

**TAXATION OF LEGACIES
AND SUCCESSIONS IN
MASSACHUSETTS;
NOVEMBER, 1911**

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Taxation of Legacies and Successions in Massachusetts; November, 1911 by Massachusetts Tax Commissioner's

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MASSACHUSETTS TAX COMMISSIONER'S

**TAXATION OF LEGACIES
AND SUCCESSIONS IN
MASSACHUSETTS;
NOVEMBER, 1911**

Massachusetts Tax Commissioner's dept,
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TAXATION OF LEGACIES^{ct}
AND SUCCESSIONS

IN

MASSACHUSETTS

ISSUED BY THE TAX COMMISSIONER
NOVEMBER, 1911

BOSTON
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1911

RATE OF SUCCESSION TAX UNDER ACTS OF 1907, CHAPTER 563, AS AMENDED
 BY ACTS OF 1909, CHAPTER 490, PART IV., AND ACTS OF 1909, CHAP-
 TERS 268 AND 527.

BENEFICIARY.	VALUE OF SHARE.					
	\$1,000 or Under.	Over \$1,000 but not over \$10,000.	Over \$10,000 but not over \$25,000.	Over \$25,000 but not over \$50,000.	Over \$50,000 but not over \$100,000.	Over \$100,000.
1. Charitable, educational or religious societies or institutions exempt from local taxation; trusts for charitable purposes to be carried out within Massachusetts; city or town in Massachusetts for public purposes.	No tax	No tax	No tax	No tax	No tax	No tax
2. Class A. Husband, wife, father, mother, child, adopted child, adoptive parent.	No tax	No tax	1 per cent.	1 per cent.	1½ per cent.	2 per cent.
3. Class A. Lineal ancestor, except father or mother; lineal descendant, except child; lineal descendant of adopted child; lineal ancestor of adoptive parent; wife or widow of a son; husband of a daughter.	No tax	1 per cent.	1 per cent.	1 per cent.	1½ per cent.	2 per cent.
4. Class B. Brother, sister, half brother, half sister, nephew, niece.	No tax	3 per cent.	3 per cent.	4 per cent.	4 per cent.	5 per cent.
5. All others, including step-children.	No tax	5 per cent.	5 per cent.	5 per cent.	5 per cent.	5 per cent.

In no event is the tax to reduce the share below the exempted amount.

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LAWS RELATING TO THE TAXATION OF LEGACIES AND SUCCESSIONS.

[ACTS OF 1909, CHAPTER 490, PART IV.]

TAXATION OF LEGACIES AND SUCCESSIONS.¹

SECTION 1. All property within the jurisdiction of the commonwealth, corporeal or incorporeal, and any interest therein, whether belonging to inhabitants of the commonwealth or not, which shall pass by will, or by the laws regulating intestate succession, or by deed, grant, or gift, except in cases of a bona fide purchase for full consideration in money or money's worth, made or intended to take effect in possession or enjoyment after the death of the grantor, to any person, absolutely or in trust, except to or for the use of charitable, educational or religious societies or institutions, the property of which is by law exempt from taxation, or for or upon trust for any charitable purposes, or to or for the use of a city or town for public purposes, or to or for the use of (class A) the husband, wife, lineal ancestor, lineal descendant, adopted child, the lineal descendant of any adopted child, the wife or widow of a son, or the husband of a daughter, of a decedent, or to or for the use of (class B) the brother, sister, nephew or niece of a decedent, shall be subject to a tax of five per cent of its value for the use of the commonwealth; and such property which shall so pass to or for the use of a member of class A shall be subject to a tax of one per cent of its value for the use of the commonwealth if such value does not exceed fifty thousand dollars, to a tax of one and one half per cent if its value exceeds fifty thousand and does not exceed one hundred thousand dollars, and to a tax of two per cent if its value exceeds one hundred thousand dollars; and such property which shall so pass to or for the use of a member of class B shall be subject to a tax of three per cent of its value for the use of the commonwealth if such value does not exceed twenty-five thousand dollars, to a tax of four per cent if its value exceeds twenty-five thousand and does not exceed one hundred thousand dollars, and to a tax of five per cent if its value exceeds one hundred thousand dollars; and adminis-

Taxation of legacies and successions; rate of tax and exemptions.
1891, 425, § 1.
1895, 307.
1896, 108.
1901, 297.
H. L. 15, § 1.
1900, 470.
1906, 436.
1907, 563, § 1.
1909, 268.
527, § 1.
162 Mass. 113.
164 Mass. 79.
171 Mass. 410.
298.
173 Mass. 205.
375.
174 Mass. 144.
268.
175 Mass. 59.
176 Mass. 190.
178 Mass. 95.
179 Mass. 546.
180 Mass. 545.
183 Mass. 310.
186 Mass. 533.
197 Mass. 248.
205 Mass. 219.
205 Mass. 279.
207 Mass. 388.
208 Mass. 343.
209 Mass. 186.
209 Mass. 319.
209 Mass. 373.
209 Mass. 459.
173 U. S. 41,
115.
[1 Op. A. G. 75,
76, 288.]

¹ See Acts of 1909, chapters 266, 268 and 527, on pages 17, 18 and 19 following, Acts of 1910, chapter 481, on page 25 following, and Acts of 1911, chapters 191, 359, 502 and 551, on pages 26, 27 and 28 following.

trators, executors and trustees, and any grantees under such conveyance made during the grantor's life, shall be liable for such taxes, with interest, until the same have been paid; but no bequest, devise or distributive share of an estate which shall so pass to or for the use of a husband, wife, father, mother, child or adopted child of the deceased, unless its value exceeds ten thousand dollars, and no other bequest, devise or distributive share of an estate unless its value exceeds one thousand dollars, shall be subject to the provisions of this part; but no tax shall be exacted upon property so passing which shall reduce its value below the amount of the above exemptions.

Concerning certain personal estate passing in succession. 1907, 563, § 2. 196 Mass. 533.

SECTION 2. When the personal estate so passing from any person not an inhabitant of this commonwealth shall consist in whole or in part of shares in any railroad or street railway company or telegraph or telephone company incorporated under the laws of this commonwealth and also of some other state or country, so much only of each share as is proportional to the part of such company's line lying within this commonwealth shall be considered as property of such person within the jurisdiction of the commonwealth for the purposes of this part.

Property of a resident not subject to taxation in certain cases, etc. 1907, 563, § 3. 1911, 502.

SECTION 3. Property of a resident of the commonwealth which is not therein at the time of his death shall not be taxable under the provisions of this part if legally subject in another state or country to a tax of like character and amount to that hereby imposed, and if such tax be actually paid or guaranteed or secured in accordance with law in such other state or country; if legally subject in another state or country to a tax of like character but of less amount than that hereby imposed and such tax be actually paid or guaranteed or secured as aforesaid, such property shall be taxable under this part to the extent of the difference between the tax thus actually paid, guaranteed or secured, and the amount for which such property would otherwise be liable hereunder. Property of a non-resident decedent which is within the jurisdiction of the commonwealth at the time of his death, if subject to a tax of like character with that imposed by this part by the law of the state or country of his residence, shall be subject only to such portion of the tax hereby imposed as may be in excess of such tax imposed by the laws of such state or country: *provided*, that a like exemption is made by the laws of such other state or country in favor of estates of citizens of this commonwealth, but no such exemption shall be allowed until such tax provided for by the law of such other state or country shall be actually paid, guaranteed, or secured in accordance with law.

Proviso.

Taxes payable to the treasurer and receiver general, etc. 1891, 436.

SECTION 4. Except as hereinafter provided, taxes imposed by the provisions of this part shall be payable to the treasurer and receiver general by the executors, administrators or trustees

at the expiration of two years after the date of their giving bond; but if legacies or distributive shares are paid within the two years, the taxes thereon shall be payable at the same time. If the probate court, acting under the provisions of section thirteen of chapter one hundred and forty-one of the Revised Laws, has ordered the executor or administrator to retain funds to satisfy a claim of a creditor, the payment of the tax may be suspended by the court to await the disposition of such claim. In all cases where there shall be a grant, devise, descent, or bequest to take effect in possession or come into actual enjoyment after the expiration of one or more life estates or a term of years, the taxes thereon shall be payable by the executors, administrators or trustees in office when such right of possession accrues, or, if there is no such executor, administrator or trustee, by the person or persons so entitled thereto, at the expiration of one year after the date when the right of possession accrues to the person or persons so entitled. If the taxes are not paid when due, interest shall be charged and collected from the time the same became payable. Property of which a decedent died seized or possessed, subject to taxes as aforesaid, in whatever form of investment it may happen to be, and all property acquired in substitution therefor, shall be charged with a lien for all taxes and interest thereon which are or may become due on such property; but said lien shall not affect any personal property after the same has been sold or disposed of for value by the executors, administrators or trustees. The lien charged by this part upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due upon said real estate or separate parcel, or by an order or decree of the probate court discharging said lien and securing the payment to the commonwealth of the tax due or to become due by bond or deposit as hereinafter provided, or by transferring such lien to other real estate owned by the owner or owners of said real estate or separate parcel thereof.

SECTION 5. In every case where there shall be a bequest or grant of personal estate made or intended to take effect in possession or enjoyment after the death of the grantor, to take effect in possession or come into actual enjoyment after the expiration of one or more life estates or a term of years, whether conditioned upon the happening of a contingency or dependent upon the exercise of a discretion, or subject to a power of appointment or otherwise, the executor or administrator or grantee may deposit with the treasurer and receiver general a sum of money sufficient in the opinion of the tax commissioner to pay all taxes which may become due upon such bequest or grant, and the person or persons having the right to the use or income of such personal estate shall be entitled to receive from the commonwealth interest at the rate of two and one half per cent

§§ 2, 4.
1895, 430, § 1.
R. L. 15,
§§ 2, 4.
1902, 473.
1903, 276.
1907, 563, § 4.
1909, 527, § 2.
149 Mass. 92.
182 Mass. 112.
185 Mass. 439.
189 Mass. 104.
196 Mass. 532.
197 Mass. 283.
209 Mass. 186.
[1 Op. A. G.
78.]

Interest to be charged in certain cases.

Lien, how discharged.

Deposit in lieu of tax, 1907, 563, § 5.

per annum upon such deposit, and when said tax shall become due the treasurer and receiver general shall repay to the persons entitled thereto the difference between the tax certified and the amount deposited; or any executor, administrator, trustee or grantee, or any person interested in such bequest or grant may give bond to a judge of the probate court having jurisdiction of the estate of the decedent, in such amount and with such sureties as said court may approve, with the condition that the obligor shall notify the tax commissioner when said tax becomes due and shall then pay the same to the treasurer and receiver general.

Tax to be assessed upon actual value, etc.
 1891, 425, § 13.
 R. L. 15, § 16.
 1902, 473.
 1903, 276.
 1905, 367.
 1907, 563, § 5.
 1909, 527, § 3.
 179 Mass. 546.
 197 Mass. 248.
 197 Mass. 283.
 209 Mass. 185.

Persons entitled to a future interest may pay the tax on account of the same, etc.
 1902, 473.
 1903, 281, 276.
 1904, 421.
 1907, 563, § 7.
 1909, 527, § 4.
 197 Mass. 283.
 209 Mass. 185.

Property bequeathed to an executor, etc., in lieu of compensation.
 1891, 425, § 3.
 R. L. 15, § 3.
 1907, 563, § 8.

Executor, etc., holding property subject to tax shall deduct the tax or collect it from the legatee, etc.
 1891, 425, § 5.
 1901, 277.
 R. L. 15, § 5.

SECTION 6. Except as hereinafter provided, said tax shall be assessed upon the actual value of the property at the time of the death of the decedent. In every case where there shall be a devise, descent, bequest or grant to take effect in possession or enjoyment after the expiration of one or more life estates or a term of years, the tax shall be assessed on the actual value of the property or the interest of the beneficiary therein at the time when he becomes entitled to the same in possession or enjoyment. The value of an annuity or a life interest in any such property, or any interest therein less than an absolute interest, shall be determined by the "Actuaries' Combined Experience Tables" at four per cent compound interest.

SECTION 7. Any person or persons entitled to a future interest or to future interests in any property may pay the tax on account of the same at any time before such tax would be due in accordance with the provisions hereinbefore contained, and in such cases the tax shall be assessed upon the actual value of the interest at the time of the payment of the tax, and such value shall be determined by the tax commissioner as hereinafter provided. In every case in which it is impossible to compute the present value of the future interest the tax commissioner may, with the approval of the attorney-general, effect such settlement of the tax as he shall deem to be for the best interests of the commonwealth, and payment of the sum so agreed upon shall be a full satisfaction of such tax.

SECTION 8. If a testator gives, bequeaths or devises to his executors or trustees any property otherwise liable to said tax, in lieu of their compensation, the value thereof in excess of reasonable compensation, as determined by the probate court upon the application of any interested party or of the tax commissioner, shall nevertheless be subject to the provisions of this part.

SECTION 9. An executor, administrator or trustee holding property subject to said tax shall deduct the tax therefrom or collect it from the legatee or person entitled to said property; and he shall not deliver property or a specific legacy subject to said tax until he has collected the tax thereon. An executor or administrator shall collect taxes due upon land which is subject to tax under the provisions hereof from the heirs or devisees

entitled thereto, and he may be authorized to sell said land, according to the provisions of section twelve, if they refuse or neglect to pay said tax.

1907, 563, § 9.
[1 Op. A. G.
30.]
197 Mass. 283.

SECTION 10. If a legacy subject to said tax is charged upon or payable out of real estate, the heir or devisee, before paying it, shall deduct said tax therefrom and pay it to the executor, administrator or trustee, and the tax shall remain a lien upon said real estate until it is paid. Payment thereof may be enforced by the executor, administrator or trustee in the same manner as the payment of the legacy itself could be enforced.

If a legacy is payable out of real estate the devisee shall pay the tax to the executor, etc.
1891, 425, § 6.
R. L. 15, § 6.
1907, 563, § 10.
197 Mass. 283.

SECTION 11. When provision is made by any will or other instrument for payment of the legacy or succession tax upon any gift thereby made out of any property other than that so given, no tax shall be chargeable upon any money to be applied in payment of such tax.

No tax chargeable upon money applied in payment of succession tax in certain cases.

1907, 563 § 11.

SECTION 12. The probate court may authorize executors, administrators and trustees to sell the real estate of a decedent for the payment of said tax in the same manner as it may authorize them to sell real estate for the payment of debts.

Probate court may authorize sale of real estate in certain cases.

1891, 425, § 8.

R. L. 15, § 8.

1907, 563, § 12.

SECTION 13. An inventory and appraisal under oath of every estate shall be filed in the probate court or with the tax commissioner by the executor, administrator or trustee within three months after his appointment. If he neglects or refuses to file such inventory and appraisal he shall be liable to a penalty of not more than one thousand dollars, which shall be recovered by the tax commissioner for the use of the commonwealth, and the register of probate shall notify the tax commissioner within thirty days after the expiration of said three months of the failure of any executor, administrator or trustee to file an inventory and appraisal in his office.

Inventory, etc., to be filed within three months after appointment of executor;
etc.
1891, 425, § 9.
1895, 120, § 2.
R. L. 15, § 9.
1907, 563, § 13.
1909, 527, § 5.
If executor, etc.
30, or 1004
197 Mass. 283.

SECTION 14. The register of probate shall record the inventory and appraisal of every estate which is filed in his office, and he shall, within thirty days after the same has been filed, send by mail to the tax commissioner such inventory and appraisal or a copy thereof. The register shall also, within the same period, send by mail to the tax commissioner a copy of the will of the decedent, if such has been allowed by the probate court. The register shall also furnish such copies of papers in his office as the tax commissioner shall require, and shall furnish information as to the records and files in his office in such form as the tax commissioner may require. A refusal or neglect by the register so to send such inventory and appraisal or copy thereof, or to furnish such copies or information, shall be a breach of his official bond; but the tax commissioner may excuse the register from filing inventories or copies of inventories and of wills of estates no part of which, in his judgment, appears to be subject to a tax under the provisions of this part.

Inventory, etc., to be recorded, etc.
1891, 425, § 10.
R. L. 15, § 10.
1907, 563, § 14.
1908, 268.
1909, 527, § 6.