
By Mr. O'Loughlin of Boston, petition of James J. Kelleher for extension of the law providing for the taxation of successions and for removing constitutional objections to the taxation of successions by the exercise or non-exercise of certain powers of appointment. Taxation.

The Commonwealth of Massachusetts

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

AN ACT TO EXTEND THE LAW FOR THE TAXATION OF SUCCESSIONS AND TO OBVIATE CERTAIN CONSTITUTIONAL OBJECTIONS TO THE TAXATION OF SUCCESSIONS BY THE EXERCISE OR NON-EXERCISE OF CERTAIN POWERS OF APPOINTMENT.

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. That part of the first paragraph of
2 section 1 of chapter 65 of the General Laws which pre-
3 cedes the table of tax rates, as appearing in chapter 556
4 of the acts of 1950, is hereby amended by inserting after
5 the word "death" in line 15 the words, — or after the
6 death of any person other than the grantor or donor or
7 upon the occurrence of an event which does not occur,
8 or the expiration of a period of time which does not
9 terminate, until after the death of the grantor or donor,
10 — so as to read as follows: —

11 *Section 1.* All property within the jurisdiction of the
12 commonwealth, corporeal or incorporeal, and any in-
13 terest therein, belonging to inhabitants of the com-
14 monwealth, and all real estate or any interest therein
15 and all tangible personal property within the common-
16 wealth belonging to persons who are not inhabitants of
17 the commonwealth except such an interest in such

18 real estate as is represented by a mortgage or by a
19 transferable certificate of participation or share of an
20 association, partnership or trust, which shall pass by
21 will, or by laws regulating intestate succession, or by
22 deed, grant or gift, except in cases of a bona fide pur-
23 chase for full consideration in money or money's worth,
24 made in contemplation of the death of the grantor or
25 donor or made or intended to take effect in possession or
26 enjoyment after his death, or after the death of any
27 person other than the grantor or donor or upon the oc-
28 currence of an event which does not occur, or the ex-
29 piration of a period of time which does not terminate,
30 until after the death of the grantor or donor, and any
31 beneficial interest therein which shall arise or accrue by
32 survivorship in any form of joint ownership, or in any
33 tenancy by the entirety in which the decedent con-
34 tributed during his life any part of the property held in
35 such joint ownership or tenancy by the entirety or of
36 the purchase price thereof, to any person, absolutely or
37 in trust, except (1) to or for the use of charitable, edu-
38 cational or religious societies or institutions which are
39 organized under the laws of, or whose principal objects
40 are carried out within, the commonwealth or which are
41 organized under the laws of, or whose principal objects
42 are carried out within, some other state of the United
43 States which exempts from similar taxation legacies and
44 devises by its citizens to or for the use of such societies or
45 institutions which are organized under the laws of, or
46 whose principal objects are carried out within, the com-
47 monwealth; or (2) for the saying, singing, performance or
48 celebration of religious rites, rituals, services or cere-
49 monies whether to be conducted within or without the
50 commonwealth; or (3) for or upon trust for any charitable
51 purposes to be carried out within the commonwealth or
52 within any other state of the United States which ex-
53 empts from similar taxation legacies and devises by its
54 citizens for charitable purposes to be carried out within
55 this commonwealth; or (4) to or for the use of the com-
56 monwealth or any town therein for public purposes,

57 shall be subject to a tax at the percentage rates fixed by
58 the following table:—

1 SECTION 2. Chapter 65 of the General Laws is hereby
2 amended by striking out section 2 as appearing in the
3 Tercentenary Edition and inserting in place thereof the
4 following:—

5 *Section 2.* Whenever any person shall exercise a
6 power of appointment, derived from any disposition of
7 property made prior to September first, nineteen hundred
8 and seven, such appointment when made shall be deemed
9 a disposition of property by the person exercising the
10 power taxable under section one in the same manner as
11 though the property to which such appointment relates
12 belonged absolutely to the donee of the power and had
13 been bequeathed or devised by the donee by will except
14 that the property and interests therein passing by such
15 appointment shall be united with the property or in-
16 terests therein passing to the same beneficiary from the
17 donee of the power only when the power of appointment
18 was created by the donee; and whenever any person
19 possessing such a power of appointment so derived shall
20 omit or fail to exercise the same within the time pro-
21 vided therefor, in whole or in part, a disposition of prop-
22 erty taxable under section one shall be deemed to take
23 place to the extent of such omission or failure in the same
24 manner as though the persons thereby becoming en-
25 titled to the possession or enjoyment of the property to
26 which such power related had succeeded thereto by a will
27 of the donee of the power failing to exercise such power,
28 taking effect at the time of such omission or failure
29 except that property or interests therein passing by such
30 appointment shall be united with the property or in-
31 terests therein passing to the same beneficiary from the
32 donee of the power only when the power was created by
33 the donee.

34 The taxes imposed by this section shall be in sub-
35 stitution for any taxes imposed upon the passing of the
36 same property or interests therein by provisions of earlier

37 laws, and in the event that the taxes imposed by pro-
38 visions of earlier laws upon the passing of such property
39 or interests therein have been paid, the persons liable for
40 the taxes imposed by this section shall be entitled to a
41 credit against the taxes imposed by this section of the
42 amount of the tax imposed under the provision of earlier
43 laws which has been paid.