Section 1: Definitions

Section 1. When used in this chapter the following words or terms shall have, unless the context clearly indicated otherwise, the following meanings:—

(a) "Code", the Internal Revenue Code of the United States, as amended and in effect on January first, nineteen hundred and seventy-five.

(b) "Commissioner", the commissioner of revenue.

[There is no subsection (c).]

(d) "Federal gross estate", the gross estate as defined under the Code except that, (1) notwithstanding section two thousand and thirty-five of the Code, the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, relinquished a power, or exercised or released a general power of appointment, except in case of a bona fide sale for an adequate and full consideration in money or money's worth, by trust or otherwise, during the three year period ending with the date of the decedent's death; provided, however, that the value of such property or interest therein so transferred or subject to the power so relinquished, exercised or released exceeds ten thousand dollars for any person during a calendar year; and (2) notwithstanding section two thousand and forty of the Code, one-half of the value of any interest in any property shall be included in the gross estate if such interest is held by the decedent and the decedent's spouse as tenants by the entirety, or joint tenants with right of survivorship, but only if the decedent and the spouse of the decedent are the only joint tenants.

(e) "Massachusetts adjusted gross estate", the Massachusetts gross estate less the deductions allowable under section three pursuant to sections two thousand and fifty-three and two thousand and fifty-four of the Code.

(f) "Massachusetts gross estate", the federal gross estate, whether or not a federal estate tax return is required to be filed, plus the value of any

property (i) in which the decedent had at death a qualifying income interest for life described in subsection (c) of section three A, or to the extent of any such interest therein of which the decedent has at any time made a transfer, by trust or otherwise, under any circumstances which would require the property to be included in the gross estate under the provisions of this chapter and (ii) for which a deduction was allowed for Massachusetts estate tax purposes with respect to the transfer of such property to the decedent; and less the value of real and tangible personal property having an actual situs outside the commonwealth. The Massachusetts gross estate shall not include the value of any property in which the decedent had a qualifying income interest for life which is not otherwise includible in the Massachusetts gross estate under the first sentence of this paragraph, notwithstanding the right of the executor of the decedent's estate to recover federal or Massachusetts estate taxes from such property.

(g) "Massachusetts net estate", the Massachusetts gross estate less the following deductions to the extent they are allowable under section three: (1) funeral expenses; (2) claims against the estate; and (3) unpaid mortgages on, or any indebtedness in respect of, property where the value of the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the Massachusetts gross estate.

(h) "Massachusetts taxable estate", the Massachusetts gross estate less the exemption and deductions allowable under section three.

(i) "Resident", any person domiciled in the commonwealth.

Section 2: Computation of estate tax

Section 2. (a) A tax computed in accordance with the following table less the credit, if any, provided in subsection (a) of section three, is hereby imposed on the transfer of the Massachusetts taxable estate of every deceased resident of Massachusetts:—

; provided, however, that the tax under this subsection shall not be greater than twenty per cent of the amount by which the Massachusetts net estate exceeds the exemption given at subsection (a) of section three.

(b) If the maximum credit for state death taxes allowable to the estate of a deceased resident or nonresident against the federal estate tax, computed according to the rate schedule found in section two thousand and eleven of the Code based upon an amount equal to the Massachusetts taxable estate, computed, with respect to a nonresident, as if the decedent had been a resident and apportioned in accordance with subsection (b) of section four, exceeds the tax imposed under subsection (a), the amount of such excess shall be added to the tax imposed under said subsection (a). In the case of a decedent who was a nonresident of the United States, however, the Massachusetts taxable estate shall be computed as if such decedent had been a resident without apportionment in accordance with subsection (b) of section four. For purposes of this subsection, the Massachusetts taxable estate shall include the value of any property subject to a power of appointment to the extent that such value has been excluded from the computation in said subsection (a) because a tax had been paid thereon pursuant to section fourteen of chapter sixty-five and shall also include the value of qualified terminable interest property, as defined in subsection (b)(7)(B) of section two thousand and fifty-six of the Internal Revenue Code in effect on January first, nineteen hundred and eighty-five, to the extent that such property has been included in the gross estate of the decedent as finally determined for federal estate tax purposes but has not been included in the gross estate of the decedent for Massachusetts estate tax purposes, in each case less the deductions described in subsection (b) of section three attributable thereto and the value of real and tangible personal property includible therein and having an actual situs outside the commonwealth.

(c) The provisions of this section shall apply to decedents dying on or before December thirty-first nineteen hundred and ninety-six.

Section 2A: Transfer of estate and real property; tax

[Subsections (a) and (b) effective until August 1, 2025. For text effective August 1, 2025, see below.]

Section 2A. (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 section 2011 of the Code, as in effect on December 31, 2000, hereinafter referred to as the "credit". If the federal gross estate of a person includes real or tangible personal property located outside of the commonwealth at the time of death, the credit shall be determined based on the value of the federal taxable estate after such estate is reduced by the value of such real or tangible personal property located outside of the commonwealth.

(b) A tax is hereby imposed upon the transfer of real property situated in this Commonwealth and upon tangible personal property having an actual situs in this Commonwealth of every person who at the time of his death was not a resident of this Commonwealth. The amount of this tax is a sum equal to the proportion of the credit which the value of Massachusetts real and tangible personal property taxed in this Commonwealth which qualifies for such credit bears to the value of the decedent's total federal gross estate.

[Subsections (a) and (b) as amended by 2025, 9, Sec. 35 effective August 1, 2025. See 2025, 9, Sec. 136. For text effective until August 1, 2025, see above.]

(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 section 2011 of the Code, as in effect on December 31, 2000, hereinafter referred to as the "credit". The credit shall be determined based on the value of the federal gross estate after such estate is

increased by the value of any property: (i) not included in the federal gross estate; (ii) in which the decedent had at death a qualifying income interest for life described in subsection (c) of section 3A; (iii) for which a deduction was allowed for Massachusetts estate tax purposes with respect to the transfer of such property to the decedent; and (iv) which is not real or tangible personal property located outside of the commonwealth at the time of death. If the federal gross estate of a person includes real or tangible personal property located outside of the commonwealth at the time of death, the credit shall be determined based on the value of the federal gross estate after such estate is reduced by the value of such real or tangible personal property located outside of the commonwealth and increased by the value of any property: (i) not included in the federal gross estate; (ii) in which the decedent had at death a qualifying income interest for life described in subsection (c) of section 3A; (iii) for which a deduction was allowed for Massachusetts estate tax purposes with respect to the transfer of such property to the decedent; and (iv) that is not real or tangible personal property located outside of the commonwealth at the time of death; provided, however, that for the purposes of calculating the federal taxable estate, no deduction shall be allowed that is attributable to such real or tangible personal property located outside of the commonwealth.

(b) A tax is hereby imposed upon the transfer of real property situated in this commonwealth and upon tangible personal property having an actual situs in this commonwealth of every person who at the time of their death was not a resident of this commonwealth. The amount of this tax is the amount of the credit calculated based upon a federal gross estate that is equal to the sum of: (i) the value of the estate's real or tangible personal property located in the commonwealth; and (ii) the value of any real or tangible property: (A) not included in the federal gross estate; (B) in which the decedent had at death a qualifying income interest for life described in subsection (c) of section 3A; (C) for which a deduction was allowed for Massachusetts estate tax purposes with respect to the transfer of such property to the decedent; and (D) which is not located outside of the commonwealth at the time of death. Under this subsection, for the purposes of calculating the federal taxable estate, no deduction shall be allowed that is attributable to property other than such real or tangible personal property located in the commonwealth.

(c) Notwithstanding any other provision of law, the tax imposed by subsections (a) and (b) shall be computed upon the value of any property subject to a power of appointment which is includible in the federal gross estate, notwithstanding that a tax has been paid thereon pursuant to section fourteen of chapter sixty-five.

(d) For the purposes of computing the tax imposed by subsections (a) and (b), the provisions of section three shall not apply.

(e) For the estate of decedents dying on or after January 1, 2003, all references and provisions in this chapter to the Internal Revenue Code or Code, unless the context clearly indicates otherwise, shall be to the Code as in effect on December 31, 2000.

[Subsections (f) and (g) effective for the estates of decedents dying on or after January 1, 2023. See 2023, 50 Sec. 48.]

(f) For the estates of decedents dying on or after January 1, 2023, a credit shall be allowed against the tax imposed by subsections (a) and (b) equal to the amount of such tax; provided, however, that the credit shall not exceed $99,600.

(g) The estates of decedents dying on or after January 1, 2023 shall not be required to pay any tax under subsections (a) and (b) if the value of the federal taxable estate is not more than $2,000,000.

Section 3. (a) An exemption equal to the Massachusetts net estate shall be allowed if the Massachusetts net estate is three hundred thousand dollars or less for decedents dying after December thirty-first, nineteen hundred and ninety-two and on or before December thirty-first, nineteen hundred and ninety-three; four hundred thousand dollars or less for decedents dying after December thirty-first, nineteen hundred and ninety-three and on or before December thirty-first, nineteen hundred and ninety-four; five hundred thousand dollars or less for decedents dying after December thirty-first, nineteen hundred and ninety-four and on or before December thirty-first, nineteen hundred and ninety-five; and six hundred thousand dollars or less for decedents dying after December thirty-first, nineteen hundred and ninety-five and on or before December thirty-first, nineteen hundred and ninety-six; provided, that the exemption shall not exceed an amount equal to the smallest federal taxable estate that absorbs the

allowable federal credit under section two thousand and ten of the Internal Revenue Code as amended and in effect as of the date of death of the decedent. Except for purposes of the final clause of subsection (a) of section two of chapter sixty-five C, if the Massachusetts net estate exceeds the amount of the exemption, no exemption shall apply.

(b) In addition to the exemption provided in subsection (a), the deductions allowable in computing the Massachusetts taxable estate shall consist of the deduction or portions thereof, other than the exemption found in section two thousand and fifty-two of the Code, which are allowable in determining the federal taxable estate and which are attributable to property included in the Massachusetts gross estate; provided, however, that the deduction for property which has passed or passes to a surviving spouse shall not be limited by subsection (c) of section two thousand and fifty-six of the Code. No deduction for interest shall be allowed hereunder unless the same has been paid or has, solely through the passage of time, accrued within three years from the due date of the return, without regard to any extension granted.

(c) Notwithstanding the provisions of subsection (b) or any general or special law to the contrary, if a deduction from any federal estate tax would not be allowed because of a failure to meet the requirements set forth pursuant to section two thousand and fifty-five of the Code in effect on January first, nineteen hundred and eighty-five, and if the relevant governing instrument is the subject of a qualified reformation as hereinafter defined as a result of which a deduction under said section two thousand and fifty-five would be allowable from any federal estate tax, then a similar deduction shall be allowed from any tax imposed pursuant to this chapter to the extent that it can be attributed to property included in the Massachusetts gross estate. For purposes of this subsection, the term "qualified reformation" shall mean a change of a governing instrument which is a qualified reformation as defined in section two thousand and fifty-five (e) of the Internal Revenue Code in effect on January first, nineteen hundred and eighty-five.

(d) If the right to claim any deduction otherwise allowable is waived for federal estate tax purposes, such right shall be considered waived for Massachusetts estate tax purposes.

Section 3A: Qualified terminable interest property

Section 3A. (a) In the case of qualified terminable interest property, (i) for purposes of subsection (a) of section two thousand and fifty-six of the Code, such property shall be treated as passing to the surviving spouse, and (ii) for purposes of subsection (b)(1)(A) of section two thousand and fifty-six of the Code, no part of such property shall be treated as passing to any person other than the surviving spouse; provided, however, that a deduction with respect to such terminable interest property shall not be limited by subsection (c) of section two thousand and fifty-six of the Code.

(b) For purposes of this section, the term "qualified terminable interest property" shall mean property (i) which is included in the Massachusetts gross estate, (ii) which passes from the decedent, (iii) in which the surviving spouse has a qualifying income interest for life, and (iv) to which an election under this section applies.

(c) The surviving spouse has a qualifying income interest for life if (i) the surviving spouse is entitled to all the income from the property, payable annually or at more frequent intervals, and (ii) no person has a power to appoint any part of the property to any person other than the surviving spouse. Clause (ii) of this subsection shall not apply to a power exercisable only at or after the death of the surviving spouse.

(d) The term "property" includes an interest in property.

(e) A specific portion of property shall be treated as separate property.

(f) An election under this section with respect to any property shall be made by the executor on the Massachusetts estate tax return filed within the time prescribed for filing such return, or any extension of such time granted by the commissioner, to have the property treated as qualified terminable interest property for Massachusetts estate tax purposes. Such election, once made, shall be irrevocable and shall be separate from and independent of any election made by the executor for federal estate tax purposes.

(g) If the surviving spouse of the decedent is the only noncharitable beneficiary of a qualified charitable remainder trust, subsection (b)(1) of section two thousand and fifty-six of the Code shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse. For purposes of the preceding sentence, the term "noncharitable beneficiary" shall mean any beneficiary of the qualified charitable remainder trust other than an organization described in subsection (c) of section one hundred and seventy of the Code and the term "qualified charitable remainder trust" shall mean a charitable remainder annuity trust or charitable remainder unitrust as described in section six hundred and sixty-four of the Code.

(h) Nothing in this section or any other provision of this chapter shall allow the value of any interest in property to be deducted under this chapter more than once with respect to the same decedent.

Section 4: Nonresident decedents; tax on certain property located in commonwealth

Section 4. (a) A tax is hereby imposed on the transfer of a nonresident decedent's real and tangible personal property having an actual situs in Massachusetts, if such property would have been included in the Massachusetts gross estate had the decedent been a resident.

(b) The tax imposed under subsection (a) shall be an amount which bears the same ratio to the tax that would be due if the decedent had been a resident as (i) the value of all real and tangible personal property, diminished by any mortgage or lien thereon, having an actual situs in Massachusetts, the transfer of which is subject to tax under said subsection (a) bears to (ii) the value of the decedent's Massachusetts gross estate, diminished by any mortgage or lien or property included therein, determined as if he had been a resident.