Massachusetts Taxpayers Foundation

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My name is Eileen McAnneny and I am the President of the Massachusetts Taxpayers Foundation. The Foundation is a non-partisan, nationally recognized, non-profit public policy research organization focusing on the state's fiscal and economic health. We have a long track record of providing independent, high quality analysis of important issues facing the state and we have a longstanding reputation for credibility and objectivity.

I am writing today in support of **House Bill 2446: An Act Relative to the Massachusetts Estate Tax Code**. While the Foundation believes that the Massachusetts estate tax should mirror the federal estate tax, this bill would more closely align the Massachusetts estate tax with federal law, and is a reasonable initial step to ensure that the Commonwealth is not an outlier among its peer states.

As you know, Massachusetts decoupled its estate tax from the federal law effective January 1, 2003 and this has resulted in the current estate tax law in the Commonwealth differing from the federal code in several material ways. These differences have become more pronounced given the most recent changes to the federal estate tax provisions included in the Tax Cut and Jobs Act. For example, the current state exemption is set at $1 million compared to the federal exemption of $11.4 million for individuals and $22.8 million for married couples filing jointly for tax year 2019, an amount that increases annually based on a cost of living index. In addition, the federal estate tax law allows for portability of a spousal exemption, meaning that if the first spouse to die does not use some or all of the personal exemption, the second spouse is entitled to utilize the unused portion.

Massachusetts is one of 12 states to impose an estate or inheritance tax, down from 21 states just a few years ago, and its $1 million exemption threshold is the least generous among those states with an estate tax. This combination makes the Massachusetts estate among the most burdensome in the nation and is frequently cited as the reason many taxpayers choose to retire to more tax advantageous locations.

The estate tax is one of several recent tax proposals that when considered together make Massachusetts tax code burdensome for asset-rich taxpayers. The recent federal law change pertaining to the limitation of the deductibility of state and local taxes, as well as the proposed Massachusetts constitutional change that would impose a four percent surtax on income over a million dollars, will likely impact the same group of taxpayers and the cumulative effect is likely to drive residents to other, more friendly jurisdictions.

In fact, an informal survey by the Foundation of estate tax lawyers, indicated that the vast majority of their Massachusetts clients were already aware of the heavy estate tax burden and the lawyers felt it was their duty to inform clients, if clients were unaware. Affected taxpayers, particularly those who are older with substantial wealth, were the most likely to move. When people subject to the estate tax move away from Massachusetts, we lose the tax revenue from property, income, sales and other taxes that they would have otherwise paid, along with their charitable giving and their civic engagement.

The estate tax is really a trap for the unwary, as more sophisticated taxpayers are able to utilize planning techniques to avoid the tax altogether. Thus, the burden of the estate tax often falls on spouses or children of small business owners, real property owners and others who have grown the value of an asset over a lifetime, only to see the gains they hoped to pass on to beneficiaries wiped out by the taxes owed.

For the aforementioned reasons, I respectfully request that the Committee considers H.2446 a reasonable measure to address some of the concerns with the estate tax and report it favorably from Committee at your earliest convenience.