

HOUSE No. 97

Accompanying the seventh recommendation of the State Tax Commission (House, No. 90). Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Five.

AN ACT MAKING CERTAIN CHANGES IN THE INCOME TAX LAW RELATIVE TO ESTATES AND TRUSTS.

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. Section 9 of chapter 62 of the General
2 Laws, as appearing in the Tercentenary Edition, is
3 hereby amended by striking out, in line 10, the words
4 "section one of."

1 SECTION 2. Section 10 of said chapter 62 of the Gen-
2 eral Laws, as appearing in the Tercentenary Edition, is
3 hereby amended by striking out this section and insert-
4 ing in place thereof the following new section:—
5 *Section 10.* The income received by estates held in
6 trust by trustees or other fiduciaries appointed by a
7 Massachusetts court, under the will of a person who died
8 an inhabitant of the commonwealth, or the income re-
9 ceived by trustees under a trust created by a person or
10 persons any one of whom was a resident of Massachu-
11 setts at the time of the creation of the trust, or at any
12 time during the year for which the income is computed,
13 or who died an inhabitant of the commonwealth, any
14 one of which trustees or other fiduciaries is an inhabitant
15 of the commonwealth, shall be subject to the taxes im-
16 posed by this chapter to the extent that the persons to

17 whom the income from the trust is payable, or for whose
18 benefit it is accumulated, are inhabitants of the common-
19 wealth. Income so received and accumulated for un-
20 born or unascertained persons, or persons with uncer-
21 tain interests shall be taxed as if accumulated for the
22 benefit of a known inhabitant of the commonwealth to
23 the following extent: —

24 1. Where all or any one of the trustees or other
25 fiduciaries have derived their appointment from a court
26 of the commonwealth or are required to account to a
27 court of the commonwealth, the whole amount of income
28 thus accumulated shall be taxed.

29 2. Where all of the trustees or other fiduciaries are
30 inhabitants of the commonwealth, the whole amount of
31 income thus accumulated shall be taxed.

32 3. Where any one or more of the trustees is an in-
33 habitant of the commonwealth, the proportion of the in-
34 come accumulated for unborn or unascertained persons,
35 or persons with uncertain interests, shall be taxed which
36 is represented by the ratio of trustees who are inhabit-
37 ants of the commonwealth to the total number of trust-
38 tees. For the purposes of this section and of section nine
39 income shall be deemed to be accumulated for unborn or
40 unascertained persons or persons with uncertain inter-
41 ests when thus accumulated by estates, by trustees or
42 other fiduciaries, who are subject to the provisions of
43 this section or of section nine, for the benefit of any fu-
44 ture interest other than a remainder presently vested in
45 a person or persons in being not subject to be divested
46 by the happening of any contingency expressly men-
47 tioned in the instrument creating the trust.

48 No person shall be taxed under this chapter for income
49 received from any trustee or other fiduciary, which in-
50 come has itself been taxed under this section.

51 The trustees may deduct from the income taxable un-
52 der section one a proper amount for the amortization,
53 according to any approved method, of premiums paid
54 upon bonds owned by the estate, the income of which is
55 taxable under said section one.

56 In the computation of the tax, the trustees, in addi-
57 tion to the deduction on account of interest paid, al-
58 lowed under section two, shall be entitled to the follow-
59 ing deductions from income taxable under section one,
60 and under paragraphs (a) and (c) of section five, before
61 the taxable income of the beneficiaries shall finally be
62 determined:—

63 (a) Such proportion of the following items as the
64 amounts of income taxable under section one and sub-
65 sections (a) and (c) of section five together bear to the
66 total income received by the trustee from all sources,
67 exclusive of income taxable under subsection (b) of sec-
68 tion five; (1) amounts paid within the year for rental of
69 safe deposit boxes; and (2) amounts paid within the
70 year for premiums on surety bonds of the trustee.

71 (b) The compensation actually paid during the year
72 to the trustees upon such income taxable under section
73 one is as payable to or accumulated for inhabitants of
74 the commonwealth, or for unborn or unascertained per-
75 sons or persons with uncertain interests, to an amount
76 not exceeding six per cent of such taxable income.

1 SECTION 3. Section 11 of chapter 62, as appearing in
2 the Tercentenary Edition, is hereby amended by striking
3 out this section and inserting in place thereof the follow-
4 ing new section:—

5 *Section 11.* Any inhabitant of the commonwealth who
6 receives, is entitled to, or to whom income is available
7 from one or more trustees or other fiduciaries who are
8 not subject to taxation under this chapter, shall be sub-
9 ject to the taxes imposed by this chapter upon such in-
10 come according to the nature of the income received by
11 such trustees or other fiduciaries, and shall include such
12 income in a return as required by section twenty-two.

1 SECTION 4. Section 25 of chapter 62 of the General
2 Laws, as appearing in the Tercentenary Edition, is
3 hereby amended by striking out the third sentence and
4 inserting in place thereof the following new sentence:—

5 If a person has been appointed executor or adminis-
 6 trator after January first in any year the return of such
 7 income received by his decedent but not reported by him
 8 shall be due and shall be filed on or before the fifteenth
 9 day of the fourth month after the date of such appoint-
 10 ment.