

NEW DRAFT

H4361, An Act to improve Massachusetts' competitiveness and reduce the cost of living.

SECTION 1. Subparagraph (9) of paragraph (a) of part B of section 3 of chapter 62 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, in line 109, the figure "3,000" and inserting in place thereof the following figure:- 5,000.

SECTION 2. Paragraph (1) of subsection (a) of section 5 of said chapter 62, as so appearing, is hereby amended by striking out, in line 6, the words "eight thousand dollars" and inserting in place thereof the following figure:- \$12,550.

SECTION 3. Said subsection (a) of said section 5 of said chapter 62, as so appearing, is hereby amended by striking out paragraph (2) and inserting in place thereof the following 2 paragraphs:-
(2) in the case of a husband and wife filing a joint return, \$25,100, or
(3) in the case of a person filing as head of household, \$18,800.

SECTION 4. Paragraph (2) of subsection (k) of section 6 of said chapter 62, as so appearing, is hereby amended by striking out, in line 447, the figure "750" and inserting in place thereof the following figure:- 1,755.

SECTION 5. Subsection (x) of said section 6 of said chapter 62, as most recently amended by section 31 of chapter 102 of the acts of 2021, is hereby further amended by striking out the figure "240" and inserting in place thereof the following figure:- 480.

SECTION 6. Said subsection (x) of said section 6 of said chapter 62, as so amended, is hereby further amended by striking out the figure "480" and inserting in place thereof the following figure:- 960.

SECTION 7. Subsection (y) of said section 6 of said chapter 62, as most recently amended by section 33 of said chapter 102, is hereby further amended by striking out the figure "180" and inserting in place thereof the following figure:- 360.

SECTION 8. Said subsection (y) of said section 6 of said chapter 62, as so amended, is hereby further amended by striking out the figure "360" and inserting in place thereof the following figure:- 720.

SECTION 9. Subsection (a) of section 6 of chapter 62C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, each time it appears, in line 4, lines 6 to 7 and line 17, the words "eight thousand dollars" and inserting in place thereof, in each instance, the following words:- the thresholds specified in subsection (a) of section five of chapter sixty-two.

SECTION 10. Section 2A of chapter 65C of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place the following subsection:-

(a) A tax is hereby imposed upon the transfer of the estate of each person dying on or after January 1, 1997 who, at the time of death, was a resident of the commonwealth. The amount of the tax shall be equal to the credit for state death taxes that would have been allowable to a decedent's estate as computed under Code section 2011, as in effect on December 31, 2000, hereinafter referred to as the "credit". In the event that the federal gross estate of a person includes real or tangible personal property located outside of Massachusetts at the time of death, the tax shall be reduced by an amount equal to the proportion of such allowable credit as the value of said real or tangible personal property located outside of Massachusetts bears to the value of the entire federal gross estate wherever situated, as determined under Code section 2011, as in effect on December 31, 2000.

SECTION 11. Said section 2A of said chapter 65C, as so appearing, is hereby further amended by adding the following subsection:-

(f) Effective for the estates of decedents dying on or after July 1, 2022, for purposes of computing the tax imposed by subsections (a) and (b), the credit shall be determined based on the value of the federal taxable estate after such estate is reduced by \$2,000,000. Estates of decedents dying on or after July 1, 2022 are not required to pay any tax under subsections (a) and (b) if the value of the federal taxable estate is \$2,000,000 or less. For purposes of this subsection, the federal taxable estate is the federal gross estate less any Qualified Conservation Exclusion elected under Code section 2031(c), as in effect on December 31, 2000, and further reduced by the deductions allowable by the Code, as in effect on December 31, 2000.

SECTION 12. Sections 10 and 11 shall take effect for the estates of decedents dying on or after July 1, 2022.

SECTION 13. Except as otherwise specified, this act shall take effect for taxable years beginning on or after January 1, 2022.

SECTION BY SECTION:
H4361, AN ACT TO IMPROVE MASSACHUSETTS' COMPETITIVENESS AND REDUCE
THE COST OF LIVING

SECTION 1: Renter's tax deduction

SECTION 2: No Tax Status – single filer

SECTION 3: No Tax Status – household and joint filers

SECTION 4: Senior Circuit Breaker

SECTION 5: Dependent Care Expenses Tax Credit (single qualifying individual)

SECTION 6: Dependent Care Expenses Tax Credit (2 or more qualifying individuals)

SECTION 7: Dependent Care Tax Credit (claim one dependent)

SECTION 8: Dependent Care Tax Credit (claim 2 or more dependents)

SECTION 9: No Tax Status filing a return threshold

SECTION 10: Updating Estate Tax credit

SECTION 11: Increase in Estate Tax credit and eliminating Cliff Effect

SECTION 12: Effective date for section 10 & 11 – estate tax update

SECTION 13: Effective date of this act

COMMITTEE ON REVENUE ~ BILL SUMMARY

Bill Number: H.4361

Name: AN ACT TO IMPROVE MASSACHUSETTS' COMPETITIVENESS AND REDUCE THE COST OF LIVING

Sponsor(s): Gov. Charles D. Baker

Hearing Date: February 22, 2022

Prior History: N/A

CURRENT LAW:

M.G.L. c. 62 § 3(B)(a)(9) – Principal Residence Rental Deduction: Taxpayers may claim a deduction from adjusted gross income equal to 50% of the rent they pay for their principal place of residence as long as that deduction does not exceed \$3,000 for a single person.

M.G.L. c. 62 § 6(k) – Senior circuit breaker: Certain taxpayers age 65 or older may claim a refundable credit on their state income taxes for local real estate taxes paid on residential property owned and used as their principal residence or for rent paid for Massachusetts property that is used as their principal residence. A credit is a dollar for dollar reduction in taxes owed, and a refundable credit pays the tax filer cash for the amount by which the credit exceeds the taxes owed.

To claim the credit for tax year 2018, the tax filer's total income could not exceed \$58,000 for a single filer who is not the head of a household, \$73,000 for a head of household, or \$88,000 for married taxpayers filing jointly and the assessed value of the tax filer's principal residence could not have exceeded \$778,000. The maximum credit a taxpayer could claim was \$1,100.

Calculation of Benefit (Credit Amount):

- Taxes paid = (total property taxes) + (50% of water and sewer charges, if not included in tax bill).⁴⁴
- Credit = (taxes paid) – (10% total income for the taxable year)
- For taxable year 2016, the credit amount could not exceed \$1,100

No credit is allowed if one of the following applies⁴⁵:

- Taxpayer is married, filing separate.
- Taxpayer receives a federal or state rent subsidy.
- Taxpayer rents from a landlord who is not required to pay real estate taxes.
- Taxpayer is the dependent of another taxpayer.

M.G. L. c. 65C, § 2A – MA Estate Tax: The Massachusetts estate tax is a transfer tax on a decedent's estate prior to distribution to the beneficiaries. Massachusetts has jurisdiction to tax estates of decedents who are Massachusetts residents at the date of death and estates of nonresident decedents who own real and tangible personal property located in Massachusetts at the date of death. An estate is valued at the date of the decedent's death.

Massachusetts Estate Tax Table

If the MA taxable estate is:		The MA estate tax will be:
Over	But not over	
0	\$50k	5% of the taxable estate
\$50k	\$100k	\$2.5k plus 7% of the excess over \$50k

\$100k	\$200k	\$6k plus 9% of the excess over \$100k
\$200k	\$400k	\$15k plus 10% of the excess over \$200k
\$400k	\$600k	\$35k plus 11% of the excess over \$400k
\$600k	\$800k	\$57k plus 12% of the excess over \$600k
\$800k	\$1M	\$81k plus 13% of the excess over \$800k
\$1M	\$2M	\$107k plus 14% of the excess over \$1M
\$2M	\$4M	\$247k plus 15% of the excess over \$2M
\$4M		\$547k plus 16% of the excess over \$4M

Typically, the Massachusetts estate tax rules are “coupled” with the federal rules. Any changes in federal law are incorporated in state law by reference. However, in 2002, Congress made significant changes to the estate tax system, which included, among other things, a change in basis valuation of inheritance and a complete repeal of the estate tax by 2010. In response, Massachusetts “decoupled” from the Internal Revenue Code (code) and “re-coupled” to an older version of the code to avoid future repeal of the estate tax. The decoupling and re-coupling affected the tax basis rules for property acquired from decedents.

In 2010, Congress retroactively reinstated the federal estate tax to the estates of decedents who died in 2010 and thereafter.

I.R.C. §§ 2001-2058 – Federal estate tax: The federal estate tax is determined by applying a progressive rate schedule (with an upper limit of 40% for adjusted taxable estates over \$1 million) to the taxable estate minus qualifying operating business interests plus lifetime taxable gifts. The tax is then reduced by the available unified credit.

I.R.C. § 2010— Unified Credit Against Estate Tax: A credit of the applicable credit amount shall be allowed to the estate of every decedent against the tax imposed by section 2001.

M.G.L. c. 62, § 6F - Basis in property received from decedents: Depending on the year of the decedent’s death, property acquired from an estate will be treated differently. There are two types of valuation bases.

“Carryover” basis: beneficiaries inherit the decedent’s original income tax basis in the property and not the current market value as a tax basis. For example, if a decedent paid \$3,000,000 for a parcel of real property and at the decedent’s death in 2010, the fair market value of the property was \$5,000,000, the beneficiary will inherit the property with a carryover income tax basis of \$3,000,000.

The result of the carryover basis is that when the beneficiary sells the property, the beneficiary will owe capital gains tax on the net gain on the sale, which is the difference between the sales price and the beneficiary’s carryover basis. This is in addition to the state’s estate tax levied on the estate of the decedent at the time of transfer of that property.

“Stepped-up” basis: A “step up” in basis means that regardless of what the decedent paid for the asset, the beneficiary inherits the asset at fair market value on the date of the decedent’s death. For example, if a decedent paid \$3,000,000 for a parcel of real property and at the decedent’s date of death the fair market value of the property was \$5,000,000, the property would have a stepped up tax basis of \$5,000,000. Note: In the case of stocks and bonds, the basis simply equals the original purchase price. However, the basis of real estate equals the original purchase price plus the value of all capital improvements to the property by the owner.

PROPOSED CHANGE(S):

This bill updates six (6) sections of the MA Tax law as follows:

- Increases the amount a taxpayer can claim from their rental deduction on their returns from \$3,000 to \$5,000.¹
- Increases the adjusted gross income thresholds for “no tax status” from \$8,000 to \$12,550 for single-filers, \$25,100 for joint filers, and \$18,800 for head of households.
- Updates the senior circuit breaker by increasing the maximum credit from \$750 to \$1,755.²
- Increases the household dependent care tax credit. For families with dependents, it will double the dependent care credit to \$480 for one qualifying individual and will double that figure to \$960 for two or more. For those claiming the household dependent care credit, rates will double to \$360 for one qualifying individual, and to \$720 for two or more.
- Updates the estate tax and would increase the estate/inheritance tax threshold from \$1,000,000 to \$2,000,000 for the estates of decedents dying on or after July 1, 2022 and eliminates the “cliff effect” that applied the tax to the entire estate, not just the amount above the exemption.³

Estate law updates take effect for decedents dying on or before July 1, 2022

All new tax updates take effect for a tax year on or after January 1, 2022.

¹ Related revenue bills:

H.4306 – An Act Updating and Expanding the Renter’s Income Tax Deduction – Rep. Rob Consalvo (extension)

² Related Revenue Bills:

H.2843 – An Act Relative to the Senior Circuit Breaker Tax Breaker – Rep. Tackey Chan (extension)

H.3057 – An Act Relative to the Senior Circuit Breaker Tax Credit – Rep. Adam J. Scanlon (extension)

S.1824 – An Act Relative to Adjusting the Senior Circuit Breaker – Sen. Cynthia Creem (extension)

S.1889 – An Act Relative to the Senior Circuit Breaker Tax Credit – Sen. John F. Keenan (extension)

³ Related Revenue Bills:

H.2881 – An Act Relative to the Massachusetts Estate Tax Code – Rep. Shawn Dooley (extension)

H.2990 – An Act to Encourage Massachusetts Residency – Rep. Jay Livingstone (extension)

H.3038 – An Act Relative to the Estate Tax – Rep. Smitty Pignatelli (extension)

H.3062 – An Act Relative to the Massachusetts Estate Tax – Rep. Todd M. Snola (extension)

H.3085 – An Act Relative to tax rates on generational wealth – Rep. Erika Uyterhoeven (extension)

H.3801 – An Act Relative to the Estate Tax – Rep. David F. DeCoste (extension)

H.2893 – An Act to Mitigate Snowbird Relocation – Rep. Dylan Fernandes (extension)

S.1835 – An Act to Mitigate Snowbird Relocation – Sen. Julian Cyr (extension)

S.1801 – An Act to Assess Exemptions – Sen. Joseph A. Boncore (extension)

S.1823 – An Act Relative to Property Tax Deferral for Estates (extension)

S.1847 – An Act Relative to Massachusetts Estate Tax Exemption Parity – Sen. Diana DiZoglio (extension)

S.1884 – An Act Relative to the Estate Tax – Sen. Patricia D. Jehlen (extension)

S.1911 – An Act Relative to the Massachusetts Estate Tax Code – Sen. Jason M. Lewis (extension)

S.1942 – An Act Abolishing the Death Tax – Sen. Patrick O’Connor (extension)