



DON'T TAX YOURSELF

A Publication of Bowditch & Dewey's Estate, Financial & Tax Planning Group

Massachusetts Inheritance Laws: What Will Happen to Your Estate if You Die Without a Will?

BY ANTHONY J. DRAGGA • AUGUST 2, 2022

With new and prospective clients, a question that often arises is: “What will happen if I die without a will?” The short answer is this: if you die without a valid will, Massachusetts estate law will create one for you. When a person dies without a will, they are considered to have died “intestate.”

Massachusetts General Laws Chapter 190B, Article II, Sections 2-102, 2-103 and 2-105 outline who will inherit your probate property in the event that you were to die intestate. A handy reference chart, summarizing the statute, can be found below:

Surviving Family Members	Who Gets What
Parents, but no surviving spouse or descendants	100% to your parents
No surviving spouse, but surviving children	100% equally divided among your children
Spouse but no surviving descendants or parents	100% to your spouse
Surviving descendants and surviving spouse where all surviving descendants are also descendants of the surviving spouse	100% to your spouse
Spouse and parents, but no descendants	Spouse inherits first \$200,000, plus ¾ of the balance, the remainder goes to your parents
Descendants who are all surviving spouse’s descendants, but spouse has one or more surviving descendants who are not descendants of the decedent OR one or more of decedent’s descendants are not descendants of surviving spouse	Spouse inherits first \$100,000, plus ½ of balance, remainder divided equally among your children
No surviving descendant, spouse or parent	To surviving descendants of decedent’s parents in equal shares at each generation (i.e. siblings, if any, or if not, their descendants)
No surviving descendants, spouse, parent, siblings or descendants of siblings	To decedent’s next of kin in equal closest degree of kindred as determined by law (imagine a family tree branching up and then out)

No takers	Commonwealth of Massachusetts
-----------	-------------------------------

If you die intestate, you effectively give up the right to decide what happens to your estate assets. You also give up the right to decide who oversees the probate of your estate and whether or not your assets should be protected in trust for any of your desired beneficiaries. You also give up the right to nominate guardians for any minor children. If these decisions matter to you, do not make the mistake of dying intestate and make sure you have (at least) a will in place.

Don't have a will? Contact us today to get your estate planning process underway.