



**Statement of the Massachusetts Bankers Association in Support of H 2881,
An Act Relative to the Massachusetts Estate Tax Code
Joint Committee on Revenue,
January 12, 2022**

The Massachusetts Bankers Association represents approximately 120 commercial, cooperative and savings banks and federal savings associations across the Commonwealth and New England. Nearly 40 of our member banks have trust and wealth management departments which collectively manage more than \$38 trillion in total assets under custody. Many other financial institutions, registered investment advisors, and private trustees also manage billions of assets for Massachusetts clients. MBA appreciates the opportunity to offer our support for H 2881 and similar bills being heard today, which reform and update the outdated Massachusetts estate tax law.

We applaud Representative Shawn Dooley and the 19 co-sponsors of this important measure for continuing to seek reforms in the Massachusetts tax law governing estates that have not been amended since 1992. Since the state's law was last updated, Congress has amended the federal estate tax several times, most recently as part of the Tax Cuts and Jobs Act of 2017, when it established a minimum floor of \$10 million and indexed it to inflation. For 2022, the current minimum estate subject to the federal estate tax is \$12,060,000. In Massachusetts, however, all estates with a value of \$1 million or more are subject to a state estate tax; now the lowest level of any state that still retains an estate tax.

Why is estate tax reform so important in the Commonwealth? As we noted above, the last major reform of the law occurred in 1992 after a comprehensive study documented that Massachusetts was losing millions of dollars as residents changed their domicile to Florida, New Hampshire, and other states that had no income or estate taxes. That 1992 reform, phased in over five years, raised the threshold in annual increments to match the federal limit and adopted the so-called "sponge tax" where federal law provided an estate tax credit that reduced the federal tax owed by the amount paid in state taxes. Unfortunately, Congress repealed this credit in 2005, effectively raising the estate taxes owed by residents domiciled in states that still retained an estate tax. Under federal and state laws, bequests to spouses remain tax-free.

Today, only 12 states have an estate tax and nearly all of those states have an estate tax that subjects fewer of its residents to the tax than Massachusetts does. At least nine states have considered or implemented changes to their tax, primarily by increasing the amount exempt from the tax, indexing the exemption amount for inflation, to track federal law, and eliminating the so-called "cliff" provision that tax the first dollar of an estate if the amount exceeds the exempt threshold. It should be noted that seven states repealed their estate tax laws since 2010: Kansas, Ohio, and Oklahoma in 2010; North Carolina and Indiana in 2013; Tennessee in 2016; and New Jersey and Delaware in 2018.

Currently Massachusetts and Oregon share the distinction of having the lowest threshold of any state at \$1 million. As noted, New Hampshire has no estate tax, Maine revised its estate tax law to parallel the federal exemption in 2015, the Connecticut threshold is \$9.6 million, Rhode Island is at \$1.648 million indexed for inflation and the Vermont threshold is at \$5 million. Notably, New York, long-known as a high-tax state, enacted major reforms to its estate tax laws in 2014 raising the previous exemption from \$1 million to \$6.1 million.

Massachusetts has lagged almost every other state in reforming its estate tax laws and increasingly is becoming very inhospitable to those with estates greater than \$1 million, an amount that is often easily attained by adding the value of a rising property prices and retirement savings or sale of a business. In

addition, when higher income Massachusetts residents change their domicile, Massachusetts also loses personal income tax revenue – a true lose-lose situation for the Commonwealth.

H 2881, as well as several other bills before you today that take slightly different approaches, begins to address many of the deficiencies in the current Massachusetts estate tax and makes Massachusetts more competitive with the tax laws in other northeastern states and even those states in warmer climates that attract so many retirees. Anecdotal evidence strongly suggests that there are many current and former Massachusetts residents who have changed their domicile to states with a more favorable tax climate but have done so reluctantly. Were H 2881 become law, many residents are likely to rethink the need to change their domicile to avoid the current estate tax.

Finally, as lenders to individuals and business owners, investment managers and providers of trust services to our clients, our banks witness first-hand how current state tax laws inhibit economic growth and vitality of our communities. For these reasons we support H 2881 and other initiatives to reform the estate tax that are before the Committee. We strongly urge you to give these measures a favorable report.