

# Subject Index

---

References are to sections, not pages.

## A

**ABLE Accounts**, 5.29, 8.20, 8.21

**Accounts with Financial Institutions**

*See* Bank Accounts

**Adoption**

Adopted children, 2.47, 5.9

As part of estate plan, 2.48

**Advance Care Directive**

*See* Do-Not-Resuscitate Order; Living Will; Power of Attorney for Health Care

**Advanced Practice Clinician**, 11.14, 11.118, 11.119, 11.154, 11.186, 11.200, 11.202, 11.206

**Affidavit**

Self-proving, 2.215, 5.91

**After-Acquired Property**

Statutory presumption, 4.38

**Agent**

*See also* Durable Power of Attorney for Finances and Property; Power of Attorney for Health Care; Power of Attorney Delegating Parental Power

Generally, 11.17–.28

Appointment as guardian, 11.181

Attorney as, 11.91

Authority to execute documents, 11.184

Certification, 11.93

Co-agents, 11.20, 11.22, 11.98, 11.158

Compensation, 11.24

Defined, 11.7

Fiduciary compared, 11.23

Health care, 4.177, 11.109, 11.158

Liability, 11.22, 11.173

Parental power, 11.109

Powers

—generally, 11.35–.72

—digital property, 11.47

Reimbursement, 11.24

Role in protective placement or protective services proceedings, 11.182

Successor agents, 11.21, 11.22, 11.158

**Amendment**

*See* Power to Revoke or Amend

**Anatomical Gifts**

Generally, 1.17, 2.59, 2.128, 4.166–.183, 11.224–.234

Amendment or revocation of, 4.178–.181, 11.232

Power of attorney for health care, 4.177, 11.169–.171

Refusal to make, 4.182, 11.233

—amendment or revocation of, 4.183, 11.233

Validity, 11.234

**Annuities**

*See also* Charitable Remainder Annuity Trust

Beneficiary designation, 2.125

Marital deduction, 6.68, 6.87, 6.93

Qualified joint and survivor annuities, 3.81

Qualified preretirement survivor annuities, 3.81

Tax-sheltered, 3.58

**Applicable Exclusion Amount**

*See also* Unified Credit

Generally, 2.116, 6.1, 6.4–.9, 6.11, 6.35–.52

Basic exclusion amount, 6.5

Deceased spousal unused exclusion amount, 6.5

Federal gift tax, 8.7–.11, 8.108

Marital deduction, coordination with, 6.11, 6.41, 6.135, 6.136–.159

Phaseout, 8.12

Portability, 2.173–.183, 6.5, 6.7, 6.40, 6.43, 8.1

**Appointment, Power of**

*See* Power of Appointment

**Appraisal**

*See* Valuation

**Appreciation**

Adjusted taxable gifts, 8.115

Assets in power-of-appointment trust, 6.116

Closely held business assets, 10.14–.19

Gift selection, 8.144  
 Marital property law, 9.78  
 Postmortem estate, 6.152–.153

### **Assets**

Information requested of client, 2.61–.63  
 Passive, 10.153

### **Attestation Clause**

Generally, 2.208, 2.215, 4.70–.84, 5.90, 5.121  
 Electronic signature, 4.85  
 Self-proved wills, 4.85–.91

### **Attorney**

As agent, 11.91  
 Attorney for estate  
     —drafting attorney as, 2.16, 2.220, 4.96–.98  
     —personal representative as, 2.220, 4.189  
 As beneficiary, 2.14  
 Document retention by, 2.230  
 As fiduciary, 2.15, 2.220  
 As witness, 2.219–.220

### **Attorney Fees**

*See also* Retainer  
 Generally, for estate planning, 2.33  
 As attorney and personal representative, 2.16, 4.189  
 Communication of basis for, 2.17

### **Attribution of Ownership**

Generally, 10.125

### **Augmented Marital Property Estate Election**

Generally, 3.23  
 Marital deduction, 6.65, 6.98  
 Retirement plan benefits, 3.81  
 Unified credit, relationship to, 6.48  
 Waiver, 2.127, 9.55–.59

## **B**

### **Bank Accounts**

*See also* Payable-on-Death Accounts  
 Disclaimer, 3.127, 11.300  
 Gift tax, 8.83  
 Minors, 8.162–.166, 8.221  
 Nonspouses, 3.37  
 Spouses, 3.45, 11.300  
 Trump account, 8.221

### **Basic Will**

*See* Wisconsin Statutory Basic Will

### **Basis**

Closely held businesses, 10.14–.19, 10.120, 10.173–.175  
 Gifts, 8.113, 8.127, 8.147–.152  
 Marital property, 2.141, 3.29, 6.104, 8.150, 9.15, 10.174  
 Revocable trusts, 7.124

### **Beneficial Enjoyment**

Power-of-appointment trust, 6.112, 6.115  
 Qualified terminable interest property, 6.125

### **Beneficiary**

*See also* Failure-of-Beneficiaries Clause  
 Annuity beneficiary designation, 2.125  
 Attorney as, 2.14  
 Bypass trust as, 3.94  
 Contractual will, 11.258  
 Of custodial trust, 8.230–.231  
 Death of, 2.23, 2.161, 4.56–.65, 5.70  
 Disabled, 2.52, 2.110–.112  
 Discretionary, 5.35  
 Electing small business trust, 7.84, 7.88, 10.31  
 Employee benefits plan, 2.125, 3.75–.102, 5.55  
 Estate as, 3.100, 3.120, 5.54–.55  
 Guarantee effectiveness of designations, 2.140  
 Identification, 4.10  
 Incapacity, 8.231  
 Life insurance beneficiary designation, 2.125, 3.113–.124, 5.54, 9.121  
 Minor, 3.119  
 Outright distributions to, 3.15  
 Remainder, 4.153, 4.157–.159  
 Removal from will, 2.234  
 Retirement plan beneficiary designation, 3.75–.102, 5.55  
 Revocable trust as, 7.101  
 Sale to, 7.129  
 Securities registration, 3.128  
 Spendthrift, 2.54, 5.82  
 Spousal trust, additional beneficiaries, 2.179  
 Trust as, 3.121, 5.54–.55  
 As trustee, 5.45, 7.44–.47, 7.153–.158, 8.86  
 Use of property pending transfer, 4.130–.132  
 As witness, 2.221

### **Bequests**

*See* Testamentary Gifts

### **Bodily Organs**

*See* Anatomical Gifts

### **Bona Fide Purchaser**

Marital property, 9.48, 11.80

**Bonds (Corporate)**

Revocable trusts, 7.80  
Valuation, 8.55

**Bonds (Fiduciary)**

Custodian, 8.184  
Waiver, 2.93, 4.29, 5.87

**Bonds (Government)**

Co-ownership, 2.124, 8.168  
Revocable trusts, 7.80  
United States savings bonds, 3.127, 8.167–.169  
Valuation, 8.55

**Borrowing**

Life estates, 4.154  
Personal representative, 4.127–.129

**Burial**

*See* Funeral and Burial

**Buy-Sell Agreements**

Generally, 10.59–.132  
Attorney conflict of interest, 10.83  
Forms and sample clauses, 10.69, 10.73, 10.78, 10.81, 10.89, 10.131–.132  
Mandatory, 10.48, 10.63  
Marital property agreement, 2.140, 10.107, 10.115–.116  
Optional, 10.49, 10.63  
Transfer of stock to revocable trust, 7.82

**Bypass Trust**

*See* Credit Shelter Trust  
Generally, 6.40  
Assets of increasing value, 6.116  
As beneficiary, 3.93–.99  
Bypass share, 6.140  
Disclaimed portion to, 5.72, 6.52, 6.144, 11.275  
Family trust arising from revocable trust, 7.64–.68, 7.146–.148, 7.150–.152  
Formula provisions, 6.51, 6.139–.155  
Gift tax, 8.86  
Power-of-appointment trust, relationship to, 6.111  
Residence, 7.118  
Retirement plan benefits, 3.27, 3.85–.91, 3.93–.99  
Survivorship property, effect of, 3.27, 6.103  
Trustee selection, 6.117

**C**

**C Corporations**

*See also* Closely Held Businesses; Corporations  
Sale or liquidation, 10.18  
Tax consequences of form of ownership, 10.7–.13, 10.18, 10.21

**Caption**

Will, 4.4

**Cash**

Bequest, 5.70  
Gift to custodian, 8.188

**Charitable Gifts**

Federal estate tax, 6.34, 8.28  
Federal gift tax, 8.24–.30  
Federal income tax, 8.127, 8.132  
Testamentary, 4.160–.162, 5.70, 6.34

**Charitable Lead Trusts**

Federal gift tax, 8.29

**Charitable Remainder Annuity Trust**

Federal gift tax, 8.28, 8.38

**Charitable Remainder Unitrust**

Federal gift tax, 8.28, 8.38

**Children**

*See also* Education; Minors; Testamentary Trusts  
Generally, planning for, 5.3–.31  
Adopted, 2.47, 5.9  
After-born, 4.10, 4.40, 5.9  
Age, large difference in, 5.8  
Deceased, 2.44, 4.50–.55, 5.21, 5.25–.28, 5.109–.110  
Disinheritance, 2.126, 4.40, 5.6  
Family business transfer to, 10.36–.58  
Forgotten, 4.40  
Gifts to, 8.17, 8.123, 8.154–.220, 11.64  
Information requested of client, 2.44, 2.46–.48  
Interest in probate, 5.6  
Marital property agreement, 9.47  
Naming in will, 4.10, 5.9  
Not adopted, 2.48  
As personal representative, 4.21  
By prior marriage, 2.46, 5.7  
Special needs, 5.29  
Support during childhood, 5.10–.13, 8.203–.206  
Unequal treatment, 2.51, 5.6, 5.8, 5.18, 10.39

**Child's Spouse**

Gifts to, 8.111  
Provision for, 5.31

**Choice of Law**

*See* Conflicts and Choice of Law

**Citizenship**

Federal gift tax, 8.75  
Marital deduction, 6.88

## **Claims**

*See also* Creditors' Rights; Debts  
 Authorization of payment or compromise, 4.99–103, 4.133–135, 5.85, 7.67  
 Contract to make will, 11.262  
 Estate tax, 6.32, 6.80  
 Marital property agreement, 11.262

## **Classification of Property**

*See also* Reclassification of Property  
 Generally, 9.72–81  
 Business interests, 10.100–110  
 Gifts by third person, 8.67  
 Life insurance, 10.111–116  
 Property division, effect on, 9.107  
 Revocable trust as maintaining, 7.13

## **Clients**

*See also* Retainer  
 Generally, 1.20, 1.29  
 Conference, document execution, 2.202–228  
 Conference, initial, 2.6, 2.8, 2.18–25  
 Death, imminent, 2.5  
 Dual representation. *See* Spouses—Representation  
 Goals and special wishes, 2.24  
 Health, 2.59  
 Identification, 2.10  
 Information, 2.6–8, 2.21–22, 2.34–73, 3.21  
 Letters to, 2.30, 2.206, 3.21  
 Prior representation, 2.8  
 Questions asked by, 2.4  
 Review of documents by, 2.29–30, 2.205–207  
 Revocable trusts, explanation of, to, 7.29–31  
 Unresponsive, 2.31

## **Clifford Trust**

Income shifting, 8.128

## **Closely Held Businesses**

*See also* Buy-Sell Agreements; C Corporations; Corporations; Family Limited Partnership; Limited Liability Company; Options to Purchase; Partnership; Sole Proprietorship; Stock  
 Generally, 1.12, 1.28, ch. 10  
 Continuation by personal representative, 4.139–142  
 Distributions of income, 10.20–23, 10.57  
 Forms of ownership, 10.2–33  
 Gifts made in contemplation of death, 8.113  
 Inadvertent transfer by nonholding spouse, 10.104–109  
 Liability, 10.6  
 Liquidation, 10.18–19, 10.79–81  
 Marital property agreement, 2.140, 9.22, 10.107, 10.115–116  
 Transfer restrictions, 10.133–146  
 Transfer to children, 10.34–58

Unity-of-ownership theory, 8.155  
 Valuation, 10.42, 10.52, 10.58, 10.64–81, 10.90–98, 10.154

## **Codicil**

Amendment by, 2.234  
 Revocation of, 2.239

## **Cohabitation Agreement**

Generally, 9.142–144  
 Form, 9.144

## **Commingleing**

*See* Mixing Property

## **Community-Based Residential Facility**

*See* Nursing Home Placement

## **Competence**

*See also* Incapacity  
 Generally, 2.214  
 Client information, 2.56  
 Living will presumption, 11.138  
 Marital deduction requirements, 6.58  
 Preserving documents' effectiveness, 2.211  
 Witnesses, 2.222

## **Conference with Client**

*See* Clients

## **Confidentiality**

Revocable trusts, 7.10

## **Conflicts and Choice of Law**

Disclaimer, 11.277  
 Durable power of attorney for finances and property, 11.78  
 Living will, 11.191  
 Marital property agreement, 9.38  
 Marital property agreements, couples permitted to marry outside of Wisconsin, 9.6  
 Power of attorney for health care, 11.191

## **Conflicts of Interest**

*See* Ethics

## **Consent**

*See also* Living Will  
 Dual representation, 2.11  
 Life insurance beneficiary designation, 3.116, 9.121, 10.115–116  
 Life insurance premiums, 3.117, 9.121  
 Retirement plan beneficiary designation, 3.79–81, 11.70

**Conservatorship**

Revocable trust as alternative to, 7.12

**Contract**

Cancellation of debt, 8.227  
 Common-law defenses, 9.96  
 Common-law remedies, 9.7  
 Consideration, 9.8  
 To make will, 1.10, 11.246–.273  
 Not to revoke will, 11.256  
 Prior, 2.55  
 Support, 8.85  
 To transfer assets, 6.94

**Conveyance**

Deed to establish transfer-on-death arrangement, 2.200  
 Reclassification by, 3.41–.44, 3.47, 9.117, 9.119  
 Undelivered deed, 8.225  
 Unilateral, 9.119

**Copyright**

Gift of copyrighted artworks, 8.30

**Corporations**

*See also* C Corporations; Closely Held Businesses; S Corporations, Stock  
 Federal gift tax, 8.78  
 Liability, 10.6  
 Service corporations, 7.96

**Cost Basis**

*See* Basis

**Credit Shelter Trust**

*See* Bypass Trust

**Creditors' Rights**

*See also* Claims; Debts  
 Disclaimer, 11.304–.306  
 Marital property agreement, 2.191, 9.29, 9.46, 9.63  
 Survivorship marital property, 3.29  
 Transfer of property, 2.127, 3.29  
 Trusts, 5.82

**Cross Purchase Agreement**

*See* Buy-Sell Agreements

**Crummey Trust**

Generally, 8.18, 8.216

**Curtesy**

Marital deduction, 6.65

**Custodian**

*See also* Uniform Transfers to Minors Act  
 Generally, 8.178–.184  
 Gifts to, 8.175–.195  
 Guardian compared, 8.176  
 Life insurance, 3.119, 8.176, 8.189

**D**

**Dangerous Powers**

Generally, 11.39, 11.81  
 Forms, 11.99–.107

**Daughter-in-Law**

*See* Child's Spouse

**Death**

*See also* Children—Deceased; Gifts—In contemplation of death; Living Will  
 Of beneficiary, 2.23, 2.161, 4.56–.65, 5.70  
 Gifts taking effect at, 8.113, 8.115, 8.227  
 Imminent, 2.5  
 Intentional killing of testator, 2.238  
 Marital property agreement provisions, 2.189, 9.30, 9.37, 9.53–.59  
 —enforceability, 9.84–.97  
 Of minor, 8.166, 8.169, 8.193  
 Sequential, 2.79, 2.88.  
*See also* Survivorship Clause  
 Simultaneous, 2.77, 2.88, 4.65, 5.72, 6.59  
 Statutory requirement of survival by 120 hours, 4.65  
 Of ward, 2.104

**Death Taxes**

*See also* Federal Estate Tax; Wisconsin Estate Tax; Wisconsin Inheritance Tax  
 Generally, ch. 6  
 Payment from revocable trust, 7.67  
 State death tax credit, 6.136–.138

**Debts**

*See also* Claims; Creditors' Rights  
 Cancellation, 8.79, 8.227  
 Information requested of client, 2.67

**Declaration of Trust**

Generally, 7.3

**Declaration of Trust Ownership**

Generally, 7.108–.110  
 Transfer of personal property, 7.77

**Declaration to Health Care Professionals**

*See* Living Will

**Declaration to Physicians**

*See* Living Will

**Deed**

*See* Conveyance

**Deferred Compensation**

*See* Employee Benefits and Compensation; Retirement Plans

**Deferred Marital Property Election**

Applicable exclusion amount, relationship to, 6.48  
Durable power of attorney for finances and property, 11.58  
Marital deduction, 6.65, 6.98  
Waiver, 2.126, 9.55–.59

**Definitions**

Acceptance, 11.282  
Acknowledgment, 11.32, 11.98  
Agent, 11.7  
Business owner, 10.1  
Closely held business, 10.151  
Conveyance, 9.117  
Definitions clause, 5.89  
Determination date, 9.10  
Distribution by right of representation, 4.52  
Distribution per capita, 4.52  
Domestic partner, 11.6  
Durable power of attorney, 11.8  
Executor, 7.134  
Fair market value, 6.24  
Feeding tube, 11.130  
Functional impairment, 11.211  
Funded trust, 7.4  
General bequest, 4.165  
General power of appointment, 8.86, 11.88  
Gift, 8.73  
Grantor trust, 7.113  
Health care, 11.151  
Health-care agent, 11.158  
Health-care decision, 11.151  
Homestead, 3.46  
Incapacity, 11.153  
Incidents of ownership, 6.21  
Joint account, 3.45  
Joint will, 11.250  
Life-sustaining procedure, 11.130  
Limited liability company, 10.4  
Limited liability partnership, 10.4  
Marital account, 3.45  
Mutual wills, 11.250  
Partnership, 10.4  
Persistent vegetative state, 11.129  
Power of attorney, 11.8

Principal, 11.7  
Qualified patient, 11.131  
Qualified plan, 3.53  
Reciprocal wills, 11.250  
Residuary bequest, 4.165  
Retirement plan, 3.50  
Revocable trust, 7.3  
Severable property, 11.293  
Sole proprietorship, 10.4  
Specific bequests, 4.165  
Supported decision-making, 11.212  
Supporter, 11.213  
Terminable interest, 6.83  
Terminal condition, 11.129  
Unfunded trust, 7.4  
Unilateral statement, 3.42  
Written consent, 3.42

**Digital Property**

Generally, 11.39, 11.41, 11.47, 11.107, 11.311–.329  
Durable power of attorney for finances and property, 11.47, 11.107  
Inventory, app. 2A  
Personal representative, powers, 4.146–.148  
Revocable trusts, 7.78

**Disabled Persons**

*See also* Children—Special needs; Incapacity;  
Testamentary Trust—Disabled persons  
Beneficiary, 2.52, 2.110–.112  
Custodial trust, 2.171  
Disinheritance, 2.112  
Document execution, 2.209  
Public aid considerations, 2.112

**Disclaimer**

Generally, 1.13, 2.98, 11.274–.310  
Disclaimed portion to bypass trust, 6.50, 6.144, 11.273  
Durable power of attorney for finances and property, 11.59  
Forms, 11.308–.310  
By guardian, 11.298  
Marital deduction, 6.70–.73, 6.144, 11.135  
Payable-on-death accounts, 3.127  
By personal representative, 11.296  
Retirement plan benefits, 3.76, 3.89, 11.285  
Risks to effective planning, 3.14  
By surviving spouse, 11.283, 11.300–.302  
By surviving spouse's estate, 5.68, 5.72, 11.298  
By trustee, 11.297  
Applicable exclusion amount, 6.52, 6.72–.73

**Disclosure**

Financial, between spouses, 2.192, 9.93, 9.103, 9.111, 9.133–.138

**Disinheritance**

Children, 2.126, 4.40, 5.6  
 Disabled persons, 2.112  
 Surviving spouse, 2.126

**Dissolution of Marriage**

*See* Divorce

**Division and Distribution of Estate**

*See also* Failure-of-Beneficiaries Clause  
 Per capita, 4.53–.55, 5.27  
 Postponing by means of trust, 2.101–.102  
 By right of representation (per stirpes), 4.50–.52, 5.27  
 Taxability to beneficiary, 4.43, 5.66–.70

**Divorce**

Marital property agreement provisions, 2.188, 9.30,  
     9.32, 9.36, 9.70–.81  
 —enforceability, 9.71, 9.80, 9.98–.109  
 Marital property law compared, 9.72–.80  
 Retirement plan beneficiary designation, 3.83  
 Testamentary gift in favor of spouse, 2.238

**Documents**

Copies, 2.212  
 Drafting, generally, 2.26–.32, 2.144–.201  
 Execution, 2.202–.228, 11.13, 11.194–.195, 11.238  
 —checklists, 2.32, 2.207  
 Forms, use of, generally, 2.27  
 Interlineation, 2.208  
 Preserving effectiveness, 2.211  
 Review by client, 2.29–.30, 2.205–.207  
 Revocation by destruction, 2.209  
 Safekeeping, 2.230  
 Selection, 2.24, 2.74–.143

**Domestic Partnership**

Generally, 2.11–.13, 2.55, 2.77, 2.83, 2.84, 2.86, 2.87,  
     2.126, 2.127, 2.238, 5.6  
 Anatomical gifts, 4.171, 11.228  
 Authorization for final disposition, 11.237  
 Durable power of attorney for finances and property,  
     11.27, 11.29, 11.31, 11.39, 11.41, 11.45, 11.53,  
     11.59, 11.64, 11.67, 11.82, 11.88, 11.89, 11.92,  
     11.98  
 Joint tenancies, 3.35, 8.82  
 Living will, execution of, 11.133  
 Marital property agreements and couples not permitted  
     to marry in Wisconsin but may legitimately marry  
     elsewhere, 9.4–.8  
 Power of attorney for health care, 11.157, 11.162  
 Probate, allowances for support during, 6.75  
 Real estate interests, transfers of, 3.47  
 Revocable trust, 7.50

**Do-Not-Resuscitate Order**

Generally, 11.118, 11.123

**Dower**

Marital deduction, 6.65

**Dual Representation**

*See* Spouses—Representation

**Durable Power of Attorney for Finances and Property**

*See also* Power of Attorney for Health Care; Power of  
 Attorney for Financial Management  
 Generally, 1.17, 11.2–.109  
 Acknowledged, 11.32–.33  
 Defined, 11.8  
 Drafting, 2.195  
 Elements, 11.11  
 Forms, 11.95–.108  
 Health care, 11.72–.75  
 Revocable trusts, 7.12, 7.97, 11.56, 11.108  
 Statutory form, 11.92  
 Transfers under, 8.87

**E**

**Education**

*See also* Charitable Gifts  
 Gift tax exclusion for tuition payment, 8.21  
 Planning for, 5.8, 5.14–.18  
 Savings programs, 8.218–.220  
 —custodial education IRA, 8.219  
 —qualified state tuition programs, 8.220

**Elections**

*See also* Augmented Marital Property Estate Election;  
 Deferred Marital Property Election; Qualified  
 Terminable Interest Property; Surviving Spouse's  
 Elections; Tax  
 Treating trust as part of estate, 7.134

**Emergency Estate Planning**

Checklist, 2.5

**Employee Benefits and Compensation**

*See also* Life Insurance; Retirement Plans  
 Beneficiary designation, 2.125, 3.75–.101, 5.55  
 Death benefits, marital deduction, 6.129–.134  
 Durable power of attorney for finances and property,  
     11.70  
 Nonqualified plan benefits, 3.102  
 Owner-employees, 10.12–.13  
 Recovery of interest transferred, 2.127

**Employee Stock Ownership Plans**  
Generally, 3.57

**Employment**

Information requested of client, 2.65

**Encumbered Property**

*See also* Mortgage  
Exoneration, 4.105–.107, 5.69  
Subrogation, 4.108–.110

**Entity Purchase Agreement**

*See* Buy-Sell Agreements

**Equitableness**

Marital property agreement, 9.101

**Estate**

*See also* Division and Distribution of Estate  
Depletion by gifts, 2.73, 8.133–.138  
As employee benefits plan beneficiary, 3.100, 5.55  
As life insurance beneficiary, 3.120, 5.54

**Estate Administration**

*See* Probate

**Estate Freezes**

*See* Valuation—Freezing

**Estate Tax**

*See also* Federal Estate Tax; Wisconsin Estate Tax  
Foreign, 3.74, 6.30

**Ethics**

*See also* Spouses—Representation  
Generally, in estate planning representations, 2.9–.17  
Attorney as agent, 11.91  
Attorney as beneficiary, 2.14  
Attorney as fiduciary, 2.15, 2.220  
Attorney for estate, 2.16, 2.220, 4.98  
Documents, retention of, 2.230  
Hospital ethics committees, 11.197  
Withholding and withdrawal of health care, 11.115

**Excise Tax**

*See* Federal Excise Tax, Wisconsin Excise Tax

**Execution of Documents**

*See* Documents—Execution

**Executor**

*See generally* Personal Representative  
Trustee as, 7.134

**Exemption Equivalent Trust**

*See* Bypass Trust

**F**

**Facility-of-Payments Clause**

Testamentary trusts, 5.26, 5.80

**Failure-of-Beneficiaries Clause**

Residue, 5.74  
Testamentary trusts, 5.81

**Family Limited Partnership**

Revocable trust, 7.89  
Valuation discount, 10.52

**Family Trust**

*See* Bypass Trust, Testamentary Trust—Children

**Farmland Preservation Tax Credits**

Revocable trusts, 7.121

**Federal Estate Tax**

*See also* Bypass Trust, Marital Deduction, Applicable exclusion amount  
Generally, 1.24, 6.2–.34  
Beneficiary as trustee, 5.45  
Credits, 6.28–.30  
—state death tax credit, 6.146, 6.136–.138. *See also* Applicable exclusion amount  
Deductions, 6.31–.34, 8.28. *See also* Marital Deduction  
Deferred payment, 8.153, 10.148–.161  
Durable power of attorney for finances and property, 11.72, 11.87–.90  
Employee stock ownership plans, 3.57  
Gifts, 6.17–.18, 6.23–.25, 6.67, 8.4–.13, 8.80, 8.109, 8.113, 8.115, 8.134  
—adjusted taxable gifts, 6.22–.25, 8.5, 8.115  
—to minors, 8.154–.221  
Gross estate, generally, 6.13–.25  
Life insurance, 3.125, 6.17, 6.21, 6.66, 6.67, 6.129–.134, 8.113, 8.115, 8.145  
Nonprobate transfers, 3.13–.15, 3.22  
Personal representative's compensation, 4.191  
Prior transfers to decedent, 6.29  
Rates, 6.12–.13  
Retirement plan benefits, 3.74, 3.88, 6.19  
Revocable trusts, 7.19–.22, 7.55, 7.62, 7.63, 7.65  
Sequential deaths, 4.61, 4.64  
Trust for child, 5.24  
Trust for spouse, 2.113–.116, 2.174, 6.45, 6.67, 6.110–.121  
Valuation discount, 10.52  
Valuation of assets, 6.23–.25, 6.38, 10.90–.98



**Federal Excise Tax**

Retirement plan distributions, 3.88

**Federal Gift Tax**

*See also* Gifts (Lifetime); Applicable exclusion amount  
Generally, 1.24, 8.2–.62

Beneficiary as trustee, 5.45

Contract to make will, 11.268

Credit against estate tax, pre-1977 gifts, 6.28

Deductions, 8.24–.38

Durable power of attorney for finances and property,  
11.72, 11.87–.90

Exclusions, 8.14–.22, 8.60, 8.107, 8.209–.211, 8.214,  
8.216

Future interests, 8.17, 8.42, 8.80, 8.209, 8.216

Gift selection, 8.140–.153

Gifts to minors, 8.154–.221

Rates, 8.6

Reporting and payment, 8.40–.63

Revocable trusts, 7.20–.22

Stock transfer, disproportionate, to family member,  
10.51

Taxable transfers, 8.3, 8.68–.99

Tax-free transfers, 8.107, 8.110, 8.111

Valuation discount, 10.52

**Federal Income Tax**

*See also* Basis

Accumulated earnings tax, 10.13

Beneficiary as trustee, 3.100, 5.45

Charitable gifts, 8.127, 8.132

Closely held businesses, 10.7–.33

—buy-sell agreements, 10.120–.125, 10.128–.129

—partnership assets, 10.173–.175

—redemption of stock to pay death taxes, 10.162–.172

Corporate alternative minimum tax, 10.128

Distributions from estate, 4.43, 5.66–.70

Gifts to minors, 8.154–.221

Income shifting by gifts, 8.116–.132

In-kind distribution, 6.153

Marital property agreement, 9.41, 9.52

Marital property, tax-free exchange, 7.64

Payment by one spouse, 8.93

Personal representative's compensation, 4.192

Retirement plan distributions, 3.70–.72

Revocable trusts, 7.18, 7.54, 7.64, 7.80, 7.83–.96,  
7.109, 7.111–.137

Trust distributions, 5.24, 8.119

Trust for minors, 2.105, 5.24

**Fee Simple**

*See* Transfer in Fee

**Feeding Tube**

*See also* Health Care—Withholding and Withdrawal of;  
Living Will; Power of Attorney for Health Care  
Withholding and withdrawal of, 11.115–.117, 11.120,  
11.121–.131, 11.138–.186, 11.168, 11.186, 11.191

**Fees**

*See* Attorney Fees; Fiduciary—Fees

**Fiduciary**

*See also* Bond (Fiduciary); Durable Power of Attorney  
for Finances and Property; Guardian; Personal  
Representative; Trustee

Agent compared, 11.23

Attorney as, 2.15, 2.220

Disclaimer by, 11.296

Fees, 2.94, 2.106

Safe storage, 2.230

Will, effect of, on fiduciary, 2.93–.95

**Final Disposition of Remains, Authorization for,**

2.129, 2.201, 11.235–.245

**Finance, Personal**

Information requested of client, 2.60–.67

**Financial Disclosure**

*See* Disclosure

**Foreign Jurisdictions**

*See also* Conflicts and Choice of Law

Living will, 11.191

Power of attorney for health care, 11.191

Proof of will, 2.215

Revocable trusts, 7.14

**Forest Croplands Law**

Revocable trusts, 7.122

**Forms**

Generally, use of, 2.27

**401(k) Plans**

Generally, 3.57

**Fraud**

Documents, 2.210

Property transferred in fraud of spouse, 2.127

**Fringe Benefits**

*See* Employee Benefits and Compensation

**Funeral and Burial**

*See also* Final Disposition of Remains, Authorization for  
 Expenses, 4.93–.95, 4.99–.103, 5.85, 6.32  
 Instructions, 2.129, 11.235–.245

**Future Income**

Disclaimer, 11.280

**Future Interests**

Disclaimer, 11.280  
 Federal gift tax, 8.17, 8.42, 8.80, 8.209, 8.216  
 Information request of client, 2.72

**G**

**Gains**

*See* Appreciation

**Generation-Skipping Transfer Tax**

Generally, 6.156–.161  
 Irrevocable trust, 8.92  
 Revocable trust, 7.68  
 Trust for deceased child's issue, 5.27

**Gifts (Lifetime)**

*See also* Anatomical Gifts; Charitable Gifts; Education;  
     Federal Estate Tax—Gifts; Federal Gift Tax;  
     Testamentary Gifts; Uniform Custodial Trust Act;  
     Uniform Transfers to Minors Act; Wisconsin Gift  
     Tax  
 Generally, 1.8, 1.26, ch. 8  
 Adjusted taxable, 6.22–.25, 8.5, 8.115  
 As alternative to testamentary trust, 5.130  
 Buy-sell agreement restrictions, 10.96  
 To child's spouse, 8.111  
 In contemplation of death, 6.17, 8.112–.114, 8.151,  
     10.153  
 Contractual wills, 11.268, 11.270  
 Defined, 8.73  
 Durable power of attorney for finances and property,  
     11.89, 11.92, 11.102  
 Effectiveness, 2.138, 8.69–.73, 8.121, 8.222–.227  
 Future, 2.64, 2.73  
 Future interests, 8.17, 8.42, 8.80, 8.209, 8.216  
 Income shifting, 8.116–.132  
 Ineffective, 8.222–.227  
 Information requested of client, 2.64, 2.69  
 Joint tenancy, creation of, 3.36, 8.82  
 Loan guarantee, 8.99  
 Marital property, 8.64–.67, 9.40  
     —reclassification by gift, 3.43, 7.13, 9.115, 9.117  
 To minors, 8.17, 8.123, 8.154–.221  
 To older adult, 2.108, 8.131

To political organizations, 8.22  
 Qualification for postmortem tax benefits, 8.153,  
     10.153, 10.164  
 Retained life estate, 6.18, 8.17, 8.95–.99, 8.112  
 Retained power to revoke, alter, amend, or terminate,  
     8.113, 8.115  
 Selection, 8.140–.153  
 To spouse, 6.45, 7.13, 8.31–.38, 8.66, 8.93, 8.110  
 Spouse joining in, 8.19, 8.7–.11, 8.39, 8.110  
 Taking effect at death, 8.112–.115, 8.227  
 By third person, 8.67  
 In trust  
     —charitable gifts, 8.26–.29  
     —future interests, 8.17  
     —minors, 8.196–.221  
     —modification to add reimbursement clause, 8.100  
     —to spouse, 8.34, 8.38

**Good-Faith Duty**

Generally, 9.45

**Government Benefits**

*See* Public Assistance

**Government Bonds**

*See* Bonds (Government)

**Grantor Retained Annuity Trust**

Generally, 8.98

**Grantor Retained Income Trust**

Eliminated, 8.96

**Grantor Trust**

*See* Revocable Trusts

**Guardian**

*See also* Fiduciary  
 Agent as, 11.23, 11.181  
 Bond, 4.29  
 Custodian compared, 8.176  
 Disclaimer by, 11.296  
 Distributions to, 5.13, 5.83  
 Nomination, 2.90, 2.132, 2.133, 2.152, 2.197, 4.14–.16,  
     5.88, 11.23  
 As trustee, 5.30  
 Trustee's authority distinguished, 2.103  
 As witness, 2.220

**Guardianship**

Advantages of trust over, 2.99–.106  
 Avoidance, 2.100, 5.78, 11.181  
 Costs, 2.106  
 Death of ward, 2.104  
 Gifts to minors, 8.174

And power of attorney for health care, 11.181  
 Revocable trust as alternative to, 7.12  
 And supported decision-making, 11.223  
 Termination, 2.101  
 Withholding and withdrawal of health care, 11.115

## H

### **Health and Disability Insurance**

Closely held businesses, 10.12  
 Living will, 11.143  
 Power of attorney for health care, 11.179

### **Health Care**

*See also* Do-Not-Resuscitate Order; Living Will; Power of Attorney for Health Care  
 Defined, 11.151  
 Durable power of attorney for finances and property, 11.73–.76  
 Expenses, gift tax exclusion, 8.21  
 Hospice care, 11.119  
 Power of attorney delegating parental power, 11.109  
 Withholding and withdrawal of, 11.111–.131, 11.138–.144, 11.168, 11.186, 11.191

### **Health-Care Agent**

*See* Agent

**Health Care Professional**, 11.110–.145, 11.146–.206

### **Homestead**

*See* Residence

### **Homestead Tax Credit**

Revocable trusts, 7.120

### **Husband and Wife**

*See* Spouses

## I

### **Illiteracy**

Document execution, 2.206, 2.209

### **Incapacity**

*See also* Competence; Disabled Persons; Durable Power of Attorney for Finances and Property; Power of Attorney for Health Care  
 Defined, 11.9, 11.153  
 Determination of, 8.231, 11.14, 11.154  
 Revocable trusts, 7.12, 7.97

### **Incentive Stock Options**

Revocable trusts, 7.95

### **Income Assignment**

Tax, 8.124

### **Income in Respect of a Decedent**

Marital deduction/bypass formula provisions, 6.140, 6.148–.155  
 Allocation alternatives, 6.139–.155

### **Income Shifting**

Generally, 8.116–.132

### **Income Tax**

*See* Basis, Federal Income Tax, Wisconsin Income Tax

### **Incompetence**

*See* Competence, Incapacity

### **Individual Property**

Agreements, statutory, 9.112, 9.113  
 Contracts or arrangements, reclassification as, 2.140  
 Gift from third person, 8.67  
 Income from, 8.66, 9.41, 9.79, 9.115, 9.120  
 Reclassification as, 2.136–.140, 8.90, 9.16, 9.20, 9.22, 9.112  
 —by unilateral statement, 7.13, 9.79, 9.119, 9.130–.132  
 Revocable trust, 7.13, 7.61

### **Individual Retirement Accounts**

*See also* Federal Excise Tax  
 Generally, 3.61  
 Beneficiary designation, 3.82, 5.55  
 Custodial education IRA, 8.219  
 Rollover to, 3.61, 3.91  
 Roth IRA, 3.62  
 Trump account, 8.221

### **Inflation**

Gift selection, 8.146

### **Influence, Undue**

*See* Undue Influence

### **Informed Consent**

*See* Consent

### **Inheritance**

Future, 2.64  
 Marital deduction, 6.67

### **Inheritance Tax**

*See* Wisconsin Inheritance Tax

**In-Kind Distribution**

*See also* Personal Property  
Tax consequences, 6.153, 7.129

**Installment Obligations Receivable**

Revocable trust, 7.90

**Insurance**

*See* Health Insurance, Life Insurance

**Inter Vivos Transfers**

*See* Gifts

**Inter Vivos Trusts**

*See* Revocable Trusts

**Internal Revenue Service**

Durable power of attorney for finances and property,  
11.86

**Intestacy**

Rules, summarized, 2.84

**Irrevocable Trusts**

Forms, 8.91, 8.213  
Life insurance trust, 6.21, 8.90–.91  
Minors, 8.196–.219  
Taxpayer identification number, 7.116

**J**

**Joint Accounts**

*See* Bank Accounts

**Joint Tenancy**

Generally, 3.30–.37  
As alternative to trust, 5.127  
Conveyance of one-half interest, 3.29  
Disclaimer, 11.299  
Federal estate tax, 6.20, 6.49, 6.63, 6.101–.104  
Gift taxes, 3.36, 8.82  
Marital property agreement, 9.18  
Nonspouses, generally, 3.34–.37  
Personal property, 8.224  
Real property, with minor, 8.171  
Spouses, generally, 3.31–.33  
Survivorship marital property distinguished, 3.29  
Will, ineffectiveness of, 2.122

**K**

**Keogh Plans**

Generally, 3.57

**Key Employee Insurance**

Generally, 3.111

**L**

**Lease**

Business-related assets, 10.44–.47  
Powers of personal representative, 4.127–.129

**Legal Representation**

*See* Spouses—Representation

**Letters**

To client, 2.30, 3.21  
Retainer, 2.25

**Liability**

Agent, 11.22  
Closely held businesses, 10.6  
Living will, 11.138  
Personal representative, 4.142, 10.156–.159  
Power of attorney for health care, 11.172–.175

**Life Estate**

*See also* Grantor Retained Annuity Trust; Grantor  
Retained Income Trust; Qualified Personal  
Residence Trust; Remainder Interests  
Generally, 3.129, 4.149–.156  
Dower or curtesy interests, 6.65  
Estate trust compared, 6.120  
Federal gift tax, 8.17, 8.94–.99  
Federal gross estate, 6.18, 8.95–.99, 8.112, 8.115  
Marital deduction, 6.65, 6.76, 6.87, 6.91, 6.105–.109,  
6.120, 8.28, 8.34  
With power of appointment, 6.87, 6.105–.109, 8.34

**Life Insurance**

Generally, 3.103–.126  
Beneficiary designation, 2.125, 3.113–.124, 5.54, 9.121  
—forms, 3.122–.124  
Buy-sell agreement funding, 10.111–.116, 10.127,  
10.129Custodianship, 3.119, 8.179, 8.189  
Disclaimer, 11.310  
Durable power of attorney for finances and property,  
11.53, 11.90  
Evaluation, 3.108  
Federal estate tax, 3.125, 6.17, 6.21, 6.66, 6.87, 6.129–  
.134, 8.113, 8.115, 8.145  
Federal gift tax, 8.81, 8.90, 8.145  
Federal income tax, 3.112  
Gifts made in contemplation of death, 8.112, 8.115,  
8.145  
Key employee insurance, 3.111  
Life insurance trust, 6.21, 8.90–.91

Living will, 11.143  
 Nonoperating children (family business), 10.43  
 Power of attorney for health care, 11.179  
 Premium-payment consent, 3.117, 9.121  
 Recovery of interest transferred, 2.126  
 Retirement plan purchase of, 3.67  
 Settlement options resembling trusts, 5.126  
 Split-dollar insurance, 3.112  
 Tax planning, generally, 3.104  
 Term insurance, 3.106  
 Whole life, 3.107

### **Limited Liability Company**

Agreement, 10.146  
 Basis adjustment, 10.173–.175  
 Defined, 10.4  
 Revocable trust, 7.89  
 Tax consequences of form of ownership, 10.7–.13, 10.17, 10.23

### **Limited Liability Partnership**

Defined, 10.4  
 Liability, 10.6

### **Limited Partnership**

Liability, 10.6

### **Living Trusts**

*See* Revocable Trusts

### **Living Will**

*See also* Do-Not-Resuscitate Order; Health Care; Power of Attorney for Health Care  
 Generally, 1.9, 2.131, 11.111–.145, 11.191–.198  
 Drafting, 2.196  
 Forms, 11.201–.206  
 Relationship with power of attorney for health care, 11.117, 11.187–.190, 11.202, 11.205–.206

### **Losses**

Closely held businesses, 10.10  
 Deductible, 6.81, 10.10  
 Postmortem estate, 6.152–.153, 6.155  
 Sale to beneficiary, 7.129

## **M**

### **Maintenance**

Agreements, 9.109

### **Managed Forest Land Law**

Revocable trusts, 7.122

### **Management and Control**

Business interests, 10.110  
 Durable power of attorney for finances and property, 11.80  
 Gifts to third person, 8.65  
 Marital property agreement, 2.187, 9.27, 9.64  
 Survivorship marital property, 3.40

### **Marital Deduction**

*See also* Qualified Terminable Interest Property; Terminable Interests  
 Generally, 6.10, 6.53–.135  
 Contractual will provisions, 11.265–.267  
 Formula provisions, 6.140, 6.148–.157  
 Gifts, 8.31–.38  
 Life insurance proceeds, 3.125, 6.66, 6.129–.134  
 Nondeductible interests, 6.77–.87, 8.35–.37  
 Optimal marital deduction (OMD) plans, 6.140–.143, 6.147, 6.149  
 Requirements, 4.63, 6.54–.88  
 Trusts, 2.115, 6.69, 6.110–.121, 6.127, 6.133, 8.86  
 —revocable trusts, 7.55, 7.62, 7.63, 7.65  
 Applicable exclusion amount, coordination with, 6.11, 6.41, 6.135, 6.139–.155

### **Marital Property**

*See also* Augmented Marital Property Estate Election; Classification of Property; Deferred Marital Property Election; Management and Control; Reclassification of Property; Survivorship Marital Property  
 Generally, 1.27  
 Administration by personal representative, 4.143–.145  
 Basis adjustment, 2.141, 3.29, 6.104, 8.150, 9.15, 10.174  
 Buy-sell agreements, 2.139, 10.99–.116, 10.119  
 Determination date, 9.10  
 Disclaimer, 11.300–.302  
 Divorce law compared, 9.72–.81  
 Durable power of attorney for finances and property, 11.79–.81  
 Exchange of undivided interests, 7.64  
 Gifts, 8.64–.67, 9.40

Life insurance trust, 8.90  
 Marital deduction, 6.62  
 Nonpropertied spouse's estate, increase in, 6.47  
 Probate, 7.14  
 Reimbursement for transfer, waiver of, 2.126  
 Retirement plan beneficiary designation, 3.82  
 Revocable trusts, 7.13, 7.14, 7.32–.40, 7.51, 7.58, 7.61, 7.63–.65, 7.67, 7.84, 7.150–.162  
 Survivorship marital property distinguished, 3.29  
 Trust created by parent, 5.31  
 Will's effectiveness regarding, 2.86, 2.120–.122

## **Marital Property Agreements**

*See also* Will-Substitute Agreements and Provisions  
 Generally, 1.11, 1.27, 2.134–.143, ch. 9  
 Amendment, 9.86  
 Business interests, 2.139, 9.22, 10.107, 10.115–.116  
 Contracts to make wills, 11.253, 11.257, 11.262  
 Death provisions, 2.189, 9.30, 9.37, 9.53–.59  
   —enforceability, 9.84–.97  
 Dissolution of marriage provisions, 2.188, 9.30, 9.32,  
   9.36, 9.70–.81  
   —enforceability, 9.71, 9.81, 9.98–.109  
 Division of retirement assets, 9.80  
 Drafting, 2.184–.192  
 Durable power of attorney for finances and property,  
   11.81  
 Enforceability, 9.59, 9.71, 9.81, 9.82–.113, 9.133–.138  
 Forms, 9.124–.128  
 Information requested of client, 2.66  
 Limited agreements, 9.20, 9.22, 9.125, 9.128  
 “Opt-in” agreement, 9.10–.23, 9.86, 9.111, 9.127  
 “Opt-out” agreement, 9.10–.23, 9.86, 9.112–.113,  
   9.125–.126  
 Parties to, 9.2–.8  
 Reclassification by, 2.136–.140, 2.186, 3.44, 7.13,  
   8.150, 9.11–.23, 9.27, 9.50–.52, 9.54, 9.110–.113  
 Revocable trust, funding, 7.35–.39  
 Revocation, 9.86  
 Statutory agreements, 9.110–.113

## **Marriage**

*See also* Prior Marriage; Remarriage; Second Marriage  
 Expenses of the marriage, 9.65–.69

## **Master Information List**

*See* Clients—Information

## **Medical Expenses**

Gift tax exclusion, 8.21

## **Medical Treatment**

*See* Health Care

## **Mental Health**

*See* Competence; Incapacity  
 Facility, admission to, 11.165

## **Military Service**

Power of attorney, 11.69  
 Uniform Custodial Trust Act, 8.229

## **Minors**

*See also* Children; Testamentary Trust—Children  
 Death, 8.166, 8.169, 8.193  
 Disinheritance, 2.126, 4.40, 5.6  
 Gifts to, 8.17, 8.123, 8.154–.221

Irrevocable trust, 8.196–.219  
 As life insurance beneficiaries, 3.119  
 Uniform Transfers to Minors Act, 5.125, 8.175–.195

## **Mixing Property**

Generally, 9.77, 9.122  
 Business interests, 10.102  
 Enforceability of marital property agreement, 9.108

## **Money Purchase Pension Plans**

Generally, 3.57

## **Mortgage**

*See also* Encumbered Property  
 Life estates, 4.154  
 Powers of personal representative, 4.127–.129  
 Transfer of property, 3.47

## **N**

### **Name**

Form, 4.8

### **Nonademption**

Testamentary gifts, 4.111–.113

### **Nondelegable Powers**

Generally, 11.40, 11.81

### **Nonexoneration**

*See* Encumbered Property—Exoneration

### **Nonmarital Trust**

*See* Credit Shelter Trust

### **Nonprobate Transfers**

*See also* Joint Tenancy; Life Insurance; Retirement  
   Plans; Survivorship Marital Property; Will-  
   Substitute Agreements and Provisions  
 Generally, ch. 3  
 Coordination with probate assets, 1.18, 3.17, 3.20–.22  
 Tax, generally, 3.13–.15, 3.22  
   —unexpected consequences, 2.80, 6.49  
 Will, need for, 2.76–.80

### **Nonproductive Property**

*See* Unproductive Property

### **Nonpropertied Spouse**

Increasing estate of, 6.42–.48

### **Nonresident**

As personal representative, 4.23

**Nonroutine Powers**

*See* Dangerous Powers

**Notarization**

Remote, 4.85, 11.13, 11.32, 11.98, 11.202

**Nursing Home Placement**

Power of attorney for health care, 11.165–.166

**Nutrition and Hydration**

*See* Feeding Tube—Withholding and Withdrawal of;  
Health Care—Withholding and Withdrawal of; Living  
Will; Power of Attorney for Health Care

**O**

**Older Adult**

Gifts to, 2.108, 8.131

Trusts for, 2.107–.109, 2.163–.171, 5.32–.37, 8.228–  
.233

**Options to Purchase**

Generally, 4.114–.124, 10.49, 10.140

Long-term lease, 10.47

Marital property business interests, 10.108–.109

**Options to Sell**

Generally, 10.49

**Organ Donations**

*See* Anatomical Gifts

**Ownership, Form of**

Generally, 1.6, 1.19

Closely held businesses, 10.2–.33

**P**

**Parents**

*See also* Older Adult

As custodian, 8.180

Gifts to, 8.131

Financial independence, 8.138

Planning for, generally, 5.32–.37

Power of attorney delegating parental power, 11.109

Trusts for, 5.34, 5.36, 5.110, 8.131

**Partnership**

*See also* Closely Held Businesses

Agreement, 10.145

Basis adjustment, 10.16, 10.173–.175

Defined, 10.4

Gift of capital interest, 8.129

Limited partnership, 10.6

Sale after death, 10.16

Tax consequences of form of ownership, 10.7–.13,  
10.16, 10.23

**Payable-on-Death Accounts**

Generally, 3.127

As alternative to trust, 5.127

Ineffectiveness of will or trust regarding, 2.123

**Pension Plans**

*See* Retirement Plans

**Per Stirpes**

Division and distribution, 4.50–.52, 5.27

**Personal Finance**

*See* Finance, Personal

**Personal Property**

Amendment of disposition, 2.235

Bequest, 5.68

Joint tenancy, 8.224

Life estate, 4.156

Provision for in will, 4.31–.35

Reclassification, 2.138, 9.20

Surviving spouse's selection, 2.126, 2.138

Survivorship marital property, 8.224

Trust, transfer to, 5.56, 7.77

**Personal Representative**

*See also* Fiduciary

Attorney as, 2.15, 2.219, 4.189

Bond, 2.93, 4.28, 4.30, 5.87

Compensation, 4.184–.192

Co-personal, 4.26

Court approval, acting without, 2.95

Deferred estate tax election, 10.155–.159

Disclaimer by, 11.296

Liability, 4.142, 10.156–.158

Nomination, 2.89, 2.151, 4.17–.26, 5.87

Nonprobate transfers, 3.16

Powers, 4.125–.148, 5.86

Qualifications, 2.151

Successor, 4.25

Trustee as, 7.43

As witness, 2.219

**Physician**

Determination of incapacity, 11.14, 11.154

Liability, 11.138, 11.174

As witness, 2.224

**Pooled Income Fund**

Generally, 8.28

**Power of Appointment**

Generally, 1.14

Beneficiary as trustee, 5.45, 5.48, 7.44–.47

Child's trust, 5.23, 5.108

Contract to make will, 11.268

Death taxes, generally, 3.130

Defined, 8.86, 11.88

Disclaimer, 11.289

Durable power of attorney for finances and property, 11.88

Exercise by will, 4.39

Federal gift tax, 8.86, 11.88–89

Information requested of client, 2.71

Irrevocable trust, 8.209, 8.211

Marital deduction, 6.64, 6.69, 6.87, 6.102, 6.105–.117, 6.125, 8.34, 8.38

Nondeductible assets, 6.109

Power-of-appointment trust, 6.110–.117, 7.65, 8.34

Qualified terminable interest property, 6.125

Revocable trust, 7.44–.47

**Power of Attorney**

*See also* Durable Power of Attorney for Finances and Property; Power of Attorney for Health Care; Power of Attorney Delegating Parental Power

Arranging for, 2.133

Bank accounts, 3.37

Defined, 11.8

And supported decision-making, 11.222

**Power of Attorney Delegating Parental Power,**  
11.109

**Power of Attorney for Health Care**

*See also* Health Care, Living Will

Generally, 1.9, 2.198–.201, 4.177, 11.111–.120, 11.146–.186, 11.191–.198

Forms, 11.200–.204

Relationship with living will, 11.117, 11.187–.190, 11.202, 11.205–.206

**Power of Attorney for Financial Management**

*See also* Durable Power of Attorney for Finances and Property

Generally, 7.5, 7.12, 7.74, 7.97, 7.110, 7.145, 7.148, 7.152, 7.161

**Power of Sale**

Authorization, 2.103, 4.119–.129, 4.154

**Power to Revoke or Amend**

Anatomical gifts, 4.80, 4.178–.183, 11.232

Gifts, 8.113, 8.115

Revocable trusts, 7.3, 7.49–.51, 7.157

**Pregnancy**

Living will, 11.141

Power of attorney for health care, 11.167

**Prior Marriage**

Children by, 2.46, 5.7

**Privacy**

Nonprobate transfers, 3.10

**Probate**

*See also* Claims

Agreement to transfer property without probate, 7.92

Allowance for surviving spouse, 2.126, 6.75, 9.37

Attorney named to probate estate, 2.16, 2.220, 4.96–.98

Avoiding, 2.97, 2.104, 6.103

Child's interest in, 5.6

Contract to make wills, 11.260–.262

Coordination with nonprobate assets, 1.18, 3.17, 3.20–.22

Deposit of will, 2.230

Estate administration expenses

—authorization of payment, 4.99–.103, 5.85, 7.67

—reduction, 2.91–.97, 3.11, 7.44

—tax deduction, 6.32

Filing fee, 7.10

Informal, 2.96

Marital property, 7.14

Proof of will, 2.215, 5.91

Revocable trusts, 7.9–.11

**Profits**

Closely held businesses, 10.9

**Profit-Sharing Plans**

Generally, 3.57

**Promissory Notes**

Self-cancelling installment notes, 8.57

Stock redemption, 10.169

Valuation, 8.57

Without consideration, 8.223

**Property Classification**

*See* Classification of Property

**Protective Placement**

Power of attorney for health care, 11.165–.166



**Proxy**

*See* Signature

**Psychologist**

As witness, 2.224

**Public Assistance**

*See also* Medicaid/Medical Assistance; Social Security;

Supplemental Security Income

Marital property agreement, 9.49

Trusts, 2.109, 2.112

**Q**

**Qualified Joint and Survivor Annuities**

Generally, 3.81

**Qualified Personal Residence Trust**

Generally, 8.97

**Qualified Plans**

*See* Retirement Plans

**Qualified Preretirement Survivor Annuities**

Generally, 3.81

**Qualified State Tuition Programs**

Generally, 8.220

**Qualified Subchapter S Trust**

Generally, 10.30

**Qualified Terminable Interest Property**

Generally, 6.122–.128

Contractual will provisions, 11.267

Election, 6.123, 6.126

Federal gift tax, 8.38

Marital deduction/bypass formula provisions, 6.140, 6.148–.155

Terminable interest rule exceptions, 6.87

Trust, 3.22, 6.46, 6.69, 6.127, 7.76, 7.118, 8.38

Applicable exclusion amount planning, 6.46

**R**

**Real Estate**

*See also* Conveyance, Residence

Divided interest, valuation, 8.139

Gift to minor, 8.170–.173

Nondomiciliary decedent's, 2.126

Reclassification or transfer, 3.43, 3.47, 3.132

Revocable trusts, 7.15, 7.76, 7.120–.122, 7.133

Special use valuation, 8.153, 10.176–.178

Termination of decedent's interest, 3.10

**Reclassification of Property**

*See also* Classification of Property

By conveyance, 3.42, 3.47, 9.117, 9.119

By gift, 3.43, 7.13, 9.115, 9.117

Life insurance consents, 9.121

By marital property agreement, 2.136–.140, 2.186, 3.44, 7.13, 8.150, 9.11–.23, 9.27, 9.50–.52, 9.54, 9.110–.112, 9.113

Personal property, 2.138, 9.20

Survivorship rights, creation or termination of, 3.41–.44

By unilateral statement, 7.13, 9.79, 9.120, 9.130–.132

Will or trust document, ineffectiveness, 2.120, 9.116

**Register in Probate**

Deposit of will, 2.230

**Relatives**

Information requested of client, 2.45, 2.53

**Remainder Interests**

*See also* Grantor Retained Annuity Trust; Grantor

Retained Income Trust; Life Estate; Qualified

Personal Residence Trust

Drafting gift, 4.152, 4.157–.159

Federal estate tax, 6.18, 6.76, 6.91, 6.121, 8.95–.100

Federal gift tax, 8.28, 8.95–.99

**Remarriage**

*See also* Second Marriage

Surviving spouse, 2.181, 4.155

**Remedies**

*See* Spousal Remedies

**Representation, Division by Right of**

*See* Right of Representation

**Representation (Legal)**

*See* Spouses—Representation

**Residence**

Bequest, 5.69

Homestead tax credit, 7.120

Power-of-appointment trust, 6.115

Reclassification, 3.43, 3.46, 9.117

Revocable trust, 7.118

Survivorship rights, 3.43, 3.46

**Residency**

Federal gift tax, 8.75

Fiduciaries and beneficiaries, 5.39

Marital deduction, 6.88  
Witnesses, 2.223

**Residue**

Disposition, 2.149, 5.71–.74, 6.139–.155  
Nondeductible terminable interests, 6.83–.84

**Retainer**

Letter, 2.25

**Retirement Plans**

*See also* Employee Benefits and Compensation;  
Individual Retirement Accounts  
Generally, 3.48–.102  
Beneficiary designation, 3.75–.101, 5.55  
Closely held businesses, 10.11  
Defined benefit plans, 3.54  
Defined contribution plans, 3.55–.57  
Disclaimer, 11.285  
Distributions, 3.68–.74, 3.84, 3.97  
Durable power of attorney for finances and property,  
11.70  
Federal excise tax, 3.88  
Life insurance, purchase of, 3.66  
Marital deduction/bypass formula provisions, 6.140,  
6.148–.155  
Qualified plans, generally, 3.52–.57  
Rollover to, 3.91  
Savings incentive match plans, 3.60  
Simplified employee pensions, 3.59  
Taxation, generally, 3.69–.74  
Tax-sheltered annuities, 3.58  
Trump account, 8.221

**Revocable Trusts**

*See also* Credit Shelter Trust—Family Trust;  
Declaration of Trust Ownership; Trusts  
Generally, ch. 7  
Attorney's certification of trust's existence, 7.117  
As beneficiary, 7.101  
Confidentiality, 7.10  
Corpus, 7.35–.39, 7.74–.98, 7.108–.110  
Court supervision, 7.9  
Diagrams, 7.31  
Dispositive provisions, 7.60–.68  
Division, 7.51–.59, 7.146–.148, 7.150–.152  
Durable power of attorney for finances and property,  
7.12, 7.97, 11.56, 11.108  
Forms, 7.47, 7.110, 7.117, 7.141–.162  
Funded and unfunded, 7.4, 7.71–.74  
Gifts made in contemplation of death, 7.22, 8.114  
Individual property, 7.13, 7.61  
As life insurance beneficiary, 3.121

Marital property, 7.13, 7.14, 7.32–.40, 7.51, 7.58, 7.61,  
7.63–.65, 7.67, 7.84, 7.147, 7.150–.162  
—tax-free exchange, 7.64  
Pour-over will, 7.98, 7.149, 7.162  
Records, 7.7, 7.24  
Revocation or amendment, 7.3, 7.49–.51, 7.140, 7.157  
As shareholder of S corporation, 7.84  
Survivor's trust, 7.51, 7.55, 7.63, 7.65, 7.67, 7.146–  
.148, 7.150–.152, 7.159–.161  
Tax considerations, 7.16–.22, 7.46–.47, 7.52–.68, 7.80,  
7.83–.96, 7.109, 7.111–.140, 8.113  
Termination, 7.52–.59, 7.157  
Testamentary gift to, 5.130  
Testamentary trust distinguished, 5.129, 7.3  
Trustee  
—powers, 7.109, 7.153–.158  
—selection, 7.42–.48  
Withdrawal rights, 7.51, 7.61

**Revoke, Power to**

*See* Power to Revoke or Amend

**Right of First Refusal**

Generally, 10.139

**Right of Representation**

Division and distribution by, 4.50–.52, 5.27

**Roth Retirement Accounts**

Tax considerations, 3.62

**Routine Powers**

Generally, 11.38

**S**

**S Corporations**

*See also* Closely Held Businesses; Corporations  
Generally, 10.26–.33  
Electing small business trust as shareholder, 7.84, 7.88,  
10.31  
Election, 8.130  
Sale or liquidation, 10.19  
Tax consequences of form of ownership, 10.7–.13,  
10.19, 10.22  
Trusts as shareholders, 7.84, 7.88, 10.28–.33

**Sale**

Power of, 2.103, 4.127–.129, 4.154

**Savings Incentive Match Plans**

Generally, 3.60

**Savings Plans**

Generally, 3.57

**Second Marriage**

*See also* Remarriage

Marital property agreement, 9.16

Property brought into, 2.142

**Securities**

*See also* Bonds, Stock

Gifts to minors, 8.186–.187

**Self-Cancelling Installment Notes, 8.57**

**Separate Representation**

*See* Spouses—Representation

**Short-Term Trusts**

Income shifting, 8.128

**Signature**

*See also* Attestation Clause

Documents, generally, 2.210

Electronic, 4.85

Mark, 4.82–.84

Proxy, 2.209, 2.225, 4.79–.81

Survivorship rights, creation or termination, 3.43

Will, 2.225, 4.69, 4.79–.85, 5.90

**Simplified Employee Pensions**

Generally, 3.59

**Social Security**

Power of attorney, 11.85

**Sole Proprietorship**

*See also* Closely Held Businesses

Defined, 10.4

Safe after death, 10.15

Tax consequences of form of ownership, 10.7–.13, 10.15, 10.23

**Son-in-Law**

*See* Child's Spouse

**Spendthrifts**

Information requested of client, 2.54

Spendthrift clause, 5.82

**Spousal Remedies**

Gifts to third person, 8.65

Marital property agreement disregarded, 9.59

**Spouses**

*See also* Child's Spouse; Domestic Partnership;

Nonpropertied Spouse; Surviving Spouse; Trusts—  
Spousal

Death, simultaneous, 2.77, 2.88, 4.65, 5.72, 6.59

Definition, lack of, 9.5

Gifts

—spousal, 6.45, 7.33, 8.31–.38, 8.66, 8.93, 8.110

—to third person, 8.10, 8.19, 8.39, 8.110

Joint tenancy, generally, 3.31–.33

Life insurance beneficiary designation, 3.115–.117

Representation, 2.10–.11

—buy-sell agreement, 10.110

—checklists, 2.11

—marital property agreement, 2.191, 9.95, 9.106, 9.139–.141

Retirement plan beneficiary designation, 3.77–.82, 3.85–.91

Signing wills, 2.221

**Springing Powers**

Generally, 11.14

**Standards of Review**

Marital property agreement, 9.89–.93, 9.100–.104

**State Death Tax Credit**

Generally, 6.136–.138

**Statutes of Limitation**

Federal gift tax, 8.52

Marital property agreement, 9.97

**Statutory Basic Will**

*See* Wisconsin Statutory Basic Will

**Statutory Property Agreements**

Generally, 9.110–.113

Amendment, 9.86

**Stock**

*See also* Buy-Sell Agreements; Employee Stock

Ownership Plans; Incentive Stock Options; Options  
to Purchase; Securities

Endorsed in blank, 8.131, 8.223

Gift of, 8.130, 8.186–.187, 8.223

Redemption agreements, 10.117–.131, 10.170–.172

Redemption to pay death taxes, 7.67, 8.113, 8.153, 10.148–.158

Revocable trusts, 7.82–.88, 7.91–.96

Transfer restrictions, 10.133–.146

Valuation, 8.55, 8.139

Valuation discount, 10.52

Valuation freezing, 10.51

### **Stock Bonus Plans**

Generally, 3.57

### **Substantive Fairness**

Marital property agreement, 9.104, 9.138

### **Suicide**

Living will, 11.142

Power of attorney for health care, 11.178

### **Support**

Agreement, 9.109

Children, 5.10–.13, 8.203–.205

Contract, 8.85

Income from custodial property, 8.194

Irrevocable trust for minor, 8.203–.205

Marital property law, 9.33–.37, 9.47, 9.49, 9.109

### **Supported Decision-Making**

Generally, 11.208

Authority, scope of, 11.214

Definitions, 11.209–.213

Execution, 11.216

Form, 11.217

And guardianship, 11.223

Personal information, access to, 11.215

And powers of attorney, 11.222

Reporting of suspected abuse, neglect, or financial exploitation, 11.221

Resignation, 11.218

Revocation, 11.218

Supporter limitation of liability, 11.220

Termination, 11.218

Third-party reliance and limitation of liability, 11.219

Validity, 11.216

### **Surviving Spouse**

*See also* Marital Property Agreements—Death provisions; Revocable Trusts—Survivor's trust; Spousal Remedies; Trusts—Spousal

Allowance, 2.126, 6.75, 9.37

Beneficiary designation, 3.8, 3.118

Disclaimer by, 11.283, 11.300–.302

Disclaimer by estate of, 5.68, 5.72, 11.298

Disinheritance, 2.126

Marital deduction, 4.63, 6.54–.88

As personal representative, 4.20

Remarriage, 2.181

Selection of personal property by, 2.126, 2.138

As trustee, 2.176, 5.87, 6.117, 7.44–.47

Waiver of rights, 2.126, 9.55–.59, 9.69

### **Surviving Spouse's Elections**

*See also* Augmented Marital Property Estate Election, Deferred Marital Property Election

Bar or waiver, 2.126, 2.190, 9.55–.59, 9.69

Nondomiciliary decedent's real estate, 2.126

### **Survivor's Trust**

*See* Revocable Trusts—Survivor's trust

### **Survivorship Clause**

*See also* Death—Simultaneous

Marital deduction/bypass formula provisions, 6.140, 6.148–.155

Marital deduction qualification, 6.59, 6.87, 6.92

Simple will, 2.150, 4.59–.65

Will with trust provisions, 5.68, 5.72

### **Survivorship Interests**

*See* Nonprobate Transfers

### **Survivorship Marital Property**

Generally, 3.38–.44

Disclaimer, 11.302

Joint tenancy distinguished, 3.29

Marital deduction, 6.63, 6.101–.104

Marital property distinguished, 3.29

Personal property, 8.224

Will, ineffectiveness of, 2.123

## **T**

### **Tangible Personal Property**

*See also* Wills

Document for disposing of, 2.228, 2.235, 4.2, 4.31–.35, app. 4A

—amending, 2.235

—individual, app. 4A

—married couple, app. 4B

—reference in will, 2.228, 4.2, 4.31–.35

### **Tax**

*See also individual taxes*

Elections

—alternate valuation date, 6.25, 7.56–.59

—qualified terminable interest property, 6.123, 6.126

—trustee of revocable trust, 7.134

Payment from estate, 4.100–.101, 4.103, 5.85

Taxpayer identification numbers, 7.116–.117

### **Tax-Sheltered Annuities**

Generally, 3.58

**Tenancy in Common**

Generally, 3.35  
Transfer of interest, 6.98

**Terminable Interests**

*See also* Qualified Terminable Interest Property  
Annuities, 6.68  
Contractual will provisions, 11.267  
Federal gift tax, 8.35–38  
Terminable interest rule, 6.82–87

**Testamentary Capacity**

*See* Competence

**Testamentary Gifts**

*See also* Disclaimer; Life Estate  
Cash, 5.70  
Charitable, 4.160–.162, 5.70, 6.34  
Drafting, 2.148, 5.66–70  
Encumbered property, 4.104–.110, 5.69  
Lapse, 5.70  
Limitation to fraction of estate, 4.163–.165  
Marital deduction qualification, 6.67  
Nonademption, 4.111–.113  
Nonoperating children (family business), 10.42  
Personal property, tangible, 5.68  
Reclassification to ensure effectiveness, 2.138  
Residence, 5.69  
Specific, general, and residuary bequests distinguished, 4.165  
Transfer to trustee, 5.53

**Testamentary Trusts**

*See also* Credit Shelter Trust; Facility-of-Payments Clause; Trustee; Wills  
Advantages over guardianship, 2.100  
Alternatives to, 5.123–.131  
Children, 2.99–.106, 2.153–.162, 5.3–.31, 5.35  
—duration, 5.23, 5.79, 5.109  
—separate trusts, 2.158, 5.20–.28, 5.103–.115  
—single trust, 2.158, 5.19, 5.21, 5.75–.84, 5.103–.115  
Costs, 2.106  
Disabled persons, 2.110–.112, 2.163–.171, 5.29  
Disclaimer, 11.309  
Grandchildren, 5.25–.28, 5.109, 5.110  
As life insurance beneficiary, 3.121, 5.54  
Merger, 5.84  
Older adults, 2.107–.109, 2.163–.171, 5.32–.37  
Parents, 5.34, 5.36, 5.110  
Preexisting, testamentary gifts to, 5.130  
Purposes, 5.2, 5.77  
Spousal, 2.172–.183. *See also* Trusts—Spousal  
Withdrawal rights, 5.23, 5.108

**Third Parties**

Contracts to make wills, 11.258, 11.268  
Transactions with, 8.232

**Thrift Plans**

Generally, 3.57

**Time**

*See also* Statutes of Limitation  
Contracts to make wills, 11.257, 11.262  
Disclaimer, 11.280  
Insurance, 7.76  
Marital property agreement claims, 11.262  
Marital property law, 2.62, 3.43, 9.76  
Nonprobate transfers, 3.9  
Transfer to revocable trust, 7.71–.107  
Trust for children, duration, 5.23, 5.79, 5.108  
Trustee and guardian distinguished, 2.103

**Title XIX**

*See* Medicaid/Medical Assistance

**Tracing**

Generally, 9.76–.77, 9.122  
Enforceability of marital property agreement, 9.108

**Transcript**

Document execution, 2.211

**Transfer in Fee**

Life estate compared, 6.108  
Marital deduction, 6.97–.100

**Transfer-on-Death Deed**

Generally, 2.200, 3.130  
Designation of T.O.D. beneficiary form, 3.132, app. 3A

**Trustee**

*See also* Fiduciary  
Annual accounting statement, 5.53  
Authority regarding children, 5.12  
Beneficiary as, 5.45, 7.44–.47, 7.153–.158, 8.86  
Corporate, 2.106, 5.40–.44, 5.48, 7.43, 7.144  
Cotrustees, 5.44, 7.44–.47  
Directing parties, 5.51  
Disclaimer by, 11.158  
As employee benefit plan beneficiary, 5.55  
As executor, 7.134  
Fees, 2.94, 2.106  
Guardian's authority distinguished, 2.103  
Individual, 5.42, 5.44, 5.49  
Powers, 2.103, 2.162, 2.170, 2.182, 5.50, 5.86, 7.69, 7.153–.158, 8.86

Selection and designation, 2.89, 5.38–.50, 5.87  
 —children’s trust, 2.156  
 —credit shelter trust, 6.117  
 —irrevocable trust for minor, 8.200  
 —older adult or disabled, trust for, 2.166  
 —power-of-appointment trust, 6.117  
 —revocable trusts, 7.42–.48  
 —spousal trust, 2.176  
 Settlor as, 7.7, 7.43  
 Spouse as, 2.176, 5.87, 6.117, 7.44–.47, 7.61  
 Succession and removal, 5.46–.49, 5.87  
 Transfer of assets to, 5.52–.56  
 Trust protectors, 5.51  
 As witness, 2.220

### **Trusts**

*See also* Credit Shelter Trust; Irrevocable Trusts;  
 Revocable Trusts; Testamentary Trusts; Trustee;  
 Uniform Custodial Trust Act  
 Generally, 1.5, 1.21, 2.81–.116, 2.118–.133  
 Amendment of, 2.240  
 Certification of, 7.79, 7.117  
 Contractual wills, alternative to, 11.271  
 Coordination with nonprobate assets, 1.18, 3.20–.22  
 Creation of, 2.229  
 Dry, 2.229  
 Flexibility, 2.75  
 Information requested of client, 2.70  
 Marital property agreement incorporation of, 9.58  
 For parents, 5.34, 5.36, 5.110, 8.131  
 Qualified domestic, 6.88  
 Revocation of, 2.240  
 Spousal  
 —estate trust, 6.118–.121  
 —federal estate tax, 2.113–.116, 2.175, 6.46, 6.69,  
   6.110–.121  
 —power-of-appointment trust, 6.110–.117, 7.65, 8.34  
 —qualified terminable interest property trust, 6.46,  
   6.69, 6.127, 7.76, 7.118, 8.38  
 —as retirement plan beneficiary, 3.91  
 —survivor’s trust, 7.51, 7.55, 7.63, 7.65, 7.67, 7.146–  
   .148, 7.150–.152, 7.159–.161  
 Unfunded, 2.229  
 Unified credit planning, 6.46

## **U**

### **Ultimate Distribution Clause**

*See* Failure-of-Beneficiaries Clause

### **Unconscionability**

Marital property agreement, 9.91

### **Undue Influence**

Generally, 2.57, 2.211

### **Unified Credit**

*See* Applicable exclusion amount; *see also* Bypass  
 Trust

### **Uniform Anatomical Gift Act**

Generally, 11.171, 11.225

### **Uniform Custodial Trust Act**

Generally, 2.171, 8.228–.233

### **Uniform Declaration to Physicians**

*See* Living Will

### **Uniform Power of Attorney Act**

Generally, 2.133, 11.3

### **Uniform Transfers to Minors Act**

Generally, 5.125, 8.175–.195, 11.72

### **Unilateral Statement**

Generally, 9.120  
 Dissolution of marriage, 9.79  
 Form, 9.130–.132  
 Reclassification of property by, 7.13, 9.79, 9.120,  
   9.130–.132

### **United States Savings Bonds**

*See* Bonds (Government)

### **Unproductive Property**

Power-of-appointment trust, 6.115, 7.76  
 Revocable trust, 7.76

## **V**

### **Valuation**

Alternate valuation date, 6.25, 7.56–.59  
 Business, 8.56, 10.42, 10.52, 10.58, 10.64–.81, 10.90–  
   .98, 10.153  
 Buy-sell agreement, 10.64–.81, 10.90–.98  
 Discount, 10.52, 10.58  
 Federal estate tax, 6.23–.25, 6.38, 10.90–.98  
 Freezing, 10.51  
 Gifts, 8.51, 8.53–.58, 8.61, 8.81, 8.115  
 Special use valuation, 8.153, 10.176–.178  
 Specific bequests, 4.119–.124  
 Stock, 8.55, 8.139

### **Videorecording**

Document execution, 2.211

**Voluntariness**

Marital property agreement, 9.92, 9.102, 9.138

**Voting Trust**

S corporation stock, 10.32

**WXYZ**

**Waiver**

Bond (fiduciary), 2.93, 4.27–30, 5.87  
 Family attribution rules, 10.125  
 Financial disclosure, 9.93  
 Independent legal representation, 9.139–.141  
 Retirement plan benefits, 3.80, 3.82, 11.70  
 Spousal rights, generally, 2.126, 9.55–.59, 9.69

**Waiver-of-Attribution Stock**

Revocable trusts, 7.91

**Ward**

Death, 2.104  
 Withholding and withdrawal of health care, 11.120

**Washington Wills**

*See* Will-Substitute Agreements and Provisions

**Will Contest**

Marital deduction, 6.74  
 Revocable trust, 7.140

**Will-Substitute Agreements and Provisions**

Generally, 3.129, 9.31, 11.272  
 Amendment, 9.86  
 Contractual will distinguished, 11.272  
 Joint tenancy, 9.18

**Wills**

*See also* Codicil; Documents; Probate; Testamentary  
     Gifts; Testamentary Trusts; Will Contest; Will-  
     Substitute Agreements and Provisions; Wisconsin  
     Statutory Basic Will  
 Generally, 1.4, 1.17, 2.81–.116, 2.118–.132, ch. 4, ch. 5  
 Affidavit, self-proving, 2.215, 5.91  
 Amendment, 2.232–.236  
 Attestation clause, 2.207, 2.215, 2.225, 4.70–.85, 5.90,  
     5.121  
 Contracts to make, 1.10, 11.246–.273  
 Contractual, 11.252  
 Coordination with nonprobate assets, 1.18, 3.17, 3.20–  
     .22  
 Electronic signatures, 4.85  
 Execution, generally, 2.213–.228, 4.66–.68  
 Flexibility, 2.75  
 Indexing, 2.212

Joint, 11.250

Marital property agreement incorporation of, 9.58

Mutual, 11.250

Need for, 2.76–.80, 6.50

Not found, 2.237

Oral, 2.226

Pour-over, 7.98, 7.149, 7.162

Reciprocal, 11.250

Revocation, 2.232, 2.237–.239, 4.9, 11.204

Self-proved

—one-step procedure, 4.86–.88

—two-step procedure, 4.89–.91

—optional one-step self-proving will language, 5.91,  
     5.122

Tangible personal property, 2.228, 4.2, 4.31–.35, 5.68,  
     5.96, app. 4A, app. 4B

With trust provisions, 2.153–.183, ch. 5, 7.98

—forms, 5.57–.122, 7.149, 7.162

Without trust provisions, 2.146–.152, ch. 4

Witnesses, 2.216–.224, 4.78, 5.90

**Wisconsin Department of Revenue**

Durable power of attorney for finances and property,  
     11.86

**Wisconsin Digital Property Act, 11.313–.329**

**Wisconsin Estate Tax**

Generally, 6.136–.138  
 Installment payment, 10.161  
 Revocable trusts, 7.19

**Wisconsin Gift Tax**

Generally, 8.63  
 Revocable trusts, 7.20–.22

**Wisconsin Income Tax**

*See also* Basis

Distributions from estate, 5.66–.70

Gifts to minors, 8.154–.220

Income shifting, 8.120, 8.130

Marital property agreement, 9.41, 9.51

Retirement plan distributions, 3.73

Revocable trusts, 7.18, 7.64, 7.115, 7.120–.122

**Wisconsin Inheritance Tax**

Disclaimers, 11.275, 11.280

**Wisconsin Statutory Basic Will**

Generally, 2.117, 4.196–.199  
 With trust, 5.131

**Withholding and Withdrawal of Health Care**

*See* Health Care—Withholding and Withdrawal of

**Witnesses**

*See also* Attestation Clause

Anatomical gifts, 4.174, 4.180, 11.230, 11.232, 11.233

Liability, 11.138, 11.175

Living will, 11.133

Power of attorney delegating parental power, 11.109

Power of attorney for health care, 11.157

Wills, 2.215–.224, 4.78, 5.90

**Written Consent**

*See* Consent