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By Mr. Gott of Arlington, petition of John Dane, Jr. (Chairman, State Tax Commission) for legislation to clarify the law with respect to the taxation of estates and trusts. Taxation.

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## The Commonwealth of Massachusetts

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

### AN ACT TO CLARIFY THE LAW WITH RESPECT TO THE TAXATION OF 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. Chapter 62 of the General Laws is hereby  
2 amended by striking out section 9, as most recently  
3 amended by chapter 592 of the acts of 1955, and insert-  
4 ing in place thereof the following:—

5 *Section 9.* Estates of deceased persons, if assessed  
6 within the time limited by section thirty-seven, shall be  
7 subject to the taxes imposed by this chapter upon all  
8 income received by such persons during their lifetime,  
9 except that estates of deceased persons who were non-  
10 residents at the time of their death shall be subject only  
11 to the taxes imposed by section five A.

12 The income received by the estates of deceased resi-  
13 dents shall be subject to all the taxes imposed by this  
14 chapter to the extent that the persons to whom such  
15 income is payable, or for whose benefit it is accumulated  
16 are residents of the commonwealth; provided, however,  
17 that the income defined in subsection (b) of section five  
18 received from profession, employment, trade or business  
19 carried on within the commonwealth by such estates  
20 shall be taxable regardless of whether or not the persons  
21 to whom such income is payable or for whose benefit it  
22 is accumulated are residents or non-residents of the com-  
23 monwealth. The income received by the estates of de-

24 ceased non-residents shall be taxed at the same rate and  
25 in the same manner as provided in section five A, and  
26 subject to the same exemptions and deductions. Such  
27 income shall include as and when received by the ex-  
28 ecutor or administrator all income taxable under this  
29 chapter which would have been taxable to the decedent  
30 if he had survived to receive it, and the taxes upon such  
31 income as shall have become a part of the corpus of his  
32 estate under the rules of probate accounting, may be  
33 charged against principal in any accounting made by  
34 the executor or administrator. All taxes under this  
35 section shall be assessed to the executor or administrator  
36 and before the appointment of an executor or admin-  
37 istrator said taxes may be assessed in general terms to  
38 the estate of the deceased and the executor or admini-  
39 strator subsequently appointed shall be liable for the  
40 taxes so assessed as though they were assessed to him.  
41 No person shall be taxed under this chapter for income  
42 received from any executor or administrator which in-  
43 come has itself been taxed under this section.

1 SECTION 2. Said chapter 62 is hereby further amended  
2 by striking out section 10, as amended by section 2 of  
3 chapter 592 of the acts of 1955 and by section 3 of chap-  
4 ter 780 of the acts of 1955, and inserting in place thereof  
5 the following section: —

6 *Section 10.* The income received by estates held in  
7 trust by trustees or other fiduciaries appointed by a  
8 Massachusetts court, under the will of a person who  
9 died a resident of the commonwealth, or the income re-  
10 ceived by trustees under a trust created by a person or  
11 persons any one of whom was a resident of the common-  
12 wealth at the time of the creation of the trust or at any  
13 time during the year for which the income is computed,  
14 or who died a resident of the commonwealth, any one of  
15 which trustees or other fiduciaries is a resident of the  
16 commonwealth, shall be subject to the taxes imposed by  
17 this chapter to the extent that the persons to whom the  
18 income from the trust is payable, or for whose benefit it  
19 is accumulated, are residents of the commonwealth;

20 provided, however, that the income defined in subsec-  
21 tion (b) of section five received from profession, em-  
22 ployment, trade or business carried on within the com-  
23 monwealth by such trustees or other fiduciaries shall be  
24 taxable regardless of whether the persons to whom the  
25 income from the trust is payable or for whose benefit  
26 it is accumulated are residents or non-residents of the  
27 commonwealth. Income so received and accumulated  
28 for unborn or unascertained persons, or persons with  
29 uncertain interests shall be taxed as if accumulated for  
30 the benefit of a known resident of the commonwealth to  
31 the following extent: —

32 1. Where all or any one of the trustees or other fidu-  
33 ciaries have derived their appointment from a court of  
34 the commonwealth or are required to account to a court  
35 of the commonwealth, the whole amount of income thus  
36 accumulated shall be taxed.

37 2. Where all of the trustees or other fiduciaries are  
38 residents of the commonwealth, the whole amount of  
39 income thus accumulated shall be taxed.

40 3. Where any one or more of the trustees is a resident  
41 of the commonwealth, the proportion of the income ac-  
42 cumulated for unborn or unascertained persons, or per-  
43 sons with uncertain interests, shall be taxed which is  
44 represented by the ratio of trustees who are residents of  
45 the commonwealth to the total number of trustees. For  
46 the purposes of this section and of section nine income  
47 shall be deemed to be accumulated for unborn or unas-  
48 certained persons or persons with uncertain interests  
49 when thus accumulated by estates, by trustees or other  
50 fiduciaries, who are subject to the provisions of this sec-  
51 tion or of section nine, for the benefit of any future in-  
52 terest other than a remainder presently vested in a per-  
53 son or persons in being not subject to be divested by the  
54 happening of any contingency expressly mentioned in  
55 the instrument creating the trust.

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

59 The trustees may deduct from the income taxable un-

60 der section one a proper amount for the amortization,  
61 according to any approved method, of premiums paid  
62 upon bonds owned by the estate, the income of which  
63 is taxable under said section one.

64 In the computation of the tax, the trustees, but not  
65 executors or administrators even though acting as trust-  
66 tees, in addition to the deduction on account of interest  
67 paid, allowed under section two, shall be entitled to the  
68 following deductions from income taxable under section  
69 one, and under paragraphs (a) and (c) of section five,  
70 before the taxable income of the beneficiaries shall  
71 finally be determined:—

72 (a) Such proportion of the following items as the  
73 amounts of income taxable under section one and sub-  
74 sections (a) and (c) of section five together bear to the  
75 total income received by the trustee from all sources,  
76 exclusive of income taxable under subsection (b) of  
77 section five; (1) amounts paid within the year for  
78 rental of safe deposit boxes; and (2) amounts paid  
79 within the year for premiums on surety bonds of the  
80 trustee.

81 (b) The compensation actually paid during the year  
82 to the trustees upon such income taxable under section  
83 one as is payable to or accumulated for residents of the  
84 commonwealth, or for unborn or unascertained per-  
85 sons or persons with uncertain interests, to an amount  
86 not exceeding six per cent of such taxable income.

87 The income received from profession, employment,  
88 trade or business carried on within the commonwealth  
89 by estates held in trust by trustees or other fiduciaries  
90 other than the trustees and fiduciaries referred to in  
91 the first paragraph of this section, shall be taxed at the  
92 same rate and in the same manner as provided in sec-  
93 tion five A, and subject to the same exemptions and de-  
94 ductions.

1 SECTION 3. This act shall apply with respect to tax-  
2 able years beginning after December thirty-first, nine-  
3 teen hundred and fifty-five.