# Did You Know That Massachusetts Has An Estate Tax?

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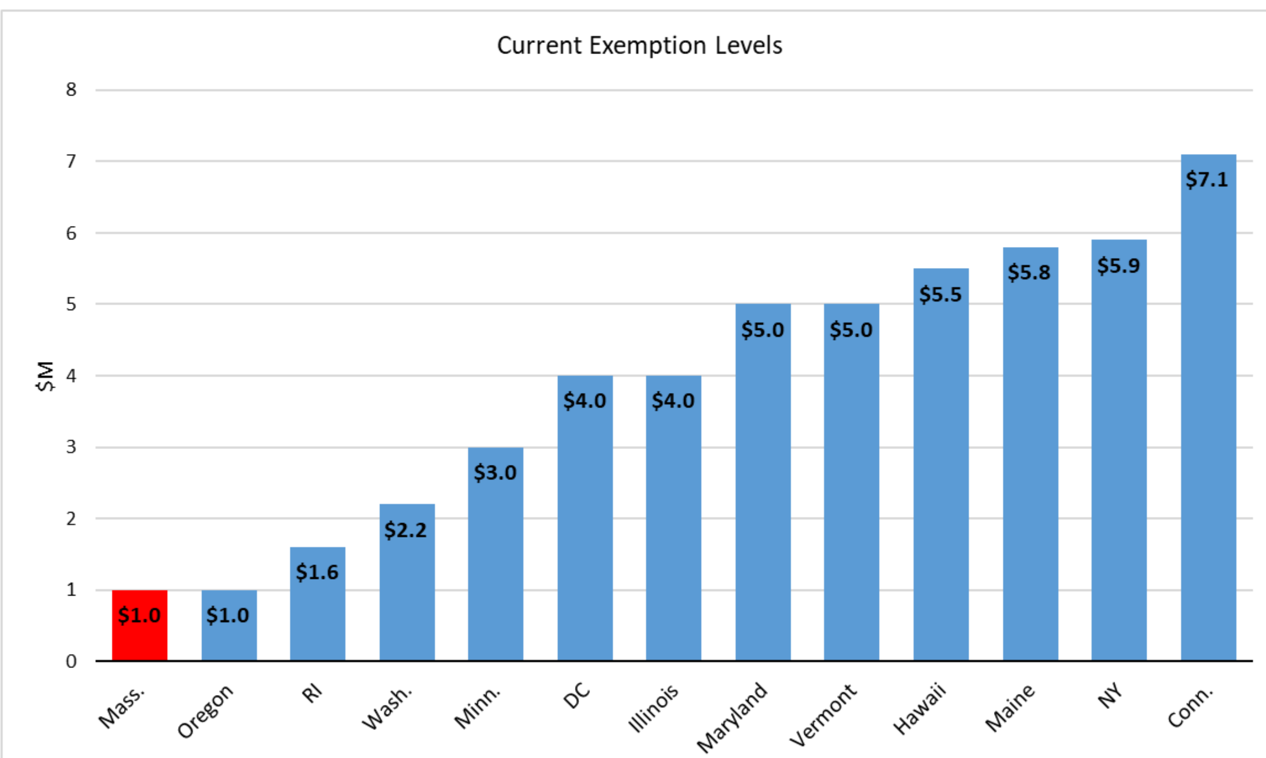
The current Federal estate tax regime is once again in the spotlight as the Biden Administration would like to reduce the federal estate tax exemption ($12.06M per person in 2022) by half to $6.03M to help raise the revenues required to fund his proposed spending plans. But what isn't getting much attention is that twelve states also tax estates, with Massachusetts sporting one of the lowest exemption levels in the country. See Figure 1. In this brief, I explain how the estate tax system works in Massachusetts and what folks can do to minimize.

## The Basics

An estate tax is a one-time tax due on the value of one's estate calculated as of the date of death. This tax is payable by your estate before estate assets are distributed to heirs. Generally speaking,

Figure 1: Only Twelve States Levy Estate Taxes – Current Exemption Levels




Source: Boston Globe

a taxable estate consists of all of the assets owned by the decedent at the time of death, plus any assets that aren't reachable until death, but that the decedent still controls (e.g., a term life insurance policy). The tax does not apply to a couple's jointly-owned assets upon the death of the first spouse. The ownership of these assets simply shifts untaxed to the surviving partner.

Note that an estate tax is distinct from an inheritance tax. The latter is a tax that beneficiaries pay on assets they have inherited from someone who has died. Only five states (Iowa, Kentucky, Nebraska, New Jersey, and Pennsylvania) levy an inheritance tax and only one state – Maryland – levies both an inheritance tax and an estate tax.

**How it Works in Massachusetts**

All estates greater than $1.0M trigger the estate tax and this exemption is not indexed for inflation. Unlike most other states, the tax due is calculated on the entire estate, less a $40,000 exemption. (Oregon, for example, only taxes the value of an estate in excess of $1.0M.) This means if your estate is worth $1.5 million, the tax applies to all $1.5 million, not just the $500,000 above the $1.0M exemption. The current estate tax rate is graduated and ranges between 0.8% up to 16% for estates greater than $10.04M.

The table below gives you a sense of the tax liability for various estate sizes.

| Taxable Estate | MA Estate Taxes Owed |
|---|---|
| $1,040,000 | $38,800 |
| $3,040,000 | $190,800 |
| $5,040,000 | $402,800 |
| $10,040,000 | $1,082,800 |

**Planning Opportunities**

Unlike the Federal estate tax system, the Massachusetts estate tax is not portable between spouses, meaning that any unused exemption of the first-to-die spouse cannot be used by the second spouse. One way around this is to ensure that assets are split into each spouse's name. In so doing, the first spouse to die can use their exemption if deemed appropriate. Federal estate tax law gives spouses portability. That means a surviving spouse can use their deceased spouse's estate tax exemption, functionally shielding twice the assets from taxes.

Another typical planning strategy for married couples is to create so-called credit shelter trusts. A credit shelter trust can utilize the estate tax exemption of the first spouse to die and protect the heirs of the surviving spouse when that spouse dies. The surviving spouse can access trust assets to their needs throughout their lifetime, but the assets in the trust won't be a part of the surviving spouse's estate upon death.

Likewise, if you have a large life insurance policy that will pay out at death, you can reduce your Massachusetts state tax liability by transferring the policy to an irrevocable trust that effectively removes the death benefit from being subject to (any) estate tax at death.

The tax owed can be reduced by spending down your assets before death, making charitable donations or by utilizing the current annual gift tax exemption of $16,000 a year to reduce the value of your estate at death.

Finally, one can also avoid the tax all together by moving to a state that does not levy an estate tax. Florida is a popular destination for this purpose. As the saying goes, “friends don’t let friends die in Massachusetts.”

**Bottom Line**

If you are reasonably wealthy and live in the Commonwealth of Massachusetts, it pays to do some proper estate planning to minimize the Commonwealth’s estate tax burden.

Please get in touch if you would like to learn more.

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