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Accompanying the first recommendation of the Commission on Interstate Co-operation (House, No. 141). Taxation.

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## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Three.

### AN ACT TO PROVIDE FOR THE SETTLEMENT OF DISPUTES AMONG STATES WITH RESPECT TO DOMICILIARY DEATH TAXES.

1 *Whereas*, The settlement of certain disputes re-  
2 lating to taxes in a manner advantageous to the  
3 commonwealth may be delayed or defeated unless  
4 this act becomes immediately operative, therefore it  
5 is hereby declared to be an emergency law, neces-  
6 sary for the immediate preservation of the public  
7 convenience.

*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. The General Laws are hereby amended  
2 by inserting after chapter sixty-five A the following  
3 new chapter:—

4 CHAPTER 65B.

5 SETTLEMENT OF DISPUTES RESPECTING THE DOMI-  
6 CILE OF DECEDENTS.

7 *Section 1.* When used in this chapter the follow-  
8 ing terms shall have the following meanings:

9 (a) Executor, any executor of the will or adminis-  
10 trator of the estate of a decedent, except an ancil-  
11 lary administrator;

12 (b) Taxing official, the commissioner of corpora-  
13 tions and taxation in this commonwealth, and in  
14 any other reciprocal state the officer or body desig-  
15 nated in the statute of such state substantially  
16 similar to this chapter;

17 (c) Death tax, any tax levied by a state on ac-  
18 count of the transfer or shifting of economic benefits  
19 in property at death, or in contemplation thereof,  
20 or intended to take effect in possession or enjoy-  
21 ment at or after death, whether denominated an  
22 "inheritance tax", "transfer tax", "succession tax",  
23 "estate tax", "death duty", "death dues", or  
24 otherwise;

25 (d) "Interested person", any person who may be  
26 entitled to receive or who has received any property  
27 or interest which may be required to be considered  
28 in computing the death tax of any state involved.

29 *Section 2.* In any case in which this Common-  
30 wealth and one or more other states each claims  
31 that it was the domicile of a decedent at the time  
32 of his death, and no judicial determination of domi-  
33 cile for death tax purposes has been made in any  
34 of such states, any executor, or the taxing official  
35 of any such state, may elect to invoke the provisions  
36 of this chapter. Such election shall be evidenced  
37 by the sending of a notice by registered mail, re-  
38 ceipt requested, to the taxing officials of each such  
39 state and to each executor, ancillary administrator  
40 and interested person. Any executor may reject such  
41 election by sending a notice by registered mail, re-  
42 ceipt requested, to the taxing officials involved and

43 to all other executors within forty days after the  
44 receipt of such notice of election. If such election  
45 be rejected, no further proceedings shall be had  
46 under this chapter. If such election be not rejected,  
47 the dispute as to the death taxes shall be determined  
48 solely as hereinafter provided, and no other proceed-  
49 ings to determine or assess such death taxes shall  
50 thereafter be instituted in the courts of this com-  
51 monwealth or otherwise.

52 *Section 3.* In any case in which an election is  
53 made as provided in section two and not rejected,  
54 the commissioner may enter into a written agree-  
55 ment with the other taxing officials involved and  
56 with the executors, to accept a certain sum in full  
57 payment of any death tax, together with interest  
58 and penalties, that may be due this state; pro-  
59 vided, that said agreement also fixes the amount  
60 to be paid the other state or states. If an agree-  
61 ment cannot be reached and the arbitration pro-  
62 ceeding specified in section four is commenced, and  
63 thereafter an agreement is arrived at, a written  
64 agreement may be entered into at any time before  
65 such proceeding is concluded, notwithstanding the  
66 commencement of such proceeding. Upon the filing  
67 of such agreement or duplicate thereof with the  
68 authority which would have jurisdiction to assess  
69 the death tax of this commonwealth if the decedent  
70 died domiciled in this commonwealth, an assessment  
71 shall be made as therein provided and such assess-  
72 ment, except as hereinafter provided, shall finally  
73 and conclusively fix and determine the amount of  
74 death tax due this state. In the event the aggre-  
75 gate amount payable under such agreement to the  
76 states involved is less than the maximum credit

77 allowable to the estate against the United States  
78 estate tax imposed with respect thereto, the executor  
79 forthwith shall also pay to the commissioner the  
80 same percentage of the difference between such ag-  
81 gregate amount and the amount of such credit, as  
82 the amount payable to the commissioner under the  
83 agreement bears to such aggregate amount.

84 *Section 4.* If in any such case it shall appear  
85 that an agreement cannot be reached as provided  
86 in the foregoing section, or if one year shall have  
87 elapsed from the date of the election, without such  
88 an agreement having been reached, the domicile of  
89 the decedent at the time of his death shall be de-  
90 termined solely for death tax purposes as follows:

91 (a) Where only this commonwealth and one other  
92 state are involved, the commissioner and the taxing  
93 official of such other state shall each appoint a mem-  
94 ber of a board of arbitration, and the members so  
95 appointed shall select the third member of the board.  
96 If this commonwealth and more than one other state  
97 are involved, the taxing officials thereof shall agree  
98 upon the authorities charged with the duty of ad-  
99 ministering death tax laws in three states not in-  
100 volved, each of which shall appoint a member of  
101 the board. The members of the board shall elect  
102 one of their number as chairman.

103 (b) Such board shall hold hearings at such places  
104 as are deemed necessary, upon reasonable notice to  
105 the executors, ancillary administrators, all other in-  
106 terested persons, and the taxing officials of the states  
107 involved, all of whom shall be entitled to be heard.

108 (c) Such board shall have power to administer  
109 oaths, take testimony, subpoena and require the  
110 attendance of witnesses and the production of books,

111 papers and documents and issue commissions to take  
112 testimony. Subpoenas may be issued by any mem-  
113 ber of the board. Failure to obey a subpoena may  
114 be punished by a judge or justice of any court of  
115 record in the same manner as if the subpoena had  
116 been issued by such judge or justice or by the court  
117 in which such judge or justice functions.

118 (d) Such board shall apply, whenever practicable,  
119 the rules of evidence which prevail in federal courts  
120 under the federal rules of civil procedure at the time  
121 of the hearing.

122 (e) Such board shall, by majority vote, determine  
123 the domicile of the decedent at the time of his  
124 death. Such determination shall be final and con-  
125 clusive, and shall bind this commonwealth and all of  
126 its judicial and administrative officials on all ques-  
127 tions concerning the domicile of the decedent for  
128 death tax purposes.

129 (f) The reasonable compensation and expenses of  
130 the members of the board and employees thereof  
131 shall be agreed upon among such members, the tax-  
132 ing officials of the states involved, and the executors.  
133 In the event an agreement cannot be reached, such  
134 compensation and expenses shall be determined by  
135 such taxing officials, and if they cannot agree, by the  
136 appropriate probate court of the state determined to  
137 be the domicile. Such amount shall be borne by the  
138 estate and shall be deemed an administration expense.

139 (g) The determination of such board and the  
140 record of its proceeding shall be filed with the au-  
141 thority having jurisdiction to assess the death tax  
142 in the state determined to be the domicile of the  
143 decedent and with the authorities which would have  
144 had jurisdiction to assess the death tax in each of

145 the other states involved if the decedent had been  
146 found to be domiciled therein.

147 *Section 5.* In any case where it is determined by  
148 the board of arbitration that the decedent died domi-  
149 ciled in this commonwealth, penalties and interest  
150 for nonpayment of the tax, between the date of the  
151 election and the final determination of the board,  
152 shall not exceed, in the aggregate, four per centum  
153 of the amount of the taxes per annum.

154 *Section 6.* The provisions of this chapter shall  
155 apply only to cases in which each of the states in-  
156 volved has in effect a law substantially similar to  
157 this chapter.

158 *Section 7.* If, in any case to which this chapter  
159 applies, the provisions of this chapter conflict with  
160 any other law of this commonwealth, this chapter  
161 shall control.

1 SECTION 2. Section one of chapter fifty-eight of  
2 the General Laws is hereby amended by striking out  
3 the first sentence, as appearing in the Tercentenary  
4 Edition, and inserting in place thereof the following  
5 new sentence:— The commissioner of corporations  
6 and taxation, in chapters fifty-eight to sixty-five B,  
7 inclusive, called the commissioner, may visit any  
8 town, inspect the work of its assessors and give them  
9 such information and require of them such action  
10 as will tend to produce uniformity throughout the  
11 commonwealth in valuation and assessments.

1 SECTION 3. This act shall apply to the settlement  
2 of disputes among states with respect to death taxes  
3 which come within its scope, without regard to  
4 whether the decedent died before or after the effective  
5 date hereof.



