

Massachusetts Estate Tax Changes

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Late last week the Massachusetts legislature approved a comprehensive tax bill that includes several favorable changes to the Massachusetts estate tax laws. The bill is now on the Governor's desk for signature, which is expected to occur this week.

The bill includes the following changes that affect the Commonwealth's estate tax laws:

- The Massachusetts estate tax exemption has been increased from \$1M to \$2M, the first increase in the exemption since 2006.
- The new law is effective retroactive to January 1, 2023, which means that estates of individuals who died on or after 1/1/23 will be able to take advantage of the increased exemption.
- The bill eliminates the current "cliff" aspect of the Massachusetts estate tax, under which residents with taxable estates in excess of \$1M were subject to estate tax on all of their assets, not merely the portion in excess of \$1M. Under the bill, only on the portion of the estate that exceeds \$2M will be taxed.
- Elimination of the tax "cliff" is accomplished by giving each Massachusetts resident a credit of \$99,600 against their estate tax bill. The credit equals the taxes that would otherwise be due on the first \$2M of taxable assets. Assets in excess of \$2M will be taxed under the existing Massachusetts graduated estate tax rates, which begin at 8% and top off at 16% .
- The new law does not include the "portability" benefits available under the federal estate tax laws, which allow a surviving spouse to use that portion of the federal estate tax exemption that was unused at the



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death of the first spouse in addition to using the surviving spouse's own federal estate tax exemption. Married clients will need to review how they own their assets and re-balance ownership if necessary to make sure that each of them has sufficient assets to maximize use of their respective \$2M exemptions.

- The increased estate tax exemption will be available to nonresidents who own Massachusetts property subject to estate tax at their death but the details of its application to nonresidents may require further guidance from the Massachusetts DOR.
- Unlike many other states, which increased their estate tax exemptions in stages over time to much larger amounts than \$2M, the new legislation does not include automatic phased-in increases to the \$2M exemption and the new exemption is not indexed for inflation.

We intend to follow up with more information after the bill is signed by the Governor. In the meantime, please feel free to contact your Mirick O'Connell trust and estate attorney if you would like to discuss how these changes may affect your estate plan and if any updates to your estate planning documents are advisable.

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