



MULTISTATE INCOME/FRANCHISE TAX

Massachusetts adopts significant tax legislation, including adoption of single sales factor in 2025

Tax Alert

Overview

On October 4, 2023, Governor Healy signed Massachusetts [House Bill 4104](#) into law. This legislation provides an estimated \$1 billion of overall tax relief, including the adoption of single sales factor apportionment, a reduction in the short-term capital gains rate, doubling the estate tax threshold, and expanding credits and deductions intended to aid lower income individuals. These provisions were offset by certain provisions intended to raise revenue, including a requirement that married couples filing jointly for federal tax purposes do so for Massachusetts purposes, intended to close a perceived loophole on the imposition of the 4% surcharge on income over \$1 million. The Bill also requires the Department of Revenue (“DOR”) to analyze the potential impact of implementing an elective additional 4% passthrough entity tax (“PTE Tax”) to align with the 4% surcharge on individual income in excess of \$1 million.

This Tax Alert summarizes some of the provisions in H.B. 4104.

Adoption of single sales factor apportionment in 2025

H.B. 4104 transitions the state to a single sales factor apportionment for all corporations and partnerships effective for tax years beginning on or after January 1, 2025. Previously most corporations operating in Massachusetts apportioned income using a three-factor formula consisting of property, payroll, and double-weighted sales, unless they fell into one of the specific industry apportionment rules requiring a different approach, such as manufacturers or financial institutions. In addition to adopting a single sales factor for all types of entities using the general apportionment rules under G.L. c. 63, sec. 38, H.B. 4104 also amends G.L. c. 63, sec. 2A to provide a single sales factor for financial institutions.

The bill states that the change shall take effect *on* January 1, 2025, as opposed to years beginning on or after January 1, 2025. It is not clear how this will be implemented for fiscal year taxpayers.

Reduction in short term capital gains rate

Massachusetts has historically taxed individuals on gains from short term capital gains on assets held for one year or less at a rate of 12% versus the general rate of 5%. H.B. 4104 reduces this rate to 8.5%. This change shall take effect on taxable years beginning on or after January 1, 2023.

Tax credits and incentives

H.B. 4104 provides for a number of credit expansions intended to benefit lower income workers and families, including raising the funding cap on the Housing Development Incentive Program and the Low Income Housing Tax Credit, and increasing the Earned Income Tax Credit, the Child and Family Credit, the rental deduction, and the Senior Circuit Breaker.

Other provisions impacting individual income tax

- *Increase of Estate Tax Threshold:* Pursuant to H.B. 4104, the threshold for taxable estates will be effectively raised from \$1 million to \$2 million via a credit issued to all estates. This change shall take effect for the estates of decedents dying on or after January 1, 2023.
- *Requirement of Married Couples to File Jointly if Electing So for Federal Tax Purposes:* This provision is intended to address concerns over high-net-worth individuals filing separately to limit the impact of the 4% surcharge on income in excess of \$1 million. This change shall take effect for tax years beginning on or after January 1, 2024.
- *Chapter 62F Refunds:* Massachusetts law contains a provision in Chapter 62F of the General Laws that requires the commonwealth to issue a refund of individual income tax when state revenue collection exceeds certain benchmarks. Currently, the refunds are to be issued in proportion to the taxpayer's share of total taxes paid. H.B. 4104 would allow for an equal share of the refund to all taxpayers.

PTE tax analysis of impact on elective additional 4% tax

While voters in Massachusetts approved a ballot measure in 2022 to impose a 4% surcharge on individual income in excess of \$1 million, the PTE Tax, enacted prior to that adoption, is imposed at a flat rate of 5%. This has raised questions of how to best harmonize the two regimes. H.B. 4104 instructs the DOR to analyze the impact of implementing an additional, elective entity level tax of up to 4% as part of the PTE Tax. The DOR is required to submit its findings to the legislature by February 1, 2024.

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