

INDEX

A

- AARP, 16, 17, 67
- A-B living trust
 - explanation of, 82,96
 - providing for surviving spouse with, 87
 - keeping control with, 87
 - dividing assets, 89, 209
 - common vs. separate, 82, 83, 91
 - if spouse is incapacitated, 92
 - Medicaid and, 93
 - if spouse is not U.S. citizen, 94
 - if not married, 94
 - at death of first spouse, 208
- A-B trust in a will, 92
- A-B-C living trust
 - explanation of, 100, 104
 - additional control with, 100
 - delaying estate taxes with, 102
 - providing for surviving spouse with, 102
 - dividing assets, 103, 209
 - at death of first spouse, 208
- Annual personal exemptions, 231
- Asset protection trust, 249
- Assignment, 162
- Automobiles, 174
- Attorney
 - fees in probate, 16, 17
 - where to get referrals for, 142
 - certification of, 143
 - how to evaluate, 145
 - meeting with to prepare trust, 151
 - assistance with funding, 150, 161
- Attorney rating and review site, 142
- ATM withdrawals, 64

B

- Bankruptcy protection, 63
- Bar associations, 143, 144

Basis

- explanation of, 31, 206, 219
- stepped-up, 31, 92, 163, 206, 219, 242

Beneficiaries

- explanation of, 42
- controlling when they inherit, 49, 125
- who can be, 42, 120
- determining amount of inheritance, 125
- distribution options for, 50, 125
- irresponsible, 128
- protecting assets from creditors of, 47, 127, 129
- with special needs, 129-133
- charities as, 42, 133, 244-246

Beneficiary designations

- problems with, 33
- why change to living trust, 47
- time required to change, 59
- for IRA and other tax deferred plans, 48, 180-188

Boats, 174

Bonds, 172, 174

C

- Calendar year vs. fiscal year, 230
- California, 30, 48, 62, 166
- Capital gains tax, 31, 206, 242
 - on sale of personal residence, 167
- CERCLA, 65
- Certificate of trust, 156, 169, 173
- Certificates of Deposit, 170
- Certified copy of trust, 156
- Changing titles (see "Funding")
- Charitable foundation, 185, 246
- Charitable lead trust, 245
- Charitable remainder trust, 185, 244
- Charitable "set aside," 231
- Charities (as beneficiaries), 42, 133, 244-246
- Checking accounts, 169

Children's trust
 in a will, 26, 45
 in a living trust, 44
Club memberships, 179
Common trust, 82-83, 91, 96
Community property
 listing of states, 30
 retaining status in living trust, 163
Conservatorship, 22
Contesting, 20, 51, 136
Copyrights, 179
Corporate trustee
 explanation of, 41, 115
 when to use, 111, 113-115, 128, 131
 benefits of, 53, 117
 safety of trust assets with, 118
 fees, 59, 118
 disadvantages of, 119
 how to evaluate, 119
Corporation
 closely held, 177
 professional, 190
 subchapter S, 177
 C, 177
Co-trustee
 explanation of, 41
 advantages of having a, 111
 corporate trustee as, 118
Court control
 when you die, 12
 if you become incapacitated, 21
 of minor children, 24
Credit union accounts, 171
Creditor claims, 47, 56, 62-63, 127, 129, 167, 249
Crummey letter, 244
Custodian, 25
Custodial account, 25

D

DBA, 177
Death of first spouse, 203
Disclaiming, 209

Disinheriting
 unintentional, 28, 51
 intentional, 133
Distribution of assets, 49, 50, 125, 221
Divorced or separated parents, 25, 122
Due on sale or transfer clause, 165
Durable power of attorney for asset management,
 23, 150, 155, 183, 201, 216, 239
Durable power of attorney for health care, 150,
 158, 200, 214, 239

E

Estate
 explanation of, 11
 as beneficiary, 33
 determining your taxable, 78
 appreciation of, 77
Estate planning, 11, 225
Estate taxes
 explanation of, 74
 when due, 74
 amount exempt from, 75
 tax credit toward, 75
Estimated tax payments, 236
Executor
 explanation of, 12
 fees paid to, 16, 17
 duties of, 14, 42, 218
 at incapacity, 22

F

401(k), 48, 180, 187
403(b), 180
Family business deduction, 76
Family limited partnership, 176, 248
FDIC insurance, 170
Federal Reserve Bank, 174
Fiduciary responsibilities, 44, 213
Florida, 48, 63, 174
Foreign assets, 179
Funding, 161-190

G

Gain on sale of depreciable assets, 235
Gallenstein, 164
General partnership, 178
Generation skipping transfer tax, 124, 185, 250
Gifts
 problems with, 31
 taxable, 79
 to reduce estate taxes, 80, 240-243
 taxation of, 240
 living trust and, 120, 136, 243
Grandchildren, 25, 124
Grantor
 explanation of, 41
 keeping control as, 41
Grantor retained annuity trust (GRAT), 247
Grantor retained unitrust (GRUT), 247
Guardian
 for minor children, 24
 choosing one, 121
Guardianship, 22, 24

H

Health care proxy, 158
Home (transferring to trust), 164-168
Homestead (homeowner's) exemption, 63, 167
Homeowner's insurance, 166

I

Incapacity
 and a will, 21
 who determines, 22, 44
 court control at, 21
 what happens at, 21
 with a living trust, 42, 199, 214
Incentive stock options, 188
Income taxes
 while you are living, 56, 73
 after death issues, 66, 227-236
Independent administration, 16

Insurance (also see "Life Insurance")

 Employer-provided, 177
 Homeowner's, 166
 Liability, 166
 Title, 166

Irrevocable trusts, 38, 185, 239-253

Individual Retirement Account (IRA), 48, 180-188

J

Joint Ownership

 and probate, 28
 problems with, 28-31, 50, 51
 kinds of, 30
 unintentional disinheritance with, 28, 51
 incapacity of joint owner, 29

K

Keogh, 48, 180

L

Land trust, 250

Liability insurance, 166

Life expectancy, 180-187

Life insurance

 beneficiary of, 33, 47, 50, 51, 176
 to pay estate taxes, 80
 owner of, 176
 as part of taxable estate, 78, 243
 transferring to trust, 176
 irrevocable life insurance trust, 243

Limited liability company, 178

Limited partnership, 178

Living trust

 explanation of, 37
 avoiding probate with, 38-39
 preventing court control of assets at incapacity
 with, 38-39
 keeping control with, 39, 41, 48-55

history of, 39
how it works, 41
process at death with, 42, 203, 218
process at incapacity with, 42, 49, 199, 214
process if minor children with, 44-45, 49
process to set up, 46, 141, 151-153
change beneficiary designations to, 47, 169-171, 174, 176, 177, 180-187
benefits of, 48-55
time required to distribute assets with, 48
privacy with, 48
avoiding multiple probates with, 48
more fair distributions with, 50
preventing unintentional disinheritance with, 51
contesting with, 51, 136
as pre-nuptial protection, 51
tax identification number for, 52, 211, 222
professional asset management with, 53, 115
reducing estate taxes with, 53, 82
maximum control with, 55
peace of mind with, 55, 193, 224
what it does not do, 55-57
protection from creditors with, 47, 56, 63, 127, 129, 167
Medicaid and, 56, 93, 130, 132
“disadvantages” of, 57-66
expense of, 59
management fees with, 59, 112, 118
reasons for probate with, 61-63, 65
Congress eliminating, 66
time required to change titles to, 59, 163
refinancing real estate with, 60, 165
time creditors have to submit claims with, 62
why not used more in the past, 67
why so popular now, 68
seminars, 143
avoiding scams and rip offs, 144
putting assets into (funding), 46, 59, 150, 153, 161-190
where to keep documents, 194
when and how to change, 197
making gifts from, 243
when to set up, 274

Living will, 55, 150, 157, 200, 214
Long term care insurance, 57, 201, 215

M

Marital deduction, 81, 86, 100, 101
Marx, Groucho, 23
Medicaid, 56, 93, 130, 132
Medical power of attorney, 158
Minor children (also see “children’s trust”)
 court control of inheritance, 25
 court appointment of guardian, 24
 as beneficiaries, 33, 47
 living trusts and, 44, 49
 planning for, 121-124
Missouri, 62, 64, 91
Missouri Bar Association, 91
Mutual funds, 172

N

Net estate, 74, 79
Notice of trust, 48

O

Oil and gas interests, 179
Onassis, Jacqueline Kennedy, 19, 245
Organizing information for your family, 194

P

Passive losses on rental real estate, 167, 232
Patents, 179
Partnerships
 general, 178
 limited, 178
 family limited, 248
Payable-on-death accounts, 169
Pennsylvania, 166
Pension plans, 48, 180
Per capita, 133-135
Per stirpes, 133-135
Personal (untitled) property, 175

Personal residence trust, 246
Pour over will, 150, 154
Power of attorney, 23
Pre-nuptial protection, 51
Prepaid legal services plans, 144
Private foundation, 185, 246
Private letter ruling, 189
Probate
 explanation of, 12
 why we go through, 13
 what assets go through, 13, 61
 what happens in, 13-15
 small estates and, 16
 informal, 16
 expense of, 16-18, 58, 59
 time involved with, 18
 lack of privacy with, 18-20
 loss of control with, 20
 multiple, 18, 49
 court supervision with, 60
 as big business, 16, 67
Professional corporation, 190
Profit sharing plans, 48, 180-188
Property taxes, 63, 166

Q

Qualified domestic trust, 94, 252
Qualified personal residence trust, 246
Qualified subchapter S trust (QSST), 178
QTIP, 103, 106

R

Real estate
 contaminated, 65, 168
 rental, 167, 232
 how to transfer to trust, 164
 refinancing, 60, 165
 out of state, 18, 48, 164
Recognition of losses, 234
Required minimum distribution, 180-187
Rollover, 181-187
Roth IRA, 187-188
Royalties, 179

S

Safe deposit box, 172
Saving accounts, 169
Savings bonds, 174
Section 1244 stock, 189
Separate trusts, 82, 83, 91, 98
Sixty-five day rule, 233
Sole proprietorship, 177
SPARRS, 142
Special gifts, 120, 208, 222
Special needs trust 130-133
Spendthrift clause, 128
Spousal consent form, 186
Spouse's responsibilities at incapacity/death, 199-212
Stepped-up basis, 32, 92, 163, 206, 219, 242
Stocks, 78, 172
Stretch out (tax-deferred accounts), 181-188
Subchapter S corporation, 177
Successor trustee
 explanation of, 42
 as fiduciary, 44
 responsibilities of, 42, 44, 112, 213, 214, 218
 who can be, 113
 choosing yours, 112-114
 corporate trustee as, 113, 114

T

Tax identification number, 52, 56, 211, 222
Tax-deferred annuities, 188
Tax-deferred savings plans, 48, 180-188
Taxpayer Relief Act of 1997, 66, 75, 167, 227, 229, 234, 235
Tenants-by-the-entirety, 30
Tenants-in-common, 30
Testamentary trust, 13, 38, 92
Texas, 30, 63
Throwback rule, 233
Title insurance, 166
Totten trust, 169
Transfer tax, 166
Transferring assets to trust, 161-190

Trustee

- explanation of, 41, 111
- liability of, 64
- who can be, 111
- choosing yours, 111
- compensation for, 112, 118
- for children's trust, 45, 49, 122
- corporate trustee as, 41, 111, 115, 131

Trusts in a will, 13, 26, 38, 45, 92

U

- Unfunded trust, 46, 61
- Uniform Transfer to Minors Act, 25
- Uniform Gifts to Minors Act, 25

V

Vehicles, 174

W

Will

- losing control with, 12
 - when you die with, 12
 - incapacity and, 21
 - not having a, 27
 - contesting with, 20, 51, 136
 - trust in a, 13, 26, 38, 45, 92
 - costs of compared to living trust, 59
- Wood, Natalie, 19

SAMPLE
Not for distribution or duplication.