

## **T&E Legal Update**

It has been a year of change in Massachusetts in trust and estate law, with the enactment of the Massachusetts Uniform Probate Code ("MUPC") and the Massachusetts Uniform Trust Code ("MUTC"). Practitioners and fiduciaries alike welcome these changes, hoping that they will streamline both the estate administration and trust administration processes. However, putting these new laws into practice may present challenges for some time to come as centuries old systems have been overhauled. Below are some of the key features of these new laws, and how they may impact you.

### **MUPC**

- Laws of intestacy redefined (who will get your property if you die without a will and in what percentages).
- Informal and formal probate administration introduced to streamline probate administration.
- Supervised and unsupervised probate administration introduced to reduce court involvement in administering estates.
- Virtual representation introduced to reduce court-appointed Guardians Ad Litem (also present in the MUTC). Most significantly, parents can now represent their minor children and unborn descendants if no conflict of interest exists.

### **MUTC**

- Non-Judicial Settlement Agreements have been introduced, whereby certain trust terms can be modified without court involvement.
- Pet trusts may now be established for the care and maintenance of pets.
- Purpose trusts may now be established to maintain property such as a cemetery plot, an art collection, etc.
- Courts may modify trust terms (including those governing distributions) if it can be shown that the law or facts and circumstances have changed so that trust terms no longer make sense.
- Trusts may be combined or divided.
- The presumption that trustees must act unanimously was reversed. Now trustees act by majority unless the trust states otherwise.
- Trustees have a heightened duty to keep beneficiaries informed about the trust administration.

While these new concepts will prove to be very useful in the trust and estate administration process, they can also be quite complex. If you serve as an executor or trustee, we welcome your questions regarding how these new laws impact you in the exercise of your fiduciary duties.