

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Estates and Trusts

11-106.

(a) [Unless otherwise expressly provided by a will or other controlling instrument, where a person is given an interest in income, an estate for years or for life, or other temporary interest in a trust or other assets and, under a tax law of the United States, the personal representative or other person acting in a fiduciary capacity for the deceased maker of the will or other instrument is given an election to treat administration expenses of the estate of the decedent paid from or chargeable to the principal of the trust or other assets either as income tax deductions or estate tax deductions, and the fiduciary elects to treat the expenses in whole or in part as income tax deductions, with the result that estate taxes imposed under the law and paid from or chargeable to principal are greater than if the contrary election had been made, an amount equal to the difference in estate taxes shall be reimbursed to principal from the income of the trust or other assets.

(b) Unless otherwise expressly provided by a will or other controlling instrument, under which a gift is made to or for the benefit of the surviving spouse of the decedent which qualifies for an estate tax marital deduction under the tax law of the United States and the amount or size of the gift is defined by the terms of the will or other controlling instrument in terms of the maximum marital deduction allowable under the tax law, no adjustment is required to be made between the gift and the other interests in the estate of the decedent, or governed by the instrument, because of:

(1) An increase in the amount or size of the gift resulting from an election by the fiduciary, under the tax law, to treat estate administration expenses as income tax deductions over the amount or size of the gift had the contrary election been made, or

(2) Any increase or decrease in the amount or size of the gift resulting from an election by the fiduciary, under the tax law, of an estate tax valuation date other than the date of the death of the decedent as compared with the amount or size of the gift had the contrary election been made.

(c) [Unless otherwise expressly provided by a will or other controlling instrument, under which a gift is made to or for the benefit of the surviving spouse of a decedent which qualifies for an estate tax marital deduction under the tax law of the United States and the amount or size of the gift is defined by the terms of the will or other controlling instrument in terms of the maximum marital deduction allowable under the tax law, the definitions do not constitute a direction by the decedent to the fiduciary to exercise an election respecting the deduction of estate administration expenses or the determination of the estate tax valuation date, which the fiduciary may have under the tax law, only in a manner as will result in a larger allowable estate tax marital deduction than if the contrary election had been made.