

HOUSE No. 3667

The Commonwealth of Massachusetts

PRESENTED BY:

Marcus S. Vaughn

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the Massachusetts estate tax code.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Marcus S. Vaughn</i>	<i>9th Norfolk</i>	<i>1/18/2023</i>

HOUSE No. 3667

By Representative Vaughn of Wrentham, a petition (accompanied by bill, House, No. 3667) of
Marcus S. Vaughn relative to the estate tax code. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act relative to the Massachusetts estate tax code.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Chapter 65C of the General Laws is hereby amended by striking out section
2 1 and inserting in place thereof the following section:-

3 Section 1. As used in this chapter the following words shall, unless the context requires
4 otherwise, have the following meanings:

5 “Applicable exclusion amount”, the sum of (i) the basic exclusion amount and (ii) in the
6 case of a surviving spouse, the deceased spousal unused exclusion amount.

7 “Basic exclusion amount”, \$2,750,000 which shall be annually adjusted for inflation
8 based on the US Department of Labor’s Consumer Price Index (CPI) for All Urban Consumers.
9 If the amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount
10 shall be rounded to the nearest multiple of \$10,000.

11 “Code”, the Internal Revenue Code of the United States in effect for the taxable year.

12 “Commissioner”, the commissioner of revenue.

13 "Federal Gross Estate", the gross estate as defined under the Code.

14 “Massachusetts adjusted gross estate”, the Massachusetts gross estate less the deductions
15 allowable under section 3 pursuant to sections 2053 and 2054 of the Code.

16 “Massachusetts gross estate”, the federal gross estate, whether or not a federal estate tax
17 return is required to be filed, plus the value of any property: (i) in which the decedent had at
18 death a qualifying income interest for life described in subsection (c) of section 3A or to the
19 extent of any such interest therein of which the decedent has at any time made a transfer, by trust
20 or otherwise, under any circumstances that would require the property to be included in the gross
21 estate under the provisions of this chapter; and (ii) for which a deduction was allowed for
22 Massachusetts estate tax purposes with respect to the transfer of such property to the decedent;
23 and less the value of real and tangible personal property having an actual situs outside the
24 commonwealth, but not the value of the principal residence of the decedent unless elected
25 pursuant to the provisions of subsection (f) of section 2. The Massachusetts gross estate shall not
26 include the value of any property in which the decedent had a qualifying income interest for life,
27 which is not otherwise includible in the Massachusetts gross estate under the first sentence of
28 this definition, notwithstanding the right of the executor of the decedent's estate to recover
29 federal or Massachusetts estate taxes from such property.

30 “Massachusetts net estate”, the Massachusetts gross estate less the following deductions
31 to the extent they are allowable under section 3: (i) funeral expenses; (ii) claims against the
32 estate; and (iii) unpaid mortgages on, or any indebtedness in respect of, property where the value

33 of the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in
34 the value of the Massachusetts gross estate.

35 "Massachusetts taxable estate", the Massachusetts gross estate less the exemption or the
36 exclusions provided for within this section and deductions allowable under this chapter.

37 SECTION 2. Said chapter 65C is hereby further amended by striking out section 2 and
38 inserting in place thereof the following section:-

39 Section 2. (a) A tax is hereby imposed upon the transfer of the estate of each person
40 dying on or after January 1, 2024 who, at the time of death, was a resident of the commonwealth.
41 This subsection shall only apply to each person dying on or after January 1, 2024. For the estate
42 of decedents dying prior to January 1, 2024, they shall be subject to the provisions of this chapter
43 in effect upon the date of death of such decedent.

44 (b) A tax is hereby imposed upon the transfer of real property situated in this
45 commonwealth and upon tangible personal property having an actual situs in this commonwealth
46 of every person who at the time of their death was not a resident of this commonwealth.

47 (c) Notwithstanding any other provision of law, the tax imposed by subsections (a) and
48 (b) shall be computed upon the value of any property subject to a power of appointment that is
49 includible in the federal gross estate, notwithstanding that a tax has been paid thereon pursuant to
50 section 14 of chapter 65.

51 (d) For the purposes of computing the tax imposed by subsections (a) and (b) of this
52 section the amount of the tax shall be computed with respect to the Massachusetts taxable estate
53 in accordance with the following table:-

54	If the Massachusetts taxable estate is:	The Massachusetts estate tax shall be:
55	Over	But not Over
56	\$0	\$5,000,000 10% of the taxable estate
57	\$5,000,000	\$10,000,000 \$500,000 plus 11% of the excess over
58	\$5,000,000	
59	\$10,000,000	\$20,000,000 \$1,050,000 plus 12% of the excess over
60	\$10,000,000	
61	\$20,000,000	n/a \$2,250,000 plus 13% of the excess over
62	\$20,000,000”	

63 (e) A tax is hereby imposed upon the transfer of real property situated in this
64 commonwealth and upon tangible personal property having an actual situs in this commonwealth
65 of every person who at the time of his death was not a resident of this commonwealth. The
66 amount of this tax shall be computed with respect to the value of Massachusetts real and tangible
67 personal property in accordance with the following table:-

68	If the Massachusetts taxable estate is:	The Massachusetts estate tax shall be:
69	Over	But not Over
70	\$0	\$5,000,000 10% of the taxable estate
71	\$5,000,000	\$10,000,000 \$500,000 plus 11% of the excess over
72	\$5,000,000	

73 | \$10,000,000 | \$20,000,000 | \$1,050,000 plus 12% of the excess over
74 \$10,000,000

75 | \$20,000,000 | n/a | \$2,250,000 plus 13% of the excess over
76 \$20,000,000”

77 (f) The principal residence of a deceased person who, at the time of their death, was a
78 resident of the commonwealth shall be excluded in such person’s Massachusetts gross estate
79 subject to the exclusion requirements of section 121 of the Code; provided, that such residence
80 has been owned and used by such person as their principal residence for periods aggregating 2
81 years or more during the 5-year period ending on the date of such person’s death. Ownership
82 shall include, but not be limited to, sole ownership, joint ownership, ownership via a funded
83 revocable trust or nominee trust, or other such vehicles as determined by the department of
84 revenue. The executor may elect to include the value of such deceased person’s residence in such
85 person’s Massachusetts gross estate. This election shall be made by the executor on the
86 Massachusetts estate tax return filed within the time prescribed for filing such return or any
87 extension of such time granted by the commissioner. Such election, once made, shall be
88 irrevocable.

89 (g) The maximum exclusion value of a person's principal residence allowed to be
90 deducted from their Massachusetts net estate may not exceed the amount of the basic exclusion
91 amount as defined in section 1. This deduction is separate and distinct from the basic exclusion
92 amount and both may be deducted from the net estate to determine the taxable estate.

93 (h) The basis of property, for Massachusetts estate tax purposes, acquired from the
94 decedent shall be the basis computed pursuant to section 1014 of the Code.

95 (i) A person who, at the time of death, was a resident of the commonwealth and whose
96 deceased spouse was a resident of the commonwealth may elect to apply the deceased spousal
97 unused exclusion amount to the Massachusetts gross estate. This exclusion shall be made by the
98 executor on the Massachusetts estate tax return filed within the time prescribed for filing such
99 return, or any extension of such time granted by the commissioner. Such election, once made,
100 shall be irrevocable.

101 (j) Notwithstanding any other provision of law, the tax imposed by subsections (b) and
102 (c) shall be computed upon the value of any property subject to a power of appointment that is
103 includible in the federal gross estate, notwithstanding that a tax has been paid thereon pursuant to
104 section 14 of chapter 65.

105 (k) For the purposes of computing the tax imposed by subsections (b) and (c) of this
106 section, the provisions of section 3 shall not apply.

107 (l) The commissioner of revenue may make determinations and shall prescribe such
108 regulations as may be necessary or appropriate to carry out this subsection.

109 (m) For the estate of decedents dying on or after January 1, 2024 all references and
110 provisions in subsection (b) of section 3 to the Internal Revenue Code or Code, unless the
111 context clearly indicates otherwise, shall be to the Code as in effect for the taxable year.

112 SECTION 3. Said chapter 65C is hereby further amended by striking out section 2A.

113 SECTION 4. Section 3 of said chapter 65C, as appearing in the 2020 Official Edition, is
114 hereby amended by adding the following subsection:-

115 (e) With respect to a surviving spouse of a deceased spouse dying on or after January 1,
116 2024 and subject to paragraph 5 of section 2010 of the Code, the amount of the deceased spousal
117 unused exclusion shall be the lesser of (i) the basic exclusion amount or (ii) the excess of the
118 applicable exclusion amount of the last such deceased spouse of such surviving spouse, over the
119 amount with respect to which the Massachusetts estate tax is determined under subsection (b) of
120 the estate of such deceased spouse.

121 SECTION 5. Subsection (f) of section 3A of said chapter 65C, as so appearing, is hereby
122 amended by striking out the second sentence and inserting in place thereof the following 3
123 sentences:- If no Massachusetts estate tax return is timely filed, such election may be made on
124 the first return filed by the executor after the due date. Such election, once made, shall be
125 irrevocable. The executor is not required to have made the same qualified terminable interest
126 property election for federal estate tax purposes in order to make the election for Massachusetts
127 purposes.

128 SECTION 10. Section 4 of said chapter 65C, as so appearing, is hereby amended by
129 striking out subsection (b).

130 SECTION 11. Said chapter 65C is hereby further amended by striking out section 4A.