

Estate Tax: Massachusetts

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Status: **Maintained** | Jurisdiction: **Massachusetts, United States**

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A Q&A guide to Massachusetts laws on estate taxation of transfers at death. This Q&A addresses whether a jurisdiction has any estate tax or other similar taxes imposed at death and, for jurisdictions currently imposing a state estate tax, includes an overview of the state estate tax system, the basic filing threshold (or exemption) amount, the calculation of the gross estate, available deductions, calculating the state estate tax, filing the state estate tax return, and paying the state estate tax. Answers to questions can be compared across a number of jurisdictions (see Estate Tax: State Q&A Tool).

Existence of Estate Tax

1. Does your state have an estate tax?

Massachusetts imposes a state level estate tax. For decedents dying on or after January 1, 2023, an estate tax return must be filed for estates with a value of \$2 million or more (M.G.L. c. 65C, § 2A(g)). For decedents dying between January 1, 2006, and December 31, 2022, an estate tax return was required to be filed for estates with a value of \$1 million (the filing threshold) or more. For more information regarding the filing threshold (often referred to as an exemption) that was in place for individuals dying before January 1, 2023, see Question 11.

For more information on calculating the Massachusetts estate tax, see Question 3.

Overview of the Estate Tax

2. To whom does the state estate tax apply in your state?

The Massachusetts estate tax applies to any decedent that, at death, was either:

- A Massachusetts resident.
- A nonresident that owned an interest in real property or certain tangible property located in Massachusetts.

More specifically, the Massachusetts estate tax applies to:

- The gross estate of resident decedents, except for certain interests in real and tangible property that are located outside of Massachusetts (see Question 4).
- The real property and tangible property, such as vehicles or artworks, physically located in Massachusetts but owned by nonresident decedents.

(M.G.L. c. 65C, §§ 1(f), 2A, and 4.)

Under Massachusetts law, a decedent is a resident if the decedent was domiciled in the Commonwealth at death (M.G.L. c. 65C, § 1(i)). A domicile is where a person's true, fixed, and permanent home is and where the decedent resided with an intention to remain permanently or indefinitely and without any specific purpose to return to a former residence. Domicile is determined by common law principles and the facts of each case. (830 Code Mass. Regs. 62.5A.1(2); *Horvitz v. Comm'r of Revenue*, 747 N.E.2d 177, 183 (Mass. 2001); *Palmer v. Comm'r of Revenue*, 778 N.E.2d 1039 (Mass. App. Ct. 2002) (unpublished opinion under Mass. App. Ct. Rule 1:28).)

3. How is the state estate tax calculated in your state?

The Massachusetts estate tax calculation is based on the federal credit for state death taxes in effect

on December 31, 2000 (see [Mass. Dep't of Revenue: Massachusetts Estate Tax Return \(Form M-706\)](#) and [US Estate Tax Return \(Form 706\) \(Revised July 1999\)](#)). The Massachusetts estate tax for a resident decedent generally is the Credit for State Death Taxes number shown on Line 15 of the July 1999 Form 706 (see [Form M-706: Part 1](#)).

The Massachusetts estate tax is calculated by:

- Determining the value of the Massachusetts taxable estate of a Massachusetts resident decedent by:
 - establishing which items are included in the decedent's gross estate (see Question 4);
 - valuing the assets that are included in the gross estate (see Question 5); and
 - applying any allowable deductions to determine the Massachusetts taxable estate (M.G.L. c. 65C, § 1(h); see Question 8).
- Applying the applicable rate to the Massachusetts taxable estate (M.G.L. c. 65C, § 2). The rates are graduated from 0.8% to 16% (see Question 10). The resulting amount of tax is then adjusted as provided under M.G.L. c. 65C, § 2(b) up to the amount of the December 31, 2000, credit for state death taxes, if that credit exceeds the amount of the calculated tax.
- Applying a maximum allowable credit of up to \$99,600 against the tax owed (M.G.L. c. 65C, § 2A(f), for decedents dying on or after January 1, 2023). Application of the \$99,600 credit effectively negates any tax due on Massachusetts taxable estates of \$2 million or less (see Question 6).

For a Massachusetts resident decedent with property in another state who died before January 1, 2023, a credit for any state death taxes paid to that state could be applied to offset the Massachusetts estate tax (former M.G.L. c. 65C, § 2A(a)(i)). This credit does not apply to estates of decedents dying on or after January 1, 2023.

Estate Tax Calculation for Nonresident Decedent

For a nonresident decedent with Massachusetts property, the imposed Massachusetts estate tax is determined by the percentage of the taxable estate that is real and tangible property located in Massachusetts relative to the decedent's total estate. The Massachusetts estate tax is calculated by:

- Calculating the estate tax as if the decedent was a resident of Massachusetts.

- Calculating the ratio of the Massachusetts situs real and tangible property relative to the entire estate.
- Applying the resulting percentage to the initial Massachusetts estate tax calculated on the entire estate.

(M.G.L. c. 65C, § 2A(b).)

For example, if the nonresident decedent had real property in Massachusetts that made up 20% of the whole taxable estate's value, the nonresident decedent's estate would only be liable for 20% of the Massachusetts estate tax amount calculated on the entire estate.

The Gross Estate

4. What is included in a decedent's gross estate for tax purposes? Specifically, please discuss what is included in:

- The gross estate of a resident decedent.
- The gross estate of a nonresident decedent.

The Massachusetts gross estate is determined in the same manner if the decedent is a resident or a nonresident of Massachusetts (M.G.L. c. 65C, § 1(f)). The imposition of tax on the taxable estate differs depending on whether the decedent was a resident or a non-resident (see Question 3).

A decedent domiciled in Massachusetts at death is a resident of the Commonwealth (M.G.L. c. 65C, § 1(i); see Question 2).

Resident Decedent's Gross Estate

The Massachusetts gross estate generally consists of the federal gross estate:

- Plus the value of all property in which the decedent has a qualifying income interest for life as defined in M.G.L. c. 65C, § 3A(c). A qualifying income interest is the income from a share on which a qualified terminable interest property (QTIP) election was made, which is essentially the income from trust property over which the decedent did not have a lifetime power of appointment.
- Less the value of real and tangible property located outside the Commonwealth.

(M.G.L. c. 65C, § 1(f); see also *Shaffer v. Comm’r of Revenue*, 148 N.E.3d 1197 (Mass. 2020) (holding that a NY-only QTIP trust was includable in the Massachusetts decedent’s Massachusetts taxable estate), *cert. denied sub nom. Shaffer v. Snyder*, 141 S. Ct. 819 (2020).)

Massachusetts uses the Internal Revenue Code’s definition of the federal gross estate (M.G.L. c. 65C, § 1(d)).

Massachusetts Qualified Terminable Interest Property

The Massachusetts gross estate includes a trust in which a Massachusetts-only QTIP election has been made (see [Massachusetts Dep’t of Revenue: Directive 03-2: Issues Arising from Decoupling the Massachusetts Estate Tax: Issue 1](#)). Because the Massachusetts estate tax filing threshold is substantially lower than the federal exemption, a decedent that is married may use trust planning to minimize state estate taxation (see Question 6).

The decedent may have:

- A first trust (credit shelter trust) up to the amount of the Massachusetts filing threshold that is not subject to either a Massachusetts or federal estate tax and not includable in either the federal or Massachusetts gross estate of the surviving spouse.
- A second trust (Massachusetts state QTIP) that is in the amount of the remaining federal exemption that exceeds the Massachusetts filing threshold. This amount must be included for Massachusetts estate tax purposes only in the estate of the surviving spouse.
- A third trust (with both a Massachusetts state QTIP and a federal QTIP) for amounts greater than both the Massachusetts filing threshold and federal exemption, which is included in both the Massachusetts and the federal gross estate of the surviving spouse.

Property Outside of Massachusetts

Massachusetts cannot impose Massachusetts estate tax on real and tangible personal property located outside of Massachusetts, whether held:

- Individually.
- Within an entity or trust that in form and substance is the equivalent of individual ownership.

(See *Estate of Nielsen v. Comm’r of Revenue*, 2001 WL 1590427 (Mass. App. Tax Bd. Feb. 15, 2001).)

Nonresident Decedent’s Gross Estate

The Massachusetts gross estate for a nonresident decedent is calculated in the same manner as the gross estate for a Massachusetts resident. The estate tax liability of a nonresident is based on the percentage of the real and tangible property of the nonresident with situs in Massachusetts relative to the estate as a whole. A nonresident’s Massachusetts situs property is limited to any real or tangible property located within the Commonwealth that is included in the decedent’s gross estate as if the decedent was a Massachusetts resident. (M.G.L. c. 65C, § 4; see Question 3.) This includes both:

- Real property, such as a second home or rental property, and tangible personal property, which may be the items in the home.
- Valuable items located in Massachusetts, such as a boat, car, or other vehicle.

In certain circumstances, nonresident owners of real estate located in Massachusetts use a limited liability company (LLC) to avoid being subject to the Massachusetts estate tax, a practice called using an LLC wrapper. By transferring ownership of Massachusetts real estate to an LLC, nonresidents hold a non-taxable intangible membership interest instead of taxable real estate (see *Estate of Nielsen*, 2001 WL 1590427). The LLC wrapper can also be useful for Massachusetts residents owning Massachusetts real property that plan to move their domicile out of state. For an LLC to be effective for tax and creditor protection purposes in Massachusetts, it must have a business purpose and be properly operated as an LLC.

5. How are assets valued for state estate tax purposes? Specifically please discuss:

- Availability of alternate valuation date.
- Requirements for alternate valuation.

Property in the Massachusetts gross estate is valued:

- At the federal estate tax value.
- As of the dates used for federal estate purposes on the federal estate tax return.

For federal estate valuation, property is valued at either:

- The fair market value on the date of death of the decedent.

- The alternative valuation date, if the personal representative elects alternative valuation.

(M.G.L. c. 65C, § 5 and 26 U.S.C. §§ 2031(a) and 2032.)

Fair market value is the price at which the property changes hands between a willing buyer and a willing seller, with knowledge of the relevant facts and without compulsion to buy or to sell (26 C.F.R. § 20.2031-1(b)).

If the personal representative elects to impose alternate valuation, Massachusetts follows the same alternate valuation process as in 26 U.S.C. § 2032 (M.G.L. c. 65C, § 5).

Special use valuation, the practice of valuing farmland and other types of property based on its special use and income potential rather than on commonly used fair market value, is also available in Massachusetts. For estates of decedents dying on or before December 31, 2018, the valuation follows the federal rules. For estates of decedents dying on or after January 1, 2019, the valuation relates to the value set by the farmland valuation advisory commission. (M.G.L. c. 65C, § 5(c), (d)(2); M.G.L. c. 61A, § 11; see [Practice Note, Federal Estate Tax: Special Use Valuation](#).)

Estate Tax Exemption

6. Is there an exemption from estate tax in your state? Specifically please discuss:

- Whether the estate tax exemption in your state is tied to the federal exemption.
- The amount of the exemption in your state.
- How the exemption amount is determined in your state.

The Massachusetts estate tax filing threshold amount is not tied to the federal estate tax exemption amount. Massachusetts currently has a \$2 million estate tax filing threshold for individuals who died on or after January 1, 2023 (M.G.L. c. 65C, § 2A(g)). A credit of up to \$99,600 is permitted for estates of decedents dying on or after January 1, 2023. The application of the \$99,600 credit effectively eliminates Massachusetts estate tax on up to \$2 million of the Massachusetts taxable estate (M.G.L. c. 65C, § 2A(f)). While the combination of the filing threshold and the estate tax credit has an effect similar to an exemption, it is not technically an estate tax exemption though it is commonly referred to as such.

From 2006 until January 1, 2023, Massachusetts had a filing threshold of \$1 million. The Massachusetts estate tax was calculated not only on the amount exceeding the \$1 million filing threshold but the entire estate value.

For more information on the Massachusetts filing threshold and estate tax calculation, see Questions 10 and 11.

7. Can a deceased spouse's unused exemption (DSUE) be ported to a surviving spouse in your state?

Massachusetts does not recognize portability of a deceased spouse's unused Massachusetts estate tax credit (exemption) to the surviving spouse. Due to lack of portability and the low filing threshold amount, trust planning is especially important for Massachusetts residents.

Deductions from Gross Estate

8. Discuss the most common deductions that are available in your state for tax purposes.

Massachusetts state law, with one exception, follows federal estate tax law in determining which deductions are permitted. The exception is that Massachusetts did not repeal the Qualified Family-Owned Business Deduction as set out in 26 U.S.C. § 2057, repealed for federal estate tax purposes effective December 2014. (M.G.L. c. 65C, § 3; see [Qualified Family-Owned Business Interest Deduction](#) and Question 1.)

Administration Expenses, Debts, and Claims

Massachusetts deducts first the following expenses, from the Massachusetts gross estate:

- Funeral expenses.
- Administration expenses, including administrator and attorneys' fees.
- Claims against the estate.
- Unpaid mortgages on or indebtedness of property where the value of the decedent's interest, undiminished by that mortgage or indebtedness, is included in the value of the Massachusetts gross estate.

(M.G.L. c. 65C, § 1(e), (g) and 26 U.S.C. §§ 2053 and 2054.) Deductions are limited to expenses related to assets includable in the Massachusetts gross estate (M.G.L. c. 65C, § 3(b)).

Massachusetts permits deduction of these administrative expenses only if incurred both:

- On behalf of the estate, not the beneficiaries.
- In the collection of assets, payments of debts, and distribution of property to the persons entitled to it.

(26 C.F.R. § 20.2053-3(a).)

The amount remaining in the Massachusetts gross estate after these expenses are deducted is referred to as the Massachusetts net estate (M.G.L. c. 65C, § 1(f), (g)).

Losses

Losses incurred during the estate settlement that arise from fires, storms, shipwrecks, theft, or other casualties are deductible if the losses are not compensated by insurance or otherwise (26 U.S.C. § 2054).

If these losses are deducted from the Massachusetts gross estate in addition to administrative expenses, the resulting value is referred to as the Massachusetts adjusted gross estate (M.G.L. c. 65C, § 1(e)).

Marital Deduction

Massachusetts recognizes the unlimited marital deduction and generally follows the provisions of 26 U.S.C. § 2056 (M.G.L. c. 65C, § 3(b)).

Massachusetts permits a state-only qualified terminable interest property election ([Mass. Dep't of Revenue: Directive 03-2: Issues Arising from Decoupling the Massachusetts Estate Tax: Issue 1](#); see Question 4: Resident Decedent's Gross Estate).

As with federal law, the Massachusetts marital deduction is not available for outright transfers to noncitizen spouses. A limited estate tax deduction may instead be available if the decedent transfers assets for a noncitizen permanent resident spouse's benefit using a qualified domestic trust, which is the same as the federal amount. (26 U.S.C. §§ 2056(d) and 2056A.) This limited deduction is not applicable if the assets passing to a noncitizen spouse are already deducted under the Massachusetts estate tax credit.

Charitable Deduction

Massachusetts follows the federal estate tax law for charitable deductions.

A Massachusetts estate can deduct the value of bequests to public charitable and religious organizations or entities, including qualified charitable trusts and foundations established by the decedent (26 U.S.C. § 2055).

This deduction is limited to the value of the property transferred to the charity (26 C.F.R. § 20.2055-3).

To qualify for the charitable deduction, a transfer must be of property that is:

- Included in the decedent's gross estate.
- Transferred from the decedent to a qualified organization.

(26 C.F.R. § 20.2055-1(a).)

Once the marital deduction and the charitable deduction are removed from the Massachusetts adjusted gross estate, the resulting value is the Massachusetts taxable estate (M.G.L. c. 65C, §§ 1(h) and 3).

Qualified Family-Owned Business Interest Deduction

Although the Qualified Family-Owned Business Interest Deduction (QFOBI) was repealed federally in 2014, Massachusetts still allows an estate to deduct the value of certain family-owned business interests from the gross estate. The amount of the QFOBI deduction cannot exceed the lesser of:

- The adjusted value of the qualified family-owned business interests of the decedent otherwise includable in the gross estate.
- \$675,000.

(M.G.L. c. 65C, § 3 and repealed 26 U.S.C. § 2057.)

Applicable Credits Against Estate Tax

9. Are there any applicable credits available against estate tax in your state?

Statutory Credit for State Estate Taxes Due

The primary credit available to offset the Massachusetts estate tax is the statutory credit of up to \$99,600 applied to the Massachusetts estate tax due (M.G.L. c. 65C, § 2A(a), (f)).

Credit for Death Taxes Paid to Another US State

For decedents dying before January 1, 2023, Massachusetts permitted a credit for state death taxes paid by a resident decedent to a state other than Massachusetts (former M.G.L. c. 65C, § 2A(a)(i)).

No Credit for Foreign Death Taxes

Massachusetts does not allow for any credits for payment of foreign death taxes. The instructions for the [Massachusetts Estate Tax Return \(Form M-706\)](#)

specifically state that Schedule P - Credit for Foreign Death Taxes of the [US Estate Tax Return \(Form 706\) \(Revised July 1999\)](#) does not need to be completed for calculating the Massachusetts estate tax.

Tax Rate

10. What are the estate tax rates in your state?

The progressive Massachusetts estate tax rates top out at 16%. However, the rate is graduated, so that the effective tax rate is lower on less valuable estates. The table of rates is laid out in M.G.L. c. 65C, § 2(a). For more information on the computation of the Massachusetts estate tax and the estate tax rate, see Question 3.

Massachusetts Taxable Estate

More than:	But not more than:	The tax is:
\$0	\$50,000	5.0% of the taxable estate
\$50,000	\$100,000	\$2,500 plus 7.0% of the excess above \$50,000
\$100,000	\$200,000	\$6,000 plus 9.0% of the excess above \$100,000
\$200,000	\$400,000	\$15,000 plus 10.0% of the excess above \$200,000
\$400,000	\$600,000	\$35,000 plus 11.0% of the excess above \$400,000
\$600,000	\$800,000	\$57,000 plus 12.0% of the excess above \$600,000
\$800,000	\$1 million	\$81,000 plus 13.0% of the excess above \$800,000
\$1 million	\$2 million	\$107,000 plus 14.0% of the excess above \$1 million
\$2 million	\$4 million	\$247,000 plus 15.0% of the excess above \$2 million
\$4 million		\$547,000 plus 16.0% of the excess above \$4 million

(M.G.L. c. 65C, § 2(a).)

The Massachusetts taxable estate is the Massachusetts gross estate less the marital and charitable deductions (M.G.L. c. 65C, §§ 1(h) and 3; see Questions 3 and 8). For estates of decedents dying on or after January 1, 2023, Massachusetts applies a general credit of up to \$99,600 on the state estate tax due. This credit effectively negates tax due on estate assets under \$2 million. (M.G.L. c. 65C, § 2A(f).) For decedents dying before January 1, 2023, a credit for state estate taxes actually paid in other states

can be applied against the Massachusetts estate tax calculated for a Massachusetts resident (M.G.L. c. 65C, § 2A(a)(i)).

With proper trust planning, married couples can reduce the total Massachusetts estate tax due on their combined estate at the death of the second spouse by making a qualified terminable interest property election for Massachusetts purposes on the death of the first spouse. If an election is not made on the death of the first spouse, though no tax is due at that time, the estate above the

filing threshold amount is taxable on the death of the surviving spouse and the couple loses use of the credit of up to \$99,600 available to the estate of the first spouse to die (see Question 4: Massachusetts Qualified Terminable Interest Property and [Practice Note, Massachusetts Estate Tax: Making the Massachusetts QTIP Election](#)).

Filing the State Estate Tax Return

11. Which estates must file a state estate tax return?

A Massachusetts Estate Tax Return ([Form M-706](#)) must be filed if the estate is likely to exceed the applicable filing threshold amount in place for the decedent's year of death. For estates of decedents dying on or after January 1, 2023, the filing threshold amount is \$2 million. The threshold amount for estates of decedents dying between 2006 and December 31, 2022, is \$1 million.

Per the instructions for the Massachusetts Estate Tax Return (Form M-706), to determine if the estate exceeds the applicable threshold amount, add:

- Adjusted taxable gifts made after December 31, 1976.
- The total specific exemption allowed under IRC § 2521, before its repeal, for gifts made after September 8, 1976.
- The decedent's Massachusetts gross estate valued at the decedent's date of death (see Question 4).

(M.G.L. c. 65C, § 2A.)

12. What forms are required to file a state estate tax return?

All estates that must file a state estate tax return file a [Massachusetts Estate Tax Return \(Form M-706\)](#). The Massachusetts estate tax is calculated based on the federal credit for state death taxes in effect on December 31, 2000, less a credit of up to \$99,600 (M.G.L. c. 65C, § 2A and see Question 3). Because of this inter-relation with old federal law, Massachusetts requires a [US Estate Tax Return \(Form 706\) \(Revised July 1999\)](#) to be filed with the Form M-706.

Estates that must file a Massachusetts estate tax return for a nonresident of the Commonwealth must also file a [Massachusetts Nonresident Decedent Affidavit \(Form M-NRA\)](#) (see Question 2).

If the federal government requires a [US Estate Tax Return \(Form 706\)](#) to be filed, Massachusetts requires the estate to file:

- A [Form M-706](#).
- [Form 706 \(Revised July 1999\)](#).
- A copy of the current Form 706 filed with the federal government, if applicable.

If filing a current Form 706 as of the decedent's date of death is elective, the copy of that elective current Form 706 is not included with the Form M-706. Generally, if a federal return is not required, the only reason to file is to elect portability.

For information on paying estimated estate tax and penalties for not paying the tax, see Question 20.

Estate Tax Lien

Massachusetts imposes an automatic estate tax lien on the decedent's Massachusetts gross estate (see Question 4). The beneficiary that received the decedent's personal or real property included in the Massachusetts gross estate both:

- Takes the property subject to the lien.
- Is personally liable until the Massachusetts estate tax is paid in full.

(M.G.L. c. 65C, § 14.)

No additional forms are needed to release the Massachusetts estate tax lien. The information provided on Part 7 of the Form M-706 suffices to release the lien. Once the Massachusetts estate tax is paid and the [Massachusetts Department of Revenue](#) accepts the return as filed, the Department of Revenue issues both:

- A Massachusetts Estate Tax Closing Letter.
- A Certificate Releasing Massachusetts Estate Lien.

If the property is being sold before the Form M-706 is filed, see Question 13.

No Tax Due

If the estate does not exceed the filing threshold and a Form M-706 is not required, the personal representative or person in possession of the property subject to the estate tax lien signs and records an Affidavit of No Tax Due under M.G.L. c. 65C, § 14(a) with the registry of deeds (or land court) in the county where the property is located (see Question 11).

13. Where is the state estate tax return filed?

Massachusetts estate tax returns, estate tax payments, and supplemental materials may be filed electronically through [MassTaxConnect](#). Estate tax returns, estate tax payments, and supplemental materials may also be filed by mail to the [Massachusetts Department of Revenue](#) at:

Massachusetts Estate Tax Unit
PO Box 7023
Boston, MA 02204

Mailing the estate tax return and payments may delay the processing and review process, and the Massachusetts Department of Revenue strongly encourages electronic filing and payment. (See [Mass. Dep't of Revenue: Massachusetts Estate Tax Return \(Form M-706\)](#).)

If real property subject to the estate tax lien is being sold before the filing of Form M-706 or before the closing letter has been issued, an [Application for Certificate Releasing Massachusetts Estate Tax Lien \(Form M-4422\)](#) may be electronically filed with MassTaxConnect. To justify the release of lien before the issuance of the closing letter for the estate:

- The Massachusetts Department of Revenue must be provided with a copy of the executed purchase and sale agreement or mortgage commitment.
- The estimated amount of estate tax due must be paid if not previously submitted.

When time is of the essence, counsel is best advised to call the Estate Tax Unit at the Department of Revenue directly at (617) 887-6930 to discuss with an agent how best to expedite the process.

A Form M-4422 may also be mailed to the below address, but this option is not recommended:

Massachusetts Estate Tax Unit
PO Box 7023
Boston, MA 02204

For more information on the Massachusetts estate tax lien, see Question 12: Estate Tax Lien.

14. Who is responsible for filing the state estate tax return on behalf of the estate?

The personal representative of the decedent's estate is responsible for filing the Massachusetts estate tax return for the estate. If there is no personal representative

appointed, any person in actual or constructive possession of any of decedent's property is responsible for filing the return. (M.G.L. c. 65C, § 6.) If there is more than one personal representative, all the personal representatives are responsible for filing and they all need to sign the Massachusetts estate tax return.

15. What is the due date for filing the state estate tax return?

The Massachusetts estate tax return is due nine months after the decedent's death unless an extension is granted (M.G.L. c. 62C, § 17(a); see [Mass. Dep't of Revenue: Massachusetts Estate Tax Return \(Form M-706\): Due Dates and Extensions](#); see also Question 16). A late-filed return is subject to a late filing penalty (see Question 20).

16. Is an extension available for filing the state estate tax return? Specifically, please discuss:

- How to apply for a filing extension.
- How many filing extensions are available.

An estate can request an extension of time to file the Massachusetts estate tax return for a reasonable period if it is impossible or impracticable for the personal representative to file a substantially complete and timely return. However, the estate must pay the reasonably estimated amount of estate tax due.

Unless the estate was granted an extension of time to pay the estate tax, a failure to pay 80% of the estimated tax due by the due date of the [Massachusetts Estate Tax Return \(Form M-706\)](#) both:

- Voids the extension.
- Subjects the return to late filing penalties.

(M.G.L. c. 65C, § 10; see [Mass. Dep't of Revenue: Admin. Proc. 604.3: Estate Tax Returns](#) and [TIR 16-10: Simplified Extension Process for Individuals, Fiduciaries, Partnerships, and Estates](#); see also Question 19.)

An estate receives one automatic six-month extension to file the estate tax return, subject to the above payment requirement. The six-month automatic extension begins from the due date of the original return. (See [Mass. Dep't of Revenue: TIR 16-10: Simplified Extension Process for Individuals, Fiduciaries, Partnerships, and Estates](#).) The extension is obtained by filing a [Massachusetts Estate Tax Extension of Time Request \(Form M-4768\)](#).

If the estate tax return is filed:

- Online using [MassTaxConnect](#), the attorney or paralegal can file the extension.
- By sending a paper document, the personal representative must sign the Form M-4768.

The [Massachusetts Department of Revenue](#) processes the request, and where approved, the approval is sent to the personal representative, who must include a copy of the approval with the Form M-706 when filed.

Because extensions are for a reasonable period, it is possible to obtain a second extension of time to file after the initial automatic six-month period has passed. The further extension is not automatic, so counsel or the personal representative should timely file a second Form M-4768 where one is needed. Counsel or the personal representative must separately file an extension for the estate's federal return, if desired.

17. Discuss the circumstances in which a state estate tax return may be required where a federal return is not.

If the value of an estate exceeds the Massachusetts threshold amount of \$2 million for decedents dying on or after January 1, 2023 (\$1 million before January 1, 2023) but falls under the decedent's federal applicable exemption amount, a [Massachusetts Estate Tax Return \(Form M-706\)](#) is required but a federal return is not (M.G.L. c. 65C, § 2A(g)).

Paying the Tax

18. When must the state estate tax be paid?

The estate must pay the state estate tax due at the initial time for filing the [Massachusetts Estate Tax Return \(Form M-706\)](#) without extension, which is no later than nine months after the decedent's death (M.G.L. c. 62C, § 17; see [Form M-706: Due Dates and Extensions](#)). For more information on filing Form M-706, see Question 15.

An extension to file an estate tax return is not an extension to pay the tax. If an estate claims the automatic six-month extension to file the estate tax return, the estate must still pay the estate tax due nine months after the date of death, unless a separate extension to pay is approved. For more information on the extension to pay Massachusetts estate tax, see Question 19.

For more information on penalties for late estate tax payment, see Question 20.

19. Is an extension available for paying the state estate tax? Specifically please discuss:

- How to apply for an extension for paying the estate tax.
- How many extensions for paying the estate tax are available.

If an estate seeks an extension to pay the Massachusetts estate tax, both:

- The approval of the [Massachusetts Department of Revenue](#) is required.
- The extension period must be a reasonable amount of time based on the reasonable cause of the inability to pay.

An extension to pay estate tax is in most cases limited to a maximum of six months. However, if the taxing authority finds that payment of the tax results in undue hardship, it may extend the time for payment for a reasonable period not greater than three years from the initial date the payment is due. If the extension to pay is limited to a cash shortfall, the estate must pay what it can at the time the estate tax is due. (M.G.L. c. 65C, § 10.)

Approval of an extension of time to pay the Massachusetts estate tax can be obtained either:

- Online using [MassTaxConnect](#).
- By filing a [Massachusetts Estate Tax Extension of Time Request \(Form M-4768\)](#).

When an extension of time to pay is granted, interest on any unpaid tax accrues from the original due date.

20. Discuss any interest or penalty assessed for late tax payments of state estate tax.

The [Massachusetts Department of Revenue](#) (DOR) assesses the following penalties for the late filing of an estate tax return or the late payment of estate tax:

- A late filing penalty of one percent per month (or a fraction of that) to a maximum of 25% of the tax as finally determined to be due.
- A late payment penalty of one percent per month (or a fraction of that) to a maximum of 25% of the tax reported as due on the return.

- Interest begins accruing from the original due date of an estate tax payment, nine months after the decedent's death, even if an extension to pay has been granted. The Massachusetts interest rates can change each calendar quarter. The DOR determines the quarterly interest rate on underpayments under M.G.L. c. 62C, § 32. The interest rate for underpayments is the federal short-term rate determined under 26 U.S.C. § 6621(b), as in effect for the taxable year, plus four percentage points, compounded daily.

(M.G.L. c. 62C, §§ 32 and 33.)

The DOR likely imposes penalties if the estimated estate tax paid is too low, which is generally less than about 75% of the actual amount due as determined by Massachusetts after review of the estate tax return (M.G.L. c. 62C, § 33).

21. How is the state estate tax due allocated among the estate beneficiaries?

Unless the applicable estate plan documents provide otherwise, Massachusetts estate tax liability is paid in proportion to the value the beneficiary's interest bears to the total estate value, as adjusted for certain tax deductions and exemptions under M.G.L. c. 190B, § 3-916(e) (M.G.L. c. 190B, § 3-916). If the decedent's estate plan directs a method of apportionment of tax different from the described method, the method described in the estate plan controls (M.G.L. c. 190B, § 3-916(b)).

22. Who is liable if the state estate tax is not paid?

The personal representative or alternative fiduciary that signs the Massachusetts estate tax return may be personally liable for payment of any tax reported on the return if both:

- The tax is not otherwise paid.
- The representative or fiduciary acted in bad faith.

If the representative or other fiduciary made a mistake in good faith, the estate is typically liable. (See [Mass. Dep't of Revenue: Massachusetts Estate Tax Return \(Form M-706\): Payment of Tax and Filing the Return.](#))

Other Transfer Taxes Payable at Death

23. Are there any other taxes that apply to the transfer of assets on death in your state? For answer, include a brief description of the tax.

Massachusetts does not currently have an inheritance tax. Massachusetts previously imposed an inheritance tax for estates of persons that died on or before December 31, 1975, and that inheritance tax continues to apply to the estates of persons that died on or before that date. (M.G.L. c. 65C, App. §§ 1 to 36; see *Nippe v. Comm'r of Revenue*, 403 N.E.2d 416, 417 n.3 (Mass. 1980).)

Massachusetts does not have a generation-skipping transfer tax or a gift tax.

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