

Case	Tax Clause	Is there "Whether or not passing under this Will" Language?	Are there Non-Probate Assets?	Outcome	Reference to [principal of] residuary estate/residue	Relationships to Our Tax Clauses	Other (Non-) Correlations
<u>Estate of Allen</u> , 960 A.2d 470 (Pa. Super. 2008)	I direct my Executor to pay all inheritance, transfer, estate and similar taxes (including interest and penalties) assessed or payable by reason of my death on any property or interest in property which is included in my estate for the purpose of computing taxes.	No	Yes	The tax clause <b>did not overcome</b> the statutory presumption for apportionment of death taxes. There was no unambiguous language shifting the tax liability for non-probate property from the surviving tenant to the residual beneficiary, as the tax clause did not designate the fund from which death taxes were to be paid.	No - No fund specified		
<u>Estate of Jones</u> , 796 A.2d 1003 (Pa. Super. 2002)	All federal, state and other death taxes payable on the property forming my gross estate for tax purposes, <b>whether or not it passes under this Will</b> , shall be paid out of the <b>principal</b> of my <b>residuary</b> estate just as if they were my debts, and none of those taxes shall be charged against my beneficiary.	Yes	Yes	The tax clause <b>was specific enough</b> to overcome the statutory presumption for apportionment, and the residuary estate was to bear death taxes on all property. The word "assessments," which immediately followed the term "property taxes" in the later inter vivos trust related only to property tax assessments on assets comprising the inter vivos trust, and did not override the provisions in the Will's tax clause.	Yes - Both and "as if they were my debts."		
<u>Estate of Pyle</u> , 570 A.2d 1074 (Pa. Super. 1990)	I direct that all estate and inheritance taxes on any property <b>passing under this Will, or by reason of my death</b> , shall be paid out of the <b>residuary</b> portion of my estate, and that no beneficiary of mine shall be called upon or required to reimburse my Executors.	No	No	The language in the tax clauses <b>was not specific enough</b> to overcome the statutory presumption. The testator did not express a clear intent where the will had a "pay all taxes" clause which merely provided for the payment of all taxes from the residuary estate. A testator must use specific language in order to establish a contrary intent; in the absence of such language, a contrary intent will not be implied.	Yes - Residuary portion	Tax clause 'merely provided for the payment of all taxes from the residuary estate.	

<p><u>Estate of Erieg</u>, 267 A.2d 841 (Pa. 1970) (Pa Supreme Court)</p>	<p>All taxes and interest and penalties thereon payable by reason of my death with respect to property comprising my gross taxable estate, <b>whether or not passing under this Will</b>, shall be paid from my <b>residuary</b> estate.</p>	<p><b>Yes</b></p>	<p>No</p>	<p>The court affirmed the administrator's proposed distribution according to the statutory scheme for payment of death taxes because the testator's <b><u>will did not contain a clear and unambiguous method</u></b> that was contrary to the format created in the statutes. The will does not contain a "pay tax" provision which is sufficiently clear to render the statutory apportionment scheme inapplicable. A general direction to pay all death taxes out of the residue is at most confirmatory of the statutory proration scheme and does not remove the will from the application of those laws.</p>	<p>Yes - Residuary Estate</p>	<p>A general direction re pay all death taxes out of the residue is at most confirmatory if the statutory provision is there."</p>	
<p><u>Estate of Neamand</u>, 456 Pa. 22 (1974)</p>	<p>All federal, state, and other death taxes payable, because of my death, with respect to the property forming my gross estate for tax purposes -- <b>whether or not it passes under this Will</b> -- shall be paid out of the <b>principal</b> of my <b>general estate</b> as if they were my debts, so that the full burden of such taxes shall fall upon my residuary estate passing under Article Seventh hereof, and no part of such taxes shall be charged against the gifts under other Articles of this Will or against any beneficiary.</p>	<p><b>Yes</b></p>	<p>No</p>	<p>The language in the <b><u>tax clause overcomes the statutory presumption</u></b> and applies to all death taxes, with respect to any property which is includible in the gross estate for tax purposes, 'whether or not it passes under this Will'. Testator's pay-tax clause clearly and unambiguously expressed his intent that his wife's elective share was to be included within its scope. The court stated that the tax clause "mandates that the full burden of such taxes shall fall on the residuary estate; it precludes the charging of taxes, not only against has non-residuary gifts under the will, but equally and conjunctively against any beneficiary, whether or not taking under the will. More all-inclusive language would be difficult to imagine. It manifestly is broad enough to extend to taxes attributable to the spouse's elective share, and there is not the slightest intimation of intention to exclude such an interest from its all-encompassing scope."</p>	<p>Yes - Principal of my general estate (as if they were debts)</p>		