

Massachusetts “decoupled” its estate tax laws from the federal law effective January 1, 2003. For deaths occurring on or after January 1, 2006, if a decedent’s Massachusetts gross estate exceeds \$1,000,000 (the Massachusetts “filing threshold”), a Massachusetts estate tax return must be filed within nine months of the date of death and any tax due must be paid at that time. The Tax Relief, Unemployment Insurance Reauthorization and Jobs Creation Act of 2010, which raised the federal exemption from estate taxes to \$5,000,000 for 2011 and 2012, does not change Massachusetts law. Therefore, planning for the potential impact of the Massachusetts estate tax is still necessary for many individuals.

ESTATE TAX:

The maximum Massachusetts estate tax is generally an amount equal to the federal credit for state death taxes computed using the Internal Revenue Table in effect on December 31, 2000 (see table on following page). The tax rate is progressive, with a maximum rate of 16 percent.¹ Furthermore, the Massachusetts tax based upon the credit cannot exceed what the federal estate taxes would have been under the prior federal law.

Example One:

A Massachusetts decedent dies in 2011 with a gross estate of \$1,050,000 and allowable deductions of \$150,000 (e.g., funeral expenses, debts, fees). A Massachusetts estate tax return (Form M-706) is required to be filed because the decedent’s gross estate, prior to the deductions, exceeds the filing threshold. But no estate tax is due because the taxable estate of \$900,000 is under \$1,000,000.

Example Two:

A Massachusetts decedent dies in 2011 with a gross estate of \$1,200,000 and allowable deductions of \$150,000. A Massachusetts estate tax return (Form M-706) is required to be filed because the decedent’s gross estate, prior to deductions, exceeds the threshold. Additionally, because the taxable estate of \$1,050,000 exceeds \$1,000,000, the estate tax due is \$20,500. Using the table:

$$\begin{aligned} \$1,050,000 - \$60,000 &= \$990,000. \\ \$990,000 - \$840,000 &= \$150,000 \times 5.6\% = \$8,400 \\ \$8,400 + \$27,600 &= \$36,000 \text{ tax} \end{aligned}$$

However, \$36,000 exceeds what the federal estate tax would have been, under prior federal law. Thus, the tax is \$20,500.²

Example Three:

A Massachusetts decedent dies in 2011 with a gross estate of \$5,500,000 and allowable deductions of \$500,000. A Massachusetts estate tax return (Form M-706) is required to be filed because the decedent’s estate exceeds the filing threshold. Additionally, because the taxable estate of \$5,000,000 exceeds \$1,000,000, the estate tax due is \$391,600. Using the table, this tax is calculated as follows:

$$\begin{aligned} \$5,000,000 - \$60,000 &= \$4,940,000. \\ \$4,940,000 - \$4,040,000 &= \$900,000 \times 11.2\% = \$100,800 \\ \$100,800 + \$290,800 &= \$391,600 \text{ tax} \end{aligned}$$

¹ Internal Revenue Code §2011(b).

² Adjusted taxable estate over \$1,000,000 but not over \$1,250,000 is taxed at 41% of the excess over \$1,000,000 under Internal Revenue Code §2011 in effect on December 31, 2000. ($\$50,000 \times 41\% = \$20,500$).

GIFT TAX:

Unlike the federal estate and gift tax system, Massachusetts has no gift tax. However, any lifetime gifts in excess of the federal annual gift tax exclusion (presently \$13,000 per donee) must be subtracted from the \$1,000,000 Massachusetts filing threshold requirement.

For example: Assuming the Massachusetts decedent in Example One above had made \$1,000,000 of gifts during her lifetime. The Massachusetts filing threshold would be reduced to zero, and the Massachusetts estate tax would be \$27,600.³ If the decedent had not made the lifetime gifts, the taxable estate would have been \$1,900,000 and the tax liability would have been \$92,400⁴, resulting in a tax savings of \$64,800.

The benefits of lifetime gifting can be significant for Massachusetts taxpayers even if they have no exposure to the federal estate tax, and large lifetime gifts can be made with no cost gift tax cost.

If the adjusted taxable estate is: ⁵	The maximum tax credit shall be:
Not over \$90,000	8/10 th of 1% of the amount by which the adjusted taxable estate exceeds \$40,000
Over \$90,000 but not over \$140,000	\$400 plus 1.6% of the excess over \$90,000
Over \$140,000 but not over \$240,000	\$1,200 plus 2.41% of the excess over \$140,000
Over \$240,000 but not over \$440,000	\$3,600 plus 3.2% of the excess over \$240,000
Over \$440,000 but not over \$640,000	\$10,000 plus 4% of the excess over \$440,000
Over \$640,000 but not over \$840,000	\$18,000 plus 4.8% of the excess over \$640,000
Over \$840,000 but not over \$1,040,000	\$27,600 plus 5.6% of the excess over \$840,000
Over \$1,040,000 but not over \$1,540,000	\$38,800 plus 6.4% of the excess over \$1,040,000
Over \$1,540,000 but not over \$2,040,000	\$70,800 plus 7.2% of the excess over \$1,540,000
Over \$2,040,000 but not over \$2,540,000	\$106,800 plus 8% of the excess over \$2,040,000
Over \$2,540,000 but not over \$3,040,000	\$146,800 plus 8.8% of the excess over \$2,540,000
Over \$3,040,000 but not over \$3,540,000	\$190,800 plus 9.6% of the excess over \$3,040,000
Over \$3,540,000 but not over \$4,040,000	\$238,800 plus 10.4% of the excess over \$3,540,000
Over \$4,040,000 but not over \$5,040,000	\$290,800 plus 11.2% of the excess over \$4,040,000
Over \$5,040,000 but not over \$6,040,000	\$402,800 plus 12% of the excess over \$5,040,000
Over \$6,040,000 but not over \$7,040,000	\$522,800 plus 12.8% of the excess over \$6,040,000
Over \$7,040,000 but not over \$8,040,000	\$650,800 plus 13.6% of the excess over \$7,040,000
Over \$8,040,000 but not over \$9,040,000	\$786,800 plus 14.4% of the excess over \$8,040,000
Over \$9,040,000 but not over \$10,040,000	\$930,800 plus 15.2% of the excess over \$9,040,000
Over \$10,040,000	\$1,082,800 plus 16% of the excess over \$10,040,000

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³ \$900,000 - \$60,000 = \$840,000. Under the table the tax on \$840,000 is \$27,600.

⁴ \$1,900,000 - \$60,000 = \$1,840,000 - \$1,540,000 = \$300,000 x 7.2% = \$21,600 + \$70,800 = \$92,400.

⁵ The term "adjusted taxable estate" means the taxable estate reduced by \$60,000 per Internal Revenue Code §2011(b).