

Chronology of an Estate Administration*

Massachusetts Probate and Family Court

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Scope Note

This chapter serves as a useful checklist of actions to take at various significant points in the probating of an estate, immediately after death, before a return day, immediately after the appointment of the fiduciary, within three months after the appointment of the fiduciary, within four months after the appointment, and at specific points in time after the date of death. Final steps are also outlined.

§ 1.1 CHRONOLOGY OF ESTATE ADMINISTRATION

The following chronology of steps that counsel should take in the administration of an estate is applicable to both testate and intestate cases. Emphasis has been placed on the formal testate case for the sake of completeness. For a complete procedural guideline for probating an estate, see specific chapters on informal and formal proceedings.

§ 1.1.1 Immediately After Death and Within the Time Limits Provided by G.L. c. 190B, § 3-108

(a) Allowance of Will and Appointment of Fiduciary

- Remember that a person having custody of a will of the testator must deliver it to a person able to secure its probate and if none is known, to the appropriate court within thirty days after notice of date of death. G.L. c. 190B, § 2-516. There may be penalties for failure to deliver.
- Determine whether to petition informally or formally with the court and whether supervised administration is necessary. G.L. c. 190B.
 - If proceeding informally, give seven days' prefiling notice either in-hand or by mail to all interested persons who have not assented or waived notice in writing prior to filing the informal petition with the court. G.L. c. 190B, § 3-306.

* Updated for the 2022 Edition by Thomas P. Jalkut, Esq.

- File the original will together with a certified death certificate and either an informal or formal petition with the Probate and Family Court for the county in which the decedent was domiciled; if the decedent was a nonresident, an informal or formal petition may be brought in the county where property is located. G.L. c. 190B, §§ 3-108, 3-301, 3-401. Check filing fee.
- Send a copy of the petition and the death certificate by certified mail to the Division of Medical Assistance. If filing informally, the documents must be sent at least seven days prior to filing. If filing formally, the documents must be sent with a copy of the citation at least fourteen days before the return date.
- Obtain assents of interested persons to the petition, if possible, and any necessary renunciations and/or nominations for the appointment of a personal representative.
- May need an affidavit or testimony of one of the attesting witnesses to the will if there is no self-proving affidavit. G.L. c. 190B, §§ 3-405, 3-406.
- If necessary, seek an appointment of a special personal representative, G.L. c. 190B, § 3-614, due to the delay in probate proceedings. Also, consider whether voluntary administration is appropriate. G.L. c. 190B, § 3-1201.
- For formal petitions, pay for and obtain a citation from the court. G.L. c. 190B, § 1-401.
 - Arrange to have the publication section of the citation published in a local newspaper to alert creditors and other interested person that the will has been offered for formal probate (or if there is no will, publish notice of the decedent's death and adjudication of intestacy, determination of heirs, and/or appointment of a fiduciary). Publication must occur on time at least seven days before the return date of the citation. G.L. c. 190B, § 1-401; *see also* Supp. Prob. Ct. R. 6.
- Deliver in hand or mail a copy of the citation to interested persons who have not assented to the formal petition or waived notice by a writing filed with the court, at least fourteen days before the return date. G.L. c. 190B, §§ 1-401, 1-402; *see also* Supp. Prob. Ct. R. 6. Comply with instructions on the citation since you will have to make the return of service.
- Deliver or mail a copy of the citation to the attorney general if there are charitable bequests under the will or under the trust or if there are no known heirs at law. G.L. c. 12, § 8G. *See also* Unif. Prob. Ct. Prac. XXXIV.
 - If necessary, and if possible, request a waiver of or secure the appointment of a guardian ad litem. G.L. c. 190B, § 1-404. This would be the case, for example, if a surviving spouse, an heir at law, or a devisee is an incapacitated person, a protected person, or a minor and is not represented by a guardian (other than the petitioner) or a conservator, or in circumstances where parental or virtual representation may be utilized with respect to a minor child or individuals unborn or unascertained.
- Discuss with the fiduciary alternative dispute resolution services. Complete and file a "Uniform Counsel Certification" form.
- File the fiduciary's bond, with surety if necessary, with the Probate and Family Court. G.L. c. 190B, § 3-603; G.L. c. 205.
- File a military affidavit, if all interested persons do not assent. Unif. Prob. Ct. Prac. XXV.
- Some courts require the filing of the original publication. Be sure to check with the court as local practice differs.

(b) *Nonlegal Preliminary Matters*

- Obtain several certified copies of the death certificate (the funeral home may do this).
- If there is a surviving spouse, minor children, or both, apply for Social Security death benefits, veteran's benefits, or both, as appropriate. If the decedent was receiving Social Security benefits, notify the Social Security Administration of death (the funeral home may do this).
- Check on the sufficiency of fire, liability, and casualty insurance, even if a property was jointly owned. If the property is unoccupied, notify the insurer to avoid coverage disputes later.

- File life insurance claims on behalf of beneficiaries, if other than the estate, and obtain several copies of Internal Revenue Service (IRS) Form 712 for each claim paid.
- Assist the immediate family as needed with routine matters, including death notifications, special funeral or burial arrangements, anatomical gifts, and the like.
- Determine the surviving spouse's income needs and make arrangements, as necessary, for their immediate financial security.
- Secure any valuable personal or real estate, particularly where no family members are nearby.

§ 1.1.2 Before the Return Day for Formal Proceedings

- Make return of service as required by the citation. (Be sure to check with the court concerning who may make the return, as local practices differ.)
- Make sure the will has been proved. G.L. c. 190B, § 2-504. If an appearance and an objection have been filed, consider seeking appointment of special personal representative.
- If no appearance and objection have been filed, check with the court regarding the procedure for the allowance of the will on or after the return date. Check with the court to make sure, inter alia, that a hearing is not required. Generally, allowance is routine unless an appearance and an objection have been timely filed.
- Order additional letters evidencing the appointment of the personal representative, if necessary.
- Send a letter or a memorandum to the fiduciary, if not a professional, in which you provide the fiduciary with a calendar of important dates for the first year of administration and recommend dividing responsibility for completion of these tasks between the fiduciary and the attorneys. This letter should precede or follow a meeting with the fiduciary. Also, give to the fiduciary and family members a questionnaire that will help you prepare Form M-706 (and Form 706 if applicable) and identify assets and liabilities of the estate.
- Begin to make estimates of the amount of debts, expenses, and taxes that will have to be paid in the settlement of the estate. Also, consider the availability of liquid assets for the payment of these items and, if sufficient assets are not available, design a plan for the sale of securities and other assets.

§ 1.1.3 Immediately After Appointment of Fiduciary

(a) *Informal Publication Requirement*

- For informal petitions that have been allowed by the magistrate, arrange to have the informal notice published in a local newspaper designated by the register to alert creditors and any other interested person that the will has been offered for informal probate (or if there is no will, publish notice of the decedent's death and appointment of a fiduciary). Publication must occur one time within thirty days after allowance of the informal proceeding. G.L. c. 190B, § 3-306.

(b) *Tax Matters*

- Obtain a taxpayer identification number for the estate and for the decedent's revocable trust, if any.
- Request copies of gift tax returns and IRS 1040 forms, if necessary.
 - Determine who will be preparing the decedent's final income tax returns. If your office is preparing the returns, obtain at least the previous year's income tax returns.
 - If the returns cannot be timely filed, obtain an extension before the due date.
 - Be sure to make the current year's federal and state estimated tax payments and revise, if necessary. I.R.C. § 6654(c), (d), (l). If decedent was unmarried, no postdeath federal estimates need to be paid; however, state filings should be made.
 - Determine whether to join with the surviving spouse in filing a joint return.

- File Form 56, Notice of Fiduciary Relationship, with the IRS.
- Consider the selection of a fiscal year for the estate and its effect on any beneficiary's income tax liability. (Selection of fiscal year should also be coordinated with estate distributions.)
- Consider making an election under I.R.C. § 645 to treat a qualified revocable trust as part of a decedent's estate.

(c) *Administrative Matters*

- Open a checking account for the estate. (If there is a trust, do likewise.) Always maintain separate accounts; do not commingle a personal and a fiduciary account or two fiduciary accounts.
- Collect any life insurance proceeds payable to the estate and obtain an IRS Form 712 for each claim paid to the estate.
- File for and obtain pension payments and annuity benefits. Consider carefully settlement options and their tax consequences.
- If there are homeowner's insurance policies for dwellings, name the personal representative and devisees as the insured or add the personal representative and devisees as the insured. If the residence is unoccupied as a result of the decedent's death, notify the carrier to avoid coverage dispute if loss occurs.
- Arrange for professional appraisals of real estate and tangible personal property, as necessary. Generally, professional appraisals of tangible personal property are required if the value of property exceeds \$3,000. Treas. Reg. § 20.2031-6(c). The cost of appraisal is paid by the estate and is deductible on estate tax returns.
- If the decedent had an interest in a lease, review the lease to determine the decedent's rights and liabilities and to consider termination by compromise. Notify the lessor where appropriate.
- Notify all banks and other institutions holding the decedent's funds at the decedent's death and request date-of-death balances and income information. In most instances, close these accounts and consolidate them into the estate's bank account.
- Consider whether ancillary administration is necessary.
- Change the dividend mailing address for the decedent's securities if not jointly owned.
- Review unclaimed property website, <https://www.mass.gov/searching-for-unclaimed-property>.

§ 1.1.4 Within Three Months After Appointment of Fiduciary

- Prepare the probate inventory.
 - Within three months of their appointment, a fiduciary should prepare an inventory of property owned by the decedent at the time of death, listing the fair market value as of the date of death and the type and amount of any encumbrance that may exist for each item. G.L. c. 190B, § 3-706. The fiduciary must either file a copy or the original of the inventory with the court or mail a copy to all interested persons. However, there is no sanction for not filing within this period, and the fiduciary may wish to wait until the estate tax information has been assembled before completing and filing or mailing the inventory in final form.
- Consider obtaining releases of the estate tax lien on tangibles before distribution.
- Transfer ownership of cars, if any. G.L. c. 90, § 2; G.L. c. 90D, § 15A; *see* G.L. c. 175, § 113A (regarding use of automobiles).

§ 1.1.5 Within Four Months After Appointment of Fiduciary

- Complete the identification of all estate assets and begin drafting the estate tax returns, if required.
- Pay the funeral bill and other preferred claims. G.L. c. 190B, § 3-805.
- Be aware of creditors' claims and procedures for allowance and disallowance. G.L. c. 190B, § 3-803.

- Be aware of the right of recovery for medical assistance paid. G.L. c. 118E, § 31.
- If the fiduciary has to declare the estate insolvent, see G.L. c. 190B. A fiduciary may incur personal liability if they do not represent the estate as insolvent.
- Plan (in consultation with an accountant, if desired) cash and liquidity requirements of the estate, including tax payments and distributions.
 - Determine a time for payment of bequests.
 - Determine a time for distributions from the estate. (This affects the amount of income taxes payable by distributees and the estate. The estate is treated as a separate taxpayer and any income earned and accumulated in the estate during administration will be taxed to the estate.)
 - Select a fiscal year for the estate.
 - Consider whether any assets of the estate should be sold purely from an investment point of view. This is the fiduciary's duty even if exculpated by the will.

§ 1.1.6 Six Months After Date of Death

- If the estate appears solvent, the fiduciary may pay ordinary debts. G.L. c. 190B, § 3-807(c).
- Revalue assets for federal estate tax purposes if any federal estate tax will be payable. Assets may be valued either as of (1) the date of death or (2) six months after the date of death if the value on alternate valuation date produces a lower estate tax. Using the lower listed value may save estate taxes but must be weighed against the value of a stepped-up basis.
- Massachusetts inheritance tax is due on future interests on other trusts that fall in as a result of the decedent's death. G.L. c. 65, § 7. (This situation is applicable only to old trusts of which the decedent was beneficiary, if not previously settled.)
- Determine the need for and availability of I.R.C. § 303 redemption to pay estate taxes and administration expenses.

§ 1.1.7 Within Six Months After Appointment

- Consider possible disclaimers of beneficial or joint interests. G.L. c. 190B, § 2-801 (must be made within nine months of death).
- Decisions that must be made by a surviving spouse:
 - The statutory waiver of the will, G.L. c. 191, § 15. (A claim must be filed with the court within six months after the probate of the will.)
 - The discretionary family allowance, made payable directly by the fiduciary without a court order, G.L. c. 190B, § 2-404 (A fiduciary or an interested person aggrieved by any selection, determination, payment, or failure to act under this provision may petition the court for appropriate relief.) G.L. c. 190B, § 2-405.
- Disallowance of doubtful claims.

§ 1.1.8 Within Nine Months After Death

(a) *Estate Tax Returns*

- Make decisions whether to claim administration expenses as deductions for estate or income tax purposes. Deductions on the income tax returns can be claimed only for the year in which those expenses are paid.
- Determine whether to waive or claim fiduciary fees. Rev. Rul. 66-167, 1 C.B. 20.
- Order certified copies of the will and any trusts, if necessary. (Generally, an attorney may certify the copy.)

- Prepare and file the Massachusetts (and, if applicable, federal) estate tax returns and pay any tax shown as due.
 - Request an extension of time to file the federal estate tax return or to pay tax due. I.R.C. §§ 6081(a), 6161.
 - Notify the IRS of the election to pay the federal estate tax in installments if a closely held business comprises more than 35 percent of the estate, and pay the first installment, if applicable. I.R.C. § 6166.
 - May request prompt determination of the federal estate tax and release from personal liability for estate, gift and income taxes, if applicable. I.R.C. § 2204(a).
 - Within thirty days of filing Form 706, the fiduciary must file Form 8971 and send each beneficiary a copy of the Schedule A to Form 8971 that pertains to assets that the beneficiary received. *See* I.R.C. § 6035
 - Effective for returns filed after June 1, 2015, federal closing letters are issued only upon request. Wait at least nine months after filing, then log into <https://www.pay.gov> to request a closing letter. The fee is \$67.
 - Form M-792 is no longer filed with the Form M-706. Be sure to complete Part 7 of the Form M-706 to obtain a certificate releasing the Massachusetts estate tax lien if there is real estate.

(b) Irrevocable Disclaimer

- Last day to make the irrevocable disclaimer (and transfer property without gift tax consequences).

§ 1.1.9 One Year After Death

- Last day for creditors to file claims against the estate. G.L. c. 190B, § 3-803.
- Pay any general pecuniary devise or pecuniary distribution under a trust; otherwise, interest begins to run at 4 percent unless otherwise provided in a will or a trust instrument. G.L. c. 190B, § 3-904; (SJC Rule 1:14, which provided for 8 percent, was struck in its entirety by the Supreme Judicial Court on June 18, 2015.) Obtain accountable receipts. If payment is to be made to a minor, consider alternatives. G.L. c. 201A; G.L. c. 190B, § 5-102; G.L. c. 215, § 41A.

§ 1.1.10 Within Fourteen Months After Death

- Prepare and file the fiduciary income tax returns.

§ 1.1.11 Final Steps After Appointment

- Within sixty days of the date of the federal estate tax closing letter, file the closing letter with the Massachusetts Estate Tax Bureau. (If there are any line adjustments, pay the additional Massachusetts estate tax due and report those adjustments on Form M-706FC.)
- After receiving the Massachusetts closing letter:
 - Make final distributions; keep a reserve for final federal and Massachusetts income taxes, the income tax preparation fee, and, if filing a petition for an order of complete settlement, the allowance of the petition including service of process and any guardian ad litem fee. Notify the beneficiaries of the tax cost basis of inherited property if Form 8971 was not required.
 - File the final fiduciary income tax returns.
 - Record any release of lien with the registry of deeds.
 - Remember, if necessary, to petition the court for a license to sell real estate within one year after appointment. G.L. c. 202.
- Determine whether to close the estate by filing a small-estate closing statement, a closing statement, or a petition for an order of complete settlement.

- For a closing statement, make sure prior to filing that six months have passed since the date of the original appointment and that the time for creditor's claims has expired.
- For a petition for an order of complete settlement:
 - Prior to filing, make sure the time for creditors' claims has expired.
 - Have the petition allowed following the procedure outlined in G.L. c. 190B, § 3-1001; Mass. R. Civ. P. 72; Supp. Prob. Ct. R. 29A, 72, 72A; and Unif. Prob. Ct. Prac. XVII.
 - Notify the surety of the allowance of the petition for an order of complete settlement.

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How to Navigate the Probate & Estate Administration Processes

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Overview of the Estate Administration Process

Overview of administration process:

- Estate/trust administration refers to the process of facilitating the transfer of a decedent's assets owned individually or in trust to the heirs in accordance with the decedent's estate planning documents, ownership of assets and state law;
- Process is multi-faceted and varies greatly based on family structure, beneficiary relationship, asset holdings and structure of plan documents in place (or not!)

Starting an Estate Administration

Gather information:

- Have/provide intake form for completion – should gather relevant information about:
 1. Assets – ownership, value;
 2. Players – spouse (surviving and former), heirs at law, beneficiaries, fiduciaries;
 3. Plan – documents in place, beneficiary designations, etc.

Starting an Estate Administration

Obtain relevant documents:

- Original Will/codicils;
- Original Death Certificates – one for probate, one for each real property interest held;
- Trusts with any amendments, trustee changes, etc. (include rev. trusts, realty/nominee trusts, trusts from predeceased spouse, trusts from family members for benefit of decedent);
- Statements as closing to date of death for each asset;
- Most recent income tax return;
- Estate tax return for predeceased spouse (if applies)

Starting an Estate Administration

Pre-Meeting Review/Analysis:

- Dispositive provisions – review disposition, special clauses, consider issues of minors, predeceased heirs, abatement, potential issues for conflict?
- Fiduciary provisions – who is nominated, scope of authority, requirements to act
- Asset breakdown – break out assets between probate/non-probate;
- Real estate – pull all deed work - in-state? Beware automatic estate tax lien

Starting an Estate Administration

Pre-Meeting Review/Analysis:

- Qualified accounts – what type? Traditional or Roth? Did client reach beginning distribution date? What is relationship of beneficiaries to decedent? What will be applicable tax distribution rules.
- Estate Taxes – estate tax obligations (over threshold, surviving spouse for portability)
- Income taxes – prior/current year due? Income producing assets to be held going forward?

Estate Administration Process

Initial Meeting with Client:

- Break down of administrative tasks clearly and concisely
- Typical topic areas:
 1. Asset breakdown/need for Probate;
 2. Appointing fiduciaries/successors in roles;
 3. Claim of assets/sale of property;
 4. Estate Taxes;
 5. Income Taxes;
 6. Timeline;
 7. Miscellaneous Concerns

Estate Administration Process

Asset Breakdown/Probate Considerations:

- Assets will fall into a few different categories, depending on family structure/plan:
 1. Joint with rights of survivorship/Tenants by the entirety – passes directly to survivor owner(s) without need for probate – generally filing of a death certificate and forms with institution will clear title to remaining owners.
 2. Beneficiary-designated property (typically life insurance and retirement accounts) – assets pass to named beneficiary(ies) without probate

Estate Administration Process

Asset Breakdown/Probate Considerations:

3. Trust-owned assets: If decedent had a trust and assets were titled to it or designated to it, assets can be claimed by successor trustee(s) without probate
4. Individually owned assets with no joint owner/beneficiary – must initiate probate to claim – type of probate will depend on type/value of assets, other factors

Estate Administration Process

Asset Breakdown/Probate Considerations:

- Testate vs. Intestate: If decedent had a Will, testate estate, otherwise intestacy
- Testacy rules – heirs named take absent invalidity of Will, person named as PR in Will has priority for appointment
- Intestacy rules – heir depends on family structure – CAUTION: second marriages, predeceased children, priority of appointment for PR by statute

Estate Administration Process

Asset Breakdown/Probate Considerations:

- Types of Probate:
 1. Voluntary Administration – not a ‘true’ probate – only available for up to \$25,000 + 1 car
 2. Informal Petition – allows for appointment of fiduciary without meeting all formalities of formal probate – most appropriate for estates with probate assets in excess of \$25,000 where there is no real estate, the original will is available and no disputes or unusual issues are expected

Estate Administration Process

Asset Breakdown/Probate Considerations:

3. Formal Petition – full probate proceeding – most protective of fiduciaries, ensures clear title to real estate, generally must be used if dealing with any disputes or irregularities in estate

Estate Administration Process

Asset Breakdown/Probate Considerations:

Probate Proceedings:

- Forms for all petition types available online;
- MUPC procedural guide is key resource to review in preparing documents/ensuring all forms needed are included;
- If possible, best to request/receive/file assents from all interested persons with Petition

Estate Administration Process

Asset Breakdown/Probate Considerations:

Probate Proceedings:

- Voluntary Administration – one form, submitted once and approved, no further action required with court;
- Informal – must notice heirs and DMA 7 days in advance, can receive appointment immediately, may file account at end of administration
- Formal – petition filed, ‘citation’ issued with instructions regarding notice to heirs and publication and ‘return date’, file return of service, appointment generally issued if no objections – 60-90 days

Estate Administration Process

Asset Breakdown/Probate Considerations:

Probate Proceedings:

- Generally Required Forms for Informal/Formal:
 1. Petition;
 2. Surviving Spouse/Children/Heirs at Law;
 3. Devisees; and
 4. Bond.

If not fully-assented to, may need military affidavit as well

Estate Administration Process

Fiduciary Appointments/Acceptances

- For probate assets, fiduciary appointment subject to court approval and priority rules;
- For trust, successor trustee(s) should sign acceptance of appointment, or if not to serve, declination – can be done immediately

Estate Administration Process

Claiming of Assets:

- Jointly owned assets – easiest (death certificate);
- Beneficiary designated assets – generally can be done directly by beneficiary – no need for fiduciary involvement;
- Trust-owned – directly accessible by successor trustee(s) with trust document and signed acceptance of appointment – may also need tax ID number
- Probate – upon filing of petition, Personal Representative (PR) receives ‘letters of authority’ - that, along with tax ID number, is needed to establish estate bank account and re-titling assets to estate

Estate Administration Process

Establishing Estate/Trust Accounts:

- For probate assets, accounts will either be closed with proceeds payable to the estate, c/o PR or re-titled to the name of the estate under PR’s control
- Similarly, assets in a revocable trust under the decedent’s SSN will need to be re-titled to reflect the successor trustee and tax ID number of trust for income tax reporting purposes.
- Form SS-4 is used to obtain the Tax ID numbers for estate/trust - can be completed electronically via IRS EIN assistant. NOTE: Estate EIN should only be obtained upon appointment of PR

Estate Administration Process

Income Tax Considerations:

- Most assets receive 'step-up' to DOD value;
- Qualified assets have special tax considerations:
 1. Traditional – distributions are taxable when taken by beneficiary
 2. Roth – tax-free distributions by beneficiary
- Depending on owner's age and relationship of beneficiaries, IRS rules determine required distribution period – 5 years, 10 years, life expectancy, modified life expectancy, ghost rule;
- If no beneficiary – flows to estate – default is 5 year or ghost rule

Estate Administration Process

Real Estate:

- If probate – real estate 'vests in the heirs' subject to divestment to pay estate expenses or debts – probate proceeding still needed to confirm heirs;
- Sale considerations: to sell from estate, must have 'power of sale' in Will or need License to Sell from Court;
- 'Deeds of Distribution' used to confirm transfer of title to heirs at registry, but technically have limited effect

Estate Administration Process

Real Estate:

- Estate Tax Lien applies to all MA real estate owned by MA decedent for 10 years after death
- If estate non-taxable, prepare/record '65C affidavit' stating no MA estate tax due (TIP- also state no federal tax due)
- If taxable, must obtain release of lien from DOR- applied for as part of the return filing process and typically issued upon return approval
- If release needed in advance, can file Form M-4422 with DOR - must pay estimated tax due with request

Estate Administration Process

Estate Taxes:

2022 Federal Transfer Taxes - FOR NOW

- Estate Tax Exemption Amount: \$12,060,000
- Gift Tax Exemption: \$12,060,000
- Generation-Skipping Transfer Tax: \$12,060,000
- Rate: 40%
- Step Up in Basis for assets passing through estate

Estate Administration Process

Estate Taxes:

2022 Massachusetts Transfer Taxes

- Estate Tax Exemption Amount: \$1,000,000
- Rates – 6% - 16%
- NO Gift Tax or Generation-Skipping Transfer Tax (BUT CAUTION – gifts reduce MA estate tax exemption)

Estate Administration Process

Estate Taxes:

2022 Massachusetts Estate Tax Notes:

- Cliff Exemption;
- Portability DOES NOT EXIST;
- Out of state property of MA residents not included - See F. Davis Dassori v. Commissioner of Revenue, Middlesex County (MA) Probate and Family Court, Docket No. M114E0042GC;
- Non-residents subject to MA estate tax on MA real/tangible property

Estate Administration Process

Estate Taxes:

2022 Massachusetts Estate Tax Compliance:

- Report all assets at date of death value (obtain month of death statements/appraisals) and allowable expenses;
- Return/tax due 9 months from date of passing;
- Extension of time to file available for 6 months, but payment must be made;
- If extended, payment must be at least 80% of tax due to be considered valid
- MA prefers online filing with “MassTaxConnect”

Estate Administration Process

Income Taxes:

Final Personal Income Taxes:

- Return due for decedent for year of death by April 15 of following year for income earned prior to passing;
- Income earned after death should be reported to estate/trust/beneficiary, not final personal return
- Confirm decedent’s current year income taxes filed;
- Notify IRS of PR by using Form 56;
- If claiming a refund on behalf of deceased taxpayer, Form 1310/M-1310 must be used and appointment provided if obtained;

Estate Administration Process

Income Taxes:

Estate/Trust Income Tax Returns:

- If estate/trust has income in > \$100 in MA, need to file fiduciary income tax returns (Form 1041/MA Form 2) to report income;
- Estate – can be calendar or fiscal year, trust must be on calendar year
- Depending on whether or not distributions are made, income tax may be due from the trust or alternatively the income may be attributed to the beneficiaries directly via Form K-1

Estate Administration Process

Income Taxes:

Estate/Trust Income Tax Returns:

- Due 3 months and 15 days after end of tax year (April 15 for calendar year taxpayers);
- Estate/trust income tax brackets compressed – reach highest tax rate (37%) on income above ~\$13,000 – usually better to have income distributed to beneficiaries
- If estate and revocable trust, can elect to be taxes together (IRC 645 election)

Estate Administration Process

Timing:

- Depending on the nature of the estate, various timelines will simultaneously be running
 1. Probate – 1 year creditor claim period;
 2. Estate tax return – 9 months (15 with extension);
 3. Income Taxes – as applicable;
 4. Specific bequests – 1 year;
- Typical timeline is 12 to 18 months for completion of all administration aspects

Estate Administration Process

Miscellaneous - Most estates have additional aspects to deal with, such as:

- Business interests;
- Lost property;
- Refunds due;
- Existing litigation/litigation relating to death;
- Tangible property concerns/safe deposit boxes – valuation, disposal, distribution;
- Missing/unknown heirs/fiduciaries/documents;
- Assets titled with previously deceased persons;
- AND MANY MORE