

By Mr. Flood of Canton, petition of John H. Flood and other members of the General Court for legislation to increase the estate tax exemption and credit and allowing for the deduction of certain administration expenses. Taxation.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Nine.

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Petition signed by:

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Angelo M. Scaccia	Alfred E. Saggese, Jr.
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By Mr. Flood of Canton, petition of John H. Flood and other members of the General Court 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 Eighty-Nine.

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:

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



