

SENATE No. 1682

The Commonwealth of Massachusetts

PRESENTED BY:

Donald F. Humason, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act for a uniform estate tax.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/31/2019</i>

SENATE No. 1682

By Mr. Humason, a petition (accompanied by bill, Senate, No. 1682) of Donald F. Humason, Jr. and José F. Tosado for legislation to establish a uniform estate tax. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act for a uniform estate tax.

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: Chapter 65C of the General Laws is hereby amended by striking out, in
2 Section 1, subsection (a), as appearing in the 2016 Official Edition, and inserting in place thereof
3 the following section:-

4 (a) "Code", the Internal Revenue Code of the United States, in effect for the taxable year

5 SECTION 2: Chapter 65C of the General Laws is hereby amended by striking out, in
6 Section 1, subsection (d), as appearing in the 2016 Official Edition, and inserting in place thereof
7 the following section:-

8 (d) "Federal Gross Estate", the gross estate as defined under the code.

9 SECTION 3: Chapter 65C of the General Laws is hereby amended by striking out, in
10 Section 1, subsection (f), as appearing in the 2016 Official Edition, and inserting in place thereof
11 the following section:-

12 (f) “Massachusetts gross estate”, the federal gross estate, whether or not a federal estate
13 tax return is required to be filed, plus the value of any property: (i) in which the decedent had at
14 death a qualifying income interest for life described in subsection (c) of section 3A, or to the
15 extent of any such interest therein of which the decedent has at any time made a transfer, by trust
16 or otherwise, under any circumstances which would require the property to be included in the
17 gross estate under the provisions of this chapter; and (ii) for which a deduction was allowed for
18 Massachusetts estate tax purposes with respect to the transfer of such property to the decedent;
19 and less the value of real and tangible personal property having an actual situs outside the
20 commonwealth, but not the value of the principal residence of the decedent unless elected
21 pursuant to the provisions of subsection (b) of section 2. The Massachusetts gross estate shall not
22 include the value of any property in which the decedent had a qualifying income interest for life
23 which is not otherwise includible in the Massachusetts gross estate under the first sentence of
24 this subsection, notwithstanding the right of the executor of the decedent's estate to recover
25 federal or Massachusetts estate taxes from such property.

26 SECTION 4: Chapter 65C of the General Laws is hereby amended by striking out, in
27 Section 1, subsection (h), as appearing in the 2016 Official Edition, and inserting in place thereof
28 the following section:-

29 (h) “Massachusetts taxable estate”, the Massachusetts gross estate less the exemption or
30 the exclusions provided for within this section and deductions allowable under chapter 65C.

31 SECTION 5: Chapter 65C of the General Laws is hereby amended, in Section 1, by
32 inserting after subsection (i), as appearing in the 2012 Official Edition, the following new:-

33 (j) “Applicable exclusion amount”, the sum of (i) the basic exclusion amount, and (ii) in
34 the case of a surviving spouse, the deceased spousal unused exclusion amount.

35 (k) “Basic exclusion amount”, 50 per cent of the basic exclusion amount as defined in
36 section 2010 of the Code.

37 SECTION 7. Section 3 of Chapter 65C of the General Laws, as appearing in the 2016
38 Official Edition is hereby amended by striking out the first paragraph and inserting in place
39 thereof the following:- (a) for decedents dying after: (i) December thirty-first two thousand and
40 nineteen an exemption equal to the Massachusetts net estate shall be allowed if the
41 Massachusetts net estate is two million dollars or less; (ii) December thirty-first two thousand
42 and twenty, an exemption equal to the Massachusetts net estate shall be allowed if the
43 Massachusetts net estate is two million dollars multiplied by the percentage (if any) by which the
44 Consumer Price Index, as defined by the Code, for the preceding calendar year, exceeds the
45 Consumer Price Index for the calendar year 2005; provided that the exemption shall not exceed
46 an amount equal to the smallest federal taxable estate that absorbs the allowable federal credit
47 under section two thousand and ten of the Internal Revenue Code as amended and in effect as of
48 the date of death of the decedent. Except for purposes of the final clause of subsection (a) of
49 section two of chapter sixty-five C, if the Massachusetts net estate exceeds the amount of the
50 exemption, no exemption shall apply.

51 SECTION 8: Chapter 65C of the General Laws is hereby amended by adding, in Section
52 3, the following new section after (d), as appearing in the 2016 Official Edition:- (e) “Deceased
53 spousal unused exclusion amount”, with respect to a surviving spouse of a deceased spouse
54 dying on or after January 1, 2017 and subject to paragraph 5 of section 2010 of the Code, the

55 lesser of (i) the basic exclusion amount or (ii) the excess of the applicable exclusion amount of
56 the last such deceased spouse of such surviving spouse, over the amount with respect to which
57 the Massachusetts estate tax is determined under subsection (b) of the estate of such deceased
58 spouse.

59 SECTION 9: Chapter 65C of the General Laws is hereby amended by striking out in
60 Section 3A(f), as appearing in the 2016 Official Edition, the line “Such election, once made,
61 shall be irrevocable and shall be separate from and independent of any election made by the
62 executor for federal estate tax purposes” and inserting in place thereof the following:- “If no
63 Massachusetts estate tax return is timely filed, such election may be made on the first return filed
64 by the executor after the due date. Such election, once made, shall be irrevocable. The executor
65 is not required to have made the same qualified terminable interest property election for federal
66 estate tax purposes in order to make the election for Massachusetts purposes.”