

# “Taxachusetts” Strikes Again!

By Terry Turnipseed

Massachusetts voters recently passed the so-called “Fair Share Amendment” or “Millionaires Tax” to amend the state constitution. This new rule imposes a 4% additional tax on incomes over \$1 million (as indexed for inflation). This brings the total state tax to 9%. It is important to note that windfall gains and irregular income, such as the sale of a home or business, count towards determining the tax.

The tax will apply to all income earned by residents of Massachusetts, or to any income generated in Massachusetts by those who live outside the Commonwealth.

High income earners, or those who expect to temporarily have high incomes, may reduce their tax liability with careful planning.

## Planning Opportunities

Trusts – it may be possible to change the residence of a Massachusetts trust to a state with favorable tax and trust rules, like South Dakota. Converting grantor trusts to nongrantor trusts, particularly when situated outside of Massachusetts, or using Incomplete grantor trusts (“INGs”) can also be advantageous.

**Accelerating Income** – the new tax is imposed on incomes earned beginning on January 1, 2023; closing sales in 2022 will avoid the tax.

**Change Residency** – if income is generated from sources outside of Massachusetts, moving to a state with more favorable income tax environments could result in significant savings.

**File Separately** – the \$1 million threshold is not increased for married couples filing jointly, but couples filing separately each have their own \$1 million threshold.

**Defer Income** – it may be possible to structure certain sales such that the income is spread out over several years, possibly avoiding imposition of the tax.

Our estate planning attorneys can help if you might be subject to this tax. To schedule an appointment, please contact our office at [301 468 3220](tel:3014683220).

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