Index

ABANDONMENT

Breach of trust, laches, presumptions, § 948 Charitable trusts Cy pres, § 440 Police power, § 397 Possibility of reverter, § 419 Church property, perpetuities, § 213 Cy pres, § 440 Discretion of court, § 742 Escheat of beneficiary's interest, § 187 Laches, breach of trust, presumptions, § 948 Police power, § 397 Possibility of reverter, § 419 Presumptions, breach of trust, laches, § 948 Trustee's powers, § 583 Trust property Discretion of court, § 742 Escheat of beneficiary's interest, § 187 Trustee's powers, § 583

ABATEMENT

Annuity trust, inadequate estate, § 813

ABBREVIATIONS

Parol evidence, Statute of Frauds, § 88 Trustees, description of trust in instrument, § 45

AB INITIO

Beneficiary, effect of disclaimer, § 172 Trustee, effect of declination or renunciation, § 150

ABOLITION

Purchase-money resulting trust, statutes, § 467

ABSCONDING TRUSTEE Removal without notice, § 523 **ABSENCE AND ABSENTEES** Administering property of, § 246 Beneficiaries, payments, § 814 Public trusts, § 246 Trustees, removal from office Generally, § 523 Grounds, § 527 ABSTENTION Federal courts, § 870 ABSTRACT OF TITLE Deed to trustee, § 45 ACCELERATION Disclaimer by beneficiary, remainder interests, § 172 Distribution, disclaimer, § 172 Distributions to minors, court order, § 815 Failure of preceding interest, § 172 Remainder interests, disclaimer Generally, § 170 Disclaimer, disposition, § 172 Temporary trust, impossible of accomplishment, § 172 ACCEPTANCE Beneficiary

Beneficiary Generally, § 172 Effect, § 172 Finality, § 170 Necessity, § 169 Onerous trusts, § 169 Presumptions, § 169 Proof, § 170 Investments, § 680 Trustee Generally, § 150 Implied acceptance, § 150

ACCEPTANCE—Cont'd

Trustee—Cont'd Normally not condition to trust creation, § 150 Proof of acceptance, § 150 Trustees, California statute, § 150

ACCEPTANCE CLAUSE Signature, § 82

ACCIDENTS

Charitable trusts, mutual benefit groups, § 367 Tort liability Charitable trusts, § 401 Private trusts, § 731, 735

ACCOMMODATION Resulting trusts, payment, § 455

ACCOMPLICES AND ACCESSORIES Murder, constructive trust, § 478

ACCOMPLISHMENT OF PURPOSE

Termination of trust, § 1002, 1007

ACCOUNTANTS

Expenses, credit on accounts, § 975 Trustee employing self, loyalty rule, § 543(M) Trustees, employing self to do spe-

cialized work for trust, § 543(M)

ACCOUNTS AND ACCOUNTING

Actions Beneficiary's remedy against trustee, § 870 Defenses, below Jurisdiction, § 870 Parties, § 871 Administration without court supervision, § 966 Aid in tracing trust funds, § 923 Alabama, statutory regulation of accounts, § 974 Alaska, statutory regulation of accounts, § 974 Animals, trusts for the care of an animal, § 962

ACCOUNTS AND ACCOUNTING -Cont'd Approval of investments, § 687 Approved account, when can it be opened, § 972 Arbitration, § 966 Arizona, statutory regulation of accounts, § 974 Arkansas, statutory regulation of accounts, § 974 Attorneys' fees, § 871 Beneficiaries' interest, forfeiture clause, public policy, § 181 Beneficiary Failure to object, effect, § 688 Party to accounting proceedings, § 871 Breach of trust, remedies of beneficiaries against trustees Generally, § 861 Collateral estoppel, barring of remedies, § 956 Damages, § 862 Election of remedies, § 867 Jurisdiction, § 870 Third parties, § 868 Tracing trust funds, § 923 Burden of proof, credits to trustee on accounting, § 971 Business trust, proceedings, § 247 California, statutory regulation of accounts, § 974 Charitable trusts Generally, § 391, 396, 411 Actual or prospective beneficiaries, § 414 Attorney General, § 396, 411 Duties of trustee, § 396, 411 formal account in court of equity, § 966 Investments, § 396 Collateral estoppel, breach of trust, barring of remedies, § 956 Colorado, statutory regulation of accounts, § 974 Common law or business trusts, § 247 Compensation of trustee

Denial or reduction, § 980

ACCOUNTS AND ACCOUNTING -Cont'd Condition to trustee's resignation, § 516 Conflict of laws questions, § ch. 16 Connecticut, statutory regulation of accounts, § 974 Consent, defense to beneficiaries' action for accounting, § 969 Constructive trusts, § 472 Control over trustee's duties to furnish information and to account Generally, § 965 accountability of trustee, § 965 limitation on beneficiaries to whom trustee must account. § 965 trust protectors and other nontrustees, § 965 Costs Allocation, § 809, 871 Charging to trustee, § 871 Removal of trustee, § 525 Resignation, trustee's default, § 518 Source of payment, § 809 Court Allocation of expenses, § 802 Formal account in court of equity, below Removal of trustee, § 525 Resignation of trustee, § 516 Upon termination of trust, § 1010 Court decree Constructive trust, § 472 Credits to trustee on accounting Generally, § 971 burden of proof, § 971 costs of accounting, § 971 distributions, § 971 expenditures for which trustee may receive credit, generally, § 971 investment expenses, § 971 legal fees of trustee, § 971 management expenses, § 971 reimbursement, right of, § 971 Custodian, § 15

ACCOUNTS AND ACCOUNTING -Cont'd Damages, breach of trust, remedies of beneficiaries against trustees, § 862 Defenses to beneficiaries' action for accounting Generally, § 969 consent, § 969 estoppel, § 969 laches, § 969 nonjudicial settlement agreement, § 969 ratification, § 969 release. § 969 statutes of limitation, § 969 waiver, § 969 Delaware, statutory regulation of accounts, § 974 District of Columbia, statutory regulation of accounts, § 974 Effect of account, § 972 Election of remedies, breach of trust, remedies of beneficiaries against trustees, § 867 Employee benefit trusts, § 255, 966 Equity suit or other remedy, § 870 Estoppel, defense to beneficiaries' action for accounting, § 969 Executors and administrators, § 12 Exoneration, trustee's right of, § 971 Expenses Generally, § 801 Allocated by court, § 802 Paid from income or principal, § 809 Failure to account formal account in court of equity, **§ 966** Grounds for removal of trustee, § 527 Remedies, § 861 Removal of trustee, § 527, 861 Tracing trust property, § 866, 867, 923 Federal Regulation 9, § 134 Florida, statutory regulation of accounts, § 974

ACCOUNTS AND ACCOUNTING -Cont'd Formal account in court of equity Generally, § 966 administration without court supervision, § 966 arbitration, § 966 charitable trusts, § 966 employee benefit trusts, § 966 failure to account, § 966 judicial accountings mandated by statute or court, § 966 jurisdiction, § 966 nonjudicial settlements, § 966 reports in lieu of accounts. § 966 summary of trust accounting statutes, § 966 who may be compelled to account, § 966 who may compel accounting, § 966 Georgia, statutory regulation of accounts, § 974 Guardian for incompetent, § 13 Hawaii, statutory regulation of accounts, § 974 Idaho, statutory regulation of accounts, § 974 Illinois, statutory regulation of accounts, § 974 Income taxes, allocation of income and deductions, § 269 Indiana, statutory regulation of accounts, § 974 Information, duty to furnish Generally, § 962 affirmative duty, § 962 animals, trusts for the care of, § 962 ascertainable beneficiaries, trusts without, § 962 charitable trusts, § 962 entitlement of beneficiary to receive information. § 962 responding to beneficiaries' requests for information, § 962 waiver of right to receive information about trust, § 962

ACCOUNTS AND ACCOUNTING -Cont'd Inspection, duty to permit, § 962 Iowa, statutory regulation of accounts, § 974 Judgments and decrees Res adjudicata, judicial settlement of accounts, § 956 Judicial accountings Generally, § 967 Accountant-who may be compelled to account, § 967 contents of account, § 968 decree, § 968 effect of account, § 972 indispensable parties, § 967 mandated by statute or court, § 966 necessary parties, § 967 notice. § 967 parties, § 967 Petitioner—who may petition the court for an accounting, § 967 proper parties, § 967 representation, § 967 Jurisdiction breach of trust, remedies of beneficiaries against trustees, § 870 formal account in court of equity, § 966 Kansas, statutory regulation of accounts, § 974 Kentucky, statutory regulation of accounts, § 974 Laches, defense to beneficiaries' action for accounting, § 969 Legal fees of beneficiaries, § 970 of trustee, § 971 Liability of sureties on trustee's bond, § 864 Liability of trustee Compensation denied or reduced, § 980 Costs charged to trustee, § 871 Grounds for removal, § 527 Living trusts, avoiding responsibility, § 231 Louisiana, statutory regulation of accounts, § 974

ACCOUNTS AND ACCOUNTING -Cont'd Maine, statutory regulation of accounts, § 974 Maryland, statutory regulation of accounts, § 974 Massachusetts, statutory regulation of accounts, § 974 Michigan, statutory regulation of accounts, **§ 974** Minnesota, statutory regulation of accounts, § 974 Mississippi, statutory regulation of accounts, § 974 Missouri, statutory regulation of accounts, § 974 Montana, statutory regulation of accounts, § 974 Nebraska, statutory regulation of accounts, § 974 Nevada, statutory regulation of accounts, § 974 New Hampshire, statutory regulation of accounts, § 974 New Jersey, statutory regulation of accounts, § 974 New Mexico, statutory regulation of accounts, § 974 New York, statutory regulation of accounts, § 974 Nonjudicial settlements Generally, § 966 agreement, defense to beneficiaries' action for accounting, § 969 North Carolina, statutory regulation of accounts, § 974 North Dakota, statutory regulation of accounts, § 974 Ohio, statutory regulation of accounts, § 974 Oklahoma, statutory regulation of accounts, § 974 Oregon, statutory regulation of accounts, § 974 Parties Generally, § 967 Accountant-who may be compelled to account, § 967

ACCOUNTS AND ACCOUNTING -Cont'd Parties-Cont'd indispensable parties, § 967 necessary parties, § 967 notice, § 967 parties, § 967 Petitioner-who may petition the court for an accounting, § 967 proper parties, § 967 representation, § 967 Pennsylvania, statutory regulation of accounts, § 974 Principal or income, allocation of accounting expenses, § 809 Profits or rents, purchase-money resulting trusts, § 465 Ratification, defense to beneficiaries' action for accounting, § 969 Release, defense to beneficiaries' action for accounting, § 969 Remedies for trustee's failure Generally, § 527, 861 Damages for breach of trust, § 862 Removal of trustee, failure to account Costs, § 525, 871 Failure to account, § 527 Pleading, § 524 Time, § 870 Reports in lieu of accounts, § 966 Reports to beneficiaries, duty to furnish, § 963 Res adjudicata, judicial settlement of accounts, § 956 Resignation, trustee, § 516 Resulting trusts, purchase-money type, relief granted, § 465 Retention of trust records, § 961 Revocable trust, trustees' duties to furnish information and account, § 964 Rhode Island, statutory regulation of accounts, § 974 Right to demand accounting. generally, § 861, 870 Savings accounts, Totten trusts, § 47 South Carolina, statutory regulation of accounts, § 974

ACCOUNTS AND ACCOUNTING

-Cont'd South Dakota, statutory regulation of accounts, § 974 Statutes of limitation, defense to beneficiaries' action for accounting, § 969 Statutory regulation of accounts, § 974 Summary of trust accounting statutes, § 966 Tennessee, statutory regulation of accounts, § 974 Termination of trust, accounting after, § 1010 Testamentary trusts, court supervision, § 233 Texas, statutory regulation of accounts, § 974 Third parties, breach of trust, remedies of beneficiaries, § 868 Tracing trust funds, § 866, 923 Trustees books and records of trustee Generally, § 961 failure to keep complete and accurate records, consequences of, § 961 retention of trust records, § 961 Charges against trustee on accounting, § 970 credits to trustee on accounting Generally, § 971 burden of proof, § 971 costs of accounting, § 971 distributions, § 971 exoneration, right of, § 971 expenditures for which trustee may receive credit, generally, § 971 investment expenses, § 971 legal fees of trustee, § 971 management expenses, § 971 reimbursement, right of, § 971 duty to keep records, § 961 exoneration, right of, § 971 Expenses, § 809 Information, duty to furnish Generally, § 962

ACCOUNTS AND ACCOUNTING -Cont'd Trustees-Cont'd Information, duty to furnish -Cont'd affirmative duty, § 962 animals, trusts for the care of, § 962 ascertainable beneficiaries, trusts without, § 962 charitable trusts, § 962 entitlement of beneficiary to receive information, § 962 responding to beneficiaries' requests for information, § 962 waiver of right to receive information about trust, § 962 Inspection, duty to permit, § 962 legal fees of trustee, § 971 Removal from office Generally, § 524 grounds, § 527 Reports to beneficiaries, duty to furnish, § 963 Sureties and suretyship, liability, § 864 Uniform Probate Code, generally, § 973 Uniform Trust Code, generally, § 973 Uniform Trustees' Accounting Act, § 973 Uniform Trustees' Accounting Act, generally, § 7, 973 Utah, statutory regulation of accounts, § 974 Vermont, statutory regulation of accounts, § 974 Virginia, statutory regulation of accounts, § 974 Waiver, defense to beneficiaries' action for accounting, § 969 Washington, statutory regulation of accounts, § 974 West Virginia, statutory regulation of accounts, § 974 Wisconsin, statutory regulation of accounts, § 974

ACCOUNTS AND ACCOUNTING -Cont'd Wyoming, statutory regulation of accounts, § 974 ACCOUNT STATED Statute of Frauds, illustrations of writing satisfying, § 89 ACCUMULATIONS Charitable trusts, § 245, 352, 361 Complex trusts Excess distributions, income taxes, § 267.5 Income taxes, § 267 Exclusions, § 267.5 Discretionary trusts, § 228, 264.10 Distributions, income tax, § 266 Estate taxes Additional tax on excess retirement accumulations, § 276.5 Marital deduction, § 275.10 Fiduciary tax returns, § 265 Gifts to minors, gift taxes, § 279 Gift taxes Generally, § 278 Gifts to minors, § 279 Income taxes Taxable to trust, § 268 Throwback rules, revocable trusts, § 233 Perpetuities, § 213 Personal life insurance trusts, § 242 Revocable trusts, throwback rules, income taxes, § 233 Spendthrift trusts Creation for settlor, § 223 Creditors rights, § 227 Statutes Generally, § 216 Construction, § 217 Throwback rules, revocable trusts, income taxes, § 233 Trustees, § 215 **ACCUMULATIONS, INCOME** Generally, § 215 et seq.

American statutes, § 216 Business trusts, income, § 247P **ACCUMULATIONS, INCOME** -Cont'd Charitable trusts Generally, § 361, 391, 438 Excessive period, § 352 Federal income tax rules, § 264.25, 270.5, 352 Income, inadequate trust fund, § 438 Powers of courts, § 352 Statutes, § 352 What amounts to an accumulation, § 352 Common law rule as to, § 215 Conflict of laws, permitted term, § 216 Consent of beneficiary, effect, § 217 Construction Generally, § 217 Incumbrances, discharge of, § 217 Life insurance premiums, § 217, 242 Permissive clause, § 217 Reserve funds, § 217 Stock dividends, § 217 Court's power to permit deviation, § 217, 815 Direction or permission, § 217 Discretionary trusts, § 228, 264.10 Duration of trusts, § 215, 216 English legislation, § 215 Federal income tax Accumulation distribution, § 267, 267.5, 268.5 Beneficiary of multiple trusts, § 267.5 Changes to Code provisions, § 267.5 Complex trusts, § 267, 267.5, 268.5 Computation, § 267.5 Definition, § 267.5 Exceptions to throwback rules, § 267.5 Income, discretionary trusts, § 264.10 Pre-1969 exclusions, § 267.5 Substantial owner trust, § 268.20 Throwback rules, § 267.5

ACCUMULATIONS, INCOME -Cont'd Federal income tax-Cont'd Treatment by beneficiary, § 267.5 Trust property sold within two years, § 267.5 Implied direction, surplus income, § 811 Insurance trusts, § 242 Investment trusts, § 248 Precatory words, determining intent, § 48 Statutes, text and construction, § 216, 217 Statutory restrictions on trust purposes, § 216, 217 Temporary withholding of income, **§ 814** Unborn persons, future beneficiaries, § 163 Violation of rule Effect, § 217 ACKNOWLEDGMENT Acceptance by trustee, evidence, § 150 Creation of trusts, deed of land, § 142 Deeds and conveyances Generally, § 746 Bona fide purchaser, equitable interest, § 85 Pour over wills, § 233 Statute of Frauds, analysis of wordings of American statutes, § 63 Trust instruments, recording, § 149 Trusts to convey or distribute trust property, active or passive, § 209 ACOUIESCENCE

See also Acceptance; Consent; Ratification Accumulations, consent, § 217 Barring remedies of beneficiary Generally, § 942 When deemed ratification, § 942 Beneficiary Agreement that trustee may resign, § 513 ACQUIESCENCE—Cont'd Beneficiary-Cont'd Barring remedy for disloyalty, § 543(U) Breach of trust, § 942 Co-beneficiary, § 191 Unauthorized mortgage, § 768 Co-trustees, power exercised by one, § 554 Delegation of powers, § 555 Disability of beneficiary, effect, § 942 Duty of trustee in obtaining, § 544, 941 Evidence of consent, beneficiary, § 169 Failure to object in court proceeding, § 941 Fairness of trustee's transaction with beneficiary, § 544, 941 Indirect assignments, spendthrift trusts, § 226, 942 Investments Generally, § 688 Co-beneficiaries, § 688 Fraud, § 688 Knowledge, § 688 Knowledge of facts, § 941 Knowledge of legal effect, § 941 Mortgages, unauthorized mortgage, § 768 Nonlegal investments, § 688 Principal and income decisions, § 845, 941, 942 Propriety of allocation of corporate distributions, § 845 Revocation of trust, § 998, 1004, 1006 Termination, beneficiaries, § 1004, 1006 Trusteeship, acceptance of property by trustee, § 150 Validating otherwise disloyal act, § 542(A), 543(C), 543(U) Validating unauthorized mortgage, § 768 Violation of accumulation provisions, § 217

ACTIONS AND PROCEEDINGS See also Accounts and Accounting; Liabilities of Trustees; Remedies Abatement and revival, constructive trusts, § 472 Admissions Alleged trust declarant, § 50 Evidencing creation of trust, § 50 Resulting trusts Purchase-money type, grantee, § 464 Affirmative allegations, Statute of Frauds, § 71 Beneficiary Generally, § 861, 871 Discretionary trusts, § 221, 228 Surety on trustee's bond, § 864 Third party, § 867, 869 Trustee, § 861, 866, 870, 871 Bonds (officers and fiduciaries), § 864 Breach of trust Class actions, § 871 Investments, § 701, 708 Parties defendant, § 871 Parties plaintiff, § 871 Breach of Trust, generally, this index Burden of proof, § 464, 871 Business trusts, § 247, 247M, 247N Charitable trusts Attacking trust, § 417 Parties, § 411 et seq. Class actions Business trusts, § 247M Enforcement of trust, § 871 Common law or business trusts, § 247M, 247N Compromise and settlement Charitable trusts Court's approval of trust, § 399 Court's power to authorize, § 394 Validity, § 394 Co-trustees, powers exercised by one, § 554 Delay in distributions, § 814 Implied powers of trustee, § 551

ACTIONS AND PROCEEDINGS -Cont'd Compromise and settlement—Cont'd Modification of trust, § 992, 994, 1009 By beneficiaries, § 992, 994 Preservation of trust, § 581 State taxation disputes, § 287 Termination of trust, § 1009 Condemnation award, court appointed trustee, § 246 Contracts, § 711, 725 Costs, allocation, § 809, 871 Court appointed trustees, § 246 Damages for breach of trust, § 862 Defense of trust, § 581 Demurrer, Statute of Frauds, § 71 Detinue Parties, breach of trust, § 869 Dismissal and nonsuit, bona fide purchaser rule, duty to inquire, § 894 Enforcement of trust Burden of proof, § 871 Charitable trusts, § 411, 417 Counsel fees and costs, § 871 Parties, virtual representation doctrine, § 871 Parties defendant, § 871 Parties plaintiff, § 871 Representative of deceased trustee, § 871 Set-offs, § 871 Settlor, § 42, 415 Expenses, allocation, § 802 Insurance trusts, trustee collecting policy, indemnity for costs, § 237 At law, jurisdiction, § 870 Nonresidents Bond of trustee, § 864 Parties, generally, this index Partition, court appointed trustee, § 246 Pleadings Affirmative allegations, Statute of Frauds, § 71 Bona fide purchasers, § 881

ACTIONS AND PROCEEDINGS -Cont'd Pleadings-Cont'd Breach of trust, § 870, 871 Removal of trustee, § 524 Statute of Frauds Generally, § 71 Illustrations of writings satisfying, § 89 Tort liability, § 731 Power and duty of trustee to bring Charitable trusts, § 391 Power of trustee to represent beneficiaries, § 870 Probate Proceedings, generally, this index Process Business trusts, service of process, § 247N Service, removal of trustee, § 523 Reformation of trust instrument. § 991 Removal from Office, generally, this index Removal of trustee, § 524 Replevin, § 869 Representative actions, parties, § 871 Resulting trusts Purchase-money type, burden of proof, § 464 Sales, § 746 Service of process, § 870 Statute of Frauds, affirmative allegations, § 71 Supplementary proceedings, creditors' rights, § 193, 227 Survival of remedy, constructive trust, § 472 Termination of trust, purpose accomplished or illegal, § 1002 Third parties Normally trustee sues, § 369 Participation in breach of trust, § 868 When beneficiary may sue, § 869 Wrongs to trust, § 869 Torts, § 731, 735

ACTIONS AND PROCEEDINGS -Cont'd Trustees Disloyalty prevented or cured by action, § 543(U) Trusts to secure creditors, § 250 Virtual representation, parties, § 871 Where trustee cannot be sued No bar to creation of trust. § 128 State as trustee, § 128 Statutes authorizing public acceptance of gifts in trust, § 128 United States as trustee, § 128 **ACTIVE TRUSTS** Generally, § 206 Beneficiary to have possession and use of trust property, § 208 Construction as to activity, § 207 Creditor reaching beneficiary's interest, § 193 Duties of trustee, § 206 et seq. Management duties making trust active, § 207 Married women's trusts, early law, § 207 Necessity of duties, § 206 Rule in Shelley's Case, application, § 187 Termination, § 1010 Terminology and classification, § 1 Trustees with duty to sell, § 207 Trust to convey or distribute trust property, § 209 ACTIVE USES Statute of Uses, application, § 5, 206 ADDITIONAL BOND Trustee, § 151, 861 ADDITION OF PROPERTY Creation of trust. § 46 Testamentary additions to living trusts, § 105 **ADEQUACY OF FUND** Charitable trusts, cy pres doctrine

application, § 438

ADEQUACY OF LEGAL REMEDY

Constructive trusts, § **472** Remedies in equity, § **870**

ADMINISTRATION EXPENSES

Allowance, § 801, 803 Court control, source of payment, § 802 Deviation from trust terms, court order, § 563, 802 Federal estate tax election, deductions, § 273.15 Federal income tax deduction, § 268.25 Mortgages, interest and principal, § 808 Source of payment, principal or income Deviation from trust terms, § 802 Rationale of allocation rules, § 802 Statutory control, § 802

ADMINISTRATION OF ESTATES

Expenses and Expenditures, generally, this index Trustees, action for removal from office. § 524

ADMINISTRATION OF TRUST

See also Accounts and Accounting; Duties of Trustee; Investments; Liabilities of Trustees; Payments of Income; Payments of Principal; Personal Property; Powers of Trustees; Real Estate Charitable trusts Generally, **§ 391, 410**

General necessity of plan, § 371 Multistate trusts, § 8, ch. 16

ADMINISTRATIVE OFFICERS AND EMPLOYEES

Charitable trusts, tort liability, § 401

ADMINISTRATIVE POWERS

Federal estate tax
Amendment not constitute power of appointment, § 273.35
Retained by settlor, § 273.20
Federal income tax
Beneficiary or third party, § 268.20

ADMINISTRATIVE POWERS

--Cont'd Federal income tax-Cont'd Discretionary, use of independent trustee, § 264.10, 264.20, 268.15 Exercisable in fiduciary capacity, § 268.15 Retention by grantor, tax dangers, § 264.10, 268.15 Selection of trustees, § 122, 264.10, 264.20, 268.15 Taxable powers, retention by grantor, § 264.10, 268.15

ADMINISTRATORS

See Executors and Administrators

ADMISSIBILITY OF EVIDENCE

See Evidence

ADMISSION FEES

Museums, charitable trust making charges, § 364

ADMISSIONS

Alleged trust declarant, **§ 50** Constructive trusts, quantum of evidence, **§ 472** Evidence of trust creation, **§ 50** Resulting trusts Purchase-money type, grantee, **§ 464** Wife as grantee, rebutting gift from husband-payor, **§ 459**

ADOPTED CHILDREN

Class gift, inclusion, **§ 182** Construction as to beneficiaries, **§ 182** Qualification as beneficiaries, **§ 182** Class gift, **§ 182** Evidence, **§ 182**

AD VALOREM TAXES

Beneficiary's equitable interest, § 287 Duty to pay, § 602 Liabilities of trustee, § 602 Power of state to levy, § 287 State and local, § 285, 300, 602

ADVANCES Accumulated income, minor beneficiaries, § 815 Adult beneficiaries, § 815 Beneficiaries, trust expenses, § 801 Beneficiaries with vested interests, § 815 Court's power to order Generally, § 815 Adult beneficiaries, § 815 Income, minor beneficiaries, § 815 Principal, minor beneficiaries, § 815 Insurance trusts, advances by trustee, § 238 Lien, beneficiary's interest, § 814 Lien on trust assets, contract creditor, § 715 Minors, beneficiaries, § 815 Principal or income Court's powers, § 815 Duties and rights of trustees, § 814 Spendthrift trusts, § 224 Validation by court decree, § 815

ADVENTURE

See Joint Venture

Charitable trusts

ADVERSE OR PECUNIARY INTERESTS Beneficiary's interest, transfer to trustee, § 188 Breach of trust, damages, § 862

Power of trustees, § 394 Trustees, § 394 Constructive trust, disloyalty, § 543 Corporation as trustee of own stock, § 115, 543(G) Executors and administrators, § 12, ch. 26 Investment trusts, § 248 Loyalty duty, § 543 Notice to trustee binding beneficiary, § 912 Removal of trustees, § 527, 528 Resignation of trustee, § 515 Selection of trustee, § 121 Statutes, § 543 ADVERSE OR PECUNIARY **INTERESTS**—Cont'd Temporary removal of trustee, § 528 Trustee and beneficiary, court proceedings, § 871 Trustees Generally, § 543, 551 Acting for trust and also for third party who deals with trust, § 543(S) Actions against third parties, standing, § 869 Beneficiaries, § 551 beneficiary may sue, § 869 Charitable trusts, § 394 Consent, barring of remedies, § 941 Damages, breach of trust, § 862 Engaging in competing business on own behalf, § 543(O) Grounds for removal, § 527 Leases, § 543(B) Removal, grounds, § 527 Resignation, § 511, 515 sales between trusts with common trustees, § 543(H) Securing incidental benefits for self while engaged in trust business, § 543(Q) Temporary suspension, § 528

ADVERSE POSSESSION

Acquisition of title, § 583 Barring attack on validity of charitable trusts, § 417 Charitable trusts Challenges, § 417 Void gifts, § 417 Creation of trust, § 143 Destruction of trust, § 995 Real estate, qualifying as trust res, § 112 Trusts created by, § 143

ADVERTISEMENTS Sale of property, conditions, § 744, 745

ADVICE

See also Advisor

ADVICE—Cont'd Charitable trustees, power to petition, court, § 391, 394, 396 By court Generally, § 559 Making of investments, § 612, 687,701 Trustee's duty to seek, § 559, 687 Court making of investments, § 612 Remedies, beneficiaries, § 861 Powers of trustee, § 559 Precatory expressions, § 48 Specialists, effect on trustee's duty of care, § 541, 612 Trustee liability in following, § 541, 612

ADVICE OF COUNSEL Trustees, duties, § 541

ADVISOR

Investments, **§ 122, 612, 701** Trustee, investments, **§ 612** To trustee Generally, **§ 122** Delegation, **§ 122, 555** Investments, **§ 122, 612, 701**

ADVISORY SERVICES

Living trusts, avoiding responsibility, § 231

ADVISORY VERDICT Evidence of trust intent, § 49

AFFECTION

Bona fide purchaser, value, § 887
Federal estate tax, transfer in trust for consideration, § 273.45
Resulting trusts
Existence as basis, § 455
Husband as payor and wife as grantee, § 459

AFFIDAVITS

Removal of trustee proceedings, § 524 Trustees, action for removal from office, § 524

AFFILIATES

Corporations, dividends, principal and income, § 845 Duty of loyalty, indirect disloyalty, § 543(A), 543(E), 543(T)

AFFIRMATIVE ACTION Acceptance by trustee, § 150

AFFIRMATIVE ALLEGATIONS Statute of Frauds, § 71

AFFIRMATIVE DEFENSES Charitable trusts, trustees, § 394

AFFIRMATIVE POWERS AND DUTIES

Trustee, need for, trust creation, § 206

AFRICAN AMERICANS

Advancement of education, § 375 Charitable trusts Advancement of education, § 375 Social services, § 379 Social services, § 379

AFTER-ACQUIRED PROPERTY

Creation of trust, **§ 43** Subject-matter of trust, **§ 113**

AFTER-BORN CHILDREN

Accumulations, **§ 163** Barring remedies, **§ 941** Beneficiaries Generally, **§ 163** Qualification, class gifts, **§ 182** Class gifts, time of closing, **§ 182** Parties to trust revocation, statutory provisions, **§ 999** Revocation, statutory provisions, **§ 999** Rule against Perpetuities, **§ 213**

AGE

Attainment as distributive event, **§ 182, 996** Charitable trusts, home or hospital, **§ 374** Children and Minors, this index Marriage, restraints, **§ 211** Old age. Aged Persons, this index

AGE—Cont'd Spendthrift trust interest, status of beneficiary, § 225 AGED PERSONS Beneficiaries, gifts to fiduciary, § 544 Beneficiary's gift, fair play, § 544 Charitable purpose, home or hospital, § 374 Charitable trusts Advancement of education, § 375 Promoting health, § 374 Charitable trusts, home or hospital, § 374 Child bearing ability, Rule against Perpetuities, § 213 Confidential relationship, constructive trust, § 482 Constructive trusts Generally, § 482, 544 Beneficiary of oral trust, § 496 Conveyances in return for promises of support, § 19 Housing, tax exemptions, charitable institution, § 401 Purchase-money resulting trust, gift or trust. § 454 Trustee, fair play in dealing with beneficiary, § 544 AGENT FOR SERVICE OF PROCESS Foreign fiduciary, § 132 Foreign trustees, § 132, 151

Statutes, § 132, 151

AGENTS AND AGENCY Agent's power to create trust for principal Generally, § 44 Beneficiary compelling trustee's agent to account, § 869 Bona fide purchaser rule, reason for rule, § 882 Bondholders' protective committees, § 251 Breach of agency, participation, § 901 Breach of trust Notice, § 912

AGENTS AND AGENCY—Cont'd Breach of trust—Cont'd Ratification, § 942 Third parties, § 901 Breach of trust, notice through agent, § 912 Buyer for principal buying for self, constructive trusts, § 487 Capacity of agent for settlor, § 44 Charitable trustees Employment, § 393 Tort liability, § 401 Charitable trusts Tort liability, § 402 Trustees. § 391 Choses in action, collection for principal, § 22 Collection of claims Debt or trust. § 22 Constructive trusts Agent's purchase for self, § 487 Breach of fiduciary relation, § 481 Choses in action, agency to collect, § 22 Contract or trust, § 15, 17, 22, 24 Corporate directors and officers, § 16 Creditors, claims against proceeds of sales by agents, § 15 Custodian accounts, § 15 Debtors, proceeds of sales as agents, subjection to claims of creditors, § 15 Distinguished from trust Generally, § 15 Liability on contracts, § 712 Duty of loyalty, § 543 Employment of agents, § 555 Exoneration of trustee, acts of agents, § 542 Fraud, presumptions, § 543(A) Good faith, dealing with beneficiaries, § 544 Inquiry, duty to inquire, bona fide purchasers, § 894 Intent of settlor, expression, § 45, 104, 612 Investment advice, § 612, 701 Investments, § 612, 671, 701

AGENTS AND AGENCY—Cont'd Loyalty, beneficiaries, § 543 Notice Bona fide purchaser rule, § 891 Participation in breach of trust, § 912 Principal, breach of trust, obtained through agent, § 912 Pooled agency accounts, national banks, § 677 Power of attorney, § 15, 233 Powers reserved by settlor, § 42, 103, 104 Ratification, breach of trust, § 942 Respondeat superior Charitable trust, tort liability, § 401 Tort liability, private trustee, § 731 Sales Buying at own sale, § 543 Proceeds held in trust, § 22 Trust property, § 744 Service of process. Agent for Service of Process, this index Statute of Frauds, signature or subscription, § 86 Third parties, breach of trust, § 901 Tort liability, § 401, 402, 731 et seq Trust as mere agency, § 42, 45, 103, 104 Trust distinguished, § 42, 45, 103, 104 Trustees Buying for self claims against trust property, § 543(D) Contracts, § 722 Employment of agents, § 555 Liability for acts of agent, § 542 Loyalty to beneficiaries, § 543 Trustee's power to employ, sale of trust property, § 744 Trust res, purchase of interest after resignation, § 543(D) AGNOSTICISM Charitable trusts, aiding, § 376 Charitable trusts, propagation of doctrine, § 376

AGREEMENTS

Contracts, generally, this index

AGRICULTURE Beneficiaries, passive trust, § 208 Estate taxes, deferral of payment, § 276 Farm implements, depletion, § 827 Farm operating expenses, allocation, § 803 Investments in land, margin, § 674 Leases of farm property, term, § 788 Management of business, implied power to mortgage, § 760 Receipts Allocation between principal and income, § 816, 819 Duties of trustee, § 819 Special use valuation, estate taxes, § 274.10 Tracing trust funds, § 921 Valuation of farms, estate taxes, § 274.10

AIDERS AND ABETTORS

Participation in breach of trust, § 901

ALABAMA

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 616**

ALASKA

Accounts and accounting, statutory regulation of accounts, § 974

ALCOHOLICS AND INTOXICATED PERSONS Capacity of settlor to create trust, § 44 Capacity to be beneficiary, § 168 Georgia, statutes, § 212 Removal as trustee, § 527 Spendthrift trust, § 222 Spendthrift trusts, protective estates, § 222 Trustees, grounds for removal, § 527

ALEATORY

Trustee's wrongful transactions, tracing trust funds, § 925

ALIENATION

See also Assignments; Beneficiaries' Interests; Spendthrift Trusts

ALIENATION—Cont'd Accumulations of income, § 215 Beneficiary's interest, § 188 Beneficiary's power of alienation, §188 Blended trusts, § 230 Death of beneficiary intestate, § 189 Involuntary alienation, creditors, § 193 Statute of Frauds, § 190 Discretionary trusts, § 228 Priorities, assignees, § 194, 195 Purpose, Rule against Perpetuities, § 213 Restraints on alienation, § 741 et seq Business trusts, § 247P Common law rule Charitable trusts, § 349 Statutes affecting, § 219 Direct, classified, § 220 Discretionary trusts, § 228 Equitable fees outside trusts, § 220 Equitable life interests outside trusts, § 220 Fee or absolute interest, § 220 Land trusts, § 249 Legal estates for years, § 220 Legal life estate, § 220 Married women's trusts, § 232 Other than spendthrift trusts, § 220 Partial, validity, § 220 Powers of trustee, § 741 et seq Promissory restraints, § 220 Spendthrift trusts, § 222, 226 American statutes, § 222 Created for self, § 223 Destruction, methods, § 226 England, § 221 Support trusts, § 229 Suspension of power Attack by settlor, § 42 Business trusts, § 247P Charitable trusts, § 350 Conflict of laws, § 219 Duration of trust, § 218 Insurance trusts, § 242 Land trusts, § 249

ALIENATION—Cont'd Suspension of power—Cont'd Original New York legislation, § 219 Perpetuities rules distinguished, § 213 Power of appointment, § 219 Recent statutory changes, § 219 Same period for accumulations, § 216 Separability, § 219 Statutes following original New York system, § 219 Statutory limits, § 219

ALIENATION OF PROPERTY

Charitable trusts, possibility of reverter, **§ 419** Deeds and Conveyances, generally, this index Perpetuities, **§ 213** Restraints on Alienation, generally, this index Statutes, **§ 219** Suspension of power Charitable trusts, **§ 349, 350** Duration, **§ 218** Statutes, **§ 219**

ALIEN PROPERTY CUSTODIAN

Enemy aliens, interests under trusts, **§ 168**

ALIENS Beneficiaries, § 168 Disposition of trust interest, § 187 Federal estate and gift taxes, § 10 Federal income tax return, § 10, 265 Charitable trusts, beneficiaries, § 365 Enemy aliens, termination of trust, confiscation, § 995 Estate taxes, marital deduction, § 275.12 Noncitizen spouse, marital deduction, § 275.12 Nonresident, § 10 United States taxation, § 10, 265, 271.5, 277

ALIENS—Cont'd Nonresident aliens, fiduciary tax returns, § 265 Purchase money resulting trusts, illegal intent, § 463 Removal as trustee Grounds, § 527 Notice, § 523 Resident, United States taxation, § 10 Resulting trusts, illegal agreement, § 463 Resulting trusts, purchase-money, § 463 Trustees Eligibility, § 132 Removal from office, jurisdiction, § 523

ALIMONY

Claims, spendthrift trusts, § 224 Federal estate tax, § 270.10, 273.45 Federal gift tax, § 270.10, 278 Federal income tax Deductibility of payments from trust, § 270.10 Includibility in spouse's gross income, § 270.10 Payments Lump sum, § 270.10 Property settlement, § 270.10 Support of minor children, § 270.10 From § 71 trust, § 270.10 From § 682 trust, § 270.10 Prior law, § 270.10 Functions of trusts, § 234 Taxation, § 270.10

ALIMONY TRUSTS

Generally, § 234 Estate taxes, § 270.10 Gift taxes, § 270.10 Income taxes, § 270.10 Irrevocable trusts, § 232 Spendthrift trusts, exceptions, § 224

ALIQUOT PART RULE

Purchase money resulting trusts, payment, § 457

ALLEYS

See Streets and Alleys

ALLOCATION OF EXPENSES

See also Principal and Income Court control, § 563, 802 Federal income tax, § 266, 267, 268.25, 269 Litigation, § 809, 871 Various items considered, § 802, 809 **ALLOCATION OF RECEIPTS**

See also Principal and Income Federal income tax, § 266, 267, 268.25, 269 Insurance settlements, allocation between principal and income, § 816 Various items considered, § 819, 829

ALMSHOUSES

Charitable trusts, § 373 Tax funds, charitable trusts, § 367

ALTAR

Charitable trusts, aid to religion, § 376 **ALTERATION OF TRUST**

See Modification of Trust

ALTERNATE VALUATION DATE Federal estate tax, § 274

ALTERNATE VALUATION ELECTION Federal estate tax, § 274.15

ALTERNATIVE CONTINGENT GIFTS

Charity, estate taxes, marital deduction, § 275.10 Perpetuities, § 213

ALTERNATIVE MINIMUM TAX

Income taxes, trustees return, § 268.25

ALTERNATIVE REMEDIES

See also Remedies Constructive trust and damages, § 471, 473 Election between, § 945, 946

ALTERNATIVE REMEDIES

—Cont'd

Tracing trust funds and equitable lien, § 921

AMATEUR SPORTS ORGANIZATIONS

Charitable gifts, income tax deductions, § 264.25

AMATEUR TRUSTEES Care required, § 541 Duty of care, § 541

AMBIGUITIES

Construction of beneficiaries' interests, § 182 Gifts to charity, § 324, 328, 440 Identification of beneficiary, § 161 Parol evidence, Statute of Frauds, § 88 Testamentary trusts, parol evidence, § 102

AMENDMENT OF TRUST

See also Modification of Trust Bankruptcy, power, § 193 Gift by will to amendable trust, § 105 Gift over following termination, § 103 Written instruments, § 42

AMERICAN BANKERS ASSOCIATION COLLECTION CODE

Commercial paper, collection by banks, § 24, 924 Where collecting bank fails, § 24

AMERICAN INDIANS

Beneficiaries of trusts, **§ 168** Charitable trusts, social services, **§ 379** Public trusts, **§ 246** United States, trustee of Indian lands, **§ 246**

AMORTIZATION

See also Principal and Income Apportionment of receipts, wasting assets, § 827 Bonds bought at a premium, § 828

AMORTIZATION—Cont'd

Cost of improvements to trust property, § 805 Court rules, § 805 Permanent and temporary test, § 805 Statutes, § 805 Depreciation, rents, § 829 Improvements, required by tax assessments, § 805 Purchased life estate, federal income tax, § 268.5 Wasting assets, duties as to, § 827

ANALYSIS

Statute of Frauds, wordings of American statutes, **§ 63**

ANCIENT TRANSACTIONS

Laches, **§ 948, 949** Resulting trusts, purchase-money type, **§ 464**

ANCILLARY PROBATE PROCEEDINGS

Living trusts, avoidance, § 231

ANIMALS

Accounting, trust for the care of an animal, § 962 As beneficiaries of trusts, § 165 Charitable purpose Abandoned or abused, § 379 Anti-vivisection, § 368 Prevent cruelty, § 379 Protection against cruelty, § 379 Charitable trusts, § 379 Charitable trusts, municipal trustee, § 328 Depletion allowance from receipts, § 827 Gifts to maintain, § 165 Honorary trusts, § 166 Offspring, allocation between principal and income, § 819 Receipts, distributions, § 819 Tracing trust funds, § 921

ANNUITIES

Generally, § 234

ANNUITIES—Cont'd Accumulations, construction of trust, § 217 Apportionment Principal and income, § 818 Charitable organizations Beneficiaries, § 363 Estate tax deductions, § 275.5 Income taxes, § 264.7 Clergymen, charitable trusts, § 362 Commercial, trustee purchasing or giving cost amount to beneficiary, § 814 Depreciation, principal and income, § 827 Employee benefit distributions, § 273.25 Employee benefit plans Federal tax consequences, § 255, 270.20, 273.25 Payment of benefits, § 255, 270.20, 273.25 Estate taxes, gross estate, § 273 Expenses of estate, apportionment, § 808 Federal estate tax Marital deduction, § 275.10 When not included in gross estate, § 273, 273.25 When survivor payments included in gross estate, § 273.25 Federal gift tax Charitable deduction, guaranteed annuity interest, § 283 Election of annuity payments, § 278 Federal income tax Qualified annuity plan, § 270.20 Gift taxes, § 277 Income taxes, § 264.7, 273.25 Officers and employees, gift taxes, § 278 Payment out of principal, § 813 Payments, employees benefit trusts, § 255, 270.20 Purchase by employer, employee bankruptcy, trust status, § 46 Purposes of trusts, early law, § 212

ANNUITIES—Cont'd Right of donee to take cost of annuity, § 814, 1008 Trusts to pay, abatement, adequacy of funds, § 813 Trusts to provide, **§ 234, 813** Valuation, estate taxes, § 274 ANNUITY TRUSTS Abatement, settlor's estate inadequate, § 813 Charitable Estate and tax planning, § 245, 264.25 Federal tax laws, § 245, 264.25, 270.5, 275.5, 283 Charitable remainder, § 245, 264.25, 270.5 Device to avoid principal and income allocation problems, § 816 Estate planning uses, § 234, 245 Functions, § 234, 813 Payments, accrual date and duration, § 813 Payments out of principal, § 813 Construction of settlor's interest, § 813 Principal or income, settlor's direction, § 813 Private, estate plan uses, § 234 Setting up trust, § 813 Split interest charitable trust, § 264.25, 270.5, 275.5, 283 Support purpose, adjustments to principal, § 813 ANTAGONISM Trustees, grounds for removal, § 527

When requires removal of trustee, § 527

ANTECEDENT DEBT

Cancellation or taking security as value, bona fide purchaser rule, § 889

Trust to pay creditors, § 250

ANTECEDENT WRITING

Statute of Frauds, satisfying, § 82

ANTENUPTIAL CONTRACTS

Constructive trusts, fraudulent transfers, § 475 Federal estate tax, transfers in trust for consideration, § 273.45 Federal gift tax, release of marital rights, § 278 Fraudulent conveyances, § 211 Gift taxes, § 278 Uniform Premarital Agreement Act, § 211 Validity, § 211 When deemed illegal, § 211

ANTENUPTIAL TRUST

Purposes of trusts, **§ 211, 475** When deemed illegal, **§ 211**

ANTICIPATION OF DEATH

See also contemplation of death, and see Federal Estate Tax; State Estate and Inheritance Taxation Resulting trusts Gift from wife to husband, **§ 460** Husband as payor and wife as grantee, **§ 459**

ANTICIPATION OF INTEREST

See also Assignments; Beneficiaries' Interests; Spendthrift Trusts Beneficiary's interest, spendthrift trust provisions, § 225 Prepayments by trustee, § 814

ANTI-LAPSE PROVISIONS

Descent and distribution, beneficiary predeceasing testator, § 164

ANTI-LAPSE STATUTES

Successors of deceased beneficiary, § 164

APARTMENT BUILDINGS

Cooperative apartments Business trusts, § 247B Depreciation reserve out of rents, § 829 Leases beyond trust term, § 789 Management by trustee, § 250 Tort liability, contracts regarding, § 735

APPEAL AND REVIEW

Abuse of discretion, removal of trustee, § **519** Charitable trusts, decree exercising cy pres power, § **441** Compensation award by court, § **977** Court construction, trustee's powers, § **559** Federal taxes, § **262** Potential conflict of interest, appeal of trust arrangement, § **871** Tax court decisions, § **262** Trustee's duty Attack on trust, § **581** Trust investments, duties of trustee, § **685**

APPOINTMENT, POWER OF

See also Powers of Appointment, this Index Beneficiary, § 264.20, 273.35 Class as beneficiary, selection, § 162 Class of possible appointees, § 182 Conflict of laws. § 299 Creation of trust, when effectively exercised, § 43 Distinction from trust, § 38, 116 Estate and tax planning, § 233, 264.15, 264.20, 273.35, 282 Federal estate tax, § 273.35 Marital deduction, § 275.10 Transfer of property in contemplation of death, § 273.5 Federal gift tax, § 282 Marital deduction, § 280 Federal income tax, beneficiary controls, § 264.20, 268.20 Imperative powers, statutory control, § 116 Incidents, compared with trust, § 38, 116 Insurance trusts, § 264.15 Life tenant, power to invade principal as taxable general power of appointment, § 264.20, 273.35 Modification, tax liabilities, § 993 Power to create further trust, § 43 Reservation, making trust testamentary, § 104

APPOINTMENT, POWER OF -Cont'd Revocable trust, § 233, 264.5 Rule against Perpetuities, applications, § 213 Settlor creating spendthrift trust for self, creditor's rights, § 223, 233 Special, imperative power involving a trust, § 116 State estate and inheritance taxes, § 286, 300 Subject-matter of trust, § 116 Suspension of power of alienation, § 219 Termination, § 999 Testamentary trusts, § 264.20 Trustee-beneficiary, § 121, 273.35 APPOINTMENTS

See also Appointment, Power of; Successor Trustees Beneficiary, § 121, 532 Court Charitable trustees, § 397, 440 Court appointed trustee, § 246 Named trustee incompetent to take or hold title, § 125, 132 Settlor's failure to name trustee, § 123 Disclaimer, charitable trustees, § 328 Power of Appointment, generally, this index Receivers and receivership, removal of trustees, § 861 Settlor, § 121, 122, 532 Successor trustee, § 532, 533 Beneficiary, § 532 Court, § 532, 533 Letters of office from court. § 151, 563 Nonresident individual or corporation, § 132, 295 Settlor, § 532 Successor trustees, § 533, 861 Prior to resignation, § 511 Resignation of predecessor trustee, § 533 Statutes, § 533 Vacancy in office, § 532

APPORTIONMENT

See also Allocation of Expenses; Federal Estate Tax; Principal and Income; State Estate and Inheritance Taxes Corporate distributions Generally, § 841, 859 Dividends, sale or purchase between dividend dates, § 818 Death taxes, § 272.5, 286, 286.5, 807 Expenses, various items considered, § 802, 809 Federal estate tax, § 272.5, 276, 807 Income, successive beneficiaries, § 818 Beginning of trust, § 818 Common law rules, § 818 Between principal and income, § 818 Statutes, § 818 Successive income beneficiaries. § 818 Termination of income trust, § 818 Methods, proceeds from delayed sale of unproductive property, § 824 Periodic income receipts, § 818 Receipts, various items considered Accrued or collected, § 818 Annuity receipts, § 818 Common trust fund receipts, § 818 Corporate distributions, various types, § 841, 859 Dividends, § 818 Insurance contract receipts, § 818 Interest, § 818 Rents, § 818 Settlor and first beneficiary, § 818 Settlor's direction controlling, § 818 Statutory regulation, § 818 Successive beneficiaries, § 818 Termination of trust, § 818 Uniform Principal and Income Act, § 816, 818 Winding up period following trust termination, § 818 Sales proceeds Discount bonds, methods, § 826

APPORTIONMENT—Cont'd

Sales proceeds—Cont'd Unproductive intangible property, § 825

Unproductive tangible property, § 824

Statutes, proceeds from sale of unproductive property, § 824, 825

APPRAISALS AND APPRAISERS

Duty of trustee, **§ 612** Employment of appraiser, **§ 612** Trustee employing self, **§ 543(M)** Sales of trust property, **§ 745** Valuation of Assets, generally, this index

APPRECIATION

Breach of trust, measure of damages, § 543(V), 862 Divorce, transfers of property, income taxes, § 270.10 Marital Property Act, § 7 Shares and shareholders, gift taxes, § 277

APPRENTICES

Charitable trusts, assistance, § 373

APPROVAL

See Consent, this Index

ARBITRATION AND AWARD

Accounts and accounting, § 966 Implied powers of trustee, § 551 Remedies of beneficiary, § 861 State taxation, § 287

ARCHITECTURE

Charitable trusts, motives of settlors, **§ 366**

ARIZONA

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 618**

ARKANSAS

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 619**

Index-22

ARMARKING

Mortgage participation certificates, investments, § 676

ARMED FORCES

Charitable trusts, governmental purposes, § **378** Governmental trusts, § **378** Joining hostile army, removal of trustee, § **527** Suspension, trustee, § **528** Trustees Grounds for removal, § **527** Temporary suspension, § **528** Veterans, generally, this index

ARM'S LENGTH TRANSACTION

Corporate directors, dealings with stockholders, § 16, 481 Co-tenants, § 28 Fiduciary or business relationship, § 481

ARREST

Contract and trust, distinctions, § 17 Trustee, remedy of beneficiary, § 861 Trustee in contempt of court, § 861

ART

Charitable trusts, **§ 375** Education, charitable purpose, **§ 375** Galleries, charitable trusts, **§ 391** Advancement of education, **§ 375** Beneficiaries, **§ 364** Museums, charitable trust purpose, **§ 362**

ASSENT

See Acceptance; Acquiescence; Consent; Notification

ASSESSMENTS

Charitable trusts Exemptions, § 401 Source of funds, § 367 Charitable trusts, source of funds, § 367 Corporate stock Duties of trustee, § 720 Liabilities of trustee, § 720 Exemptions, charitable trusts, § 401

ASSESSMENTS—Cont'd Federal income tax, personal liability of trustee, § 265 Mortgage to pay, statutory provisions, § 763 Payment, § 602 Public improvements, charitable trust property tax exemption, § 400 Source of payment, principal or income, § 805 Stock, trustee's liabilities arising from property ownership, § 720 Tax, improvement expenses, allocation, § 805 Trustees duty to pay, § 602 Trustee's duty to pay, § 602

ASSETS

Compromise and settlement Gift taxes, § 278 Irrevocable trusts, § 264.10 Marital Property, generally, this index Real Estate, generally, this index Swollen Tracing trust funds, § 921 Acceptance of doctrine, § 922 Rejection of doctrine, § 922 Taxes and taxation. Property Taxes, generally, this index Valuation, generally, this index Ward, transfer to trustee of revocable trust created by ward, § 13 Wasting Depreciation reserve, rents, § 829 Natural resources, receipts, § 829 Property other than natural resources, § 827

ASSIGNMENTS

See also Beneficiaries' Interests; Creation of Trust; Creditors; Spendthrift Trusts Annuity trusts, § 234 Bankruptcy, spendthrift trusts, § 221 Beneficial interest Acts establishing prior rights, § 195 Acts showing inferior status, § 195 Assignee of trustee-beneficiary, takes subject to assignor's ASSIGNMENTS—Cont'd Beneficial interest-Cont'd liabilities, § 192 Assignee takes subject to equities, § 192 Controlled by trust instrument, § 188 Methods, § 188 Nature of interest, § 185 Priority, successive assignees. § 194, 195 American rules, § 195 English rule, § 194 In rem rights, § 183 Requirement of writing, § 188, 190 Resulting trust, § 468, 469 Rights of assignee, § 188 Statute of Frauds, § 190 Violation of duties, § 192 Beneficial interests, statutes, § 193, 222 et seq. Beneficiary, § 188 Blended trusts, § 230 Contingent interest, § 188 Discretionary trusts, § 188, 228 Effect of disclaimer, § 171 England, § 221 Equitable interest, § 188 Express trust, § 188 Implied trust, § 188 Settlor's power to prohibit or limit, § 188, 222, 226 Spendthrift trusts, § 226 Statutes restricting, § 188 Support trusts, § 229 To trustee, merger, § 129, 1003 Vested interest, § 188 Writing required, statutes, § 188, 190 Choses in action, § 25 Choses in action, bona fide purchasers, patent equities distinguished from latent, § 886 Consent, barring of remedies, § 941 Consent to breach binding subsequent assignee, § 941 Control by settlor, § 188

ASSIGNMENTS—Cont'd Creation of trust, formalities, § 141, 142 Bonds, § 142 Choses in action, § 142 Corporate stock, § 142 Future wages, § 113 Insurance, § 142, 236 Non-negotiable choses, § 25 Special imperative powers of appointment, § 116 Various types of interests, § 142 Discretionary trusts, § 228 England, § 221 United States, § 228 Distinguished from trust, § 25 Employee, employer's group life insurance policy, § 235, 264.15 Employee benefit plans, vested interests, § 222, 255 England, § 221 Federal gift tax, § 278 Gift taxes Generation skipping transfer taxes, § 284.5 Transfers subject to gift taxes, § 278 Group insurance, federal estate tax, § 264.15, 273.40 Investment responsibility, third parties, § 542 Leases Restraints on alienation, § 220 Taking renewal or buying reversion for self, § 543(I) Married women, § 232 Partial assignments, choses, § 25 Payor's resulting trust interest, § 454 Personal life insurance trusts, creation, § 236 Priority, successive assignees, § 194, 195 Revocable trusts, rights of assignees, § 233 Spendthrift trust Destructibility of trust, § 226 Spendthrift trusts, § 222 et seq. Income due beneficiary, § 226

ASSIGNMENTS—Cont'd Statute of Frauds, § 190 Successive assignments Beneficiary's interest, priorities, § 194, 195 Support trusts, § 229 Surrender of beneficial interest to resulting trustee, § 466 Trustees, loyalty to beneficiaries, § 543 Trustee's interest in resulting trust, extinction of trust, § 466 Trust indenture, § 250 ASSIGNMENTS FOR BENEFIT OF CREDITORS Generally § 250

CREDITORS Generally, § 250 Bona fide purchaser rule Duty to inquire, § 894 Value, § 887 Immunity clause, § 542 Liquidation trusts, § 254 Mortgage or trust deed, distinguished from trust, § 29 Purposes of trusts, early law, § 212 Resulting trusts, extinction, § 466 State statutes, § 250 Trusts to pay creditors, § 250

ASSISTANTS

Delegation of trust powers, § 555 Power to employ, § 555

ASSOCIATIONS AND SOCIETIES

Administering charitable trusts, § 328 Beneficiaries Charitable trusts, § 362, 365, 367, 379 Pending incorporation, § 163 Private trust, § 167 Qualification as, § 161 Business insurance trusts, § 235 et seq. Cemetery associations, charitable trusts, § 377 Charitable Organizations, generally, this index Charitable trusts Purpose and beneficiaries, § 364, 365

ASSOCIATIONS AND SOCIETIES -Cont'd Duration of trust, § 218 Federal income tax Trusts taxable as associations (see Business Trusts, infra) Court decisions, § 270.40 Definition of association, § 270.40 Tax rates Corporate, § 247, 270.40 Trusts, § 247A, 261, 270.40 Tests, trust or association, § 270.40 Future formation as corporations, § 163 Income taxes, § 270.40 Members, beneficiaries of private trust, § 167 Restricted gifts to clubs, charitable purposes, § 379 Trustees Capacity to act as trustee, § 328 Charitable trusts, § 328 Competency to take title, § 125, 328 Private trusts, § 125 Trusts, duration, § 218 Unincorporated associations As beneficiaries, § 167 As trustees, § 125 Valuation, estate taxes, § 274 ASSUMPTION OF RISK

Charitable trusts, tort liability, § 401

ASTRONOMICAL OBSERVATORIES Charitable trusts, § 375

ASYLUMS

Charitable trust purpose, § 373

ATHEISM

Charitable trust purpose, propagation of doctrine, **§ 376** Charitable trusts, **§ 376**

ATHLETICS

Charitable trusts, § 379

ATTACHMENT

Beneficiary's interest Legal remedies, § 193, 227 Successive assignees, priorities, § 195 Bona fide purchasers, equitable interest, § 885 Business trust property, § 247N Consideration, bona fide purchasers, § 887 Creditors of trustee, § 146 Employee benefit funds Alimony, § 224, 255 Support obligations, § 222, 224 Spendthrift trusts, § 227 Spendthrift trusts, beneficiary's interest, § 227 Title to property, bona fide purchasers, § 885 Trust property, creditors of trustee, § 146 ATTESTATION Creation of trusts, transfer of property, § 142 ATTORNEY, POWER OF See Powers of Attorney ATTORNEY GENERAL Charitable corporations and trusts, powers, § 324, 411 Charitable trusts Enforcement, § 411 Protection, supervision and enforcement, § 394, 411 Reports, § 361 Charitable trusts, administration, § 391, 396 Accounting, § 411 Consent, termination of trust by settlor, § 399 Consent to alteration, § 393 Cy pres applications, § 441 Enforcement, § 411 Party defendant in suits, § 411 Removal of trustee, § 522 Reports to, § 395, 411 Visitation power, § 416 Cy pres, § 441

ATTORNEYS' FEES—Cont'd

ATTORNEY GENERAL—Cont'd Necessary party, charitable trust proceedings, § 394, 411 ATTORNEYS Advice of counsel, trustee's duties, § 541 Burden of proof, § 544 Collections held in trust, § 22 Conflict of interest, representing both parties, § 543(S) Constructive trustees, § 481 Contingent fee rights, principal and income, § 827 Delegation of trust powers, § 555 Employment, implied powers of trustee, § 551 Executors and trustees Sale of real estate and collection of proceeds, § 12 Fiduciary relation, § 481 Gifts from client Duty of fair play, burden of proof, § 544 Validity of, § 544 Good faith, dealing with beneficiaries, § 544 Judicial sales, buying property at forced sale, § 543(C) Misappropriation of trust funds, suspension from practice of law, § 22 Outstanding claims of client, buying, constructive trust, § 543 Precatory words, trustees to employ, § 182 Professional corporations, § 255 Sale forced by third parties, purchasing, § 543(C) Trustee employing self, § 543(M) Trustees Buying for self claims against trust property, § 543(D) Employing self to do specialized work for trust, § 543(M) Trust res, purchase of interest after resignation, § 543(D) **ATTORNEYS' FEES** Generally, § 871

Attack on trust, trustee defense, § 581 Breach of trust, § 871 Charitable trusts, cy pres application, procedure and parties, § 441 Common fund, breach of trust, § 871 Cy pres, § 441 Enforcement of trust, § 871 Estate taxes, deductions, § 275.15 Expense of estate, apportionment between principal and income, § 802, 803, 809 Federal estate tax deductions, § 275.15 Federal income tax deductions, § 266, 267, 268.25 Removal of trustee, § 525, 871 Spendthrift trusts, claims for, § 224 Substantial benefit, breach of trust, § 871 Trustees application to court for instructions, § 559 removal from office, § 525 AUCTIONS AND AUCTIONEERS Sales, methods, § 744, 745 AUDITS AND AUDITING See also Accounts and Accounting Charitable trusts, § 321 Cy pres application, procedure and parties, § 441 Use of, cy pres proceeding, § 441 AUSTRALIA Trust statutes, § 9 **AUTOMOBILES** Motor Vehicles, this index AWARD See Arbitration and Award **BAD FAITH** See also Good Faith, this Index Conduct of third party in bad faith, § 909 Participation in breach of trust, § 909 Purchaser from trustee, § 891, 897 Uniform Fiduciaries Act. § 909

Index

BAILMENT

Adequacy of legal remedy, § 11 Construction, bailment or trust intended, § 11 Constructive trust, converted property, § 476 Definitions, § 11 Distinguished from trust, § 11 Public funds, § 21 Special bank deposits, § 21

BANK COLLECTION CODE

See American Bankers Association Collection Code, this Index

BANK DEPOSITS

See also Banks and Banking; Investments; Participation in Breach of Trust: Totten Trusts Agency to collect choses in action, § 22 American Bankers Association Collection Code, § 24 Bank as trustee Generally, § 21 Checking account, § 21 Dividend accounts, § 20 Breach of trust, withdrawing funds, § 911 Choses in action, agency to collect, § 22 Constructive trusts Public and trust funds, § 21 Corporations Bond coupon accounts, § 20 Corporate trustee depositing trust funds with self, § 543(K) Dividend accounts, § 20 Payroll accounts, § 20 Co-trustees, breach of trust, withdrawing funds, § 911 Creation of trusts, transfer of property, § 142 Debt or trust, § 23 Delivery to trustee, § 142 Deposit slip agreements, § 24 Disloyalty, corporate trustee depositing with self, § 543(K) Federal estate tax Gross estate, § 273

BANK DEPOSITS—Cont'd Funds for investment, § 21 General deposits, § 21 Joint accounts Generally, § 47 Co-trustees, withdrawals by one, § 911 Federal gift tax, § 278 Liabilities of bank, participation in breach of trust, § 906, 912 Mixed trust and personal funds, tracing trust funds, § 926, 927 Apportionment of withdrawals, § 928 Public funds, § 21 Purchase of foreign credit, § 21 Savings account trusts, § 47 Creditors rights, § 47, 233 Special deposits, § 21 Subject-matter of trust, § 115 Time deposits, creation of trusts, transfer of property, § 142 Totten trusts, § 47 Tracing trust funds Generally, § 921 Mixed funds, § 926, 927 Trustee's restorations of trust funds, § 929 Trust's commercial paper, § 924 Transfer of possession, § 148 Transfer of property interest to trustee, § 142 Trust funds, § 21 Uniform Commercial Code, § 7, 904 Uniform deposit slip agreements, § 24 Withdrawals, tracing trust funds, § 926 Withdrawing fund, breach of trust, § 911 BANK DEPOSITS AND **COLLECTIONS** See, also, Negotiable Instruments, generally, this index Breach of trust Bank liability Depositing trust property to personal credit of trustees,

§ 906

BANK DEPOSITS AND **COLLECTIONS—Cont'd** Breach of trust-Cont'd Bank liability-Cont'd Honoring checks drawn on trust property To third parties, § 908 To trustees, § 907 Cotrustees, joint accounts, single trustee withdrawals, § 911 Damages, interest, § 863 Joint accounts, cotrustees, single trustee withdrawals, § 911 Trustees, depositing funds in own banking department, § 543(K) Creation of trusts, § 47 Estate taxes, gross estate, § 273 Gift taxes, § 278 Joint accounts, § 233 Generally, § 47 Breach of trust, cotrustees, single trustee withdrawals, § 911 Jurisdiction, § 292 Multiple party accounts, § 47, 233 Payable on death accounts, § 47, 233 Presumptions, § 47 Probate proceedings, avoidance, § 231 Savings banks, probate proceedings, avoidance, § 231 Setoff and counterclaim, § 21 Surviving spouse, elective share, § 233 BANKERS COLLECTION CODE

See American Bankers Association

Collection Code, this Index

BANKRUPTCY

See also Insolvency Assignments by trustee-beneficiary, **§ 192** Beneficial interests, **§ 193, 224, 227, 229** Beneficiary English law, **§ 221** Equitable remedies, **§ 193** Insurance trusts, **§ 244** Interest of beneficiary passing to trustee, **§ 193** BANKRUPTCY—Cont'd Beneficiary-Cont'd Right of trustee to beneficiary's interest, § 227 Bona fide purchasers, purchasemoney resulting trusts, § 466 Breach of trust, fraud, § 947 Business trusts, § 247, 247T Capacity of settlor to create trust, **§ 44** Claims against beneficiary, spendthrift trusts, § 227 Constructive trusts Bankruptcy of trustee, release of debts, § 947 claim for imposition, inclusion in estate, § 146 intersection of bankruptcy law and constructive trusts, § 475.1 Contingency, perpetuities, § 213 Contract and trust, distinction, § 17 Creditors rights, § 227 Election of remedies, claim, § 946 Employee benefit trusts, § 255 Executed oral trusts of land, Statute of Frauds, § 69 Filing claim, election of remedies, § 946 Fraud, trustees, § 947 General powers of appointment, exercise by trustee, § 233 Insurance trust beneficiary, statute, § 244 Interest of beneficiary passing, § 193 Personal life insurance trusts, § 243 Preference Beneficiary's claim for damages, § 862 Co-beneficiaries, § 191 Remedies of beneficiary, § 862 Public trusts, § 246 Resulting trusts Purchase-money type, extinction, **§ 466** Resulting trusts, extinction, § 466 Settlor Power to revoke trust, § 1000 Spendthrift trusts Generally, § 221, 223

BANKRUPTCY—Cont'd Spendthrift trusts-Cont'd Acquisition of interest, § 222 claims, generally, § 227 Creditors rights, § 227 Creditors rights and remedies, § 227 Gifts, § 222 Status of property, § 45 Statute of Frauds Trust executed, § 69 Trust executory, § 70 Writing, power of bankrupt, § 82 Sureties, liability on trustees bond, § 864 Totten trust, joint bank account, § 47 Tracing trust funds, § 921 Transfers in fraud of creditors, § 211 Trust amendment or revocation power, § 193 Trustees Barring of remedies, § 947 Beneficiary not preferred claimant, § 862 Beneficiary's election of remedies, § 946 Beneficiary's equitable lien, § 862 Damages, recovery by beneficiaries, § 862 Fraud, § 947 Grounds for removal, § 527 Powers of appointment, exercise, § 233 Preference among co-beneficiaries, § 191 Remedies of beneficiary, § 947 Removal, § 527 Resulting trust, § 466 Statutes, beneficiary a preferred claimant, § 862 Tracing trust funds, lien, § 921 Trust indenture, § 250

BANKS AND BANKING

See also Bank Deposits; Participation in Breach of Trust; Totten Trusts; Trust Companies; Trustees BANKS AND BANKING—Cont'd American Bankers Association Collection Code, § 24, 924 Bank Deposits and Collections, this index Bona fide purchasers, credit, § 888 Bond of trustee, excused, § 151 Border line debt-trust cases, § 21 Breach of trust Cashing check from trustee to self, § 907 Debtors and creditors, bona fide purchasers, consideration, § 888 Honoring check on trust account in favor of third person, § 908 Permitting trustee to deposit trust paper in personal bank account, § 906 Taking trust property in payment of personal debt, § 904 Third parties, security, personal debts of trustees, § 904 Trustees Depositing funds in own banking department, § 543(K) Indirect disloyalty, § 543(T) Securing incidental benefits for self while engaged in trust business, § 543(Q) Shares and shareholders, voting for self as director or officer, § 543(N) Trustee's personal bank account, notice of trust fund, § 904 Business trusts, § 247D Business trusts, availability, § 247 Checking accounts, § 21 Collective investment funds, § 248, 677 Common trust funds, investments, § 270.25 Community trusts, administration, § 329 Concealment of material facts, constructive trusts, § 473 Corporate trustee, investment duties, § 612 Duty of loyalty, § 543 to 543(V)

BANKS AND BANKING—Cont'd Failed, collection items, debt or trust, § 23, 25 Federal regulations, § 134, 667 Foreign bank, trustee of credits, § 20 Foreign corporations Capacity to act as trustee, § 132 Foreign credit, purchase, § 21 General and special deposits, § 21 Insolvency Tracing trust funds, assets of bank, § 922 Investments Common trust funds, § 677 Mutual trust investment companies, § 677 National banks, § 667 State banks and trust companies. § 612, 616, 666 Trust investment statutes, all states, § 616, 616 to 666, 666 Joint accounts, § 47 National banks Certificates of authority, § 134, 151 Comptroller of the Currency, regulations, § 134 Investments, § 667 Trustees, § 134 Participation in breach of trust Accepting deposit of trust paper in trustee's personal account, § 906 Cashing check from trustee to self, § 907 Honoring checks on trust account in favor of third person, § 908 Notice of trust funds in trustee's personal bank account, § 904 Notice to agent or officer of bank, § 912 Taking trust property in payment of trustee's personal debt, § 904 Pooled agency accounts, national banks, § 677 Safety deposit boxes Rent, allocation to principal or income, § 803 Savings account trusts, § 47

BANKS AND BANKING—Cont'd Setoff and counterclaim, breach of trust, third parties, security, personal debts of trustees, § 904 State regulation, § 134 Third parties, breach of trust, security, personal debts of trustees, § 904 Totten or tentative trusts, § 47 Trustee Cemetery trusts, § 377 National banks, § 134 Savings banks, § 377 Value, credit of dispositor, bona fide purchaser rule, § 888 **BARGAIN AND SALE** Creation of trusts, § 201 Deeds and conveyances, § 201 Incomplete trust, consideration, § 205 **BARRING OF REMEDIES** See also Remedies Generally, § 941 et seq. Bankruptcy of trustee, § 947 Beneficiary, in general, § 941, 956 Breach of trust Collateral estoppel, § 956 Laches, § 948, 949 Res judicata, § 956 Collateral estoppel, breach of trust, § 956 Confirmation, § 942 Consent, § 941 Election of remedies distinguished, § 945 Estoppel by misrepresentation, § 944 Exercise of trustee's power, beneficiary's consent, approval or ratification, § 564 Laches, breach of trust, § 948, 949 Limitation of Actions, generally, this index Ratification, § 942 Res judicata, breach of trust, § 956 Resulting trusts, limitation of actions, § 952 Trustee against third party, Statute of Limitations, § 954

BASIS, GAIN OR LOSS Federal tax purposes, § 264.5, 264.10, 268.25 **BENEFICIALLY INTERESTED** Persons, meaning of statutes regarding revocation, § 999 **BENEFICIARIES** See also Beneficiaries' Interests; Beneficiary; Remedies Generally, § 161, 195, 861, 871 Absent or unknown beneficiaries, distributions, § 814 Acceptance Generally, § 172 Finality, § 170 Necessity, § 169 Onerous trusts, § 169 Presumptions, § 169 Proof, § 170 Withdrawal, § 170 Acceptance of benefits Generally, § 169 Effect, § 172 Evidence of acceptance of trust, §170 Accounting Remedy against trustee, § 861, 870 Accounts and Accounting, generally, this index Accumulation rules, consent to violation, § 217 Actions Accounts and accounting, remedy against trustee, § 870 Burden of proof, § 871 Class suits, § 871 Against co-beneficiaries, § 191 Counsel fees and costs, § 871 Parties, § 871 Set-offs, trustee, § 871 Third party participants in breach, Statute of Limitations, § 955 Against third persons, § 868, 869 Statute of Limitations, § 954 Against trustee, § 861, 862, 870, 871 Virtual representation, § 871

BENEFICIARIES—Cont'd Acts affecting co-beneficiaries, § 689 Adopted child Generally, § 182 Statutes, § 182 Advances to Adult beneficiaries, § 563, 815 Court's power to alter payment provisions, § 815 Minor beneficiaries, § 563, 815 Trust expenses, to trustee, § 801 Aged persons, gifts from, fair play rule, § 544 Agreement with trustee for resignation, § 513 Alienation of interest, restrictions Generally, § 188, 219, 222, 226 Co-beneficiaries, § 219 Suspension of power, § 219 Aliens Generally, § 168, 182, 187 Federal income tax return, § 10, 265 Animals as Generally, § 165 Honorary trusts, § 165 Upkeep of stables or kennels, § 165 Annuity trusts, right to demand entire principal, § 813 Anti-lapse statutes, successors of deceased beneficiary, § 164 Apportionment Receipts, § 816, 829 Trust expenses, § 802, 810 Associations and societies, § 161 **Barring** remedies Generally, § 941, 956 Bankruptcy of trustee, § 947 Bona fide purchaser rule, § 881, 897 Consent, § 941 Date of repudiation of express trust, § 951 Laches, § 948, 949 Participants in breach of trust, Statute of Limitations, § 955 Ratification, § 942

BENEFICIARIES—Cont'd Barring remedies-Cont'd Res adjudicata, § 956 Statute of Limitations, § 950, 951 Statutes regarding probate claims, § 950 Blended trusts, § 182, 230 Bodily issue of children, bequest to, adopted adults included, § 182 Burden of proof, § 871 **Business trusts** Generally, § 247E to 247H, 247(O) Control of trust operation, § 247H, 247L Preferred shareholders, § 247I Shareholders as, § 247 to 247B Transfers of interests, terms of instrument, § 247(O) Business trusts, liability, § 247 Capacity, special cases, § 168 Change, reservation of power, gift taxes, § 278 Charitable trusts Creation, § 323 Representative suits, § 414 Charitable Trusts, this index Child en ventre sa mere, § 163 Children Generally, § 182 Advances, § 815 Payments, § 814 Choice of remedies Constructive trusts, § 472 Election, distinguished, § 472 Citizen of communist country, § 168 Civilly dead person, § 164 Class Generally, § 1, 162, 182, 209 Application of standard, § 162 Definiteness, § 162 Exclusion of members, § 162 Extent of interest, § 182 Federal income tax, § 268.10 Identification, § 162, 182 Power in trustee, § 162 Power of selection among members, § 162

BENEFICIARIES—Cont'd Class—Cont'd Power to exclude, § 162 Rule against Perpetuities, applications, § 213 Size of interests, § 162, 182 Time of closing, § 182 Unlimited discretion Absolute gift, § 162 Treated as power, § 162 Trustee, vagueness, § 162 Class as beneficiary, § 162 Clause excluding named person, **§ 162 Co-beneficiaries** Actions, parties, § 871 Acts affecting, investments, § 688 Breach of trust Ratification, § 942 Release, § 943 Consent by one to breach of trust, rights of others, § 941 Conveyances to, § 188 Deeds and conveyances to, § 188 Duties, § 191 Indemnity and indemnification. breach of trust, consent, § 941 Liabilities, § 191 Majority giving consent, effect, § 941 Ratification, breach of trust, § 942 Release, breach of trust, § 943 Rights against, § 191 Set-off against income due, § 814 Common law or business trusts, § 247A Complex trusts, income taxes, § 267 Consent Generally, § 191, 941 Breach of trust, § 191, 688, 941 Delegation of powers, § 555 Effective date, § 172 Nonlegal investment, § 689 Settlor's modification of trust, § 992 Violation of accumulation rules, § 217

BENEFICIARIES—Cont'd Construction under statutes as to power of revocation, § 999 Constructive trusts Generally, § 471, 497 Characteristics, § 471, 472 Constructive trusts, remedies, § 861 Contingent interest Generally, § 181, 182 Assignment, § 188 Divide and pay over rule, § 182 Controls Compensation of trustee, § 976 Disclaimer, § 170, 171 Termination of trust, § 1005 et seq. Trust property, § 148, 583 Conveyances and assignments by, § 188 Corporations Generally, § 161 To be formed, § 163 Dissolved, § 164 Creditors of See also Spendthrift Trusts Equitable remedies, § 193 Insurance trusts, § 244 Spendthrift clauses, § 244 Interest of beneficiary liable for beneficiary's debts, § 193 Legal remedies, § 193 Passive trusts, legal execution, § 193 Purchase-money resulting trust, settlor's interest, § 193 Resulting trust, no legal execution, § 193 Settlor creates trust for self, § 223 Spendthrift trust, § 193, 222 Statutes exempting beneficiary's interest, § 193 Trust for settlor for life with power of appointment, § 223 Creditors of trust estate, § 721 Curtesy in widower, death of beneficiary, § 186 Damages, remedies against trustees, § 861

BENEFICIARIES—Cont'd Death Generally, § 164, 182 Curtesy in beneficiary's interest, § 186 Dower in beneficiary's interest, § 186 Escheat of beneficiary's interest, § 187 Before instrument becomes effective. § 164 Intestacy as to beneficiary's interest, § 189 Markers and monuments, § 164 Masses, § 164 Successors, anti-lapse statutes, **§ 164** Surviving spouse's homestead right, § 187 Transfer of beneficiary's interest by will, § 188 Transfer of interest, death of beneficiary intestate, § 189 Default takers, power of appointment, § 182 Deferred compensation arrangements, § 264.5 Descent, anti-lapse statutes, § 164 Designation Employee benefit plan death benefit, § 255, 264.5, 264.15, 270.20, 273.25 Insurance proceeds, § 236, 239, 264.15 Direction to employ a named person, § 182 Disclaimer Generally, § 170, 172 Acceleration of interest, § 172 Remainder interest, § 172 Remainder trust, failure of preceding limitations, § 161, 172 Effect, § 172 Federal, qualified disclaimer, § 278.5 Finality, § 170 Incompetent beneficiary, § 170 Joint property, § 171

BENEFICIARIES—Cont'd Disclaimer—Cont'd Life insurance proceeds, § 171 Minors, § 170 Disclaimer upon majority, § 170 Power to disclaim, § 170 Proof, § 170 Statutes, § 171 Tax purposes, § 171, 268.5, 278 Withdrawal, § 170 Written instruments, federal tax purposes, § 171 Discretionary trusts Generally, § 182, 228 Federal income tax, § 264.10, 267, 268.5 Discretion of trustees, class gifts, § 162, 182, 811 Dissolved corporations, § 164 Distributions, absent or unknown beneficiaries, § 814 Distributions, income taxes, § 268.5 Double interest of trustee, § 129 Dower, death of beneficiary, § 186 Duties Generally, § 191 Co-beneficiaries, § 191 Consent to breach of trust, rights of others, § 689, 941 Improper payments and distributions, return to trustee, § 814 Education Generally, § 182, 811 Nature of interest, § 182, 811 Election Distributions, property or proceeds of sale, § 814 Form of principal payments, § 814, 1010 Purchased annuity or purchase price, § 813, 1008 Election of remedies Generally, § 945, 946 Choice of remedies, § 861 Tracing or money claim, § 867 Employee benefit trust, § 255, 270.20 Enemy aliens, § 168 Enforcement, § 201

BENEFICIARIES—Cont'd Equal shares presumed, class gift, § 182 Equitable charge, rights and remedies, § 31 Equitable lien Generally, § 865 Product of breach, election, § 865 Equities arising from assignments, § 192 Estate and tax planning Tax and nontax considerations, § 231, 233, 244, 264.20 Estoppel Disclaimer, § 170 Estoppel by misrepresentation, barring remedies, § 944 Exclusion of named person, § 161 Failure to name, conveyance to one as trustee, § 45 Family, § 182 Federal estate tax Liability for tax, § 272.5 Power of appointment, § 264.20, 273.35 Federal gift tax Power of appointment, § 233, 264.20, 282 Power to withdraw principal, § 264.20, 282 Federal income tax Generally, family trusts, § 268.5 Capital gains, § 268.5, 268.25, 269 Carryover basis, prior law, § 271.10 Complex trusts, § 267, 268.5 Discretionary trusts, § 264.10, 267, 268.5 Grantor's powers, § 268.15 Liability as substantial owner, § 268.20 Liability as transferee, § 268.5 Returns, alien beneficiaries, § 10, 265 Simple trusts, § 266, 268.5 Special types of trusts, § 270, 270.40 Trust accumulation distributions. § 267.5

BENEFICIARIES—Cont'd Foreign government, § 168 Foreign trusts, nonresidents, aliens, § 10 Fraudulent conveyances, enforcement, § 211 Governments, § 168 Grandchildren, § 182 Heirs Generally, § 182 Date for determining, § 182 Definition, § 182 Gift excludes, Rule in Shelley's Case, § 182 Gift includes, words of purchase, § 182 Husband or wife as heir, § 182 Spouse, § 182 Honorary trusts Inanimate objects, § 165 Perpetuities and duration, § 166 Identifiable, necessity, § 161 Identification Ambiguity, § 161 Application of description by trustee, § 161 Class as beneficiary, § 162 Clause, excluding named person, § 161 Descendant, § 182 Examples of adequate description, § 161 Family, § 182 Indefiniteness, § 161 Issue, § 182 Name and address, § 161 Next of kin, § 182 Oral evidence, § 161 Power of appointment, exercise, § 161 Relatives, § 182 Several writings, § 161 Illegitimate child, § 182 Illusory trusts, settlor as owner, § 161 Implied disclaimer, § 170 Implied gifts, § 182 Implied trust, assignment of interest, § 188

BENEFICIARIES—Cont'd Incidental beneficiary, § 161, 182 Income Interest given, **§ 181, 182** When right to begins, § 811, 817 Income beneficiaries, extent of interest, § 182 Income taxes Generally, § 266, 268 et seq. Federal regulations, § 262 Incompetents Disclaimer, § 170 Payment or application, § 811, 815 Indefeasible interest, § 181 Indefiniteness Charitable trust, § 362 Creation of trust, § 48 Identification, § 161 Resulting trust, § 162 Indemnification of trustee for tort liability, § 734 Indemnifying trustee, contract liability, § 718 Indians, **§ 168** Information, remedies against trustees, § 861 Inheritance, interest, § 189 Insurance trusts Generally, § 244 Description of interests, § 237 Spendthrift clauses, § 245 Interest on damages recovered, § 863 Intestacy, beneficiary's interest, § 189 Investment trusts, transfer of shares, § 248 Issue, § 182 Jurisdiction, § 292 Lack of, conveyance to one as trustee, § 45 Land trusts, § 249 Large benefits retained by settlor, trust illusory, § 161 Liabilities Reimbursement of trustee, § 718 Trustee indemnification, § 718, 734 Trustee's contract, § 712, 721

BENEFICIARIES—Cont'd Liability for taxes Federal estate tax, § 272.5 Federal income tax, § 265.5 Normal rules, § 266, 268.5 Substantial owner rules, § 268.10 Transferee, § 268.5 Life insurance proceeds Generally, § 237, 244, 264.15 Exemption, payment of beneficiary debts, statutes, § 244 Limitation of actions, third parties, collusion with trustee, § 955 Liquidation trusts, § 254 Marital community as, § 161 Massachusetts or business trust. § 247 to 247B Masses to be said for soul of testator, § 164 Member of class of possible appointees, § 182 Memorandum describing, Statute of Frauds, § 87 Mental Disabilities, this index Mentally incompetent person, trust interest, § 187 Minors Advances, § 815 Disclaimer, § 170 Payment or application, § 811, 815 Mortgages, notice, § 764 Nature of interest, § 183, 187 Necessary parties, § 871 Necessity of Generally, § 161 Illusory trust, § 161 Trust element, § 1, 45 Necessity of acceptance, § 169 Next of kin, § 182 Nominate successor trustees, § 532 Nonlegal investments Co-beneficiaries, § 689 Consent, § 689 Notice Generally, § 169 creation of trust, § 202 Necessity, creation of trust, § 169

BENEFICIARIES—Cont'd Notice-Cont'd Probative effect, § 169 Totten trusts, § 47 Onerous trust, acceptance, § 169 Opening up class, § 182 Oral evidence, identification, § 161 Parol evidence, Statute of Frauds, § 88 Partnership, § 161 Passive trusts, passing of interest, § 206 Payments due residents of communist countries, § 814 Payor, purchase money resulting trust, § 454 et seq Personal life insurance trusts Creditors, § 244 Terms, § 237 Person civilly dead, § 164 Persons non sui juris, § 168 Possession, trust property Generally, § 181, 583 When trust active, § 208 Power of appointment Generally, § 264.20 Default takers, § 182 Federal estate tax, § 273.35 Federal gift tax, § 282 Federal income tax, § 264.20, 268.20 Identification upon exercise, § 161 Powers and duties, § 191 Powers of Co-beneficiaries, § 689 Disclaimer, § 170 Majority action, § 941 Nominate successor trustee, § 532 Veto, § 941 Presumptions Acceptance, § 169 Equal shares, § 182 Principal, interest given, § 181, 182 Priorities and preferences, § 541 Priority, successive assignments by beneficiary, § 194, 195 Private corporations as, § 168

BENEFICIARIES—Cont'd Privity, collateral estoppel, breach of trust, barring of remedies, § 956 Proceeds of sale, § 814 Profit from trustee's breach of trust. § 191 Proof Acceptance, § 171 Disclaimer, § 170 Property to be bought, right to take purchase price, § 814 Purchase-money resulting trust, settlor's interest, § 193 Qualifications, § 168, 182 Real estate investment trusts, income taxes, § 270.35 Recording acts, protection, § 149 Reimbursement Contract trustee, § 718 Principal, costs of improvements. § 805 Torts, § 734 Relatives, § 182 Remainder beneficiaries, extent of interest, § 182 Remainder Beneficiaries, generally, this index Remedies Generally, § 861, 871 Breach of trust, § 870, 871 Change in trustee personnel, § 861 Election, § 861, 945, 946 Remedies, this index Representation where termination of trust sought, § 1007 Residents of communist countries, § 814 Resulting trusts Express trust res proves excessive, § 469 Failure of express trust, § 468 Rights Generally, § 861 Accounting, § 861 Annuity to be purchased, right to take cost, § 814, 1008 Against co-beneficiary, § 191 Damages, breach of trust, § 862

BENEFICIARIES—Cont'd Rights-Cont'd Payments of trust principal, § 182, 812 In personam, § 183, 185 Reimbursement of principal, cost of improvements, § 805 In rem, § 183, 184, 186, 187 Settlor's directions, § 182, 185 Statutory declarations, § 184 Termination of trust, § 1004, 1008 Rule in Shelley's Case, gift excludes heirs, § 182 Selection Generally, § 161 et seq Members of a class, § 162 Settlor as, § 168 Settlor gives veto power, § 122, 941 Settlors Life with power of appointment, § 223, 233 Retained benefits, fraud or illusory trust, § 104, 211, 233 Settlor's directions, § 182, 185 Shareholders, business trusts, § 247A Size of class interest, § 162 Solvency, condition precedent to beneficial interest, § 222 Special advantage to one, § 191 Spendthrift trust provisions, effect, § 221, 227 Spouse's statutory estate in beneficiary's interest, § 186 Standing, third parties, collusion with trustee, § 955 Statute of Frauds Assignment of interests, § 190 Creation of trust, § 61, 71 Statutes, disclaimer, § 171 Statutory restrictions as to, § 168 Successive assignments of interest, § 194, 195 Successive beneficiaries Allocation of receipts, § 816, 829, 841,859 Apportionment of expenses, § 810 Successors of deceased beneficiary, anti-lapse statutes, § 164 Support trust, § 182, 229

BENEFICIARIES—Cont'd Surrender Disclaimer distinguished, § 170 Termination of trust, § 1006 Surrender as disclaimer, § 170 Taxation Generally, § 261 et seq. Federal income tax, § 266, 267.5, 268.5 Jurisdiction questions, § 287 State estate and inheritance taxes, § 286 State income taxes, § 285, 287 State property taxes, § 285, 287 trust interest, generally, § 187 Tenants in common normally, § 181 Termination of trust Generally, § 1004, 1008 Election to take property instead of proceeds, § 1008 Merger, § 1003 Prospective appointees as necessary parties, § 999 Prospective heirs as necessary parties, § 999 Prospective next of kin as necessary parties, § 999 Purposes not fully accomplished, § 1008 Representation where termination sought, § 1007 Settlor joins, § 1005 Transfer of interests to trustee, § 1003 Trustee joins, § 1006 Third party beneficiaries Contract and trust, distinctions, §17 Contracts, promises to create trust, § 203 Third party participation in breach of trust, beneficiary's rights, § 865, 869,901 Time Ascertainment, § 161 Closing class, § 182 Tort liabilities Direct liability, § 733 Indemnification. § 734

BENEFICIARIES—Cont'd Totten trusts, notice, § 47 Transfer of interest by will, § 188 Trustee-beneficiary, § 168, 191, 192 Trustees Duty of loyalty to, § 543 Trustee's bond, waiver, § 151 Trustee's discretion, interests of class members, **§ 162** Trust property, transfer of possession, § 148 Unborn persons Generally, § 163 Representation by others of same class, § 1007 Unincorporated associations Generally, § 161 Charitable trusts, § 362 Class beneficiaries, § 167 Private trusts, § 167 Unknown beneficiaries payments, § 814 Use of property, § 208 Vested interest, assignment, § 188 Virtual representation, § 871 When liable for torts, § 733 Widow, § 182 Wills, transfer of interest, § 188, 189 Writing required for assignment, § 188, 190 **BENEFICIARIES' INTERESTS** See also Assignments; Beneficiaries; Remedies; Spendthrift Trusts Generally, § 181 et seq. Abandoned or unclaimed property, § 187 Absolute or indefeasible, § 181 Adopted children, class gifts, § 182 Adults Advances, § 815 Payments and distributions, § 182, 811, 815, 1010 Assignment Generally, § 184, 190, 193 Absolute title to trust res, § 188 Beneficiary's consent to breach binds subsequent assignee, § 941

BENEFICIARIES' INTERESTS -Cont'd Assignment-Cont'd Blended trust, § 188, 230 Business trusts, § 247(O) To co-beneficiary, § 188 Contingent interests, § 188 Control or limitation by trust terms, § 188, 220, 222 Devise by will, § 188 Direct restraints on alienation, § 220, 227 Discretionary trust, § 188, 228 Equitable interest, § 188 Equities against assignor, § 192 Fraudulent transfer, § 188 Gift, § 188 Implied trusts, § 188 Involuntary transfers, § 186, 187, 189, 193 Joinder with trustee to convey whole title, § 188 Lease, § 184 Methods, § 188 Mortgages, § 184, 188 Normally assignable, § 188 Personal right not assignable, § 188 Power of beneficiary, § 188 Priority, successive assignees American authorities, § 195 English rule, § 194 Requirement of writing Generally, § 188, 190, 1006 Statutes, § 188, 190 Restraints on alienation, statutes, § 188 Rights of assignee, § 185, 188, 192 Rights of creditors, § 192, 193, 225, 227 Sale, § 184, 188 Settlor's control over, § 188, 221, 227 Spendthrift trusts, § 188, 222, 227 Statute of Frauds, § 190 Statutes restricting, § 188 Statutory limitation on suspension of powers of alienation, § 219

BENEFICIARIES' INTERESTS -Cont'd Assignment—Cont'd Subject to equities, § 192 Successive assignments, § 194, 195 Support trusts, § 188, 229 Trustee-beneficiary, § 192 Trustee in bankruptcy, § 193 Trustee's consent, § 188 Vested interests, § 188 Voluntary transfers, § 185, 188 Attachment, § 193 Blended trusts, § 230 Business trusts, transferability, terms of instrument, § 247(O) Capital gains on sales, § 822, 823 Class gifts Generally, § 181, 182 Closing of group, § 182 Discretion as to interests of members, § 162 Family trusts, § 182 Interest of member, § 182 Meaning, § 182 Opening up of class, § 182 Possible appointees as class, § 182 Preference or diminution, § 181, 182 Size of interests, § 162 Takers in default of appointment as class, § 182 Time of closing class, § 182 When made, § 182 Who may share, § 182 Co-beneficiaries, duties, § 191 Conditions precedent Generally, § 182 Solvency, § 222 Conditions subsequent, § 181 Consideration paid for, § 181 Construction and effect, § 182 Constructive trusts, character, § 472 Contests of trust, forfeiture, § 181 Contingent interests, § 181, 182 Creditors remedies, § 193 Creditors' remedies Generally, § 193, 227

BENEFICIARIES' INTERESTS -Cont'd Creditors' remedies-Cont'd Death, intestate disposition, § 189 Definitions, § 182 Descent Generally, § 189 Anti-lapse statutes, § 164 Description of interest, § 182 Determinable, § 181, 182 Direct interest in trust necessary, § 182 Discretionary trust, § 182, 228 Distributions, set off for debt to settlor, § 814 Education net trust, § 182, 811 Eminent domain, § 187 Employee benefit trusts, § 222, 255 Equal shares, presumption, § 182 Equitable, § 181, 184 Escheat, § 187 Extent of interest Generally, § 182 Annuity, § 234, 813 Class gift, § 182 Equal shares presumed, § 182 Implied gifts, § 182 Income beneficiary, § 182 No formal words necessary to define, § 182 Remainder beneficiary, § 182 When entitled to income, § 182, 811 When entitled to principal, § 182, 812 Failure to describe, resulting trust, § 468 Forfeiture, § 181 Fraud, assignments in fraud of creditors, § 188 Frauds, Statute of, assignment, § 190 Future interests, § 181, 182 Gift Generally, § 188 To heirs, § 182 Homestead, § 187 Illegitimate children, § 182 Impartiality, trust investments, § 612

BENEFICIARIES' INTERESTS -Cont'd Incidental interest, § 182 Incidents of interests, § 181, 195 Income beneficiary, § 182 Indefeasible, § 181 Intent, settlor, § 182 Interests in principal, spendthrift trusts, § 222 Intestate succession, § 189 Joint tenants, § 181 Minors and incompetents Generally, § 187 Advances, § 815 Payments and distributions, § 182, 811, 815, 1010 Miscellaneous incidents, § 187 Mortgages Generally, § 183, 185, 188 Execution without concurrence of trustee, § 768 Nature of interest Always equitable, § 181, 182 Annuity, § 234, 813 Blended trust, § 182, 230 Contingent, divide and pay over rule, § 182 Direction of settlor, § 185 Discretionary trust, § 182, 228 English law, § 221 Income beneficiaries, § 181, 182 Income or principal, § 181, 182, 811, 812 Indefeasible interest, § 181, 182 Inheritance, § 189 In personam, § 183, 185 In rem, § 183, 184, 186, 187 Settlor may prevent subjection to beneficiary's debts, § 193 Settlor's direction, trust of real estate, § 185, 249 Spendthrift trust, § 222 Statutes, § 184 Support trust, § 182, 229, 811 Trust for education, § 182, 811 Vested or contingent, § 181, 182 Next of kin, gifts, § 182

BENEFICIARIES' INTERESTS -Cont'd No formal words needed to define, § 182 Notice, successive assignees, § 194 Payments, § 182, 811, 815 Per capita gifts, § 182 In personam rights Generally, § 183 Enforcement of trust, statutes, § 184 Per stirpes gifts, § 182 Possessory interest, § 181 Preferences among, § 181, 298 Present interest, § 181, 182 Presumption, equal shares, § 182 Principal Generally, § 182, 812 Spendthrift trusts, § 222 Principal and income, § 811, 829 Priorities, succession assignees, § 194, 195 Protective trusts, § 221 Real estate Curtesy, § 186 Dower, § 186 Settlor's direction, § 185 Statutory declarations, § 184 Remainder beneficiary, § 182 In rem rights, § 183 Resulting trust, characteristics, § 468 Revocation statutes, § 999 Rights of creditors, § 193, 222, 227 Rule in Shelley's Case, § 187 Rules of construction, § 182 Sales, § 188 Settlor as to surplus, trust to pay creditors, § 182 Settlor's direction as to, § 185 Shares of beneficial interest, business trusts, § 247(O) Size of interest, § 182 Spendthrift trusts, § 222, 227 Statutes affecting, § 182, 184, 187, 188, 193, 222, 227, 244 Statutory share of spouse, § 186 Support of persons, § 182, 811 Support trusts, § 182, 229

BENEFICIARIES' INTERESTS -Cont'd Taxation Generally, § 187, 300, ch. 15 Federal gift tax, present interest, § 279, 279.5 Federal income tax, § 266, 267.5, 268.5 State taxes, § 285, 287, 300 Technical language, § 45, 182 Tenancies by the entireties, § 181, 230 Tenants in common, § 181 Termination Assignment, § 188 Compromise and settlement, § 1009 Distribution of principal, § 812, 814, 1010 Expiration of trust term, § 996 Merger, transfers, § 1003, 1006 In terrorem clauses, § 181 Transfers of interests Generally, § 184, 190, 193 Effect, spendthrift clause, § 226 To trustee, merger and termination, § 1003 Will, § 188, 189 Vested, § 181, 182 Written instrument, assignment, § 190 BENEFICIARY Definition, §1 Meaning of term, § 182 Requirement of, § 1, 161 Terminology and classification, § 1 **BENEFIT OF BARGAIN** Breach of trust, damages, § 862 Trustees, disloyalty, relief, § 543(V) **BENEFIT OF THE BARGAIN**

Rule as to damages, breach of trust, \$ 543(V), 862

BENEVOLENCE Charitable trusts, synonyms, § 370

BENEVOLENT

Synonymous with charitable, § 370

BENEVOLENT ATTITUDE

Expression, charitable intent, § 46

BEST FRIEND

Identification as beneficiary, § 161

BIBLE Charitable trust purpose, aid to religion, § 376

BIBLES Charitable trusts, § 376

BIBLE SCHOOL Charitable trusts, establishment, § 376

BIDS AND BIDDING

Judicial sales, constructive trusts, § 494, 543(c) Sales of trust property, § 745 Trustees, own sale, § 543(A)

BILATERAL TRANSACTION Delivery and acceptance, § 150

BILL OF SALE Resulting trusts, payment of price, § 455 Vessels, transfer of interest, § 142

BILLS AND NOTES

Bona fide purchasers, § 881 Collection items, debt or trust, § 23, 24 Commercial Paper, generally, this index Constructive trusts Forgery, § 477 Transfer of property by thief, § 476 Contractual liability of trustee, § 7, 712, 714 Dividends, principal and income, § 855 Purchase from trustee, participation in breach of trust, § 903 Statute of Frauds, personal property trusts, § 65 Subject-matter of trust, § 115 Tracing trust funds, § 921, 924 Transfer of possession, § 148

BILLS AND NOTES—Cont'd Uniform Commercial Code, § 7, 24, 714 Uniform Negotiable Instruments Law, representative liability, § 714

BIRTHDAYS Whimsical or irrational trusts, § 379

BLANKET POWER OF APPOINTMENT Wills, § 233

BLASPHEMY Charitable trusts, § 376

BLENDED DISCRETIONARY TRUST

Definition, § 221

BLENDED TRUSTS

Generally, § 228, 230
Beneficiaries, husband and wife as tenants by the entireties, § 230
Beneficiary's interest, creditor's rights, § 193, 230
Creditors, rights and remedies, § 228, 230
Definition and effect, § 230
Discretionary trusts, restraints on alienation, § 221
English law, § 221

BLINDNESS

Charitable purpose, aid victims, § 374

BLIND PERSONS

Charitable trusts, promoting health, § 374

BLOOD RELATIONSHIP

Construction of beneficiary's interest, § 182 Covenant to stand seized to use,

consideration, § 201

BLUE SKY LAWS

Business trusts Generally, § 247, 247R Compliance, § 247R

BOARD OF TRADE

Membership, subject-matter of trust, § 112

BOATS

Bill of sale, transfer of interest, § 142 Depreciation, principal or income, § 827 Subject-matter of trust, § 112 BONA FIDE PURCHASERS Generally, § 881 et seq.

Acknowledgment, lack of, equitable interest, § 885 Actual notice, § 892 Assignee of Beneficiary's interest, § 192 Attachment Equitable interest, § 885 Value, § 887 Bailment distinguished from trust, § 11 Banks and banking, debtors and creditors, consideration, § 888 Breach of trust Election of remedies, § 867 Jurisdiction, § 870 Vacating or setting aside trustees acts, § 861 Burden of proof, § 881 Change of financial or social status, § 887 Conditions subsequent, § 35 Consideration, this index Consideration contrasted with value, § 887 Constructive notice, § 893 Constructive trusts, § 881 Constructive Trusts, this index Contending equities, priority, § 885 Covenants, notice, § 896 Creditors giving value, § 887 Crimes and offenses, consideration, § 887 Debtors and creditors, consideration Banks and banking, § 888 Cancellation of debt, § 889

Security for existing debt, **§ 889** Deeds and Conveyances, this index **BONA FIDE PURCHASERS** -Cont'd Descent and distribution, § 887 Distributions, recovery, § 814 Donees from trustee, extent of liability, § 868, 881 Equitable charge, § 31 Equitable interests, § 885 Equitable liens, § 32 Equities, special rules, § 886 Estoppel by deed, § 885 Execution sale buyers, § 887 Executory contracts, consideration, § 887 Facts not sufficient to put purchaser on inquiry, § 894 Facts putting on inquiry, notice Generally, § 894 Consideration, adequacy, § 895 Possession Real estate, § 896 Federal estate tax, priority of lien, § 272.5 Fictional cancellation of debt, § 889 Gambling, consideration, § 887 Gift of property followed by donee's sale for value, § 881 Gifts, § 887 Illegal consideration, § 868, 887 Imperative power of appointment, destruction of trust, § 116 Inadequate consideration, § 895 Judgment creditors, statutes, § 885 Judgments and decrees Consideration, § 887 Recording acts, constructive notice, § 893 Legal title, § 885 Liens Equitable interests, § 885 Terms of documents, § 897 Title to property, cutting off equities, § 881 Value, § 887 Lis pendens, constructive notice, § 893 Marriage, consideration, § 887 Meaning and application, § 881, 897

BONA FIDE PURCHASERS -Cont'd Method of acquisition of legal title, § 885 Mortgages Equitable interest, § 885 Terms, § 897 Title to property, cutting off equities, § 881 Necessity of legal title, § 885 Negotiability distinguished, § 883 Negotiability rule contrasted, § 883 Notice Generally, § 881, 891, 897 Actual notice. § 891. 892 Constructive notice, § 893 Duty to inquire Document terms, § 897 Satisfaction, § 894 Duty to inquire resulting from terms of documents, § 897 Facts putting on inquiry Generally, § 894 Inadequate consideration, facts requiring inquiry, § 895 Possession of realty, § 896 Knowledge of existence of trust instrument, § 894 Lis pendens, § 893 Possession of property by trustee, § 896 Quit claim deed, § 894 Special recording acts, § 893 Various types of, § 891 Part payment of price, § 890 Payment of value, illegal considerations, § 868 In personam rights, § 183 Plank in shipwreck doctrine, priorities and preferences, § 886 Pledges, **§ 885** Possession Real estate, facts putting on inquiry, notice, § 896 Possession of realty, § 896 Power in trust, § 116 Powers of trustee, notice as to extent of. § 565

BONA FIDE PURCHASERS -Cont'd Priority of lien, federal estate tax, § 272.5 Promise as value, § 887 Promises, consideration, § 887 Property subject to power in trust, § 116 Protection, trust instrument later found invalid, statutes, § 881 Public policy, consideration, § 887 Purchase money resulting trusts, extinction of trust, § 466 Purpose of rule, § 882 Quit-claim deeds, § 894 Reacquisition by wrongdoer, § 881 Real estate contracts for sale, notice, possession, § 896 Reasons or theories for rule, § 882 Recording acts Generally, § 149, 893 Constructive notice, § 893 Contrasted, § 884 Distinguished, § 884 Release, promises, consideration, § 887 In rem rights, § 183 Resulting trusts, purchase-money type, extinction of trust, § 466 Resulting Trusts, this index Rules of evidence, burden of proof, § 881 Satisfaction of duty to inquire, § 894 Special recording acts, § 893 Special rules, equities, § 886 Spouses, notice, possession, § 896 Statement of rule, § 881 Tabula in naufragio, priorities and preferences, § 886 Termination of trust, § 995 Title to property, § 881, 885 Tracing trust property, remedies of beneficiary, § 866, 867, ch. 42 From trustee, extinction of interest of resulting trust beneficiary, § 466 Trust instruments, recording, § 149 Uniform Commercial Code, bank credit, § 888

BONA FIDE PURCHASERS -Cont'd Vacating or setting aside trustees acts, § 861 Value Attachment, § 887 Bank credit, Uniform Commercial Code, § 888 Cancellation of debt, uniform legislation, § 889 Change of status, § 887 Consideration contrasted, § 887 Creditors, § 887 Fictional cancellation of debt, § 889 Illegal consideration, § 887 Lien as value, § 887 Meaning of value, § 885, 887 Part payment of price, § 890 Promise as, § 887 Value. Consideration, this index Wrongdoer trustee reacquiring trust property, § 881 Wrongful sale of res, termination of trust, § 995

BOND COUPONS

Accumulation rules, **§ 217** Bank account to pay, **§ 20**

BONDHOLDERS

Committees Generally, § 251 Distinction from trust, § 38 Liquidation trusts, § 254 Liquidation trusts, § 254 Removal of trustees, statutes, § 519 Trust to pay or to secure, § 250, 251

BONDS

See also Bonds (Surety) Alienation, suspension of power, statutes, § 219 Amortization of premiums, arguments on principle, § 828 Apportionment Interest, § 818 Bought at a premium amortization, § 828 **BONDS**—Cont'd Buying own bonds for trusts, § 543(G) Creditors, buying certificates of interest at discount, § 543(D) Defaulted or unproductive bonds, sales proceeds, apportionment, § 825 Delivery to trustee, § 142 Discount purchase Apportionment, arguments on principle, § 826 Receipts on sale, apportionment, § 826 Estate taxes Gross estate, § 273 Payment, United States bonds, § 233 Valuation, § 274 Federal estate tax Bond in lieu of lien, § 272.5 Gross estate, § 273 Joint interests, § 273.30 Valuation of property, § 274 Federal gift tax Qualifications for exclusion, § 279 United States savings bonds, joint names, § 278 Valuation, § 277 Foreign countries, investments, § 672 Gift taxes Generally, § 277 Future interests, § 279 Implied power of sale, § 741 et seq Income Discount purchase, apportionment, § 826 Interest, apportionment, § 818 Premium purchase, amortization, § 828 Interest, apportionment between principal and income, § 818 Investments Generally, § 615 et seq Foreign countries, § 671 et seq Mortgage bonds, § 673 United States bonds, § 672

BONDS—Cont'd Joint ownership, federal estate tax, § 273.30 Jurisdiction, § 292 Liquidation trusts, § 254 Loss of value while delaying taking possession, § 583 Marshaling assets, tracing trust funds, § 930 Possession, transfer, § 148 Power of sale, implied power, § 741 et seq Premiums on purchase, principal or income, § 828 Principal Interest, apportionment, § 818 Premiums, purchase, § 828 Sales proceeds, apportionment methods, discount purchase, § 826 Probate proceedings, avoidance, United States bonds, § 231 Protective committees, § 251 Sales and reinvestments, impartiality of trustee, § 612 Spendthrift trust, alienation, § 222 State property taxes, § 285 Statute of Frauds, personal property trusts, § 65 Transfer Possession to trustee, § 148 Property interest to trustee, § 142 Trustees for bondholders Generally, § 250, 251 Removal, parties, § 522 Status, § 251 Tort liability, § 731 et seq Trust indentures securing, § 29, 250 Trust investments, § 673 Trust investments Corporate, § 673 Federal, state and municipal, § 672 United States Estate taxes, payment, § 233 Federal estate tax, gross estate, § 273, 273.30 Federal gift tax, joint tenancy, § 278

BONDS—Cont'd United States-Cont'd Investments, § 672 Principal and income, § 826 Probate proceedings, avoidance, § 231 Savings bonds, gifts to minors, § 264.10 Subject-matter of trust, § 114 Valuation Federal estate tax, § 274 Federal gift tax, § 277 Valuation, estate taxes, § 274 **BONDS (OFFICERS AND** FIDUCIARIES) Trustees Increases, § 861 Indenture, § 250 Liability of sureties Generally, § 864 Jurisdiction, § 870 Limitation of actions, § 950 Remedies against trustees, § 861 Removal from office Grounds, § 527 Parties, § 522 **BONDS (SURETY)** Generally, § 151 Absent trustees, action on bond, § 864 Additional security, nonresident trustee, § 132, 151, 527 Allocation of premium, principal and income, § 803 Barring remedies Action on trustee's bond, Statute of Limitations, § 950 Beneficiaries may waive, § 151 Condition precedent to becoming trustee, § 151, 566 Corporate trustee Excused from giving, § 151 Statutes, § 151 Cost of surety, lawful expense, § 151, 801 Court, power to require, § 151

BONDS (SURETY)-Cont'd Enforcement Jurisdiction, court, § 870 Statute of Limitations barring, § 950 Executors and administrators, distinctions, § 12 Failure to file, loss of powers, § 566 Failure to furnish, removal of trustee, § 151, 527 Foreign trustees, § 132, 151 Immunity, corporate trustees, § 151, 541 Increase or decrease by court, § 151, 861 Liabilities to beneficiary, § 864 Life tenant, § 27 Nonresident trustees, § 132, 151 Power of court despite waiver provisions, § 151 Power of sale, § 741 Protection against trustee's unfaithfulness, § 151 Qualification by giving, § 151 Remedies of beneficiary Actions against surety, § 864 Increase in bond, § 861 Removal of trustees Additional security in lieu of removal, § 527 Parties, § 522 Sales, court order, § 744 Settlor may waive, § 151 Statute of limitations, § 950 Statutes, § 151 Trustees, § 151 Additional bond, § 151, 861 Failure to file, rejection, not disclaimer, § 150 Liability of surety, § 864 When required, § 151

BONUSES

Acceptance from party transacting trust business, § **543(P)** Allocation between principal and income, § **816** **BONUSES**—Cont'd Trustees Acceptance of gift from one with whom trust business is conducted, § 543(P) **BOOK ACCOUNT** Statute of Frauds, illustration of writings satisfying, § 89 BOOKKEEPING Commercial paper, collection by banks, § 23 Special bank accounts, § 20 **BOOKS AND RECORDS** Charitable trustees, examination, § 411, 416 Inspection, remedy of beneficiary, § 861 Tax books, trust property description, § 82 BOROUGHS Political Subdivisions, generally, this index BORROWING See also Contracts; Mortgages Advances of income, § 814 Bondholders protective committees, § 251 Co-trustees, joint action, § 554 Enforcement of contract, § 711 Federal income tax. charitable trusts and foundations, denial of exemption, § 270.5 Implied powers of trustee, § 551, 757 Lending trust funds to self, § 543(J) Powers of trustee, § 551, 751 Relatives, loyalty, § 543(T) Removal of trustee, § 527

BOTANICAL GARDENS

Charitable trusts, § 375 Charitable trusts, advancement of education, § 375

BOTANY

Charitable trusts Advancement of education, § 375

BRANCH OFFICES

National banks, trust powers, § 134

BREACH OF CONTRACT

Damages, apportionment, principal and income, § 821 Liabilities for Charitable trusts, § 400 Private trusts, § 712, 725 Trustee's liabilities Charitable trusts, § 400 Private trusts, § 712, 725

BREACH OF DUTY

See also Breach of Trust Failure of trustee to qualify, **§ 151** Investments Damages Apportionment between principal and income, **§ 821** Retention by settlor, **§ 703** Liabilities, **§ 701 et seq** Sale, lack of care and prudence, **§ 685** Sales, **§ 741, 747** Torts, **§ 731, 735**

BREACH OF PROMISE

Creation of trusts, § 203

BREACH OF TRUST See also Liabilities of Trustees; Remedies Absentees, substitution of parties, § 869 Accounts and Accounting, this index Actions, § 868, 871, 955 Conflict of interest, substitution of parties, § 869 Jurisdiction of court, § 870 Parties, § 871 Who entitled to sue, § 861, 862, 871 Adverse or pecuniary interest, § 527, 543 Representation of parties, § 869 Agents and Agency, this index Attorneys fees, § 871 Attorneys' fees, § 871

BREACH OF TRUST—Cont'd Bank Deposits and Collections, this index Bankruptcy, fraud, § 947 Barring of remedies, § 941, 956 Barring of Remedies, this index Beneficiary's right to equitable lien, § 865 Bona Fide Purchasers, this index Bonds (officers and fiduciaries), trustees, liability of sureties, § 864 Jurisdiction, § 870 Business trusts, § 247 Actions on behalf of, § 247M Causing termination of trust, § 996, 997 Charitable trusts Generally, § 418 Subtrustee enforcing, § 413 Civil arrest of trustee, statutes, § 861 Class actions, § 871 Co-beneficiaries, consent, § 191 Compensation of trustee Generally, § 976, 980 Reduced or denied, § 861, 977, 980 Types of breach requiring forfeiture, § 980 Consent barring remedies, § 941 Courts, barring of remedies, § 956 Crimes and offenses, § 861 Damages Generally, § 862 Interest on award, § 863 Defenses, § 862 Errors and mistakes, § 862 Descent and distribution, limitation of actions, § 950 Duties of beneficiaries, § 191 Election of Remedies, this index Elements of claim, § 871 Equitable liens, § 865 Errors and mistakes, defenses, § 862 Evidence Laches, § 949 Limitation of actions, § 951 Executors and Administrators, this index

BREACH OF TRUST—Cont'd Fraud, this index Indemnity and indemnification, consent, cobeneficiaries, § 941 Injunctions Charitable trust, § 391 Remedy of beneficiary, § 861 Third party threatening to participate in, § 868 Intent, § 542 Interest, damages, liability, § 863 Investments Generally, § 701, 708 Election of remedies, § 946 Ratification, § 942 Joint and Several Liability, this index Jurisdiction, § 870 Knowledge, this index Laches, this index Liability of sureties on trustee's bond, § 864 Liens and encumbrances, equitable liens, § 865 Limitation of Actions, this index Mental Disabilities, this index No ground for rescission, § 997 Not terminate trust, § 996 Participation in Aiders and abettors, § 901 Third person, suit by beneficiary, § 868, 869, 901 Parties, § 871 Priorities and preferences, equitable liens, § 865 Receivership, business trusts, § 247T Recovery of damages, § 862 Release, § 943 In rem actions Election of remedies, tracing assets, § 867 Jurisdiction, § 870 Remedies for, § 861, 871 Removal of trustee, § 527 Security, personal debts of trustees, third parties, § 904 Setoff and counterclaim, damages, § 871

BREACH OF TRUST—Cont'd Spendthrift trust beneficiary also trustee, liability, § 224 Standing, § 871 Third parties, collusion with trustee, § 955 Statute of Limitations, date of running, § 951 Statutes, § 861 Third person Actions, § 868, 869, 901 Barring of remedies, § 941 Liability for damages, § 902 Limitation of actions, § 955 Participation, remedies, § 747, 867, 868, 901 Release, § 943 Venue, § 870

BRIBERY

Breach of trust, **§ 901** Disloyalty, **§ 543(P)** Investments, **§ 683**

BRIDGES

Charitable trusts, governmental purposes, **§ 378** Franchises, principal and income, **§ 827** Governmental trusts, community benefits, **§ 378**

BROKERS

See also Agents and Agencies Commissions, payment from trust property, § 744 Confidential relationship, constructive trust, § 482 Constructive trust, buying for self instead of principal, § 487 Purchasing principal's realty without disclosure to principal, § 543(D) Delegation of trust powers, § 555 Power of sale, delegation of authority, § 744 Replacement of misappropriated funds, tracing trust funds, § 929

BROTHERS AND SISTERS Siblings, generally, this index

BUCKET SHOP Breach of trust, banks, withdrawal of funds, § 909 **BUDDHISM** Charitable trust purpose, aid to religion, § 376 **BUILDING AND LOAN** ASSOCIATIONS Shares in Investments, § 616, 666, 678 Transfer, creation of trust, § 47 BUILDINGS See also Apartment Buildings, this Index Apartment, § 249 Depreciation, § 829 Leases beyond trust term, § 789 Liability on lease, § 719, 797 Management, trust function, § 249 **BURDEN OF PROOF** Bona fide purchasers, § 881 Duty to inquire, § 894 Breach of trust Constructive trusts, limitation of actions, § 953 Damages, § 871 Laches, § 949 Ratification, § 942 Release, § 943 Tracing trust funds, § 923 Consent, barring of remedies, § 941 Constructive trusts Generally, § 472 Direct dealing, fiduciary with beneficiary, § 544 Limitation of actions, breach of trust, § 953 Damages, breach of trust, § 871 Enforcement of trust, § 871 Existence of trust, § 50 Fairness of release, breach of trust. § 943 Federal estate tax, transfer of property in contemplation of death, prior law, § 273.5 Laches, breach of trust, § 949

BURDEN OF PROOF—Cont'd Purchase money resulting trusts, § 454 Ratification, breach of trust, § 942 Resulting trusts Purchase-money type, § 454, 457, 464 Payment of price, § 455 Rebutting gift, husband to wife, § 459 Spendthrift trusts, creditor, surplus income, § 227 Tracing trust funds, § 923 Transfer of beneficiary's interest to trustee, § 188, 544 Trustees credits to trustee on accounting, § 971 dealing with beneficiaries, § 544 **BURIAL PLACES** Charitable trusts, § 377 BUSINESS Beneficiaries, passive trust, § 208 Business trusts, § 247 Charitable trusts Advancement of education, § 375 Profit-making, exclusion, § 364 Continuation Breach of trust, § 571, 577 Operating expenses, allocation, § 803 Power of personal representative or trustee, § 571 Investments in, § 679 Management Implied power to mortgage, § 760 Trust functions, § 247, 250 Operated by trustee Expenses, allocation, § 803 Profits and losses, § 574 Possession and use of trust property by beneficiary, § 208 Profits on sales, principal or income, § 822, 857 Receipts, principal or income, § 820 Trustee engaged in competing business, § 543(O)

BUSINESS—Cont'd Trust investments, § 571, 679 Unauthorized continuance, § 577

BUSINESS AND COMMERCE

Beneficiaries, use of property, § 208 Charitable trusts Advancement of education, § 375 Employees of named business, class characteristics, § 365 Consent, continuation of business, barring of remedies, § 941 Irrevocable trusts, § 264.10 Purchase money resulting trusts, illegal intent, § 463 Trustees Acceptance of gift from one with whom trust business is conducted, § 543(P) Engaging in competing business on own behalf, § 543(O)

BUSINESS INSURANCE TRUSTS Generally, § 235 et seq.

BUSINESS JUDGMENT RULE

Charitable trusts, power of trustees, § 394 Directors Business corporations, § 481, 481.1 Charitable corporations, § 394 Trustees, standard of care, charitable trust, § 394 BUSINESS PROPERTY Investments, § 674, 679

Irrevocable trusts, providing continuity in management following grantor's death, **§ 264.10** Leases Beyond trust term, **§ 789** Powers of trustee, **§ 781, 799** Term, **§ 788** Management, trust functions, **§ 250** Organization of corporation, **§ 231** Sales, **§ 741, 747** Trust management following grantor's death, **§ 264.10, 571 et seq** See also Common Law Massachusetts Trusts Generally, § 231, 247, 247 et seq. Accounts and accounting, § 247 Accumulations of income, § 247P Actions by and against, § 247M, 247N Alienation, suspension of power, § 219 Alienation restraints, § 219, 247P Alteration of terms by court, § 247 Application of general trust rules, § 247 Application of law, § 247 Attachment, action against business trust, § 247N Bankruptcy, § 247T Blue Sky laws, § 247R Business insurance trusts, § 253 Classification, § 1, 247 Contracts Personal liability, trustees, § 247K Statutory provisions, § 247 Control, liabilities of shareholders, § 247H, 247L Corporate tax treatment, federal income tax, § 247, 270.40 Corporation laws, compliance, § 247D Corporations, distinguished, § 247 to 247(C) Creditors Barred by knowledge or agreement, § 299 Rights against shareholders, § 247E to 247J, 247L Similar corporate rules, § 247 Definition, § 247, 247A Duration, § 218, 247P Statutes, § 218, 247P Employee benefit trusts, § 255 Exemption, liabilities of shareholders, § 247G Federal income tax treatment, § 247, 270.40 Investments, § 679 Investment trusts, § 248

BUSINESS TRUSTS

BUSINESS TRUSTS—Cont'd Liabilities of beneficiaries, § 247 Creditors barred by knowledge or agreement, § 247J Effect of control, § 247H, 247L Exemption, § 247G Personal liability imposed, § 247F, 247L Liabilities of trustees Generally, § 247K Contracts Generally, § 247, 723 Statutory provisions, § 247 Exclusion, personal liability, § 247 Liability of trustees, § 247 Limitations on use, § 247B Loyalty of trustee, § 247 Merger with another business, § 247 Methods of organization, statutes, § 247A, 247D Nature of, enforcement, § 870 Organization and operation, § 247B to 247D Origin, § 247B, 247C Parties to proceedings, § 247M, 247N Partnerships, when trusts amount to, § 247B, 247F Paying or securing creditors, § 250 Perpetuities Generally, § 213 Power of alienation, suspension, trust duration, § 247 Perpetuities, Rule against, § 247P Powers of trustees, § 247 Preferred shares, § 247I Principal and income problems, § 820, 822 Profit-making function, § 247B Profit making motive, § 247 Quo warranto proceedings Generally, § 247D, 247F Statutory provisions, § 247D, 247F Real estate investment trusts, § 248 Real estate management, § 249 Receivership, § 247T Regulation Blue Sky laws, § 247

BUSINESS TRUSTS—Cont'd Restraints on alienation, rules regarding, § 247P Restricted businesses, § 112, 247B Rule against Perpetuities, beneficial interests, § 247P Scope of term, § 247A Shares Beneficial interest, § 247A to 247H, 247(O) Preferred, § 247I Shares as securities, Blue Sky laws, § 247R State regulation, § 247, 247Q Statutes Contracts, liabilities of trustee, § 247K Limitations on use, § 247D, 247Q Organization and operation, § 247A, 247D State, § 247, 247D Transferability of shares, § 247(O) Validity and effect, § 247, 247D Stockholders Creditor's rights, § 247L Liabilities, § 247E et seq Substitute for a corporation, § 247C Suspension of power of alienation, § 247P Taxation Federal, § 247, 270.40 Personal liability, § 247S State, § 247S Transferability of shares, § 303 Trust taxable as an association, code, § 247, 270.40 Terminology and classification, § 1 Terms of trust instruments, § 247A Torts Liabilities of trustees, § 247, 247K, 731 et seq Personal liability, § 300 Trustees' contracts, § 247 Trust indenture to secure creditors, § 250 Trust leaseback arrangements, § 268.10 Validity and effect, § 247D

BUSINESS TRUSTS—Cont'd

Voting trusts, § 252 What enterprises conducted by, § 247B, 247C When treated as partnerships, § 247B, 247F

BUSINESS VENTURES Trust investments, § 679

CALAMITIES Victims, public subscription, § 362

CALENDAR YEAR

Federal income tax return, **§ 265** Living trusts, income taxes, **§ 231**

CALIFORNIA

Generally, § 212 Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 620 Trust code, § 7 Trustees compensation, § 975

CALLS ON CORPORATE STOCK

Expenses, allocation, **§ 808** Liabilities of trustee, **§ 720**

CANADA

Transfer taxes, § 10 Trust statutes, § 9

CANCELLATION

Indebtedness, as value, bona fide purchaser rule, **§ 887**

CANCER

Charitable trust purpose, victims, § 374 Charitable trusts, promoting health, § 374

CAPACITY OF SETTLOR See Settlor, this Index

CAPACITY OF TRUSTEE See Trustees, this Index

CAPITAL

See Principal, this Index

CAPITAL GAINS Common trust funds, liquidation, § 677 Conditionally revocable trusts, § 233 Damages, breach of trust, § 703 Distribution In cash, sales of trust assets. § 1010 As income, federal income tax, § 266, 267, 268.25, 269 Investment trust, § 270.30, 858 Real estate investment trust, § 270.35 Employee benefit trusts, federal tax treatment, § 270.20, 273.25 Estate and tax planning, federal income tax, § 266, 269 Expenses of trust, allocation of tax, § 807 Federal estate tax, § 271.10 Federal income tax Allocation Principal, § 266, 267, 268.25, 269 Between trust and beneficiaries, § 267, 269 Trust terms, § 269 Basis, § 264.5, 268.10, 268.25 Common trust funds, § 270.25 Distributable net income, § 266, 267, 269 Distributed by trustee, § 266, 267, 268.5, 268.25, 269 Distribution of property included in gross estate, § 271.15 International estate planning, § 10 Investment trusts, § 270.30 Property distributions, § 267 Real estate investment trusts, § 270.35 Reversionary or short term trusts, § 268.10 When taxable to beneficiaries, § 268.5 When taxed to grantor, § 268.10, 268.15 When taxed to trust, § 268.25 Investment trust, § 858 Principal and income, § 822, 824

CAPITAL GAINS—Cont'd State taxation, § 285 Wrongful sale of property, liability of trustee, § 747

CAPITAL GAINS AND LOSSES Investment trusts, § 270.30

Revocable trusts, taxation, § 233

CAPITAL MANAGEMENT

Compensation of trustee, payment from trust estate, **§ 806**

CAPITAL STOCK

See Stock and Stockholders

CARRIERS

Equipment trust certificates, investments, § 672 Equipment trusts, limited subject matter of trust, § 112 Receivers, tort liability, § 731 et seq Stock, investments, § 615 Tort liability of receivers, statutory provisions, § 735

CARRYING ON BUSINESS

See also Business; Continuation of Business Income and principal, expenses and income, **§ 803, 820** Investments, **§ 571, 679** Powers of representative or trustee, **§ 571**

CARRYOVER BASIS PROPERTY Estate taxes, § 271.10

CASH

Distribution in cash or kind, § 814, 1010 Duty to invest, § 678 Federal estate tax, gross estate, § 273 Form of distribution, § 814, 1010 Tracing trust funds, § 921

CASHIER'S CHECKS

Banking transactions, § 21

CASUALTY LOSSES

Duty of trustee, § 582 Estate taxes, deductions, § 275, 275.15

Index-54

CASUALTY LOSSES—Cont'd

Federal estate tax, deductions, § 275.15

CATASTROPHES

Victims, public subscriptions, charity, § 362

CAUSATION

Damages, breach of trust, § 871

CAUSEWAYS

Charitable trusts, governmental purposes, **§ 378** Governmental trusts, community benefits, **§ 378**

CEMETERIES

Beneficiaries, construction of monuments and upkeep, § 164
Duration of trust Generally, § 213 Statutes, § 218, 377
Honorary trusts, duration, § 218
Perpetuities, rule against, termination, exemption, § 214
Upkeep, conditional and determinable gifts, § 377
Upkeep funds, statutes, § 328, 377

CEMETERY ASSOCIATIONS

Investment duties of trustee, § 396 Trustees, charitable trusts, § 328 Trustees of upkeep funds, statutes, § 328, 377

CEMETERY ORGANIZATIONS

Charitable gifts, income tax deductions, § 264.25

CEMETERY TRUSTS

See also Charitable Trusts Accumulations, application of law, § 216

Accumulations, exemption, upkeep trusts, § 216, 377

Alienation, suspension of power, § 219

Business trusts, § 247, 247B

Care trusts, perpetuities, application of law, § 214

CEMETERY TRUSTS—Cont'd Charitable trusts Generally, § 377 Abandonment for public convenience, § 397 Perpetual existence, § 351 Profit making, § 364 Purpose, § 377 Charitable trusts, beneficiaries, enforcement, § 414 Contracts, upkeep, § 377 Duration, § 218, 377 Honorary trust, § 166 Mixed trusts, § 372 Monuments, private trusts, § 164 Perpetual existence, § 218 Charitable trusts, § 351 Perpetuities, § 213 Care trusts, application of law, § 214 Perpetuities, Rule against, § 342 Gift for charitable purposes and cemetery uses, § 372 Gift to second charity at remote date, § 346 Purpose and beneficiaries, § 364 Statutes, § 328, 377 Suspension of power of alienation, statutes, § 219 Upkeep fund, § 377

CERTIFICATES AND CERTIFICATION Indebtedness, jurisdiction, § 292 Land trust certificates, § 249

CERTIFICATES OF AUTHORITY Foreign trustees, § 151

CERTIFICATES OF BENEFICIAL INTEREST

Business trusts, **§ 247** Delivery as transfer of beneficiary's interest, **§ 188**

CERTIFICATES OF DEPOSIT

Bailment, replevin, § 11 Creation of trusts, transfer of property, § 142 Investments, § 678

CERTIFICATES OF DEPOSIT -Cont'd Third party beneficiary contract, § 47 Transfer of property interest, § 142 **CESTUI QUE TRUST** See also Beneficiaries Beneficiaries, generally, this index Terminology, §1 CHAMPERTY AND MAINTENANCE Evasion, fraudulent conveyances, § 211 Trust as evasion or violation of statute, § 211 **CHANCERY** See also Courts Courts, § 3 Development of trust law, § 3 Jurisdiction, § 1, 870 CHANGED CONDITIONS Charitable trusts, cy pres application, § 439 Deviation from trust terms, § 561, 815 **CHANGE OF MIND** Rescission, settlor, § 998 CHANGE OF NAME Requirement as public policy violation, § 211 **CHANGE OF POSITION** Part performance, § 92 Reliance, estoppel, § 944 **CHANGE OF TRUST** See Modification of Trusts CHARACTER AND REPUTATION Trustee, fair play in dealing with beneficiary, § 544 CHARACTERIZATION

Generally, § Conflict of laws, § Defined, § Multistate trusts, §

CHARGES

See also Equitable Charge Compensation, trustee's right to, § 976 Constructive trusts, compensation of trustee, § 472 Federal estate tax, § 276 Federal gift tax, § 284

CHARITABLE ASSOCIATIONS

As beneficiaries, § 167, 362 Constructive trusts, promise to make gift to charity, § 499 State gift taxes, § 286 State inheritance and estate taxes, § 286 Tort liability, § 731 As trustees, § 328 Unincorporated association as trustee, § 125, 328

CHARITABLE CONTRIBUTIONS

See also Charitable Gifts; Charitable Trusts Generally, § 264.25, 371 Contingent future interests, § 345 Contracts, consideration for creation of trusts, § 204 Corporations, statutes, § 327 Deductions Gift taxes, § 277, 283 Income taxes Probate estates, § 233 State estate and inheritance taxes, § 275.5 Deductions, Distributions, income tax, § 266 Estate taxes, deductions, § 275, 275.5, 275.15 Federal estate tax deductions, § 275.5 Federal gift tax deductions, § 283 Federal income tax deductions, § 264.25, 270.5 Federal tax planning, § 245, 264.25, 270.5, 275.5, 283 Followed by contingent gift to noncharitable uses, § 347 Gift taxes Generally, § 278

CHARITABLE CONTRIBUTIONS -Cont'd Gift taxes-Cont'd Deductions, § 277, 283 Exemptions, § 401 Generation assignment, § 284.5 Income taxes, deductions Probate estates, § 233 State taxes, § 264.25 Lead trusts, estate tax deductions, § 275.5 Living trusts, application of law, § 231 Multistate trusts, conflict of laws, § 291 One charity to another at remote date, § 346 Passive trusts, § 206 Power of appointment, § 264.20 Probate estates, income tax deduction, § 233 Split interest trusts, § 264.25 State income and death tax deductions, § 285, 286 State taxes Estate and inheritance taxes Apportionment, § 286.5 Deductions, § 275.5 Exemptions, § 286 Income taxes, deductions, § 264.25

CHARITABLE CORPORATIONS

Absolute gift to, when cy pres applied, § 431, 440 Accounting, § 396 Charitable deduction, gifts to Federal estate tax, § 264.25, 275.5 Federal gift tax, § 283 Federal income tax, § 264.25, 268.25, 269 Community trusts, § 329 Cy pres Generally, § 431, 436, 442 Absolute gift to corporation which declines, does not qualify or is incompetent, § 440 Directors, compared with trustees, § 396

CHARITABLE CORPORATIONS -Cont'd Duties of Attorney General, § 324, 411 Foundation or trust, § 330 Gifts to, § 264.25, 323, 330, 362 Defeasible on dissolution, § 419 Perpetuities, rules, § 344 Trust or absolute gift to, § 324 Investments, § 396 Uniform Management of Institutional Funds Act, § 396 Merger or consolidation, statutes, § 397 Presumption, private foundations, § 270.5 Private foundations, § 270.5, 330 Federal tax treatment, § 245, 264.25, 270.5 Statutes, § 330 Tort liability, § 401, 731 Statutes, § 401 Torts of officers, agents and employees, § 401 As trustees, § 130, 328 Trustees for others, § 362 Visitation, power, § 416

CHARITABLE FOUNDATIONS

Generally, § 264.25 Charitable trusts, administration, § 391 Estate and tax planning, § 264.25, 270.5, 330 Estate planning, § 270.5 Features described, § 330 Federal estate tax, § 264.25, 275.5 Federal gift tax, § 283 Federal income tax Avoidance, § 330 Deductions, gifts to, § 330 Exemption rules, § 264.25, 270.5, 330 When taxed, § 270.5, 330 Gifts, § 245 Income taxes, § 270, 270.5 Nontax advantages, § 330 Organized as trust or corporation, § 330

CHARITABLE FOUNDATIONS -Cont'd Private foundations, federal tax treatment, § 264.25, 270.5, 330 Qualifications, § 264.25 Title to property, amount of real estate, § 327 Use of, charitable gifts, § 330, 391 **CHARITABLE GIFTS** See also Charitable Contributions; Charitable Corporations; Charitable Foundations; Charitable Trusts; Estate and Tax Planning Cy pres application Absolute gift to charity, § 264.25, 431 Gifts in trust, **§ 431, 442** Estate and tax planning, § 245, 264.20, 264.25, 270.5, 275.5, 283 Federal income tax deductions, § 245, 264.25 Limits on deductible amounts, § 264.25 Federal tax laws, § 264.25, 270.5, 275.5, 283 Made by trust, § 268.25 Outright, § 264.25 Restrictions on testamentary charitable gifts, several states, § 326 Revocable trusts, § 233 Tax advantages and planning, § 245, 264.25 Testamentary gifts, state laws, § 291, 326 Trust Federal estate tax deductions, § 275.5 Federal gift tax deductions, § 283 Federal income tax deductions, § 268.25, 269 State tax deductions, § 285, 286 Use or administration, intent to have a trust, § 371 **CHARITABLE IMMUNITY** Tort liability, status of doctrine in all states, § 401

CHARITABLE INCOME TRUST

See also Charitable Lead Trusts Split interest trusts, federal tax rules, § 245, 264.25, 270.5, 275.5, 283

CHARITABLE LEAD TRUSTS

See also Charitable Income Trust Generally, § 264.25 Federal tax requirements, § 264.25 Split interest trusts, federal tax rules, § 245, 264.25, 270.5, 275.5, 283

CHARITABLE ORGANIZATIONS

Administering charitable trusts, § 328 Annuities, this index Cemetery associations, § 377 Corporations Generally, § 361 Directors, § 394 Reversion, § 418 Title to property, amount of real estate, § 327 Trustees Duty of care, § 541 Qualifications, § 328 Directors, § 394 Dues and assessments, source of funds, § 367 Foundations, § 330 Lodge or club members, class characteristics, § 365 Pooled income funds, § 264.25 Qualifications, § 264.25 Reversion, § 418 Trustees Corporations, duty of care, § 541 Qualifications, § 328

CHARITABLE PURPOSES

See also Charitable Gifts; Charitable Trusts, this Index Defined, **§ 368, 379**

CHARITABLE REMAINDER ANNUITY TRUSTS

Charitable deduction Estate and tax planning, § 245, 264.25, 270.5 Federal estate tax, § 275.5 Federal gift tax, § 283 CHARITABLE REMAINDER ANNUITY TRUSTS—Cont'd Charitable deduction-Cont'd Federal income tax, § 264.25, 270.5 Defined, § 245, 264.25 Estate and tax planning, § 245, 264.25, 270.5 Federal estate tax, § 275.5 Federal gift tax, § 283 Federal income tax treatment of trust, § 264.25, 270.5 Federal tax requirements, § 264.25 Tax consequences, § 245, 264.20, 270.5, 275.5, 283 CHARITABLE REMAINDERS

Generally, § 264.25

Annuity trusts Generally, § 245, 264.20, 264.25 Income taxes, § 270.5 Estate planning, § 270.5 Estate taxes, deductions, charitable contributions, § 275.5 Income taxes, § 264.25, 270, 270.5 Revocable trusts, § 233 Unitrusts, § 264.20, 264.25 Charitable contributions, estate tax deductions, § 275.5 Income taxes, § 270.5

CHARITABLE REMAINDER TRUSTS

See also Charitable Remainder Annuity Trusts; Charitable Remainder Unitrusts; Pooled Income Funds, this Index Estate and tax planning, **§ 245**, **264.25**

Federal tax laws, § 264.20, 264.25, 270.5, 275.5, 283 Irrevocable trusts, § 234

CHARITABLE REMAINDER UNITRUSTS

Charitable deduction Estate and tax planning, § 245, 264.25 Federal estate tax, § 275.5 Federal gift tax, § 283

CHARITABLE REMAINDER UNITRUSTS—Cont'd Charitable deduction-Cont'd Federal income tax, § 264.25 Define, § 245, 264.25 Federal income tax treatment of trust, § 264.25, 270.5 Federal tax consequences, § 245, 264.20, 264.25, 270.5, 275.5, 283 CHARITABLE TRUSTS See also Charitable Associations; Charitable Corporations; Charitable Foundations: Charitable Gifts; Charitable Remainder Annuity Trusts; Charitable Remainder Trusts; Charitable Remainder Unitrusts; Creation of Trusts; Cy Pres Generally, § 231, 245, 361 et seq. Absolute gift or trust, § 324 Acceptance by trustee, § 328 Accounts and accounting Generally, § 396, 411 Actual or prospective beneficiaries, § 414 Duties of trustee, § 396 Investments, § 396 Termination, § 399 Accounts and accounting, duties of trustees, § 394, 395 Accumulation provisions, § 215, 352 Accumulations, § 352 Application of law, § 216 Accumulations, income, § 361, 391 Court and statutory rules, § 352 Excessive period, § 352 Income, inadequate trust fund, § 438 Income tax rule, § 352 Powers of courts, § 352 Powers of trustee, § 391 Statutes, § 352 What amounts to an accumulation, § 352 Adequacy of fund, cy pres doctrine, § 438

CHARITABLE TRUSTS—Cont'd Administration, § 391, 391 et seq., 401 Deviation from provisions, judicial authorization, § 396 Legislative powers, § 397 Necessity of plan, § 371 Administrative officers and employees, tort liability, § 401 Adverse possession, challenges, § 417 Adverse possession barring attack on validity, § 417 Advice by court, power to petition, § 391, 394, 396 Aid of court, construction, § 394 Appointment of almoner, § 394 Consent to deviation, § 394 Favorable attitude toward charity, § 368 Power of trustee to seek, § 391 Aid to underprivileged or distressed, § 379 Alienation, suspension of power, § 219 Alienation, suspension of power, statutes, § 219 Alteration, § 393 Consent of attorney general, § 393 Nominees of settlor, § 435 Purposes, § 393, 394, 438, 440, 992, 994 Settlor, § 393 Statute, § 397 Trustee, § 393 Animals, § 379 Aid, § 165, 379 Cruelty to, § 165, 379 Vivisection, § 379 Annuity trusts, § 245, 264.25 Arts, advancement Advancement of education, § 365 Art galleries, § 365, 391 Art museums, § 362 Authorized charges, § 364 Assessments Source of trust fund, § 367, 602 Assessments, exemptions, § 401

CHARITABLE TRUSTS—Cont'd Attacking trust, § 417 Attorney General Application for termination of trust, § 399 Consent to alteration, § 393 Enforcement, § 362, 411 Estoppel, § 411 Laches, § 411 Necessary party, § 411 Powers, § 391, 393, 394, 396, 399, 411 Removal of trustee, § 396, 522 Statutes, § 411 Suits regarding administration, § 391, 393, 394, 396, 411 Trust reports, § 396, 411 Attorney General, this index Audits and auditing, § 411 Basis, § 322 Beneficiaries, § 362, 363, 365 Cemetery and monuments trusts, § 164, 377 Class of beneficiaries, § 362 Conduit class, § 365 Creation, § 323 Definite persons, § 362 Enforcement, § 414 Federal tax planning, § 264.25, 270.5, 275.5, 283 Indefinite persons, § 362 Mixed trusts, § 372 Public or private charities, § 362 Single individual as beneficiary, § 362 Sub-trusts, charitable corporations, § 362 Suits to enforce, § 414 Benefits required, § 363 Community benefit, § 363, 378 Public benefit, § 361, 368 Benevolent, synonymous term, § 370 Benevolent purposes, synonyms, § 370 Breach of subtrust, § 413 Breach of trust Barring of remedies, laches, § 948 Liability, § 394

CHARITABLE TRUSTS—Cont'd Breach of trust-Cont'd Resulting trust, § 418 Business enterprise, aiding, § 264.25, 270.5, 364 Cemeteries Associations statutes, § 377 Monuments, § 377 Private or public, § 377 Statutes Municipal corporations as trustees, § 377 Upkeep funds, § 377 Validity of upkeep trusts, § 377 Cemeteries, this index Challenges, successors of settlors, parties, § 417 Change Cy pres, § 431, 442 Deviation from trust terms, § 394 Purposes, § 393, 992, 994 Trustees, § 397 Changed conditions, cy pres, § 439 Changes in trustee, § 398 Characteristics, § 365 Charges, § 364 Charitable and non-charitable purposes, § 372 Charitable lead trusts, federal tax analysis, § 264.25 Charitable remainder annuity trusts, § 245, 264.25, 270.5, 275.5, 283 Charitable remainder trusts, federal tax requirements, § 245, 264.25, 270.5, 275.5, 283 Charitable remainder unitrusts, § 245, 264.25, 270.5, 275.5, 283 Charitable test, effect rather than motive, § 366 Charitable trust or foundation, § 264.25, 329, 330 Charity Gift to trustee for, § 371 Gift with no plan of administration, § 371 Particular type, gift to, § 371 Charity commissioners, England, § 321 Charters, amendments, § 361

CHARITABLE TRUSTS—Cont'd Choice of form, trust or corporation, § 361 Classes to be benefited Club or lodge members, § 365 Description, § 365 Deserving or worthy persons, § 370 Education. § 375 Employees of described business, § 365 Foreigners, § 365 Relatives of settlor, § 365 Residents of town or city, § 378 Size required, § 365 Type required, § 365 Class of beneficiaries, § 365 Clubs, § 379 Members, class characteristics, § 365 Clubs and lodges, gifts to, § 379 Colleges and Universities, this index Commingling, this index Community purposes, § 378 Community trusts, § 329 Compensation and salaries, trustees, § 395 Compromise and settlement Court's approval, § 399 Court's power to authorize, § 394, 994, 1009 Providing for termination of trust, § 399 Validity, § 394 Conditions Precedent, this index Conditions precedent, vesting of gift, § 420 Construction, § 420 Masses, saying, § 376 Power of sale, § 392 Termination, § 399 Conditions Subsequent, this index Conflict of laws, § 211, 298, 322 Attack on validity, § 417 Estate planning, § 301 Statute governing validity, § 298 Tort liability, § 401

CHARITABLE TRUSTS—Cont'd Conflict of laws, § 211, 298, 322 -Cont'd Validity, construction and administration, § 298 Constitutional Law, this index Constitutional violations, trusteeship, § 328 Construction, this index Contingent future interests, § 343 Contingent gifts to noncharitable uses, § 347 Contract liability, § 400 Creation, § 323 Securing charitable benefits, § 324 Trustee's, **§ 400** Contracts, this index Contributions to Federal estate tax deduction, § 264.25, 275.5 Federal gift tax deduction, § 283 Federal income tax deduction, § 245, 264.25, 268.25, 270.5 Convents, § 376 Corporations, § 361 Absolute gift or trust, § 324 Administration, § 328, 391 Beneficiaries, § 363 Directors, standard of care, § 394 Dissolution, appointment of new trustee, § 418 Gifts for endowments, § 324 Gift to corporation to be organized, § 344 Legal form of organization, § 361 Requirement for incorporation, § 328 Torts, § 402 Trustees Standard of care, § 394 Statutory restrictions, § 327 Use of trust words in gifts, § 324 Costs, § 391 Cy pres application, § 441 Enforcement, § 411 Courts, § 394, 994 Administration, § 394 Advice, power to petition, § 391

CHARITABLE TRUSTS—Cont'd Courts, § 394, 994—Cont'd Appointment of almoner, § 394 Approval of compromise and settlement terminating trust, § 399 Changes in judicial attitude, § 368 Compromise and settlement, power to authorize, § 394, 1009 Consent to deviation, § 394 Determination of what is charitable, § 368 Favorable attitude toward charity, § 368 Power to fill vacancies in trusteeship, § 397 Courts, helping in administration, § 396 Creation, § 321, 321 et seq., 330, 371 Class of beneficiaries, § 323 Contract, deed or will, § 323 Identity of beneficiaries, § 323 Necessity for trust intent, § 323 Parol evidence rule, § 323 Precatory words, § 324 Settlor, § 323 Subject-matter, § 323 Testamentary, formalities, § 323 Cy Pres, this index Cy pres doctrine, § 431 442; and see Cy Pres Absolute gift to charitable corporation, § 431 Absolute gift to institution which cannot be identified, § 440 Absolute gift to non-existent institution, § 440 Appeal and review, decree exercising cy pres power, § 441 Application, procedure and parties, § 441 Better plan available, § 439 Changes in law or society, § 438 Construction of settlor's intent, § 437 Costs of application, § 441 Court's selection of substitute plan, § 442

CHARITABLE TRUSTS—Cont'd Cy pres doctrine, § 431-Cont'd Effect of cypress gifts over, § 437 Eminent domain, proceeds, § 439 Evidence, settlor's status and interests, § 437 Evidence showing general intent, § 437 Evidence showing special intent, § 437 Failure to name trustee, § 434, 440 Foreign charities, § 431 Fund excessive, § 438 Fund inadequate, § 438 General charitable intent required, § 436 Gift for nonexistent charitable institution, § 440 Gift in trust, death or absence of trustee, § 440 Gift over, evidence of special intent, § 437 Gifts to or for named institutions ceasing to exist, § 437, 440 Impossibility, of execution, § 438 Impracticability, § 431, 435, 439 Inadequacy of fund, cy pres application, § 438 Inexpediency, § 431, 439 Invalid attempt to create charitable trust, § 431 Judicial power, § 432, 433 Lack of plan of administration, § 434, 438 Mixed trust, § 431 Powers of court, § 435 Prerogative power, § 432 England, § 432 United States, § 434 Settlor's provision, § 431 Settlor's testimony, § 437 Special intent, distinguished, § 436 Statutes authorizing, § 433 Subscription funds, § 437 Subscriptions to charity, § 431 Time of failure, § 431 Cy pres doctrine, this Index Dedication distinguished, § 34, 324

CHARITABLE TRUSTS—Cont'd Deeds and Conveyances, this index Definite beneficiaries, § 363 Definite persons Beneficiaries, § 362 Description of class to be benefited, § 365 Suffers from disaster, § 374 Definition of charity, § 369 Definitions of, charity, § 369 Deserving person, class to be benefited, § 370 Determinable fee, construction, § 419 Determinable Fee, this index Deviation, § 394 Court consent, § 394 Court's remedy in lieu of cy pres, § 442 Restrictive clauses excised by courts, § 439 Deviation, this index Discretionary powers of trustee, § 391 Discrimination. Equal Protection of Laws, this index Diseases, this index Dissolution, beneficiaries, § 164 Dissolution, this index Distinguished from possibility of reverter, § 324, 418 Distressed persons, § 379 Distributions, minimum distributions, § 270.5 Domicile and Residence, this index Dues, source of trust fund, § 367 Dues and assessments, source of funds, § 367 Duration, § 352, 996 Indefinite, § 351 Mixed charitable and noncharitable trust, § 372 Perpetual, § 351 Duration of trusts, § 361 Mixed trusts, § 372 Mutual benefit societies, source of funds, § 367 Perpetual trusts, validity, definition of charity, § 369

CHARITABLE TRUSTS—Cont'd Duties of trustee Loyalty, § 391 Preservation of trust property, § 391 Repairs, trust property, § 391 Sales, § 391, 392 Education Advancement of, § 375 Aid to existing institutions, § 375 Aid to students, § 375 Class to be benefited, § 375 Poverty not necessary, § 375 Research, § 375 Types that may be provided, § 375 What is, § 375 Education, advancement of, § 375 Eminent domain, proceeds, § 400 Eminent Domain, this index Employees of named business, class characteristics, § 365 Enforcement, § 321, 411, 417 Attorney general, § 411 Attorney General, § 391, 393, 396, 399, 411 Beneficiaries, actual or prospective, § 414 Co-trustee suing, § 413 County officer powers, § 411 Individuals expecting benefits, § 414 Interested parties as plaintiffs, § 412 Laches, § 399, 411, 948 Other representatives of charity, § 412 Recent statutes, § 411 Relator, functions, § 411 Settlor or successors, § 415 Statute of Limitations, § 399, 950, 951 Subtrustee, § 413 Taxpayer as plaintiff, § 414 Uniform Supervision of Trustees for Charitable Purposes Act, § 411 England, § 321 Charities Act, 1960, § 321

CHARITABLE TRUSTS—Cont'd England, § 321—Cont'd Defective conveyances, given effect, § 323 Development and history, § 321, 432 Enforcement by charity commissioners, § 411 Lord Nathan's Committee, § 321 Mortmain and Charitable Uses Acts, § 325 Prerogative cy pres power, § 432 Recreational Charities Act, 1958, § 379 Supervision and enforcement, § 321, 411 Equal Protection of Laws, this index Equitable charges for charity, § 324 Equitable deviation, § 396 Estate and tax planning, § 245, 264.25, 270.5, 275.5, 283 Estate planning, § 264.25, 270.5 Estate taxes, exemptions, § 275.5, 286, 401 Estoppel, § 411 Excess business holdings, § 270.5 Excise taxes, private foundation, § 270.5 Exemptions Perpetuities rules, § 245, 342 Taxes, § 270.5, 275.5, 285, 286, 400 Expenses, § 364 Express or implied powers of trustees, § 391 Failure of charitable trusts, resulting trusts, § 418, 468 Failure or breach Construction, disposition of trust property, § 418 Cy pres not in effect, resulting trust, § 418, 433 Determinable fee, reverter in settlor, § 419 Eminent domain, trust of proceeds, § 418 General charitable intent, cy pres application, § 399, 438, 439 Gift on condition precedent, § 420

CHARITABLE TRUSTS—Cont'd Failure or breach-Cont'd Gifts on condition subsequent, § 420 Narrow charitable intent, § 418, 436, 437 Narrow or limited purpose, resulting trust, § 399, 436, 437 Possibility of reverter reserved, § 419 Resulting trust not ordinarily decreed, § 418 Family monuments, § 377 Favorable attitude of courts, § 368 Federal estate tax, § 264.25, 275.5 Federal gift tax, § 264.25, 283 Federal income tax Accumulations, effect on tax exemptions, § 352 Congressional investigations, § 270.5 Deductions Gifts of property, § 264.25 Gift to qualified charity, § 264.25 Grantor of trust, § 264.25 Interest in trust, § 264.25 Limitation on allowable amount. § 264.25 To trust, § 268.25 When denied, § 264.25 Exemption from tax, § 264.25, 270.5 Loss of exemptions, § 270.5 Securing, § 270.5 Gift to, time when deductible, § 264.25, 268.25 Income interest, § 264.25 Lifetime, § 245, 264.25 Outright, gifts compared, § 264.25 Prohibited transactions, § 264.25, 270.5 Remainder interest, § 264.25 Reports, § 270.5 Time donor taxable on income, § 268.25, 270.5 Types of trusts, § 245, 264.25, 270.5 Undivided interests, § 264.25

CHARITABLE TRUSTS—Cont'd Federal income tax-Cont'd Unrelated business income of trust, § 264.25, 270.5 When treated as private foundations, § 270.5 When trust taxed, § 264.25, 270.5 Federal tax planning, § 245, 264.25, 270.5, 275.5, 283 Federal tax requirements, § 361 Foundations, § 330, 391 Features described, § 330 Federal tax factors, § 264.25, 270.5 Fraternal Organizations, this index Fraudulent Conveyances, this index Fundamental theories, charitable purposes and beneficiaries, § 361 Funds collected by subscription, § 22 Future vesting, § 343 Gender restrictions, § 211 General intent, § 436 General uses and tax consequences, § 245, 264.25, 270.5 Generosity and liberality, motives, § 379 Georgia law, § 361, 362 Gift and not purchase required, § 367 Gift by will on informal trust Mortmain statutes, § 499 Gift for particular type of charitable purpose, § 371 Gift of determinable interest distinguished, § 324 Gift on condition precedent or subsequent, construction, § 415, 420 Distinguished, § 324 Gift or purchase, mutual benefit societies, § 367 Gift over Breach of trust, § 415 Preventing application of cy pres, § 431 Gifts to Federal tax factors, § 245, 264.25, 270.5, 275.5, 283 Lack of administration plan, § 371

CHARITABLE TRUSTS—Cont'd Gifts to-Cont'd State tax factors, § 286 Statutory restrictions, § 264.5, 326 Trustee for charity in general, § 371 Trustee for charity without more, § 371 Gifts to trustees, § 371 Governmental benefits, § 378 Aid in law enforcement, § 378 Changes in law, § 378 Examples, § 378 Illegality, class of beneficiaries Racial and religious restrictions, § 375, 378 Political parties, § 378 Statutes validating trusts for governments, § 378 Governmental purposes, § 378 Grounds for attack on validity, successors of settlor, § 417 Health, promotion of, § 374 Health care and treatment, § 374 History, § 322 History and basis in several states, § 322 History in England, § 321, 432 Hospitals, this index Housing, this index Humanitarian, synonymous terms, § 370 Illegal purpose, termination, § 1002 Illness Municipal trustee, purpose, § 328 Mutual benefit groups, § 367 Promotion of health, § 374 Implied intent, gifts to indefinite persons or institutions which are not legal entities, § 324 Implied lease powers, § 796 Implied trustee authority, plan for administration, § 371 Impossibility of performance, § 394, 438, 1002 Cy pres doctrine, application, § 438

CHARITABLE TRUSTS—Cont'd Impossibility of Performance, this index Impracticability, § 439 Incorporation of trust, § 391 Indefinite beneficiaries, § 363 Indefinite persons, beneficiaries, § 362 Indemnification, § 361 Trustees, § 394 Indigent persons, § 373 Municipal trustee, § 328 Mutual benefit group, § 367 Relatives of settlor, preference, § 365 Indigent Persons, this index Inexpediency, § 439 Information from co-trustee, § 391 Injunctions, this index Insurance Administration, § 391 Mutual benefit groups, § 367 Proceeds, § 391 Tort liability, § 401 Intent, § 324, 366 Interested parties sometimes allowed to enforce, § 412 Investments, § 361, 391, 616, 666 Accounting, § 394 Cy pres, § 442 Deviation, § 396 Duties of trustees, § 395 Jeopardy, § 270.5 Powers and duties, § 392 Removal from office, § 394 Sale of, § 392 Standard of care, § 394 Uniform Management of Institutional Funds Act, § 396 Judicial assistance, trustees, § 396 Judicial interpretation, § 368 Judicial review, § 368 Laches, this index Laches barring remedies, § 399, 411, 948 Language of trust, synonyms, § 370

CHARITABLE TRUSTS—Cont'd Lead trusts, § 264.20, 264.25 Charitable contributions, estate tax deductions, § 275.5 Estate planning, § 270.5 Income taxes, § 270.5 Lease purposes, § 796 Leases Creation of trust by, § 324 Deviation, § 394 Power to execute, § 391, 796 Term, § 796 Leases, this index Legislative powers, administration of trusts, § 397 Legislature's powers Administration of trust, § 395 Cy pres rules, § 434 Liabilities of trustees, § 391 Contracts, § 400 Improper investments, § 396 Property ownership, § 400 Torts, § 401 Liability of Trustees, this index Liberality, as charitable purpose, § 370, 379 Libraries, § 412 Advancement of education, § 375 Beneficiaries, § 364 Limitation of Actions, this index Limitations on gifts to, § 325, 327 Lodge members, class benefited, § 365 Lodges, § 379 Members, class characteristics, § 365 Lodges and fraternal orders, § 379 Loyalty, duty of trustee, § 391 Majority of trustees, administration, § 391 Management, § 391 Medical care and treatment, § 374 Memorial to settlor or family, § 366 Methods of administration, § 391, 394 Minorities, § 379 Miscellaneous alleged charitable purposes, § 379

CHARITABLE TRUSTS—Cont'd Miscellaneous noncharitable purposes, § 379 Miscellaneous purposes, § 379 Mixed trust, charitable and noncharitable purposes, § 372 Mixed trusts Charitable and equivocal purposes, § 372 Charitable and noncharitable purposes, § 372 Court support, theories, § 372 Divisibility Charitable and noncharitable trusts, § 372 Validation of charitable portion, § 372 England, Charitable Trusts Validation Act, § 372 Indefinite duration, § 372 Mortmain acts, § 372 Modification, § 394, 992, 994 Attorney General, consent, § 393 Compromise, § 394 Court, § 394, 994 Power given nominees of settlor, § 435 Modifications, purposes and methods, § 393, 396 Monasteries, § 376 Monuments and memorials, § 377 Religious leaders, § 376 Mortgages, § 391 Court's consent, § 394 Power to execute, § 391 Mortgages, powers of trustees, § 392 Mortmain acts England, § 325 Informal trust, § 499 Mixed trusts, § 372 United States, § 326 Motive of settlor, § 366 Motive of settlor unimportant, § 366 Municipal corporations, removal as trustee, § 521 Municipal purposes, § 378 Museums, § 362 Advancement of education, § 675

CHARITABLE TRUSTS—Cont'd Museums, § 362—Cont'd Charges, § 364 Settlor's home as site, § 366 Museums, this index Mutual benefit groups, accidents, § 367 Mutual benefit societies, § 367 Source of trust fund, § 367 Mutual benefit societies, source of funds, § 367 Necessity for trust intent, § 323 Nonexempt trusts, § 245 Officers and Employees, this index Orphans, § 373 Clothing, § 362 Home or hospital, § 374 Miscellaneous charitable purposes, § 379 Parties, this index Parties and procedure, enforcement, § 411, 420 Attorney General, § 411 Party defendant, § 411 Beneficiaries, § 414 Co-trustee suing for enforcement, § 413 Sub-trustee, § 413 Successors of settlor, § 417 Pensions Public employees, § 367 Perpetual existence, § 245, 351 Perpetuities, § 213, 341, 351 Application of law, § 214 Exemption of employee benefit and cemetery trusts, § 342 Gift from one charity to another at remote date, § 346 Gift over from charity to non-charity, § 347 Gift over from non-charity to charity, § 345 Gift to future corporation, § 344 Rule against, § 341, 348 Mixed trusts, § 372 Shifts of interests under one trust, § 348 Trust to arise at future date, § 343

CHARITABLE TRUSTS—Cont'd Philanthropic, synonymous term, § 370 Philanthropy, synonyms, § 370 Plan for administration, § 371 Plan of administration, omission, § 371 Plan of administration not described, § 371 Pooled income funds, § 245, 264.25 Poor persons, § 373 Municipal trustee, § 328 Mutual benefit group, § 367 Relatives of settlor, preference, § 365 Possibility of reverter, § 419 Cy pres application, parties, § 441 Evidence of special intent, § 437 Non-charitable uses, § 347 Reservation by settlor, § 419 Termination, § 399 Poverty, § 373 Meaning of, § 373 Methods of relieving, § 373 Powers of trustee Accumulate income, § 391 Delegation, agents, § 391, 393 Deviation, § 394 Discretionary or imperative, § 391 Distribution, § 371 Division of trustees and managers, § 391 Execute mortgages, § 391 Express or implied, § 391 Incorporation of trust, § 391, 393 Leases, § 391, 796 Statutes, § 787, 796 Majority may act, § 391 Sales, § 391, 392 Seek advice from court, § 391 Selection of beneficiaries, § 371 Selection of methods of administration, § 371, 393 Subtrusts, § 391 Visitation, § 416 When personal, § 391 Precatory words, § 324 Preservation of trust property, § 391

CHARITABLE TRUSTS—Cont'd Priorities and preferences, relatives of settlors, class characteristics, § 365 Private citizens, enforcement, § 414 Private foundations, federal tax rules. § 264.25, 270.5 Profit-making Business enterprise, § 364 Implied exclusion, § 364 Trustee may charge fees, § 364 Profit organizations excluded, § 364 Profits, § 364 Property ownership, tax exemptions, **§ 400** Protection, attorney general, § 394, 411 Public benefit, § 379 Public charity, tax qualification, § 264.25 Public corporation, constitutional provisions, § 328 Public health, § 374 Public policy, § 361 Aid to religion, § 376 Corporate title to property, § 327 Tort liability, § 401 Purposes, § 362 Beneficiaries, § 363 Class characteristics, § 365 Judicial review, § 368 Mixed trust, § 372 Motive of settlor, § 366 Profit, § 364 Source of funds, § 367 Purposes, charitable, § 368, 379 Advancement of education, § 375 Gift to establish institution. § 375 Community, § 378 Medical research, § 374 Patriotic, § 378 Provide pensions, § 373 Public health, relief from sickness, care of disease, § 374 Public improvements, § 378 Recreation and entertainment. valid purposes, § 379

CHARITABLE TRUSTS—Cont'd Purposes, charitable, § 368, 379 -Cont'd Relief of poverty, § 373 Relief of sickness, § 374 Aid to institutions combatting, § 374 Poverty not necessary, § 374 Various methods, § 374 Research, § 374, 375 Quo warranto Enforcement by Attorney General, § 411 Performance by corporation, § 324 Recordkeeping, § 396 Recreation, § 379 Registration, § 411 Relatives Mixed trusts, § 372 Mortmain acts, § 325, 326 Preferences for, § 365 Purpose and beneficiaries, § 365 Relatives of settlors, class characteristics, § 365 Relator, functions, § 411 Religion, § 376 Aid, valid charitable purpose, § 376 Court selection of substitute plan, § 442 Atheism, agnosticism or infidelism, § 376 Convents and monasteries, § 376 Definiteness, type or means of administration, § 376 Duties of church trustees in case of schism, § 398 Gift to clergyman, inferred charitable intent, § 376 Methods of aid, § 376 Saying of masses, § 376 Types, denominations or sects to be benefited, § 376 Remainder trusts, federal estate tax, deductions, § 275.5 Remedies Beneficiaries', § 414 Breaches, § 391, 411

CHARITABLE TRUSTS—Cont'd Remedies-Cont'd Court aid, § 394 Cy pres, § 431, 442 Enforcement by Attorney General, § 391, 393, 396, 399, 411 Injunctions, § 391 Interested parties as plaintiffs, § 412 Relators, functions, § 411 Settlor or successor, § 415 Remoteness of vesting, § 342 Removal from office, § 394 Removal of restrictive clauses, deviation, § 439, 561 Removal of trustee Attorney General, § 522 Court's power, § 397 Enforcement by sub-trustee, § 413 Powers of legislature, § 397, 521 Repairs, trust property, § 391 Residences, class members, § 365 Restraints on alienation, § 349 Restraints on alienation, rules against, § 349 Resulting trusts Failure of express trust, § 418 Charitable trust with narrow intent, § 399, 418 Where cy pres doctrine inapplicable, § 433 Impossibility of accomplishment, narrow charitable intent, § 418, 436, 437, 1002 Resulting Trusts, this index Retirement and pensions, § 373 Reversion, § 418 Reservation, § 419 Reversion of property, termination, § 1008 Breach, § 419 Revocation, § 415 Revocation by settlor, § 399, 998, 1001 Right of reentry for condition broken, § 420 Sales, this index

CHARITABLE TRUSTS—Cont'd

Sales by trustee, § 391, 392, 741, 747 Duties of trustees, § 391, 392 Power implied from investment powers, § 392 Power of court to permit, § 392, 394 Settlor prohibiting, § 392, 741 Statutes as to court's authority, § 392, 743 Scheme or plan, selection by court, cy pres, § 442 Scholarships, § 375 Schools and School Districts, this index Settlor, § 323 Actions, enforcement, § 415 Altering trust, § 393 Attack on validity of trust, § 417 Enforcement, § 415 Estoppel, breach of condition, precedent or subsequent, § 420 Failure or breach of express trust, § 418 Gift on condition precedent or subsequent, § 415, 420 Gift over on breach, § 415 Limitation on powers, Mortmain Act, § 326 Powers of visitation, § 416 Prerequisites as to creation, § 323 Prohibition of sales, § 392 Reservation of possibility of reverter, § 419 Restrictions, future interest rules, § 341, 352 Revocation, § 415, 998, 1001 Views of court as to what is charitable, § 368 Visitation, enforcement of condition, § 416 Settlor and trustees, powers as to purposes and methods, § 393 Shifting of legal or equitable interests under single charitable trust, § 348 Short-term trust, § 234, 264.25, 268.10 Size, class to be benefited, § 365

CHARITABLE TRUSTS—Cont'd Size of class, § 365 Beneficiaries, § 365 Source of funds, § 367 Source of trust fund, § 367 Dues and assessments, § 367 Mutual benefit societies. § 367 Public pension funds, § 367 Taxation, § 367 Special intent, § 436 Special or general intent, cy pres Construction, § 437 Distinguished, § 436 Gift over, § 437 Gifts to or for named institutions ceasing to exist, § 437, 440 Settlor's testimony, § 437 Subscription funds, § 437 Split interest trusts, § 245, 264.25 Standard of care of trustees, § 394 State law Statutory rules and restrictions, § 245, 285, 286, 326, 400 Supervision and enforcement, § 411 Taxation, § 285, 286 Status of donee or trustee, cy pres, § 440 Statute of Charitable Uses, generally, this index Statute of Frauds, § 61, 323 Statute of Limitations, § 399 Statute of uses, § 206 Statute of Uses, § 206 Statutes, § 361, 378 Accumulations, § 352 Administration, § 328, 394, 397 Administration of a single trust, § 395 Alteration, § 397, 439 Church property, schism, § 399 Corporations, title to property, § 325, 327 Creation, § 322, 323 Creation and administration, § 322 Cy pres, § 433

CHARITABLE TRUSTS—Cont'd Statutes, § 361, 378—Cont'd England Charitable Trusts (Validation) Act, England, § 372 Charities Act, 1960, § 321, 435, 436, 441 Judicial cy pres, § 433 Mortmain acts, § 325, 326 Restraints on alienation, § 350 Restricting power of testator to make charitable gifts, § 326 Restrictions Amount corporation may hold, § 327 Capacity of corporate trustees to take title, § 327 State or public trusts, § 395 Supervision and enforcement, § 411 Terminating trust, § 395 Uniform Charitable Trust Administration Act, § 433 Uniform Supervision of Trustees for Charitable Purposes Act, § 7, 411 Validity, § 322 Subject-matter, § 323 Subtrustee, enforcement, § 413 Subtrusts, § 362, 391 Administration, § 391 Beneficiary, charitable corporations, § 362 Charitable institution the beneficiary, § 391 Existence of trustee or donee, § 440 Successors Attacking trust, § 417 Enforcement, § 415 Successors of settlor, power to attack validity, § 417 Power to enforce, § 415 Supervision, § 411 Attorney general, § 411 Supervision and enforcement England, § 321, 411 Federal law, § 270.5, 396, 411, 863 United States, § 7, 411

CHARITABLE TRUSTS—Cont'd Suspension of power of alienation, § 350 Suspension of power of alienation, statutes, § 350 Synonymous terms Benevolent, § 370 Humanitarian, § 370 Philanthropic, § 370 Public purposes, § 370 Social welfare, § 370 Useful purposes, § 370 Tax advantages Exemption from federal income tax, § 245, 264.25, 270.5 Exemption from state property taxes, § 362, 379, 400 Gifts to, deductions, § 245, 264.25, 270.5, 275.5, 283, 285, 286 Taxes and Taxation, this index Tax exemptions, statutes, § 400 Teachers, source of funds, dues and assessments, § 367 Temporary trustee, § 398 Termination, § 400 Termination of trust, § 399, 996, 1008 Authority of trustee, § 399 Compromise of suit, § 399, 1009 Consent of Attorney General, § 399 Cy pres application General charitable intent, § 437, 438, 1002 Impossibility or accomplishment of purposes, § 1008 Failure or breach, § 399 Power of court, § 399 Reversion of property to settlor or successors, § 418, 436, 437, 1008 Terminology and classification, § 1 Testamentary, formalities, § 323 Mortmain Acts, § 325, 326 Testator Limitation on gift powers, Mortmain Acts, § 326 Theories, location of equitable title, § 411

CHARITABLE TRUSTS—Cont'd Third parties, enforcement, § 412 Time Duration of trust, § 996 Mixed trusts, § 372 Indefinite duration, § 351 Perpetual duration, § 351 Title to Property, this index Tort liability, § 401 Assumption of risk, § 401 Conflict of laws, § 401 Liability for torts of officers, agents and employees, § 401 Recent developments against immunity, **§ 401** Status in all states, § 401 Torts, this index Transfer of trust to another state, § 397 Trustee Acceptance by, § 328 Capacity, § 328 Change in personnel, § 397 Corporate trustee dissolved or charter expired, § 418 Corporation defectively organized, § 327 Corporation sole, § 37 Different types of trustees, § 391 Discretion, purposes and methods, § 371 Extent and nature of property interest, § 391 Failure, cy pres, § 440 Failure to name, effect, § 328 Municipal corporation as, § 328 Oral evidence to identify, § 328 Powers, express or implied, § 391 Private corporation, as, § 328 Public corporations as, § 328 Qualification, § 328 State as, § 328 United States as, § 328 Trustees Changes in personnel, § 398 Church property, schism, § 399 Contracts, liability, § 401

CHARITABLE TRUSTS—Cont'd Trustees-Cont'd Corporations Standard of care, § 394 Statutory restrictions, § 327 Cy pres, § 440 Power, § 435 Designation insufficient, § 371 Duties, § 394 Judicial assistance, § 396 Legal form of organization, § 361 Loyalty to beneficiaries, § 543 Powers, § 391 et seq. Qualifications, § 328 Removal from office, § 398, 522 Standard of care, § 394 Subtrustee, enforcement, § 413 Torts, § 402 Uniform Supervision of Trustees for Charitable Purposes Act, § 411 Visitation rights, § 416 Trust to arise at future date, § 343 Uncertainty, gift to charity, § 371 Underprivileged persons, § 379 Uniform Management of Institutional Funds Act, § 394 Unitrusts, § 245, 264.20, 264.25, 275.5, 283 Federal income tax, § 264.25, 270.5 Uniform Charitable Trust Administration Act, § 433 Uniform Supervision of Trustees for Charitable Purposes Act, § 7, 411 Vacancies in office, § 398 Vacancies in trusteeship, § 397 Settlor directions as to, § 397 Validity Compromise and settlement, § 394 Power to attack, § 417 Visitation, power of, § 416 Visitation power, § 416 Vivisection, § 379 Whimsical or irrational trusts, § 379 Wills, oral promise to convey to charity, § 499

CHARITABLE TRUSTS—Cont'd Words designating charitable intent,

§ 370
Worthy persons, classes benefited,
§ 370

CHARITABLE TRUSTS VALIDATION ACT English law, § 7, 372

CHARITABLE USES Statute, England, § 321

CHARITABLE USES ACTS Generally, § 325

CHARITIES ACT OF 1960 English law, § 7, 321

CHARITY

Defined, § 361, 369 Definitions, § 361, 369 Restatement of trusts, § 369 Statute of Charitable Uses, § 369 Synonymous terms, § 370

CHARITY COMMISSIONERS English law, § 321, 411

CHATTEL MORTGAGES

Beneficiaries' interests, successive assignees, § 194
Bona fide purchasers, recording, § 884
Filing or recording acts, § 149, 884, 893
Marshaling of assets, tracing trust funds, § 930
Recording, § 149, 884, 893
Subrogation, § 33
Trust investments, § 676

CHATTELS

Distinctions, chattel trusts from trusts, § 29 Investments, § 676 Title, death of sole trustee, § 529 Transfer of possession to trustee, § 148 Transfer of property interest to trustee, § 141, 142

CHECKS

Bank Deposits and Collections, generally, this index Contracts, § 21 Resulting trusts, payment of price, § 455 Transfer of property interest to trustee, § 142 CHILDREN AND MINORS See also Disabled Persons; Infants Accounts and accounting Uniform Gifts to Minors Act, § 15 Accumulations duration period, § 215 statutes, § 216 Active trust, creation, § 207 Administration of property, § 246 Adopted Children, this index Advances, deviation from distribution provisions, § 815 After-Born Children, this index Alienation, suspension of power during minority, § 219 Attain majority, termination of trust, § 996 Barring of remedies, estoppel by misrepresentation, § 944 Beneficiaries Generally, § 182 active trusts, § 207 Capacity, § 168 Class gifts, beneficiaries, § 182 Consent Investments, § 689 Trustee's resignation, § 513 Disclaimer. § 170 Distributions, payment or application, § 814 Family, **§ 182** Gifts per stirpes or per capita, § 182 Mortgages Notice, § 764 Unauthorized mortgages, ratification, § 768 Qualifications, § 168 Blended trusts Generally, § 230

CHILDREN AND MINORS—Cont'd Blended trusts—Cont'd Support, § 182 Breach of trust Laches, § 949 Ratification, § 942 Release, § 943 Capacity as settlor, § 44 Charitable trusts Advancement of education, § 375 Enforcement, § 414 Class gift, time of closing, § 182 Consent, barring of remedies, § 941 Consent to breach of trust, barring of remedies, § 941 Constructive trusts Confidential relationships, § 482 Fiduciary obligations, § 481 Contingent insurance trust, spouse not surviving grantor, § 235, 264.15 Contingent interests, Rule against Perpetuities, § 213 Discharge of support obligation, § 264.10, 268.15, 268.20 Distributions, income taxes, § 267.5 Duration, authorized accumulations period, § 216 Education, § 182, 811 Federal gift tax Discharge of support obligation, § 278 Gifts by minors, exemption, § 278 Gifts in trust, § 264.10, 279, 279.5 Trusts for minors, § 279, 279.5 Federal income tax Discharge of support obligation, § 264.10, 268.15, 268.20 Short-term trusts, § 264.10, 268.10 Trusts for minors, § 264.10 Georgia, statutes, § 212 Gifts to Estate and tax planning, § 231, 264.5, 264.20, 268.10, 268.20, 279, 279.5 Gifts in trust, § 233, 235, 264.10, 268.10, 279, 279.5

CHILDREN AND MINORS—Cont'd Gift taxes Generally, § 278 Gifts in trust, § 279 Gift tax exclusion trusts Generally, § 234, 268.10 Outright compared, § 231, 264.10 Trusts, § 233, 235, 264.10, 268.10, 279, 279.5 Use of Uniform Gifts to Minors Act, § 15 Irrevocable trusts for, § 234, 264.10 Joinder of parties, breach of trust, §871 Laches, breach of trust, § 949 Limitation of actions, breach of trust Generally, § 950, 951 Resulting trusts, § 952 Limitation of actions, resulting trusts, § 952 Living trusts, functions, § 231 Minority, term of trust, § 996 Posthumous children, accumulations, § 163 Power of appointment, § 264.20 Protective trusts, § 230 Public trusts, § 246 Purchase money resulting trusts, **§ 460** Purposes of trust, early law, § 212 Ratification, breach of trust, § 942 Release, breach of trust, § 943 Resulting trusts Limitation of actions, § 952 Presumption of gift by parent, **§ 460** Short term trusts, § 264.10 Spendthrift trust Alienation, § 222 Support, notice of trust, § 222 Spendthrift trusts, protective estates, § 222 Statute of Limitations, tolling, § 951 Support After divorce, § 811 Federal gift tax, § 270.10, 278 Federal income tax, § 264.10, 268.15, 268.20

CHILDREN AND MINORS—Cont'd Support—Cont'd Spendthrift trust, § 222, 224 Creditors' claims, § 224 Trusts, § 182, 268.15, 811
Termination of trust Court, § 1007 Minority, § 996
Trustees, resignation by consent of beneficiaries, § 513
Unborn Children, this index Unborn persons, accumulations, § 163
Uniform Gifts to Minors Act, text, § 15

CHILD SUPPORT

See, also, Support of Persons, generally, this index
Creditors rights, § 227
Divorce, gift taxes, § 278
Estate taxes, deductions, § 275.15
Garnishment, § 224
Protective trusts, § 230
Spendthrift trusts
Creditors rights, § 227
Exceptions, § 224
Garnishment, § 224
Support trusts, § 229

CHOICE OF LAW

Charitable trusts, § 298 Conflict of laws, § 294 Conflicts of Laws, generally, this index Considerations, foreign court selection, § 294 Constitutional limitations, § 294 Estate planning, § 264.5, 291, 301 Living trusts, § 233, 264.5, 297 Multistate trusts Generally, § 294 Living trusts, § 297 Testamentary trusts, § 296 New York codification, § 295 Powers of appointment, § 299 Public policy, forum state, § 294 Significant relationship test, § 294

CHOICE OF LAW—Cont'd Statutes affecting Generally, § 295 Choice of law principles, § 295 Foreign testamentary trustees, § 295 Governing law, § 295 Situs of trust, § 295 Testamentary dispositions, § 295 Uniform Probate Code provisions, § 295 Taxes, § 287, 300 Testamentary trusts, § 296 **CHOSES IN ACTION** Advancement of education, § 375 Agency to collect, § 22 Assignment of non-negotiable choses, § 25 Assignments, bona fide purchasers, patent equities distinguished from latent, § 886 Bailment of document representing, § 11 Bank deposits, tracing trust funds, § 925 Beneficiary's interest In rem rights, § 183 Successive assignees, priorities, § 195 Charitable trusts Advancement of education, § 375 Leases, term, § 796 Purpose and beneficiaries, § 364 Collection, trustee's duty, § 704, 869 Contract and trust, distinctions, § 17, 25 Creation of trusts Consideration, § 202 Delivery of document, § 148 Transfer of property, § 142 Enforcement, parties, § 869 Failure to collect, measure of damages, § 704 Formalities, creation of trust, § 115, 142

Future chose in action, § 113

Leases, term, § 796

Revocation, powers, § 1000

CHOSES IN ACTION—Cont'd

Royalties, principal or income, apportionment, § 827 Standing, reduction to possession, § 869 Subject-matter of trust, § 115 Transfer, consideration, § 202 Transfer of possession to trustee, § 148 Transfer of property interest to trustee, § 142 CHURCHES

See also Religious Organizations and Societies
Charitable trusts, § 376 Enforcement, parties, § 414 Establishment, § 376
Choirs, charitable trusts, establishment, § 376
Constitutional questions, § 399
Disposition of property, schism, recent developments, § 398
Merger and consolidation, § 399
Property disputes, constitutional rules, § 398
Schism, duties of trustees, § 399

CHURCH PROPERTY

Abandonment, meeting, § 213 Schism, duties of trustee, § 399

CITIES AND TOWNS

Trustees, § 130, 328 Charitable trusts, § 328

CITIZENS AND CITIZENSHIP See also Aliens; International Estate Planning Alien property custodian, enemy

aliens, interests under trust, § 168 Aliens

Beneficiaries, **§ 168** Federal estate tax, **§ 10, 271.5** Federal income tax, **§ 10, 265** Enemy aliens, termination of trust, confiscation, **§ 995** Federal estate tax, **§ 10, 271.5** Federal gift tax, **§ 10, 277** Federal income tax, **§ 10**

CITIZENS AND CITIZENSHIP -Cont'd Aliens—Cont'd Nature of beneficiary's interest, statutory declarations, § 184 Nonresident aliens, § 10 Removal as trustee Notice, § 523 Resident aliens, federal taxes, § 10, 271.5, 271.10 Resulting trust, purchase-money, § 463 International tax and estate planning, § 10, 271.5, 277 Nonresident aliens, § 10, 271.5, 277 Removal of alien as trustee, jurisdiction, § 523 **CIVIL DEATH** Beneficiary, effect on capacity, § 164 CIVILIZATION Advancement, charitable purpose, § 361 **CIVIL LAW** Community property, § 9, 26 International estate planning, § 9, 10 Louisiana law, § 2 Status of trust in, § 9 Substitutes for trust, § 9 Trust, § 2, 9 Development of Louisiana law, § 2 Recent Louisiana statutes, § 2 Recent statutes, § 7, 9 Recognition, foreign countries, § 2, Õ, Trust-like devices, § 9

CIVIL RIGHTS

Charitable trusts, § 375

CLAIM IN PROBATE

Barred by Statute of Limitations, § 950 Beneficiary's remedy, estate of deceased trustee, § 862

CLAIMS

Trustees, buying for self, § 543(D)

CLARIFICATION OF WRITINGS

Parol evidence, **§ 88** Creation of trust, **§ 51** Statute of Frauds, **§ 88** Wills, **§ 102**

CLASS ACTIONS

Associations, § 167 Breach of trust, § 871 Business trusts, § 247, 247M Constructive trust, § 472 Enforcement of trust, § 871 Trustees, removal from office, § 522

CLASS BENEFICIARIES

Generally, § 162, 182
Charitable trusts, § 365, 375
Distributions, delay until class is closed, § 814
Rule against Perpetuities, application, § 213
Time of closing class, § 182
Trusts to convey or distribute trust property, when active trust, § 209
Unincorporated associations, § 167

CLASSES OF PERSONS

Charitable trusts, beneficiaries, § 363

CLASS GIFTS

Construction of beneficiary's interest, § 182 Imperative powers of appointment, § 116 Nature of beneficiaries' interests, § 182 Perpetuities, § 214

CLASSIFICATION OF TRUSTS

Generally, § 1 Constructive trusts, § 471 et seq Federal income tax purposes, § 247, 261, 270.40 Implied trusts, § 1, 451 Resulting trusts, § 451 et seq

CLASS OF PERSONS

Beneficiaries, charitable trusts, § 365 Identification as beneficiaries, Rule against Perpetuities, § 213 CLASS OF PERSONS—Cont'd Trustees, deeds and conveyances, active trust, § 209

CLAYTONS CASE

Tracing trust funds, presumptions, commingled funds withdrawals Investments, **§ 928** Multiple trusts, **§ 927**

CLAYTON'S CASE

Rule in, tracing, § 927

CLEAN HANDS

Enforcement of resulting trusts, purchase-money type, § 463 Fraudulent conveyances, § 211 Illegal trusts, § 211 Resulting trusts, § 463 Settlor, fraud on creditors, § 211

CLERGY

Charitable trusts Beneficiaries, § 363 Training, § 376

CLERGYMEN

Annuities, charitable trusts, § 362
Church schism, right to office, § 398
Confidential relationship, constructive trust, § 482
Gift to, inferred charitable intent, § 376
Precatory language regarding masses, § 164

Trustee, charitable trusts, § 328

CLERKS OF COURT

Cemetery trusts, maintenance fund, **§ 377** Trustees for bondholders, substitu-

tion, § 519

CLIFFORD TRUSTS

Family business, using trust as partner, § 268.15
Federal estate tax, gross estate, § 273
Federal gift tax, § 278
Federal income tax, § 268.10, 268.15
Gift taxes, § 278
Income taxes, § 268.10
Tax requirements, § 234, 268.10

CLINICS

Hospitals, generally, this index

CLOSE CORPORATIONS

Charitable foundations, transfer of stock, § 330 Duties, directors and officers, § 394, 481 Estate taxes, deferral of payment, § 276 Fiduciary relationships, officers and shareholders, § 481, 481.1 Revocable trusts, dispositions of shares, § 233 Shares, valuation, estate taxes, § 274 Valuation, estate taxes, § 274.5 Shares, § 274

CLOSED-END INVESTMENT TRUSTS

Generally, § 248, 270.30 Federal income tax, § 270.30 Purposes and operation, § 248

CLOSELY HELD CORPORATION

Business life insurance trusts, § 253 Federal estate tax, valuation of stock, § 274.5 Operation of decedent's business, § 571 Stock in, trust investments, § 679

CLOUD ON TITLE

Parties, breach of trust, § 869 Removal, implied powers of trustee, § 551

CLUBS

See also Associations and Societies; Unincorporated Associations Beneficiaries, § 167 Charitable trusts, § 379 Beneficiaries, § 365 Club members, class characteristics, § 365 Municipal trustee, § 328 Private clubs, § 379 Purpose and beneficiaries, § 365 Private, no charitable purpose, § 379

CO-BENEFICIARIES

Actions, parties, § 871 Acts affecting, investments, § 688 Breach of trust Ratification, § 942 Release, § 943 Consent by one to breach of trust, rights of others, § 941 Conveyances to, § 188 Deeds and conveyances to, § 188 Duties, § 191 Indemnity and indemnification. breach of trust, consent, § 941 Liabilities, § 191 Majority giving consent, effect, § 941 Ratification, breach of trust, § 942 Release, breach of trust, § 943 Rights against, § 191 Set-off against income due, § 814

CODICIL

Charitable trusts, validity, § 326 Wills, § 103

CODIFICATION

See also Statutes State laws re trusts, § 7 Trust law in England and United States, § 7

COERCION

See Duress and Coercion; Undue Influence Duress and Coercion, generally, this index

COLLATERAL ATTACK

Court decree barring, § 956 Court order, resignation of trustees, § 514

Trustees, resignation, § 514

COLLATERAL ESTOPPEL

Breach of trust, barring of remedies, § 956

COLLATERAL QUESTIONS

Charitable trusts, cy pres application, § 441

Court decree resolving, § 955

COLLATERAL QUESTIONS -Cont'd Decree approving trust accounts, § 956 COLLATERAL TRUSTS Trust to secure creditors, § 250 COLLECTIONS Generally, § 583 et seq Contracts, § 23 Debt or trust Banks, § 23 Statutes, § 24 Insurance Premium collections, trust, § 22 Principal or income, § 821 Rents, real estate management from, § 22 Uniform Commercial Code, bank paper, § 24 Uniform deposit contracts, § 24 **COLLEGES AND UNIVERSITIES** Charitable trusts, § 375 Advancement of education, § 375 Charges by trustees, § 364 English Charities Act 1960, exemptions, § 321 Profit making, § 364 Purposes, § 362 Education, beneficiaries' interest, § 182 Federal income tax deduction, educational institution, § 264.25 Uniform Management of Institutional Funds Act, § 396 COLLUSION Co-beneficiary with trustee, breach of trust, § 191 Participation in breach of trust, § 901, 912 Trustee and third party, breach of trust, § 955 **COLONIAL AMERICA** Development of chancery, § 6 **COLORADO** Accounts and accounting, statutory

regulation of accounts, § 974

COLORADO—Cont'd Investment statutes, § 621 COMMENCEMENT Purchase money resulting trusts, § 454 COMMENCEMENT OF TRUST Federal income tax purposes, § 265 Living trust, beneficiary's right to income, § 811, 817 **COMMERCE** See Business **COMMERCIAL CODE** See Uniform Commercial Code **COMMERCIAL PAPER** Beneficiaries' interest, bona fide purchasers, in rem rights, § 183 Bona fide purchasers, § 881 Checks Resulting trusts, payment of price, § 455 Transfer of property interest to trustee, § 142 Collection items, debt or trust, § 23, 24 Constructive trusts Forgery, § 477 Contractual liability of trustee, § 7, 712 Creation of trusts, transfer of property, § 142 Debt or trust Banks, § 23 Statutes, § 24 Delivery to trustee, § 142 Dividends, principal and income, § 855 Federal gift tax, exclusion, § 279 Negotiable Instruments, generally, this index Participation in breach of trust Custodian, § 15, 975 Purchase from trustee, § 903 Statutes, purchaser's actual knowledge of breach necessary, § 903

COMMERCIAL PAPER—Cont'd Resulting trusts, payment of price, checks, § 455 Situs, multistate trusts, court proceedings, § 292 Statute of Frauds, personal property trusts, § 65 Subject-matter of trust, § 111, 115 Time deposits, creation of trusts, transfer of property, § 142 Tracing trust funds, § 921, 924 Transfer of possession, § 148 Transfer of property interest to trustee, checks, § 142 Uniform Commercial Code, § 7, 24, 712 Purchase from trustee, when breach of trust, § 903 Uniform deposit contracts, collections, § 24 Uniform Negotiable Instruments Law Liabilities of trustees, business trust, § 247 Mortgage loans, personal liability of trustee, § 775 Note of trustee, liability, § 714 Purchase from trustee, participation in breach of trust, § 903 COMMINGLING Bank deposits and collections, breach of trust, depositing trust property to personal credit of trustees, § 906 Breach of trust Bank deposits and collections, depositing trust property to personal credit of trustees, § 906 Damages Election of remedies, § 863 Sureties and suretyship, liability, § 864 Duties of trustees, § 541 Removal of trustees, grounds, § 527 Trustee lending trust funds to self, § 543(J)

Charitable trusts, § **394** Investments, § **395**

COMMINGLING—Cont'd Charitable trusts, § 394-Cont'd Remainders, § 264.25 Constructive trusts, § 471 Tracing trust funds, § 923 Presumptions Investments, § 928 Multiple trusts, § 927 Restoration of funds, § 929 Trust and personal funds, § 926 **COMMINGLING FUNDS** Bank deposits Fiduciary funds, § 21 Tracing trust funds, § 926 Breach of trust, § 707 Charitable trustees, § 396 Common trust funds, trust investments, § 677 Compensation, forfeiture, § 980 Life estates, tracing funds, § 926 Personal and trust funds, tracing trust funds, § 926 Pooled agency accounts, national banks, § 677 Pooled income funds, federal tax law, § 264.25, 270.5, 275.5

Removal of trustee, § 527
Trust and personal investments, tracing trust funds, § 928
Violations of trustee's duty, § 707

COMMISSIONS

See also Compensation of Trustee Apportionment of, § 978 Double, executor and trustee, § 979 Federal income tax, allocation, § 266, 268.25, 269 Forfeiture or reduction, § 980 Trustee, from principal and income, statutes, § 975

COMMITTEES

Bondholders' committee Liquidation trusts, § 254 Status, § 251 Relationship distinctions, § 13

COMMON DISASTER CLAUSE Federal estate tax, effect on marital deduction, § 275.10 COMMON LAW Accumulations of trust income, § 215 Charitable trusts, enforcement, § 322 Courts of Early development of trust. § 3 Enforcement of trust, § 870 Duration of trust, § 218 Partnership interest, investments of trustee, § 679 Power of appointment, § 233 Restraints on alienation, § 219 Restrictions, § 231 Trust creation, formality States having no Statute of Frauds, **§ 64** Trustees, accumulations, § 215 Trust known as business trust, § 247A COMMON TRUST FUNDS Apportionment of receipts, § 818 Attorneys fees, breach of trust, § 871 Collective investment funds. § 270.25 Commingling of trust funds, § 677 Federal income taxation, participating trusts, § 270.25 Federal regulation, § 677 Growth of use, § 677 Income taxes, § 270.25 Investments, § 677 Origin and early history, § 677

Pooled agency accounts, § 677 State statutes validating, § 677 Trust investments, § 677 Uniform Common Trust Fund Act, § 7, 677

COMMUNIST COUNTRIES

Resident beneficiaries, **§ 168** Distributions to residents, **§ 814**

COMMUNITY BENEFITS

Charitable trusts, § 362 Governmental trusts, § 378 **COMMUNITY FOUNDATIONS** Community trust distinguished, § 329 **COMMUNITY FUNDS** Charities, qualifications, § 264.25 **COMMUNITY PROPERTY** Beneficiaries, § 182 Civil law countries, §9 Civil law system, § 7, 9, 26 Commingling funds, tracing trust funds, § 926 Distinction, trust, § 26 Estate taxes, marital deduction, § 275.10 Federal estate tax, § 273 Marital deduction, § 275.10 Transfer in trust with retained life estate, § 273.10 Federal gift tax Marital deduction, § 280 Gifts by one spouse, § 26 Gift taxes, § 278 Husband as trustee, § 26 Insurance proceeds, federal estate tax, § 273.40 Interest in, subject-matter of trust, § 112 Life insurance, estate taxes, § 273.40 Management powers, § 26 Marriage dissolution or legal separation, division of property, § 26 Purchase money resulting trusts, § 454 Resulting trusts, purchase money type, § 454 State transfer taxes, § 285, 286 Statutes, eight states, § 26 System, generally, § 7, 26

COMMUNITY PURPOSES Charitable trusts, § 378

COMMUNITY SERVICE Charitable purpose, § 361

COMMUNITY TRUSTS Generally, § 329 Charitable trustees, § 391 Definitions, § 329 Federal tax treatment, § 329

COMMUNITY TRUSTS—Cont'd Gifts, § 245 Gifts to, § 329 Power of trustee to alter, § 393, 435 COMPENSATION See also Commissions; Compensation of Trustee; Statutes Constructive trustees, § 472, 487 Deferred compensation payments, tax and estate planning, § 264.5 Employer retaining, debt or trust, § 19 Executors and administrators, § 12, 975 Expenses of trust, § 806 Federal income tax, allocation of trustee's commissions, § 266 Fiduciaries, statutes, § 975 Guardians, § 13, 975 Trustee employing self, specialized work, § 543(M) COMPENSATION AND SALARIES Charitable trusts Duties of trustees, § 395 Unemployment compensation, exemptions, § 401 Employee Benefit Plans, generally, this index Employee Benefit Trusts, generally, this index Marital Property Act, § 7 Retirement and Pensions, generally, this index Statutes, private trustees, § 975 Trustees Acceptance of gift from one with whom trust business is conducted, § 543(P) Charitable trusts, duties of trustees, § 395 Commissions Apportionment, § 978 Double commissions, § 979 Consent, barring of remedies, § 941 Control of by settlor or beneficiary, § 976

COMPENSATION AND SALARIES -Cont'd Trustees-Cont'd Corporate stock, voting for self as director or officer of corporation, § 543(N) Court award, bases, § 977 Courts power to reduce or deny, § 980 Denial, § 541 Disloyalty, § 543(V) Employing self to do specialized work for trust, § 543(M) Good faith, dealing with beneficiaries, § 544 Grounds for removal, § 527 Reduction or denial, sanctions, § 861 Resignation, § 515 Statutes, § 975 Unemployment compensation, charitable trusts, exemptions, § 401 **COMPENSATION OF TRUSTEE** Generally, § 975, 980 Accounts and accounting Denial or reduction, § 980 Increase, § 976 Agreement With beneficiary, § 975, 976 With settlor, § 976 Allocation Federal income tax purposes, § 266, 268.25, 269 Income and principal, § 806, 975 Uniform Principal and Income Act, § 802, 806 Amount Agreement with beneficiary, § 976 Discretion of court, § 977 Extra compensation, § 977 Fixed by settlor, § 976 Increased by court, § 976, 980 Reduced by court, § 976, 980 Statutes fixing, § 975 Apportionment Co-trustees. § 978

COMPENSATION OF TRUSTEE -Cont'd Apportionment-Cont'd Discretion of court, § 802, 975, 978 Statutes, § 806, 975, 978 Statutory commission, successive trustees, § 978 Approval by beneficiary, § 941 Beneficiary fails to object to prior practice, § 976 Business trusts, § 247 Charitable trustees, § 396 Commission, sale of real estate or collection of rent, § 977 Constructive trustee, denial by decree, § 472 Improvements, § 471, 487 Control By beneficiary, § 976 By court, § 975, 977, 980 By settlor, § 975, 976 By statute, § 975 Corpus commissions, § 806, 975, 978 Co-trustees, apportionment of commissions, § 978 Court award, § 976, 977, 980 Bases for, § 977 Extra compensation, § 977 Factors considered by court, § 977 Amounts handled, § 977 Custom in community, § 977 Nature of services, § 977 Prior practice, § 976 Risk and responsibility, § 977 Skill and experience, § 977 Lump sum or percentage commission, § 977 Single commission, quantum meruit, division among co-trustees, § 978 Court discretion In absence of statute, § 975 Allocation of charges, § 802, 806 Amount of compensation, § 977 Extra compensation, § 977 Increased compensation, § 976, 980

COMPENSATION OF TRUSTEE -Cont'd Court discretion-Cont'd Reduced compensation, § 976, 980 Reduction or denial, breach of trust, § 543(V), 861, 980 Statutes, § 975 Court may forfeit commissions, § 980 Court rules, some states, § 975 Denial or reduction Breach of duty, § 701, 861, 980 Breach of duty to accounts, § 980 Disloyalty of trustee, § 543(V) Failure to keep records or accounts, § 980 Double commissions New York doctrine, § 979 Same person acting as executor and trustee, § 979 When granted, executor-trustee, § 979 Effect on duty of care, § 541 Employer retaining, debt or trust, § 19 England Early rule, § 975 Modern rule, § 975 Excessive compensation Fixed by settlor, § 976 Removal of trustee, § 527 When court reduces, § 976 Executor-trustee, successive capacities, double commissions, § 979 84 Extra compensation, § 977 Denial by statute or court, § 976, 977 Statutes, § 977 Federal income tax, allocation of trust expenses, § 266, 268.25 Forfeiture, § 980 Gift or legacy in lieu of, § 976 Grounds for forfeiture, § 980 Inadequate compensation fixed by settlor, § 976 Income commissions, successive trustees, § 978

COMPENSATION OF TRUSTEE -Cont'd Increase, inadequate compensation, § 976 Lien to collect, § 975 Minimum fee schedules, corporate trustees, § 975 National banks as trustees, Regulation 9, § 134 Passive trust, denial or reduction, § 977 Principal commissions, § 806, 975 Successive trustees, § 978 Recent issues regarding, § 975 Reduction or denial Breach of duty to account, § 980 Breach of other duty, § 543(V), 701, 861, 980 Remedies of beneficiary, § 861, 980 Types of conduct causing, § 980 Removal of trustee, forfeiture, § 980 Excessive compensation, § 527 Resignation of trustee, § 515, 977 Right of trustee's consultant or advisor to compensation, § 975 Right to receive when later earned, assignment, § 113 Waiver, condition, § 516 Schedule of fees Statutes, § 975 Self-employment, § 543(M) Separate commissions, administration of several trusts, § 979 Settlor, no liability, § 42 Sources of payment, § 802, 806 Principal and income, statutes, § 802, 806, 975 State statutes, basic types, § 975 Statutes Alabama, § 975 Alaska, § 975 Apportionment of commissions, § 806, 975, 978 Arizona, § 975 California, § 975 Colorado, § 975

COMPENSATION OF TRUSTEE -Cont'd Statutes-Cont'd Court discretion, additional compensation, § 977 Delaware, § 975 District of Columbia, § 975 Extra compensation, § 977 Florida, § 975 Forfeiture of commissions, § 980 Georgia, § 975 Hawaii, § 975 Idaho, § 975 Illinois, § 975 Indiana, § 975 Iowa, § 975 Kansas, § 975 Kentucky, § 975 Louisiana, § 975 Maine, § 975 Maryland, § 975 Massachusetts, § 975 Michigan, § 975 Minnesota, § 975 Montana, § 975 Nevada, § 975 New Hampshire, § 975 New Jersey, § 975 New Mexico, § 975 New York, § 975 North Carolina, § 975 North Dakota, § 975 Ohio, § 975 Oklahoma, § 975 Oregon, § 975 Pennsylvania, § 975 Reasonable compensation in discretion of court, § 975 Reimbursement for expenses, § 975 Renunciation by trustee, election to take statutory commissions, § 976 Rhode Island, § 975 Schedule of fees, § 975 Settlor's allowance, conclusive, § 976 South Carolina, § 975

COMPENSATION OF TRUSTEE -Cont'd Statutes-Cont'd South Dakota, § 975 Tennessee, § 975 Trustee entitled to reasonable compensation, § 975 Utah, § 975 Vermont, § 975 Virginia, § 975 West Virginia, § 975 Wisconsin, § 975 Wyoming, § 975 Terms governing Conclusive on trustee, § 976 Statutes, § 976 Time or times when awarded, § 977 Trustee renounces, subject to statutory control, § 976 Uniform and Revised Uniform Principal and Income Acts, allocation, § 802, 806, 816 Uniform Probate Code provisions, § 975 Uniform Trustees' Powers Act provisions, § 975 United States, § 975 Waiver by trustee, § 516, 975, 980 Failure to request on accounting, § 980 Income commissions, by distribution of trust income, § 980 COMPETENCY Breach of trust, defenses, § 862 COMPETITION Trustee in competing business, disloyalty, § 543(O) Trustees Engaging in competing business on own behalf, § 543(O) Loyalty to beneficiaries, § 543 COMPLETED TRUST Consideration, § 202 COMPLEX TRUSTS See also Income Tax—Federal, this Index Beneficiaries, income taxes, § 268.5

COMPLEX TRUSTS—Cont'd Distributable net income, income taxes, § 267 Estate and tax planning, § 264.5, 264.25, 267, 267.5 Excess distributions, income taxes, § 267.5 Federal income tax, § 267, 267.5, 268.5 Accumulated income, § 267, 268.25 Accumulation distribution, § 267, 267.5, 268.5 Definition, § 267, 267.5 Throwback rule, § 267.5 Allocation Capital gains, § 267, 269 Deductions and credits among beneficiaries, § 267, 268.5, 268.25, 269 Income among beneficiaries, § 267, 268.5, 269 Income between trust and beneficiaries, § 267, 268.25 Charitable gifts, § 267, 268.25 Conduit rule, § 267 Corpus distributions, § 267, 268.5 Deductions and credits, § 267, 268.25 Definition, § 267 Discretionary trusts, as, § 264.10, 267, 267.5 Distributable net income, § 266, 267, 268.25 Distributions deduction Accumulated income or corpus, § 267, 267.5 Current income, § 267, 268.25 65-dav rule, § 267 Distributable net income limitation, § 267 Property distributed in kind, § 267 Specific gift exclusion, § 267 Tier system, § 267 Excess distribution, § 267, 267.5 Income Capital gains, § 267, 268.25 Gross income, § 267, 268.25

COMPLEX TRUSTS—Cont'd

Federal income tax, § 267, 267.5, 268.5—Cont'd Separate share rule, § 267 Taxation of beneficiaries Accumulation distributions, § 267.5 Corpus distributions, § 267, 268.5 65-day rule, § 267 Discretionary trusts, § 267, 268.25 Separate share rule, § 267 Tier system, § 267 Taxation of trust, § 267, 268.25 Trust exemptions, § 267 Income taxes, § 265 et seq. Accounting, allocations, income and deductions, § 269 COMPOUND INTEREST Breach of trust, damages award, § 863 **COMPROMISE AND** SETTLEMENT See also Public Policy; Settlement, this Index Beneficiaries' interest, successive assignees, priorities, § 195 Charitable contributions, estate tax deductions, § 275.5 Charitable trusts Court's approval, § 399 Court's power to authorize, § 394 Parties, § 411 Termination, § 400 Claims Allocation of recovery, § 821 Co-trustees, power to be exercised by all, § 554 Delay in making distributions, § 814 Implied powers of trustee, § 551 Invalidity of trust, basis for family settlement, § 1009 Modification or termination of trust, court's power to approve, § 992, 994, 1009 Preservation of trust, § 581

COMPROMISE AND SETTLEMENT—Cont'd Cy pres, **§ 431** Marital Property, this index Spendthrift trust, release, § 222, 226, 1008 Destructibility of trust, § 226 Spendthrift trusts, termination, § 226 State taxation, controversies between states, § 286, 287 Termination of trust Agreement of parties, § 1009 Approval by court, § 1009 **COMPTROLLER OF THE CURRENCY, UNITED STATES** Control over common trust funds, § 677 Powers over national banks, § 134, 677 CONCEALMENT Basis for constructive trust, § 473 Community property settlement, § 26 Covenant to stand seized, secret conveyance, § 201 Oral promise to hold for another, wills, § 499 Origin and uses of trusts, § 2 Parol trusts, secret memorandum, § 85 Profits Corporate directors, § 16 Trustee, removal, § 527 Purchase-money resulting trust, secret uses, § 454 Settlor creating spendthrift for self, § 223 Statute of Frauds, secret entry, § 84 Trustee Affecting consent or approval of beneficiary, § 941, 943 Direct dealings with beneficiary, § 544, 941, 943 Trustees, loyalty to beneficiaries, § 543 **CONCENTRATION OF WEALTH**

Accumulation of trust income rules, policy basis, § 215, 217

CONCURRENT JURISDICTION Validity of trusts, § 870

CONCURRENT REMEDIES Election of remedies distinguished, § 945

CONDEMNATION See Eminent Domain

CONDITIONAL DELIVERY Deeds, § 147 Trust instrument, § 147

CONDITIONAL ESTATES Creation of trusts, quantum of trustee's interest, § 144

CONDITIONAL GIFTS Charity, estate taxes, marital deduction, § 275.10

CONDITIONALLY REVOCABLE TRUST Generally, § 233 Estate planning use, § 233

CONDITIONALLY REVOCABLE TRUSTS Generally, § 233

CONDITIONAL SALES

Beneficiary's interest, bona fide purchasers, in rem rights, § 183
Contracts, filing or recording acts, § 149, 884, 893
Recording Bona fide purchaser rule, § 884

CONDITIONS

Constructive trusts, enforcement by complainant, § 472 Court, removal of trustee, § 528 Resignation of trustee, § 516

CONDITIONS PRECEDENT

Appointment of trustee, court discretion, § 132, 151
Avoidance, public policy, § 211
Beneficiary
Acceptance, § 169
Beneficiary's interest, § 181, 182
Acceptance by beneficiary, § 169

CONDITIONS PRECEDENT -Cont'd Beneficiary's interest, § 181, 182 -Cont'd Alienation, § 188 Contingent interest, § 182 Creditors, equitable remedies, § 193 Disclaimer, acceleration of remainders, § 172 Charitable trusts, § 420 Cy pres, § 440 Gifts, § 420 Termination, § 400 Charitable trusts, vesting, § 420 Creation of, § 420 Masses, saying, § 376 Power of sale, § 392 Termination. § 399 Constructive trusts, § 472 Failure to comply, loss of trustee's powers, § 566 Investments, beneficiaries, consent, § 68 Obtaining relief, purchase-money resulting trusts, § 465 Public policy, trust in violation, § 211 Oualification of trustee, court discretion, § 151 Trustee Exercise of discretionary powers, § 552 Exercise of personal powers, § 553 Qualifications to act, § 151 CONDITIONS SUBSEQUENT Avoidance, public policy, § 211 Beneficiary's interest, § 181, 182 Creditors, seizure of property, § 193

Charitable gifts, forfeiture, § 324 Charitable trusts, § 420 Creation of, § 420 Cy pres, § 440 Distinguished, § 324 Gifts, § 420 Masses, saying, § 376 Termination, § 399, 400, 420

Compared with trust, § 35

CONDITIONS SUBSEQUENT

—Cont'd
Conveyances in return for promises of support, § 19
Distinguished from trust, § 35, 324
Intent of settlor, expression, § 45
Interest in, subject-matter of trust, § 112
Life estates, forfeitures, § 220
Public policy, trust in violation, § 211
Restraints on alienation, § 220
Rule against Perpetuities, § 213
Right of reentry, § 213
Trust property subject to, § 112

CONDOMINIUM

Compared with trust, **§ 38** Transfer of property interest to trustee, **§ 141**

CONDUCT OF PARTIES

Breach of trust, notice, § 910
Practical construction, creation of trust, § 50, 454
Presumption of a resulting trust, § 454
Trust interest, resulting trust.

purchase-money type, § 454

CONFESSION OF JUDGMENT

Creditors, preference, § 715 Implied powers of trustee, § 551

CONFIDENTIAL OR PRIVILEGED INFORMATION

Constructive trusts, abuse of confidential relationship, **§ 482** Trustees

Dealing with beneficiaries, § 544

CONFIDENTIAL RELATIONSHIP

Aged persons, constructive trust, § 482 Beneficiary of oral trust, § 496 Burden of proof, § 544 Conditions subsequent, § 35 Constructive trust Beneficiary of oral trust, § 496 Gift by will, informal trust, § 498 Judicial sales, § 494, 543(C)

CONFIDENTIAL RELATIONSHIP

-Cont'd Constructive trust-Cont'd Presumption of undue influence, § 474 Definition and examples, § 482 Direct dealing by trustee Burden of proof, § 544 Good faith and fair play required, § 544 Fiduciary relationship compared, § 481 Gifts, burden of proof, § 544 Husband and wife, § 482 Incompetents, constructive trust, § 482 Joint tenants, § 28 Loyalty, duties, § 543, 543(D) Trustee buying at forced sale, § 543(C) Partnerships, § 36 Receivership, § 14

CONFIRMATION

See also Ratification Barring beneficiary's remedies, § 942 Barring of remedies, § 942 Disloyalty, § 543(U) As ratification, § 942 Sales, by court, § 745 Validating unauthorized mortgage, § 768

CONFISCATION

Alien beneficiary's interest, **§ 168** Enemy alien, termination of trust, **§ 995**

CONFLICT OF INTERESTS

See also Constructive Trusts; Loyalty Adverse or Pecuniary Interests, generally, this index Banks, trust and commercial departments, investments, § 612 Confidential relations, § 482, 543 Consent barring remedies, § 941 Corporation as trustee of own stock, § 115, 543(G) Disloyalty, sale of trust property, § 745

CONFLICT OF INTERESTS -Cont'd Executors and administrators, § 12, ch. 26 Fiduciary relations, § 481, 543 et seq Notice to beneficiary, § 543 Perpetuities, Rule against, § 213, 214 Removal of trustee, § 527, 528 Resignation of trustee, § 515 Sales between trusts with common trustee, § 543(H) Temporary removal of trustee, § 528 Trustee Action against third person, § 869 Investment companies, § 248 Liquidation trust, § 254 Personally and as representative, § 543 Selection, § 121 CONFLICT OF LAWS See also Charitable Trusts; Jurisdiction; Powers of Appointment; Taxes and Taxation Accumulations, rules, § 216 Characterization of facts, § 291, 293 Characterization of property interests, § 291, 293 Charitable trusts, § 298, 322, 326 Attack on validity, § 417 Tort liability, § 401 Choice of governing local law, § 291, 294 Differences as to dispositions of property, state laws, § 291 Domicile and situs, definitions, § 291 Formalities, execution of trusts and wills, § 291 Illegality, trust purposes, § 211 Judicial jurisdiction, meaning, § 291, 292 Living trusts, § 297 Mortmain statutes, charitable gifts, restrictions, § 298, 326 Multistate trusts, § 287, 291 et seq Nonresident trustees, state laws, § 291, 295 Perpetuities, Rule against, § 213, 214 Pour-over statutes, § 291, 296

CONFLICT OF LAWS—Cont'd Powers of appointment, § 233, 299 Public policy, § 211, 294 Restatement, Conflict of Laws, § 8 Rights of surviving spouse, § 291 Spendthrift provisions, § 291, 293 State taxation, § 285, 287, 300 Suspension of power of alienation, § 219 Tax laws, state, § 291, 300 Testamentary gifts to charity, § 291, 298 Testamentary trusts, § 296 Totten trusts, creation, § 47, 293 Transfer of situs, appointment of foreign trustee, § 132, 861 Trusts as testamentary dispositions, § 104, 233, 291 Unincorporated associations, trustees, § 328 Validity, trust purposes, § 211 CONFLICTS OF LAWS Generally, § 231, 294 Characterization, § 293 Charitable trusts, § 298 Challenges, § 417 Civil law courts, trusts, § 9, 10 Estate planning, § 301 Illegality, § 211 International estate planning, § 9, 10 Jurisdiction, § 292, 870 Living trusts, § 297 Multistate trusts, § 291 et seq. State tax laws, § 300 Power of appointment, § 299 State statutes, § 295 State taxes, § 287, 300 Testamentary trusts, § 296 CONFUCIANISM

Charitable trust, purpose, aid to religion, § 376

CONFUSION OF GOODS Tracing trust funds, § 923

CONFUSION OF GOODS

DOCTRINE Tracing trust funds, **§ 923**

CONGRESSIONAL **INVESTIGATIONS** Federal income tax, charitable trusts and foundations, § 270.5 CONNECTICUT Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 622 CONSENT See also Barring of Remedies; Ratification; Release Accounting, defense to beneficiaries' action for, § 969 Adverse party, federal income tax, § 264.10, 268.10, 268.20 Barring of remedies, § 941 Barring remedies of beneficiary, § 941 Trust investments, § 688 Beneficiary Advance consent, § 169 Agreement that trustee may resign, § 513 Conditions precedent to binding effect, § 941 Delegation of trust powers, § 555 Knowledge of legal effect, § 941 Power exercised by one of several trustees, § 554 Principal and income allocations, § 845, 941 Requiring knowledge of facts, § 941 Trustee's act exceeding powers, § 561 Trustee's unauthorized mortgage, § 768 Validating trustee's sale, § 747 Breach of trust, § 941 Co-beneficiary, § 191, 941 Competency of consenting beneficiary, § 941 Defense to beneficiaries' action for accounting, § 969 Disability of beneficiary, affecting, § 941 Duty of trustee in obtaining, § 544, 941

CONSENT—Cont'd Failure to object in court proceeding, § 941 Federal estate tax, adverse party, § 273.20, 273.35 Federal gift tax, donor's spouse, § 281 Guardian of beneficiary, investments, § 689 Indirect assignments, spendthrift trusts, § 226, 941 Investments Co-beneficiaries, § 689 Fraud. § 689 Knowledge, § 689 Joining with trustee in act, § 941 Majority action, § 941 Making lawful otherwise disloyal act, § 543(A), 543(C), 543(U) Modification of trust, § 992 Propriety of allocation of corporate distributions, § 845 Ratification distinguished, § 942 Revocation, § 941, 999 Rights of nonconsenting beneficiary, § 941 Settlor requiring beneficiary's prior consent, § 941 Silence or passivity, contrasted, § 941 Subsequent assignee of consenting beneficiary, § 941 Termination by settlor and all beneficiaries, § 1005 Violation of accumulation rules, § 217 **CONSEQUENTIAL DAMAGES** Breach of trust, § 543(V), 862 **CONSERVATORS** Creation of trusts, § 44 Living trusts, appointment affecting trust assets, § 231 Protection of assets, § 231 Relationship distinguished from trust, § 13 **CONSIDERATION**

See also Contracts; Statute of Uses

CONSIDERATION—Cont'd Adequacy of consideration, bona fide purchasers, notice, facts putting on inquiry, § 895 Banks and banking, debtors and creditors, bona fide purchasers, § 888 Beneficiaries' interests, payment, § 181 Beneficiary paying, creation of trusts, § 169 Bona fide purchasers, § 881, 887 Banks and banking, credit, § 888 Facts putting on inquiry, notice, adequacy of consideration, § 895 Partial payment, § 890 Statutes, § 889 Breach of trust Ratification, § 942 Release, § 943 Third parties, remedies of beneficiaries, § 868 Charitable trusts, § 323, 418 Completed trusts, § 202 Contract and trust, distinctions, § 17 Creation of trusts, enforcement, § 204 Crimes and offenses, bona fide purchasers, § 887 Debtors and creditors, banks and banking, bona fide purchasers, § 888 Deeds, modern law, § 201 Deeds and conveyances, § 201 Defined, creation of trust, § 204 Failure Resulting trust arising from, § 468 Settlor setting trust aside, § 42, 997 Federal estate tax, transfers in trust for consideration, § 273.45 Field Code states, § 202 Fraudulent conveyances, § 211 Future trusts, creation, § 203 Gambling, bona fide purchasers, § 887 Gifts, incomplete gifts, § 205 Incomplete trusts, § 202 Incomplete voluntary transfers, § 202 Joint tenancy, estate taxes, § 273.30

CONSIDERATION—Cont'd Life insurance, estate taxes, § 273.40 Marriage, this index Meritorious, promise to create trust, § 204 Modern trust law, § 202 Negotiable Instruments Law, bona fide purchasers, § 889 Partial payment, bona fide purchasers, § 890 Promises to create trusts, § 203, 204 Public policy, bona fide purchasers, § 887 Purchase money resulting trusts, § 454 Purchase money resulting trusts, payment, § 455 Ratification, breach of trust, § 942 Release, breach of trust, § 943 Release of trustee, breach of trust, § 943 Rescission, creation of trust, § 998 Resulting trusts, § 455 Seal, early law, § 204 Settlor, creation of trust, § 41 Spendthrift trusts, assignments by beneficiary, § 226 Spendthrift trusts, contracts to assign, § 226 Statutes, bona fide purchasers, § 889 Third parties, breach of trust, remedies of beneficiaries, § 868 Transfers in trusts for consideration, estate taxes, § 273.45 Trust of chose, need for consideration, § 202 Uses, early law, § 201 Value contrasted, bona fide purchaser rule, § 887 CONSOLIDATION See also Merger and Consolidation Beneficiaries, termination, joint action with trustee, § 1006 Beneficiary and trustee's interest,

trustee as sole beneficiary, **§ 168** Charitable trust, **§ 397** Corporate trustee or donee, cy

pres, § 440

CONSOLIDATION—Cont'd Churches, disposition of property, § 398 Corporate trustee, § 531 Creditors, trust to secure creditors, § 246 Destruction of trust, purchase-money resulting trust, § 466 Double interest of trustee, § 129 Implied powers, leases, § 784 Interests of trustee and beneficiary, trustee as sole beneficiary, § 168 Investments, retention, § 683 Leases, implied powers, § 784 Principal and income, stock, § 845 Purchase-money resulting trust, § 466 Religious organizations, disposition of property, § 398 Resulting trust, purchase-money type, destruction of trust, § 466 Retention of investment, § 683 Securing creditors, § 246 Spendthrift trust, § 226 Stock, principal and income, § 845 Stock investments, retention, § 683 Termination of trust, § 1003 Joint action of beneficiary and trustee, § 1006 CONSPIRACY Breach of trust, substitution of parties, § 869

CONSTITUTIONAL LAW Bases, state taxation, § 287, 300 Charitable trustees, qualifications, § 328 Charitable trusts Alteration, § 397 Church property, chrism, § 399 Charitable trusts, public agency as trustee, § 328 Church schism, property disputes, role of civil courts, § 398 Discrimination, § 328, 378 Due process of law, jurisdiction, § 292 Equal Protection of Laws, generally, this index

CONSTITUTIONAL LAW—Cont'd Free speech, charitable solicitation, § 411 Judicial jurisdiction, § 292 Multistate trusts, choice of law, § 287, 294 Perpetuities, § 214 Prohibiting perpetuities, § 214 Religion, this index Trustees Charitable trustees, qualifications, § 328 Removal from office, § 519 CONSTRUCTION Beneficiaries' interests, § 182 Charitable trusts. § 361 Cy pres, general or special intent, § 437 Conditions subsequent, § 420 CONSTRUCTION OF **INSTRUMENTS** See also Beneficiaries' Interests; Charitable Trusts; Courts; Creation of Trusts Beneficiary's interest, § 182 Intent, § 45 Practical construction, § 45, 46 Trustee, aid of court, § 182, 559 Trust instrument, settlor, right to seek, § 42 Wills, charitable trusts, sub-trustee, § 413 **CONSTRUCTIVE FRAUD** Constructive trusts, § 471 Contracts, § 17 Fraudulent conveyances, § 211 **CONSTRUCTIVE INTENT** Fraudulent conveyances, § 211 CONSTRUCTIVE NOTICE Assignee from trustee of trust, § 192 Bona fide purchasers, § 891 Recording acts, § 893 Buyer, wrongful sale of trust property, § 747 Co-trustees, possession by one, § 585 Powers of trustee, § 565

CONSTRUCTIVE NOTICE --Cont'd

Recording acts, § 149, 884, 893 Successive assignees from beneficiary, priorities, § 195 Trust instruments, recording, § 149, 884, 893

CONSTRUCTIVE SERVICE OF PROCESS

Jurisdiction, § 292

CONSTRUCTIVE TRUSTEES

Generally, § **529** Transfer of property to another, § **512**

CONSTRUCTIVE TRUSTS

See also Remedies; Tracing Trust Funds Generally, § 211, 471 et seq. Absolute gift on face of will, § 499 Accomplices and accessories, murder, § 478 Accounts and accounting form of decree, § 472 Actions, abatement and revival, § 472 Aged person, confidential relationship, § 482 Beneficiary of oral trust, § 496 Agency to buy for principal. purchases for self, § 483, 487 Problem defined and authorities stated, § 487 Agency to collect choses in action, § 22 Aiders and abettors, murder, § 478 Antenuptial contracts, fraud on spouse, § 475 Application of law, § 206 Bank deposits Public and trust funds, § 21 Bankruptcy, this index Beneficiaries, § 861 Beneficiary doing equity, condition to relief, § 472 Beneficiary's remedy, § 471, 472, 861 Bona fide purchasers, § 881 Notice, possession, § 896

CONSTRUCTIVE TRUSTS—Cont'd Bona fide purchasers, § 881-Cont'd Priorities and preferences, title to property, § 885 Bona fide purchasers, title to property, § 881 Breach of trust, § 865 Barring of remedies, laches, § 948 Limitation of actions, § 952, 953 Tracing assets, § 866 Trustee transferring title and possession of trust, § 512 Broker purchasing principal's realty, non-disclosure to principal, § 543(D) Burden of proof, § 474 Business, unauthorized continuation, § 476, 577 Charitable gifts, evasion of mortmain statute, § 326 Charitable trust administration, § 391 Charity Invalid gift, § 326 Oral promises, § 323 Choice of remedies, § 472, 473, 861, 945, 946 Claimant pays purchase price, title wrongfully held by another, § 458 Claim for imposition, bankruptcy, inclusion in estate, § 146 Coercion, § 474 Commingling, § 471 Tracing trust funds, presumptions, § 926 Community property transactions, § 26 Compensation of defendant, § 472 Conditions precedent, § 472 Confidential relation, § 482 Aged persons, § 482 Beneficiary, oral trust, § 496 Gift by will, informal trust, § 498 Judicial sales, § 494 Relatives, § 482 Undue influence, § 474 Confidential relationship, abuse, § 482

CONSTRUCTIVE TRUSTS—Cont'd Contract To convey interest in land, statute applicable, § 479 To devise or bequeath, breach, § 480 Part performance and specific performance, § 480 Problem stated, § 480 In return for personal services, § 480 What statutes applicable, § 480 For sale of land, breach, § 18, 479 Conversion proceeds, § 476 Corporations Beneficiaries, § 168 Directors, § 16, 481 Promoters, § 16, 481 Co-tenants, where applicable, § 28 Courts, creation, § 471 Creation, § 471 Theory, § 472 Creation and theory, § 471, 472 Form of decree, granting relief, § 472 Quantum of evidence required, § 472 Creditors, trust to secure creditors, § 250 Creditor's remedy, fraud, § 211 Damages Alternative remedies, § 472, 473, 861 Debtor, no bankruptcy, release, § 947 Decree Debits and credits, § 472 Form of, § 472 Deed on oral trust, § 495 Argument on principle Doctrine of restitution, § 497 Letter and spirit of Statute of Frauds, § 497 Security of titles, § 497 Specific reparation for a tort, § 497 Discussion, § 497 English and minority American rule. § 495

CONSTRUCTIVE TRUSTS—Cont'd Deed on oral trust, § 495-Cont'd Exceptional cases, § 496 Contemplation of death, § 496 Misrepresentation, § 496 Part performance, § 496 Promisor in confidential relation, § 496 Majority American rule, § 495 Deed on oral trusts, § 495 Exceptional cases, § 496 Deeds and conveyances, spouses, § 460 Definition, § 471 Direct dealing with beneficiary, remedy for unfair dealing, § 544 Disloyalty, § 484, 543 Dower interest, § 186 Duress, § 474 Election of remedies, § 472, 867 Money claim or constructive trust, § 945, 946 Election of remedies, beneficiaries, § 946 Embezzlement, proceeds of, § 476 Embezzlement proceeds, § 476 Equitable liens, similarity, § 32 ERISA, § 475.2 Evidence to establish constructive trust, § 472, 499.1 Examples of wrongful conduct Buying at forced sale, § 494, 543(C) Buying at sale forced by third person, § 486, 543(C) Buying for self outstanding claims against, or interests in, trust, § 485, 543(D) Miscellaneous examples of fiduciary seeking selfish advantage, § 492, 543(J), 543(L), 543(O), 543(P), 543(Q), 543(R), 543(S) Misusing trust funds, § 483 Property acquired by trustee's breach of duty to deal fairly in direct dealing with beneficiary, § 493, 544

CONSTRUCTIVE TRUSTS—Cont'd Examples of wrongful conduct -Cont'd Purchase at judicial sale, repudiating promise to hold for another, § 494, 543(C) Purchase at judicial sale under promise to hold for another when treated as breach of trust, § 494, 543(C) Trustee buying interest of beneficiary, § 544 Trustee buying outstanding security interest for self, § 543(D) Trustee employing self, § 490, 543(M) Trustee of lease taking renewal or buying reversion for self, § 491, 543(I) Trustee selling individual property to trust estate, § 489, 543(E) Using trust funds to buy property for self, § 483 Fiduciary obligations and relationships, § 481, 481.1 Forgery, § 477 Conflict between statutes, and equity, § 477 Crime an adequate basis for trust, § 477 Forged wills, § 477 Standing of plaintiff, § 477 Title obtained by forgery, probate statutes, § 477 Fraud as basis, § 471, 473 Fraud on court, § 473 Fraud on creditors or spouse, § 475 Fraud on marital rights, § 475 Fraudulent misrepresentation or concealment, § 473 Gift, absolute on face of will, § 499 Character of evidence, § 499 Joint wills, § 499 Mortmain statutes, § 499 Mutual or reciprocal wills, § 499 Reasons for constructive trust, § 499 Reliance, § 499

CONSTRUCTIVE TRUSTS—Cont'd Gift by will or intestacy on informal trust Donee repudiation of trust, § 498 Gifts to trustee, § 544 Homicide Insurance proceeds, § 478 Property obtained by, § 478 Statutes, § 478 Husband and wife Breach of confidential relationship, § 482 Limitation of actions, § 953 Oral promise to convey, § 496 Wife as payor, husband wrongfully obtains deed, § 460 Imperative powers of appointment, default, § 116 Implied trusts, § 451 Improvements, use of trust funds, § 923 Informal trusts, § 501 Argument on principle, § 501 Confidential relations, § 498 Donee as constructive trustee, § 102 Gift by will or intestacy on informal trust, repudiation of trust by donee, § 498 Instructions during life of testator, § 500 Misrepresentation by promisor, § 498 Refusal to carry out, § 102 Restitution doctrine, informal trust, § 501 Three choices, § 501 Violation of agreement, § 498 Innocent grantees of wrongdoer, § 473 Insolvency, fraud on creditors, § 475 Insurance Homicide, proceeds, § 478 Insolvent debtor, fraud on creditors, § 475 Purchase with stolen funds, § 476 Interference with estate of deceased person, § 476

CONSTRUCTIVE TRUSTS—Cont'd

CONSTRUCTIVE TRUSTS—Cont'd Investment advisors, confidential relationship, § 482 Joint tenants, § 28 Joint venturer, breach of fiduciary duty, § 488 Joint venturers, § 36, 481, 488 Breach of fiduciary duty by joint venturer, § 488 Joint venture defined, § 488 Joint ventures in realty-the Statute of Frauds, § 488 Laches barring enforcement, § 948 Applicable data, § 472 Larceny or conversion, proceeds, § 476 Larceny proceeds, § 476 Legal life tenant, § 27 Life beneficiary recovering proceeds of insurance, § 821 Limitation of actions, § 950, 953 Limitation of actions, breach of trust, § 952, 953 Loyalty, breach of duty, § 484, 543(A), 543(C), 543(V) Property acquired through breach of fiduciary's duty of loyalty, § 484 Loyalty, fiduciaries duty, property acquired through breach, § 484 Mistake, § 474 Mistake, property obtained by, § 474 Mortgagee, funds after foreclosure. § 29 Mortmain statutes, oral trusts, § 499 Gifts to charity on informal agreements, § 326 Murder Accomplices and accessories, § 478 Relatives, murder's rights to property, § 478 Voluntary manslaughter, effect, § 478 Partners, § 36, 481 Personal service contract, breach, § 480 Pledges, § 30 Powers of appointment, § 116

Priorities and preferences, bona fide purchasers, title to property, § 885 Promoters of corporations, § 16 Property acquired by killing relative or testator, § 478 Constructive trust solution, § 478 Insurance proceeds, § 478 Joint tenancy, § 478 Murderer deprived of benefits by court, § 478 Statutes and their construction, § 478 Strict constructionist cases, § 478 Purchase at judicial sale, repudiating promise to hold for another, § 494 Purchase money resulting trusts, distinguished, § 455 Quantum of evidence required, § 472 Real estate Contract for sale of, § 18, 479 Funds used to improve, § 923 Reimbursement of defendant's expenses, § 472 Relatives Confidential relationship, § 482 Beneficiary of oral trust, § 496 Murder, § 478 Purchase at judicial sale, repudiating promise to hold for another, § 494 Remedies of beneficiaries, § 861 Remedies of beneficiary, § 861 Breach of loyalty duty, § 543(A), 543(C), 543(D), 543(E), 543(V) Plaintiff's election, § 471, 472 Repudiation of oral trust, § 87 Resulting trusts, distinguished, § 458 Revival of actions on death, § 472 Sales Buying at forced sale, § 494, 543 Buying from self, § 543(A) Buying interest of beneficiary, § 544 Buying outstanding security interest for self, § 543(D)

CONSTRUCTIVE TRUSTS—Cont'd Sales—Cont'd Commingling funds, § 19 Settlor, for beneficiaries, attempted reconveyance by trustee, § 998 Slayer statutes, § 478 Specific property interest required, § 471 Spouse killing other spouse, § 478 Statute of Frauds, § 67 Public policy barring application, § 479, 480, 494, 501 Statute of Limitations, § 953 Conditions precedent, § 953 Events tolling statute, § 953 Period of statute, § 953 Recognition by trustee of obligation, § 953 Wrongful acquisition of title, § 953 Statute of Uses, application, § 206 Statutes, requirements for imposition, § 471 Subrogation, § 33 Synonyms, § 471 Tenancy in common, § 28 Terminology and classification, § 1 Theory of creation, § 472 Third person for beneficiaries, trustee's conveyance of trust assets, § 998 Time of origin, § 472 Title involuntarily vested in another, § 458 Title to property Limitation of actions, breach of trust, § 953 Spouses, title to one, payment by other, § 460 Voluntarily vested in another, § 458 Tracing trust funds, § 471, 476, 921, 930 Availability of remedy, § 921 Trade or business, breach of duty, § 493 Transfer of property, antenuptial contracts, § 475 Trust but no beneficiaries indicated on the fact of will, § 500

Trust deed, foreclosure sale, § 494, 543(C) Trustee de son tort, wrongful control of trust property, § 529 Trustees Fair play in dealing with beneficiaries, § 544 Loyalty to beneficiaries, § 543 Trust funds, fiduciary using to purchase property for himself, § 483 Types of conduct, bases for imposition, § 471 Unauthorized continuation of business, § 577 Undue influence, § 474 Burden of proof, § 474 Wills Contract to devise or bequeath, § 480 Gift absolute, § 499 Joint wills, breach of oral agreement, § 499 Mutual wills, breach of agreement, § 499 Trust appearing on face of will, § 500 Wills Acts, policy barring application, § 479, 480, 494, 501 **CONSUMPTION OF CORPUS** See also Corpus; Federal Estate Tax; Gift Tax—Federal; Income Tax-Federal; Invasion of Principal; Principal Bank account trust, § 47 Estate and tax planning, § 264.10, 264.20 Federal taxation Estate tax, § 273.20, 273.35 Gift tax, § 278, 282 Income tax, § 264.10, 264.20, 268.10, 268.20 Legal life tenant, given right, § 27 Living trust, power reserved by settlor, § 104 Requisite standards, federal estate tax, pre-1969 charitable gifts, § 275.5

CONSTRUCTIVE TRUSTS—Cont'd

CONTINGENT FUTURE

CONSUMPTION OF CORPUS —Cont'd

Settlor, § 42

CONTEMPLATION OF DEATH

Federal estate tax
Estate and tax planning, § 264.10, 264.15, 273.5
Transfers includible, § 273.5, 273.20
Valuation of includible property, § 273.5, 274
Resulting trusts
Gift from wife to husband, § 460
Husband as payor and wife as grantee, § 459
State inheritance and estate taxes, § 286

CONTEMPORANEOUS WRITING Origin of trust, § 81

CONTEMPT

Charitable trusts, enforcement, § 321 Punishment, remedies of beneficiary, § 861 Receivers, interference, § 14 Trustees, § 861 Trustee's liability, § 861

CONTEST CLAUSES See Forfeitures, this index

CONTESTS OF TRUST See also Compromise and Settlement; Settlement Beneficiaries' interest, forfeitures, § 181

CONTINGENT FUTURE INTERESTS

Charitable Trusts, this index Consent, barring of remedies, § 941 Insurance trusts, § 235 Perpetuities, § 213, 214 Purchase money resulting trusts, § 454 Remainders Beneficiaries Action for removal of trustee, § 522 Estate taxes, gross estate, § 273

INTERESTS—Cont'd Remainders-Cont'd Georgia, § 212 Gift taxes, future interests, § 279 Perpetuities, § 213 State estate taxes, § 286 Statute of uses, preservation, § 207 Removal of trustee, remainder beneficiaries, § 522 CONTINGENT INSURANCE TRUSTS Estate and tax planning, § 235, 264.15 Minor children, spouse not surviving grantor, § 235, 264.15 **CONTINGENT INTERESTS** Acceleration by disclaimer, § 172 Alienation, suspension of power, § 219 Statutes, § 219 Alternative gifts, Rule against Perpetuities, § 213 Assignment, § 188 Barring of remedies for breach of

trust, § 941 Beneficiary, § 181, 182 Beneficiary's interest, § 182 Assignment, § 188 Class gifts, § 182 Indebtedness, seizure of property, § 193 Power of appointment, default takers, § 182 Charitable trusts Accumulated income, perpetuities rules, § 352 Vesting, § 341 et seq Construction of beneficiary's interest, § 182 Creation of trusts quantum of

Creation of trusts, quantum of trustee's interest, § 144 Disclaimer, § 170

Federal estate tax When not included in gross estate, § 273

Gift of accumulations, § 217

CONTINGENT INTERESTS -Cont'd Perpetuities, Rule against, § 213 Application of Rule, § 213 Statutes, § 214 Powers of appointment, default of appointment, § 182 Removal of trustees, parties, § 522 Revocable contingent insurance trust, § 235, 264.15 Right to enforce trust, § 871 Spendthrift trusts, § 222 State inheritance and estate taxes, § 286 Subject-matter of trust, § 112 Termination of trust, representation, § 1007 Trustee to hold sale proceeds, § 246 CONTINGENT LIABILITIES Beneficiaries, debts of trust, § 169 CONTINGENT REMAINDERS Charitable trusts, gift over to noncharitable uses, § 347 Construction of beneficiary's interest, § 182 Federal estate tax, gross estate, § 273 Preservation, active trust, § 207 Revocable contingent insurance trust, § 264.15 Rule against Perpetuities, application, § 213 Statutory restrictions on trust purposes, § 212 Termination of trust, courts, § 1007 CONTINGENT TRUST See also Contingent Insurance Trusts Estate and tax planning, § 235, 264.15 Insurance, § 235, 264.15 CONTINUATION OF BUSINESS Generally, § 571 Power of representative or trustee, § 571 Profits and losses, § 574 Receipts, allocation, § 820 Testator's directions, § 571

By trustee, generally, § 571

-Cont'd Unauthorized continuance, liabilities, § 577 CONTINUING JURISDICTION Generally, § 292 **CONTRACT PURCHASE MONEY** LIENS Purchase money resulting trusts, distinguished, § 454 **CONTRACTS** See also Oral Trusts Acceptance of trust by trustee, § 150 Agent of trustee, liabilities of trustee, § 722 Agreement for representative liability, § 715 Antenuptial Constructive trusts, fraud on spouse, § 475 Federal estate tax, transfers in trust for consideration, § 273.45 Federal gift tax, release of marital rights, § 278 When deemed illegal, § 211 Bailments, § 11 Bondholders' protective committees, § 251 Breach Contract to devise or bequeath, § 480 Impounding interest of beneficiary, § 191 Business of decedent, continuation Unauthorized continuation of business, § 577 Business trusts, § 247(E) to 247(H), 247(J), 247(L) Actions, § 247K to 247N Liabilities of beneficiaries, § 247E, 247F, 247G, 247H Liabilities of trustees, § 247K, 247L, 723 Personal liability of trustee, § 247 Business trusts, actions and proceedings, § 247

CONTINUATION OF BUSINESS

Characterization, § 293

CONTRACTS—Cont'd Charitable benefits, contracts to secure, § 324 Charitable trusts, § 400 Creation, § 323 Cy pres, § 441 Liability, § 361, 401 Representative liability, § 400 Checks or drafts, debt or trust, § 21 Collection items, debt or trust, § 23 Compensation of trustee, § 975, 976 Consent, barring of remedies, § 941 Consent of beneficiary, § 941 Construction, debt or trust intended, § 17 Convey realty, constructive trusts, § 479, 494 Co-trustees Contribution, § 718 Liabilities, § 722 Court control, trustee's liability, § 723 Creation of trust, § 44 Consideration, § 203 Promise to create trust, consideration, § 204 Creditors' rights, § 715 Indemnity through trustee's right, § 716 Debtor as trustee for creditor, § 19 Deliveree, promise to pay debt, § 21 Delivery of trust instrument, § 147 To devise or bequeath Constructive trust, remedy, § 480 Quantum meruit, § 480 Specific performance, § 480 Statute of Frauds, § 480 Distinctions from trust, § 17 Divided ownership, trust distinguished, § 17 Embezzlement, contract and trust distinctions, § 17 Enforcement by trustee, § 711 Exclusion of personal liability, § 714, 771, 774 Exoneration of trustee from personal liability, § 542, 718

CONTRACTS—Cont'd Expectancies Assignments, creation of trust, § 113 Transfers, contracts to assign in future, § 113 Expenses, § 801 Held in trust, § 17 Impairing obligation of contracts, charitable trusts, § 397 Implied contracts Breach of trust, election of remedies, § 946 Personal liability, § 712 Implied warranties, § 724 Power to make contract, § 714, 724 Impounding interest of beneficiary, § 191 Indemnity or reimbursement, trustee's right, § 713, 718 Insurance trusts, creation of trust, § 236 Insurer agreeing to hold proceeds in trust, § 240 Intent of settlor, expression, § 45 Land trusts, liability, § 249 Liquidation trusts, § 254 Loans Common law rule, § 712 Restatement, Second, Trusts, § 712 **Uniform Negotiable Instruments** Law and Uniform Commercial Code, § 775 Variation by statute, § 712 Marriage, bona fide purchasers, consideration, § 887 Married women, § 232 Mechanic's liens, diversion of trust funds, § 246 Mortgages Distinguished, § 715 Exclusion of trustee's personal liability, § 771, 774 Statutes, § 775 Offer and acceptance, by beneficiary, § 169 Partners, unity, § 36

CONTRACTS—Cont'd Personal liability, § 712 Exclusion, § 714 Trustees, business trusts, § 247K, 247N, 721, 723 Personal life insurance trusts, creation, § 236 Personal service, breach, constructive trust, § 480 Persons in fiduciary or confidential relations, § 544 Postnuptial Federal gift tax, § 270.10, 278 Powers of trustee, § 711 Power to enforce, distinguished from trust, § 17 Predecessor trustee, liability, § 722 Prenuptial contracts Constructive trusts, transfer of property, § 475 Purchase money resulting trusts, distinguished, § 454 Purchase of foreign credit, § 21 Ouasi-contractual liability, trust estate, § 725 Real estate, contract to convey, constructive trust, § 479, 494 Reimbursement of trustee, § 718, 725 Lien, § 718 Resulting trusts, different interests, § 462 Sales Higher offers, § 745 Remedies, § 746 Third person contracting with trustee, remedies, § 746 Separation agreements Promises to create trust, § 204 Trusts aiding, § 234 Separation of Spouses, this index Settlor Control of trustee's liability, § 723 When trustee liable, § 719 Specific performance against trustee, § 717 Spendthrift trusts, claims of beneficiary's creditors, § 224

CONTRACTS—Cont'd Statute of Frauds Contracts to create trusts, application, § 62 Illustration of writing satisfying, § 89 Time of writing, § 83 Statutes Personal liability of trustee, § 712 Representative liability, Field Code states, § 712 Uniform Negotiable Instruments Law. § 714 Uniform Probate Code, § 712 Uniform Trusts Act, § 712 Statutes, trustee personal liability, § 712 Stipulations, generally, this index Subdivision trusts, § 249 Support Remedies for breach, § 19 In return for conveyance, § 19 Trustee With beneficiary, fair play, burden of proof, § 544 Implied warranties, § 724 No liability of beneficiary, § 712 Personal liability, § 712 Right to exoneration, § 718 Statutes, § 712 Tort liability, control by contract, § 735 Trustee employing self, when disloyal, § 543(M) Trustees Contract against personal liability, § 714 Creditors, giving right to collect from trust estate, § 715 Good faith, § 544 Immunity clauses, § 541, 542 Indemnity of trustee against contract liability, § 718 Personal liability, statutes, § 712 Power to make, § 711 Predecessor trustee, co-trustee or agent, § 722

CONTRACTS—Cont'd Ultra vires, trustee's liability, § 713 No indemnity, § 713 CONTRIBUTION See also Charitable Contributions; Charitable Gifts; Charitable Trusts; Employee Benefit Trusts; Gifts, this Index Breach of trust, third parties, § 862 Trustees, § 868 **Co-beneficiaries** Benefit to trust, § 191 Consenting to breach of trust, § 941 Costs, resignation of trustee, § 518 Costs Trust litigation, § 871 Co-trustees, § 701, 718, 734 Cotrustees, § 862 Co-trustees. § 862 Breach of trust, damages, § 862 Contract liability, § 718 Employer, employee benefit plans, § 255, 270.20 Preserving trust assets from co-beneficiaries, § 191 Remedies of beneficiary, § 862 Resignation of trustee, costs, § 518 Resulting trusts Part payment of purchase, § 457 Payment of purchase price, § 456 Tort liability, co-trustees, § 734 Trustee from third persons, breach of trust, § 868 Trustees as parties defendant, § 862, 871 CONTRIBUTORY MORTGAGES See Investments; Mortgages CONTROL BY SETTLOR See also Settlor Compensation of trustee, § 975, 976 Investments, § 680, 683 Taxation Estate and tax planning, § 264, 264.25

Federal estate tax, § 273.10, 273.20, 273.35, 273.40

CONTROL BY SETTLOR—Cont'd

Taxation—Cont'd Federal income tax, § 233, 235, 264.10, 268.10, 268.15 Retained power, federal gift tax, § 278 State taxation, § 285, 287, 300

CONTROL OF TRUST PROPERTY

Co-trustees, § 584, 585 Duty of trustee to secure, § 583 By trustee, evidence of acceptance of trusteeship, § 150

CONVENIENCE

Beneficiaries' interests, construction and operation, **§ 182** Rule of construction, vesting of bene-

ficiary's interest, § 182

CONVENTIONAL TRUST Definition, § 1

CONVENTS

See Charitable Trusts Charitable trusts, § 376

CONVERSION

Beneficiary's election of remedies, § 861, 862, 865, 867, 946 Co-beneficiary, restitution, § 191 Collections, choses in action, § 22 Compensation, forfeiture, § 980 Constructive trusts, § 476, 483 Limitation of actions, § 953 Constructive trusts, breach of trust, limitation of actions, § 953 Contract and trust distinctions, § 17 Corporate trustees, § 531 Damages Beneficiaries, § 861 Measure, § 862 Recovery from trustees, § 862 Election of remedies Breach of trust, § 946 Tracing assets, § 867 Equitable conversion, beneficiaries' interest, § 185 Immunity of trustee, § 542

CONVERSION—Cont'd Investments Effect of settlor's permission or directions, § 682 Measure of damages, § 704 Nonlegal, duties of trustee, § 685 Joint savings accounts, § 47 Jurisdiction, § 870 Jurisdiction of court, § 870 Liability of trustee in representative capacity, § 732 Limitation of actions, breach of trust, § 953 Parties, third persons, § 869 Proceeds Constructive trust, § 476 Resulting trust, § 476 Purchase of insurance by embezzler, § 32 Remedies of beneficiary, § 861, 862 Standing, § 869 Sureties on trustee's bond, liability, § 864 Title to property, constructive trusts, limitation of actions, breach of trust, § 953 Trustee Beneficiary's right to damages, § 862 Constructive trust, § 476, 483 Damages, § 862 Liability for interest on damages, § 863 Removal of trustee, § 527, 861 State to national bank, corporate trustee, § 531 Subrogation, tracing trust funds, § 930 Various remedies, § 861 Trustees, disloyalty, relief, § 543(V) CONVERTIBLE LIVING TRUSTS

Defined, § 233 Definitions, § 233 Estate planning use, § 233

CONVEYANCES

See Deeds and Conveyances; Sales, this Index

CONVEYANCES—Cont'd

Deeds and Conveyances, generally, this index Fraudulent Conveyances, generally, this index

CONVEYANCING TRUSTS Generally, § 249

CONVICTS

Capacity to be beneficiary, **§ 168** Civil death of beneficiary, **§ 164** Trusts to administer their property, **§ 246**

COOPERATIVE APARTMENTS

Business trusts, § 247, 247B Land trusts, financing, § 249

COPYRIGHTS

Confidential relationship, constructive trust, § 482 Estate taxes, valuation, § 274 Alternate valuation election, § 274.15 Royalties, principal and income apportionment, § 827 Subject-matter of trust, § 112

CORPORATE DISTRIBUTIONS

See also Principal and Income Various types, **§ 841, 859**

CORPORATE STOCK

See also Stock and Stockholders Allocation of distributions, successive beneficiaries, generally, § 841, 859

CORPORATE TRUSTEES

See also Co-trustees; National Banks; Private Corporations; State Banks; Trust Companies; Trustees

Acting as trustees, § 131, 132, 134 Bond normally excused, § 151 Capacity to act, § 125 Capital requirements, § 151 Corporate objects and purposes,

§ 131 Cause for removal, § 527

Bankruptcy of trustee, § 527

CORPORATE TRUSTEES—Cont'd Cause for removal, § 527-Cont'd Breach of trust, § 527, 861 Failure to account, § 527 Failure to qualify, § 151 Change in legal status, statutes, § 531 Charitable trusts, § 328 Dissolution, § 397 Public and private corporations, § 328 Restrictions on capacity to take title, § 327 Charter determining power to act, § 131 Consolidation, § 531 Conversion, effect on trusteeship, § 531 Deposit of securities, condition, § 151 Dissolution; merger, consolidation or conversion, effect, § 397, 531 Early law prohibiting, § 131 Inability to act not bar creation of trust, § 131 Insolvency, effect on power to act, § 566 Merger or consolidation, § 397, 531 National banks, § 134 Nonresident, capacity to act, § 132, 295, 527 Officers and directors, participation in breach of trust, § 901 Powers, § 328, 551 Private corporation, § 131 Qualification to act, § 151 Removal, jurisdiction, § 523 Restrictions on capacity to acquire or administer property, § 131, 132, 327 Retention of own stock, duty of loyalty to beneficiaries, § 543(G) Sale of business, trusts hold by seller, § 531 Skill and diligence required, § 541 Statutes prohibiting use of word trust in corporate name, § 131 Statutory limitations, acquisition of property, § 131

CORPORATE TRUSTEES—Cont'd Ultra vires purpose, not affect cre-

ation of trust, § 131 Voting own stock, duty of loyalty to beneficiaries, § 543(N)

CORPORATIONS

See also Charitable Foundations; Corporate Trustees; Corporation Sole; Religious Organizations and Societies Affiliated corporations, stock dividends, principal and income, § 845 Beneficiaries, § 161, 168 Dissolved corporations, § 164 Future formation, § 163 Qualification, § 161, 168 Bonds, investments, § 673 Business insurance trusts, § 235 et seq. Life insurance, § 253 Business life insurance trusts, § 253 Business trusts, distinguished, § 247, 247A, 247B Capacity as beneficiary, § 168 Charitable gifts to Absolute or in trust, § 324 Title to property, § 325 Charitable Organizations, this index Charitable trusts, § 324, 327 Absolute gift or trust, § 324 Endowments, § 324 Use of trust words, § 324 Future organization, § 344 Restrictions on capacity to take title, § 327 Statutes, § 327 Charitable Trusts, this index Charter forfeiture, trustee to hold property, § 246 Close Corporations, generally, this index Closely held, valuation, federal estate taxes, § 274.5 Conflict of interests, removal of trustee, § 527 Constructive trusts Beneficiaries, § 168

CORPORATIONS—Cont'd Constructive trusts-Cont'd Directors, § 16, 481 Fiduciary duty, breach by officer, § 481 Officers and agents obtaining private advantage, § 481, 543(T) Promoters, § 16, 481 Co-trustees, joint tenancy, § 145, 530 Coupon bank accounts, § 20 Directors, § 16, 481 Constructive trustees, § 481 Dissolution, § 529 Trustees to hold property, § 246 Dissolution, charitable trusts, cy pres, **§ 440** Distinctions, duties to shareholders, from trust, § 16 Distributions of benefits, principal and income, § 841, 859 Dividend bank accounts, § 20 Fiduciary relationship, loyalty to beneficiaries, § 543 Forfeiture of charter, trustee to hold property, § 246 Gift taxes, limitation of actions, § 276.7 Key man insurance, estate taxes, § 273.40 Leases, officer renewing for self, loyalty, § 543(I) Liquidation trusts, § 254 Mismanagement, liability of directors to creditors, § 16 Officers and directors Breach of trust Notice, § 912 Ratification, § 942 Third parties, § 901 Charitable trusts, standard of care, § 394 Comingling of funds, liability, § 16 Good faith, dealing with beneficiaries, § 544 Loyalty, § 543 Standard of care, § 394 Third parties, breach of trust, § 901 Trust fund doctrine, § 16

CORPORATIONS—Cont'd Officers and directors-Cont'd Trust fund theory, insolvent corporation, improper distribution of assets, § 16, 246 Officers and employees, § 16 Breach of fiduciary duty, constructive trusts, § 481 Loan of trust funds, public policy, § 543(J) Loyalty, duty, § 543 Notice, participation in breach of trust, § 912 Property purchases, constructive trust, § 481 Purchase of interest after resignation, § 543(D) Sales, buying at own sale, § 543 Organized to buy at trustee's sale, loyalty, § 543 Powers, capacity to create trust, § 44 Private, capacity to act as trustee, § 131 Private foundation, federal tax treatment, § 270.5 Professional service corporation, § 255 Promoters, § 16 Promoters, good faith, dealing with beneficiaries, § 544 Real estate investment trusts, federal tax exemption, § 248 Shares and Shareholders, generally, this index Special bank accounts, § 20 Subsidiary corporations Buying at own sale, § 543 Dealings, indirect disloyalty, § 543(T) Indirect disloyalty, § 543(T) Loans of trust funds, loyalty, § 543(J) Selling own property to trust, § 543(E) Stock dividends, principal and income, § 845 Subsidiary Corporations, generally, this index

CORPORATIONS—Cont'd Third parties, officers and directors, breach of trust, § 901 Trustees, § 131 Buying earmarked pool of investments for trust, § 543(F) Buying for self claims against trust property, § 543(D) Capital and security deposit requirements, § 151 Charitable organizations, duty of care, § 541 Charitable trusts, § 328 Standard of care, § 394 Statutory restrictions, § 327 Conversion, § 531 Depositing funds in own banking department, § 543(K) Dissolution of corporation, § 529, 531 Employing self to do specialized work for trust, § 543(M) Merger and consolidation, § 531 Private trusts, § 130, 132 Purchases, loyalty to beneficiaries, § 543(A) Removal from office, jurisdiction, § 523 Securing incidental benefits for self while engaged in trust business, § 543(Q) Statutory restrictions, § 327 Voting for self as director or officer, § 543(N) Voting stock for self as director or officer, § 543(N) Trust to secure or pay creditors, § 250 Ultra vires Acceptance by beneficiary corporation, § 168 Corporate trustees, § 131 Corporation as settlor, § 44 Trustee, charitable trust, § 328 Voting trusts of stock, § 252

CORPORATION SOLE

Compared with trust, § 37 Trustee of charitable trust, § 328

Index-106

CORPUS

See also Consumption of Corpus; Invasion of Principal; Principal; Principal and Income; Subject-Matter of Trust Complex trusts, income taxes, § 267 Distribution, income taxes, § 266 Federal income tax Corpus distributions Complex trust, § 267, 268.5, 268.25 Discretionary trust, § 264.10, 264.20, 267 Distributions, simple trust, § 266 Income to beneficiary Capital gains distributions, § 267, 268.5, 268.25 Extent taxable to beneficiary, § 267, 268.5 Property distributed in kind, when income, § 267 Separate share rule, § 267, 268.5 Specific gift property, § 267 Treatment as income, § 267 Simple trust, § 266 Terminology and classification, § 1

CORRECTIONAL INSTITUTIONS

Charitable trusts, purposes, § 362

CORRESPONDENCE

Insurance trust, creation, § 236 Statute of Frauds, illustration of writing satisfying, § 89

CORROBORATION

Creation of trust, two or more writings, § 90 Practical construction, § 45, 46 Resulting trusts, purchase-money trust, § 454

COSTS

Generally, § 871 Accounts and accounting Source of payment, § 809 Actions to enforce trusts, § 871 Allocation, litigation and accounting expenses, § 802, 809 Broker's commission, § 744

COSTS—Cont'd Contract actions, § 711, 725 Court proceedings, resignation of trustee, § 518 Cy pres, § 441 Enforcement of trust, § 871 Indemnity, trustee defending trust, § 581 Operating costs, charitable trusts, profit making, § 364 Payments to agents, § 975 Premium, surety bond, § 151, 975 Recovery, breach of investment duty, § 701 Removal of trustee, § 525 Source of payment, § 809 Tort actions, § 731, 735 Trustees Removal from office, § 525 Resignation, § 518 Trustee's application to court for instructions, § 559 **CO-TENANTS** See also Joint Tenancy; Tenancy in Common Beneficiaries as, § 181 **CO-TRUSTEES** Advantages, § 121 Antagonism, removal of one trustee, § 527 Appointment Generally, § 121, 122

Remedies of beneficiary, **§ 861** Bank deposits and collections, breach of trust, joint accounts, single trustee withdrawals, **§ 911** Bond or other security, **§ 151** Breach of trust Bank deposits and collections, joint accounts, single trustee withdrawals, **§ 911** Covenants not to sue, **§ 943** Joint accounts, bank deposits and collections, single trustee withdrawals, **§ 911** Joint and several liability, **§ 871**

Release, § 943

CO-TRUSTEES—Cont'd Breach of trust—Cont'd Third parties, collusion with trustee, § 955 Compensation, apportionment, § 978 Contracts, § 722 Contribution, § 701, 718, 734, 862 Contract liability, § 718, 722 Tort liability, § 734 Corporation as joint tenant, § 145 Covenants not to sue, breach of trust, § 943 Delegation of powers, § 555 Duty to be active, § 584 Duty to participate, § 584 Exercise of trust powers, § 554 Trust indentures, § 250 Inactive, liabilities, § 584 Indemnity, breach of trust, § 701, 718, 734, 862 Default by one trustee, § 716 Indemnity and indemnification, § 862 Individual and corporate, § 121 Investments Supervision of active trustee, § 587 Joint and several liability, § 862, 871 Breach of trust, § 871 Contracts, § 718 Torts, § 731 Liability of Trustees, this index Limitation of actions, breach of trust, third parties, collusion with trustee, § 955 Majority may act, statutes, § 554 Negligence Damages against passive trustee, § 584, 585 Failure to examine accounts and investments. § 587 Passively allowing co-trustee exclusive possession, § 585 Normally joint tenants, § 145, 530 Statutes, § 145, 530 Participant in breach of trust, payment to one trustee, § 902 Powers Joint exercise, § 554, 584, 744 Majority exercise, § 554

CO-TRUSTEES—Cont'd Qualifications, § 151 Release, breach of trust, § 943 Release of one releases all, § 943 Remedies against third persons, limitation of actions, § 954 Removal from office, § 522 Removal of trustee, § 519, 520 By co-trustee, § 519, 520, 522 Parties, § 522 Sales, buying at trustees' sale, § 543(A) Standing, breach of trust, third parties, collusion with trustee, § 955 Statute of Frauds, signature or subscription, § 86 Statutes Contract liability, § 722 Joint tenants, § 145 Survivorship among trustees, § 530 Survivorship, § 530 Tort liability, § 731 Transfer of trust upon resignation, § 512, 532 Trust company, § 121

COUNSEL

See Attorneys

COUNTERCLAIMS

See also Set-offs Agents, § 15 Beneficiary's right to payments Debt to co-beneficiary, § 814 Debt to settlor, § 814 Debt to trustee, § 814 Contract and trust distinctions, § 17 Gains and losses, breach of investment duties, § 708 Removal of trustee, procedure, § 524

COUNTIES

Political Subdivisions, generally, this index

COUPON BANK ACCOUNTS Distinctions, debt or trust, § 20

COURT CREATED TRUSTS Generally, § 246

Index-108

COURTS See also Deviation; Discretion of Court; Judgments and Decrees; Jurisdiction; Remedies of Beneficiaries Accumulations for charity, § 352 Acting on own motion to enforce trust, § 871 Administration, liquidation trusts, § 254 Advice by court Charitable trustees, § 391, 394, 396 Construction of instrument, § 559 Appointment of successor trustee, § 511, 532 Approval, disloyal transaction, § 543(A), 543(C), 543(U) Charitable trusts Changing place of administration, § 397 Cy pres power, § 431, 442 Deviation power, § 394 Enforcement, § 411, 417 Instruction of trustee, § 394 Charitable trusts, administration, § 396 Compensation of trustee, discretion, § 977 Contempt Receivers, interference, § 14 Trustee's liability, § 861 Control over powers of trustees, § 558, 563 Creation of trusts, § 246 Cy pres power, § 431, 442 Enforcement of trust Inadequacy of remedy at law, § 870 Jurisdiction, § 870 Excusing trustee's improper payment, § 814 Inherent power to approve family settlement, § 1009 Instructing trustee, § 394, 559 Investments, control, § 687 Jurisdiction Constructive trust, § 472 Enforce trust. § 870

COURTS—Cont'd Jurisdiction-Cont'd Remove trustee, § 523 Leases, § 786 Control terms, § 786 Settlor's directions against public policy, § 786 Statutes, § 786, 787 Mixed trusts, uphold charitable portion, § 372 Modification of trusts, § 994 Business trusts, § 247 Not modify settlor's intent, § 45 Spendthrift trust, § 226 Powers of trustees, § 558, 563 Advice to trustee, § 559 Alter payment provisions, § 815 Approve trust leases, § 787 Compensation of trustees, § 975, 977, 980 Contracts, § 711, 723 Deviation, § 561, 815 Investments, § 687 Leases, § 786 Modification of trust, § 994 Mortgages by trustee, inherent power to authorize, § 762 Prior decree barring remedy, § 956 Resignation of trustee, acceptance, § 514 Retard trust payments, § 815 Revocation power, grant from settlor, § 1000 Rules re trust investments, § 613 Sales, § 742 Terminate trust, § 994, 1002 Sales, § 742 Charitable trust, § 392 Confirmation, § 745 Control as to terms of sale, § 742 Deviation permitted, § 561, 742, 743 Instructions, § 742 Parties, proceedings to sell, § 742 Restraining, § 742 Settlor's direction, court overruling, § 742 Statutes, § 743

COURTS—Cont'd Sales, § 742-Cont'd Subsequent approval or disapproval, § 742 Wrongful sale, relief granted, § 747 Specific directions to trustee, § 861 Supervision of trusts, § 563, 861 Termination of trust, request of all beneficiaries, § 1007 Merger of interests, § 1003 Terminology and classification, court trusts, § 1, 246 Totten trusts, withdrawals, § 47 Trustees Disloyalty prevented or cured, § 543(U) Vacancy in office, appointment of successor, § 532 Trusts created by courts, § 246 COVENANT NOT TO SUE Distinguished from release, co-trustees' liability, § 943 **COVENANT OF WARRANTY** Sales, trustees' deeds, § 745 Trust intent rebutted, § 50 **COVENANTS** Bona fide purchasers, notice, § 896 Enforceability, covenant to create trust, § 41 Restrictive covenants Right to enforce, subject-matter of trust, § 112 Sales of trust property, § 745 Running with land, § 719, 720 Liabilities of trustee, § 719 Standing, § 869 Stand seised, creation of trusts, § 201 COVENANT TO STAND SEIZED Creation of trusts, § 201

Methods of creating uses, § 201

CREATION OF TRUSTS See also Parol Evidence; Parol Trusts; Statute of Frauds Generally, **§ 141 et seq., 201 et seq, 201 et seq.**

CREATION OF TRUSTS—Cont'd Acceptance, beneficiary, § 172 Necessity, § 169 Onerous trusts, § 169 Presumptions, § 169 Proof, § 170 Trustee, necessity for, § 150 Active trust defined, § 207 Activity of trust, trustee's duties, § 207 Admissions as evidence, § 50 Adverse possession, § 143 After-acquired property, § 43 Annuity trust, setting up, § 813 Beneficiaries, notice, § 169 Capacity of settlor, § 44 Charitable foundations, § 330 Charitable intent, doubtful cases, § 324 Charitable trusts, § 323 Accumulations of income rules, § 352 Cemetery associations, § 328 Gifts for endowments, § 324 Gifts of determinable interests, § 324 Gifts on condition subsequent, § 324 Gifts to corporations, § 324 Gifts to indefinite persons or institutions which are not legal entities, § 324 History in England, § 321 Intent, § 323 Parol evidence rule, § 323 Perpetuities rules, § 341, 348 Future trusts, § 343 Gift from one charity to another, exception to perpetuities rules, § 346 Gift over from charity to noncharity, § 347 Gift over from non-charity to charity, § 345 Gift to future corporation, § 344 Public agency as trustee, constitutional problems, § 328 Public corporations, § 328

CREATION OF TRUSTS—Cont'd Charitable trusts, § 323—Cont'd Qualification of trustee, § 328 Remoteness of vesting rules, § 342 et seq Selection of trustee, § 328 Shifts of interests under trusts, perpetuities rules, § 348 Statute of Uses, § 206 Statutes, exemption from perpetuities rules, § 342 Subject-matter, § 323 Unlimited duration, § 351 Community trusts, § 329 Conflict of laws, § 287, ch. 16 Consideration Completed trusts, § 202 Defined, § 204 Incomplete trusts, § 202 Meritorious, early law, § 204 Necessity, § 201, 202 Promises to create, § 203 What is consideration, § 204 Requirement of, § 202 Seals in lieu of, early law, § 204 Constructive trusts, Statute of Uses, § 206 Contemplated creation, § 46 Contracts to secure charitable benefits, § 324 Conveyance to trustee without more, § 565, 893 Court creation, § 246 Delivery of instrument, § 147 Completion of trust, § 147 Evidence, § 147, 149 Execution, condition precedent, § 141 Trust instrument defined, § 147 Disclaimer, beneficiary, § 170, 172 Acceleration of remainder interests, § 172 Incompetent beneficiary, § 170 Infant beneficiary, § 170 Proof, § 170 Disclaimer by trustee, effect, § 150 Drafting suggestions, § 45 Duress, § 44

CREATION OF TRUSTS—Cont'd Enforcement, covenant to stand seized, § 201 Equitable interest to beneficiary, condition precedent, § 141 Essential elements generally, § 1 Identifiable beneficiary, § 161 Subject matter, § 111, 141 Trustee, active duties, § 206 Trust intent, § 45, 141 Estate and tax planning, § 261, 264, 264.25, 273.35, 273.40, 277, 284, 285, 287 Estoppel, § 143 Evidence, § 49 et seq. Admissibility and effect, § 50 Admissions, § 50 Clear and convincing proof required, § 49 Deeds, § 50 Donee, consumption of principal, § 50 Formal documents contemplated, § 50 Formal or technical words not necessary, § 45 Gift to spouse, § 50 Parol evidence rule, § 51 Parol statement, subsequent document, § 51 Possession of alleged res, § 50 Practical construction, § 50 Relationship of parties, § 50 Statements confirmed by subsequent actions, § 50 Weight and sufficiency, § 49 Executor-trustee, § 583 Executory trusts, § 70 Express trusts Exercise of power of appointment, § 43 Settlor's intent, § 1, ch. 3 Federal estate tax, § 271.5, 276 Federal gift tax, § 277, 278 Formality Arizona law, § 64 Connecticut law, § 64 Delaware law, § 64

CREATION OF TRUSTS—Cont'd Formality-Cont'd Hawaii law, § 64 Kentucky law, § 64 New Mexico law, § 64 North Carolina law, § 64 Ohio law, § 64 Tennessee law, § 64 Texas law, § 64 Virginia law, § 64 Washington law, § 64 West Virginia law, § 64 Wyoming law, § 64 Fraud, § 44 Frauds, statute of Generally, § 62 et seq. Consideration of marriage, § 203 Funds collected by subscription, § 22, 362 General donative intent, § 46 Impossibility of performance, statutes, § 206 Incomplete, future trust, § 202 Insurance trusts Insurer agreement to hold proceeds, § 240 Methods, § 236 Intent, § 45, 46, 323 Addition of new trust property, § 46 Clarity required, § 45 Construction, § 46 Construction of settlor's words and acts, § 46 Conveyance to one as trustee, without more, § 45 Definite and particular, § 46 Direct expression, § 45 Direction as to investment for named person, § 46 Duties and not names important, § 45 Future trust only, § 46, 141 Gift by implication, § 141 Implied intent, § 45 Legal interest only, § 46 Means of manifesting, § 141

CREATION OF TRUSTS—Cont'd Intent, § 45, 46, 323-Cont'd Mistaken recognition of pre-existing trust, § 46 Motive, statement of, § 46 No court modification, § 45 Present trust, § 141 Purpose stated, § 46 Statutory requirements, § 45 Trust distinguished from other intent, § 46 Unlimited discretion amounting to absolute gift, § 162 Weight and sufficiency of evidence, § 49 Words appropriate to other relationships, § 45 Words not conclusive, § 45 Invalidity, § 50 Estoppel against trustee to assert, § 44 Improvidence in creation, § 997, 1007 Setting aside trust, § 997 Settlor's powers, § 44 Mere statement of purpose, § 46 Adverse possession as trustee, § 143 Court not modify to validate transaction, § 45 Deed to trustee, future trust, § 106 Estoppel, trustee, § 143 Gift by deed to trustee of existing trust, § 105 Laws of intestacy, § 141 Powers of appointment, § 43 Methods, § 45, 141 Insurance trust, § 236 Power of appointment, § 43, 233 Power of attorney, § 41, 141 Savings account trust, § 47 Mistake in creation, § 44 Mortmain and Charitable Uses Acts England, § 325 Motive or reason for gift, § 46 Notice, beneficiary, § 169 Probative effect, § 169 Totten trusts, § 47

CREATION OF TRUSTS—Cont'd Parol trusts, § 45, 102, 500 Perpetual or indefinite duration, charitable, § 351 Pleading, § 71 Powers of attorney, transfer of settlor's property, § 141 Precatory expressions, § 48 Precatory words, § 48, 324 Absolute gift later qualified, § 48 Construction, § 48 Evidence, § 48 Executor, words addressed to, § 48 Illegality of alleged trust, § 48 Nature of subject-matter, § 48 Obligation in donee, § 48 Relationship of parties, § 48 Testator's situation, § 48 Uncertainty of language, § 48 Promises to create, § 203 Purposes lacking or illegal, § 206 Recording, § 45 Requisite interest of settlor, § 43, 323 Requisite property interest in settlor, § 43 Rescission by settlor, § 861, 997 Restraints on alienation, charitable trusts, § 349 Resulting trusts, Statute of Uses, § 206 Settlor Agent acting for principal, § 44 Certainty of expression, trust intent, § 45 Disabilities, § 44 Trust creation induced by invalidating cause, § 44 Settlors status after creation, § 42 Spendthrift trusts, § 225 Statute of Frauds, § 61, 71 American reenactments of Statute, § 62 Contract to create a trust, § 62 Created or declared, defined, § 81 English statute, § 61 Executed oral trusts, § 69 Lack of seventh section in some states, § 64

CREATION OF TRUSTS—Cont'd Statute of Frauds, § 61, 71-Cont'd Oil and gas leases, § 65 Part performance, § 92 Personal property trusts, § 65 Pleading statute, § 71 Power to create, writing, § 82 Proceeds of sale of realty, § 66 Real property, trusts, § 63 Reformation of instrument to show trust, § 68 Signature or subscription, § 63, 86 When enforceable, § 66 Writing, § 63 Contents, § 87 Delivery, necessity of, § 85 Intent, § 84 Lost or destroyed, § 91 Made by agent, § 63 Parol evidence to supplement, vary or clarify, § 88 Power to make, § 82 Sufficiency, § 89 Time of making, § 83 Two or more documents, § 90 Who may make, § 63 Who may raise Statute, § 70 Statute of Uses, § 206 Statute of Wills, § 101 Statutes Alienation restraints, § 219 England, § 321, 325 Illegality of purpose or terms, § 211 Insurance trusts, § 236 Perpetuities, § 214 Statute of Frauds, § 62, 64 Statute of Uses, § 206 Transfers of assets, § 142 Trustee, § 125 Trust intent, § 45 Trust res. § 112, 116 Wills Acts, § 101 Statutory creation, § 246 Subject-matter Necessity, § 1, 111 Subscriptions Funds collected by, § 22, 362

CREATION OF TRUSTS—Cont'd Suspension of power of alienation, § 219, 220 Charitable trusts, statutes, § 350 Termination, § 45 Terminology and classification, § 1 Testamentary trusts, § 141 Formalities, § 101, 296 Gift to trustee of existing trust, § 105 Gift to trust to be established, **§ 106** Informal trusts, § 102 Living trust intended to take place of will, § 104, 233, 264.5 Testamentary capacity, § 44, 101 Wills acts, § 101 Time Origin, conditions precedent, § 45 Permissible duration, § 218, 351 Title to property, § 141, 143, 147, **149** Totten trusts, § 47 Transfer of property, formalities Bank accounts, § 142 Bonds, § 142 Choses not represented by document, § 142 Corporate stock, § 142 Declaration of trust, § 141, 148, 233 Equitable interest with power to acquire legal interest, § 141 Gift by implication, § 141 Insurance, § 142 Land, § 142 Necessity Administration by trustee, § 141 Possession, § 148 Transfer of realty to trustee, § 148 Trust creation, § 141, 148 Oral transfer of personalty and delivery, § 141 Possession, transfer of, § 148 Realty, § 148 Power of attorney, § 141 Promissory notes, § 142

CREATION OF TRUSTS—Cont'd Transfer of property, formalities -Cont'd Safe deposit box, contents, § 142 Tangible personal property, § 142 Time deposits, § 142 Trust completed though beneficiary given possession, § 148 Trust declaration, § 148 Vessel, § 142 Transfer of property interest to trustee, § 141 Trustee, failure to name, § 123 Trust instrument Acknowledgment by settlor as delivery, § 147 Delivery, § 141, 147, 149 Duties of trustee, terms as to, § 50 Incorporation by reference, § 50 Recording Acknowledgment by settlor, §149 General recording acts, § 149 Land registration acts, § 149 Not a condition to trust creation, § 149 Special recording acts, § 149 Trust document separate from absolute deed, § 149 Several documents as evidence, § 50 Two or more writings, § 45 Words of transfer, § 50 Trust or absolute gift to corporation, § 324 Undue influence, § 44 Unsigned documents, § 90 Written instrument, § 50

CREDIT

Federal income tax Allocation of credits, § 268.25, 269 Foreign, contract for purchase, § 21 Sale of trust property, terms, § 745 Unified credit, federal estate tax, § 271.5, 276

CREDITORS

See also Assignments for Benefit of Creditors; Beneficiaries' Interests; Spendthrift Trusts Active trusts, creditor reaching beneficiary's interest, § 193 Agreement of debtor to pay from described fund, § 19 Beneficiary Appointment of receiver, § 193 Attachment, § 193 Failed spendthrift trust, § 227 Bankruptcy, § 193 Bill in equity, § 193 Business trusts, barred by knowledge or agreement, § 247J Contingent liabilities, § 169 Creditors' bills, § 193, 227 Disclaimer Application of law, § 171, 172 Protection, statutes, § 171 Discretionary trusts, § 228 Equitable execution, income or principal, § 193 Execution, failed spendthrift trust, § 227 Execution at law, § 193 Failed spendthrift trust, § 227 Garnishment, § 193 Insolvency, § 193 Insurance trusts, § 244 Statutes, § 244 Legal execution and attachment, § 193 In rem rights, § 183 Resulting trusts, § 193, 454, 467 Purchase money type, § 454 Satisfying judgment, failed spendthrift trust, § 227 Sequestration of trust assets, § 193 Settlor creating trust for self, § 223 Spendthrift trusts, § 222, 227 Interest of spendthrift beneficiary, exemptions, § 193 Surplus income, rights, § 227 Statutes, § 193 Supplementary proceedings, § 193, 227

CREDITORS—Cont'd Beneficiary—Cont'd Support trusts, § 229 Surplus income, § 193, 227 Trust created by person other than beneficiary, § 193 Trust created to pay debts, § 182, 250 Trustee in bankruptcy, failed spendthrift provisions, § 227 Trustee process, § 193, 227 Trust income, § 193 Trust terms, remedies, § 193 Unsatisfied judgment at law, § 193 Blended trust, rights and remedies, § 230 Business trusts, § 247J, 247K Rights against shareholders, § 247E to 247H, 247L Collections items, debt or trust, § 23 Contract, rights to trust assets, § 716 Debtors and Creditors, generally, this index Declaration of trusteeship for creditor, § 19 Deliveree promising to pay debt, § 19 Delivery of property to creditor to enable him to pay debt, § 19 Deposit of trust funds, bank as trustee, § 21 Discretionary trust, rights and remedies, § 228 Donee of power of appointment, § 233 Employer retaining wages, debt or trust, § 19 Estoppel Extending credit to trustee, § 146 Fraud on creditors, § 211 Bar, right to constructive trust, § 472 Construction of trust purpose, § 211 Constructive trust, § 475 Effect, § 211 Innocent successors of grantor, § 211 Parties not in pari delicti, § 211 Presumptions, § 211

CREDITORS—Cont'd Fraud on creditors, § 211-Cont'd Reconveyance to settlor, § 211 Relative standing of parties, § 211 Rights of third party beneficiaries, § 211 Settlor as beneficiary, § 168 Settlor raising fraud, § 211 Settlor seeking return of property, § 211 Transfer of beneficiary's interest, § 188 Uniform Fraudulent Conveyances Act, § 211 Where no harm, § 211 Funds delivered for investment, § 21 Future creditors, spendthrift trust created for settlor, § 223 General bank deposits, § 21 General powers of appointment, donee, § 233 Insolvency Liquidation trust, § 254 Remedy against beneficiary, § 721 Insurance trusts Creditors of beneficiary, § 244 Creditors of insured, § 243 Statutes, § 243, 244 Liens, powers of trustee, § 715 Liquidation trusts, § 254 Marshaling of assets, tracing trust funds, § 930 Promise to support in return for conveyance, § 19 Purchase of foreign credit, § 21 Resulting trusts, fraud, § 463 Security deposit as creating trust, § 19 Settlor Generally, § 211, 223 Conditionally revocable trust, § 233 Effect, reservation of power to revoke, § 233, 264.5, 1000 Insurance trust, statutes, § 243 Revocable trust, statutes, § 233, 1000 Totten trusts, § 47, 233

CREDITS—Cont'd

CREDITORS—Cont'd Settlor—Cont'd Trust for settlor with power of appointment, § 223 Special bank deposits, § 21 Uniform Trusts Act, § 20 Spendthrift trusts, § 222, 227 Exceptions to validity, § 221, 224 Notice, § 222 Rights and remedies, failed trust, § 227 Spouse, marital rights, § 211, 233 Support trusts, rights and remedies, § 229 Trustee Bankruptcy, § 947 Contracts of trustee, § 712, 718 Defaulting trustee, investments from mixed funds, § 928 Derivative rights against trust estate, § 715 Estoppel of beneficiary, § 944 Executed oral trusts of land, § 69 Legal interest, § 146 Quasi-contractual remedies, § 725 Resulting trusts, purchase-money type, § **454, 466** Rights through trustee's right to indemnity, § 716 Statute of Frauds, executory trusts, **§ 70** Statutes, § 146 Taking trust property in payment of trustee's personal debt, § 904 Tort claims, § 731, 732 Trust property, exemption, § 146 Trusts to secure or pay, § 250, 251 Bondholders' committees, § 251 Duties and liabilities of trustee. § 250 Suits by trustee, § 250 **CREDITORS' BILLS** Failed spendthrift trusts, § 227 Interest of beneficiary, § 193 CREDITS Accounting, credits to trustee on. Accounts and Accounting, this index

Federal estate tax, § 271.5, 276 Federal income tax Allocation between beneficiaries and trust, § 268.25, 269 Income taxes, trustees return, § 268.25 CREDIT UNIONS Joint accounts, creation, intent, § 47 **CRIMES AND OFFENSES** Aiders and abettors, § 901 Breach of trust, third parties, § 901 Business trusts, Blue Sky laws, § 247R Charitable trusts Creation, § 323 Termination, § 400 Conflicts of laws, § 211 Consideration, bona fide purchasers, § 887 Encouragement of illegal object, trust purpose, § 211 Encouraging, § 211 Estate taxes, failure to file, § 272.5 Evasion of statutes, trust purpose, § 211 Federal income tax, returns and payments, § 265 Fiduciary tax returns, § 265 Fraud, generally, this index Homicide, constructive trust on decedent's property, § 478 Intent, § 211 Purchase money resulting trusts, § 463 Investments, consent, barring of remedies, § 941 Purchase money resulting trusts, intent, § 463 Remedies of beneficiary, § 861 Third parties, breach of trust, § 901 Trustees Breach of trust, § 861 Grounds for removal, § 527 Liability, § 861 Removal of trustee, § 527 Unlawful purposes, trusts for, § 211

CRIMES AND OFFENSES—Cont'd Violation, statutes regarding safety, § 720

CRUELTY TO ANIMALS

Charitable gifts, § 264.25 Charitable trusts, § 379 Charitable trusts, beneficiaries, § 165, 379 Gifts to anti-vivisection societies, charitable purpose, § 379

CRUELTY TO CHILDREN Charitable gifts, § 264.25

CRUMMEY TRUSTS Gift taxes, § 264.10 Life insurance trusts, § 264.15

CULTIVATION

Beneficiaries, use of property, **§ 208** Possession and use of trust property by beneficiary, **§ 208**

CULTURE

Charitable purpose, advancement, § 375

CURATORS Relationship distinctions, § 13

CURTESY

Active trust, creation in married women, § 207 Beneficiary's interest, § 186 Beneficiary's right in rem, § 183 Estate taxes Deductions, § 275.15 Gross estate, § 273 Marital deduction, § 275.10 Evasion, origin of uses and trusts, § 2 Fraud by wife, early law, § 211 Fraudulent conveyances, § 211 Interest of trustee, § 146 Land trusts, § 249 Nature of beneficiary's interest, settlor's direction, § 185, 186

CUSTODIANS

Custodian accounts, § 15 Gifts to minors acts, all states, § 15, 233, 264.10 CUSTODIANS—Cont'd Guardians contrasted, § 13, 15 Uniform Gifts to Minors Act, § 15, 233 CUSTOMS AND USAGES Commercial paper, collection by banks, § 23 Coupon and dividend bank accounts, § 20 Leases, duration, § 788 Sales of trust property, § 744 CY PRES See also Charitable Trusts; Deviation Accounts and accounting, charitable trusts, § 395 Alienation, suspension of power, § 219 Alteration, court, charitable trusts, § 393 Alternate gift preventing application, § 431, 437 Application to court Conditions necessary to application, § 438, 439 Parties and procedure, § 441 Raising of collateral questions, § 441 By whom may be brought, § 441 Attorneys fees, § 441 Charitable trusts, § 361, 436 et seq. Accounts and accounting, § 395 Administration, court, § 396 Alteration, court, § 393 Court Administration, § 396 Alteration, § 393 Definition of charity, § 369 General or special intent, § 436 et seq. Identity of institution, § 440 Impossibility of performance, § 438 Impracticability, § 439 Inexpediency, § 439 Intent, general or special, § 436 et seq.

Jurisdiction, § 435

CY PRES—Cont'd Charitable trusts, § 361, 436 et seq. -Cont'd Mutual benefit societies, source of funds, § 367 Parties, § 441 Powers and duties, § 431 et seq. Procedure, § 441 Resulting trusts, § 418 Substitute plan, § 442 Termination, § 400 Charities Act, 1960, England, § 435, 436, 441 Community trusts, § 329 Costs, § 441 Court's power, § 431, 442 Defined, § 431 Charitable trusts, § 396 Dissolved charitable corporations, beneficiaries, § 164 Distinguished from deviation, § 442, 561 Duration of trust, § 218 Effect, community trusts, § 329 England, § 432 English developments and use, § 432 General charitable intent required, § 436 Distinguished from special intent, § 436 No resulting trust, § 418, 436, 437 General or special charitable intent Construction, § 437 Gift over, effect, § 437 Gifts to or for named institution ceasing to exist, § 437, 440 Settlor's status and interests, § 437 Settlor's testimony, § 437 Subscription funds, § 437 Gift over preventing application, § 431 Hostility toward doctrine, § 433 Impossibility, trust execution, § 438 Impracticability, trust execution, § 439 Inexpediency, trust execution, § 439 Intent, general or special, § 436 Construction, § 437

CY PRES—Cont'd Judicial cy pres, § 432 Jurisdiction, § 435 United States, § 433 Judicial power, § 433 Jurisdiction, § 435 Mixed trusts, § 431 Modification by settlor's nominees, § 435 Mutual benefit societies, source of funds, § 367 Occasions for use, § 431 Absolute gifts Charitable corporation which declines, does not qualify or is incompetent, § 440 Institution which cannot be identified, § 440 Non-existent institution, § 440 Better charitable plan available, § 439 Changes with regard to status of donee, § 440 Charitable fund, excessive or inadequate, § 438 Eminent domain proceeds, § 439 England, prerogative power, § 432 Failure Absolute gifts to charity, § 431 Charitable gifts in trust, § 431 Gift in trust, death or absence of trustee, § 440 Impracticability, § 439 Inexpediency of plan, § 439 Settlor provides for, § 431 Time of origin of failure, § 431 Trustee, change regarding, § 440 Origin and meaning, § 431 Other remedies compared, § 434 Parties, § 441 Perpetuities, § 213, 214 Application of doctrine, § 218 Power in court, not trustee, § 435 Prerogative cy pres, § 432 United States, § 434 Prerogative power England, § 432 United States, § 434

CY PRES—Cont'd Procedure Notice to be given, § 441 Question arising in other proceedings, § 441 Reference to master or auditor, § 441 Removal of restrictive clauses, deviation distinguished, § 439 Substitute plan, § 441, 442 Procedures, § 441 Restraints on alienation, § 219 Resulting trusts, charitable trusts, § 418 Selection of substitute plan, § 442 Settlor's rights, § 441 Direction against application, § 431 Status in American states, § 433 Status of donee or trustee, § 440 Statutes, § 433, 438 Substitute plan, § 442 Court's selection, § 442 Different type of charity, § 442 Failure of legacy for charity, application to residue, § 442 Fund excessive, § 442 Fund insufficient, § 442 Religious elements, consideration, § 442 Restrictions removed, § 442 Selection by court, various methods, § 442 Several charities, one fails, gift to others, § 442 Similar purpose, § 442 Temporary decision, postponed action, § 442 Town or district to be benefited, consideration by court, § 442 Transfer to similar existing institution, § 442 Termination of charitable trust, general charitable intent, § 436, 438, 1002 Trustee's discretion, methods of administration, § 434, 438 Uniform Charitable Trusts Administration Act, § 7, 433

CY PRES—Cont'd When doctrine not applied, § 431 DAMAGES See also Liabilities of Trustees Appreciation, § 543(V), 862 Beneficiaries, recovery from trustees, § 862 Election of remedies, § 861 Beneficiary's election of remedies, § 861, 862, 865, 946 Benefit of the bargain, § 543(V), 862 Bona fide purchasers, § 881 Breach of promise to create trusts, § 203 Breach of trust, § 862 Breach of investment duty, measure, § 701 et seq., 862 Burden of proof, § 871 Causation, § 871 Charitable trusts Possibility of reverter, § 419 Trustees, § 394 Election of remedies, tracing trust funds, § 946 Judgment or decree, § 862 Measure of damages, § 543(V), 862 Promise to create trust, § 203 Remedies of beneficiaries, § 861 Third parties, § 868, 869 Liability, § 901, 902 Tracing assets, election of remedies, § 867 Burden of proof, § 871 Causation, breach of trust, § 871 Charitable trusts Possibility of reverter, § 419 Trustees, § 394 Consequential, § 862 Consequential damages, breach of trust, § 862 Constructive trust as alternative remedy, § 471, 473, 543(V) Continuation of business by trustee, negligence, § 574 Contracts of sale, breach, § 746 Disloyalty, § 543, 543(V), 861 Election of Remedies, this index

Decree against trustee, money

Loyalty to beneficiaries, § 543

damages, § 862

DAMAGES—Cont'd

Trustees-Cont'd

DAMAGES—Cont'd Exemplary damages, breach of trust, § 862 Improper delegation of powers, § 512, 555 Improper payments, § 814 Interest on recovery, right of beneficiaries, § 863 Investments, breach, § 701 et seq. Judgment liens, sale of trust property, § 865 Jurisdiction, § 870 Legal life tenant, when liable for, § 27 Liabilities of trustees Breach of investment duty, proof of loss required, § 701 Breach of loyalty duty, § 543(A), 543(B), 543(E), 543(V) Measure of damages, § 862 Measure, § 543(V), 862 Punitive, § 862 Punitive damages, breach of trust, § 862 Recovery, allocation between principal and income, § 816, 821 Remedies of beneficiary, § 862 Spendthrift trusts, § 224 Assignments, § 226 Breach of contract to assign, § 226 Claims of beneficiary's creditors, § 224 Third parties, breach of trust, § 868 Liability, § 901, 902 Third persons, participation in breach of trust, § 868, 902 Tracing trust funds. Election of Remedies, this index Trustee Contracts, § 712 Failure to defend trust, § 581 Failure to take possession of trust property, § 583 Sales, § 746 Wrongful transfer of trust, § 512 Trustees Corporate stock, voting for self as director or officer of corporation, § 543(N)

Negligent, § 541 Relief granted by court when disloyalty occurred, § 543(V) DATE See Time **DEAD HAND** See Mortmain Acts **DEAD MAN'S STATUTE** Trust claimant, bar to creation of trust, § 50 DEATH Beneficiary, effect, § 164 Transfer of interest on death of beneficiary intestate, § 189 Charitable trusts, trustee, § 398 Civil death of beneficiary, § 164 Construction of beneficiary's interest, § 182 Contemplation of death Oral promise to convey, constructive trust, **§ 496** Taxation, § 264.10, 273.5, 286 Co-trustees Survivorship, § 145, 530 Dead man's statute, trust claimant, § 50 Deceased person named as trustee, § 123 Descent and Distribution, generally, this index Estate of deceased trustee, probate claim, § 862 Gift to take effect at, taxation, § 273.15, 286 Insurance proceeds, tracing trust funds, § 925 Sole trustee, effect, § 529 Escheat, statutes, § 529 Statutes as to, § 529 Title to property, § 529 Spouses, passive trusts, § 206

DEATH—Cont'd Tracing the trust res Burden of proof, § 923 Trust created in contemplation of death, federal estate tax, § 273.5 Trustee, personal powers passing to successor, § 553 Trustees, § 529 Charitable trusts, cy pres, § 440 Damages, recovery, § 862 Survivorship, § 530 Trust property, trustee's creditors, § 146 Witnesses, laches, breach of trust, evidence, § 949

DEATH BENEFITS

Accumulations, application of law, § 216 Deferred compensation, § 264.5 Employee benefit plan. § 255. 270.20, 273.20 Employee benefit trusts, income taxes, § 273.25 Revocable trusts, acceptance of additions to trust, § 233 Tax exempt funds, death taxes, payment, § 233

DEATH TAXES

See Federal Estate Tax: State Estate and Inheritance Taxes Charitable trusts, exemptions, § 286, 401 State statutes, § 286 et seq. Apportionment, § 286.5

DEBENTURE BONDS Trust indenture, § 250

DEBENTURES

Payments, principal and income, § 855 Trust investments, § 673

DEBTORS

See also Assignment for Benefit of Creditors; Creditors; Spendthrift Trusts Agreement to pay debt from

described fund, § 19

DEBTORS—Cont'd Beneficiary as Appointment of receiver, § 193 Attachment, § 193 Bankruptcy, § 193 Bill in equity, § 193 Business trusts, § 247V Creditors' remedies, § 193 Discretionary trust, § 228 Equitable execution, income or principal, § 193 Execution at law, § 193 Failed spendthrift trust, § 227 Garnishment, § 193 Insolvency, § 193 Insurance trust, § 244 Legal execution and attachment, § 193 Satisfying judgment, failed spendthrift trust, § 227 Sequestration of trust assets, § 193 Settlor creating trust for self, § 223 Spendthrift trust, § 222, 227 Statutes, § 193 Support trust, § 229 Surplus income, § 193, 227 Trust created by person other than beneficiary, § 193 Trustee process, § 193, 227 Trust income, § 193 Unsatisfied judgment at law, § 193 Business trust, § 247 Contracts, § 247I to 247V Right against shareholders, § 247E to 247H Collection items, debt or trust, § 23 Declaration of trusteeship for creditors, § 19 Deliveree promising to pay debt, § 19 Delivery of property to creditor to enable him to pay debt, § 19 Employee benefit plans, exemptions, § 227, 255 Employer retaining wages, debt or trust, § 19 Fraud, trusts for unlawful purposes, § 211

DEBTORS—Cont'd Fraud on creditors, trust transfers, § 211 Construction of trust purposes, § 211 Constructive trust, § 475 Effect of transfers, § 211 Innocent successors of grantor, § 211 No harm accomplished, § 211 Parties not in pari delicti, § 211 Presumptions, § 211 Reconveyance to settlor, § 211 Relative standing of parties, § 211 Rights of third party beneficiaries, § 211 Settlor raising fraud, § 211 Settlor seeking return of property, § 211 Uniform Fraudulent Conveyances Act, § 211 Funds delivered for investment, § 21 General bank deposit, § 21 Insolvency of trustee Remedy against beneficiary, § 721 Insurance trusts, creditors of insured, § 243 Liquidation trusts, § 254 Marshaling of assets, tracing trust fund, § 930 National bank deposits, Uniform Trusts Act, § 20 Promise to support in return for conveyance, § 19 Purchase of foreign credit, § 21 Security deposit as creating trust, § 19 Settlor as Settlor creating trust for self, § 223 Totten trust, § 47 Trust for settlor with power of appointment, § 223 Special bank deposits, § 21 Support, promise to support in return for conveyance, § 19 Trustee Bankruptcy, § 947 Executed oral trust of land, § 69 Ouasi-contractual remedies, § 725

DEBTORS—Cont'd Trustee-Cont'd Resulting trust, purchase-money type, § 466 Rights through trustee's right to indemnity, § 716 Statute of Frauds, executory trust, § 70 Trustees for creditors, § 19 Trust for payment, § 250 Trusts to pay or secure creditors, § 250 Bondholders' committees, § 251 Duties and liabilities of trustee, § 250 Wages, employer retaining, debt or trust, § 19 **DEBTORS AND CREDITORS** Banks and banking, bona fide purchasers, consideration, § 888 Beneficial interests, § 193, 227 Beneficiary, liability to contract creditors of estate, § 721 Bona Fide Purchasers, this index Breach of trust Payment of trustees creditors with trust property, § 904 Tracing trust funds, § 922 Security, personal debts of trustees, § 904 Business trusts, rights against shareholders, § 247 Cancellation of debt, consideration, bona fide purchasers, § 889 Consideration. Bona Fide Purchasers, this index Constructive trusts, fraud on creditors, § 475 Discretionary trusts, § 228 Rights and remedies, § 228 Employee benefit plans, § 227 Estate taxes, deductions, § 275, 275.15 Family debts, married women, § 232 Forgiveness, gift taxes, § 278 Fraud. § 211 Constructive trusts, fraud on creditors. § 475

DEBTORS AND CREDITORS -Cont'd Fraudulent conveyances Purchase money resulting trusts, § 463 Trust transfers, § 211 Gift taxes, deductions, § 277 Irrevocable trusts, reserving right to withdraw principal, § 233 Life insurance trusts, exemptions from claims of creditors, § 235 Liquidation trusts, § 254 Living trusts, protection, § 231, 233 Payment, generally, this index Personal life insurance trusts, § 243 Creditors of beneficiary, § 244 Exemptions, § 243 Probate estates, filing claims, duration, § 231 Protective trusts, rights and remedies, § 230 Revocable trusts, claims of creditors, § 104 Security, generally, this index Settlor, revocable trusts, § 233, 1000 Special power of appointment, rights, § 233 Spendthrift Trusts, generally, this index Statutes, spendthrift trusts, exceptions, § 224 Support trusts, § 229 Testamentary trusts, protection, § 233 Third parties, breach of trust, pavments of trust property, personal debts of trustees, § 904 Tracing trust funds, payment of trustees creditors with trust property, § 922 Trustees Buying certificates of interest under trust for creditors, § 543(D) Giving right to collect from trust estate, § 715 Payment, § 233 Purchasing claims for self, § 543(D)

DEBTORS AND CREDITORS -Cont'd Trustees-Cont'd Securing incidental benefits for self while engaged in trust business, § 543(Q) Trust to secure or pay creditors, § 250 DEBTS See also Creditors; Debtors; Indebtedness, this Index Antecedent, cancellation, bona fide purchaser rule, § 889 Cancellation as value, bona fide purchaser rule, § 887 Evasion, origin of uses and trusts, § 2 Federal estate tax, deductions, § 275.15 Forgiveness, federal gift tax, § 278 Payment Implied power to mortgage, § 759 Participation in breach of trust, § 904 Support of beneficiary, § 811 Trustee's personal debt paid from trust funds, tracing, § 922 Subject-matter of trust, § 115 Claim against settlor, § 115 Claim against trustee, § 115 Settlor's claim against beneficiary, § 115 Trust distinguished, § 17, 21

DECANTING

Trustee's power to transfer trust assets to another trust, § 567

DECEDENTS ESTATE

Descent and Distribution, generally, this index

Trustee continuing decedents business, § 571 et seq.

DECEDENT'S ESTATE

Trustee continuing decedent's business, § 571 Trust to hold property pending distri-

bution, § 246

DECEIT

Constructive trusts, § 471, 473

DECLARATION OF ESTIMATED TAX Beneficiary, § 268.5 Death of taxpayer, § 272 **DECLARATION OF TRUST** Generally, § 141, 233 Creation of trust, § 41, 45, 201, 202, 233 Incomplete transfers, § 202 Equitable interest in beneficiary, § 147 Incomplete gift of legal interest, § 46, 205 Mistaken recognition of pre-existing trust, § 46 Provisions, § 233 Retention by settlor, possession of property, § 141, 148 Revocable declaration of trust, § 233, 264.5 Totten trust, form of account, § 47 Transfer of property or possession to trustee, § 141, 148 Use and purposes, § 233, 264.5 **DECLARATION OF TRUSTS** Creation, § 201 Incomplete transfers, § 202

DECLARATIONS AGAINST INTEREST

Totten trusts, § 47

DECLARATORY JUDGMENT

Receipts, questions of allocation between income and principal, § 816 Remedies of beneficiary, § 559, 861 Trustee, construction, § 559

DECREE OF COURT

See also Judgments and Decrees Breach of trust, **§ 862, 871**

DEDICATION

Charitable trusts, intent, § 324 Distribution of condemnation award, § 246 Eminent domain award, principal and

income, § 821

DEDICATION FOR PUBLIC USE

Eminent domain award, principal and income, § 821 Trust distinguished, § 34, 324

DEDUCTIONS

Accounts and accounting, income taxes, allocations, § 269 Amateur sports organizations, charitable gifts, income taxes, § 264.25 Annuities, charitable organizations, estate taxes, § 275.5 Attorneys fees, estate taxes, § 275.15 Casualty losses, estate taxes, § 275, 275.15 Cemetery organizations, charitable gifts, income taxes, § 264.25 Charitable Contributions, this index Estate taxes, § 272 Annuities, charitable organizations, § 275.5 Attorneys fees, § 275.15 Casualty losses, § 275, 275.15 Charitable contributions, § 275, 275.5, 275.15 family owned business interests, § 275.20 Lead trusts, charitable contributions, § 275.5 Miscellaneous deductions, § 275.15 state death taxes, § 275.25 Federal estate tax Administration expenses, § 275.15 Charitable, § 275.5 Marital, § 275.10 Specific exemption, prior law, § 277 Federal gift tax Charitable, § 245, 264.25, 283 Marital, § 280 Federal income tax Allocation among beneficiaries. § 266, 267, 268.5, 268.25, 269 Allocation between trust and beneficiaries, § 266, 267, 268.25 Capital gains, long term, § 269

DEDUCTIONS—Cont'd Federal income tax—Cont'd Carryovers on trust termination, § 269 Charitable gifts, § 268.25 Depletion, § 268.25 Depreciation, § 268.25, 269 Distributable net income rule, § 266, 267, 268.25 Expenses of administration, § 268.25 Income or corpus, discretion of trustee, § 266, 267, 268.25 Local law, § 266, 268.25, 269 Personal exemption, § 267, 268.25 Trust expenses, § 266, 267, 268.25, 269 Trust's return, § 268.25 Trust terms, § 266, 268.25, 269 Year of termination, § 269 Gift taxes Charitable contributions, § 277, 283 Marital deduction, § 280 Income taxes, § 266 Allocations, § 269 Amateur sports organizations, charitable gifts, § 264.25 Cemetery organizations, charitable gifts, § 264.25 Probate estates, charitable contributions, § 233 State taxes, charitable contributions, § 264.25 Trustees return, § 268.25 Lead trusts, charitable contributions, estate taxes, § 275.5 Marital Deduction, generally, this index Probate estates, charitable contributions, income taxes, § 233 Spouses. Marital Deduction, generally, this index State taxes Charitable contributions Estate and inheritance taxes. § 275.5 Income taxes, § 264.25

DEDUCTIONS—Cont'd State taxes-Cont'd Estate and inheritance taxes, § 286 Charitable contributions, § 275.5 DEEDS AND CONVEYANCES Absolute on face, intent to create trust, extrinsic evidence, § 45 Active trusts, § 209 Aged persons, promise to support, § 19 Beneficiary's interest, § 188 Bona fide purchasers, in rem rights, § 183 Nature of property interest, § 182 In rem rights, § 183 Successive assignees, § 194 Bona fide purchasers Notice, duty to inquire, document terms, § 897 Notice from terms of document, § 897 Quitclaim deeds, duty to inquire, § 894 Ouitclaim deeds, notice, § 894 Recording, duty to inquire, § 884, 894 Recording acts distinguished, § 884 Title to property, § 881, 885 Breach of trust, jurisdiction, § 870 Charitable corporations, statutory restrictions, § 327 Charitable trusts Church property, chrism, § 399 Creation, § 323 Powers of trustees, § 391 et seq. Restraints on alienation, § 349 Consideration, § 201 Consideration, promise to create trust, § 204 Constructive trusts Contemplation of death, § 496 Contingent interests, perpetuities, § 213 Contingent interests, Rule against Perpetuities, § 213 Contracts, consideration for creation of trusts, § 204

DEEDS AND CONVEYANCES -Cont'd Covenants or warranties, trustee's deed, § 745 Liabilities of trustee, § 719 Running with land, § 719, 720 Creation of trusts, § 44, 141, 142, 201 Charitable trust, § 323 Consideration, § 202 Formalities, § 142 Promises to create, § 203 Cy pres, § 431 Death of trustees, § 529 Defects, bona fide purchasers, § 881 Disclaimer Evidence, § 150 Trustee, § 150 Estoppel by deed, bona fide purchasers, § 885 Fraudulent conveyances, purchase money resulting trusts, § 463 Incomplete transfers, creation of trusts, § 202 Intervivos trusts and personal property, § 65 Joint tenancy, creation of trusts, § 145 Land trusts, § 249 Life estates, income taxes, § 269.5 Manual transfer of deed with intent to pass title, § 142 Married women, § 232 Nature of beneficiary's interest, direction of settlor, § 185 Oral trusts requiring support, Statute of Frauds, § 66 Perpetuities, § 213 Power of appointment, estate taxes, § 273.35 Purchase Money Resulting Trusts, generally, this index Quitclaim deeds, bona fide purchasers, notice, § 894 Recording, § 149, 884, 893 Recording statutes, contrasted with bona fide purchaser rule, § 884 Recording acts, bona fide purchasers Constructive notice, § 893

DEEDS AND CONVEYANCES -Cont'd Recording acts, bona fide purchasers -Cont'd Distinguished, § 884 Restraints on Alienation, generally, this index Resulting trusts, § 452, 453 Delivery, § 454 Express agreements, statute of frauds, § 461 Limitation of actions, breach of trust, § 952 Love and affection, § 455 Payment At or before delivery, § 456 Partial payment, § 457 Voluntary conveyances, § 453 Sale of trust property, § 745 Secret conveyance, covenant to stand seized, § 201 Specific performance, remedies, beneficiaries, § 861 Spendthrift trusts, recording, § 222 Spouses Married women, § 232 Resulting trusts, § 459 Statute of Frauds Analysis of wordings of American statutes, § 63 Fully performed deed, § 92 Subdivision trusts, § 249 Terms, trustee's deed, § 745 Title to property, bona fide purchasers, § 885 Transfer of property interest to trustee, § 141, 142 Trustees, dealing with beneficiaries, § 544 Trustee's duties, active trust, § 209 Trustee's duty to convey realty to beneficiary, § 814 Trust instrument, delivery, § 147 Trust property, transfer of possession, § 148 Use of trust in conveying realty, § 249

DEEDS AND CONVEYANCES -Cont'd Vacating or setting aside, actions and proceedings, parties, § 414 Charitable trusts, settlors, § 415 Voluntary conveyances, § 453 **DEEDS OF TRUST** See Mortgages; Trust Deeds Usury, § 29 DEFAULT See also Powers of Appointment; Remedies of Beneficiaries Beneficiary-trustee, restitution from share, § 192 Bondholders' protective committee, § 251 Imperative powers of appointment, remainder, interests, § 116 Power of appointment, beneficiarys' interest, default of exercise, § 182 Trustees, liability, § 542 Trustee's, violation of duties, equities, § 192 **DEFEASIBLE INTEREST** Charitable trusts, § 419 Charitable trusts, reservation, § 419 Construction of beneficiary's interest, § 182 Interest of trustee, § 144 State inheritance and estate taxes, § 286 Trust subject-matter, § 112

DEFENSE OF TRUST Duty of trustee, § 581

DEFENSES

See also Remedies, Barring of Breach of trust, **§ 862** Laches, breach of trust, **§ 948, 949** Statute of Frauds, pleading, **§ 71**

DEFERRED COMPENSATION See also Employee Benefit Trusts, this Index Generally, § 264.5, 273.25 Income taxes, § 264.7 Employee benefit trusts, § 273.25

-Cont'd Tax and estate planning, § 264.5 DEFERRED COMPENSATION PAYMENTS See also Employee Benefit Trusts; Taxes and Taxation Estate and tax planning, § 264.5 **DEFINED BENEFIT PLANS** Income taxes, § 264.7, 270.20 **DEFINED CONTRIBUTION** PLANS Income taxes, § 264.7, 270.20 **DEFINITENESS** See also Indefiniteness Description of beneficiaries, § 161 Resulting trusts, part payment, amount, § 457 Trust intent Generally, § 1, 46, 48 DEFINITIONS Beneficiaries, § 182 Incidental, § 181, 182 In personam rights, § 183 In rem rights, § 183 Consideration, promise to create trust, § 204 Trust elements, § 1 Words and Phrases, generally, this index DELAWARE Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 623 Trustees compensation, § 975 DELAY Creditors, fraud, § 211

DEFERRED COMPENSATION

Creditors, fraud, § 211 Delayed sale, apportionment of proceeds, § 824, 825, 827 Distributions Federal income tax, § 269 Measure of damages, § 814 Termination of trust, § 1010 Effect, defense of laches, § 948, 949 Laches, generally, this index

DELAY—Cont'd

Limitations period, § 950, 955 Payments, principal and income, § 824, 825 Principal and income, proceeds from delayed sale of unproductive property, § 824, 825, 827 Rentals, § 827

DELEGATION OF POWERS

Generally, § 555 Charitable trusts Investments, § 395 Trustees, § 394 Consent, barring of remedies, § 941 Imperative powers of appointment, § 116 Investment powers, § 555

DELINQUENT PAYMENTS

Federal taxes Estate tax, § 272.5 Gift tax, § 277 Income tax, § 265 Penalties and interest, § 265, 276, 277 Mortgages, allocation between principal and income, § 821

DELIVERY

See also Creation of Trusts; Trust Instrument
Beneficiary's interest, transfer, § 188
Deeds and conveyances, creation of trusts, § 202
Property, pledge and trust distinctions, § 30
Statute of Frauds, writing, necessity of delivery, § 85
Trust instrument, § 147
Trust property, creation of trust, § 202

DELIVERY OF INSTRUMENTS

Deed, creation of trust, § 141, 142 Trust instrument, § 147 Trust to convey or distribute, when active, § 209

DELIVERY OF WRITING

Statute of Frauds, necessity, § 85

Index-128

DEMURRER Statute of Frauds, § 71

DEPLETION

See also Income Tax—Federal; Principal and Income Federal income tax Allocation among beneficiaries, § 269 Apportionment between trust and beneficiaries, § 266, 268.25, 269 Deduction by trust, § 268.25, 269 Trustees, grounds for removal, § 527 Uniform and Revised Uniform Principal and Income Acts, § 827 Wasting property Natural resources, receipts, § 827 Other than natural resources, § 827

DEPLETION OF ASSETS

See also Depletion; Income Tax— Federal; Principal and Income Charitable trusts, limitation on tort liability, **§ 401**

DEPOSIT AGREEMENTS

Bondholders' protective committees, § 251

DEPOSITIONS

Statute of Frauds Illustrations of writing satisfying, § 89 Time of writing, § 83

DEPOSITORIES

Distinction between trusts and other relationships, § 11 Funds, duty of loyalty, § 543(K)

DEPOSITS

Mortgages, taxes and insurance, § 21, 77

Public funds, trust, § 21 Transfer of property interest to trustee, § 142

DEPOSITS IN BANKS

See Banks and Banking; Duties of Trustee; Participation in Breach

DEPOSITS IN BANKS—Cont'd of Trust; Totten Trusts, this Index DEPRECIATION See also Depreciation Reserve; Income Tax—Federal, this Index Annuities, principal and income, § 827 Apportionment between trust and beneficiaries, § 269 Bonds, premiums, § 828 Buildings, § 829 Federal income tax Allocation among beneficiaries, § 269 Apportionment between trust and beneficiaries, § 266, 268.25, 269 Deduction to trust, § 268.25, 269 Expenses, allocation, § 266, 268.25, 269 Local law, effect, § 266, 268.25, 269 Power of trustee, § 266, 269, 829 Trust terms, § 266, 268.25, 269 Land contracts, risk of, § 18 Reserve Building rentals, § 829 From income, improvements, § 805, 829 **DEPRECIATION RESERVE** See also Depreciation, this Index Allocation between principal and income, § 816, 829 Charge to principal or income, § 829 Federal income tax, § 268.25, 269 Improvements to trust property Authorization by court, § 829 Statutes authorizing, § 805, 829 Interests in business, duties of trustee, § 574, 820 Out of rents, duties of trustee, § 829 Revised Uniform Principal and Income Act, § 829 Right or duty of trustee, § 829

DERIVATIVE ACTIONS

Charitable trusts, liability, § 361

DERIVATIVE ACTIONS—Cont'd Contract creditors, § 715 Tort creditors, indemnity right of trustee, § 734 Ultra vires contracts, § 713 Trustees, removal from office, § 522 DESCENT AND DISTRIBUTION Beneficiary's interest Disclaimer, statutes, § 171 In rem rights, § 183 Statutory provisions, § 184 Transfer on death of beneficiary, § 189 Bona fide purchasers, § 887 Claims against estates, breach of trust, limitation of actions, § 950 Class beneficiary, § 162 Construction of beneficiary's interest, § 182 Creation of trusts, § 141 Death of beneficiary, § 188, 189 Death of trustee, § 146, 529 Death of trustees, § 529 Limitation of actions, breach of trust, § 950 Disclaimer, gift taxes, § 278, 278.5 Escheat Beneficiary's interest, § 187 Beneficiary's right in rem, § 183 Death of sole trustee, § 529 Gift by intestacy on informal trust, breach of agreement, constructive trust, **§ 498** Heirs Class beneficiary, § 162 Construction of beneficiary's interest, § 182 Insurance, tracing trust funds, § 925 Intestate transfer only, restraints on alienation, § 220 Nature of interest, direction of settlor, § 185 Oral promise to hold for another, constructive trust, § 499 Resulting trust, failure of express trust. § 468

DESCENT AND DISTRIBUTION

--Cont'd Heirs--Cont'd Trust to hold property pending distribution, § 246 Joint tenancy, estate taxes, § 273.30 Land trusts, § 249 Resulting trusts, § 469 Surviving Spouse, generally, this index Testamentary Trusts, generally, this

Wills, generally, this index **DESCRIPTION OF PERSONS**

index

See also Ambiguities; Beneficiaries; Indefiniteness, this Index Beneficiary, **§ 161** Classes of beneficiaries, **§ 162, 182** Class gifts, **§ 182** Identification of beneficiaries, **§ 161**

DESCRIPTION OF PROPERTY

Definiteness required, **§ 45, 111** Statute of Frauds Contents of memorandum, **§ 87** Parol evidence, **§ 88**

DESIRE

Precatory words, creation of trust, § 48

DESTITUTE PERSONS

Almshouses, tax funds, § 367

DESTRUCTIBILITY

See also Destructible Trusts Spendthrift trusts, **§ 226** Spendthrift trusts, attempt to transfer by beneficiary, **§ 226**

DESTRUCTIBLE TRUSTS

Action of court, § 1007, 1009 Circumstances and methods, § 1002, 1009 Duration, restrictions, § 218 Termination Necessary parties, § 1004, 1006

Index-130

DESTRUCTION OF BOOKS AND RECORDS

Parol evidence, Statute of Frauds, **§ 91**

DESTRUCTION OF PROPERTY Contract and trust distinctions, § 17

Termination of trust, § 995

DESTRUCTION OF SUBJECT-MATTER Termination of trust, § 995

Termination of trust, § 77.

DESTRUCTION OF TRUST

See also Destructible Trusts; Termination Destruction or loss of res, **§ 995**

DETERMINABLE ESTATES Charitable gifts, § 324 Trustee, charitable trust, § 419 Trust subject matter, § 112

DETERMINABLE FEE

Charitable trusts, § **324** Reservation, § **419** Termination, § **400**

DETERMINABLE FEES

Charitable trust, gift of terminable interest, **§ 419** Conveyances in return for promises of support, **§ 19** Inalienable property interests, **§ 114** Possibility of reverter, Rule against Perpetuities, **§ 213**

DETERMINABLE INTERESTS

Beneficiary, **§ 181, 182** Distinguished from charitable trust, **§ 324** Rule against Perpetuities, **§ 213** Subject-matter of trust, **§ 112**

DETINUE

Standing, wrongfully withholding trust property from trustee, **§ 869**

DETRIMENT

Promise to create trust, consideration, § 204

DEVELOPMENT OF TRUST LAW Australia, § 7, 9 Canada, § 7, 9 Civil law jurisdictions, § 9 Early America, § 6 England, § 2, 3, 4, 5 European countries, § 9 Latin-American countries, § 9 United States, § 6, 7 **DEVIATION** See also Cy Pres; Modification of Trusts; Powers of Trustees Accumulations, § 217 Charitable trusts Court administration, § 396 Cy pres, § 438 Injunction, § 415 Intent, § 393 Investments, § 395 Court authority, § 561 Accumulation provisions, § 217 Change in administrative provisions, § 561 Change in dispositive provisions, § 815 Charitable trusts, § 394, 396 Conditions to use of power, § 561 Examples, § 561 Investment terms, § 396, 687 Leases, § 786, 790 Payments and distributions, § 815 Power of sale, § 392, 394, 561, 742, 743 Statutes authorizing court, § 561, 815 Trust expenses, § 802 Court powers, § 815 Distribution, provisions, court's power, § 815 Payment, § 815 Statutes, charitable trusts, § 394 Trustees Court control, alteration of powers, § 561 Duties, § 541

DEVISES AND BEQUESTS See Wills

DIFFERENT CLASSES Beneficiaries, § 181, 182 Trustees, § 122 DIGITAL ASSETS OF A DECEDENT Trustee's powers and duties, § 568 DILIGENCE Trustees, duties, § 541 **DIRECTIONS OF SETTLOR** See also Control by Settlor; Settlor, Powers of Charitable trusts Failure or breach, § 418, 420, 436, 437 Selection of substitute plan, § 442 Compensation, § 976 Investments, § 680, 683 DIRECTORS Charitable foundation, § 330 Fiduciary relationship, corporate, § 481, 481.1 DISABILITY Settlor Attempted trust creation, § 44 Power to set trust aside, § 44 Trustee, effect, § 566 DISABLED PERSONS See also Handicapped Persons; Infants Active trust, implied duties of trustee, § 207 Beneficiaries, § 187 Capacity, § 168 Confidential relationship, constructive trust, **§ 496** Consent to trustee's resignation, § 513 Disclaimer, § 170 Statutes, § 171 Gifts, fair play, § 544 Necessary parties, § 871 Notice, § 871 Payments or applications, § 814

Payments or applications, **§ 814** Remedies not barred, **§ 941 et seq**

DISABLED PERSONS—Cont'd Beneficiaries, § 187—Cont'd Representation, court proceedings, § 871, 1007 Breach of trust Barring of remedies, § 941 et seq Notice, court proceedings, § 871 Charitable trusts, invalidating creation, § 323 Conservatorship, § 13 Constructive trusts Confidential relationship, § 482 Personal representative, § 481 Disclaimer, § 170 Disposition of interests, § 187 Distributions to, § 814, 1010 Gift by beneficiary, fair play, § 544 Guardianship, § 13 Handicapped Persons, generally, this index Incompetent's property, court appointment of trustee, § 246 Living trusts, § 231 Payment of distributions to legal representative, § 814 Personal representatives, constructive trust, § 481 Power to revoke, incompetency of powerholder, § 1000 Purposes of trusts, early law, § 212 Representation Guardian, § 871 Guardian ad litem, § 871, 1007 By other parties, § 871, 1010 Statutes, § 871 Suit for breach of trust, § 871 Resignation, consent, § 513 Settlor Capacity to revoke, § 1001 Modification of trust voidable, § 993 Rescission of trust, § 997 Statute of Limitations, tolling, § 951 Suit for breach of trust, representation, § 871 Transfer of powers to representative, § 993, 1000

DISABLED PERSONS—Cont'd Settlor-Cont'd Trust to administer incompetent's property, § 246 Trustee Effect on powers, § 566 Removal, § 527 Trusts to administer incompetent's property, § 246 Uniform Probate Code provisions, § 13 DISABLING RESTRAINTS Direct restraints on alienation, § 220 DISASTER Common disaster clause, federal estate tax, § 275.10 Victims of, charitable trusts, § 362 DISCLAIMER See also Refusal of Trust: Renunciation Acceleration of interests, § 172 Appointment of new trustee, § 150 Beneficiaries, this index Beneficiary, § 70, 170, 171 Acceleration, remainder interests, § 172 Contingent interests, § 170 Effect, § 172 Federal estate tax, power of appointment, § 273.35 Federal gift tax Donee of power of appointment, § 282 When not constitute a gift, § 278 Federal income tax purposes, § 268.5, 268.20 Finality, § 170 Incompetent, § 170 Interest under spendthrift trust, § 226 Minor, § 170 Opportunity, § 169 Proof, § 170 Resulting trust, § 468 Retroactive effect, § 171 Spendthrift trust, interest, § 222,

226

DISCLAIMER—Cont'd Beneficiary, § 70, 170, 171-Cont'd Statutes authorizing, § 170, 171, 233, 278 Charitable trustees, court appointment, § 328 Estate taxes, deductions, § 275.5 Federal tax effect Disclaimer by holder of taxable power, § 268.20 Disclaimer of power of appointment, § 273.35, 282 Federal estate tax, marital deduction, third party disclaimer, § 275.10 Federal gift tax, § 278 Refusal to accept gift, § 278 Renunciation by beneficiary, § 268.5 Generation skipping transfer tax, § 278 Power of appointment, statutes, § 171 Gift taxes, § 278.5 Resulting trusts, § 468 Spendthrift trusts, § 226 Statutes, § 171 Federal tax requirements, § 171, 278 Trustee, § 150 Appointment of new trustee, § 150 Conduct showing, § 150 Co-trustees, § 150 Creation of trust, § 150 Evidence, § 150 Executor-trustee, § 150 Finality, § 150 Form, § 150 Must disclaim entire trust, § 150 Not affect trust creation, § 150 One of several trusts, § 150 Parol or informal, § 150 Proof, § 150 Retraction, § 150, 328 Retroactive effect, § 150 Statutes, authorizing, § 150 Statutory methods, § 150

DISCLAIMER—Cont'd Trustee, § 150-Cont'd Transfer to trustee by operation of law, § 150 Worthless property, § 150 Written instrument, § 150 Trustee, office, § 150 DISCLAIMER OF INTEREST By beneficiary, § 169, 170, 172, 268.5, 278 Resulting trust, failure of express trust, § 468 DISCLOSURE Employee benefit plans, § 255 Fiduciary duties of corporate officers and directors, § 481.1 National banks, trust departments, Reg. 9 disclosure requirements, § 134 Representative capacity, negotiable instruments, signer's liability, § 775 DISCOUNTS Bonds and notes, allocation between principal and income, § 816, 826, 828 Bonds bought at, receipts from sale, principal and income, § 826 Buying certificates of interest under trust for creditors, § 543(D) Federal estate tax, valuation of large block of stock, § 274 DISCOVERY See also Remedies of Beneficiaries Beneficiaries, § 861 Tracing trust funds, § 923 Wrongful holding, constructive trusts, § 472 DISCRETION Court, trustees Removal from office, § 527 Trustees, § 228, 264.10, 264.15, 541, 552, 811, 814 Creditors of beneficiaries, § 228 Disabled beneficiary, government

Index-133

benefits, § 811, 812, 828 et

seq.

DISCRETION—Cont'd

Trustees, § 228, 264.10, 264.15, 541, 552, 811, 814—Cont'd Income taxes, § 267 Irrevocable, § 264.10 Restraints on alienation, § 222

DISCRETIONARY

See also Courts; Discretionary Powers; Discretionary Trusts Powers, delegation of trust powers, § 555

DISCRETIONARY POWERS

Generally, § 234, 264.10, 264.20, 552 Charitable trustees, § 391, 393, 396 Delegation by trustee, § 555 Federal tax implications Estate tax, § 264.10, 273.10, 273.20 Gift tax, § 278, 279 Income tax, § 264.10, 264.20, 267, 267.5, 268.10, 268.15, 268.25 Sale of property, § 741 et seq Trustee Abuse, payments of income and principal, § 811, 812 Delegation by trustee, § 555 Distribute trust principal, active trust. § 209 Principal and income distributions, § 228, 561, 811, 812, 814, 815

DISCRETIONARY REVOCABLE TRUST ACCOUNTS Revocation, § 47, 1001

DISCRETIONARY SUPPORT TRUSTS

Creation, § 228 Medicaid eligibility, discretionary trust distinguished, § 228

DISCRETIONARY TRUSTS

Accumulations, § 228, 264.10, 268.25 Distributions, federal income tax, § 267.5 Beneficiary given discretion, rights of creditors, § 228 DISCRETIONARY TRUSTS -Cont'd Beneficiary's interest, alienability, § 188 Creditor's remedies, § 193, 228 Definition and effect, § 221, 228, 264.10, 811 Distinguished from trusts where trustee has discretion merely as to time and method of payment, § 228 English law, § 221 Federal taxes Estate, § 264.10, 273.10, 273.20, 273.35 Gift, § 278, 279 Income, § 264.10, 264.20, 267, 267.5, 268.25 General uses and tax consequences, § 228, 264.10 Limitations on validity, § 228 May contain spendthrift clause, § 228 Tax and estate planning Generally, § 228, 264.10 Deferred compensation payments, § 264.5

Trust created for settlor, § 228

DISCRETION OF COURT

See also Courts; Remedies of Beneficiaries Abandonment of trust property, § 742 Bond of trustee, § 151 Compensation of trustee, § 977 Cy pres, substitute plan, § 442 Power of sale, § 742

DISCRIMINATION

Beneficiaries' interest, illegitimate children, § 182
Charitable trusts
Constitutional questions, advancement of education, § 375
Race, color or creed, enforcement, § 328
Employee benefit plans, § 255, 270.20
Equal Protection of Laws, generally, this index

DISEASE Charitable purpose, cure or alleviation, § 374 DISEASES Charitable trusts, § 374 Extinction, cy pres, § 438 Purposes, § 362 Relief, charitable purpose, § 361 DISHONESTY Removal of trustee, § 527 Trustees, grounds for removal, § 527 DISLOYALTY See also Constructive Trusts; Duties of Trustee Generally, § 543(V), 543 et seq Beneficiary consents or ratifies disloyal act, § 543(U) Cured by approval of court, § 543(U) Indirect disloyalty, § 543(T) Investments Corporate trustee holding own stock, § 543(G) Cured by other acts of trustee, § 543(U) Sale of one trust to another, common trustee, § 543(H) Trustee buying from earmarked pool, § 543(F) Trustee buying from self, § 543(E) Trust instrument, sanction, § 543(U), 682 Liability of trustee, exceptions, § 543(V) Prevented or cured by action, § 543(U) Remedies of beneficiary, § 543(V) Sales of trust property, § 745 Trustee buying at forced sale, § 543(C) Trustee buying at own sale, § 543(A) Settlor authorizes, § 543(U)

DISOBEDIENCE

Trustees, grounds for removal, § 527 Trust terms or court order, removal of trustee, § 527 **DISPOSITION POWER** Gift taxes, § 278 DISPOSITIONS OF PROPERTY Estate and tax planning, § 231, 245, 264, 264.25 Trust functions, § 231, 245 When testamentary, § 103, 104 DISSEISIN Beneficiaries' interest, in rem rights, § 183 DISSOLUTION Charitable corporations, cy pres, § 440 Charitable donee or trustee, cy pres, § 440 Charitable trusts, § 398 Cy pres, § 440 Legislative power, § 397 Corporate trustees, § 529, 531 Charitable trusts, § 397 Effect, § 531 Corporation, trustees to hold property of, § 246 Corporation as beneficiary, § 164 Religion, perpetuities, § 214 DISSOLVED CORPORATION Beneficiary, § 164 DISTINCTIONS FROM TRUST Accounts and accounting, contract and trust distinctions, § 17

Agency, § 15 Assignment, non-negotiable chose in action, § 25 Bailment, § 11 Collection items, debt or trust, § 23 Community property, § 26 Condition subsequent, § 35 Condominium, § 38 Contract, § 17 Agreement by insurer to hold proceeds in trust, § 240 Corporation sole, § 37 Debt or trust, collection items, § 23 Dedication for public use, § 34 Equitable charge, § 31 Equitable lien. § 32

DISTINCTIONS FROM TRUST -Cont'd Executorship and administratorship, § 12 Joint tenants or tenants in common, § 28 Joint venture, § 36 Legal life tenant, § 27 Mortgage or trust deed, § 29 Partnership, § 36 Pledge, § 30 Promise to support, § 19 Public office, § 38 Subrogation, § 33 Syndicate, § 38 Trust deed or mortgage, § 29 Trustee process, § 38 Trust receipt, § 38

DISTRIBUTIONS

See also Corporate Distributions; Distributions of Principal; Duties of Trustee; Income Tax-Federal; Payments by Trustee; Principal and Income, this Index Acceleration by court order, § 815 Active trust, trust to distribute principal, § 209 Advances Court's power to order Adult beneficiaries, § 815 Minor beneficiaries, § 815 Duties and rights of trustees, § 814 Insurance trusts, § 238 Principal or income, § 815 Reimbursement, spendthrift trusts, § 224 Blended trusts, § 229 Cash, power of sale implied, § 814 Cash or in kind, § 814, 1010 Complex trusts, excess distributions, income taxes, § 267.5 Construction of beneficiary's interest, § 182 Credits to trustee on accounting, § 971 Current income distributions, § 266 Discretionary trusts. § 228, 264.10. 264.20, 267, 267.5

DISTRIBUTIONS—Cont'd Federal income tax Accumulated income, complex trusts, § 267.5, 268.5 Capital gains, § 266, 267, 268.5, 268.25, 269 Complex trusts, § 267, 267.5, 268.5 Corpus, § 267 Discretionary trusts, § 264.10, 267 Income, § 266, 267.5, 269 Substantial owner trusts, § 268.15, 268.20 Support trusts, § 268.5, 268.15, 268.20 Throwback rule, accumulated income, § 267.5 Treatment by beneficiary, § 266, 268.5 Trust's accumulated income, exceptions to throwback rules, § 267.5 When deductible, § 266, 267, 268.25 When income taxable to grantor, § 268.15 First tier, income taxes, § 267 Investment trusts, § 270.30 Net income, § 266 Perpetuities, principal, § 213 Principal or income, § 812 Protective trusts, § 221 Real estate investment trusts. § 270.35 Second tier, income taxes, § 267 Spendthrift trusts, § 221, 222, 224 State income taxation. § 285 Support trusts, § 229, 811, 812 Trust assets upon termination, pro rata, § 1010 Trustees, credits to trustee on accounting, § 971 Trustees, grounds for removal, § 527 Trustee's discretion, cash or in kind, § 814 Upon termination of trust, § 1010 DISTRIBUTIONS OF PRINCIPAL See also Distributions: Duties of

Trustee; Income Tax—Federal;

DISTRIBUTIONS OF PRINCIPAL -Cont'd Payments by Trustee; Principal and Income Advances to beneficiaries, § 815 Adult, § 815 Minor, § 815 Annuities Annuity trust, deficiency in trust income, § 813 Beneficiary's right to take cost, § 814 Beneficiary's right to take property instead of sale proceeds, § 814 Blended trusts, § 230 Construction of trust instruments, § 812 Construction problems, § 182 Conveyance of realty, § 814 Court alteration, § 815 Court's power to alter terms, § 815 Deviation from trust terms, court authority, § 815 Discretionary distributions by trustee to self, health, education, support or maintenance, § 812 Discretionary in trustee, § 228, 234, 264.10, 812 Duty to consider other property of beneficiary, § 812 Entire amount, § 812 Discretionary in trustee-beneficiary, § 812 Discretionary trusts, § 228 Estate and tax planning, § 231, 237, 264.5, 264.20 Express power, § 812 Federal income tax, when treated as income, § 267, 268.5 Form of distribution, § 814 Identity of distributee, court guidance, § 814 Implied power, § 812 Improper distributions Liability of trustee, § 814 Measure of damages, § 814 Recovery from beneficiary, § 814 Propriety, liabilities, § 814

DISTRIBUTIONS OF PRINCIPAL -Cont'd Settlor's directions as to, § 812 Support trusts, § 182, 229 Time for distribution, § 814, 1010 DISTRICT OF COLUMBIA Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 624 DIVERSIFICATION Assets, real estate investment trusts, § 270.35 Common trust funds, § 677 Investments, duties of trustee, § 612 Investment trusts, § 248, 270.30 DIVERSITY OF CITIZENSHIP Foreign corporation as trustee, § 132 DIVESTMENT Beneficiaries' interest, § 182 **DIVIDED OWNERSHIP** Contract and trust distinctions, § 17 Resulting trusts, part payment, § 457 Settlor as trustee for another, § 141 Trustee and beneficiary, § 1, 45, 141, 181, 184 Trust element, § 1, 10 **DIVIDEND BANK ACCOUNTS** Debt or trust, § 20 DIVIDENDS Accumulations, § 217 Accumulations, rules, stock dividends, construction, § 217 Affiliate or subsidiary corporation, § 845 Allocation between principal and income, § 816, ch. 40 Apportionment Between principal and income, § 818, 823 Sale or purchase between dividend days, § 818

Successive beneficiaries, § 818

Estate taxes, gross estate, § 273

trustee, § 150

Collection, evidence of acceptance by

DIVIDENDS—Cont'd Extraordinary cash dividends, § 844 Federal income tax Allocation, § 266, 268.25 When taxable to beneficiary, § 268.5 When taxable to trust, § 267, 267.5, 268.25, 269 Liquidating dividends, § 856 Mutual funds, reports, § 270.30 Payment, active trusts, § 207 Principal and income Apportionment, § 818, 823 Cash dividends, allocation, § 843, 844 Corporate liquidating dividends, § 856 Duties of trustee, § 843, 852 Payable in cash or stock, § 846 Sale of corporate property, § 857 Scrip dividends, § 854 Stock, § 845, 852 Special bank accounts, § 20 Standing, § 869 State income taxes, § 285 Stock Allocation, earlier rules, § 842 Current American rules, § 845, 851 English rule, § 852 Federal income tax, § 266, 268.25 Stock dividends, § 845 Current American rules, § 850, 851 Tracing trust funds, § 921

DIVISION

Charitable and private trusts, mixed trusts, § 372

DIVISION OF OWNERSHIP

Equitable and legal title, § 1, 9, 141, 181, 184 Land contracts, distinguished from trust, § 18 Land trusts, § 249

DIVISION OF RESPONSIBILITY

Advisor and trustee, § 122, 701 Trustees with different functions, § 122

DIVORCE

Abandonment of action, consideration, § 204 Abandonment of suit, consideration, promise to create trust, § 204 Alimony Alimony trusts, § 234, 270.10 Claims, spendthrift trust beneficiary, § 224 Purpose of trust, § 234 Alimony trusts, § 234 Appreciated property, transfers, income taxes, § 270.10 Conditions precedent, public policy, § 211 ERISA and the constructive trust doctrine, § 475.2 Federal estate tax, property settlement, deduction, § 270.10, 275.15 Federal gift tax, § 270.10, 278 Release of support rights, § 278 Federal income tax, § 270.10 Gift taxes, § 278 Insurance, constructive trusts, § 481 Irrevocable trusts, § 264.10 Principal withdrawals, reservation of right, § 233 Irrevocable trusts, property settlements, § 234 Living trusts, avoiding responsibility, § 231 Promise to create trust, abandonment of suit, consideration, § 204 Public policy violation, encouragement, § 211 Public trusts, § 246 Secure divorce, conditions precedent, § 211 Secure performance of agreements, § 232 Spendthrift trusts, alimony claims, § 224 Spouse as judgment creditor, employee plan benefits, § 224, 255 Support claims, § 224 Transfers in contemplation, § 211

DIVORCE—Cont'd

Trusts to hold property pending distribution, § 246

DOCTORS

Confidential relationship, § 482 Corporate-type practice, federal taxes, § 255 Professional corporation, § 255

DOCTRINE OF WORTHIER TITLE

Characterization, § **293** Real estate, conflict of laws, § **296**

DOCUMENTARY STAMP TAX

National banks, immunity, § 9, 134

DOCUMENTS

Duties of trustee, possession, § 583 Transfer of property interests to trustee, § 142, 148

DOCUMENTS OF TITLE Jurisdiction, § 292

DOGS

Vivisection, charitable trust, purpose of combating, § 368

DOMICILE AND RESIDENCE

Charitable trusts Advancement of education, § 375 Beneficiaries, § 365 Governmental purposes, § 378 Charitable trusts, class members, § 365 Conditions, § 211 Conflict of laws, § 211, 286, 287, 292, 294, 295 Estate planning, § 301 Estate planning Beneficiaries, § 285, 287, ch. 16 Trustee, § 264.5, 264.10, 285, 287, 291, 294 Jurisdiction, § 292 Multistate trusts, conflict of laws, § 291 et seq Possession and use of trust property by beneficiary, § 208 Removal of trustee, jurisdiction, § 523 Resignation of trustee, § 515

DOMICILE AND RESIDENCE

--Cont'd State taxation, § 285, 287, 300 Transfer of situs, appointment of foreign trustee, § 861 Transfers of trust situs, remedies of beneficiaries, § 861

DONATIONS

Gifts, generally, this index

DONEES

Federal gift tax liability, § 277
Participants in breach of trust, extent of liability, § 868
Powers of appointment, § 233

DONOR

See also Settlor Federal gift tax Duty to file return, § 277 Estate and tax planning, § 264.10, 264.25, 277, 279 Liability for tax, § 277 Taxable gifts, § 277, 278, 284 Terminology and classification, § 1

DOUBLE COMMISSIONS Executor-trustee, same transaction,

§ 979

DOUBLE INDEMNITY Corporate stock, liabilities arising

from ownership, § 720

DOUBLE INTEREST Trustee as beneficiary, § 129

DOUBLE TAXATION

Business trusts, § 247 Estate planning, § 264.10, 285, 287, 300 Intangible property, constitutional rules, § 287, 300 Two or more states, § 285, 287, 300

DOUBTFUL TERMS

Parol evidence to explain, § 88

DOWER

Beneficiary's interest, § 186 In personam, § 183 In rem, § 183

DOWER—Cont'd Estate taxes Deductions, § 275.15 Gross estate, § 273 Marital deduction, § 275.10 Evasion, origin of uses and trusts, § 2 Federal estate tax Marital deduction, § 275.10 Fraudulent conveyances, § 211 Interest of trustee, § 146 Land trusts, § 249 Nature of beneficiary's interest, settlor's direction, § 185 Relinquishment not consideration, federal gift tax, § 278 Trustee's widow Executed oral trusts of land, § 69 Interest of trustee, § 146 Parol trustee, § 69

DRAFTING TRUST INSTRUMENTS

See also Estate and Tax Planning; and see Forms volumes Apportionment of death taxes, § 272.5, 273.35, 273.40, 276 Declaration of trust, § 233 Discretionary trusts, § 264.10, 264.20, 267, 811, 812 Insurance trusts, § 237, 264.15, 273.40 Irrevocable trusts, § 234, 264.10 Marital deduction, § 233, 234, 264.20, 275.10, 280 Powers of appointment, § 233, 264.20, 273.35, 282 Revocable trusts, § 233, 264.5 Split-interest trusts, § 245, 264.25 Suggestions as to trust creation. § 45 Testamentary trusts, § 264.20 Trust indenture, standard terms, § 250

DRAFTS

Contract or trust, § 21 Negotiable Instruments, generally, this index

DRUG ADDICTION

Trustees, grounds for removal, § 527

Index-140

DRUGS

Charitable trust, governmental benefits, **§ 378**

DRUNKARDS AND DRUNKENNESS

Alcoholics and Intoxicated Persons, generally, this index Capacity of settlor, **§ 44** Capacity to be beneficiary, **§ 168** Spendthrift trusts, **§ 222** Trustee, removal, **§ 527**

DRY TRUSTS

See also Active Trusts; Passive Trusts; Purposes of Trusts Charitable trusts, title and possession in subtrustee, § **413** Defined, § **1, 206** Ejectment, standing, § **869** Jurisdiction, § **870** Subtrustee, enforcement, § **413** Terminology and classification, § **1**

DUE PROCESS OF LAW

Jurisdiction, § 292 Multistate trust proceedings, notice, § 292

DUES

Charitable trusts, source of funds, **§ 367**

DUMMIES

Trustees, purchases, § 543(C)

DUMMY

Use in disloyal transactions, § 543

DURABLE POWER OF ATTORNEY

Definition and use, § 15 Gifts, authorization, § 233 Powers and duties, § 233 Statutes, § 15, 233

DURATION OF TRUSTS

See also Perpetuities, Rule Against; Termination of Trusts Generally, **§ 218** Accumulations period, statutes, **§ 216** Business trusts, **§ 247P**

DURATION OF TRUSTS—Cont'd Cemetery trusts, statutes, § 377 Charitable trust, § 245, 352, 996 Perpetual or indefinite duration, § 351 Construction as to settlor's intent, § 996 Destructible trusts, § 218 Federal income tax purposes, § 265, 269 Honorary trusts, § 166, 218 Investment trusts, § 248 Land trusts, § 249 Mixed charitable and noncharitable trusts, § 372 Statute of Frauds, contents of memorandum, § 87 Statutes, § 213, 218 Trust term expires, termination of trust, § 996 Vested rights, effect, § 218 Voting trusts, § 253

DURESS AND COERCION

See also Remedies, Barring of; Undue Influence Breach of trust, release, § 943 Capacity of settlor, § 44 Consent, barring of remedies, § 941 Constructive trusts, § 474 Creation of trust, § 44 Ground for trust rescission, § 997 Joint bank accounts, presumption of survivorship, § 47 Joint bank accounts, transfer of funds on death, § 47 Ratification, breach of trust, § 942 Release, breach of trust, § 943 Setting aside trust, § 581 Statute of Frauds, intent with which writing made, § 84 Title to property, constructive trusts, limitation of actions, breach of trust, § 953 Trustees, dealings with beneficiaries, § 544 Voiding consent to breach of trust, § 941

DURESS AND COERCION—Cont'd Voiding ratification, breach of trust, § 942 Voiding release of trustee for breach of trust, § 943 DUTIES OF TRUSTEE See also Accounts and Accounting; Investments; Liabilities of Trustees; Remedies, Beneficiaries Generally, § 541 Abandonment, worthless trust property, § 583 Absent or unknown beneficiaries, payments, § 814 Accounting Generally, § 961 animals, trusts for the care of, § 962 ascertainable beneficiaries, trusts without, § 962 Books and records, generally, § 961 charitable trusts, **§ 962** Charitable trusts, § 396 entitlement of beneficiary to receive information, § 962 failure to keep complete and accurate records, consequences of, § 961 Information, duty to furnish, generally, § 962 Inspection, duty to permit, § 962 responding to beneficiaries' requests for information, § 962 retention of trust records, § 961 Taking possession, § 583 Upon termination of trust, § 1010 waiver of right to receive information about trust, § 962 Actions Secure possession of trust property, § 583 Third persons, wrongful interference with trust, § 869 Advances of income, § 814 Advice of court, trustee application, § 559

DUTIES OF TRUSTEE—Cont'd Affiliates and relatives Indirect disloyalty, § 543(A), 543(T) Purchase of investments from, § 612 Affirmative powers and duties, necessity for active trust, § 206 Allocation Expenses, principal and income, § 802, 810 Receipts, principal and income, § 816, 829 Receipts and expenses, duty of impartiality, § 816 Revised and original Uniform Principal and Income Acts, § 802, 816, 829 Annuity to be purchased, right to take cost, § 814, 1008 Annuity trusts Abatement where settlor's estate inadequate, § 813 Deficiency, payments from later income surpluses, § 813 Disposition of surplus income, § 813 Income deficiency, resort to principal, § 813 Setting up trust, § 813 Appeals, defense of trust, § 581 Apportionment Death taxes, § 272, 272.5, 286, 300 Expenses, § 802, 810 Payments of income, § 818 Sale proceeds, unproductive property, § 824, 825 Successive beneficiaries, § 818 Trust income, statutory regulation, § 816, 818 Appraisal, trust property Proposed instrument, § 612 Assessments and taxes, § 602 Assets, valuation, § 1010 Assignments for benefit of creditors, § 250 Beneficiaries, duty to ascertain, § 583, 814

DUTIES OF TRUSTEE—Cont'd Bondholders' protective committees, § 251 Bonds Purchase at discount, apportionment of sale receipts, § 826 Purchase at premium, § 828 Books and records Generally, § 961 failure to keep complete and accurate records, consequences of, § 961 retention of trust records, § 961 Taking possession, § 583 Buildings on mortgaged land, insurance, § 674 Burden of proof, confidential relations, direct dealings with beneficiary, § 544 Business trust, § 247 Generally, § 247V Capital, payments of, § 812 Capital gains payments from investment trusts, § 858 Cash dividends, § 843, 846 Charitable trustee, § 394 Charitable trusts Accountings, § 396 Church schism, § 398 Investments, § 396 Records and reports, § 270.5, 396, 411 Sales, § 391, 392 Closely held corporation Trustee as director, loyalty, § 679 Trustee owning stock, § 679 Contracts, prudence, § 711 Control by settlor, § 541, 542 Control over trustee's duties to furnish information and to account Generally, § 965 accountability of trustee, § 965 limitation on beneficiaries to whom trustee must account. § 965 trust protectors and other nontrustees. § 965

DUTIES OF TRUSTEE—Cont'd Conveyance of lots, subdivision trusts, § 249 Corporate distributions Allocation to principal or income, generally, § 841, 859 Capital gains payments from investment trusts, § 858 Development of law regarding, § 859 Dividends in notes or bonds, § 855 Liquidating dividends, § 856 Scrip dividends, § 854 Stock dividends, § 845, 852 English rule, § 852 Former Kentucky rule, § 851 Former Pennsylvania rule, stock dividends, § 847, 848 Massachusetts rule, § 850 New York decisions and former statutes, § 849 Stock splits, § 845 Stock subscription rights, § 853 Corporate trustee depositing trust funds with self, statutes validating, § 543(K) Costs Defense of trust, § 581 Expenses, § 801, 810 Remedies, actions, § 871 Co-trustees Duty not to leave administration to fellow trustee, § 584 Duty to be active, § 584, 585 Entrusting property to other trustee by positive act, § 586 Failure to supervise other trustee, § 587 Passively allowing co-trustee exclusive possession, § 585 Investments, buying from fellow trustee, § 612 Supervision, § 587 Unanimous action, § 145, 554 Courts Advice as to investments, § 687 Authority to sell property, § 742, 745

DUTIES OF TRUSTEE—Cont'd Courts-Cont'd Disloyalty by trustee, court permitting, § 543(U) Seeking court advice as to duties, § 559 Creditors, assignment for benefit, § 250 Deeds and conveyances Distributions of principal, § 814, 1010 Terms, sale of trust property, § 745 Defense of trust, § 581 Appeal from adverse decree, § 581 Costs and expenses, § 581 Depreciation reserve, rents, § 829 Diligence and skill Consideration of actual or professed ability, § 541 Degree of diligence, § 541 Grant of wide discretion, effect, § 541 Immunity clauses, § 542 Investments, § 706 Professional trustees, § 541 Sales of trust property, § 744, 745 Trustee taking advice, effect, § 541, 612 Direct dealing with beneficiary, § 544 All fiduciaries affected by rule, § 544 Confidential relations Burden of proof, § 544 Full disclosure required, § 544 Good faith and fair play standard, § 544 Consideration, § 544 Independent advice, § 544 Rationale of fair play rule, § 544 Investments, validation, conditions precedent, § 688 Negotiating beneficiary's election of remedies, § 946 Obtaining consent of beneficiary, § 941 Presumption of undue influence, § 544 Fairness, securing ratification of illegal act, § 942

DUTIES OF TRUSTEE—Cont'd Direct dealing with beneficiary, § 544 -Cont'd Purchase of investment from beneficiary, § 612 Release obtained by trustee, § 943 Remedies for unfair dealing, § 544 Rule applies to all persons in confidential relations, § 544 Securing ratification of illegal act, § 942 Disclosure, direct dealings with beneficiary, full disclosure, § 544 Discretion, payments of income, § 811 Discretionary trusts, § 182, 228 Distributions of principal, § 812 Cash or in kind, termination of trust, § 1010 Conveyances of realty, § 814 Duty to consider other property of beneficiary, § 812 Partial distributions upon termination of trust, § 1010 Proceeds of sale, right to take property, § 814 Proper persons, termination of trust, § 1010 Settlor's directions, § 812 Time for distribution, § 814 Dividends Corporate liquidating dividends, § 856 Scrip dividends, § 854 Stock dividends, § 846 Various rules, **§ 845, 852** Employee benefit trusts, § 255, 270.20 Estate or inheritance taxes, § 286, 602 Examination Property received from executor, § 583 Exculpatory clauses, § 542 Executor Taking over as trustee, possession of property, § 583

DUTIES OF TRUSTEE—Cont'd Executor—Cont'd Taking possession from, examination of property tendered, § 583 Testamentary trusts, claims against, § 583 Expenses, § 801, 810 Administration of trust, § 801, 810 Defense of trust, § 581 Mortgage interest and principal, § 808 Extraordinary cash dividends, § 844 Fair play and good faith, direct dealing with beneficiary, § 544 Family support trusts, income payments, § 811 Farming, trust receipts, § 819 Federal estate tax, § 272.5, 276 Federal gift tax, § 277 Federal income tax File notice of fiduciary relationship, § 265 File return, § 268.25 Furnish tax information to beneficiary, § 268.25 Pay tax, § 265, 268.25 Prepare and file return, § 265, 268.25 Secure tax identification number, § 265 Forced sale, trustee buying at, § 543(C) Full disclosure, direct dealings with beneficiary, § 544 General duty to exercise ordinary skill and diligence, § 541 Gifts Solicited, direct dealing with beneficiary, § 544 Trustee accepting, loyalty, § 543(P) Good faith and fair play, direct dealing with beneficiary, § 544 Illegal act, securing ratification, direct dealing with beneficiary, § 942 Immunity clauses Attitude of courts, § 542

DUTIES OF TRUSTEE—Cont'd Immunity clauses-Cont'd Effect, § 542 Express exceptions, § 542 Limitations on effect, § 542 Statutory control, § 542 Validity and construction of various exculpatory clauses, § 542 Willful default or misfeasance, exception, § 542 Impartiality, duty of, § 541, 612 Allocation of expenses, § 802 Investments, § 612 Leased property, § 797 Incidental benefits, trustee securing for self, loyalty duty, § 543(Q) Income See also Payments of Income; Principal and Income, this Index Generally, § 811, 816, 818 Absent or unknown beneficiaries, § 814 Accrual, right to income, § 817 Advances of income, § 815 Loan by trustee, § 814 Apportionment Receipts, § 818 Statutory regulation, § 818 Beneficiary a minor or incompetent, payments to representatives, § 814 Beneficiary in communist country, payment, § 814 Construction, settlor's directions for payment, § 811 Discretion in trustee, payments, § 228, 811, 816 Duty of impartiality, § 816 Education, meaning, § 811 Identity of payee, court instructions, § 814 Incompetent beneficiary, payment to representative, § 814 Minor beneficiary, payment to representative, § 814 Payees' identity, § 814 Probate income, § 817

DUTIES OF TRUSTEE—Cont'd Income—Cont'd Products of trust property, § 816 Receipts from business, § 820 Receipts from farming, § 819 Set-offs Debt to co-beneficiary, § 814 Debt to settlor, § 814 Debt to trustee, § 814 Settlor's directions, construction, § 811 Substitutes for trust property, § 816 Support trusts, § 229, 811 Consideration of other property of beneficiary, § 811 Family support, § 811 Surplus income, disposition, § 182, 811 Terms of Uniform Acts, § 816 Time of payment, § 844 Unknown beneficiaries, § 814 When right begins, § 811, 817 Income tax See also Income Tax-Federal, post Generally, § 265, 268.25, 285, 602 Incompetent beneficiary, income payments, § 814 Information, duty to furnish Generally, § 962 affirmative duty, § 962 animals, trusts for the care of, § 962 ascertainable beneficiaries, trusts without, § 962 charitable trusts, § 962 entitlement of beneficiary to receive information, § 962 responding to beneficiaries' requests for information, § 962 revocable trusts, § 964 waiver of right to receive information about trust, § 962 Inspection, duty to permit, § 962 Insurance Buildings on mortgaged land, § 674 Premiums, payment, § 238

DUTIES OF TRUSTEE—Cont'd Insurance proceeds, principal and income, § 821 Insurance trusts, § 238 Intangible unproductive property, sale, § 824, 825 Investments See Investments, this Index Charitable trusts. § 396 Conditions precedent, direct dealing with beneficiary, § 689 Co-trustee buying investment from fellow trustee, § 612 Diligence and skill, § 612, 706 Direct dealing with beneficiary Conditions precedent, § 689 Purchase, § 612 Exclusion of selfish interest, § 612, 686 Follow settlor's directions, § 683 Periodic review, § 612, 684 Purchase from affiliated or related party, § 543(T), 612 Purchase from beneficiary, § 612 Sale of nonlegal trust investments, § 685 Skill and prudence, § 612, 706 Statutes, § 613, 613 to 667, 667 Investments, Prudent Investor Rule, restatement, Third, Trusts, § 612, 671 et seq. Investment trusts, § 248 Capital gains, § 858 Land trusts, § 249 Leases Delegation of duties to agent, § 797 Duty to collect rent, § 799 Execution, formalities, § 797 Renewal or reversion for trust, § 543(I) Rent and other terms, § 797 Settlor's control, when against public policy, § 786 Trustee leasing to self, § 543(B) Liquidating dividends, § 856 Liquidation trusts, § 254

DUTIES OF TRUSTEE—Cont'd Loans Lending trust funds to self, § 612 Secured by trust's mortgage, § 751, 775 Trustee borrowing trust funds, § 543(J) Trustee lending personal funds to trust, § 543(L) Trustee to beneficiary, § 814 Loyalty Generally, § 543 to 543(V) Accepting gift from one with whom trustee conducts trust business, § 543(P) Acting for trust and also for third party dealing with trust, § 543(S) Business trusts, § 247 Charitable trusts, § 391 Corporate trustee Buying earmarked pool of investments for trusts, § 543(F) Buying or holding own stock for trust, § 543(G) Depositing trust funds with own banking department, § 543(K) Co-trustee buying investment from fellow trustee, § 612 Definition and rationale, § 543 Disloyalty prevented or cured by act of the settlor, beneficiary, court or legislature, § 543(U) Duty to buy for trust, trustee purchases for self, § 543(R) Employing self to do specialized work for trust, § 543(M) Examples of disloyalty, § 543, 543(A) et seq Gifts accepted by trustee, § 543(P) Incidental benefit, trustee securing for self, § 543(Q) Indirect disloyalty, dealings with relatives and affiliates, § 543(A), 543(T) Investments involving disloyalty, § 543, 612

DUTIES OF TRUSTEE—Cont'd Loyalty-Cont'd Leases Lease renewals, basis of rule, § 543(I) Trust property to self, § 543(B) Lending trust funds to self, § 612 Purchase of investments from affiliate or related party, § 612 Reasons for and extent of rules, § 543 Relief granted when disloyalty occurs, § 543(A), 543(C) to 543(E), 543(V) Sale by one trust to another with same trustee, § 543(H) Sales by trustees, § 745 Statutory statements, § 543 Trustee acting for trust and third party, § 543(S) Trustee buying at forced sale, § 543(C) Trustee buying at own sale, § 543(A) Trustee buying claims against trust, § 543(D) Trustee buying from earmarked pool of trust investments, § 543(F) Trustee buying or holding own stock, § 543(G) Trustee-director of closely held corporation, § 679 Trustee employing self, § 543(M) Trustee leasing to self, § 543(B) Trustee lending own funds to trust, § 543(L) Trustee lending trust funds to self, § 543(J) Trustee of business engaging in competing business on own behalf, § 543(O) Trustee of lease getting renewal or reversion, § 543(I) Trustee of one trust selling to itself as trustee of another trust, § 543(H) Trustee of stock voting for self as director or officer, § 543(N)

DUTIES OF TRUSTEE—Cont'd Loyalty-Cont'd Trustee securing incidental benefit for self while engaged in trust business, § 543(Q) Trustee selling own property to trust, § 543(E) Trustee's personal loan to beneficiary, § 814 Trustee with duty to buy for trust purchases for self, § 543(R) Validation of disloyal act by court, statute, settlor or beneficiary, § 543(A), 543(C), 543(U) Loyalty, cases and statutes, § 543 Make trust property productive, § 611 Minor beneficiary, income payments, §814 Mortgages Insuring buildings, § 674 Source of payment, § 808 Nominees, earmarking trust property Non-legal trust investment, sale, § 686 Notice Sale of property, terms or conditions, § 745 Officer, trustee of stock voting for election of self as officer, § 543(N) Operation of a business, allocation of receipts, § 820 Ordinary skill and diligence, § 541 Owning stock in closely held corporation, § 679 Partial distributions, § 1010 Termination of trust, § 1010 Participation in trust administration, § 584 Partition, trust property, § 583 Payments Annuities, right of donee to take cost of annuity, § 814, 1008 Court's power to alter, § 815 Duty upon termination of trust, § 1010 Equality among beneficiaries, presumption, § 182

DUTIES OF TRUSTEE—Cont'd Payments—Cont'd Form, on termination of trust, § 1010 Improper payment, § 814 Income Absent or unknown beneficiaries, § 814 Advances of income, § 814, 815 Court discretion, § 815 Loan by trustee, § 814 Apportionment, § 818 To beneficiaries entitled, § 814 Beneficiary in communist country, § 814 Court discretion, § 815 Discretion in trustee, § 182, 228, 264.10,811 Education, meaning of, § 182, 811 Form of payments, § 814 Identity of payee, § 814 Minor or incompetent beneficiary, payments to representative, § 814 Partial distributions, § 1010 Set-offs, § 814 Debt to co-beneficiary, § 814 Debt to settlor, § 814 Debt to trustee, § 814 Settlor's directions, construction, § 811 Support trusts, § 811 Consideration of other property of beneficiary, § 811 Family support, § 811 Meaning of, § 811 Time for payment, § 814 Unknown beneficiaries, § 814, 1010 When right to income begins, § 811, 817 Principal, § 812, 814, 815, 1010 Advances, § 812, 815 Duty of trustee to pay, § 812, 814.1010 Residents of communist countries. § 814

DUTIES OF TRUSTEE—Cont'd Payments-Cont'd Principal, § 812, 814, 815, 1010 -Cont'd Sale of realty, right of beneficiary to elect form of payment, § 1008 Valuation of assets, **§ 1010** Pooled income funds, federal tax laws, § 264.25 Possession of trust property, § 583 Breach of duty to secure, measure of damages, § 583 Co-trustees Allowing other trustee exclusive possession, § 585 Entrusting possession to other trustee, § 586 Effect of immunity clauses From executor Examination of property tendered, § 583 When executor-trustee takes over as trustee, § 583 Living trusts, § 583 Power to abandon property, § 583 Power to maintain partition, § 583 From predecessor trustee, § 583 Removal of property to another jurisdiction, § 583, 861 From settlor, § 583 Testamentary trusts, § 583 Trust documents, § 583 Use of agents and employees, § 555, 583 When beneficiary entitled to possession, § 583 Wrongful possession, liabilities, § 583 Predecessor trustee, taking possession from, § 583 Preserve trust property, § 582 When attack on trust warranted, § 581 Presumptions Undue influence, direct dealings with beneficiary, § 544 Principal and income See also Receipts, generally, post

DUTIES OF TRUSTEE—Cont'd Principal and income-Cont'd Advances of income, § 814 Allocation, corporate distributions, § 841, 859 Allocation of probate income, § 817 Allocations, federal income tax, § 266, 267, 269 Apportionment Revised and Uniform Principal and Income Acts, § 816, 818 Statutory regulations, § 818 Business receipts, § 820 Corporate distributions, § 841, 859 Farming receipts, § 819 Probate income, § 817 Receipts, § 816 Business, § 820 Duty of impartiality, § 816 Effect of grant of discretion, § 816 Farming, **§ 819** Products of the trust property, **§ 816** Revised and Uniform Principal and Income Acts, apportionment, § 816, 818 Settlor's directions, § 811 Substitutes for trust property, **§ 816** Probate income Income from property sold by executor, § 817 Pecuniary legacies, § 817 Residuary trusts, § 817 Specific legacies, § 817 Proceeds of sale of trust property other than corporate shares, § 822 Profits on sales of corporate stock, § 823 Rents, depreciation reserve, § 829 Sums received in settlement of claims, § 821 Wasting property, § 827

DUTIES OF TRUSTEE—Cont'd Probate income, allocation, § 817 Pecuniary legacies, outright or in trust, § 817 Property sold by executor, § 817 Residuary trusts, § 817 Specific legacies, § 817 Proceeds of sales, corporate property, § 857 Professional trustees, skill and diligence, § 541 Prohibited transactions, Pension Reform Act of 1974, § 270.20 Protection of trust property Actions Recover possession, § 869 Against third persons, § 869 After termination of trust, § 1010 Attack on trust, § 581 Defense of trust, § 581, 582 Depreciation reserve out of rents, § 829 Improper revocation attempted, § 1001 Real estate Depreciation reserve out of rents, § 829 Distributions of principal, § 814 Leases, terms and execution, § 797 Rent, collection, § 799 Repairs and improvements, § 797 Real estate investment trust, § 249 Receipts Apportionment of income, § 818 Settlor and first beneficiary, § 818 Bonds bought at a discount, § 826 Bonds purchased at a premium, § 828 Business income, depreciation reserve, § 829 Changes in form of trust property, § 821 Corporate distributions Allocation to principal or income, § 841, 859 Capital gains from investment trusts, § 858

DUTIES OF TRUSTEE—Cont'd Receipts—Cont'd Corporate distributions-Cont'd Development of law regarding, § 859 Dividend in cash or stock, § 846 Dividend in notes or bonds, § 855 English rule, § 852 Extraordinary cash dividends, § 844 Former Kentucky rule, § 851 Former Pennsylvania rule, § 847 Liquidating dividends, § 856 Massachusetts rule, § 850 New York decisions and former statutes, § 849 Ordinary cash dividends on stock, § 843 Proceeds of sales of corporate property, § 857 States following former Pennsylvania rule, stock dividends, § 848 Stock splits, § 845 Stock subscription rights, § 853 Uniform Acts, § 816 Federal income tax, allocations Capital gains, § 266, 268.25, 269 Conduit rule, § 266, 267 Discretionary, § 266, 267, 269 Local law, § 266, 267, 269 Mandatory, § 266, 267, 269 Trust terms, § 266, 267, 269 Insurance proceeds, § 821 Records Charitable trusts, § 396 Employee benefit trusts, § 255, 270.20 Relatives or affiliates Indirect disloyalty, § 543(A), 543(T) Purchasing investments from affiliate or related party, § 612 Release procured by trustee, direct dealing with beneficiary, § 544, 943

DUTIES OF TRUSTEE—Cont'd Religious schism, charitable trust, § 398 Rents Apportionment of, § 818 Depreciation reserve out of rents, § 829 Duty to collect, § 799 Repairs and improvements Leased property, § 797 Reports Charitable trusts, § 411 Employee benefit trusts, § 255 Furnishing reports to beneficiaries, duty to, § 963 Representatives, minor or incompetent beneficiaries, income payments, § 814 Resigning trustee, § 511 Review trust investments periodically, § 684 Revocable trust Generally, § 233, 264.5 information and account, trustees duties as to, § 964 Sale of trust property Generally, § 741, 750 Apply to court for authority, § 742 Care and skill, § 744, 745 Charitable trust, § 391, 392 Court confirmation, when required, § 745 Follow settlor's directions, § 744 Liabilities of trustee for wrongful acts, § 746 Loyalty, **§ 745** Nonlegal trust investments, § 685 Notice of sale, § 745 Power to make, § 741 Proceeds of sale, § 857 Public or private sale, § 745 Salvaging mortgages, allocation of proceeds, § 825 Terms Court determines, § 744, 745 Deed, § 745 Payment, § 745 Price, higher offers, § 745

DUTIES OF TRUSTEE—Cont'd Sale of trust property-Cont'd Terms—Cont'd Settlor may fix, § 744 Whole or in parcels, § 745 Trustee buying at own sale, § 543(A) Unproductive property Apportionment of proceeds, unproductive or underproductive property, § 824, 825 Intangible, disposition of proceeds, **§ 825** Tangible, § 824 Wrongful sale, effect, § 747 Scrip dividends, § 854 Seeking court instructions, § 559 Separation of trust property from other trusts, § 612 Setting up trust Annuity trusts, § 813 Executor-trustee When trust begins, § 583 Offer will for probate, § 581 Settlor Authorizing trustee's disloyalty, § 543(U) Control of duties, § 541, 542 Taking possession from settlor, § 583 Settlor's directions Distributions of principal, § 812 Duty to follow, § 42, 583, 683 Federal income tax, allocations, § 266, 267, 269 Trust investments, § 683 Skill and diligence Comparison with similar transactions, § 541 Consideration of actual or professed ability, § 541 Degree of skill, § 541 Effect of immunity clauses, § 542 Grant of wide discretion to trustee, effect, § 541 Investments, § 706 Professional trustees, § 541 Retention of investments, § 706

DUTIES OF TRUSTEE—Cont'd Skill and diligence—Cont'd Sales of trust property, § 744 Skill required of professional trustee, § 541 Taking advice, effect, § 541 Split-interest trusts, federal tax laws, § 264.25 Stock dividends, § 845, 852 Stock splits, § 845 Subdivision trusts, § 249 Supervision of co-trustee, § 587 Support trusts, § 229, 811 Consideration of other property of beneficiary, § 811 Family support, § 811 Income payments, § 811 Meaning of, § 229, 268.15, 811 Surplus income Annuity trust, § 813 Disposition, § 182, 811 Take possession, statutes, § 583 Taking over from executor, § 583 Taxes Generally, § 602 Federal estate tax, § 272.5 Federal gift tax, § 277 Federal income tax, § 265, 268.25 State, § 285, 286 Taxes and assessments, source of payment, § 602 Termination of trusts, § 995, 1010 Conveyance and delivery of property, § 1010 Partial distributions, § 1010 Passive or dry trusts, § 1002 Valuation of assets, § 1010 Winding up duties, § 1010 Terms of leases, § 797 Terms of trust, duty to ascertain and follow, § 583 Testamentary trusts Claims against executor, § 583 Taking possession, § 583 Time Distribution of principal, § 814 Income payments, § 814 Trust indentures, § 250

DUTIES OF TRUSTEE—Cont'd Trust instrument, duty to follow, § 42 Trust property Abandonment, § 583 Ascertain trust property and its location, § 583 Eminent domain award, allocation, § 821 Possession, § 583 Breach of duty to take possession, measure of damages, § 583 Co-trustees Allowing other trustee exclusive possession, § 585 Entrusting possession to other trustee, § 586 From executor Examination, property tendered, § 583 When executor-trustee takes over as trustee, § 583 Partition, § 583 Power to abandon property, § 583 From predecessor trustee, § 583 From settlor, § 583 Testamentary trust, § 583 Trust documents, § 583 Undivided interests, § 583 Use of agents and employees. § 555, 583 When beneficiary entitled to possession, § 583 Preservation, § 582 Protection. § 581 Actions Recover possession, § 869 Against third person, § 869 After termination of trust, § 1010 Assessments and taxes, § 602 Attempted revocation, § 1001 Depreciation reserve out of rents, § 829 Source of payment, § 602 Taxes and assessments, § 602 Source of payment, § 602

DUTIES OF TRUSTEE—Cont'd Trust property—Cont'd Revocation of trust, proper exercise, § 1001 Sale Generally, § 741, 750 Application to court for authority, § 742 Care and skill, § 744 Court confirmation, § 745 Deed, § 745 Disloyalty by trustee, § 745 Non-legal trust investments, § 686 Notice of sale, § 745 Payment, terms, § 745 Price, higher offer, § 745 Public or private, § 745 Settlor's control by instrument, § 744 Unproductive property Disposition of proceeds, intangibles, § 825 Tangibles, § 824 Whole or in parcels, § 745 Wrongful sale, § 746, 747 Unanimous action, § 145, 554 Uniform Probate Code, § 7, 541 Uniform Trusts Act, § 7, 543 Unknown beneficiaries, payment of income, § 814 Unproductive property, sale Disposition of proceeds, intangibles, § 825 Tangibles, § 824 Valuation of assets, distributions on termination, § 1010 Wasting property, § 827 Wrongful possession of property, § 583

DWELLINGS

Beneficiary occupying, § 208, 583 Beneficiary of trust, § 165 Depreciation reserve, rents, § 829 Housing, generally, this index Investments, margin, § 674

EARNEST MONEY Resulting trusts, § 455

EASEMENTS

Charitable gifts, enforcement, § 324 Charitable trusts, creation, § 324 Dedications for public use, § 34

ECCENTRIC IDEAS

Charitable trusts, purposes, § 375

ECCLESIASTICAL COURTS

Jurisdiction, uses and trusts before Statute of Uses, § 3

ECCLESIASTICAL DISPUTES

Charitable trusts, disposition of church property, **§ 399**

ECONOMIC CONDITIONS

Modification of trust terms, § 993

ECONOMICS

Charitable trusts, termination, § 400

ECONOMIC STATUS

Spendthrift trusts, maintenance, § 227

EDUCATION

Advancement, charitable purpose, § 375 Beneficiaries, mortgaging of property, statutory provisions, § 763 Beneficiaries' interest, § 182 Blended trusts, § 230 Charitable contributions, estate tax deductions, § 275.5 Charitable deduction Federal estate tax, § 275.5 Federal gift tax, § 283 Federal income tax, § 264.25 Charitable foundation, purpose and creation, § 330 Charitable trusts, § 375 Construction of beneficiary's interest, § 182, 811 Corporations, charitable gifts, income tax deductions, § 264.25 Defined, § 182, 811 Distributions, deviation, § 815

EDUCATION—Cont'd Expenses and expenditures Generation skipping transfer taxes Exclusion, § 284.40 Smaller exemptions, § 284.55 Gift taxes, exclusion, § 278 Lack of education, confidential relationship, constructive trust, § 482 Loans. Student Loans, generally, this index Mortgaging property, statutory provisions, § 763 Municipal trustee, power, § 328 Promotion, charitable purpose, § 361 Purposes of trust, § 232 Spendthrift trusts, creditors rights, § 227 Spendthrift trusts, surplus income, creditors' rights and remedies, § 227 Support, distinguished, § 811 Trustee, fair play in dealing with beneficiary, § 544

EJECTMENT

Trusts for, § 182, 375, 811

Conditions subsequent, § 35 Constructive trusts, enforcement, § 472 Defenses, resulting trusts, § 465 Dry trusts, standing, § 869 Judgment creditor of trustee, § 146 Jurisdiction, § 870 Parties, action for breach of trust, § 869 Possession of property, § 583 Resulting trusts, § 465 Resulting trusts, purchase-money type, relief granted, § 465 Rights of judgment creditors, **§ 146** Standing, § 869 Third parties, standing of beneficiaries, § 870 Wrongfully withholding trust property from trustee, standing, § 869

ELDERLY PERSONS

Aged Persons, this index

ELECTION

Corporate directors, implied powers, § 551 Employee, payment option, employee benefit trust, § 270.20, 273.25, 278 Employee benefit trusts, lump sum payments, federal tax consequences, § 255, 264.5, 270.20, 273.25 Insurance options, § 237, 240, 264.15 Take against will Spouse, § 211, 233 Spouse, acceleration of remainder interests, § 172 Trust as fraud on spouse, § 211 Tax elections Federal estate tax, § 274, 274.10, 275.15, 276 Federal gift tax, § 278, 281 Federal income tax, § 268.25, 269 State gift tax, § 286 Trustee, accept or reject trust, § 150

ELECTION OF REMEDIES

See also Remedies Generally, § 472 Barring of remedies distinguished, § 945 Barring remedies of beneficiary, § 945, 946 Beneficiaries, § 861, 862, 946 Binding election between money claim and tracing, § 867 Breach of trust, § 701, 861, 862, 945, 946 Misappropriation of trust funds, § 946 What constitutes election, § 867 Breach of trust, **§ 946** Notice, § 946 Time, § 946 Tracing assets, § 867 Breach of trust, investment duties, § 862, 867, 946 Breach of two or more investment duties, § 707

ELECTION OF REMEDIES -Cont'd Commingling, breach of trust, damages, § 863 Confusion as to meaning, § 945, 946 Constructive trust or money claim, § 945, 946 Choice of remedy by wronged party, § 472 Damages Beneficiaries, § 861 Breach of trust Commingling, § 863 Equitable liens, § 865 Tracing trust funds, § 866, 867, 946 Tracing trust funds, § 945 Breach of trust, § 866, 867, 946 Equitable lien or tracing, § 865 Equitable liens, breach of trust, § 865 Estoppel as an element, § 946 Form of election, § 946 Laches, breach of trust, § 867 Meaning of doctrine, § 945, 946 Money claim or tracing trust property, § 866, 867 Res adjudicata distinguished, § 945 Third parties, breach of trust, § 868 Time required, § 946 Tracing trust funds, § 865, 866 Breach of trust Damages, § 946 Third parties, § 868 Damages, § 945 Breach of trust, § 866, 867, 946 Tracing trust property or money claim, § 867, 945, 946 Original or substitute property, § 866 Property or substitute product, § 866 Trustee negotiates, fair play required, § 946 Trustees, loyalty, § 543(V) When election made, § 946

ELECTIONS

Women's suffrage, charitable trusts, purpose, **§ 368**

ELEEMOSYNARY See Charitable Trusts, this Index Defined, § 373 EMBEZZLEMENT Co-beneficiary, § 191 Collection by agent, choses in action, § 22 Compensation, forfeiture, § 980 Constructive trusts, § 476, 483 Contract and trust distinctions, § 17 Exculpatory clauses not excuse, § 542 Investments Insurance, embezzler, § 32 Measure of damages, § 704 Jurisdiction, § 870 Liability of trustee in representative capacity, § 732 Limitation of actions, constructive trust, § 953 Parties, third persons, § 869 Proceeds Constructive trust, § 476 Resulting trust, § 476 Remedies of beneficiary, § 861, 862 Removal of trustee, § 527 Subrogation, tracing trust funds, § 930 Sureties on trustee's bond, liability, **§ 864** Trustee Bankruptcy, release of debts, § 947 Beneficiary's election of remedies, § 865, 946 Criminal liability, § 861 Trustees, § 861 Grounds for removal, § 527 Limitations on liability, § 542 **EMERGENCIES** Beneficiary, invasion of principal, § 812 Charitable trusts, cy pres, § 442 Deviation from distribution provi-

sions, **§ 815** Power of sale, discretion of court, **§ 742** **EMINENT DOMAIN** Beneficiary's interest, § 187 Charitable trust property, § 400 Effect of taking trust property, § 418 Extinction of, § 187 Incidental cy pres question, § 441 Proceeds, cy pres application, § 439 Real estate held subject to trust, § 185 Charitable trusts, § 401 Cy pres, § 439, 441 Determinable fees, § 419 Failure, § 418 Cy pres, § 439, 441 Deposits of award, interest, § 21 Dividends from award, principal and income, § 857 Life tenant and remainderman, trust award, § 246 Nature of beneficiary's interest, settlor's direction, § 185 Proceeds, allocation between principal and income, § 816, 821 Trustee to hold condemnation award, life estates, § 246

EMPLOYEE BENEFIT TRUSTS

Generally, § 255, 270.20 Accounts and accounting, § 255, 966 Advantages Business, § 255 Tax, § 255, 270.20 Allocation of employer contributions among participants, § 255, 270.20 Annual employer contribution, § 255, 270.20 Annuity plan, § 255, 270.20 Federal tax treatment, distributions to employee-beneficiary, § 270.20 Assignments, employee benefits, § 222, 224, 255 Business advantages, § 255 Carry-over of excess contribution, § 270.20

EMPLOYEE BENEFIT TRUSTS -Cont'd Charitable trusts Named business, purpose and beneficiaries, § 365 Taxes as source of funds, § 367 Classification of employees, § 255, 270.20 Creditors of employer-participant, state law, § 255 Death benefits payable to beneficiaries Code section 101(b) exclusion, federal income tax, § 255, 270.20 Instalment or periodic payments, § 255, 270.20 Lump sum, I.R.C. § 101(b) exclusion, § 270.20 Death of employee-participant, § 255, 270.20 Debtors and creditors, § 227 Discrimination, § 255, 270.20 Distributions Death, § 255, 270.20 Federal estate tax, § 255, 270.20, 273.25 Federal income taxation, § 270.20 Incidental, § 255, 270.20 Payable to revocable insurance trust, § 235, 264.15 Payable to revocable trust, § 264.5 Retirement, § 255, 270.20 State law Creditors, § 224, 255 Taxation, § 255, 286 Distributions, income taxes, § 273.25 Dues, source of funds, § 367 Duties of trustees, § 270.20 Earnings, § 255, 270.20 Eligibility for participation, § 255, 270.20 Employer contribution Allocation among participants, § 255, 270.20 Annual contributions, § 255, 270.20 Carryover, excess contributions, income tax, § 255, 270.20

EMPLOYEE BENEFIT TRUSTS -Cont'd Employer contribution—Cont'd Death, § 255, 270.20 Deduction, federal income tax, § 255, 270.20 Earnings on, § 255, 270.20 Exemption of earnings, income tax, § 255, 270.20 Federal estate tax, exclusion, § 255, 270.20, 273.25 Forfeitures, § 255, 270.20 Formula determination, § 255, 270.20 How determined, § 255, 270.20 Incidental benefits, § 255, 270.20 Insurance, § 255, 270.20 Limitation on tax deductible amount, § 255, 270.20 Retirement, taxation of benefits, § 255, 270.20 Employer contributions, income taxes, § 270.20 ERISA, preemption, § 255 Estate taxes, § 255 Distributions, § 273.25 Exemption from perpetuities rules. § 255, 342 Federal estate tax Exclusion of employee contributions from employee's gross estate, § 255, 270.20, 273.25 Extent payments included in estate. § 255, 270.20, 273.25 Federal gift tax, employee election, § 278 Federal income tax, § 270.20 Death benefits payable to beneficiaries Installment or periodic, § 255, 270.20 Lump sum, § 255, 270.20 Section 101(b), exclusion, § 255, 270.20 Earnings exempt from tax, § 255, 270.20 Employer contribution Carryover, § 255, 270.20 Deduction, § 255, 270.20

EMPLOYEE BENEFIT TRUSTS -Cont'd Federal income tax, § 270.20 -Cont'd Employer contribution-Cont'd Exemption of earnings on, § 255, 270.20 Limitation of amount, § 255, 270.20 Loss of tax exemption Effect, § 255, 270.20 Prohibited transactions, § 255, 270.20 Unrelated business income, loss of tax, exemption, § 255, 270.20 Payments to employee Incidental, § 270.20 Insurance premiums, § 255, 270.20 Lump sum payments, § 270.20 Periodic, § 270.20 Retirement payments to participant, § 255, 270.20 Separation from service, § 270.20 Prohibited transactions, loss of tax exemption, § 255, 270.20 Qualification for exemption, § 255, 270.20 Procedure, § 255, 270.20 Requirements, § 255, 270.20 Tax deduction, § 255, 270.20 Year deductible, § 255, 270.20 Unrelated business income, § 270.20 Federal laws Annual reports, § 270.20 Fiduciary standards, § 255, 270.20, 543 Internal Revenue Code provisions, § 255, 270.20 Investments, § 255, 270.20 Professional corporations and associations, § 255, 270.20 Prohibited transactions, § 270.20 Self-employed persons, § 255, 270.20

EMPLOYEE BENEFIT TRUSTS -Cont'd Federal tax consequences, § 255, 264.5, 270.20, 273.25 Fiduciaries, § 255 Forfeitures, § 255, 270.20 Formula, employer contribution, § 255, 270.20 Functions of trusts, § 255 Incidental benefits, § 255, 270.20 Incidental distributions, § 255, 270.20 Income averaging, lump sum distribution, § 270.20 Income taxation Federal, § 255, 270.20 State, § 255, 285 Income taxes, § 255, 270.20 et seq. Distributions, § 273.25 Insurance, § 255, 270.20 Insurance trust Payment of death benefits to, § 234, 264.5, 264.15 Lump sum distribution, federal taxation, § 270.20 Methods of establishing, § 255 Non-qualified plans, § 26, 270.20 Pension plan, § 255 Compared to profit-sharing plan, § 255 Tax treatment, distributions, § 270.20 Periodic payments, federal taxation, § 255, 270.20 Perpetual existence, § 218 Perpetuities, application of law, § 214 Perpetuities, Rule against, § 255 Statutes, exemption from Rule, § 214 Professional associations taxable as corporations, § 255 Profit-sharing plan, § 255 Tax treatment, distributions, § 270.20 Profit sharing plans, income taxes, § 270.20 Oualification for federal income tax exemption, § 255, 270.20

EMPLOYEE BENEFIT TRUSTS -Cont'd Retirement and pensions, § 255 Income taxes, § 270.20 Retirement benefits, § 255, 270.20 Revocable trust Payment of death benefits to, § 264.5 Separation from service, lump sum payment, § 270.20 Spendthrift trusts, § 222, 255 State laws Accumulation statutes, exemption, § 216 Authorizing establishment, § 255 Creditors of participant, § 255 Duration, statutory exemption, § 218 Exemption from restrictive property rules, § 214, 255 Liability of employee's account for debts, § 255 Perpetuities and restrictive property rules, § 214, 255 Professional corporations and associations, § 255 Registration and reporting, § 255 Rights of employer and employee, § 255 State banks as trustees, § 3 Suspension of power of alienation, § 219, 255 Taxes Death benefits, § 255 Exemptions, § 255 Retirement income, § 255 Trust income, § 255 Stock bonus plan, § 255 Tax treatment, distributions, § 270.20 Stock ownership plans, § 255, 270.20 Tax advantages, § 255, 270.20 Taxation, state law, § 255, 285, 286 Terminology and classification, § 1, 255, 270.20 Trustees Loyalty to beneficiaries, § 543 Willful misconduct, § 542

EMPLOYEE BENEFIT TRUSTS -Cont'd Trustees, fiduciary standards, § 270.20 EMPLOYEE RETIREMENT INCOME SECURITY ACT (ERISA) Constructive trust doctrine, § 475.2 **EMPLOYEES** See Employee Benefit Trusts; Officers and Employees EMPLOYEE STOCK OWNERSHIP **PLAN** Employee benefit trusts, generally, § 255 Qualified employee benefit plan, § 255 EMPLOYEE STOCK OWNERSHIP PLANS Estate taxes Deductions, § 275 Income taxes, § 264.7 **ENCROACHMENT** Powers of trustee, § 812 Principal, revocation, § 1000 **ENCUMBRANCES** See Liens and Encumbrances **ENDORSEMENT** See Indorsement, this Index ENDOWMENT FUNDS Charitable trusts, aiding religion, § 376 **ENFORCEMENT OF TRUST** Beneficiaries, § 861 et seq. Charitable trusts England, § 321 United States, § 394, 411 et seq. Trustee, § 582

ENFORCEMENT OF TRUSTS

See also Actions and Proceedings; Beneficiaries; Constructive Trusts; Remedies; Trustees

ENFORCEMENT OF TRUSTS -Cont'd Actions Burden of proof, § 871 Co-beneficiaries, parties, § 871 Co-trustees, parties, § 871 Counsel fees and costs, § 871 Jurisdiction of court, § 870 Parties, § 871 Representative of deceased trustee, § 871 Set-offs, § 871 Against third parties, § 868, 869, **901 et seq** Burden of proof, § 871 Charitable trusts, history in England, § 321, 411 Power to enforce United States, § 411 Remedies of beneficiary, § 861 Settlor Generally, lacks power, § 42 As beneficiary, § 42, 861 Third parties, § 868, 869, 901 et seq Normally trustee sues, § 869 When beneficiary may sue, § 869

ENGLAND

See also Statutes Charitable trusts, § 321 Cy pres, § 432 Delegation to agents, § 555 Investment statutes, § 615 Judicial trustees, § 246 Legislation as to trusts, § 7 Public trustee, § 246 Statutes Administration of Estates Act, § 246 Charities Act, § 7, 321 Judicial Trustee Act, § 7, 246, 511 Law of Property Act, § 246 Perpetuities and Accumulations Act, § 7, 213 Public Trustee Act, § 7 Trustee Act 1925, § 7, 561, 912 Trustee Investments Act, § 7, 615 Variation of Trusts Act, § 7, 561

ENGLAND—Cont'd Transfer taxes, § 10 Trustee Act 1925 Court excusing trustee making improper distributions, § 814 Trustee's power, advances of principal, § 815 Trust law, comparison with United States, § 9 ENGLISH PROPERTY ACT OF 1925 Resulting trusts, § 453 **ENTIRETY, TENANCY BY** See Tenancy by Entireties **ENTREATY** Precatory expressions, § 48 ENTRY Breach of conditions subsequent. right of entry, § 35 Charitable trust, right of entry for condition broken, § 420 Reentry, right of Inalienable property interest, § 114 Rule against Perpetuities, § 213 Writ of jurisdiction, § 870 ENTRY, WRITS OF Third parties, standing of beneficia-

ries, § 870 EN VENTRE SA MERE

Perpetuities, § 213

EQUAL PROTECTION OF LAWS

Charitable trusts, § 375 Advancement of education, § 375 Beneficiaries, § 366 Gender restrictions, § 211 Governmental purposes, § 378 Public policy, § 361 Race discrimination, § 328 Gender Discrimination, generally, this index Gifts, gender restrictions, § 211 Jurisdiction, § 292 Public policy, § 211 Race Discrimination, generally, this index

EQUAL PROTECTION OF LAWS --Cont'd

Trustees, § **521** Grounds for removal, § **527**

EQUIPMENT

Trust certificates, railroads, investments, § 676 Trust to secure or pay creditors, § 250

EQUIPMENT TRUSTS

Railroads Certificates, investments, § 676 Subject matter of trust, § 112 Trust to secure or pay creditors, § 250

EQUITABLE APPROXIMATION DOCTRINE

Charitable trusts, § 394, 433

EQUITABLE ASSIGNMENT Meaning, § 25

EQUITABLE CHARGE

Bona fide purchasers, **§ 31** Charity, **§ 324** Construction, trust intended, **§ 31** Distinguished from trust, **§ 31** Remedies of beneficiary, **§ 31** Rights of parties, **§ 31** Statutes of Limitations, **§ 31**

EQUITABLE CONVERSION

Beneficiary's interest, business trusts, § 2470 Settlor's direction, § 185 Business trusts, state taxation, § 247S Direction to sell trust real property, § 746

EQUITABLE DISTRIBUTION

Marital property, fraudulent conveyances, § 211

EQUITABLE ESTATES

Creation of trusts, quantum of trustee's interest, § 144

EQUITABLE ESTOPPEL

Judicial estoppel distinguished, § 944

EQUITABLE INTEREST Perpetuities, § 213

Index-160

EQUITABLE INTERESTS

Assignments by beneficiaries, **§ 188** Bona fide purchasers, contending equities, **§ 885** Construction of beneficiary's interest, **§ 182** Equities, various types, **§ 886** Federal estate tax, gross estate, **§ 273** Federal gift tax, **§ 278** Nature of beneficiary's interest, **§ 181, 184** Priorities, special rules regarding, **§ 885, 886** Qualities distinguished, **§ 886**

EQUITABLE LIENS

Bona fide purchasers, cutting off, § 881, 886 Breach of trust, § 865 Election, tracing, or lien, § 865 Remedies of beneficiary, § 865 Distinguished from trust, § 32 Theory of creation, § 32 Trust funds used to improve realty, § 923

EQUITABLE OBLIGATION

Terminology and classification, § 1 Trustee, to beneficiary, § 1

EQUITIES

See Bona Fide Purchasers; Investments

EQUITY

Courts of, jurisdiction, § 1, 870 Jurisdiction, § 870

EQUITY OF REDEMPTION

Constructive trust, purchaser at judicial sale promising to hold for another, **§ 494, 543(C)** Subject-matter of trust, **§ 112**

EQUITY TRUSTS

Stocks, investment trusts, § 248

ERRORS

See Mistakes

Index

ERRORS AND MISTAKES

Breach of trust Defenses, **§ 862** Third parties, limitation of actions, **§ 955** Consent, barring of remedies, **§ 941** Election of remedies, breach of trust, **§ 867** Third parties, breach of trust, limitation of actions, **§ 955** Trustees, liability, **§ 542**

ESCHEAT

Beneficiary's interest, § 187, 814 Beneficiary's right in rem, § 183 Death of sole trustee, § 529 Trustees, death, § 529

ESCROW

Agency, distinctions, § 15 Bona fide purchasers, equitable interest, § 885 Future insurance and tax payments, right to excessive sums, § 21 Mortgage payments Investment, § 21 Tax and insurance deposits, payment of interest, § 21 Subdivision trusts, § 249 Trust instruments, delivery, § 147

ESCROW ACCOUNTS

Mortgage payments, trust or debt, § 21

ESTATE PLANNING

Generally, § 261 et seq. Conflict of laws, § 301 Coordination, § 233 Discretionary trusts, § 264.10 Estate taxes, § 261 et seq., 272 et seq. Generation skipping transfer tax, § 264.20, 284.55 Gift taxes, § 277 Income taxes Life estates, § 269.5 Savings, § 264 Insurance trusts, § 235 ESTATE PLANNING—Cont'd International estate planning, trust and tax considerations, § 10 Irrevocable trusts, § 264.10 Life estates, income taxes, § 269.5 Life insurance trusts, § 235 Power of appointment, § 233 Estate taxes, § 273.35 Retirement benefits, § 264.7 Revocable trusts, § 264.5 Techniques, § 231 Trusts, § 231

ESTATES OF DECEDENT

Descent and Distribution, generally, this index

ESTATE TAXES

Generally, § 272 et seq., 285 Additional tax, excess retirement accommodations, § 276.5 Alimony trusts, § 270.10 Alternate valuation election, § 274.15 Annuities, § 273.25 Apportionment, § 272.5 States, § 286.5 Bonds, this index Business trusts, § 247 Life insurance, § 253 Charitable contributions, deductions, § 275.5 Charitable lead trusts, § 264.25 Charitable trusts, § 264.25 Exemptions, § 245, 361, 401 Close corporations Real estate, § 274.10 Valuation, § 274.5 Closely held corporations, valuation, § 274.5 Conditionally revocable trusts, § 233 Consideration, transfers in trusts for consideration, § 273.45 Credits, § 272, 276 Curtesy, this index Deductions, this index Dower, this index Employee benefit trusts, § 255 Distributions, § 273.25

ESTATE TAXES—Cont'd Estate planning, § 261 et seq., 272 et sea. Excess retirement accumulations, § 276.5 Exclusions, § 275 family owned business interests, § 275.20 Exemptions. Tax Exemptions, this index Farms, valuation, § 274.10 Federal, developments, § 271 et seq. Filing return, § 272.5, 276 Duties of trustee, § 265 Fines and penalties, late filing, § 276 Foreign death taxes, credits, § 276 Gifts causa mortis, § 273.5 Grantor retained interest trusts. § 276.7 Gross estate, § 273 Incomplete transfers, § 272 Insurance. Life Insurance, this index Irrevocable trusts, § 234, 264.10 Joint Tenancy, this index Life estates, transfer in trust with retained life estate, § 273.10 Life Insurance, this index Life insurance trusts, § 273.40 Living trusts, § 231 Local law, application, § 263 Marital Deduction, this index Nonresident aliens, tax rate, § 271.5 Payment, this index Personal life insurance trusts, § 241 Power of Appointment, this index Power to revoke or modify trust, § 273.20 Prior transfers, credits, § 276 Property of trust created in contemplation of death, § 273.5 Property of trust subject to power to revoke or modify, § 273.20 Qualified domestic trust, § 275.12 Qualified Terminable Interest Property, this index Rates, § 271.5, 276 Credits against tax, § 276 Remainders, this index

ESTATE TAXES—Cont'd Retirement and pensions, § 264.7 Reversions, this index Spendthrift trusts, exceptions, § 224 State Taxes, this index Tenancy by entireties, § 273.30 Testamentary trusts, § 264.20 Transfers taking effect on death, § 273.15 Trustees, payment, § 233 Unified credit, § 276 Unified transfer taxes, § 271 Valuation of Assets, this index ESTIMATED TAX Decedent's estate not liable for payments, § 272 Declaration by beneficiary, § 268.5 Information furnished beneficiary by trustee, § 268.25 ESTIMATED TAX PAYMENTS Fiduciary income tax, § 265 Living trusts, income taxes, § 231 Probate estates, duration, § 231 **ESTOPPEL** Accounting. defense to beneficiaries' action for, § 969 Assert invalidity, trustee, § 44 Barring of remedies Consent, § 941 Fraud, § 944 **Beneficiaries** Administration of trusts, § 564 Barring remedies, § 944 Creditors of trustee, § 944 Disability of beneficiary, § 944 Disclaimer, § 170 Essential elements, § 944 Lack of power in trustee, § 564 Oral trusts of land, § 69 Powers exercised by one trustee, § 554 Ratification distinguished, § 942 Resulting trusts, purchase-money type, § 466 Unauthorized mortgages, § 768 Beneficiary's interest, successive assignees, priorities, § 195

ESTOPPEL—Cont'd Bona fide purchaser rule, theory or reason for rule, § 882 Breach of trust, ratification distinguished, § 942 Business trusts, § 247 Charitable trusts, § 411 Charitable trusts, enforcement, § 411 Conditions subsequent, § 420 Creation of trust, § 143 Creditors Extending credit to trustees, § 146 Defense to beneficiaries' action for accounting, § 969 Disclaimer by beneficiary, § 170 Election between money claim and tracing, § 867 Election of remedies, § 946 Fraud, barring of remedies, § 944 Misrepresentation, barring beneficiary's remedies, § 944 Parol trust beneficiary, § 69 Ratification distinguished, breach of trust, § 942 Remedies barred by, § 944 Resulting trust beneficiary, creditors of resulting trustee, § 466 Resulting trusts, § 466 Resulting trusts, purchase-money type, extinction, § 466 Rights of trustee's creditors, § 146 Settlor, breach of condition, charitable trusts, § 420 Statute of Frauds, satisfaction, § 92 Successive assignees of beneficiary's interest, § 195 Trustee Attacking trust, § 581 Validity of trust, § 581 Voidability of trust, § 44 Trustees, actions against third parties, standing, § 869 **ESTOPPEL BY DEED**

Bona fide purchasers, § 885

ETHICS

Fraudulent conveyances, § 211

ETHNIC DISCRIMINATION Charitable trusts, public policy, § 361 **EVASION OF DEBTS** Fraud on creditors, § 211, 463, 475 Origin of uses and trusts, § 2 **EVASION OF TAXES** Criminal penalties, federal, § 265, 272.5, 277 Removal of trustee, § 527 **EVICTION** Standing, § 869 **EVIDENCE** Abbreviations, parol evidence of meaning, § 88 Acceptance by beneficiary, § 171 Acceptance by trustee, § 150 Active trust, creation, § 207 Admissions Alleged trust declarant, § 50 Evidence of trust creation, § 50 Resulting trusts Purchase-money resulting trust, grantee, § 464 Rebutting gift, husband pavor and wife grantee, § 459 Ambiguities, parol evidence, § 88 Beneficiaries Acceptance, § 169, 170 Disclaimer, § 170 Identification, § 161 Beneficiary's interest, transfer, § 188 Bona fide purchaser, burden of proof, § 881 Breach of trust, § 871 Laches, § 949 Limitation of actions, § 951 Constructive trusts, § 472, 499.1 Conveyance absolute on face, intent to create trust, extrinsic evidence, § 45 Creation of trusts Admissibility and effect, § 50 Charitable trusts, § 323 Clear and convincing proof, § 48 Parol evidence rule, § 51 Creation of Trusts, this index

EVIDENCE—Cont'd Depositions, Statute of Frauds Illustration of writing satisfying, § 89 Time of writing, § 83 Disclaimer by beneficiary, § 171 Failure to name trustee, § 123 Insurance trust, intent to create, § 236 Intent Creation of trust, § 50 Weight and sufficiency, § 49 Judgments and decrees, breach of trust, liability of sureties, § 864 Oral evidence, ambiguities, § 88 Parol, settlor's intent as to purpose, termination of trust, § 1002 Presumptions, generally, this index Purchase money resulting trusts, § 454 Ouantum of evidence required, **§ 464** Resulting trusts, § 452, 464 Payment of price, § 455 Resulting trusts, purchase-money type, quantum required, § 464 Spendthrift trusts, creation, § 225 Statute of Frauds, § 61, 71 Tracing trust funds, § 923 Trustees Loyalty to beneficiaries, § 543(A) Transactions with beneficiary, § 544 Trustees, disclaimer, § 150 Weight and sufficiency, intent to create trust, § 49 Weight and Sufficiency of Evidence, generally, this index **EVIDENCES OF INDEBTEDNESS** Estate taxes, gross estate, § 273 **EXCAVATIONS**

Tort liability, adjoining landowners, § 732

EXCESSIVE COMPENSATION Court control, § 976

EXCESSIVE SUBJECT-MATTER Charitable trusts, cy pres, § 438, 439

Index-164

EXCESSIVE SUBJECT-MATTER —Cont'd Resulting trusts, § 469 Beneficiaries, § 469

EXCHANGE OF PROPERTY

Discretion of court, **§ 742** Federal estate tax, valuation, **§ 274** Federal gift tax, **§ 278** Gift taxes, **§ 278** Power to exchange, **§ 741 et seq** Tracing trust funds, **§ 921**

EXCHANGE OF SECURITIES Investments, § 686

EXCISE TAXES Charitable foundations, § 330 Charitable trusts Exemptions, § 361 Remainder trusts, § 270.5 Employee benefit trusts, prohibited transactions, § 270.20 Estate taxes, deductions, § 275.15 Federal gift tax as, § 277 Investment trusts, § 270.30 Private foundations, § 270.5 Transfers to foreign trusts, § 10

EXCLUSIONS

Annual, federal gift tax, § 277, 279, 279.5 Federal income tax, from income Beneficiary's income, § 268.5 From trust income, § 268.25 Gross estate, federal estate tax, § 273 Income taxes, trustees return, § 268.25

EXCULPATORY CLAUSES

See Immunity Clauses, this Index Privileges and Immunities, generally, this index

EX DELICTO TRUSTS

Generally, § 471 et seq

EXECUTED TRUSTS

Defined, Georgia law, **§ 212** Statute of Frauds, oral trusts of land, **§ 69**

EXECUTION Beneficiary's interest, § 193 Statutory provisions, § 184, 193 Bona fide purchasers, § 885, 887 Equitable interest, § 885 Value, § 887 Consideration, bona fide purchasers, § 887 Creditors of beneficiary, § 193 Election of remedies, time of election, § 946 Employee benefit funds, participant's exemption, § 222, 227, 255 Failed spendthrift trusts Creditor's rights and remedies, § 227 Interest of trustee-beneficiary, violation of duties, § 192 Judgment for damages, foreclosure of liens on trust property, § 865 Nature of beneficiary's interest, statutory declarations, § 184 Private trusts, § 193, 227 Resulting trusts, § 466 Resulting trusts, beneficiary's interest, § 193 Spendthrift trusts, § 227 Spendthrift trusts, beneficial interests, § 227 Exemptions, § 222 Title to property, bona fide purchasers, § 885 Trust property, creditors, § 146

EXECUTION CREDITORS

As bona fide purchasers, **§ 885** Remedies, debts of beneficiary, **§ 193** Statute of Frauds, power to raise, **§ 70**

EXECUTION SALES

Buyers, bona fide purchaser rule, **§ 887**

EXECUTORS AND ADMINISTRATORS

Acceptance of duties, evidence of acceptance of trust, **§ 150** Actions for damages, failure to turn over trust property, **§ 583** **EXECUTORS AND** ADMINISTRATORS—Cont'd Attorney Embezzlement, charge against estate, § 12 Attorney for executor, sale of real estate and collection of proceeds, § 12 Beneficiary's interest Beneficiary Disclaimer, § 171 Transfer of interest on death, § 189 Gifts to executors, § 182 Breach of trust Standing, § 871 Third parties, collusion with trustee, § 955 Third parties, § 901 Standing, collusion with trustee, § 955 Construction, intent as to capacity in which donee of power was to act, § 12 Constructive trustees, § 481 Creation of trust, intent, § 45 Distinguished from trust, § 12 Duty of loyalty, § 543 Estate and tax planning following death, § 272 Estate taxes, filing, § 272.5 Fair dealing, standard, § 12 Federal estate tax Fees as deductions, § 275.15 Liability for payment, § 272.5, 276 Personal liability, § 272.5 Federal gift tax, payment, § 277 Fees, estate taxes, deductions, § 275.15 Fraud, presumptions, § 543(A) Gift taxes, payment, § 277 Good faith, dealing with beneficiaries, § 544 Intent of settlor, trust expression, § 45 Judicial sale, buying at forced sale, § 543 Leases, taking renewal for self, § 543(I)

EXECUTORS AND ADMINISTRATORS—Cont'd Leases, taking renewal or buying reversion for self, § 543(I) Liability for contracts and torts, § 12 Limitation of actions, breach of trust, third parties, collusion with trustee, § 955 Loyalty to beneficiaries, § 543 Named as trustee, acceptance or rejection of trust, § 150 Precatory expressions addressed to, § 48 Principal commissions, executortrustee, § 979 Probate income Income from property sold, § 817 Pecuniary legacies, § 817 Residuary trusts, § 817 Specific legacies, § 817 Testamentary trustees, § 817 Revocable living trusts, respective responsibilities, § 233 Sale forced by third parties, purchases, § 543(C) Sales Buying at own sale, § 543(A) Dealing with relatives, § 543(T) Standing, breach of trust, § 871 Third parties, collusion with trustee, § 955 Third Parties, this index Time of origin of testamentary trust, § 583 When executor-trustee takes over as trustee, § 12, 583 **EXECUTORY CONTRACTS** Bona fide purchasers, consideration, § 887 **EXECUTORY INTERESTS** Perpetuities, § 213 **EXECUTORY TRUSTS**

Beneficiary's interest, **§ 187** Georgia terminology, **§ 212** Rule against Perpetuities, **§ 213** Rule in Shelley's Case, application, **§ 187** EXECUTORY TRUSTS—Cont'd Statute of Frauds, power to raise, § 70 Terminology and classification, § 1 **EXEMPLARY DAMAGES** Breach of trust, § 862 Breach of trust, malice or fraud, § 543(V), 862 **EXEMPTIONS** Accumulation rules, § 215 Statutes, § 216 Beneficiary's interest Creditor's remedies, § 193 Equitable remedies, § 193 Homestead, § 187 Spendthrift trust, § 222, 227 Taxation, § 187 Business trusts, restraints on alienation of shares, § 247P Charitable trusts Restrictive property rules, § 214, 219, 341, 352 Creditors' rights, spendthrift trusts, § 222, 227 Employee benefit funds, claims of employee's creditors, § 222, 255 Employee benefit trusts, restrictive property rules, § 214, 219, 255 Federal estate tax, § 275.15 Federal gift tax, § 277 Federal income tax Charitable trusts and foundations, § 270.5 Employee benefit trusts, § 255, 270.20 Trust's personal exemption, § 267, 268.25 Fraudulent conveyances, § 211 Immunity clauses, trustee liability, § 542 Income taxes, state, § 285, 287, 300 Intangible personal property taxes, § 285 Life insurance proceeds Creditors Beneficiary, § 244 Insured, § 243

EXEMPTIONS—Cont'd Lifetime exemption, federal gift tax, prior law, § 277 Loyalty, disloyalty cured by act of settlor, § 543U Perpetuities, § 213 Personal liability Charitable trusts, § 400 Contracts, § 714 Mortgages, trustee's signature, § 771 Personal life insurance trusts, indebtedness, § 243 Real estate investment trusts, federal corporate income tax, § 248 Shareholders, business trusts, § 247E, 247G Spendthrift trusts, creditor's rights and remedies, § 224, 227 Spendthrift trusts, statutes, § 227 State inheritance and estate taxes Conditional, § 286, 287 Foreign intangible personal property, § 286, 287, 300 Non-resident decedent, § 286, 287 Reciprocal, § 286, 287, 300 Taxation Beneficiary, § 187 Charitable trusts and foundations, § 245, 264.25, 270.5, 275.5, 285, 286, 329, 330, 400 Community trusts and foundations. § 329, 330 Tax Exemptions, generally, this index Trust, federal income tax, § 267, 268.25 Trust property, creditors of trustee, **§ 146 EXISTING TRUST** Gift by will to trustee under, § 105, 233, 236, 264.5, 264.15 **EX MALEFICIO TRUSTS** Generally, § 471 et seq

EX OFFICIO POWERS Trustees, § 553

EXONERATION

See also Immunity Clauses

EXONERATION—Cont'd Trustee Contract liability, § 718 Tort liability, § 734 Ultra vires contracts, § 716 Trustees, liability, § 542 **EX PARTE APPOINTMENT** Successor trustees, § 533 **EXPECTANCIES** Creation of trusts, § 203 Discretionary trusts, § 228 **EXPECTANCY** Beneficiary Discretionary trust, § 228 Living trust, § 104 Creation of trust, consideration, § 203 Donee under will, § 103 Insurance trusts, § 103 Nature of interest of beneficiary, § 239 Subject-matter of trust, § 113 **EXPENSES** See also Federal Estate Tax; Income Tax-Federal; Principal and Income; State Estate and Inheritance Taxes Accounting expenses, § 801 Source of payment, § 809 Actions and proceedings, court allocation, § 802 Administration Cost of trustee's surety bond, § 151 Court control, source of payment, § 802 Source of payment Deviation from trust terms, court order. § 802 Mortgages, interest and principal, § 808 Rationale of rules, § 802 Statutory control, source of payment, § 802 Ad valorem taxes, trust property, § 602, 807 Allocation, legal life tenant and remainderman, § 802

EXPENSES—Cont'd Annuities, apportionment, § 808 Apportionment Principal and income, § 810 Successive beneficiaries, § 810 Beneficiaries Reimbursement. § 805 Trust expenses, advances, § 801 Business operation, allocation, § 803 Buying and selling property, § 803 Capital gains, § 807 Carrying charges, unproductive property, § 807 Compensation of trustee, § 806 Court control, source of payment, § 802 Debts charged on property, § 808 Defense of trust, costs and expenses of trustee, § 581 Deviation from trust terms, court order, § 802 Estate taxes, § 807 See Federal Estate Tax; State Estate and Inheritance Taxes, this Index Improvements, § 805 Income taxes, § 807 See Income Tax—Federal, this Index Inheritance taxes, § 807 Insurance premiums, § 803 Leasehold obligation, § 804 Litigation costs, § 809 Methods of payment, reserve fund, § 810 Mortgages, interest and principal payments, § 808 Ordinary operating expenses, § 803 Payment Duty of impartiality, § 802 In installments, § 810 Power of trustee to incur. § 801 Preserving trust property, § 803 Principal and income, legal interests, § 802 Readjustment of accounts, § 804, 810 Removing encumbrances, § 808

EXPENSES—Cont'd Revised Uniform Principal and Income Act, provisions, § 802 Settlor's control, grant of discretion, § 802 Source of payment Accounting costs, § 809 Ad valorem taxes, § 602 Alterations to make property usable, § 804 Apportionment between principal and income, § 810 Assessments for improving property, § 805 Business operation costs, § 803 Buying and selling trust property, § 803 Carrying charges on unproductive property, § 807 Control by settlor, statute or court order, § 804 Cost of removing encumbrances, § 808 Debts charged on trust property, § 808 Deviation from trust terms, court order, § 802 Extraordinary repairs, § 804 Improvements required by tax assessments, § 805 Insurance premiums, § 803 Leasehold obligations, § 804 Litigation costs, § 809 Mortgages, interest and principal, § 808 Ordinary operating expenses, § 803 Ordinary repairs, § 804 Permanent improvements, § 805 Preserving trust property, § 803 Rationale of rules, § 802 Reimbursement of principal, amortization fund, § 805 Revised Uniform Principal and Income Act, provisions, § 802 Settlor's control, § 802 Statutory control, § 802 Taxes Ad valorem, § 602, 807

EXPENSES—Cont'd Source of payment-Cont'd Taxes—Cont'd Estate and inheritance, § 807 Estate and inheritance taxes, § 807 Income and capital gains, § 807 Income and capital gains taxes, § 807 Temporary improvements, § 805 Trustee's compensation, § 806, 975 Trustee's discretion, § 802 Uniform Principal and Income Act, § 802 Terminology and classification, § 1 Trustee's right to reimbursement, statutes, § 975 Uniform Principal and Income Act, provisions, § 802 EXPENSES AND EXPENDITURES Charitable trusts, operating costs, profit making, § 364 Education, this index

Estate taxes, deductions, § 275, 275.15 Health Care and Treatment, this index Laches, breach of trust, § 949 Litigation and accounting costs, § 809 Mortgages and other encumbrances, § 808 Trustees Good faith, § 541 Payment, § 233 Post-termination, § 871 EXPERIENCE

Compensation of trustee, rate, § 977 Trustee, fair play in dealing with beneficiary, § 544

EXPERT TESTIMONY Charitable trusts, purpose, § 368

EXPERT WITNESSES Charitable trusts, purposes, § 368

EXPLORATION Mining trust, implied powers, § 551

EXPRESS ORAL TRUST Enforcement, § 51

EXPRESS POWER OF SALE Generally, § 741 et seq

EXPRESS POWERS Trustees, § 551 et seq

EXPRESS TRUSTS

Classification, **§ 1** Definition, **§ 1** Imperative power of appointment, **§ 116**

EXTINCTION

Resulting trusts, **§ 466** Termination of trusts, **§ 991, 1010**

EXTINGUISHMENT

Imperative powers of appointment, § 116

EXTRA COMPENSATION Discretion of court, § 977

FAILURE OF TRUST Charitable trusts, resulting trust,

§ 418 Where cy pres not in effect, § 433 Where narrow or limited intent, § 399, 418 Express private trusts Lack of duties in trustee, § 206 Lack of identifiable beneficiary, § 161 Lack of living beneficiary, § 164 Lack of subject matter, § 111, 141 No trust intent, § 45, 141 Purpose accomplished, § 1002 Resulting trusts, § 468 Excessive res. § 469 Failure of express trust, § 468 Lack of beneficiary, § 161 Violation of Rule against Perpetuities, § 213 Termination of trust, § 995, 1010

FAIR PLAY

Transactions between fiduciary and beneficiary, § 544 Trustees, § 544 Trustee's duty, definition, § 544

FALSE PRETENSES

Bankruptcy, release of debts, § 947 Constructive trusts, § 473 Distributions, liability of trustee, § 814 Indebtedness, release, bankruptcy proceedings, § 947 Liability of trustee, distributions, § 814

FAMILY

See also Relatives Description of beneficiaries, **§ 182**

FAMILY MEMENTOS Whimsical or irrational trusts, § 379

FAMILY OWNED BUSINESS INTERESTS Estate tax deductions and exclusions,

§ 275.20

FAMILY PARTNERSHIPS

Federal income tax When grantor taxable on income, § 268.15

FAMILY SETTLEMENT DOCTRINE

Constructive trusts, breach of, fiduciary relationship, § 482 Modification or termination of trusts, § 992, 994, 1009 Termination of trust, court approval, § 1009

FAMILY TRUSTS

See also Estate and Tax Planning; Federal Estate Tax; Gift Tax— Federal; Income Tax—Federal Generally, § 231 Beneficiaries' interests, § 182 Defined, § 1 Federal income taxation, § 266, 269 Functions, § 231 Income taxes, § 270

FAMILY TRUSTS—Cont'd

Insurance Trusts, § 235, 264.15 Irrevocable trusts, § 234, 264.10 Revocable trusts, § 233, 264.5 Terminology, § 1 Trust purposes, § 232, 233 Uses, § 231

FARM IMPLEMENTS

Depletion, principal and income, § 827

FARMS AND FARMING

Agriculture, generally, this index Investments in land, margin, § 674 Leases, term, § 788 Machinery and equipment, depletion allowance, § 827 Operating expenses, allocation, § 803 Products Management, implied power to mortgage, § 760 Receipts Allocation between principal and income, § 816, 819 Duties of trustee, § 819 Tracing trust funds, § 921 Tracing trust funds, § 921

FEDERAL COURTS

Jurisdiction, § 870

FEDERAL ESTATE TAX

See also Federal Gift Tax: State Inheritance and Estate Taxes Accrued trust income, § 273 Accumulated trust income, § 273.5, 273.10 Administrative powers of trustee Not power of appointment, § 273.35 Taxable powers affecting enjoyment, § 273.10, 273.20 When possession not taxable, § 273.20, 273.35 Aliens, § 10, 271.5, 272 Alimony and separate maintenance trusts, § 270.10, 273.45 Extent includible, gross estate, § 270.10

FEDERAL ESTATE TAX—Cont'd Alimony and separate maintenance trusts, § 270.10, 273.45—Cont'd Transfers for partial consideration, § 270.10, 273.45 Alternate valuation Effective, date, § 274 Election, § 274, 274.15 Exclusion, income accrued after death, § 274.15 Includible lifetime transfers, assets distributed or sold, § 274 Annuities, § 273.25 Possible taxation under other estate tax sections, § 273.25 Property interests included in gross estate, § 273 Annuity trusts, § 245, 264.25 Charitable remainder, deduction, § 275.5 Antenuptial agreements, transfers in trust for consideration, § 273.45 Apportionment of tax, § 272.5, 276, 807 Code provisions, § 272.5, 273.35, 273.40, 276 Equitable apportionment, § 272.5 Estate planning, § 272.5, 273.35, 273.40, 276 Living trusts, § 233, 272.5, 276 State statutes, § 272.5 Will provisions, § 272.5, 273.35, 273.40, 276 Basis Carryover basis, prior law, § 271, 271.10 Trust assets, prior law, § 272 Holding period, § 284 Property included in gross estate, § 264.5, 271 Property transferred in contemplation of death, § 273.5 Revocable trust assets, § 264.5 Beneficiary's liability as transferee, § 272.5 Charitable deductions, § 275.5 Annuity trusts, § 245, 264.25, 275.5

FEDERAL ESTATE TAX—Cont'd Charitable deductions, § 275.5 -Cont'd Charitable remainder trusts, § 245, 264.25, 275.5 Disallowance, prohibited transactions, § 275.5 Disclaimer of gift or power, property passing to charity, § 275.5 Foreign charities, § 275.5 Pooled income fund, § 264.25, 275.5 Release or lapse of power, property passing to charity, § 275.5 Rules, pre-1969 Tax Reform Act, § 275.5 Unitrusts, § 245, 264.25, 275.5 Charitable gifts Charitable remainder trusts Annuity trusts, § 245, 264.25, 275.5 Unitrusts, § 245, 264.25, 275.5 Pooled income funds, § 264.20, 264.25, 275.5 Charitable trusts, § 264.25, 275.5 Annuity trusts or unitrusts, § 264.20, 264.25, 275.5 Qualifying trust as public charity, § 264.25, 275.5 Closely held stock, valuation, § 274 Code provisions Relationship to federal gift tax, § 271, 277 Community property, § 273.10, 275.10 Consideration Alimony or separate maintenance trust, consideration, § 270.10, 273.45 Definition, § 273.45 Joint property interest excluded, § 273.30 Property of trust subject to power to revoke or modify, § 273.20 Reciprocal trusts, § 273.10, 273.20, 273.45 Relinquishment of marital rights. transfers in trust for

FEDERAL ESTATE TAX—Cont'd Consideration—Cont'd consideration, § 273.45 Support rights, relinquishment as consideration, § 273.45, 275.15 Transfer in trust for, § 273.45 What constitutes consideration, § 270.10, 273.10, 273.45 Contemplation of death, transfers in trust Burden of proof, prior law, § 273.5 Current law, § 273.5 Exercise or release of power of appointment, § 273.5 Excluded property Improvements or additions, § 273.5 Transfers more than three years prior to death, prior law, § 273.5 Includible property Federal gift tax paid, credit, § 273.5 Valuation, § 273.5 Motive test, prior federal law, § 273.5 Presumptions, prior federal law, § 273.5 Relinquishment of power to revoke or modify, § 273.20 Copyrights, valuation, § 274 Credits against tax, § 276 Estate tax on prior transfers, § 276 Federal gift tax, § 273.5, 276 Foreign death taxes, § 276 State death taxes, § 276 Unified credit, federal gift and estate tax, § 271.5, 276, 277 Death benefits Deferred compensation payments, § 264.5, 273.25 Qualified employee benefit trust Death benefit exclusion rules. § 270.20, 273.25 Extent death payments includible, § 270.20, 273.25 Lump sum distributions. § 270.20, 273.25

FEDERAL ESTATE TAX—Cont'd Death benefits-Cont'd Qualified employee benefit trust -Cont'd When death benefits exempt, § 270.20, 273.25 Deductions, § 275.5, 275.15 Administration expenses, § 275, 275.15 Alternate, federal income or estate tax, § 268.25, 275.15 Casualty losses, § 275.15 Charitable, § 275.5 Tax Reform Act of 1969 Charitable remainder trusts, interest, § 275.5 Claims for consideration, § 275.15 Claims of spouse, § 273.45, 275, 275.15 Debts and expenses, § 275.15 Double, federal income and estate tax, § 268.25, 275.15 Effect of local law, § 275.15 Expenses, trust property not subject to claims, deductibility, § 264.5, 275.15 Funeral expenses, § 275, 275.15 Interest, § 275.15 Marital, § 275.10 Orphan's deduction, prior law, § 275.15 Selling expenses, § 275.15 state death taxes, § 275.25 Taxes, § 275.15, 275.25 Disclaimer, § 171, 273.35, 275.5, 275.10, 278 Dower or statutory rights Gross estate, § 273 Relinquishment, not deductible claim, § 275.15 Relinquishment not consideration, § 273.45, 275.15 Duties of executor and trustee of decedent's estate, § 272, 272.5 Estate and tax planning—See Estate and Tax Planning, this Index Apportionment of death taxes. § 272.5, 273.35, 273.40, 276 Excepted transfers, § 273.15

FEDERAL ESTATE TAX—Cont'd Exempt trust transfers, § 273.10, 273.20 Flower bonds, payment of tax, § 276 18 Foreign real estate, § 273 Fraudulent return, § 272 Generation skipping transfers, § 271.15, 284, 284.30 Gifts reducing gross estate, § 234, 235, 264.10, 264.15, 264.25 Gifts to minors, § 15, 234, 264.10, 273.10 Gift tax exclusion trusts, § 234, 264.10, 273.10 Grantor powers, effect, § 264.10, 268.15, 273.10, 273.20, 273.40 Gross estate Accrued trust income, § 273 Annuities, § 273, 273.25 Bonds, § 273 Certain transfers in contemplation of death, § 273.5 Definition, § 273 Distributions from qualified employee benefit trusts, § 270.20, 273, 273.25 Excluded property Interests terminating on death, § 273 No beneficial interest, § 273 Prior law, § 273.10, 273.25, 273.35, 273.40 Transfers for full consideration, § 273, 273.10, 273.45 Includible property, § 273, 273.5 Foreign real estate, § 273 Incomplete trust transfers, § 272, 273.10, 273.20 Joint property, § 273.30 Life insurance proceeds, § 273.40 Local law, § 273 Property subject to general power of appointment, § 273.35 Remainder or reversionary interests, § 273, 273.15 Transfers for less than full consideration, § 273.45

FEDERAL ESTATE TAX—Cont'd Gross estate-Cont'd Valuation Alternate, § 274, 274.15 Date of death, § 274 Group insurance, assignments, § 264.15, 273.40 Husband and wife, property settlement agreements, § 270.10, 273.45 Internal Revenue Code provisions Interrelationship and overlapping of Code provisions, § 272, 277 Trust terms affecting, § 263 Joint property, extent included in gross estate, § 273.30 Liability File return, § 272.5, 276 Pay tax, § 272.5, 276 Liens on includible trust property General, § 272.5 Special, § 272.5 Life estates Gross estate exclusion, § 273 Marital deduction, nonqualifying terminable interest, § 275.10 Trust transfer, reserved life estate, § 273.10 Valuation, life estates, remainders and reversions, § 274 Life insurance Accidental death proceeds, § 273.40 Apportionment of tax, § 272.5, 273.40, 276 Assignments, group insurance, § 235, 264.15, 273.40 Economic benefits, § 273.40 Estate planning, § 264.15, 273.40 Group policy, power to designate beneficiaries, § 273.40 Incidents of ownership, definition, § 273.40 Indirect ownership, § 273.40 Insurance trust, § 241, 264.15, 273.40 Marital deduction, § 275.10

FEDERAL ESTATE TAX—Cont'd Life insurance—Cont'd Other Code sections, includibility, § 273.40 Payable to estate, § 273.40 Payment of premiums, prior law, § 273.40 Prior law, § 273.40 Recent developments, § 273.5, 273.40 When proceeds included in gross estate, § 273.40 Local law Charitable gifts, § 264.25, 275.5 Effect on marital deduction, § 275.10 Importance of local law, § 263, 273, 273.35, 275.10, 275.15 Long-term irrevocable trusts, § 234, 264.10 Property rules, § 263, 273, 275.10 Marital deduction Common disaster clause, § 275.10 Dower rights, § 275.10 Effect of local law, § 263, 275.10 Estate planning, § 264.20, 275.10 General power of appointment Deed or will, § 275.10 Definition, § 275.10 Power to consume corpus, § 275.10 Historical development, § 275.10 Insurance and annuity contracts, § 235, 264.15, 275.10 Maximum allowable Reduced by nonqualifying assets, § 264.20, 275.10 When reduced by taxes and expenses, § 264.20, 275.10 Nondeductible terminable interests, § 275.10 Qualifying gifts of property Commuted dower, § 275.10 Contest of will, property settlement, § 275.10 Estate trust, § 264.20, 275.10 Joint interests, § 275.10 Life estate and general power of appointment, § 275.10

FEDERAL ESTATE TAX—Cont'd Marital deduction—Cont'd Qualifying gifts of property -Cont'd Life insurance, § 275.10 Living trusts, § 233, 235, 264.5, 264.15, 275.10 Powers of spouse over trust corpus, § 264.20, 275.10 Qualified marital deduction trust, § 275.10 Settlement of will contest, § 275.10 Statutory share on renunciation or intestacy, § 275.10 Testamentary trusts, § 264.20, 275.10 Rev.Rul. 64, 19, pecuniary gift in trust, § 275.10 Third party disclaimer in favor of surviving spouse, § 275.10 Widow's support allowance, § 275.10 Nonresident alien decedent, § 10, 271.5.272 Charitable deductions, § 10, 275.5 Notice of lien, § 272 Orphans deduction, prior law, § 275.15 Patents Marital deduction, nonqualifying terminable interest, § 275.10 Valuation, § 274 Payment of tax Due date, return and tax, § 272.5, 276 Extension of time, § 276 Failure to pay Criminal penalties, § 272.5 Liens on trust property, § 272.5 Installment payments, § 276 Trustee's liability, § 272.5, 276 Liability for Beneficiary of estate, § 272.5 Executor, § 272.5 Personal liability, § 272.5 Transferee, § 272.5 Trustee, § 272.5 Postponed payment, § 276

FEDERAL ESTATE TAX—Cont'd Payment of tax-Cont'd Source of payment Apportionment, § 272.5, 273.35, 273.40, 276 Code provisions, apportionment, § 272.5, 273.35, 273.40, 276 Contribution from trust, § 272.5 Flower bonds, § 276 18 Payable from living trust, § 264.5, 264.15, 272, 272.5 Reimbursement for payment, § 272.5, 273.35, 273.40 Residuary estate, § 276 Tax rates, § 271.5, 276 Trustee Limitations on amount, liability for tax, § 272.5 Personal liability of trustee, § 272.5 Reimbursement rights, § 272.5, 276 Transferee liability of trustee, § 272.5 When trustee to pay, § 272.5, 602 Personal liability Executor, § 272.5 Trustee, § 272.5 Pooled income funds Charitable deduction, § 275.5 Powers as to trust corpus, § 273.20, 273.35 Powers of appointment, § 273.35 Apportionment of tax, § 273.35 Beneficiary as donee General power, § 264.20, 273.35 Limited power to invade corpus, § 264.20 Special or nongeneral power, § 264.20 Date created, § 273.35 Deduction for property passing to charity, § 275.5 Definition, general power, § 264.20, 273.35 Disclaimer or renunciation. § 273.35

FEDERAL ESTATE TAX—Cont'd Powers of appointment, § 273.35 -Cont'd Estate planning, § 264.20, 273.35, 275.10 Excepted administrative powers, § 273.35 Exercise or release by, § 273.15 Transfer in trust taking effect at death, § 273.15 Transfer in trust with retained life estate, § 273.10 Transfer of property in contemplation of death, § 273.5 General powers not exercised, prior law, § 273.35 Insurance, § 273.40 Joint powers, § 273.35 Lapse as taxable release, § 273.35 Limited or special powers, § 233, 234, 264.10, 264.15, 273.35 Local law, § 263, 271, 273.35 Marital deduction, § 275.10 Nongeneral powers Certain joint powers, § 273.35 Limited power to invade corpus, § 264.20, 273.35 Power subject to standard, § 264.20, 273.35 Special power, § 264.20, 273.35 Post-1942 general powers Complete release not taxable. § 273.35 Exercise, partial release or possession taxable, § 273.35 Taxation under other estate tax sections, § 273.35 Pre-1942 general powers Exercise taxable, § 273.35 Tax-free release or failure to exercise, § 273.35 When exercised, § 273.35 Prior law, § 273.35 Release of power Lapse as, § 273.35 Lapse of limited power to withdraw, exception, § 264.20, 273.35 Prior law, § 273.35

FEDERAL ESTATE TAX—Cont'd Powers of appointment, § 273.35 -Cont'd When taxable, § 273.35 Property settlement agreements. transfers in trust for consideration, § 270.10, 273.45 Reciprocal trusts, § 261, 273.10, 273.20, 273.45 Income imputed to grantor, § 273.10 Property of trust subject to power to revoke or modify, § 273.10, 273.20, 273.45 Transfers in trust for consideration, § 273.45 Return, Form 706 Executor's primary responsibility, § 272.5 Extension of time to file, § 272, 276 Filing date, § 272.5, 276 Preliminary analysis, § 272 When trustee to file, § 272.5 Securities Gross estate, § 273 Joint interest, § 273.30 Valuation, § 274 Short-term or reversionary trusts, § 234, 264.10, 273 Specific exemption, federal estate tax, prior law, § 271.5, 277 Statute of Limitations, transferee liability, § 265 Substitution of trustee, when taxable power, § 273.10, 273.20, 273.35 Support trusts, § 273.10 Survivor payments or benefits Annuities, § 273.25 Post-death contract payments, § 273.25 Qualified employee benefit trust, § 270.20, 273.25 Tax elections, § 274, 274.15, 276 Tenancy by the entireties, § 273.30 Transfers for consideration Exclusion of transfers for full consideration, § 273.5, 273.20, 273.45

FEDERAL ESTATE TAX—Cont'd Transfers for consideration-Cont'd Partial consideration, § 270.10, 273.45 Reciprocal trusts, § 273.10, 273.20, 273.45 What constitutes consideration, § 273.45 Relinquishment of marital rights, § 273.45 Relinquishment of support rights, § 273.45 Support as consideration, § 270.10, 273.45 Transfers includible in gross estate Contemplation of death transfers, limited effect, § 273.5 Retained income trusts, § 273.10 Revocable trusts, § 233, 264.5, 273.20 Trusts taking effect at death, includible transfers, § 273.15 Transfers subject to power to revoke or modify Excepted powers, § 273.20 Excepted transfers, § 273.20 Exclusion of transfer for full consideration, § 273.20 Prior law, § 273.20 Reciprocal trusts, § 273.20 Relationship to other Code sections, § 272, 273.10, 273.20, 277 Taxable powers Affecting income enjoyment, § 273.10, 273.20 Over trust corpus, § 273.20 Transfers taking effect at death Contingent interests, § 273.15 Prior law, § 273.15 Requirements for taxability 5 per cent reversionary interest, § 273.15 Survival of grantor, § 273.15 Transfers with retained income Discharge of support obligation, § 273.10 Excepted powers over income, § 273.10

FEDERAL ESTATE TAX—Cont'd Transfers with retained income -Cont'd Excepted transfers, § 273.10 Prior law, § 273.10 Reciprocal trusts, § 273.10, 273.45 Relationship to other Code sections, § 272, 273.10, 273.20 Taxable rights Income retained by grantor, § 273.10 Power to designate others to enjoy income, § 273.10 Secondary life estate retained, § 273.10 Trustee's liability, § 272.5, 276 Bar of Equitable estoppel, § 272.5 Statute of limitations, transferee liability, § 265, 272.5 Filing of return, § 272.5 Liability as transferee, § 265, 272.5 Payment of tax Apportionment, § 272.5, 273.35, 273.40, 276 Limited to trust assets, § 272.5 Reimbursement rights, § 272.5 Transferee, § 265, 272.5 When personal, § 272.5 Unified credit against tax, § 271.5, 276 Unified transfer tax, § 271, 271.5 Relationship of federal estate tax to federal gift tax, § 271, 271.5, 272, 277 Unincorporated business, valuation, § 274 Valuation Alternate Election, § 274, 274.15 Income accrued during alternate valuation period, § 274.15 Interim sales or distributions, § 274.15 Lifetime transfers, sales of trust assets prior to death, § 274

FEDERAL ESTATE TAX—Cont'd Valuation—Cont'd Charitable gifts, § 275.5 Reduced by taxes or expenses, § 275.5 Closely held stock, § 274.5 Consideration in money's worth, § 273.45 Date of death, § 274 Fair market value Blockage, securities, § 274 Discounted, § 274 Treasury regulations, § 274 Types of assets, § 274 Farms and closely held business real estate, § 274.10 Includible lifetime transfers, property sold prior to death, § 274 Income accumulated prior to death, § 273.5, 274 Inter vivos trust assets, § 274 Methods, § 274 Regulations, various types of assets, § 274 Vested rights, deferred compensation contracts, § 264.5, 273.25 FEDERAL ESTATE TAXES Estate Taxes, generally, this index FEDERAL GIFT TAX See Gift Tax-Federal, this Index FEDERAL GIFT TAXES Gift Taxes, generally, this index FEDERAL GOVERNMENT See United States

FEDERAL INCOME TAX See Income Tax—Federal

FEDERAL INCOME TAXES Income Taxes, generally, this index FEDERAL REGULATIONS Conduct of trust business, national

banks, **§ 134, 667** National banks Accounts and accounting, **§ 134** Compensation, **§ 134, 975** Investments, **§ 667**

FEDERAL REGULATIONS -Cont'd Trust indentures, § 250

FEDERAL TAX LEGISLATION

See Chapter 15, and Pocket Part Supplements

FEDERAL TAX LIEN ACT OF 1966 Payment of taxes, § 272.5, 277

FEEDER ORGANIZATION

Federal income tax, charitable trusts and foundations, § 270.5

FEES

Brokerage fees, sale of trustee's own property to trust, § 543(E) Charitable trustees, § 391, 396 Charitable trust museum, admission fees, § 364 Compensation of trustee, § 975, 980 Costs. § 871. 975 Counsel fees, § 871 Federal estate tax, deduction, § 275.15 Federal income tax, deductions and allocations, § 266, 268.25, 269 Trustees, revocable trusts, § 231

FEE SIMPLE ESTATES

Alienation Direct restraints, validity, § 220 Validity, disabling restraints, § 220 Beneficiaries' interest Curtesy and dower, § 186 Nature of property interest, § 182 Creation of trusts, quantum of trustee's interest, § 144

FEE TAIL ESTATES Beneficiaries' interests, § 182

FEOFFMENT

Creation of trusts, common law, § 201

FEUDAL SYSTEM Origin of uses and trusts, § 2

FIANCE

Resulting trusts, fiance payor and grantee, § 459

Index-178

FICTIONAL CANCELLATION

Indebtedness, bona fide purchase rule, § 889

FICTIONAL TRUST Generally, § 471 et seq

FICTITIOUS NAMES Business trusts, trade names, § 247M, 247N

FIDEI COMMISSUM

Civil law, § 9 Roman law, origin of uses and trusts, § 2

FIDELITY BONDS

See Bonds (Surety)

FIDUCIARY INVESTMENT **COMPANIES**

Investment of trust funds, § 677

FIDUCIARY RELATIONSHIP

Generally, § 481 Accounting, § 481 Administrators of estates, § 12 Agency, § 15 Assignments, § 25 Attorneys, breach of professional ethics, § 481 Bailment distinguished, § 11 Bondholders' protective committees, § 251 Breach of duty of loyalty, constructive trusts, § 484, 543 et seq Co-beneficiaries, § 191 Conditions subsequent, grantor, § 35 Constructive trust, breach, § 481 Judicial sales, § 494, 543(C) Contracts Lack of. § 17 Sale of land, § 18 Contrasted with confidential relationship, § 482 Corporate directors and officers, § 16, 481, 481.1, 484 Corporate promoters, § 16, 481 Corporate stockholders, § 16, 481 Definitions, § 1, 481, 543 to 543(V) Development of trust law, § 7

FIDUCIARY RELATIONSHIP -Cont'd Employee benefit trusts, § 255 Standards, trustee, § 255, 270.20 Trustees and agents, § 255, 270.20 Equitable charge distinguished from trust, § 31 Examples, § 481 Executors and administrators, § 12 Fair play, § 544 Federal income tax, trustee giving notice of, § 265 Good faith, § 544 Joint tenants and tenants in common, § 481 Joint venturers, § 36, 488 Judicial sales, constructive trusts, § 494, 543(C) Land contracts, distinguished from trusts, § 18 Lovalty Breach, constructive trust, § 484, 543 et seq Duty of fiduciary, § 543 Majority to minority shareholders, § 481, 543 Meaning and significance, § 1, 481 Mortgagor and mortgagee, business and not fiduciary, § 29 Partners, § 36, 481 Pledgee, § 30 Power of appointment, donee to prospective appointees, § 116 Real estate brokers and salesmen, prospective buyers, § 481 Shareholder and corporation, § 16, 481 Stockholders, § 16, 481, 481.1 Tenants in common and joint tenants, § 28 Transactions between fiduciary and beneficiary, § 544 Trust protectors, § 137 Uniform Fiduciaries Act, § 901, 912 Actual notice of one breach, later duties, § 910 Affecting trust law, § 7, 905 Bad faith, participation in breach of trust, § 909

-Cont'd Uniform Fiduciaries Act, § 901, 912 -Cont'd Bank cashing check from trustee to self, participation in breach of trust, § 907 Bank honoring checks on trust account in favor of third persons, participation in breach of trust, § 908 Bank permitting co-trustee to withdraw trust funds from bank account, participation in breach of trust, § 911 Creditor taking trust property in payment of personal debt of trustee, **§ 904** Participation in breach of trust, trustee depositing trust paper in personal bank account, § 906 Terms, participation in breach of trust, § 901 FIDUCIARY SECURITY TRANSFERS See Simplification of Fiduciary Security Transfers Act; Uniform Commercial Code Liability of registrar or transfer agent for participation in breach of trust, § 905 Uniform Fiduciaries Act and other

FIDUCIARY RELATIONSHIP

statutes limiting liability of transfer agents, **§ 905**

FIDUCIARY TAX RETURNS Generally, § 262, 265

FINANCIAL INTEREST Beneficiary's need for, § 182, 871

FINANCIAL STATEMENTS AND REPORTS

Charitable trusts, income taxes, § **395** Trustees, grounds for removal, § **527**

FINES AND PENALTIES

Breach of investment duty, § 701 Breach of trust, § 861

FINES AND PENALTIES—Cont'd Business trusts, Blue Sky laws, § 247R Charitable trusts, § 270.5 Co-trustee, tort liability, § 731 Employee benefit trusts, prohibited transactions, § 270.20 Estate taxes Failure to file, § 272.5 Late filing, § 276 Evasion of criminal statute, § 211 Federal estate tax, § 272.5 Federal income tax, § 265 Exempt organizations, failure to file information return, § 270.5 Fiduciary tax returns, § 265 Investments, bribery, § 684 Remedies of beneficiary, § 861 Termination, § 1002 Trustees Breach of trust, § 861 Grounds for removal, § 527 Loyalty to beneficiaries, § 543(A) Removal, § 527 Unlawful purposes, § 211

FIRE

Estate taxes, deductions, § 275.15 Victims, charitable trusts, beneficiaries, § 363

FIRE DEPARTMENTS Charitable trusts, governmental purposes, § 378

FIRE INSURANCE

Apportionment, principal and income, § 803, 821
Buildings, mortgage loan, § 674
Expenses, allocation, § 803
Investments, business buildings, § 674
Premiums, allocation, principal and income, § 803
Principal and income
Allocation of proceeds, § 821
Proceeds, constructive trust, § 476
Vendor and purchaser, ownership of proceeds, § 18

FIREMEN

Charitable trusts Source of funds, dues and assessments, § 367

FIRE PATROL

Charitable trusts Governmental benefit, **§ 378**

FIRES

Federal estate tax, loss deductions, § 275.15 Victims, public subscription, § 362

FIRST AID

Charitable trusts, governmental purposes, § 378

FISCAL YEAR

Estates, income taxes, § 231 Federal income tax return, § 265, 268.5, 268.25, 269 Fiduciary tax returns, § 265 Living trusts, income taxes, § 231 Probate estates, income taxes, § 233

FISH AND GAME Charitable trusts, § 379

FIVE-YEAR THROW-BACK RULE

See also Income Tax—Federal, this Index Federal income tax, distributions of accumulated income, § 267.5

FLAGS

Charitable trusts, patriotic purposes, § 378

FLOODS

Victims, public subscription, § 362

FLOOD VICTIMS

Charitable trusts Beneficiaries, § 363

FLORIDA

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 625

FLOWER BONDS

See Federal Estate Tax

FLOWERS

Cemetery trusts, § 377 Charitable trusts, governmental benefits, § 378 Charitable trusts, governmental purposes, § 378

FOLLOWING TRUST FUNDS See Tracing Trust Funds, post, this Index

FOOD

Animals, beneficiaries, **§ 165** Charitable trusts, poverty, **§ 373**

FORCE

See Duress and Coercion

FORCIBLE ENTRY AND UNLAWFUL DETAINER Parties, breach of trust, § 869

FORECLOSURE

Bondholders' protective committees, § 251 Breach of trust, participation, § 901 Constructive trusts, repudiation of promise to hold for another, § 494 Judgment liens, beneficiary's remedy, § 865 Mortgages Apportionment of proceeds, § 825 Beneficiaries Beneficiaries' interest, statutory provisions, § 184 Suit by, § 869 Principal and income, apportionment, § 825 Redemption, resulting trust, § 455 Surplus funds, § 29 Termination of trust, § 995 Trustee buying at forced sale, § 543(C) Trustee buying at own sale, § 543(A) Principal and income, apportionment, § 825 Promise to hold for another, repudiation, constructive trust, § 494

FORECLOSURE—Cont'd

Relative's repudiation of promise to hold for another, constructive trust, § 494 Resulting trusts, mortgages, redemption, § 455 Surplus funds, mortgages, § 29 Termination of trust, § 995 Title to property, bona fide purchasers, § 885 Trustees Buying at sale forced by third parties, § 543(C) Lending own funds to trust, § 543(L) Loyalty to beneficiaries, § 543(A)

FOREIGN ATTACHMENT

Compared with trust, § 38 Creditors Beneficiary, § 12 Reaching beneficiary's interest, § 193 Trustee, § 146 Interest of beneficiary, § 193 Spendthrift trusts, § 227

FOREIGN BANKS

Capacity to act as trustee, § 132 Investment advisory services, § 132

FOREIGN BUSINESS TRUSTS Generally, § 247

FOREIGN CHARITIES

Gift to Federal estate tax, § 275.5 Federal gift tax, § 283

FOREIGN CORPORATIONS

Capacity to act as local trustee, § 125, 132, 295 Georgia statute, limited reciprocity, § 132 22 Mississippi statute, reciprocity requirement, § 132 20 Missouri statute, reciprocity, § 20, 132 Capacity to hold title as trustee, § 125 Charitable trustees Qualifications, § 328

FOREIGN CORPORATIONS -Cont'd Charitable trustees—Cont'd Statutory restrictions, corporate trustees, § 327 Conditions to acting as local testamentary trustee, § 32, 132 26 Jurisdiction, removal of trustee, § 523 Living trusts, application of law, § 231 Local trustee, § 132 Powers and duties as trustee, § 132 Removal of trustee, jurisdiction, § 523 Statutes governing, § 132 Substitution, incapacity to serve, § 132 Testamentary trustees, § 132 Title to property Capacity, § 125 Charitable trusts, § 327 Trustees, § 132 Charitable trusts, § 327, 328 Qualifications, § 328 Statutory restrictions, corporate trustees, § 327 Living trusts, § 132 Removal from office, jurisdiction, § 523 Testamentary trusts, § 132 Uniform Probate Code provisions, § 132, 295 FOREIGN COUNTRIES See also International Estate Planning, this Index Absence, trustees, grounds for removal, § 527 Aliens Beneficiaries, § 168 Federal taxation, § 10 Enemy aliens Interest under trust, § 168 Termination of trust, confiscation, § 995

Nature of beneficiary's interest, statutory declaration, § 184 FOREIGN COUNTRIES—Cont'd Aliens-Cont'd Removal as trustee Notice, § 523 Time, § 526 Resulting trusts, purchase-money, § 463 As beneficiary, § 168 Bonds, trust investments, § 672 Charitable trusts Beneficiaries, § 365 Cy pres, § 442 Charitable trusts, beneficiaries, § 365 Civil law systems. § 7.9 Community property systems, § 9, 10 Co-trustees, resident acting as to local property without consent of foreign trustee, § 554 Federal estate tax, credit for foreign death taxes, § 276 Forced heirship rules, civil law, § 9, 10 Investments Bonds, § 672 Foreign mortgages, § 673 Islamic law, § 9, 10 Memorials, charitable tax deductions, § 369 Real estate Federal estate tax, gross estate, § 273 Recognition of trust, § 7, 9 Recognition of trusts, § 9 Transfer taxes, § 10 Trustees Absence, grounds for removal, § 527 Resignation, § 515 Trust payments to residents of communist countries, § 814 Trust substitutes, § 9 United States citizen, governing laws, § 9, 10

FOREIGN CREDIT

Purchase, trust distinguished, § 21

FOREIGN DEATH TAXES Estate taxes, credits, § 272

FOREIGN FIDUCIARIES

See also Foreign Corporations; Foreign Trustees Multistate trusts, capacity, **§ 291, 295**

FOREIGN STATES

Business trusts Service of process, § 247N
Conflict of laws, estate planning, § 301
Investments in mortgages, out of state realty, § 674
Jurisdiction, § 870
Multistate trusts, construction and administration, § 8, ch. 16
Transfers of trust situs, remedies of beneficiaries, § 861
Trustees, removal from office, jurisdiction, § 523

FOREIGN TRUST COMPANIES

See also Foreign Corporations Capacity to act as trustee, § 132, 295 Investment advisory services, § 132

FOREIGN TRUSTEES

See also Foreign Corporations; Foreign Trusts; International Estate Planning Agent for service of process, § 132, 151 Bond or security, § 151 Deposit in lien of bond, § 151

FOREIGN TRUSTS

See also International Estate Planning Federal income tax Beneficiaries Deductions, § 10 Income subject to tax, § 10 Nonresident alien beneficiary, § 10 United States resident as beneficiary, § 10 Definition, § 10 Distributions Accumulation, § 10 Current income, § 10 FOREIGN TRUSTS—Cont'd Federal income tax-Cont'd Income Receipts subject to United States tax, § 10 Treatment, § 10 Income taxes States, § 285 Accumulations, § 287 International estate planning, § 9, 10 Letters of office, § 151 Recognition under civil law systems, § 9, 10 Registration, trust sections under Uniform Probate Code, § 7 Situs, § 10 United States tax rules, § 9, 10

FOREIGN WILLS International estate planning, § 9, 10

FOREST PRESERVES Gifts, tax exemption, § 369

FORESTS AND FORESTRY

Depletion allowance, receipts from sales, **§ 827**

FORFEITURE RESTRAINTS Restraints on alienation, validity, § 220

FORFEITURES

Alienation Direct restraints, § 220 Suspension of power, statutes, § 219 Beneficiaries, § 181 Beneficiary's interest, § 181 Contest of trust, § 181 In rem rights, § 183 Charitable gifts, conditions subsequent, § 324 Charitable trusts, right of entry for conditions broken, § 420 Compensation, of trustee Breach of trust, § 861 Failure to account, § 980 Conditions subsequent, § 35, 420 Charitable gifts, § 324 Charitable trust or condition, § 324

FORFEITURES—Cont'd

Life estates, alienation, § 220 Life estates, direct restraints on alienation, § 220 Origin of uses and trusts, § 2 Prevention, repairs to trust property, § 582 Restraints on alienation, § 220 Resulting trust, § 468 Resulting trusts, § 468 Resulting trusts, failure of express trust, § 468 Trustee's compensation, § 861, 980 Failure to account, § 980

FORGERY

Constructive trusts, **§ 477** Distributions, payment, **§ 814** Trust instrument, **§ 42**

FORMALITIES

See also Statute of Frauds; Wills Acts
Conflict of laws, dispositions of property, § 291
Dispositions of property, multistate trusts, § 291
Testamentary, when required as to living trust, § 104
Testamentary trusts, § 101
Transfer of property interests to trustee, § 142
Trust and contract, distinctions, § 17
Wills, statutes, § 101

FORMAL TITLE DOCTRINE

Church property disputes, § 399

FORM OF PAYMENTS

Cash or in kind, **§ 814, 1010** Distributions to beneficiaries, **§ 814** On termination of trust, **§ 1010**

FORMS

See Forms volumes, Index to Forms Volumes

FORMULA

Subject-matter of trust, § 112

FORWARDING BANKS Collection of commercial paper, § 23

Index-184

FOUNDATIONS See also Charitable Foundations; Charitable Gifts; Charitable Trusts Advantages to use, § 264.25, 330 Alteration, methods of administration, § 393 Charitable Foundations, generally, this index Deviation, administrative provisions, § 394 Exemption, federal income tax, § 264.25, 270.5, 330 Features, charitable foundation, § 330 Gifts to, deductions, § 264.25, 275.5, 283 Private, federal tax rules, § 264.25, 270.5 Investment income, federal income tax rate, § 264.25, 270.5 Settlor directing conveyance to, § 391

Trust or corporation, § 330

FOUNTAINS

Charitable trusts, governmental benefits, **§ 378** Charitable trusts, governmental purposes, **§ 378**

FOX HUNTING

Promotion of, honorary trust, § 166

FRACTIONAL INTEREST

Federal estate tax, marital deduction, § 275.10 Subject-matter of trust, § 111

FRACTIONAL SHARE FORMULA Estate taxes, marital deduction, § 275.10

FRANCE

Transfer taxes, § 10

FRANCHISES

Principal and income, wasting property, § 827

FRATERNAL ORGANIZATIONS

Beneficiaries, § 167

FRATERNAL ORGANIZATIONS

--Cont'd Charitable and noncharitable purposes, § 379 Charitable gifts, income tax deductions, § 264.25 Charitable trusts Beneficiaries, § 365 Lodge members, class characteristics, § 365 Private clubs, § 379 Public policy, § 361

FRATERNITIES

Beneficiaries of trusts, § 167

FRAUD

See also Constructive Trusts Generally, § 211 Agents and agency, breach of trust, notice to principal, § 912 Antenuptial agreement, § 211 Bankruptcy, trustees, § 947 Barring of remedies, estoppel, § 944 Beneficiaries Co-beneficiaries, breach of trust, § 191 Estoppel by misrepresentation, § 944 Beneficiary's interest, successive assignees, priorities, § 195 Breach of trust Agents and agency, notice to principal, § 912 Bankruptcy, § 947 Collateral estoppel, barring of remedies, § 956 Damages, § 863 Sureties and suretyship, liability, § 864 Limitation of actions, § 950 Release, § 943 Breach of trust, co-beneficiary, § 191 Charitable trusts Creation, § 323 Creation, invalidation, § 323 Power of trustees, § 394 Successors of settlor, power to attack validity, § 417

FRAUD—Cont'd Collateral estoppel, breach of trust, barring of remedies, § 956 Community property settlement, § 26 Compensation Extravagant rate, § 976 Forfeiture, § 980 Compound interest, damages, § 863 Consent, barring of remedies, § 941 Consent to revocation, § 999 Constructive notice, passive co-trustee, § 585 Constructive trust Basis for imposition, § 471, 473 Beneficiary of oral trusts, § 496 Creditors, § 475 Gift by will on informal trust, § 498 Spouse, § 475 Constructive trusts, § 451 Contracts, sales of trust property, remedies, § 746 Conveyance in return for promise to support, failure as, § 19 Corporate directors dealing with stockholders, § 16, 481 Creation of trust, § 44 Ground for trust rescission, § 997 Setting aside, § 42 Creditors, constructive trusts, § 475 Creditors, living trusts, § 233 Creditors of beneficiary Transfer of beneficiary's interest, § 188 Creditors of settlor, § 211, 233, 475 Unlawful purposes, § 211 Estoppel, barring of remedies, § 944 Exemplary damages, breach of trust, § 862 Exercise of imperative power of appointment, § 116 Federal estate tax, § 272.5 Federal income tax, § 265 Fiduciary tax returns, fines and penalties, § 265 Gift by will on informal trust, constructive trust, § 498

FRAUD—Cont'd Husband and wife, Totten trusts, § 47, 211 Illegal trust Fraud on creditors, § 211, 475 Fraud on spouse, § 47, 211, 233, 475 Imperative powers of appointment, exercise, § 116 Indebtedness, release, bankruptcy, § 947 Interest, compound interest on damages, § 863 Investments, consent of beneficiaries, § 689 Investment trusts, § 248 Joint bank accounts, transfer of funds on death, § 47 Joint tenancy, weight and sufficiency of evidence, § 47 Limitation of actions, breach of trust, § 950 Origin of uses and trusts, § 2 Personal life insurance trusts, creditors, § 243 Presumed where confidential relationship, § 471 Promise to support, conveyance in return for, § 19 Punitive damages, breach of trust, § 862 Purchase-money resulting trust, § 463 Purpose of trust Fraud on creditors, § 211 Constructive trust, § 475 Illusory trust, spousal rights, § 211 Ratification, breach of trust, § 942 Release, breach of trust, § 943 Remedies of beneficiary, § 861 Removal of trustee, § 527 Rescission, § 997 Resulting trusts, illegal intent, § 463 Revocable trusts, statutory share of surviving spouse, § 233 Revocation, consent, § 999 Settlement, community property, § 26 Settlor creating spendthrift trust for self, § 223

FRAUD—Cont'd Silence, barring of remedies, estoppel, § 944 Spendthrift trusts, creation, § 223 Spendthrift trusts, creation for settlor, § 223 Successors of settlor, collateral attack, § 417 Support, conveyance in return for promise, § 19 Surviving spouse, § 211, 233 Tenant in common, § 28 Testamentary trustor, § 101 Title to property, constructive trusts, limitation of actions, breach of trust, § 953 Tolling Statute of Limitations, § 951 Totten trusts, spouse, § 47, 211 Trustee Breach of trust, exemplary damages, § 862 Compound interest on damages, § 863 Release of indebtedness, bankruptcy, § 947 Rights of creditors, § 146 Trustees, § 861 Dealing with beneficiaries, § 544 Duty of loyalty to beneficiaries, § 543 Good faith, dealing with beneficiaries, § 544 Grounds for removal, § 527 Presumptions, § 543(A) FRAUDS, STATUTE OF See also Statute of Frauds Beneficiaries Assignment of interests, § 190 Identification, § 161 Business trusts, transfer of shares, § 247(O) Characterization, § 293 Charitable gifts, passive trusts, § 206 Constructive trusts, § 471, 472, 487, 488, 495, 497 Creation of trust, marriage as consideration, § 203 Creation of Trusts, this index

FRAUDS, STATUTE OF-Cont'd Delivery of trust instrument, § 147 Gifts, incomplete gifts, § 205 Parol trusts, § 64 Passive trusts, creditors remedies, § 193 Purchase money resulting trusts, relinquishment to trustee by parol, § 466 Recording trust instrument, § 149 Resulting trusts, § 452 Application of law, § 455 Express agreement, § 461, 462 Failure of express trust, § 468 Surplus res, § 469 Third parties, § 462 Spouses, gifts, § 459 FRAUDULENT CONVEYANCES Generally, § 211 Beneficiaries' interest, bona fide purchasers, in rem rights, § 183 Charitable trusts Administration, § 391 Injunction, § 415 Constructive Trusts, generally, this index Contract distinguished from trust, §17 Disclaimer, setting aside, § 171 Elective share of surviving spouse, § 211 Evasion of duties, § 211 Illegal trusts Settlor's creditors, § 211 Settlor's spouse, § 211 Personal life insurance trusts, creditors, § 243 Power of appointment, § 233 Powers of appointment, donee's creditors, § 233 Purchase money resulting trusts, § 463 Uniform Act, illegality of trust purpose, § 211 FRIENDLINESS

Trustees, grounds for removal, § 527

FRIENDS

Confidential relationship, constructive trusts, **§ 482** Indefinite beneficiaries, **§ 161** Spendthrift trusts, **§ 222** Spendthrift trusts, protective estates, **§ 222** FUGITIVES FROM JUSTICE

Trustees, removal from office, § 523

FULL FAITH AND CREDIT Judgments, § 292

FUNCTIONS OF TRUSTS Alimony and separate maintenance, § 234, 270.10 Annuity trusts, § 234 Avoidance, burdens of property management, § 231 Business, continuation of, § 571 Business life insurance trusts. § 253 Business trusts, § 247 Charitable trusts, § 245, 264.25, 361, 379 Court-created trusts, § 246 Creditors Payment, § 250 Security, § 250 Discretionary trusts, § 228, 264.10, 811 Employee benefit trusts, § 255 Estate and tax planning, § 231, 235, 264, 264.25 Family trusts, § 233, 235, 264, 264.20 Gifts of principal, § 233 Gift tax exclusion trusts, § 234 Insolvency, liquidation of assets, § 254 Insurance trusts Business, § 253 Personal, § 235, 244 Investment trusts, § 248 Irrevocable trusts, § 234 Liquidation of assets of insolvent, § 254 Living trusts, § 231, 235 Long-term irrevocable trusts, § 234

FUNCTIONS OF TRUSTS—Cont'd Management of property For married women, § 232 For settlor, § 231 For third persons, § 233, 235 Married women, § 232, 234 Miscellaneous family objectives, § 231, 235, 264, 264.20 Payment of creditors, § 250 Personal trusts, § 231, 244 Public trusts, § 246 Real estate, § 249 Investment and land trusts, § 248, 249, 270.30, 270.35 Operation and sale, § 249 Real estate investment trusts, § 248 Revocable trusts, § 233, 264.5 Security for creditors, § 250 Separation agreements, spouses, § 234 Statutory and court-created trusts, § 246 Support trusts, § 229, 268.15, 811 Taxation, minimizing, § 261, 287 Various functions, § 231, 255 Voting trusts, corporate stock, § 252 FUNDING REQUIREMENTS Employee benefit trusts, § 255, 270.20 Marital deduction trusts, § 275.10 **FUNDS** See Sinking Funds **FUNERAL EXPENSES** Beneficiary's, payment, § 164, 377, 811 Estate taxes, deductions, § 275, 275.15 Federal estate tax deductions, § 275.15 Grave marker or monument, § 377 Support, income payments, § 811 Totten trusts, death of donor, § 47 **FUNGIBLE GOODS**

Burden of proof, § 923 Subject-matter of trust, § 111

Index-188

FUNGIBLE GOODS—Cont'd Tracing trust funds, § 923 Burden of proof, § 923 Cash and commercial paper, § 924 **FUTURE COMPENSATION** Resignation of trustee, § 515 FUTURE CONTINGENCY Distributions, reserves withheld, § 814 Expenses, reserves, § 810 **FUTURE CORPORATION** Beneficiary of trust, § 163 Trust for unincorporated association, § 167 **FUTURE GOODS** Equitable liens, § 32 **FUTURE INTERESTS** See also Beneficiaries' Interests, this Index Accumulations of income, § 215, 217 Alienation, suspension of power, § 219 Beneficiaries Contingent interests, § 182 Disclaimer, written instrument, §171 Living trust, § 104 Vested interests, § 182 Beneficiary's interest, § 181, 182 Charitable trusts, § 343 Source of funds, § 367 Vesting of contingent interests, § 341 et seq Children and minors, gift taxes, § 279 Class gifts, time of closing, § 182 Federal estate tax, gross estate, § 273 Federal gift tax Annual exclusions, § 279, 279.5 Filing returns, § 279 Husband and wife, splitting gifts, § 281 Gifts, one charity to another at remote date, § 346 Gift taxes, § 277 Exclusions, § 279 Insurance trusts, § 242

FUTURE INTERESTS—Cont'd Inter vivos trusts, § 104 Perpetuities, § 213 Perpetuities, Rule against, application, § 213 Business trusts, § 247P Personal life insurance trusts, § 242 Personal property, perpetuities, § 213 Purchase money resulting trusts, § 454 Restrictive property rules Charitable trusts, § 341 et seq. Private trusts, § 213 et seq. State estate taxes, § 286 Subject-matter of trust, § 112, 113, 182 Suspension of power of alienation, § 219 Taxation, state Gift taxes, § 286 Inheritance or estate taxes, § 286 **FUTURE LEASES**

Statutes, **§ 787, 794** Validity, **§ 794**

FUTURE PERSONS Beneficiaries, § 163

FUTURE PROFITS Debt payable from identified fund, § 19 Subject-matter of trust, § 113

FUTURE REVOCATION Acceleration, § 1001

FUTURE TRUSTS

Charitable trusts, § **343**, Creation, § Creation, promises, § **202**, Gift by will to trustee under trust to be established, § Intent to create, § Proceeds from land, § Promises to create, § **202**, Statute of Frauds, satisfying, §

GAMBLING

Bona fide purchasers, consideration, § 887 GAMBLING—Cont'd Consideration, bona fide purchasers, § 887 Tracing trust funds, § 921 Insurance, § 925 Losses, § 921 **GAME REFUGES** Charitable trusts, § 379 GARDENS Charitable trusts Advancement of education. § 375 Governmental purposes, § 378 GARNISHMENT Banks and banking, setoff, § 21 Beneficiary's interest, § 193 Creditors Beneficiary, § 193 Trustee, § 146 Employee benefit funds, § 222, 255 Support obligations, § 224, 255 Failed spendthrift trusts, § 227 Husband and wife joint account, husband contributing all of funds, § 47 Joint bank accounts, § 47 Spendthrift trusts, § 227 Creditor's rights and remedies, § 227 Trustee process, § 38 Trust property, creditors of trustee, §146

GAS

See Oil and Gas

GENDER DISCRIMINATION Charitable trusts, public policy, § 361 Gifts, restrictions, § 211

GENERAL ASSEMBLY

See Legislature

GENERAL DEPOSITS

Meaning and effect, § 21

GENERAL INTENT

Charitable gifts, cy pres application, § 436

GENERAL POWER OF APPOINTMENT Generally, § 233

GENERAL POWERS

See also Powers of Appointment; Powers of Trustees Trustees, § 551 et seq

GENERATION SKIPPING TAX—FEDERAL Generally, § 271.15, 284, 284.30 Coordination with federal estate tax, § 284.25

Coordination with federal gift tax, § 284.25

GENERATION SKIPPING TRANSFERS

Generally, § 271.15 Analysis, § 284, 284.30 Modification of exempt trusts, § 284.50 Severance of exempt trusts, § 284.50

GENERATION SKIPPING TRANSFER TAX

Generally, § 10, 284 et seq. Direct gift to skip person, § 284.20 Distributions, taxable distribution, § 284.30 Effective date, § 284.50 Estate planning, § 264.20, 284.55 Exclusions, § 284.40 Exemptions, § 284.40, 284.45 Federal regulations, § 262 Filing, duties of trustee, § 265 Gift taxes, § 277, 284 Grantor annuity and income trust, § 264.10 Interest, § 284.10 Irrevocable trusts, § 234, 264.10 Insurance, § 235 Multiple skips, § 284.35 Rate, determination, § 284.45 Termination of taxable event, § 284.25 Transferor, gift taxes, § 284.15 Unified transfer tax system, § 271

GENEROSITY As charitable trust purpose, § 379 **GEORGIA** Generally, § 212 Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 626 Trustees compensation, § 975 GERMANIC LAW Origin of uses and trusts, § 2 **GERMANY** Transfer taxes, § 10 GIFTS Aged persons to beneficiaries, fair play rule, § 544 Alienation of property, duration of trust, § 218 Amendment of trust, gift over following termination, § 103 Assignments, partial assignment of chose, § 25 Attorney from client, § 544 Beneficiary's interest, § 188 Beneficiary to trustee Constructive trust, § 544 Interest of beneficiary, § 188 Bona fide purchasers, § 887 Charitable Contributions, generally, this index Charitable foundations, tax advantages, § 330 Class gifts, perpetuities, § 214 Confidential relationship, validity, § 544 Consideration, completion of gift, § 204 Constructive trusts, dealings between trustee and beneficiary, § 544 Creation of trust Transfer of property to trustee, § 142 Creation of trusts, § 204 Custodians, Uniform Gifts to Minors Act, § 15, 233, 264.10 Direct restraints on alienation, validity, § 220 Disposition of property, § 231

GIFTS—Cont'd Estate planning Charitable, § 245, 264.25 Lifetime, § 231, 235, 264.5, 264.15, 264.25, 277, 283 Testamentary, § 264.20 Uses of trusts, § 233, 235, 264.5, 264.25 Estate taxes, marital deduction, § 275.10 Federal estate tax Deductions, charitable, § 275.15 Gift transfers subject to, § 264.10, 264.20, 273.5, 273.20, 273.35, 273.40 Federal gift tax Deductions, § 280, 283 Exempt transfers, § 278 Includible gifts, § 278 Indirectly made, § 278 Future trust income, accumulations, § 217 Gender restrictions, § 211 Implied gift Beneficial interest, § 182 Imperative powers of appointment, default, § 116 Interest of trustee, § 141 Incomplete gift not a declaration of trust, § 202, 205 Incomplete gift of legal interest, § 46, 205 Incomplete gifts, § 205 Interest of beneficiary, § 188 Joint checking and savings accounts, creation, presumption, § 47 Joint tenancy, estate taxes, § 273.30 Legal interest, creation of trusts, § 205 Life tenant with, power of sale, § 27 Living trusts, comparison, § 231 Minors, Uniform Act, § 15 Nursing homes, undue influence. § 482 Parent and child, resulting trusts, § 460 Partial assignments, choses in action, § 25

GIFTS—Cont'd Presumption of gift, husband-payor placing title in wife's name, § 459 Property, valuation, § 277 Purchase Money Resulting Trusts, this index Refusal to accept, federal gift tax, § 278 Revocable trusts, reduction of tax liability, § 233 Spouses, presumptions, § 459 State gift taxes, § 286 Testamentary gifts to charity, statutes, § 291, 326 Trustee accepting, constructive trust, § 543(P) Trustees Acceptance of gift from one with whom trust business is conducted, § 543(P) Good faith, dealing with beneficiaries, § 544 Trustee's compensation, gift in lieu of. § 976 Types of property, valuation for federal gift tax purposes, § 277 Uniform Gifts to Minors Act, custodians, § 15, 233, 264.10 United States savings bonds, § 278 Valuation, estate taxes, § 274

GIFTS CAUSA MORTIS

Estate taxes, gross estate, § 273.5 Federal estate tax, § 273.5 Life estates, transfer within three years of death while retaining life estate, income taxes, § 273.10 Power of appointment, estate taxes, § 273.35

GIFT TAXES

Generally, § 277 et seq. Alimony trusts, § 270.10 Charitable contributions, deductions, § 283 Charitable lead trusts, § 264.25 Charitable trusts, § 264.25 Exemptions, § 361, 401

GIFT TAXES—Cont'd Conditionally revocable trusts, § 233 Deductions, charitable gifts, § 283 Disclaimers, § 278.5 Discretionary trusts, § 264.10 Donor retaining interest in property, § 278 Estate planning, § 277 et seq. Estate taxes, deductions, § 275.15 Exclusions, § 277, 279 Present and future interests, § 279 Qualifications, § 279.5 Exemptions. Tax Exemptions, this index Filing returns, § 277 Duties of trustee, § 265 Generation skipping transfers, § 284 Gift Taxes—State, this index Interest free loans, § 278 Irrevocable trusts, § 234, 264.10 Conversion, § 233 Joint tenancy, § 278 Life insurance trusts, § 264.15 Limitation of actions, § 276.7 Loans, § 278 Local law, application, § 263 Long term trusts, exclusion, § 234 Marital deduction, § 280 Nonresident alien, tax rate, § 271.5 Payment, § 277 Personal life insurance trusts, § 241 Power of appointment, § 282 Qualified disclaimer, § 278.5 Powers of appointment, § 278.5, 282 Rates, § 271.5 Remainders, this index Retained interest by donor, § 278 Retirement and pensions, § 264.7 Reversions, this index Revocable trusts, creation, § 264.5 Split gift provisions, § 277 Spouses, this index State taxes. Gift Taxes-State, this index Testamentary trusts, § 264.20 Unified credit, § 277 Unified transfer taxes, § 271

GIFT TAXES—STATE Generally, § 285, 286 Classes of donees, rates and exemptions, § 286 Classification of statutes, § 286 Common statutory features, § 286 Deductions and credits, § 286 Exclusion, § 286 Irrevocable trusts, § 234, 264.10, 286 Multistate trusts, § 300 Rates and exemptions, § 286 Statutes following federal law, § 286 GIFT TAX EXCLUSION TRUSTS Generally, § 234, 264.10 Federal gift tax, § 279, 279.5 GIFT TAX—FEDERAL Additions to tax, delinquent payment, § 277 Aliens, § 10, 277 Charitable gifts, § 283 Amount Annual exclusion, § 279 Credit against estate tax, prior law, § 271.5. 276 Annual exclusion Assignment of insurance, § 279 Estate planning, § 234, 264.10, 279, 279.5 Minors, gifts of future interests, § 279, 279.5 Nonqualifying future interests Discretionary trusts, § 264.10, 279 Gifts in trust, § 264.10, 279 Insurance trusts, § 235, 264.15, 279 Payments of insurance premiums, § 235, 264.15, 279 Trusts for minors, § 279.5 Present interests Assignment of insurance, § 279 Irrevocable trusts, § 264.10, 264.15, 279.5 Oualifying insurance trusts. § 235, 264.15, 279

GIFT TAX—FEDERAL—Cont'd Annual exclusion—Cont'd Present interests-Cont'd Qualifying trusts for minors, § 234, 264.10, 279, 279.5 Requirements Income interest, § 279, 279.5 Interest in trust principal, § 279, 279.5 Trust transfers, § 279, 279.5 Relation to marital deduction, § 280 Annuity trusts, § 234, 278 Antenuptial agreement, relinquishment of marital rights, § 278 Ascertainable interest, charitable gift, prior law, § 283 Assessments, limitation period, § 277 Bargain sales, § 264.25, 278 Basis of gift property, § 284 Generally, § 284 Beneficiary, § 284 Holding period, § 284 Included in gross estate, § 264.5, 271, 273.5, 273.20, 284 Incomplete gift, § 284 Increased by gift tax paid, § 284 Irrevocable trust, § 264.10, 284 Trustee as donee, § 284 Beneficiary, § 279 Partial disclaimer, § 171 Charitable deduction Limit on deductible amount, § 283 Requisite enjoyment, prior law, § 283 Severable interest, prior law, § 283 Tax-exempt donee, § 283 Trusts for private and charitable purposes, § 245, 264.25, 283 Charitable foundations, § 283, 330 Charitable gifts, § 245, 264.25, 283 Income interests, § 283 Outright, § 264.25, 283 Reducing taxable gifts, § 264.25 Remainder interests, § 283 Returns, § 277, 283 Two-vear charitable trust, prior law, § 264.25, 268.10

GIFT TAX—FEDERAL—Cont'd Charitable transfers, Tax Reform Act of 1969, § 283 Charitable trusts, § 245, 264.25, 270.5, 283 Tax exemption, § 283 Two-year charitable trusts, prior law, § 264.25 Community property Marital deduction, § 280 Transfers subject to tax, § 278 Completed gifts, § 264.10, 278 Computation of tax, § 277 Adjustment, gifts in prior years, § 277 Consent, husband and wife, § 281 Consideration or partial consideration for transfer, § 278 Valuation of gift, § 277, 278 Credit against estate tax, prior law, § 276, 277 Deductions Charitable gifts, § 264.25, 283 Charitable remainder annuity trust, § 283 Charitable remainder unitrusts, § 283 Guaranteed annuity interests for charity, **§ 283** Marital, § 280 Pooled income fund, charitable deduction, § 283 Specific exemption, prior law, § 277 Disclaimers, § 171, 278 Gift transfers. § 278 Power of appointment, § 282 Refusal of gift, § 278 Donee When liable for payment, § 277 Election, joint tenancy, real property, § 278 Estate and tax planning Generally, § 277 Annual exclusion, § 277, 279, 279.5, 280, 281 Charitable gifts, § 264.25, 283 Choice of gift property. § 234. 264.10, 264.20, 264.25, 277

GIFT TAX—FEDERAL—Cont'd Estate and tax planning-Cont'd Disclaimer or renunciation, § 170, 172, 282 Donor-retained interests or powers, § 278 Gift splitting, husband and wife, § 281 Gifts qualifying for exclusion, § 234, 264.10, 268.10, 279, 279.5 Gifts to minors, § 234, 264.10, 279, 279.5 Gift tax rates, § 277 Insurance trusts, § 235, 264.15, 279 Irrevocable gifts, § 234, 264.10, 264.15, 264.25, 268.10, 268.15, 277, 278 Joint tenancy, § 278 Marital deduction, § 280 Powers of appointment, § 264.20, 282 Selection of gift property, § 264.25, 277, 283 Short term trusts, § 234, 264.10, 268.10, 277 Tax basis, § 264.10, 268.25, 277 Tax cost, gifts to charity, § 264.25 Trustee's discretionary powers, § 233, 234, 264.10, 279 Unified credit, § 277 Exceptions, quarterly filing requirement, prior law, § 277 Exempt from tax Business transfers, § 278 Creation of certain joint tenancies, § 278 Employee benefit election, § 278 Transfer by minors, § 278 Transfers for consideration, § 278 Filing date, return, § 277 Future interests gifts, § 279 Annual exclusion Discretionary trusts, § 264.10, 279 Gifts in trust, § 264.10, 279, 279.5

GIFT TAX—FEDERAL—Cont'd Future interests gifts, § 279—Cont'd Annual exclusion—Cont'd Insurance trusts, § 235, 264.15, 279 Trusts for minors, § 264.10, 279, 279.5 Gifts, return required, § 279 Generation skipping transfers Federal tax notes, § 284, 284.30 Trusts, § 264.20, 284 et seq Gifts of Less than entire interest, § 278 Remainder or reversion, § 278 Gift splitting, donor and spouse, § 281 Consent, § 281 Joint and several liability, § 281 Returns, filing, § 281 Transfers to third parties, § 281 Transfer to spouse and third party, § 281 Ascertainable value, § 281 Husband and wife Annual exclusions, § 279, 281 Gift splitting, consent, § 281 Splitting gifts to third parties, § 281 Income interests, gifts, § 264.25, 279 Incomplete transfers, § 10, 264, 278 Indirect transfers subject to, § 278 Insurance Annual exclusions, § 235, 264.15, 279 Assignment, § 235, 264.15, 278 Trusts, § 235, 264.15, 279 Valuation, § 277 Interest, delinquent payment, § 277 Irrevocable trusts, § 234, 278 Annual exclusion, § 234, 264.10, 264.15, 277, 279.5 Charitable, § 245, 264.10, 264.25, 268.10 Insurance, § 235, 264.15, 279 Minors, § 264.10, 279, 279.5 Short term, § 234, 264.10, 268.10 Joint powers of appointment, § 282

GIFT TAX—FEDERAL—Cont'd Joint tenancy Bank accounts, § 278 Marital deduction, § 280 Personal property, § 278 Real estate, § 278 Termination, § 278 United States savings bonds, § 278 Liability for payment of tax Donee, § 277 Donor, § 277 Husband and wife, split gifts, § 281 Trustee as transferee, § 265, 277 Lien, failure to pay tax, § 277 Limited interest, transfer, § 278 Long-term irrevocable trusts, § 234, 278 Marital deduction Amount Effect of annual exclusion, § 280 Reduction by nonqualified assets, § 280 Nondeductible interests given spouse Not included in donor's gifts, § 280 Terminable interests, § 280 Qualified interests Joint property, § 280 Power of appointment trust, § 280 Specific portion of property, § 280 Unlimited power to invade trust corpus, § 280 Nonresident alien, § 10, 277 Charitable gift, § 283 Outright gifts to charity, § 264.25, 283 Partial consideration for transfer, § 278 Payment, § 277, 602 Due date, § 277 Failure to pay Additions and interest, § 277 Liens, § 277

GIFT TAX—FEDERAL—Cont'd Payment, § 277, 602—Cont'd Failure to pay-Cont'd Transferee liability, § 277 Liability Donee, § 277 Donor, § 277 Trustee as donee or transferee, § 277 Limitations on assessment, § 265, 277 Rates, § 277 Postnuptial property settlement agreement, § 278 Powers of appointment Date created, § 282 Definition, § 233, 264.20, 273.35, 282 Disclaimer, § 282 Estate planning, § 233, 264.20, 273.35, 282 Excepted administrative powers, § 282 Joint powers, § 282 Lapse as taxable release, § 282 Marital deduction, § 280 Prior law, § 282 Rates, § 277 Recent legislation § 277-and see Pocket Part Refusal of gift, disclaimer, § 278 Release of power of appointment as lapse, § 282 Limited power to withdraw, exception, § 264.20, 282 Prior law, § 282 Relinquishment of power as gift, § 278 Remainder interests, gifts, § 264.20, 264.25, 278, 279 Renunciation Power of appointment, § 282 Returns Computation of tax, § 277 Filing date, § 277 Filing requirements, § 277 Specific lifetime exemption, prior law, § 277

GIFT TAX—FEDERAL—Cont'd Returns-Cont'd Splitting gift, spouses, time for filing consent, § 281 Revocation power, relinquishment as gift, § 278, 1000 Severable interest, charitable deduction, prior law, § 283 Short term trusts, § 234, 264.10, 268.10 Specific lifetime exemption, prior law, § 271, 281 Split interest charitable trusts, § 264.25, 283 Split-interest gifts, charitable deduction, § 283 Splitting of gift, husband and wife, § 281 Tables for computing, § 277 Tax and estate planning, § 264.10, 264.15, 264.25, 277, 284.30 Third parties, transfers, gift splitting by donor and spouse, § 281 Transferee, liability for payment, § 277 Transfers not subject to tax Beneficiary election, qualified employee benefit trust, § 278 Business transactions, § 278 Certain disclaimers, § 278 Charitable, § 283 Discharge of support obligation, § 278 Exercise of special power of appointment, § 233, 264.20, 273.35, 282 Full consideration paid, § 278 Incomplete transfers Grantor powers, § 278 Revocable trusts, § 264.5, 278 Marital property settlement agreement, § 278 Release or lapse of certain powers of appointment, § 282 Transfer by minor, § 278 Transfers for consideration, § 278 Transfers subject to tax Bargain sales, § 264.25, 278 Completed trust transfer, § 278

GIFT TAX—FEDERAL—Cont'd Transfers subject to tax—Cont'd Creation of joint tenancy, § 278 Donor's powers subject to ascertainable standard, § 278 Effect of trustee's discretionary power, § 278 Exercise of general power, § 264.20, 282 Gift not subject to reserved power in donor, § 278 Gift of income, § 278, 279 Release or lapse of power, § 264.20, 282 Relinguishment of reserved interest or power, § 264.10, 278 Remainder interests, § 264.25, 278, 279 Reserved power incapable of valuation, § 278 Transfers for partial consideration, § 278 Trustee's discretionary powers subject to standard, § 278 Where donor's reserved power or interest limited, § 278 Trust corpus, discretionary payments, § 278 Undivided interest, § 278 Unified credit, estate and gift, § 271.5, 276, 277 Unified transfer tax, estate and gift, § 271.5, 277 Unpaid, deductible for federal estate tax purposes, § 275.15 Valuation of gift property, § 277 Insurance, § 264.15, 277 Limited and undivided interests, § 277, 278 Remainders and reversions, § 277, 278, 283 Subject to indebtedness, § 277 Trust corpus interest, § 277, 278, 283 Trust for private and charitable purposes, § 283 Trust income interest, § 277, 278, 283

GIFT TAX—FEDERAL—Cont'd Valuation of gift property, § 277 -Cont'd Where interest or power retained by donor, § 277 GOING CONCERN VALUE Valuation, estate taxes, § 274 **GOOD FAITH** Breach of trust Defenses, § 862, 863 Limitation of actions, § 955 Participation in, § 909 Third parties, limitation of actions, § 955 Corporate officers and directors, § 481.1 Corporate promoters, § 16 Disloyalty, good faith no defense, § 543 Equitable charge, § 31 Guardianship, § 13 Immunity clauses, duties of trustee, § 542 Receivership, § 14 Third parties, breach of trust, limitation of actions, § 955 Trustees, § 541, 544 Defenses, breach of trust, § 862, 863 Loyalty to beneficiaries, § 543 Willful default, § 542 **GOOD FAITH PURCHASER** See Bona Fide Purchasers **GOOD WILL**

Apportionment, principal and income, § 823 Leases, renewal, § 543(I)

GOVERNING LAW See also Conflict of Laws; International Estate Planning Accumulations, § 216 Charitable trusts, § 298, 322, 326 Mortmain statutes, § 326 Successors of settlor attacking, § 417 Tort liability, § 401

GOVERNING LAW—Cont'd Choice of law, § 294 Conflict of Laws, generally, this index Creation of trusts, local law, federal tax purposes, § 263 Federal taxation Code provisions, § 261, 263 Local law, effect, § 263 Illegality, trust purposes, § 211 Mortmain Charitable gifts, statutory restrictions, § 298, 326 State taxation, § 287 Statutory restrictions, § 326 Principal and income Allocation of receipts, § 816 State Business trusts, taxation, § 247S Choice of law, § 285, 287, 294 Federal taxation, § 263 State taxation, § 285, 287, 300 Suspension of power of alienation, § 219 Taxation Construction of trust interests, local law, § 263 Creation of trusts, state law, § 263, 300 Federal, § 300 Tort liability, charitable trustees, § 401 Totten trusts, creation, § 47, 293 Unincorporated associations as charitable trustees, § 328 Validity of trust, § 211, 291, 295, 296 GOVERNMENT Promotion, charitable purpose, § 361 As trustee, charitable trusts, § 328

GOVERNMENTAL AGENCIES

Charitable gifts, income tax deductions, **§ 264.25** Charitable trusts, **§ 378** Community purposes, **§ 378** Trustees, qualifications, **§ 328**

GOVERNMENTAL PURPOSES Statutes validating trusts for, § 378

GRANDCHILDREN

Adopted children, beneficial interest, inclusion, **§ 182** Beneficiaries Class beneficiaries, **§ 162** Construction of interest, **§ 182** Transfer of interest, **§ 188** Beneficiaries' interests, **§ 182** Gifts per stirpes or per capita, **§ 182** Sharing with children of decedent, **§ 182 69** Support, **§ 182** Class gifts, time of closing, **§ 182**

GRANDFATHER RIGHTS

Estate taxes, additional tax on excess retirement accumulations, § 276.5 Generation skipping transfer taxes, smaller exemptions, § 284.55

GRANDPARENTS AND GRANDCHILDREN

Adopted grandchildren, beneficiary status, § 182

Generation skipping transfer tax, exclusion, § 284.40

Power of appointment, perpetuities, § 213

GRANTOR RETAINED INTEREST TRUSTS

Annuity funds, § 264.10 Charitable lead trusts, income taxes, § 270.5 Estate taxes, § 276.7 Income funds, § 264.10 Income taxes Charitable lead trusts, § 270.5 Returns, § 265

GRAVESTONES

Charitable trusts, § 377

GROSS NEGLIGENCE

Trustee, effect of immunity clauses, § 542 Trustees, § 542 Willful default, § 542

Index-198

GROSS PERIOD

Restraints on alienation, § 219

GROUND RENTS

Security for mortgage, trust investment, § 676

GROUP INSURANCE

Assignments, federal estate tax, § 273.40

GUARANTEED ANNUITY INTEREST

Federal estate tax, charitable deduction, § 275.5 Federal gift tax, charitable deduction,

GUARANTY

§ 283

Conveyances, title to property, § 814 Co-trustee, good faith of associate, § 585 Deeds and conveyances, title to property, § 814 Frauds, Statute of, time of writing, § 83 Good faith, co-trustee, § 585 Trustee, transfer of trust property, § 512 Trustees Investments, § 542 Transfer of property, § 512

GUARDIAN AD LITEM

Generally, **§ 871, 1007** Incompetent beneficiaries, appointment, **§ 871**

GUARDIAN AND WARD

Beneficiary

Consent to investments, § 689
Disclaimer of trust interest, § 170
Distributions, payment to guardian, § 814

Breach of trust, third parties, § 901
Consent, barring of remedies, § 941
Custodians distinguished, § 13, 15
Distributions, payment to beneficiary's guardian, § 814
Federal gift tax, gift in trust for minor, § 15, 279

GUARDIAN AND WARD—Cont'd Fiduciary relationship, trustee and beneficiary compared, § 13 Good faith, dealing with beneficiaries, § 544 Intent of settlor, trust expression, creation of trust, § 45 Investment, beneficiary's consent, § 689 Joinder of parties, breach of trust, § 871 Judicial sales, buying at forced sale, § 543 Leases, taking renewal for self, loyalty, § 543(I) Leases, taking renewal or buying reversion for self, § 543(I) Living trusts, appointment affecting trust assets, § 231 Loyalty, § 13, 543 Constructive trusts, § 481 Renewal of lease for self, § 542(I) Loyalty, beneficiaries, § 543 Principal and income, costs of guardianships, § 809 Protection of assets, § 231 Sale forced by third parties, purchasing, § 543(C) Tax sales, constructive trusts, § 543(C) Third parties Breach of trust, § 901 Forced sale, purchasing, § 543(C)

GUARDIANS AD LITEM

Joinder of parties, breach of trust, § 871

GUARDIANSHIP

Distinguished from trust, **§ 13** Parties, actions regarding trusts, **§ 871, 1007**

HABENDUM

Deeds, interpreting intent to create trust, § 50

HABITS

Adherence, conditions, § 211

HABITUAL DRUNKARDS

Capacity of settlor, **§ 44** Capacity to be beneficiary, **§ 168** Removal of trustee, **§ 527** Spendthrift trusts, **§ 222**

HANDICAPPED PERSONS

See also Disabled Persons Beneficiary's remedy, barring defenses, § 941 et seq Charitable trusts Aiding, § 374 Home or hospital, § 374 Purposes, § 362 Victims, § 374 Fiduciary relationship, constructive trusts, § 481 Living trusts, functions, § 231 Living trusts, protection, § 231 Public trusts, § 246 Termination of trust, cessation of disability, § 996 Trustees Grounds for removal, § 527 Resignation, § 511

HANDWRITING

Statute of Frauds, signature or subscription, **§ 86**

HARASSMENT

Beneficiary, trustee litigation, removal of trustee, § 527

HARBORS

Defense, tax funds, charitable trusts, **§ 367**

HARBORS AND PORTS

Charitable trusts, governmental purposes, § 378

HASTENING ENJOYMENT

Court's powers, principal and income, § 815

HAWAII

Accounts and accounting, statutory regulation of accounts, § 974

HEALTH

Promotion, charitable purpose, § 374

HEALTH CARE AND

TREATMENT Charitable trusts, § 374 Purposes, § 368 Expenses and expenditures Generation skipping transfer tax Exclusion, § 284.40 Smaller exemptions, § 284.55 Gift taxes, exclusion, § 278 Hospitals, generally, this index Promotion, charitable purpose, § 361

HEALTH REGULATIONS

Liabilities of trustee, § 720 Repairs, § 804

HEIRS

Beneficiaries' interests, § 182
Class as beneficiary, § 162
Construction of beneficiaries' interests, § 182
Definition, § 182
Insurance, tracing trust funds, § 925
Resulting trust
Failure of express trust, § 468
Trust res excessive, § 469
Resulting trusts, § 469

HEREDITAMENTS

Beneficiary's interest, alienation, written instrument, § 190
Statute of Frauds Analysis of wording of American statutes, § 63
Transfer of beneficiary's interest, § 190

HEROES

Charitable trusts, monument to national hero or leader, § 377

HIDING

See Secrets and Secrecy

HIGHWAYS AND ROADS

Charitable trusts, **§ 378** Governmental trusts, community benefits, **§ 378**

HINDERING CREDITORS Fraud, § 211

Index-200

HIRE

Standing, § 869

HISTORY

Charitable trusts, § **321, 322** Perpetuities, rule against, § **214** Trust protectors, § **137**

HISTORY OF TRUSTS

Development of trust law by statute, § 7 Early American law, § 6 Early common law trusts, § 3 Early purposes, § 2 Early unenforceability, § 3 Enforcement by chancery, § 3 Outlined, § 2, 6 Rule against Perpetuities, § 213, 214

HOLDER IN DUE COURSE

Bona fide purchaser rule distinguished, § 883
Constructive trusts, negotiable instruments, § 476
Negotiable instruments, title to property, § 881

HOLDING COMPANIES

Business trusts distinguished, § 292

HOME

Beneficiary to occupy, § 583 Federal estate tax, gross estate, § 273

HOMES FOR AGED

See also Retirement Home Charitable institution, § 361 Charitable trusts Establishment, § 374 Relatives of settlor, preference, § 365 Property tax exemption, § 400

HOMESTEAD

Beneficiary's interest, § 187
Creation, implied powers, § 551
Exemptions, contract and trust distinctions, § 17
Fraudulent conveyances, exemptions, § 211
Interest of trustee, § 146
Tracing trust funds, § 923

HOMESTEAD—Cont'd

Transfer to trust for benefit of another, exemption, § 187
Trust deeds against, § 29
Trustee purchasing from tax deed holder, § 543(C)
Whimsical or irrational trusts, § 379

HOMICIDE

Acquiring property by, constructive trusts, § 478 Constructive trusts Slayer statutes, § 478 Title to property, limitation of actions, breach of trust, § 953 Constructive trusts, acquisition of property, § 478 Accomplices and accessories, § 478 Limitation of actions, § 953 Insurance proceeds, § 478 Tenancy by entireties and joint tenancies, constructive trust of property, § 478

HONESTY

Charitable trustees, § **397** Charitable trusts, removal from office, § **398** Duties of trustee, skill and care, § **541, 612** Mistake, damages, compound interest, § **863**

HONORARY TRUSTS

Animals as beneficiaries, **§ 165** Definitions, **§ 162, 166** Duration, **§ 218** Duration of, **§ 166, 218** Judicial attitude toward, **§ 166** Theory of arguments, for and against, **§ 166**

HOPE

Precatory words, trust creation, § 48

HOSPITALS

Charitable immunity from tort liability, **§ 401** Charitable trusts, **§ 374** Beneficiaries, **§ 363** HOSPITALS—Cont'd Charitable trusts, § 374-Cont'd Private hospitals excluded, § 364 Profit making, § 364 Promoting health, § 374 Tax exemptions, § 400 Tax exemptions, charitable institutions, § 401 Uniform Management of Institutional Funds Act, § 396 HOSTILITY Removal of trustee, § 527 Resignation of trustee, § 515 Trustees Grounds for removal, § 527 Resignation, § 515 Trustee toward beneficiary, § 527 When ground for removal of trustee, § 527 HOTELS

Fire protection facilities, tort liability, § 732 Management, implied power to mortgage, § 760

HOUSING

Beneficiaries, use of property, § 208 Charitable trusts Advancement of education, § 375 Improvements in conditions, § 374 Promoting health, § 374 Tax exemptions, § 401 Estate taxes, gross estate, § 273 Tax exemptions, charitable trusts, § 401

HUDSON RIVER

Palisades, development, charitable purpose, § 368

HUMANITARIAN

Synonym for charitable, § 370

HUNTING

Promotion, validity of trust for, § 379

HUSBAND AND WIFE

Active trust Becoming passive, **§ 206** Creation, early law, **§ 207**

HUSBAND AND WIFE—Cont'd Alimony Claims, spendthrift trust, § 224 Purpose of trust, § 234 Trust, federal income taxation, § 270.10 Antenuptial contracts Constructive trust, fraud on spouse, § 475 Federal estate tax, transfers for consideration, § 273.45 Federal gift tax, § 278 Statute of Frauds, § 62 Time of writing, § 83 Validity, § 211 Antenuptial trust, illegality, § 211 Beneficiaries Possible future wife, § 163, 182 Qualifications, § 161 Community property, status, § 26 Federal estate tax, § 273, 273.10, 273.30, 275.10 Confidential relationship, § 482 Constructive trusts Limitation of actions, § 953 Oral promise to convey, § 496 Private advantage, § 487 Creation of trust, consideration, § 204 Curtesy Beneficiary's right in rem, § 183 Evasion, early law, § 2 Federal estate tax, gross estate, § 273 Interest of trustee, § 146 Nature of beneficiary's interest, § 185 Widower's interest, § 186 Federal estate tax Claims, property settlement agreements, § 275.15 Joint property, § 273.30 Marital deduction, § 275.10 Federal gift tax Consent to gifts, § 281 Exclusions, § 279, 281 Marital deduction, § 280 Splitting gifts to third parties, § 281

HUSBAND AND WIFE—Cont'd Federal income tax Alimony and similar payments, § 270.10 Joint return, decedent and surviving spouse, § 272 Fraud, illegality of trust, § 211 Inheritance taxes, transfers to avoid inheritance tax, resulting trust, § 457 Joint tenancies Federal estate tax, § 273.30 Federal gift tax, § 278 Joint bank account, husband contributing all of funds, garnishment, § 47 State taxes, § 286 Joint wills, oral promise to hold for another, constructive trust, § 499 Living trusts, functions, § 231 Loan of trust funds to wife, loyalty, § 543(J) Marital deduction Federal estate tax, § 275.15 Federal gift tax, § 277, 280 State death taxes, § 286 Married women's trusts, § 232 Meretricious relationship Public policy, § 211 Resulting trust Man as payor, woman-grantee, § 459 Purchase money, § 463 Woman as payor and man as grantee, § 460 One spouse as trustee for other, community property, § 26 Possession of realty, bona fide purchaser rule, duty to inquire, § 896 Prenuptial trust, illegality, § 211 Presumption, gift, husband-payor places title in wife, § 459 Property settlement agreement Federal estate tax, court decree, § 273.45 Federal gift tax, § 270.10, 278

HUSBAND AND WIFE—Cont'd Resulting trusts, husband—payor and wife—grantee, § 459 Wife as payor, husband as grantee, **§ 460** Revocable contingent insurance trusts, § 235, 264.15 Revocable trusts, spouse's rights, § 211, 233 Separation agreement, removal of trustee, consent of party, § 519 Separation settlement, use of trust, § 234 Spendthrift trusts Created for self, § 223 Support obligations, § 224 Spouses, generally, this index Statutes affecting property rights, § 7, 211, 233 Statutory rights, fraud, illegal trusts, § 211 Subject-matter of trust, community property, § 112 Support Spendthrift trust, creditor's claims against beneficiary, § 224 Subsequent wife, § 811 Surviving spouse Annuity trust, distribution of principal, § 813 Blended trust, § 230 Construction of beneficial interest, § 182 Election to take against will, acceleration of remainder interest, § 172 Marital deduction, fractional part of estate, § 275.10, 280 Rights, revocable trusts, § 211, 233 Trustee's interest in property, spousal claims, § 146 **IDAHO**

Accounts and accounting, statutory regulation of accounts, § 974

IDENTIFICATION

Beneficiary Ambiguity, **§ 161** Distributions, **§ 814** IDENTIFICATION—Cont'd Beneficiary—Cont'd Necessity, § 161
Charitable trust Beneficiaries, § 362
Lack, donee or trustee, cy pres, § 440
Federal income tax, trust number, § 265
Fund, debt payable from identified fund, § 19
Tracing trust funds, § 921
Trustee, § 121
Trust property, § 1, 111

IDENTIFY AND IDENTIFICATION Beneficiaries, § 161 et seq., 182 Rule against Perpetuities, § 213 Trustee, § 121 Trust funds, tracing, § 921 Trust intent, § 45 Trust property, § 111 Condition to tracing, remedy of beneficiary, § 866

IDIOTS See Disabled Persons, this Index **IGNORANCE** Beneficiary, creation of trust, § 169 Resulting trusts, husband as payor and wife as grantee, § 459 Trustee, creation of trust, § 150 Trustees, loyalty to beneficiaries, § 543 ILLEGALITY Generally, § 211 et seq Accumulations of income, § 215, 217.352 Charitable trusts, selection of substitute scheme, § 442 Conflict of laws, § 211, 291 Consideration, bona fide purchaser rule, § 887 Creation of trusts Illegal purpose, § 211, 212 Restrictive property rules, § 213, 220 Spendthrift trusts, § 222, 224

ILLEGALITY—Cont'd Creation of trusts-Cont'd Statute of Frauds, § 63 Statute of Uses, § 206 Wills Acts, § 101, 102 Duration of trust, § 218, 351 Limited interest, § 213, 214 Acceleration of remainder, § 172 Partial, § 211, 213 Public corporation as trustee, § 328 Purpose of trust Change in validity of purpose, § 211 Clauses affecting donee's personal habits or affairs, § 211 Clauses against public policy stricken, § 211 Conflict of laws, § 211, 291 Divorce, encouragement, § 211 Evasion or violation of statutes, § 211 Fraud Illusory trusts, § 211, 233 Trust created in anticipation of marriage, § 211 Fraud on creditors, § 211 Compensation, forfeiture, § 980 Construction, § 211 Constructive trusts, § 475 Effect, § 211 Innocent successors of grantor, § 211 No harm accomplished, § 211 Parties not in pari delictu, § 211 Presumptions, § 211 Reconveyance to settlor, § 211 Relative standing of parties, § 211 Rights of third party beneficiaries, § 211 Settlor raising fraud, § 211 Settlor seeking return of property, § 211 Uniform Fraudulent Conveyances Act, § 211 Fraud on dowress, constructive trust. § 475

ILLEGALITY—Cont'd Purpose of trust-Cont'd Fraud on spouse, § 211 Statutes, § 211, 233 Totten trusts, § 47, 211 Insurance for prohibited class, § 211 Invalid provisions, separability, § 211 Marriage, clauses affecting, § 211 Against public policy, § 211 Rule against Perpetuities, § 213, 214, 342, 348 Trust terminated, § 1002 Restraints on alienation, § 219, 220, 349, 350 Resulting trusts Enforcement, balancing equities, § 463 Excessive trust res, § 469 Failure of express trust, § 468 Purchase-money, § 463 Rule against Perpetuities, § 213, 214, 342, 348 Temporary trust, acceleration of remainder, § 172 Trusts, conflict of laws, § 211, 291 Ultra vires contracts of trustee, § 713

ILLEGAL PURPOSES

Crimes and Offenses, generally, this index

ILLEGITIMATE CHILDREN

As beneficiaries, § 182 Construction of beneficiary's interest, § 182 Resulting trusts, presumption of gift, § 460

ILLINOIS

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 629**

ILLNESS

Charitable trusts Beneficiaries, § 363 Municipal trustee, § 328 Mutual benefit groups, § 367 Promotion of health, § 374

ILLNESS—Cont'd

Charitable trusts—Cont'd Relieving illness, **§ 374** Confidential relationship, constructive trust, **§ 482** Removal of trustee, **§ 525** Trustee, fair play in dealing with beneficiary, **§ 544**

ILLUSORY APPOINTMENT

Imperative powers of appointment, exercise, **§ 116**

ILLUSORY TRUSTS

Generally, § 211, 231 Agency rather than trust, § 15, 104 Benefits retained by settlor, lack of beneficiary, § 103, 104, 161, 211 Fraud on spouse, § 211, 233 Living trusts, when deemed, § 104, 211, 233 No active duties in trustee, § 206 Retention of controls or interests by settlor, § 103, 104, 161, 211 Surviving spouse, statutory share, § 233

Totten trusts, § 47, 211, 233

IMBECILES

See Disabled Persons, this Index

IMMUNITY

Charitable trustees, tort liability, **§ 401**

Clauses, liability of trustee, § 542 Effect on trustee's standard of care, § 542

Limitations on effectiveness, § 542 Contracts, personal liability excluded, § 714

Intangible personal property, state taxation, § 287, 300

Liability for investments, § 680

Privileges and Immunities, generally, this index

Tort liability

Statutes, § 735

- Trustees for charity and charitable corporations, § 401
- Trustee's liability, validity of clause, § 542

IMPAIRING OBLIGATION OF CONTRACTS Charitable trusts, § 397

IMPAIRMENT OF OBLIGATION OF CONTRACT

Charitable trusts, legislation, § 395

IMPARTIALITY

Duty of trustee Income and remainder beneficiaries, § 543, 612 Trustee's duty, principal and income questions, § 816

IMPERATIVE POWERS

Charitable trustees, § Current statutes, § Incidents of, § Nonassignability, § Remedies of beneficiaries, § Sale, § **741 et seq** Subject-matter of trust, special powers of appointment, § Trustees, § Orders of court enforcing, §

IMPERFECT GIFT Legal interest, no declaration of trust,

§ 46

IMPERTINENCE

Trustees, grounds for removal, § 527

IMPLIED ACCEPTANCE Beneficiary, § 171

By trustee, § 150

IMPLIED CONTRACTS

Breach of trust, election of remedies, **§ 946** Personal liability of trustee, **§ 712**

IMPLIED DISCLAIMER

Beneficiaries, § 170

IMPLIED GIFTS

Construction of beneficiary's interest, § 182 Imperative powers of appointment, default, § 116

Interest of trustee, § 141

IMPLIED INTENT

Active trust, trustee's duties, § 207 Charitable trusts, to benefit poor, § 373 Creation of trust, § 45 Spendthrift trusts, creation, § 225

IMPLIED NOTICE Bona fide purchasers, § 891

IMPLIED POWERS

Generally, § 551 et seq Beneficiaries, modification of trust, § 992 Trustees Borrow and encumber, management and control, § 760 Borrow and give security, § 757, 758 Distributions of principal, § 182, 812 Examples, § 551 Grant option to purchase, power of sale, § 793 Income distributions, § 811 Investments, nonlegals, § 681 Leases, § 784, 785 Mining, oil and gas leases, § 795 Mortgages, trust property, § 757, 760 Management and control, § 760 Purchase-money, § 761 Raising particular sum or charge, § 759 Sale, § 551, 741 Charitable trust, § 392 Construction, § 741 Selection of trustee, § 121 Trustees, charitable trusts, § 391

IMPLIED RATIFICATION

Breach of trust, § 942

IMPLIED REVERTER Settlor or successors, charitable trusts, § 418

IMPLIED TRUSTS See also Constructive Trusts: Resulting Trusts, this Index

IMPLIED TRUSTS—Cont'd Constructive Trusts, generally, this index Defined, § 1 Enforcement, Statute of Limitations, § 950 Excepted from execution as passive trusts, § 206 Joint bank accounts, § 47 Land, rights of creditors, § 146 Local church property, for general church, § 398 Meaning, § 451 Power of beneficiary, alienation of interest, § 188 Resulting Trusts, generally, this index Terminology and classification, §1

IMPLIED WARRANTY

Assignments, choses in action, § 25 Trustee, contracts, § 724

IMPOSSIBILITY OF PERFORMANCE Acceleration of remainder interests, §172 Charitable trusts, § 394, 438 Cy pres, § 438 Cy pres, application, § 431, 435, 438 Inadequate charitable fund, § 438 Modification power given trustees, § 435 Resulting trusts, § 418 Termination, § 400 Termination, private trusts, § 1002 Termination of trust, § 1002

Trust purpose, resulting trust, failure of express trust, § 468

IMPRACTICABILITY

Charitable trusts, cy pres, § 439 Charitable trusts, cy pres application, § 431, 435, 439 Private trusts, termination, § 1002

IMPROVEMENT BONDS Equitable lien, § 32

IMPROVEMENTS Bona fide purchaser making partial payments, § 890 Burden of costs, principal or income, § 805 Charitable trusts, § 396 Tax assessments, § 401 Charitable trusts, source of funds, § 367 Costs, source of payment, § 805 Creditors, quasi-contractual recovery, § 725 Equitable lien for, § 923 Estate taxes, deductions, § 275.15 Federal estate tax, deductions, § 275.15 Georgia, beneficiaries, § 212 Gifts, resulting trusts, § 205 Laches, breach of trust, evidence, § 949 Leases, § 798 Leases, duties, § 797, 798 Liens, § 602 Mortgage of property, § 753 Power of court, § 762 Statutory provisions, § 763 Part performance, Statute of Frauds, § 92 Preservation, § 582 Real estate, valid trust purpose, Georgia law, § 212 Resulting trusts, § 455 Judgments and decrees, § 465 Source of payment Income account, amortization, § 805 Principal, reimbursement from amortization fund, § 805 Temporary or permanent, test, § 805 Third parties, breach of trust, remedies of beneficiaries, § 868 Tracing trust funds Identification, § 923 **IMPROVIDENCE**

Cause for removal of trustee, § 527 Creation of trust, termination, § 997, 1007 IMPROVIDENCE—Cont'd Settlor As ground for setting aside trust, § 997 **IMPUTED NOTICE** Bona fide purchasers, § 891 **INACTIVE CO-TRUSTEES** Liabilities of, § 584 **INALIENABLE PROPERTY INTERESTS** Subject-matter of trust, § 114 **INANIMATE OBJECTS** Trusts to maintain, § 165 INCIDENTAL BENEFICIARY Construction of interests, § 181, 182 Defined. § 181 Not trust beneficiary, § 161, 182 **INCIDENTAL BENEFITS** Qualified employee benefit plan, § 255, 270.20 Trustee obtaining, disloyalty, § 543(Q) INCOME See also Payments of Income; Principal and Income, this Index Definition, earnings and products of the trust property, § 816 Trusts, receipt and disposition, implied power to lease, § 784 **INCOME AVERAGING** Employee benefit plans, lump sum distribution, § 270.20 **INCOME BENEFICIARY** See Beneficiaries: Beneficiaries' Interests **INCOME COMMISSIONS** Statutes, trustee compensation, § 975 **INCOME TAXES** Generally, § 261 et seq. Alimony trusts, § 270.10 Annuities, distributions, § 273.25 Associations, § 270.40 Beneficiaries, § 268 et seq.

INCOME TAXES—Cont'd Business trusts, § 247 Life insurance, § 253 Carryovers Basis property, § 271.10 Termination of trusts, § 269 Charitable foundations, § 330 Charitable trusts, § 264.25, 270.5 Accounts and accounting, § 395 Duties of trustees, § 394 Exemptions, § 245, 361, 401 Investments, § 395 Modification, § 396 Records, § 394 Remainders, § 264.25 Common trust funds, § 270.25 Community trusts, § 329 Complex trusts, § 267 Excess distributions, § 267.5 Conditionally revocable trusts, § 233 Credits, § 266 Deductions, this index Discretionary trusts, § 264.10 Employee benefit trusts, § 255, 270.20 Distributions, § 273.25 Estate planning, § 231, 264 Estate taxes, deductions, § 275.15 Exemptions. Tax Exemptions, this index Expenses, allocation, § 266 Family partnership, § 268.15 Federal regulations, § 262 Filing, § 265 Foreign Trusts, this index Grantor Retained Interest Trusts, this index Investment trusts, § 248, 270.30 Irrevocable Trusts, this index Land trusts, § 249 Life estates and remainders, § 269.5 Transfer in trust with retained life estate, § 273.10 Life insurance trusts, § 264.15 Living trusts, § 231 Local law, application, § 263

INCOME TAXES—Cont'd Modification of trust, property of trust subject to power to modify, § 273.20 Mutual funds, § 248, 270.30 Personal life insurance trusts. § 241 Rates and Charges, this index Real estate investment trusts, § 248, 270.35 Remainders, § 269.5 Charitable trusts, § 264.25 Retirement and pensions, § 264.7 Benefits, § 264.7, 270.20 Revocable trusts, § 231, 233, 264.5 Separate maintenance trusts, § 270.10 Short term trusts, § 268.10 Simple Trusts, this index Special trusts, § 270 Spendthrift trusts, exceptions, § 224 State Taxes, this index Subchapter S stock trusts, § 270.45 Tax Exemptions, this index Testamentary trusts, § 264.20 Transfers in trust taking effect at death, § 273.15 Trustees return, § 268.25 Trust indenture, § 250 Undistributed net income, § 267.5 Uniform Transfers to Minors Act, § 231 **INCOME TAX-FEDERAL** Accumulation distribution, § 267, 267.5, 268.5 Complex trust, treatment by beneficiary, § 267.5, 268.5 Computation, § 267.5 Definition, § 267.5 Discretionary trusts, § 264.10, 267.5 Multiple trusts, § 267.5 Special rule, trust property sold within two years, § 267.5 Throwback rule, complex trusts, § 267.5 Treatment by beneficiary, § 267.5 Trust, pre-1969 exclusions, § 267.5 Accumulations Charitable trust, exemption, § 352

INCOME TAX-FEDERAL—Cont'd Accumulations—Cont'd Unreasonable accumulations, charitable trust, § 270.5 Additions to tax Failure to file return or pay tax, § 265 Adjustments, basis of trust property, § 264.5, 268.25, 277 Administration expenses of trust Allowable deductions, § 268.25 Deduction for estate income tax purposes, § 268.25, 275.15 Administrative powers Exercisable by grantor in fiduciary capacity, § 268.15 Retention by grantor, tax dangers, § 264.10, 268.15 Selection of trustee, § 264.10, 268.15 Trustee's, § 264.10, 264.20, 268.15 Advantages, short term or reversionary trusts, § 234, 264.10, 268.10 Adverse party, grantor trusts, § 268.15 Aliens Beneficiaries, tax return, § 10, 265 Alimony and separate maintenance trusts Deductibility of payments from trust, § 270.10 Includibility in wife's gross income, § 270.10 Payments Lump sum, § 270.10 Periodic, § 270.10 Property settlement, § 270.10 Support of minor children, § 270.10 From § 71 trust, § 270.10 From § 682 trust, § 270.10 Prior law, § 270.10 Allocation Capital gains, § 266, 267, 268.25, 269 Code requirements, § 266, 267, 268.25, 269

INCOME TAX-FEDERAL—Cont'd Allocation-Cont'd Deductions, expenses and credits Among beneficiaries, § 266, 267, 268.5, 269 Between trust and beneficiaries, § 266, 267, 268.25, 269 Extraordinary dividends, § 266, 267, 268.25, 269 Income among beneficiaries, § 266, 267, 268.5, 269 Income between trust and beneficiaries, § 267, 268.25 Local law, § 266, 267, 268.25, 269 Trust terms, § 266, 267, 268.25, 269 Annuity trusts, § 234, 264.25, 267, 268.5 Charitable remainder, § 264.25, 270.5 Appeals, court decisions, § 262 Apportionment, income and deductions, § 269 Depreciation deduction, § 269 Stock dividends, § 845 Wasting assets, principal and income, § 827 Appreciated property, charitable gifts, § 264.25 Assessment Civil and criminal penalties, trustee's failure to pay, § 265 Limitations period Personal liability of trustee for payment, § 265 Transferee liability of trustee for payment, § 265 Associations, trusts taxable as associations, § 270.40 Basis of trust property Adjustments, § 264.5, 268.25, 277 Carryover basis, prior law, § 271.10 Charitable gifts Sale at cost basis, § 264.25 Transfers, § 264.5, 264.10, 268.25, 271, 271.10, 277 Effect on depreciation, § 268.25 Gifts in trust, § 264.5, 264.10, 277

INCOME TAX-FEDERAL—Cont'd Basis of trust property-Cont'd Property included in gross estate, § 264.20, 271, 284 Revocable trust, § 264.5, 268.25 Sale of trust interest by beneficiary, § 268.5 Stepped-up basis at death, § 264.5, 271, 271.10 Trustee, § 268.25, 277 Beneficiary Alimony and separate maintenance trust, § 270.10 Complex trust, § 267, 267.5, 268.5 Disclaimer, § 268.5, 271, 278 Employee benefit trust distributions, § 270.20 Foreign trust, § 10 Real estate investment trust, § 270.35 Shareholder, investment trust, § 270.30 Short term trust, § 268.10 Simple trust, § 266, 268.5 Substantial owner, § 268.20 Business trusts, § 270.40 Capital gains and losses Allocation To charity, § 267, 268.5 Corpus, § 266, 267, 268.25, 269 Between trust and beneficiaries, § 266, 267, 268.5, 268.25 Bargain sale to charity, § 264.25 Common trust funds, § 270.25 Complex trust, § 267, 268.25 Allocation, § 267, 269 Distributable net income, § 266, 267, 269 Distributed by trustee, § 266, 267, 268.25, 269 Investment trusts, § 248, 270.30, 858 Long term, deduction, § 268.25, 269 Payments, employees benefit trusts, § 270.20 Property distribution, § 267 Real estate investment trusts. § 270.35

INCOME TAX-FEDERAL—Cont'd Capital gains and losses-Cont'd Reversionary or short term trust, § 268.10 Short term trusts, § 268.15 Simple trust, § 266 Taxable to trust, § 268.25 Termination of trust, § 269 When taxable to beneficiaries, § 268.5 Carryover deductions, trust termination, § 269 Casualty losses, deduction, § 268.25 Charitable contributions, deductions, § 264.25, 268.25 Charitable foundations, § 264.25, 270.5, 330 Congressional investigations, § 270.5 Gifts to, deductibility, § 264.25 Tax exemption, § 264.25, 270.5, 330 Charitable gifts Appreciated property, § 264.25 Basis Appreciated property, § 264.25 Bargain sales, § 264.25 Charitable trust or foundation, § 264.25 Complex trust, § 267, 268.25 Allocation among classes of income, § 268.5, 268.25 Distributable net income, § 267, 268.5, 268.25 No limitation on amount, § 267, 268.25 Deduction Grantor of trust, deduction, § 264.25 Limitation on deductible amount, § 264.25 Property, deductible amount, § 264.25 Qualified charity, § 264.25 To trust, § 267, 268.25 Trust interest, § 264.25 Estate and tax planning, § 245, 264.20, 264.25, 270.5 Income interest, § 264.25

INCOME TAX-FEDERAL—Cont'd Charitable gifts-Cont'd Lead trusts, § 245, 264.25 Lifetime, § 245, 264.25 Outright, § 264.25 Remainder interest, § 264.25 Remainder trusts, § 245, 264.25 Split interest trusts, § 245, 264.25 Types, § 264.25 Undivided interest, § 264.25 When grantor taxable on income, § 264.25 Charitable lead trusts, § 264.25 Charitable remainder annuity trusts and unitrusts, § 264.25, 270.5 Charitable trusts, § 245, 264.25, 270.5 Gifts to, § 264.25 Loss of exemption, § 270.5 Prohibited transactions, § 264.25, 270.5 Tax exemption, § 264.25, 270.5, 400 Loss of, § 270.5 Securing, § 270.5 Unrelated business income, § 264.25, 270.5 When gift to deductible, § 264.25, 270.5 Children, trusts for minors, § 234, 264.10 Statutory custodial gifts, § 15, 264.10 Support payments, § 264.10, 268.15, 268.20 Classes of beneficiaries, § 264.10, 267 Complex trusts, § 267, 268.5 Classes of income Complex trusts, § 267, 268.5 Simple trusts, **§ 266, 268.5** Commissioner of Internal Revenue, § 262 Common trust fund Federal regulation, § 270.25 Investments, § 270.25, 677 Participating trusts, § 270.25 Returns, § 270.25 Tax exemption, § 270.25

INCOME TAX-FEDERAL—Cont'd Community trust, § 270.5, 329 Complex trusts Accumulated income, § 267, 267.5, 268.25 Accumulation distributions, § 267, 267.5, 268.5 Definition, § 267, 267.5 Throwback rule, § 267.5 Allocation Capital gains, § 267, 268.25, 269 Deductions and credits among beneficiaries, § 267, 268.5, 268.25, 269 Income among beneficiaries, § 267, 268.5, 269 Income between trust and beneficiaries, § 267, 268.25 Capital gains, § 267, 268.25, 269 Charitable gifts by, § 267, 268.25 Allocation among classes of income, § 268.5, 268.25 Conduit rule, § 267 Corpus distributions, § 267, 268.5 65-day rule, § 267 Deductions and credits, § 267, 268.5, 268.25, 269 Definition, § 266, 267 Discretionary trusts as, § 264.10, 267, 267.5 Distributable net income, § 267, 268.25, 269 Distributions deduction Accumulated income or corpus, § 267 Current income, § 267, 268.25 65-day rule, § 267 Distributable net income limitation, § 267 Property distributed in kind, § 267 Specific gift exclusion, § 267 Tier system, § 267 Excess distributions, § 267, 267.5 Income Capital gains, § 267, 268.25 Gross income, § 267, 268.25 Tax-exempt, § 267, 268.25

INCOME TAX-FEDERAL—Cont'd Complex trusts-Cont'd Income—Cont'd Types of income, § 264.10, 267, 268.25 Personal exemption, § 267, 268.25 Separate share rule, § 267 Conditionally revocable trust, § 233 Conduit rule, trust income, § 266, 267 Congressional investigations, charitable foundations and trusts, § 270.5 Corporate distributions, treatment, § 266, 267, 268.25, 269 Corporation Charitable organization as, § 264.25 Tests, trusts taxable as associations, § 270.40 Corpus distributions Capital gains, § 267, 268.5, 268.25 Complex trust, § 267, 268.5 Discretionary trust, § 264.10, 267 Income to beneficiary Capital gains, § 267, 268.5, 268.25 Extent of distributable net income, § 267, 268.5 Property distributed in kind, § 267 Separate share rule, § 267, 268.5 Simple trust, § 266 Specific property, § 267 When treated as income, § 267, 267.5 Credits against trust's tax Allocation Between trust and beneficiaries, § 268.25, 269 Dividends received, § 268.25 Foreign taxes paid, § 268.25 Tax-exempt interest, § 268.25 Criminal penalties Failure of trustee to pay tax, § 265 Failure to file return, § 265 Current income Complex trust, § 267, 268.25 When taxed to trust. § 268.25

INCOME TAX-FEDERAL—Cont'd Custodial gifts for minors, § 15, 264.10 Declaration of estimated tax, § 265, 268.5, 272 Deductions Administration expenses of trust Allowable deductions, § 268.25 Estate income tax purposes, § 275.15 Alimony payments from trust, § 270.10 Allocation and apportionment Among beneficiaries, § 266, 267, 268.5, 268.25, 269 Between trust and beneficiaries, § 266, 267, 268.25 Capital gains, long term, § 269 Capital losses, § 268.25 Carry-overs on trust termination, § 269 Casualty losses, § 268.25 Charitable gifts, § 268.25 Grantor of trust, § 264.25 Limitation on donor's deduction, § 264.25 Property, § 264.25 By trust, § 268.25 Trust interests, § 264.25 When denied donor or grantor, § 264.25 Charitable lead trusts, § 264.25 Charitable remainder trusts, § 245, 264.25 Charitable trusts, when gift deductible, § 264.25, 270.5 Commissions, § 268.25 Common trust funds, § 270.25 Depletion, § 268.25 Depreciation, § 268.25, 269 Distributable net income rule, § 266, 267, 268.25 Distributions deduction Complex trusts, § 267, 268.25 Simple trusts, § 266, 268.25 Distributions to beneficiaries. § 266, 267, 268.25 Excess deductions, termination of trust, § 269

INCOME TAX-FEDERAL—Cont'd Deductions—Cont'd Expenses, trust, § 266, 267, 268.25, 269 Attributable to tax-exempt income, § 268.25 Code requirements, § 268.25 Time deductible, § 268.25 Income or corpus allocations Code provisions, § 266, 267, 268.25, 269 Discretionary allocations by trustee, § 266, 267, 268.25 Local law, § 266, 267, 268.25, 269 Trust terms, § 266, 267, 268.25 Net operating losses, § 268.25 Net probate income, § 817 Personal exemption of trust, § 267, 268.25 Pooled income fund, § 245, 264.25 Rental, sale and trust leaseback arrangement, § 234 Rent payments to short term trust, § 268.10 Separate maintenance payments from trust, **§ 270.10** Taxes, § 268.25 Termination of trust, § 269 Year of termination, § 269 Deferred compensation arrangements, § 264.5 Definitions Common trust fund, § 270.25 Complex trust, § 267 Discretionary trust, § 228, 264.10 Distributable net income, § 266, 267, 268.25 Employee benefit trusts, § 255, 270.20 Foreign trust, § 10 Grantor trust, § 268.15 Investment trust, § 249, 270.30 Real estate investment trust, § 270.35 Simple trust, § 266 Substantial owner trusts, § 268.15, 268.20 Support trust, § 229, 268.15

INCOME TAX-FEDERAL—Cont'd Definitions—Cont'd Trusts taxable as associations, § 247, 270.40 Depletion Allocation, § 268.25, 269 Deduction, § 268.25 Depreciation Allocation, § 268.25, 269 Apportionment among beneficiaries, § 269 Deduction, § 268.25, 269 Income distributable to charity, § 269 Trust terms, § 268.25 When allocable to trust or to beneficiaries, § 268.25, 269 Depreciation reserve, commercial or rental property, § 829 Discharge of support or other legal obligation, § 264.10, 264.20, 268.15, 268.20 Disclaimer or renunciation, § 171, 268.5, 268.20 Discretionary trust Accumulation distribution, § 264.10, 267.5 Complex trust, § 264.10, 267, 267.5, 269 Income taxed to trustee, § 268.25 Tax advantages, § 264.10 Tax dangers, § 264.10, 267.5, 268.15 Distributable net income Corpus distributions, § 267, 268.5 Definition, § 266, 267, 268.25 Determining character of distribution, § 267 Distribution deduction, limitation, § 267 Excludable items, § 266, 267, 268.25 Foreign income, § 268.5, 268.25 Limitation on income taxable to beneficiaries, § 267 Distributions Accumulated income, § 267, 267.5, 268.5, 269 Capital gains, § 267, 268.5, 268.25

INCOME TAX-FEDERAL—Cont'd Distributions-Cont'd Corpus, § 267, 268.5 Deductions for distributions to beneficiaries, § 266, 267, 268.25 Employee benefit trusts, elections, § 270.20 Income Current, § 266, 267, 268.25 **Oualification** of real estate investment trust, § 270.35 Separate share rule, § 267, 268.5 Distributions deduction Complex trust Accumulated income or corpus, § 267 Current income, § 267, 268.25 Distributable net income limitation, § 267 Property distributed in kind, § 267 Sixty-five day rule, § 267 Tier system, § 267 Simple trust, § 266, 268.25 Diversification Assets, qualification of real estate investment trust, § 270.35 Investments, investment trusts, § 270.30 Dividends Capital gains, investment trusts, § 270.30 Exclusion, § 268.25 Extraordinary, § 266, 267, 268.25 Investment trusts, § 248, 270.30 Donor's charitable deductions, § 264.25 Due date Payment, § 265 Return, § 265 Duties of trustee, § 268.25, 602 Payment of tax, § 265, 268.25 Returns, filing, § 265, 268.25 Effect of local law, § 263 Effect of state court decrees, § 263 Election Investment trust, § 270.30

INCOME TAX-FEDERAL—Cont'd Election-Cont'd Real estate investment trust, § 270.35 Employee benefit trusts, § 270.20 Deduction of employer contribution, § 255, 270.20 Distributions Different types of plans, § 255, 270.20 How distributions taxed, § 255, 270.20, 273.25 When distributions taxed, § 255, 270.20, 273.25 Employee rights and benefits, § 255, 270.20 Exemption of trust and participants from current tax, § 270.20 Loss of tax exemption, § 270.20 Lump sum distribution, § 270.20 Professional corporations and associations, § 255 Qualified annuity and other plans, § 270.20 Self-employed retirement plans, § 255, 270.20 Tax exemption Earnings exemption, § 255, 270.20 Loss of exemption, prohibited transaction, § 270.20 Qualification for, § 255, 270.20 Ten year averaging rules, lump sum distributions, § 270.20 Unrelated business income, § 270.20 Estate and tax planning Allocation of income and deductions, § 264.10, 266, 267, 268.25, 269 Beneficiary controls, § 234, 264.20, 268.20 Capital gains, § 264.5, 266, 267, 268.5, 269, 277 Charitable gifts, § 264.20, 264.25, 270.5 Deductible expenses, § 264.5, 268.25

INCOME TAX-FEDERAL—Cont'd Estate and tax planning-Cont'd Disclaimer or renunciation, § 171, 268.5, 268.20 Discretionary allocations of income and expenses, § 266, 267, 268.25, 269 Employee benefit trust distributions, § 264.5, 270.20 Grantor powers, § 264.10, 268.15, 268.25 Income deflection and splitting, § 264.5, 264.25 Lower tax rate brackets, § 264.5, 264.20 Selection of fiscal year, § 268.25 Tax elections, § 266, 267, 268.25, 269, 275.15 Termination of trust, § 269 Trust as separate tax entity, § 264.10, 264.20, 268.25 Trustees' discretionary distribution powers, § 233, 235, 264.5, 264.20, 268.25, 269 Excess deductions Carryover, § 269 Termination of trust, § 269 Excess distribution, complex trust, § 267, 267.5 Exemptions Charitable trusts, § 270.5 Loss of, § 270.5 Securing, § 270.5 Common trust fund, § 270.25 Real estate investment trusts, § 270.35 Simple trusts, § 266, 268.25 Special types of trusts, § 270 Trust's personal exemption, § 267, 268.25 Exercise, administrative powers in fiduciary capacity, § 268.15 Expenses Administration expenses of trust Allowable deductions, § 268.25 Allocation, § 807 Among beneficiaries, § 266, 267, 268.5, 269

INCOME TAX-FEDERAL—Cont'd Expenses-Cont'd Allocation, § 807—Cont'd Between trusts and beneficiaries, § 268.25, 269 Deductions, § 266, 267, 268.25, 269 Attributable to tax-exempt income, § 268.25 Code requirements, § 268.25 Depreciation or depletion, § 266, 268.25, 269 When deductible, § 268.25 Simple trusts, deductions, § 266 Failure of trustee File return, § 265 Pay tax, § 265 Family or personal trusts, § 264, 269 Federal courts, role, § 262 Federal-state cooperation, collection and enforcement, § 285 Fiduciary Relationship, notice of, § 265 Returns, § 265, 268.25 Fines and penalties Exempt private foundation, § 270.5 Failure to file return, § 265 Failure to pay tax, § 265 Fiscal year, return Tax planning, § 268.25 Trustee's selection, § 268.25 Fixed or closed end investment trusts, § 270.30 Foreign trusts Beneficiaries Income subject to tax, § 10 Nonresident alien beneficiaries, § 10 United States and resident alien beneficiaries, § 10 Definition, § 10 Distributions Accumulation, § 10 Current income, § 10 Income Included in distributable net income of domestic trust, § 10, 266

INCOME TAX-FEDERAL—Cont'd Foreign trusts-Cont'd Income—Cont'd Receipts subject to United States tax, § 10 Tax rates, § 10 Foundations Congressional investigations of charitable foundations, § 270.5 Gifts to charitable foundation, § 264.25, 330 Tax rates, § 264.25, 270.5 Gifts Basis of gift property, § 264.5, 264.10, 277 Charitable gifts Appreciated property, § 264.25 Increased by gift tax paid, § 264.10 Charitable gifts Basis of trust property, § 264.25, 287 Charitable trust or foundation, § 264.25 Complex trusts Allocation among classes of trust income, § 268.5, 268.25 Distributable net income of trust not include, § 268.5, 268.25 No limitation on amount, § 267, 268.25 Deduction Grantor of trust, § 264.25 Limitation on donor's deductible amount, § 264.25 Property, § 264.25 Qualified charity, § 264.25 By trust, § 268.25 When deduction denied, § 264.25 Completed gift Deduction to donor, § 264.25 Federal tax legislation, § 268.25, 270.5

INCOME TAX-FEDERAL—Cont'd Gifts-Cont'd Estate planning, § 264.20, 264.25 Gifts of undivided interests, § 264.25 Lifetime, § 233, 235, 264.10, 264.15, 264.25 Outright charitable gifts, § 264.25 Types of charitable gifts, § 264.25 When donor taxable on gift income, § 264.25, 268.15 Gift tax exclusion trusts, § 234, 264.10 Grantor of trust As trustee, tax dangers, § 264.10, 268.15 Trust income taxed to Retained powers, § 268.15 Reversionary interest, § 268.15 Substantial owner of income, § 268.15 Gross income Alimony includable in spouse's gross income, § 270.10 Beneficiaries, § 266, 267, 268.5, 269 Qualification of real estate investment trust, § 270.35 Requirements, investment trust, § 270.30 Separate maintenance payments includible in spouse's gross income, § 270.10 Trust, § 266, 267, 268.25 Holding period Gift property, § 264.25, 277 Trust property, § 264.5, 277 Income distributions Character of, § 266, 267, 267.5, 268.5 Complex trust, § 267, 267.5, 268.5 Accumulation distribution, § 267, 267.5 65-day rule, § 267 Separate share rule, § 267 Specific gift exclusion, § 267 Tier system, § 267, 268.5

INCOME TAX-FEDERAL—Cont'd Income distributions-Cont'd Conduit rule, § 266, 267 Deduction by trust, § 266, 267, 268.25 Discharge of legal obligation, § 268.5, 268.15, 268.20 Distributable net income limitation, § 266, 267, 268.5 Investment trust, § 270.30 Real estate investment trust, § 270.35 Simple trust, § 266, 268.5 When deemed distributed, § 266, 267, 268.5, 268.25, 269 Year taxable to beneficiary, § 266, 267.5, 268.5 Income interests, charitable trust gift, § 264.25 Information returns, § 265, 268.25 Charitable trust, § 270.5 Insurance trusts, § 264.5, 264.15 Settlements, § 235, 240, 241, 264.15 Taxation of proceeds, § 235, 241, 264.15 Widow's § 101(d) exclusion, § 264.15 Interest Failure to file return, § 265 Failure to pay tax, § 265 Internal Revenue Code of 1954, § 261, 262 Internal Revenue Service functions, § 262 Investment companies, § 248, 270.30 Investment trusts Capital gains distributions, § 270.30, 858 Distributions, § 270.30 Fixed or closed end, § 270.30 Open end or mutual funds, § 270.30 Real estate investment trusts, § 270.35 Requirements for tax qualification Diversification of investments requirement, § 270.30 Gross income, § 270.30

INCOME TAX-FEDERAL—Cont'd Investment trusts-Cont'd Requirements for tax qualification -Cont'd Income distributions, § 270.30 Regulated investment company, election, § 270.30 Taxation Shareholders, § 270.30 Trust, § 270.30 Irrevocable trusts, § 234, 264.10, 264.15, 264.25, 268.10 Alimony trusts, § 234, 270.10 Discretionary, § 264.10, 268.15 Gift tax exclusion trusts, § 234, 279, 279.5 Long term, § 234 Sale and leaseback arrangements, § 234 Short term or reversionary trusts. § 234, 264.10, 268.10 Land trusts, § 249 Legal obligation of support, effect, § 264.10, 268.15, 268.20 Liability Beneficiary Discharge of beneficiary's legal obligation, § 268.5, 268.20 As substantial owner, § 268.20 As transferee, § 268.5 Grantor, substantial owner, § 268.15 Trustee Capital gains tax, § 268.25 Failure to file return, § 265 Failure to pay tax, § 265 Limitations on liability, § 265 As transferee, § 265 Unpaid income taxes of settlor, § 265 Lien on trust property Failure of trustee to pay tax, § 265 Lifetime charitable gifts, § 245, 264.25 Limitations period on assessment Personal liability of trustee, § 265 Transferee liability of trustee, § 265

INCOME TAX-FEDERAL—Cont'd Long term capital gains Distributable net income, § 269 Distributions deduction, § 269 Losses Carryovers to beneficiaries, § 269 Deduction by trustee Casualty losses, § 268.25 Net operating losses, § 268.25 Lump sum payments Alimony and separate maintenance, § 270.10 Employee benefit trusts, § 270.20 Multiple trusts, § 264.10, 268.25 Accumulation distributions, § 267.5 Separate returns, § 268.25 Throwback rules, § 267.5 Mutual funds, § 270.30 Net operating losses, deductions, § 268.25 Carryovers and carrybacks, § 268.25, 269 Nonqualified employee benefit trusts, § 270.20 Nonresident alien, foreign trusts, § 10 Notice of fiduciary relationship, § 265 Open end or mutual fund, type investment trust, § 270.30 Ordinary income, investment trusts, § 270.30, 270.35 Organizational status Charitable trust, § 264.25, 270.5 Real estate investment trust, § 270.35 Trusts, classification, § 261 Outright charitable gifts, § 264.25 Participating trusts, common trust funds, § 270.25 Payments Alimony and separate maintenance Lump sum payments, § 270.10 Periodic, § 270.10 Prior law, § 270.10 Property settlement, § 270.10 Support of minor children. § 270.10

INCOME TAX-FEDERAL—Cont'd Payments-Cont'd Alimony and separate maintenance from § 71 trust, § 270.10 Alimony and separate maintenance from § 682 trust, § 270.10 Due date, § 265 Failure of trustee to pay Additions to tax, § 265 Criminal penalties, § 265 Interest, § 265 Liability of trustee, § 265 Lien on trust property, § 265 Liability Trustee's. § 265 Limitations period on assessment Trustee's personal liability, § 265 Trustee's transferee liability, § 265 Rates, § 268.25 Resulting trust, purchase money type, § 454 Source of payment Beneficiary, § 268.5 Income, § 268.25 Principal, capital gains, § 268.25 Transferee, § 265, 268.5 Trustee personally, § 265 Trust estate, § 265 Periodic payments Alimony and separate maintenance, § 270.10 To employees, employee benefit trusts, § 270.20 Place of filing return, § 265 Principal and income Depreciation reserve, § 268.25, 269, 845 Wasting assets, apportionment, § 827 Prior law Alimony and separate maintenance, § 270.10 Private foundations, § 264.25, 270.5 Prohibited transactions, § 270.5 Charitable trusts, § 264.25, 270.5

INCOME TAX-FEDERAL—Cont'd Property distributed in kind Complex trust, distributions deduction, § 267 Specific gift exclusion, § 267 When taxable to beneficiaries, § 267, 268.5 Purchase-money type resulting trusts, payment, § 454 Qualified employee benefit trusts Distributions, § 270.20 Employee-participants, § 270.20 Tax exemption, § 270.20 Qualifying rules, short term or reversionary trusts, § 268.10 Rates Charitable trusts, net investment income, § 270.5 Investment trusts, undistributed income, § 270.30 Ordinary trusts, § 268.25 Real estate investment trusts, § 270.35 Real estate investment trusts, § 270.35 Corporate rates, retained income, § 270.35 Election to be taxed as, § 270.35 Requirements for tax qualification Asset diversification, § 270.35 Distribution of income, § 270.35 Election, § 270.35 Gross income, § 270.35 Organizational status, § 270.35 Taxation of beneficiaries Ordinary income, § 270.35 Regulated investment company Election, investment trust, § 270.30 Regulations Charitable trusts, § 264.25, 270.5 Classification of organizations, § 261 Trusts taxable as associations, § 270.40 Remainder interests, charitable gifts, § 264.25

INCOME TAX-FEDERAL—Cont'd Renunciation of trust interest by beneficiary, effect, § 170, 171, 268.5, 268.20 Reserve Depreciation, § 269 Principal or income, § 829 Retained income Ordinary trust, § 267, 268.25 Return Business trusts, § 270.40 Common trust funds, § 270.25 Due date, ordinary trust, § 265 Failure to file Additions to tax, § 265 Criminal penalties, § 265 Interest, § 265 Liability of trustee, § 265 Fiscal year Tax planning, § 268.25 Trustee's selection, § 268.25 Information required of trustee, § 265, 268.25 Information return Ordinary trust, § 265, 268.25 Multiple or several trusts, § 268.25 Place filed, § 265 Substantial owner trust, § 268.15, 268.20, 268.25 Supporting documents, § 265 Time for filing, **§ 268.25** Trustee Duty to file, § 265, 268.25 Failure to file, § 265 Personal liability, § 265 Transferee liability, § 265 Revocable trusts, § 233, 264.5, 264.15 Basis of trust property, § 264.5, 277 Grantor's powers, effect, § 268.15 Right to withdraw corpus, income tax effect, § 264.20 Rulings of Commissioner, § 262 Sale Charitable gifts, cost basis, § 264.25

INCOME TAX-FEDERAL—Cont'd Sale-Cont'd Trust interest, beneficiary's basis, § 268.5 Selection of trustee to have discretionary powers, § 122, 234, 264.10, 268.15 Self-employed retirement plans, § 255, 270.20 Separate maintenance trusts Deductibility of payments from trust, § 270.10 Includibility in wife's gross income, § 270.10 Payments Lump sum, § 270.10 Periodic, § 270.10 Property settlement, § 270.10 Support of minor children, § 270.10 Payments from § 71 trust, § 270.10 Payments from § 682 trust, § 270.10 Prior law, § 270.10 Separate trusts Returns, § 268.25 Shares as, § 267 Settlements Insurance options, § 235, 264.15 Insurance trusts, § 235, 264.15 Settlor, substantial owner, § 268.15 Shareholders, investment trusts, § 270.30 Short-term or reversionary trusts, § 234, 264.10, 268.10 Accumulation of income, § 234, 264.10, 268.10, 268.15 Capital gains and losses, § 268.10 Charitable, § 264.10, 264.25, 268.10 Clifford decision and prior law, § 268.10 Duration, § 268.10 Grantor's powers, § 268.10, 268.15 Qualifying rules, § 268.10 Tax advantages, § 234, 264.10, 268.10

INCOME TAX-FEDERAL—Cont'd Simple trust Accounting problems, § 269 Corpus distributions, § 266 Definition, § 266 Distributable net income, § 266 Distributions Classes of income, § 266, 268.5 Conduit rule, § 266 Current income, § 266 Distributions deduction, § 266, 268.25 Expenses as deductions, § 266, 268.25 Taxation of beneficiary, § 266, 268.5 Tax rates, trusts, § 268.25 Sixty-five day rule, complex trust, distributions deduction, § 267 Source of payment Substantial owner of trust, § 268.15, 268.20, 268.25 Transferee, § 265, 268.5 Trust, § 268.25 Trustee personally, § 265 Special types of trusts, § 270, 270.40 Specific gift exclusion, complex trust, distributions deduction, § 267 Spendthrift trusts, beneficiary's obligation, § 224 Spouses' property settlement, qualification of payments, § 270.10 Statute of Limitations Trustee's liability for tax, § 265 Statutory custodial gifts, § 264.10 Stepped-up basis, trust property, § 264.5, 264.10, 277 Substantial owner trusts Beneficiary or third person as owner Beneficiary or third person, powers over corpus, § 234, 235, 264.20, 268.20 Discharge of support or other legal obligation, § 268.20 Extent income taxed to third person, § 264.20, 268.20 Clifford decision and prior law, § 268.10, 268.15

INCOME TAX-FEDERAL—Cont'd Substantial owner trusts-Cont'd Code provisions Generally, § 268.15, 268.20 Grantor as owner Beneficial enjoyment, § 264.10, 268.15 Capital gains, § 268.10, 268.15 Discretionary trusts, § 264.10, 268.15 Excepted powers and interests, § 268.15 Extent income taxed to, § 268.10, 268.15 Limitations on excepted powers, § 268.15 Retained income interest or power, § 264.10, 268.15 Retained reversionary interest or power as to corpus, § 268.15 Returns, § 268.15, 268.20, 268.25 Revocable trust as, § 264.5, 268.15, 268.25 Treasury regulations, § 268.10, 268.20 Support trusts, § 268.15, 268.20 Discharge of support or other legal obligations, § 268.5, 268.15, 268.20 Minor children, alimony and separate maintenance, § 270.10 Taxable income of trust, § 265, 268.10, 268.20, 268.25, 269 Taxable powers, § 264.10 Administrative, § 268.15 Beneficiary, § 268.20 Corpus, § 268.10, 268.20 Grantor, § 268.10, 268.15 Income, § 268.10, 268.20 Third party, § 268.20 Taxation as corporation, real estate investment trust, § 248 Taxation of trust, § 268.25 Termination of trust **Beneficiaries** Entitled to excess deductions and carryovers, § 269

INCOME TAX-FEDERAL—Cont'd Termination of trust-Cont'd Beneficiaries-Cont'd When trust income taxable to beneficiary, § 263, 269 Carryovers, deductions to beneficiaries, § 269 Effect of local law, § 263, 269 Excess deductions, § 269 Final taxable year Unused deductions, § 269 Unused loss carryovers, § 269 Income tax planning, § 269 Time of termination, § 263, 269 Tests, trusts taxable as associations Activities, § 270.40 Corporate characteristics, § 270.40 Objects of trust, § 270.40 Powers, § 270.40 Throwback rule Accumulation distribution, complex trust, § 267.5 Treatment by beneficiary, accumulation distribution, § 267.5 Estate and tax planning, § 264.10, 264.20, 267.5 Exceptions, § 267.5 Foreign situs trusts, United States beneficiaries, § 10 Tier system, complex trust, distributions deduction, § 267 Transferee liability Limitations period, § 265 Limited to trust assets, § 265 Trustee, § 265 Treasury regulations, § 262 Trust Holding family partnership interest, § 268.15 Income tax return, § 268.25 Personal exemption, deduction, § 267, 268.25 Trustee's discretionary powers, § 264.10, 264.20, 268.15 Trusts taxable as associations Court decisions, § 247, 270.40 Definition, § 247, 270.40

INCOME TAX-FEDERAL—Cont'd Trusts taxable as associations -Cont'd Tax rates Corporate, § 270.40 Trust, § 247, 261, 270.40 Tests, trust or association Activities, § 270.40 Corporate characteristics, § 270.40 Treasury regulations, § 270.40 Types of enterprises, § 270.40 Undivided interests, charitable gifts, § 264.25 Wasting assets, apportionment of receipts between principal and income, § 827 To whom is trust income taxed Beneficiary, § 268.5 Grantor, § 268.10, 268.15 Third person, § 268.20 Trust, § 268.10, 268.25 Withholding taxes, garnishment, § 193 n.77 Year of trust termination Defined, § 263, 269 Estate planning, § 268.25, 269 Excess deductions, § 269 Simple trusts, distribution of corpus, § 266 Trust's unused deductions and carryovers, § 269 **INCOME TAX-STATE AND LOCAL** Generally, § 285, 287, 300 Business trusts, § 247S Charitable foundations, § 330 Charitable gifts, deductions, § 264.25 Conflict of laws, § 287 Deductions, charitable gifts, § 264.25 Double taxation, § 285, 287, 300 Duties of trustee, § 285, 602 Employee benefit trusts, exemptions, § 255, 285 Estate planning, § 233, 264.5, 285, 287, 300 Expenses of trust, allocation, § 807 Federal-state cooperation, § 285 Irrevocable trusts, § 234, 285

INCOME TAX-STATE AND LOCAL -Cont'd Jurisdiction, § 287 Local or municipal, § 285 Multistate trusts, § 287, 300 Nonresident trusts, § 285, 287, 300 Resident trusts, § 285, 287, 300 Source of payment, income and capital gains, § 807, 858 Statutes based on federal law, § 285 Statutes unrelated to federal law, § 285 **INCOMPETENCY** See also Disabled Persons; Infants Beneficiary, § 168 Distributions, payment to guardian, § 814 Living trust, functions, § 231, 234 Mental Disabilities, generally, this index Spendthrift trusts, § 222 Trustee Ground for removal, § 529, 566 **INCOMPLETE GIFTS** See also Gift Tax-Federal Federal tax purposes, § 272, 273.10, 273.20, 278 Indefiniteness and uncertainty Beneficiary, § 161 Charitable trusts, § 323, 324 Intent, trust creation, § 45, 46 Trust property, § 111 Reservation of powers, § 42, 46, 103, 104, 278 Transfer of property interest, § 141 **INCOMPLETE TRUSTS** Consideration, § 202, 205 Creation, § 45, 46 Federal gift tax, § 278 **INCONSISTENT CONDUCT** Acceptance of trust by trustee, § 150 **INCORPORATION** Trust Charitable trusts, § 328, 393 Implied powers of trustee, § 551

INCORPORATION BY REFERENCE Generally, § 105, 233 Creation of trusts, two or more writings, § 90 Existing trust, gift by will to trustee under, § 105 Future trust, gift by will to trustee under trust to be established, § 106 Gifts to testamentary trust, § 105, 233, 236 Insurance trust agreements, § 105, 233, 236 Referential trust, § 50 Revocable trusts, pour-over will, § 106, 233, 235, 264.5 Statute of Frauds, unsigned into signed writing, § 90 Testamentary trusts, description of beneficiaries, § 102 Two or more trust documents, creation of trust, § 50 **INCREMENT** Principal and income, apportionment, § 822 **INCUMBRANCES** See Liens and Incumbrances; Mortgages Liens and Incumbrances, generally, this index **INDEBTEDNESS** Beneficiaries, contingent liability, § 169 Beneficiary Equitable remedies of creditor, § 193 Homestead exemption, § 187 Cancellation as value, bona fide purchaser rule, § 887 Debtors and Creditors, generally, this index Default in payments, collateral, resulting trust, § 455 80 Evasion, origin of uses and trusts, § 2

Federal estate tax, deduction, § 275.15

Forgiveness, federal gift tax, § 278

INDEBTEDNESS—Cont'd Payment Active trust, creation, § 207 Application of accumulation rules, § 217 Beneficiaries' interest, § 182 Implied power to mortgage, § 759 Participation in breach of trust, § 904 Support obligation, § 811 Spendthrift trusts Creditor's rights and remedies, § 227 England, § 221 Subject-matter of trust, § 115 Testamentary trust, co-beneficiary, restitution, § 191 Trust distinguished, § 17, 21 Trust funds used to pay personal debt, tracing, § 922 INDEFINITENESS Beneficiary of trust, § 161 Intent of settlor as to trust, § 45 **INDEMNITY** Agent, tort committed by, § 731 Contract liability Creditor's derivative rights, § 716 Trustee's right From beneficiary, § 718 Conditions precedent, § 718 Unauthorized continuation of business, § 577 Co-trustees, § 716, 718 Default by one trustee, § 716 Right to contribution, § 701, 716, 718, 734, 862 Expenses Despite denial of compensation, § 980 Insurance trust, action by trustee to collect, § 237 Unauthorized expenses increasing value of trust property, § 801 Improper contracts, § 711 Insurance trusts, action by trustee to collect costs and expenses, § 237 Property ownership liability, § 720

INDEMNITY—Cont'd

Rights of trustee Contract liability, § 718 Liabilities arising from property ownership, § 720 Ultra vires contracts, § 713 Third persons, breach of trust, § 868 Tort liability Tort committed by agent, § 731 Trustee's right, § 731, 734 When denied trustee, § 734

INDEMNITY AND INDEMNIFICATION Breach of trust

Consent, **§ 941** Third parties, trustees, **§ 868** Charitable trustees, **§ 394** Charitable trusts, liability to third parties, **§ 361** Cotrustees, **§ 862** Nonprofit corporations, officers and directors, **§ 391, 394**

INDENTURE

Trust to pay or secure creditors, § 250 Trust to secure creditors Terms, § 250

INDIANA

Accounts and accounting, statutory regulation of accounts, **§ 974**

INDICTMENT AND INFORMATION Charitable trusts, enforcement, § 411

INDIGENT PERSONS See Poor Persons, this index

INDISPENSABLE PARTIES

Accounts and accounting, **§ 967** Breach of trust, **§ 871**

INDIVIDUAL RETIREMENT ACCOUNTS

Generally, § 255, 270.20 Banks and banking, withdrawal of funds to pay off guaranty obligation, § 11 Establishment, federal law, § 270.20

Index-224

INDIVIDUAL RETIREMENT ACCOUNTS—Cont'd Estate taxes, additional tax on excess retirement accumulations, § 276.5 Federal estate tax, § 271, 273.25 Employee benefit trust, rollover to, § 255, 270.20, 273.25

Federal income tax, § 270.20 Gift taxes, § 278 Income taxes, § 264.7 Spendthrift trusts, § 222 Unified transfer tax system, § 271

INDIVIDUAL TRUSTEES

See also Trustees Advantages, § 121 Compared to corporate, § 121, 130, 132, 134 Co-trustees with corporate trustee, § 121 Joint tenants, § 145 Nonresident, capacity to act, § 132 Statutes, § 132 Selection of trustee, singular or plural, § 121 Statutes, nonresident, § 132

INDORSEMENT

Beneficiary, transfer of interest, § 188
Business trusts, transferability of shares, § 247(O)
Commercial paper
Creation of trusts, transfer of property, § 142
Transfer to trustee, commercial paper, § 142

INEBRIATES

Capacity to be settlor, § 44 Spendthrift trust, § 222

INEXPEDIENCY

Charitable trusts, cy pres, § 439 Charitable trusts, cy pres application, § 431, 439

Private trusts, termination, § 1002

INFANTS

See also Disabled Persons; Guardian and Ward; Guardianship

INFANTS—Cont'd Administration of property, § 246 Adopted children Construction of beneficiary's interest, § 182 After-born children Beneficiaries, § 163 Class gift, time of closing, § 182 Rule against Perpetuities, § 213 Beneficiaries, § 168 Consent to trustee's resignation, § 513 Disclaimer, § 170 Distributions, payment or application, § 814 Mortgage of property, notice, § 764 Payments to legal representative, § 814 Unauthorized mortgages, later ratification. § 768 Breach of trust Barring of remedies, § 941 Laches, § 949 Capacity to be settlor, § 44 Children and Minors, generally, this index Constructive trusts Confidential relationship, § 482 Fiduciary obligations, § 481 Federal gift tax Exemption, transfer by minor, § 278 Gifts in trust, annual exclusion, § 279 Trusts for minors, § 264.10, 279, 279.5 Trusts for support, § 278 Federal income tax Discharge of support obligation, § 268.10, 268.20 Estate planning, § 264.10 Short term trusts, § 264.10, 268.10 Trusts for minors, § 264.10, 268.10 Gifts to, Uniform Act, § 15, 233, 264.10 Guardian ad litem, § 871 Irrevocable trusts for, § 264.10

INFANTS—Cont'd Limitation of actions, resulting trusts, § 952 Living trusts, functions, § 231 Payments to, § 814 Ratification, breach of trust, § 942 Statute of Limitations, tolling, § 951 Support trusts, § 229, 811 Federal gift tax, § 278 Federal income taxes, § 268.15, 268.20 Termination of trusts Representation, § 1007 Trust to administer property for, § 246 Unborn children, trusts for, § 163 **INFERENCES** Implied gifts, construction of beneficiary's interest, § 182 Resulting trusts, purchase-money type, § 454 INFIDELISM Charitable trusts, aiding, § 376 Charitable trusts, propagation of doctrine, § 376 **INFORMAL TRUSTS** Constructive trusts, § 501 Confidential relations, § 498 Misrepresentation by promisor, § 498 Refusal to carry out, § 498, 501 Wills Absolute gift, donee as trustee, § 102 Attack by testator's successors, § 102 Violation of oral agreement, constructive trust, § 498, 500 **INFORMATION** Right of beneficiary to Remedies of beneficiary, § 861 **INFORMATIONAL RETURNS** Charities, income taxes, § 270.5 **INHABITANTS**

Trusts to benefit, charitable purpose, § 378

INHERENT POWERS Trustees, § 551 et seq

musices, § 551 et seq

INHERITANCE

Descent and Distribution, generally, this index

INHERITANCE TAXES

See State Estate and Inheritance Taxes Apportionment, § 286.5 States, § 286.5 Business trusts, § 247 Carryover basis, § 271.10 Charitable trusts, exemption, § 245, 361, 401 Estate taxes, deductions, § 275.15 Filing, duties of trustee, § 265 Irrevocable trusts, § 264.10 Local law, application, § 263 Personal life insurance trusts, § 241 Spendthrift trusts, exceptions, § 224 Testamentary trusts, § 264.20

IN INVITUM

See Constructive Trusts

INITIALS

Statute of Frauds, signature or subscription, **§ 86**

INJUNCTIONS

Breach of trust Charitable trust. § 391 Remedy of beneficiary, § 861 Third party threatening to participate in, § 868 Breach of trust, remedies of beneficiaries, § 861 Third parties, § 868 Charitable trusts Breach of trusts, § 394, 415 Enforcement, § 411 Taxation, § 391 Dedicated land use, § 34 Disloyalty, § 543(V) Governmental trustee, suit by taxpayer, § 131, 328 Power of sale, § 742 Remedies of beneficiary, § 861 Resulting trusts, ejectment, § 465

INJUNCTIONS—Cont'd Resulting trusts, purchase-money type, relief granted, § 465
Taxation, wrongful, § 869
Taxpayers, land use dedicated, § 34
Third parties, breach of trust, remedies of beneficiaries, § 868
Trustees, investments, § 542
Trustee's contracts of sale, § 746

INNOCENCE

Trustees, loyalty to beneficiaries, § 543

INNOCENT SUCCESSORS

Constructive trusts, § **471**, Illegal trusts, § Resulting trusts, purchase-money, fraudulent payor, §

INNS

Management, implied power to mortgage, § 760

IN PERSONAM

Beneficary's, remedy for damages, § 867 Beneficiary's rights, § 183 Jurisdiction, multistate trusts, § 292

INQUIRY

Duty as to Bank or third person dealing with trustee, § 901, 911 Bona fide purchaser rule, § 891, 894, 897

IN REM

Beneficiary's rights, **§ 183** Beneficiary tracing trust property, **§ 867** Jurisdiction, multistate trusts, **§ 292**

IN REM ACTIONS

Breach of trust Election of remedies, tracing assets, § 867 Jurisdiction, § 870 Election of remedies, breach of trust, tracing assets, § 867 Jurisdiction, § 292, 870

INSANE PERSONS

See Disabled Persons, ante Mental Disabilities, generally, this index **INSOLVENCY** See also Bankruptcy Apportionment, principal and income, settlement, § 821 Banks Customer deposits, preferences, § 21 Tracing trust funds, § 922 Burden of proof, § 923 Business trusts, § 247T Constructive trusts, transfers in fraud of creditors, § 475 Corporate trustee, effect, § 566 Creditor's remedy against beneficiary, § 721 Liquidation trust for, § 253 Death, insurance, tracing trust funds, § 925 Fraudulent conveyances, § 211 Insurance, tracing trust funds, § 925 Insurance trusts, exemption of policy proceeds from debts of insolvent insured, § 243 Liquidation trusts, § 254 Principal and income, apportionment, settlement, § 821 Process, service of process, creditors' bill, § 716 Receivership, § 14 Removal of trustee for, § 527 Spendthrift trust Acquisition of interest, § 222 Creditor's rights and remedies, § 227 Tracing trust funds, § 921, 922 Burden of proof, § 923 Death, insurance, § 925 Tracing Trust Funds, generally, this index Trustee, creditor's remedy against beneficiary, § 721 Creditors' derivative rights, § 716 Preferences among beneficiaries, § 191

INSOLVENCY-Cont'd Trustee and trust estate, preferences, § 715 Beneficiary's preference, § 862 Burden of proof, tracing trust funds, § 923 Capacity of trustee to serve, § 121 Creditors' bill on contract claims, § 716 Trustees Grounds for removal, § 527 Resignation, § 511 INSPECTION Charitable trust records, enforcement, § 411 INSPECTIONS AND INSPECTORS Remedies, beneficiaries, § 861 Visitation, charitable trusts, § 416 **INSTALLMENT CONTRACTS** Fire loss, specific performance, § 18 **INSTALLMENT PAYMENT** Federal estate tax, § 276 **INSTALLMENT PAYMENTS** Gifts causa mortis, estate taxes, gross estate, § 273.5 Personal life insurance trusts, terms, § 237 Spendthrift trusts, creditors remedies, § 227 **INSTITUTIONS** Support trusts, available funds, § 229 **INSTRUCTIONS** Charitable trustees Investments, § 396 Settlor's plan of administration, § 393 Court to trustee, § 394, 559, 861 Duty to apply for, § 688 Extent of trustee's powers and duties, § 559 Remedies, beneficiaries, § 861 **INSTRUCTIONS TO JURY** Intent, before advisory verdict, § 49

INSURANCE See also Insurance Trusts Accumulations, rules against Funded insurance trust, § 242 Life insurance premiums, construction, § 217 Restrictions, direction to use income, § 217 Administration, charitable trust, § 391 Agent, sale of policy by agent representing trust, § 543 Partnership, premiums, joint and several liability, § 22 41 Premiums received held as trustee for insurer, § 22 Agreement to hold proceeds in trust, § 240 Allocation Expenses, § 803 Leasehold expenses, § 804 Life insurance, § 803 Settlements, allocation between principal and income, § 816, 821 Apportionment, principal or income Annuity receipts, § 818 Insurance proceeds, § 821 Assignment, federal gift tax, § 278, 279 Bailee of goods, § 11 Beneficiary Creation of trust, § 142, 236 Rights, of creditors, § 244 Settlement options, § 237, 240 Spendthrift trust provisions, § 237, 240 As trustee, § 236 Trustee as beneficiary, § 235, 237 Business trusts, exceptions, § 247 Cash surrender value, property right of insured, § 264.15 3 Charitable gift, life insurance policy, § 264.25 Charitable trust Mutual benefit groups, § 367 Tort liability, effect of liability insurance, § 401 Claims, subject-matter of trust, § 115

INSURANCE—Cont'd Class Trust for prohibited class, illegality, § 211 Collections Premium collections held in trust, § 22 Principal or income, § 821 Constructive trust Insolvent debtor, fraud on creditors, § 475 Purchase with stolen funds, § 476 Contracts, land contract, § 18 Creation of trust of Capacity of insured, § 43, 235, 236 Formalities, § 142, 236 Incomplete, § 202 Methods, § 142, 236 Proceeds payable to existing trust, § 105 Promises to create, § 236 Statutes regarding, § 239 Transfer of property, § 142, 236 Creditors Beneficiary's, § 244 Insured's, § 243 Creditors' rights, § 243, 244 Directions to pay premiums, accumulation restrictions, § 217 Employee benefit plans, § 255, 270.20 Escrow deposits to pay insurance, excessive sums, § 21 16 Estate and tax planning, § 235, 244, 264.15 Exception, validity of business trusts, § 247D Federal estate tax Apportionment, § 272.5, 273.40 Gross estate, § 235, 264.15, 273, 273.40 Federal gift tax, § 235, 264.15, 277, 278 Assignment, § 278, 279 Qualification for exclusion, gift, § 235, 264.15, 279 Fire insurance, vendor and purchaser. specific performance, § 18

INSURANCE—Cont'd Fire insurance proceeds, allocation, § 821 Premiums, allocation, § 803 Fraud on creditors, constructive trust, § 475 Goods, bailee of goods, § 11 Homicide Proceeds, constructive trust, § 478 Homicide precluding collection of proceeds, federal estate tax, § 273.40 Illegal trust of, § 211 Improved real estate, trust investment, mortgage loan, § 674 Insured Creation of trust, § 142, 236, 238 Rights of creditors, § 243, 264.15 Settlement options, § 237, 240, 264.15 Interest, transfer to trustee, § 142, 236 Investments Statutory authority, § 616, 666, 678 Investments, statutory authority, § 616 to 666 Key man insurance, corporations, estate taxes, § 273.40 Land contracts Vendor as trustee, § 18 Leasehold expenses, allocation, § 804 Liability insurance Premiums, allocation, § 803 Tort liability, trustee's duty, § 731 Liability insurance, charitable trusts Torts, § 402 Trustees, § 394 Life insurance Charitable gift of policy, § 264.25 Federal estate tax, § 273.40 Federal gift tax, § 278, 279 Life insurance payments, allocation, § 821 Premiums Accumulation restrictions, construction, § 217 Allocation, § 803

INSURANCE—Cont'd Life insurance—Cont'd Principal or income, apportionment of proceeds, § 821 Tracing trust funds, § 925 Transfer of interest to trustee, § 142, 236 Life Insurance, generally, this index Mortgage escrow accounts, premiums, § 21 Mutual benefit groups, charitable trust, § 367 Options, settlement, § 237, 240, 264.15 Ownership, federal estate tax purposes, § 273.40 Payment Accumulations, § 217 Duties of trustee, active trust, § 208 Permitted class, beneficiary outside, § 211 Personal property trusts, Statute of Frauds, § 65 Premiums Collections, debt or trust, § 22 Duty to pay, § 238 Payment from income, § 803 Principal and income Apportionment of income between, annuities, § 818 Collection of policy, § 821 Renewal premiums, § 827 Proceeds Agreement by insurer to hold in trust, § 240 Community property, federal estate tax, § 273.40 Liens and encumbrances, tracing trust funds, § 925 Obtained by homicide, § 478 Tracing trust funds, § 925 Purchased with stolen funds, § 476 Receipts, distributions, § 821 Renewal premiums, principal and income, § 827 Restrictions, accumulation restrictions, directions to use income, § 217

INSURANCE—Cont'd Revocable insurance trust, § 233, 235, 264.15 Sale of policy by agent also representing trust, § 543 Settlements, allocation between principal and income, § 816, 821 Spendthrift trusts, statutes, § 222, 244 State death taxes, § 286 Statutes, beneficiaries, evasion or violation, § 211 Statutes of Frauds, personal property trusts, § 65 Statutory exceptions, business trust, § 247B Subject-matter of trust, § 111, 235 Claims, § 115 Subrogation Claim of insured, § 33 Dram Shop Act judgment, § 930 39 Support Life insurance for beneficiary, § 811 Testamentary trustee as beneficiary of proceeds, § 239, 264.15 Tort liability, § 401 Tracing trust funds Life insurance proceeds, § 925 Transfer of interest to trustee, § 142, 236 Transfer of possession, § 148 Uniform Gifts to Minors Act, investment, § 15 Vendor in land contract, § 18 **INSURANCE TRUSTS**

Generally, § 235, 244 Accumulations Premiums, construction, § 217 Rules regarding, § 242 Action by trustee to collect on policy, indemnity for costs, § 237 Administration, absence of provisions, § 237 Advances by trustee, § 238 Advantages, § 235, 264.15 Alienation, suspension of power, § 242 INSURANCE TRUSTS—Cont'd Alteration of terms, provision for, § 237 Assignment of policy, requirements of insurance companies, § 236, 264.15 **Beneficiaries** Description, § 237 Nature of interest, § 235 Beneficiary, rights of creditors, § 244 Business, § 253 Business life insurance trusts, § 253 Capacity of insured to create, § 43, 235, 236 Charitable trust Mutual benefit groups, § 367 Claims, subject-matter of trust, § 115, 236 Collections Policy, indemnity for costs of trustee, § 237 Premiums, held in trust, § 22 Constructive trust, § 478 Contingent trust for minor children, spouse not surviving grantor, § 235, 264.15 Creation Addition to existing trust, § 105, 236 Capacity of insured, § 43, 235, 236 Methods, § 236 Promises to create, § 236 Statutes regarding, § 239 Creditors of beneficiary, § 244 Creditors of insured, § 243 Description, beneficiaries, § 237 Disposition of proceeds, § 237 Duties of trustee, § 238 Estate and tax planning, § 235, 244, 264.5, 264.15, 268.15, 273.40, 278, 279 Expectancy, interest of beneficiary, § 239 Expenses of collection, § 238 Federal estate tax, § 233, 234, 235, 264.5, 264.15, 273.40 Federal gift tax, § 235, 264.15, 279 Federal income taxes. § 264.15. 268.15

INSURANCE TRUSTS—Cont'd Funded or unfunded, § 235 Personal trust, § 235 General uses and tax consequences, § 235, 264.15 Gift, pour-over gifts to trust, statutes, § 236 Group insurance, § 235 Illegality, prohibited beneficiaries, § 211 Indemnity for costs, action by trustee to collect on policy, § 237 Irrevocable Funded, § 235, 264.15 Life insurance, § 235, 264.15 Unfunded, § 235, 264.15 Uses, § 235 Methods of creating, § 236 Nature of trustee's interest, Wills Acts, § 239 Options Advantages, compared with trust, § 237, 264.15 Settlement, § 237, 240, 264.15 Payment of premiums Duty of trustee, § 238, 582 Federal estate tax, prior law, § 273.40 Federal gift tax, § 235, 264.15, 279 Payment options, § 237, 240, 264.15 Perpetuities, Rule against, § 242 Personal, § 235, 244 Funded or unfunded, § 235 Policy Assignment, requirements of insurer, § 236 Nature of interest of beneficiary, Wills Acts, § 239 Suitable subject-matter, § 235 Pour-over gifts to trusts, § 233, 264.5, 264.15 Power of alienation, suspension, § 242 Power of appointment, § 264.15 Powers reserved by settlor, § 237 Premiums Federal estate tax, prior law, § 273.40

INSURANCE TRUSTS—Cont'd Premiums—Cont'd Insured paying, § 41 Life insurance, accumulations, construction, § 217 Payment, duty of trustee, § 238, 582 Payments as gifts, § 235, 264.15, 279 Source of payment, § 803 Principal or income Apportionment, proceeds of life insurance, § 821 Proceeds Agreement by insurer to hold in trust, § 240 Disposition, § 237 Prohibited class Illegality of purpose, § 211 Promises to create, § 236 Provisions for revocation or alteration, § 237 Requisites, assignment of policy, § 236 Reservation of powers by settlor, § 237 Revocable trusts, § 233, 235, 264.5, 264.15 Settlor's pledge of policies for debt, § 1001 Rights, creditors Beneficiary, § 244 Insured, § 243 Rule against Perpetuities, § 242 Rules regarding income accumulations, § 242 Settlor Reserved powers, § 237 Spouse, on life of other spouse, § 235 Subject-matter, policy as suitable, § 235 Suspension of power of alienation, § 242 Tax liabilities, § 241 Termination of trust, lapse of policies, § 995 Terminology and classification, § 1 Terms of, § 237

INSURANCE TRUSTS—Cont'd As testamentary transactions, § 103, 239 Tracing trust funds, § 925 Transfer of interest to trustee, § 142, 236 Trustee As beneficiary of policy, § 235, 237 Duties, § 238 Interest of, Wills Acts, § 239 Settlor as, § 142, 236 Wills Acts Applicability, § 103, 239 Transfer of present interest in policy, § 235, 239 **INTANGIBLE ADVANTAGES** Charitable trusts, § 363 INTANGIBLE PERSONAL **PROPERTY TAXATION** Gift taxes, transfers subject, § 278 Jurisdiction, § 292 State taxes, § 287 State taxes, § 285 **INTANGIBLE PERSONAL** PROPERTY TAXES Assessment Beneficiary's equitable interest, § 287 Situs of trust assets, § 285, 287, 300 State of trustee's residence, § 287 Conditional immunity, § 287 Constitutional basis for tax, § 287 Estate planning, § 285, 287, 300 Immunity, conditional immunity, § 287 Local, § 285 Municipal or local, § 285 Part of general property tax, § 285

Reciprocal waiver, § 287 Separate tax from property tax, § 285 State, § 285, 287 Trustee's duty to pay, § 602

INTANGIBLE PROPERTY Creation of trust, transfers. **§**

Creation of trust, transfers, § 142

INTANGIBLE PROPERTY—Cont'd Gift taxes, gifts by non-residents, exemptions, § 10, 286 Multiple taxation, several states, § 287, 300 Proceeds of, principal and income, § 822, 823, 825 Security interest, trust indentures, § 250 State death taxation Exemption, reciprocal or conditional, § 286, 287, 300 Multistate taxation, § 287, 300 INTENT Active trust, creation, evidence, § 207 Advisory verdict of jury, § 49 Bank account trust, § 47 Charitable trusts, § 366 General or special intent, construction, § 437 Charitable trusts, creation, § 323, 324 Construction, reservation or grant of power to revoke, § 1000 Creation of trusts Powers and duties of trustee, § 206 Requirement, § 45, 202 Spendthrift trusts, § 222, 225 Creditors, fraud of settlor, § 211 Cy pres, general or special intent, § 436 Equitable liens, § 32 Expression of settlor, trust or other relationship, § 45, 104 Failure to name a trustee, § 123 Implied intent Active trust, trustee's duties, § 207 Charitable trust to benefit poor, § 373

Spendthrift trust, creation, § 225 Investments, presumptions, tracing trust funds, commingling, § 928 Nonresident as named trustee, § 132 Power of appointment, donor creating, § 43

Presumptions, investments, tracing trust funds, commingling, § 928

INTENT—Cont'd Resulting trusts, § 453 Purchase money resulting trusts, § 454 Settlor's expression of trust intent, § 45, 51, 182 Spendthrift trusts Creation, § 225 Statute of Frauds, writing made, § 84 Tracing trust funds, commingling, investments, presumptions, § 928 INTEREST See also Damages; Liabilities of Trustees Accumulation rules, § 217 Accumulations, § 217 Advances Contract liability, § 718 Trustee's personal loan to beneficiary, § 814 Anticipation of beneficiary's interest, spendthrift trust, § 225 Apportionment of income, § 818 Successive beneficiaries. § 818 Bonds, apportionment, principal and income, § 818

Breach of trust, damages, § 862 Liability, § 863 Measure, § 862 Compound interest Damages, willful misconduct,

§ 863
Remedies of beneficiary, § 863
Consent, barring of remedies, § 941
Damages
Breach of trust, simple or compound, § 863
Rights of beneficiaries, § 863
Delayed distributions, termination, § 1010
Eminent domain award deposits, § 21

16 Escrow account, tax and insurance deposits, § 21 Estate taxes

Deferred payment, § 276 Marital deduction, § 275.10 **INTEREST**—Cont'd Estate taxes—Cont'd state death taxes, deduction for, § 275.25 Federal taxes, tax deficiencies, § 265, 276, 277 Fiduciary tax returns, § 265 Generation skipping transfer tax, § 284.10 Gift taxes, loans below market rate, § 278 Liability for Breach of investment duty, § 701, 708 Breach of trust, § 863 Mortgage escrow accounts, § 21 Mortgages Powers of court, § 765 Reimbursement of principal, § 808 Payment, accumulations, § 217 Principal and income. § 816. 826. 828 Rates Estate planning, § 231 Loans below market rate, gift taxes, § 278 Recovery Remedies of beneficiary, § 863 State income taxes, § 285 Tracing trust funds, § 921 Trustee lending own funds to trust, § 543(L)

INTERESTED PARTIES

Right to accounting Right to enforce trust, **§ 871** Termination of trust, **§ 1005, 1009**

INTEREST IN PROPERTY

Element of trust, § 1 Multistate trust, jurisdiction, § 292 Subject-matter of trust, § 1, 111 Taxation, effect of local law, § 263 Trustee, insurance trust, § 235, 239

INTEREST OF BENEFICIARIES See Beneficiaries' Interests

INTERFERENCE WITH TRUSTEE Third parties, remedies, **§ 869**

INTERMEDDLING

Decedent's estate, constructive trust, § 476

INTERNATIONAL ESTATE PLANNING

Foreign laws affecting, § 9, 10 Nonresident alien, § 9, 10 Resident alien, § 9, 10 Trust substitutes, foreign countries, § 9, 10 United States citizen, § 9, 10 United States tax laws affecting, § 10, 265, 271.5, 277

IN TERROREM CLAUSES

Beneficiaries' interests, § 181 Wills, § 181

INTERVENTION

Charitable trusts Cy pres application, procedure and parties, § 441 Enforcement, settlor and successors, § 415 Charitable trusts, enforcement, § 415

INTER VIVOS TRUST

See also Living Trusts Estate and tax planning, § 233, 235, 264.5, 264.15, 264.25 Gift by will to trustee under existing trust, § 105 Uniform Probate Code, trust sections, § 7 When a testamentary disposition, § 103, 104, 233

INTESTACY

Charitable trusts, equitable title during administration, § 411 Class beneficiary, § 162 Construction of beneficiary's interest, § 182 Creation of trusts by, § 141 Gift by informal trust, breach of agreement, constructive trust, § 498 Insurance, tracing trust fund, § 925 Oral promise to hold for another constructive trust, § 499

INTESTACY—Cont'd

Resulting trust, failure of express trust, **§ 468** Failure of express trust, excessive res, **§ 469**

INTIMIDATION

Duress and Coercion, generally, this index

INTOXICATING LIQUORS

Charitable trusts, governmental benefits, **§ 378** License, evasion or violation of statutes, **§ 211**

INTOXICATION

Capacity to be a settlor, **§ 44** Capacity to be beneficiary, **§ 168** Spendthrift trust, **§ 222**

INVALIDATING CAUSE

Powers of settlor or successors, § 44, 997 Setting aside trust, § 997

Testator, making of will, **§ 44, 101** Trust transfers, constructive trusts, **§ 473, 478**

INVALIDITY

Estoppel of trustee to assert, **§ 44** Trust purposes, **§ 211** Validity, generally, this index

INVASION OF PRINCIPAL

Annuity trust, construction of instrument, § 813 Beneficiary's power, § 234, 264.20, 273.35, 282, 812 Estate and tax planning, § 233, 234, 264.5, 264.20 Federal taxation Estate tax, § 264.10, 273.20, 273.35 Gift tax, donor right, § 278 Income tax factors, § 233, 235, 264.10, 264.20, 268.10, 268.20 Powers of trustee, § 812

INVENTORIES
 Testamentary trusts, court supervision, § 233

 INVESTIGATION
 Charitable trusts, enforcement, § 411

INVESTIGATIONS Visitation, charitable trusts, **§ 416**

INVESTMENT ADVISORS Confidential relationship, constructive trust, § 482 Exercise of powers, duty of trustees, § 701 Fiduciary obligations, § 701 Power to retain, § 555, 701 Reliance upon advice, § 701 Settlor may appoint, § 122, 701 Use by trustee, § 701

INVESTMENT ADVISORY SERVICES

Foreign corporations, § 132 Investment trusts and mutual funds, § 248 Trust investments, § 612, 701

INVESTMENT COMPANIES

See also Investment Trusts Definition, § 248 Mutual trust investment companies, § 677 Federal income taxation, § 270.30 Minnesota, conflict of interest, § 639

INVESTMENT COUNSELLORS Employment, § 555, 612, 701

INVESTMENTS

Generally, § 612 Accumulations, trustee's duty, § 215 Active trusts, § 207 Advance court approval, § 687 Advice Court, § 559, 687 Duty to apply for, § 687 Advisors, trustees, employing self to do specialized work for trust, § 543(M) Advisor to trustee, § 122, 612, 701 Confidential relationship, § 482 **INVESTMENTS**—Cont'd Advisor to trustee, § 122, 612, 701 -Cont'd Delegation of power to invest, § 701 Settlor, power to appoint, § 122, 701 Statutes, § 555, 701 Affiliate, purchase from, § 543(E), 543(T), 612 Agents, trustee's use, § 555, 612 Agents and agency, § 612, 671, 701 Approval Advance, court control, § 687 Beneficiary, consent or ratification, § 688 Beneficiary's failure to object on accounting, § 688 Nonlegal investments, by beneficiary, § 941 Authorization, nonlegal investments, § 681 Bank deposits Bank accounts, § 678 Time deposits, § 678 As unsecured loans, § 678 Unsecured loans, § 678 Bankers' and trade acceptances, unsecured loans, § 679 Banks National banks, § 667 Potential conflicts of interest, § 612 Statutes governing trust investments, § 616, 616 to 666, 666 Barring remedies of beneficiary Consent, § 688, 941 Ratification, § 688, 942 Release, § 688, 943 Bearer securities, § 612 Beneficiaries Conduct validating investment transactions, § 688 Beneficiary Approval of nonlegal investments, § 941 Approve changes, § 680 Consent to investments, § 688, 941

INVESTMENTS—Cont'd Beneficiary-Cont'd Lien on product of wrongful investment, § 865 Purchase from, § 612 Ratification of investments, § 688, 942 Release of trustee, § 688, 943 Beneficiary, purchase from, § 612 Bonds Corporate, § 673 Foreign government bonds, § 672 Mortgage bonds, § 673 Municipal bonds, § 672 State bonds, § 672 Breach of duty Care in following settlor's directions, § 683 Damages Apportionment between principal and income, § 821 Examine and review, § 615, 684 Excuse by court, reasonable breach, § 687 Failure to Invest, § 702 Retain, § 703 Sell, § 704 Use skill, § 706 Liabilities, § 683, 701, 708 Measure of damages, § 701, 708 Offsetting gains against losses, § 708 Purchase of nonlegals, extent of liability, § 705 Remedies of beneficiary, § 701, 708, 861, 871 Sale Liability, § 686, 746 Measure of damages, § 703, 704, 708 Two or more investment duties, § 707 Wrongful purchase, § 705 Breach of duty, examine and review, § 615 Breach of trust, § 543(V), 861, 871 Damages, § 701, 708, 862

INVESTMENTS—Cont'd Breach of trust, § 543(V), 861, 871 -Cont'd Election of remedies, § 861, 946 Liability for interest, § 702, 863 Loyalty duty, § 543(V) Restitution, § 861 Business interests, § 679 Callable securities, § 612 Care and diligence required, § 541, 612, 683, 706 Conversion of nonlegals, § 685 Following settlor's directions, § 683 Following statutory lists, § 614 Prudent man rule, § 612, 613, 671, 706 Change in status of investment, statutory lists, § 614 Characterization, § 293 Charitable foundations, excise taxes, § 330 Charitable trusts, § 396, 616, 616 to 666, 666 Charitable Trusts, this index Chattel mortgages, § 676 Commingling, § 677 Commingling, tracing trust funds, presumptions, § 928 Common law Early America, § 613 England, § 613 Common stocks, § 612, 673, 679, 682 Common trust funds, § 270.25, 677 Federal regulations, § 677 Mutual trust investment companies, § 677 National banks, § 667, 677 State regulations, § 677 Statutory provisions, all states, § 616, 616 to 666, 666, 677 Uniform Common Trust Fund Act, § 677 Community trusts, § 329 Consent of beneficiary Barring of remedies for breach of trust, § 941

INVESTMENTS—Cont'd Consent of beneficiary-Cont'd Competency of beneficiary, § 688, 941 Improper sales or retentions, § 688, 941 Nonlegal investments, § 688, 941 Not affect rights of co-beneficiary, § 688, 941 Trustee's fraud invalidating, § 688, 941 Construction Trust instrument, control by settlor, § 680 Various clauses of trust instruments, § 681, 682 Constructive trust, advisors, § 482 Disloyalty, § 543, 544 Contract and trust distinctions, § 17 Contributory mortgages, § 675 Control by beneficiary Conditions precedent to validation of investment, § 544, 688 Consent to non-legal investment, § 688, 941 Ratification of non-legal investment, § 688, 942 Control by court, § 613, 613 to 614, 614, 687 Advice, § 559, 561, 687 Approval in advance, § 687 Approval on accounting, § 687 Denial of compensation, § 980 Excusing reasonable breach, § 687 Overriding settlor, § 687 Control by settlor Powers reserved to settlor, § 42, 104, 264.5, 680 Stocks, permission to buy, § 680 Trust instrument Construction of various clauses, § 680, 682 Duty to use reasonable care, § 683 Grant of discretion, prudent man rule, § 682 Grant of discretion to trustee, § 681 Immunity clauses, § 542, 681

Control by settlor-Cont'd Trust instrument-Cont'd Mandatory or permissive trust terms, § 680 Non-legals authorized, § 681, 685 Permission to retain, § 680, 685 Retention, substituted securities, § 682 Retention of investments, § 680, **682** Sanction of disloyalty, § 682 Sale of trust investments, § 685 Corporate trustee buying earmarked pool for trust, § 543(F) Co-trustee Contribution, damages, § 701 Joint powers, § 554 Liability for breach, § 701 Purchase from co-trustee, § 612 Sole power to invest, § 555 Co-trustee, purchase from, § 612 Court Advice to trustee, § 559, 687 Approval, § 687 Custodian for minor, § 616 to 666 Deviation from trust terms, § 561, 687 Excuse breach, § 687 Instructions, § 559, 687 List of authorized investments. § 613, 613 to 614, 614 Permission to buy stocks, § 687 Rule adopting prudent man standard, § 613 Statutes, § 687 Credits to trustee on accounting, investment expenses, § 971 Custodian for minor, § 15, 616, 666 Damages Breach of duty Apportionment between principal and income, § 821 Trustee's liability, § 701, 708, 862 Breach of trust, § 543(V), 701, 708,862 Decedent's business, § 571, 577

INVESTMENTS—Cont'd

INVESTMENTS—Cont'd Delegation of duties, § 613 To agents, § 555, 612, 671 Delivery of funds for, contract or trust, § 21 Denial of compensation, § 980 Deviation from terms of trust, § 687 Court control, § 687 Discretion Grant by trust instrument, § 681, **682** Trustee, where not controlled, § 612, 680 Discretion of trustee, where not controlled, § 612 Disloyalty, § 543, 612 Corporate trustee buying or holding own stock for trust, § 543(G) Cured by other acts, § 543(U) Sale by one trust to another, common trustee, § 543(H) Trustee buying from earmarked pool, § 543(F) Trustee buying from self, § 543(E) Affiliate or relative, § 543(T)Trust instrument, sanction, § 680 Diversification, § 612 Duties of trustee Active trust, creation, § 207 Care in retention, § 683, 706 Examine on acquisition, § 583, 684 Impartiality between income and remainder beneficiaries, § 612 Reasonable care and skill, statutes, § 706 Reasonable care in making, § 683, 706 Review trust investments, § 684 Sale of nonlegals, § 685, 686 Duty to convert, § 685, 686 Absolute duty, nonlegals, § 685 Factors determining non-legality, § 685 Principal and income, delayed sale, § 824, 825 Qualified duty, nonlegal investments, § 685 Statutes, § 686, 824, 825

INVESTMENTS—Cont'd Duty to make trust property productive, § 611 Earmarking, § 612 Election between money claim and tracing, § 867 Employee benefit plan funds, § 255, 270.20, 612 Employment of advisors, § 122, 555, 612, 701 Enforcement, § 701, 708, 861, 871 England Early law, § 613 Trustee Act of 1925, § 561, 615, 687, 688 Trustee Act of 1926, § 615 Trust Investments Act of 1961, § 615 Variation of Trusts Act, 1958, § 561, 615 Estate planning, § 231 Examination Co-trustee, § 584 On receipt, § 583, 684 Exculpatory clauses, effect, § 542, 680 Executors and administrators. § 12. 616, 616 to 666, 666 Expenses, § 801 Allocation, § 803 Reimbursement, § 975 Failure to invest, measure of damages, § 702 Federal regulation Common trust funds, § 677 National banks, § 134, 677 Fiduciary investment companies, § 677 Following advice from others, § 612 Following statutory list, care required, § 614 Funds for investment Delivery of, contract or trust, § 21 Mixed funds, tracing trust funds, § 928 Ground rents as security, § 676 Guardians, § 13, 616, 616 to 666, 666 Illegal transactions, consent, barring of remedies, § 941

INVESTMENTS—Cont'd Immunity clause, trust instrument, § 542, 680 Improper sales or retentions Allocation of damages between principal and income, § 821 Beneficiary's consent, ratification or release, § 688 Incumbered property, mortgages, § 674 Independent advice, § 612 Inflation, guarding against, § 612 Inspection Inactive co-trustee, § 584 By trustee, § 684 Instructions from court, § 559, 687 Insurance contracts, § 678, 679 Interest Damages, when compound interest awarded, § 702, 863 Damages, when simple interest awarded, § 702, 863 Interest, below market rates, gift taxes, § 278 Investment theories Market or index fund, § 671 Modern portfolio, § 671 Investment trust shares, § 248, 673, 679 Leases Implied power to lease, § 784 As security, § 676 Liabilities, breach of duty, § 701, 708 Compensation, loss of, § 980 Damages, § 543(V), 701, 708, 862 Failure to invest, principal and income damages, § 702 Purchase of non-legals, extent of liability, § 705 Terms of trust instrument, § 680, 685 Liability of Trustees, generally, this index Limited partnership interests, § 679 Liquidity, § 612 Lists, statutory lists, care in following, § 614 Living trusts, comparison, § 231

INVESTMENTS—Cont'd Loans, § 612 Secured, § 674, 676 Unsecured, § 678 Bank deposits, § 678 Loan association accounts, § 678 Trade acceptances, § 678 Loyalty, § 543, 612 Mandatory statutory lists, § 614 Mandatory terms of trust instrument, § 680, 682 Margin requirements, mortgages, § 612, 674 Measure of damages, § 543(V), 701, 708, 862 Failure to sell, loss to principal and income, § 704 Losses, income and principal, § 702, 706 Offsetting gains against losses, § 708 Remedies of beneficiary, § 543(V), 701, 708, 862 Wrongful sale, § 703 Merger and consolidation, substitute assets, § 682 Retention, substantial identity, § 682 Mingling trust fund with other funds in investment, § 677 Mixed personal and trust funds, tracing trust funds, § 928 Modern investment theories, § 671 Mortgages, § 674, 675 Chattel, § 676 Contributory, § 675 Encumbered property, § 674 Foreign real estate, § 674 Ground rents securing, § 676 Insurance on buildings, § 674 Margin requirements, § 612, 674 Mortgage pools, § 675 Out of state real estate, § 674 Participating Duties of trustee, § 675 Statutes regarding, § 675 Construction, § 675

INVESTMENTS—Cont'd Mortgages, § 674, 675-Cont'd Pools, § 675 Productive property, § 674 Realty, § 674 Second mortgages, § 674 Situs of land, § 674 Special use property, § 674 Statutes, § 616, 666 674; and see statutes regarding investments in general Statutes regarding investments in general, § 616 to 666 Terms, § 674 Title insurance, § 674 Trustee's duties, § 674 Validity, § 674, 675 Valuation of property, § 674 Municipal bonds, § 672 Mutual fund shares, § 673, 677 Mutual trust investment companies, § 673, 677 National banks, trust investments, § 667 Negligence, remedies of beneficiary, § 706, 861, 862 Non-legal investments, § 685 Authorization by trust instrument, § 681 Beneficiary's approval, § 941 Beneficiary's consent, ratification or release, § 688 Conditions precedent, validation by beneficiary, § 688 Consent, § 688 Ratification, § 688 Beneficiary, § 942 Third person selling to trustee, § 901 Obligations of United States, § 672 Participating mortgages, § 675 Participation in breach of investment duty, § 901 Partnership enterprise, § 679 Partnerships Trustee's power, § 112, 679 Periodic review, duty of trustee, § 684

INVESTMENTS—Cont'd Permission to trustee by settlor, § 680, 681, 685 Buy stocks Court control, § 687 Settlor's control, § 680, 681 Retain, § 682, 685 Substituted securities, trust instrument, § 682 Permissive statutory lists, § 614 Personal life insurance trusts, creation, § 236 Personal property, § 676 Pledges and mortgages, § 676 Policies of insurance, § 678, 679 Pooled agency accounts, § 677 National banks, § 677 Pools Loyalty, § 543 Mortgage pools, § 676 Tracing trust funds, § 928 Trustee buying from earmarked pool, disloyalty, § 543(F) Power of sale, § 741 Charitable trust, § 392 Powers Granted to beneficiary third party or court, § 680 Joint power, co-trustees, § 554 Leases, implied powers, § 784 Limited partnership interest, § 679 Management, effect of settlor's reservation, § 104, 264.5, 680 Partnership interest, § 112, 679 Reserved to settlor, advice or veto, § 42 Revocable trust, grantor retaining investment powers, § 104, 264.5 Preferred stock, § 673 Presumptions, tracing trust funds, commingling, § 928 Principal and income Allocation, buying and selling expenses, § 803 Recovery of damages, apportionment between, § 821 Productivity, § 611, 702

INVESTMENTS—Cont'd Prudent investor rule, § 613 Restatement, Third, Trusts, § 612, 671 et seq. Prudent man rule, § 612, 612 to 613, 613, 686, 706 Common law, § 612 Criticisms, § 671 Definitions, § 612 Elements and factors, § 612 Purchase of new investments, § 612, 613 Retention of investments, § 612, **686** Safety of capital, § 612 Sales of investments, § 612, 686, 706, 744 Statutes, sale of nonlegal investments, § 686 Statutory adoptions, § 613, 616, 616 to 666, 666 Stocks, § 671, 673 Purchase Personal property, § 676 Real estate, § 676 Stock, settlor's control, § 680, 681 Purchase from Affiliate, subsidiary or relative, § 543(E), 543(T), 612 Beneficiary, § 612 Co-trustee, § 543, 612 Trustee, § 543(E), 612 Purchasing power, preservation, § 612 Purchasing Power, preservation, § 612 Ratification Breach of trust, § 942 Improper investments, § 688 Real estate, § 676 Mortgage on, § 674 Participating mortgages and mortgage pools, § 675 Purchase, § 676 Real estate investment trusts, § 248 Real Estate Investment Trusts, generally, this index Reasonable care, § 612, 682, 683

INVESTMENTS—Cont'd Regulations Common trust funds, federal regulation, § 677 National banks, § 134, 667 State regulations, common trust funds, § 677 Release of trustee, § 688, 943 Remedies, generally, § 701, 708, 861, 871 Barring Consent, § 688, 941 Ratification, § 688, 942 Beneficiary, negligence, § 862 Election, § 946 Removal of trustee, § 527 Reservation of powers by settlor Management, effect, § 104, 680 Retention Breach of duty, damages, principal and income, § 703 Nonlegal instruments, § 685 Permission, trust instrument, § 682 Substituted securities, § 682 Review Initial, § 583, 612, 684 Periodic, § 684 Review, initial, § 612 Revocable trusts, § 233 Sales, § 612, 685, 686, 741 Breach of duty in selling, § 685, 706 Breach of duty to sell, liabilities, § 685, 704 Breach of trust, measure of damages, § 543(V), 703, 704, 862 Considerations in determining nonlegality, § 682 Disloyalty to hold, § 685 Improper, replacement of property sold, § 703 Non-legal investments Breach of trust, measure of damages, § 704, 706 Duties of trustees, § 685 Statutes, § 686 One trust to another, common trustee, § 543(H)

INVESTMENTS—Cont'd Sales, § 612, 685, 686, 741-Cont'd Power of sale, charitable trust, § 392 Statutes, § 686, 706, 743 Prudent man rule, § 612, 686 Statutes, prudent man rule, § 612 Third person, non-legal investment to trustee, § 901 Timing, conversion, § 685 Seasoned securities, § 612, 683 Second mortgages, § 674 Securities Bearer securities, § 612 Callable securities, § 612 Securities, see also Bonds; Stocks, corporate, infra Bearer securities, § 612 Callable securities, § 612 Common, § 673, 682 Ground rents as, § 676 Security for loans Lease as, § 676 Mortgage, § 674, 676 Second mortgage, § 674 Stocks or bonds of foreign corporation, § 683 Separation of investments, § 612 Settlor's control, § 104, 680 Construction of directions, § 681, 682 Duty of care in following, § 683 Silence, improper investment, effect, § 688, 941 Situs of land, mortgages, § 673 Skill and prudence, § 612, 686, 706 Specific performance, remedies, beneficiaries, § 861 Specific performance, remedy of beneficiary, § 861 Speculation, § 612 Speculative investments, § 683 Standard of care, § 612, 683, 706 State bonds, § 671 State regulations, common trust fund, § 677

INVESTMENTS—Cont'd Statutes, § 613, 613 to 614, 614, 616, 616 to 667, 667 Advisor to trustee, § 701 Alabama, § 616 Alaska, § 617 Arizona, § 618 Arkansas, § 619 California, § 620 Colorado, § 620, 621 Common trust funds, § 616, 616 to 667, 667, 677 Connecticut, § 622 Delaware, § 623 District of Columbia, § 624 Duty to sell nonlegal investments, § 686 Executors and administrators, § 12, 616, 616 to 666, 666 Florida, § 625 Georgia, § 626 Guardians, § 13, 616, 626 to 666, 666 Hawaii, § 627 Idaho, § 628 Illinois, § 629 Indiana, § 630 Iowa, § 631 Kansas, § 632 Kentucky, § 633 Legal lists, § 613 et seq, 613 et seq. Louisiana, § 634 Maine, § 635 Maryland, § 636 Massachusetts, § 637 Michigan, § 638 Minnesota, § 639 Mississippi, § 640 Missouri, § 641 Montana, § 642 National banks, § 134, 667 National Banks, § 667 Nebraska, § 643 Nevada, § 644 New Hampshire, § 645 New Jersey, § 646 New Mexico, § 647

INVESTMENTS—Cont'd Statutes, § 613, 613 to 614, 614, 616, 616 to 667, 667-Cont'd New York, § 648 North Carolina, § 649 North Dakota, § 650 Ohio, § 651 Oklahoma, § 652 Oregon, § 653 Partnership, interests, § 679 Pennsylvania, § 654 Rhode Island, § 655 South Carolina, § 656 South Dakota, § 657 Tennessee, § 658 Texas, § 659 Uniform Common Trust Fund Act, § 677 Uniform Gifts to Minors Act, § 15, 616, 616 to 666, 666 Uniform Trusts Act, § 7 Utah, § 660 Vermont, § 661 Virginia, § 662 Washington, § 663 West Virginia, § 664 Wisconsin, § 665 Wyoming, § 666 Statutory guides, § 613 Statutory lists Care in following, § 614 Change in status of investment, § 614 Mandatory, § 614 Permissive, § 614 Stocks, corporate, § 612, 612 to 613, 613, 616, 616 to 666, 666, 673 Disloyalty, corporate trustee buying or holding own stock, § 543(G) Investment trust shares, § 248, 673, 679 Preferred, § 673 Prudent man rule, § 611, 612, 673 Retention, § 682, 685, 686 Settlor's control, § 680 Statutes regarding, § 616, 616 to 666, 666, 673, 686

INVESTMENTS—Cont'd Stocks, corporate, § 612, 612 to 613, 613, 616, 616 to 666, 666, 673 -Cont'd Subscription rights, § 682 Subsidiary, purchase from, § 543, 612 Subsidiary investment companies, § 677 Substituted securities, permission to retain, trust instrument, § 682 Subtrusts, division of irrevocable trusts, § 612 Taking advice, § 612 Tax consequences, § 612, 671, 672 Terms of mortgages, § 674 Terms of trust Deviation, § 561 Court control, § 687 Mandatory or permissive, § 680 Settlor's control. § 680. 681 Testamentary trusts, § 264.20 Third persons Breach of trust, § 868 Control of investments, § 555, 680 Selling nonlegal to trustee, § 901 Tracing trust funds, § 921 Tracing trust funds, commingling, presumptions, § 928 Trust, factors to be considered, § 612 Trust companies Statutes governing trust investments, § 616, 666 Trust companies, statutes governing trust investments, § 616 to 666 Trust deeds, § 674 Trustees Corporate stock, voting for self as director or officer of corporation, § 543(N) Duties Examine and review trust investments, § 684 Reasonable care in following settlors directions, § 683 Sale of nonlegals, § 685 Exculpatory clauses, § 542 Good faith, § 541 Grounds for removal, § 527

INVESTMENTS—Cont'd

INVESTMENTS—Cont'd Trustees—Cont'd Indirect disloyalty, § 543(T) Loyalty to beneficiaries, § 543 Securing incidental benefits for self while engaged in trust business, § 543(Q) Selling own property to trust, § 543(E) Trustee's duty to earmark, § 612 Trustee's liabilities, breach of duty, § 701, 708, 862 Duty of loyalty, § 543, 543(V), 612 Where non-legals become legal, § 614 Trust instrument Construction Retention clauses, § 682 Various clauses, § 680, 682 Duty to use reasonable care, § 682, 683 Grant of discretion, § 681, 683 Prudent investor rule, § 682 Immunity clauses, § 680 Mandatory or permissive terms, § 680 Nonlegals, authorized, § 681 Permission to retain, § 682 Substituted securities, § 682 Retention of settlor's investments, § 682 Sanction of disloyalty, § 683 Sale of investments, § 685 Types of trust investments, corporate trustees, § 671 Unauthorized, damages, amount of loss, § 862 Uniform Common Trust Fund Act, text and adoptions, § 677 Uniform Gifts to Minors Act, § 15, 616, 616 to 666, 666 Uniform Prudent Investor Act, § 671 Uniform Trusts Act, § 7, 688 United States obligations, § 672 Unproductive property, § 611, 676, 702 Unsecured loans, § 678 Bank deposits, § 679 Loan association accounts. § 679

Unsecured loans, § 678—Cont'd Trade acceptances, § 679 Unsecured promises to pay, § 678 Use of advisor or agent to assist trustee, § 612, 701 Validation by beneficiary Conditions precedent, § 688 Duty to co-beneficiaries, § 688 Effect of silence, § 688 Veto, power reserved to settlor or others, § 4, 122, 680 Wasting securities, § 612 **INVESTMENT TRUSTS** Generally, § 247, 248 Business trust distinguished, § 247B Capital gain dividends, § 270.30 Capital gains distributions Principal or income, § 858 Taxation, § 270.30, 270.35 Closed end Federal income tax, § 270.30 Purposes and operation, § 249 Federal income tax Federal legislation, § 248 Fixed or closed end, § 270.30 Open end or mutual funds. § 270.30 Real estate investment trusts, § 270.35 Taxation of shareholders or beneficiaries, § 270.30, 270.35 Income taxes, § 270.30 Investment advisors, compensation, § 248 Investments in, § 248, 270.30, 673, 679 Open end or mutual fund Federal income tax, § 270.30 Purposes and operation, § 248 Pooled agency accounts, national banks, § 248, 677 Real estate Purposes and operation, § 248, 270.35 Regulation by statute, § 248 Shares, as trust investment, § 679 Terminology and classification, § 1

INVOLUNTARY LOSSES Trustees, liability, § 542

INVOLUNTARY TRUSTS See also Constructive Trusts Constructive trust as, § 471 et seq

IOWA

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 631**

IRREVOCABLE TRUSTS

Generally, § 234 Discretionary trusts, § 264.10 Estate and tax planning, types, § 234, 235 Estate planning, § 234, 235, 264.10 et seq. Federal tax legislation, § 264.10 Functions, § 231, 234 Income taxes, § 264.10, 270 Planning, § 234, 235, 264.10 et seq. Life insurance trusts, § 235, 264.15 Principal withdrawals, reservation of powers, § 233 Purposes, § 234 Reservation of powers, principal withdrawals, § 233 Restrictions, § 231 Separate maintenance, § 232 Tax consequences, federal Generally, § 234, 235, 264.10, 264.15 Estate, § 234, 264.10, 273 et seq Gift, § 234, 264.10, 264.15, 277, 278 Income, § 234, 264.10, 268 et seq Tax planning, § 234, 235, 264.10 et seq. Termination, § 1002 et seq. ITALY

Transfer taxes, § 10

JOINDER OF PARTIES

Breach of trust Co-trustees, **§ 871** Trustee and third party, participation, **§ 868** JOINDER OF PARTIES—Cont'd Charitable trusts, § 411 Cy pres application to court, § 441 Jurisdiction, § 870 Third parties, breach of trust, § 871 Remedies of beneficiaries, § 868 Standing, § 869 JOINT AND MUTUAL WILLS Cases, § 499 Federal estate tax, marital deduction, § 275.10 JOINT AND SEVERAL LIABILITIES Business trust, members, § 247N Co-trustees Breach of investment duty, § 701 Breach of trust, § 862, 871 Remedies of beneficiary, § 862 JOINT AND SEVERAL LIABILITY Breach of trust Cotrustees, § 871 Damages, § 862 Recovery from trustees, § 862 Third parties, remedies of beneficiaries, § 868 Cotrustees, breach of trust, § 871 Election of remedies, § 945 Third parties, breach of trust, remedies of beneficiaries, § 868 JOINT AND SURVIVOR ANNUITIES Federal estate tax, § 273.25 JOINT BANK ACCOUNTS Cases and statutes, § 47 Constructive trusts, confidential relationship, § 47, 482 Creation, presumption of gift, § 47 Creditors' rights, § 233 Federal gift tax, § 278 Implied trust, § 47 Statutes Legal effect, § 47 Privilege of bank, § 47 Testamentary disposition to others in joint tenancy, § 47 Uniform Probate Code, § 47

JOINT BANK ACCOUNTS—Cont'd

Withdrawal by one trustee, breach of trust, § 911

JOINT DONEES

Oral promise to convey to another, constructive trust, § 499

JOINT INTERESTS Federal estate tax, § 273.30 Federal gift tax, § 278

JOINT POWERS OF APPOINTMENT Federal estate tax, § 273.35 Federal gift tax, § 282

JOINT RETURN Federal income tax, decedent's final year, § 272

JOINT STOCK COMPANIES Business trusts distinguished, § 247B Income taxes, § 270.40

JOINT TENANCY

See also Tenancy by Entireties; Tenancy in Common Accounting, § 28 Bank account Privilege of bank, § 47 Statutes, § 47 Banks, breach of trust, permitting withdrawals by one trustee, § 911 Beneficiaries, § 181 Certificate of deposit left with joint tenants for safekeeping, replevin, § 11 5 Character of trustees holding, § 145 Charitable trustees, § 391 Corporation as co-trustee, § 145 Co-trustees, § 122, 145 Survivorship, § 530 Creditors rights, § 233 Creditors' rights, § 28, 233 Disclaimer Statutes, § 171 Distinguished from trust, § 28 Estate taxes, § 273.30 Gross estate, § 273

JOINT TENANCY-Cont'd Estate taxes, § 273.30—Cont'd Life insurance, § 273.40 Marital deduction, § 275.10 Spouses, § 273.30 States, § 286 Federal estate tax, § 273.30 Gross estate, § 273.30 Marital deduction, § 275.10 Federal gift tax, § 278, 280 Bank accounts, § 278 Marital deduction, § 280 United States savings bonds, § 278 Gift taxes, § 278 Guardians, § 13 Holding by trustees, § 122, 145, 554 Corporation as co-trustee, § 145 Statutes, § 145 Homicide, constructive trust of property, § 478 Husband and wife Federal estate tax, marital deduction, § 275.10 Federal gift tax, marital deduction, § 280 Resulting trusts, § 459, 460 Life insurance, estate taxes, § 273.40 Loyalty duty, joint tenants, § 28, 481 Marital Property Act, § 7 Members, business trusts, Texas actions against trust, § 247N Powers of trustees, § 554 Power to revoke jointly held, § 1001 Probate, avoidance, § 231, 233 Probate proceedings, avoidance, § 231 Oualification for marital deduction Federal estate tax, § 275.10 Federal gift tax, § 280 Resulting trusts Husband as payor, wife as cotenant, § 459 Wife as payor and husband as cotenant, § 460 Resulting trusts, presumptions, § 459 Sale forced by third parties, purchasing, § 543(C)

JOINT TENANCY—Cont'd

Savings accounts, acts of conversion, § 47 Spouses, estate taxes, § 273.30 State estate taxes, § 286 Subject-matter of trust, § 112 Surviving spouse, rights to augmented estate, § 211 Taxes and taxation Federal estate tax, § 273.30 Federal gift tax, § 278 State death taxes, § 286 Trustees, survivorship, § 530

JOINT TRUSTEES

Joint action necessary, § 122, 145, 554

Merger questions, trustees as beneficiaries, § 1, 129

JOINT VENTURE Breach of duty, constructive trusts, § 488, 543 Constructive trusts Breach of duty, § 488, 543 Fiduciary relationship, § 488 Creation, intent, § 45 Definition, § 488 Distinguished from trust, § 36 Fiduciary relationship, constructive trusts, § 481 Leases, one venturer taking renewal for self, loyalty breach, § 543(I) Purchase of interest after resignation, § 543(D) Purchase of property for speculation or resale, application of law, § 36 49 Renewal of leases for self, loyalty, § 543(I) Statute of Frauds, real estate, § 488 JOINT VENTURES Business insurance trusts, § 235 et seq.

Constructive trusts, breach of fiduciary duty, § 488 JOINT VENTURES—Cont'd Trustees Buying for self claims against trust property, § 543(D) Leases, taking renewal or buying reversion for self, § 543(I) JOINT WILLS Breach of agreement by one testator, constructive trust, § 499 JUDGES Acting as trustees, § 129 JUDGMENT CREDITORS Bona fide purchaser rule, § 885, 887, 889 Joint bank accounts, execution, § 47 Remedies against beneficiaries, § 193 Resulting trusts, recording of trust, § 146 Spendthrift trusts, § 227 Statute of Frauds, power to raise, § 70 JUDGMENTS AND DECREES Accounts and accounting Judicial accountings, § 968 Opening up Res adjudicata, judicial settlement of accounts, § 956 Advisory verdict of jury, § 49 Agent buying up judgments, constructive trust, § 543 Assignment as gift, federal gift tax, § 278 Assignments, gift taxes, § 278 Bona fide purchasers Consideration, § 887 Equitable interest, § 885 Recording acts, constructive notice, § 893 Breach of trust, damages, § 862 Breach of trust, evidence, liability of sureties, § 864 Business trusts, § 247(M), 247(N) Attachment and levy, trust property, § 247N When bind trustees personally, § 247N Charitable trusts, termination, § 400

JUDGMENTS AND DECREES -Cont'd Collateral estoppel, breach of trust, barring of remedies, § 956 Confession of judgment Creditors, preference, § 715 Implied powers of trustee, § 551 Consideration, bona fide purchasers, § 887 Constructive trust, agent buying judgments, § 543 Creditors of beneficiary Beneficiary's interest, lien, § 193 Enforcement, remedies against beneficiary, § 193, 227 Satisfaction, creditors' remedies, § 193, 227 Equitable interest, bona fide purchasers, § 885 Evidence, breach of trust, liability of sureties, § 864 Full faith and credit, § 292 Interest on amounts recovered, right of beneficiary, § 863 Judicial accountings, § 968 Purchase money resulting trusts, § 465 Purposes, § 231 Recording acts, bona fide purchasers, constructive notice, § 893 Res adjudicata Barring remedies, § 956 Beneficiary but not trustee a party, § 956 Res judicata, breach of trust, barring of remedies, § 956 Resulting trusts, § 465 Failure of express trusts, § 468 Surplus res, § 469 Setting aside trust, § 997 Title to property, bona fide purchasers, § 885 Trustees, resignation, § 514 Types, § 543(V), 861, 862 JUDICIAL ACCOUNTINGS See Accounts and Accounting

JUDICIAL ESTOPPEL Barring of remedies, § 944

Index-248

JUDICIAL JURISDICTION See also Courts; Jurisdiction Continuing or supervisory jurisdiction, § 292, 563 Factors affecting, § 292 Federal and state, § 1, 292, 870 Limits on exercise, § 292 Meaning, § 292 Statutes regarding, § 292 Trusts, § 292 Types, § 1, 292 JUDICIAL NOTICE Charitable trusts, purposes, § 368 Charitable trusts, social economic and political conditions, § 368 Witnesses, memory of distant events, uncertainty, § 949 JUDICIAL REVIEW See Accounts and Accounting; Appeal and Review JUDICIAL SALES Buyers, value, bond fide purchaser rule, § 887 Constructive trusts agent to buy for principal purchases for self, § 487 Purchases, § 494, 543(C) Statute of Frauds, power to raise, § 70 Trustee buying at forced sale, § 543(C) JUDICIAL TRUSTEE ACT Development of trust law, England, § 7 JURISDICTION Generally, § 292 Breach of trust, release, § 943 Charitable trusts, § 298, 322 Charitable trusts, cy pres, § 435

Collateral estoppel, breach of trust, barring of remedies, § 956 Conflicting claims, federal and state courts, § 870 Constructive trusts, equitable powers of court, § 472

Conversion, § 870

JURISDICTION—Cont'd Court Removal of trustee, § 523 Cy pres, § 435 Enforcement of trust, § 870 Equity, breach of trust proceedings, § 870 Federal income tax, § 262 Foreign corporation as trustee, § 132 Income taxes, § 262 Intangibles, state taxation, § 287 Judicial, § 292 Land and personal property, multistate trusts, § 292 Multistate trusts, § 291, 292 Partition, § 870 Release, breach of trust, § 943 State taxation, § 285, 287, 300 State taxes, § 287 Subject matter, § 292 Trustees Removal from office, § 519, 523 Vacancy in office, appointment of successor, § 532 Uniform Probate Code Multistate trusts, § 292 Trust sections, § 7

JURY

Enforcement of trust, § 870

KANSAS

Accounts and accounting, statutory regulation of accounts, § 974 Investments, § 632 Investment statutes, § 632

KENTUCKY

Accounts and accounting, statutory regulation of accounts, § 974

KEOGH PLANS

Establishment, requirements, § 255, 270.20

KEY

Access to safety deposit box, § 142 Transfer of key, creation of trust, § 142 KEY MAN INSURANCE Estate taxes, § 273.40

KINDERGARTEN

Charitable trusts, advancement of education, § 375

KINDRED

See Relatives

KNIGHT SERVICE, TENANTS IN Statute of Wills, § 101

KNOWLEDGE

Bona Fide Purchasers, this index
Breach of trust
Constructive trusts, limitation of actions, § 953
Laches, § 949
Third parties, § 901, 902
Constructive trusts, limitation of actions, breach of trust, § 953
Laches, breach of trust, § 949
Limitation of actions, constructive trusts, breach of trust, § 953
Third parties, breach of trust, § 953
Third parties, breach of trust, § 901, 902

LABOR AND EMPLOYMENT

See also Employee Benefit Trusts Breach of trust, ratification, § 942 Charitable trusts, employees of named business, class characteristics, § 365 Compensation and Salaries, generally, this index Life insurance, key man insurance, estate taxes, § 273.40 Officers and Employees, generally, this index Pension and profit-sharing plans, § 255, 270.20, 273.25 Federal estate tax, § 270.20, 273.25 Federal income tax, § 270.20 State law and taxes, § 255, 286 Profit Sharing Plans, generally, this index Qualified Retirement Plans, generally, this index Ratification, breach of trust, § 942

LABOR AND EMPLOYMENT

--Cont'd Trustees, employing self to do specialized work for trust, § 543(M)

LABOR ORGANIZATIONS

Dues and assessments, charitable trusts, source of funds, § 367

LABOR UNIONS

Beneficiary, § 167 Charitable trusts, source of funds, dues and assessments, § 367

LACHES

See also Remedies, Barring; Limitation of Actions Accounting. defense to beneficiaries' action for, § 969 Application, termination of trust, § 995 Barring remedies of beneficiary Beneficiary's activity in asserting rights, § 949 Constructive trusts, § 472, 948 Disability of beneficiary, § 949 Dislovalty of trustee, § 543(U) Election of remedies, § 867, 946 Examples of prejudice, § 949 Excuses for delay, § 949 Exercise of trustee's power, § 564, 949 Income and remainder beneficiaries, § 949 Length of delay, § 949 Notice to beneficiary, § 949 Pleading defense, § 948 Prejudicial delay, § 948, 949 Relationship of parties, § 949 Relation to Statute of Limitations. § 948 Theory and elements, § 948, 949 Trustee's admission of duty, § 949 Wrongful sale of property, § 747 Beneficiaries Trustee buying at own sale, § 543(A) Breach of trust Barring of remedies, § 948, 949

LACHES—Cont'd Breach of trust-Cont'd Election of remedies, § 867 Evidence, § 949 Buying at forced sale, recovery of property, § 543 Charitable trusts Application, § 399, 411, 948 Barring attack on validity, charitable trust, § 417 Challenges, § 417 Enforcement, § 399 Enforcement, attorney general, § 411 Trustees, defenses, § 394 Constructive trusts, barring right to enforce, § 472, 953 Co-trustees, passively allowing exclusive possession, § 585 Disloyalty, § 543(U) Election of remedies. § 946 Election of remedies, breach of trust, § 867 Income and remainder beneficiaries, barring remedy, § 949 Notice to beneficiaries, barring remedy, § 949 Pleading the defense, § 948 Prejudicial delay, § 949 Remainders, barring remedy, § 949 Resulting trusts Barring enforcement of claim, § 466, 468, 469 Enforcement of trust, § 466 Excessive res. § 469 Extinction, § 466 Failure of express trust, § 468 Failure of express trusts, § 468 Purchase money resulting trust, **§ 466** Res proves excessive, § 469 Surplus res, § 469 Statute of Limitations, distinguished, § 948 Tracing trust funds, § 867 Trustees Loyalty, § 543(U) Beneficiaries, § 543(A)

LACHES—Cont'd

Valid excuses for delay in enforcement, § 949

LAND

Conflict of laws, **§ 293, 297** Judicial jurisdiction, multistate trust proceedings, **§ 292** Statute of Frauds, transfers, **§ 62, 63**

LAND CONTRACTS

Sales by trustee, § **744, 746** Statute of Frauds, § **65** Title to property, § **18**

LANDLORD AND TENANT

See also Leases Bona fide purchasers, mortgages, duty to inquire, § 894 Bona fide purchasers, notice, possession, § 896 Eviction, standing, § 869 Leases, restraints on alienation, § 220 Mortgages, bona fide purchaser rule, duty to inquire, § 894 Personal liability of trustee, § 731 et seq Possession, bona fide purchaser rule, duty to inquire, § 894 Rent Accumulations rules, § 217 Act of acceptance by trustee, § 150 Allocation between principal and income, § 816, 827, 829 Apportionment, successive beneficiaries, § 818 Depreciation reserve, § 829 Duty to collect, § 799 Rents, generally, this index Safe condition, tort liability, § 731

LAND PATENTS

Bona fide purchasers, equitable interest, § 885

LAND TRUST

Generally, § 249 Certificates, § 249 Distinguished from real estate investment trust, § 249 Functions, § 249

LAND TRUST—Cont'd Real estate investment trust, § 249

LAND TRUSTS Generally, § 249 Conflict of laws, § 294

LANGUAGE

Abbreviations, description of trust or trustee in instrument, § 45

Ambiguity, parol evidence, Statute of Frauds, **§ 88**

Annuities, invasion of capital, construction of instrument, § 813

Appeal and review, construction of trust instrument, § 559

Charitable trusts, creation, § 371

Powers of appointment, specificity as to nature and extent of power, § 43, 233

Sale of property, notice of sale, § 745

Spendthrift trusts, intent showing creation, § 225

Statute of Frauds, wording of American statutes, analysis, **§ 63**

Technical, not necessary to create trust, § 45

Testamentary trusts, ambiguities, **§ 102**

LAPSE

Anti-lapse statutes, successors of deceased beneficiary, **§ 164** Beneficiary predeceasing testator, anti-lapse provisions, **§ 164** Power of appointment Federal estate tax, **§ 273.35** Federal gift tax, **§ 282** Federal taxes, limited power of withdrawal, exception, **§ 264.20, 273.35, 282** Power of appointment, estate taxes, **§ 273.35** Testamentary trusts, **§ 105**

LARCENY

Appropriation of trust property, **§ 861** Beneficiary Restoration of funds, **§ 192**

LARCENY—Cont'd Beneficiary—Cont'd Trustee acting for self and other beneficiaries, § 191 Constructive trusts, proceeds of, § 476 Contract and trust, distinction, § 17 Insurance, tracing trust funds, § 925 Proceeds Constructive trust, § 476 Resulting trust, § 476 Tracing trust funds, insurance proceeds, § 476, 925 Trustee's misappropriation, remedies of beneficiary, § 861

LATERAL SUPPORT Liabilities arising from ownership, § 720

LAW GOVERNING Conflict of Laws, generally, this index

LAWYERS See Attorneys LEAD TRUSTS

Charitable Trusts, this index

LEAD TRUSTS, CHARITABLE Federal taxation, § 264.25

LEASES

See also Landlord and Tenant; Powers of Trustees Actions and proceedings, § 797 Active trusts, § 207 Purpose of trusts, early law, § 212 Beneficiaries Interest, statutory provisions, § 184 Possession and use, § 208 Rights, passive trust, § 208 Beneficiaries, use of property, § 208 Bonuses, allocation between principal and income, § 816 Charitable gifts, reversion, § 324 Charitable trusts, § 391, 796 Commercial purposes, § 401 Court administration, § 396 Creation. § 324

LEASES—Cont'd Charitable trusts, § 391, 796—Cont'd Deviation from terms, § 394 Powers and duties, § 392, 796 Collection of rents, trustee's duty, § 799 Consent, barring of remedies, § 941 Constructive trusts, joint ventures, § 488 Co-trustees, power to be exercised by all, § 554 Court, § 786, 787 Deviation from terms, § 786, 790 Powers over trustee, § 786 Statutory provisions, § 787 Creation of trust, execution of passive trust, § 206 Depreciation reserve, commercial rents, § 829 Deviation, § 786 Disloyalty, § 543(B) Trustee obtaining for self renewal or reversion, § 543(I) Duration beyond trust term, § 789, 792 Settlor's control, § 790 Duties of trustee, § 797, 799 Repairs and improvements, § 798 Execution, terms, effect, § 797 Expenses Allocation, § 804, 805 Express power of trustee, § 781, 783 Definite term, § 782 Extending beyond trust term, § 789 Future leases, § 794 Gas leases, powers of sale, § 741 et seq Imperative duties, § 212 Implied power of trustees, § 784, 785 Mining, oil and gas leases, § 795 Improvements, § 798 Instructions from court, § 559 Joint ventures, duty of loyalty, § 488 Land trusts, § 249 Loyalty, § 543(B) Management powers, reservation by settlor, § 104

LEASES—Cont'd Mining leases, § 795 Open mine doctrine, § 795 Oil and gas, § 787, 795 Open mine doctrine, § 795 Power of sale, § 741 et seq Open mine doctrine, § 795 Options to renew or purchase, § 793 Application of Rule against Perpetuities, § 213 Perpetuities, § 213 Personal or representative liability, § 797 Possession and use of trust property by beneficiary, § 208 Power of sale, oil and gas leases, § 741 et seq Power to make Charitable trusts, § 391, 393, 796 Court's power, § 786 Deviation from trust terms, § 786 Settlor's directions against public policy, § 786 Statutory provisions, § 787, 795 Duration beyond trust term, § 789, 792 Settlor's control, § 790, 792 Express power, § 781 Any term, § 783 Definite term, § 782 Implied power, § 784, 785 Illustrations, § 551, 784 Mineral leases, § 795 Oil and gas leases, § 786, 787, 795 Options to renew or purchase, trustee's power, § 793 Present or future leases, § 794 Public policy, § 786 Settlor's direction, public policy, § 786 Statutory grants of power, § 787 Term where no controlling provision, § 788 Present leases, § 794 Principal and income, bonuses, allocation, § 816 Public policy, § 786

LEASES—Cont'd Renewal, loyalty duty, § 543(I) Rent Accumulations rules, § 217 Act of acceptance by trustee, § 150 Allocation between principal and income, § 816, 824, 827, 829 Apportionment, successive beneficiaries, § 818 Depreciation reserve, § 829 Duty to collect, § 799 Repairs, § 798 Repairs and improvements, duty to make, § 798 Reservation of management powers, **§ 104** Restraints on alienation, § 220 Restraints on tenant's alienation. § 220 Reversion, loyalty, § 543(I) Rule against Perpetuities, application, § 213 Security for mortgage investment, § 676 Settlor's direction, public policy, § 786 Statute of Frauds. § 61. 63 Court control, § 786, 787 Illustration of writing satisfying, § 89 Limited grant of power to trustee, § 787 Unlimited grant of power to trustee, § 787 Statute of uses, § 206 Statutory restrictions on trust purposes, § 212 Taking renewal or buying reversion for self, § 543(I) Tax payments, banks, release of collateral security, § 15 Term, § 782, 783 Terms, § 797 Customs and usages, § 788 Powers of trustee, § 788 Testamentary trusts, conflict of laws, § 296 Trustees Express power, § 781

LEASES—Cont'd Trustees-Cont'd Good faith, dealing with beneficiaries, § 544 Implied power, § 784 Lease of property to self, § 453 Lessee purchase or renew options, § 793 Loyalty to beneficiaries, § 543, 543(B) Rent, duty to collect, § 799 Statutory powers, § 787 Taking renewal or buying reversion for self, § 543(I) Trustee's duty to prevent forfeiture, § 582 Trustee's immunity, tort liability, § 735 Trust-leaseback arrangements, irrevocable trust, § 234

LEGACIES

See also Testamentary Trusts; Wills Compensation for future work, resignation of trustee, § 515

LEGAL INTEREST Perpetuities, § 213

LEGAL RIGHTS

Creating trusts, § 204 Failure to exercise, gift taxes, § 278

LEGISLATURE

Charitable trusts, § 395, 397 Cy pres, limited powers, § 434 Removal of trustee, § 397 Cy pres power, § 434 Loyalty, sanctioning disloyal acts, § 543(A), 543(C), 543(U) Municipal corporation, removal of trustee, § 521 Removal of trustees Charitable trusts, § 397 Municipal corporation as trustee, § 521 Sanctioning act otherwise disloyal, § 543(A), 543(C), 543(U) Termination of trusts, limits on duration. § 1008

LEGISLATURE—Cont'd

Trustees Disloyalty prevented or cured, § 543(U) Municipal corporations, removal from office, § 521

LESSER LIEN THEORY

Tracing trust funds, insurance proceeds, § 925

LETTER OF ATTORNEY See Powers of Attorney

LETTERS

Insurance trusts, evidence of creation, § 236 Statute of Frauds, illustration of writ-

ing satisfying, **§ 89** LETTERS OF TRUSTEESHIP

Qualification of trustee, § 151

LEVEES AND FLOOD CONTROL Charitable trusts, governmental purposes, § 378

LIABILITIES OF TRUSTEES

See also Duties of Trustee; Investments; Taxes and Taxation Accounts and accounting Additional security required, § 861 Failure to account, § 863, 980 Failure to render, grounds for removal, § 527 Trustee's compensation denied or reduced, **§ 980** Ad valorem taxes, payment, § 602 Advice, effect, § 583, 612 Agency distinguished, § 15, 712 Agents Contracts, authorized agent, § 722 Assessments, corporate stock, § 720 To beneficiary, sale of trust property, § 746 Breach of trust, § 861, 863, 870, 871 Disloyal acts, § 543, 543(V) Failure to make proper distributions on termination, § 1010 Failure to make proper payments,

§ 814, 1010

LIABILITIES OF TRUSTEES -Cont'd Breach of trust, § 861, 863, 870, 871 -Cont'd Failure to receive adequate rental, § 799 Right to contribution, § 701, 718, 734,862 Wrongful acts in sale of trust property, § 746 Wrongful allocation of stock dividend, § 845 Wrongful sale of trust property, § 746, 747 Wrongful transfer of trust to another, § 512 Business trusts, § 247K Charitable foundations, § 330 Charitable trusts, § 329, 391 Breach of investment duty, § 396 Contracts of trustee, § 400 Property ownership, § 400 Torts, § 401 Recent developments, § 401 Civil arrest, breach of trust, § 861 Consent barring, § 941 Constructive trusts, § 481, 501 Contempt of court, § 861 Continuation of decedent's business Unauthorized continuance, § 577 Contracts Agents, § 722 Agreement for estate liability, § 715 Beneficiary's acts, § 723 Contribution, § 718 Co-trustee's contract, § 722 Contribution, § 718 Court control, § 723 Covenants running with land, § 719 Creditors' rights through trustee, § 715 Creditors' rights to payment from trust estate, § 716 Exclusion of personal liability, § 714 Implied warranties, § 714, 724

LIABILITIES OF TRUSTEES -Cont'd Contracts-Cont'd Improper, reimbursement from trust estate, § 713, 725 Indemnity from beneficiary, § 718 Intra vires and ultra vires, § 712, 719 Nature of suit, parties, § 712 Personal liability, § 712 Extent, § 712 Predecessor trustee, § 722 Quasi-contractual liability, § 725 Right to exoneration, § 718 Right to reimbursement, § 718 Lien, § 718 Settlor's contracts, § 719 Settlor's control, § 723 Specific performance, § 717 To third party, sale of trust property, § 746 Trustee's right to indemnity, § 718 Uniform Commercial Code, § 714 Uniform Negotiable Instruments Law, § 714 Uniform Probate Code, § 712 Uniform Trusts Act, § 712, 714 Variation by statute, § 712 Contribution Contract liability, § 718 Co-trustees, § 862 Tort liability, § 734 Corporate stock Assessments, § 720 Calls, § 720 Statutes relieving trustee, § 720 Costs and expenses, breach of investment duty, § 701 Co-trustees Contracts, § 722 Contribution, § 718, 734, 862 Entrusting possession to other trustee, § 586 Inactive co-trustees, § 584, 585 Joint and several, § 584, 701, 722, 731 Release of one co-trustee barring action against others, § 943

LIABILITIES OF TRUSTEES -Cont'd Co-trustees-Cont'd Torts, joint liability, § 731 Covenants running with land, § 719 Creditor's rights, contracts, § 715 Through trustee's right of indemnity, § 716 Criminal liability, § 861 Damages Investments Failure to invest, § 702 Failure to retain, § 703 Failure to sell, § 704 Measure of damages, § 543(V), 701,862 Purchase of nonlegal investment, § 705 Measure, breach of trust, § 543(V). 701 et seq., 862 Employee benefit trusts, § 255, 270.20 Employees and agents Contracts, § 555, 711 Exculpatory clauses, various types, § 542 Exoneration, contract liability, § 718 Torts, § 731 Immunity clauses Construction, § 542 Contracts, § 723 Effect, § 542 Hostile court construction, § 542 Investments, § 680 Statutory control, § 542 Torts, § 735 When void, § 542 Implied warranties, § 714, 724 Improper distributions, § 814, 1010 Court excusing breach, § 814 Measure of damages, § 814 Recovery from beneficiaries, § 814 Inactive co-trustee, § 584 Indemnity Contract, § 718 Beneficiaries, § 718

LIABILITIES OF TRUSTEES -Cont'd Indemnity-Cont'd Liabilities arising from property ownership, § 720 Torts, § 731, 734 Investment losses, reliance on investment advisor, § 612, 701 Investments Breach of two or more duties, § 707 Contribution from co-trustees, § 701, 862 Court excusing reasonable breach, § 687 Damages Failure to invest, § 701, 702 Failure to retain investment, § 703 Failure to sell, § 704 Losses to principal and income, § 702, 705 Measured by, § 701, 862 Offsetting gains and losses, § 708 Profits made, improper investment, § 701 Several nonlegal investments, § 705 Statutes, § 701 Unauthorized investment, § 701, 705 Wrongful purchase Election of remedies, § 705 Income losses, § 705 Principal losses, § 705 Excessive mortgage loans, § 674 Failure to diversify, § 612 Failure to follow settlor's directions, § 683, 706 Failure to invest, § 702 Failure to invest as directed, proof of loss, § 702 Failure to retain, § 703 Failure to sell non-legal investments, § 685, 704 Failure to use reasonable skill, § 706 Following court order, § 688

LIABILITIES OF TRUSTEES -Cont'd Investments-Cont'd General principles, § 543(V), 701, 708,862 Capital or principal losses, § 701 Income losses, § 701 Indemnity from co-trustee, § 701 Joint and several liability, § 701 Procedural aspects, claim against trustee, § 701 Remedies, § 701 Interest, failure to invest, § 702 Joint and several liability, § 701 Negligence Measure of damages, § 701, 706,862 Trust indentures, § 250 Offsetting gains and losses, § 708 Purchase of non-legals, § 705 Retention of settlor's investments. § 682 Standard of care, § 612, 681, 706 Investment trusts, § 248 Joint and several liability, § 701, 862, 871 Lack of diversification, trust investments, § 612 Liens and encumbrances, reimbursement, § 718 Limitation of liability, torts, § 735 Losses, improper investments, § 701, 708 Mortgages, § 769 Exclusion of personal liability, § 771 et seq Negligence, investments, § 706, 862 No liability for settlor's torts, § 731 Non-legal investment Damages, § 705 Offsetting gains and losses, § 708 Offset, investment gains and losses, § 708 Personal liability Contracts, common law rule, § 712 Statutes, § 712

-Cont'd Personal liability-Cont'd Tort, § 731 Statutes, § 732, 735 Possession of property, failure to secure, § 583 Predecessor trustee No liability for torts of, § 731 Property ownership Assessments on stock, § 720 Calls on corporate stock, § 720 Indemnity, § 720 Leasehold obligations, § 719 Violation of statutory regulations, § 720 Quasi-contractual liability, § 725 Ratification Barring beneficiary's action, § 942 Reimbursement for expenses, improper contracts, § 725 Release Barring action, § 943 Co-trustee, effect on remedies against others, § 943 Remedies of beneficiary, § 861 et seq Representative liability Contracts, § 712, 716 Torts, § 732 Sales Investments, § 704 Non-legal investments, § 685 Wrongful sale of trust property, § 746, 747 Settlor's contracts, § 719 Settlor's investment directions, failure to follow, § 680, 702, 706 Specific performance, § 717 Statutes Contract liability, § 712 Tort liability, § 732, 735 Stock, calls, § 720 Successor trustees, predecessor's breach of trust, § 722, 871 Sureties on trustee's bond, § 864 Taxes Ad valorem taxes, § 602 Charitable trusts. § 400

LIABILITIES OF TRUSTEES

LIABILITIES OF TRUSTEES -Cont'd Taxes-Cont'd Failure to pay, § 602 Federal, § 265, 272, 272.5, 277 State taxes, § 285, 287, 602 Termination of trust, distribution delays or improper delivery, § 1010 Torts Acts of agents or servants, § 731 Beneficiary in possession, § 731 Benefit to trust estate, § 732 Case law, representative liability, § 732 Charitable trusts, § 401 Co-trustees, § 731 Employees or agents, trustee's right to indemnity, § 731 Form of action, § 731 Indemnification from beneficiary, § 734 Personal liability, § 731 Predecessor, § 731 Representative liability, statutes, § 732, 735 Right to reimbursement from employee or agent, § 731 Settlor's control, § 735 Settlor's torts, § 731 Trustee's power to limit liability, § 735 Trustee's right of indemnity, § 734 Ultra vires contracts, § 713 Uniform Commercial Code Contracts, § 714 Uniform Probate Code, § 712, 734 Contracts, § 712 Torts, § 732, 735 Uniform Trusts Act, § 712, 714, 732, 734 Contracts, § 712, 714 Torts, § 734, 735

LIABILITY INSURANCE

Charitable trusts Torts, **§ 402** Trustees, **§ 394** Premiums, allocation, **§ 803** LIABILITY OF TRUSTEES Accounts and accounting, sureties and suretyship, § 864 Agents and agency, acts of agent, § 542 Bonds (officers and fiduciaries), liability of sureties, § 864 Jurisdiction, § 870 Breach of trust, § 543(V), 701 et seq. Successor trustees, § 871 Business trusts, § 247 Charitable trusts, § 394, 401 Contracts, § 401 Insurance, § 394 Contracts Charitable trusts, § 401 Statutes, § 712 Cotrustees Breach of trust Joint and several liability, § 871 Joint and several liability, § 862 Breach of trust, § 871 Crimes and offenses, § 861 Damages, breach of trust, joint and several liability, § 862 Default, § 542 Disloyalty, exceptions, § 543(V) Embezzlement, limits, § 542 Errors and mistakes, § 542 Exceptions, disloyalty, § 543(V) Exoneration, § 542, 734 Income taxes, § 265 Insurance, charitable trusts, § 394 Interest, breach of trust, damages, § 863 Involuntary losses, § 542 Joint and Several Liability, generally, this index Judgments and decrees, breach of trust, evidence, liability of sureties, § 864 Malfeasance, § 542 Negligence, trust indenture, § 250 Nonfeasance, § 542 Officers and employees, acts of employees, § 542 Reimbursement, § 734 Representative capacity, § 732

LIABILITY OF TRUSTEES

--Cont'd Statutes, § 732, 735 Contracts, § 712 Successor trustees, breach of trust, § 871 Third parties, election of remedies, joint and several liability, § 945 Torts, personal liability, § 731 Volunteers, charitable trusts, § 394 Willful and wanton misconduct, exemptions, § 542

LIBERALITY

Charitable trusts, purpose, § 370

LIBRARIES

Beneficiaries, charitable trusts, **§ 364** Charitable trusts, **§ 375**

LICENSES AND PERMITS Business trusts, § 247(D), 247(Q)

LIENS AND INCUMBRANCES

See also Mortgages; Pledges Accumulations, § 217 Advances Beneficiary's interest, § 814 Trustee, reimbursement, § 715, 718 Beneficiaries Defaults, § 192 Beneficiaries, damages, recovery from trustees, § 862 Beneficiary's interest, § 183, 188 Equitable lien, product of breach of trust, § 862 Judgment, § 193 Statutory provisions, § 184 Bona fide purchasers, § 881 Terms of documents, notice, § 897 Title to property, cutting off inequities, § 881 Breach of trust, § 701, 865 Election, in lieu of tracing funds, § 865 Participation, third person, damages, § 868 Breach of trust, equitable liens, § 865 LIENS AND INCUMBRANCES -Cont'd Commingling, investments, tracing trust funds, § 928 Contract purchase money liens, purchase money resulting trusts distinguished, § 454 Conveyances in return for promises of support, § 19 Courts, power to authorize mortgage, § 762 Discharge, accumulations rules, § 217 Equitable liens Breach of trust Remedies of beneficiary, § 865 Distinguished from trust, § 32 Theory of creation, § 32 Trust funds used to improve realty, § 923 Equitable liens, breach of trust, § 865 Estate taxes, § 272.5 Gifts causa mortis, gross estate, § 273.5 Federal taxes Estate, priorities, § 272.5 Gift, § 277 Income, § 265 Fiduciary tax returns, § 265 Gifts causa mortis, estate taxes, gross estate, § 273.5 Gift taxes, § 277 Greater lien theory, tracing trust funds, insurance proceeds, § 925 Improvements, § 455 Insurance proceeds, tracing trust funds, § 925 Investments, mixed trust and personal, § 928 Land trusts, beneficiaries, § 249 Lesser lien theory, tracing trust funds, insurance proceeds, § 925 Mechanics' liens Charitable trusts, contract creditor, **§ 400** Enforcement against trust property, § 715 Mechanics' liens, charitable trusts, contracts, § 401

LIFE ESTATES

LIENS AND INCUMBRANCES -Cont'd Mortgages Distinction from trust, § 29 Trustee's power to give, § 751 et sea Mortgages to pay off incumbrances Power of court, § 762 Statutory provisions, § 763 Payment Accumulations rules, § 217 By trustee with own funds, § 543(L) Pledges Distinguished from trust, § 30 Trustee's power to give, § 751 et seq Reimbursement Expenditures, § 718 Trustee's advances, § 718 Resulting trusts, extinction, § 466 Sale of trust property, removal, § 745 Support, conveyance in exchange for promise, § 19 Title to property, bona fide purchasers, § 881 Tracing trust funds, § 921 Commingling, investments, § 928 Equitable liens, § 865 Insurance proceeds, § 925 Marshaling assets, § 930 Subrogation, § 930 Trustees Buying at sale forced by third parties, § 543(C) Lending own funds to trust, § 543(L) Loyalty to beneficiaries, § 543 Purchasing claims for self. § 543(D) Trustee's Compensation, § 975, 977 Expenditures, § 718 Trust expenses, § 808 Vendor's lien, trustee's contracts of sale, § 746

Accumulations, apportionment of income, § 217 Alienation Suspension of power, § 219 Amortization, federal income tax, § 268.5 Beneficiary, construction of interest, § 182 Beneficiary's interest, private trust, § 182 Disclaimer, acceleration of remainder, § 172 Gifts to heirs of life tenant, § 182 Legal or equitable interest, § 182 Miscellaneous incidents, § 187 Partial disclaimer, disposition of remaining estate, § 172 Charitable, § 264.25 Charitable gift of insurance policy, § 264.25 Construction Beneficiary's interest, § 182 Legal life tenancy or trust, § 27, 182 Court appointment, trustee of res, § 246 Creation of trusts, quantum of trustee's interest, § 144 Direct restraints on alienation, validity, § 220 Duration of trust, § 218 Duties, life tenant to remainderman, § 27, 481 Eminent domain proceedings, trustee to hold condemnation award, § 246 Equitable life interest outside trust. restraints on alienation. § 220 Estate and tax planning, § 264.15, 264.20, 268.5 Estate taxes Gross estate, § 273 Marital deduction, § 275.10 Executory trusts, § 212 Federal estate tax Marital deduction, § 275.10 Transfer in trust with retained life estate, § 273.10

LIFE ESTATES—Cont'd Federal gift tax, marital deduction, § 280 Fraud, presumptions, § 543(A) Gift taxes, § 277, 278 Income taxes, § 269.5 Transfer in trust with retained life estate, § 273.10 Insurance trusts, § 264.15 Joint purchase of remainder, income taxes, § 269.5 Leases, taking renewal or buying reversion for self, § 543(I) Legal, trust distinguished, § 27 Living trusts, § 233, 235, 264.5, 264.15 Loyalty, renewal of leases, § 543(I) Partition proceedings, trustee to hold sale proceeds, § 246 Power of appointment, marital deduction trusts, § 264.20 Power of sale, § 27 Principal, consumption by life tenant, § 27 Protective trust, § 221 Public trustees, § 246 Restraints on alienation, § 220 Public policy, § 222 Rule against Perpetuities, wait and see doctrine, § 214 Sales Beneficiary, federal income tax, § 268.5 Life tenant buying at own sale, § 543 Settlor, intent, § 45 Spendthrift trust, England, § 221 Split interest trusts, § 264.25 Successive life estates, duration, § 218 United States Alienation, § 222 Created for settlor, § 223 Merger with remainder interest, § 226 Subject-matter of trust, § 112 Successive life estates, Rule against Perpetuities, § 214 Testamentary trusts, § 264.20

LIFE ESTATES—Cont'd United States-Cont'd Tracing trust funds, **§ 921 12** Trustee of res, appointment by court, § 246 Valuation, estate taxes, § 274 LIFE INSURANCE See also Insurance; Insurance Trusts Accumulations, payment of premiums, construction, § 217 Assignments, gift taxes, § 278 Beneficiary Change, constructive trust, § 482 Disclaimer, § 171 Business trusts, § 253 Availability, § 247 Charitable trusts, liability, § 402 Creditors of insured and beneficiary, § 243, 244 Creditors rights, § 233 Divorce, constructive trusts, § 475 Estate and tax planning, § 235, 244, 264.15, 273.40, 279 Estate taxes, § 273.40 Gross estate, § 273 Marital deduction, § 275.10 Evasion of rights, fraudulent conveyances, § 211 Exemptions Proceeds Liability for debts of insured, statutes, § 243 Payment of beneficiary's debts, statutes, § 244 Federal taxation, § 241, 264.15, 273.40, 279 Estate and tax planning, § 235, 244, 264.15, 273.40, 279 Estate tax, § 273.40 Gift tax, § 279 Gifts, insurance on life of minor, § 15 Gift taxes, § 277 Future interests, § 279 Income taxes, § 270.40 Investments, § 616, 666, 679 Key man insurance, estate taxes, § 273.40

LIFE INSURANCE—Cont'd Living trusts, segregation of assets, § 231 Marital Property Act, § 7 Misappropriation of trust funds, tracing, § 925 Payment Accumulations, § 217 Passive trusts, § 208 Payments, allocation, principal or income, § 821 Premiums, allocation, § 803 Proceeds, tracing trust funds, § 925 Protection of assets, § 231 Revocable trusts, § 264.5 Acceptance of additions to trust, § 233 Spouses, liability for debts, § 232 State estate taxes, § 286 Apportionment, § 286.5 Tax exempt funds, death taxes, payment, § 233 Tracing trust funds, § 925 Transfer of interest to trustee, § 142, 236 Trust, contingent, § 235, 264.15 Trustees, payment, accumulations, § 217 LIFE INSURANCE TRUSTS Generally, § 235 et seq., 264.15 Business trusts, § 253 Availability, § 247 Estate planning, § 264.15 Estate taxes, § 273.40 Gift taxes, § 279 Personal Life Insurance Trusts, generally, this index Powers of withdrawal, federal gift tax exclusion, § 264.15, 279 Spendthrift trusts, § 222 Creation, § 225 Trustees Breach of fiduciary duties, § 394 Payment, accumulations, § 217 Selling insurance to trust, § 543(E) LIFE TENANT

Distinguished from trustee, § 27

Index-262

LIFE TENANT—Cont'd Power to consume or sell, effect, § 27 Statutes, life tenant as trustee, § 27 Taxes, duty to pay, § 27 LIFETIME FERTILITY Presumptions, perpetuities, § 213 **LIFETIME GIFTS** Living trusts, comparison, § 231 LIGHTS AND LIGHTING Charitable trusts Source of funds, § 367 LIMITATION OF ACTIONS See also Barring of Remedies; Laches Accounting, defense to beneficiaries' action for, § 969 Adverse possession creation of trusts, § 143 third party, destruction of trust, § 995 Agency, §15 Barring remedies of trustee, § 954, 955 Barring remedy of beneficiary Constructive trusts, § 953 Knowledge of beneficiary, condition precedent, § 953 Period of Statute, § 953 Recognition by trustee of obligation, § 953 Disability of beneficiary, tolling of Statute, § 951 Evidence, of repudiation by trustee, § 951 Express trusts, § 951 Evidence of repudiation, § 951 Trust respected or repudiated, § 951 Life and remainder beneficiaries, § 950, 951 Mistaken participation in breach of trust, § 955 Participants in breach of trust, § 955 Resulting trusts, § 468, 952 Recognition or repudiation of trust, § 952

LIMITATION OF ACTIONS -Cont'd Barring remedy of beneficiary -Cont'd Tolling of Statute, § 951 Trustee's possession after termination of trust, § 951 Wrongful sale of trust property, § 747 Breach of trust, § 950, 951 Resulting trusts, § 952 Third parties, collusion with trustee, § 955 Causes of action against third persons, § 954, 955 Participant in breach Collusive, § 955 Innocent, § 955 Characterization, § 293 Charitable trusts, § 399 Breach of trust, § 411 Determinable fee, § 420 Income tax exemption, § 270.5 Misapplication of funds, § 411 Right of re-entry for condition broken, § 420 Trustees, § 394 Children and Minors, this index Constructive trusts, § 472, 950, 951, 953 Contract and trust distinctions, § 17 Equitable charges, § 31 Equity courts, § 950 Evidence, breach of trust, § 951 Executors and administrators, distinguished from trustee, § 12 Express trusts, § 951 Federal estate tax, trustee's liability, § 265, 272.5 Federal gift tax, § 265 Federal income tax Personal liability of trustee, § 265 Fraud, breach of trust, § 950 Gift taxes, § 276.7 Mental disabilities, breach of trust, § 950, 951 Mortgage and trust, distinctions, § 29 LIMITATION OF ACTIONS -Cont'd Participation in breach of trust Collusive participation, § 955 Mistaken participation, § 955 Personal liability of trustee, income tax, § 265 Personal life insurance trusts, creditors, § 243 Pledge and trust distinctions, § 30 Reentry for condition broken, charitable trust, § 420 Remainder interests, § 949, 951 Repudiation of trust, § 951 Resulting trusts, § 466, 952 Barring enforcement of claim, § 466, 468, 469 Excessive res, § 469 Extinction. § 466 Failure of express trusts, § 468 Purchase-money, § 466 Surplus res, § 469 Title voluntarily vested in another, § 458 Revocable trusts, creditors, § 233 Right to account Trustee of express trust, § 951 Status in equity, § 950 Statutes, constructive trusts, breach of trust, § 953 Statutes, express reference to trusts, § 950 Catchall statutory clause, § 950 Termination of trust Adverse possession, remedies of beneficiary, § 951 Third parties Independent wrongs against trust, § 954 Participation in breach, § 955 Title to property, wrongful retention or acquisition, constructive trust, § 953 Tolling, constructive trusts, breach of trust, § 951 et seq. Tolling of Statute Constructive trust, § 953 Disabled beneficiaries, § 951

LIMITATION OF ACTIONS

-Cont'd Trespass, third parties, independent wrongs against trust, § 954

Trustees

Loyalty to beneficiaries, § 543(A) Vacancy in office, § 954

Trustee's exercise of powers, beneficiaries barred, § 564

Trusts, contest or action to set aside, § 264.5, 950 Vacancy in office, trustees, § 954

LIMITED LIABILITY Business trusts, § 247

LIMITED PARTNERSHIP

Investment of trust funds, **§ 679** Limited partners, fiduciary relationship with general partners, **§ 36**, **481**

LIQUIDATING DIVIDENDS

Principal and income, § 856

LIQUIDATION TRUSTS Generally, § 254 Dissolved corporation, § 254 Loyalty, trustee buying for self, § 543(D) Management of assets of insolvent, § 254

LIQUOR LICENSES Evasion, fraudulent conveyances,

§ 211

LIS PENDENS

Bona fide purchasers, constructive notice, **§ 893** Bona fide purchasers, notice, **§ 893**

LITERARY CORPORATIONS

Charitable gifts, income tax deductions, **§ 264.25**

LITERARY WORK

Royalties, principal or income, **§ 827** Subject-matter of trust, **§ 112**

LITERATURE

Charitable contributions, estate tax deductions, § 275.5

Index-264

LITERATURE—Cont'd Charitable trusts, advancement of education, § 375 LIVERY OF SEISIN

Creation of trusts, early law, § 201 Origin of uses and trusts, § 2

LIVES IN BEING Rule against Perpetuities, § 213

LIVESTOCK See Animals

LIVING EXPENSES Support trusts, § 229, 811 Tracing trust funds, § 921

LIVING TRUSTS

Generally, § 291 et seq. Choice of law, multistate trusts, § 294, 295, 297 Conflict of laws, § 291, 294, 297 Estate planning, § 301 Conflict of laws considerations, § 297, 301 Convertible living trusts, § 233 Declaration of trust, § 233 Estate and tax planning, § 231, 244, 301, ch. 15 Foreign corporation, acting as trustee, §132 Functions, § 231, 244 General uses and tax consequences, § 233, 236, 264.5, 264.15, 264.25 Gift by will to trustee under existing trust, § 105, 233, 264.5 Insurance, § 234, 244, 264.15 Irrevocable, § 234, 264.10 Mortmain statutes, § 326 Multistate trusts Charitable gifts, law governing validity, § 298 Choice of law, § 294 Conflict of laws, § 295, 297 Pour-over trusts, § 105, 233, 264.5 Power of appointment, § 233 Revocable, § 233, 264.5 Substitutes for wills, § 104, 211, 233, 264.5

LIVING TRUSTS—Cont'd Taxation, § 231, 244, 264.5, 264.15, 264.25, 266, 269 Terminology and classification, § 1 Testamentary additions, § 233 Totten trusts, § 47 Trust functions and purposes, § 231, 255 When testamentary in nature, § 103, 104 LOAN LIBRARY Charitable trusts, purpose and beneficiaries, § 364 LOANS See also Liens and Incumbrances; Mortgages Advance to beneficiary from trust property, lien, § 814 Antecedent debt, cancellation, bona fide purchaser rule, § 889 Charitable trusts, federal income tax, prohibited transactions, § 270.5 Charitable trusts, standard of care, § 394 Co-trustees, joint action, § 554 Employee benefit trusts, § 255, 270.20 Federal income tax Charitable trusts, § 270.5 Employee benefit trusts, § 270.20 Implied powers of trustee, § 551, 757 Interest, generally, this index Investments Bank deposits, § 678 Corporate obligations, § 678 Foreign, § 672, 674 Savings or loan association accounts, § 678 Secured loans, § 673, 674 Unsecured loans, § 678 Loyalty Lending trust funds to self, § 543(J) Loan of trustee's own funds to trust, § 543(L) Relatives, § 543(T) Using trust funds, accounting by trustee, § 543(M) 53

LOANS-Cont'd Nonprofit corporations, officers and directors, § 394 Relatives, loyalty, § 543(T) Resulting trusts, § 455 Partial payment, § 457 Student Loans, generally, this index Trustees Grounds for removal, § 527 Indirect disloyalty, § 543(T) Lending own funds to trust, § 543(L) Lending trust funds to self, § 543(J) Loyalty to beneficiaries, § 543 Trustee's personal loan to beneficiary, setoff, § 814 LOBBYING Charitable contributions, estate tax deductions, § 275.5 LOCAL TAXES Generally, § 285 et seq. LODGES Charitable trusts, § 365, 379 LOGS AND LOGGING Depletion, principal or income, § 827 Management of business, implied power to mortgage, § 760 LONG-TERM IRREVOCABLE TRUSTS Generally, § 234 LONG-TERM MORTGAGE TRUSTS Real estate investment trusts, § 248 LONG TERM TRUSTS Generally, § 234 LOSS CARRYOVERS Federal income tax, § 268.25, 269 LOSSES See also Investments; Liabilities of Trustees Carryover, federal income tax, § 269 Federal estate tax deductions.

§ 275.15

LOSSES—Cont'd
Federal income tax deductions,

§ 266, 269

Possession, pledge and trust distinctions, § 30
Property, contract and trust distinctions, § 17
Removal of trustee, § 527

LOST OR DESTROYED PROPERTY

Tracing trust funds, § 921

LOST WRITINGS Parol evidence, Statute of Frauds, § 91

LOTTERY TICKETS Subject-matter of trust, § 112

LOUISIANA

Accounts and accounting, statutory regulation of accounts, **§ 974**

LOVE AND AFFECTION Consideration, resulting trusts, § 455 Resulting trusts, § 455 Spouses, gifts, § 459 Transfers in trusts, estate taxes, § 273.45

LOYALTY

See also Constructive Trusts; Duties of Trustee Affiliates, indirect disloyalty, § 543(A), 543(T) Avoidance of duty through subterfuges, § 543, 543(T) Beneficiaries Consent to disloyal act, § 543(A), 543(C), 543(U), 941 Ratification, § 942 Business trusts, § 247(U) Charitable trust administration, § 391 Claims, trustee buying outstanding claims, § 543(D) Competition by trustee, § 543(O) Consent to disloyalty Beneficiaries, § 543(A), 543(C), 543(U), 941 Settlor, § 543(A), 543(C), 543(U)

LOYALTY-Cont'd Constructive trusts Property acquired through breach of duty, § 484 Public official violating conflict of interest statutes, § 484 Corporations Trustee buying from own earmarked pool, § 543(F) Trustee depositing with self, § 543(K) Courts Relief granted for dislovalty. § 543(A), 543(C) to 543(E), 543(V) Divided loyalty Corporate trustee retaining own stock, § 543(G) Corporate trustee voting own stock, § 543(N) Employment of self, § 543(M) Examples of disloyalty Acting for both trust and third party, § 543(S) Corporate trustee buying from own earmarked pool, § 543(F) Corporate trustee depositing trust funds with self, § 543(K) Incidental benefits obtained by trustee, § 543(Q) Sale by one trust to another trust, where common trustee, § 543(H) Trustee accepting gifts, § 543(P) Trustee acting for both third party and trust, § 543(S) Trustee buying at own sale, § 543(A) Trustee buying for self instead of trust, § 543(R) Trustee buying or holding own stock for trust, § 543(G) Trustee buying outstanding claims against trust property, § 543(D) Trustee buying trust property at forced sale, § 543(\hat{C}) Trustee employing self, § 543(M)

LOYALTY-Cont'd Examples of disloyalty-Cont'd Trustee engaging in competing business, § 543(O) Trustee favoring third person, breach of duty, § 543, 543(S) Trustee leasing to self, § 543(B) Trustee lending own funds to trust, § 543(L) Trustee lending trust funds to self, § 543(J) Trustee of lease getting renewal or reversion, § 543(I) Trustee selling own property to trust, § 543(E) Voting stock for self as corporate officer, § 543(N) Executors and administrators, § 12, ch. 26 Fiduciary duty Applicable to all fiduciaries, § 543 Application of rule, § 543 et seq Definition and rationale of rule, § 543 Guardian, § 13, ch. 26 Investments, § 612 Investment trusts, trustees' duty, § 248 Joint tenants, § 28, 481 Joint venture, constructive trust, § 488 Leases Trustee acquiring renewal or reversion, § 543(I) Loans Trustee lending trust funds to self. § 543(J) Trustee loaning money to trust, § 543(L) Ratification of disloyal act by beneficiary, § 942 Receivership, § 14 Relief granted by court for disloyalty, § 543(A), 543(C), 543(U) Self-dealing by trustee, violations, § 543 et seq Settlor, consent to dislovalty, § 543(A), 543(C), 543(U)

LOYALTY—Cont'd Statutes Curing act of disloyalty, § 543(A), 543(C), 543(U) Granting relief for breach. § 543(V) Relieving trustee of duty, § 543(U) Stock Trustee buying own stock, § 543(G) Voting stock for self, § 543(N) Tenants in common, § 28, 481 Trustees, § 541 Charitable trusts, power of trustees, § 394 Court power to relieve trustee, § 543(U), 551 Duty to beneficiaries, § 543 Exculpatory clauses, § 542 Indirect disloyalty, § 543(T) Lease of property by trustee to self, § 543(B) Ratification, § 543(U) Remedies for breach, § 543(V) Sale of property of trustee to trust, § 543(E) Statutory exceptions, § 543, 543(U) Trustee's breach, measure of damages, § 543(V), 862 Trustee's conflict of interests, § 543 Trustee's duty, § 543 et seq LUMBER Depletion, principal or income, § 827 Management of business, implied

power to mortgage, § 760

LUMP SUM

Payments, employee benefit trust, § 255, 270.20, 273.25

LUMP SUM DISTRIBUTIONS

Employee benefit plans, § 270.20 Employee benefit trusts, § 255, 270.20, 273.25 Retirement plans, § 264.7

LUMP SUM PAYMENTS

Deferred compensation arrangements, § 264.5

LUMP SUM PAYMENTS—Cont'd

Employee benefit trusts, § 255, 270.20, 273.25 From future trust income, accumulations rules, § 217

MAINE

Accounts and accounting, statutory regulation of accounts, § 974

MAINTENANCE

Directions to use income, accumulation restrictions, § 217 Duties of trustee Active trust, § 207 Payments for, construction, § 811, 812

Possession and use of trust property by beneficiary, **§ 208** Support trusts, **§ 229, 811**

MAINTENANCE AND CHAMPERTY Evasion or violation of statute, § 211

MAINTENANCE AND REPAIRS

Repairs and Maintenance, generally, this index

MAJORITY

See also Children and Minors Beneficiaries, termination of trust, § 996 Trustees may act, § 121, 554

MALA FIDE PURCHASER

Community property, § 26 Notice under bona fide purchaser rule, § 891, 897

MALFEASANCE

Exception, immunity clause, § 542 Trustees Grounds for removal, § 527 Liability, § 542

MALICE

Breach of trust, exemplary damages, **§ 862**

MALICIOUS PROSECUTION

Removal of trustee, costs, § 525

Index-268

MANAGEMENT

Credits to trustee on accounting, management expenses, § 971 Evidence of trust creation, § 50 Implied power to lease, § 784 Implied power to mortgage, § 760 Living trusts, avoiding responsibility, § 231 Motive, resulting trust, husband as payor and wife as grantee, § 459 Precatory words, employment of manager, § 182 Property, active trusts, § 207 Reservation by settlor, § 104 Trust as testamentary disposition, **§ 104** Trustees Grounds for removal, § 527

Standard of care, § 541

MANAGERS

Employment, beneficiaries' interests, **§ 182**

MANDATORY POWERS

Court control, **§ 558** Discretionary distinguished, **§ 552** Sales, generally, **§ 741 et seq**

MANSLAUGHTER

Conviction, constructive trust, statutes, § 478

MARGIN REQUIREMENTS

Mortgages, trust investments, § 612, 674

MARITAL DEDUCTION

Deferred compensation arrangements, § 264.5 Estate taxes, § 275, 275.10 Aliens, § 275,12 Apportionment, § 272.5 Living trusts, § 231 Planning, § 264.20, 273.50, 275.10 Federal estate tax, § 275.10 Federal gift tax, § 280 Federal tax laws, § 264.20, 275.10, 280 Gift taxes, § 277

Spouses, § 280

MARITAL DEDUCTION—Cont'd Life estates, § 275.10 Qualified Terminable Interest Property, this index Revocable trusts, § 233, 264.5 Tax and estate planning, § 231, 235, 264.5, 264.20, 275.10, 280 MARITAL DEDUCTION TRUSTS Generally, § 264.20 MARITAL PROPERTY Compromise and settlement Pension benefits, § 211, 224 Wisconsin Marital Property Act, § 211 Fraudulent conveyances, § 211 MARITAL PROPERTY ACT Generally, § 7 MARITAL PROPERTY SETTLEMENTS Federal estate tax, § 270.10, 273.45, 275.15 Federal gift tax, § 270.10, 278 Federal income tax, § 270.10 MARITAL RIGHTS See also Marital Deduction; Marital Property Settlements; Marriage Spouse's estate, § 211, 233, 291 MARKET VALUE See also Value Federal transfer taxes, § 274, 277 Wrongful sale of securities, measure of damages, § 703 MARRIAGE Antenuptial contracts Federal gift tax, § 278 Fraud, § 211, 475 Statute of Frauds Time of writing, § 83 When illegal, § 211 Antenuptial trust or agreement. illegality, § 211, 475 Anticipation of marriage, conveyance as fraud, § 211

Bona fide purchasers, consideration, § 887

MARRIAGE—Cont'd Confidential relationship, constructive trust, § 481 Consideration Bona fide purchasers, § 887 Covenant to stand seised, § 201 Creation of trusts, § 203, 204 Promise to create trust, § 204 Constructive trust Confidential relationship, § 481 False representations, § 473 Covenant to stand seised, consideration, § 201 Creation of trust, consideration, § 201, 203 Creation of trusts, consideration, § 203, 204 Divorce Federal estate tax, transfers in trust for consideration, § 270.10, 273.45, 275.15 Engagements to marry Bona fide purchasers, consideration, § 887 Transfers in contemplation, § 211 Federal gift tax Husband and wife, property settlement agreement, agreements, § 278 Postnuptial agreements, § 270.10, 278 Federal income tax, alimony and separate maintenance trusts, § 270.10 Fraud, § 211, 475 Maintenance of marital relations, public policy, § 211 Meretricious relationship Public policy, § 211 Resulting trust Man as payor and woman as grantee, § 459 Woman as payor and man as grantee, § 460 Prenuptial trust, when illegal, § 211 Statute of Frauds, § 83 Promise of marriage Statute of Frauds. § 203

MARRIAGE—Cont'd Promise to create trust, consideration, § 204 Property settlement agreements Constructive trust, § 482 Federal estate tax, § 270.10, 273.45, 275.15 Federal gift tax, § 270.10, 278 Remarriage Federal income tax, alimony and separate maintenance trusts, § 270.10 Restraint on, legality, § 211 Remarriage, generally, this index Restraints, public policy, § 211 Restraints on marriage, § 211 Revocable and contingent insurance trusts, § 235, 264.15 Revocable trusts, spouse's rights, § 211, 233 Spouses, generally, this index Statute of Frauds, contract consideration, § 203 Transfers in contemplation of marriage, § 211

MARRIED WOMEN

See also Husband and Wife; Marriage Active trusts, early law, § 207 Alienation, English restraints, § 221 Beneficiaries, capacity, § 168 Gift to spouse, creation of trust, § 50 Purposes of trusts, early law, § 212 Restraint on power of alienation, England, § 221 Revocable trusts, spouse's rights, § 211, 233, 291 Settlor, capacity, § 44 Spendthrift trusts, § 232 Statutory restrictions, trust purposes, § 212, 234 Trusts for, § 232

MARSHALING OF ASSETS

Remedy in place of tracing, **§ 930** Tracing trust funds, alternatives, **§ 930**

MARYLAND

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 636

MASSACHUSETTS

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 637

MASSACHUSETTS TRUSTS See Business Trusts

Generally, § 247 et seq.

MASSES

Beneficiaries, deceased persons, § 164 Charitable trusts, § 376 Charitable trusts, gifts to say mass,

§ 376 Honorary trust, § 166

Trusts to have masses said for testator or beneficiaries, **§ 164**

MASTERS

Charitable trusts, cy pres application to court, **§ 441** Cy pres, use, **§ 442**

MAUSOLEUMS

Charitable trusts, § 377

MEASURE OF DAMAGES

Breach of investment duties, § 701 et seq Breach of trust, § 862 Breach of duty of loyalty, § 543(V) Interest on damages, § 863

Remedies of beneficiary, § 862

MECHANICAL ACTS

Trustee to convey or distribute trust property, passive trust, § 209

MECHANICS LIENS

Charitable trusts Contracts, § 401

MECHANIC'S LIENS

Charitable trusts, contract creditors, § 400 Enforcement, contract creditor, § 715

MEDICAID

Discretionary support trusts, discretionary trusts distinguished, eligibility, **§ 228**

MEDICAL CARE AND TREATMENT

Charitable purpose, trusts, § **374** Health Care and Treatment, generally, this index Support as including, § **811**

MEDICAL EDUCATION Charitable purpose, development, § 374

MEDICAL RESEARCH Charitable purpose, development, § 374

MEDICARE AND MEDICAID Assets of trusts, qualifications, § 812

MEMORANDUM

Insurance trusts, evidence of creation, § 236 Statute of Frauds, § 82, 91 Trust of realty, delivery of trust instrument, § 147

MEMORIALS

Charitable trusts, memorial for settlor, § 366 Homestead, charitable trusts, motives of settlor, § 366 Honorary trusts, § 166 Whimsical or irrational trusts, § 379

MEMORIAL WINDOWS

Charitable trusts, establishment, § 376

MENTAL DISABILITIES

Barring of remedies Consent, beneficiaries, § 941 Estoppel by misrepresentation, § 944 Beneficiaries Active trusts, § 207 Consent Barring of remedies, § 941 Resignation of trustees, § 513 MENTAL DISABILITIES—Cont'd Breach of trust Laches, § 949 Limitation of actions, § 951 Release, § 943 Standing, § 871 Charitable trusts, creation, § 323 Consent, beneficiaries Barring of remedies, § 941 Resignation of trustees, § 513 Georgia, statutes, § 212 Incompetent settlor, appointment of successor, § 532 Joint bank accounts, transfer of funds on death, § 47 Laches, breach of trust, § 949 Limitation of actions, breach of trust, § 951 Living trusts, protection, § 231 Public trusts, § 246 Release, breach of trust, § 943 Spendthrift trusts, protective estates, § 222 Trustees Actions against third parties, standing, § 869 Fair play in dealing with beneficiary, § 544 Grounds for removal, § 527 Resignation, § 511

MENTALLY DEFICIENT AND MENTALLY ILL PERSONS

See Disabled Persons

MERETRICIOUS RELATIONSHIP Public policy, illegal trusts, § 211

Consent of beneficiaries, § 513

Resulting trust Man as payor and woman as grantee, **§ 459** Woman as payor and man as grantee, **§ 460**

MERGER AND CONSOLIDATION

Beneficiaries and trustee, joint termination of trust, **§ 1006** Beneficiary and trustee interests, trustee as sole beneficiary, **§ 129, 168**

MERGER AND CONSOLIDATION -Cont'd Business trusts, § 247(U) Charitable corporations, cy pres, § 440 Charitable trusts, § 398 Corporate trustee, § 397 Trustee or donee, cy pres, § 440 Churches, § 399 Corporate trustee, § 531 Corporate trustees, § 531 Income and remainder interests, trust terminable, § 1003 Investments, § 682 Legal and equitable interests Destruction of resulting trust, **§ 466** Termination of trusts, § 1003 Trustee as sole beneficiary, § 129, 168 Partial merger Double interest, § 129 Trustee for self and others, § 1003 Principal and income Distributions by successor or continuing corporation, § 845, 847 Purchase-money resulting trust, destruction of trust, § 466 Purchase money resulting trusts. statutory extinction, § 466 Religious organizations, disposition of property, § 398 Sole trustee as life beneficiary, merger during life estate, § 1003 Spendthrift trusts, remainder, § 226 Stock Investments, retention, § 682 Temporary and remainder interests. spendthrift trusts, § 226 Termination of trusts, § 1003 Conveyance, surrender or release to trustee, § 1006 Trustee with double interest, § 129 MERITORIOUS CONSIDERATION

METHODS OF ADMINISTRATION Court modification, § 394, 561, 994

Statute of Frauds, contents of memorandum. § 87

MICHIGAN

Generally, § 212 Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 638

MILITARY FORCES

Armed Forces, generally, this index Joining hostile army, removal of trustee, § 527 Suspension of trustee, § 528

MINES AND MINERALS

Apportionment of receipts, depletion allowance, § 827 Bona fide purchasers, notice, possession. § 896 Constructive trust on mining claims, § 543 51 Deeds and conveyances, resulting trusts, § 455 Leases. § 795 Court power to sanction, § 786, 787, 795 Incidental benefit to trustee, loyalty, § 543(Q) 12 Open mine doctrine, § 795, 827

MINGLING FUNDS See Commingling

MINISTERIAL

Powers, delegation of trust powers, § 555

MINISTERS

See Clergymen

MINNESOTA

Generally, § 212 Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 639 Trustees compensation, § 975

MINORITIES

Aid to underprivileged or distressed, charitable purpose, § 379

Index-272

Creation of trusts, § 204

Promise to create trust, § 204

MINORITIES—Cont'd

Equal Protection of Laws, generally, this index

MINORITY STOCKHOLDERS

Duty of majority stockholders, § 16, 481

MINORS

Children and Minors, this index

MISAPPLICATION OF FUNDS

See Breach of Trust; Charitable Trusts, Enforcement; Liabilities of Trustee; Remedies, Beneficiary

MISAPPROPRIATION OF FUNDS

Attorneys, client funds, suspension from practice of law, § 22

Beneficiary's remedies, § 861, 870, 901 et seq

Breach of trust, § 861, 863

Removal of trustee, § 527

By trustee, beneficiary's election of remedies, **§ 946** Trustee's wrongful transactions, trac-

ing trust funds, § 925

MISCONDUCT

Removal of trustee, § 527 Costs of removal and incidental proceedings, § 525 Pleading requirements, § 524

MISFEASANCE

Trustees Grounds for removal, § Suspension, § Willful default, § Trustee's immunity, exculpatory clauses, §

MISMANAGEMENT

See also Breach of Trust, ante Corporations, liability of director to creditors, § 16 Removal of trustee, § 527

MISREPRESENTATION

Fraud, generally, this index

MISSING PERSONS

Duties of trustee, payments, **§ 814** Statutory and court created trusts, **§ 246** Statutory trusts for, **§ 246**

MISSIONARIES

Charitable purpose, aid to religion, § 376

MISSIONS

Charitable trusts, § 376

MISSISSIPPI

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 640**

MISSOURI

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 641 Trustees compensation, § 975

MISTAKE

Constructive trusts, § 474

MISTAKES

Basis for constructive trust, § 474 Breach of trust Limitation of actions, § 955 Capacity of settlor, § 44 Creation of trust, § 44 Drafting of trust instrument, reformation, § 991 Immunity clauses, liability of trustee, § 542 Joint bank accounts, presumption of survivorship, § 47 Payment to co-beneficiary, restitution, § 191 Reformation of instrument, § 51, 991, 998 Setting aside trust, § 997 Settlor, capacity, § 44 Statute of Frauds, intent, § 84

MISTRESSES

Purchase money resulting trusts, presumptions, § 460

MIXED TRUSTS

Challenges, § 417 Charitable and noncharitable purposes, § 372 Charitable trusts, § 372 Charitable and noncharitable purposes, § 372 Preference for relatives, § 365 Cy pres, § 431 Defined, § 372

MODIFICATION OF TRUSTS

See also Cy Pres; Deviation Applications to court, § 992, 994 **Beneficiaries** Joinder with settlor, § 992 Seeking termination, direct enjoyment, § 1008 Business trusts, § 247 Charitable trusts, **§ 393, 992, 994** Conditions precedent, § 394 Court, methods of administration, § 394, 994 Power of court, § 392, 397, 994 Power of trustees, § 435 Powers of legislature, § 395 Settlor's powers, § 393 Charitable trusts, court administration, § 396 Consent Charitable trust, attorney general, § 393 Settlor, consent of all beneficiaries, § 992 Courts Administrative provisions, § 994 Application, § 992 Charitable trust, compromise, § 394 Compromise agreements, power to approve, § 994 Dispositive provisions, § 994 English Variation of Trusts Act, § 994 Investment provisions, § 688 Power of sale, § 561, 742, 743 Powers, § 994 Terms of trust, § 561 Courts power to modify, § 994

MODIFICATION OF TRUSTS -Cont'd Destruction of trust property, § 995 Deviation, powers of court, § 561 Dispositive provisions, court approval of compromise agreement, § 994 English Variation of Trusts Act, § 994 Express power reserved or granted. § 993 Advisability, changed circumstances, **§ 993** Construction as to terms, § 993 Exercise induced by invalidating cause, § 993 Joint holders of power, § 993 Methods of exercise, § 993 Multiple or successive amendments, § 993 Permitting revocation, § 993 Personal to holder, § 993 Relinquishment, § 993 Tax considerations, § 233, 264.5, 273.20, 286, 993 Federal estate tax, retained power to amend, § 273.20, 993 Federal income tax, § 264.5, 268.15 Generation skipping transfers, modification of exempt trusts, § 284.50 Investments, court, § 687 Payment or distribution clauses, § 815 Pour-over wills, statutes, § 233 Power of parties to modify, § 992 Power of sale, court, § 744 Power to modify expressly reserved, § 993 Reformation of trust instrument, § 991 Reformation of trust terms, § 991 Relinquishment of power to amend, § 993 Reservation of right, living trust, § 104 Reserved power, tax consequences, § 273.20, 286, 993

MODIFICATION OF TRUSTS -Cont'd Settlor Power to obtain, § 992 Beneficiaries' consents, § 992 Charitable trust, § 393 Joined by beneficiaries, § 992 Settlors express power of modification, § 993 Spendthrift trusts, by court, § 226 Statutes, § 992, 994 Terms of trust Court's power, limited changes in dispositive provisions, § 815 Court's power to permit deviation from terms, § 561, 815 Testamentary trusts, gift to trustee of revocable living trust, § 105 Trustee alone, lack of authority, § 992 Written instruments, § 42

MOHAMMEDANISM Charitable purpose, aid to religion, § 376

MONASTERIES

Charitable trusts, § 376 Aiding religion, § 376

MONEY

Distributions by trustee, **§ 814** Federal estate tax, gross estate, **§ 273** Tracing trust funds, **§ 921, 924**

MONEY HAD AND RECEIVED

Constructive trusts, enforcement, § 472 Jurisdiction, enforcement, § 870

MONOPOLISTIC TRUSTS

Distinction from trust, § 38

MONOTHEISM

Charitable trusts, early law, § 376

MONTANA

Generally, § 212 Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 642

MONUMENTS

Honorary trust, § 166
Private trust, lack of living beneficiary, § 164
Public figure, charitable purpose, § 377
Whimsical or irrational trusts, § 379

MONUMENTS AND MEMORIALS

Charitable trusts, § 377 Motive of settlor, § 366
Charitable trusts, governmental benefits, § 378
Family monuments, charitable trusts, § 377
Foreign countries, charitable tax deduction, § 369
Honorary trusts, duration, § 218
Private upkeep trusts, charitable trusts, § 377
Public characters, charitable trusts, § 377

MORAL CONSIDERATIONS

Federal estate tax, transfers in trust for consideration, **§ 273.45**

MORALITY

Fraudulent conveyances, § 211

MORAL OBLIGATIONS

Creating trusts, § 204

MORONS

See Disabled Persons

MORTALITY TABLES

Leases, term, measurement, § **792** Use in principal and income problems, § **822**

MORTGAGES

See, also, Loans, generally, this index Acceptance by trustee, evidence, § 150 Accumulations, § 217 Accumulations, payment from income, § 217 Application of money lent trustee, § 767

MORTGAGES—Cont'd

MORTGAGES—Cont'd Apportionment Principal and income Delinquent interest payments, § 821 Foreclosure, § 825 Successive beneficiaries, interest expense, § 810 Beneficiary Conduct validating mortgages, § 768 Interest mortgageable, § 188 Mortgage to trustee, fair play required, § 544 Trustee-beneficiary, violation of duties, § 192 Beneficiary's interest, § 188 Statutory provisions, § 184 Successive assignees, § 194 Bona fide purchasers, § 881, 885, 897 Notice, duty to inquire, document terms, § 897 Recording acts distinguished, § 884 Bonus for advance payment, allocation between principal and income, § 816 Burden of proof, fair play to beneficiaries, § 544 Charitable trusts, § 391 Court administration. § 396 Court's consent, § 394 Deviation from terms, § 394 Powers and duties, § 392 Trustees, § 392 Chattel mortgages Filing or recording act, § 149, 884, 893 Marshaling of assets, tracing trust fund, § 930 Consent, barring of remedies, § 941 Courts, powers Authorization, terms, § 765 Inherent power to authorize, § 762 Notice to beneficiary, § 764 Statutory powers, § 763 Delinquent interest payments, allocation between principal and income, § 821

Deviation from terms of trust Charitable trust, § 394 Disposition of proceeds, salvaging, § 825 Distinguished from trusts, § 29 Dwellings, resulting trust, § 455 80 Eminent domain award used to pay mortgage, special deposits, § 21 88 Equitable mortgagees, bona fide purchasers, § 881 Escrow accounts Investments, § 21 Tax and insurance deposits, payments of interest, § 21 Estate taxes, deductions, § 275.15 Exclusion of personal liability, trustee, § 771, 774 Statutes, § 775 Expenses, § 801 Successive beneficiaries, apportion, § 810 Express grant of power to trustee, § 752 Limited purpose, § 753 Federal estate tax Deduction from gross estate, § 275.15 Reducing marital deduction, § 275.10 Foreclosure Beneficiaries Parties, § 869 Principal and income, apportionment, § 825 Purchase by trustee, § 543(C) Redemption, resulting trust, § 455 Surplus funds, § 29 Trustee buying at own sale, § 543(A) Implied powers of trustee, § 551, 757 Illustrations, § 551 Raising particular sum, § 759 Improvements, costs, § 753 Power of court, § 762 Statutory provisions, § 763

MORTGAGES—Cont'd Investments, § 672 et seq Chattel, pledges, § 672 Duties, § 674 Encumbered property, § 675 Ground rents, § 672 Insurance on buildings, § 674 Margin requirements, § 612, 674 Mortgage pools, § 675 Incidents, § 676 Participating Duties of trustee, § 676 Statutes regarding, § 676 Construction, § 676 Pools, § 676 Productive property, § 674 Realty, § 674 Situs of land, § 674 Special use property, § 674 Terms, § 672 Validity, § 674, 675 Valuation of property, § 674 Investments, margin requirements, § 612 Leases, taking renewal or buying reversion for self, § 543(I) Lender's duty, application of money lent, § 767 Liability of trustee for sum borrowed, § 769 Loans secured by, trust investments, § 674 Loyalty, trustee's duties as to mortgages, § 543 Management, implied power, § 760 Margin requirements, investments, § 612, 674 Notice to beneficiary, court proceeding, § 764 Participating mortgages, mingling of trust funds, § 675 Participating mortgages and mortgage pools, trust investments, § 675 Parties, foreclosure, § 869 Payment of interest or principal, source of payment, § 808 Personal liability, exclusion, § 771 et seq

Pools, investments, § 675 Possession by trustee, § 583 Power of sale, inclusion, § 754, 756 Powers, § 551 et seq., 741 et seq., 751 et seq Beneficiary's conduct or inaction validating, § 768 Court authorization, terms, § 765 Statutory grants, § 763 Court's inherent power to authorize, § 762 Notice to the beneficiaries, **§ 764** Excess power of trustee, § 752 Limitation of purpose, § 753 Express power of trustee, § 752 Illustrations, § 551 Implied grants trustee, § 757 Management and control, § 760 Raising a particular sum or charge, § 759 Limited authority, § 753 Management and control, § 760 Power of sale permitting, § 754, 756 Purchase-money mortgage, § 761 Unauthorized mortgage, position of lender, § 766 Powers and duties, § 751 et seq Principal and income Allocation, advance payments, § 816 Apportionment, foreclosure, § 825 Delinquent payment, apportionment, § 821 Source of payment, § 808 Priorities and preferences, resulting trusts, § 455 Protective trusts, § 230 Purchase-money mortgages, § 761 Purchase money resulting trusts, distinguished, § 454 Purpose of trust, early law, § 212 Real estate investment trust, federal income tax, § 270.35 Real estate investment trusts. § 248

MORTGAGES—Cont'd

MORTGAGES—Cont'd Recording Bona fide purchasers, § 884 Recording acts, bona fide purchasers Constructive notice, § 893 Distinguished, § 884 Redemption Power of court, § 762 Resulting trust, § 455 Resulting trusts, § 455 Judgments and decrees, § 465 Salvage Apportionment of proceeds, § 825 Statutes, disposition of proceeds, § 825 Second mortgages Investments, § 675 Securing bonds, transfer of property, § 142 Security, § 212 Spendthrift trust, alienation, § 222 Statute of Frauds, personal property trusts, § 65 Statutory restrictions, § 212 Purposes, powers of court, § 763 Salvaging, § 825 Subdivision trusts, § 249 Subrogation, tracing trust funds, § 930 Successive beneficiaries, expenses, apportionment, § 810 Taxation Payments, § 602 State, § 285 Termination of trust, foreclosure, § 995 Terms, authorization by court, § 765 Tracing trust funds, subrogation, § 930 Trustees Buying at sale forced by third parties, § 543(C) Good faith, dealing with beneficiaries, § 544 Investments, willful neglect, § 542 Loyalty to beneficiaries, § 543 Indirect disloyalty, § 543(T)

MORTGAGES—Cont'd Trustees-Cont'd Purchasing claims for self, § 543(D) Trust expenses, interest and principal, § 808 Trust indenture, § 250 Unauthorized execution Uniform Commercial Code, liability of trustee, § 775 Uniform Negotiable Instruments Law, liability of trustee, § 775 Unauthorized mortgage, § 766, 768 Beneficiary's conduct validating, § 768 Position of lender, § 766 Unproductive mortgages, sales, § 825 MORTMAIN Generally, § 325 Charitable gifts, § 326

Statutes, § 326 **MORTMAIN ACTS** Generally, § 326 Absolute gift on oral request, constructive trust, § 326 Charitable trusts, § 325, 326 American statutes, § 326 English law, § 325 Gift by will, § 490, 499 Mixed trusts, § 372 Conflict of laws, § 298, 326 Construction, § 325, 326 Constructive trusts, § 326 Gift by will on oral trust for charity, § 499 Current status, various states, § 326 England, § 325 Origin of uses and trusts, § 2 Right to object to illegal gift to charity, § 326 Waiver of right to object, § 326 MOTIONS Removal of trustee, § 524

MOTIVES Charitable trust, § 324 Settlor, § 366

MOTIVES—Cont'd Charitable trusts, § 366 Creation of charitable trust or mere motive for gift, § 324 Creation of private trust, § 46 Federal estate tax, gifts in contemplation of death, prior law, § 273.5 Resulting trusts, husband as payor placing title in wife as grantee, § 459 MOTOR VEHICLES Banks and banking, loan funds placed in customers account, special deposits, § 21 Estate taxes, gross estate, § 273 Evasion, fraudulent conveyances, § 211

Federal estate tax, gross estate, § 273
Registration, evasion or violation of statutes, § 211
Registration, fraud, § 211

MULTIPLE PARTY ACCOUNTS

See also Joint Accounts; Payable on Death Accounts; Totten Trusts Statutes, § 47 Uniform Probate Code, text, § 47

MULTIPLE TAXATION

State taxes, § 300

MULTIPLE TRUSTS

Compensation, multiple commissions, § 979 Federal income tax consequences, § 264.10, 267.5, 268.25 Intent to create, § 45

MULTISTATE TAXATION

See also Conflict of Laws, this Index Estate planning, § 264.5, 285, 287, 300

MULTISTATE TRUSTS

See also Conflict of Laws, this Index Generally, § 287, 291, 301 Choice of law, § 294 Conflict of laws, § 231, 291 et seq. Estate planning, § 301 Jurisdiction, § 292 State taxes, § 300

MUNICIPAL BONDS Estate taxes, gross estate, § 273

MUNICIPAL CORPORATIONS See, also, Political Subdivisions, gen-

erally, this index Beneficiaries, § 168 Charitable gifts, income tax deductions, § 264.25 Charitable trustees, § 328, 391 Acceptance of title and administration of property, § 328 Community purposes, § 378 Charitable trustees, qualifications, § 328 Charitable trusts Enforcement, parties, § 412 et seq. Municipal purposes, § 378 Dissolution, public trusts, § 246 Dissolution, trustee to hold property, § 246 Pension funds, municipal officials as trustees, § 246 Removal as trustee, § 521, 527 By legislature, § 521 Retirement funds, § 255 Settlor, § 41 Statutory provisions, trusteeships, § 130, 328 Trustees, § 130, 246, 328, 521 Charitable trusts, qualifications, § 328 Public purposes only, § 130 Removal from office, § 521

MUNICIPAL INCOME TAXES

Generally, § 285

MURDER

Constructive trusts Accomplices and accessories, § 478 Limitation of actions, § 953

Property obtained by, constructive trusts, § 478

MUSEUMS

Admission fees, charitable trusts, § 364 Art museums, charitable trusts, § 362

Art museums, charitable trusts, § 362

NAMES

MUSEUMS-Cont'd

Charitable trusts, § 362, 375 Admission fees, § 364 Advancement of education, § 375 Beneficiaries, § 363 Motive of settlors, § 366 Purposes, § 368 Statutes, exemptions, § 321 Settlor's home, charitable trusts, motive of settlor, § 366

MUSIC

Charitable trust purpose, advancement of education, § 375 Charitable trusts Advancement of education, § 375

MUTUAL BENEFIT Bailments, § 11

MUTUAL BENEFIT SOCIETIES Charitable trusts

Source of funds, § 367 Charitable trusts, source of funds, § 367

MUTUAL FUNDS

See also Investment Trusts Generally, § 248 Capital gains distributions, principal or income, § 858 Federal income tax, § 270.30 Federal legislation, § 248 Income taxes, § 270.30 Investments in, § 673 Pooled agency accounts, § 248, 677 Purposes and operation as trust, § 248

MUTUAL TRUST INVESTMENT COMPANIES Statutes, § 677

MUTUAL WILLS Constructive trust, breach of agreement, § 499

NAKED POWERS Discretionary powers of trustees, § 552

NAKED TRUSTS Terminology and classification, § 1

Index-280

Beneficiary, identification, § 161 Change of name, § 211 Change of name, public policy, § 211 Statute of Frauds Beneficiary and trustee, contents of memorandum, § 87 Signature or subscription, § 86 Title of property secured by adverse possession, individual names of trustees, § 125 42 NARCOTICS

Charitable trusts, governmental benefits, § 378

NATIONAL BANKS

Branch offices, trust powers, § 134
Commercial paper, collection of items, § 24
Common trust funds, investments, § 270.25
Investments, § 667
Pooled agency accounts, § 248, 677
Testamentary trustees, state laws, § 132, 134
Trust departments, disclosure requirements, § 134
Trustees, § 134

NATIONAL DEFENSE

Enemy aliens, removal of trustee, notice, § 523 Government or laws, aiding change, § 378 Suspension of trustee, § 528

NATIONAL GUARD

Charitable trusts, enforcement, § 412 Charitable trusts, enforcement, parties, § 412

NATIONAL HERO

Monuments, § 377

NATIONAL HISTORY

Charitable trusts, patriotic purposes, § 378

NATIONAL ORIGIN

Restraints on alienation, constitutionality, § 220

NATIVE AMERICANS

Charitable trusts, social services, § 379 Public trusts, § 246

NATURAL RESOURCES

Wasting assets, apportionment of receipts, § 827

NEBRASKA

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 643

NECESSARIES

Spendthrift trusts, § 222, 224 Collection of debts, § 222, 224 Exceptions, § 224 Support, § 222 Support, determination, § 811

NECESSARY PARTIES

Accounts and accounting, § 967 Breach of trust proceedings, § 871 Charitable trusts, construction or enforcement, § 411

NEEDY PERSONS

See also Indigent Persons, this Index Almshouses Charitable trust, **§ 373** Tax funds, **§ 367** Relief, charitable purpose, **§ 369, 373**

NEGLIGENCE

Beneficiary
Bona fide purchaser rule, theory or reason for rule, § 882
Breach of trust, § 701 et seq., 861, 862
Breach of trust, jurisdiction, § 870
Charitable trusts, § 361
Trustees, § 394
Charitable trusts, tort liability, § 401
Compensation, forfeiture, § 980
Co-trustees
Damages against passive trustee, § 584, 585
Failure to examine accounts and investments, § 587

NEGLIGENCE—Cont'd Co-trustees-Cont'd Passively allowing one exclusive possession, § 585 Tort liability, § 585 Damages Passive trustee, § 584, 585 Remedies of beneficiary, § 862 Damages, recovery from trustees, § 862 Immunity of trustee, statutory provisions, § 542 Investment, examination by cotrustee, § 587 Standard of ability, § 612 Standard of ability, § 612 Investments, breach of duties, § 707 10 Jurisdiction, breach of trust, § 870 Passive co-trustee, allowing co-trustee exclusive possession, § 585 Removal of trustee, § 527 Sales, § 744 Selection of agents, liability of charitable trustees, § 401 Skill and diligence required of trustee, § 541, 683, 706 Spendthrift trusts, creation, § 225 Statutes, trustees' immunity, § 542 Tort liability Charitable trustees, § 401 Co-trustee, § 585 Trustee of private trust, § 731, 732, 735 Trustee Beneficiary's remedies, § 861, 870 Damages, § 862 Exculpatory clauses, § 542 Interest on damages, § 863 Remedies of beneficiary, § 861 Trustees Breach of trust, jurisdiction, § 870 Charitable trusts, § 394 Damages, § 541 Recovery from trustees, § 862 Grounds for removal, § 527 Indenture, liability of trustee, § 250

NEGLIGENCE—Cont'd

Trustees failure to verify trust property, § **583, 612** Trust indenture, liability of trustee, § **250**

NEGOTIABILITY

Bona fide purchaser rule distinguished, **§ 883** Bona fide purchasers distinguished, **§ 883**

NEGOTIABLE INSTRUMENTS

Bank Deposits and Collections, generally, this index Bona fide purchasers, § 881 Bona fide purchasers, consideration, § 889 Breach of trust, third parties Payments of trust property, personal debts of trustees, § 904 Purchases from trustees, § 903 Business trusts, liabilities of trustees. § 247K Collection items, debt or trust, § 23, 24 Consideration, bona fide purchasers, § 889 Contractual liability of trustee, § 7, 712, 714, 769, 775 Estate taxes, gross estate, § 273 Future interests, gift taxes, § 279 Gift taxes, future interests, § 279 Gross estate, estate taxes, § 273 Jurisdiction, § 292 Payment Resulting trusts, § 455 Trust property, breach of trust, third parties, personal debts of trustees, § 904 Purchase from trustee, participation in breach of trust, § 903 Resulting trusts, payment, § 455 Statute of Frauds, personal property trusts, § 65 Subject-matter of trust, § 111, 115 Third parties, breach of trust Payments of trust property, personal debts of trustees, § 904

NEGOTIABLE INSTRUMENTS -Cont'd Third parties, breach of trust-Cont'd Purchases from trustees, § 903 Tracing trust funds, § 921, 924 Transfer of possession, § 148 Uniform Commercial Code, § 7, 24, 712, 714, 775 Purchaser's liability for participation in breach of trust, § 903 Uniform Fiduciaries Act, § 901, 912 Purchaser's liability for participation in breach of trust, § 903 Uniform Negotiable Instruments Law, § 712, 775 Purchaser's liability for participation in breach of trust, § 903

NEGROES

Charitable trusts Advancement of education, § 375 Discrimination, charitable trusts, § 328, 375

NEMO ALIEN

As beneficiary, **§ 168** Payments due to, **§ 814** Removal of trustee, notice, **§ 523** Termination of trust, confiscation, **§ 995**

NEPHEWS AND NIECES Resulting trusts, § 460

NEUTRAL PRINCIPLES DOCTRINE

Church property disputes, § 399

NEVADA

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 644**

NEWELL v. HADLEY

Tracing funds, subrogation, § 930 Tracing trust funds, subrogation, alternatives, § 930

NEW HAMPSHIRE

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 645

NEW JERSEY

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 646**

NEW MEXICO

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 647**

NEW YORK

Accounts and accounting, statutory regulation of accounts, § 974 Alienation, suspension of power, § 219 Investment statutes, § 648 Statutes, § 212 Trustees compensation, § 975

NEXT OF KIN

See also Beneficiaries; Relatives Definition, § 182

NIECES AND NEPHEWS Adopted children, beneficiaries, § 182

NOMINAL VALUE Bona fide purchasers, § 887

NOMINEE TRUSTS Trustees powers, § 249

NONEXEMPT TRUSTS Employee benefit trusts, § 255,

270.20 Nonqualified charitable trusts, § 245

NONFEASANCE Immunity clauses, § 542 Trustees

Grounds for removal, § 527 Liability, § 542

NONMARITAL TRUSTS Generally, § 264.20

NONPROFIT CORPORATIONS See Charitable Corporations

Charitable Trusts, this index

NONRESIDENT ALIENS Federal transfer taxes, § 10 Fiduciary tax returns, § 265

NONRESIDENT ALIENS—Cont'd Marital deduction, estate taxes, § 275.12 Rates, federal taxes, § 10, 271.5 Trustees, removal from office, time, § 526 NONRESIDENTS See also Foreign Corporations Accumulations, state income taxes, § 287 Actions Bond, § 864 Foreign trustees, § 870 Service of process, § 132, 870 Aliens Beneficiaries, § 10, 168 Federal estate tax, § 10, 271.5 Federal gift tax, § 10, 277 Federal income tax, § 10 Beneficiaries' remedies, transfer of situs, appointment of foreign trustee, § 861 Business trust, shares, state taxation, § 247S Capacity to serve as trustee, § 132 Conflict of laws, estate planning, § 301 Corporations as trustees, capacity, § 132, 295 Estate planning, state income taxes, § 285, 287, 300 Estate taxes, § 272 Business property, § 286 Exemptions, § 286 Real estate, § 286 Tangible personalty, § 286 Exemption Aliens, federal income tax, § 10 Gift taxes, state, § 286 Inheritance taxes, state, § 286 Intangible personal property taxes, § 285, 287, 300 Federal estate tax Nonresident alien, § 10, 271.5 Federal gift tax Nonresident alien, § 10, 277

Federal income tax

Nonresident alien. § 10

NONRESIDENTS—Cont'd Individuals as trustees, capacity, § 132, 295 Inheritance taxes, state, § 286, 287, 300 Intangible personal property Business situs, state taxes, § 285, 287, 300 Jurisdiction to tax, § 287, 300 When exempt from state tax, § 285, 287, 300 Jurisdiction, § 292 Jurisdiction, removal as trustee, § 523 Multistate trusts As beneficiaries, § 10, 271.5, 277 As trustees, § 132, 291, 294 Multistate trusts, conflict of laws, § 291 Process, service, § 870 Creditor's bill, § 716 Removal as trustee, § 132, 527 Jurisdiction, § 523 Time, § 526 Service of process, § 870 Agent, § 132, 295 Creditor's bill, § 716 State death taxes Intangible personal property, § 286, 287, 300 State estate and inheritance taxes Business property, § 286 Exemptions, § 286 Real estate, § 286 Tangible personalty, § 286 State gift taxes Exemption, § 286 State income taxes, § 285, 287, 300 State taxation Business trusts, § 247S Estate and inheritance taxes, exemption, § 286, 287, 300 Gift taxes, exemption, § 286 Income taxes, § 285, 287, 300 Inheritance taxes, exemption, § 286 Intangible personal property taxes, exemption, § 285, 287

NONRESIDENTS—Cont'd State taxation—Cont'd Tangible personal property, § 285, 287 State taxes Gift taxes, § 286 Income taxes, § 285 Trustee, creditors' derivative rights, §716 Trustees, § 132 Agent for service of process, § 132, 295 Bond, § 151 Capacity to act, § 132, 295 Creditors' bill, service of process, § 716 Grounds for removal, § 527 Multistate trust, § 132, 291, 294 **Oualifications**, § 231 Remedies of beneficiary, § 861 Removal from office Jurisdiction, § 523 Time, § 526 Resignation, § 515

NORTH CAROLINA

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 649**

NORTH DAKOTA

Generally, § 212 Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 650

NOTICE

Absconding trustee, removal, § 523
Acceptance by trustee, creation of trust, § 150
Actual notice, bona fide purchasers, § 891, 892
Adverse claims, fiduciary stock transfers, § 905
Assignment, beneficiary's interest, § 194, 195
Bank, trust paper deposited in trustee's personal account, § 906
Beneficiaries, acceptance of trust, § 169

NOTICE—Cont'd Beneficiaries, creation of trusts, § 202 Beneficiary Creation of trust, § 169 Modification, § 993 Resignation of trustee, § 514 Successive assignments of interest, § 194, 195 Bona fide purchasers, § 891 Actual notice, § 891, 892 Constructive notice under recording acts, § 893 Duty to inquire resulting from terms of documents, § 897 Facts putting on inquiry, § 894 Inadequate consideration, § 895 Possession of realty, § 896 Lis pendens, § 893 Quit-claim deed, § 894 Recording, § 893 Special recording acts, § 893 Various types of notice, § 891 Bona Fide Purchasers, this index Breach of trust Corporation, through corporate officers and agents, § 912 Through agent acting as sole representative of principal, § 912 Through agent obtained while not acting for principal, § 912 Buyer, wrongful sale of trust property, § 747 Condition, exercise of power to revoke, § 1001 Constructive notice, bona fide purchasers, § 893 Co-trustees Breach by one co-trustee, § 585 Election of remedies, breach of trust, § 946 Extent of trustee's powers, duty to inquire, § 565 Facts putting on inquiry, bona fide purchasers, § 894 et seq Federal income tax, fiduciary relationship, § 265 Implied notice, bona fide purchasers, § 891

Imputed, trust funds as source of payment of trustee's personal debt, § 904 Inquiry Duty, § 565 Facts putting on inquiry, bona fide purchasers, § 894 Jurisdiction, § 292, 870 Modification of trusts To beneficiaries, § 993 To trustee. § 993 Multistate trusts, court proceedings, due process requirements, § 292 Participation in breach of trust Actual knowledge of breach, § 901, 904, 906, 908, 910 Actual or imputed knowledge of breach as bad faith, § 903, 904, 908, 909 English Trustee Act of 1925, § 912 Imputed knowledge of breach, § 901, 903, 906, 909, 912 Knowledge of breach through agent or corporate officer, § 912 Possession of realty, facts requiring purchaser to inquire, § 896 Powers of trustees Sales of property, § 747 Unauthorized mortgage, § 766 Principal, breach of trust through agent, § 912 Purchase-money resulting trust, extinction, § 466 Recording acts, § 149, 884, 893 Constructive notice, § 893 Removal of trustee, § 523 Absconding trustee, § 523 Representative capacity, execution of unauthorized mortgage, § 775 Resignation, to beneficiaries, § 514 Sale of trust property, § 747 Condition of valid sale, § 745 Settlor to trustee, modification of trust, § 993 Successive assignments of beneficiary's interest, § 194, 195

NOTICE—Cont'd

NOTICE—Cont'd

Taxes and taxation
Federal income tax, fiduciary relationship, § 265
Liens, federal estate tax, § 272.5
Totten trust, § 47
Trustee's personal debt, payment from trust funds, § 904

NOVATION

Contract and trust distinctions, § 17

NUISANCES

Action against trustee in representative capacity, § 732 Liabilities arising from ownership, § 720

NUMEROUS LIVES IN BEING Perpetuities, § 213

NURSES

Confidential relationship, constructive trust, § 482

NURSING CARE

Support trusts, § 811

NURSING HOMES

Charitable organizations, § 361 Charitable purpose, founding, § 374 Charitable trusts, § 374 Gifts to, undue influence, § 482

N VENTRE SA MERE

See also Children and Minors Barring remedies, **§ 941** Child, as beneficiary, **§ 163** Class gifts, time of closing, **§ 182** Federal income tax, short term or reversionary trust, **§ 268.15** As person in being, **§ 163** Revocation, statutory provisions, **§ 999** Rule against Perpetuities, **§ 213**

OATHS AND AFFIRMATIONS

Failure to file, removal of trustee, § 151, 527 Loss of power, § 566 Trustee, qualification, § 151

Index-286

OATWAY CASE

Tracing trust funds, liens and encumbrances, commingling, investments, **§ 928**

OBSERVATORY

Astronomical observatory, charitable trust, advancement of education, **§ 375**

OBSOLESCENCE

Leases, power of court, § 786 Principal and income, allocation of reserves, § 816, 829

OCCUPATIONS

Trust to control, public policy, § 211

OFFENSES

Business trusts, blue sky laws, § 247R
Co-trustee, tort liability, § 586
Crimes and Offenses, generally, this index
Evasion of criminal statutes, § 211
Investments, bribery, § 684
Remedies of beneficiary, § 861
Termination, § 1002
Trustees
Breach of trust, § 861
Removal, § 527
Unlawful purposes of trusts, § 211

OFFICE

Subject-matter of trust, § 112

OFFICE BUILDINGS

Depreciation reserve, **§ 829** Leases beyond trust term, **§ 789**

OFFICERS AND DIRECTORS

Corporations, this index

OFFICERS AND EMPLOYEES

Acts, exoneration of corporate trustee, § 542
Administrative officers and employees, charitable trusts, tort liability, § 401
Breach of trust, liability, § 901
Business life insurance trusts, § 253

OFFICERS AND EMPLOYEES -Cont'd Charitable trusts Beneficiaries, § 365 Employees of named business, class characteristics, § 365 Tort liability, § 402 Charitable trusts, tort liability, § 401 Contracts, enforcement, § 711 Corporate trustee, bond or deposit, statutes, § 151 Death benefits, exemption from accumulations statutes, § 216 Dues and assessments, charitable trusts, source of funds, § 367 Employee benefit trusts, § 255 Employment Contracts, enforcement, § 711 Self-employment, § 543(M) Exercising powers of trustee, § 555 Forced sales, buying property at forced sale, § 543 Fraud, presumptions, § 543(A) Immunities, § 542 Indemnification, § 394 Investment counsellors, § 612, 701 Investment counselors, § 612 Judicial sales, buying property at forced sale, § 543 Leases, taking renewal for self, loyalty, § 543(I) Loyalty, beneficiaries, § 543 Notice of breach of trust, § 912 Personal liability, breach of trust, § 901 Specialized work, trustee employing self, § 543(M) Spendthrift trust, § 222 Tort liability, § 731 et seq Trustees Employing self to do specialized work for trust, § 543(M) Liability for acts of employees, § 542 Loyalty to beneficiaries, § 543 Trustee's loyalty duty, § 543 OFFSET See Set-Off and Counterclaim, this Index

OFFSPRING

Animals, tracing trust fund, § 921 Principal and income, § 819

OHIO

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 651**

OIL AND GAS

Business trusts, § 247 Business trusts, purpose, § 247B Court power to sanction leases, § 786, 787, 795 Depletion allowance, apportionment of receipts, § 827 Power of sale, § 741

OIL AND GAS LEASES

Federal income tax, trusts taxable as associations, § 270.40
Power of sale, § 741
Power to make, § 787, 795

Court, § 786

Statute of Frauds, § 65
Term, § 788
Waste, remedies of beneficiary, § 861

OKLAHOMA

Generally, § 212 Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 652

OLD AGE

Aged Persons, this index

ONE PARTY TRUSTS Definitions, § 233

ONEROUS TRUSTS

Acceptance by beneficiary, § 169

OPEN END INVESTMENT TRUSTS

Generally, **§ 248, 270.30** Federal income tax, **§ 270.30** Investments in, **§ 248, 673, 679** Purposes and operation, **§ 248, 249**

OPERATING COSTS

Charitable trusts, profit making, § 364

OPTIONAL GIFTS

Charity, estate taxes, marital deduction, § 275.10

OPTIONS

See also Elections; Election of Remedies
Insurance trusts, payment of policy proceeds, § 237, 240, 264.15
Lease renewal, period extending beyond trust term, § 793
Power to exercise, § 741 et seq
Purchase, trust leases, § 793
To purchase property, Rule against Perpetuities, § 213
Renewal, § 793
Sales, power of trustee to grant, § 741
Stock options, purchase, tracing trust funds, § 921 13

OPTIONS TO PURCHASE Perpetuities, § 213

ORAL AGREEMENT

See also Contracts, this Index Jointly purchased tract of land, equitable relief, **§ 488**

ORAL EVIDENCE

See Parol Evidence, this Index

ORAL TRUSTS

See also Statute of Frauds, this Index Aged beneficiary, confidential relationship, constructive trust, § 496 Creation, certainty of intent, § 45

Deed on oral trust, § 495, 497
Evidence, present intent to create trust, § 45
Executed oral trust of land, Statute of Frauds, § 69
Express oral trust, when enforced,

§ 51

Formalities to transfer title, **§ 142** Formality, Statute of Frauds, **§ 38**

Intent, § 45

Joint tenancy bank account, § 47 Part performance, § 92

Personal property, § 45, 65, 144

ORAL TRUSTS—Cont'd

Statute of Frauds, attack by settlor, § 997 Trust instrument, § 1 Trust of realty, § 220

Unenforceable as to subsequent sale proceeds, **§ 66**

Written acknowledgment by trustee, § 82

ORDERS OF COURT

See also Courts; Judgments and Decrees Failure to obey, removal of trustee, § 527

OREGON

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 653

ORIGIN

Early history of trusts, § 2

ORPHANAGES

Charitable trusts, beneficiaries, § 363

ORPHANS

Charitable trusts, **§ 373** Advancement of education, **§ 375** Charitable purpose, home or hospital, **§ 374** Clothing, **§ 362** Miscellaneous alleged charitable purposes, **§ 379** Purposes, **§ 391** Estate tax deduction, prior law, **§ 275.15**

OUTSTANDING CLAIMS

Trustee buying, disloyalty, § 543(D)

OVERPRODUCTIVE PROPERTY

Apportionment, sales proceeds, § 824, 825 As wasting property, § 824, 827

OVERREACHING

Trustee, dealings with beneficiary, § 544

OVERTHROW OF GOVERNMENT Aiding as noncharitable purpose, § 378 PALISADES Hudson river, development, charitable purpose, § 368 PARENS PATRIAE Charitable trusts, enforcement, English origin, § 411 Cy pres, prerogative power, England, § 432 PARENT AND CHILD See also Children and Minors, this Index Constructive trusts, confidential relationship, § 482 Federal income tax, discharge of legal obligation, § 264.10, 268.15, 268.20 Purchase-money resulting trusts, **§ 460** Resulting trusts, § 460 PARKS AND PLAYGROUNDS Charitable trusts

Governmental benefits, § 378 Municipal trustee, § 328 Dedication for public use, § 34

PARKS AND RECREATION Charitable trusts, § 378, 379

PAROCHIAL SCHOOLS

Charitable trusts Advancement of education, § 375 Mixed trust, § 372 Purpose and beneficiaries, § 364

PAROL AGREEMENTS

Real estate, creation of express trusts, § 64

PAROL DISCLAIMER

See also Disclaimer; Refusal; Renunciation Beneficiary Common law, § 170 Statutes, § 171 Trustees, evidence, § 150

PAROL EVIDENCE

Abbreviations, meaning of, § 88 Absolute deed or mortgage, § 29 Active trust, duties of trustee, § 207 Ambiguities, § 88 Charitable trust, § 323, 324, 328 Beneficiaries Disclaimer, § 170 Identification, § 161 Charitable trust, creation, § 323 Construction, § 51, 64 Constructive trusts, proof, § 472 Corporation sole, § 37 Creation of trusts, § 45, 51 Charitable trusts, § 323 Cy pres Settlor's intent and wishes, § 437, 442 Deeds and conveyances Intent to create trust, § 50 Resulting trust, § 453 Identity of institution as charitable donee, § 440 Intent of settlor to impose active duties on trustee, § 207 Investments, control by settlor, § 680 Mortgages, absolute deed or mortgage, § 29 Passive trusts, § 207 Private trusts, § 51, 102 Proof of purchase money resulting trust, § 454, 460, 464 Real estate, creation of express trust, **§ 64** Reformation of trust instrument, § 68, 991 Resulting trusts Payment of price, § 455 Purchase money type, § 454 et seq Voluntary conveyance, § 453 Settlor's intent, failure of charitable gift, § 437 Signature, exclusion of trustee's personal liability, § 773 Spendthrift clause, intent of settlor, § 225 Spendthrift trusts, creation, § 225

PAROL EVIDENCE—Cont'd

Statement by transferor before executing deed, § 50 Statute of Frauds, § 87, 89

Testamentary trust, ambiguities, **§ 102**

Trustee's personal liability on note, exclusion by form of signature, § 773

PAROL SURRENDER

Beneficiaries' interests Terminating trust, **§ 1006** Resulting trusts, purchase-money type, extinction, **§ 466**

PAROL TRANSFER

Choses not represented by documents, § 142 Interest of beneficiary, § 190

PAROL TRUSTS See Oral Trusts; Statute of Frauds, this Index

PARSONAGE

Charitable trusts Establishment, **§ 376** Motive of settlors, **§ 366** Charitable trusts, aid to religion, **§ 376** Homestead, charitable trusts, motive of settlor, **§ 366**

PARTIAL ACCEPTANCE BY TRUSTEE Evidence, § 150

PARTIAL ASSIGNMENTS Choses in action, trust compared, § 25

PARTIAL DISCLAIMER

Beneficiaries Disposition of remaining interest, § 172 Federal tax purposes, § 171 Gift taxes, § 278.5

PARTIAL GIFTS Gift taxes, § 278

Index-290

PARTIAL PAYMENT

Bona fide purchaser, value, possible solutions, **§ 890** Purchase-money resulting trust, **§ 457** Resulting trusts, **§ 457**

PARTIAL PERFORMANCE

Change of position, Statute of Frauds, § 92 Leases, resulting trust, § 462 Oral promise to convey, constructive trust, § 496 Parol trusts, sale of land, § 66 Resulting trusts, agreement for lesser property interest, § 462 Sale of land, parol trust, § 66 Statute of Frauds By beneficiary or grantee, § 92 By trustee, § 92

PARTIAL RATIFICATION Single breach of trust, § 942

PARTIAL REVOCATION

Revocation as to remaining trust property, **§ 1001** Settlor's right to demand principal, **§ 1000**

PARTIAL SALE OF PROPERTY Separation of interest, § 745

PARTIAL SPENDTHRIFT TRUST Definition, § 222

PARTIAL SPENDTHRIFT TRUSTS Generally, § 222

PARTIAL TERMINATION Distributions of trust principal, § 812, 1007. 1010

PARTICIPATING MORTGAGES

Trust investments, § 675 Duties of trustee, § 675 Statutes regarding, § 675

PARTICIPATION IN BREACH OF TRUST

Acts constituting, **§ 901 et seq** Act or omission by third party, **§ 901** Agents, **§ 901**

PARTICIPATION IN BREACH OF TRUST—Cont'd Acts constituting, § 901 et seq -Cont'd Illustrations, § 901 Knowledge by third person, § 901 Officers and directors acting for corporate trustee, § 901 Selling illegal investment to trustee, § 901 Actual notice of one breach on later duties of third party Terms of Uniform Fiduciaries Act, § 910 Agents, § 901 Notice to principal, § 912 Aiding co-trustee to withdraw from bank Terms of Uniform Fiduciaries Act, § 911 Application of purchase money, duty of purchaser, statutes, § 902 Bad faith Circumstances showing, party dealing with trustee, § 909 Liabilities, § 909 Uniform Fiduciaries Act, § 909 Bank deposit, withdrawal, § 911 Banks, trustee's personal bank account Acceptance, deposit of trust paper in trustee's personal account, § 906 Actual notice of one breach on bank's duty of inquiry, later breaches, § 910 Aiding co-trustee to withdraw from trust account, § 911 Terms of Uniform Fiduciaries Act, § 911 Cashing check from trustee to self, § 907 Terms of Uniform Fiduciaries Act. § 907 Honoring checks on trust account in favor of third persons, § 908 Uniform Fiduciaries Act, deposits of trust paper in trustee's

PARTICIPATION IN BREACH OF TRUST—Cont'd Banks, trustee's personal bank account-Cont'd personal account, § 906 Terms of Uniform Fiduciaries Act, § 908 Collusion, limitation of action, § 955 Commercial paper, purchase from trustee, § 903 Corporate officers and directors, § 901 Notice to corporation, § 912 Co-trustees, one withdrawing bank deposit, § 911 Creditor taking trust property in payment of personal debt of trustee, § 904 Defense No notice trust funds used to pay trustee's personal debt, § 904 Trustee's creditor a purchaser for value without notice, § 904 Deposits in bank, withdrawals, § 911 Knowledge of participant required, § 901 Lender on mortgage, application of sum lent, § 767 Lender to unauthorized mortgagortrustee, § 766 Liabilities Sale of trust property, § 747 Third parties, business trusts, § 247 Limitation of actions, § 955 Loans, application of funds, § 767 Mortgages, application of funds, taxation, § 766 Notice of breach through agent or corporate officer, § 912 Terms of Uniform Commercial Code, § 912 Notice to third party as to trustee's powers, § 565 Officers, corporate officers Notice, § 912 Personal bank account Purchase of commercial paper or securities, § 903

PARTICIPATION IN BREACH OF TRUST—Cont'd

Personal bank account-Cont'd Purchase of securities from fiduciary Common law, § 903 Statutes, § 903 Remedies Remedies of beneficiary, § 868 Rights of beneficiary, § 901 Statute of Limitations Mistaken participation, § 955 Statutes Limiting liability, § 905 Payment of purchase money or delivery of property, application of funds, § 902 Purchase of commercial paper from trustee, § 903 Uniform Act for Simplification of Fiduciary Security Transfers, § 7, 905 Uniform Commercial Code, § 901, 912 Uniform Fiduciaries Act, § 7, 901, 912 Uniform Negotiable Instruments Law, § 901, 912 Stock transfers Liability of transfer agent or registrar, § 905 Uniform Act for Simplification of Fiduciary Security Transfers, text, § 905 Uniform Commercial Code, § 905 Uniform Fiduciaries Act, § 905 Third person, § 901 Beneficiary's, remedies, § 868, 901.902 Damages, § 868 Illustrations of conduct, § 901 Joinder of parties defendant, § 871 Notice of trustee's powers, § 565 Trustee's indemnity agreement. validity, § 868 Uniform Commercial Code Creditor taking trust property in payment of trustee's personal debt. § 904

PARTICIPATION IN BREACH OF TRUST—Cont'd Uniform Fiduciaries Act Cashing check from trustee to self, § 907 Co-trustee, withdrawal of funds from trust account, § 911 Creditor taking trust property in payment of trustee's personal debt, § 904 PARTIES Accounts and accounting Generally, § 967 Accountant-who may be compelled to account, § 967 indispensable parties, § 967 necessary parties, § 967 notice, § 967 parties, § 967 Petitioner-who may petition the court for an accounting, § 967 proper parties, § 967 representation, § 967 Attorney General, charitable trust proceedings, § 411 Beneficiaries Charitable trust, § 414 Remedies, § 871 Breach of trust, § 871 Breach of trust proceedings, § 871 Charitable trusts Attorney General, § 411 Beneficiaries, § 414 Challenges, successors of settlors, § 417 Co-trustee suing for enforcement, § 413 Cy pres, § 441 Enforcement, § 411 et seq. Beneficiaries, § 414 Other representatives, § 412 Settlors and successors, § 415 Subtrustees, § 413 Enforcement, interested parties as plaintiffs, § 412 Individuals expecting benefits, § 414 Settlor or successors, § 415

PARTIES—Cont'd Charitable trusts-Cont'd Sub-trustee, § 413 Successors of settlor, power to attack, § 417 Co-trustees, § 413, 871 Cy pres, § 441 Cy pres application, § 441 Guardian ad litem, § 871 Joinder of parties Breach of trust, § 871 Third persons, § 868 Charitable trust Cy pres application, § 441 Enforcement, § 411 Joinder of Parties, generally, this index Minor and incompetent beneficiaries Notice, court proceedings, § 871 Representation, § 871 Modification of trust, § 992 Necessary parties Beneficiaries, § 871 Breach of trust proceedings, § 869, 871 Charitable trusts, enforcement, § 411 Proceedings for removal of trustee, § 522 Substitution of parties, § 869 Termination of trust, § 1002, 1007, 1009 Third parties Acting for third person, loyalty, § 543(S) Breach of trust, § 869, 901 et seq Actions, § 868, 869, 871 Barring remedies, § 941 Damages, § 902 Joining trustee and participant, § 868 Limitation of actions, § 955 Business trust, § 247 Husband and wife, federal gift tax, splitting gifts, § 281 Revocation, conveyance by settlor, § 1001 Wrongs against trust, § 869, 871

PARTIES—Cont'd Trustees, removal from office, § 522 Unknown parties, § 871 Beneficiaries, distributions, § 814 Constructive trust, oral promises to convey, § 499 Trusts to convey or distribute trust property, active trust, § 209 Virtual representation, action to enforce trust, § 871 PARTITION Alienation, direct restraints on, § 220 Business trust, § 247 Beneficiaries' interest, real estate held subject to trust, § 185 Beneficiary, rights, § 870 Bona fide purchaser rule, partial payment of consideration, § 890 Business trusts, § 247 Joint tenancy, trustees, § 145 Jurisdiction, § 870 Nature of beneficiary's interest, settlor's direction, § 185 New York. § 212 Power of trustee to maintain, § 583 Purchase-money resulting trust, relief granted, § 465 Restraints on alienation, § 220 Resulting trusts, § 465 Trustees Action for removal from office, § 524 Loyalty to beneficiaries, § 543(A) Trustees to hold sale proceeds, § 246 PARTNERSHIPS Beneficiaries, qualification as, § 161 Beneficiary, § 161 Business insurance trusts, § 235 et seq., 252, 253 Business trusts as, § 247B, 247F Distinguished, § 247B Compared with trust, § 36

Compromise and settlement, implied powers, § 551 Family, federal income tax, § 268.15 Frauds, Statute of, signature of one partner, § 86

PARTNERSHIPS—Cont'd Gift taxes, limitation of actions, § 276.7 Insurance agency, premiums, joint and several liability, § 22 41 Intent of settlor, expression, § 45 Interest, subject-matter of trust, § 112, 679 Interests, trust investments, § 679 Investments, § 679 Construction of trust provisions, § 682 Joint ventures, fiduciary relationship, § 488 Leases, taking renewal for self, loyalty, § 543(I) Leases, taking renewal or buying reversion for self, § 543(I) Parol evidence, sale of real estate, § 488 Partners as constructive trustees, § 481 Principal or income, receipts, § 820 Purchase money resulting trusts, § 454 Abolition. § 467 Removal of trustee, conflict of interest, § 527 Resulting trusts, purchase-money type, § 454 Retirement and pensions, resulting trust, § 468 76 Securities, purchase of outstanding securities for self, § 543(D) Settlement, implied powers, § 551 Statute of Frauds, signature or subscription, § 86 Subject-matter of trust, § 112 Tracing trust funds, bank deposits, § 927 Trustees, buying for self claims against trust property, § 543(D) Trustee's investment, § 679 PASSBOOKS Savings accounts, delivery to trustee, § 142

Totten or savings bank trusts, § 47

PASSIVE LOSSES Probate estates, income taxes, § 231, 233 **PASSIVE TRUSTS** See also Dry Trusts; Purposes of Trusts Accumulations from spendthrift trusts, creditors rights, § 227 Active trust becoming passive, executed by Statute of Uses, § 206 Beneficiaries, possession and use of property, § 208 37 Beneficiary, possession and use of trust property, § 208 Charitable trusts as, § 206 Title and possession in sub-trustee, § 413 Compensation, § 977 Construction, § 207 Convey or distribute, trustee's duty, § 209 Creditor's legal remedies, beneficiary's interest, § 193 Definition, § 207 Definitions, § 207 Double interest, merger doctrine, § 129 Duties of trustee, § 207 Evidence, trustee's duties, § 207 Federal estate tax, trustee's duty, § 272, 272.5, 276 Merger doctrine, trustee with double interest, § 129 Oral evidence, where written instrument, § 207 Partially active, limited execution, § 206 Personal property trusts, execution by court, § 206 Possession, charitable trust, § 413 Resulting trusts, excepted from execution, § 206 Return of assets, § 206 Spendthrift provisions, effect, § 207 Spendthrift trusts, creditor's rights and remedies, § 227 Status, United States, § 206

PASSIVE TRUSTS—Cont'd Statute of Uses England, § 206 Status in United States, § 206 Termination, § 1010 Sub-trustee, charitable trust, possession, § 413 Subtrustee, enforcement, § 413 Termination, § 208, 1002 Vesting of title, delivery of possession by trustee, § 1010 Terminology and classification, § 1 Title to property, charitable trust, § 413 Trusts to convey or distribute, § 209 Uncertainty as to trustee's duties, effect, § 206

PASTORS

See Clergymen, this Index

PASTURAGE

Interest of beneficiary, transfer, **§ 188** Subject-matter of trust, **§ 112**

PASTURELAND

Bona fide purchasers, notice, possession, § 896

PATENTS

Equities, rules regarding, **§ 886** Estate taxes, valuation, **§ 274** Alternate valuation election, **§ 274.15** Federal estate tax, valuation, **§ 274** Subject-matter of trust, **§ 112** Title to property, bona fide purchasers, **§ 885** Valuation, estate taxes, **§ 274** Alternate valuation election, **§ 274.15**

PATENTS TO LAND

Bona fide purchasers, equitable interest, § 885

PATRIOTIC PURPOSES Charitable trusts, § 378

PATRIOTISM

Charitable trust, purpose, § 378

PAUPERS Almshouses Charitable trusts, § 373 Tax funds, § 367 Charitable trusts Municipal trustee, § 328

Mutual benefit groups, § 367 Relatives of settlor, preference, § 365 PAVING

Charitable trusts, source of funds, § 367

PAYABLE ON DEATH ACCOUNTS Statutes, § 47 Uniform Probate Code, § 47

PAYMENT

Beneficiary, institutional care, § 224, 228, 229, 811, 812 Court alteration, § 815 Debtors and creditors, § 250 Active trusts, § 207 Spendthrift trusts, § 222 Deviation, § 815 Discretionary distributions by trustee to self, health, education, support or maintenance, § 812 Estate taxes, § 272.5, 276 Deferred election, § 276 United States bonds, § 233 Installment Payments, generally, this index Propriety, liabilities, § 814 Resulting trusts, § 455 Aliquot part rule, § 457 Delivery of deed, § 456 Loans, § 455 At or before delivery of deed, § 456 Partial payment, § 457 Price, § 455 Title voluntarily vested in another, § 458 Trustees, § 233 Unauthorized payments, damages, § 862 Unauthorized payments, damages, recovery from trustees, § 862

PAYMENT—Cont'd When right to begins, probate income, § 817 **PAYMENT ON DEATH ACCOUNTS** Creditors rights, § 233 Probate proceedings, avoidance, § 231 PAYMENTS See also Distributions of Principal; Expenses; Payments of Income Accounting costs, § 809 Beneficiary residing in communist country, § 814 Business trusts, § 247, 270.40 Debts Implied power to mortgage, § 759 Termination, § 1002 Employee benefit trusts, § 270.20, 273.25 Federal estate tax, trustee, § 265, 272, 276 Apportionment, § 272.5, 276, 807 Federal income tax Due date, § 265 Failure of trustee to pay Additions to tax, § 265 Beneficiary liability, § 268.5 Criminal penalties, § 265 Interest, § 265 Liability of trustee, § 265 Lien on trust property, § 265 Liability Beneficiary as transferee, § 268.5 Effect of notice of fiduciary relationship, § 265 Trustee, § 265, 268.25 Limitations period on assessment Trustee's personal liability, § 265 Trustee's transferee liability, § 265 Rates, § 268.25 Source of payment Beneficiary, § 268.5 Substantial owner, § 268.15. 268.20, 268.25

PAYMENTS—Cont'd Federal income tax-Cont'd Source of payment-Cont'd Trustee as transferee, § 265, 268.5, 268.25 Participation in breach of trust Personal debts of trustee, notice of payment from trust funds, § 904 Recapture, federal estate tax valuation benefits, § 274.10 State and local taxes, § 602, 807 Termination of trust, trustee's duties, § 1010 PAYMENTS OF INCOME Absent or unknown beneficiaries, § 814 Advances, § 814 Beneficiaries, trust expenses, § 801 Court's power to order Adult beneficiaries, § 815 Minor beneficiaries, § 815 Insurance trusts, advances by trustee, § 238 Liens, reimbursement, § 715 Loans by trustee, § 814 Principal or income Court's powers, § 815 Duties of trustees, § 814 Reimbursement, spendthrift trusts, § 224 Alteration, court order, § 815 Annuities, § 813 Construction of beneficiary's interest, § 182 Damages, improper payment, § 814 Deficiencies, annuities, § 813 Disabled persons, § 814 Payment or application, § 814 Discretionary trusts, § 228, 264.10, 267,811 Duties of trustees Annuities Abatement where estate inadequate, § 813 Deficiencies, later surpluses, § 813

PAYMENTS OF INCOME—Cont'd Duties of trustees—Cont'd Annuities—Cont'd Deficiency in income, resort to principal, § 813 Setting up trust, § 813 Surplus income, § 813 Beneficiary Minor or incompetent, legal representatives, § 814 Residing in communist country, **§ 814** Discretion, § 228, 811 Education, § 811 Form of payments, § 814 Election by beneficiary, § 813, 814, 1008 Identification of proper beneficiary, § 814 Improper payments Excused by court or statute. **§ 814** Measure of damages, improper payment, § 814 Recovery of improper payment from beneficiary, § 814 Set-off Beneficiary's debt to settlor, § 814 Beneficiary's debt to trustee, §814 Debt to co-beneficiary, § 814 Settlor's directions, § 811 Support trusts Consideration of other income of beneficiary, § 811 Family support, § 811 Federal income tax, § 268.15 Meaning of support, § 811 Surplus income, § 182, 811 Time for payment, § 814 Void trust, § 814 Family support, § 811 Improper payments, § 814 Measure of damages, § 814 Mines, § 814, 815 Set-offs, § 814 Support, § 811

PAYMENTS OF INCOME—Cont'd

Surplus income, disposition, **§ 182, 811** Annuities, **§ 813** Time of payment, **§ 814** Trusts for education, **§ 811** Unknown beneficiary, **§ 814**

PAYMENTS OF PRINCIPAL See Distributions of Principal

PAYROLL

Special bank accounts, § 20

PECUNIARY FORMULA Estate taxes, marital deduction, § 275.10

PEERAGE Subject-matter of trust, § 112

PENALTIES

Criminal liability of trusts, **§ 861** Federal estate tax, failure to pay, **§ 272.5** Federal gift tax, **§ 277** Federal income tax, trustee's failure to pay, **§ 265** Fines and Penalties, generally, this index

PENDING ACTIONS

Lis pendens, § 893

PENNSYLVANIA

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 654 Limitation of actions, breach of trust, statutes, § 952

PENSIONS AND RETIREMENT

See also Employee Benefit Trusts; Retirement and Pensions, this Index
Accumulations, employee benefit trusts, § 216, 255
Alienability, subject-matter of trust, § 114, 222, 255
Bequest for payment of pensions, qualification as charitable bequest, § 365
Charitable purpose, § 373

PENSIONS AND RETIREMENT -Cont'd Deferred compensation arrangements, § 264.5 Employee benefit trusts, § 255, 270.20, 273.25 Employee options or election, federal gift tax, § 278 **Employee Retirement Income** Security Act of 1974, § 255, 270.20, 273.25 Exemption, Rule against Perpetuities, § 342 Federal estate tax, § 273.25 Federal income tax, § 270.20 Employees, spendthrift trusts, § 222, 255 Federal estate tax, gross estate, § 273, 273.25 Investment duties of trustee, § 396 Municipal officials as trustees, § 246 Partnerships, resulting trust, § 468 Rule against Perpetuities, employee benefit trusts, § 342 Spendthrift trusts, § 222 State law, § 255, 286 Subject-matter of trust, § 114, 222, 255 Survivor annuity payments to beneficiary, decedent's gross estate, § 273.25 Tax funds, charitable purpose, § 367 PER CAPITA Beneficiaries' interest, § 182 Construction of beneficiary's interest, § 182 PERFORMANCE Part performance, Statute of Frauds, § 92 Termination of trust, § 996 PERFORMANCE OF CONTRACTS See Specific Performance PERFORMANCE OF SERVICES Resulting trusts, consideration, § 455 PERIODIC PAYMENTS Federal income tax Alimony and separate maintenance trusts, § 270.10

PERIODIC PAYMENTS—Cont'd Federal income tax—Cont'd Employee benefit trusts, § 270.20 PERMITS Business trusts, § 247 PERPETUAL INDESTRUCTIBLE TRUST Statutes, § 218 PERPETUAL TRUSTS Charitable, § 245, 351 Validity, § 351 Private, § 218 PERPETUITIES Generally, § 213 Accumulations, statutes, § 216 Alienation, suspension of power, § 219 Business trusts, § 247 Charitable foundations, § 330 Charitable trusts, § 341 Cemetery purposes, § 377 Common law, § 214 Conflict of laws, § 294 Contingent gifts of accumulated income, § 352 Georgia, statutes, § 212 Living trusts, application of law, § 231 Mixed trusts, § 372 Monuments and memorials, private upkeep trusts, § 377 Perpetual charitable trust, § 351 Personal life insurance trusts, § 242 Possibility of reverter, application of law, § 419 Power of appointment, § 213 Present status, § 214 Restatement, Second, Property, § 213, 214 Resulting trusts, § 454 Excessive res, § 469 Failure of express trusts, § 468 Surplus res, § 469 Reverter, possibility of, § 419 Statutes, § 213, 214 Trustees, accumulations, § 215

PERPETUITIES—Cont'd Uniform statutory rule, text and adoptions, § 214 PERPETUITIES, RULE AGAINST Generally, § 213 et seq Accumulations, application of period, § 215 Beneficiaries Animals and shelter, § 165 Cemetery markers, construction and maintenance, § 164 Class of beneficiaries, vesting of interest, § 162 Future persons or corporations, § 163 Grandchildren born after testator's death, § 182 Business trusts, § 247P Cemetery trusts, § 164, 377 Charitable trusts, § 341, 348 Gift over from charity to non-charity, § 347 Gift over from non-charity to charity, § 345 Gift over from one charity to another, **§ 346** Gift to future corporation, validity, § 344 Gift to future trust, § 343 Possibilities of reverter and powers of termination, § 347, 419 Shifts of interests, one trust, § 348 Child-bearing presumption, capacity, § 1007 Child en ventre sa mere, § 213 Construction and application, § 213 Lives in being, § 213 Wait and see doctrine, § 213 Definitions, § 213 Development of Rule, § 213 Distinguished from rule limiting accumulations, § 213, 215 Duration of trust compared, § 218 Employee benefit trust, exemption, § 213, 255 English law, developments, § 213 History and status, § 213, 214 Honorary trusts, § 166

PERPETUITIES, RULE AGAINST -Cont'd Insurance trusts, § 242 Land trusts, § 249 Mixed trusts, charitable and noncharitable purposes, § 372 Options to purchase, § 213 Possibility of reverter, § 213 Charitable trusts, § 347, 419 Powers of appointment, § 213 Presumptions, child-bearing capacity, § 1007 Resulting trusts, § 454, 468, 469 Beneficiary's interest, transfer, § 469 Failure of express trust, § 468 Purchase-money type, § 454 Separability of limitations, § 213 Setting aside trust, § 581, 997 Spendthrift trust, § 222 Status of rule in United States, § 214 Statutes, United States, § 214 Termination of trust, § 996 Charitable trust, § 347 Compromise, § 1009 Unborn persons, § 163 Unincorporated associations as beneficiaries, § 167 United States, history and status, § 214 Validity of trust, attack by settlor, § 42 Violation of, effect, § 213 PERSONAL INJURIES Charitable trusts, beneficiaries, § 363 PERSONAL JURISDICTION Trustees, removal from office, § 523 PERSONAL LIABILITY Agents and agency, charitable trusts, torts, § 402 **Beneficiaries** Business trusts, § 247 Contracts, § 721 Taxes, § 187, 268.5, 287, 602 Torts, § 733 Beneficiaries, business trusts, § 247

PERSONAL LIABILITY—Cont'd Business trusts, shareholders, § 247E to 247J, 247L Torts, § 247 Charitable trusts Contract and property ownership, **§ 400** Tort liability, § 401 Contracts, private trusts, § 711 Exculpatory clauses, § 770 et seq Exemptions, § 714 Co-trustees, acting without consent, § 554 Federal taxes, trustee, § 265, 272, 272.5, 277 Liability of Trustees, generally, this index Property ownership, § 720 Shares and shareholders, business trusts, § 247 Third party, § 901 et seq Torts Trustees, private trusts, § 731, 735 Trustees of business trusts, § 247K, 247V Trustee Ad valorem taxes, § 602 Breach of investment duties, § 701, 708 Breach of trust, § 543(V), 861, 863 Business trust, § 247 Federal taxes, § 265, 272, 277 Mortgages, § 769, 775 Property ownership, § 720 Torts, § 731 PERSONAL LIFE INSURANCE TRUSTS Generally, § 235 et seq. Agreements, company to hold proceeds in trust, § 240 Creation, § 236 Duties of trustee, § 238 Perpetuities, § 242 Tax liabilities, § 241 Terms, § 237

PERSONAL POWERS Sales, § 741 et seq

PERSONAL POWERS—Cont'd Trustees, § 553

PERSONAL PROPERTY

Accumulations, statutes, § 216 Alienation, suspension of power, statutes, § 219 Beneficiary's election between money claim and tracing, § 867 Chattel mortgages Bona fide purchasers, recording, § 884 Filing or recording act, § 149, 884, 893 Investments, § 672 Marshaling of assets, tracing trust fund, § 930 Subrogation, § 33 Chattel trust, distinguished from true trust, § 29 Conflict of laws, estate planning, § 301 Creation of trust, Statute of Uses, § 206 Death of sole trustee, title, § 529 Direct restraints on alienation, § 220 Equitable conversion of realty Beneficiary's interest, settlor's direction, § 185 Business trust, taxation, § 247 Direction to sell trust real property, § 746 Future interests, perpetuities, § 213 Gift taxes, transfers subject, § 278 Improvements, purpose of trust, Georgia law, § 212 Intervivos trusts, creation, § 65 Investments, § 676 Jurisdiction, § 292 Living trusts, conflict of laws, § 297 Multistate trusts Judicial jurisdiction, § 292 Living trusts, § 297 Testamentary trusts, § 296 National banks, taxation by state, § 134 9 Perpetuities, § 213 Power of appointment, conflict of laws, § 299

PERSONAL PROPERTY—Cont'd Powers of appointment, multistate trusts, § 299 Purchase money resulting trusts, abolition, § 467 Restraints on alienation, § 220 Resulting trusts, § 453 Payment, § 455 Revocation, consent, § 999 Security interest, trust indentures, § 250 State taxation, § 285, 286, 300, 602 Statute of uses, § 206 Testamentary trusts, conflict of laws, § 296 Title, death of sole trustee, § 529 Tort liability, § 731, 732 Tracing trust property Remedies of beneficiaries, § 866 Transfer of possession, creation of trusts, § 148 Property interest to trustee, § 141, 148 Transfer to trustee, § 142 Trustees, death, § 529 Trust investments, § 676 Wills, restraints on alienation, § 220

PERSONAL PROPERTY TAXATION

Intangible Personal Property Taxation, generally, this index

PERSONAL PROPERTY TAXES

Allocation, **§ 807** Federal income tax purposes, **§ 266** Business trusts, **§ 247S, 602** Charitable exemptions, **§ 285, 330** Duty to pay, **§ 602** Estate planning, **§ 285, 287, 300** Intangible, **§ 285, 287, 300** National banks, immunity, **§ 134 9** State, **§ 285, 602** Trustee's duty to pay, **§ 285, 602**

PERSONAL RELATIONS

Trustees, grounds for removal, § 527

PERSONAL REPRESENTATIVE

Distinguished from trustee, § 12 Investments, statutes, § 616, 616 to 666, 666

PERSONAL SERVICE OF PROCESS Jurisdiction, § 292

PERSONAL SERVICES

Conveyance in return for support, **§ 19** Promise to convey in return for, **§ 480**

PERSONAL TRUSTEE Appointment by court, § 532

PERSONAL TRUSTS Generally, § 231 Functions, § 231, 244

PER STIRPES

Beneficiaries' interests, § 182 Construction of beneficiary's interest, § 182

PETITIONS

See also Judgments and Decrees; Pleadings; Remedies Removal of trustee, § 524

PEWS

Charitable trust purpose, aid to religion, § 376

PHILANTHROPY

Charitable trusts, synonyms, **§ 370** Charity, synonym, **§ 370**

PHYSICIANS AND SURGEONS

Confidential relationship to patient, constructive trust, **§ 482**

PIOUS USES

Charitable trusts, § 371

PLANK IN SHIPWRECK DOCTRINE

Bona fide purchasers, priorities and preferences, **§ 886**

PLANNING

See Estate and Tax Planning

PLAN OF ADMINISTRATION

Charitable trusts, § 371

PLANS AND SPECIFICATIONS

Charitable trusts, no plan of administration, **§ 371** Estate Planning, generally, this index Profit Sharing Plans, generally, this index Qualified Retirement Plans, generally, this index Shares and shareholders Bonus plans, income taxes, **§ 264.7** Employee benefit trusts, **§ 270.20** Purchase plans, accumulations, application of law, **§ 216**

PLAYGROUNDS

Charitable trusts Governmental benefits, § 378 Municipal trustee, § 328 Charitable trusts, governmental purposes, § 378 Dedications for public use, § 34

PLAYS

Royalties, principal and income, § 827

PLAZAS

Dedication to public use, § 34

PLEADINGS

Accounts and accounting Enforce trust, § 871 Removal of trustee, § 524 Bona fide purchasers, § 881 Breach of trust, § 871 Contracts, § 712, 715, 716 Removal of trustee, § 524 Statute of Frauds, § 71 Affirmative allegations, § 71 Tort liability, § 731

PLEDGES

Bona fide purchasers Duty to inquire, § **894** Sufficiency of interest, § **885** Constructive trust, confidential relationship, § **482** PLEDGES—Cont'd Deposit of public funds, securing, § 21 Estate taxes, deductions, § 275.5, 275.15 Foreclosure, tracing trust funds, § 923 Investments, § 67b Pledge and trust, distinctions, § 30 Tracing trust funds Foreclosure, § 923 Marshaling of assets, § 930 Subrogation, § 930 Trust property, powers of trustee, § 751, 763

PLURAL TRUSTEES

Advantages and functions, § 121, 122 Exercise of powers, § 554 Liabilities among co-trustees, § 584, 701, 722, 731 Contribution, § 718, 734, 862 Statute of Frauds, signature or subscription, § 86

POLICE

Charitable trusts, governmental purposes, § 378

POLICEMEN

Charitable trusts Governmental benefits, **§ 378** Source of funds, dues and assessments, **§ 367**

POLICE POWER

Charitable trusts, abandonment, § 397

POLITICAL ACTIVITIES

Federal income tax, charitable trusts and foundations, effect on exemption, § 270.5

POLITICAL PARTIES

Charitable contributions, estate tax deductions, § 275.5 Charitable trust purpose, advancing

views, **§ 378** Charitable trusts, aiding political par-

ties, § 378

POLITICAL SUBDIVISIONS

Charitable contributions, deductions Estate taxes, § 275.5 Income taxes, § 264.25 Charitable trustees, qualifications, § 328 Community trusts, § 329 Municipal Corporations, generally, this index

POLITICS

Promotion, charitable purpose, § 361

POLITY DOCTRINE Church property disputes, § 399

POLYGAMY

Bona fide purchasers, notice, possession, § 896

POOLED AGENCY ACCOUNTS Generally, § 677

POOLED INCOME FUNDS

Charitable contributions, estate tax deductions, § 275.5 Charitable contributions deduction, § 264.25, 270.5 Charitable remainders, § 264.25 Charitable trusts, § 245, 264.25 Estate planning, § 270.5 Federal estate tax, charitable deduction, § 264.25, 275.5 Federal gift tax, charitable deduction, § 283 Federal income tax deduction, § 264.25

Income taxes, § 270, 270.5

POOLS

Mortgages, investment, § 676 Tracing trust funds, investment, § 928

POOR HOUSE

Tax funds, § 367

POOR MAN'S WILL Totten trusts, § 47

POOR PERSONS

Accumulations, deviation by court, § 217

POOR PERSONS—Cont'd Advancement of education, § 375 Almshouses Charitable trust, § 373 Municipal trustee, § 328 Mutual benefit groups, § 357 Relatives of settlor, preference, § 365 Tax funds, § 367 Assistance, charitable purpose, § 373 Beneficiaries, advances, § 815 Charitable trusts Generally, § 373 Advancement of education, § 375 Beneficiaries, § 363 Municipal trustee, § 328 Mutual benefit groups, § 367 Purposes, § 362, 373 Relatives of settlor, preference, § 365 Tax funds, charitable trusts, § 367 Insolvency, generally, this index Relief, charitable purpose, § 361, 362, 373 Relief of poverty, charitable purpose, § 373

PORTRAIT

Whimsical or irrational trusts, § 379

PORTS

Governmental trusts, community benefits, § 378

POSSESSION

Bona fide purchasers, facts putting on inquiry, notice, **§ 896** Termination of trust, limitation of actions, **§ 951** Trustees duty to take possession, **§ 583** Trust res, transfer, **§ 147**

POSSESSION OF PROPERTY

See also Adverse Possession Bona fide purchasers, duty to inquire, § 896 Creation of trusts, § 148 Delivery, winding up, § 1010 Duty of trustee to take, § 583

POSSESSION OF PROPERTY

--Cont'd Purchase-money resulting trust, § 454 Termination of trust, § 1010

POSSESSORY INTEREST Beneficiary, § 181, 184 Trustee, § 141, 148

POSSIBILITIES

Subject-matter of trust, § 113

POSSIBILITY OF REVERTER

Alienation, trust subject-matter, § 114 Charitable gifts, § 324 Charitable trusts, § 419 Construction as to breach, § 419 Evidence of special intent, § 437 Noncharitable uses, § 347 Reservation by settlor, § 419 Termination, § 399, 400 Duration, § 218 Duration, statutes, § 218 Estate taxes, gross estate, § 273 Federal estate tax, gross estate, § 273 Inalienable property interest, § 114 Perpetuities, § 213 Reservation, charitable gifts to corporations, § 324 Reservation, gift to charitable trust, § 419 Rule against Perpetuities, application, § 213 Subject matter of trust, § 114 Termination, § 214 Termination, perpetuities statutes, § 214

POSTHUMOUS CHILDREN

Accumulations for, **§ 163** Barring remedies, **§ 941** As beneficiaries, **§ 163** Beneficiaries' interest, class gifts, **§ 182** Class gift, time of closing, **§ 182** Revocation, statutory provisions, **§ 999** Rule against Perpetuities, **§ 213**

POSTHUMOUS

GRANDCHILDREN Beneficiaries, § 182

POSTNUPTIAL AGREEMENT

Alimony and separate maintenance trusts, federal taxes, § 270.10, 278 Federal estate tax, § 273.45 Federal gift tax, § 278

POSTNUPTIAL AGREEMENTS

Fraudulent conveyances, § 211 Gift taxes, § 278 **POUR-OVER STATUTES** Multistate trusts, conflict of laws, § 291 POUR-OVER TRUSTS Estate and tax planning, § 105, 233, 264.5, 264.15 Gift by will to existing trust, § 105, 233, 236, 264.5, 264.15 Gift by will to trustee of future trust, § 106 Insurance trusts as, § 236, 264.15 Multistate trusts, conflict of laws, § 291 Personal life insurance trusts, creation, § 236 Revocable contingent insurance trust, § 264.15 Revocable trusts, § 106, 233, 235, 264.15 Statutes, § 102, 105, 233, 264.5 Testamentary additions to trusts Court decisions, § 105 Estate and tax planning, § 264.5, 264.15

Statutes, **§ 7, 105, 233** Uniform Probate Code, **§ 7**

POUR-OVER WILLS

See Pour-Over Trusts, this Index Characterization, § 293 Conflict of laws, estate planning, § 301 Living trusts, § 233 Revocable trusts, § 264.5

POVERTY

Charitable trusts, § 373 Municipal trustee, § 328 Mutual benefit groups, § 367 Relatives of settlor, preference, § 365 Indigent Persons, generally, this index Relief of, charitable purpose, § 373 **POWER IN TRUST** See also Imperative Powers Custodian, gift property, § 15 Imperative powers of appointment, § 116 Mandatory powers, § 116, 552 POWER OF APPOINTMENT Generally, § 233, 264.20 Alienation, suspension of power, § 219 Charitable gifts, § 264.20 Charitable trusts, creation, § 323 Conflict of laws, § 299 Creation, § 219, 233 Charitable trusts, § 323 Disclaimer, gift taxes, § 278.5 Estate planning, § 233 Estate taxes, § 273.35 Deductions, § 275.5 Marital deduction, § 275.10 Fraudulent conveyances, § 211 Gift taxes, § 278, 282 Irrevocable trusts, § 233 Mortmain statutes, § 326 Perpetuities, § 213 Measuring period, § 214 Retention by settlor, creditors rights, § 233 Revocable trusts, § 233 Spendthrift trusts, creation for settlor, § 223 State estate taxes, § 286 Trustees, vacancy in office, § 532

POWER OF ATTORNEY

Mental disabilities, survival, adjudication of incompetency, § 233 Protection of assets, § 231

POWER OF SALE Passive trusts, § 208 Spendthrift trusts, elimination of restraints on alienation, § 226 **POWERS OF APPOINTMENT** See also Estate and Inheritance Taxes: Federal Estate Tax: Gift Tax—Federal: Income Tax— Federal; Income Tax-State Alienation Suspension of power, § 219 Statutes, § 219 Bankruptcy, exercise by trustee, § 233 Beneficiaries Class of beneficiaries, § 162 Identification, § 161 Capacity to create trust by exercise, § 43 Class gifts, beneficiaries' interests, § 182 Class of possible appointees as beneficiaries, § 182 Conflict of laws, § 299 Creditors of donee, rights, § 233 Disclaimer Federal estate tax, § 273.35, 275.10 Federal gift tax, § 278, 282 Statutes, § 171 Distinction from trust, § 38, 116 Estate and inheritance taxes, § 273.35, 286 Estate and tax planning, § 233, 264.20, 273.35, 275.10, 280, 282 Exercise by donee, creation of trust, § 43 Federal estate tax Marital deduction, § 275.10 Transfer in contemplation of death, § 273.5 When taxable in estate of donee, § 273.35 Federal gift tax Date created, § 282

Definitions, § 264.20, 282

POWERS OF APPOINTMENT -Cont'd Federal gift tax—Cont'd Estate and tax planning, § 233, 264.20, 268.20, 282 Marital deduction, § 280 Reservation by donor, incomplete gift, § 278 Federal income tax, § 264.20, 268.15, 268.20 General powers, § 233, 264.20, 273.35, 282 Power in donee, creditor's claims, § 233 Imperative powers of appointment, trust creation, § 116 Default, remainder interests, § 116 Incidents compared with trust, § 116 Insurance trusts, § 235, 264.15 Language creating, specificity as to nature and extent, § 43 Life tenant's power to invade principal, § 263, 264.20, 268.20, 273.35, 282 Limited or special, § 233, 264.20, 273.35, 282 Local law, § 233, 263, 273.35, 282 Marital deduction Federal estate tax, § 275.10 Federal gift tax, § 280 Multistate trusts, § 299 Nongeneral or special, § 233, 264.20, 273.35, 282 Personal property, multistate trusts, § 299 Real property, multistate trusts, § 299 Renunciation or release, § 273.35, 282 Reservation, making trust testamentary, § 104 Revocable trusts, § 233, 264.5 Rights of donee's surviving spouse, § 211, 233 Rule against Perpetuities, application, § 213 Statutes, § 214 Settlor creating spendthrift trust for self, § 223

POWERS OF APPOINTMENT -Cont'd Settlor's property interest, creation of trust, § 43 Special, defined, § 116, 233, 273.35, 282 Special or imperative power, § 116 Subject-matter of trust, § 116 Spendthrift trust created for settlor, power over remainder, § 223 Statutory control, § 116, 233 Multistate trusts, § 299 Subject-matter of trust, § 116 Suspension of power of alienation, § 219 Tracing trust funds, § 921 12 Trustee's discretion, class of beneficiaries, § 162 Uses, tax and estate planning, § 233, 234, 264.15, 264.20, 273.35, 282 **POWERS OF ATTORNEY** See also Agents Creation of trust, § 141 Intent, § 45 Use of, § 43, 45, 202 Durable power of attorney, § 15, 233 Family power of attorney, uses, § 233 Statute of Frauds, agents, § 89 Stock in corporation, transfer, § 142 Transfer of property to trustee, creation of trusts, § 141 POWERS OF REVOCATION See also Revocation; Settlor Accumulations rules, § 215 Rule against perpetuities, § 213 Settlor's power, § 998, 1001 Spendthrift trusts, destruction, § 226 **POWERS OF SALE** See also Sales Generally, § 741 et seq Absolute or qualified. § 741 Alienation, suspension of power, recent statutes, § 219 Beneficiary consents or ratifies unauthorized sale, § 543(U), 688, 741

POWERS OF SALE—Cont'd Charitable trusts, § 392 Construction, existence and extent, § 741 Construed to include exchanges, § 741 Court advice, § 559, 742 Court control, § 742, 743 Deviation, § 742 Discretionary, § 741 Distribution or investment purposes, § 741 Duties of trustee, § 744, 745 Sell nonlegal investment, § 685, 741 Expressly granted, § 741 Implied, § 741 Construction, § 551, 741, 758 Including power to mortgage, § 754, 756 Joint exercise by co-trustees, § 554, 744 Lessee's option to purchase, § 741, 793 Life tenants, § 27 Mandatory or discretionary, § 552, 741 Mortgages, inclusive power, § 754 et seq Options to buy, § 741 Personal or official, § 553, 741 Pledge and trust, distinctions, § 30 Presumption, statutes, § 741 Qualified or restricted, § 741 Remedies for breach, § 746 Settlor's direction or prohibition, § 741 Spendthrift trusts, destructibility, § 226 Statutes granting, § 743 Trustee, active trust, § 208 **POWERS OF SETTLOR**

See also Living Trusts; Revocation; Settlor; Testamentary Trusts Amendment or modification, § 993 Investments, § 104, 680 Revocation, § 104, 998, 1000 Tax effects, § 268.15, 273.20, 278 **POWERS OF SETTLOR—Cont'd** Sales, § 741 Termination of trust, § 1004, 1005 Trustee compensation, § 976 When make trust testamentary, § 104 **POWERS OF TRUSTEES** Generally, § 551 et seq. Acceptance, addition from estate, § 106, 233 Acceptance of trust, investment companies, § 248 Actions Enforce trust against third parties, § 871 Against persons injuring trust property, § 869 Terminating trust, § 1006 Trustee, against participant in breach, § 868 Agents Employment, § 555, 744 Alteration Charitable trusts, § 393 Private trust, § 561 Beneficiaries, selection, § 162 Beneficiary barred from asserting lack of power, § 564 Bondholders' protective committees, § 251 Borrow and give security, § 751, 763 Business Carrying on, § 571, 679 Investment in, § 679 Business trusts, § 247V Charitable trustees, § 391 et seq. Charitable trusts, § 391, 393 Deviation. § 394 Sale Implied power of sale, § 392 Power of court to permit, § 392, 394 Selection, methods of administration, § 371 Conditions precedent Consent of beneficiary, condition precedent to exercise, § 941 Conflict of interest, beneficiary, § 551 Construction by court, § 559

POWERS OF TRUSTEES—Cont'd Continuation of business, § 571 Contracts Agreement for estate liability, § 715 Power to make, § 551, 711, 713 Control by settlor, § 551 Co-trustees Joint powers of sale, § 744 Court advice, § 559 Business questions, § 559 Contingent or possible future questions, § 559 Court control, § 551, 558, 561 Alteration of powers, deviation, § 561 Mandatory or imperative powers, § 558 Sale of charitable trust property, § 392, 394 Statutes, § 551 Supervised trusts, § 563 Decanting, power to transfer trust assets to another trust, § 567 Delegation, § 555, 701 Employment of agents, § 744 Investments, § 555, 701 Ministerial acts, § 555 Taking possession of trust property, § 583 Deviation Alteration of powers, court control, § 561 Charitable trust powers, § 394 Investment powers, § 687 Digital assets of a decedent, § 568 Discretionary powers, § 552 Estate and tax planning, § 233, 235, 264.10, 268.20 Federal estate tax, § 264.10, 273.10, 273.20, 273.35 Federal gift tax, § 278, 279.5 Federal income tax, § 264.10, 267, 268.15, 268.20, 269 Principal and income, § 802, 816 When not delegable, § 555 Discretionary trusts, § 228, 284.10

POWERS OF TRUSTEES—Cont'd Distributions of income, § 811, 813, 814 Distributions of principal Discretionary, § 812 Duty to consider other property of beneficiary, § 812 Not include transfer of entire principal, § 1000 Trustee-beneficiary, § 812 Express power, § 812 Implied power, § 812 Settlor's directions, § 812 Expenses, power to incur, § 801 Express powers, § 551 Imperative or mandatory powers, court control, § 116, 552, 558 Implied powers, § 551 When denied by court, § 551 Instructions of court, § 559 Investments, § 611, 611 to 667, 667, 671, 679 Investment trusts, § 248 Irrevocable trusts, § 234 Joint or several powers, § 145, 554 Settlor's control, § 554 Statutes, § 554 Unanimous action, § 554 Leases, § 551, 781 Life insurance proceeds, acceptance, § 236 Liquidation trusts, § 254 Made several rather than joint, § 122, 554 Mandatory powers, § 552, 558 Merger, business trusts, § 247 Method of administration, charitable trust, § 393 Modification of trust, § 992 Mortgage, § 751, 753 Notice Unauthorized mortgage, § 766 Personal or attached to office, § 553 Statutes, § 553 Pledge or mortgage trust property, § 751 Powers granted or denied by statute, § 551

POWERS OF TRUSTEES—Cont'd Probate assets, acceptance, § 106, 233 Proper delegation, § 555 Representation of beneficiary Actions, § 869 Trustee and beneficiary conflict, § 869 Business trusts, § 247M, 247N Proceedings, disposition of stock dividend, § 845 Revocable trusts, § 233, 264.5 Sales Implied power, § 551, 741, 814 Joint powers, co-trustees, § 744 Private trust, § 741 et seq Secured loans, § 751 Selection of beneficiaries from class, § 162 Settlor, control by, § 554, 555 Statutes, § 551, 816 Federal, § 551 State, § 551 Statutory provisions, all states, § 551 Tax dangers, § 264.10, 273.10, 273.20, 273.35 Termination of trusts Beneficiaries request, § 992, 998, 1002, 1006 Powers surviving termination date, § 1010 Third parties, notice, § 565 Transfer of trust property, § 512 Trustee becoming disabled, § 566 Trust indentures, § 250 Uniform Commercial Code, § 7 Uniform Probate Code, § 7 Uniform Trustees' Powers Act, § 7, 551 Text, § 551 Voting stock, generally, § 543(N), 551, 554 POWERS OF VISITATION

Enforcement of charitable trusts, **§ 416** Gift to charitable corporation, **§ 416** Gift to individuals or noncharitable

corporations as trustee, § 416

POWERS OF VISITATION—Cont'd Statutes, § 416 POWERS OF WITHDRAWAL Estate and tax planning, § 233, 235, 264.20 Federal tax consequences, § 233, 264.20, 273.20, 278 Rule against Perpetuities, § 213 PRACTICAL CONSTRUCTION Creation of trusts, evidence, § 50 PREACHERS See Clergymen PRECATORY WORDS Creation of charitable trusts, § 324 Intent, construction, private trusts, § 48 PREDECESSOR TRUSTEE Contracts, liability of successor, § 722 Duties of successor, trust property, § 583 Torts, liability of successor, § 731 PREEMPTIVE RIGHTS Perpetuities, § 213 Rule against Perpetuities, § 213 **PRE-EXISTING INDEBTEDNESS** Cancellation as value, bona fide purchaser rule, § 889 **PRE-EXISTING WRITING** Satisfying Statute of Frauds, § 82 PREFERENCES See Priorities and Preferences PREFERRED STOCK

> Business trusts, § 247, 247I Charitable gifts, § 264.25 Investment, § 673

PREMIUMS

Bonds, receipts, principal or income, § 828 Payment, business life insurance trusts, § 253

PRE-NUPTIAL CONTRACTS

Constructive trusts, transfers of property, § 475 Federal estate tax, transfers for consideration, § 273.45 Federal gift tax, § 278 Statute of Frauds, contracts to create trusts, § 62

PREPAID FUNERAL PLANS Statutes, § 377

PRESCRIPTION See Adverse Possession

PRESERVATION OF PROPERTY Trustees, duties, § 541

PRESERVATION OF TRUST FUNDS Generally, § 581 et seq

PRESERVATION OF TRUST PROPERTY

Duty of trustee, § 582

PRESUMPTIONS

Acceptance Beneficiary, § 169 Trustee, § 150 Bank deposits, general or special, § 21 Beneficiaries' interest Adopted children, § 182 Equal shares, § 182 Breach of trust, laches, § 948 Child bearing ability Rule against Perpetuities, § 213, 214 Termination of trust, § 1007 Class gifts, sharing by adopted child, § 182 Commingling, this index Trustees. Federal estate tax, transfer in contemplation of death, prior law, § 273.5 Fiduciary duties of corporate officers and directors, § 481.1 Fraud Fraudulent intent, § 211

PRESUMPTIONS—Cont'd Fraud—Cont'd Settlor's creditors, § 168, 211 Spendthrift trust created for settlor, § 223 Trustee buying at own sale, § 543(A) Fraudulent conveyances, § 211 Gift, husband payor placing title in wife's name, § 459 Gifts causa mortis, estate taxes, gross estate, § 273.5 Intent, investments, tracing trust funds, commingling, § 928 Investments, mixed funds, tracing trust funds, § 928 Joint checking and savings accounts, creation, gift, § 47 Joint savings account, § 47 Joint tenancy, trustees, § 145 Laches, breach of trust, § 948 Lifetime fertility, perpetuities, § 213 Purchase Money Resulting Trusts, this index Resulting trust, voluntary conveyance, § 453 Payment of purchase price, § 454 Resulting Trusts, this index Revocation, power omitted by mistake, § 998 Savings bank trusts, § 47 Settlor as beneficiary, fraudulent as against creditors, § 168, 211 Spouses, gifts, § 459 Statute of Frauds, enforceability, § 71 Termination of trust, § 1007 Totten trusts, § 47 Tracing trust funds, § 923 Tracing trust funds, trustee's possession, § 923 Investment from mixed trust and personal funds, § 928 Trustee's deposits as restorations of misappropriated trust funds, § 929 Trustee's deposits not restore misappropriated trust funds, § 929

PRESUMPTIONS—Cont'd

Tracing trust funds, trustee's possession, § 923—Cont'd
Withdrawals from mixed trust and personal funds, § 926
Withdrawals from mixed trust funds, § 927
Trustees
Fraud, § 543(A)
Undue influence, § 544
Undue influence, trustees, § 544

PRICE

Resulting trusts, payment, § 455 Sale of trust property, § 745 Specific performance, inadequate price, § 717

PRIDE

Charitable trusts, motive of settlor, § 366

PRIESTS

See Clergymen

PRINCIPAL

See also Distributions; Distributions of Principal; Invasion of Principal; Principal and Income Apportionment Compensation of trustee, § 806, 975, 978 Expenses, § 810 Income accrued or collected, § 818 Attorneys fees, breach of trust, § 871 Compensation of trustee Commissions, apportionment, § 978 Statutory provisions, § 975 Corporate distributions Allocation, § 841, 859 Definition Trust assets and substitutes therefor, § 816 Dividends Cash, extraordinary, § 844 Stock, § 845, 852 Duties of trustee, distributions, § 812, 814, 1010

PRINCIPAL—Cont'd Expenses Source of Payment Apportionment, § 810 Beneficiary pays, reimbursement, § 805 Invasion of principal to pay annuities, § 813 Invasion or withdrawals Estate and tax planning, § 233, 235, 264.20 Federal tax consequences Estate, § 273.20, 273.35 Gift, § 278, 282 Income, § 268.10, 268.20 Payments Court direction, § 815 Discretionary, § 228, 264.10, 812 Federal income tax considerations, § 264 et seq Mandatory, § 812, 813, 1010 Termination of trust, § 1010 Trust construction problems, § 182 Trustee's duties, § 812, 814, 1010 Subject-matter of trust, § 111, 116

PRINCIPAL AND AGENT

See Agents and Agency

PRINCIPAL AND INCOME

Accounting costs, § 809 Accumulations, § 217 Allocations, construction of trust, § 217 Active trust, creation, § 207 Aliens, beneficiaries' interest, § 184 Amortization, bonds bought at a premium, § 828 Animals Depletion, § 827 Offspring, apportionment between principal and income, § 819 Annuities Apportionment, § 818 Charged on trust estate, § 808 Depletion or amortization, wasting property, § 827

PRINCIPAL AND INCOME -Cont'd Apportionment, § 818 Accrued or collected income, § 818 Annuity receipts, § 818 Beginning of trust, settlor and first beneficiary, § 818 Common trust fund income, § 818 Dividends, § 818 Income accrued or collected, § 818 Insurance receipts, § 818 Interest, § 818 Premium, bond purchase, § 828 Probate income, § 817 Proceeds of sales, § 822, 825 Receipts from sale, bonds bought at discount, § 826 Receipts from wasting assets, § 827 Rents, § 818 Revised Uniform Principal and Income Act, § 802, 816 Settlor and first beneficiary, § 818 Settlor's direction controlling, § 818 Statutory regulation, § 818 Successive income beneficiaries, § 818 Termination of trust, § 818 Uniform Principal and Income Act, text, § 802, 816 Winding up period following trust termination, § 818 Beneficiaries Approval validating disposition, § 941, 942 Disclaimer of income, § 170 Beneficiary's interest Construction, § 182 Successive assignees, § 194 Bonds Bought at discount, sale proceeds, § 826 Premiums, § 828 Business receipts, § 820 Capital gains payments from investment trusts, § 858

PRINCIPAL AND INCOME -Cont'd Changes in form of trust property, § 821 Charitable trust, income only used for charitable purpose, § 362 Co-beneficiary, restoration, § 191 Compensation of trustee Source of payment, § 806, 975 Compromise and settlement of claims, § 821 Corporate distributions, allocation, § 843, 859 Capital gains, investment trust, § 858 Development of law, § 859 Dividends Cash or stock, § 846 Extraordinary cash dividends, § 844 English rule, § 852 Former Kentucky rule, stock dividends, § 851 Former Pennsylvania rule, stock dividends, § 847, 848 Liquidating dividends, § 856 Massachusetts rule, stock dividends, § 850 New York decisions and statutes, stock dividends, § 849 Scrip dividends, § 854 Settlor's directions, § 843, 845 States following former Pennsylvania rule, stock dividends, § 848 States following Massachusetts rule, stock dividends, § 850 Stock dividends, § 845, 852 Stock splits, § 845 Stock subscription rights, § 853 Corporate dividends, see Corporate distributions, infra Payment in notes or bonds, § 855 Proceeds of sales of corporate property, § 857 Scrip dividends, § 854 Deferred compensation arrangements, § 264.5

PRINCIPAL AND INCOME -Cont'd Depreciation reserves, rental income, § 829 Disclaimer, acceleration of remainder interest, § 172 Discretionary powers in trustee, § 802, 816 Expenses Source of payment Accounting costs, § 809 Alterations to make property usable, § 804 Assessments, improving property, § 805 Business operation costs, § 803 Buying and selling trust property, § 803 Carrying charges on unproductive property, § 807 Control by settlor, statute or court order, § 802 Cost of removing encumbrances, § 808 Court control, § 802 Debts charged on trust property. § 808 Extraordinary repairs, § 804 Improvements, § 805 Reimbursement of principal account by amortization, § 805 Insurance premiums, § 803 Leasehold obligations, § 804 Legal interests, § 802 Litigation costs, § 809 Mortgage interest and principal, § 808 Ordinary operating costs, § 803 Ordinary repairs, § 804 Preservation of trust property, § 803 Rationale of allocation rules, § 802 Readjustment of principal and income accounts, § 810 Repairs, § 804 Reserve for depreciation, § 829

PRINCIPAL AND INCOME -Cont'd Expenses-Cont'd Source of payment-Cont'd Reserve fund, future expenses, § 810 Revised Uniform Principal and Income Act, § 802 Statutory control, § 802 Taxes Estate and inheritance taxes, § 807 Income and capital gains taxes, § 807 Property taxes, § 807 Trustee's compensation, § 806, 975 Statutory provisions, § 805, 975, 977 Trustee's discretion, § 802 Uniform Principal and Income Act, § 802 Farming receipts, § 819 Improvements Expenses, source of payment, § 805 Permanent or temporary test, § 805 Investment trusts, capital gains payments, arguments on principle, § 858 Leases Depreciation reserves, § 829 Litigation costs, § 809 Mines and minerals, receipts, § 827 Oil and gas, receipts, § 827 Probate income, allocation, § 817 Proceeds from sale of trust property other than corporate stock, § 822 Profits, sales of corporate stock, § 823 Receipts, § 816, 829 Allocation, duty of impartiality, § 816 Bonds bought at a discount, sale proceeds, § 826 Bonds bought at a premium, § 828 Corporate business, § 820 Corporate distributions, § 841, 859

PRINCIPAL AND INCOME -Cont'd Receipts, § 816, 829-Cont'd Effect of discretion given trustee, § 816 Eminent domain allowances, § 821 Farming receipts, § 819 Insurance recovery, § 821 Minerals, § 827 Oil and gas properties, § 827 Ordinary cash dividends, § 843 Partnership interest, § 820 Probate income, § 817 Proceeds of sale or collection Mortgage, salvage proceeds, apportionment, § 825 Property other than corporate stock, § 822 Stock, § 823 Underproductive property, apportionment, § 824, 825 Unproductive property, apportionment, § 824, 825 Rents from realty, depreciation reserve, § 829 Settlement of claims, § 821 Small stock dividends, statutes, § 859 Stock dividends, § 845, 852 Stock splits, § 845 Stock subscription rights, § 853 Wasting assets, § 827 Natural resources, § 827 Other than natural resources, § 827 Settlor's direction, § 827 Revised Uniform Principal and Income Act Apportionment of income, § 818 Corporate distributions, § 816, 842, 859 Expenses, source of payment, § 802, 809 Probate income, § 817 Receipts, allocation, § 816, 829 Terms and adoptions, § 7, 802, 816 Statutes, § 802, 816, 975 Statutory provisions, § 802, 816, 842, 859

PRINCIPAL AND INCOME -Cont'd Taxes paid by trustee, allocation, § 602, 807 Uniform Principal and Income Act, § 7, 802, 816 Allocation of receipts, § 816, 829 Apportionment of income provisions, § 818 Bonds bought at discount, receipts from sale, **§ 826** Bonds bought at premium, receipts from sale, **§ 828** Corporate distributions, § 816, 842, 859 Development of trust law, § 7, 859 Expenses, source of payment, § 802, 809 Probate income, amendment in 1958, text and adoption, § 817 Terms and adoptions, § 7, 802, 816 Unproductive property, sale proceeds, § 824, 825 Wasting assets, receipts, § 827

PRINCIPAL COMMISSIONS

Apportionment, § 978 Double, § 979 Recent issues, § 975 Statutes, § 975

PRIORITIES AND PREFERENCES Assignments, successive assignees of beneficiary's interest, § 194, 195 Bankruptcy of trustee, rights of cobeneficiaries, § 191 Beneficiaries

Bankruptcy of trustee, **§ 191, 862** Claim against wrongdoing trustee, **§ 862, 865** Equitable lien on product of breach of trust, **§ 865** Successive assignees, **§ 194, 195** Beneficiaries, damages, recovery from trustees, **§ 862** Beneficiary Marshaling assets, **§ 930** Subrogation, **§ 930**

Tracing trust funds, § 921, 929

PRIORITIES AND PREFERENCES -Cont'd Bona fide purchasers Equitable interest, § 885 Bona fide purchasers, title to property, § 885 Breach of trust, equitable liens, § 865 Business trusts, recording, § 2490 Charitable trusts, § 365 Charitable trusts, relatives of settlor, § 365 Collection items, failure of bank, § 23 Creditors Spendthrift trust created for settlor, § 223 Trustee charging trust property, § 715 Deposits, failure of bank, § 21 Federal estate tax liens, § 272.5 Fraudulent convevances. § 211 Insolvency, contract creditor, § 715 Liens Federal estate tax, § 272.5 Federal gift tax, § 277 Federal income tax, § 265 Product of trustee's breach of trust, § 865 Plank in shipwreck doctrine, bona fide purchasers, § 886 Resulting trusts, § 455 Tabula in naufragio, bona fide purchasers, § 886 Title to property, bona fide purchasers, § 885 Tracing Trust Funds, generally, this index Trustees, duties, § 541 Trust indenture, § 250

PRISONERS

Capacity to be beneficiary, **§ 168** Civil death of beneficiary, **§ 164**

PRIVATE CHARITY Defined, § 361

PRIVATE CORPORATIONS

See also Corporations; Corporate Trustees PRIVATE CORPORATIONS -Cont'd Inability to act as trustee, quo warranto objection, § 131 Trustee, authorized purposes, § 131 PRIVATE FOUNDATION Charitable corporations, § 245, 264.25, 270.5, 330 Charitable trust as, § 264.25, 270.5, 330 Charitable trusts, § 245, 264.25, 270.5, 330 Definition, § 264.25, 270.5 Federal income tax rules, § 270.5 Generally, § 245, 264.25, 270.5, 283 State conforming statutes, § 322 Federal income tax treatment, § 245, 264.25, 265, 270.5, 330 Investment restrictions, federal law, § 270.5, 396 PRIVATE SCHOOLS Charitable trusts Advancement of education, § 375 Purpose and beneficiaries, § 364 PRIVATE TRUSTS Essential elements, § 1 Monuments, markers or upkeep of cemetery lot, common law, § 377 Terminology and classification, § 1

PRIVILEGES AND IMMUNITIES

Business trusts, § 247 Charitable corporations and trusts Tax exemptions, § 401 Tort liability, § 402 Charitable trustees, tort liability, § 401 Clauses, duties and liabilities of trustee, § 542 Contract, personal liability, § 714 Corporate trustees, bond excused, § 151, 541 Immunity clauses, exculpation of trustee, § 542 Investments, § 680

PRIVILEGES AND IMMUNITIES

--Cont'd Nonprofit organizations, officers, directors and volunteers, § 394 Professional trustees, § 542 Tort liability, charitable, § 402 Trustees, § 541 Contracts, § 542

PRIVITY

Collateral estoppel, breach of trust, barring of remedies, § 956 Contract and trust distinctions, § 17

PROBATE COURTS

Concurrent jurisdiction, validity of trusts, **§ 870** Trustees, registration, **§ 541**

PROBATE INCOME

Allocation, **§ 817** State statutes, **§ 817** Uniform Principal and Income Act, 1959 amendment, **§ 817**

PROBATE PROCEEDINGS

Avoidance, § 7, 231, 233, 264.5 Charitable contributions, income tax deductions, § 231 Claim Against deceased trustee, Statute of Limitations, § 950 Estate of deceased trustee, remedies of beneficiary, § 862 Class gifts, survival, Rule against Perpetuities, § 214 Completion, perpetuities, § 213 Completion, Rule against Perpetuities, § 213 Conflict of laws, estate planning, § 301 Constructive trusts Forgery of will, § 477 Damages, recovery from trustees, § 862 Fraud on court, constructive trust, § 473 Fraudulent conveyances, § 211 Income taxes, fiscal year, § 231 Jurisdiction, § 292 Living trusts, § 231 et seq

PROBATE PROCEEDINGS

 —Cont'd Living trusts, avoidance, § 231
 Probate court, appointment of successor trustees, § 532
 Resignation of trustees, § 514
 Revocable trusts, acceptance of additions to trust, § 233
 Trusts to avoid, § 233, 244, 264.5, 264.15
 Trust to hold property pending distribution, § 246
 Uniform Probate Code, § 7
 PROCESS

Business trusts, service of process, § 247(N) Creditor, discretionary trust, § 221, 228 Removal of trustee, § 523 Service of process Agent for service, foreign trustees, § 132, 151

Election of remedies, time, § 946

PRODUCTION OF BOOKS AND PAPERS

Parol trusts, secret memorandum, § 85

PROFESSIONAL CORPORATIONS OR ASSOCIATIONS

Employee benefit trusts, § 255 Federal tax treatment, § 255, 270.20 State statutes authorizing, § 255

PROFESSIONAL SOLICITOR

Charitable organizations, statutes, § 411

PROFESSIONAL TRUSTEES

Banks as, § 134 Duty of care, § 541 Exculpatory clauses, § 542 Standard of care required, § 541

PROFESSIONS AND OCCUPATIONS

Conditions, **§ 211** Dues and assessments, charitable trusts, source of funds, **§ 367**

PROFESSORSHIP

Establishment, charitable purpose, § 375

PROFITS

Breach of trust, damages, § 543(V), 862 Charitable trusts, exclusion, § 364 Constructive trusts Disloyalty, § 484, 493, 543 to 543(V) Liability for, § 472 Principal or income, sales of trust property, § 822, 823 Sale of corporate stock, principal or income, § 823 Sales of property other than stock, principal or income, § 822 Secret profits Corporate directors, § 16, 481 Removal of trustees, § 527

PROFITS AND LOSSES Breach of trust, damages, § 862

Breach of trust, measure of damages, § 543(V), 862 Business trusts, § 247 Charitable trusts, § 364 Damages, breach of trust, § 862 Recovery by beneficiary, § 543(V) Resulting trusts, judgments and decrees, § 465 Third parties, breach of trust, remedies of beneficiaries, § 868 Trustees Entitlement, § 541 Grounds for removal, § 527

PROFIT-SHARING PLANS

See also Employee Benefit Trusts Charitable trusts, source of funds, § 367 Death benefits payable to trustee, § 264.5, 264.15 Employee benefit trusts, § 255 Federal estate tax, death benefits, § 270.20, 273.25 Federal income tax, § 270.20 Employee benefit trusts, income taxes, § 270.20 PROFIT-SHARING PLANS
—Cont'd
Funded by group annuity contract,
§ 17 71
Income taxes, § 264.7
Employee benefit trusts, § 270.20
Revocable trusts, acceptance of additions to trust, § 233
State law and taxation, § 255
Taxation
Beneficiary, § 270.20, 273.25
Employee, § 270.20, 273.25
Tax exempt funds, death taxes, payment, § 233

PROMISE OF MARRIAGE See Marriage

PROMISES

Consideration, **§ 204** Creation of trusts, **§ 203** Promissory restraints on alienation, **§ 220** As value, bona fide purchaser rule, **§ 887**

PROMISSORY NOTES

See Commercial Paper Negotiable Instruments, generally, this index

PROMOTERS

Corporations, **§ 16, 481** Fiduciary relationship, **§ 481**

PROPERTY

See also Adverse Possession; Personal Property; Real Estate; Title to Property Assets, generally, this index Declaration of trust of, **§ 141, 233** Subject-matter of trust, **§ 111, 116**

PROPERTY INTEREST

See also Property; Subject-matter of Trust Present interest passing to beneficiary, disposition not testamentary, **§ 103, 104**

PROPERTY SETTLEMENT

AGREEMENTS Creation of trusts, consideration, § 207 17 Federal estate tax, § 273.45, 275.15 Federal gift tax, § 270.10, 278 Federal income tax, § 270.10

PROPERTY TAXES

Generally, § 285 Charitable trusts, exemptions, § 245, 361, 401 Conflict of laws, § 287 Estate planning, § 301 Estate planning, § 261 et seq. Estate taxes, deductions, § 275.15 Imposition, § 286 Intangible Personal Property Taxation, generally, this index Jurisdiction, § 287 Land trusts, § 249

PROPRIETORSHIPS

Business insurance trusts, § 235 et seq. Valuation, estate taxes, § 274

PRO RATA

Bank deposits, tracing trust funds, **§ 927**

PROTECTION OF ANIMALS Charitable purpose, § 379

PROTECTIVE TRUSTS

Generally, **§ 230** Beneficiary's interest, termination on attempted alienation, English law, **§ 221** Definition, **§ 221** English law, **§ 221** Restraints on alienation, **§ 221, 222**

PROXIES

Voting of shares by trustee, § **551** Voting trusts, distinguished, § **252**

PRUDENT INVESTOR RULE See Investments; Prudent Man

Index-318

PRUDENT MAN

Investments, charitable trustees, § 396 Purchase of beneficiary's interest, § 194 Standard, trust investments, § 612, 612 to 613, 613, 616, 616 to 666, 666, 686, 706 Trustee to act as, § 541

PRUDENT MAN STANDARD

See also Duties of Trustee; Investments; Prudent Man Duties of trustee, investments, § 612 et seq, 612 et seq. Trustees of employee benefit trusts, § 255, 270.20, 273.25

PUBLIC BENEFIT

Charitable trusts, requirement, § 362

PUBLIC BODIES

Gifts, gender restrictions, § 211

PUBLIC CHARITY Defined, § 361

PUBLIC DEBTS Charitable trusts, governmental purposes, § 378

PUBLIC FUNDS

Bank deposits, § 21 Investments Statutes, § 21, ch. 30

PUBLIC HEALTH

Charitable trusts, § 374

PUBLIC INSTITUTIONAL CARE Recurring of cost, § 224, 811, 812

PUBLIC OFFICE Compared with trust, § 38

PUBLIC OFFICERS See Officers and Employees

PUBLIC PENSION SYSTEMS

See also Employee Benefit Trusts Benefits, inalienable property interests, § 114, 222, 255

PUBLIC POLICY Generally, § 211 Accumulations, § 352 Accumulations of income, § 215 Barring of remedies, consent, § 941 Beneficiaries Aliens or foreign governments, § 168 Corporations, capacity, § 168 Beneficiaries' interests, forfeitures, § 181 Cemeteries, monument to public figure, § 377 Charitable corporations, ownership of property, § 327 Charitable trusts, § 361 Advancement of education, § 375 Tort liability, § 402 Charitable trusts, purposes and beneficiaries, § 361, 379 Corporations Capacity to take title to property, § 327 Limit on amount of property held, § 327 Compromise and settlement, § 1009 Conflict of laws, § 211, 287, 291, 294, 295 Estate planning, § 301 Consideration, bona fide purchasers, § 887 Contract to create trust, consideration, § 204 Creating trusts, § 204 Creation of trusts, purposes, § 212 Destruction of active trusts, § 1008 Direct restraints on alienation, § 220 Discretionary trust created for settlor, § 228 Discretionary trusts, § 228 Exculpatory clauses, trustee's liability, § 542 Family grave marker or monument, § 377 Family settlements, § 1009 Foreign trustees, § 132, 295, 327 Fraud as to creditors or spouse, § 211 Spendthrift trust created for self. § 223

PUBLIC POLICY—Cont'd Gift subject to gender restriction, § 211 Illegal purposes, § 211 Illegal trusts, purposes, § 211 Laches, § 948 Lease, clauses, § 786 Life estates, alienation, § 220 Mortmain, § 325, 326 Premature destruction of trust, § 1008 Religious purposes, charitable trust, § 376 Restraints on alienation, § 349 Wills, § 220 Rule against Perpetuities and other restrictive property rules, § 213 et seq Spendthrift trusts, § 222, 224 Creditors rights, § 227 Spendthrift trusts, validity, § 222 Creditor's rights and remedies, § 224, 227 Exceptions to validity, § 224 Settlor creating for self, § 223 Support of dependent persons, § 224 Support trusts, § 229 Termination of private trust, request of all beneficiaries, § 1008 Compromise and settlement, § 1009 Tort liability, charitable trust, § 401 Trustees Accumulations, § 215 Disloyalty prevented, § 543(U) Exculpatory clauses, § 542 Loyalty to beneficiaries, § 543 Wills, restraints on alienation, § 220 PUBLIC PURPOSES Synonymous with charitable, § 370 PUBLIC TRUSTEE Development of trust law, § 7 PUBLIC TRUSTS Generally, § 231, 246 Authorized by statute, § 246

Created by court, § 246

Terminology and classification, § 1

PUBLIC UTILITIES

Bondholders protective committees, § 251 Bonds, trust investments, § 673 Business trusts, § 247 Charitable trusts, § 378 Governmental purposes, § 378 Charitable trusts, governmental benefits, § 378 Function of business trusts, § 247B Furnishing, purpose of trust, § 212 Georgia, § 212

PUNITIVE DAMAGES

Breach of trust, **§ 862** Malice or fraud, remedies of beneficiary, **§ 862**

PURCHASE-MONEY MORTGAGES Powers of trustee, § 761

PURCHASE-MONEY RESULTING TRUSTS

See Resulting Trusts PURCHASE MONEY RESULTING TRUSTS Generally, § 451, 454 See, also, Resulting Trusts, generally, this index Abolition, § 467 Aliquot part rule, § 457 Definitions, § 454 Estoppel, extinction of trusts, § 466 Evidence Payment of price, § 455 Quantum required, § 464 Extinction, § 466 Frauds, statute of, § 452 Intent, illegality, § 463 Judgments and decrees, § 465 Laches, extinction, § 466 Limitation of actions, extinction of trusts, § 466 Payment, this index Presumptions, § 454 Fraudulent conveyances, statutes abolishing or limiting resulting trusts, § 467

PURCHASE MONEY RESULTING TRUSTS—Cont'd Presumptions, § 454—Cont'd Parent and child relationship, **§ 460** Spouses One payor, other grantee, § 459 Payor, § 460 Relationship between payor and grantee, § 459, 460 Spouses, this index Standard of proof, § 464 Statute of Frauds, express agreements, § 462 Statutes abolishing or limiting, § 467 Stipulations, illegal intent, § 463 Title voluntarily vested in another, § 458 PURCHASER See Bona Fide Purchasers PURCHASES AND PURCHASING

Trustees

Buying at own sale, § **543**(**A**) Duty to buy for trust, purchases for self, § **543**(**R**)

PURE TRUST

Definition, §1

PURPOSES OF TRUSTS See also Estate and Tax Planning, this

Index Accomplished, termination of trust, § 1002 Accumulations of income, § 215, 216 Active trusts, § 206, 209 Annuity trusts, § 234 Beneficiary to have possession, when passive trust, § 208 Business life insurance trusts, § 253 Business trusts, § 247B Charitable, § 368, 379 Federal tax considerations, § 245, 264.25 Charitable trusts, § 245, 264.25 Statute of Charitable Uses, England, § 373, 378 Continuation of decedent's business. § 571

PURPOSES OF TRUSTS—Cont'd Convey or distribute, trust property, § 209 Court-created and statutory trusts, § 246 Creditors Payment, § 250 Security, § 246, 250 Employee benefit trusts, § 255 Estate planning, § 231, 244, 264, 264.25 Family trust, § 231 Gifts of capital, § 231 Gift tax exclusion trusts, § 234 Illegality, § 211 Resulting trusts, purchase-money type, § 463 Termination of trust, § 1002 Impossible of accomplishment. termination of trust, § 1002 Attitude of courts, § 1007 Insurance trusts, personal, § 235, 244 Investment trust, § 248 Liquidation of assets of insolvent, § 254 Liquidation trusts, § 254 Long-term irrevocable trusts, § 234 Management of property, § 231 Married women, § 232 Miscellaneous objectives, § 231 Mixed charitable and noncharitable purposes, § 372 Necessity to make trust active, § 206 Passive trusts, § 206, 209 Payment or security of creditors, § 250 Property management for third persons, § 231 et seq Protection of disabled persons, § 231 et seq Real estate Dealing in real estate, § 249 Purchase, operation and sale, § 249 Restrictive property rules, § 213 et seq Revocable trusts, § 231, 233 Settlor's intent, parol evidence, § 1002

PURPOSES OF TRUSTS—Cont'd Spousal separation agreements, § 234 Statutes, § 212, 246 Statutory and court-created trusts, § 246 Statutory restrictions, early law, § 212 Tax, § 233, 235, 264, 264.25 Transfer of property, § 231 et seq Various functions discussed, § 231, 255 Voting of stock, § 252 Voting trusts, § 252

QTIP

Qualified Terminable Interest Property, generally, this index

QUALIFICATION

See Trustees

QUALIFIED CHARITABLE TRANSFER Federal tax laws, § 245, 264.25, 275.5, 283

QUALIFIED DOMESTIC TRUSTS Estate taxes, § 275.12 Noncitizen spouse, § 275.12

QUALIFIED RETIREMENT PLANS

Estate planning, **§ 164.7** Estate taxes, additional tax on excess retirement accumulations, **§ 276.5** Income taxes, **§ 270.20**

QUALIFIED TERMINABLE INTEREST PROPERTY

Charitable contributions, estate tax deductions, § 275.5 Discretionary trusts, § 228 Estate taxes Apportionment, § 272.5 Charitable contributions, deductions, § 275.5 Deductions Charitable contributions, § 275.5 Marital deduction, post

QUALIFIED TERMINABLE INTEREST PROPERTY -Cont'd Generation skipping transfer tax Gift taxes, § 284.15 Smaller exemptions, § 284.55 Gift taxes Generation skipping transfer tax, § 284.15 Marital deduction, § 280 Marital deduction Estate taxes, § 275.10 Qualified domestic trusts, § 275.12 Gift taxes, § 280 Marital deduction trusts, § 264.20 Power of appointment, § 264.20 Qualified domestic trusts, estate taxes, marital deduction, § 275.12 Surviving spouse Estate taxes, § 273.50 Marital deduction, § 275.10 **Oualified** domestic trusts, § 275.12 Gift taxes, § 277 Marital deduction, § 280 Marital deduction trusts, § 264.20 Qualified domestic trusts, estate taxes, marital deduction, § 275.12 OUAL SHARES

Presumption, beneficiaries' interests, § 182

QUANTUM

Evidence Constructive trust, § 472 Creation of private trust, § 49 Proof of resulting trust, § 464 Interest of trustee, § 144 Proof required, constructive trust, § 472

QUANTUM MERUIT Compensation, basis for apportionment, § 978 Personal services, constructive trust,

§ 480

QUARRIES Depletion, principal and income, § 827 **QUASI-CONTRACTS** Torts, liability of trustee in representative capacity, § 732 Trustee's contracts, unjust enrichment, § 725 **QUIETING TITLE** Business trusts, actions and proceedings, § 247 Standing, § 869 **QUIT-CLAIM DEED** Bona fide purchasers, duty of inquiry, § 894 Sale of trust property, § 745 **QUITCLAIM DEEDS** Bona fide purchasers, notice, § 894 **QUO WARRANTO** Business trusts, § 247, 247D, 247F, 247M

Statutory provisions, § 247D, 247F Validity, § 247D, 247F Charitable trusts Enforcement by attorney general, § 411 Gift to corporation, § 324 Charitable trusts, enforcement, § 324, 411

RABBI

See Clergymen

RACE

Restraints on alienation, constitutionality, § 220

RACE DISCRIMINATION

Charitable trusts, § Deviation, § Governmental purposes, § Public policy, §

RACIAL DISCRIMINATION Charitable trust, § 328

RACIAL GROUPS

Restraints on alienation, § 220

RACIAL ORIGIN

Restraints on alienation, constitutionality, § 220

RACIAL RESTRICTIONS

Charitable trusts, constitutional issues, § 328, 375, 378 Removal by court, charitable trust, § 394

RAILROADS

Equipment trusts, purposes, § 250 Intercompany accounts, commingling funds, § 19 33 Investment statutes, secured loans, § 676 Rates and charges, collection, commingling funds, § 19 34 Voting trusts, § 252

RATES AND CHARGES

Admission fees, charitable institution, § 364 Estate taxes, § 271.5, 276 Federal gift tax, § 277 Federal income tax, § 268.25 Generation skipping transfer tax, determination, § 284.45 Gift taxes, § 271.5 Income taxes, § 266 States, § 285 Trustees return, § 268.25 Interest, gift taxes, loans below market rate, § 278 Nonresident aliens, federal taxes, § 10, 271.5 State gift, estate and inheritance taxes, § 286 State income taxes, § 285

RATIFICATION

See also Acquiescence; Consent Accounting, defense to beneficiaries' action for, § 969 Barring of remedies, § 942 Barring remedies of beneficiary Beneficiary under disability, § 942 Conditions precedent to binding ratification, § 942 Co-trustees, power exercised by one, § 554 **RATIFICATION**—Cont'd Barring remedies of beneficiary -Cont'd Disloyal act of trustee, § 543(U) Disloyalty of trustee, § 543(U) Election of remedies distinguished, § 945 Estoppel distinguished, § 942 Improper investment, § 688 One beneficiary attempting to act for all, § 942 Proof of ratification, § 942 Sales, § 741 Silence or passivity as, § 942 Successors of beneficiary, § 942 Trustee obtains, duty of fair play, § 942 Trust investments, § 688, 942 Unauthorized mortgages, § 768 Breach of trust, barring remedies of beneficiary, § 942 Breach of trust, election of remedies distinguished, § 945 Defense to beneficiaries' action for accounting, § 969 Election of remedies distinguished, § 945 Trustees, sales, loyalty to beneficiaries, § 543(A) REAL ESTATE Accumulations, statutes, § 216 Adverse possession of third person, § 583 Creation of trust, § 143 Alienation, suspension of power,

statutes, § 219 Beneficiary's interest Alienation, written instrument, § 190 Assignment, nature of interest, § 185 Business trusts, purposes, § 247B to 247D

Charitable corporations, statutory restrictions, **§ 327** Closely held business real estate.

valuation, estate taxes, § 274.10

REAL ESTATE—Cont'd Conflict of laws, estate planning, § 301 Direct restraints on alienation, § 220 Equitable conversion Beneficiary's interest, settlor's direction, § 185 Direction to sell trust, real property, § 746 Estate taxes, gross estate, § 273 Express trust Creation, § 64 Statute of Frauds, § 64 Foreign, gross estate, federal estate tax, § 273 Gifts causa mortis, estate taxes, gross estate, § 273.5 Gift taxes, transfers subject to gift taxes, § 278 Improvements, purpose of trust, Georgia law, § 212 Investment trusts, § 248 Judicial jurisdiction, multistate trust proceedings, § 292 Jurisdiction, § 292 Land trusts, § 249 Leases, § 781, 799 Beyond trust term, § 789 Living trusts, conflict of laws, § 297 Management, purposes of trusts, § 249 Married women, disposition, § 232 Multistate trusts Charitable trusts, § 298 Living trusts, § 297 Powers of appointment, § 299 Testamentary trusts, § 296 New York, § 212 Parol evidence, creation of express trust, § 64 Perpetuities, § 213 Possession, notice to purchaser, § 896 Power of appointment, conflict of laws, § 299 Power of appointment, multistate trusts, § 299 Power of sale, § 741 et seq Proceeds of sale, principal and income, § 822, 825

REAL ESTATE—Cont'd Registration of land titles, § 149 Sales, § 741 et seq Trust purpose, § 249 Security interest, trust indentures, § 250 Statute of Frauds, § 61, 71 Statute of Uses, § 4, 5, 206, 208 Subdivision trusts, § 249 Testamentary trusts, conflict of laws, § 296 Tort liability, trustee, § 731, 732, 735 Tracing trust property, § 921 et seq Beneficiary's election between money claim or tracing, § 867 Remedies of beneficiaries, § 866 Transfer of possession, § 148 Creation of trusts, § 148 Trustees, death, § 529 Trust investments, § 676 Recording, § 149 Valuation, estate taxes, § 274 **REAL ESTATE BROKERS AND** AGENTS Commissions, sales, § 744 Confidential relationship, constructive trust, § 482 Constructive trusts Buying land for self instead of principal, § 487 Delegation of trust powers, § 555, 744 Fiduciary relationship, prospective buyers, § 41, 481 REAL ESTATE CONTRACTS FOR SALE Bona fide purchasers, § 881 Notice, possession, § 896 Title to property, § 885 REAL ESTATE INVESTMENT TRUSTS Generally, § 248 Federal income tax Requirements for tax qualification Asset diversification, § 270.35 Distribution of income, § 270.35 Election, § 270.35

REAL ESTATE INVESTMENT TRUSTS—Cont'd

Federal income tax-Cont'd Requirements for tax qualification -Cont'd Gross income, § 270.35 Organizational status, § 270.35 Regulated investment company status, § 270.35 Retained income, § 270.35 Returns, § 270.35 Taxation of beneficiaries Capital gains, § 270.35 Ordinary income, § 270.35 Taxation of trust, § 270.35 Income taxes, § 270.35 Purposes and operation, § 248 Sales, § 249

REAL ESTATE TAXES Charitable institutions, exemption, § 400 Trust, § 285, 602

REAL PARTY IN INTEREST Standing, § 869

REAL PROPERTY

See also Real Estate Statute of Frauds, § 61, 71 Statute of Uses, application, § 5

REASONABLE DOUBT

Constructive trusts, evidence, § 472

REASONABLENESS

Accumulations, charitable trust, § 352

REASONABLE TIME

Disclaimer by beneficiary, common law, § 170

REBUTTAL

Resulting trusts, purchase-money type, § 454

RECEIPTS

See also Duties of Trustee; Principal and Income Agriculture and stock raising, **§ 819** **RECEIPTS**—Cont'd Allocation to principal or income, § 816, 829 Beneficiaries to trustee, distributions upon termination, § 1010 Beneficiary, for payments, § 814 Carrying on business, § 820 Statute of Frauds, sufficient memorandum, § 89 **RECEIVER PENDENTE LITE** Suspension of trustee, § 528 **RECEIVERS AND RECEIVERSHIP** Appointment Constructive trusts, remedy, § 472 Remedy of beneficiary, § 528, 861 Appointments, removal of trustees, § 861 Beneficiary's interest, legal remedy, § 193

Business trusts, § 247, 247T Charitable trust, § 398 Distinguished from trust, § 14 Order of court, suspension of trustee, § 528 Remedies of beneficiary, § 861 Removal of trustee, § 528 Resulting trusts, extinction, § 466 Trustees, grounds for removal, § 527

RECIPROCAL TRUSTS

See also Pour-Over Trusts Federal estate tax, § 273.10, 273.20, 273.45 Income taxes, power to revoke or modify trust property, § 273.20

RECIPROCAL WILLS

Oral promise to hold for another, constructive trust, **§ 499**

RECIPROCITY

Conflict of laws, § 294 Foreign corporations acting as trustee, § 132 Foreign trustees, § 132, 295 State taxation Estate or inheritance, § 286, 287, 300 Gift, § 286, 300

RECIPROCITY—Cont'd

State taxation—Cont'd Income, § 285, 287, 300 State taxation of intangibles, § 287

RECKLESS INVESTMENTS Trustees, § 542

RECOGNITION OF TRUST

Civil law countries, § 9 Community property states (United States), § 7, 26 Europe, § 9 Latin America, § 9 Louisiana, § 1, 7, 9 Partial, § 9 Trust codes, § 7, 9

RECOMMENDATIONS

Precatory expressions, trust creation, § 48

RECORDING

Beneficiary's interest, priorities between successive assignees, § 195

Bona fide purchaser rule, **§ 884, 893** Conditional sales, **§ 149, 884, 893** Constructive notice, **§ 893** Duty to inquire, **§ 894**

RECORDING ACTS

Bona fide purchasers Constructive notice, **§ 893** Distinguished, **§ 884**

RECORDING STATUTES

Effect, contrasted with bona fide purchaser rule, § 884 Spendthrift trust, notice to creditors, § 222

Trust instrument, § 149

RECORDS

Duties of trustee Charitable trustees, § 270.5, 396, 411

RECORDS AND RECORDING

Charitable trusts, **§ 394** Negligence, damages, recovery from trustees, **§ 862**

Index-326

RECORDS AND RECORDING

--Cont'd Pour over wills, § 233 Purchase money resulting trusts, statutes abolishing or limiting, § 467 Trust instrument, § 149

RECOVERY

Improper payments Beneficiary, § 814 Third person, § 814

RECREATION

Charitable purpose, § 379 Charitable trusts, § 379

REDEMPTION

Mortgage and trust, distinctions, § 29 Mortgages to redeem property, power of court, § 762 Pledge and trust distinctions, § 30 Trust indenture securing creditors, § 251

REENTRY RIGHTS

Charitable trusts, conditions subsequent, § 420 Inalienable property interests, § 114 Rule against Perpetuities, § 213 Subject-matter of trust, § 114

REFERENTIAL TRUSTS

England, creation of trust, **§ 50** Terminology and classification, **§ 1**

REFORMATION OF

INSTRUMENTS Generally, § 42, 43, 991 Drafting mistake, § 51, 991 To exclude personal liability of trustee, § 773 Mistake, constructive trusts, § 474 Perpetuities, § 214 Power to revoke, § 998 Rule against Perpetuities, § 213 Statutes, § 214 Statute of Frauds, § 68 Trust terms, statutes, § 991

REFUSAL OF TRUST

See also Disclaimer; Renunciation

REFUSAL OF TRUST—Cont'd Private trusts Beneficiary, § 170 Trustee, § 150 REGISTRATION See also Recording, this Index Assets, declaration of trusts, § 141 Assignment of beneficiary's interest, § 194 Charitable trusts, § 411 England, § 321 United States statutes, § 411 Investment trusts, § 248 Land titles, trusts, § 149 Regulated investment companies, § 270.30 Trusts, home base court, Uniform Probate Code, § 7 **REGULATED INVESTMENT COMPANIES** Generally, § 248 Federal income tax, § 270.30 Investment trusts taxed as, § 270.30, 270.35 Principal and income, capital gains distributions, § 858 REGULATED INVESTMENT COMPANY Income taxes, § 270.30 **REIMBURSEMENT OF TRUSTEE** See also Set-off and Counterclaim, this Index Accounting, § 971 Beneficiary Instigating breach of trust, § 191 Statute of Limitations, § 951 Contract liability, § 718 Expenses, contract improperly made, § 725 Resignation, trust expenses, § 511 Tort claims paid by trustee, § 734 REJECTION

See also Disclaimer By trustee, of trust, **§ 150**

RELATIVES

Beneficiaries Identification, § 161, 182 Insurance, fraud or conversion, § 211, 476 Beneficiaries' interest, § 182 Adopted children, § 182 Class gifts, time of closing, § 182 Gifts per stirpes or per capita, § 182 Beneficiary and family, discretionary blended trust, § 221 Protective trust, § 221 Charitable trusts Mortmain statutes, § 325, 326 Preferences, § 365 Purpose and beneficiaries, § 365 Charitable trusts, beneficiaries, § 365 Confidential relationship, constructive trust, § 482 Construction of beneficiary's interest, § 182 Constructive trusts Confidential relationship, § 482 Beneficiaries of oral trusts, § 496 Forged will, § 477 Homicide, § 478 Conveyances in return for promises of support, § 19 Covenant to stand seised, consideration, § 201 Creation of trusts, early law, § 201 Installment sales, taxation, § 264.10 Income taxes, § 264.10 Loyalty Indirect disloyalty, § 543(A), 543(T) Loan of trust funds, § 543(J) Resulting trusts, § 460 Resulting trusts, presumptions, § 459, 460 Spendthrift trusts, § 222 Spendthrift trusts, partial transfers, destructibility, § 226 Spendthrift trusts, protective estates, § 222 Spouse, fraud, § 211, 475

RELATIVES—Cont'd Support Conveyances in return for promise, § 19 Trust in evasion or violation of statute, § 211 Tracing trust funds, insurance, § 925 Trustees Indirect disloyalty, § 543(T) Lending trust funds to relatives, § 543(J) Purchases, loyalty to beneficiaries, § 543(A) Trustee's relatives Buying at own sale, § 543 Dealings constituting disloyalty to trust, § 543(T) Loan of trust funds, loyalty, § 543(J) RELATOR

Charitable trust, suit by Attorney General, **§ 411**

RELEASE

Accounting, defense to beneficiaries' action for, § 969 Barring remedies of beneficiary, § 943 Adequate consideration required, § 943 Conditions precedent to validity, § 943 Co-trustees, release of one, § 943 Covenant not to sue distinguished, § 943 Disabilities of beneficiary, § 943 Form and contents, § 943 Revocability, § 943 Sale by beneficiary to trustee distinguished, § 943 Surrender distinguished, § 943 Trustee's duty in securing, fair play, § 544, 943 Trust investments, § 688 Beneficiary, for payments, § 814, 1010 Bona fide purchasers, promises, consideration, § 887

RELEASE—Cont'd Breach of trust, § 943 Barring remedies of beneficiary, § 943 Co-beneficiaries, effect, § 191 Laches, presumptions, § 948 Chose in action, § 25 Conditions subsequent, § 35 Creditors, trusts to secure, § 250 Distinguished from consent, § 688, 943 Equitable charge, by beneficiary, § 31 Federal estate tax lien, § 272.5 Imperative powers of appointment, § 116 Laches, breach of trust, presumptions, § 948 Personal liability of trustee, termination of trust, § 1010 Power in trust, § 116 Powers of appointment Federal estate tax, when taxable, § 273.35 Federal gift tax, § 282 Presumptions, breach of trust, laches, § 948 Resulting trusts, payment, § 455 To trustee, terminating trust, § 1006 Trustees, good faith, dealing with beneficiaries, § 544 RELIANCE Barring of remedies, estoppel by misrepresentation, § 944 Estoppel by misrepresentation, barring of remedies, § 944 Fraud, estoppel, barring of remedies, § 944

Ratification, breach of trust, § 942

RELIGION

Adoption, conditions, § 211 Aid to, charitable purpose, § 376 Charitable contributions, estate tax deductions, § 275.5 Charitable trusts, § 376 Advancement of education, § 375 Aiding religion, § 376 Deviation, § 396

RELIGION—Cont'd Charitable trusts, § 376—Cont'd Disposition of church property in case of schism, § 399 Constitutional law Schism, property disputes, § 399 Solicitation, § 411 Tax exemptions, § 401 Definitions, § 376 Discrimination, charitable trusts, governmental purposes, § 378 Duties of trustees in case of church schism, § 398 Gifts for, qualified purpose, federal estate tax deductions, § 275.5 Promotion, charitable purpose, § 361 Restraints on alienation, constitutionality, § 220 Schism, duties of trustees, § 399 Tax exemptions, ad valorem taxes, § 401 Trust to adopt, public policy violation, § 211 **RELIGIOUS CORPORATION** SOLE Distinction from trust, § 37 Trustee, charitable trust, § 328 **RELIGIOUS ORGANIZATIONS** AND SOCIETIES Actions, unincorporated association

suing in association name, § 125 Administering charitable trusts, § 328 Bequest to church council, maintenance and care of property previously conveyed, § 129 73 Charitable gifts, income tax deductions, § 264.25 Charitable trusts Churches, § 376 Monasteries and nunneries, § 376 Mortmain acts, § 325, 326 Churches, generally, this index Origin of uses and trusts, § 2 Restraints on alienation, § 220 Schism, disposition of church property, § 398 Civil court resolution, church propertv. § 398 Formal title doctrine, § 398

RELIGIOUS ORGANIZATIONS AND SOCIETIES—Cont'd Schism, disposition of church property, § 398—Cont'd Civil court resolution, church property, § 398—Cont'd Implied trust on local church property, § 398 Neutral principles of law approach, § 398 Polity approach, § 398 Property disputes, United States Supreme Court decisions, § 398 Duties of trustee, § 398 Statutes, § 327 Tax exemptions, § 400 Property held by corporation, § 327 Testamentary gifts, § 326 Title to property, amount of real estate, § 327 Title to property, capacity to sue, § 125, 327 Transfers of land, statutory limits, § 327 Trustees, competency to administer, § 125 Unincorporated church association, ejectment, § 125 39

RELIGIOUS RESTRICTIONS

Charitable trusts, constitutional issues, § 328, 375, 378 Removal by court, charitable trusts, § 394

RELINQUISHMENT

See also Federal Estate Tax; Gift Tax-Federal; Powers of Appointment Power of revocation, § 1000

REMAINDERS

See also Beneficiaries' Interests Acceleration, disclaimer of limited estate, § 172 Ambiguous gift of remainder interest. contingent upon survivorship,

§ 182

REMAINDERS—Cont'd

REMAINDERS—Cont'd Beneficiaries Disclaimer, § 170 Disposition, § 172 Enforcement of trust, § 861, 871 Exercise of power of appointment, § 161 Limitation of actions, § 949, 951 Beneficiaries' interest Class gifts, § 182 Legal or equitable interest, § 182 Private trust, § 182 Statutory provisions, § 184 Breach of trust Limitation of actions, § 950 Standing, § 871 Charitable gifts, deductibility Federal estate tax, § 245, 264.20, 264.25, 275.5 Federal gift tax, § 264.25, 283 Federal income tax, § 264.25, 268.25 Charitable remainder trusts, federal tax law, § 245, 264.25, 270.5, 275.5, 283 Charitable trusts, future vesting, § 343 Class beneficiary, § 162 Construction of beneficiary's interest, § 182 Contingent Charitable trust, gift over to noncharitable uses, § 347 Termination of trust by court, § 1007 Contingent Future Interests, this index Court appointment of trustee of res, § 246 Disclaimer, gift taxes, § 278.5 Donor's reservation of rights, federal gift tax, § 278 Duration of trust, § 218 Eminent domain proceedings, trustee to hold condemnation award, § 246 Estate taxes Alternate valuation election. § 274.15

Estate taxes-Cont'd Gross estate, § 273 Postponed payment, § 276 Power of appointment, § 273.35 State taxes, § 286 Valuation, § 274 Expenses of trust, payment from principal, § 802 Federal estate tax Deduction, charitable remainder interest, § 275.5 Gross estate, § 273 Marital deduction, § 275.10 Postponement of payment of tax, § 276 Federal gift tax, § 278 Deduction, charitable remainder interest, § 283 Qualification for annual exclusion, § 279 Qualification for marital deduction, § 280 Federal income tax Deduction, charitable remainder interest, § 264.25 Gift taxes, § 277, 278 Exclusions, § 279.5 Future interests, § 279 Imperative powers of appointment, default of exercise, § 116 Implied gifts, § 182 Income taxes, § 269.5 Legal life tenant and remainderman, § 27 Limitation of actions, breach of trust, § 950 Partition proceedings, trustee to hold sale proceeds, § 246 Passive trusts, spouses, § 206 Power of appointment, estate taxes, § 273.35 Power of appointment, Rule against Perpetuities, § 213 Removal of trustee, beneficiaries, § 522 Removal of trustees, parties to proceedings, § 522

REMAINDERS—Cont'd Revocation, consent of persons beneficially interested, § 999 Right to accounting When remaindermen barred by laches, § 949 Spendthrift trust Life estate in settlor, § 223 Merger with life interest, effect, § 226 Spendthrift trusts Creation for settlor, § 223 Merger, § 226 Split interest trusts, § 264.25 Spousal Remainder Trust, generally, this index State estate taxes, § 286 Subject-matter of trust, § 112 Termination of trust by court, § 1007 Trustee of res, court appointment, § 246 Trustees, preferences, § 541 Valuation, estate taxes, § 274 Vested, acceleration, § 161 Waste, injunction, § 861

REMARRIAGE

Alimony trusts, § 234 Beneficiary, termination of trust, § 182 Condition against, validity, § 211 Federal income taxes, alimony and separate maintenance trusts, § 270.10 Oualified domestic trusts, estate taxes, marital deduction, § 275.12 Restraint, public policy, § 211 Restraints, § 211 Spousal insurance trusts, § 235 REMEDIES

See also Actions and Proceedings: Constructive Trusts: Creditors: Liabilities of Trustee; Rights of Trustee; Settlor; Trustee Accounts and Accounting, generally, this index

Adequacy of remedy at law, § 454

REMEDIES—Cont'd Alternative remedies Constructive trust or damages, § 471, 473 Tracing trust funds, § 912 Attorney General, enforcement of charitable trusts, § 411 Barring of Remedies, generally, this index Barring of remedies for breach of trust, § 941, 956 Bona fide purchaser rule, § 881, 897 Charitable trusts, § 411 Consent, § 941 Election, § 945, 946 Estoppel by misrepresentation, § 944 Laches, § 948, 949 Ratification, § 942 Release, § 943 Res adjudicata, § 956 Statute of Limitations, § 950, 955 Trustee's bankruptcy, unintentional breaches, § 947 Beneficiary, § 861, 871, 901, 955 Appointment of foreign trustee, § 861 Avoidance of trustee's acts, § 861 Breach of trust, § 861, 862, 901, 955 Breach of trustee's duty re possession of trust property, measure of damages, § 583 Burden of proof, § 871 Change in trustee personnel, § 522, 524, 527, 861 Class suits, § 871 Constructive trust, § 471, 472 Contempt of court, trustee, § 861 Counsel fees and costs, § 871 Court accounting, § 861 Procedure, § 861 Court avoidance of trustee's act, § 861 Court direction to trustee, § 861 Criminal liability of trustee, § 861 Disloyal acts of trustee, § 543, 543(V)

REMEDIES—Cont'd Beneficiary, § 861, 871, 901, 955 -Cont'd Election of remedies, § 945, 946 Equitable lien on product of breach, § 865 Express trust, bankruptcy of trustee, § 947 Failure of trustee to account, § 861 Improper payments and distributions, measure of damages, § 814 Increase in trustee's bond, § 861 Information and inspection, § 861 Injunction against breach, § 861 Interest on award of damages, § 863 Investments, breach, § 701, 708 Joint and several liability of trustees, § 862 Marshaling of assets, § 930 Order that trustee use imperative power, § 558 Ordinarily in equity, § 870 Participants in breach of trust, § 867, 869, 901 Statute of Limitations, § 950 Receivership for trust, § 528, 861 Records, trustee's failure to keep, § 861 Reduction or denial of trustee's compensation, **§ 861, 980** Removal of trustee, § 520, 526, 861 Sale of trust property, § 746 Set-offs, § 871 Several or alternative remedies. § 861 Specific performance, § 861 Statute of Limitations, § 950, 955 Collusive participation in breach of trust, § 955 Constructive trustee, § 953 Express trustee, § 951 Mistaken participation in breach of trust, § 955 Resulting trustee, § 952 Third persons, § 954

REMEDIES—Cont'd Beneficiary, § 861, 871, 901, 955 —Cont'd Statutes regarding probate claim, estate of deceased trustee, § 950 Subrogation, § 930 Suit to enforce trust, § 871 Surcharging trustee, § 862 Earnings or rental value in lieu of interest, § 863 Estate of deceased trustee, claim in probate, § 862 Measure of damages, § 862 Simple or compound interest on damages, § 863 Sureties on trustee's bond, § 864 Termination of trust, § 1004, 1008 Third persons, § 869, 954, 955 Election, tracing trust property or money claim, § 867 Joint liability, trustee and participant in breach, § 868 Liability for participating in breach on sale, § 747 Participants in breach, § 868, 955 Damages, **§ 868** Tracing trust property, § 866, 868 Donees of trust property, § 868 Tracing trust funds, § 866, 868, 921, 929 Bona fide purchaser rule, § 881 Election, tracing original or substitute property, § 866 Transfer of trust situs, § 861 Wrongful sale of trust property, § 746, 747 Beneficiary against trustee, § 861 Buver Against trustee, breach of contract to sell trust property, § 746 Charitable trusts Court instructions, § 394 Cy pres application, parties and procedure, § 441 Injunctions, § 391

REMEDIES—Cont'd Charitable trusts-Cont'd Relators, functions of, § 411 Settlor or successors, § 415 Visitation power, § 416 Constructive trust, **§ 472**, **543**(**v**) Law or equity, § 471 Constructive Trusts, generally, this index Contempt, § 861 Conversion, damages, beneficiaries, § 861 Court advice as to trustee's powers and duties, § 559 Creditor Against beneficiary, § 193, 227 Against settlor, fraud, § 211 Damages, generally, this index Discovery, beneficiaries, § 861 Election of Remedies, generally, this index Information, § 861 Injunctions, generally, this index Against participants in breach of trust, § 868 Statute of Limitations, § 955 Parties Beneficiary as necessary party, § 871 Class suit, constructive trust, § 472 Procedure, parties, costs and fees, § 871 Rescission of trust creation, § 861, 997 Specific Performance, generally, this index Third parties, other wrongs, § 869 Third person against trustee Contracts, § 712, 719 Property ownership, § 720 Quasi-contractual liability, trust estate, § 725 Tort claims, liabilities, § 731, 732 Against third persons Statute of Limitations, § 954 Trustee Against buyer of trust property, § 746

REMEDIES—Cont'd Trustee-Cont'd Court construction of trust instrument, § 559 Investments, § 687 Seek advice of court, § 559, 687 **REMEDIES OF BENEFICIARIES** See also Remedies, Beneficiary Breach of trust Burden of proof, breach caused loss, § 871 Relief in equity, § 870 Suit in equity or on trustee's court accounting, § 870 When remedy at law granted, § 870 Election of remedies, time of election, § 946 **REMOTE CONTINGENT INTERESTS** Joinder of parties, breach of trust, § 871 **REMOTENESS OF VESTING** See Perpetuities, Rule Against **REMOVAL FROM OFFICE** Trustees, § 519, 522, 861 Conditional or partial removal, § 528 Costs, § 525 Courts power to remove, § 519 Disloyalty, § 543(V) Grounds, § 527 Jurisdiction, § 523 Misfeasance, § 541 Municipal corporations, § 521 Nature of proceeding, § 524 Proceedings, § 522 Resignation, § 514 Standard of care, § 541 Time, § 526 Trust provisions, § 520 **REMOVAL OF TRUST**

To foreign jurisdiction, **§ 132, 583, 861**

REMOVAL OF TRUSTEE

Actions, failure to enforce trust, § 527 Adverse interest, § 527 Antagonism, § 527 Appeal from court order removing, § 519 Attorneys' fees, § 525 Beneficiary's remedy, § 861 Bond required in lieu of removal, statutes, § 151 Court discretion, § 861 Breach of trust, § 527 Business trusts, § 247(v)Charitable trusts Attorney general, § 522 Grounds for, § 397 Legislative power, municipal corporations, § 395, 521 Conditional removal, § 528 Costs of proceeding, § 525 Disloyalty, § 527, 543(V) Failure to account, § 861 Failure to qualify, § 151 Federal estate tax, effect of settlor's power, § 273.10, 273.20, 273.35 Federal income tax, effect of grantor's power, § 268.15 Forfeiture, compensation, § 980 Grounds, § 527 Hostility toward beneficiaries, § 527 Insolvency of corporate trustee, § 527 Judicial jurisdiction, § 523 Mismanagement, trust property, § 527 Nonresidents, § 132, 527 Jurisdiction, § 523 Partial removal, § 528 Power of court, § 519, 543(V) Power of legislature or court to remove municipal corporation as trustee, § 521 Proceedings for removal, § 522, 524, 528 Conditional removal, § 528 Corporate trustee, bankruptcy or receivorship, § 527 Defaulting trustee, notice, § 523

REMOVAL OF TRUSTEE—Cont'd Proceedings for removal, § 522, 524, **528**—Cont'd Grounds for removal, § 527 Jurisdiction of court, § 523 Nature, § 524 Parties, § 522 Temporary removal, receivership, § 528 Time for removal, § 526 Receivership, temporary removal, § 528, 861 State as trustee, constitutional grounds, § 527 Statutes, § 132, 527 Temporary removal, § 528 Time for removal, § 526 Transfer of trusteeship to foreign trustee, § 132, 861 Statutes, § 132, 861 Trust terms regarding, § 520 When power to remove exercisable in fiduciary capacity, § 520 Wrongful sale of trust property, § 747

RENT

Accumulation of income rules, § 217
Act of acceptance by trustee, § 150
Apportionment, successive beneficiaries, § 818
Collection, trustee's duties, § 799
Depreciation reserve, § 829
Rental property, suspension of power of alienation, § 219
Trust, leaseback arrangements, § 234

RENTS

Accumulations, § 217 Breach of trust, damages, § 863 Estate taxes, gross estate, § 273 Standing, § 869

RENUNCIATION

See also Disclaimer, this Index
Beneficiary, § 170, 172, 268.5
Compensation, election to take statutory commission, § 976
Donee, oral trust for third person, constructive trust, § 498

RENUNCIATION—Cont'd

Federal income tax, taxable power, § 268.20
Oral promise to convey, constructive trust, § 496
Power of appointment Federal estate tax, § 273.35 Federal gift tax, § 282
Statute of Frauds, intent for which writing made, § 84

REORGANIZATIONS

Bondholders' committee, § 251
Bondholders' protective committees, § 251
Defaulted securities, disposition of property received, § 825
Stock investments, effect on retention, § 682
Trusts to secure or pay creditors, § 251
Voting trusts, § 252

REPAIRS

Directions to use income, accumulation restrictions, § 217
Leases, duties, § 797, 798
Possession and use of trust property by beneficiary, active trust, duty of trustee, § 208
Powers and duties of trustee, § 798
Trustee's duty, evidence of active trust, § 207

REPAIRS AND MAINTENANCE

Charitable trusts, **§ 396** Leases, **§ 798** Payment, passive trusts, **§ 208** Real estate, active trusts, **§ 207** Resulting trusts, judgments and decrees, **§ 465** Trustees Payment, accumulations, **§ 217**

REPLEVIN

Certificates of deposit, bailment, certificate left with joint tenants for safekeeping, **§ 11 5** Charitable trusts, administration, **§ 391**

REPLEVIN—Cont'd

Standing, wrongfully withholding trust property from trustee, § 869

REPORTS

Business trusts State regulation, § 247Q Charitable trusts, § 361, 411 England, § 321 Legislation, § 264.25, 395, 396, 411 Employee benefit trusts Federal regulation, § 255, 270.20 State laws, § 255 Investment trusts, § 248 Trusts to secure creditors, reports to trustee, § 250

REPRESENTATION

See also Disabled Persons; Distributions of Principal; Infants; Payments of Income Parties, court proceedings By court, **§ 871** Guardian ad litem, **§ 871, 1007** Guardians, disabled persons, **§ 871** Necessary party, by other parties, **§ 871, 1007** Virtual representation, **§ 871, 1007** Payments Absent or unknown beneficiaries, **§ 814** Minor or incompetent beneficiaries, **§ 814**

REPRESENTATIVE ACTIONS

Class suits on behalf of beneficiaries, § 871

Powers of trustee, § 869

REPRESENTATIVE LIABILITY

Charitable trustees, **§ 400** Contracts of trustee, **§ 715, 716** Torts of trustee, **§ 732**

REPUDIATION

See also Disclaimer; Renunciation Donee, oral trust for third person, constructive trust, **§ 498**

REPUDIATION—Cont'd

Informal trust, promise to carry out, § 102 Oral promise to convey, constructive trust, § 496 Statute of Limitations, § 951 Constructive trust, § 953 Express trusts, § 951 Resulting trusts, § 952 Trust, removal of trustee, § 527

REPUDIATION OF TRUST

Limitation of actions, § 951

REQUEST

Precatory expressions, trust creation, § 48

RES

See also Subject-Matter of Trust Terminology and classification, § 1

RESCISSION

Creation of trust, remedy of settlor, **§ 42, 204, 861, 991, 997** Election of remedies, beneficiaries,

§ 946 Remedies of settlor-beneficiary,

§ 861 Termination of trust, **§ 997, 1008** Trusts, **§ 861**

RESEARCH

Charitable purpose, § 375 Medical research, charitable purpose, § 374 Vivisection, combating, § 368 Charitable trusts, advancement of education, § 375 Federal income tax, qualified organization, § 264.25

RESERVATION

Powers reserved to settlor, § 42, 104 Settlor, power to modify trust, § 993

RESERVED POWERS

See also Estate and Inheritance Taxes; Federal Estate Tax; Gift Tax—Federal; Gift Tax—State; Income Tax—Federal Insurance trusts, effect, **§ 103**

Index-336

RESERVED POWERS—Cont'd Living trust, § 104

RESERVES

Charitable trusts, income accumulations, § 352 Creation, payment of trust expenses, § 810 Creation not accumulation, § 217 Depletion, § 827 Depreciation, rental income, § 829 Distributions, future contingencies, § 814

RESIDENCE

- See Conflict of Laws; Domicile and Residence; International Estate Planning Domicile and Residence, generally,
- this index

RESIDENCES

Housing, generally, this index

RESIDENT ALIEN

See also Aliens; International Estate Planning, this Index Federal estate tax, § 10 Federal gift tax, § 10 Federal income tax, § 10

RESIDUARY ESTATE

Beneficiaries' interests, § 182 Payment of death taxes from, § 272.5, 286 Subject-matter of trust, § 111

RESIDUARY TRUSTS Generally, § 264.20

RESIGNATION

Trustees, this index

RESIGNATION OF TRUSTEE

Acceptance by court, § By act of trustee, § Terms of trust instrument, § Acts required of trustee, § After acceptance, § Agreement with beneficiaries, § Conditional acceptance, § Cost of court proceeding, §

RESIGNATION OF TRUSTEE -Cont'd Duty of trustee Conflicting interests, § 511 To resign, § 511, 543 Judicial proceedings, § 514 Conditional acceptance, § 516 Costs, § 518 Court may refuse to accept, § 515 Court's acceptance of resignation, § 515 Procedure, § 514 Reasons for court acceptance, § 515 Resignation by agreement with beneficiaries, § 513 Revocability, § 517 Settlor's provision as to method, § 511 Statutory provisions, § 511 Statutes, § 513, 514, 516 Transfer of trust to another, § 512 Voluntary, § 511 Need for court order, § 511 When accepted by courts, § 515

RES JUDICATA

Barring remedies, § 956 Breach of trust, barring of remedies, § 956 Election of remedies distinguished, § 945 Trustee's accounts, § 956

RESPONDEAT SUPERIOR

Torts, private trusts, § 731

RESTATEMENT, CONFLICT OF LAWS, SECOND Law of trusts, effect, § 8

...., ..., ...,

RESTATEMENT, PROPERTY Direct restraints on alienation, § 220 Duration of trusts, § 218 Forfeiture clauses, § 181 Restraints on alienation, § 219, 220 Rule against perpetuities, § 213, 214

RESTATEMENT, TRUSTS

Investments, § 612, 671 et seq.

RESTATEMENT OF PROPERTY Accumulations, history, § 216 Law of trusts, effect, § 8 Trust duration, § 218 **RESTATEMENT OF** RESTITUTION Constructive trusts, § 471, 501 Law of trusts, effect, § 8 **RESTATEMENT OF TRUSTS** First edition, 1935, § 8 Purpose and nature, § 8 Second edition, 1957, changes made, § 8 State annotations to, § 8 RESTITUTION Attorneys, misappropriation of trust funds, § 22 Beneficiary's assignee, excess payments, § 192 Breach of investment duty, § 705, 862 Co-beneficiary, breach of trust, § 191 Constructive trust, oral agreement to convey, § 497

Oral trust, gift by will, **§ 501** Remedies of beneficiary, **§ 861** Removal of trustee, defense, **§ 527**

Trustee, improper payments, **§ 814** Trustees, grounds for removal, **§ 527**

Trust property, remedy of beneficiary, § 861

RESTITUTIONARY TRUSTS

Corporation, dissolution, creditors and beneficiaries, § 246

RESTRAINTS ON ALIENATION

Generally, § 219, 219 et seq, 741 Business trusts, § 247, 247P Charitable trusts, § 342, 349, 361 Classified, § 220 Common law, § 219 Common law rule, § 220 Charitable and noncharitable objects, § 350 Statutes affecting, § 219 Discretionary trusts, § 228 Duration of trust, § 218

RESTRAINTS ON ALIENATION -Cont'd Employee benefit trusts, statutory exemption, § 255 Equitable fees apart from trusts, § 220 Equitable life interests apart from trusts, § 220 Fee or absolute interest, § 220 Land trusts, § 249 Leases, § 220 Legal estates for years, § 220 Legal fee interest, § 220 Legal life interests, § 220 Life estates, § 220 Life insurance trusts, § 242 Married women's trusts, § 232 Partial trust restraints, § 219 Personal life insurance trusts, § 242 Personal property, § 220 Power of appointment, § 219 Powers of sale, § 741 et seq Preemptive rights to purchase, § 220 Protective trusts, § 230 Public policy, illegality, § 219, 220 Restatement, Second, Property, § 219, 220 Severability of contract, § 219 Spendthrift and related types of trusts, § 221, 230 Spendthrift trusts, § 220, 221, 222 Destruction, § 226 Spouses, § 221, 232 Statutes, construction, § 219 Suspension of power of alienation, § 350 Term of years, § 220

RESTRICTIONS

Creation of charitable trusts, § 325 et seq Creation of private trusts, generally, § 211 et seq

RESTRICTIVE COVENANTS

Right to enforce, subject matter of trust, § 112 Sale of trust property, § 745 **RESTRICTIVE PROPERTY RULES** Charitable, § 341 et seq. Private trusts, § 211 et seq. **RESULTING TRUSTS** Generally, § 451 et seq. Abolition, § 467 Abolition or modification by statute, some states, § 467 Adequacy of legal remedy, § 454 Admissions Husband as payor and wife as grantee, § 459 Agreement between payor and grantee To benefit third party, § 462 For a divided interest in each, § 462 For trust equivalent to resulting trust, effect, § 461 Trust for greater interest than law allows, effect, § 462 Trust for lesser interest than law allows, effect, § 462 Alienation, invalid suspension of power, § 219 Aliens Common law disabilities, § 168 Aliquot part rule, payment of price, purchase money resulting trusts, § 457 Anticipation of death Husband as payor and wife as grantee, § 459 Barring of remedies, § 952 Beneficiary's interest, incidents of, § 454, 468, 469 Bona fide purchasers, § 881 Cutting off, § 466 Execution, § 206 Extinction of trusts, § 466 Notice, possession, § 896 Title to property, § 881 Breach of trust, barring of remedies, laches, § 948 Burden of proof, § 454, 464 Charitable trusts, § 418 Failure of express trust, narrow trust intent, § 418 Charitable trust with narrow intent, § 399, 418, 436

RESULTING TRUSTS—Cont'd Charitable trusts, § 418-Cont'd Failure of express trust, narrow trust intent, § 418-Cont'd Cy pres not in effect, § 433 Impossibility of accomplishment, narrow intent, § 418, 436, 437, 1002 Suit seeking, cy pres implications, § 441 Termination, § 400 Close relationship, effect, § 459, 460 Commencement, purchase money resulting trusts, § 454 Community property transactions, § 26 Consideration, § 201, 453 et seq Constructive trusts, distinguished, § 458 Contracts Different interests, § 462 Trust identical with resulting trust, § 461 Conveyances to avoid creditors, **§ 463** Creation Arising from failure of express trust, § 468 Express trust res proves excessive, § 469 Purchase money type, § 454 Creditors of trustee Estoppel, § 466, 944 Rights of, § 466 Cy pres, § 431, 441 Deeds and Conveyances, this index Definitions, § 451 Descent and distribution, § 469 Destruction by laches, merger and other reasons, § 466, 468, 469 Divided interest, express agreement, § 462 Early English law, § 453 English Property Act 1925, § 453 Estoppel, § 466 Estoppel as barring creditors of trustee, § 466, 944

RESULTING TRUSTS—Cont'd Evidence, § 464 Rebutting gift, husband-payor and wife-grantee, § 459 Required for proof, § 464 Excessive res, § 469 Excessive subject-matter, § 469 Beneficiaries, § 469 Income excessive, § 469 Settlor may control disposition, § 469 Theory of origin, § 469 Transfer for value, § 469 Execution, beneficiary's interest, § 193 Execution, bona fide purchasers, § 206 Express agreement Acknowledgment of existence of trust, § 466 Express agreements, § 461 Concerning different trust, § 462 Trust identical with resulting trust, § 461 Extinction, § 466 Express acknowledgment of trust, **§ 466** Laches, § 466, 949 Merger, § 466 Parol surrender, § 466 Pennsylvania statutory requirement of recording or enforcement, § 466 Statute of Limitations, § 466 Failure of express trust, § 211, 468 Beneficiary's interest, transfer, § 468 Charitable trusts, cy pres not available, § 418, 433 Laches barring, § 468 Lack of beneficiary, § 161 Lack of identifiable beneficiaries, settlor or successors, § 161, 164, 166, 468 Reasons for failure, § 468 Remedy granted, form of decree, § 468 Rule against Perpetuities, § 468 Settlor's intent controlling, § 468

RESULTING TRUSTS—Cont'd Failure of express trust, § 211, 468 -Cont'd Statute of Limitations, barring, § 468 Theory of origin, § 468 Trust created for consideration, § 468 Violation of Rule against Perpetuities, § 213 Failure of oral trust, § 87 Form of decree, credits and debits, § 465 Fraud, purchase-money type, § 463 Frauds, Statute of, § 67, 452, 462, 466 Frauds, Statute of, this index Fraudulent intent of payor, exceptions to general rule, § 463 Gifts, improvements, § 205 Greater interest, express agreement, § 462 Husband and wife, management and control rebutting gift, § 459 Husband as payor and wife as grantee, husband's motive, § 459 Illegality Failure of express trust, § 468 Illegal intent of payor, effect, § 463 Intent, enforcement, balancing equities, § 463 Title in another, wrongful purpose, § 463 Implied trusts, § 451 Implied trusts, including purchasemoney trusts, § 451 Improvements, § 455 Income tax, purchase-money type, payment, § 454 Intended beneficiary's death prior to trust declaration or transfer, **§ 164** Intent, purchase money resulting trusts, § 454 Crimes and offenses, § 463 Judgment creditors of resulting trustee, § 146, 466 Judgments and Decrees, this index

RESULTING TRUSTS—Cont'd Laches, this index Laches barring enforcement, § 466, 948 Lesser interest, express agreement, § 462 Limitation of actions, § 466, 952 Limitation of Actions, this index Loans. § 455 Meretricious relationship Man as payor, woman as grantee, § 459 Presumptions, § 459 Woman as payor, man as grantee, **§ 460** Mortgages, § 455 Parent and child, § 460 Partial payment, § 457 Partners, § 36, 454 Passive trust, failure for uncertainty as to trustee duties, § 206 Payment, this index Payment of price Community funds, § 26, 454 Consent of trust claimant required, § 455 Directly or indirectly, § 455 Form of payment, § 455 Loan by trust claimant, § 455 Loan to trust claimant, § 455 Loan to trust claimant with oral mortgage, § 455 Partnership funds, § 454 Part payment, § 457 Agreement for a specific interest, § 457 Aliquot part rule, § 457 Definiteness of amount required, § 457 Requirement of express agreement, interest in land, § 457 Proof of, evidence, § 455, 464 Purpose of payment, § 455 Improvements, § 455 Mortgages or improvements, § 455, 456 Taxes, § 455

RESULTING TRUSTS—Cont'd Payment of price-Cont'd Time of payment Agreement of parties regarding payment, effect, § 456 At or before deed, § 456 Payment after deed but pursuant to prior agreement, § 456 Perpetuities, § 213 Failure of express trust, § 468 Purchase-money resulting trust, § 454 Res of express trust proving excessive, § 469 Presumptions, § 952 Husband and wife, § 459, 460 Interest of payor, § 454 Overcome or confirmed Voluntary conveyance, § 453 Proof, weight and sufficiency of evidence. § 464 Purchase Money Resulting Trusts, generally, this index Purchase-money type, gift or trust, § 454 Enforcement, evidence to be considered, § 454 Inference as to intent rebuttable or confirmable, § 454 Origin and theory, § 454 Presumptions, intent, § 454 Statements of payor, § 454 Statutory codification, § 454 Time of origin, § 454 Rebuttal of presumption, purchasemoney type, § 454 Receipts, payment of price, § 455 Relationship between payor and grantee, § 459, 460 Brother and sister, § 460 Child as payor, parent as grantee Presumption of trust, § 460 Husband as payor, wife as grantee, presumption of gift, § 459 Evidence for rebuttal or confirmation of gift, § 459 Payment with joint funds, § 459 Presumption of gift rebuttable, § 459

RESULTING TRUSTS—Cont'd Relationship between payor and grantee, § 459, 460—Cont'd Husband as payor, wife as grantee, presumption of gift, § 459 -Cont'd Title placed in name of supposed wife or paramour, § 459 Title placed in names of both, § 459 Parent as payor, child as grantee, § 460 Evidence rebutting or confirming gift intent, § 460 Presumption of gift rebuttable, **§ 460** Presumption, gift by husband to wife, § 459 Uncles and aunts, nephews and nieces, § 460 Wife as payor, husband as grantee Presumption of trust, majority rule, § 460 Relief granted Form of decree, § 465 Profits or rental value, § 465 Vest title in payor, § 465 Remoteness, equitable interest of resulting beneficiary, § 454 Restraints on alienation, § 219 Rule against Perpetuities, § 454 Settlor Failure of charitable trust, § 418 Fraud in creating trust, § 211 Settlor-debtor, § 182 Spouses, separate property, § 460 Statute of frauds, § 452, 455 Express agreements, § 461 Third parties, express agreements, § 462 Statute of Frauds, § 67, 452, 462, 466 Agreements between payor and grantee, § 462 Purchase-money resulting trust, **§ 466** Statute of Limitations, § 466, 952 Recognition or repudiation of trust, § 952

RESULTING TRUSTS—Cont'd Statute of Uses, application, § 206 Creation, § 454 Statutory abolition or modification. § 467 Stipulations Different interest, § 462 Trust identical with resulting trust, § 461 Successors of testator, failure of intended express trust, § 102, 468 Surplus, § 451, 469 Surplus in case of trust to pay debts, § 250 Termination, § 466 Terminology and classification, § 1, 451 Title in another than payor, § 458 Consent of payor necessary, § 458 Effect of lack of payor's consent, § 458 Title in names of spouses jointly, **§ 460** Title to property Express agreement, § 461 Judgments and decrees, § 465 Voluntarily vested in another, § 458 Tracing trust funds Availability of remedy, § 921 Uncertainty in expression of trust intent, § 45 Unconscionable conduct, § 463 Valid purpose becoming invalid, § 211 Vesting in beneficiary, § 206 Voluntary conveyances, § 453 Voluntary conveyances with no use declared, § 453 Early law, § 453 Modern law, § 453 Presumption in earlier law, § 453 Weight and sufficiency of evidence. **§ 464** Will creating trust but naming no beneficiary, oral promise to convey, § 500 Wills, § 468

RESULTING TRUSTS—Cont'd Written agreement, § 462

RETAINED POWERS See Reserved Powers

RETENTION

See also Reserved Powers Trust investments Prudent man rule, § 682, 706 Settlor's provisions as to, § 680, 681, 685 Construction, § 682 Trust records, § 961

RETIREMENT

See Employee Benefit Trusts; Pensions and Retirement

RETIREMENT AND PENSIONS

See also Employee Benefit Trusts: Individual Retirement Accounts; Keogh Plans this Index Accumulations, application of law, § 216 Alienation, suspension of power, § 219 Alienation, suspension of power, statutes, § 219 Bequests, qualifications as charitable bequests, § 365 Charitable trusts, source of funds, § 367 Duration of trusts, § 213, 255 Employee benefit trusts, § 255 Income taxes, **§ 270.20** Employee benefit trusts, duration, § 218 Estate planning, § 264.7 Estate taxes Additional tax on excess retirement accumulations, § 276.5 Gross estate, § 273 Evasion, fraudulent conveyances, § 211 Federal law, § 255, 270.20 Federal tax legislation, § 270.20, 273.25 Gift taxes, § 278 Income taxes, § 264.7 Marital Property Act, § 7

Index

RETIREMENT AND PENSIONS -Cont'd Partnerships, resulting trusts, § 468 Perpetuities, § 213 Plans, investments, § 270.20, 616, 616 to 666, 666 Private employee benefit plans, § 255 Public employee retirement plans, investments, § 616, 616 to 666, 666 Public trusts, § 246 Qualified employee benefit plans, garnishment of benefits, § 222, 224, 255 Qualified Retirement Plans, generally, this index Revocable trusts, acceptance of additions to trust, § 233 Rule against perpetuities, exemption, § 214 Savings and loan associations, § 131 Spendthrift trust, § 222 Spendthrift trusts, exceptions, § 224 State laws, § 255, 616, 616 to 666, 666 Types of qualified plans, § 255, 270.20 **RETIREMENT EQUITY ACT**

Estate planning for retirement

benefits, § 264.7

RETIREMENT HOME Tax exemption, § 400

RETRACTION

Acceptance of trust, § 150, 170, 171 Disclaimer Beneficiary, § 170, 171 Trustee, § 150

RETROACTIVE EFFECT

Disclaimer by trustee, § 150 Uniform Principal and Income Act, § 816, 848

RETURNS

Federal estate tax, § 272.5, 276 Federal gift tax, § 277 **RETURNS**—Cont'd Federal income tax, § 265, 268.25 Criminal penalties, failure of trustee to file, § 265 Due date, § 265 Duty of trustee to file, § 265, 268.25 Failure to file, additions to tax, § 265 Fiscal year Tax planning, § 268.25 Trustee's selection, § 268.25 Information required, § 265, 268.25 Information return, charitable trust, § 270.5 Interest, failure to file, § 265 Liability of beneficiary, § 268.5 Liability of trustee, § 265, 268.25 Lien on trust property, § 265 Multiple or separate trusts, § 268.25 Personal liability of trustee, § 265 Place filed, § 265 Real estate investment trusts, § 270.35 Substantial owner trusts, § 268.15, 268.20, 268.25 Time filed, § 265, 268.25 Transferee liability of trustee, § 265 State taxes, § 285, 287 REVERSION

See also Possibility of Reverter; Right of Entry Annuity trusts, § 234 Charitable trusts, creation, § 418, 420 Deceased settlor's successors, failure of express trust, § 468 Federal estate tax Gross estate, § 273 Postponement of payment, § 276 Transfer taking effect at death,

§ 273.15
Federal gift tax, retention by donor,
§ 278
Federal income tax, reversionary

trusts, § 268.10, 268.15

REVERSION—Cont'd To grantor, restraints on alienation, § 220 Implied reversion, charitable trust, § 418 Income, apportionment between principal and income, § 818 Irrevocable trusts, § 234, 268.15, 273.15 Land trust certificates, § 249 Retention by settlor, § 42 Rule against Perpetuities, application, § 213 Short-term reversionary trusts, § 234, 264.10, 268.15 Subject-matter of trust, § 112 Termination of trust, settlor's heirs or next of kin. § 999 Trustee buying reversion for self, § 543(I) REVERSIONS Generally, § 264.10 Charitable gifts, intent, § 324 Charitable trusts, § 418 Reservation, § 419 Cy pres, § 441 Estate taxes, § 273.15 Alternate valuation election, § 274.15 Gross estate, § 273 Postponed payment, § 276 Gift taxes, § 277, 278 Future interests, § 279 Grantor, income taxes, § 268.15 Income taxes, § 268.10 et seq., 273.15 Land trusts, § 249 Perpetuities, § 213 Restraints on alienation, § 220 State estate taxes, § 286 Trustees, leases, buying reversion for self, § 543(I) Valuation, estate taxes, § 274

REVIEW

See also Appeal and Review Investments, trustee's duty, **§ 684**

Index-344

REVISED UNIFORM PRINCIPAL AND INCOME ACT See also Uniform Principal and Income Act Allocation of receipts, § 816, 829 Apportionment of income provisions, § 818 Bonds bought at a premium, receipts from sale, § 828 Bonds bought at discount, receipts from sale, § 826 Corporate distributions, allocation, § 843, 859 Expenses Generally, § 7, 802, 816 Probate income provisions, § 817 Receipts from wasting assets, § 827 Text and adoptions, § 7, 802, 816 Trust expenses, source of payment, § 802, 810 **REVOCABLE CONTINGENT INSURANCE TRUSTS** Generally, § 235, 264.15 **REVOCABLE DECLARATIONS OF** TRUST Generally, § 233, 264.5 **REVOCABLE INSURANCE** TRUSTS Functions, § 235, 264.15 **REVOCABLE TRUSTS** See also Revocation Generally, § 233, 264.5 Accounting, § 964

Accounting, § 904
Charitable contributions, income tax deductions, § 231
Conversion to irrevocable trust, § 233
Creditors of settlor, § 223, 233, 1000
Creditors' rights, settlor, § 233
Declaration of trusts, § 233
Estate planning, coordination, § 233
Estate planning uses, § 233, 264.5
Federal tax consequences, § 233, 264.5
Federal tax consequences, § 233, 264.5
Functions, § 231, 233, 264.5

Gift taxes, **§ 278**

REVOCABLE TRUSTS—Cont'd Guardianship, assets of ward transferred to trustee of revocable, § 13 Income taxes, § 264.5, 270 Property subject to power of revocation, § 273.20 Information, trustees' duty to furnish, § 964 Insurance trusts, § 235 Life insurance trusts, § 264.15 Life insurance trusts, § 264.15 Pour over wills, § 264.5 Probate assets, § 211 Spousal claims, § 211, 233 Substitute for will, § 7, 233, 264.5 Surviving spouse, elective share, § 233 Tax planning, § 233, 264.5 et seq. As testamentary dispositions, § 103, 104, 233 Rights of spouse, statutes, § 211, 233 Totten trusts, § 47 Wills, coordination, § 233 REVOCATION See also Federal Estate Tax; Gift Tax-Federal; Income Tax-Federal; State Estate and Inheritance Taxes Bank account trust, § 47, 1000 Bankruptcy, power, § 193 Beneficiaries joining with trustee, § 998 Charitable trusts, § 399, 415 Powers, § 399, 415 Charitable trusts, power to revoke, § 415 Creditors' rights, § 223, 233, 1000 Current statutes, § 999 Duty of trustee, improper revocation attempted, § 1001 Federal tax consequences, reservation of express power, § 233, 264.5, 268.15, 273.20, 278, 1000 Gift by will to trustee of revocable living trust, § 105 Living trust, § 104

REVOCATION—Cont'd Methods Deed only, § 1001 Will only, § 1001 Modification Effect of power is to revocation, § 993 Power to remake including, § 1001 Power of settlor, § 233, 264.5, 1000 Absence of express power as evidence of mistake, § 998 Charitable trust, § 399, 415 Competency of settlor to exercise, § 1001 Construction Creditors' rights, § 233, 1000 Donee's act constituting revocation, § 1001 Exercise is final, § 1001 Federal tax consequences, § 233, 264.5, 268.15, 273.20, 278, 1000 Gift by will to trustee of revocable living trust, § 105 Granted beneficiaries, § 1000 Inalienable by holder, § 1000 Includes power to modify, § 1001 Making trust testamentary or illusory, § 103, 104, 211, 233, 1000 Methods of exercise, § 1001 No implied power in settlor, § 998 Omitted by mistake, § 998 Relinquishment, § 1000 Reservation or grant of power, § 1000 Reserved by settlor, not pass to successors in interest, § 1000 Settlor and trustee, no implied power, § 998 Settlor creates trust for self, creditors, § 223 Settlor makes trust irrevocable, § 998 Settlor retains, § 1000 Settlor with consent of all persons beneficially interested, statutes, § 999 Statutory control, § 999

REVOCATION—Cont'd Power of settlor, § 233, 264.5, 1000 -Cont'd Tax consequences, § 1000 Totten trusts, § 47, 1000 Facts showing exercise, § 47, 1000 Trustee lacks power, § 998 Vested in beneficiaries, § 1000 Vested in settlor and others, § 1000 Vested in trustee, § 1000 Where power to modify expressly reserved, § 993 Relinquishment, express power, § 1000 Reservation or grant of power Trust testamentary, § 104 Settlor creating trust for self, § 223 Settlor has no implied power, § 998 Settlor or another, express power, **§ 1000** Statutes, private trusts, § 999 Statutory provisions, § 999 Construction as to identity of beneficiaries, § 999 Living trust as testamentary, reservation of right, § 104 Totten trusts, power implied, § 47 Voluntary trust, § 41 Wills, § 103

REVOLUTION

Government or laws, aiding change, charitable purpose, **§ 378**

RHODE ISLAND

Accounts and accounting, statutory regulation of accounts, § 974

RIGHT OF ENTRY

Breach of condition subsequent, § 35 Charitable trusts, § 420 Duration, statutes, § 218 Re-entry Inalienable property interest, § 114 Rule against Perpetuities, application, § 213 Sales, § 745 Subject-matter of trust, § 114

RIGHT OF REENTRY

Charitable gifts, conditions subsequent, § 324 Condition broken, duration, § 218 Perpetuities, § 213

RIGHTS OF TRUSTEES

Charitable trusts, information from co-trustee, § 391 Compensation, § 975 Exoneration from contract liability, § 718 Indemnity From beneficiary, contract liability, § 718 Breach of trust, § 862 Liabilities arising from property ownership, § 720 Tort liability, § 734 Ultra vires contracts, § 713 Unauthorized expenses increasing value of trust property, § 801 Reimbursement Beneficiary Instigating breach of trust, § 191 Statute of Limitations, § 951 Contract expenditures, § 718 Lien, § 718 Expenses, § 975 Contract improperly made, § 718, 725 Tort liability, § 734 Trust expenses on resignation, § 511 Set-offs, § 192, 814

RISKS

See also Insurance Assumption of risk, charitable trust, tort liability, **§ 401** Compensation, factor, **§ 977**

ROADS AND HIGHWAYS

Governmental trust, community benefit, § 378

ROLLOVERS

Retirement plans, income taxes, § 264.7

ROMAN CATHOLICS

Charitable purpose, aid to religion, § 376 Cy pres, § 432, 442 Masses, § 164, 376 Monasteries and nunneries, § 376

ROMAN LAW

Origin of uses and trusts, § ${\bf 2}$

ROYALTIES

Accumulations, § 217 Accumulation trusts, § 217 Book or play, apportionment, § 827 Clifford trust, income tax liability, § 234, 264.10, 268.10 Mining, oil and gas leases, distribution, § 795 Recovery, parties, § 869 Standing, § 869 Statute of Frauds, § 65 Wasting property, § 827

RULE AGAINST ACCUMULATIONS See Accumulations

RULE AGAINST PERPETUITIES

See Perpetuities, Rule Against Perpetuities, generally, this index

RULE IN SHELLEYS CASE

Characterization, § 293 Real estate, conflict of laws, § 296

RULE IN SHELLEY'S CASE

Active trusts Application, § 182, 187 Beneficiary's interest Active trusts, § 187 Executory trusts, § 187 Construction of beneficiary's interest, § 182 Termination of trust by merger, § 1003

RULE OF CONVENIENCE

Construction of beneficiary's interest, § 182

RUMORS

Bona fide purchaser rule, duty to inquire, **§ 894**

RUNAWAYS

Absconding trustees Suit by beneficiary, **§ 869** Absentee beneficiaries, **§ 814**

SAFETY DEPOSIT BOX

Co-trustees Safety deposit company allowing withdrawal by one trustee, § 911 Creation of trusts, transfer of contents, § 142 Delivery of key, § 142, 586 Rental, allocation of expense, § 803

SALARIES

See also Compensation of Trustee; Wages Employer retaining, debt or trust, § 19 Trustee employing self, § 490, 543(M)

SALES

See also Appraisals and Appraisers; Powers of Sale; Powers of Trustees Absolute or qualified power of trustee, § 741 Acceptance by trustee, evidence, § 150 Agents employed, delegation, § 744 Alienation of property, duration of trust, § 218 Allocation of proceeds to income or principal, § 822, 825 Beneficiaries, barring disclaimer, § 171 Bona fide purchasers, in rem rights, § 183 Beneficiary consents or ratifies, § 741, 941, 942 Beneficiary's interest, § 188 Legal remedies, § 193 Bona Fide Purchasers, generally, this index Charitable gift, sale at cost, § 264.25

SALES—Cont'd Charitable trusts Cy pres, § 441 Duties of trustees, § 391, 392 Implied powers, § 392 Injunction, § 415 Legislative powers, § 397 Powers and duties, § 392 Standard of care, § 394 Commercial paper or securities, duties of purchaser, § 903 Commingling funds, constructive trusts, § 19 33 Conditions and terms, settlor may fix, § 744 Construction of various powers, § 741 Construed to include exchanges, § 741 Contracts of trustee, specific performance, § 717 Corporate property, dividends, principal and income, § 857 Court, powers, § 742 Advice, discretionary powers, § 742 Approval or disapproval after sale, § 742, 745 Control, § 742, 745 Overruling settlor's direction, § 742 Statutes, § 743 Terms of sale, § 742, 745 Deed, terms, § 745 Delegation of acts connected with trustee's sale, § 744 Direct restraints on alienation, § 220 Discretionary powers of trustee, § 552 Disloyalty, § 745 Dealings with relatives, § 543(T) Trustee buying at forced sale, § 543(C) Trustee buying at own sale, § 543(A) Duties, § 212 Express grant of power, § 741 Failure to sell, breach of investment duty, § 704

SALES—Cont'd Gift taxes, § 278 Implied powers, § 741 Construction, § 551, 741, 758, 814 Investments, § 612, 686, 704, 706, 741 Breach of trust, measure of damages, § 703, 704 Duties of trustee on selling, § 686, 706 Nonlegal investments, § 686, 704 Less than full consideration, federal gift tax, § 278 Life estates, income taxes, § 269.5 Mandatory or discretionary, § 552, 741 Methods Fixed by court, § 744 Fixed by settlor, § 744 Fixed by statute, § 744 Public or private sale, § 745 Nature of beneficiary's interest, direction of settlor, § 185 Notice of sale, § 745 Notice or advertisements, sale of trust property, § 744, 745 Option to buy, when implied from power to sell, § 741 Option to purchase, grant implied from power of sale, § 793 Payment, terms, § 745 Personal or official power, § 553, 741 Price, higher offers, § 745 Proceeds, allocation between principal and income, § 816, 822, 823 Purchase Money Resulting Trusts, generally, this index Purchaser's duty as to application of purchase money, § 902 Real estate investment trusts, § 249 Recording acts, bona fide purchasers Constructive notice, § 893 Distinguished, § 884 Remedies, § 746 Remedies of beneficiary, wrongful sales, § 746 Remedies of buyer from trustee, § 746

SALES—Cont'd Remedies of trustee under contract, § 746 Secret profits, removal of trustee, § 527 Securities Blue Sky laws, business trust, § 247R Business trust Compliance with securities acts, § 247R Exceptions, § 247R Settlor's powers, § 42, 741 Spendthrift trusts, beneficial interest, creditor's rights and remedies, § 227 Third party charged with notice of trustee's powers, § 747 Third party participating in breach, § 747 Transfer of property, § 142 Trustee Business trusts, § 247 Deed, terms, § 745 Duty of care and skill, § 744, 745 Statutes, § 743 Tracing trust funds, § 921 Trustees Buying at own sale, § 543(A) Common law power of court, § 742 Express or implied power, § 741 Good faith, § 541, 544 Dealing with beneficiaries, § 544 Indirect disloyalty, § 543(T) Loyalty to beneficiaries, § 543 Own property sales to trust, § 543(E) Selling to self as trustee of another trust, § 543(H) Statutes, § 743 Terms and conditions, § 745 Vacating or setting aside, § 861 Trust property Purposes of trusts, § 212, 247, 249 Upon termination of trust, § 1010 Wrongful, bona fide purchase, termination of trust, § 995

SALES—Cont'd Unproductive property, powers and duties, § 824, 825 Vacating or setting aside, trustees acts, § 861 When power amounts to gift of fee, § 741 Whole or in parcels, § 745 Wrongful sale, effect, § 747 Wrongful sales Damages, recovery from trustees, § 862 Effect, § 747 SALES AND USE TAXES Charitable trusts, exemptions, § 401 SALES TAXES National banks, immunity, § 134 9 **SALMAN** Germanic law, § 2 Trust as developed from, § 2 SALVAGING Mortgages in default, disposition of proceeds, § 825 SANCTIONS Trustees, duty of care, § 541 SAVINGS ACCOUNTS Bank Deposits and Collections, generally, this index Creation of trusts, transfer of funds, § 142 Totten trusts, § 47

SAVINGS AND LOAN ASSOCIATIONS Payable on death accounts, § 47, 233 Retirement plan trustees, § 131 Shares, investments, § 678 Trustees, capacity to act, § 134

Trust savings account, § 47
SAVINGS BANKS
Charitable trusts from the S 214

Charitable trusts, founding, **§ 364** Deposits as trust investments, **§ 616**, **666**, **678** Deposits s trust investments, **§ 616 to**

666 **666 666**

SAVINGS BANKS—Cont'd

Joint accounts, constructive trusts, § 47, 471 Payable on death accounts, § 47, 233

SAVINGS BANK TRUSTS

See Totten Trusts

SCENIC AREAS Charitable trusts, governmental purposes, § 378

SCHISM

Charitable trusts, disposition of church property, **§ 399** Religious organizations, trustees' duties, **§ 398**

SCHOLARSHIPS

Charitable trusts, § 375 Advancement of education, § 375 Educational purpose, § 365, 375 Selection of substitute scheme, § 442

SCHOOLS AND SCHOOL DISTRICTS

Charitable trusts, § 375 Advancement of education, § 375 Enforcement, parties, § 412 Profit making, § 364 Purposes, § 362 Charitable trusts, advancement of education, § 375 Education, beneficiaries' interest, § 182 Trustees, § 130, 328

SCIENCE

Charitable trusts, advancement of education, § 375 Federal estate tax deduction, charitable purpose, § 275.5

SCIENCE AND TECHNOLOGY

Charitable contributions, deductions Estate taxes, § 275.5 Income taxes, § 264.25 Charitable trusts, § 375 Advancement of education, § 375 Vivisection, § 379

Index-350

S CORPORATIONS

Business insurance trusts, § 235 et seq.

SCOTLAND

Development of trust law, § 7, 9

SCRIP DIVIDENDS

Principal or income, § 854

SEALS

Creating trusts, **§ 204** Creation of trusts, **§ 201** Consideration, early law, **§ 204** Transfer of property, various types, **§ 142**

SEAWALL

Tax funds, charity, § 367

SECONDARY INTERESTS Perpetuities, § 213

SECONDARY LIFE ESTATE Federal estate tax, § 273.10

SECONDARY OBJECTIVE Charitable, basis for cy pres, § 436

SECOND MORTGAGES Trustees, investments, § 542 Trust investments, § 674

SECRECY

Trustees, loyalty to beneficiaries, § 543

SECRET PROFITS Trustees, grounds for removal, § 527

SECRETS AND SECRECY

Basis for constructive trust, § 473
Community property settlement between spouses, § 26
Conveyances, covenant to stand seized, § 201
Entry, Statute of Frauds, intent with which writing made, § 84
History of uses and trusts, § 2
Memorandum, parol trusts, subpoena duces tecum, § 85
Parol trusts, secret memorandum, § 85

SECRETS AND SECRECY—Cont'd Profits, constructive trusts, § 483, 492 Corporate directors, § 16, 481 SECRET TRUSTS See also Constructive Trusts Oral promise to hold for another, § 495, 501 Settlor, creating spendthrift trust for self, § 223 SECURED TRANSACTIONS Irrevocable trusts, § 264.10 SECURITIES See also Investments; Sales **Business trusts** Availability, § 247 Blue sky laws, § 247 Employee benefit trusts, employer stock ownership plan, § 255, 270.20 Personal life insurance trusts, § 235 et seq. Sales, business trusts, § 274R Compliance with securities acts, § 247R Exceptions, § 247R Shares, investment trusts, § 248 Sales, estate taxes, deductions, § 275 Shares and Shareholders, generally, this index State estate taxes, jurisdiction, § 287 Trustees Selling own property to trust, § 543(E) Voting for self as director or officer of corporation, § 543(N) Trust indenture, § 250 Valuation, estate taxes, § 274 SECURITIES AND EXCHANGE

COMMISSION

Investment trusts, § 248 Trusts to secure creditors, reports, § 250

SECURITY

Generally, § 250 Active trusts, § 207 SECURITY—Cont'd Breach of trust, personal debts of trustees, third parties, § 904 Consideration, existing debt, bona fide purchasers, § 889 Corporate, investment considerations, § 612, 673, 679 Existing debt, consideration, bona fide purchasers, § 889 Mortgages and similar investments, § 674, 676, 678 Negligence, damages, recovery from trustees, § 862 Preexisting indebtedness, bona fide purchaser rule, § 889 Sale of trust property, terms, § 745 Tracing trust funds, § 923 Trustee purchasing claims for self, § 543(D) Trusts to secure or pay creditors, § 250, 251 SECURITY DEPOSITS Corporate trustees, beneficiaries' remedies, § 864 Corporations as trustees, § 151 Creating trusts, § 19 Statutes and cases, § 19 Foreign trustees, § 151 Mortgage escrow accounts, § 21 SECURITY TRANSACTIONS Conditional sales, filing or recording act, § 149, 884, 893 SEGREGATION OF ASSETS

Agency to collect choses in action, § 22

Banks, payment of customer obligations, § 21

Debt payable from identified fund, § 19

Security fund for contingent liability, § 19

SEGREGATION OF PERSONS

Charitable trusts, enforcement, § 328

SELF-DEALING

See also Duties of Trustee; Loyalty

SELF-DEALING—Cont'd Attorneys, sale forced by third parties, purchasing, § 543(C) Breach of loyalty duty, § 543 Corporate shareholders, § 481.1 Executors and administrators, sale forced by third parties, purchases, § 543(C) Trustees, § 541, 543 Bank deposits and collections, deposits in own banking department, § 543(K) Competing business on own behalf, § 543(O) Employing self to do specialized work for trust, § 543(M) Gifts, acceptance from one with whom trust business is conducted, § 543(P) Incidental benefits for self while engaged in trust business, § 543(Q) Leases, taking renewal or buying reversion for self, § 543(I) Loans Own funds to trust, § 543(L) Trust funds to self, § 543(J) Purchases for self Bids and bidding, own sale, § 543(A) Claims against trust property, § 543(D) Duty to buy for trust, § 543(R) Sale forced by third parties, § 543(C) As trustee of another trust, § 543(H) Sales to trusts Earmarked pool of investments, § 543(F) Own property, § 543(E) Own stock, corporate trustees, § 543(G) Voting for self as director or officer, § 543(N) SELF-DEFENSE

Homicide, constructive trust, descent and distribution, § 478

Index-352

SELF-EMPLOYED INDIVIDUALS

Federal income tax benefits, **§ 255**, **270.20** Provisions and statutory changes,

§ 255, 270.20

SELF EMPLOYMENT

Contracts, trustees, employing self to do specialized work for trust, § 543(M) Retirement and pensions, gift taxes,

§ 278

SELF-EMPLOYMENT CONTRACTS

Loyalty, § 543(M)

SELF-GLORIFICATION

Charitable trusts, motive of settlor, § 366

SELF-HELP

Conditions subsequent, right of entry, § 35

Trustee, contract liability, **§ 718** Wrongdoing beneficiary, trustee collecting from share, **§ 191**

SELFISHNESS

Trustees, loyalty to beneficiaries, § 543

SELF-SERVING DECLARATIONS

Resulting trusts, husband as payor and wife as grantee, § 459 Totten trusts, § 47

SEMINARIES

Charitable trusts, aid to religion, § 376

SENIORITY

Successive assignees of beneficiary's interest, priorities, § 195

SENTENCE AND PUNISHMENT

Fiduciary tax returns, criminal penalties, § 265

SENTIMENT

Charitable trusts, settlor, § **363**, **415** Federal estate tax, transfer in trust for consideration, § **274.45** Grave marker or monument, § **377**

SEPARABLE LIMITATIONS Perpetuities, § 213 SEPARATE MAINTENANCE Federal gift tax, § 270.10, 278 Federal income tax Code provisions, § 270.10 Lump sum, § 270.10 Periodic, § 270.10 Property settlement, § 270.10 Support of minor children, § 270.10 From § 71 trust, § 270.10 From § 682 trust, § 270.10 Includability in wife's gross income, § 270.10 Lump sum payment, § 270.10 Husband and wife agreement, federal gift tax, § 278 Irrevocable trusts, property settlements, § 234, 264.10, 270.10 Purposes of trusts, § 234 Trusts, § 270.10

SEPARATE MAINTENANCE TRUSTS

Agreements, § 232 Irrevocable trusts, § 264.10 Taxes and taxation, § 270.10

SEPARATE PROPERTY

Estate taxes, marital deduction, § 275.10 Spouses, § 232

SEPARATE SHARE RULE

Federal income tax Distributable net income, § 267 Single trust, § 267

SEPARATE SHARE TRUSTS Income taxes, § 267

SEPARATE TRUSTS

Alienation, suspension of power, separability, § 219 Multiple trusts, § 245, 264.10

SEPARATION AGREEMENTS

See also Separate Maintenance, ante Federal income tax, payments, § 270.10 SEPARATION AGREEMENTS -Cont'd Promise to create trust, waiver of rights, consideration, § 204 Removal of trustee, consent of party, § 519 Trusts in aid of, § 234 SEPARATION OF CHURCH AND STATE Religious charities, municipality as trustee, § 328 SEPARATION OF SPOUSES Alimony trusts, § 234 Contracts, § 232 Creation of trusts, consideration, § 204 Spendthrift trusts, § 224 Forfeitures, § 211 Legality, trust to encourage, § 211 Maintenance. Separate Maintenance Trusts, generally, this index Public trusts, § 246 Spendthrift trust restrictions, obligation under agreement, § 224

Trustees, removal from office, § 519 SEQUESTRATION Creditor's remedy, interest of beneficiary, § 193 Interest of beneficiary, § 193 Support, acquisite property for

Support, sequestering property for purpose of compelling support, § 254

SERMONS

Charitable purpose, aid to religion, § 376

SERVICE OF PROCESS

Action to enforce trust, § 870 Agent of foreign trustee, § 132, 151 Business trusts, suits against, § 247N Election of remedies, time of election, § 946 Jurisdiction, § 292, 870 Removal of trustee, § 523 Trustees, removal from office, § 523

SET-OFF AND COUNTERCLAIM Actions by beneficiary, § 871

SET-OFF AND COUNTERCLAIM -Cont'd Agents, claims against principal, § 15 Beneficiaries' rights to payments Beneficiary's debt to another beneficiary, § 814 Beneficiary's debt to settlor, § 814 Beneficiary's debt to trustee in representative capacity, § 814 Breach of trust, damages, § 862, 871 Contract and trust distinctions, § 17 Enforcement of trust, § 871 Gains and losses, breach of investment duties, § 708 Mortgage escrow accounts, by mortgagor, § 21 Payments, debt due co-beneficiary, § 814 Removal of trustee, § 524 Trustee, beneficiary's debt to trustee individually, § 814 SETTING ASIDE See also Rescission Contract between donee and prospective appointees, imperative power of appointment, § 116 Conveyances in return for promises of support, § 19 Creation of trust, invalidating causes, § 44, 997 Trustee's acts, § 861 Wills, invalidating cause, § 101 SETTLEMENT See also Compromise and Settlement, this Index Charitable trusts Court's approval, termination, § 399 Court's power to authorize, § 394 Claims, § 581 Compromise and Settlement, generally, this index Co-trustees, power to be exercised by all, § 554 Distributive shares, § 814, 994, 1009 Husband and wife Federal estate tax deductibility, § 275.15

SETTLEMENT—Cont'd Husband and wife-Cont'd Federal gift tax, § 278 Implied powers of trustee, § 551 Modification, § 992 Disposition provisions, court's power to approve, § 814, 994 Opening an account after settlement, § 972 Preservation of trust, court approval, § 581 Property agreement Federal income tax, § 270.10 Will contest, payments as charitable deduction, federal estate tax, § 275.5 SETTLOR See also Charitable Trusts; Creditors; Enforcement of Trusts; Investments; Powers of Sale; Powers of Settlor Actions Addition of new trust property, creation, § 46 Affirmative powers and duties given trustee, § 206 Age, § 44 Agency or will, reserved powers, § 42, 104 Agent making principal trustee, § 44 Amendment of trust, reserved power, § 992 Apportionment of income, directions, § 818 Attack on trust because of incapacity, § 44, 997 Bankrupt, § 44 As beneficiary, § 42, 168 Capacity, § 43, 44 Certainty as to trust intent, § 45, **99**7 Change, trust res, § 42, 111, 115 Construction of trust instrument, § 42 Capacity, undue influence, evidence, **§ 44** Charitable trusts Generally, § 323

SETTLOR—Cont'd Charitable trusts-Cont'd Actions, enforcement, § 415 Attack on trust, § 417 Failure or breach, no resulting trust, § 418 Gift on condition precedent, § 415 Gift over on breach, § 415 Reservation of possibility of reverter, § 419 Restrictions Future interest rules, § 341, 352 Mortmain acts, § 326 Revocation, § 415, 998, 1001 Visitation power. § 416 Clarity, expression of trust intent, § 45 Clear and convincing proof, intent to create trust, § 49 Compensation, control of, § 976 Construction of words and acts, § 46 Control over trustee's duties to furnish information and to account Generally, § 965 accountability of trustee, § 965 limitation on beneficiaries to whom trustee must account, § 965 trust protectors and other nontrustees, § 965 Court, no modification of settlor's intent, § 45 Court as, § 41, 246 Creation of trust Invalidating cause, § 43, 997 Two or more writings, § 45 Cy pres Wishes, selection of substitute scheme, § 442 Definite intent necessary, § 46 Depositor, Totten trust, § 47 Disabilities, § 44 Disloyalty, consent, § 543(A), 543(C), 543(U) Donee of power of appointment as, § 43 Duress, § 44 Enforcement of trust, § 42, 415

SETTLOR—Cont'd Evidence, intent, § 50 Weight required, § 49 Express statements, intent, § 45 Forgery, right to question, § 42 Formal words not necessary, § 45 Fraud on creditors, § 211 Fraud on settlor, § 44 Future trust intended, § 46 Gift to charity on condition subsequent, § 420 Governmental authority as, § 41 Identity, importance, § 41 Implied intent, § 45 Incompetents, § 44 Totten trusts, § 47 Incomplete voluntary trust not a declaration of trust, § 202 Insanity, § 44 Instructions to trustee, § 42, 104 Insurance trusts, § 43, 235, 236 Intent Charitable gift, determinable interest, construction, § 419 Expression, § 45 Proof, § 49 Invalidating causes, § 44 Investments Control, § 42, 680 Directions, trust creation, § 46 Legal interest, frustration of intent to give, not create trust, § 46 Liabilities, § 42 Married women, § 44 Methods of trust creation, § 41 Court change, § 45 Procuring another to create trust, § 41 Minors, § 44 Mistake in trust creation, § 44, 991, 997 Mistaken recognition, pre-existing trust, § 46 Modification of trust, § 42, 992, 993 Motive for gift, § 46 Ownership of reversion, § 42 Party, cy pres application to court, **§ 441**

SETTLOR—Cont'd Persons non sui juris, § 44 Powers of Control over investments, § 680 Invalidating causes, § 44, 997 Modification, **§ 992, 993** Revocation, § 998, 1000 Termination of trust, § 1004, 1005 Totten trusts, § 47 Power to remove trustee, § 520 Standing to seek, § 522 Precatory expressions, trust creation, **§ 48** Principal and income, control of, § 802, 816, 845 Private corporation as, § 41 Property interest of, § 43, 111, 116 Purpose stated, § 46 Reformation of instrument, § 42, 44, **991** Mistake, § 991 Rescission of trust, § 861 Reservation of interests making trust testamentary, § 104 Reservation of powers, § 42, 104 Revocation right, § 42, 998 Creditors' rights, § 233, 264.5, 1000 Sales Prohibition, sale of trust property, § 741 Reserved powers, § 42, 741 Setting trust aside, failure of consideration, § 42 Spendthrift in character, § 44 Obtaining creation of trust by another, § 223 Spendthrift trusts, creation, § 223 Status After creation of trust, § 42 Not necessary party to litigation, § 42, 871 Rights of creditors, § 42, 211, 223, 264.5, 1000 Statute of Frauds, raising, § 70 Statutes, retained powers, § 104 Statutory requirements re intent, § 45 Stocks, permission to buy, § 680

SETTLOR—Cont'd Termination of trust All beneficiaries join settlor, § 1005 Settlor as sole beneficiary, § 1004 Terminology and classification, § 1 Time of origin of trust, intent, § 45 Trust creation obtained by invalidating cause, § 44, 997 Trust intent, distinctions, § 46 Undue influence, § 44, 997 United States as, § 41 Use of trust words not conclusive. § 45 Use of words appropriate to other relationships, § 45 Validity of trust, attack, § 42 Vesting powers of administration in third person, § 551 SEX DISCRIMINATION Gender Discrimination, generally, this index SEXUAL RELATIONS Promotion, § 211 Resulting trusts, illegal agreement, § 463 SHARES AND SHAREHOLDERS See Stock and Stockholders See, also, Securities, generally, this index Bonus plans, income taxes, § 264.7 Employee benefit trusts, § 270.20 Breach of trust, third parties, § 905

Breach of trust, third parties, § 905 Purchases from trustees, § 903
Business trusts, § 247
Charitable trusts Investments, § 395 Profits, § 364
Close corporations, valuation, estate taxes, § 274.5
Corporate stock, trust investments, § 673
Employee benefit trusts, bonus plans, income taxes, § 270.20
Estate taxes

Gross estate, § 273

SHARES AND SHAREHOLDERS -Cont'd Gifts causa mortis, estate taxes, gross estate, § 273.5 Gift taxes, § 277 Income taxes, bonus plans, employee benefit trusts, § 270.20 Jurisdiction, § 292 Kentucky rule, § 851 Liquidation trusts, § 254 Officers and employees Bonus plans, income taxes, § 264.7 Employee benefit trusts, § 270.20 Purchase plans Accumulations, application of law, § 216 Charitable trusts, source of funds, § 367 Third parties, breach of trust, § 905 Purchases from trustees, § 903 Trustees Indirect disloyalty, § 543(T) Self dealing Corporate trustee buying own stock for trusts, § 543(G) Incidental benefits for self while engaged in trust business, § 543(Q) Voting Rights, loyalty to beneficiaries, § 543 Self as director or officer of corporation, § 543(N) Valuation, estate taxes, § 274

SHELLEYS CASE

Rule in Shelleys Case, generally, this index

SHELLEY'S CASE

See Rule in Shelley's Case

SHELLEY'S CASE, RULE IN

Beneficiaries' interest, **§ 182, 187** Termination of trust, **§ 1003**

SHELTER

Animals as beneficiaries, § 165

SHIFTING USES Perpetuities, § 213 Rule against Perpetuities, § 213 SHIPS AND SHIPPING Bill of sale, transfer of interest, § 142 Depreciation, principal and income, § 827 Subject-matter of trust, § 112 SHORT-TERM MORTGAGE TRUSTS Real estate investment trusts, § 248 SHORT-TERM REVERSIONARY TRUSTS Generally, § 234 Federal income tax, § 264.10, 268.10 SHORT TERM TRUSTS Generally, § 264.10 Estate and tax planning, § 234, 264.10, 268.10 Federal estate tax, § 273 Federal gift tax, § 278 Federal income tax, § 234, 264.10, 268.10 Capital gains and losses, § 268.10 Charitable, prior law, § 268.10 Duration, § 268.10 Qualifying rules, § 268.10 Tax advantages, § 234, 264.10, 268.10 When deemed grantor trust, § 268.15 Income taxes, § 268.10 Reversionary trusts, § 234

SIBLINGS

Purchase money resulting trusts, § 460

SICKNESS

Charitable trust Abbreviation, trust purpose, § 374 Mutual benefit groups, § 367 Confidential relationship, constructive trust, § 482 Illness, generally, this index

SIDEWALKS Charitable trusts, governmental purposes, § 378 **SIGNATURES** Acceptance by trustee, evidence, § 150 Acceptance clause, § 82 Beneficiary's interest, assignment, § 190 Contracts, exclusion of trustee's personal liability, § 714, 769, 771 et seq Statute of Frauds Analysis of wording of American statutes, § 63 Intent with which writing made, § 84 Satisfaction, § 82, 86 Signing or subscribing, § 86 SILENCE Acceptance by beneficiary, § 169 Barring of remedies, estoppel, fraud, § 944 Beneficiaries Acceptance, § 169 Estoppel, § 944 Breach of trust Barring of beneficiary's remedies, § 941 Consent, barring of remedies, § 941 Fraud, barring of remedies, estoppel, § 944 Oral promise to testator to hold for another, constructive trust, § 499 Ratification, breach of trust, § 942 When deemed consent, § 941 SIMPLE TRUSTS Beneficiaries, income taxes, § 268.5

Current income, § 266 Federal income tax, § 266, 268.5 Classes of income, § 266, 268.5 Deductions, § 266, 268.25 Definition, § 266 Distributions Conduit rule, § 266 Time tax due, § 265

SIMPLE TRUSTS—Cont'd Income taxes, § 265 et seq. Accounting, allocations, income and deductions, § 269 SIMPLIFIED EMPLOYEE PENSION PLANS Spendthrift trusts, § 222 SINGLE TRUSTEE Selection, generally, § 121 Terminology and classification, § 1 SINKING FUNDS Charitable trusts, income accumulations, § 352 Depreciation reserve out of rents, § 829 Future liabilities Expenses, § 810 From income payments, § 814 Tax and contract obligations, § 718, 802, 810 Trusts to secure creditors, § 250 SISTERS AND BROTHERS Siblings, generally, this index SITUS See also Conflict of Laws; International Estate Planning Federal taxation, trusts, § 10 Foreign situs trusts, § 10 Multistate trusts, § 287, 292, 295, 300 State statutes, § 295 State taxation, § 287, 300 Transfers, remedies of beneficiaries, § 861 Uniform Probate Code provisions, § 7, 295

SITUS OF TRUST

See also Situs, ante Beneficiaries' remedies, transfer of situs, appointment of foreign trustee, **§ 861**

SKILL

Required as to trust investments, § 612, 686 Required of trustee, § 541

SKILL—Cont'd Sales of trust property, § 744

SLAYER'S STATUTE ERISA and the constructive trust doctrine, § 475.2

SOCAGE, TENANTS IN Statute of Wills, § 101

SOCIAL BENEFITS Objectionable duties, conditions, § 211

SOCIAL CLUBS Private, no charitable purposes, § 379

SOCIAL INTERESTS Promotion, charitable purpose, § 361

SOCIAL POSITION Trustee, fair play in dealing with beneficiary, § 544

SOCIAL SECURITY Withholding taxes, garnishment, § 193 77

SOCIAL SERVICES Charitable trusts, § 361 Evasion, fraudulent conveyances, § 211

SOCIAL STATUS Spendthrift trusts, surplus income statutes, § 227

SOCIAL WELFARE Synonymous with charitable, § 370

SOCIETIES

Beneficiaries, § 367 Private trust, § 167 Charitable purposes, § 364 Competency to take title, § 125 Unincorporated associations, § 125, 167, 328

SOLE TRUSTEE See also Single Trustee Death of, § 529

Selection, § 122

SOLICITATION Charities, statutes, § 411

SOLICITATION—Cont'd Funds for charitable purposes, statutes, § 411

SOURCE OF FUND Charitable trusts, § 367

SOUTH CAROLINA Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 656

SOUTH DAKOTA

Generally, **§ 212** Accounts and accounting, statutory regulation of accounts, **§ 974**

SOVEREIGN Prerogative cy pres, § 432 Selection of trustee who cannot be sued, § 128

SPAIN

Transfer taxes, § 10

SPECIAL ASSESSMENTS Liens on trust property, § 602

SPECIAL DEPOSITS Meaning and effect, § 21 When trust intended, § 21

SPECIAL INTENT Charitable gifts, cy pres application, § 436 Settlor's status and interests, § 437

SPECIAL POWER OF APPOINTMENT Generally, § 233

Estate taxes, § 273.35

SPECIAL POWERS OF APPOINTMENT

See also Powers of Appointment Federal estate tax, § 233, 264.20, 273.35 Federal gift tax, § 282 Rights of donee's creditors, § 233 Subject-matter of trust, § 116

SPECIAL TRUSTEE

Functions or responsibilities, § 122

SPECIFIC PERFORMANCE

Beneficiaries, remedies, § 861 Charitable trusts, cy pres, § 441 Contract of trustee, § 717 Contracts of sale, remedies, § 746 Contract to buy or sell trust property, § 746 Cy pres, § 441 Defense, ultra vires contract, § 713 Enforcement of charitable trust. § 411, 861 Land contracts, § 18 Non-existent interest or property later coming into existence, § 113 Personal services, contracts to convey, § 480 Power of sale, § 552 Co-trustees, action by one trustee, § 554 Promise to create trust, § 203 Remedy of beneficiary, § 861 Breach of investment duty, § 701 Statute of Frauds, denial of protection, § 92 Vendor and purchaser, fire loss, § 18 **SPECULATION** Breach of trust, § 542, 612, 679 Investments, § 612 SPENDTHRIFT TRUSTS See also Creditors; Remedies Generally, § 207, 221 et seq, 222, 231 Advances by trustee, reimbursement, § 224 Beneficiary, reimbursement, § 224 Alienation Statutes, United States, § 222 Alienation, suspension of power, § 219 Alimony claims, § 224 Amount protected, § 222 Anticipation of beneficiary's interest, § 225 Arguments for and against, § 222 Attachment, failed trust, § 227 Attempted assignment, § 226 Contract to assign, § 226

SPENDTHRIFT TRUSTS—Cont'd Attempted assignment, § 226 -Cont'd Order to pay, to trustee, § 226 Attorneys fees, public policy exceptions, § 224 Bankruptcy, § 223 Beneficiaries Disclaimer. § 171 Termination denied, § 1008 Beneficiary also trustee, liability for breach, § 224 Beneficiary's interest Alienability, § 188, 222 Sale or transfer, § 188, 222 Seizure of property to satisfy debts, § 193 Terminate on attempted alienation, English law, § 221 Beneficiary's qualifications, § 221, 222 Beneficiary's rights, § 221, 222 Benefit of settlor, fraud on creditors, § 223 Blended trusts distinguished, § 230 Breach of trust, release, § 943 Capacity Beneficiaries, § 168 Characterization, § 293 Claims for alimony, § 224 Claims for support of wife and children, § 224 Claims of state institutions, § 224 Conflict of laws, § 293 Consent, barring of remedies, § 941 Contracts, beneficiaries, future income, § 226 Creation, intent, § 225 Creation for settlor, § 223, 225 Creditors rights and remedies, § 227 Creditors' remedies, § 193, 227 Attachment, § 227 Creditors' bills, § 227 Execution, § 227 Garnishment, § 227 Methods of satisfying judgment, § 227

SPENDTHRIFT TRUSTS—Cont'd Creditors' remedies, § 193, 227 -Cont'd Spendthrift trust for settlor, § 223 Supplementary proceedings, § 227 Taking surplus income under statutes, § 227 Trustee process, § 227 Creditors rights, § 41 Creditors' rights, § 224, 227 Debts of beneficiary to settlor, § 224 Definition, § 221, 222 Destructibility, § 226 Destruction of trust, § 226 Disclaimer of interest by beneficiary, § 170, 172, 226 Discretionary trusts, § 228 Discretionary trusts distinguished, § 228 Employee benefit trusts, statutes, § 222, 255 English law, § 221 Exceptions to validity, § 224 Expression of settlor's intent, § 225 Gift on condition precedent as to solvency, § 222 Implied intent of settlor, § 225 Income, restraints on alienation, § 222 Income accrued but not due, § 222 Indirect restraints on alienation, § 220 Individual retirement accounts, § 222 Institutional care, § 224, 228, 229, 811, 812 Insurance trusts, spendthrift clauses, § 237, 240, 244 Investigations, § 222 Laws of the several states, § 222 Legal services, claims, § 224 Married women, § 232 Model Act, § 222 Modification, court action, § 226 Necessaries, claims, § 224 Notice to creditors, § 222 Nullification by action of beneficiary, § 226

SPENDTHRIFT TRUSTS—Cont'd Partial, restraint on one kind of alienation only, § 222 Partial transfer, destructibility, § 226 Payments, § 222 Principal, § 225 Personal life insurance trusts Protection of beneficiary, § 244 Terms, § 237 Principal interests under trust, § 222 Public policy, § 224 Public policy, exceptions to validity, § 224 Purposes, early law, § 212 Release, breach of trust, § 943 Restraints on alienation, § 219 et seq. Revocation, § 226 Rights and remedies, § 227 Separation agreements, claims, § 224 Setting aside, § 581 Settlor creating trust for self, § 223 Fraud, § 223 Husband and wife, tenancy by entireties, § 223 Life estate and power of appointment, § 223 Obtaining creation by another, § 223 Power to revoke, § 223 Simplified employee pension plans, § 222 Spouses, § 232 Statutes, § 222 Creation of trust, § 225 Employee benefit trusts, § 222, 255 Exceptions, § 224 Insurer holding proceeds in trust, § 240 Model Act, § 222 Restrictions on purposes, § 222, 224 States validating or limiting, § 222 Support claims, § 224 Support of Persons, this index Support trusts distinguished, § 229 Surplus income available to creditors. determining surplus, § 227 Tax claims, § 224

SPENDTHRIFT TRUSTS—Cont'd Termination, § 226 Attempted release or surrender by beneficiary, § 1006 Attitude of courts, § 1008 Settlor as sole beneficiary, § 1004 Time to which clause may apply, § 222 Tort claims, § 224 Transfer of interest of beneficiary Precluding transfers of interests causing merger and termination of trust, § 1003 Transfers by beneficiary, § 226 Trustee in bankruptcy, § 227 Trustee to pay or apply, § 222 Trusts created for settlor, creditor's rights and remedies, § 223, 227 Validity, by states, § 222 Validity, exceptions, statutes, § 224 When active trust, § 207 When passive, § 207

SPIRITUALISTIC MEDIUMS

Training, charitable purpose, § 368 SPLIT INTEREST TRUSTS Generally, § 264.25 Charitable contributions, estate tax deductions, § 275.5 Charitable trusts, § 245, 264.25, 270.5, 275.5, 283 Charitable trusts, irrevocable trusts, § 234 Federal estate tax, charitable deduction, § 264.25, 275.5 Federal gift tax, charitable deduction, § 264.25, 283 Federal income, § 264.25, 270.5 Gifts, § 245 Income taxes, § 270.5 Possible treatment as private foundations, § 270.5 Tax planning, § 264.25 SPLITTING GIFTS

Federal gift tax Husband and wife, **§ 281** Husband and wife, federal gift tax, **§ 281** SPLITTING GIFTS—Cont'd Lifetime exemptions, prior law, § 276 SPOUSAL REMAINDER TRUST Generally, § 234, 264.10 Federal income tax, § 264.10 SPOUSE See also Husband and Wife; Married Women, this Index Buying at own sale, § 543 Community property, § 7, 26 Constructive trusts Oral promise to convey, § 496 Private advantage, § 487 Federal gift tax, § 277 Joint tenancy, § 278, 280 Marital deduction, § 280 Splitting gifts, consent, § 281 Fraud, illegality of trust, § 211, 233 Inheritance taxes, § 286 Insurance, tracing trust fund, § 925 Joint tenancy, gift taxes, § 278, 286 Joint wills, oral promise for another, constructive trust, § 499 Loan of trust funds to wife, loyalty, § 543(J) Marital deduction Federal estate tax, § 275.10 Federal gift tax, § 277, 280 Married women's trusts, § 207, 232 Meretricious relationship Public policy, § 211 Resulting trust Man payor and woman grantee, § 459 Purchase-money, § 463 Woman payor and husband grantee, § 460 Mutual wills, § 499 Possession of realty, bona fide purchaser, § 896 Remedies of beneficiary, estoppel, § 944 Separation agreement, removal of trustee, consent, § 234, 519 Statutory share, fraud, § 211, 233 Support, subsequent wife, § 811

SPOUSE—Cont'd
Surviving spouse
Annuity trusts, distributions of principal, § 813
Award, federal estate tax, § 275.10
Blended trust, § 230
Charitable gift, Mortmain, § 326
Construction of beneficiary's interest, § 182
Disclaimer, § 170, 172
Acceleration of remainder interest, § 172
Election to take against will Statutes and cases, § 211
Marital deduction, § 275.10

SPOUSES

Generally, § 232 Beneficiaries, active trusts, § 207 Bona fide purchasers, notice, possession, § 896 Breach of trust, ratification, § 942 Constructive trusts Fraud on spouse, § 475 Spouse killing other spouse, § 478 Creation of trusts, § 204 Deeds and conveyances, constructive trusts, § 460 Divorce, generally, this index Estate taxes. Marital Deduction, this index Fraudulent conveyances, § 211 Georgia, statutes, § 212 Gifts, incomplete gifts, consideration, § 205 Gift taxes, § 278 Gifts to third parties, § 281 Marital deduction. § 280 Split gifts, § 281 Insurance trusts, § 235 Joint tenancy Estate taxes, § 273.30 Gift taxes, § 278 Limitation of actions, constructive trusts, breach of trust, § 953 Marital Deduction, generally, this index Marital Property, generally, this index Marital rights, § 211

SPOUSES—Cont'd Protective trusts, § 230 Purchase money resulting trusts, § 454, 459, 460 Husband payor, wife grantee, § 459 Wife or other relative as payor, **§ 460** Qualified Terminable Interest Property, this index Ratification, breach of trust, § 942 Restraints on alienation, § 221 Resulting trusts, separate property, **§ 460** Separate property, restraints on alienation, § 221 Separation of Spouses, generally, this index Spendthrift trusts, created for benefit of settlor, § 223 Split gifts, § 281 Surviving Spouse, generally, this index Trustees Removal from office, § 519 Resignation by consent of beneficiaries, § 513 SPRINGING USES Charitable trusts, perpetuities rules, § 342, 343 Perpetuities, § 213 Rule against Perpetuities, § 213, 343 SPRINKLING TRUSTS See also Discretionary Trusts; Income Tax-Federal; Pourover Trusts; Wills Income taxes, § 231

Income tax planning, § 231, 233, 235, 264.10, 264.20 SOUARES

Dedication for public use, § 34

STAMPS Statute of Frauds, signature or subscription, **§ 86**

STAMP TAXES National banks, immunity from documentary stamp tax, § 134 9

STANDARDS Care required of trustee, § 541, 612 Charitable trustees, § 394 Federal estate tax Control over beneficial enjoyment, § 273.10, 273.20 Power to invade principal, § 273.10, 273.20, 273.35 Federal gift tax Power to invade principal, § 278, 282 Federal income tax, control over beneficial enjoyment, § 264.10, 264.20, 268.15 Lack of, discretionary trusts, § 228, 264.10 Professional trustee, § 541 Spendthrift trusts, § 222

STANDBY TRUSTS Definitions, § 233

STANDING

Beneficiaries, third parties Collusion with trustees, § 955 Independent wrongs against trust, § 954 Bonds (officers and fiduciaries), § 864 Breach of trust, § 871 Third parties, collusion with trustee, § 955 Interference with trustee, § 869 Third parties Beneficiaries Collusion with trustees, § 955 Independent wrongs against trust, § 954 Interference with trustee, § 869

STATE

As trustee, § 128, 328

STATE AND TAX PLANNING Generally, § 231, 233, 244, 261, 264.25, 273.35, 273.40, 277 Alimony and separate maintenance trusts, § 234, 270.10 Annuity trusts, § 234, 264.25 Beneficiaries, disclaimer, § 170

Index-364

STATE AND TAX PLANNING -Cont'd Beneficiary controls, § 264.20, 268.20, 273.35, 282 Charitable gifts Charitable foundations, § 330 Community trusts, § 329 Lifetime, § 245, 264.25, 283 Pooled income funds, § 264.20. 264.25, 270.5, 275.5, 283 Testamentary, § 245, 264.20, 275.5, 283 Charitable trusts, § 245, 264.25, 270.5, 275.5, 283 Annuity trusts, § 245, 264.20, 264.25, 270.5, 275.5, 283 Charitable lead trusts, § 264.25 Community trusts, § 329 Pooled income funds, § 264.25 Unitrusts, § 245, 264.20, 264.25, 270.5, 275.5, 283 Conflict of laws, multistate trusts, § 300, 301 Coordination, revocable trusts with will, § 233, 264.15 Creditors, of settlor, § 233, 264.5, 264.10 Deferred compensation payments, § 264.5 Discretionary trusts and powers, § 228, 264.10, 264.20, 267 Employee benefit trusts, § 255, 270.20, 273.25, 286 Tax consequences, § 255, 264.5, 270.20, 273.25 Family trusts, § 231, 235, 264.5, 264.20 Federal estate tax Apportionment of tax, § 272.5, 273.35, 273.40, 276 Beneficiary controls, § 264.20, 268.20, 273.35, 282 Disclaimer or renunciation, § 268.5, 273.35 Gifts, lifetime, § 264.10, 264.15, 264.25, 277, 278 Gifts in contemplation of death, § 273.5, 286

STATE AND TAX PLANNING -Cont'd Federal estate tax-Cont'd Gifts reducing gross estate, § 264.10, 264.15, 264.25, 277 Grantor-retained powers, § 264.10, 268.15, 273.10, 273.20 Insurance, § 235, 264.15, 273.40 Marital deduction, § 233, 234, 264.20, 275.10, 280 Powers of appointment, § 233, 264.20, 273.35 Successive life estates, § 233, 234, 264.5, 264.20 Tax basis, § 264.5, 271, 273.5, 284 Tax elections, § 274, 274.10, 274.15, 275.15, 276 Testamentary charitable gifts, § 264.20, 264.25, 275.5 Federal gift tax Annual exclusions, § 277, 279, 279.5 Charitable gifts, § 264.20, 264.25, 277, 283 Choice of gift property, § 234, 264.10, 264.20, 264.25, 277, 278 Disclaimer or renunciation, § 268.5, 282 Gift-splitting, § 281 Interests or powers, retained by donor, § 278 Marital deduction, § 280 Powers of appointment, § 282 Tax basis, § 264.5, 264.10, 268.25, 277 Tax rates, § 277 Trustee's discretionary powers, § 278 Federal income tax Beneficiary controls, § 264.20, 268.20 Capital gains, § 264.5, 266, 267, 268.10, 269 Charitable gifts, § 245, 264.20, 264.25, 270.5 Deductible expenses of trust, § 266, 267, 268.25

-Cont'd Federal income tax-Cont'd Disclaimer or renunciation, § 171, 268.5 Discretionary allocations, income and deducting, § 266, 267, 268.25, 269 Discretionary powers, § 233, 234, 264.10, 268.15, 268.20 Employee benefit trust distributions, § 255, 270.20 Grantor powers, § 264.10, 268.15 Income deflection and splitting, § 231, 235, 264.5, 264.25 Selection of tax year, § 264.25 Tax basis, § 264.5, 268.25, 277 Tax elections, § 266, 267, 268.25, 269 Termination of trust, § 269 Trust and beneficiary tax-rate brackets, § 233, 235, 264.5, 264.20 Trust as separate tax entity, § 264.10, 264.20, 268.25 Trust's fiscal year, § 268.25 Federal taxes, grantor powers and interests, § 264.5, 264.20, 268.15, 273.10, 273.20 Foreign trusts, § 10 Functions of personal trusts, § 231, 233, 264, 264.25 Generation skipping trusts, § 264.20, 271.15, 284, 284.30 Gift tax exclusion trust, § 234, 264.10 Governing law, § 264.5, 285, 287, 300 Insurance, § 235, 264.5, 264.15, 273.40, 278, 279 Pour-over to, § 236, 264.5, 264.15 Irrevocable trusts, § 234, 264.10, 264.15, 268.10, 268.20 Land trusts, § 249 Lifetime gifts, § 231, 233, 235, 264.10, 264.15, 264.25 Literature, § 231, 233, 234, 264, 264.25 Local law Charitable gifts, § 245, 264.5, 264.25, 326

STATE AND TAX PLANNING

STATE AND TAX PLANNING

STATE AND TAX PLANNING -Cont'd Local law-Cont'd Choice of governing law, § 233, 264.5, 287, 291, 294, 300 Creditors of settlor, § 233, 264.5, 264.10 Domicile, § 287, 300 Effect, federal taxation, § 263 Employee benefit trusts, § 255, 286 Insurance, § 235, 244, 264.5, 264.15 Property rules, § 263, 287 Oualification of trustee or executor, § 132, 233, 264.5 Spouse's award, marital deduction, § 275.10 Spouse's rights, § 211, 233, 264.5 State taxes, § 285, 287, 300 Long-term irrevocable trusts, § 234, 264.10, 264.15 Marital-residuary trust plan, § 233, 235, 264.20, 275.10 Minors, § 233, 234, 264.10, 279, 279.5 Multiple trusts, § 264.10, 268.25 Multistate trusts, conflict of laws, § 291 et seq Living trusts, § 297, 301 Testamentary trusts, § 296, 301 Objectives Estate plan, § 231, 233, 244, 264, 264.25, 277 Tax minimization, § 261, 264, 264.25 Personal trusts, § 231, 244 Pooled income funds, § 264.20, 264.25, 270.5, 275.5, 283 Powers of appointment, § 233, 273.35, 282 Qualifying trust as public charity, § 264.25 Real estate investment trusts, § 248, 270.35 Revocable declaration of trust, § 233, 264.5 Revocable trusts, § 233, 264.5 Several tax entities, § 264.5, 264.20, 268.25

-Cont'd Short-term trusts, § 234, 264.10, 268.10 Special types of trusts, § 246, 255, 270, 270.40 Split-interest trusts, § 264.25 Spouse's rights, § 211, 233, 264.5 Successive life estates, § 264.5, 264.20 Support trusts, § 229, 268.15 Testamentary trusts, § 264.20, 296, 301 Trustee powers and discretions, § 264.5, 264.20, 267, 268.15, 268.25, 269, 551 et seq Trusts, generally, § 233, 245, 261, 264.264.25 Wills and revocable trusts, coordination, § 233, 264.5 STATE BANKS See also Banks and Banking STATE COURTS Jurisdiction, § 870 STATE ESTATE AND INHERITANCE TAXES See also Federal Estate Tax; Gift Tax—Federal; Gift Tax—State, this Index Generally, § 285 et seq. Apportionment, § 286, 286.5 **Beneficiaries** Disclaimer, § 170, 233 Statutes, § 171 Business trusts, beneficial shares, § 247S Charitable gifts, § 286 Charitable trusts, § 245, 286 Classification of state laws, § 286 Common problems, state death taxes, § 286 Conditional exemptions, § 286, 287, 300 Conflict of laws, § 287 Credits, § 286 Deductions, § 286 Charitable gifts, § 275.5

STATE ESTATE AND **INHERITANCE TAXES** -Cont'd Disclaimer, effect, § 170, 172 Distinction, state estate and inheritance tax, § 286 Double taxation Arbitration or compromise, § 286 State death taxes, § 287 Duties of trustee, § 286, 300, 602 Employee benefit trust payments, § 255, 286 Estate and tax planning, § 233, 235, 264.5, 264.25, 285, 287, 300 Disclaimer or renunciation, § 170, 172, 233 Exemptions Conditional, § 286, 287 Nonresident decedent, intangibles, § 286, 287 Out of state personal property, § 286, 287 Reciprocal, § 286, 287 Expenses of trust, deductions, § 286, 807 Future interests, § 286 Includible property, § 286 Interstate arbitration and compromise, § 286, 287 Irrevocable trusts, tax planning, § 234, 264.10, 264.15, 286 Jurisdiction, § 287 Life insurance proceeds Estate and tax planning, § 234, 235, 241, 286 Exemptions, § 241 Taxation, § 286 Multistate taxation, § 287, 300 Multistate trusts, § 287, 300 Non-resident decedent Business property, § 286, 300 Exemptions, § 286, 287 Intangibles, § 286, 287, 300 Local real estate, § 286 Tangible personalty, § 286 Payment, trustee's duties generally, § 286, 300, 602 Pickup tax, federal credit, § 286

STATE ESTATE AND **INHERITANCE TAXES** -Cont'd Pour over from will to trust, effect, § 233, 264.5 Powers of appointment, § 233, 286 Reciprocal exemptions, § 286, 287, 300 Revocable trusts, § 233, 264.5, 286 Source of payment, principal or income, § 807 Spendthrift trust provisions, beneficiary's obligations, § 224 Taxable transfers, § 286 Totten trust beneficiary, § 47, 286 STATE FUNDS Bank deposits, preferred status, § 21 Investment, § 616, 666

STATE GIFT TAXES See Gift Tax—State; Gift Taxes, ante STATE HOSPITALS Spendthrift trusts, resident's interest, creditor's claims, § 224, 811 STATE INCOME TAXES See Income Tax—State STATE INSTITUTIONS Spendthrift trusts, interest of resident, creditor's claims, § 224, 811 **STATES** See also Beneficiaries' Interests: Determinable Fees Beneficiaries, § 168 Beneficiary's interest, § 182 Capacity to be trustee, § 128, 328 Charitable trusts Attorney General, supervisor and enforcer, § 411 Beneficiary, § 378 Selection of trustee who cannot be sued, § 128 Trustees, land held for public benefit, § 34 Trustee's interest, § 144, 184 Trust subject-matter, § 112, 116

STATES FOR YEARS

Creation of trust, **§ 43, 112** Subject-matter of trust, **§ 112** Tenant, direct restraints on alienation, **§ 220**

STATES OF DECEDENTS

See also Death; Descent and Distribution, Federal Estate Tax; State Estate and Inheritance Taxes, this Index Constructive trust, intermeddling, § 476

Trustee continuing business, § 571

STATE TAXATION

See Income Tax—State and Local; State Estate and Inheritance Taxes; Gift Tax—State; Taxes and Taxation, this Index

STATUTE OF CHARITABLE USES

Generally, § 321, 362, 373 Education, § 375 Health, § 374 Poverty, § 373 Religion, § 376 Terms, English, § 321 United States, common law or reenactments, § 322

STATUTE OF ENROLLMENTS

Bargain and sale transactions, writing and registration formalities, § 201 Creation of trusts, early law, § 201 Registration of uses, § 201

STATUTE OF FRAUDS

Abandonment of Statute shelter, § 66 Account stated, illustration of writing satisfying, § 89 Acknowledgment, analysis, wording of American statutes, § 63 Affirmative allegations, § 71 Agents Signature, § 86 Writing made by agent, § 63 Agreement to create trust, § 62 American reenactments, § 62 Wordings, analysis, § 63 STATUTE OF FRAUDS—Cont'd Antecedent writing as satisfying, § 82 Assignment of beneficiary's interest, § 190 Bankruptcy trustee raising Statute, § 70 Beneficiaries, identification, § 161 Beneficiary Assignment of interest, § 190 Partial performance, § 92 Raising Statute, § 70 Beneficiary's interest, assignment, § 190 Breach of contract to leave property at death, § 480 Business trusts, transferability of shares, § 247(O) Change of position, § 92 Charitable trusts, creation, § 323 Clarifying writing with parol evidence. § 88 Conflict of laws, § 293 Consideration of marriage, contract, § 203 Constructive trusts, § 67, 471, 472, 487, 488, 495, 497 Application, § 472 Breach of oral trust, § 495, 499 Contents of memorandum, § 87 Contract and trust distinctions, § 17 Contracts Breach of contract to leave property at death, § 480 To create trust, § 62 Devise or bequeath, part performance, § 480 Contract to devise or bequeath, § 480 Contract to leave property at death, partial performance, § 480 Co-trustees, signature, § 86 Creation of trusts, § 61, 71 American statutes, § 62, 63 Beneficiaries raising Statute, § 70 Constructive trust, breach of oral trusts, § 495, 497 Created or declared, meaning, § 81 Creditors raising Statute, § 70 Creditors' rights, § 69

STATUTE OF FRAUDS—Cont'd Creation of trusts, § 61, 71-Cont'd English statute, § 61 Executed oral trusts, § 69 Dower, § 69 Estoppel, § 69 Lack of seventh section in some states, § 64 Oil and gas leases, § 65 Personal property trusts, § 65 Pleading, § 71 Powers of settlor, § 70 Proceeds of sale of realty, § 66 Raising Statute where trust executory, trustee in bankruptcy, **§ 70** Reformation of instrument, § 68 Signature or subscription, § 63, 86 Subject-matter of trust, § 63 Trustee and successors raising Statute, § 70 When enforceability status determined, § 66 Who may raise Statute, § 70 Writing, § 63 Agent, § 63 Creditors rights, § 69 et seq Deed on oral trust, breach of agreement, constructive trust, § 495 Deeds and conveyances, oral trust requiring support, § 66 Delivery of writing, § 85 Destroyed documents, § 91 Devises, contract, partial performance, § 480 Dower, creation of trust, § 69 English statute, § 61 Equitable lien, § 32 Estoppel Creation of trust, § 69 Partial performance, § 92 Executory trusts, § 70 Frauds, Statute of, generally, this index Impact of digital age, § 94 Joint venturers in realty, § 488 Language, American statutes, analysis, § 63

STATUTE OF FRAUDS—Cont'd Leaseholds, § 63, 65 Lost documents, § 91 Marriage, § 62 Memorandum, § 82, 91 Oil and gas leases, creation of trust, § 65 Oral trust, § 70 Acknowledgement, § 82 Attack by settlor, § 997 Parol evidence Clarifying writing, § 88 Supplementing writing, § 88 Varying writing, § 88 Parol trusts, § 64, 70 Partnership agreement, § 36 Part performance, § 92 Passive trusts, creditor's remedies, § 193 Personal property, § 65 Pleading, § 71 Affirmative allegations, § 71 Power to make writing satisfying, § 82 Recording acts, trust documents, §149 Reference, incorporation of writings, § 90 Reformation of instrument, § 68 Repeal and reenactment, England, § 61 Resulting trusts, § 67, 452 Agreements between payor and grantee, § 462 Express agreement between payor and grantee, § 462 Parol surrender of beneficiary's interest, § 466 Purchase-money type Extinction, § 466 Resulting trusts, exception, § 452 Satisfaction Failure, § 93 Part performance, § 92 Beneficiary, § 92 Confirmation by conduct, § 92 Estoppel, § 92

STATUTE OF FRAUDS—Cont'd Satisfaction-Cont'd Part performance, § 92-Cont'd Trustee, § 92 Writing Ambiguities, parol evidence, § 88 Contents, § 87 Corporate trustee, § 82, 86 Declaration of trust, § 82 Delivery, § 85 Illustrations, § 89 Incorporation by reference, § 90 Instrument separate from transfer, § 82 Intent of maker, § 84 Lost or destroyed, § 91 Made after action brought, § 83 Made by trustee, § 82 Mistake, § 84 Obtained by invalidating cause, § 84 Oral evidence to show incomplete, § 87 Parol evidence supplementing, § 88 Power of bankrupt, § 82 Power of judgment debtor, § 82 Power to make, § 82 Settlor After transfer, § 82 Before transfer, § 82 Signature, § 90 Agent, § 86 Corporate agent, § 86 Co-trustee, § 86 Partner, § 86 Terms, § 82, 87 Time of making, § 83 Two or more, § 90 Varying, § 88 Signature Analysis of wordings of American statutes, § 63 Corporation as trustee, § 86 Creation of trust, § 63, 86 Intent with which writing made, § 84

STATUTE OF FRAUDS—Cont'd Signature—Cont'd Partnership as trustee, § 86 Satisfaction, § 82, 86 Writing, § 86, 90 State statutes, § 62 Stock, business trusts, transferability, § 247(O) Subscription Creation of trust, § 63, 86 Writing, § 86 Successor trustees, § 70 Supplementing writing with parol evidence, § 88 Surrender to trustee by beneficiary, § 1006 Trust instrument Delivery, § 147 Recording, § 149 Wordings, American statutes, analysis, § 63 Writing Contemporaneous, § 81 Created or declared by, meaning, § 81 Manifested or proved by, meaning, § 81 STATUTE OF LIMITATIONS See Limitation of Actions STATUTE OF USES Generally, § 4, 5, 206, 208 Active uses, application, § 5 Application Charitable trusts, § 206 Constructive trusts, § 206 Personal property trusts, § 206 Resulting trusts, § 206 Application of law, § 206 Consideration in early law, § 201 Construction, § 5 Applied to freeholds, § 5 Personal property, § 5

Use on a use, § 5 Contingent remainders, preservation, § 207 Creation of trusts, § 201

Creation of trusts, early law, § 201

STATUTE OF USES—Cont'd England, § 4, 5, 201 Land trusts, § 249 Passive trusts, § 5, 206 Perpetuities, § 213 Purposes, § 4 Remainders, contingent, preservation, § 207 Repeal, England, § 4 Resulting trusts, § 453 Status in United States, § 206, 208 Terms, preamble and text, § 4 Theory of operation, § 206 Trusts to preserve contingent remainders, § 207 Trust without purpose and active duties, § 1002 Use on a use, § 206 Construction, § 5 Uses and trusts before enactment, § 3

STATUTE OF WILLS See also Living Trusts; Wills; Wills Acts England, § 101 Perpetuities, § 213 United States, § 101

STATUTES

See also Accounts and Accounting; Compensation of Trustee; Investments: Powers of Trustees; Statute of Frauds; Statute of Limitations; Statute of Uses; Statute of Wills Generally, § 212, 263, 295 Abolishing or restricting purchase money resulting trusts, § 458, 467 Accumulations, § 216 Charitable trust income, § 352 Restrictions on trust purposes, § 212, 216 Adopted children as beneficiaries, § 182 Advances power of court, § 815 For adults, § 815 For minors, § 815 Alienation

Restraints, charitable trust, § 350

STATUTES—Cont'd Alienation-Cont'd Suspension of power, § 219 Alienation, suspension of power, § 219 Aliens As beneficiaries, § 168 Allocation of receipts and expenses to income or principal, § 802, 816 Anti-lapse statutes, successors of deceased beneficiary, § 164 Apportionment Death taxes, § 272.5, 276, 286, 807 Income, § 818 Assessments on corporate stock, liabilities, § 720 Attorneys fees, breach of trust, § 871 Australia, § 7 Banks and banking Collection items, tracing trust funds, **§ 924** Collection of commercial paper, § 24 Totten trusts, § 47 Beneficiaries Creditors, § 193 Disclaimer, § 171 Restrictions, capacity, § 168 Beneficiary's interest, § 184 Equitable remedies of creditor, § 193 Bona fide purchasers, § 881 Trust instrument later found invalid, § 881 Breach of trust, § 861 Attorneys fees, § 871 Breach of trust, remedies of beneficiary, § 543(V), 861 Business trusts, § 247A, 247D State regulation, § 247Q Transferability of shares, § 247(O) Validity and effect, § 247, 247D Canada, § 7, 9 Cemetery association and cemetery upkeep funds, § 377 Change in legal status, corporate trustee, § 531

STATUTES—Cont'd Changes in laws, charitable trust purpose, § 378 Charitable foundations, § 330 Charitable trusts, § 322, 326 Accumulations of income, § 352 Aid of religion, purpose, § 376 Attorney General, enforcement, § 391, 395, 399, 411 Changes in law, § 378 Corporations, title to property, § 325, 327 Court accountings, § 396 Creation and administration, § 322 Cy pres, § 433 Educational purposes, § 375 Exemption, perpetuities rules, § 342 Federal law, § 245, 264.25, 270.5 Mortmain acts, § 325, 326 Recreational Charities Act of 1958, England, § 379 Restraints on alienation, § 350 Supervision, § 7, 411 Validity, § 322 Charitable Trusts, this index Choice of law, multistate trusts, § 295 Church property disputes, § 399 Church schism, rights to property, § 398 Civil death of beneficiary, § 164 Codifications of purchase money trust rules, § 454 Codifications of trust law, various states, § 7 Collection items, tracing funds, § 924 Collection of commercial paper by banks, § 24 Common trust funds Federal regulation, § 677 State statutes, § 616, 666, 677 Common trust funds, state statutes, § 616 to 666 Community property, eight states, § 7, 26 Compensation, § 975 et seq Apportionment, § 978

STATUTES—Cont'd Compensation, § 975 et seq-Cont'd Forfeiture of trustee's right to, § 980 Trustee, § 975 Conflict of laws, validity of trusts, § 211, 295 Consideration, bona fide purchasers, § 889 Consideration, when required, § 202 Constructive trusts, limitation of actions, breach of trust, § 953 Contracts Devise or bequeath, § 480 Liabilities, § 712 Conveyances of property, § 45, 141, 142, 893 Corporate trustees, restrictions, § 327 Corporations as trustee, change in legal status, § 531 Co-trustees Death, survivorship, § 530 Joint tenancy, § 145 Court's powers Appoint trustee, § 121, 123, 246, 532 Approve settlement terminating trust, § 1009 Distributions to beneficiaries, § 815 Investments, § 394, 614, 687 Modify or terminate trusts, § 994, 1002 Mortgage of trust property, § 763 Remove trustee, § 519 Sale of trust property, § 743 Supervision of trusts, § 563 Transfer trusteeship to or from foreign state, § 121, 132 Uniform Trusts Act, investments, § 688 Court's powers, investments, § 614 Creation of private trusts, § 45 Creation of public trusts, § 246 Creditors' remedies, § 193, 227 Cy pres, § 433 Cy pres, United States, § 433 General or special intent, § 436 Uniform act, § 433

STATUTES—Cont'd Death Co-trustees, survivorship, § 530 Sole trustee, § 529 Development of trust law, § 7 Deviation from trust terms, § 394, 561 Disclaimer, § 171, 278 Discretion of trustee, distributions in kind, § 814 Distributions Absent or unknown beneficiaries, § 814, 1010 Disabled persons, payments and deposits, § 814 In kind, § 814, 1010 Duration of trust, § 218 Duty of purchaser to see to application of purchase money, § 902 England Charitable Trusts Validation Act, § 372 Charities Act, 1960, § 7, 321 Development of trust law, § 7 Judicial Trustee Act, § 7 Modification or revocation of trust, court representing incompetent or future beneficiaries, § 1009 Mortmain, and Charitable Uses Act, prior law, § 325 Perpetuities and Accumulations Act of 1964, § 7 Public Trustee Act, § 7 Recreational Charities Act, § 379 Statute of Charitable Uses, § 373, 378 Trustee Act of 1925, § 7, 511, 686, 814, 815 Trustee Investments Act, 1960, § 7, 615 Variation of Trusts Act, § 7, 561, **994** England, Trustee Investments Act-1960, § 615 Escheat, § 187, 529 Evasion or violation, voidable trust, § 211

STATUTES—Cont'd Exculpatory clauses, trustee liability, § 542 Exoneration of trusts, minor breaches, § 814, 956 Federal See also Charitable Trusts, Employee Benefit Trusts, this Index Foreign laws, § 9 Fraud on spouse, § 211, 233 Gift by will to trustee of existing or future trust, § 106 Governmental trusts, public services, § 378 Grant of broad powers to trustee, § 551 Homicide, constructive trusts, § 478 Husband and wife, fraud, § 211 Improvements, amortization of cost, § 805 Income apportionment, § 818 Insurance proceeds Exemption Insured's debts, § 243 Payment of beneficiary's debts, § 244 Investments, § 612, 612 to 613, 613, 615, 615 to 666, 666, 673, 687 All states, trust statutes and rules, § 616, 616 to 666, 666, 687 Common trust funds, § 677 Duty to sell nonlegal investments, § 686 English Trustee Act of 1925, retention of investments, § 686 Legal lists, § 613, 614 Mutual trust investment companies, § 677 National banks, regulations, § 134, 667,975 Participating mortgages, § 675 Prudent investor rule, § 613 Prudent man, sale or retention of investments, § 686 Reasonable breach excused, § 687 Uniform Common Trust Fund Act, text and adoptions, § 677 Investments, this index

STATUTES—Cont'd Joint bank accounts, § 47 Joint tenancy, § 145 Jurisdiction, multistate trusts, § 292 Leases, § 787 Liability on trustee's contracts, § 712 Limitation of actions, constructive trusts, breach of trust, § 953 Limiting assignments of beneficial interests, § 188, 222, 226, 228, 230, 255 Limiting duration of private trusts, § 218, 252, 996 Liquidation trusts, § 254 Louisiana, development of trust law, § 2, 7 Loyalty duty, § 543 Merger, § 1003 Statements and writing, § 51 Mining, oil and gas leases, § 787, 795 Modification of trusts, § 992 Mortgages, § 763 Multiple party accounts, § 47 Multistate trusts Choice of laws, § 295 Jurisdiction, § 292 Powers of appointment, § 299 Murder, constructive trust, § 478 Mutual trust investment companies, § 677 Natural resources, apportionment of receipts, § 827 Negotiable Instruments Law, generally, this index New York, § 212 Participating mortgages, trust investments, § 675 Passive trusts, Statute of Uses, § 206 Payable on death accounts, § 47 Perpetuities, § 214 American statutes, § 214 Pour over wills, § 233 Powers and interests reserved to settlor, § 104 Powers of appointment, § 233, 299 Powers of trustees Extensive grants, § 551

STATUTES—Cont'd Powers of trustees-Cont'd Personal or attached to office, § 553 Principal and income Stock dividends, § 847, 851, 859 Uniform Acts, § 7, 802, 816 Private foundations, federal law, § 245, 264.25, 270.5 Probate income, disposition, § 817 Prudent man rule, § 543, 613 Purchase money resulting trusts, § 454 Abolition or restriction, § 467 Purposes, § 231 Purposes of trusts, § 212 Ouebec, § 9 Recording, trust instruments, § 149 Recording Acts, generally, this index Removal of trustee, § 519, 527 Notice, § 523 Removal of trust property to another state, § 132, 583 Reservation of broad powers by settlor, effect, § 104 Resignation of trustee, § 513 Restricting trust beneficiaries, § 168 Restrictions, § 231 Resulting trusts, § 454 Abolition or modification. § 467 Creditors of payor, presumption purchase fraudulent, § 463 Purchase-money type, § 454 Revised Uniform Principal and Income Act, § 7, 802, 816 Revocation of trusts, § 999 Trusts deemed irrevocable unless expressly made revocable, § 999 Trusts deemed revocable unless expressly made irrevocable, § 999 Rule against Perpetuities, American statutes, § 214 Charitable trusts, § 342 Contingent interests, § 214 Employee benefit trusts, § 255, 342

STATUTES—Cont'd Sales by trustees, § 743 Court's power to permit, § 392, 742 Nonlegal investments, § 686 Salvaging of mortgages, § 825 Settlement, distributive shares, § 814 Solicitation of frauds, charities, § 411 Spendthrift trusts, § 222 Creation, § 225 Spendthrift trusts, United States, § 222 Creation, § 225 Execution, exemption, § 222 Model Act, § 222 Restrictions, § 222, 224 Support claims, § 224 Stock Stock dividends, principal or income, § 847, 851, 859 Supervision and enforcement Charitable trusts, § 411 Court supervised trusts, § 563 Suspension of power of alienation, § 219 Tax exemptions, charitable trust property, § 400 Termination of trust, § 996 Consent of beneficiaries, § 1005 Merger, legal and equitable interests, § 1003 Purpose accomplished, impossible or illegal, § 206, 1002 Third parties, breach of trust, § 901 Tort liability of trustees, § 732, 735 Totten trusts, § 47 Tracing trust funds, bank collection, § 924 Trust codes, various states, § 7 Trustees All must act, § 554 Appointment of successor, § 533 Bond or security, § 151 Duties, § 541 Duties, property taxes, § 285, 602 Duty of loyalty, § 543 Good faith, dealing with beneficiaries, § 544

Trustees-Cont'd Letters of office, § 151 Loyalty cured by statute, § 543(U) Majority may act, § 554 Unanimity required, § 145, 554 Powers, all states, § 551 Removal from office, § 519, 520, 527 Resignation, § 511 Consent of beneficiaries, § 513 Vacancy in office, § 532 Trust leases, § 787 Trusts created by statute, § 246 Uniform Act for Simplification of Fiduciary Security Transfers, generally, this index Uniform Acts Uniform Act for the Simplification of Fiduciary Security Transfers, § 7, 905 Uniform Charitable Trusts Administration Act, § 7, 433 Uniform Common Trust Fund Act, § 7, 677 Uniform Disposition of Community Property Rights at Death Act, § 7 Uniform Fiduciaries Act, § 7, 901, 911 Uniform Marital Property Act, § 7 Uniform Principal and Income Act, § 7, 802, 816 Revised Act, § 7, 802, 816 Uniform Supervision of Charitable Trusts Act, § 7, 411 Uniform Testamentary Additions to Trusts Act, § 7 Uniform Trustees' Accounting Act, § 7, 981 Uniform Trusts Act, § 7 Uniform Charitable Trusts Administration Act, cy pres, § 433 Uniform Commercial Code § 7-and see Uniform Commercial Code Uniform Commercial Code, generally, this index

STATUTES—Cont'd

BOGERT'S THE LAW OF TRUSTS AND TRUSTEES

STATUTES—Cont'd Uniform Commercial Code, this Index Uniform Disposition of Unclaimed Property Act, § 187, 814 Uniform Durable Power of Attorney Act. § 15 Uniform Estate Tax Apportionment Act, § 272.5, 286 Uniform Fiduciaries Act, generally, this index Uniform Fraudulent Conveyances Act, § 211 Uniform Fraudulent Transfer Act, § 211 Uniform Gifts to Minors Acts, § 15, 231, 233, 264.10 Uniform Marital Property Act, § 7 Uniform Marriage and Divorce Act, § 7 **Uniform Negotiable Instruments** Law, § 247K, 714, 775 Uniform Premarital Agreement Act, § 211 Uniform Probate Code § 7—and see Uniform Probate Code Uniform Probate Code, generally, this index Uniform Probate Code, this Index Uniform Statutory Custodial Trust Act, § 15 Uniform Statutory Rule Against Perpetuities, § 7, 214 Uniform Statutory Wills Act, § 7 Uniform Stock Transfer Act, § 142 Uniform Supervision of Trustees for Charitable Purposes Act, § 411 Uniform Transfers to Minors Act, § 15 Uniform Trustees Powers Act, § 541, 551 Uniform Vendor and Purchaser Risk Act, § 18 Unincorporated associations As beneficiary, § 167 As trustee, § 125 United States, development of law, § 7

STATUTES—Cont'd Validating wrongful sales of trust property, § 747 Violation of public policy, trust creation, § 211 Voting stock, § 543(N), 551 Voting trusts, validity, § 252 Waste, § 861 Writing required, assignments of beneficial interests, § 188, 190 STATUTORY COMMISSIONS Trustee's compensation, § 975, 980 STATUTORY CUSTODIANSHIP TRUST Advantages, § 15 Compared with agency and guardianship, § 15 Text of proposed Uniform Act, § 15 STATUTORY TRUSTS Functions, § 246 **STIPULATIONS** Resulting trusts Different interests, § 462 Identical to stipulated trust, § 461 STOCK AND STOCKHOLDERS Allocation of corporate benefits, § 841, 859 Current statutes, § 859 English rule, § 852 Former Kentucky rule, § 851 Former Pennsylvania rule, § 847, 848 Massachusetts rule, § 850 Arm's length transactions, corporate directors dealing with stockholders, § 16, 481 Breach of trust Transfer agents, § 905 Business life insurance trusts, § 253 Business trusts, § 247A Certificates of beneficial interest, § 247(O) Parties to proceedings, § 247M, 247N Right to accounting, § 247

STOCK AND STOCKHOLDERS -Cont'd Buying own stock for trusts, § 543(G) Calls and assessments Expense, allocation to principal, § 808 Liabilities arising from ownership, § 720 Constructive trust relationships, § 481 Corporate distributions, § 841, 859 Extraordinary cash dividends, § 844 Ordinary cash dividends, § 843 Other dividends and rights, § 853, 857 Principal and income allocations, § 841 et seq Stock dividends, § 845, 852 Corporate trustee retaining own stock, duty of loyalty to beneficiaries, § 543(G) Co-trustees, joint voting of stock, § 554 Creation of trusts, transfer of property, § 142 Delivery of certificates to trustee, § 142 Distinctions from trust, § 16 Duty to minority stockholders, § 481 Employer stock ownership plans, § 255 Federal estate tax, gross estate, § 273 Fiduciary relationship, directors and officers, § 481 Investment trusts, § 248 Bearer securities, § 612 Callable securities, § 612 Common stocks, § 673 Disloyalty, corporate trustee buying or holding own stock, § 543(G) Investment trust shares, § 673, 679 Preferred stock, § 673 Prudent man rule, § 612, 613, 673, 679 Settlor's permission to buy, § 680 Statutes, common stocks, § 673

STOCK AND STOCKHOLDERS -Cont'd Joint venture, sale contract providing for profit sharing and splitting dividends, § 36 31 Liability of transfer agents, fiduciary security transfers, § 905 Majority shareholders, fiduciary duty to minority shareholders, § 481, 543 Minority stockholders Duties to, § 16, 481 Multistate trusts, situs of shares of stock, § 292 National banks as trustee, voting power, § 134, 543(N) Possession, transfer of stocks, § 142, 148 Preferred stock, § 673 Trust investments, § 673 Principal and income Additional shares received from stock split, § 845 Corporate distributions, § 841 et seq Profits on sale, corporate shares, § 823 Purchase of securities, participation in breach of trust, § 903 Real estate investment trusts, § 248 Replacement of misappropriated funds, tracing trust funds, § 929 Resulting trust, voluntary transfers, § 453 Sales Injunction, minority stockholders, business trusts, § 247 Proceeds, allocation, § 822 Securities, subject-matter of trust, § 111, 115 Shares and Shareholders, generally, this index Spendthrift trusts, § 222 Statute of Frauds, personal property trusts, § 65 Stock dividends, accumulations, construction, § 217 Subscriptions rights, principal and income, § 853

BOGERT'S THE LAW OF TRUSTS AND TRUSTEES

STOCK AND STOCKHOLDERS -Cont'd Tracing trust funds, § 921 Misappropriated funds, § 929 Transfer agents, participation in breach of trust, § 905 Transfer of possession, creation of trust, § 148 Transfer of securities to trustee, § 142 Trust for dissolved corporation, § 246 Uniform Act for the Simplification of Fiduciary Security Transfers, § 7, 901, 905 Uniform Commercial Code, § 142 Uniform Stock Transfer Act, delivery of stock certificate with donative intent, § 142 Voting, corporate trustee, duty of loyalty to beneficiaries, § 543(N) Voting by co-trustees, § 554 Voting trusts, § 252 STOCK BONUS PLANS Employee benefit trusts, § 255, 270.20 Federal income tax, § 270.20 STOCKBROKERS Fiduciary duty, § 481 STOCK DIVIDENDS Accumulations restrictions, rules, § 217 Allocation, settlor's directions, § 845 Distinguished from stock splits, § 845 Principal and income, § 845, 852 English rule, § 852 Extraordinary, § 844 Former Kentucky rule, § 851 Former New York rule, § 849 Former Pennsylvania rule, § 847, 848 Massachusetts rule, § 850 Regular or ordinary, § 845 Small size, statutes, § 849, 851, 859

Uniform acts, § 816, 859

STOCK OF GOODS

Statute of Frauds, personal property trusts, § 65 Tracing, § 923

STOCK PURCHASE PLANS Spendthrift trusts, § 222

STOCK SPLITS

Distinguished from stock dividends, § 845

STOCK SUBSCRIPTION RIGHTS Principal or income, § 853

STONE QUARRIES Principal and income, § 827

STORES AND STOREKEEPERS

Continuation of decedent's business, § 571, 581 Management, implied powers to mortgage, § 760 Merchandise, tracing trust funds, § 923 Mortgages, implied powers, § 760

Tracing trust funds, § 923

STORMS

Estate taxes, deductions, § 275.15 Wasting assets, destruction, principal and income, § 827

STOVERS

Timber crop, apportionment of proceeds, § 827

STRAW MAN

Bona fide purchasers, title to property, § 881 Disloyalty, § 543(A), 543(T) Judicial sales, buying at forced sale, § 543 Trustees, purchasing through straw

man, § 543(C)

STREETS AND ALLEYS

Charitable trusts, **§ 378** Governmental benefits, **§ 378** Governmental purposes, **§ 378** Improvements, **§ 328** Lighting, source of funds, **§ 367** Dedications for public use, **§ 34**

STREETS AND ALLEYS—Cont'd

Improvements, charitable trusts, municipal trustee, **§ 328** Powers of trustees, statutory, **§ 551**

STUDENT LOAN FUND

Charitable trusts, charging of interest, § 364

STUDENT LOANS Charitable trusts Advancement of education, § 375 Beneficiaries, § 364

STUDENTS

University professor, contract to teach course, student rights, § 17 96

SUA SPONTE MOTIONS Breach of trust, § 871

SUBCHAPTER S STOCK TRUSTS Income taxes, § 270.45

SUBCONTRACTORS Beneficiaries, misapplication of funds by owner, § 182 25 Statutory trusts for, § 246

SUBDIVISION OF PROPERTY Agency for, distinction from trust, § 15

SUBDIVISION TRUSTS

Generally, **§ 249** Functions, management and sale of real estate, **§ 249**

SUBJACENT SUPPORT Liabilities arising from ownership, § 720 Tort liability, § 732

SUBJECT MATTER JURISDICTION Generally, § 292

SUBJECT-MATTER OF TRUST

See also Investments; Res; Trust Property Generally, § 111, 111 et seq., 116 Bank account, § 47, 115 SUBJECT-MATTER OF TRUST -Cont'd Beneficial interest, spendthrift trust, inalienability, § 114 Board of trade membership, § 112 Bonds, United States savings bonds, §114 Business enterprise, § 571 Charitable trusts, § 323 Choses in action, § 115 Claim against beneficiary, § 115 Claim against settlor, § 115 Claim against trustee, § 115 Conditions subsequent, power of termination, § 114, 420 Construction, settlor's intent, § 111 Constructive trusts, imperative power of appointment, § 116 Contingent or vested interest, § 112 Contract to create trust in future. § 113 Copyright, § 112 Corporation as trustee holding own stock, § 115 Debtor declaring self trustee, § 115 Decedent's business, § 571 et seq Definitions, § 1 Description to be applied by executor or trustee, § 111 Destruction, termination of trust, § 995 Determinable fee, possibility of reverter, § 114, 419 Determinable interest or interest on condition subsequent, § 112, 419, 420 Equitable interest, § 112 Excessive, resulting trust of excess, § 469 Expectancies, § 113 Formulae, § 112 Fractional interest, § 111 Fungible property, § 111 Future interests, § 112, 113 Imperative special power of appointment, § 116 Constructive trust theory, § 116 Defined, § 116 Express trust theory, § 116

SUBJECT-MATTER OF TRUST -Cont'd Imperative special power of appointment, § 116—Cont'd Failure to exercise, result, § 116 Implied gift theory, § 116 Statutory control, § 116 Inalienable interests, § 114 Indefiniteness, trust creation, § 46, 111 Insurance policy as, § 235, 239 Interest in severalty or co-ownership, § 112 Marital deduction, federal estate and gift taxes, § 275.10, 280 Necessity, § 111 Vague description, § 111 Partnership interest, § 112 Patent right, § 112 Pension rights, § 114, 222, 255 Possession, beneficiary, passive trust, § 208 Possibility of reverter or right of reentry, § 114, 419, 420 Present or future interest, § 112 Property rights, settlor, § 43 Property subject to power of appointment, § 43 Removal to foreign jurisdiction, § 583, 861 Residue of estate, § 112 Resulting trust, excessive, § 469 Rights of re-entry, § 114 Size of interest, § 111 Statutes, imperative powers of appointment, § 116 Termination Destruction, § 995 Interest on condition subsequent, § 420 Power of, § 114, 420 Totten trust, § 47 Tracing trust property Remedies of beneficiaries, § 866, 921, 929 Trade name or mark, § 112 Transfer to trustee Formalities, § 142

SUBJECT-MATTER OF TRUST -Cont'd Transfer to trustee-Cont'd Necessity, § 148 Words of transfer, § 50 Uncertainty in description, § 48 United States savings bonds, § 114 **SUBLEASES** Leases, taking renewal or buying reversion for self, § 543(I) **SUBPOENA** Chancellor's process, § 3 SUBPOENA DUCES TECUM Parol trusts, secret memorandum, § 85 **SUBROGATION** Compared with trust, § 33 ERISA and the constructive trust doctrine, § 475.2 Substitute for tracing, § 930 Tracing trust funds, alternatives, § 930 SUBSCRIPTIONS Charitable cause, creation of trust, § 323, 324 SUBSIDIARY CORPORATIONS Buying at own sale, § 543 Loyalty Indirect disloyalty, § 543(T) Loans, § 543(J) Selling own property to trusts, § 543(E) Trustees Indirect disloyalty, § 543(T) Lending trust funds to relatives, § 543(J) Selling own property to trust, § 543(E) SUBSIDIARY TRUST COMPANIES Investment of trust funds, § 677 SUBSTANTIAL BENEFIT Attorneys fees, breach of trust, § 871

SUBSTANTIAL OWNER TRUSTS See Income Tax—Federal, this Index

Index

SUBSTITUTE PLAN

See also Cy Pres Charitable gifts, selection by court, § 442

SUBSTITUTION

Revocable trust for will, § 7, 104, 264.5

SUBSTITUTION OF PROPERTY

Creation of trust, settlor's power, **§ 42, 46** Possession and use of trust property

by beneficiary, power of trustee, § 208

SUBSTITUTION OF PURPOSE

Charitable trusts, **§ 394, 431, 442** Power of trustees, **§ 435**

SUBSTITUTION OF SUBJECT-MATTER

Changes in form, **§ 821** Charitable trusts, eminent domain proceeds, **§ 400** Principal and income, **§ 821** Settlor's power, **§ 42, 46** Tracing trust funds, **§ 921, 929**

SUBSTITUTION OF TRUSTEES

Federal estate tax, grantor's power, § 264.10, 273.10, 273.20, 273.35 Federal income tax, grantor's power, § 268.15 Powers of court, § 532

SUBSTITUTIONS

Civil law, Louisiana, § 2, 7 Debt for trust, § 17 Pledge and trust distinctions, § 30 Trust securing creditors, substitution of collateral, § 250

SUB-TRUSTS

Charitable gifts to corporations, § 362 Administration, § 391 Power to enforce, § 413

SUBTRUSTS

Creation, protection of cash and securities, § 994

SUBTRUSTS—Cont'd Division of irrevocable trust for

investment purposes, § 612

SUCCESSION TAXES

See Federal Estate Tax; State Estate and Inheritance Taxes

SUCCESSIVE ASSIGNEES

Beneficiary's interest, priorities, § 194, 195

SUCCESSIVE BENEFICIARIES

Apportionment Receipts of trustee, **§ 816, 859** Life estates, estate and tax planning, **§ 264.20**

SUCCESSOR CUSTODIAN

Designation, Uniform Gifts to Minors Act, § 15

SUCCESSORS OF SETTLOR

Powers, trust obtained by wrongdoing, § 44, 997 Resulting trust, excessive trust res, § 469 Reverter or condition, charitable gifts, § 419, 420

SUCCESSOR TRUSTEES

Appointment Beneficiaries, § 532 Court, § 532, 533 Settlor, § 532 Compensation Discretion of court, no statute, § 978 Waiver by predecessor not bar right of successor, § 980 Contracts of predecessor, § 722 Court appointment Beneficiary's nomination, § 532 Factors, § 532 Jurisdiction, § 533 Parties, § 533 Procedure, § 533 Transfer of title, § 532 Duties on taking over from predecessor, § 583 Gifts to minors, Uniform Act, § 15 Jurisdiction, appointment, § 533

BOGERT'S THE LAW OF TRUSTS AND TRUSTEES

SUCCESSOR TRUSTEES—Cont'd

Limitation of actions Breach of trust, third person, § 955 Parties, appointment by court, § 533 Power to appoint, § 121, 532 Release, predecessor's breach of trust, § 943 Remedies against third persons, limitation of actions, § 954 Settlor may provide, § 121, 532 Statutes, § 532, 533 Statutory commission, division among successive trustees, § 978 Survivorship interests, joint tenants, § 145 Title to property, transfer after

appointment, **§ 532** Trustees, this index

SUFFERING

Relief, charitable purpose, § 361

SUITS

See Actions and Proceedings

SUMMARY PROCEEDINGS

Charitable trusts, enforcement, § 321 To secure possession of trust property, § 583 Statutory provisions, § 870 Third persons, breach of trust, § 869

SUNDAY SCHOOL

Charitable trusts, establishment, § 376

SUPERVISED TRUSTS

Court, continuing jurisdiction, § 292, 563 State statutes, § 295, 563 Uniform Probate Code, § 7, 295, 563

SUPERVISION

Charitable trusts Attorney General's powers, § 411 Development of law, § 7, 411 Uniform Supervision of Trustees for Charitable Purposes Act, § 411 Private trusts by courts, § 292, 563

SUPPLEMENTAL NEEDS TRUSTS Social services, recovery of payments, § 229

SUPPLEMENTARY PROCEEDINGS Creditors' remedies, § 193

Spendthrift trusts, § 227

SUPPORT OF PERSONS

Generally, § 229 Contracts, consideration for creation of trusts, § 204 Evasion, fraudulent conveyances, § 211 Investments, active trusts, § 207 Protective trusts, § 230 Public trusts, § 246 Relinquishment of rights, gift taxes, § 278 Restraints on alienation, § 222 Spendthrift trusts, § 222 Assignments, § 226 Creditors rights, § 227 Exceptions, § 224 Garnishment, § 224

SUPPORT TRUSTS

Active trust, creation, § 207, 229 Aged persons, conveyances in return for promises of support, § 19 Annuity payments, inadequate funds, § 813 Beneficiary's interest, § 182, 229, 811 Alienability, § 188, 229 Seizure of property to satisfy debts, § 193, 229 Blended trusts distinguished, § 230 Breach of promise by grantee, § 19 Consideration of Other income of beneficiary, § 811 Public aid or assistance, § 811 Construction of beneficiary's interest, § 182, 229, 811 Creditors of beneficiary Effect of spendthrift clauses, § 224 Rights and remedies, § 229 Defined, § 229, 811 Definition. § 229

SUPPORT TRUSTS—Cont'd Definition and effect, § 229, 268.15, 811 Deviation from terms of trust, § 815 Discretionary, § 811 Consideration of other property of beneficiary, § 811 Distinguished from discretionary trusts, § 228 Distributions, deviation from trust terms, § 815 Federal estate tax, deduction, relinquishment of support rights, § 275.15 Federal gift tax, support of grantor, § 278 Federal income tax, discharge of legal obligation, § 268.15, 268.20 Fraud, support of settlor, § 211 Meaning of support, § 229, 811 Mortgages to support beneficiaries, statutory provisions, § 763 Payments for support, duties of trustee, § 811, 812, 814 Promise by grantee Remedies for breach, § 19 Spendthrift clause public policy, support of wife or children, § 224 Created for settlor, § 223 Creditor's claims, wife or children, § 224 Creditor's rights and remedies, § 227 Husband's interest, claims of wife and children, § 224 Notice to creditors, § 222 Partial destructibility, § 226 Standards, payments of income, § 229, 811 Statutes, mortgages, § 763 Support of beneficiary's family, § 224, 811 Types and extent of income payments, § 229, 811 SURCHARGE See also Damages; Liabilities of Trustees

Interest on damages award, § 863

SURETIES

Bond of trustee, § 151 No right to seek removal of trustee, § 522 Trustee's default, liability on bond, § 864 Creditor beneficiary bank, contractorsurety trust agreement, § 17 60 Remedies of beneficiaries Liability of sureties, § 864 SURETIES AND SURETYSHIP Breach of trust, liability of sureties, § 864 Liability, personal representative and co-trustee same person, § 12 Resulting trusts, § 456 Trustees, removal from office, § 522

SURETY BONDS

See Bonds (Officers and Fiduciaries)

SURNAME

Statute of Frauds, signature or subscription, **§ 86**

SURPLUS

Income, spendthrift trusts, creditors rights, § 227 Res, resulting trusts, § 469 Resulting trusts, § 451, 469

SURPLUS INCOME

Annuity trust, distribution, **§ 813** Charitable trusts, cy pres application, **§ 438** Creditor's rights, **§ 193, 227** Discretionary support trusts, **§ 811** Disposition by trustee, **§ 182, 811** Spendthrift trusts, creditor's rights and remedies statutes, **§ 227**

SURPLUS PROPERTY

Creditor's rights, spendthrift trust, § 227 Distributions, § 182, 469 Foreclosure of mortgage, § 29 Pledge and trust distinctions, § 30 Resulting trust where res proves excessive, § 469 Spendthrift trusts, creditors' rights and remedies, § 227

BOGERT'S THE LAW OF TRUSTS AND TRUSTEES

SURRENDER

Beneficial interest, writing required by statute, § 1006
Beneficiaries' interests
Destroying trust, § 1006
Distinguished from release, § 943
Extinction of purchase-money resulting trust, § 466
Parol trusts of real estate, § 466, 1006
Validity of, burden of proof, § 544

SURRENDER VALUE Insurance, estate planning, § 235, 264.15

SURVIVAL OF ACTIONS See also Limitation of Actions Constructive trusts, § 472

SURVIVING SPOUSE Beneficiaries' interest, § 182 Conflict of laws, estate planning, § 301 Construction of beneficiary's interest, § 182 Disclaimer, § 170, 172, 278 Acceleration of remainder interest, § 172 Statutory election as barring right to disclaimer, § 171 Donee, powers of appointment, § 233, 264.20, 275.10 Dower, beneficiary's interest, § 186 Election to take against will, § 211, 233 Generally, § 211, 233, 291, 296, 297 Joint bank accounts, § 47 Statutory share qualifying for marital deduction, § 275.10 Federal estate tax, marital deduction, § 275.10 Fraud, creation of trusts, § 211, 233 Fraud, revocable trusts, statutory elective share, § 233 Fraudulent conveyances, statutory elective share, § 211 Illegal trusts, fraud, § 211

SURVIVING SPOUSE—Cont'd Illusory trusts, statutory elective share, § 233 Joint tenancy, estate taxes, § 273.30 State taxes, § 286 Life insurance, liability for debts, § 232 Marital Deduction, generally, this index Marital Deduction, this index Marital rights, § 233 Multistate trusts Elective share, nondomiciliary state, § 296 Rights, differing state laws, § 291 Multistate trusts, conflict of laws, § 291 Passive trusts, § 206 Power of appointment, § 233 Protective trusts, § 230 Oualified domestic trusts, estate taxes, marital deduction, § 275.12 **Qualified Terminable Interest Prop**erty, generally, this index Relinquishment, support rights, as consideration Federal estate tax, § 273.45 Federal gift tax, § 278 Remainders, passive trusts, § 206 Renunciation Power of appointment, § 273.35 Revocable trusts Elective share, § 233 Fraud, statutory share, § 233 Revocable trusts, rights, § 211, 233 Savings account trusts, elective share, § 233 Separate share trusts, assets, § 233 Shares held in revocable intervivos trusts, elective share, § 104 Statutory elective share, § 211, 233 Statutory rights, § 168, 186, 211, 233 Totten trusts, statutory elective share, § 233 Undue influence, revocable trusts, statutory elective share, § 233 Uniform Probate Code, amendments, elective share, § 211

SURVIVING TRUSTEES Vacancy in office, appointment of successor, § 532 **SURVIVORS** Class beneficiaries, § 162, 182 SUSPENSION Temporary, trustees, § 528 SUSPENSION OF POWER OF ALIENATION See also Perpetuities, Rule Against; **Restraints on Alienation** Attack of trust by settlor. § 42 Business trusts, § 247P Charitable trusts, statutes, § 350 Common law rules, **§ 219, 349** Conflict of laws, § 219, 291 Employee benefit trusts, statutory exemption, § 255 Insurance trusts, § 242 Land trusts, § 249 Power of appointment, § 219 Sales, settlor prohibits alienation, § 741 Separability, § 219 States following original New York system, § 219 Statutes Construction, § 219 Original New York legislation, § 219 Recent statutory changes, § 219 SWOLLEN ASSETS DOCTRINE Exception, identification requirement, § 921, 922 Theory and examples, § 922

Tracing trust funds, payment of trustees creditors with trust property, § 922

SYMBOLS

Delivery of property to trustee, **§ 142** Statute of Frauds, signature or subscription, **§ 86**

SYNDICATE

Compared with trust, § 38

TABLE OF CASES

See Table volumes

TABLES

Credit for state death taxes, § 276 Estate tax, § 271.5, 276 Federal tax rates Credit for state death taxes, § 276 Estate tax, § 271.5, 276 Gift tax, § 271.5, 277 Income tax, § 268.25 Gift tax, § 271.5, 277 Income tax, § 268.25 Unified credit, federal, § 271.5, 276, 277

TABULA IN NAUFRAGIO

Bona fide purchasers, priorities and preferences, **§ 886** English doctrine, bona fide purchaser rule, **§ 886**

TAXABLE YEAR

Federal income tax
Selection by trustee, § 268.25
When income taxed to beneficiaries, § 266, 267.5, 268.5
When income taxed to trust, § 268.25

TAX ASSESSMENTS

Charitable trusts, improvements, § 401 Mortgage to pay, statutory provisions, § 763 Special, payment by trustee, § 602

TAX CERTIFICATES

Statute of Frauds, § 65 Trustee buying, disloyalty, § 485, 543(D)

TAX COURT

Income taxes, § 262

TAX ELECTIONS

Administration expenses, § 275.15 Alternate valuation of property, § 274.5 Employees, employee benefit trusts, § 270.20, 273.35, 278

TAX ELECTIONS—Cont'd Federal estate tax Administration expenses, § 275.15 Alternate valuation of property, § 274.5 Federal gift tax, joint tenancy in real estate, prior law, § 278 Federal income tax, fiscal year, § 268.25 TAXES AND TAXATION See also Federal Estate Tax; Gift Tax—Federal; Gift Tax—State; State Estate and Inheritance Taxes, this Index Accumulations Distributions of income, federal income tax, § 266, 267.5, 268.20 Ad valorem, § 285, 287, 300, 602 Beneficiary's equitable interest, § 287, 602 Power of state to levy, § 287 Trustee's duty to pay, § 602 Alimony and separate maintenance trusts, § 234, 270.10 Allocation Source of payment, § 807 Annuity trust payments, § 268.5, 270.20, 813 Annuity trusts, § 245, 264.25, 270.5, 813 Appeals, federal taxes, § 262 Apportionment Insurance and appointive property, Code provisions, § 272.5, 273.35, 273.40, 276 State statutes, § 272.5, 286, 807 Beneficiaries Disclaimer, § 170 Application of tax laws, § 171 Federal estate tax, § 273.35, 275.5 Federal gift tax, § 278 Employee benefit trusts, § 255, 270.20, 273.25 Beneficiary, § 187, 268.5, 287 Character of trust property, § 187

TAXES AND TAXATION—Cont'd Beneficiary, § 187, 268.5, 287 -Cont'd Double taxation, § 285, 287, 300, 602 Equitable interest, § 287, 602 Income, control by settlor, § 266, 267.5, 268.5 Nature of interest affecting, § 185, 285, 287 Payment, § 268.5, 602 Beneficiary's interest, § 187, 287, 602 Business trusts, § 247, 2475, 270.40 Capital gains tax, wrongful sale of property, liability of trustee, § 747 Charitable contributions, estate tax deductions, § 275.5 Charitable split-interest trusts, § 264.25, 275.5, 283 Charitable trusts, § 245, 264.25, 270.5, 275.5, 283, 361, 400 Accumulations of income, federal income tax, § 264.25, 270.5, 352 Ad valorem taxation, § 361 Definition of charity, § 361, 369 Exemptions, ad valorem, § 401 Federal income tax, § 245, 264.25, 270.5 Funds raised by taxation, § 367 Income trusts, § 264.25 Injunction, § 391 Remainder trusts, § 264.25, 275.10, 283 Source of funds, § 367 Common trust funds, § 270.25 Community property, federal taxes, § 273, 278 2 Conflict of laws, estate planning, § 301 Conflict of state laws, § 287, 300 Constitutional law, federal, § 287 Covenants, trust securing creditors, § 250 Damages, capital gains, breach of trust. § 703

TAXES AND TAXATION—Cont'd Deferred compensation arrangements, § 264.5 Double taxation Intangible personal property, § 287 State estate or inheritance taxes, § 287, 300 State income taxes, § 287 Trustee and beneficiary, § 285, 287, 300, 602 Duties of trustee Filing returns and payment of tax, § 265, 268.25, 272, 272.5, 276, 277, 602 Employee benefit trusts, § 255, 270.20, 273.25, 286 Distributions of benefits, § 270.20 Tax consequences, § 255, 264.5, 270.20, 273.25 Equitable interest of beneficiary, § 287, 300, 602 Escrow accounts Payment of taxes, excess funds, § 21 Estate Taxes, generally, this index Evasion, fraudulent conveyances, § 211 Evasion or violation of statutes, trusts, § 211 Excise Taxes, generally, this index Exemptions-See also Tax Exemptions, this Index Charitable property, § 400 Charitable trusts, § 255, 270.5, 330 Employee benefit trusts, § 255, 270.20 Expenses of trust, § 807 Apportionment, § 810 Failure to pay, removal of trustee, § 527 Family trusts, § 231, 244 Federal estate tax § 271 et seq.—And see Federal Estate Tax; Estate and Inheritance Taxes Federal estate tax, this Index Federal income tax, § 264, 269 Foreign trusts, § 10

Generation Skipping Transfer Taxes, generally, this index Generation skipping trusts, § 284 et sea Gift Taxes, generally, this index Grantor trusts, federal income tax, § 268.10, 268.15 Income Taxes, generally, this index Intangible Personal Property Taxation, generally, this index Intangible property, § 287, 300 Investment trusts, § 270.30 Irrevocable trusts, § 234 Irrevocable trusts, generally, § 234, 264.10 Jurisdiction or power of states to tax, § 287 Liabilities arising from property ownership, § 602, 720 Life tenant, § 27 Living trusts, § 231, 244, 264.5, 264.15 Mortgage escrow accounts, tax deposits, payment of interest, § 21 Mortgages to pay taxes Power of court to authorize, § 762 Statutory provisions, § 763 Multistate taxation, § 287, 300 Arbitration and compromise, § 287 Conditional immunity, intangibles, § 287 Immunities, § 287, 300 Income, § 287, 300 Intangibles, § 287, 300 Reciprocal waiver or exemption, intangibles, **§ 287, 300** Multistate trusts, § 287, 291, 300 State taxes, § 287, 300 Mutual funds, § 270.30 Payment Active trust, creation, § 207 Active trusts, § 207 Duties of trustee, § 602 Duty of trustee, active trust, § 208 Mortgaging trust property, § 762, 763 Passive trusts, § 208

TAXES AND TAXATION—Cont'd

TAXES AND TAXATION—Cont'd Payment—Cont'd Presumption, purchase-money resulting trust, § 454 Source of payment, § 272.5, 286, 602, 807, 810 Personal liability of trustee, § 265, 268.25, 272, 276, 277, 602 Personal trusts, § 231, 244 Planning with trusts, § 261, 264.25 Pooled income funds, § 264.25, 270.5 Power of state to tax, § 287, 300 Bases Domicile of decedent, § 287 Residence of beneficiary, § 287 Residence of trustee, § 287 Situs of corporation, § 287 Situs of property, **§ 286, 287** Situs of trust, § 287 Transfer or succession, interest in property, § 287 Beneficiary's equitable interest, § 287 Conflict of laws, § 287, 300 Federal constitutional provisions, § 287 Income, § 287 Intangibles, § 287, 300 Multistate taxation, § 287, 300 Tangible personalty and real estate, § 287 Power to revoke, federal tax consequences, § 233, 264.5, 268.15, 273.20, 278, 1000 Preservation of property, § 582, 602 Property taxes Charitable trusts, § 245, 400 Duty of life tenant, § 27 Trustee's liability, § 285, 602 Property Taxes, generally, this index Real estate investment trusts, § 270.35 Reciprocal exemption or waiver, state taxation of intangibles, § 287, 300 Residence, basis for taxing power, § 287, 292 Resulting trusts, judgments and decrees, § 465

TAXES AND TAXATION—Cont'd Resulting trusts, purchase-money type, payment, § 454 Reversionary trusts, federal income tax, § 268.10, 268.15 Revocable declaration of trust, § 233, 264.5 Sales Mortgage to avoid tax sale, power of court, § 762 Short term trust, federal income tax, § 268.10 Situs of property, § 286, 287, 300, 602 Source of payment, principal and income, § 602, 807, 810 Apportionment, § 810 Spendthrift trust, collection of debts, § 222, 224 Spendthrift trusts, exemptions, § 222 Standing, § 869 State Arbitration and compromise between states, § 287 Charitable Contributions, this index Death taxes, credits, § 276 Deductions, this index Estate and inheritance taxes. State Estate and Inheritance Taxes, this index Estate planning, § 264.5, 287, 291, 300 Gift Taxes-State, this index Income Taxes-State and Local, this index Jurisdiction matters, § 287, 292 Multistate trusts, § 287, 291, 300 Property Taxes, generally, this index Support trusts, institutional care, § 229 Statutes Apportionment, § 272.5, 276, 807 Business trusts, § 247S Evasion, § 211, 265, 272 Mortgage to pay taxes, § 763 State, § 285, 287

TAXES AND TAXATION—Cont'd Subrogation, tracing trust funds, § 930 Successive beneficiaries, apportionment, § 810 Tangible personal property, § 285 Tracing trust funds, subrogation, § 930 Trustees Duty to pay, § 602 Grounds for removal, § 527 Payment, accumulations, § 217 Trustee's liability Failure to pay, § 265, 268.25, 272, 272.5, 276, 277, 602 Personal, § 265, 268.25, 272, 272.5, 276, 277, 602 Property taxes, § 285, 602 Transferee, § 265, 268.25, 272, 272.5, 276, 277, 602 Trust securing creditors, payment, covenants, § 250 Trust taxable as an association, § 247, 270.40 Trust to secure creditors, § 250

TAX EVASION

Federal income tax, fraud, § 265 Removal of trustee, § 527 Statutes, trusts in violation, § 211 Trustees, grounds for removal, § 527

TAX EXEMPT FUNDS Estate taxes, payment, § 233

TAX EXEMPTIONS

See also Income Tax—Federal; Federal Estate Tax; Gift Tax— Federal; Gift Tax—State; State Estate and Inheritance Taxes Aged persons, housing, charitable institution, § 401 Beneficiary's interest, § 187 Charitable foundations, § 264.25, 270.5, 330 Property taxes, § 400 Charitable trusts Generally, § 245, 270.5, 361, 401, 661 Estate taxes, § 275.5, 286 TAX EXEMPTIONS—Cont'd Common trust funds, § 270.25 Community trusts, § 270.5, 329 Compensation and salaries, charitable trusts, unemployment compensation, exemptions, § 401 Education expenses, generation skipping transfer taxes, § 284.55 Employee benefit trusts, income taxes, § 270.20 Estate taxes Charitable trusts, § 275.5, 286 Housing bonds, § 273 States, § 286 Federal Charitable trusts, § 264.25, 270.5, 275.5, 283 Common trust fund, § 270.25 Corporate tax, investment trusts and real estate investment trusts, § 270.30, 270.35 Employee benefit trusts, § 255, 264.25, 270.20 Income tax, trust's personal, § 267 Investment trusts and real estate investment trusts, § 248, 270.30, 270.35 Foundations, § 270.5, 330 Generation skipping transfer taxes. § 284.40, 284.55 Gift taxes, § 278 Charitable trusts, § 361, 401 Homestead, transfer to trust for benefit of another, § 187 Housing bonds, estate taxes, § 273 Income taxes, trustees return, § 268.25 Qualified domestic trust, § 275.12 Qualified terminable interest property, generation skipping transfer tax, § 284.55 Real estate investment trusts, § 270.35 State Charitable organizations, § 285, 287

BOGERT'S THE LAW OF TRUSTS AND TRUSTEES

TAX EXEMPTIONS—Cont'd

State—Cont'd Charitable trusts, property taxes, § 400 Purpose and use requirements, § 400 Statutory limits on exemption amount, § 400 Employee benefit trusts, § 255 Income taxes, nonresident, § 285 Intangibles, nonresidents, § 285, 287, 300 State estate taxes, § 286 Unemployment compensation, charitable trusts, § 401

TAX EXPERTS

Trustees, employing self to do specialized work for trust, § 543(M)

TAX LIENS

Federal estate tax, § 272.5 Federal gift tax, § 277 Federal income tax, § 265 Federal Tax Lien Act of 1966, § 43, 277

TAXPAYERS

Injunctions against government administering charity, § 128, 328 Trust identification number, § 265

TAX PLANNING

See Estate and Tax Planning, this index Generally, **§ 261 et seq.**

TAX SALES

Avoidance, duty of trustee, § **602** Mortgage to avoid tax sale, power of court, § **762** Trustee buying on, disloyalty, § **486**, **494**, **543(D)**

TAX TREATIES

Federal estate tax, § 10 Federal income tax, foreign situs trusts, § 10

Index-390

TEACHERS

Charitable trusts Beneficiaries, § 375 Source of funds, dues and assessments, § 367 Support, charitable purpose, § 375

TECHNICAL TERMS

Ambiguities, § 51 Construction of beneficiary's interest, § 182 Necessity in trust creation, § 45 Parol evidence of meaning, Statute of Frauds, § 88

TECHNICAL WORK

Trustees Employing self to do specialized work for trust, **§ 543(M)**

TEMPERANCE

Charitable trust purpose, encouragement, § 374 Charitable trusts, promoting health, § 374

TEMPORARY TRUSTEE Private trusts, § **528**, **532**

TEMPORARY TRUSTEES Vacancy in office, § **532**

TEMPTATION

Trustees, removal from temptation, § 543(A)

TEMPT ORGANIZATIONS COUNCIL

Federal income tax, charitable trusts and foundations, **§ 270.5**

TENANCY BY ENTIRETIES

See also Joint Tenancy; Tenancy in Common, this Index Beneficiaries, husband and wife Generally, § 181 Creditors' rights, § 230 Blended trusts, creditors' rights, § 230 Creation of trust, settlor's interest, § 43 Estate taxes, § 273.30 Federal estate tax, § 273.30

TENANCY BY ENTIRETIES -Cont'd Federal gift tax Marital deduction, § 280 Real property, § 278 Gift taxes Generally, § 278 Marital deduction, § 280 Homicide, constructive trust of property, § 478 Protective trusts, § 230 Purchase money resulting trusts, presumptions, § 460 Resulting trusts Husband as payor, § 459 Wife as payor and husband as grantee, **§ 460** Resulting trusts, presumptions, § 459 Spendthrift trusts, § 223 Subject-matter of trust, § 43, 112, 223, 230 Trust distinguished, § 28 Trust for spouse, spendthrift effect, § 223 **TENANCY IN COMMON** Beneficiaries, § 181 Buying outstanding interest, one tenant, § 543(D) Co-beneficiaries, powers and duties, § 191 Community property, § 26 Corporate and individual trustees, § 145 Co-trustees, § 145 Distinguished from trust, § 28

Judicial sales, co-tenant buying at forced sale, § 486, 494, 543(C)
Leases, co-tenant renewing for self, § 491, 543(I)
Leases, taking renewal or buying reversion for self, § 543(I)
Sale forced by third parties, purchasing, § 543(C)
Subject-matter of trust, § 112
Trustee buying for self claims against trust property, § 543(D)

Trustees, § 145

TENANTS See Landlord and Tenant; Leases TENEMENTS Beneficiaries' interest Alienation, Statute of Frauds, § 190 Execution, Statute of Frauds, § 193 **TENNESSEE** Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 658 Trustees compensation, § 975 **TENTATIVE TRUSTS** See Totten Trusts **TERM FOR YEARS** Leases, restraints on alienation, § 220 Statute of Uses, application, § 5 **TERMINABLE INTERESTS** Federal estate tax, marital deduction, § 275.10 Federal gift tax, marital deduction, § 280 **TERMINATION OF TRUST** Court approval of compromise proposed by parties to litigation, § 1009 Exercise of power to revoke or terminate, § 1001 Expiration of trust term, § 996 Express reservation of power to revoke or grant of termination power, § 1000 Limitation of actions, § 951 Merger Generally, § 1003 Texas statute, § 1003 No implied power in settlor to revoke, § 998 Perpetuities, § 213 Revocation by settlor, statutes, § 999 Settlor sole beneficiary, § 1004 Statutes, § 999, 1002, 1003, 1005, 1007, 1008 Trustee powers and duties on termination, § 1010

TERMINATION OF TRUST -Cont'd Trust set aside for invalidating cause, rescission, § 997 **TERMINATION OF TRUSTS** Accomplishment of trust purposes, § 996, 1002 Actions, § 1002, 1004, 1009 Trustee defending action, § 581 Adverse possession and Statute of Limitations, § 995 Application of Rule in Shelley's Case, merger of interests, § 187, 1003 Apportionment of income, § 818 **Beneficiaries** All must join or be represented, § 1007 Conveyance or release to trustee, § 1006 Grant of termination power, § 1000 Joint request to court with settlor, § 1005 Purposes accomplished, request of beneficiaries, § 1007 Purposes not fully accomplished, arguments on principle, § 1008 Purposes unaccomplished, § 1008 Releases to trustee, § 1006 Revocation, joint action with settlor, § 998 Surrender of interests to trustee, § 1006 Changed circumstances, purposes accomplished, § 1002 Statutes, § 1002 Change making trust illegal, § 1002 Charitable trusts, § 245, 264.25, 399, 418, 438, 439 Power of court, § 399, 1002 Statutes, § 395, 399 Compensation, termination fees, § 975, 977 Compromise and settlement, request of beneficiaries, § 994, 1009 Conditions precedent to approval by court. § 1009

TERMINATION OF TRUSTS -Cont'd Compromise and settlement, request of beneficiaries, § 994, 1009 -Cont'd Continued possession by trustee, Statute of Limitations, § 951 Court approval, § 1009 Statutes, § 994, 1009 Court, powers Administration difficult or inadvisable, § 1007 English rule, postponement of beneficiary's enjoyment, § 1008 Improvidence in creation, § 997, 1007 Partial termination, § 1007 Purposes accomplished or illegal, § 1002 Purposes unaccomplished, majority American rule, § 1008 Request of all beneficiaries, who are beneficiaries, § 1007 Request of settlor and all beneficiaries, § 1005 Settlement of litigation, § 1009 Spendthrift trusts, § 1008 Trust improvidently created, § 997, 1007 Death of beneficiary, § 996 Destruction of subject-matter, § 995 Distributions, cash or in kind Generally, § 1010 Minor, absent or unknown beneficiaries, § 1010 Duties of trustee Apportionment of income, § 818 Conveyances and delivery of possession, § 1010 Court accounting, § 1010 Distributions, deeds and conveyances, § 1010 Form of distributions to beneficiaries, § 1010 Income collected during winding up period, § 818 Valuation of assets for distribution, § 1010 Events causing, § 995, 996

TERMINATION OF TRUSTS -Cont'd Exercise of express power of revocation or termination, § 1001 Expiration of trust term, § 996 Express reservation or grant of power, § 998, 1000 Federal income tax **Beneficiaries** Entitled to excess deductions and carryovers, § 269 Trust income taxable to, § 265, 269 Final taxable year of trust Unused trust deductions, § 269 Unused trust loss carryovers, § 269 When deemed terminated, § 265, 269 Invalidating causes Failure of consideration, termination by rescission, § 997 Improvidence of creation, § 997, 1007 Joint action Beneficiaries and trustee, § 1006 Settlor and beneficiary, § 998 Settlor and trustee. § 998 Lack of purpose, necessity of conveyance from trustee, § 1002 Legislature's power, duration of trusts, § 1008 Limitation of actions, remainder beneficiaries, § 951 Merger of legal and equitable interests Generally, § 1003 Court's discretion, § 1003 Income and remainder interests in one person, § 1003 Rule in Shelley's Case, § 1003 Sole beneficiary acquires legal title, § 1003 Spendthrift trust, merger doctrine inapplicable, § 1003 Trustee acquires all equitable interests, § 1003 Mistake, power of revocation omitted, § 998

-Cont'd Partial termination Generally, § 1007 Power of court, § 1007 Performance of trust, presumption, § 996 Powers of trustees after termination, § 1010 Purchase-money resulting trust, § 466 Purpose accomplished, impossible or illegal, § 206, 1002, 1007 Rescission, effect, § 997 Reservation or grant of power, **§ 1000** Resulting trusts, purchase-money type, **§ 466** Revocation Implied power, § 998 Power omitted by mistake, § 998 Settlor and trustee or beneficiaries acting jointly, § 998 Statutory provisions, § 999 Construction, identity of beneficiaries, **§ 999** Trustee and beneficiaries joining, § 1006 Trustee attempts to revoke, § 998 Right of beneficiary to take property instead of proceeds, § 1008 Settlor Settlor and all beneficiaries request, § 1005 Settlor and part of beneficiaries request, § 1005 Settlor and trustee, lacking power, § 998 Settlor as sole beneficiary, § 1004 Settlor as sole owner, worthier title doctrine, § 182, 992, 1004 Settlor not sole beneficiary, § 1004 Short-term or reversionary trusts, § 234, 264.10, 268.10 Spendthrift trusts, methods Generally, § 226 Court, unaccomplished trust purposes, § 1008 Release or surrender by beneficiaries, § 1006

TERMINATION OF TRUSTS

TERMINATION OF TRUSTS -Cont'd Spendthrift trusts, methods-Cont'd Settlor as sole beneficiary, § 1004 Statute of Uses, operation, § 1002 Statutory provisions, § 999, 1002, 1009 Charitable trusts, § 395, 399 Purposes accomplished, impossible or illegal, § 1002 Surrender by beneficiary, § 1006 Trustee Charitable trust, § 399 Conveyance to beneficiary, § 1006 Conveyance to third person, **§ 1006** Settlor and trustee joining, § 998 Trustee and beneficiaries convey to settlor, § 1006 Trustee and beneficiary joining, § 1006 TERMINOLOGY Generally, §1 Federal taxes, § 261, 263

TERM OF TRUST Expiration, termination, § 996 Insurance trusts, § 237 Limits on duration Charitable trusts, no limit, § 351 Private trusts, § 218 Reversionary trust, federal income tax, § 268.10 Settlor's intent, § 144, 996

TESTAMENTARY ADDITIONS TO TRUSTS ACT Development of trust law, § 7

TESTAMENTARY DISPOSITIONS

See also Statute of Wills; Wills Acts Characteristics, § 103, 104 Designation of insurance beneficiary, § 103 Designation of recipient of death benefits, § 103, 239, 255 Effect of retained rights and interests, § 103, 104 Insurance trusts, § 103, 239 **TESTAMENTARY DISPOSITIONS** -Cont'd Interest passing to donee, § 103 Language of gift determining, § 103 Living trusts, § 103, 104, 211, 233 Take effect at death, § 101 Take place of will, § 104 Management, reservation of powers by settlor, § 104 Personal insurance trust, § 103, 239 Power to appoint remaindermen, § 104 Reservation of power to alter or revoke, § 104 Reserved interests or powers, § 104 Combination of retained interests and powers, § 104 Statutes, § 104 Revocable trusts, § 103, 104, 211, 233 Statutes Reservation of powers in settlor, § 104 Take effect at death, § 103 Totten trusts. § 47, 103 When disposition testamentary, § 103 When living trust deemed, § 103, 104 Who can attack, § 102

TESTAMENTARY TRUSTS

Generally, § 264.20, 291 et seq. Acceleration of remainder, election to take against will, § 172 Ambiguities Oral evidence, § 102 Beneficiaries Disclaimer, § 170 Statutes, § 171 Estate and tax planning, § 264.20 Bonds (sureties), statutes, § 151 Characterization, § 293 Charitable corporations, statutory restrictions, § 327 Charitable gifts, § 264.20, 264.25 Mortmain, public policy, § 296, 298, 328 Choice of law, validity, construction and administration, § 294, 296

TESTAMENTARY TRUSTS -Cont'd Co-beneficiary, indebtedness, restitution, § 191 Conflict of laws, § 291, 296 Estate and tax planning, § 301 Estate planning, § 301 Court supervision, § 233 Creation of trusts, quantum of trustee's interest, § 144 Duties of trustee, statutes, § 542 Estate planning, § 264, 264.20 Family trusts, § 264.20, 264.25 Federal income tax, § 264.20, 266, 267.5, 268.25 Foreign banks, § 132 Foreign corporations, capacity to act as trustee, § 132 Formalities, § 101 General uses and tax consequences. § 264.20 Gift to trustee of trust to be established, § 106, 236, 239 Incorporation by reference, § 102, 105 Informal trust, effect, § 102 Insurance, transfer of policy or proceeds, § 142 Lapse, § 105 Life insurance trusts, § 264.15 Marital trusts, § 264.20, 275.10 Mortmain statutes, § 326 Multistate trusts, § 291, 296 Charitable gifts, law governing validity, § 298 Choice of law, § 294 Oral evidence, informal trust, § 102 Personal life insurance trusts, creation, § 236 Power of appointment given beneficiary, § 233, 264.20, 273.35 Remainders Acceleration, disclaimer, § 172 Spousal insurance trusts, § 235 State income taxes, § 285 Terminating before death, lapse, § 105 Terminology and classification, § 1 Transfer of property, § 141

TESTAMENTARY TRUSTS

--Cont'd Trustees, removal from office, § 519 Uniform Probate Code, trust sections, § 7 Validity Personal property, § 296 Real property, § 296

TESTATOR

See also Testamentary Trusts; Wills Capacity, **§ 44, 101**

TEXAS

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 659 Trustees compensation, § 975

THEATERS AND SHOWS

Beneficiary, charitable trust, § 364
Charitable trusts
Advancement of education, § 375
Purpose and beneficiaries, § 364
Charitable trusts, advancement of education, § 375
Principal and income, royalties, § 827

THEFT

See also Larceny, this Index Appropriation of trust property, § 861 Constructive trust of proceeds, § 476 Contract and trust distinction, § 17 Debtors and creditors, cancellation of debt, consideration, bona fide purchasers, § 889 Estate taxes, deductions, § 275, 275.15 Title to property, constructive trusts, limitation of actions, breach of trust, § 953 Tracing trust funds, insurance proceeds, § 925 Trusts and trustees, appropriation of trust property, § 861

THELLUSSON ACT

Accumulations of trust income, § 215 Trust accumulations, § 215

BOGERT'S THE LAW OF TRUSTS AND TRUSTEES

THEOLOGICAL SEMINARIES Charitable purpose, aid to religion, § 376 THIRD PARTIES See also Participation in Breach of Trust See, also, Breach of Trust, generally, this index Agents and agency, breach of trust, § 901 Bank Deposits and Collections, generally, this index Beneficiaries' interest Heirs, § 182 Transfer of interest, § 188 Breach of trust, § 861, 901 et seq. Bad faith, § 909 Joint cotrustees accounts, single trustee withdrawals, § 911 Cotrustees, bank deposits and collections, joint accounts, single trustee withdrawals, § 911 Crimes and offenses, § 901 Damages, liability, § 901, 902 Debtors and creditors, payments of trust property, personal debts of trustees, § 904 Duties Application of payments or deliveries to trust purposes, § 902 Inquiry, § 901, 902 Equitable liens, § 865 Good faith, limitation of actions, § 955 Joinder of parties, § 871 Knowledge, § 901, 902 Limitation of actions, § 955 Negotiable instruments, payments of trust property, personal debts of trustees, § 904 Notice Agents and agency, § 912 Officers and directors, § 912 One breach putting on inquiry thereafter, § 910 Purchases from trustees, § 903

THIRD PARTIES—Cont'd Breach of trust, § 861, 901 et seq. -Cont'd Remedies of beneficiaries, § 868, 901 Security, personal debts of trustees, § 904 Shares and shareholders, § 905 Standing, trustees, § 871, 955 Tracing trust funds, § 868 Breach of trust, participation Generally, § 901 et seq Actions, § 868, 869, 871 Barring of remedies, beneficiary's consent or ratification, § 941, 942 Limitation of actions, § 954, 955 Participation with knowledge, liability for damages, § 902 Release, § 943 Remedies, § 868 Business trusts, participation in breach, liabilities, § 247 Charitable trusts, enforcement, § 412 Collusion with trustees Limitation of actions, § 955 Standing, beneficiaries, § 955 Contracts of trustee, § 711 et seq Contribution, § 862 Corporations, officers and directors, breach of trust, § 901 Court decree barring remedies, § 956 Crimes and offenses, breach of trust, § 901 Damages, breach of trust, § 901, 902 Debtors and creditors, breach of trust, payments of trust property, personal debts of trustees, § 904 Delegation of trustee's powers, § 555 Disloyalty, trustee acting for both third person and trust, § 543, 543(S) Dummies, trustees, purchases, § 543(C) Equitable liens, breach of trust, § 865 Errors and mistakes, breach of trust, limitation of actions, § 955

THIRD PARTIES—Cont'd Executors and administrators Breach of trust, § 901 Collusion with trustee, standing, § 955 Sale forced by third parties, purchase by fiduciary, § 543(C) Exercise of power to revoke, conveyance by settlor, § 1001 Facts imposing duty to inquire, breach of trust, § 901, 902 Debtors and creditors, payments of trust property, personal debts of trustees, § 904 Purchases from trustees, § 903 Federal gift tax, husband and wife splitting gifts to, § 281 Federal income tax, § 268.20 Guardian and ward, breach of trust, § 901 Independent wrongs against trust, standing, beneficiaries, § 954 Intangible property, creation of trusts, transfers, § 142 Interference with trustee, § 861 Remedies, § 869 Joint and several liability, trustees, election of remedies, § 945 Knowledge, breach of trust, § 901, 902 Laches, breach of trust, evidence, **§ 949** Limitation of actions Independent wrongs against trust, § 954 Participation in breach, § 955 Negotiable instruments, breach of trust, payments of trust property, personal debts of trustees, § 904 Notice, extent of trustee's powers, § 565 Power to remove trustee, § 520 Release, participation in breach of trust, § 943 Remedies, other wrongs, § 869 Remedies against trustee Contracts, § 712, 719

THIRD PARTIES—Cont'd Remedies against trustee-Cont'd Quasi-contractual liability, trust estate, § 725 Tort claims, § 731, 732 Remedies of beneficiaries, § 868, 869,901 Interference with trust property, § 869 Participants in breach of trust, § 747, 868, 901 Resulting trusts, agreement to benefit third party, § 462 Rights, torts of trustee, § 731 et seq Security, breach of trust, personal debts of trustees, § 904 Shares and shareholders, breach of trust, § 905 Spouses, gift taxes, § 281 Taxed as substantial owner of trust, federal income tax, § 268.20 Title to property, income taxes, § 268.20 Tracing trust funds, § 868 Tracing trust property, remedies of beneficiary, § 866 Trustee acting for, disloyalty, § 543(S) Trustees Acting for trust and also for third party who deals with trust, § 543(S) Buying at sale forced by third parties, § 543(C) Extent of powers, notice, § 565 Loyalty to beneficiaries, § 543 Removal from office, § 520 Trustee's remedies against Collection and preservation of trust property, § 582 Contracts, § 711 Limitation of actions, § 954, 955 Sales, § 746 Trust instrument, delivery, § 147 Trust property, transfer of possession, § 148 THIRD PARTY BENEFICIARIES Bank checks, payee, § 21

TIME-Cont'd

THIRD PARTY BENEFICIARIES

-Cont'd Bank draft, payee, § 21 Commercial paper, payee, § 21 Constructive trust, enforcement, § 498 Contracts Consideration, promises to create trusts, § 203 promise to create trust, § 203 Trusts distinguished, § 17 Payee of bank check or draft, § 21 Privity, trust creation, § 17, 169 Recovery of improper payment to, § 814 Resulting trusts Purchase-money type, § 462 Standing, § 869

THREATS

Breach of trust, removal of trustee, § 527, 528 Duress and Coercion, generally, this index Removal of trustee, breach of trust,

§ 527

THROWBACK RULE

Complex trusts, accumulation distribution, method of computation, § 267.5

Federal income tax, distribution of accumulated trust income. § 267.5

Income taxes, § 267.5

TIMBER AND LUMBER

Life estates, sale of standing timber, trustee to hold sale proceeds, § 246 Management of business, implied

power to mortgage, § 760 Principal and income, depletion, § 816, 827

TIME

Index-398

Beneficiaries Disclaimer Generally, § 170 Federal and state statutes, § 171 Class gifts, closing of group, § 182

§ 45

Destruction of trust, § 995

§ 11

Debtors and creditors, probate estates, filing claims, § 231 Delay, generally, this index Disclaimer, gift taxes, § 278.5 Duration of trusts, § 218 Business trusts, § 247P Federal income tax purposes, § 265, 269 Honorary trusts, § 166, 218 Mixed charitable and noncharitable trusts, § 372 Statute of Frauds, contents of memorandum, § 87 Statutes, § 218 Duration of Trusts, generally, this index Election of remedies, breach of trust, § 946 Estimated tax payments, probate estates, § 231 Making of writing, Statute of Frauds, § 83 Payment of price, resulting trusts, § 456 Periodic payments of compensation, statutes, § 977 For removal of trustee, § 526 Transfer, federal gift tax purposes, § 278 Trustee's compensation, when awarded, § 977 TIME DEPOSITS See also Duties of Trustee; Investments, this Index Transfer of property interest, § 142 TITLE TO PROPERTY Abstracts of title, deed to trustee, Adverse possession Acquisition of title, § 583 Charitable trust, successors of settlor, power to attack, § 417 Creation of trust, § 143 Agency distinguished from trust, § 15 Bailment distinguished from trust,

TITLE TO PROPERTY—Cont'd Beneficiary's interest Generally, § 183 Assignment, § 188 Creditors, § 193 Joining with trustee in transferring title, § 188 Bona fide purchaser rule, § 885 Bona fide purchasers, § 881, 885 Charitable trust Statutes regarding corporate capacity to take, § 327 Charitable trusts Generally, § 391 Corporate trustees, restrictions on powers, § 327 Liability, § 401 Schism in church, § 399 Subtrustee, § 413 Claims against property, trustee buying for self, **§ 543(C)** Classification, §1 Cloud on title Business trusts, § 247 Implied powers, § 551 Parties, breach of trust, § 869 Community property, § 8, 26 Constructive trust, oral promises to convey, § 497 Constructive Trusts, this index Contract and trust, distinction, § 17 Conveyance, winding up, § 1010 Corporations, § 16 Court appointment of successor trustee, § 532, 533 Creation of trusts Generally, § 141 et seq Intent, § 45, 46 Transfer, formalities, § 142 Death of beneficiary intestate, § 189 Death of sole trustee, § 529 Death of trustees, § 529 Deeds and conveyances Guaranty, § 814 Oral promises, § 497 Reconveyance, termination of trust, § 996 Winding up trust, § 1010

TITLE TO PROPERTY—Cont'd Deeds and conveyances, active trusts, § 209 Deeds of trust, § 29 Direct restraints on alienation, § 220 Disclaimer Beneficiary, § 170 Trustee, § 150 Doctrine of Worthier Title, generally, this index Executors and administrators, § 12 Gifts, Uniform Gifts to Minors Act, § 15 Guardians, lack of, § 13 Inter vivos trusts, § 104 Land contracts, § 18 Land trusts, § 249 Merger Legal and equitable interests, termination of trusts, § 1003 Trustee with a double interest, § 129 Quieting title Business trusts, § 247 Implied powers, § 551 Parties, breach of trust, § 869 Receivership, § 14 Resulting Trusts, this index Resulting trusts, title in another than payor Generally, § 458 Consent of payor necessary, § 458 Effect of lack of payor's consent, § 458 Payor and another, joint grantees, § 459 Title placed in names of spouses jointly, § 460 Rule against Perpetuities, wait and see doctrine, § 213 Security of title, oral promise to convey, constructive trust, § 497 Statutes, charitable trust, § 327 Termination of trust Merger, § 1003 Reconveyance, § 996 Scope of interest, § 144, 996 Terminology and classification, § 1

TITLE TO PROPERTY—Cont'd Third parties, income taxes, § 268.20 Transfers, remedies, beneficiaries, § 861 Trust deeds, § 29 Trustee Capacity to take, § 125 Formalities necessary to transfer, § 142 Joint tenancy, co-trustees, § 145 Quantum of interest, § 144 Trustees, vacancy in office, appointment of successor, § 532 Vendor, specifically enforceable contract, § 18 Winding up, conveyances, § 1010 **TOLL BRIDGES** Franchises, principal and income, § 827 TOMBSTONES Charitable trusts, § 377 **TORNADOES** Victims, public subscription, § 362 TORNADO VICTIMS Charitable trusts Beneficiaries, § 363 TORTS Adjoining landowners, excavations, § 732 Agents or servants, § 731 Beneficiaries Direct liability, possession and control, § 733 Indemnity from, § 734 Possession, § 733 Benefit to trust estate, liability, § 732 Business trusts, § 247K, 731 et seq Actions, § 247K Personal liability, § 247K Business trusts, actions and proceedings, § 247 Characterization, § 293 Charitable trusts, liability Generally, § 361 Trustees, § 394, 401, 402 Co-trustees, joint liability, § 731

TORTS—Cont'd Creditors' rights, spendthrift trust beneficiary, § 224 Damages, spendthrift trusts, § 224 Employees and agents of trustee, § 731 Form of action, § 731 Indemnity, § 720, 734 Trustee, § 734 Uniform Probate Code, § 732 Uniform Trusts Act, § 734 Intentional, no trustee indemnity, §734 Land trusts, liability, § 249 Liability, generally, § 731 et seq Benefit to trust estate, § 732 Form of action, § 731 Trustee, personal, § 731 Trustee, representative capacity, § 732 Uniform Probate Code, § 732 Uniform Trusts Act, § 732 Limitation of personal liability, § 735 Modern case law, representative liability, § 732 Older rule, no representative liability, §732 Personal liability of trustee, § 731 Business trusts, § 247K Predecessor trustee, liability, § 731 Representative, liability Generally, § 732 Uniform Probate Code, § 732 Uniform Trusts Act, § 732 Restatement, Trusts, Second; rule of representative liability, § 732 Settlor's determination of ultimate liability, § 735 Statutes, representative liability, § 732 Uniform Trusts Act, indemnity of trustee, § 734 TOTTEN TRUSTS Bank deposits, § 47, 233

Bankruptcy, § 47 Characterization, § 293 Conflict of laws, § 47, 293

TOTTEN TRUSTS—Cont'd Construction of intent Generally, § 47 Relationship of parties, § 47 Creditors of depositor, § 47, 233 Descent and distribution, § 47 Fraud on spouse, § 47, 211, 233 Garnishment, § 47 Implied power of revocation, § 47, 1000 Intent Generally, § 47 Delivery of passbook, § 47 Deposit cards, terms, § 47 Illusory, § 47 Mere form of account, § 47 Notice to beneficiary, § 47 Other controlling factors, § 47 Retention of passbook, § 47 Statements by depositor, § 47 Joint bank accounts Bankruptcy, § 47 Garnishment, § 47 Methods of revocation, § 1000 Notice to beneficiary, § 47, 169 Poor man's will, § 47 Powers of court as to withdrawals, § 47 Probate, avoidance, § 47, 233 Probate proceedings, avoidance, § 231 Retention of passbook, § 47 Revocation Generally, § 47 Acts deemed to revoke, § 47, 1000 Depositor's will, § 47, 1000, 1001 Facts showing, § 47, 1000 Implied power, § 47, 1000 Removing name from savings account passbook, § 47 Withdrawal of funds, § 47, 1000, 1001 Rules as to creation and administration, § 47 Savings accounts, § 47 Statute of Wills, § 47, 103 Statutes Effect of deposit, § 47

TOTTEN TRUSTS—Cont'd Statutes—Cont'd Protection of bank, § 47 Surviving spouse, claims, § 47, 233 Surviving spouse, elective share, § 233 Termination, § 47, 1000, 1001 Testamentary or inter vivos, § 47, 211, 233, 1000 Testamentary revocation, § 47, 1000, 1001 Undue influence, contesting validity, § 997 Uniform Probate Code provisions, § 47 When irrevocable, § 47 Wills Acts, § 47, 103, 211, 233, 1000 Withdrawals, effect, § 47

TOWNS AND TOWNSHIPS

Disincorporation, trustee to hold property, § 246 Political Subdivisions, generally, this index Trustees, § 130

TRACING TRUST FUNDS Generally, § 866, 921 et seq. Accounting, identification, § 923 Accounts and accounting, § 923 Alternatives, § 930 Bank collection items, § 924 Beneficiary's remedy, breach of trust, § 866 Beneficiary's right to accounting, § 866 Burden of proof, identification, § 923 Cash, § 924 Circumstantial evidence, § 923 Claytons case, presumptions, commingled funds withdrawals, multiple trusts, § 927 Commercial paper, identification, § 924 Confusion of goods, § 923 Confusion of goods doctrine, § 923 Conservative trust, requirement, § 471, 476, 921 Constructive trusts, requirement, § 471, 476

TRACING TRUST FUNDS—Cont'd

TRACING TRUST FUNDS—Cont'd Contract and trust, distinction, § 17 Credit, property producing, § 924 Damages, election of remedies, § 945 Debtors and creditors, payment of trustees creditors with trust property, § 922 Deposits, restoring fund, § 929 Discovery, § 923 Election of remedies, § 946 Money claim or tracing, § 867, 945,946 Equitable liens, § 865 Evidence, § 921, 923 Bill for discovery, § 923 Methods of proof, § 923 Fungible assets, § 923 Burden of proof, § 923 Commercial paper, § 924 Gambling, § 921 Greater lien theory, insurance proceeds, § 925 Homesteads, identification, § 923 Identification Accounting from trustee, § 923 Bill for discovery, § 923 Burden of proof, § 923 Cash or commercial paper, § 924 Circumstantial evidence, § 923 Collection items Bank Collection Code, § 924 Uniform Commercial Code provisions, § 924 Confusion of trust funds and other property, § 923 Constructive trust, § 471 Fungible assets, § 924 Homestead, § 923 Improvements to realty, § 923 Investments from mixed trust and personal funds, § 928 Mere proof of receipt, § 921 Methods of proof, § 923 Necessity, § 921 Payment of life insurance premiums, § 925

Identification-Cont'd Presumptions Continued possession of trustee, § 923 Substitutes for tracing, § 930 Trustee's deposits, restorations of trust funds, § 929 Trust property, changes in form, § 921 Trust property in bank account, § 924 Trust property or its product, strict proof, § 921 Trust property produced credit in other bank, § 924 Trust property used to pay trustee's personal debt, § 922 Using trust fund to discharge lien, § 930 Withdrawals from mixed trust funds, § 927 Personal funds, § 926 Uniform Trusts Act, § 927 Identity and identification, § 921 Improvements to real estate, § 923 Insurance proceeds, § 925 Investments, § 928 Lesser lien theory, insurance proceeds, § 925 Liens and incumbrances, using fund to discharge, § 930 Life insurance proceeds, § 925 Proceeds of larceny invested in insurance, § 476 Lost or destroyed property, § 921 Marshaling of assets, alternatives, § 930 Negotiable instruments, § 924 Newell v. Hadley, § 930 Oatway case, commingling, investments, § 928 Presumptions Generally, § 923, 928 Investments from mixed personal and trust funds, § 928 Trustee's deposits restoring trust funds, § 929 Uniform Trusts Act, § 927

TRACING TRUST FUNDS—Cont'd Presumptions—Cont'd Withdrawals from mixed trust and personal funds, § 926 Withdrawals from mixed trust funds, § 927 Release, § 943 Restorations Trustee's individual funds and trust funds in personal bank account, § 929 Trustee's individual funds and trust funds in trust account, § 929 Security, § 923 Subrogation, alternatives, § 930 Substitutes Marshaling assets, § 930 Newell v. Hadley, § 930 Subrogation, § 930 Swollen assets doctrine, payment of trustees creditors with trust property, § 922 Theory and prerequisites, § 921 Third parties, § 868 Third party, breach of trust, § 868 Trustee's personal debt, trust funds used to pay, § 922 Uniform Trusts Act, mixed trust funds, § 927 Withdrawals from mixed funds, presumptions, § 926, 927

TRADE

See also Continuation of Business Acceptances as trust investments, § 678 Business interests, trust investments, § 679 Charitable trusts, advancement of education, § 375

TRADE SECRETS

Constructive trusts Disloyal use, § 482 Disclosure, constructive trust, § 482

TRANSFER

Resignation of trustee, § 512 Trustee, transfer to, § 141, 142, 147, 148

TRANSFER—Cont'd Trust situs, remedy of beneficiary, § 861 TRANSFER AGENTS Duty of inquiry, adverse claims, fiduciary stock transfers, § 905 Participation in breach of trust, § 905 TRANSFEREE Federal estate tax, § 265, 272, 272.5 Federal gift tax, § 265, 277 Federal income tax Trustee liability, § 265 TRANSFERS Assets to trustees, creation of trust, § 141, 142, 147, 148 Beneficiary's interest, § 188, 190 Bona Fide Purchasers, generally, this index Deeds and Conveyances, generally, this index Estate taxes, § 265, 272, 272.5 Gift taxes, § 265, 277 Income taxes, § 265 Interests of beneficiaries, restrictions, § 193, 222, 228 et seq. Situs, remedies of beneficiaries, § 861

TRANSFER TAXES

See Federal Estate Tax; Gift Tax— Federal; Gift Tax—State; State Estate and Inheritance Taxes

TRANSMUTATION OF POSSESSION

Deeds and conveyances, § 201

TREES

Charitable trusts, governmental purposes, **§ 378** Depletion, principal and income,

§ 827

Management of business, implied power to mortgage, § 760

TRESPASS

Actions, duties of trustee, § 583, 869, 954

TRESPASS—Cont'd

Co-trustees, duties of inactive trustee, § 585

Limitation of actions, third parties, independent wrongs against trust, § 954 Parties, remedies against third

persons, § 869

TRESPASS ON CASE Standing, harm to trust property, § 869

TRESPASS TO TRY TITLE

Standing, wrongfully withholding trust property from trustee, **§ 869**

TREUHAND

Germanic law, uses, § 2 Predecessor of trust, § 2, 9

TROVER

Standing Beneficiaries, third parties, **§ 870** Harm to trust property, **§ 869**

TROVER AND CONVERSION

See also Conversion; Investments Co-beneficiary, **§ 191, 861** Collections, choses in action, **§ 22** Constructive trusts, **§ 476, 483** Contract and trust distinctions, **§ 17** Immunity of trustee, **§ 542** Parties, remedies against third persons, **§ 869**

TRUST CODES

California, § 7 Foreign countries, § 9 Georgia, § 7 Louisiana, § 1, 7, 9 Missouri, § 7 Texas, § 7 Uniform Probate Code, § 7, 211, 295 Various states, § 7 Washington, § 7

TRUST COMPANIES

Bond of trustee, § 151 Common trust funds, investments, § 270.25

TRUST COMPANIES—Cont'd

Corporations, joint tenancy, survivorship, § 145 Foreign corporations as trustees, competency, § 132 Indirect disloyalty, § 543(T) Letters of office, § 151 Securing incidental benefits for self while engaged in trust business, § 543(Q) Standard of care, § 541

TRUST DEEDS

Foreclosure sale, constructive trust, § 494, 543(c) Mortgages, distinguished, § 29 Securing creditors, § 250 Statutes, § 29 Trust distinguished, § 29

TRUSTEE DE SON TORT

Interference with estate of deceased person, constructive trust, § 476

TRUSTEE PROCESS

Beneficiary's interest, statutes, § 193 Compared with trust, § 38 Spendthrift trusts, § 227 Spendthrift trusts, creditor's rights and remedies, § 227

TRUSTEES

See also Accounts and Accounting; Co-Trustees; Compensation of Trustees: Duties of Trustee: Investments; Liabilities of Trustees; Powers of Trustees; Rights of Trustees Absconding trustee Removal, § 523, 527 Absent trustees Bond, action, § 864 Removal, § 132, 527 Acceptance of trust, § 150 Election to accept or reject trust, § 150 Normally not condition to trust creation, § 150 Proof. § 150

TRUSTEES—Cont'd Accounts and accounting Failure to account Removal, § 527 Removal Pleading, § 524 Resignation, § 516 Uniform Trustees' Accounting Act, § 7 Voluntary statements, § 942 Accounts and Accounting, this index Accumulations, § 215 Actions Bond, absence of trustee, § 864 Charitable trustee, capacity, § 328 Collection of debts, foreign corporations, § 132 Remedies of beneficiary, § 861 Suits by or against private trustee, § 868, 869 Active duties required, § 206 Additional bond, § 151, 861 Administration of trust Capacity of trustee, § 125 Charitable trusts, § 328 Incapacity of person selected as trustee, § 132 Advances to beneficiaries, duties and rights, § 814 Adverse interest Resignation, duty, § 511, 515, 543 Adverse or Pecuniary Interests, this index Advisor to trustee Fiduciary capacity, § 122, 701 Investment advice, § 701 Types of powers, § 122 Appeals, adverse court decision Attack on trust, adverse ruling, § 581 Appointments, this index Attorney General as trustee, disqualification, charitable trusts, § 129 Bankruptcy, fraud, § 947 Banks National banks, § 134

TRUSTEES—Cont'd Becoming incompetent, effect, § 527, 566 Beneficiaries, this index As beneficiaries, § 168 Transfer of title with, § 188, 998 Bondholders' protective committees, § 251 Bond of trustee Generally, § 151 Absent trustee, action on bond, § 864 Additional bond, § 861 Bonds (Officers and Fiduciaries), this index Breach of Trust, generally, this index Burden of proof credits to trustee on accounting, § 971 dealing with beneficiaries, § 544 Business life insurance trusts, § 253 Business trusts, shareholder control, § 247H, 247L Capacity, § 125 et seq. Capacity to act as Administration of trust, § 132 Cemetery trusts, statutes, § 377 Charitable corporations, § 130, 131, 328 Cities and towns, § 130 Corporations, § 121, 130, 132, 134 Disqualification, judges and clerks of court, § 129 Foreign corporations, § 132 Foreign fiduciaries, multistate trusts, § 132, 295 Individuals and corporations, generally, § 121 et seq Municipal corporations, § 128, 130 Person with double interest, § 129 Private corporations, § 131 Public body or official, § 128 Unincorporated associations, § 125 Change in legal status, statutes, § 531 Charitable trusts Public and private corporations, § 328

TRUSTEES—Cont'd Change in legal status, statutes, § 531 -Cont'd Charitable trusts-Cont'd Restrictions on corporate capacity to take title or hold property, § 327 Consolidation, § 531 Conversion, § 531 Removal, jurisdiction, § 523 Changes in personnel, § 511 et seq. Charitable trusts, § 397 Private trusts, § 511, 533 Charitable corporations Restrictions on capacity to hold property, § 327 Restrictions on capacity to take, title, § 327 Charitable trusts Acceptance, § 328 Ambiguities, § 328 Capacity of trustee, § 328 Changes in personnel, § 397 Constitutional restrictions, § 328 Court appointment, § 328 Disqualification of Attorney General, § 129 Failure to name, § 328 Identification, § 328 Plan of administration, § 371 Property interests, § 391 Public agency, when violation of constitutional provisions, § 328 Public and private corporations, § 328 Qualification, § 328 Refusal or disclaimer, § 328 Selecting plan of administration, § 371 Selection, § 328 Statutory limitations on account, corporate donees, § 327 Unincorporated associations, § 328 Charitable Trusts, this index Classes of trustees Different functions or duties, § 122 Reasonable classification. § 122

TRUSTEES—Cont'd Commingling property, qualifications, § 125 1 Compensation, § 975 Reduction or denial remedy of beneficiary, § 861 Renunciation of settlor's provisions for statutory amount, § 976 Compensation and Salaries, this index Comptroller of Currency, regulation of national banks, § 134 Conditional removal, § 528 Conditions precedent Disgualification, § 565 Qualification, § 151 Conflict of interest Constituting disloyalty, § 543 Removal, § 527, 528 Resignation, § 515, 543 Trustees of liquidation trusts, § 254 Constitutional law Charitable trusts, public agency, § 328 Public corporations, § 328 Contempt, § 861 Contract liability, statutes, § 712 Contracts of sale, qualification, § 741 Conveyance to one as trustee, merely, § 45 Corporate Generally, § 121, 122, 130 Deposits, qualification to act, § 151 Dissolution, § 397, 531 Foreign, § 132 Merger or consolidation, § 397, 531 Officers and agents, participation in breach of trust, § 901 Restrictions on capacity to act, § 130, 132 Sale of business, § 531 Trust indentures, § 250 Co-trustees Death, survivorship, § 530 Duties of inactive trustees, § 584 Joint action, § 122, 554

TRUSTEES—Cont'd Co-trustees-Cont'd Legal interests, § 145 Court Appointment, § 121, 246, 532, 533 Creation of trust, § 1, 121 Removal, § 519, 523, 524, 527, 528 Supervision, § 563 Creditors, interest of trustee, § 146 Criminal liability, breach of trust, § 861 Curtesy, trustee's interest, § 146 Death Generally, § 529 Co-trustee, survivorship, § 145, 554 Sole trustee, § 529, 554 Trust property not subject to claims against trustee's estate, § 146 Decanting, power to transfer trust assets to another trust, § 567 Deeds and conveyances, when active duty, § 209 Defense of trust, § 581 Definitions, §1 Delegation of powers Generally, § 122, 512, 555 Agent, § 555 Co-trustee, § 122, 555 Employment of agents etc., § 555 Descent and distribution, limitation of actions, breach of trust, § 950 Description, in trust instrument, § 45 Digital assets of a decedent, fiduciary powers and duties as to, § 568 Directions of settlor, reasonable care in following, § 683 Disclaimer of trust, § 150, 328 Evidence, § 150 Discretion, this index Discretionary powers Generally, § 552 Disloyalty, § 543 to 543(V) Disloyalty, § 543 Disgualification Judges and clerks of court, § 129

Disgualification-Cont'd Trust indentures securing bondholders, § 250 Dissolution of corporate trustee, § 531 Distributions of trust principal, Rule against Perpetuities, § 213 Dower, trustee's interest, § 146 Duties, generally, § 541, 544, 581 et sea Duty to supervise active co-trustee, § 587 Effect of failure to qualify Appointment, § 151 Authority to act, § 151 Constitutes rejection, statutes, § 151 Creation of trust, § 151 Grounds for removal, statutes, § 151, 527 Nominated but not appointed, § 151 Transaction with third party, § 151 Embezzlement, this index Employees and agents, delegation of powers, § 555 Employing self to do specialized work for trust, § 543(M) English Trustee Act of 1925, § 7 Equitable fees outside trust, restraints on alienation, § 220 Errors and mistakes, § 541 Exculpatory clauses, § 542 Executors of settlor's estate, § 121 Express powers, § 551 Extent of property interest, § 144 Failure to name, effect, § 123 Federal Reserve Act, national banks, § 134 Fees, revocable trusts, § 231 Fiduciaries, good faith and fair play in direct dealing with, § 544 Foreclosure, this index Foreign corporations Advantages and disadvantages, § 132

TRUSTEES—Cont'd

TRUSTEES—Cont'd Foreign corporations-Cont'd Conditions to administering local testamentary trust, § 132, 295, 563 Court transfer of trusteeship, § 132, 861 Creation of trust, § 132 Disgualification, administration of testamentary trusts, § 132, 295 Power to administer local testamentary trust, § 132 Power to sue locally to collect debts, § 132 Statutes, § 132, 295 Foreign Corporations, this index Fraud, this index Good Faith, this index Grounds for removal Absence or nonresidence, § 527 Adverse interest, § 527, 528 Antagonism or hostility to beneficiaries, § 527 Breach of trust, § 527 Conflict of interest, § 527, 528 Failure to account, § 527 Insolvency, § 527 Mismanagement, § 527 Statutes, § 527 Identification, § 328 Immunity clauses, § 542 Impartiality duty, § 541, 612 Implied powers, § 551 Incapacity of person named to administer trust Court power to remove, § 132 Statutes permitting court to transfer title to new trustee, § 132 Incapacity to take or hold title, § 125 Income taxes, duty to file, § 265 Incompetency to act, § 132, 529, 566 Independent trustee Adverse interests of beneficiaries, § 121 Tax reasons, § 121, 264.10, 264.20, 268.15, 268.20

TRUSTEES—Cont'd Interest, creditors of trustee, statutes, § 146 Interest in trust property, § 146 Interference with trustee, § 869 Interim trustees, § 123, 125, 528 Investments, this index Joinder of legal and equitable interests, termination of trust by merger, § 1003 Joint and several liability, third parties, election of remedies, § 945 Joint exercise of powers, § 122, 554, 744 Joint tenants, § 122, 145, 554 Land trusts, duties, § 249 Leases, this index Letters of trusteeship Generally, § 151 Control by court, § 151 Corporate trustee, § 151 Statutes, § 151 Validation of acts prior to qualification, § 151 Liability of sureties on trustee's bond, § 864 Liability of Trustees, generally, this index Liens and Incumbrances, this index Life Insurance Trusts, this index Limitation of Actions, this index Liquidation trusts, § 254 Loans, this index Loyalty, duty of, § 543 et seq Loyalty, this index Majority may act Settlor's direction, § 121 Statutes, § 554 Mandatory powers, § 552 Mental Disabilities, this index Merger Corporate trustee, § 531 Legal and equitable interests, § 129 Termination of trusts, § 1003 Theories of merger, legal and equitable interests, § 129 Misfeasance, this index

TRUSTEES—Cont'd Mortgages, this index Multistate trusts Nonresidents, § 132, 291, 294 Transfer of trust situs, § 132, 861 Municipal Corporations, this index National banks Federal Reserve Act, § 134 **Regulation 9**, United States Comptroller of Currency, §134 State statutes, § 134 Negligence, this index Nonresident Corporate, § 132, 291, 295 Individuals, § 132 Multistate trust, § 132, 291, 295 Removal by court, § 132, 527 Nonresidents, this index Oath of office Generally, § 151 Officers and directors, corporate trustee, § 151 Statutes, § 151 Waiver, § 151 Officers and Employees, this index Ordinary skill and diligence, duty to exercise, § 541 Partial removal, § 528 Passive trusts, lack of duties, § 208 Perpetuities, measuring period, § 214 Personal powers, § 553 Plural trustees Advantages and disadvantages, § 121 Delegation of powers, § 121 Joint tenancy, § 122, 145 Powers and duties, § 122, 145, 554 Ouorum. § 121 Unanimous action, § 121, 122, 554 Possession of property, transfer not vital, § 148 Power of appointment, creation, § 219 Powers and duties Generally, § 206, 551 et seq Active trusts, § 206, 209 Charitable trusts, § 391

TRUSTEES—Cont'd Powers and duties-Cont'd Court control, § 558 et seq Advice as to extent of powers, § 559 Alteration of powers, deviation, § 561 Decanting, power to transfer trust assets to another trust, § 567 digital assets of a decedent, § 568 Express powers, § 551 Implied powers, § 551 Personal powers and powers attached to office, § 553 Statutes, § 551 On termination of trust, § 1010 Trust fund collection and preservation, § 581 et seq. Uniform Probate Code, § 7 Usually joint powers, not several, § 554 Private trusts, § 121, 130, 132, 134 Privileges and immunities, contracts, § 541, 542 Privity, collateral estoppel, breach of trust, barring of remedies, § 956 Proceedings Appointment of successor, § 533 Removal, § 522 Resignation, § 514 Professional Appointment, § 134, 151 Skill required, § 541 Property, interest, transfer to, § 141 Formalities necessary, § 142 Property interest, § 111, 116, 144 Prudent Investor Rule, restatement, Third, Trusts, § 612, 671 et seq. Prudent man rule, investments, § 612, 612 to 613, 613, 616, 616 to 666, 666 Public corporation Charitable trust, § 328 Private trusts, § 128, 130 Public Policy, this index Public trustee England, § 246

TRUSTEES—Cont'd Qualification Condition precedent to acting, § 151 Corporate trustee, § 151 Deposit with state authority, § 151 Court appointed trustees, § 151 Creation of trust, § 151 Effect of failure to qualify, § 151 Inherent power of court, § 151 Private trusts, § 151 Settlor may direct, § 151 Statutes, § 151 Quantum of property interest Conveyance of fee interest, § 144 Duties will determine, § 144 Intent of settlor or testator, § 144 Statutes, § 144 Words of inheritance not necessary to convey fee, § 144 Ratification, successor trustees, breach of trust, § 942 Relatives, this index Remedies of beneficiary against, § 861 et seq Remedies of trustee Advice from court, § 559 Barred by court decree, § 956 Enforcement of trust, § 582, 583 Contracts, § 711 Sales, § 746 Obtain compensation, § 975 Removal Absconding trustee, notice, § 523 Action, § 522, 526, 871 Adverse interest, § 527, 528 Court discretion, § 519, 527 Failure to qualify, § 151 Jurisdiction of court, § 523 Notice, alien trustees, § 523 Partial removal, § 528 Parties, § 522 Pleading requirements, § 524 Power of court, § 519, 543(V) Procedure, court, § 522 Remedy of beneficiary, § 861 Specific grounds for, § 527

TRUSTEES—Cont'd Removal-Cont'd Statutes, § 519, 527 Trust terms regarding, § 520 Removal from Office, this index Renunciation or rejection of office, § 150 Representing trust in court, § 551 Resignation Generally, § 511 et seq. Acceptance, § 515 Accounts and accounting, § 516 Act of trustee, § 511 Agreement, § 513 Agreement of parties, § 513 Appointment of successor, § 533 Approval of beneficiaries, § 513 Charitable trusts, § 398 Conditional acceptance, § 516 Costs, § 518 Costs, judicial proceedings, § 518 Court approval, § 511 Judicial proceedings, § 514 Revocability, § 517 Transfer of trust to another, § 512 Voluntary, § 511 When accepted by court, § 515 Retention of own stock Generally, § 543(G) Scope of interest, § 144 Reversions, this index Revocable living trusts, respective responsibilities, § 233 Sale of business, § 531 Sales, this index Securing incidental benefits for self while engaged in trust business, § 543(Q) Selection, § 121 et seq. Settlor, § 121, 145 Settlor as interim trustee, § 123, 125 Self Dealing, this index Selling own property to trusts, § 543(E) Shares and Shareholders, this index Similar transactions, standard of care, § 541

TRUSTEES—Cont'd Single trustee, advantages and disadvantages, § 121 Skill and diligence required, § 541 Sole trustee Beneficiary as, § 1, 129, 168, 1003 Death, § 529 Standard of care Generally, § 541, 612 Reduced by settlor, § 542 Standard of care required, § 541, 612 State acting as, § 128, 328 State banks Massachusetts statute governing, **§**2 Statutes, this index Subdivision trusts, duties, § 249 Subsidiary Corporations, this index Successors, appointment, § 121, 145, 532 Statutes, § 532, 533 Successor trustees Generally, § 529 Breach of trust Liability, § 871 Limitation of actions, collusion with third parties, § 955 Ratification by predecessor, § 942 Standing, § 871 Collusion with third parties, § 955 Limitation of actions Generally, § 954 Breach of trust, third parties, collusion with trustee, § 955 Ratification, breach of trust, § 942 Standing, breach of trust, third parties, collusion with trustee, § 955 Turnover of assets, liability, sureties and suretyship, § 864 Vacancy in office, § 532 Suspension, § 528 Taxes and taxation, independent trustee, § 121, 122, 264.10, 264.20, 268.15, 268.20 Taxes and Taxation, this index

TRUSTEES—Cont'd Temporary removal, § 528 Termination of trust Beneficiaries and trustee, § 1006 Merger of legal and equitable interests, § 1003 Settlor and trustee, § 998 Third Parties, this index Title of trustee, § 144, 145 Tort liability, statutes, § 732, 735 Transactions with beneficiaries, validity, § 544 Transfer of property interest to, § 141 Transfer of trust to another, § 512 Trust indentures, eligibility, § 250 Trust protectors distinguished, § 137 Unanimous action, § 121, 122, 554 Uniform Probate Code, duties and liabilities, § 7 Unincorporated associations, capacity, § 125, 328 United States as, § 128, 246, 328 Indian lands, § 246 Vacancies in trusteeship Generally, § 532 Appointment of successors, § 121, 145, 532, 533 Personal powers, § 553 Vacancy in office Limitation of actions, § 954 Successors, § 532 Vested interest, duration, § 218 Voting own stock, § 543(N) War, this index TRUST FUNDS See Subject-Matter of Trust; Tracing Trust Funds **TRUST INDENTURE** Generally, § 250 Liability of trustees, § 250

TRUST INDENTURES

To secure bondholders, **§ 29, 250** Securing creditors, **§ 250** Trustee as fiduciary, **§ 29**

TRUST INSTRUMENTS

Customary terms Insurance trusts, § 237 Trust to secure creditors, § 250 Definition, §1 Delivery, § 147 Forgery, power of settlor to void, § 42 Insurance trusts, § 237 Meaning, § 147 Merger of previous oral statements, statutes, § 51 Recording, § 149 Requirement of writing, Statute of Frauds, § 61, 66 Several documents, § 45, 50 Void document, trust creation, § 50 Wills, § 101 et seq

TRUST LEASE BACK ARRANGEMENT

Irrevocable trusts, § 234

TRUSTOR See Settlor

TRUST POWER

See also Powers of Trustees Imperative power of appointment, § 116

TRUST PROPERTY

See also Subject-Matter of Trust Damages, loss of value, trustee delays taking possession, § 583 Element of trust, § 1 Requirement, creation of trust, § 1, 50

Terminology and classification, § 1

TRUST PROTECTORS Generally, § 137, 965

TRUST PURPOSES

See also Functions of Trusts; Purposes of Trusts Accomplishment, termination of trust, **§ 468, 1002, 1007** Failure of express trust, resulting trust arises, **§ 468** Illegality, **§ 211, 468**

TRUST PURPOSES—Cont'd

Indefinite nature, **§ 48** Necessity to make trust active, **§ 206**, 1002

TRUST RECEIPTS

Compared with trust, § 38 Recording acts, bona fide purchasers distinguished, § 884

TRUST SUBSTITUTES

Civil law countries, **§ 9** Statutes, **§ 15, 47, 211, 233** Uniform Probate Code provisions, **§ 47** United States, **§ 15, 47, 211, 233**

TUBERCULOSIS

Charitable purpose, victims, § 374 Charitable trusts, promoting health, § 374

TUITION

Advancement of education, § 375 Charges by trustees, § 364 Charitable trusts, § 364, 375

TWO PARTY REVOCABLE TRUSTS

Investment decisions, § 233

ULTRA VIRES

Contracts, liability of trustee, § 712, 719

Corporate beneficiaries, acceptance, beneficial interest, **§ 168** Corporations, trustees of charitable trusts, **§ 328** Corporations as trustees, **§ 130, 131**

UNBORN BENEFICIARIES

Consent, barring of remedies, **§ 941** Joinder of parties, breach of trust, **§ 871**

Perpetuities, **§ 213** Unborn Children, this index

UNBORN CHILDREN

Accumulations, **§ 163** Barring remedies, **§ 941** Beneficiaries Generally, **§ 163**

UNBORN CHILDREN—Cont'd Beneficiaries—Cont'd Qualification, class gifts, § 182 Class gifts, time of closing, § 182 Consent of vested or living beneficiary, barring of remedies, § 941 Consent to revocation, statutory provisions, § 999 Guardian ad litem, § 871, 1007, 1009 Revocation, statutory provisions, § 999 Rule against Perpetuities, § 213 **UNBORN PERSONS** Actions Parties, representation, § 871, 1007 Powers of appointment, Rule against Perpetuities, § 213 Widow, Rule against Perpetuities, § 213 Children. Unborn Children, this index **UNCERTAINTY** Beneficiaries, § 161 Charitable trusts Beneficiaries, § 323 Gift to corporation, trust or absolute gift, § 324 Purposes or methods of administration, § 371 Successors of settlor, power to attack, § 417 Insurance trust, terms, § 237 Trustee's duties, passive trust, § 122, 206, 1002 Trust intent, settlor's expressions, § 45 Trust subject matter, § 111 **UNCLAIMED PROPERTY**

Distributions, disposition, **§ 814** Escheat to state, beneficiary's interest, **§ 187** Uniform Disposition of Unclaimed Property Act, **§ 187**

UNCLES AND AUNTS Resulting trusts, **§ 460**

Trustees conduct, § 542 UNDERPRIVILEGED PERSONS Aid, charitable purpose, § 379 **UNDERPRODUCTIVE PROPERTY** Apportionment Sales proceeds, § 824, 825 UNDIVIDED INTEREST Gift of, § 264.25, 278 Gift taxes, § 277 Subject-matter of trust, § 111 **UNDUE INFLUENCE** Basis for constructive trust, § 474 Breach of trust Ratification, § 942 Release, § 943 Capacity of settlor, § 44 Charitable trusts Creation, invalidating cause, § 323 Successors of settlor, power to attack validity, § 417 Charitable trusts, creation, § 323 Constructive trust, § 474 Constructive trusts, § 474 Creation of trust, effect, § 44, 997 Ground for rescission, § 997 Joint bank accounts, transfer of funds on death, § 47 Presumption, direct dealings between fiduciaries and beneficiaries, § 544 Ratification, breach of trust, § 942 Release, breach of trust, § 943 Revocable trusts, statutory share of surviving spouse, § 233 Setting aside trust, § 42, 44, 581 Termination of trust, compromise, § 1009 Testamentary trustor, § 101 Title to property, constructive trusts, limitation of actions, breach of trust, § 953 Trustees, dealing with beneficiaries, § 544

UNCONSCIONABILITY

Antenuptial agreements, § 211

UNDUE INFLUENCE—Cont'd

Voiding consent to breach of trust, § 941 Voiding ratification of breach of trust, § 942

Voiding release of breach of trust, § 943

UNEMPLOYED PERSONS

Charitable trust purpose, § 373

UNEMPLOYMENT COMPENSATION Charitable trusts, exemptions, § 401

UNFAIR COMPETITION

Business trust, suit on behalf of, § 247M Trustee in competing business, § 543(O)

UNIFIED CREDIT

See also Federal Estate Tax; Gift Tax—Federal; Generation Skipping Transfers, this Index Federal transfer taxes, **§ 271.5, 276, 277**

UNIFIED TRANSFER TAX

See also Federal Estate Tax; Gift Tax—Federal Rates, **§ 271.5, 276, 277** Unified credit, **§ 271.5, 276, 277**

UNIFIED TRANSFER TAXES Generally, § 271

UNIFORM ACT FOR SIMPLIFICATION OF FIDUCIARY SECURITY TRANSFERS

Development of trust law, § 7 Liability of corporation for participation in breach of trust, § 905 Participation in breach of trust, § 901, 905 Third parties, breach of trust Generally, § 901

Shares and shareholders, § 905

UNIFORM CHARITABLE TRUSTS ADMINISTRATION ACT Cy pres, § 433

UNIFORM CHARITABLE TRUSTS ADMINISTRATION ACT —Cont'd Cy pres provisions, § 433

UNIFORM COMMERCIAL CODE

See also Uniform Fiduciaries Act;

Uniform Negotiable Instruments Law Bona fide purchasers, negotiable

instruments Generally, § 881, 883

Definition of value, § 887, 889

- Collection items
- Effect of Code provisions, § 24
- Tracing trust funds, **§ 924**
- Contracts of trustee, liability, § 714 Creditor taking trust property in payment of trustee's personal debt,

§ 904 Delivery of stock certificate with

donative intent, § 142 Development of trust law, § 7

Liabilities of trustees, business trusts, **§ 247K**

§ 24/K
Mortgage loans
Generally, § 771, 775
Trustee's personal liability, § 775

Notice to agent or corporate officer, participation in breach of trust, § 912

Participation in breach of trust, § 901, 903, 905

Purchase of negotiable paper from trustee, participation in breach of trust, **§ 903**

Third parties, breach of trust, purchases from trustees, § 903 Tracing collection items, § 924 Value, bona fide purchaser rule,

§ 887, 889

UNIFORM COMMON TRUST FUND ACT Development of trust law, § 7 Text and adoptions, § 677

Trust investments, § 677

UNIFORM DISPOSITION OF COMMUNITY PROPERTY RIGHTS AT DEATH ACT Purpose and adoptions, § 7

UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Generally, § 187, 814 Distributions, disposition, § 187, 814 Escheat to state, beneficiary's interest, § 187

UNIFORM DURABLE POWER OF ATTORNEY ACT Generally, § 15

Effect and adoptions, § 15

UNIFORM ESTATE TAX APPORTIONMENT ACT

Generally, **§ 272.5, 286** Death taxes, sources of payment, **§ 272.5, 286**

UNIFORM FIDUCIARIES ACT

Generally, **§ 7, 901, 912** Actual notice of one breach, effect on bank's duty of inquiry, later breaches, **§ 910**

Adoptions, **§ 902** Bad faith, participation in breach of trust. **§ 909**

Bank cashing check from trustee to self, participation in breach of trust, **§ 907**

Bank honoring checks on trust account in favor of third persons, **§ 908**

Bank permitting co-trustee to withdraw trust funds from bank account, participation in breach of trust, **§ 911**

Breach of trust Bank liability, honoring checks drawn on trust property To third parties, **§ 908** To trustees, **§ 907**

Third parties

Bad faith, **§ 909** Joint cotrustees accounts, single trustee withdrawals, **§ 911**

Cotrustees, bank deposits and collections, joint accounts, single trustee withdrawals, **§ 911** UNIFORM FIDUCIARIES ACT -Cont'd Breach of trust-Cont'd Third parties-Cont'd Notice of one putting on inquiry thereafter, § 910 Co-trustees, trust bank accounts. withdrawals, § 911 Creditor's acceptance of trust property in payment of trustee's personal debt, § 904 Creditor taking trust property in payment of trustee's personal debt, § 904 Notice, § 912 Participation in breach of trust, § 901, 912 Purchaser's liability for participation in breach of trust, § 903 Third parties Breach of trust. § 901 Purchases from trustees, § 903 Security, personal debts of trustees, § 904 Duties, breach of trust, application of payments or deliveries to trust purposes, § 902 Trustee depositing trust paper in trustee's personal account, § 906

UNIFORM FRAUDULENT CONVEYANCES ACT

Generally, § 211 Adoptions, § 5, 211 Trust created to defraud creditors, § 211

UNIFORM FRAUDULENT TRANSFER ACT

Generally, § 211

UNIFORM GIFTS TO MINORS ACTS

Generally, § 15, 231, 233, 264.10 Custodians, § 15 Estate and tax planning, § 15, 231, 233, 264.10 Recent legislative changes, § 15 Text and adoptions, § 15

UNIFORM LAWS

Generally, affecting trusts, § 7

UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

Adoptions, § Charitable trustees, § Charitable trusts, § Investment of charitable funds, §

UNIFORM MARITAL PROPERTY

ACT Generally, § 7

UNIFORM MARRIAGE AND DIVORCE ACT

Generally, § 7 Division of property between spouses, § 7

UNIFORM NEGOTIABLE INSTRUMENTS LAW

See also Uniform Commercial Code Generally, § 247K, 714, 775 Bona fide purchaser Generally, § 881, 883 Value, § 888, 889 Business trusts, liabilities of trustees, § 247K Contracts of trustees, personal liability, § 714 Creditor accepts trust property in payment of trustee's personal debt, § 904 Mortgage loans, trustee's liability, § 775 Participation in breach of trust, § 903, **904** Purchase of negotiable paper from trustee, participation in breach of trust, § 903 UNIFORM PREMARITAL AGREEMENT ACT Generally, § 211 **UNIFORM PRINCIPAL AND INCOME ACT**

See also Revised Uniform Principal and Income Act, this Index Generally, § 7, 802, 816

Index-416

UNIFORM PRINCIPAL AND INCOME ACT—Cont'd Allocation Corporate distributions, § 841, 859 Costs of improvements, § 805 Costs of repairs, § 804 Expenses, § 801, 810 Insurance costs, § 802 Probate income, § 817 Receipts, § 816, 829 Amendment, 1959, probate income, § 817 Apportionment of income provisions, § 818 Bonds bought at a discount, receipts from sale, § 826 Bonds bought at a premium, receipts, § 828 Corporate distributions, § 841, 843, 859 Costs of improvements, § 805 Costs of repairs, § 804 Expenses, § 801, 810 Insurance costs, § 802 Natural resources Receipts, § 827 Probate income, § 817 Proceeds, sale of unproductive property, disposition of proceeds, § 824, 825 Receipts, § 816, 829 Receipts from wasting assets, § 827 Retroactive application, constitutionality, § 848 Trust expenses, source of payment, § 802, 810 **UNIFORM PROBATE CODE** Account, trustee's duty, § 973

Adoptions, § 7 Contract liabilities of trustees, § 712 Durable power of attorney, § 15 Guardian and conservatorship, § 13 Information, beneficiaries; rights to, § 973 Jurisdiction, § 292 Jurisdiction provisions, suit to enforce trust, § 870 Marital rights, § 211, 233

UNIFORM PROBATE CODE -Cont'd Multiple-party accounts, § 47 Multistate trusts, jurisdiction provisions, § 292 Nonprobate transfers, § 47 Powers of appointment, surviving spouse's elective share, § 211, 233 Spouses elective share, amendments, § 211 Trustee's compensation, § 975 Trustee's tort liability, § 732, 735 Trust investments, § 613 Trust sections, text, § 7 Trust sections, text and adoptions, § 7, 295 **UNIFORM PRUDENT INVESTMENT ACT** Generally, § 613 UNIFORM PRUDENT INVESTOR ACT Generally, § 671 **UNIFORM REVISED PRINCIPAL** AND INCOME ACT See Revised Uniform Principal and Income Act, this Index **UNIFORM STATUTORY** CUSTODIAL TRUST ACT Generally, § 15 **UNIFORM STATUTORY RULE** AGAINST PERPETUITIES Text and adoptions, § 7, 214 UNIFORM STATUTORY WILLS ACT Generally, § 7 **UNIFORM STOCK TRANSFER** ACT Generally, § 142 Delivery of stock certificate with donative intent, § 142 UNIFORM SUPERVISION OF TRUSTEES FOR **CHARITABLE PURPOSES** ACT Generally, § 7, 411

Jurisdiction, § 292 UNIFORM TESTAMENTARY ADDITIONS TO TRUSTS ACT Generally, § 7 Pour-over wills, § 233, 264.5 **UNIFORM TRANSFERS TO** MINORS ACT Generally, § 15 Disposition of property, § 231 Insurance trusts, § 235 **UNIFORM TRUSTEES'** ACCOUNTING ACT Generally, § 7, 973 UNIFORM TRUSTEES POWERS ACT Generally, § 541, 551

UNIFORM TESTAMENTARY

Generally, § 233

ADDITIONS TO TRUST ACT

UNIFORM TRUSTEES' POWERS ACT

Terms and adoptions, § 551

UNIFORM TRUSTS ACT Contract liabilities of trustee, § 712 Coupon and dividend bank accounts, § 20 Court excusing trustee making improper distributions, § 814 Disloyal transactions, § 543 et seq Indemnity of trustee, tort liability, § 734 Text and adoptions, § 7 Torts of trustee, representative liability, § 732 Tracing trust funds, withdrawals from mixed trust funds, § 927

UNIFORM VENDOR AND PURCHASER RISK ACT Generally, § 18

Effect and adoptions, § 17, 18

UNINCORPORATED ASSOCIATIONS

Beneficiaries, § 161, 364 Future formation as corporation, § 163

UNINCORPORATED

ASSOCIATIONS—Cont'd Beneficiaries, § 161, 364—Cont'd Members as beneficiaries, § 167 Private trusts, § 167 Charitable purposes, § 364 Real estate investment trusts, § 248 Statutes, § 125, 328 Suits by and against, § 125, 328 Trustees Capacity to take title, § 125 Charitable trusts, § 328 Private trusts, § 125 Trusts for, duration, § 218

UNION DUES

Charitable trusts, source of funds, § 367

UNIONS

Beneficiaries of private trusts, § 167

UNITED STATES

Accounts and accounting Statutes, § 255, 270.5, 270.20 Beneficiary, § 168 Bonds Estate taxes, payment, § 233 Joint tenancy, federal gift tax, § 278 Principal and income, § 826 Probate proceedings, avoidance, § 231 Subject-matter of trust, § 114 Trust investments, § 616, 666, 672 Bonds, trust investments, § 616 to 666 Charitable contributions, estate tax deductions, § 275.5 Charitable gifts, income tax deductions, § 264.25 Constitutional restrictions, charitable trusts, § 328, 375 Funds, bank deposits, preferred status, § 21 Obligations to, spendthrift trust exception, § 224 Regulation Charitable trusts, § 245, 264.25, 270.5

UNITED STATES—Cont'd Regulation-Cont'd Employee benefit trusts, § 255, 270.20 National banks, § 134, 667 Regulation, national banks, § 667 Settlor, § 41 Trustee, § 128, 246 Indian lands, § 246 Who cannot be sued, § 128 Trust indentures, regulation, § 250 UNITED WAY Charities, qualifications, § 264.25 UNITRUSTS Charitable remainder Federal estate tax, § 275.5 Federal gift tax, § 283 Federal income tax, § 245, 264.25, 270.5 Device to avoid principal and income allocation problems, § 816 Split interest charitable trust, § 245, 264.25, 270.5, 275.5, 283 UNIVERSITIES Colleges and Universities, generally, this index UNIVERSITIES AND COLLEGES Charitable trusts Advancement of education, § 375 Charges by trustees, § 364 UNJUST ENRICHMENT Beneficiary's election of remedies, § 946 Constructive trust to prevent, § 472 Fraudulent conveyances, § 211 Informal trust, refusal to carry out, § 495, 501 Quasi-contractual liability, trust estate, § 725 Resulting trust Excessive trust res, § 469 Failure of express trust, § 468 Resulting trusts, § 463 Failure of express trusts, § 468 Trustees, loyalty to beneficiaries, § 543

UNJUST ENRICHMENT—Cont'd Trust to defraud creditors, § 211

UNKNOWN PERSONS

Actions

Parties, representation, **§ 871, 1009** Beneficiaries, distributions, **§ 814, 1010**

Constructive trusts, oral promises to convey, **§ 499**

Deeds and conveyances, active trusts, **§ 209**

Trust to convey or distribute, active trust, **§ 209**

UNLAWFUL PURPOSES Generally, § 211

UNPRODUCTIVE PROPERTY

Apportionment Carrying charges, sources of payment, § 807 Sale proceeds, § 824, 825 Federal estate tax, marital deduction, § 275.10 Sale of intangibles Apportionment, § 825 Proceeds, principal or income, § 825 Sale of tangible property, receipts as

income or principal, § 824

UNRELATED BUSINESS INCOME

Charitable remainder trusts, income taxes, § 270.5 Employee benefit trusts, income

taxes, § 270.20

USAGES AND CUSTOMS

Charitable trust, leases, § **796** Commercial paper, bank collection, § **223** Compensation, § **977** Coupon and dividend bank accounts, § **20** Investments, mortgages, § **672** Leases, term, § **788** Sales of trust property, § **744**

USE

Definitions, § 2

USE AND OCCUPATION

Beneficiaries, § 208
Liability of occupant, lease, § 799
Tenant or third person, breach of trust, § 869
Third parties, standing, § 869

USEFUL PURPOSES

Charitable purposes, synonymous term, § 370

USES

Consideration in early law, § 201 Origin and early history, § 2 Statute of Uses, § 5 Use on a use, § 5

USE TAXES

National banks, immunity, § 134 9

USE UPON A USE Statute of Uses not executing, § 206

USURY Deeds of trust, § 29 Mortgage and trust distinctions, § 29

UTAH

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 660**

VACANCIES

Appointment of successor trustees, § 532 Trusteeship, personal powers, § 553

VACANT LAND

Bona fide purchasers, duty to inquire, **§ 896**

VACATING OR SETTING ASIDE

Conveyances in return for promises of support, § 19 Court's powers Trust, invalidating cause, § 997 Creditors of settlor, fraud, § 211 Deeds and conveyances, actions and proceedings, parties, § 414 Charitable trusts, settlors, § 415 Disclaimer, fraudulent conveyance, § 171

VACATING OR SETTING ASIDE

--Cont'd Invalidating causes, trust creation, § 44, 101 Power in trust, contract between donee and prospective appointees, § 116 Trust, invalidating cause, § 997 Trustee's action, remedies of beneficiary, § 861 Trustees acts, § 861 Trusts, § 861 Wills, § 101

VAGUENESS

See also Ambiguities; Indefiniteness; Uncertainty, this Index Charitable trust, administration, § 371 Class beneficiary membership, § 162 Identification Beneficiary, § 161 Trust intent of settlor, § 45

VALIDATION

Beneficiary Breach of trust, § 941, 942 Contracts, § 723 Leases, § 768 Sales, § 747 Trustee's disloyalty, § 543(U) Wrongful investments, § 688 Court approval as, § 543(U), 551, 687, 956 English Charitable Trusts Validation Act, § 372 Investments Beneficiary, § 688 Court, § 687 Ratification by beneficiary, § 942 Statute of Frauds, intent with which writing made, § 84

VALIDITY

Antenuptial contracts, **§ 211** Charitable trusts, duration of trusts, perpetual trusts, **§ 369** Spendthrift trusts, exceptions, statutes, **§ 224** Totten trusts, undue influence, **§ 997**

Index-420

VALIDITY—Cont'd

Trusts, § 211
Bona fide purchasers, § 881
Charitable trusts, duration of trusts, perpetual trusts, § 369
Concurrent jurisdiction, § 870
Purpose of trust, resulting trusts, § 211
Spendthrift trusts, exceptions, statutes, § 224
Totten trusts, undue influence, § 997

VALIDITY OF TRUST

See also Illegality; Purposes of Trusts Attack by settlor, § 42 Business trusts, § 247D Defense by trustee, § 581 Subdivision and land trusts, § 249 Voting trusts, § 252

VALUATION

Assets, upon termination of trust, § 1010 Federal estate tax, § 274, 274.15 Alternate valuation election, § 274.15 Farms and closely held corporations and real estate, § 274, 274.10 Federal gift tax purposes, § 277 Interest of shareholder or partner, business insurance trusts, § 253 Setting up annuity trust, § 813 VALUATION OF ASSETS Close corporations, estate taxes, shares and shareholders, § 274, 274.5 Closely held businesses, estate taxes

Real estate, § 274.10 Copyrights, estate taxes, § 274 Alternate valuation election, § 274.15

Estate taxes, § 274 Agriculture, § 274.10 Alternate valuation election, § 274.15 Close corporations, § 274.5 Shares, § 274

VALUATION OF ASSETS—Cont'd Estate taxes, § 274—Cont'd Closely held corporation, § 274.5 Copyrights, § 274 Alternate valuation election, § 274.15 Farm and closely held business real estate, § 274.10 Going concern value, § 274 Life estates, § 274 Patents, § 274 Alternate valuation election, § 274.15 Proprietorships, § 274 Real estate, closely held businesses, § 274.10 Remainders, § 274 Alternate valuation election, § 274.15 Reversions, alternate valuation election, § 274.15 Securities, § 274 Shares and shareholders, § 274 Close corporations, § 274.5 Special rules, § 276.7 Gifts, § 277 Going concern value, estate taxes, § 274 Life estates, estate taxes, § 274 Patents, estate taxes, § 274 Alternate valuation election, § 274.15 Proprietorships, estate taxes, § 274 Real estate, closely held businesses, estate taxes, § 274.10 Remainders, estate taxes, § 274 Alternate valuation election, § 274.15 Reversions, estate taxes, alternate valuation election, § 274.15 Securities, estate taxes, § 274 Shares and shareholders, estate taxes, § 274 Close corporations, § 274.5 Special use valuation, estate taxes, agriculture, § 274.10 Trustees, employing self to do specialized work for trust, § 543(M)

VALUE

See also Valuation Assets in gross estate, federal estate tax, § 274, 274.15 Bona fide purchaser rule Bank credit, § 888 Cancelling or securing debt, § 889 Change of status, § 887 Definition. § 887 Fictional cancellation of debt, § 889 Illegal consideration, § 887 Part payment of price, § 890 Promises, § 887 Consideration contrasted, § 887 Federal estate tax, consideration for transfer, § 273.45 Federal gift tax, § 277 Transfers for consideration, § 278

VARIATION OF TRUSTS

See also Cy Pres; Deviation; Modification of Trusts English statute permitting, **§ 561, 994**

VEGETARIANISM

Charitable trust purpose, **§ 368** Charitable trusts, purposes, **§ 368**

VENDOR AND PURCHASER

See also Powers of Trustees; Sales Construction, contract or trust, § 18 Fire loss, specific performance, § 18 Land contract No fiduciary relation, § 18 No trust division of ownership, § 18 Trustee distinguished, rights and duties, § 18 Vendor as trustee of insurance proceeds, § 18 Sales, generally, this index Uniform Vendor and Purchaser Risk Act, § 18

VENDOR'S LIEN

Distinctions, trust and contract for sale, § 18

VENUE

See also Conflict of Laws; Governing Law Generally, § 870 Remedies, jurisdiction, § 870 Removal of trustee proceedings, § 523

VERDICT

Advisory verdict, intent to create trust, § 49

VERMONT

Accounts and accounting, statutory regulation of accounts, § 974

VESSELS

Bill of sale, transfer of interest, § 142 Depreciation, principal and income, § 827

Subject-matter of trust, § 112

VESTED INTERESTS

Construction of beneficiary's interest, § 182 Rule against Perpetuities Charitable trusts, § 342 et seq Private trusts, § 213 et seq

VESTED RIGHTS

Beneficiaries, disclaimer, § 170, 172 Beneficiary's interest, § 182 Assignment, § 188 Class gifts, time of closing class, § 182 Successive assignees, priorities, § 195 Construction of beneficiary's interest, § 182 Duration of trust, § 218 Participants, employee benefit trusts, § 255, 270.20

VESTING

Charitable trusts, § 661 Enforcement, § 414 Parties, § 412 et seq. Remoteness, § 342 Choice of law, § 294 Construction, private trusts, § 182 Employee benefit trusts, § 255

Index-422

VESTING—Cont'd Remoteness, charitable trusts, § 361 Resulting trusts, § 458

VETERANS

Charitable trusts, purposes, § 391 Creditors' remedies, § 193 Maintenance, charitable trusts, § 374 Organizations, charitable gifts, income tax deductions, § 264.25 Privileges, evasion, fraudulent conveyances, § 211 Special privileges, evasion or violation of statutes, § 211

VETO

See also Mortgages; Sales Bondholders' protective committee reorganization plan, § 251 Investments, by beneficiaries, § 689 Power in co-trustee or advisor, § 122

VEXATIOUS LITIGATION

Charitable trusts, enforcement, § 411, 414 Election of remedies, § 946

VILLAGES

Disincorporation, trustee to hold property, § 246 Political Subdivisions, generally, this index Trustees Charitable trusts, § 328 Private trusts, § 130

VIRGINIA

Accounts and accounting, statutory regulation of accounts, **§ 974** Investment statutes, **§ 662**

VIRTUAL REPRESENTATION

Actions to enforce trust, parties, § 871 Contingent beneficiaries, termination of trust, § 1007 Joinder of parties, breach of trust, § 871

VISITATION

Charitable trusts, powers of trustee, § 416

VISITATION POWERS

Charitable trusts, **§ 416** Gift to charitable corporation, **§ 416** Gift to individual or noncharitable corporation as trustee, **§ 416** Statutes, **§ 416**

VIVISECTION

Charitable trust purpose, combating, § 368 Charitable trusts, § 379 Purposes, § 368 Protection of animals, § 379

VOLUNTARY CONVEYANCES

Early law, resulting trusts, § 453

VOLUNTARY TRUST Terminology and classification, § 1

VOLUNTEERS

Beneficiaries as, trust creation, § 181, 202 Charitable trusts Personal liability, § 394

VOTING

Bank as trustee of its own stock, § 543(N) Shares and shareholders Trustees Rights, loyalty to beneficiaries, § 543 Self as director or officer of corporation, § 543(N) Trusts Active trusts, § 207 Duration, § 218 Railroads, § 252 Shares of stock, trustee's power,

§ 551 VOTING TRUSTS

Generally, **§ 252** Active trust, creation, **§ 207** Duration, **§ 218, 252, 996** Functions, **§ 252**

WAGES

See also Compensation of Trustee; Salaries

Employer retaining, debt or trust, § 19 Loyalty, trustee employing self, § 543(M) Right to receive when later earned, § 113 Trust subject-matter, § 113 WAIT AND SEE DOCTRINE Accumulations provision, Pennsylvania, § 217 Meaning, § 213 Rule against Perpetuities, § 213 Statutory adoptions England, § 213 United States, § 214 WAIVER See also Consent; Ratification Accounting, defense to beneficiaries' action for, § 969

WAGES—Cont'd

Beneficiaries, disclaimer, § 171
Bond of trustee, § 151
Court's power to require, § 151
Breach of trust, election of remedies distinguished, § 945
Compensation, by trustee, § 975, 980
Resignation of trustee, § 516
Conditions subsequent, power of termination, § 35
Defense to beneficiaries' action for accounting, § 969
Election of remedies distinguished, § 945

Trustee, right to compensation, § 980

WAQF

Compared with trust, § 9

WAR

Trustees Removal from office Alien trustees, § **523** Grounds, § **527** Temporary suspension, § **528**

WAR AND NATIONAL DEFENSE

Aliens, capacity as beneficiaries, **§ 168**

WAR AND NATIONAL DEFENSE

-Cont'd Beneficiaries' interest, termination, § 182

Suspension of absent trustee, § 528

WARRANTIES

Implied warranty Assignment, chose in action, § 25 Power of trustee in making contract, § 724 Sales, trustee's deed, § 745

WASHINGTON

Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 663 Trustees compensation, § 975

WASTE

Breach of trust, jurisdiction, § 870 Charitable trusts Cy pres, expediency, § 439 Resulting trusts, § 418 Legal life tenant, liability for, § 27 Natural resources, Uniform Principal and Income Act, § 827 Principal and income, wasting property, § 824, 829 Statutes, § 861 Trustees, suspension, § 528 Trustee's duty to prevent, § 582 Trust property, remedies of beneficiary, § 861 Wasting assets, amortization or depletion from receipts, § 827 WASTING ASSETS Bonds bought at a premium, § 828 Building, depreciation reserve out of rents, § 829 Federal income tax, depletion allowance, § 827

Principal and income Natural resources, receipts, depletion allowance, **§ 827** Other than natural resources, receipts, amortization fund,

§ 827

WASTING SECURITIES

Salvaging mortgages, stocks and bonds, § 825 Trust investments, § 612

WATER SUPPLY

Tax funds, charitable trusts, § 367

WEARING APPAREL

Charitable purpose, relief of poverty, **§ 373** Charitable trusts, advancement of education, **§ 375**

WEATHER CONDITIONS

Estate taxes, deductions, § 275.15

WEIGHT AND SUFFICIENCY OF EVIDENCE

See Evidence Creation of trusts, intent, § 49 Resulting trusts, § 464

WEST VIRGINIA

Accounts and accounting, statutory regulation of accounts, § 974

WHIM

Donor, charitable trusts, § 363

WHIMSICAL TRUSTS

Charitable trusts, § 379

WIDOWS AND WIDOWERS

See also Surviving Spouse, generally, this Index

Construction of beneficiary's interest, § 182

Election to take against will, acceleration of remainder interests, **§ 172**

Fraud, illegal trusts, § 211, 233

WIFE

See Husband and Wife; Married Women; Resulting Trusts; Widows and Widowers

WILD ANIMALS

Subject-matter of trust, § 111

WILLFUL AND WANTON MISCONDUCT Charitable trusts Trustees, § 394 Trustees, exemption from liability, § 542 WILLS See also Statute of Wills; Testamentary Trusts; Wills Acts See, also, Descent and Distribution, generally, this index Absolute gift, no proof of express trust, § 102 Beneficiaries Deceased persons, § 164 Nature of rights, § 182 Bona fide purchasers, notice, duty to inquire, document terms, § 897 Breach of trust, release, § 943 Charitable corporations, statutory restrictions, § 327 Charitable trusts, creation, § 323 Mortmain acts, § 325, 326 Conflict of laws, estate planning, § 301 Consideration, creation of trusts. § 202 Constructive trusts, § 473 Contract to devise or bequeath, § 480 Gift absolute, oral trust, § 499 Joint wills, breach of oral agreement, § 499 Mutual wills, breach of oral agreement, § 499 Trust appearing on face of will, § 500 Contest Spendthrift trust, § 222 In terrorem clauses, § 181 Contests Estate taxes, marital property, § 275.10 Surrendering rights, consideration for creation of trusts, § 204 Contingent interests, perpetuities, § 213

WILLS—Cont'd Contract to devise or bequeath Constructive trust, § 480 Quantum meruit, § 480 Specific performance, § 480 Statute of Frauds, § 480 Coordination with revocable trusts, § 231, 233, 264.5 Cy pres, § 431 Direct restraints on alienation, § 220 Disclaimers Estate taxes, deductions, § 275.5 Gift taxes, § 278, 278.5 Disclaimers, termination of trusts, § 172 Election to take against, fraud on spouse, § 211 Election to take against will, § 211 Estate taxes, marital deduction, § 275.10 Estate planning, coordination, § 233 Gift by will to trustee under existing trust, § 105 Husband and wife, trust as fraud, § 211 Informal trusts Absolute gift followed by, § 102 Attack by testator's successors, § 102 Constructive trusts, § 498, 500 Effect of attempted trust, § 102 Gift to trustees, oral evidence of trust terms, § 102 Violation of agreement, constructive trusts, § 498, 500 Inter vivos trust intended to take place of will, § 104 Joint tenancy, estate taxes, § 273.30 Life estates, income taxes, § 269.5 Living trusts, comparison, § 231 Living trusts as substitutes, § 103, 211, 233, 264.5 Mortmain Acts, § 325, 326 Multistate testamentary trusts, § 291, 296 Oral trust, constructive trusts, § 498, 500 Perpetuities, § 213

WILLS—Cont'd Personal life insurance trusts Application of law, § 239 Creation, § 236 Personal property, restraints on alienation, § 220 Pour-over Gift by will to trustee under existing trust, § 105 Future trust, § 106 Insurance trusts, § 236, 264.15 Revocable trusts, § 233, 264.5 Recording acts, bona fide purchasers, constructive notice, § 893 Release, breach of trust, § 943 Reserved powers of settlor, trust instrument testamentary, § 42, 104 Resulting trusts, § 469 Revocable living trusts, comparison, § 233 Revocable trust Coordination with will, § 233 Substitute for will, § 7, 105, 233, 264.5 Spendthrift trusts, recording, § 222 Substitute wills, fraudulent conveyances, elective share, § 211 In terrorem clauses, § 181 Totten trusts, when testamentary, § 47, 211, 233, 1000 Trust as testamentary transaction, characteristics, § 103 Trustees, good faith, dealing with beneficiaries, § 544 Trust terms, incorporation by reference, § 233 Uniform Testamentary Additions to Trusts Act, § 7 Validity of trusts Bona fide purchasers, § 881 Concurrent jurisdiction, § 870 WILLS ACTS See also Statute of Wills; **Testamentary Dispositions** Definition, § 101

Effect, creation of trust under will, § 102 WILLS ACTS—Cont'd Formality requirements, § 101 Insurance trusts, § 239 Living trusts, § 102, 104 When will invalid, § 101

WILL SUBSTITUTES

Generally, **§ 233** Advantages and uses, **§ 231, 233** Joint accounts, **§ 47, 233** Payable on death accounts, **§ 47, 233** Revocable trusts, **§ 233, 264.5** Spousal rights, **§ 211, 233** Totten trusts, **§ 47, 233**

WINDFALLS

Constructive trusts, stolen property invested in insurance, § 476

WINDING UP

Federal income tax purposes, § 269, 1010 Termination of trust, § 1010 Trustee's duties, § 1010

WISCONSIN

Generally, § 212 Accounts and accounting, statutory regulation of accounts, § 974 Investment statutes, § 665 Marital Property Act, § 211

WISH

Precatory expressions, creation of trust, § 48

WITHDRAWAL

Breach of trust, release, **§ 943** Consent, barring of remedies, **§ 941** Release, breach of trust, **§ 943**

WITHDRAWAL OF PRINCIPAL

Federal estate tax

As power of appointment,
§ 264.20, 273.35

Power to revoke, § 273.20
Federal gift tax

Donor's power, incomplete gift,
§ 278

Gifts in trust, qualification for

annual exclusion, § 279,
279.5

WITHDRAWAL OF PRINCIPAL

—Cont'd Federal income tax, person to whom trust income taxed, § 268.20 Power of beneficiary, § 234, 264.10, 268.20, 812 Power of trustee to pay, § 812

WITNESSES

Death, laches, breach of trust, evidence, § 949 Expert, charitable trusts, § 368

WOMEN

Beneficiaries, capacity, prior law, § 168
Charitable trusts Advancement of education, § 375 Deviation, § 396
Gender Discrimination, generally, this index
Married women's trusts, § 232

WOMEN'S SUFFRAGE

Charitable trust purpose, § 368

WORDS AND PHRASES

Aliquot part, purchase money resulting trusts, § 457 Bailment, § 11 Benevolent, § 370 Charity, § 361, 369 Constructive trusts, § 471 Cy pres, § 431 Charitable trusts, § 396 Deviation Charitable trusts, § 396 Private trusts, § 561 et seq., 815 Eleemosynary, § 373 Estate, Medicaid, § 103 Impossibility Charitable trusts, § 438 Private trusts, § 1002 Impracticability, charitable trusts, § 439 Inexpediency, charitable trusts, § 439 Mixed trusts, § 372 Private charity, § 361 Public charity, § 361 Resulting trusts, § 451

WORDS AND PHRASES—Cont'd Trusts, § 2 Use, § 2

WORDS OF INHERITANCE

Construction of beneficiary's interest, **§ 182** Deeds, size of trustee's interest,

§ 144

WORKERS' COMPENSATION

See also Employee Benefit Trusts; Officers and Employees; Wages Public trusts, **§ 246** Trustees, appointment by court, **§ 246** Trustee to hold compensation payments, **§ 246**

WORTHIER TITLE DOCTRINE

Beneficiaries, identification, **§ 182** Settlor as sole owner, termination of trust, **§ 992, 1004**

Settlor's heirs or appointees as beneficiaries, statutes authorizing revocation, **§ 999** Settlor's modification of trust, par-

ties, § 992

WORTHLESS PROPERTY

Abandonment by trustee, § 583 Disclaimer by trustee, § 150

WRITINGS

Clarification, parol evidence, **§ 88** Parol evidence to vary, **§ 51** Statute of Frauds, parol evidence, **§ 88**

WRITTEN INSTRUMENTS

Assignment of beneficiary's interest, Statute of Frauds, **§ 190** Contemporaneous writing, Statute of Frauds, **§ 81** Creation of trust, evidence, **§ 50** Surrender of beneficial interest, **§ 1006** Uses, creation, **§ 201**

WRONGFUL DEATH

Executors and administrators as trustees of causes of action, § 12

WRONGFUL INVESTMENTS

Election of remedies, breach of trust, tracing assets, **§ 867**

WRONGFUL PAYMENTS

Trustee's liability, improper distributions, **§ 814**

WRONGFUL SALES

Damages, recovery from trustees, **§ 862**

WYOMING

Accounts and accounting, statutory regulation of accounts, **§ 974**

ZOOLOGICAL GARDENS

Charitable trusts, advancement of education, § 375

ZOOLOGY

Charitable trusts Advancement of education, § 375