes, depreciation, 20:58

## GENERAL GROWTH PROPERTIES BANKRUPTCY

Generally, 8:4

### **GENERATION SKIPPING TAX**

Family tax planning for real estate investors, 21:47

### **GENTLEMEN FARMERS**

Investments, 11:29

### **GIFTS**

### Charitable Contributions (this index)

Employee stock ownership plans, 21:105

Family limited partnerships, leveraging with annual exclusion gifts, **21:62** 

Income taxes, certain gifts of real estate identified as avoidance, 20:344

Limited partnerships, value and valuation, 19:70, 19:81

Taxes. **Gift Taxes** (this index)

### **GIFT TAXES**

Generally, 21:1 et seq.

Adequate disclosure rule, valuation of property, 21:3

Advantages of making gifts, 21:10

Alien spouses, transfers to, 21:7

Annual gift tax exclusion, 21:4, 21:5

Annuity trusts (GRATs) and unitrusts (GRUTs), **21:56** 

Declaratory judgment to resolve gift tax valuation, 21:16

Deeding fractional shares, 21:12

Defective grantor trust, using real estate to fund, **21:97** 

Estate tax

generally, 21:9

marital deduction, 21:6, 21:7

Family tax planning for real estate investors, **21:11 et seq.** 

### GIFT TAXES—Cont'd

Fractional gifts, family installment sales vs., 21:11 to 21:14

Gains and losses, gift planning for, 21:15
Income tax, relationship of gift tax to, 21:8
Installment sales, family installment sales vs.
fractional gifts, 21:11 to 21:14
Marital deduction, 21:6, 21:7
Personal residence trusts, 21:44
Qualified domestic trust, 21:7

Valuation of property adequate disclosure rule, 21:3 declaratory judgment to resolve, 21:16

### GOOD FAITH

Deficiency judgments, **14:152** Lender's liability, **14:76**, **14:77** 

### **GOODWILL**

Price, allocation of goodwill, 1:44

### GOVERNMENT

**United States Government** (this index)

### GRANTOR RETAINED ANNUITY TRUSTS AND UNITRUSTS

Annuity Trusts (GRATs) and Unitrusts (GRUTs) (this index)

### **GRATS**

Annuity Trusts (GRATs) and Unitrusts (GRUTs) (this index)

### GROSS RENT MULTIPLIER (GRM)

Value and valuation, 19:18

### **GROUND LEASES**

Generally, **12:1** Insurance

investments, 12:38 to 12:40 mortgaged property, 18:110

**Investments** (this index)

Negotiating the ground lease, 12:18 et seq.

### **GROWTH FACTORS**

Tax-free exchanges of real estate, 2:96

### **GRUTS**

Annuity Trusts (GRATs) and Unitrusts (GRUTs) (this index)

### **GUARANTY**

Investments, ground and net leases, 12:36 Mortgages, 4:38, 5:45 to 5:47, 6:45, 6:65 Spousal, 14:87 Tax-free exchanges of real estate, 2:93

Index-22

### HANDICAPPED PERSONS

**Disabled Persons** (this index)

### HAZARD OR HAZARDOUS CONDITIONS

**Environmental Law** (this index)

Mortgages, hazard insurance, 5:38, 6:15 to 6:18, 6:25 to 6:39, 6:74

### **HEALTH CARE TAX**

Income taxes, 20:12

### HIGHEST AND BEST USE

Value and valuation, 19:11

### HIGH-SPEED TRANSPORTATION METHODS

Investments, 11:14

### HIRE ACT INCENTIVES

Generally, **20:310** 

### HISTORIC DISTRICTS

Facade easements, 20:335

### HISTORIC STRUCTURES

Income taxes, rehabilitation tax credits, 20:303

### **HOLDING COMPANY TAX**

C corporations, 16:107

### HOLDING PERIOD

Investments in raw land, 11:5

### HOLDOVER TENANCY

Investments, ground and net leases, 12:33

### **HOLIDAYS**

Office leases, rent holidays, 3:118 to 3:120

## HOME AFFORDABLE MODIFICATION PROGRAM (HAMP)

Generally, 4A:4

### **HOME AFFORDABLE REFINANCE (HARP)**

Generally, 4A:5

### HOMEBUYERS INCENTIVES

**Income Taxes** (this index)

### HOME OFFICE EXPENSES

Income tax deductions, 20:202 et seq.

### **HOMEOWNERS**

Income taxes, energy tax credits for, 20:311

### **HOSPITALITY PROPERTIES**

Income taxes, depreciation, 20:80 et seq. Insurance, 18:118

### **HOTELS**

Cash flow, **14:43**Condo hotels, **16:250** 

### **HOTELS—Cont'd**

Investor raised cash for acquisition of profitable hotel, 9:13 to 9:19

Off-street parking, 14:20

### **HUSBAND AND WIFE**

General partnerships, spousal joint ventures, income property ownership, **16:48** 

Gift taxes, marital deduction, 21:6, 21:7

Spousal guarantees, 14:87

Tax-free exchanges of real estate, 2:167 to 2:170

### **IDENTIFICATION**

**Description or Identification** (this index)

### IDCTS

Using real estate to fund defective grantor trusts, 21:93 to 21:100

### **ILLINOIS**

Environmental law, 15:49

### IMMINENT DEATH

Value and valuation, IRS position of family limited partnerships, 19:79

### IMPAIRMENT OF ASSETS

Income taxes, accounting rules, 20:370

### **IMPOUNDS**

Mortgages, 5:43, 6:72

### **IMPROVEMENTS**

**Income Taxes** (this index)

**Investments** (this index)

Office leases, financing, 3:121, 3:122

Purchase price, allocation of price between land and improvements, **1:41** 

Tax-Free Exchanges of Real Estate (this index)

### **INCENTIVES**

Distressed real estate, alternative uses for, 14:48 Management fees, 18:18
Office leases, 3:119, 3:127

### **INCLINATORS**

Income taxes, residential improvements as medical deductions, 20:213

### INCOME PROPERTY OWNERSHIP

Generally, 16:1 et seq.

C Corporations (this index)

Community property, **16:23** 

Concurrent ownership, 16:7 et seq., 16:28

**Condominiums** (this index)

**Cooperative Housing Corporations** (this index) Corporations

**C** Corporations (this index)

### INCOME PROPERTY OWNERSHIP—Cont'd

Corporations—Cont'd

financing with equity or debt, 16:131

interests, treatment as stock or debt, 16:133

joint ventures, 16:88 et seq.

limited liability companies, income property

ownership, 16:68 et seq.

taxpayer wins thin capitalization case, 16:132

treatment of corporate interests as stock or debt, 16:133

Deadlock, 16:98

Disregarded entity converted to partnership, 16:79

Encumbered spousal joint property, 16:24

Entirety, tenancy by, 16:18 to 16:20

Equity joint venture, 16:84

Fiduciary duties

co-venturer, 16:82

general partner, 16:67

**Investment Trusts** (this index)

Joint tenancies, 16:8 et seq.

Joint ventures

generally, 16:81 et seq.

ability to bring action, 16:97

capital contributions, 16:94

corporations, 16:88 et seq.

dispute resolution, 16:96

equity joint venture, 16:84

fiduciary duties of co-venturer, 16:82

lease joint ventures, 16:86

limited liability companies, 16:74

management and controls, 16:95

mortgage joint venture, 16:85

real estate investment trusts, 16:154

reports and meetings, 16:99

standby joint ventures, 16:87

termination of joint venture, 16:92, App. 16.9

types, 16:83 et seq.

valuation of land and buildings, 16:90

Limited liability companies, 16:68 et seq.

**Limited Partnerships** (this index)

Nontax considerations. 16:4

Oral agreements, 16:100

Partners and Partnerships (this index)

Partnership, disregarded entity converted to, 16:79

**S Corporations** (this index)

Severance by unilateral act, joint tenancy, 16:16,

16:17

Social security taxes, 16:3

Sole proprietorship, 16:5, 16:6

Survivorship, joint tenancy with right of, 16:15

**Syndication** (this index)

Tax considerations

generally, 16:2

### INCOME PROPERTY OWNERSHIP—Cont'd INCOME TAXES—Cont'd Air conditioning, residential improvements as medical Tax considerations—Cont'd deductions, 20:214 C corporations, 16:105 et seq. **Condominiums** (this index) Allocations bypassing borrower, 20:132 cooperative housing corporations, 16:269 et seq. investment trusts, 16:142 et seq., 16:152 debt proceeds received in cash, 20:131 depreciation, costs and expenses, 20:60 to 20:66 limited liability companies, self-employment tax, interest deduction, allocating interest to specific 16:80 **Partners and Partnerships** (this index) loans, 20:128 et seq. management services, reallocation of income, social security taxes, 16:3 syndication, 16:190 20:87 et seq. maximizing depreciation through cost allocation, taxpayer wins thin capitalization case, corpora-20:60 to 20:66 tions, 16:132 mixing debt with other funds, 20:130 trusts, 16:162 reallocation of income, management services, Trusts 20:87 et seq. generally, 16:158 et seq. repaying debt, 20:133 **Investment Trusts** (this index) sale of financed assets, 20:134 Land Trust Agreement Illustration, 16:160 tracing rules, 20:128 et seq. Land Trust Agreement Illustration, Illinois trust, Alternative minimum tax 16:161 generally, 20:392 et seq. Tax aspects of trust, 16:162 for corporations, 20:398 et seq. Types of trusts, **16:159** Americans with Disabilities Act (ADA), 17:18 to Unified credit and joint tenancies and tenancies by entirety, 16:19, 16:20 Annuity trusts (GRATs) and unitrusts (GRUTs), generally, 16:20 21:58 Special rule for pre-1977 joint ownership, 16:21 **Appraisal** home losses due to natural disasters, 20:281 INCOME SHIFTING noncash charitable contributions, appraisal Family limited partnerships, 21:64 requirements, 20:341 Assisted living payments as medical deductions, **INCOME TAXES** 20:217 et seg. Generally, 20:1 et seq. Assumption of loans, interest deductions, 20:119, Abandoned property losses 20:151 generally, 20:359 At-risk limitation, 20:250 et seq. establishing abandonment, 20:360 Avoidance, gifts identified as, 20:344 partnership interest, 20:361 Bargain sales, charitable contributions, 20:329. Accelerated depreciation, hospitality industry, 20:80 20:330 Accounting Barrier removal deduction, disabled access credit, cash and accrual method for tax purposes, choos-20:307 ing between, 20:371 et seq. Bonds, tax-exempt financing, 20:345 et seq. income and expenses, rules for, 20:364 et seq. Burden of proof, deduction for management services, Accuracy-related and fraud penalties, 20:376 et seq. 20:88 Business and trade Acquisition costs, leases, 20:38 to 20:41 active trade or business, 20:233 Active and passive rehabilitation credits, 20:298 business expenses, below Additional tax in the form of interest on deferred tax liability, **20:289** casualty deductions, 20:265 interest deduction, 20:124 Adjustments losses, deductions for, 20:232 et seq. alternative minimum tax, 20:393, 20:400 small business capital gains exclusion, 20:21 expenses over 2 percent of adjusted gross income, 20:225 Business expenses generally, 20:32 to 20:41 Advice on real estate taxes, deduction for, 20:227 ordinary and necessary expenses. 20:34 Aiding and abetting understatements of tax, penalties for. 20:382 payment of another's expenses, 20:36

INCOME TAXES—Cont'd	INCOME TAXES—Cont'd
Business expenses—Cont'd	Conversion
start-up business expenditures, below	capital gains, <b>20:23 et seq.</b> , <b>20:45</b>
trade or business expenses, 20:33, 20:35	depreciation period for involuntary conversions,
Capital gains and losses	20:59
generally, 20:13 et seq.	Convertible debt, at-risk limitations, <b>20:253</b>
classification of, 20:13	Cooperative housing corporations, <b>16:271</b>
conversion to ordinary income, 20:23	Corporations
depreciation, 20:20, 20:43 et seq.	alternative minimum tax for, <b>20:398 et seq.</b>
health care tax, 20:12	closely-held corporation, above
installment sales, 20:19	discharging real estate debt, 20:358
limitation of availability, 20:20	executive compensation, deduction for, <b>20:90</b> et
oportunity zones, special rules for, 20:17	seq.
options, 20:27 to 20:31	exemptions and itemized deductions, <b>20:7</b>
sale of lots, conversion of gain, 20:25	organizational expenses, deductions for entity,
special rule for real estate, conversion, 20:23	20:173
taxation, 2003 and after, <b>20:15</b>	small corporations, alternative minimum tax
taxation, 2013 and after, <b>20:16</b>	exemption for, 20:399
zero tax on long-term capital gain and dividends,	Costs and expenses
20:18	accounting rules for income and expenses, 20:364
Carryforward of losses, 20:254	et seq.
Casualty or disaster	adjusted gross income, expenses over 2 percent of <b>20:225</b>
deductions, below	
home losses due to natural disasters, 20:279 et	business expenses, above depreciation, below
seq.	fully deductible expenses, <b>20:224</b>
C corporations. Closely-held corporation, below	home office expenses, deduction for, 20:202 et
Charitable contributions, 20:320 et seq.	seq.
Charitable remainder trusts (CRTS), 20:334, 21:84,	medical deductions, residential improvements as,
21:88 Charleigt deductions 20:04	20:210, 20:211
Chairman alastian Election and halam	start-up business expenditures, below
Choice or election. Election or choice, below	website expenses, deduction for, 20:178 et seq.
Classification of gains and losses, 20:13	Court created factors to determine reasonableness,
Closely-held corporations	deductions for executive compensation, <b>20:95</b> ,
contingent compensation, 20:98	20:96
guidance for shareholder-employees, 20:93, 20:94	Credits
losses, deductions for, 20:242	generally, <b>20:296</b> et seq., <b>20:395</b> , <b>20:396</b>
COD income deferral, <b>20:356</b>	first-time homebuyers, below
Commercial buildings, energy tax deduction and	ISO refundable tax credit, 20:397
credit for, <b>20:312</b>	Dealer property vs. investor property, <b>20:22</b>
Component depreciation, 20:57, 20:75 et seq.	Decedents' estates
Condominiums, 16:228, 16:248	charitable contributions, estate tax exclusion for
Conservation	land subject to qualified easement, 20:333
generally. Environmental law, below	Deductions
easements, IRS caution for, 20:332	generally, 20:153 et seq.
Construction contracts and work	accounting rules for income and expenses,
deductions, generally, 20:156	premature accruals of deductions, 20:366
hospitality industry, construction costs, 20:81,	acquiring tangible property, amounts paid, 20:192
20:83	adaptation to tangible property for different use,
interest deductions, 20:136, 20:137	20:198
Contingent sales, 20:292 et seq.	aggregation election, business exceptions, <b>20:246</b>
Continuing care retirement communities, tax conse-	alternative depreciation system, <b>20:56</b>
quences associated with, 20:222	betterments to tangible property, 20:196
Convenience store depreciation, 20:58	business exceptions, 20:237 et seq.

INCOME TAXES—Cont'd	INCOME TAXES—Cont'd
Deductions—Cont'd	Deductions—Cont'd
business startup expenses, 20:163 et seq.	qualified home, 20:109
capitalize repair and maintenance costs, <b>20:200</b>	reasonable compensation, 20:95 et seq.
casualty deductions	rebates, state real property tax, 20:160, 20:161
generally, <b>20:262 et seq.</b>	regulatory accounting method, optional, 20:199
charitable contributions, <b>20:326</b>	remodel-refresh safe harbor, <b>20:201</b>
charitable deduction for amount set aside for	repairs and maintenance, 20:190
estates and trusts, 20:338	residential improvements as medical deductions,
charitable withdrawal power, <b>20:340</b>	20:209 et seq.
de minimus safe harbor, 20:188, 20:191	restorations to tangible property, 20:197
depreciation deductions, 20:48 to 20:50, 20:55,	rotable spare parts, <b>20:187</b>
20:208	safe harbor, de minimus, <b>20:188, 20:191</b>
disabled access credit, barrier removal deduction,	small taxpayers, safe harbor for buildings, 20:194
20:307	state real property tax rebates, 20:160, 20:161
documenting related party charges, 20:89	super material participation rules, planning for,
executive compensation, 20:90 et seq.	20:249
expenditures related to tangible property, 20:183	Tax Cuts and Jobs Act, rebates under 2017,
et seq.	20:161
fire prevention fees, taxes for local benefits,	temporary spare parts, 20:187
20:162	trusts, <b>20:339</b>
home equity debt, 20:114	vacation homes, 20:272 et seq.
home office expenses, 20:202 et seq.	website expenses, 20:178 et seq.
improvements as medical deductions, 20:209 et	year medical deduction taken, 20:221
seq.	Deferral
improving tangible property, amounts paid,	COD income, 20:356
20:193	executive compensation, deduction for, <b>20:100</b>
interest deductions, <b>20:105 et seq.</b>	investors, deferral of tax benefits of depreciation
investment advice, 20:228	to, 20:44
itemized deductions, generally, 20:1 et seq.,	Deferred tax liability, additional tax in the form of
20:217 et seq.	interest on, 20:289
limitation on itemized deductions, 20:6	Demolition losses, deduction of, <b>20:270</b>
limited partnerships, below	Depreciation
losses, deduction for, generally, <b>20:232 et seq.</b>	generally, 20:42 et seq.
management services, deduction for, 20:86 et seq.	bonus depreciation, 20:84
materials and supplies	building variance costs, allowed for, <b>20:51</b>
generally, 20:184 et seq.	capital gains and losses, 20:20, 20:45
capitalize, election to, 20:186	component depreciation, 20:57, 20:75 et seq.
definitions, 20:185	costs and expenses
sale or disposition of, 20:189	allocating cost, <b>20:60 to 20:66</b>
maximizing interest deductions during production	home office expenses, deductions for, <b>20:202</b>
period, <b>20:139</b>	et seq.
medical deductions, residential improvements as,	hospitality industry, construction costs, <b>20:81</b> ,
20:209 et seq.	20:83
midmonth convention, depreciation deduction,	improvements, allocation between land and,
20:55	20:61
miscellaneous itemized deductions, 20:223 et seq.	land/building allocation, 20:62
natural disasters, home losses due to, 20:279 et	maximizing depreciation through cost alloca-
seq.	tion, <b>20:60 to 20:66</b>
organizational expenses, entity, 20:172 et seq.	personal property, 20:67 to 20:71
pass-through income, 20:229 to 20:231	real/personal property allocation, <b>20:64</b>
portion of room as home office expense, 20:204	erroneous depreciation charges, <b>20:47</b>
qualified debt for home mortgage interest deduc-	farm equipment treated as 5-year property for
tions, determination, <b>20:115</b>	2009, <b>20:70</b>

INCOME TAXES—Cont'd	INCOME TAXES—Cont'd
Depreciation—Cont'd	Erroneous depreciation charges, <b>20:47</b>
hobby loss limitations, <b>20:260</b>	Estates. Decedents' estates, above
IRS agreement with component depreciation, 20:78	Estates and trusts, charitable deduction for amount permanently set aside, <b>20:338</b>
leasehold improvements, 20:85	Estate tax exclusion for land subject to qualified ease
lease-in/lease-out transactions, 20:73	ment, <b>20:333</b>
limitations on component depreciation, 20:79	Exceptions, pass-through income, 20:231
mine safety equipment, 20:69	Exclusions, pass-through income, 20:231
partial year deduction, 20:55	Executive compensation, deduction for, 20:90 et seq
personal property, costs and expenses, 20:67 to	Exemptions
20:70	bonds, tax-exempt financing, <b>20:345 et seq.</b>
potential applications of component depreciation, <b>20:77</b>	interest deduction, effect of tax-exempt investments, <b>20:140 et seq.</b>
property eligible for deduction, <b>20:50</b>	personal exemptions, <b>20:1 et seq.</b>
real and personal property distinguished, 20:46	phaseout of personal exemptions, 20:3
reclassification, shorter-life, 20:54	Expenses. Costs and expenses, above
rehabilitation tax credits, 20:299	Facade easements in registered historic districts,
shorter-life reclassification, 20:54	20:335
tax court decision permitting component depreciation, <b>20:76</b>	Fair market value, charitable contributions, <b>20:323 et seq.</b>
term holder, depreciation of land by, <b>20:52</b> Disabled persons	Farm equipment treated as 5-year property for depreciation, 2009, <b>20:70</b>
credits for disabled access, 20:306, 20:307	Farm rental income, self-employment tax, <b>20:9</b>
medical deductions, residential improvements as,	Financing
20:212 Disaster or casualty. Casualty or disaster, above	assumption of loans, interest deductions, <b>20:119</b> , <b>20:151</b>
Discharging real estate debt, 20:352 et seq.	exempt bond financing, 20:345 et seq.
Discounts, original issue discount and imputed interest, 20:143 et seq., 20:287	interest deduction, allocating interest to specific loans, <b>20:128 et seq.</b>
Dividends, deductions, 20:92	personal loans, interest deductions, 20:106
Documentation. Records and recording, below	points on residential financing, deduction of,
Easements	20:117
estate tax exclusion for land subject to, 20:333	points on residential refinancing, deduction of,
facade easements in registered historic districts, 20:335	20:118  Fire prevention fees, deduction for taxes for local
Election or choice	benefits, 20:162
cash and accrual method for tax purposes, choosing between, <b>20:371 et seq.</b>	First-time homebuyers, incentives for generally, <b>20:315 et seq.</b>
installment sale method, electing out of election	nonallowance, 20:318
not to use, 20:291	phase out of credit, 20:316
losses, deductions for, <b>20:246 et seq.</b>	qualified first-time home buyer, 20:317
Elevators, residential improvements as medical deduc-	recapture rules, 20:319 Flood insurance reimbursements, 20:37
tions, 20:213 Employees, home office use by, 20:205	Fractional interests in tangible personal property,
Energy tax	charitable contributions, <b>20:336</b>
commercial buildings, deduction and credit for,	Fraud, penalties, <b>20:376 et seq.</b>
20:312	Fringe benefits; pass through entities, 20:103
homeowners, credits for, 20:311	Gain or loss
Enterprise zone investments, <b>20:362</b>	capital gains and losses, above
Environmental law	deductions, above
charitable contributions for conservation purposes, <b>20:331, 20:332, 20:342</b>	natural disasters, home losses due to, <b>20:279 et seq.</b>
Erroneous depreciation changes, <b>20:66</b>	Gas station depreciation, 20:58

INCOME TAXES—Cont'd

Leases—Cont'd

### Gift taxes, relationship of, 21:8 farm rental income, self-employment tax, 20:9 Gratuitous payment or loss incurred in trade or busiimpact fees, 20:41 ness, 20:271 improvements, depreciation, 20:85 Guidance for shareholder-employees of closely held landlord, costs incurred by. 20:39 corporations, 20:93, 20:94 natural disasters, conversion of home after, 20:283 Handicapped persons. Disabled persons, above ordinary and necessary business expenses, 20:38 Health care tax, 20:12 to 20:41 Hire Act incentives, 20:310 rehabilitation tax credits, 20:300 Historic structure rehabilitation tax credits, 20:303 stripping transactions, 20:72 Homebuyers. First-time homebuyers, above tenant, costs incurred by, 20:40 Home office expenses, deduction for, 20:202 et seq. vacation homes, 20:272 et seq. Homeowners, energy tax credits for, 20:311 Like-kind exchanges, depreciation period for, 20:59 Hospitality industry, depreciation, 20:80 et seq. Limitations on component depreciation, 20:79 Impairment of assets, accounting rules for, 20:370 Limited partnerships, deductions Improvements business exceptions for entities other than, 20:245 allocation, maximizing depreciation through, losses, 20:244 20:61, 20:63 Long-term capital gain and dividends, zero tax on, charitable gifts of improved real estate, 20:328 20:18 depreciation, leasehold improvements, 20:85 Low-income housing credit, 20:308 medical deductions, residential improvements as, Managers and management 20:209 et seq. bonds, exemption of financing, 20:347 Incentives. First-time homebuyers, above deduction for management services, 20:86 et seq. Inclinators, residential improvements as medical Medical deductions, residential improvements as, deductions, 20:213 20:209 et seq. Indefinite purchase price, contingent sales, 20:295 Midmonth convention, depreciation deduction, 20:55 Installment sales, 20:19, 20:284 et seq. Mine safety equipment, depreciation, 20:69 Intangible property, depreciation of, 20:71 **Mortgages** (this index) Intent change, converting capital gain to ordinary National Mortgage Settlement, tax treatment, 20:357 income, 20:24 Natural disasters, home losses due to, 20:279 et seq. Interest deductions, 20:105 et seq. Net investment income, 20:127 Investments Noncash charitable contributions, appraisal requiredealer property vs. investor property, 20:22 ments, 20:341 deductions, generally, 20:232 Oportunity zones, special rules for capital gains, definition of investment interest paid, 20:126 20:17 depreciation, tax benefits, 20:43 Options, 20:27 to 20:31 enterprise zones, investing in, 20:362 Organizational expenses, deductions for entity, executive compensation deductions, independent 20:172 et seq. investor test, 20:96 Outright gifts, charitable contributions, 20:322 et seq. health care tax, 20:12 **Partnerships** interest deduction, 20:125 et seq., 20:140 et seq. abandoned property losses, 20:361 losses, deductions for, 20:232 et seq. discharging real estate debt, 20:358 net investment income, 20:127 organizational expenses, deductions for entity, IRS agreement with component depreciation, 20:78 20:174 ISO refundable tax credit, 20:397 self-employment tax, 20:101, 20:102 Itemized deductions. Deductions, above Partners safe harbor, allocation of rehabilitation Jobs Act amendments, 2004, 20:164 credits, 20:297 Joint returns, deductions for losses, 20:241 Passive activity, deduction for losses, 20:234 et seq., 20:243, 20:257, 20:267 acquisition costs, 20:38 to 20:41 Pass-through entities, 20:103, 20:135, 20:226 bond financing exemption, exception for qualified residential rental projects, 20:348 Penalties, 20:376 et seq., 20:383 depreciation, 20:49, 20:72, 20:73 Personal exemptions, 20:1 et seq.

INCOME TAXES—Cont'd

Gifts, charitable contributions, 20:322 et seq.

INCOME TAXES—Cont'd	INCOME TAXES—Cont'd
Personal liability on uncertain future obligations,	Relocation expenses, reimbursed, 20:363
20:256	Remainder trusts, charitable, 20:334, 21:84
Personal loans, interest deductions, 20:106	Rentals. Leases, above
Personal property, depreciation of, <b>20:42 et seq.</b>	Repayment of excessive executive compensation,
Personal residence trusts, <b>21:46</b>	20:99
Points on residential financing, deduction of, 20:117	Replacement property acquired from related party,
Points on residential refinancing, deduction of, 20:118	20:268
Prefabricated structures, depreciation of, <b>20:74</b>	Reporting requirements, 20:384 et seq.
Preferences, alternative minimum tax, <b>20:394</b> ,	Repossession, 20:288
20:400, 20:401	Rescission principle, capital gains and losses, 20:26
Prepaid expenses of cash-method tax shelters, 20:367 Preparer penalties, 20:390	Restaurant remodel-refresh safe harbor, 20:201 Retail remodel-refresh safe harbor, 20:201
Presidentially declared disaster area, deductions,	Risk
20:269	at-risk limitation, <b>20:250 et seq.</b>
Price	rehabilitation tax credits, 20:304
contingent sales, 20:292 et seq.	Sale of lots, conversion of capital gain, 20:25
installment sales, reduction of purchase price by	Self-employment tax, 20:8 to 20:11, 20:101, 20:102
seller, 20:290	Shareholder employees, deductions, <b>20:91 et seq.</b>
Private activity bonds, <b>20:346</b>	Small business capital gains exclusion, 20:21
Promotion of abusive tax shelters, penalties, <b>20:383</b>	Small corporations, alternative minimum tax exemp-
Prorating real estate taxes, <b>20:157</b>	tion for, <b>20:399</b>
Qualified busines income deduction, pass-through	Small-issue bonds, 20:350
income, <b>20:230</b>	Social security rates, 20:2
Qualified home, deductions, 20:109	Special rule for real estate, conversion and capital
Quid pro quo transactions, value and valuation,	gains, <b>20:23</b>
20:343	Special situations, self-employment tax, 20:11
Rates, 20:1	Start-up business expenditures
Rates and brackets, 20:4, 20:5	deductions, 20:163 et seq.
Reallocation of income, management services, <b>20:87</b>	defined, <b>20:169</b>
et seq.	diversification, 20:171
Reasonable compensation, deductions for executive	election, time and manner of making, 20:167
compensation, 20:90 et seq.	Jobs Act amendments, 2004, <b>20:164</b>
Rebates, state real property tax, deductions for, 20:160, 20:161	taxpayer's business role, 20:168
Recapture	time and manner of making election, 20:167
first-time homebuyers incentives, recapture rules,	timing of beginning of trade or business, 20:166
20:319	trade or business requirement, deductions, <b>20:165</b>
rehabilitation tax credits, <b>20:305</b>	2004 Jobs Act amendments, 20:164
Reclassification, shorter-life depreciation, 20:54	State real property tax rebates, deductions for, 20:160, 20:161
Records and recording	Stock and stockholders, deductions, 20:91 et seq.,
deductions, documenting related party charges,	20:240
20:89	Subchapter S corporations, 20:97
mortgage recording tax deductions, 20:158 et seq.	Swimming pools, residential improvements as medi-
Redevelopment bonds, 20:351	cal deductions, 20:215
Reduction of purchase price, 20:290	Tainted property, charitable contributions, 20:337
Rehabilitation tax credits, 20:296 et seq.	Tax court decision permitting component deprecia-
Reimbursed relocation expenses, 20:363	tion, <b>20:76</b>
Reimbursement of flood insurance, 20:37	Tax Cuts and Jobs Act, 20:1
Related parties	Tax shelters
cash and accrual method for tax purposes, choos-	accounting rules for income and expenses, 20:367
ing between, <b>20:373</b>	promotion of abusive tax shelters, penalties,
installment sales, related party restrictions, 20:286	20:383
replacement property acquired from, 20:268	Term holder, depreciation of land by, 20:52

### INCOME TAXES—Cont'd

Theft deductions, 20:262 et seq.

Time, start-up business expenditures, 20:166, 20:167

Timeshare losses, deduction for, **20:277** 

Time-value-of-money rule, 20:146

Tracing rules, 20:128 et seq.

Trade and business. Business and trade, above

Trusts

amount permanenty set aside for trust, charitable deduction, 20:338

charitable remainder trusts, 20:334, 21:84 deductions, 20:339

Understatement of tax, penalties for, **20:380**, **20:382** Uniform capitalization rules and interest deduction, **20:138** 

Vacation homes, 20:272 et seq.

Value and valuation

fair market value, charitable contributions, 20:323 to 20:328, 20:342

outright gifts, charitable contributions, 20:323 et sea.

quid pro quo transactions, 20:343

time-value-of-money rule, 20:146

Walls, rehabilitation tax credits, 20:301

Website expenses, deduction for, 20:178 et seq.

Work opportunity tax credit, 20:309

Write-offs

rehabilitation tax credits, 20:299

Zero tax on long-term capital gain and dividends, 20.18

Zoning, deduction for adverse zoning, 20:278

### INDEFINITE PURCHASE PRICE

Income taxes, contingent sales, 20:295

### INDEMNITY AND INDEMNIFICATION

Environmental law, **15:105** to **15:110**, **App. 15.3**, **App. 15.4** 

Insurance, 18:114 to 18:118

Investments, ground and net leases, 12:38 to 12:40

### INDEPENDENT CONTRACTORS

Brokers and subprime crisis, 8:89

### **INFLATION**

Investments, 10:5 to 10:9

### **INJUNCTIONS**

Office leases, default, 3:109

### INNOCENT LANDOWNER DEFENSE

Environmental law, 15:9

### **INSOLVENCY**

Bankruptcy and Insolvency (this index)

Definition for mortgage purposes, **5:48** 

Index-30

### INSPECTION

Apartment buildings, investments in, 11A:4 Construction financing, 4:16, 5:71

### INSTALLMENT SALES

Convertible mortgage in place of installment sales contract, use of, 1:111

Estate taxes, option vs. installment, 21:37

Gift taxes, family installment sales vs. fractional gifts, 21:11 to 21:14

Income taxes, 20:19, 20:284 et seq.

Investments, sale-leaseback, 13:30

Option in place of installment sale, use of, 1:110

Purchase money mortgage, tax savings and other benefits from installment sales, 1:54

Self-canceling installment notes, family tax planning for real estate investors, **21:76**, **21:77** 

Tax-free exchanges of real estate, 2:175

Value and valuation, discount for installment payments under FLP right to purchase interest, 19:73

### **INSURANCE**

Additional insureds, naming of, 18:91

Anti-subrogation rule, 18:92

**Business Interruption Insurance** (this index)

Closing, proration, 1:95

**Coinsurance** (this index)

Condominiums, 16:224, 16:277, 18:117

Cooperative housing corporations, 16:277, 18:117 Environmental insurance policies, 1:83, 15:112 et

sea.

Equitable subrogation, 18:94

Exculpatory clauses, 18:114 to 18:118

Flood Insurance (this index)

Ground Leases (this index)

Hospitality properties, **18:118** 

Indemnity clauses, 18:114 to 18:118

**Investments** (this index)

Leases

**Ground Leases** (this index)

office leases, **3:97 et seq., App. 3.22** subrogation and waiver, **18:88** 

**Liability Insurance** (this index)

Management of property, generally, **18:86 to 18:116 Mortgages** (this index)

Office leases, 3:97 et seq., App. 3.22

Pollution liability insurance, duty to defend, **15:119** Premiums

closing, proration, 1:95

liability insurance, 18:107

mortgages, premium impounds, 5:43

Property insurance, generally, 18:95 to 18:102

Replacement cost and actual cash value. 18:99

Residential leases, subrogation waivers and, 18:93

### INSURANCE—Cont'd

Risks, generally, 18:86, 18:87

Special endorsements, 18:101

Subrogation, **18:88 to 18:91** 

Subrogation waivers and residential leases, 18:93

Tax-free replacement of involuntarily converted prop-

erty, qualifying insurance, **2:141** Terrorism Risk Insurance Act, **3:99** 

**Title Insurance** (this index)

Uninsurable risks, 18:102

Value and Valuation (this index)

Waiver, 18:88 to 18:91

### INTANGIBLE PROPERTY

Income taxes, depreciation, 20:71

### INTENT

Income taxes, converting capital gain to ordinary income, 20:24

**Letter of Intent** (this index)

### INTEREST ON MONEY

Caps and collars, 4:89

Closing, proration, 1:95

Cooperative housing corporations, interest and tax deductions by shareholder-tenants, **16:271** 

Credit companies, interest rate swaps, 4:88, 4:89

Distinction from other payments, 20:152

Income taxes, deductions, 20:105 et seq.

**Investments** (this index)

**Mortgages** (this index)

Other payments, interest distinguished from, 20:152

Rate swaps, 4:88, 4:89

Securitization and federal government, effects of rising Interest rates, 8:85

**Taxation** (this index)

**Tax-Free Exchanges of Real Estate** (this index)

Third party financing, interest rate and loan fees, 1:57 Value and valuation, 19:25

, and and , and and , 12 val

### INTERIM FINANCING

**Financing** (this index)

### **INTERMEDIARIES**

Tax-free exchanges of real estate, 2:98

### INTERNAL RATE OF RETURN

Investments, 10:14 to 10:18

### INTERNET

Website expenses, deduction for, 20:178 et seq.

### INTERVENTION

Limited liability companies, income property ownership, **16:75** 

### INVENTORY

Management of property, 18:30

### **INVESTIGATIONS**

Subprime crisis, state and federal investigations, 8:94

### **INVESTMENTS**

Generally, 10:1 et seq.

Abandonment loss, tax aspects of raw land invest-

ment, 11:90 to 11:92

Access and assemblage, ground and net leases, 12:21 Accounting

management, 18:80

sale-leaseback, 13:36 to 13:46

synthetic (off-balance sheet) leases, 12:56

Additions to buildings, ground and net leases, 12:27

Agricultural land, 11:28, 11:29, 11:44, 11:77

Alteration of buildings, ground and net leases, 12:28

**Apartments** (this index)

Assignment

ground and net leases, 12:25

raw land, contract of, 11:48

Bankruptcy, sale-leaseback, 13:55

Bargain sales, sale-leaseback, 13:33

Bond leasing compared with synthetic (off-balance sheet) leases, 12:58

Book value of equity, return on, 10:19

Building contracts and work. Construction contracts and work, below

Buildings, ground and net leases, 12:26 to 12:32

Capital gain benefits, 11:81

Carrying charges, capitalization of, 11:89

Casualty insurance, ground and net leases, 12:38

Checklist, App. 11:1, App. 11:2

Closing

entry, right of, **11:42** 

expenses and cash profit, investor winds up with cash he needs on closing date plus additional sum for, **9:24** 

time and place, 11:50

Commuting time, extension of, 11:12

Competitive projects, comparison of, 10:13

Conclusion, 10:21

Condemnation

ground and net leases, 12:41 to 12:44

sale-leaseback, 13:22

Condition of land, 11:43

Conditions of contract of sale, 11:40 to 11:50

Conditions precedent to ground and net leases, 12:18 to 12:23

Constant dollar value, 10:7

Construction contracts and work

ground and net leases, 12:26

raw land, negotiating purchase of, 11:33

INVESTMENTS—Cont'd	INVESTMENTS—Cont'd
Contract of sale, generally, 11:36 to 11:50	Estimating return on investments, <b>10:10 to 10:20</b>
Corporations	Exculpation of tenant, ground and net leases, 12:37
generally, 11:34	Extension of commuting time, 11:12
Jones corporation sale-leaseback transactions, 13:37 to 13:41	Family Tax Planning for Real Estate Investors (this index)
Cost-of-living rent increases, ground and net leases, 12:15	Farms and farming, <b>11:28</b> , <b>11:29</b> , <b>11:44</b> , <b>11:77</b> Fees
Costs and expenses	ground and net leases, 12:5, 12:9 to 12:11
closing, investor winds up with cash he needs on	tax aspects of raw land investment, <b>11:86</b>
closing date plus additional sum for, 9:24	Financing, generally, <b>11:40</b>
loft building converted to co-operative apartments	Foreclosure sales, 11:31
with minimum of investor's own money, <b>9:64</b>	"Future indebtedness" clauses, 11:60
raw land, low cost of, 11:2	Gain or loss, 11:81, 13:32, 13:33
tax aspects of raw land investment, start-up costs,	Gentlemen farmers, 11:29
11:87	Government agencies, 11:32
Crops, 11:44	Ground and net leases
Decedents' estates, 11:30	generally, 9:18, 9:39 to 9:43, 12:1 et seq.
Deductions from taxes	developers, 12:3
raw land investment, tax aspects of, 11:84, 11:88	fees, 12:5, 12:9 to 12:11
sale-leaseback, 13:35	financing, generally, 12:4 to 12:11
Default	fixing ground rental, 12:12 to 12:17
ground and net leases, 12:34	landlord cancellation clause, 12:45
notice	negotiating lease, 12:18 to 12:45
land contracts, 11:67	office/warehouse, absolute net lease of, <b>App. 12.2</b>
purchase money mortgages, notice of, 11:55	residential ground leases, 12:46
Defects in raw land, 11:8, 11:47	sale-leaseback, 12:35, 13:10 to 13:12
Demolition of existing structures, 11:59	sample clauses, App. 12.1
Depreciation tax benefits, 10:12	sandwich leases, <b>12:59 to 12:61</b>
Description or identification	securitization of net-leased properties (credit-
contract of sale, generally, 11:38	based financing), 12:62
growth patterns of raw land, 11:17, 11:19	subordinated vs. unsubordinated fees, 12:5, 12:9,
Development and developers	12:10
ground and net leases, 12:3	synthetic (off-balance sheet) leases, <b>12:54 to</b>
installment sale of land to, <b>App. 11.6</b>	12:58
limited liability companies, income property ownership, <b>16:76</b>	valuation of net-leased properties, <b>12:63</b> , <b>App. 12.1</b>
limited partnerships, 16:63, 16:64	Guaranty of tenant's performance, ground and net
negotiating raw land purchase, 11:33	leases, <b>12:36</b>
rural areas, raw land in, 11:13, 11:14	Guidelines for investors, 2:110
selecting land parcel for purchase, 11:20, 11:24	High-speed transportation methods, development of,
Distressed property, how real estate manager took	11:14
distressed properties off bank's hands, <b>9:34</b> , <b>9:36</b>	Holding period, investments in raw land, 11:5
Diversification generally, <b>10:4</b>	Holdover tenancy, ground and net leases, 12:33
raw land, diversified locations, 11:4	Hotel, investor raised cash for acquisition of profitable hotel, <b>9:13 to 9:19</b>
	Identification. Description or identification, above
Down payment, sale-leaseback, <b>13:44</b> Duration. Time or date, below	Improvements
Election, tax aspects of raw land investment, <b>11:85</b>	ground and net leases, 12:26 to 12:32
Entry, right of, 11:42	sale-leaseback, 13:5
Equitable mortgage, sale-leaseback to avoid foreclo-	Income Taxes (this index)
sure, 13:56	Indemnity, ground and net leases, 12:38 to 12:40
Equity, return on book value of equity, <b>10:19</b>	Inflation, 10:5 to 10:9
Estates of decedents, 11:30	Installment sales, sale-leaseback, 13:30

INVESTMENTS—Cont'd	INVESTMENTS—Cont'd
Institutional financing of raw land, lack of, 11:6	Options
Insurance	generally, 11:68 to 11:72, App. 11.4
ground and net leases, 12:38 to 12:40	sale-leaseback, 13:23, 13:24
title insurance, 11:46, 12:20	Overpriced raw land, risk of buying, 11:7
Interest on money	Parties to contract of sale, 11:37
generally, <b>10:5 to 10:9</b>	Partners and partnerships
estimating return on investment, changes in interest rates, 10:18	abandonment of partnership interest, 11:92 ground leases, 9:40, 9:41
ground and net leases, 12:11	investment trusts, 16:149 et seq.
purchase money mortgage, 11:53	private investor, wraparound mortgage loan plus
tax aspects of raw land investment, 11:83, 11:88	capital contribution to partnership by, 9:9
usury problems, sale-leaseback, 13:25	Partners and partnerships, wraparound mortgage loan
Internal rate of return, 10:14 to 10:18	plus capital contribution to partnership by private
<b>Joint Ventures and Participating Debt</b> (this index)	investor, 9:9
Jones corporation sale-leaseback transactions, 13:37	Passive vs. investment activity, 11:82 to 11:87
to 13:41	Payback analysis, 10:20
Land contracts, generally, 11:64 to 11:67	Percentage rentals, ground and net leases, 12:16
Layering leases, sale-leaseback, 13:58	Personal liability for purchase money mortgages, 11:56
Lease accounting rules	Place or location, 11:4, 11:50
generally, <b>12:64 to 12:67</b>	Possession, 11:65
disclosures, 12:66	Prepayment of purchase money mortgages, 11:54
planning between purchase and lease, 12:67	Present value, <b>10:6</b>
present values, reporting on balance sheet, 12:65	Price
Leases	contract of sale, generally, 11:39
farm leases, 11:77	options, 11:69
ground and net leases, above	overpriced raw land, risk of buying, 11:7
rent, below	sandwich leases, 12:60
sale-leaseback, below	Profits
sublease, 9:19, 9:40, 9:41, 12:25	estimating return on investment, <b>10:15</b>
Letter of intent, sale-leaseback, 13:14 to 13:16, App.	expenses and cash profit, investor winds up with
13.1	cash he needs on closing date plus additional
Liability insurance, ground and net leases, 12:39	sum for, 9:24
Limited liability companies, income property owner-	hotel, investor raised cash for acquisition of profit
ship, <b>16:75</b> , <b>16:76</b>	able hotel, <b>9:13 to 9:19</b>
Liquidated damages, 11:49	raw land, potential for high profits, 11:3
Liquidity, 10:4	Purchase money mortgages, 11:51 to 11:63
Location, 11:4, 11:50	Purchase of land. See specific lines in this index topic
Loft building converted to co-operative apartments	Raw land, generally, 11:1 to 11:92
with minimum of his own money, 9:63 to 9:68	Reappraisal rentals, ground and net leases, 12:17
Management	Recreational facilities or uses, <b>11:15</b> , <b>11:78</b>
accounting services, 18:80	Related parties, sale-leaseback, 13:34, 13:49
quality property management, maximizing return	Release clauses, purchase money mortgages, 11:57
of investment, 18:4	Renewal option, sale-leaseback, 13:23
raw law, <b>11:73 to 11:79</b>	Rent
sale-leaseback, 13:53, 13:60	ground and net leases, 12:12 to 12:17, 13:12
Mortgages (this index)	sale-leaseback, 13:12, 13:18, 13:19, 13:35
Municipalities, 11:32	Repurchase option, sale-leaseback, 13:24
Negotiation, generally, 11:25 to 11:35	Residential development, buying land for, 11:24
Net leases. Ground and net leases, above	Residential ground leases, 12:46
Net present value, 10:11 to 10:13	Resorts, increased demand for, 11:15
Notice. Default, above	Risk, generally, <b>10:2</b> , <b>10:3</b> , <b>10:5</b> to <b>10:9</b>

INVESTMENTS—Cont'd	INVESTMENTS—Cont'd
Rural areas, raw land in, 11:12 to 11:15, 11:19	Taxation—Cont'd
Sale-leaseback	tax-free exchanges of real estate, properties held
generally, 13:1 et seq.	for productive use in investment, <b>2:41</b>
accounting, 13:36 to 13:46	Time or date
assignment of lease and subleaseback, App. 13.3	closing, <b>11:50</b>
case studies, 13:47 to 13:60	extension of commuting time, 11:12
equitable mortgage foreclosure, 13:56	ground and net leases, duration of, 12:33
existing center, contract of sale contemplating	options, duration of, 11:70
leaseback of, App. 13.5	Title, character of, 11:46
existing mortgage tenancies, property subject to,	Title insurance, 11:46, 12:20
App. 13.2	Trusts. Investment Trusts (this index)
ground and net leases, 12:35	Urban growth paths, prediction of, 11:18
letter of intent, 13:14 to 13:16	Use and occupancy
negotiating leaseback, 13:17 to 13:25	ground and net leases, 12:24
rent, 13:12, 13:18, 13:19, 13:35	sale-leaseback, 13:6
shopping center before construction, contract of sale and leaseback of, <b>App. 13.4</b>	Usury problems, sale-leaseback, 13:25
taxation, 13:19, 13:29 to 13:35	Value and valuation
use vs. operating sale-leasebacks, 13:6	book value of equity, return on, 10:19 constant dollar value, 10:7
Sale or transfer. See specific lines in this index topic	net-leased properties, 12:63
Sample clauses, App. 11.3	net present value, 10:11 to 10:13
Sandwich leases, ground and net leases, 12:59 to	present value, 10:6
12:61	raw land, 11:23
Searching for raw land, 11:10 to 11:15	Working farmers, 11:28
<b>Securitization and Federal Government</b> (this index)	Zero coupon investments, buying real estate with,
Selection of raw land parcel for purchase, 11:16 to	1:105
11:24	Zoning, 11:9, 11:41, 12:23
Severability of sales contract and lease, 13:16	
Signs, ground and net leases, 12:26 to 12:32	INVESTMENT TRUSTS
Soil conditions, ground and net leases, 12:22	Going global, income property ownership, <b>16:136</b>
Speculators, 11:35	Income property ownership, generally, <b>16:134 et seq.</b>
Split mortgage clauses, 11:61	Joint ventures and participating debt, leases, 7:18
Start-up costs, tax aspects of raw land investment,	Partners and partnerships, <b>16:149</b> et seq.
11:87	REIT
Subordination	Definition of real property for REIT purposes,
ground and net leases, 12:5, 12:9, 12:10	Final regulations, <b>16:144</b>
purchase money mortgages, 11:62	REIT subsidiaries, <b>16:145</b>
Subsection, sale of land in, <b>App. 11.5</b>	Tax aspects, <b>16:142 et seq.</b> , <b>16:152</b>
Suburban areas, searching for raw land, 11:10, 11:13	Umbrella partnerships, <b>16:149</b> et seq.
Syndication, 16:167, 16:191, 16:202	INVOICES
Synthetic (off-balance sheet) leases, ground and net	
leases, 12:54 to 12:58	Management of property, checking property tax invoices, <b>18:68</b>
Taxation	
deductions from taxes, above	Office leases, checking property tax invoices, 3:13
depreciation tax benefits, 10:12	IOWA
Family Tax Planning for Real Estate Investors	Environmental law, 15:50
(this index)	Environmental law, 15.50
<b>Income Taxes</b> (this index)	ITEMIZED DEDUCTIONS
investment trusts, 16:142 et seq., 16:152	<b>Income Taxes</b> (this index)
raw land investment, 11:80 to 11:92	, , ,
sale-leaseback, 13:19, 13:29 to 13:35	JOB DESCRIPTION CHECKLIST
synthetic (off-balance sheet) leases, 12:56	Management of property, <b>App. 18.1</b>

### JOINT AND SEVERAL LIABILITY

Environmental law, **15:3** 

### JOINT OPERATING GROUPS

Limited liability companies, 16:73

Limited liability companies, income property ownership, 16:73

### JOINT RETURNS

Deductions for losses, **20:241** Self-employment tax, **20:10** 

### **JOINT TENANCIES**

Agreements, 16:9

Comparison, tenancy-in-common and partnership, 16:10

Income property ownership, **16:8 et seq., App. 16.4** Interests securities, tenancy-in-common, **16:13** 

Large tenancies-in-common, 16:11

Outlook for tenancies-in-common, 16:14

Tax-free exchanges of real estate, 2:45 to 2:48, 2:73, 2:108 et seq.

Tenancy-in-common tax rulings, 16:12 Value and valuation, lack of fractional interest discounts, 19:49

## JOINT VENTURES AND PARTICIPATING DEBT

Additional interest, participating mortgage provisions for, **App. 7.1** 

Agreement creating joint venture, **App. 7.3** 

All-cash equity joint ventures, 7:20

Alternative participating debt structures, 7:6 to 7:18

Anticipated returns, 7:34

Cash flow goals, achievement of, 7:31

Construction loans, how banks handle, 7:11

Convertible loans

generally, 7:6 to 7:9

equity financing for developers, 7:24

mortgages, 7:12, App. 7.2

Cost of project, 7:35

Creation of joint venture, App. 7.3

Credit enhancement, 7:26

Debt and equity joint ventures, 7:22

Development and developers, 7:3, 7:23 to 7:25, 7:29

Equity, 7:20, 7:21, 7:23 to 7:25, 16:84

Final transaction, negotiation of, 7:40

Financing, generally, 7:1 et seq.

Forms of joint ventures, generally, 7:19 to 7:26

General partnerships, spousal joint ventures, income property ownership, **16:48** 

**Income Property Ownership** (this index)

Interim joint ventures, 7:22

Investments

leases, real estate investment trust, 7:18

## JOINT VENTURES AND PARTICIPATING DEBT—Cont'd

Investments-Cont'd

lenders/investors, 7:4

underwriting and risk analysis, 7:30

Leases

generally, 7:14 to 7:18

income property ownership, 16:86

mortgages, 7:13

Limited liability companies, income property ownership, **16:74** 

Mortgages

generally, 5:15, 7:10, 7:11

convertible mortgages, 7:12

income property ownership, 16:85

leases, 7:13

**Parties** 

objectives of parties, 7:2 to 7:4

role and responsibilities, 7:5

Pricing participation agreements, 7:38

Property appreciation goals, achievement of, 7:32

Refinancing, 7:17

Risk analysis, 7:28 to 7:35

Sales contract, using joint venture in place of, 1:112

Sensitivity analysis, 7:39

Structuring transaction, 7:27

Subordinated vs. unsubordinated land lease, 7:16

Tax-exempt landlords, 7:18

Tow formats, comparison of, 7:7

Underwriting and risk analysis, 7:28 to 7:35

Yields, 7:36 to 7:39

## JONES CORPORATION SALE-LEASEBACK TRANSACTIONS

Investments, 13:37 to 13:41

### JUDICIAL FORECLOSURE

Generally, 14:146

### JUNIOR MORTGAGES

**Mortgages** (this index)

### KEY PERSON DISCOUNTS

Value and valuation, 19:57

### **KEY-WAGE METHOD**

Office leases, key-wage method of expense escalation, 3:16

### LAND CONTRACTS

Sale or Transfer (this index)

### LANDLORD AND TENANT

**Leases** (this index)

### **Rent** (this index) LAYERING LEASES residential leases, 18:42 Investments, sale-leaseback, 13:58 security deposits. 18:46 tenant and management relations, 18:49 to 18:57 **LEAD** unfinished space, 18:45 Environmental Law (this index) Measurement LEASES management of property, measuring square foot-Americans with Disabilities Act, 17:10 to 17:12 age, 18:66 **Apartments** (this index) office leases, floor size and measurements, 3:6 Audits. Management of property, below **Mortgages** (this index) Bankruptcy and insolvency, unexpired leases, 14:113 Net leases to 14:117 generally, 12:1 Below-market leases, selling real estate with, 1:106 acquisition of net-leased property, 1:107 Cancellation **Investments** (this index) new space built for tenant by owner giving flexoffice leases, rent payments under, 3:24 ibility with cancellation rights, 9:56 to 9:62 short form agreement, App. 3:15 **Office Leases** (this index) Office Leases (this index) Commercial brokerage, 3:136, 3:137 **Options** (this index) **Condominiums** (this index) Ownership concerns, generally, 14:21 **Cooperative Housing Corporations** (this index) Partitioning, legal and equitable partition, 3:138 Costs and expenses **Partners and Partnerships** (this index) auditing operating expense reconciliation state-Preforeclosure, assignment of rents and leases, 14:33 ment, 18:67 Renewal commissions, successor landlord's liability, cancellation rights, new space built for tenant by 3:136 owner giving flexibility with, 9:56 to 9:62 Renewal of Leases (this index) electric utilities, 18:71 **Rent** (this index) Office Leases (this index) **Residential Leases** (this index) Electric utilities, 18:69 to 18:71 **Sale-Leasebacks** (this index) Environmental law, disclosures required in sale or Sale or transfer, generally, 1:75 lease of pre-1978 housing, **15:98** Sandwich lease, improving sales price with, 1:104 Exclusive listing agreement, breach of, 3:137 Sandwich Lease (this index) **Ground leases** (this index) **Securitization and Federal Government** (this index) **Income Taxes** (this index) Security deposits **Insurance** (this index) management of property, 18:46 **Investments** (this index) office leases, 3:26, 3:27 **Joint Ventures and Participating Loans** (this index) Skyscrapers, bank's acquisition of, 9:49 to 9:53 Loft building converted to co-operative apartments **Sublease** (this index) with minimum of investor's own money, 9:63 to **Synthetic leases** (this index) 9:68 Taxation Management of property cancellation rights, new space built for tenant by generally, 18:34, 18:41 to 18:48 owner giving flexibility with, 9:61, 9:62 administration of leases, 18:63 to 18:72 **Income Taxes** (this index) management of property, checking property tax generally, 18:64, 18:65, 18:67, 18:69, 18:70 invoices, **18:68** environmental law, 15:127 **Office Leases** (this index) commercial leases, 18:43 Tax-Free Exchanges of Real Estate (this index) damage of property, 18:53 Title and ownership, ownership concerns, generally, environmental law, tenant audits, 15:127 14:21 increasing rent, 18:47 investments, sale-leaseback, 13:53, 13:60 Use and occupancy office leases, equity participation, 3:132 management and tenant relations, 18:50

LEASES—Cont'd

Management of property—Cont'd renewal of leases, 18:48

LATE CHARGES

commitment, 6:58

Underwriting and documentation of mortgage loan

## LEASES—Cont'd

Use and occupancy—Cont'd management of property, **18:50**, **18:112** mortgages, verification of tenant's occupancy, **5:28** 

## LEGAL SERVICES

**Attorneys** (this index)

## LETTER OF INTENT

Investments, sale-leaseback, 13:14 to 13:16 Sale or transfer, 1:17, App. 1.2

## LIABILITY INSURANCE

Investments, ground and net leases, 12:39 Management of property, 18:104 to 18:107 Mortgages, 5:39, 6:33

## LICENSES AND PERMITS

Condominiums, time share properties, **16:246** Sale or transfer. **1:74** 

#### LIENS AND ENCUMBRANCES

Mortgages (this index)

## LIFE INSURANCE

Health care tax, **20:12** Mortgages, **5:42**, **6:73** 

# LIKE-KIND PROPERTIES

Income taxes, depreciation period for like-kind exchanges, 20:59

**Tax-Free Exchanges of Real Estate** (this index)

#### LIMITED LIABILITY COMPANIES

Family tax planning for real estate investors, 21:22 Income property ownership, 16:68 et seq. Joint operating groups, 16:73

## LIMITED PARTNERSHIPS

Allocation of loss or income, 16:58

Anti-abuse rules, 16:60

Asset protection planning, 16:54

Assignment of limited partnership interest and effect thereof, 16:53

Banks, how real estate manager took distressed properties off bank's hands, 9:32, 9:34

Charging order, 16:54

Deductibility of losses, 16:57

Developers, partnerships between investors and, 16:63, 16:64

# Family Limited Partnerships (FLPs) (this index)

Fiduciary duties of general partner, income property ownership, **16:67** 

Income property ownership

generally, 16:49, App. 16.6

division of proceeds, 16:66

fiduciary duties of general partner, 16:67

#### LIMITED PARTNERSHIPS—Cont'd

Income property ownership—Cont'd private real property equity funds, **16:65** syndication, **16:176**, **16:201**, **16:206** 

**Income Taxes** (this index)

Syndication, 16:176, 16:201, 16:206

Tax aspects of income property ownership, 16:56 et seq.

Unincorporated entities, 16:59

Unsecured loans, 9:7

Value and valuation

built-in capital gains discount not available to transfer of limited partnership interests, **19:62** 

death, limited partnership interests passing at death valued as assignee interests rather than as partnership interests, **19:64** 

family limited partnerships, IRS position on,

19:78 et seq.

gifts, 19:70, 19:81

## LIQUIDATED DAMAGES

Investments, 11:49

Options, contract of sale with liquidated damages clause, 1:10

## LIQUIDATION

Partnership interest, 16:56

Self-liquidating mortgage, new space built for tenant by owner giving flexibility with cancellation rights, 9-50

Underwriting and documentation of mortgage loan commitment, liquidation of construction loan, 6:100

## **LIQUIDITY**

Investments, 10:4

## LIVE-IN, MOVE-OUT STRATEGY

Tax-free exchanges of real estate, 2:176

## LOAN COMMITMENT LETTER

Mortgages, App. 5.1

## **LOANS**

Financing (this index)

## **LOCATION**

Place or Location (this index)

## LOFT BUILDINGS

Investor's conversion of loft building to co-operative apartments with minimum of his own money, **9:63** to **9:68** 

#### LOGS

Management of property, 18:29

## LONG-TERM OPTIONS

Financing, **4:73** 

LOSS

Gain or Loss (this index)

## LOSS PAYABLE ENDORSEMENT

Underwriting and documentation of mortgage loan commitment, **6:38** 

#### LOTS

Underwriting and documentation of mortgage loan commitment, **6:50** 

## LOW-INCOME HOUSING CREDIT

Income taxes, 20:308

## MACRS PROPERTIES

Tax-free exchanges of real estate, 2:21

MAINE

Environmental law, 15:43

**MAINTENANCE** 

**Repair and Maintenance** (this index)

## MALICIOUS MISCHIEF INSURANCE

Underwriting and documentation of mortgage loan commitment, insurance, 6:35

## MANAGERS AND MANAGEMENT

Generally, 18:1 et seq.

Accounting services, 18:79 to 18:81

Administrative responsibilities of property manager, 18:60

Advertising, 18:37

Agreement between owner and agent, App. 18.2

Asset management, generally, 18:62

Banks, how real estate manager took distressed properties off bank's hands, 9:31 to 9:38

Budget, planning process, 18:13

Building exterior inspection report, App. 18.5

Communications between property owner and management, **18:61** 

Condominiums

initial operation and management, 16:216

Cooperative housing corporations, **16:267** 

**Corporations** (this index)

Corrective maintenance, 18:28 to 18:30

Custodial maintenance, 18:27

Emergency maintenance, 18:32

Environmental property management, **15:125 to 15:127** 

Estimating costs, 18:16

Fees. 18:15 to 18:20

Incentive fees, 18:18

Income and operating expenses, comparative statements between, **App. 18.14** 

Index-38

## MANAGERS AND MANAGEMENT—Cont'd

**Income Taxes** (this index)

Information gathering, 18:22

**Insurance** (this index)

Inventory, 18:30

**Investments** (this index)

Job description checklist, App. 18.1

Joint ventures, income property ownership, 16:95

Leases (this index)

Legal services, 18:79 to 18:81

Maintenance, 18:25 to 18:33

Management summary, App. 18.15

Marketing property, 18:34 to 18:40

Market survey, App. 18.4

Office leases, equity participation, 3:132

Operating budget, App. 18.12

Ownership concerns, generally, 18:1 et seq.

Physical assets, managing of, 18:24 to 18:33

Planning process, 18:9 to 18:21

Preacquisition process, property manager's role in, 18:21

Preventive maintenance, 18:31

**Professional Property Management** (this index)

Promotional activities, 18:39

Property service record, **App. 18.10** 

Property takeover checklist, App. 18.3

Public relations, 18:38

Quality property management, 18:1 to 18:4

Refinancing, bad debt management, 4:82

**Rent** (this index)

Rent roll, App. 18.11

Restructuring techniques, how property managers can work with lenders, 14:60

Screening prospects, 18:40

**Securitization and Federal Government** (this index)

Service priority list, **App. 18.9** 

Service request, App. 18.7

Start-up fees, 18:19

Statement of operations, App. 18.13

Syndication, 16:200, 16:202

Taking over property, procedure for, 18:22, 18:23

**Taxation** (this index)

Underwriting and documentation of mortgage loan commitment, **6:77** 

Work orders, logs and schedules, **18:29**, **App. 18.6**, **App. 18.8** 

## MARITAL DEDUCTION

Gift taxes, 21:6, 21:7

## MARKETABLE TITLE

Generally, 1:67

## MARKET ABSORPTION DISCOUNTS

Value and valuation, 19:52

## INDEX

## MARKET COMPARISON

Value and valuation, **19:13 to 19:15** 

## MARKETING PROPERTY

Management of property, 18:34 to 18:40

## MARKET RESEARCH

Syndication, 16:179

## MARKET SURVEY

Management of property, App. 18.4

# MARKET VALUE

Value and Valuation (this index)

#### MARRIAGE

**Husband and Wife** (this index)

## **MASTER LEASE**

Mortgages, 5:29

## **MEASUREMENT**

Leases (this index)

## MEDICAL DEDUCTIONS

Income taxes, residential improvements, **20:209 et** 

#### **MEETINGS**

Joint ventures, income property ownership, 16:99

## "MERE CONTINUATION" EXCEPTION

Environmental law, successor corporation liability, 15:17

# **MERGERS**

Environmental law, successor corporation liability, de facto merger, **15:16** 

## METES AND BOUNDS

Underwriting and documentation of mortgage loan commitment, **6:51** 

## MEZZANINE FINANCING

Financing (this index)

## **MICHIGAN**

Environmental law, 15:44

# MIDMONTH CONVENTION

Income taxes, depreciation deduction, 20:55

# MINE SAFETY EQUIPMENT

Income taxes, depreciation, 20:69

# **MINNESOTA**

Environmental law, 15:51

## MINORITY INTEREST

Value and valuation, 19:46

## **MISREPRESENTATION**

Fraud (this index)

#### MISSOURI

Environmental law, 15:52

#### MISTAKE

Income taxes, erroneous depreciation changes, 20:47, 20:66

## MITIGATION CREDITS

Tax-free exchanges of real estate, like-kind properties, 2:57

# MITIGATION OF DAMAGES

Office leases, default, 3:112, App. 3.21

## MIXED-USE PROPERTY

Condominiums, 16:236

Tax-free exchanges of real estate, 2:159

## MODIFICATION OF LEASE

Office leases, modification of lease to meet lender requirements, **3:90** to **3:92** 

# MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT

(MRAPLA)

Generally, 8A:1

Too big not to fail, 8A:8

## MORTGAGES

Generally, 1:50

Acceptance of commitment, 5:22

Adverse change in borrower's financial condition, 5:57

All-or-nothing loans, **5:52** 

Americans with Disabilities Act, 17:15

Amortization, 4:40 et seq., 4:46 et seq.

Annual operating statements, 5:54, 6:76

Anticipatory repudiation of commitment, 5:77

Application, generally, 5:3, 5:4

Appraisal

generally, 5:32

construction projects, recertification of appraisal after appraisal, **5:69** 

Associations, 5:13

Attorneys' fees, 5:58

Bad boy guarantees, 5:49

**Balloon Loan** (this index)

Bankruptcy, junior mortgages and lien stripping, 14:122

Basic loan commitment, 5:5 to 5:9

Blanket mortgages, limited partnership, **9:32**, **16:199** Breach of mortgage loan commitment, **5:78**, **5:80** to **5:83** 

Brokerage agreements, 5:1, 5:2, App. 5.5

MORTGAGES—Cont'd	MORTGAGES—Cont'd
Bureau of Consumer Financial Protection (CFPB),	Cosigners, <b>5:45 to 5:47</b>
4A:6	Costs and fees
Business interruption insurance, <b>5:41</b> , <b>6:32</b>	generally, <b>5:34 to 5:37</b>
Buying and selling mortgage loans, 4:7	attorneys' fees, <b>5:58</b>
Carve-outs, real estate loan guaranties, <b>5:48</b>	gap loan commitments, <b>5:73</b>
Cash flow mortgages	investor winds up with cash he needs on closing
generally, 4:77	date plus additional sum for expenses and cash
commercial mortgage pools, 8:43 et seq.	profit, 9:24
Certificates and certification	Underwriting and Documentation of Mortgage
appraisal, recertification of, <b>5:69</b>	Loan Commitment (this index)
occupancy, certificate of, 5:68	Covered bonds, 4:53
rent roll, 5:31	Credit-rating agencies, <b>8A:3</b> Date. Time or date, below
satisfactory completion, certificate of, <b>5:67</b>	Debt service, 5:21
Underwriting and Documentation of Mortgage Loan Commitment (this index)	Default
Checklists	balloon mortgage default, <b>14:65</b>
for Construction Loan Commitment, <b>App. 5.2</b>	breach of mortgage loan commitment, 5:81, 5:82
for Permanent Mortgage Commitment, App. 5.3	dealing initially with loan default, 14:26
Closing	Foreclosure (this index)
expenses and cash profit, investor winds up with	purchase money mortgages, notice of default,
cash he needs on closing date plus additional	11:55
sum for, <b>9:24</b>	underwriting and documentation of mortgage loan
second mortgages, investor arranging for sales to	commitment, <b>6:60, 6:80</b>
close, <b>9:22</b>	Deferral of COD income, income taxes, 20:356
Commercial mortgage pools, <b>8:43 et seq.</b>	Description or identification
Commitments, generally, <b>5:3 et seq.</b>	borrowers, <b>5:10 to 5:16</b>
Complete or completion	property, 5:24
construction projects, 5:65 to 5:71	Underwriting and Documentation of Mortgage
holdbacks, 5:52	Loan Commitment (this index)
underwriting and documentation of mortgage loan	Discharge, income taxes, limited exclusion for,
commitment, completion agreement, <b>6:88</b>	20:355
Conditions. Terms and conditions, below	Discharge of indebtedness income relief, 4A:3
Constant-payment schedule, 4:47	Disputes between borrower and lender, resolving, <b>5:79</b>
Construction Loan Commitment Checklist for App 5.2	<b>Distressed Property</b> (this index)
Checklist for, <b>App. 5.2</b> with Commentary, <b>App. 5.3</b>	Due-on-sale clauses, <b>5:55</b> , <b>6:57</b> , <b>6:79</b>
Construction projects	Economic Growth, Regulatory Relief, and Consumer
generally, <b>5:59 to 5:71, 5:74 to 5:76</b>	Protection Act, <b>8A:9</b>
joint ventures and participating debt, 7:11	Environmental provisions, <b>5:63, App. 15.10, App.</b>
securitization and federal government, 8:30	15.11
Underwriting and Documentation of Mortgage	Equity
Loan Commitment (this index)	generally, <b>4:54 et seq.</b>
Consumer Financial Protection Bureau (CFPB)	foreclosure, 14:130
appraisal and valuation rules under the ECOA, 5:33	promoter raising sufficient cash to acquire single-
Convertible mortgages	industry building, 9:28, 9:30
installment sales contract, use of convertible	Escrow
mortgage in place of, 1:111	generally, <b>5:43</b>
joint ventures and participating debt, 7:12	Underwriting and Documentation of Mortgage
Coronavirus Aid, Relief, and Economic Security Act	Loan Commitment (this index)
(CARES Act), 4A:6	Existing mortgage, App. 1.8
Corporations	Expenses. Costs and fees, above
generally, <b>5:12</b>	Expiration of commitment, <b>5:23</b>
guaranty, operating company lease as, <b>5:47</b>	Fees. Costs and fees, above

MORTGAGES—Cont'd	MORTGAGES—Cont'd
Fiduciaries, 5:16	Interest and interest rate—Cont'd
Final plans and specifications of construction projects,	equity, <b>4:57</b>
5:60 to 5:63	foreclosure, default interest rate not penalty,
Financial Crimes Enforcement Network (FinCEN),	14:142
non-financed residential real estate transactions,	income taxes, deductions, 20:107 et seq.
4A:9	rate, generally, <b>4:45</b> , <b>5:19</b>
Financing, generally, App. 4.3, App. 4.4	Investments
Fire insurance, 5:38 Flood insurance, 5:40, 6:37	generally, 9:20 to 9:26
Floor loans, <b>5:50</b>	leases, <b>9:18</b> , <b>9:19</b> , <b>9:40</b> to <b>9:42</b> , <b>13:27</b> to <b>13:29</b> partners and partnerships, wraparound mortgage
Foreclosure (this index)	loan plus capital contribution to partnership by
Gap loan commitments, 5:72, 5:73	private investor, <b>9:9</b>
Guaranty, <b>4:38</b> , <b>5:45</b> to <b>5:47</b> , <b>6:45</b> , <b>6:65</b>	sale-leaseback, tax aspects of, 13:26 to 13:29
Hazard insurance, 5:38, 6:15 to 6:18, 6:25 to 6:39,	securitization and federal government, real estate
6:74	mortgage investment conduits, 8:65 et seq.
Home Affordable Modification Program (HAMP),	warehousers, 9:26
4A:4	<b>Joint Ventures and Participating Loans</b> (this index)
Home Affordable Refinance (HARP), <b>4A:5</b>	Junior mortgages
Identification. Description or identification, above	generally, 4:58 et seq., App. 9.5
Impounds, <b>5:43</b> , <b>6:72</b>	foreclosure, 14:132
Income taxes	subordination, <b>5:46</b>
deferral of COD income, 20:356	Key elements of mortgage loan, generally, <b>4:39 et</b>
depreciation deduction, 20:49	seq.
existing old mortgages, 20:121	Leases
interest deductions, 20:107 et seq.	generally, <b>4:69 et seq.</b> , <b>5:27 to 5:31</b>
limited exclusion for discharged home mortgage	cancellation rights, new space built for tenant by
debt, 20:355	owner giving flexibility with, 9:59
mortgage insurance premiums, <b>20:123</b> part principal residence, part business property,	credit tenant lease loans, 4:72 guaranty, 5:47
20:110	investments, 9:18, 9:19, 9:40 to 9:42, 13:27 to
qualified debt for homemortgage interest deduc-	13:29
tions, determination, 20:115	joint ventures and participating debt, 7:13
qualified home, income tax deductions, <b>20:109</b>	leasehold mortgage lender's considerations, <b>4:70</b>
recording tax deductions, 20:158 et seq.	lessee's default under lease mortgage, <b>4:71</b>
secured debt, deductions for interest, 20:108	promoter raising sufficient cash to acquire single-
Insolvency, definition, <b>5:48</b>	industry building, 9:28 to 9:30
Inspection of construction projects, <b>5:71</b>	rent, below
Insurance	securitization and federal government, 8:26, 8:27,
generally, <b>5:38 to 5:42</b>	8:48
hazard insurance, 5:38, 6:15 to 6:18, 6:25 to 6:39,	subordination, <b>6:6, 6:7</b>
6:74	Underwriting and Documentation of Mortgage
management of property, insurance proceeds and	Loan Commitment (this index)
condemnation awards for mortgaged properties,	Liability insurance, 5:39, 6:33
18:108 to 18:113	Life insurance, 5:42, 6:73
premium impounds, 5:43 securitization and federal government, 8:32, 8:33	Loan Commitment Letter, <b>App. 5.1</b> Loans, timing of and income tax deductions, <b>20:111</b>
title insurance, below	to 20:113
Underwriting and Documentation of Mortgage	Master lease, <b>5:29</b>
Loan Commitment (this index)	Mortgage Reform and Anti-Predatory Lending Act
Interest and interest rate	(MRAPLA), <b>8A:1</b>
generally, 4:45, 5:19	National Mortgage Settlement, tax treatment, <b>20:357</b>
another person, interest paid which is obligation	Nonrecourse loans, real estate loan guaranties, <b>5:48</b>
of, 20:122	Occupancy, certificate of, 5:68

MORTGAGES—Cont'd	MORTGAGES—Cont'd
Occupancy of tenant, verification of, 5:28	Second mortgages—Cont'd
Options	partners and partnerships, conventional second
nonrecourse purchase money mortgage, 1:11	mortgage loan, 9:10
repayment options, 14:52 to 14:58	repurchase, 9:23
Underwriting and Documentation of Mortgage	<b>Securitization and Federal Government</b> (this index)
<b>Loan Commitment</b> (this index)	Single purpose entity, real estate loan guaranties, <b>5:48</b>
Oral loan commitments, <b>5:9</b>	Soil reports, <b>5:61</b>
Partners and Partnerships (this index)	Standing loan, <b>4:41</b>
Permanent first mortgage financing, 4:32 et seq.	Subordination
Photographs of completed construction projects, <b>5:70</b>	investments, purchase money mortgages, 11:62
Prepayment provisions	junior mortgage as indirect guaranty, 5:46
generally, 5:53	leases, <b>5:30</b> , <b>6:6</b> , <b>6:7</b>
foreclosure, prepayment premiums payable when properly forfeited, <b>14:140</b>	purchase money mortgage, negotiating conditions to subordination, <b>1:52</b>
investments, purchase money mortgages, 11:54	Underwriting and Documentation of Mortgage
Underwriting and Documentation of Mortgage	Loan Commitment (this index)
Loan Commitment (this index)	Subprime Crisis (this index)
Price	Surveys and surveyors, <b>5:25</b> , <b>6:47</b> to <b>6:53</b> , <b>8:33</b>
manner and payment of, <b>1:48</b> , <b>1:49</b>	Taxation
verification, 5:32	income taxes, above
Progress reports, 5:66	purchase money mortgage, tax savings and other
Purchase Money Mortgage (this index)	benefits from installment sales, 1:54 service contracts, 5:44
Qualified debt for home mortgage interest deduction, determination, <b>20:115</b>	underwriting and documentation of mortgage loan
Qualified home, income tax deductions, <b>20:109</b>	commitment, 6:12
Real estate loan guaranties, 5:48	Tax consequences of nonrecourse carve-out guarantee
Recourse loans, 4:50	of partnership liability, <b>5:49</b>
Refundable or nonrefundable commitment fees, 5:35,	Tax-Free Exchanges of Real Estate (this index)
5:36	Termination of commitment, 5:77
Remodeling enabling partners to mortgage out prop-	Term of loan, 5:20
erty, 9:3	Terms and conditions
Rent	construction loan commitments, 5:75
generally, <b>5:50 to 5:52</b>	gap loan commitments, 5:73
certified rent roll, <b>5:31</b>	Third party obligors, <b>5:45 to 5:47</b>
loss of rent insurance, 5:41, 6:32	Time or date
Underwriting and Documentation of Mortgage	acceptance of commitment, 5:22
Loan Commitment (this index)	expiration of commitment, <b>5:23</b>
Reports	Title insurance
environmental impact reports, <b>5:63</b>	generally, <b>5:26</b> , <b>6:42</b> , <b>8:33</b>
progress reports, 5:66	foreclosure, 14:134
soil reports, <b>5:61</b>	Tort remedies, borrower's, <b>5:83</b>
Repurchase of second mortgages, 9:23	Trust deeds, generally, 6:66 to 6:81
Residential mortgage financing methods, <b>4A:1 et seq.</b>	Trustee or other fiduciary, 5:16
Resizing of loan, 5:55	Underwriting and Documentation of Mortgage
Restructuring existing mortgage loan, 14:52 to 14:58	Loan Commitment (this index)
Reverse mortgages, 4A:8	Unincorporated associations, 5:13 Variable-payment schedule, 4:48
S.A.F.E. Act (Secure and Fair Enforcement for	Variations in mortgage loan terms, effect on rent on
Mortgage Licensing Act of 2008), <b>8A:4</b>	equity, <b>4:54 et seq.</b>
Secondary financing, <b>5:56</b>	Verification
Second mortgages	Consumer Financial Protection Bureau (CFPB)
commercial real estate, App. 4.8	appraisal and valuation rules under the ECOA,
investor arranging for sales to close, 9:22	5:33

## INDEX

## MORTGAGES—Cont'd

Verification—Cont'd price, **5:32** tenant's occupancy, **5:28** 

Warehousers, **9:25**, **9:26** 

Whistleblowers and the SEC, 8A:2

Wraparound Mortgages (this index)

#### MOVE-OUT STRATEGY

Tax-free exchanges of real estate, 2:176

## MOVING EXPENSES

Office leases, 3:125

# MRAPLA (MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT)

Generally, 8A:1

Too big not to fail, 8A:8

## MULTIFAMILY PROPERTIES

Off-street parking, 14:19

# MULTIPARTY EXCHANGES

Tax-free exchanges of real estate, 2:112 et seq.

## MULTIPLE CREDITOR LOANS

Ownership concerns, 14:10

## MULTIPLE PROPERTIES

Tax-free exchanges of real estate, 2:39, 2:86

## **MUNICIPALITIES**

Investments, 11:32

Securitization and federal government, 8:38

# NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Generally, **15:24** Case illustration, **15:26** 

# NATIONAL MORTGAGE SETTLEMENT

Tax treatment, 20:357

## NATURAL DISASTERS

Income taxes, home losses due, 20:279 et seq.

## **NEGLIGENCE**

Environmental law, 15:63

Lender's liability for negligent misrepresentation, 14:79, 14:80

#### **NEGOTIATION**

**Sale or Transfer** (this index)

# **NET INTEREST MARGIN SECURITIES (NIMs)**

Securitization and federal government, 8:9

#### **NET LEASES**

Leases (this index)

#### NET PRESENT VALUE

Investments, 10:11 to 10:13

#### **NEW HAMPSHIRE**

Environmental law, 15:45

# **NEW JERSEY**

Environmental law, 15:53

#### **NEW YORK**

Environmental law, 15:54

# NEW YORK'S HOUSING STABILITY AND TENANT PROTECTION ACT

Condominium conversions, impact on, 16:276

## NIMS (NET INTEREST MARGIN SECURITIES)

Securitization and federal government, 8:9

## NO-COMPETE CLAUSES

Underwriting and documentation of mortgage loan commitment, **6:14** 

## NOMINEE CORPORATIONS

C corporations, 16:104

## NONDISTURBANCE PROVISIONS

Generally, App. 14.5

Office leases, 3:89

Underwriting and documentation of mortgage loan commitment, **6:6**, **6:7**, **6:94** 

## **NONPAYMENT**

Managers and management, instituting legal action for nonpayment of rent, 18:55

## **NONPERFORMANCE**

**Performance or Nonperformance** (this index)

## NONQUALIFYING PROPERTY (BOOT)

Tax-free exchanges of real estate, 2:60 to 2:77, 2:121

# NONRECOURSE CARVE-OUT GUARANTEE

Tax consequences, 5:49

## NONRECOURSE LOANS

Real estate loan guaranties, **5:48** 

## NONRECOURSE PROVISIONS

Financing

generally, 14:61, 14:62

carve-out provisions, 4:51

income taxes, at-risk-limitations, 20:252

Options, purchase money mortgage, 1:11

Tax aspects of workouts, 14:68

Underwriting and documentation of mortgage loan commitment, **6:59** 

#### NOTICE

**Investments** (this index)

#### NOTICE—Cont'd OFFICE LEASES—Cont'd Options, manner and contents of renewal notice, 3:67 Cancellation Third party financing, 1:61 assignment or sublease, 3:57 to 3:59 default, 3:110 NUISANCE expansion option, 3:73 Case law, 15:61 lessor's option to cancel, 3:74, 3:75 Environmental law. 15:60 options, 3:60 et seq. Cash incentives, 3:119 NURSING FACILITIES Checklist Securitization and federal government, rating of loan insurance coverage, App. 3.22 types, **8:63** lease transactions, App. 3.1 OBSOLESCENCE office lease transactions, App. 3.1 Depreciation, 19:9, 19:10 work letter, App. 3.14 Concessions, 3:116 et seq. OCCUPANCY Condition of premises, 3:28 **Use and Occupancy** (this index) Conditions of expansion option, 3:72 Configuration of floor, effect on rentability, 3:8 **OFFERINGS** Consent to assignment or sublease, 3:37 to 3:40 Cooperative housing corporations, 16:260 Constant rent-accrual rules, 3:23 Syndication, evaluation of offering, 16:183 et seq. Contribution, equity participation, 3:130 Controlled expansion, assignment or sublease, 3:49 OFFICE BUILDINGS Cost-of-living rental, 3:18 Cash flow, 14:39 Cost or expense Securitization and federal government, rating of loan moving expenses, 3:125 types, 8:59 operating expenses or costs, below OFFICE LEASES Covenant of quiet enjoyment, 3:113 Accelerating future rent, landlord's right on default, CPI, renewal based on, 3:62 to 3:64 3:111 Damages Accounting, 3:118 to 3:120 default, 3:108, 3:112 Anti-raid provision, assignment or sublease, **3:47** negotiating damage and destruction clause, 3:29 Arbitrary refusal to consent to assignment or sublease, to 3:34 3:38 Default, 3:105 et seq. Architectural fees, 3:126 Deferred rent-accrual rules, 3:22 Assignment or sublease Description of premises, 3:5 to 3:8 generally, 3:36 to 3:59, App. 3.8 Duty of care, lessor's, 3:104 anti-raid provision, **3:47** Early renewal, 3:76 conformity of prime lease and sublease, 3:54 Electricity, additional rent payments for, 3:17 consent, 3:37 to 3:40 Equity participation, 3:129 et seq. divisibility of rights and duties, 3:56 Escalation rental, 3:12 to 3:17, App. 3.4 et seq. expansion planning, 3:48 to 3:51 Exculpation, 3:97 et seq. holdover tenant liable in trespass to new tenant, Exculpatory clause, negotiating, 3:114 3:41 Expansion interdependence of prime tenant and subtenant, assignment or sublease, expansion planning, 3:48 3:55 to 3:51 negotiation, generally, 3:52 to 3:56 option, 3:60, 3:69 to 3:76 recapture and profit sharing, 3:43 to 3:45 Expense. Cost or expense, above restrictions in prime lease, 3:53 Financing takeover lease, 3:46 improvements, 3:121, 3:122 tax aspects, 3:57 to 3:59 modification of lease to meet lender requirements, weak markets, subleasing strategy in, 3:42 3:90 to 3:92 Attornment, 3:88

First refusal rights, 3:71, 3:84 to 3:86, App. 3.13

Fixed renewal rental, 3:65

Flat rental, **3:10**, **App. 3.2** 

Automatic pickup provisions, **3:70** Automatic renewal, **3:68**, **App. 3.11** 

Blanket property insurance, **3:102** 

OFFICE LEASES—Cont'd	OFFICE LEASES—Cont'd
Floors	Rent payments, generally, 3:9 to 3:25
configuration of floor, effect on rentability, 3:8	Section 467 rental agreements, <b>3:21 to 3:23</b>
size and measurements, <b>3:6</b>	Security deposits, 3:26, 3:27
Forfeiture for waste, 3:115	Self-help remedy for default, 3:107
Gain or loss. Losses, below	Size and measurements of floor, <b>3:6</b>
Holdover tenant liable in trespass to new tenant, <b>3:41</b>	Specific performance, default, <b>3:109</b>
Holidays, rent holidays, 3:118 to 3:120	Step-up or step-down rental, 3:11, App. 3.3
Improvements, financing, 3:121, 3:122	Sublease. Assignment or sublease, above
Incentives, <b>3:119</b> , <b>3:127</b>	Subordination, 3:87
Injunctions, default, 3:109	Takebacks, assignment or sublease, <b>3:50</b>
Insurance, <b>3:97 et seq.</b> , <b>App. 3.22</b>	Takeovers
Invoices for property tax, checking of, 3:13	assignment or sublease, 3:46
Key-wage method of expense escalation, <b>3:16</b>	concessions, <b>3:123</b> , <b>3:124</b>
Losses	Taxation
identification of loss factor, 3:7	assignment or sublease, 3:57 to 3:59
insurance, tenant loss exposure, 3:98	equity leases, 3:135
Lower rents vs. lease concessions, 3:128	improvements, 3:122
Management and control, equity participation, 3:132	purchase options, 3:83
Measurements of floor, 3:6	rent concessions, 3:118 to 3:120
Mitigation of damages, default, 3:112, App. 3.21	rent payments, 3:12, 3:13, 3:19 to 3:25
Modification of lease to meet lender requirements,	tax-free exchanges of real estate, 2:9
3:90 to 3:92	Tax-free exchanges of real estate, 2:9
Moving expenses, 3:125  Multitagent building App. 3.16	Term of lease, 3:2
Multitenant building, App. 3.16	Title insurance, 3:103
Negotiation, generally, <b>3:1 et seq.</b> Nondisturbance and recognition agreements, <b>3:89</b>	Waiver of claims, insurance requirements, 3:101
Operating expenses or costs	Waste, forfeiture for, 3:115 Weak markets, subleasing strategy in, 3:42
rent payments, adjustment of operating expenses	Work letters, 3:93 to 3:96, App. 3.14
for, 3:14 to 3:17	Work letters, 3.33 to 3.30, App. 3.14
Options Options	OFFICERS OF CORPORATIONS
expansion option, <b>3:60, 3:69 to 3:76</b>	Environmental law, personal liability of corporate
first refusal rights, <b>3:71, 3:84 to 3:86</b>	officers, directors, and shareholders, 15:19
purchase options, generally, <b>3:77 to 3:83, App.</b>	OPPICE LICE
3.12	OFFICE USE
renewal option, 3:61 et seq.	Off-street parking, 14:17
Parking space rights, <b>3:35</b>	OFF-STREET PARKING
Parties, 3:3	Ownership concerns, 14:16 to 14:20
Pass-through clauses, <b>3:102</b>	•
Phantom equity leases, 3:134	OHIO
Pickup provisions, <b>3:70</b>	Environmental law, <b>15:55</b>
Piercing the corporate veil, <b>3:4</b>	OPERATING EXPENSES
Price, purchase option, <b>3:79</b>	Apartment buildings, investments in, 11A:7
Price index, App. 3.9	Leases, auditing operating expense reconciliation
Profit sharing, assignment or sublease, <b>3:43 to 3:45</b>	statement, <b>18:67</b>
Puts, assignment or sublease, 3:51	Office Leases (this index)
Recapture and profit sharing, assignment or sublease,	Underwriting and documentation of mortgage loan
3:43 to 3:45	commitment, <b>6:12</b>
Recognition agreements, <b>3:89</b>	,
Related parties, landlord and tenant as, <b>3:25</b>	OPPORTUNITIES
Remedies for defaults, 3:105 to 3:114	Tax-free exchanges of real estate, 2:13 to 2:15
Renewal option, <b>3:61 et seq.</b> , <b>App. 3.11</b>	OPTIONS
Rent concessions, 3:118 to 3:120	Generally, 1:5 to 1:16

## OPTIONS—Cont'd

Alternatives to traditional purchase and sale, using option in place of installment sale, 1:110

Choice of transaction, 1:13

Estate taxes, option vs. installment, 21:37

Financing, 4:73 to 4:75

Income taxes, 20:27 to 20:31

**Investments** (this index)

Leases

Office Leases (this index)

purchase option, generally, 1:12

Liquidated damage clause, contract of sale with, 1:10 Mortgages (this index)

Nonrecourse purchase money mortgage, sale with,

Notice, manner and contents of renewal notice, **3:67** 

Office Leases (this index)

Rule against perpetuities, 1:16

Tax aspects

generally, 1:14

income taxes, 20:27 to 20:31

lease termination and purchase option, 1:15

#### **ORAL AGREEMENTS**

Income property ownership, 16:100

## ORAL LOAN COMMITMENTS

Mortgages, 5:9

#### **OREGON**

Environmental law, 15:56

## ORIGINATION OF LOANS

Securitization and federal government, 8:15

## OTHER STATE OR COUNTRY

Sale or Transfer (this index)

# **OUTRIGHT GIFTS**

Income taxes, charitable contributions, 20:322 et seq.

## **OVERALL CAPITALIZATION RATE**

Value and valuation, 19:20

# **OVERTIME ELECTRIC CHARGES**

Leases, audits of common areas and overtime electric charges, 18:70

## **OWNERSHIP**

Title and Ownership (this index)

# **PAINT**

Environmental law, lead-based paint, **15:93**, **15:95** Environmental law, lead-based paint, caselaw, **15:94** Environmental law, lead-based paint, New York law, **15:96** 

# Index-46

## PARI-PASSU NOTES

Securitization and federal government, 8:80

#### PARKING

Office leases, parking space rights, **3:35** Off-street parking, **14:16 to 14:20** 

## **PARTIAL TAKING**

Tax-free exchanges of real estate, 2:148

#### PARTICIPATING DEBT

**Joint Ventures and Participating Debt** (this index)

## **PARTIES**

**Joint Ventures and Participating Debt** (this index)

Office leases, 3:3

**Related Parties** (this index)

**Sale or Transfer** (this index)

Third Parties (this index)

# PARTNERS AND PARTNERSHIPS

Beverage operation, leasing out, 9:11

Closing date, raising funds to meet, 9:45 to 9:47, 16:197

Contribution, 9:6, 9:9

Conventional second mortgage loan, 9:10

Election not to be taxed as partnership, 16:35

Family Limited Partnerships (FLPs) (this index)

Financing, generally, 9:5 to 9:11

Food and beverage operation, leasing out, 9:11

Income property ownership

generally, 16:25 et seq.

capital contributions, 16:32

checklist of considerations in setting up partnership, 16:26

concurrent ownership, partnership compared to, 16:28

disregarded entities converted to partnerships, 16:79

election not to be taxed as partnership, **16:35** leases. **16:29** 

limited liability companies, 16:70, 16:72

limited partnerships, 16:49 et seq., 16:78, 16:176

liquidation of partnership interest, 16:56

organizing a partnership, 16:31

S corporations, 16:115 et seq.

spousal joint ventures, 16:48

syndication

closing date, raising short-term funds to meet, 16:197

limited partnerships, 16:176, 16:201, 16:206

offering, evaluation of, 16:186

sharing arrangements, 16:189

sharing arrangements, Use of proceeds, 16:188

tax aspects

generally, 16:30 to 16:53

#### PARTNERS AND PARTNERSHIPS—Cont'd PASS-THROUGH CLAUSES OR ENTITIES Income property ownership—Cont'd Income taxes, 20:103, 20:135, 20:226 tax aspects—Cont'd Office leases, 3:102 investment trusts, 16:152 PAYBACK ANALYSIS limited partnerships, 16:56 et seq. Investments, 10:20 S corporations, built-in gains tax, 16:116 syndication, allocation of taxable profits and **PENALTIES** losses, 16:203 Americans with Disabilities Act, 17:6 termination of partnership, 16:45 Foreign seller, purchase from, 1:25 **Income Taxes** (this index) Fraud, income tax penalties, 20:376 et seq. **Investments** (this index) Income tax, accuracy-related and fraud penalties, Leases 20:376 et seq. food and beverage operation, 9:11 Income taxes, 20:383 income property ownership, 16:29 Underwriting and documentation of mortgage loan **Limited Partnerships** (this index) commitment, prepayment provisions, **6:55** Liquidation of partnership interest, 16:56 **PENNSYLVANIA** Mortgages Environmental law, 15:57 generally, 5:14 blanket mortgages, limited partnerships, 9:32, PERCENTAGE RENTALS 16:199 Investments, ground and net leases, 12:16 ground leases, investments, 9:40, 9:41 nonrecourse carve-out guarantee of liability, tax PERFORMANCE OR NONPERFORMANCE consequences, 5:49 Investments, guaranty of tenant's performance, remodeling as enabling partners to mortgage out ground and net leases, 12:36 property, 9:3 Loan sales, 14:90 to 14:100 wraparound mortgages, 9:8, 9:9 Office leases, specific performance, 3:109 Private investor, wraparound mortgage loan plus Purchase money mortgage, setting up purchase money capital contribution to partnership by, 9:9 performance loan, 1:53 Rehabilitation tax credits, allocation of, 20:297 PERMANENT MORTGAGE COMMITMENT S corporations, 16:115 et seq. Securitization and federal government, 8:57 Checklist for, App. 5.3 Self-employment tax, **20:101**, **20:102 PERMITS** Skyscrapers, bank's acquisition of, 9:49 to 9:52, 9:54 **Licenses and Permits** (this index) Spousal joint ventures, income property ownership, 16:48 PERSONAL EXEMPTIONS Syndication. Income property ownership, above Income taxes, 20:1 et seq. Taxation PERSONAL HOLDING COMPANY TAX income property ownership, above C corporations, 16:107 tax-free exchanges of real estate, 2:11, 2:13 to 2:15, 2:28, 2:45 to 2:48 PERSONAL LIABILITY wraparound mortgage loan from tax-exempt Environmental law, personal liability of corporate institution, 9:8 officers, directors, and shareholders, 15:19 Tax-free exchanges of real estate, 2:11, 2:13 to 2:15, Income taxes, personal liability on uncertain future 2:28, 2:45 to 2:48 obligations, 20:256 Termination of partnership, 16:45 Investments, purchase money mortgages, 11:56 Unsecured loans, 9:6, 9:7 PERSONAL PROPERTY Value and Valuation (this index) Wraparound mortgages, 9:8, 9:9 Income taxes, depreciation, 20:42 et seq. Price, allocation between real and personal property, PASSIVE ACTIVITY Income taxes, deduction for losses, 20:234 et seq., Sale or transfer, generally, 1:73 20:243, 20:257, 20:267 Tax-free exchanges of real estate, 2:38 to 2:40 **Underwriting and Documentation of Mortgage** Investment activity vs. passive activity, 11:82 to 11:87 **Loan Commitment** (this index)

## PERSONAL RESIDENCE TRUSTS

Generally, 21:39 et seq.

Estate tax aspects, 21:45

Family tax planning for real estate investors, **21:39 et seq.** 

Generation skipping tax aspects, 21:47

Gift tax aspects, 21:44

Income tax aspects, 21:45

Layering, **21:50** 

Payment of fair market rental after term, 21:53

Planning after expiration of term, 21:51

Planning considerations, 21:48

Qualification, 21:40 et seq.

Reformation of residence trust, IRS prohibition of repurchase of residence from trust, **21:49** 

## PHANTOM EQUITY LEASES

Office leases, 3:134

## PHANTOM GAIN

Tax-free exchanges of real estate, 2:128 to 2:130

# **PHOTOGRAPHS**

Mortgages, photographs of completed construction projects, **5:70** 

## PHYSICAL DEPRECIATION

Generally, 19:8

# PICKUP PROVISIONS

Office leases, 3:70

#### PIERCING THE CORPORATE VEIL

Office leases, 3:4

S Corporations, 16:130

# PLACE OR LOCATION

Investments, 11:4, 11:50

Securitization and federal government, 8:25

## **POINTS**

Income taxes, deduction of points on residential financing, **20:117** 

Income taxes, deduction of points on residential refinancing, 20:118

# POLLUTION

Environmental Law (this index)

## **POSSESSION**

Investments, 11:65

#### POWER OF SALE

Foreclosure, 14:147

#### **PPCs**

Securitization and federal government, 8:39

Index-48

## PREFABRICATED STRUCTURES

Income taxes, depreciation, 20:74

## PREFERENCES AND PRIORITIES

Bankruptcy and insolvency, priority of secured lenders, 14:120, 14:121

Foreclosure, 14:131

Income taxes, alternative minimum tax, 20:394, 20:400, 20:401

## **PREFORECLOSURE**

Assignment of rents and leases, 14:33

Due diligence checklist, 14:29

Legal checklist, 14:143

Mortgagee-in-possesion, 14:31

Receiver, appointment of, 14:32

Remedies. 14:30 to 14:33

#### **PREMIUMS**

**Insurance** (this index)

Value and valuation, control premium, 19:40 to 19:42

#### **PREPAYMENT**

Income taxes, prepaid expenses of cash-method tax shelters, 20:367

**Mortgages** (this index)

## PRESENT INTERESTS

Tax-free exchanges of real estate, 2:30, 2:31

## PRESENT VALUE

Investments, 10:6

## PRESIDENTIALLY DECLARED DISASTERS

Income tax deductions, 20:269

Tax-free exchanges of real estate, 2:40, 2:140

# PREVENTIVE MAINTENANCE

Management of property, 18:31

# PREWORKOUT LETTER AGREEMENT

Generally, **App. 14.4** 

#### **PRICE**

Generally, 1:37 to 1:45

Adjustments, 1:38

Allocations, 1:40 to 1:45

Closing of title, payment at, 1:47, 1:94

Different portions of tract, allocations among, 1:40

**Down Payment** (this index)

Earnout provisions, 1:39

Goodwill, allocation of, 1:44

Improvements and land, allocation of price between, 1:41

**Income Taxes** (this index)

**Investments** (this index)

IRC section 1060, allocations under, 1:45

Joint ventures and participating debt, 7:38

## PRICE—Cont'd

**Mortgages** (this index)

Noncomplete covenant, allocation of, 1:43

Office leases, purchase option, 3:79

Payment, generally, 1:46 to 1:49

Personal and real property, allocation between, **1:42** Purchase money mortgage, payment by execution and delivery of, **1:49** 

Sandwich lease, improving sales price with, 1:104

#### **PRIORITIES**

**Preferences and Priorities** (this index)

#### PRIVATE ACTIVITY BONDS

Income taxes, 20:346

## PRIVATE MORTGAGE INSURANCE

Underwriting and documentation of mortgage loan commitment, **6:75** 

# PRIVATE REAL ESTATE ANNUITIES

Family tax planning for real estate investors, 21:68 to 21:75, 21:77

## PROFESSIONAL PROPERTY MANAGEMENT

Generally, 18:6

Underwriting and documentation of mortgage loan commitment, duty to hire or pay for professional property manager, **6:77** 

## **PROFITS**

**Investments** (this index)

Syndication, allocation of taxable profits and losses, **16:203** 

Tax-free exchanges of real estate, deferred income can be tax-free profit, 2:174

## **PROFIT SHARING**

Office leases, assignment or sublease, 3:43 to 3:45

## PROGRESS REPORTS

Mortgages, 5:66

# PROMISSORY MORTGAGE NOTES

Underwriting and documentation of mortgage loan commitment, **6:54 to 6:65** 

# **PROMOTERS**

Single-industry building, promoter raising sufficient cash to acquire, 9:27 to 9:30

# PROMOTIONAL ACTIVITIES

Income taxes, penalties for promotion of abusive tax shelters, 20:383

Management of property, 18:39

## PROOF OF INSURANCE COVERAGE

**Evidence** (this index)

#### PROPERTY DAMAGE

Leases, management of property, **18:53** Sale or transfer. **1:84** 

## PROPERTY INSURANCE

**Insurance** (this index)

## PROPRIETARY LEASES

Cooperative housing corporations, 16:261

## **PRORATION**

Closing, proration of taxes, rents, interest payments, and insurance premiums, **1:95** 

Income taxes, prorating real estate taxes, 20:157 Securitization and federal government, pro-rata

principal payments, 8:53

## **PROSPECTUS**

Cooperative housing corporations, 16:260

## **PUBLIC RELATIONS**

Management of property, 18:38

## PURCHASE AND PURCHASERS

**Sale or Transfer** (this index)

## PURCHASE MONEY MORTGAGE

Generally, 1:51 to 1:54, App. 1.9

Definition and use, 1:51

Investments, 11:51 to 11:63

Options, nonrecourse purchase money mortgage, 1:11 Price, payment by execution and delivery of purchase money mortgage, 1:49

Setting up purchase money performance loan, 1:53

Subordination, negotiating conditions to, 1:52

Tax-free exchanges of real estate, **2:121**Tax savings and other benefits from installment sales,

1:54

## **PUTS**

Office leases, assignment or sublease, 3:51

## QUALIFICATION OR DISQUALIFICATION

Annuity trusts (GRATs) and unitrusts (GRUTs), 21:55

Estate Taxes (this index)

Personal residence trusts, family tax planning for real estate investors, **21:39 et seq.** 

S corporations, 16:119 et seq.

Tax-Free Exchanges of Real Estate (this index)

# QUALIFIED PERSONAL RESIDENCE TRUSTS (QPRTs)

Personal Residence Trusts (this index)

## **OUALIFIED RESIDENTIAL MORTGAGES**

Exemption under Dodd-Frank Act, 8C:3

## QUALIFIED SMALL BUSINESS STOCK

Financing commercial real estate, **4:104** 

# QUALITY PROPERTY MANAGEMENT

Generally, 18:1 to 18:4

## **OUID PRO OUO**

Value and valuation of transactions for income taxes, 20:343

## RADIUS CLAUSES

Underwriting and documentation of mortgage loan commitment, **6:14** 

#### RADON

Environmental law, 15:102

## RATING PROCESS AND AGENCIES

Dodd-Frank Act, credit-rating agencies, **8A:3** Securitization and federal government, **8:51** 

## RATINGS MODEL FOR MORTGAGES

Securitization and federal government, 8:46

#### RAW LAND

**Investments** (this index)

Tax-free exchanges of real estate, 2:5

# REAL ESTATE INVESTMENT TRUSTS (REITs) REITS (REAL ESTATE INVESTMENT TRUSTS)

(this index)

## REAL ESTATE LOAN GUARANTIES

Mortgages, **5:48** 

# REAL ESTATE MORTGAGE INVESTMENT CONDUITS (REMICs)

Generally, 8:65 et seq.

Asset composition test, tax aspects, 8:73

Characteristics and advantages, 8:69

CMO, comparison with, 8:67

Collateralized mortgage obligation, 8:66, 8:67

Definitions, 8:65, 8:71

Disposition of interests of, 8:78

Holders, taxation of, 8:77

Securitization and federal government, 8:65 et seq.

Tax aspects, 8:70 to 8:78

Transfers of property to REMIC, 8:75

## REAPPRAISAL RENTALS

Investments, ground and net leases, 12:17

## REASONABLE COMPENSATION

Income taxes, deductions for executive compensation, **20:90 et seq.** 

## RECAPTURE

Bankruptcy and insolvency, recapturing lease from bankrupt tenant, 14:116

Index-50

## RECAPTURE—Cont'd

Estate Taxes (this index)

**Income Taxes** (this index)

Office leases, assignment or sublease, 3:43 to 3:45

## RECASTING AGREEMENT

Generally, App. 14.2

## **RECEIVERS**

**Servicers and Receivers** (this index)

## RECOGNITION AGREEMENTS

Office leases, 3:89

## RECORDS AND RECORDING

Condominiums, 16:213

Cooperative housing corporations, 16:256 et seq.

**Income Taxes** (this index)

Loan sales, performing and nonperforming, 14:95

Tax-free exchanges of real estate, maintaining of records of improvements, 2:178

Underwriting and Documentation of Mortgage Loan Commitment (this index)

# RECOURSE LOANS

Generally, 4:50

## RECREATIONAL FACILITIES OR USES

Investments, 11:15, 11:78

## REDEMPTION

Foreclosure, 14:150

Stock redemptions in family corporations, 21:89 to 21:92

## REDEVELOPMENT BONDS

Income taxes, 20:351

## REDUCTION

**Taxation** (this index)

## REFINANCING

Generally, 4:60, 4:76 et seq.

Bad loan management, 4:82

Debt explosion threat, 4:80

Distressed property, how real estate manager took distressed properties off bank's hands, 9:38

Joint ventures and participating debt, 7:17

Small bank troubles, 4:79

## REFORMATION OF CONTRACT

Sale or transfer, 1:35

# **REFUNDS**

Mortgage commitment fee, 5:35, 5:36

## REGULAR C CORPORATIONS

**C Corporations** (this index)

## REHABILITATION

Income taxes, rehabilitation tax credits, **20:296 et seq.** Junior mortgage financing, **4:61** 

#### REIMBURSEMENT

Income taxes, flood insurance reimbursements, 20:37

# REITS (REAL ESTATE INVESTMENT TRUSTS)

Determining the cost of capital, 16:156

DownREITs, 16:157

Financing sources, 16:148

Finite and infinite, 16:140

How to choose a REIT, 16:141

Impressive long-term record, 16:135

Income property ownership, 16:134 et seq.

Investing in REITs, 16:137

Advantages, 16:138

Disadvantages, 16:139

Spinning off, **16:147** 

Subsidiaries, 16:145

Tax aspects of REITs

How REITs are taxed, Miscellaneous rules, **16:146** 

Understanding funds from operations, 16:155

## REJECTION

**Acceptance or Rejection** (this index)

## RELATED PARTIES

Family limited partnerships. **Limited Partnerships** (this index)

**Income Taxes** (this index)

Investments, sale-leaseback, 13:34, 13:49

Office leases, 3:25

Skyscrapers, bank's acquisition of, **9:48 to 9:55** 

Tax-free exchanges of real estate, 2:49 to 2:55, 2:120

Tax planning. Family Tax Planning for Real Estate Investors (this index)

Value and valuation, IRS position on family limited partnerships, **19:78 et seq.** 

# RELEASE CLAUSES OR PROVISIONS

Environmental law, **15:105 to 15:110** 

 $Investments, purchase \ money \ mortgages, \ 11:57$ 

# RELOCATION EXPENSES

Reimbusement, tax treatment, 20:363

## REMAINDER TRUSTS

Charitable Remainder Trusts (this index)

## **REMICS**

Real Estate Mortgage Investment Conduits (REMICs) (this index)

#### REMODELING

Income tax safe harbor, restaurant or retail, 20:201

#### REMODELING—Cont'd

Mortgages, remodeling enabling partners to mortgage out property, 9:3

## RENEWAL OF LEASES

Investments, sale-leaseback, 13:23

Management of property, 18:48

Office leases, renewal option, 3:61 et seq.

#### RENT

Closing, proration of rents, 1:95

Condominiums, SEC rental pool ruling, income property ownership, 16:251

Farm rental income, self-employment tax, 20:9

**Investments** (this index)

Managers and management

generally, 18:23, 18:47, 18:51, 18:52

delinquent rents, 18:54

nonpayment of rent, instituting legal action for, 18:55

Mortgages (this index)

**Office Leases** (this index)

Preforeclosure, assignment of rents and leases, 14:33

S Corporations and excessive passive rental income, tax trap, **16:128**, **16:129** 

Value and valuation, gross rent multiplier, 19:18

## RENTAL PROPERTY

**Tax-Free Exchanges of Real Estate** (this index)

#### REORGANIZATION

Bankruptcy code, chapters 7 and 11 of, **14:103**, **14:107** 

## REPAIR AND MAINTENANCE

Capitalization of costs, election for, 20:200

Income taxes, deduction for expenditures, 20:190

Management of property, 18:25 to 18:33

Safe harbor, 20:195

Underwriting and documentation of mortgage loan commitment, 6:15 to 6:18

#### REPAYMENT

Construction financing, 4:17 et seq.

Income taxes, repayment of excessive executive compensation, 20:99

Mortgage loans, restructuring of, 14:54

## REPLACEMENT PROPERTY

Employee stock ownership plans, 21:103 to 21:107 Income taxes, replacement property acquired from related party, 20:268

Insurance, replacement cost and actual cash value, 18:99

**Tax-Free Exchanges of Real Estate** (this index)

## REPORTS AND REPORTING

Appraisal, 19:6

**Financial reporting** (this index)

Income taxes, reporting requirements, 20:384 et seq. Joint ventures, income property ownership, 16:99 Mortgages (this index)

**Tax-Free Exchanges of Real Estate** (this index)

#### REPOSSESSION

Income taxes, 20:288

## REPRESENTATIONS

Sale or Transfer (this index)

## REPURCHASE OR RESALE

Distressed property, how real estate manager took distressed properties off bank's hands, **9:38** 

Investments, sale-leaseback, 13:24

Personal residence trusts, family tax planning for real estate investors, **21:49** 

Second mortgages, 9:23

## RESALE

Repurchase or Resale (this index)

## RESCISSION

Income taxes, capital gains and losses, 20:26

## RESEARCH

Syndication, market research, 16:179

## RESIDENCES

**Tax-Free Exchanges of Real Estate** (this index)

## RESIDENTIAL DEVELOPMENT

Investments, 11:24

## RESIDENTIAL LEASES

Investments, ground leases, **12:46** Management of property, **18:42** 

## RESIDENTIAL LOAN ORIGINATORS

Securitization and federal government, 8:49

## RESIDENTIAL MORTGAGE SERVICES

Securitization and federal government, **8:50** 

## RESIDUAL INTERESTS

Securitization and federal government, tax aspects of REMICs, **8:74** 

Tax-free exchanges of real estate, 2:74

## RESORTS

Condominiums, **16:237 et seq.** Management, **16:238** Rental of units. **16:239** 

Condominiums, Rating conversion loans, 16:241

Condominiums hotels, 16:240

Investments, increased demand, 11:15

Index-52

# RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

Environmental law, 15:25, 15:87, 15:89

## RESPONSE ACTIONS

Environmental law, 15:5, 15:6

## **RESTORATION OF PREMISES**

Mortgaged property, insurance proceeds and condemnation awards for, 18:113

Underwriting and documentation of mortgage loan commitment, 6:15 to 6:18

## RESTRICTED SECURITIES DISCOUNTS

Value and valuation, 19:53, 19:54

## RESTRICTIVE COVENANTS

**Conditions and Covenants** (this index)

## RESTRUCTURING AND WORKOUTS

**Title and Ownership** (this index)

## RETIREMENT

Self-employment tax. 20:101, 20:102

Sole proprietorship, income property ownership, 16:6 Stock redemptions in family corporations, 21:91

#### REVERSE EXCHANGES

Tax-free exchanges of real estate, 2:102 to 2:107

# REVERSE MORTGAGES

Generally, 4A:8

## RHODE ISLAND

Environmental law, 15:46

#### **RISK**

Dodd-Frank risk retention requirements, options for meeting, **8C:5** 

Environmental law, strategies for minimizing risks, **15:104 et seq.** 

**Income Taxes** (this index)

**Insurance** (this index)

**Investments** (this index)

Joint ventures and participating debt, risk analysis, 7:28 to 7:35

**Securitization and Federal Government** (this index)

## **ROLLOVERS**

Employee stock ownership plans, tax free rollover, 21:102, 21:103, 21:106

Tax-free exchanges of real estate, 2:171

#### ROLLUPS

Syndication, limited partnership rollups, 16:206

## **RULE AGAINST PERPETUITIES**

Sale and transfer of real estate, options, 1:16

#### RURAL AREAS SALE OR TRANSFER—Cont'd Investments, raw land in urban areas, 11:12 to 11:15, Environmental hazards. Environmental Law (this 11:19 index) Executory contracts, 1:114 S.A.F.E. ACT (SECURE AND FAIR Exempt transactions, purchase from foreign seller, ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008) Family limited partnerships, transfer discounts, 21:61 Generally, **8A:4 Financing** (this index) Fixtures, 1:76 SAFE HARBORS Flawed properties, purchase and sale, 1:113 De minimus for expenditures related to tangible prop-Flip contracts, 1:100 to 1:102 erty, 20:188, 20:191 Foreign state or country Remodel-refresh, restaurant or retail, 20:201 generally, 1:20 to 1:25 Routine maintenance, safe harbor, 20:195 non-registered foreign entity, conveyance by, 1:68 Small taxpayers, safe harbor for buildings, 20:194 tax-free exchanges of real estate, 2:27 Tax-free exchanges of real estate, 2:92, 2:103 withholding amount, 1:21 SALARIES withholding certificate for dispositions, App. 1.23 Wages, Salaries, and Other Compensation (this withholding forms, 1:22 index) withholding statements on dispositions, App. 1.24 withholding tax form, App. 1.22 SALE-LEASEBACKS Fraud, 1:33, 1:34 Corporate management of property, 18:75 Income taxes, sale of lots, conversion of capital gain, **Investments** (this index) 20:25 SALE OR TRANSFER **Installment Sales** (this index) See also more specific topics Intent, letter of, 1:17 Generally, 1:1 et seq. Interagency rule temporarily deferring real estate Agent's liability, purchase from foreign seller, 1:27 appraisals, 1:4 Alternatives to traditional purchase and sale, 1:109 to **Investments** (this index) Land contracts, generally, 1:97 to 1:99 Americans with Disabilities Act, 17:15 Land purchase contracts, 1:114 **Bargain Sales** (this index) **Leases** (this index) Binders, 1:18 Lease termination and purchase option, tax aspects, Building violations, 1:73 1:15 **Buy-Sell Agreements** (this index) Letter of intent, 1:17, App. 1.2 Certificate of surveyor, **1:31** Leveraging real estate contracts, 1:103 Certificates of occupancy, 1:74, App. 1.14 Licenses and permits, 1:74 **Closing** (this index) Loans, securitization and federal government, 8:15 Condemnation Misrepresentation, 1:33, 1:34 generally, 1:84, App. 1.18 Mortgages (this index) tax-free exchanges of real estate, 2:152 Negotiation Condition of premises, 1:77, App. 1.16 generally, 1:1 **Condominiums** (this index) due diligence, 1:3 Contract for deed, 1:114 interagency rule temporarily deferring real estate Contracts. See specific lines in this index topic appraisals, 1:4 Conveyance by non-registered foreign entity, 1:68 investments, 11:25 to 11:35 Cooperative housing corporations, 16:272 Office Leases (this index) Covid-19 addendums in real estate contracts, 1:2 purchase money mortgage, negotiating conditions Damage to property, 1:84, App. 1.18 to subordination, 1:52 Date. Time or date, below Non-registered foreign entity, conveyance by, 1:68 Destruction of property **Options** (this index) generally, 1:84, App. 1.18 Other state or country tax-free exchanges of real estate, 2:152

Due diligence, negotiating the purchase and sale of

real estate. 1:3

generally. 1:20 to 1:25

tax-free exchanges of real estate, 2:27

#### SALE OR TRANSFER—Cont'd

Other state or country—Cont'd withholding amount, 1:21 withholding form, 1:22

Parties, generally, 1:19 to 1:25

**Personal Property** (this index)

**Price** (this index)

Purchase price, App. 1.5, App. 1.7

Real estate appraisals, interagency rule temporarily deferring, 1:4

Reformation of contract, 1:35

Representations

generally, 1:32 to 1:36, App. 1.4 environmental hazards, 1:81

**Repurchase or Resale** (this index)

Sale-Leasebacks (this index)

Short form of agreement of purchase and sale, App. 1.21

Speculating with flip contracts, 1:100 to 1:102

**Surveys and Surveyors** (this index)

**Tax-Free Exchanges of Real Estate** (this index)

Time or date

**Closing** (this index)

parties, date of contract, 1:19

third party financing, 1:60

**Title and Ownership** (this index)

Warranties, App. 1.4

Warranties (this index)

Zero coupon investments, buying real estate with, 1:105

Zoning change, App. 1:12

Zoning regulations, 1:72

Zoning violations, App. 1:13

# SANDWICH LEASE

Improving sales price with, 1:104

Investments, ground and net leases, 12:59 to 12:61

## SCINs (SELF-CANCELING INSTALLMENT NOTES)

Family tax planning for real estate investors, 21:76 to 21:79

#### S CORPORATIONS

Basis for loss deductions by shareholders, 16:125

C corporations compared, 16:118

Common interest matters, generally, 16:130 et seq. Electing and terminating S corporation status, 16:123 Excessive passive rental income, tax trap, 16:128,

16:129

Executive compensation, 16:127

Income property ownership, generally, 16:115 et seq. Interest in, treatment as stock or debt, 16:133

Limited liability companies, income property ownership, **16:72** 

## S CORPORATIONS—Cont'd

Loss deductions by shareholders, 16:125, 16:126

Nontax benefits, 16:117

Partnership-type S corporations, 16:115 et seq.

Piercing the corporate veil, 16:130

Qualifying as S corporation, 16:119 et seq.

Commercial agreements and one class of stock rule, 16:121

Varying interests distributions and one class of stock rule, 16:120

Relief for late elections, 16:124

Restricting transfers, 16:122

**Subchapter S Corporations** (this index)

## SCREENING PROSPECTS

Management of property, 18:40

## SEARCHING FOR RAW LAND

Investments, 11:10 to 11:15

## SECONDARY FINANCING

Mortgages, 5:56

#### SECOND MORTGAGES

**Mortgages** (this index)

# **SECTION 467 RENTAL AGREEMENTS**

Office leases, **3:21 to 3:23** 

# SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008

(S.A.F.E. ACT)

Generally, 8A:4

# SECURED CLAIMS

**Bankruptcy and Insolvency** (this index)

## SECURITIES

**Bonds and Securities** (this index)

## SECURITIES EXCHNAGE ACT OF 1934

Section 15G and the Dodd-Frank Act. 8C:1

## SECURITIZATION AND FEDERAL **GOVERNMENT**

Generally, 8:1 et seq.

ABS shift from mortgage to other assets, 8:8

A/B structured loans, 8:54

Accounting principles, 8:17, 8:87

Balanced approach urged, 8:3

Balloon mortgage default, 8:83

Bankruptcy remote entities, 8:37 et seq.

B-holder rights, 8:52

Brokers as independent contractors, 8:89

Buying of mortgages, 8:12

Capital flows and property types in 2010, 8:2

Capital market expansion and lower costs, 8:16

Capital markets, impact on, 8:13 to 8:21

SECURITIZATION AND FEDERAL	SECURITIZATION AND FEDERAL
GOVERNMENT—Cont'd	GOVERNMENT—Cont'd
Capital stock and B-holder rights, <b>8:52</b>	Loan origination and sales, <b>8:15</b>
Cash flow, commercial mortgage pools, <b>8:44</b>	Location of property, 8:25
CDOs	Major recession and, 8:1
comparison to CMBS, 8:19	Management
foreclosure of, <b>8:21</b>	mortgage back securities, 8:29
Choosing loans for securitization, 8:79	risk management, 8:14
CMBS	Master servicer and collateral asset manager, 8:20
comparison to CDOs, 8:19	Mortgage outlook, 8:11
Coronavirus, effect of on the CMBS market, 8:88	Mortgages
glossary of terms, <b>App. 8.1</b>	generally, 8:43 et seq.
CMOs (collateralized mortgage obligations), <b>8:65 et seq.</b>	collateralized mortgages obligations, <b>8:65 et seq</b> how mortgage securities are structured, <b>8:52 et</b>
Collateral asset manager, <b>8:20</b>	seq.
Collateralized mortgages obligations, <b>8:65 et seq.</b>	insurance, <b>8:32</b> , <b>8:33</b>
Commercial mortgage pools, <b>8:43 et seq.</b>	investment conduits, 8:65 et seq.
Condominiums, rating of loan types, <b>8:61</b>	rating of based securities, 8:22 et seq.
Conduit loans, <b>8:55</b> , <b>8:84</b>	ratings model, <b>8:46</b>
Construction loans, rating of loan types, <b>8:62</b>	residential mortgage services, rating of, <b>8:50</b>
Construction quality/energy efficiency, 8:30	Municipal entities, 8:38
Cooperatives, rating of loan types, <b>8:60</b>	Net interest margin securities (NIMS), 8:9
Coronavirus, effect of on the CMBS market, 8:88	Nursing facilities, rating of loan types, <b>8:63</b>
Corporations, <b>8:57</b> , <b>8:58</b>	Office buildings, rating of loan types, <b>8:59</b>
Covered bonds, 8:81	Ownership, <b>8:31</b> , <b>8:41</b> , <b>8:74</b>
Credit leases, <b>8:48</b> , <b>8:64</b>	Pari-passu notes, <b>8:80</b>
Defeasance, 8:86	Partners and partnerships, <b>8:57</b>
Definitions, 8:6	PPCs, <b>8:39</b>
Development of securitization, 8:7	Prepayment, defeasance as alternative to, <b>8:86</b>
Election, tax aspects of REMICs, 8:72	Pro-rata principal payments, 8:53
Energy efficiency, <b>8:30</b>	Quality of real estate, 8:24
Environment risk, <b>8:34, 8:47</b>	Rating of loan types, 8:59 et seq.
Fair value accounting, effect of, 8:87	Rating process, 8:51
Foreclosure of CDOs, <b>8:21</b>	Ratings model for mortgages, 8:46
Future of securitization, <b>8:10</b>	Recession, major, 8:1
General Growth Properties Bankruptcy, 8:4	REMICs (real estate mortgage investment conduits), <b>8:65 et seq.</b>
Glossary of terms, CMBS, App. 8.1	Resecuritization efforts, 8:5
History of, <b>8:1 et seq.</b>	Residential loan originators, 8:49
Impact of securitization on real estate capital markets, 8:13 to 8:21	Residential mortgage services, rating of, 8:50
Independent contractors, brokers as, 8:89	Residual interests, tax aspects of REMICs, <b>8:74</b>
Individual loan analysis, commercial mortgage pools, 8:44	Risk management, 8:14 Security interest, 8:41
Insurance, <b>8:32</b> , <b>8:33</b>	SPCs, <b>8:40</b>
Interest rates, rising, effects of, <b>8:85</b>	Special purpose corporations, <b>8:58</b>
Investments	Special purpose vehicle formation, <b>8:56</b>
mortgage investment conduits, 8:65 et seq.	Stock and stockholders, capital stock rights, 8:52
net-leased properties (credit-based financing),	Subordinate debt, 8:35
12:62	Subprime Crisis (this index)
Leases	Surveys, 8:33
generally, <b>8:26, 8:27, 8:48</b>	Tax aspects of REMICs, 8:70 et seq.
investments, net-leased properties (credit-based	Title insurance, 8:33
financing), <b>12:62</b>	Transfers, <b>8:41</b> , <b>8:75</b>

# SECURITIZATION AND FEDERAL GOVERNMENT—Cont'd

Understanding securitization, building base model for, 8:18

Value, effect of fair value accounting, 8:87

## **SECURITY AGREEMENTS**

Underwriting and documentation of mortgage loan commitment, **6:83** to **6:85** 

## SECURITY ARRANGEMENTS

Tax-free exchanges of real estate, 2:93

## SECURITY DEPOSITS

Leases (this index)

Underwriting and documentation of mortgage loan commitment, **6:11** 

## SECURITY INTEREST

Environmental law, exemption, **15:11** Securitization and federal government, **8:41** 

# SELF-CANCELING INSTALLMENT NOTES (SCINs)

Family tax planning for real estate investors, 21:76 to 21:79

## **SELF-DIRECTED IRAS**

Generally, **4:97 to 4:99** 

Thiessen decision, 4:99

## SELF-EMPLOYMENT TAX

**Income Taxes** (this index)

#### **SELF-HELP**

Office leases, default, 3:107

## SELF-LIQUIDATING MORTGAGE

Leases, new space built for tenant by owner giving flexibility with cancellation rights, **9:59** 

## SENSITIVITY ANALYSIS

Joint ventures and participating debt, 7:39

## SERVICERS AND RECEIVERS

Generally, 8B:1 et seq.

Agreement on new rules, 8B:7

Appointment rights of mortgagee, 8B:6

CMBS quagmire, 8B:3

Distressed real estate, 8B:5

Preforeclosure, receivers, 14:32

Special challenges, 8B:4

Special servicer, role of, 8B:1

Special servicer procedures, 8B:2

#### **SEVERABILITY**

Investments, sales contract and lease, 13:16

# SEVERANCE DAMAGES

Tax-free exchanges of real estate, 2:148

## SHARES AND SHAREHOLDERS

**Stock and Stockholders** (this index)

#### SHARING ARRANGEMENTS

Syndication, 16:187 et seq.

## **SHELTERS**

Tax Shelters (this index)

# SHOPPING CENTERS

Bankruptcy and insolvency, court decisions, 14:116 Cash flow, 14:40

Ownership concerns, 14:13, 14:18

#### SIGNS

Investments, ground and net leases, 12:26 to 12:32

## SINGLE-INDUSTRY BUILDING

Promoter raising sufficient cash to acquire singleindustry building, 9:27 to 9:30

## SINGLE PURPOSE ENTITY

Real estate loan guaranties, 5:48

#### SIZI

Office leases, floor size and measurements, 3:6

#### SKYSCRAPERS

Bank's acquisition, 9:48 to 9:55

# SMALL BUSINESS CAPITAL GAINS EXCLUSION

Income taxes, 20:21

## **SMALL CORPORATIONS**

Income taxes, alternative minimum tax exemption, 20:399

## **SMALL-ISSUE BONDS**

Income taxes, 20:350

# SOCIAL SECURITY TAXES

Income property ownership, 16:3

Rates, 20:2

# **SOIL**

Investments, ground and net leases, 12:22

Mortgages, soil reports, 5:61

## SOLE PROPRIETORSHIP

Income property ownership, 16:5, 16:6

# SOUTH CAROLINA

Environmental law, 15:47

#### **SPCs**

Securitization and federal government, 8:40

Index-56

## SPECIAL ENDORSEMENTS

Insurance, **18:101** 

#### SPECIAL PURPOSE CORPORATIONS

Securitization and federal government, 8:58

## SPECIAL PURPOSE VEHICLE FORMATION

Securitization and federal government, 8:56

## SPECIAL USE VALUATION

Value and Valuation (this index)

# SPECIFIC PERFORMANCE

Equitable conversion, remedy against seller's estate, 1.88

Office leases, default, 3:109

## **SPECULATION**

Investments, 11:35

Sale or transfer, speculating with flip contracts, 1:100 to 1:102

## SPLIT MORTGAGE CLAUSES

Investments, 11:61

#### **SPONSORS**

Cooperative housing corporations and sponsor, contract between, 16:259

#### **SPOUSES**

**Husband and Wife** (this index)

## STANDBY COMMITMENT

Construction financing, 4:20

# STANDBY JOINT VENTURES

Income property ownership, 16:87

## **STANDING**

Foreclosure, 14:124

## STANDING LOAN

Mortgages, 4:41

# START-UP COSTS OR FEES

**Income Taxes** (this index)

Investments, tax aspects of raw land investment, 11:87

Management fees, 18:19

## STATE ECONOMIC DEVELOPMENT GRANTS

Nonshareholder capital contributions, 4:102

Partnerships, entities taxed as, 4:103

# STATE LAW MITIGATION CREDITS

Tax-free exchanges of real estate, like-kind properties, 2:57

## STATE PROPERTY TRANSFER

Environmental laws, 15:39 et seq.

## STATE REAL PROPERTY TAX REBATES

Income taxes, deductions, 20:160, 20:161

#### STATUTE OF LIMITATIONS

Environmental law. 15:66

#### STAY

Bankruptcy and insolvency, automatic stay, 14:109

## STEP-UP OR STEP-DOWN RENTAL

Office leases, 3:11, App. 3.3

## STOCK AND STOCKHOLDERS

C corporations, salaries of stockholder-employees,

Cooperative Housing Corporations (this index) **Dividends** (this index)

Employee Stock Ownership Plans (ESOPs) (this index)

Environmental law, personal liability of corporate officers, directors, and shareholders, **15:19** 

## Estate Taxes (this index)

Income taxes, deductions, **20:91 et seq.**, **20:240**Redemptions in family corporations, **21:89 to 21:92**Securitization and federal government, capital stock rights, **8:52** 

Value and valuation

charities, stock donated to, 19:56 employee stock ownership plans, 21:107 unitary interests, voting and nonvoting stock valued as unitary interest for estate tax purposes, 19:74

## STOCK IN TRADE

Tax-free exchanges of real estate, 2:42 to 2:44

#### STRANGI DECISION

Value and valuation, IRS position on family limited partnerships, **16:89** 

# STRAW CORPORATIONS

C corporations, 16:104

# STRICT FORECLOSURE

Generally, 14:149

## STRICT LIABILITY

Environmental law, 15:3, 15:62

# SUBCHAPTER S CORPORATIONS

Income taxes, 20:97

Limited liability companies, income property ownership, **16:69** 

# **SUBLEASE**

Cancellation rights, new space built for tenant by owner giving flexibility with, **9:62** 

Investments, 9:19, 9:40, 9:41, 12:25

**Office Leases** (this index)

## SUBLEASE—Cont'd

Selected provisions, App. 9.3

Skyscrapers, bank's acquisition of, 9:52

Underwriting and documentation of mortgage loan commitment, **6:21** 

## SUBORDINATE DEBT

Securitization and federal government, 8:35

#### SUBORDINATION

Generally, App. 14.5

Bankruptcy and insolvency, equitable subordination doctrine. **14:121** 

**Investments** (this index)

Joint ventures and participating debt, subordinated vs. unsubordinated land lease, **7:16** 

Mortgages (this index) Office leases, 3:87

## **SUBPRIME CRISIS**

Generally, 8:90 et seq.

Breach of warranty lawsuit, 8:92

Legislation, 8:95

State and federal investigations, 8:94

Title company duty to disclose fraud, 8:93

## **SUBROGATION**

Equitable, 18:94

Insurance, 18:88 to 18:91

Mutual waiver, App. 3.19

Underwriting and documentation of mortgage loan commitment, waiver of subrogation between landlord and tenant, **6:17** 

# SUBSIDIARY CORPORATIONS

Environmental law, 15:14

# SUBSTITUTION

Value and valuation, 19:27

#### SUBURBAN AREAS

Investments, searching for raw land, 11:10, 11:13

## SUCCESSOR CORPORATIONS

Environmental law, 15:15 et seq.

# "SUDDEN AND ACCIDENTAL" POLLUTION EXCLUSION

Burden of proof, 15:121

Environmental law, insurance policies, 15:120

# SUNSET CLAUSE

Closing, **1:92** 

## SUPPLY AND DEMAND

Value and valuation, 19:35

#### **SURPLUS**

Value and valuation, 19:33

Index-58

## SURVEYS AND SURVEYORS

Mortgages, 5:25, 6:47 to 6:53, 8:33

Sale or transfer, generally, 1:29 to 1:31, App. 1.3

Surveyor's Report, App. 1.3

## **SURVIVORSHIP**

Income property ownership, joint tenancy with right of survivorship, **16:15** 

## **SWIMMING POOLS**

Income taxes, residential improvements as medical deductions, **20:215** 

#### **SWING VOTE**

Value and valuation, 19:41, 19:42

## **SYNDICATION**

Acquiring the property, 16:181

Bank's expected return, 16:205

Business plan, development of, 16:182

Case studies, **16:192** 

Closing, raising funds to meet closing date, 9:44 to 9:47, 16:195 et seq.

Crowdfunding

Generally, 16:170

Comparison to syndication, 16:171

Different categories of syndications, 16:169

Distressed property, 16:198 et seq.

Exchanges, 1031, 16:207

Fees, management fees, 16:200

Financing, **16:194** 

Identifying potential acquisitions, 16:180

Important considerations in operating a syndicate,

16:172

Background and experience of the general partner, 16:175

Distributing partnership income, 16:173

Factors influencing choice of property, **16:174** 

Income property ownership, generally, 16:163 et seq.

Investment objectives, 16:167, 16:191, 16:202

Limited partnerships, 16:176, 16:201, 16:206

Managers and management, 16:200, 16:202

Market research, 16:179

Matching property type to investment objectives, **16:178** 

Offering, evaluation of, 16:183 et seq.

Specified properties, 16:185

Suitability standards, 16:184

# **Partners and Partnerships** (this index)

Predevelopment land partnerships, 16:193

Raising short-term funds to meet closing date

Convertible partnership notes to private investors, 16:196

Real estate market conditions, **16:177** 

Real estate syndication, 16:207

#### SYNDICATION—Cont'd

Right of bank to additional preferential distribution, 16:204

Rollups, limited partnership rollups, **16:206** Sharing arrangements, **16:187 et seq.** 

Stages of a real estate syndication, 16:168

Subleasehold operating position, how investor syndicated enterprise and created, 9:19

Syndication structure, 16:164

Advantages of syndication, **16:165** Disadvantages of syndication, **16:166** 

Taxable profits and losses, allocation of, 16:203

Tax implications, 16:190

#### SYNTHETIC LEASES

Corporate management of property, **18:74** Investments, ground and net leases, **12:54 to 12:58** 

## **TAKEBACKS**

Office leases, assignment or sublease, 3:50

## TAKEOUT COMMITMENT

Construction financing, 4:18, 4:19

## **TAKEOVERS**

Office Leases (this index)

## **TAXATION**

Cancellation rights, new space built for tenant by owner giving flexibility with, **9:61**, **9:62** 

Capital Gains (this index)

C corporations, 16:105 et seq.

Closing, proration of taxes, 1:95

**Condominiums** (this index)

Cooperative housing corporations, **16:269 et seq.** Income taxes, **16:270** 

Crowdfunding to finance commercial real estate, tax considerations, **4:96** 

Deductions

cooperative housing corporations, interest and tax deductions by shareholder-tenants, **16:271** gift taxes, marital deduction, **21:6**, **21:7** 

**Income Taxes** (this index)

**Investments** (this index)

Discounts

income taxes, original issue discount and imputed interest, 20:143 et seq., 20:287

workouts, original issue discount rule, 14:70

Distressed property, how real estate manager took distressed properties off bank's hands, 9:37

**Environmental Law** (this index)

Equity, debt-equity swaps, 14:72

Estate Taxes (this index)

Excusing portion of debt, 14:67

## TAXATION—Cont'd

Exemptions

hotel, investor raised cash for acquisition of profitable hotel, 9:13 to 9:19

income taxes, 20:1 et seq.

joint ventures and participating debt, tax-exempt landlords, **7:18** 

partners and partnerships, wraparound mortgage loan from tax-exempt institution, **9:8** 

# Family Tax Planning for Real Estate Investors (this index)

Financing (this index)

Foreclosure, 14:74

**Generation Skipping Tax** (this index)

**Gift Taxes** (this index)

**Income Property Ownership** (this index)

**Income Taxes** (this index)

Insolvency exceptions, 14:73

Interest on money

income taxes, deductions, 20:105 et seq.

**Tax-Free Exchanges of Real Estate** (this index)

workouts, reducing interest rate, 14:69

**Investments** (this index)

Investment trusts, 16:142 et seq., 16:152

General tax rules, 16:143

Joint ventures and participating debt, tax-exempt landlords, 7:18

Leases (this index)

Management of property

generally, 18:82 to 18:85

**Income Taxes** (this index)

leases, checking property tax invoices, 18:68

**Mortgages** (this index)

Nonrecourse carve-out guarantee of partnership liability, **5:49** 

Nonrecourse vs. recourse debt, 14:68

**Office Leases** (this index)

**Options** (this index)

## **Partners and Partnerships** (this index)

Purchase money mortgage, tax savings and other benefits from installment sales. 1:54

Reduction

income taxes, seller's reduction of purchase price, **20:290** 

Tax-Free Exchanges of Real Estate (this index) workouts, reducing interest rate, 14:69

REMICs, 8:70 et seq.

Securitization and federal government, 8:70 et seq.

**Self-Employment Tax** (this index)

Shelters. Tax Shelters (this index)

Social security taxes, 16:3, 20:2

Syndication, **16:190** 

Tax-Free Exchanges of Real Estate (this index)

**Tax Shelters** (this index)

TAXATION—Cont'd TAX-FREE EXCHANGES OF REAL ESTATE Trusts, 2:12, 2:180, 16:162 -Cont'd Value and Valuation (this index) Costs and expenses—Cont'd Withholding tax, 14:89 boot, netting of, 2:76 Workouts, tax aspects of, 14:66 to 14:74 Cotenancies, 2:45 to 2:48, 2:73 Death of party, 2:101 TAX CUTS AND JOBS ACT Deferral Income taxes, 20:1 like-kind exchanges, 2:82 et seq. Rebates, 20:161 principal residence, deferred income can be taxfree profit, 2:174 TAX-FREE EXCHANGES OF REAL ESTATE Definitions Generally, 2:1 et seq. principal residence, 2:157 to 2:160 Accounting treatment, 2:131 to 2:135 Delaware statutory trust interests qualified properties, ACRS and MACRS properties, 2:21 like-kind properties, 2:95 Actual exchange of properties, 2:23 to 2:25 Deprecation, boosting of, 2:16 to 2:21 Allocations, changing land-building allocation, 2:17 Development rights, exchange of, 2:10 Alternatives when gain exceeds exclusion, 2:179 Disabled persons, 2:163 Analysis of tax positions or exchangers, **App. 2.2** Disasters, Presidential declarations, 2:40, 2:140 Annual property operating data, App. 2.3 Disqualification. Qualification or disqualification, Asset protection planning, 2:59 Auction rate securities, 2:111 Distinguishing realty and non-realty assets, 2:32 Avoidance, 2:121, 2:125, 2:126 Distressed property, exchange of, 2:8 Benefiting from changing tax ratio, 2:19 to 2:21 Divorce, 2:167, 2:169 Billboards, like-kind properties, **2:33 Easements** Boot (nonqualifying property), 2:60 to 2:77, 2:121 conservation easements as like-kind properties, Build-to-suit with tax-free exchanges, combining of, 2:24 replacement of involuntarily converted property, Business or trade 2:147 productive use, properties held for, 2:41 Election not to exclude gain, 2:177 stock in trade, 2:42 Escrow accounts, 2:94, 2:117 to 2:120 Calculating effect of boot, 2:64 Essential elements, generally, 2:22 to 2:58 Cash boot, 2:65, 2:66 Exclusive authorization to exchange property, App. Cash flow analysis, App. 2:4 Cash-poor buvers. 2:3 Fees, replacement property, transfer fees, 2:88 Certification for no information reporting on sale or Financial reporting treatment, 2:135 exchange of principal residence, App. 2:12 Five-way exchanges, 2:124 Checklist for planning a 1031 Exchange, **App. 2.9** Foreign real estate, 2:27 Checklist of information needed from exchanger, Four-way exchanges, 2:123 App. 2.1 Fractional interests for whole interests, 2:58 Component depreciation, 2:20 Future interests, 2:30 Condemnation proceeds reinvested in leased land, Gain or loss like-kind properties, 2:37 accounting treatment, 2:133 Condominiums boot, effect of, 2:60, 2:61 cooperative for, 2:34 principal residence, 2:156 et seq. rental property for, 2:29 Growth factors, 2:96 Conservation easements as like-kind properties, 2:56 Guaranty arrangements, 2:93 Constructive receipt of money. 2:89 Guidelines for investors, 2:110 Conversion, tax-free replacement of involuntarily Identification of replacement property, 2:85 converted property, 2:136 to 2:155 **Improvements** Cooperative for condominium, like-kind properties, 2:34 improvement exchange, 2:98 records of improvements, maintaining of, 2:178 Costs and expenses Installment sale, combining tax-free gain with, 2:175 accounting treatment, determination of cost basis

Installment sale of personal residence, 2:181

of property acquired, 2:134

TAX-FREE EXCHANGES OF REAL ESTATE —Cont'd
Partners and partnerships, 2:11, 2:13 to 2:15, 2:28,
2:45 to 2:48
Passive activity losses do not reduce exlcuded gain on
sale, <b>2:182</b>
Personal property, 2:38 to 2:40
Phantom gain, 2:128 to 2:130
Present interests, 2:30, 2:31
Presidentially declared disasters, 2:40, 2:140
Previously excluded gain recognized on reaquisition
of residence, 2:181
Purchase money mortgage boot, 2:121
Qualification or disqualification
escrow accounts, 2:94
intermediaries, 2:98
involuntarily converted property, qualifying insur-
ance, 2:141
nonqualifying property (boot), 2:60 to 2:77, 2:121
persons disqualified, 2:97
Raw land, exchange for, 2:5
Realized vs. recognized gain, 2:61
Records of improvements, maintaining of, 2:178
Reduction
boot, 2:70, 2:71
Related parties, 2:49 to 2:55, 2:120 Replacement property
deferred like-kind exchanges, 2:85, 2:87, 2:88, 2:91
involuntarily converted property, 2:136 to 2:155
Reports
accounting treatment, financial reporting treatment, 2:135
replacement of involuntarily converting property,
2:155
Residences
principal residence, generally, 2:156 to 2:180
Residual interests, <b>2:74</b>
Reverse exchanges, 2:102 to 2:107
Rollovers, 2:171
Safe harbors, <b>2:92</b> , <b>2:103</b>
Same parties, exchanges between, 2:25
Security arrangements, 2:93
Severance damages, 2:148
Sheltering gain from prior sales, 2:172
State law mitigation credits as like-kind properties,
2:57
Stock in trade or other property held primarily for
sale, <b>2:42 to 2:44</b>
Straight two-way exchanges, 2:78 to 2:81
Tenancies-in-common, 2:45 to 2:48, 2:73, 2:108 et
seq.
Three-way exchanges, <b>2:113 to 2:122</b>

# TAX-FREE EXCHANGES OF REAL ESTATE —Cont'd

Timber and trees

sale of damaged trees, 2:153

timber exchanges, 2:35

Title and ownership, 2:100, 2:161 to 2:163

Trade. Business or trade, above

Transfer fees, replacement property, 2:88

Trees. Timber and trees, above

Trusts, 2:12, 2:180

Water rights, like-kind properties, 2:36

Widowhood, 2:167, 2:170

Workout, tenancies-in-common interests, 2:109

#### TAX PREPARERS

Penalties, 20:390

## TAX SHELTERS

Ground leases, investments, 9:39 to 9:42

Hotel, investor raised cash for acquisition of profitable hotel, **9:15** 

**Income Taxes** (this index)

Skyscrapers, bank's acquisition of, **9:48 to 9:55** 

Tax-free exchanges of real estate, sheltering gain from prior sales, 2:172

## **TENANCIES-IN-COMMON**

**Joint Tenancies** (this index)

## **TENANTS**

Leases (this index)

## **TERMINATION**

Joint ventures, 16:92, App. 16.9

Mortgage commitment, 5:77

Partnerships, 16:45

S corporation status, 16:123

# TERM OF LOAN

**Financing** (this index)

## TERMS AND CONDITIONS

**Conditions and Covenants** (this index)

## **TERRORISM**

Terrorism Risk Insurance Act, 3:99

#### THEFT

Income taxes, deductions, 20:262 et seq.

## THIESSEN DECISION

Self-directed IRAs, prohibited transactions, 4:99

## THIRD PARTIES

Environmental law, third party defenses, 15:8

**Financing** (this index)

Mortgages, 5:45 to 5:47

Index-62

## THIRD PARTIES—Cont'd

Private real estate annuities, payment to third party, 21:75

Tax-free exchanges of real estate, three-way exchanges, 2:113 et seq.

## THREE-WAY EXCHANGES

Tax-free exchanges of real estate, 2:113 to 2:122

#### **TIMBER**

**Tax-Free Exchanges of Real Estate** (this index)

#### TIME OR DATE

**Closing** (this index)

**Extension of Time** (this index)

Income taxes, time-value-of-money rule, 20:146

**Investments** (this index)

**Mortgages** (this index)

**Sale or Transfer** (this index)

## TIME SHARE PROPERTIES

Condominiums, 16:242 et seq.

Underlying real estate interests, 16:245

Income tax deductions, 20:277

## TITLE AND OWNERSHIP

Generally, 1:65 to 1:71, 14:1 et seq., App. 1.11

Additional collateral, 14:27

Americans with Disabilities Act (this index)

Cash flow, generally, 14:37 et seq.

**Closing** (this index)

Conveyance by non-registered foreign entity, 1:68

Court decisions, 14:62

Disclosure by seller in contract of sale, 1:66

**Distressed Property** (this index)

Emotional distress, 14:84

**Employee Stock Ownership Plans** (this index)

**Environmental Law** (this index)

Financing, ownership concerns, generally, 14:8 et seq.

## **Income Property Ownership** (this index)

Insurance. **Title Insurance** (this index)

Investments, 11:46

Leases (this index)

Managers and Management (this index)

Marketable title. 1:67

Non-registered foreign entity, conveyance by, 1:68

Preworkout agreement, 14:28

Restructuring and workouts, generally, 14:1 et seq.

Securitization and federal government, **8:31**, **8:41**, **8:74** 

Senior loan impairing junior loan, 14:56

Tax-free exchanges of real estate, 2:100, 2:161 to 2:163

**Underwriting and Documentation of Mortgage Loan Commitment** (this index)

# TITLE AND OWNERSHIP—Cont'd

Value and Valuation (this index) Workouts, generally, 14:1 et seq.

#### TITLE COMPANY

Duty to disclose fraud, 8:93

# TITLE III OF AMERICANS WITH DISABILITIES ACT

Transactional considerations under, 17:9 to 17:15

## TITLE INSURANCE

Generally, 1:71, App. 1.11 Foreclosure, 14:134 Investments, 11:46, 12:20 Mortgages (this index) Office lease negotiation, 3:103

# TORRENS TITLE

Underwriting and documentation of mortgage loan commitment, **6:46** 

## TORT REMEDIES

Mortgages, borrower's tort remedies for breach of commitment, **5:83** 

## **TOW FORMATS**

Joint ventures and participating debt, 7:7

## TRACING RULES

Income taxes, 20:128 et seq.

## TRADE AND BUSINESS

**Business and Trade** (this index)

## TRADE FIXTURES

**Fixtures** (this index)

## TRADING PROPERTIES

Condominiums, trading time share units, 16:244

## TRADING RESTRICTIONS

Crowdfunding, 4:95

## **TRANSFER**

**Sale or Transfer** (this index)

# TRANSFERABLE STATE INCOME TAX CREDITS

Financing, 4:100, 4:101

## TRANSPORTATION

Investments, development of high-speed transportation methods, **11:14** 

#### TREES

**Tax-Free Exchanges of Real Estate** (this index)

## **TRESPASS**

Environmental law, 15:59

## TRIPARTITE AGREEMENTS

Underwriting and documentation of mortgage loan commitment, **6:89 to 6:93, App. 6.9** 

#### TRUST DEEDS

**Mortgages** (this index)

## TRUSTS AND TRUSTEES

Annuity Trusts (GRATs) and Unitrusts (GRUTs) (this index)

Bankruptcy and insolvency, trustee's avoidance powers, 14:119

## Charitable Remainder Trusts (this index)

Defective grantor trust, using real estate to fund, 21:93 to 21:100

Gift taxes, qualified domestic trust, 21:7

**Income Property Ownership** (this index)

**Income Taxes** (this index)

**Investment Trusts** (this index)

Joint ventures and participating debt, real estate investment trust, 7:18

Mortgages, 5:16

Personal residence trusts, family tax planning for real estate investors, **21:39 et seq.** 

**Real Estate Investment Trusts (REIT)** (this index)

Taxation, 2:12, 2:180, 16:162

## **ULTRAHAZARDOUS ACTIVITIES**

Environmental law, strict liability, 15:62

## **UMBRELLA PARTNERSHIPS**

Basic structure, 16:150

How an umbrella partnership REIT is formed, **16:151** Investment trusts, **16:149** et seq.

#### UNCONSCIONABILITY

Foreclosure, 14:141

#### UNCONTESTED FORECLOSURE

Generally, 14:133

## UNDERGROUND STORAGE TANKS

2015 revisions and proposed regulations, **15:88** Environmental law, **15:86 to 15:89** 

## UNDERSTATEMENT

Income taxes, penalties for understatement of tax, 20:380, 20:382

## **UNDERWRITING**

Joint ventures and participating debt, 7:28 to 7:35
Mortgage loan commitment. Underwriting and
Documentation of Mortgage Loan Commitment
(this index)

# UNDERWRITING AND DOCUMENTATION OF MORTGAGE LOAN COMMITMENT

Generally, 6:1 et seq.

UNDERWRITING AND DOCUMENTATION OF	UNDERWRITING AND DOCUMENTATION OF
MORTGAGE LOAN COMMITMENT—Cont'd	MORTGAGE LOAN COMMITMENT—Cont'
Abstract of title, <b>6:43</b>	Floor-and-ceiling loans, <b>6:64</b>
After-acquired title or interest, <b>6:71</b>	Future financing, duty to provide, 6:78
Annual operating statements, <b>6:76</b>	Government survey method, <b>6:49</b>
Assignment, <b>6:21</b> , <b>6:82</b>	Guaranties or note-purchase agreements, <b>6:65</b>
Attornment, <b>6:6</b> , <b>6:7</b> , <b>6:94</b>	Guaranty of title, <b>6:45</b>
Balloon mortgage notes, <b>6:63</b>	Hazard insurance, 6:15 to 6:18, 6:25 to 6:39, 6:74
Blocks, surveys, <b>6:50</b>	Impounds, 6:72
Boundaries, description of, <b>6:48 to 6:51</b>	Insurance
Business interruption insurance, <b>6:32</b>	generally, <b>6:73 to 6:75</b>
Buy-sell agreements, 6:89 to 6:93, App. 6.7	hazard insurance, <b>6:15 to 6:18, 6:25 to 6:39, 6:7</b> 4
Cancellation of lease, option of tenant, <b>6:10</b>	title insurance, <b>6:42</b>
Certificates and certification	Interim lenders estoppel statements, <b>6:90</b>
tenant's estoppel statements or certifications, <b>6:22</b>	Late charges, <b>6:58</b>
to 6:24	Leases
title, certificate of, <b>6:44</b>	collateral assignment of leases and rents, <b>6:82</b>
Closing	estoppel statements or certifications, <b>6:22 to 6:24</b>
generally, <b>6:96 to 6:99</b>	rent, below
construction loan closing, <b>6:100</b>	review of leases, <b>6:2 to 6:5</b>
surveys, closing loans without, <b>6:53</b>	special provisions covering leasehold estates, <b>6:8</b>
Coinsurance, 6:29	subordination, <b>6:6</b> , <b>6:7</b>
Collateral assignment of leases and rents, <b>6:82</b>	trade fixtures, lender's waiver of rights as to, 6:95
Completion agreement, <b>6:88</b> , <b>App. 6.6</b>	unacceptable lease provisions, <b>6:8 to 6:21</b>
Condemnation of leased premises, <b>6:19</b>	Liability insurance, <b>6:33</b>
Construction projects	Liens and encumbrances, 6:101 to 6:103
closing, proceedings at, <b>6:100</b>	Life insurance, <b>6:73</b>
special construction loan requirements, <b>6:86</b> , <b>6:87</b>	Liquidation of construction loan, <b>6:100</b>
title requirements, <b>6:41</b>	Loss payable endorsement, <b>6:38</b>
Cost or expense	Lots, surveys, <b>6:50</b>
extra expense insurance, <b>6:32</b>	Malicious mischief insurance, <b>6:35</b>
operating expenses, <b>6:12</b>	Metes and bounds, 6:51
Cross-collateralization, <b>6:81</b>	No-compete clauses, <b>6:14</b>
Cross-default provisions, <b>6:60</b> , <b>6:80</b>	Nondisturbance provisions, <b>6:6</b> , <b>6:7</b> , <b>6:94</b>
Deeds of trust, generally, 6:66 to 6:81	Nonrecourse provisions, <b>6:59</b>
Description	Official surveys, <b>6:50</b>
generally, <b>6:68 to 6:71</b>	Operating expenses, <b>6:12</b>
boundaries, <b>6:48 to 6:51</b>	Options
Due-on-sale clauses, <b>6:57</b> , <b>6:79</b>	cancellation or termination of lease, <b>6:10</b> , <b>6:18</b>
Easements, 6:69	first refusal rights or purchase option, <b>6:20</b>
Endorsement, hazard insurance, <b>6:30</b> , <b>6:38</b>	Penalties for prepayment, <b>6:55</b>
Escrow	Personal property
closing, conduct of closing through escrow agent,	description of personal property on encumbered
6:98	premises, <b>6:70</b>
deposits, <b>6:72</b>	insurance, <b>6:34</b>
Estoppel certificate in support of buy-sell agreement,	Prepayment
App. 6.8	promissory mortgage note, <b>6:55</b> , <b>6:56</b>
Exclusive clauses, <b>6:14</b>	rent and security deposits, 6:11
Extra expense insurance, <b>6:32</b>	Private mortgage insurance, <b>6:75</b>
Federal tax liens, 6:102	Professional property manager, duty to hire or pay for
First refusal rights, <b>6:20</b>	6:77
Fixtures, lender's waiver of rights as to, <b>6:95</b>	Promissory mortgage notes, <b>6:54 to 6:65</b> , <b>App. 6.1</b>
Flood insurance, <b>6:37</b>	Proof of insurance coverage, <b>6:39</b>

# UNDERWRITING AND DOCUMENTATION OF MORTGAGE LOAN COMMITMENT—Cont'd Radius clauses. **6:14** Recorded instrument, necessity for, 6:66 collateral assignment of leases and rents, 6:82 loss of rent insurance, 6:32 prepaid rent, 6:11 Repairs, 6:15 to 6:18 Replacement mortgage strategy, 6:103 Restoration of premises, 6:15 to 6:18 Security agreements and financing statements, 6:83 to 6:85 Security deposits, **6:11** Sublease, 6:21 Subordination generally, 6:94 leases, **6:6**, **6:7** Subrogation between landlord and tenant, waiver of, Survey requirements, **6:47 to 6:53** Taxation, 6:12 Title and ownership generally, 6:40, 6:41, 6:43 to 6:46 after-acquired title or interest, 6:71 insurance, 6:42 Title insurance, 6:42 Torrens title, 6:46 Tracts, surveys, 6:50 Trade fixtures, lender's waiver of rights as to, 6:95 Tripartite agreements, 6:89 to 6:93, App. 6.9 Trust deeds, generally, 6:66 to 6:81 United States government, leases to, 6:24 Vandalism insurance, 6:35 Waiver and estoppel interim lenders estoppel statements, 6:90 subrogation between landlord and tenant, 6:17 tenant's estoppel statements or certifications, 6:22 to 6:24 trade fixtures, lender's waiver of rights as to, 6:95 Workers' compensation insurance, 6:36

## UNDEVELOPED LAND

Short-term financing, 4:31

## UNIFIED CREDIT

Income property ownership, unified credit and joint tenancies and tenancies by entirety, 16:19, 16:20 Special rule for pre-1977 joint ownership, **16:21** 

# UNIFORM CAPITALIZATION RULES

Income taxes, interest deduction, 20:138

## UNINCORPORATED ENTITIES

Limited partnerships, 16:59

## UNINCORPORATED ENTITIES—Cont'd

Mortgages, unincorporated associations, **5:13** 

## UNITARY INTERESTS

Value and valuation, voting and nonvoting stock valued as unitary interest for estate tax purposes, 19:74

## UNITED STATES GOVERNMENT

Investments, government agencies, 11:32

**Securitization and Federal Government** (this index)

Underwriting and documentation of mortgage loan commitment, 6:24

## **UNITRUSTS**

**Annuity Trusts (GRATs) and Unitrusts (GRUTs)** (this index)

## URBAN GROWTH PATHS

Investments, prediction, 11:18

# UREA FORMALDEHYDE FOAM INSULATION

Environmental law. 15:103

#### USE AND OCCUPANCY

**Certificates of Occupancy** (this index)

Leases (this index)

Tax-free exchanges of real estate, occupancy of principal residence, 2:160

#### USURY

Investments, sale-leaseback, 13:25

#### VACATION HOMES

Income taxes, 20:272 et seq.

# VALUE AND VALUATION

Generally, 19:1 et seq.

**Appraisal** (this index)

Appraisal concepts, App. 19B

Approaches to, 19:5 et seq.

Blockage discounts, 19:51

Built-in capital gains tax, discount for, 19:58 to 19:62

Burden of proof, 19:38

Buy-sell agreements, 19:68

Capital gains tax, discount for, 19:58 et seq.

Capitalization

generally, 19:17 et seq.

combined or overall capitalization rate, 19:20

direct, 19:17 to 19:20

rate (cap rate), 19:19

yield capitalization, 19:22, 19:23

Cash flow, discounted, 19:23

Closely held corporations, App. 19C

Combined or overall capitalization rate, 19:20

Condemnation, built-in-capital gain discount available even though gain on condemnation is deferrable, 19:61

VALUE AND VALUATION—Cont'd	VALUE AND VALUATION—Cont'd
Consumer Financial Protection Bureau (CFPB)	Fair market value—Cont'd
appraisal and valuation rules under the ECOA, 5:33	discounts in valuation, 19:43 to 19:45
Control premium, <b>19:40 to 19:42</b>	farms land, market comparison approach, 19:15
Cost approach to value, 19:12	for federal tax purposes, <b>19:39 et seq.</b>
Davis decision, 19:59	income taxes, charitable contributions, 20:323 et
Death	seq.
imminent death, IRS position of family limited	lack of marketability, 19:44, 19:45
partnerships, 19:79	private debt, 19:66
limited partnership interests passing at death	securitization and federal government, effect of
valued as assignee interests rather than as	fair value accounting, 8:87
partnership interests, 19:64	swing vote, control premium, 19:41, 19:42
Debt, valuation of, 19:65, 19:66  Deferred built in cepital gain discount available even	Farm land, market comparison approach, <b>19:15</b>
Deferral, built-in-capital gain discount available even though gain on condemnation is deferrable, <b>19:61</b>	Fractional interests
<b>Depreciation</b> (this index)	generally, 19:37 et seq.
Direct capitalization, 19:17 to 19:20	discount, 19:48 to 19:50
Discounts	Gift Taxes (this index)  Gross rout multiplier (GPM) 10-18
blockage discounts, 19:51	Gross rent multiplier (GRM), 19:18
built-in capital gains tax, 19:58 to 19:62	Highest and best use, <b>19:11</b> Imminent death, IRS position of family limited
cash flow, <b>19:23</b> , <b>19:24</b>	partnerships, 19:79
fractional interests, <b>19:43 to 19:45, 19:48 to</b>	Income approach to value, 19:16 to 19:24
19:50	Income property ownership, joint ventures, <b>16:90</b>
installment payments under FLP right to purchase	Income Taxes (this index)
interest, discount for, 19:73	Installment payments under FLP right to purchase
key person, 19:57	interest, discount for, 19:73
lack of marketability, 19:44	Insurance, replacement cost and actual cash value,
market absorption discounts, 19:52	18:99
minority interest or lack of control, 19:46	Insurance proceeds excluded from business value,
restricted securities discount, 19:53, 19:54	19:76
special use valuation, use of discounts in connec-	Interest rates, 19:25
tion with, <b>21:38</b>	<b>Investments</b> (this index)
stock donated to charity, 19:56	Jointly owned property, lack of fractional interest
taxation, below	discounts for, 19:49
Dribble-out method, 19:54	Key person discounts, 19:57
Economic factors that affect	Limited Partnerships (this index)
generally, <b>19:26</b>	Loan sales, performing and nonperforming, 14:97
anticipation, 19:28	Market absorption discounts, 19:52
change, 19:29	Market comparison approach to, 19:13 to 19:15
competition, 19:30	Market value. Fair market value, above
conformity, 19:34	Minority interest, 19:46
contribution, 19:32 excess profit, 19:30	Overall capitalization rate, 19:20
highest and best use, 19:36	Ownership concerns, generally, <b>19:1 et seq.</b> Partnerships
increasing and diminishing returns, 19:31	fractional interest discount allowed on transfer of
substitution, 19:27	land to partnership, 19:50
supply and demand, 19:35	Limited Partnerships (this index)
surplus productivity, 19:33	Private debt, fair market value of, <b>19:66</b>
Eisenberg decision, 19:60	Rejection of discounted cash flow analysis, tax court
Estate Taxes (this index)	19:24
Fair market value	Rejection of swing vote valuation method by court,
generally, 19:2, 19:39 et seq., 19:66	19:42
control premium, <b>19:40 to 19:42</b>	Restricted securities discounts, <b>19:53</b> , <b>19:54</b>
determination of, 19:2	Restrictive covenants, 19:67 et seq.

VALUE AND VALUATION—Cont a	VOLUNIARY CLEANUP LAWS
Revenue Ruling 59-60, valuation of closely held	Environmental law, <b>15:129</b> et seq.
corporations, App. 19C	MORRES AND MORRING
Securities, restricted securities discounts, <b>19:53</b> , <b>19:54</b>	VOTES AND VOTING
Securitization and federal government, effect of fair	Value and Valuation (this index)
value accounting, 8:87	WAGES, SALARIES, AND OTHER
Special use valuation	COMPENSATION
generally, <b>19:37</b>	C corporations, salaries of stockholder-employees,
discounts used in connection with, 21:38	16:109
estate taxes, <b>21:28, 21:29, 21:35</b>	Comprehensive Environmental Response Compensa-
Stock and Stockholders (this index)	tion and Liability Act (CERCLA). <b>Environmental</b>
Swing vote, <b>19:41</b> , <b>19:42</b>	law (this index)
Taxation	Income Taxes (this index)
generally, App. 19A	Office leases, key-wage method of expense escalation
built-in capital gains tax, discount for, 19:58 et	3:16
seq.	Syndication, compensation to general partner, 16:189
discount	Underwriting and documentation of mortgage loan
built-in capital gains tax, discount for, 19:58 et	commitment, workers' compensation insurance,
seq. family limited partnerships, IRS position on,	6:36
19:78 et seq.	WAIVER AND ESTOPPEL
sub S corporations, 19:75	Insurance, 18:88 to 18:91
employee stock ownership plans, 21:107	Office leases, waiver of insurance claims, 3:101
estate taxes, alternative methods of valuing real	Tenant estoppel certificate, <b>App. 14.6</b>
estate, 21:27 to 21:38	Underwriting and Documentation of Mortgage
family limited partnerships, IRS position on,	Loan Commitment (this index)
19:78 et seq.	
Gift Taxes (this index)	WALLS
<b>Income Taxes</b> (this index)	Income taxes, rehabilitation tax credits, <b>20:301</b>
rejection of discounted cash flow analysis, tax	WALL STREET REFORM
court, 19:24	Dodd-Frank Act, 8A:1 et seq.
voting and nonvoting stock valued as unitary	Dodd-1 fank Act, OA.1 ct seq.
interest for estate tax purposes, 19:74	WAREHOUSERS
Unitary interests, voting and nonvoting stock valued as unitary interest for estate tax purposes, <b>19:74</b>	Mortgages, 9:25, 9:26
Votes and voting	MIADD ANDLEC
estate tax purposes, voting and nonvoting stock	WARRANTIES
valued as unitary interest for, 19:74	Generally, 1:32 to 1:36, App. 1.4
swing vote, <b>19:41</b> , <b>19:42</b>	Environmental law, 1:81, 15:111, App. 15.8
Yield capitalization, 19:22, 19:23	Subprime crisis, breach of warranty lawsuit, <b>8:92</b>
	WASTE
VANDALISM INSURANCE	Office lease, forfeiture for, 3:115
Underwriting and documentation of mortgage loan	
commitment, insurance, <b>6:35</b>	WATER RIGHTS
VENDOR AND PURCHASER	Tax-free exchanges of real estate, like-kind properties
Sale or Transfer (this index)	2:36
	WEAK MARKETS
VERIFICATION Martine (division)	Office leases, subleasing strategy, <b>3:42</b>
Mortgages (this index)	Office leases, subleasing strategy, 5.42
VISIBILITY	WEBSITE
Ownership concerns, project visibility, <b>14:14</b>	Deduction for website expenses, 20:178 et seq.
	WEST VIDOLALA
VOLCKER RULE Generally, 8A:6, 8A:7	WEST VIRGINIA Environmental law. 15:48
Cienciany, OA:0, OA:/	i environmentaliaw. <b>15:40</b>

## **WETLANDS**

Environmental law, 15:90

## WHISTLEBLOWERS

Dodd-Frank Act, 8A:2

## WIDOWHOOD

Tax-free exchanges of real estate, 2:167, 2:170

#### WIFF

**Husband and Wife** (this index)

## WITHHOLDING TAX

Foreign parties, disposition of property by, **App. 1.22** Lender's liability, **14:89** 

## WORKERS' COMPENSATION INSURANCE

Underwriting and documentation of mortgage loan commitment, **6:36** 

#### WORKING FARMERS

Investments, 11:28

## WORK OPPORTUNITY TAX CREDIT

Income taxes, 20:309

## WORK ORDERS

Management of property, **18:29**, **App. 18.6**, **App. 18.8** 

## **WORKOUTS**

Tax-free exchanges of real estate, tenancies-in-common interests, 2:109

Title and Ownership (this index)

## WRAPAROUND MORTGAGES

Generally, **4:64 et seq., App. 9.7, App. 9.11** Ground leases, investments, **9:42** 

Partners and partnerships, **9:8, 9:9** 

## WRITE-OFFS

**Income Taxes** (this index)

## **YIELDS**

Capitalization, value and valuation, 19:22, 19:23 Joint ventures and participating debt, 7:36 to 7:39

# ZERO COUPON INVESTMENTS

Buying real estate with, 1:105

## **ZERO TAX**

Income taxes, long-term capital gain and dividends, 20:18

## **ZONING**

Income taxes, deduction for adverse zoning, 20:278 Investments, 11:9, 11:41, 12:23

Sale or transfer, 1:72, App. 1.12, App. 1.13