Massachusetts Taxpayers Foundation

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The Massachusetts Supreme Judicial Court ruled, in a case brought by the Massachusetts Taxpayers Foundation and four other plaintiffs, that the pending ballot initiative to impose a surtax on income over a million dollars and dedicate the money to transportation and education was unconstitutional.

The court held that the initiative could not appear on the ballot in this November's statewide election because it included two unrelated matters in the same referendum. In its decision, the court noted "Because the provisions here can exist independently, they are not mutually dependent."

The plaintiffs – represented by attorney Kevin Martin of Goodwin Procter – asserted that the proposal is unconstitutional and outlined in detail the three critical ways in which it violates the requirements and restrictions of Article 48 of the Massachusetts Constitution, which specifies the limits of the initiative petition process:

- First, the initiative petition improperly combines three unrelated subjects by establishing a graduated income tax, and mandating that the money raised be spent only on education and transportation.
- Second, it improperly allocates funding by requiring that all revenue raised by the new tax be spent "only" on education and transportation.
- Finally, it improperly attempts to set taxes in the Constitution, outside of the Legislature's control.

Eileen McAnneny, President of the Massachusetts Taxpayers Foundation stated, "Today is a great day for *all* Massachusetts taxpayers because the court has upheld the time-honored constitutional principle that limits the initiative process. By rejecting the notion that a small special interest group can usurp legislative power by including unrelated tax and spending provisions in the same ballot initiative, the court has preserved the state's ability to make deliberative and fiscally sound choices."

"By invalidating this ballot initiative, the court has signaled that the end does not justify the means, no matter how popular the proposal" noted McAnneny. "The legal, fiscal and economic implications of this petition are so profound that the Foundation was compelled to join my colleagues in bringing this suit. We applaud the Court's decision. It safeguards constitutional tenets while protecting the rights of all taxpayers."

In addition to the Massachusetts Taxpayers Foundation, the four other plaintiffs and organizations they represent are as follows:

- Christopher Anderson, President of the Massachusetts High Technology Council
- Christopher Carlozzi, Massachusetts Director of the National Federation of Independent Businesses
- Richard Lord, President and Chief Executive Officer of Associated Industries of Massachusetts and
- Daniel O'Connell, President and Chief Executive Officer of the Massachusetts Competitive Partnership.

The named defendants in the lawsuit are Attorney General Maura Healey and Secretary of the Commonwealth William Francis Galvin.

The lawsuit was filed on December 11, 2017 and oral arguments were held on February 5, 2018.