

Finally! MA Has Updated Its Estate Tax Law. Will This Affect Your Estate Planning?

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Jennifer A. Civitella Hilario, Esq.

JC Hilario, P.C.

111 Rice Street, Suite B-2

Cambridge, MA 02140

617.329.9616

www.taxandtrustlaw.com

jch@taxandtrustlaw.com



The Massachusetts Estate Tax

Legislative History – Massachusetts “Y2K” Estate Tax

- TIR 86-4 – “M.G.L. c. 65C. was enacted in 1975 and is applicable to all estates of decedents dying on or after January 1, 1976. The Massachusetts estate tax is a **transfer tax imposed on the value of all property in the estate of a decedent at the date of death**, and not on the value of property received by each beneficiary. It applies in general to the estates of **decedents who are Massachusetts residents** at the date of death and to the estates of **non-resident decedents who own real and tangible personal property located in Massachusetts at the date of death.**”
- TIR 02-18 – Effective 2003, Massachusetts “decoupled” from the Federal estate tax. **MA estate tax is based on Federal estate tax law as of 12/31/2000.** (including inflation adjusted exemptions)
- MA’s estate tax is based on the calculation of the “credit for state death taxes” computed on a **1999 Federal estate tax return.**

What does that mean?

“Credit for State Taxes”

- Until 2005, the Federal estate tax system provided a tax credit against the federal estate tax for death taxes paid to a State. Massachusetts was among many States that used the maximum “credit for state taxes” calculation as the basis for its estate tax
- In 2002, Massachusetts locked into the 2000 Federal estate tax law, i.e., the Commonwealth “decoupled” from the federal estate tax law.

Calculation of MA Estate Tax

- Gross Estate *minus* Deductions *equals* Federal Taxable Estate
- Federal Taxable Estate *minus* \$60,000 *equals* Federal Adjusted Taxable Estate
- Go to Table B on the Form 706 Revised as of July 1999 - Computation of Maximum Credit for State Death Taxes
- For deaths after 2005, estates less than \$1,000,000 did not have a MA estate tax

I mean...what does that mean for me?

Unmarried MA Decedent - “Peter“ (died in 2022)

Gross Estate	\$3,000,000
Deductions	(\$50,000)
Table B Worksheet Adjustment	(\$60,000)
Federal Adjusted Taxable Estate	\$2,890,000
MA Estate Tax	\$177,600

Married MA Decedents – “Paul & Mary” (Paul died in 2015)

- 1st Spouse’s Death (Paul):

Gross Estate	\$3,000,000
Deductions (everything went to Mary, a US Citizen)	\$3,000,000
MA Estate Tax	\$0

I meant...what does that mean for me?

Married MA Decedents – (“One Trust”) No Tax Planning (Mary died in 2022)

- 2nd Spouse’s Death (Mary):

Gross Estate	\$5,000,000
Deductions	(\$50,000)
Table B Worksheet Adjustment	(\$60,000)
Federal Adjusted Taxable Estate	\$4,890,000
MA Estate Tax	\$386,000

Married MA Decedents – (“Two-Trusts”) Tax Planning (Mary died in 2022)

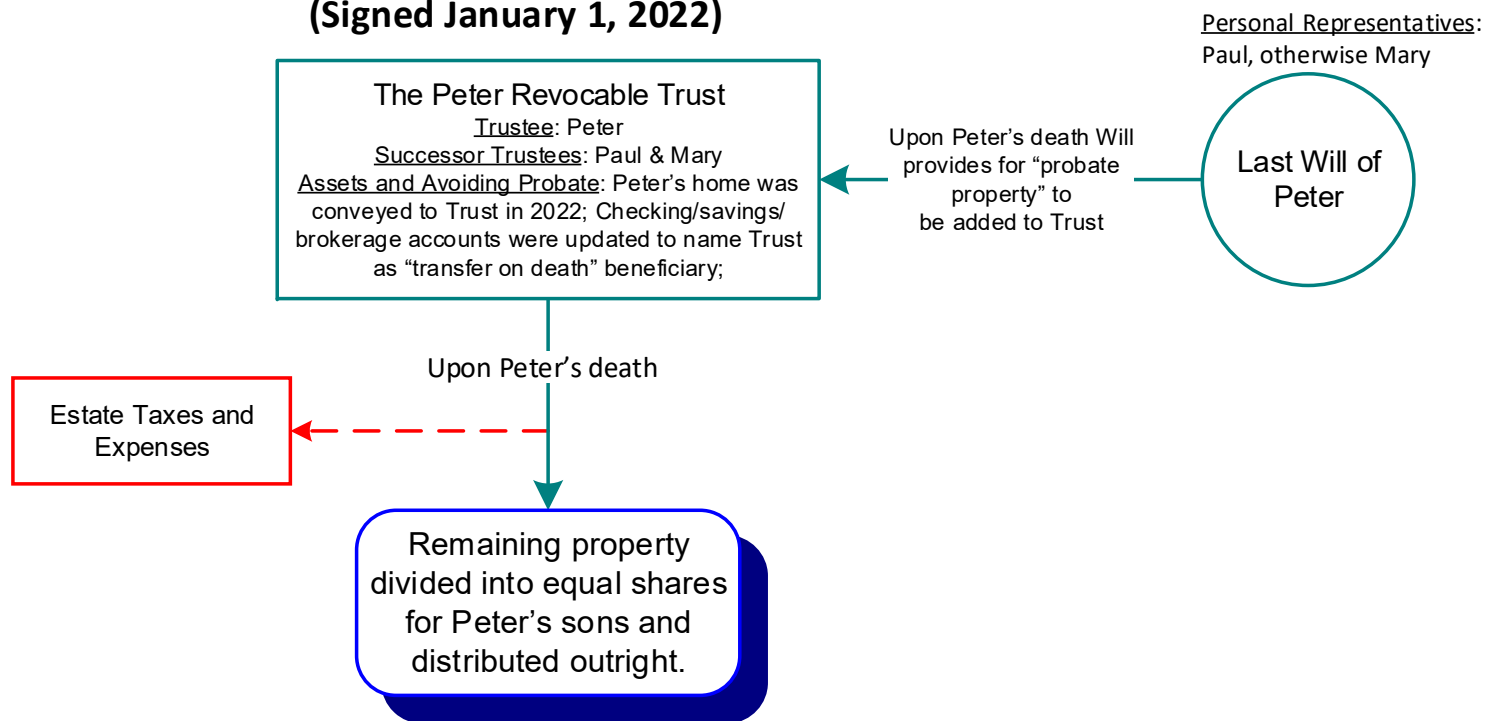
- 2nd Spouse’s Death (Mary):

Gross Estate (\$1M in Paul’s Credit Shelter Trust)	\$4,000,000
Deductions	(\$50,000)
Table B Worksheet Adjustment	(\$60,000)
Federal Adjusted Taxable Estate	\$3,890,000
MA Estate Tax	\$275,200

Typical MA Estate Plans

Peter's Estate Plan – Focused on Avoiding Probate

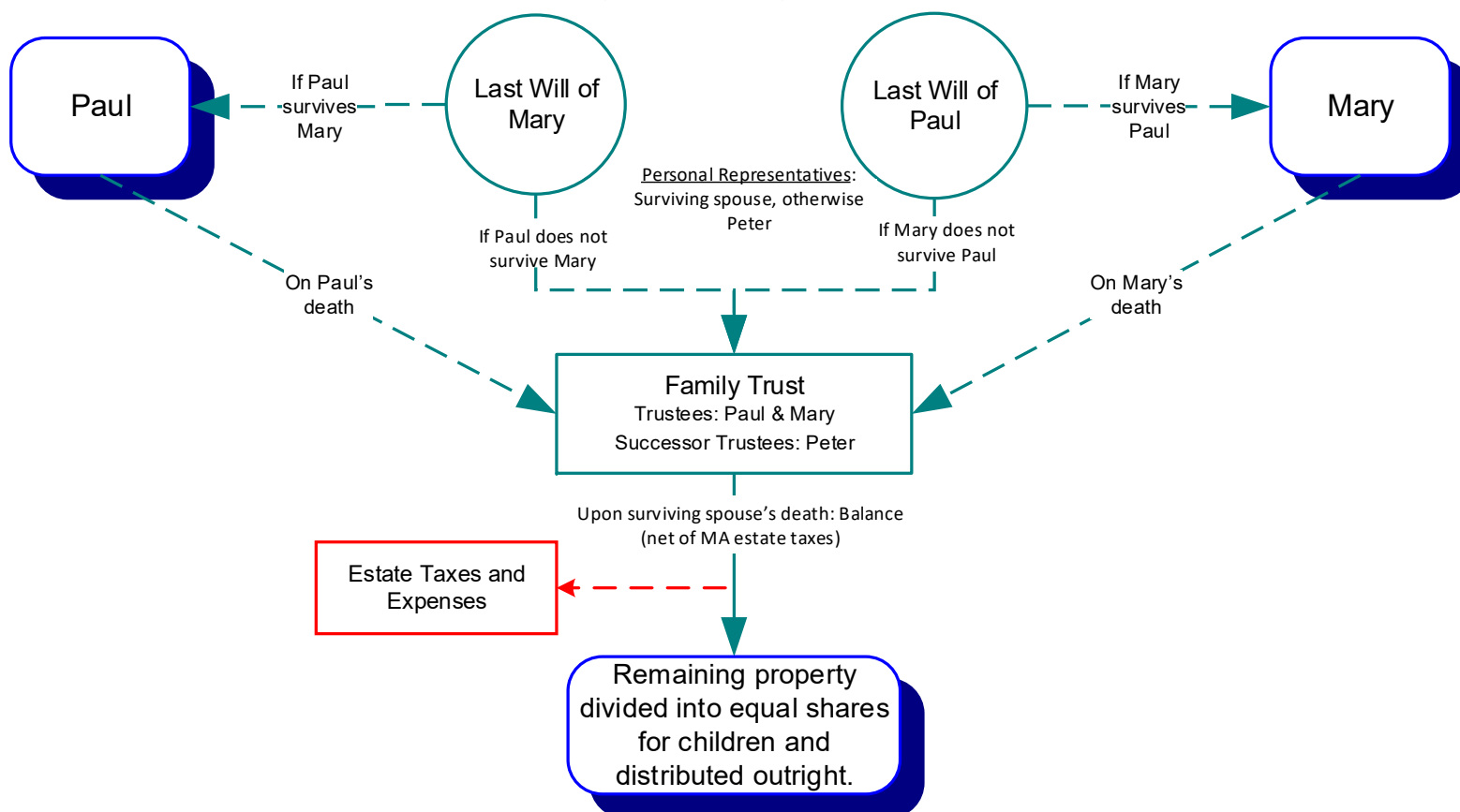
ESTATE PLAN SUMMARY FOR PETER (Signed January 1, 2022)



Typical MA Estate Plan

Paul and Mary's Estate Plan – Focused Avoiding Probate

ESTATE PLAN SUMMARY FOR PAUL & MARY (Signed January 1, 2012)

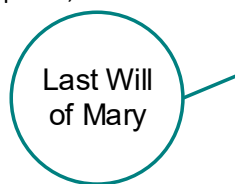


Typical MA Estate Plan

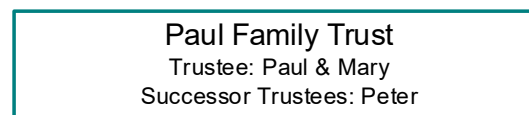
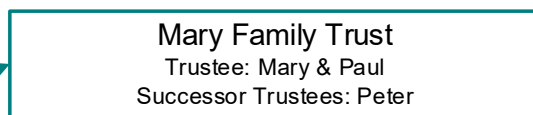
Paul and Mary's Estate Plan – Focused on Minimizing MA Estate Taxes & Avoiding Probate

ESTATE PLAN SUMMARY FOR PAUL & MARY (Signed January 1, 2022)

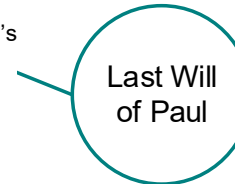
Personal Representatives:
Spouse, otherwise Peter



Upon Mary's death



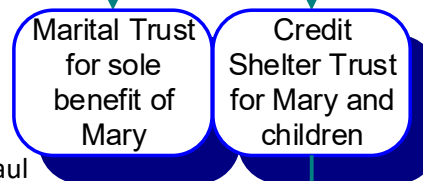
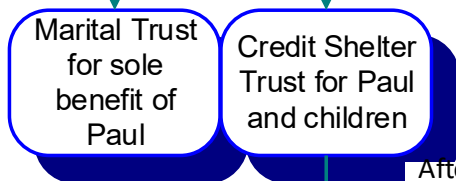
Upon Paul's death



Marital Trust funded if Paul survives Mary

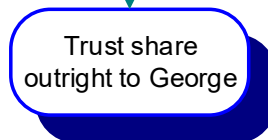
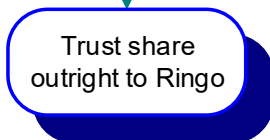
At first spouse's death, an amount equal to his/her MA estate tax exemption (\$1 million, minus lifetime taxable gifts) will fund the Residue Trust and the balance, if any, will be allocated to the Marital Trust.

Marital Trust funded if Mary survives Paul



After Mary and Paul are both deceased, equal shares for children

Upon surviving spouse's death, estate taxes and administrative expenses



Did those estate plans save MA estate taxes?

Unmarried MA Estate Plan

- No – Peter’s estate went “over the cliff” or “hit the tripwire”
- If Peter’s Taxable Estate (gross estate *minus* deductions) exceeded \$1,000,000, a MA estate tax would be due.

Married MA Estate Plan

- Maybe – With a two-trust estate plan, if the first deceased spouse’s Trust was funded with and/or received assets at Paul’s death, then the first \$1,000,000 would have been allocated to the *Credit Shelter Trust* and removed from Mary’s Taxable Estate at her subsequent death.
- Estimated MA Estate Tax Savings: \$110,800

What does \$1,000,000 represent?

- The inflation-adjusted Federal estate tax exemption for deaths after 2005, as of the 12/31/2000 law
- The MA “filing threshold” (gross estate plus taxable gifts) for an estate tax return

So...What's the new law?

“An Act To Improve The Commonwealth’s Competitiveness, Affordability, And Equity” – Signed 10/4/2023, Effective 1/1/2023

- The Massachusetts estate tax stays the same, except for three changes:

	<u>Before</u>	<u>After</u>
<i>Estate Tax Credit</i>	\$0	\$99,600
<i>Estate Tax Return Filing Threshold</i>	\$1,000,000	\$2,000,000
Non-MA Real Estate Affects Calc	Probably Not	Yes

- Every estate has an Estate Tax Credit of up to \$99,600 – i.e., (Per Table B) a **credit against the estate tax attributable to the first \$2,000,000 of a taxpayer’s “federal taxable estate”** – no more cliff, no more tripwire
- No estate with a **“federal taxable estate” less than \$2 million** will be required to pay a MA estate tax – i.e., a new “filing threshold” without regard to taxable gifts.
- Value of **non-MA real estate will impact estate tax calculation of MA Decedent** (*for another presentation*)

What does this mean for me?

Unmarried MA Residents

- If you can confidently project that your taxable estate will be less than \$2,000,000, no MA estate tax will be due.
- If your taxable estate will be more than \$2,000,000, then the \$99,600 credit can be thought of as an estate tax on the excess of your estate above \$2,000,000.
- Peter's Estate (dies 2023 or later):

Gross Estate	\$3,000,000
Deductions	(\$50,000)
Table B Worksheet Adjustment	(\$60,000)
Federal Adjusted Taxable Estate	\$2,890,000
Prior MA Estate Tax	\$177,600
New Law's Credit	(\$99,600)
New MA Estate Tax	\$78,000

What does this mean for me?

Married MA Residents

- If you can confidently project that the surviving spouse's taxable estate will be less than \$2,000,000, no MA estate tax will be due.
- If the surviving spouse's taxable estate will be more than \$2,000,000, then the excess of the surviving spouse's estate above \$2,000,000 will be subject to the MA estate tax.
- Mary's Estate (surviving spouse; dies 2023 or later):

Gross Estate	\$5,000,000
Deductions	(\$50,000)
Table B Worksheet Adjustment	(\$60,000)
Federal Adjusted Taxable Estate	\$4,890,000
Prior MA Estate Tax	\$386,000
New Law's Credit	(\$99,600)
New MA Estate Tax	\$286,400

What can I do to reduce estate taxes?

Unmarried MA Resident

- Well...gift...move...

Married MA Residents

- Fully fund “Credit Shelter” planning, i.e., a “two-trust” estate plan
- At Paul’s first death, \$2 million was allocated to his Credit Shelter Trust for benefit of Mary and children. Paul’s Credit Shelter Trust will not be included in Mary’s taxable estate:

Gross Estate (\$5,000,000 minus Paul’s \$2,000,000 in his Credit Shelter Trust)	\$3,000,000
Deductions	(\$50,000)
Table B Worksheet Adjustment	(\$60,000)
Federal Adjusted Taxable Estate	\$2,890,000
Prior MA Estate Tax	\$177,600
New Law’s Credit	(\$99,600)
New MA Estate Tax	\$78,000

That was a lot. What do I need to know?

MA's "Y2K" estate tax is still in place

- Gross estate equals **everything** you own at your death.
- For married residents (both US citizens), if the first deceased spouse leaves everything to the surviving spouse, there is **no MA estate tax until the surviving spouse's death.**
- **Rate is progressive**, topping out at 16%

The Tax Law's Effect:

- MA's estate tax is **not competitive** – we're third from the bottom
- Everyone has, in essence, a **\$2 million** estate tax exemption

What Should I Do?

- If you want to engage in **gifting** to reduce your estate, involve your **advisors** – accountant, financial/wealth planner, and attorney.
- If you are married and are considering a **two-trust plan**, or if you want to fully fund your trusts, not every asset works; involve your **advisors.**

Q&A