

By Mr. Saggese of Winthrop, petition of Alfred E. Saggese, Jr., for legislation to increase the estate tax exemption and credit and allowing for the deduction of certain administration expenses. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT INCREASING THE ESTATE TAX EXEMPTION AND CREDIT AND ALLOWING FOR THE DEDUCTION OF CERTAIN ADMINISTRATION EXPENSES.

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. Subsection (a) of section two of Chapter 65C of
2 the General Laws, as appearing in the 1986 Official Edition, is
3 hereby amended by striking out subsection (a) and inserting in
4 place thereof the following: —

5 (a) A tax computed in accordance with the following table less
6 the credit, if any, provided in subsection (a) of section three, is
7 hereby imposed on the transfer of the Massachusetts taxable
8 estate of every deceased resident of Massachusetts:

Over:	If the Massachusetts taxable estate is:	The Massachusetts estate tax shall be:
0	But not over:	
50,000	50,000	5% of the taxable estate
100,000	100,000	\$ 2,500 plus 7% of the excess over \$ 50,000
200,000	200,000	\$ 6,000 plus 9% of the excess over \$ 100,000
400,000	400,000	\$ 15,000 plus 10% of the excess over \$ 200,000
600,000	600,000	\$ 35,000 plus 11% of the excess over \$ 400,000
800,000	800,000	\$ 57,000 plus 12% of the excess over \$ 600,000
1,000,000	1,000,000	\$ 81,000 plus 13% of the excess over \$ 800,000
2,000,000	2,000,000	\$107,000 plus 14% of the excess over \$1,000,000
4,000,000	4,000,000	\$247,000 plus 15% of the excess over \$2,000,000
		\$547,000 plus 16% of the excess over \$4,000,000

9 provided, however, that the tax under this subsection shall not
10 be greater than twenty percent of the amount by which the
11 Massachusetts net tax exceeds three hundred thousand dollars.

1 SECTION 2. Subsection (a) of section three of said Chapter
2 65C is hereby further amended by striking out subsection (a) and
3 inserting in place thereof the following: —

4 (a) If the Massachusetts net estate is three hundred thousand
5 dollars or less there shall be an exemption equal to the
6 Massachusetts net estate. If the Massachusetts net estate exceeds
7 three hundred thousand dollars no exemption shall apply and a
8 credit equal to the Massachusetts estate tax liability or three
9 thousand dollars, whichever is less, shall be allowed.

1 SECTION 3. Section three of said chapter 65C is hereby
2 further amended by striking out subsection (d) and inserting in
3 place thereof the following: —

4 (d) If the right to claim any deduction otherwise allowable is
5 waived for federal estate tax purposes, such right shall not be
6 considered waived for Massachusetts estate tax purposes.

1 SECTION 4. Subsection (b) of section 6 of chapter 65C of the
2 General Laws, as appearing in the 1984 Official Edition, is hereby
3 amended by inserting, in line 14, after the word “ten” the followng
4 words: — or section ten A.

1 SECTION 5. Section (b) of section four A of chapter sixty-five
2 C, as appearing in the 1986 Official Edition, is hereby amended
3 by striking out, in lines 14 through 16, inclusive, the words “section
4 twenty-six hundred and two of the Internal Revenue Code of the
5 United States in effect on December thirty-first, nineteen hundred
6 and eighty-one” and inserting in place thereof the following: —
7 section twenty-six hundred and four of the Internal Revenue Code
8 of the United States in effect on January first, nineteen hundred
9 and eighty-seven.

1 SECTION 6. Subsection (c) of said section four A of said
2 Chapter sixty-five C, as so appearing, is hereby amended by
3 striking out, in lines 22 through 24 inclusive, the words “section

4 twenty-six hundred and two of the Internal Revenue Code of the
5 United States in effect on December thirty-first, nineteen hundred
6 and eighty-one” and inserting in place thereof the following: —
7 section twenty-six hundred and four of the Internal Revenue Code
8 of the United States in effect on January first, nineteen hundred
9 and eighty-seven.

1 SECTION 7. Said chapter 65C is hereby further amended by
2 inserting after section 10, as appearing in the 1986 Official Edition,
3 the following section: —

4 Section 10A. If the value of an interest in a closely held
5 business, as defined in subsection (b) of section sixty-one hundred
6 and sixty-six of the Code in effect on January first, nineteen
7 hundred and eighty-five, which is included in determining the
8 Massachusetts gross estate of a decedent who was (at the date of
9 his death) a resident of Massachusetts, exceeds thirty-five per cent
10 of the Massachusetts adjusted gross estate, the executor may elect
11 to pay part or all of the tax imposed by section two in two or
12 more (but not exceeding ten) equal installments. The maximum
13 amount of tax which may be paid in installments under this
14 subsection shall be an amount which bears the same ratio to the
15 tax imposed by section two (reduced by the credit, if any,
16 allowable under section three) as the closely held business amount,
17 as so defined, bears to the amount of the Massachusetts adjusted
18 gross estate.

19 (b) If an election is made under subsection (a), the first
20 installment shall be paid on or before the date selected by the
21 executor which is not more than one year after the date prescribed
22 under sections seventeen and thirty-two of chapter sixty-two C
23 for payment of the tax, and each succeeding installment shall be
24 paid on or before the date which is one year after the date
25 prescribed by this subsection for payment of the preceding
26 installment.

27 (c) Any election under subsection (a) shall be made not later
28 than the time prescribed by section seventeen of chapter sixty-two
29 C for filing the return of tax imposed by section two, including
30 extensions thereof, and shall be made in such manner as the
31 commissioner shall by regulation prescribe. Such an election shall

32 constitute an extension of time for payment of the tax
33 notwithstanding the provisions of section ten.

34 (d) An executor making an election under subsection (a) shall
35 deposit with the commissioner security, in such form and amount
36 (not exceeding double the total amount of tax deferred pursuant
37 to such election) as the commissioner may determine, to secure
38 the payment of such deferred tax amount and the interest accruing
39 thereon. A security interest in the closely held business may be
40 accepted by the commissioner if he deems it satisfactory. When
41 payment of the tax imposed by section two has been made in full,
42 the commissioner shall release the security so deposited. The
43 commissioner shall by regulation provide for proportionate
44 releases of such security, if feasible, as each installment of tax is
45 paid. Upon compliance with this subsection, the executor shall
46 be discharged from personal liability for any remaining
47 installments of tax payable under this section and shall be entitled,
48 under section seven, to a receipt or writing showing such
49 discharge, provided that the executor otherwise qualifies for such
50 discharge under said section seven.

51 (e) If an election is made under subsection (a) to pay any part
52 of the tax imposed by section two in installments and a deficiency
53 has been assessed, the deficiency shall, subject to the limitation
54 provided by subsection (a), be prorated to the installments payable
55 under subsection (a). The part of the deficiency so prorated to
56 any installment the date for payment of which has not arrived shall
57 be collected at the same time as, and as a part of, such installments.
58 The part of the deficiency so prorated to any installment the date
59 of payment of which has arrived shall be paid upon assessment
60 and notice of the commissioner. This subsection shall not apply
61 if the deficiency is due to negligence, to intentional disregard of
62 rules and regulations, or to fraud with intent to evade tax.

63 (f) If the time for payment of any amount of tax has been
64 extended under this section, with respect to any period to which
65 such extension applies, interest and any unpaid portion of such
66 amount shall be payable annually at the same time as, and as a
67 part of, each installment payment of the tax. In the case of
68 deficiency to which subsection (e) applies, interest assigned to any
69 installment the date for payment of which has arrived on or before
70 the date of the assessment of the deficiency, shall be paid upon

71 notice of the commissioner. The rate of interest under this
72 subsection shall be the federal long-term rate as defined,
73 determined and in effect under section twelve hundred and
74 seventy-four (d) of the Internal Revenue Code of the United
75 States, or other applicable provision, at the date of the decedent's
76 death or, if no such rate is then in effect, the rate determined by
77 the commissioner to be the then prevailing long-term rate. Interest
78 required under this subsection shall be in lieu of interest imposed
79 under section thirty-two of chapter sixty-two C.

80 (g) The provisions of subsection (g) and (h) of section sixty-
81 one hundred and sixty-six of the Code in effect on January first,
82 nineteen hundred and eighty-five, shall, insofar as pertinent and
83 consistent, apply to the election made and any portion of an
84 interest in a closely held business qualifying under this section.
85 The commissioner shall issue regulations to carry out the
86 provisions of this subsection.

87 (h) Except to the extent that the provisions of this section
88 expressly require otherwise, it is intended that this section shall
89 create a right of election analogous in character and application
90 to that created under section sixty-one hundred and sixty-six of
91 the Code in effect on January first, nineteen hundred and eighty-
92 five, adjusted as required to take into account differences between
93 federal and Massachusetts tax law, and this section shall be
94 construed and administered accordingly. The commissioner may
95 issue such regulations as he considers necessary to carry out such
96 intention.

97 (i) Where an executor has elected to pay part or all of the tax
98 imposed by section two in installments under this section, the
99 running of the period of limitations for collection of such deferred
100 tax under section sixty-five of chapter sixty-two C shall be
101 suspended for the period of any extension of time for payment
102 granted under this section.

1 SECTION 8. Sections five and six shall apply to transfers
2 made on or after October twenty-second, nineteen hundred and
3 eighty-six. Sections four and seven shall apply to estates of persons
4 dying after June thirtieth, nineteen hundred and eighty-seven.
5 Section one, two and three shall apply to estates of decedents
6 dying on or after January first, nineteen hundred and eighty-eight.

