

The Impact of the Massachusetts Millionaires Tax

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On November 8, 2022, Massachusetts voters approved a constitutional amendment establishing an additional 4% state income tax on that portion of annual taxable income exceeding \$1 million.

The ballot measure, referred to by some as the Fair Share Amendment and the Millionaires Tax by others, became effective for tax years beginning January 1, 2023. Both sides of the public debate sought to frame the issue in terms of purported fairness.

Proponents of the measure argued that those wealthy enough to be under the tax would finally pay their fair share. In their view, it was entirely reasonable that the state's wealthiest residents would bear the additional burden. The revenue generated would provide much-needed funding for public education and infrastructure improvements, including public transportation.

Opponents claimed that it was unfair to target a small percentage of the population with an increased tax rate. Targeting a narrow demographic, the rich, was simply a means of expanding state tax revenue while avoiding the stigma of a general tax increase. Moreover, opponents predicted that wealthy residents, many of whom generate income through partnerships, limited liability corporations, and S corporations, might be driven to relocate themselves and their businesses to more tax-friendly states.

Two years have passed since the enactment of the surtax and its effective date. It is too soon to say whether the measure was ultimately successful without additional data from the coming years. However, at least for now, both sides have been somewhat correct with their predictions to some extent.

While it remains to be seen if Fair Share revenue will remain steady over the upcoming years, the initial returns are more impressive than the proponents could have hoped. A study conducted by the Tufts University Center for State Policy Analysis (*Evaluating the Massachusetts Millionaires Tax*, January 2022) estimated the tax would raise about \$1.3 billion in 2023. In fact, the revenue exceeded this optimistic projection, with a preliminary estimate of \$2.199 billion for fiscal year 2024, as certified by the Department of Revenue on July 24, 2024.

Governor Healey's Transportation Funding Task Force, in its January 2025 Final Report, predicts the consensus tax revenue benchmark for Fair Share revenue will be \$1.3 billion for fiscal year 2025 and \$2.4 billion for fiscal year 2026. The Task Force has taken the position that the surtax will provide a consistent revenue stream for the foreseeable future, and the revenue should largely be dedicated to transportation needs. It calls for half of the revenue to be used for public transportation, focusing on stabilizing the MBTA's deteriorating financial condition. Currently, only 41% is used for transportation needs, whereas 59% of the tax revenue goes towards education.

Opponents of the millionaires tax warned economic concerns associated with the new tax should not be ignored or discounted. Wealthy individuals would naturally take issue with allegations that they are not paying their fair share. Some would consider this the "last straw" in deciding whether or not they remain in Massachusetts.

In August 2022, the Massachusetts Taxpayers Foundation predicted the proposed surtax on select taxpayers would cause existing outmigration to continue and possibly accelerate. This early in the program, it is difficult to measure the adverse impact of the amendment on this point.

States with low- or no-income tax, such as Florida and New Hampshire, have always been attractive destinations for Massachusetts residents tired of paying state income tax. If many high-income Business relocation was another concern. The additional tax applies to residents who generate their income through pass-through entities that are taxed at the individual rather than corporate level. Some executives could move their businesses out of state and maintain their workforce remotely or take advantage of more favorable wage scales in states that have lower taxes and a lower cost of living than Massachusetts.

The Massachusetts Society of Certified Public Accountants conducted surveys in 2023 and 2024 to assess the impact of the millionaires tax on high-income earners and businesses in the state. More than 120 CPAs representing approximately 3,600 high-income individuals were surveyed. The results indicated that a significant number of high-income individuals and businesses were considering relocating or had already relocated out of Massachusetts. Two-thirds of the CPAs reported at least one of their clients had already established their domicile away from Massachusetts within the previous 12 months. Almost all the CPAs noted their high-income clients were considering moving from Massachusetts in the future. Most cited Massachusetts tax policy as a reason or the primary reason for their clients' move or prospective move.

According to the 2024 State Business Tax Climate Index prepared by The Tax Foundation, a Washington, D.C. independent tax research organization, Massachusetts declined further than any other state in the overall state tax competitiveness rankings from 2023 to 2024. The Tax Climate Index allows business leaders, government policymakers, and taxpayers to gauge how their states' tax systems compare. In 2023, Massachusetts ranked 34th among all states but dropped to 46th in 2024. The Tax Foundation directly attributed the steep decline in Massachusetts' tax competitiveness to the imposition of the 4% surtax on income over \$1 million.

residents considered moving when the tax rate was 5%, then a 9% tax rate would likely motivate even more individuals to look for the exit.

The Department of Revenue has not ignored the potential exodus of high-income individuals, nor is it a new phenomenon. For decades, there have been readily available checklists, and even Department of Revenue releases and guidelines, that have provided taxpayers with the information needed to formally change their residency to another state in an attempt to avoid Massachusetts income tax. In response, the Department of Revenue would periodically concentrate on this issue and examine the returns of individuals who had changed their filing status from resident to non-resident or had filed a final resident return.

The number of residency audits has increased dramatically since 2022, when passage of the ballot measure appeared likely. This surge in activity followed a nearly 10-year period during which there was very little Department attention focused on residency. Additional resources, including a fully staffed audit group, have been devoted to identifying and auditing any high-income individual who has moved out of state. Although they certainly cannot audit every person who relocates to another state, the volume of audits indicates the Department took the outmigration warnings very seriously. Without getting into the minutia of a residency audit, those who experienced one would agree it is a long, exhaustive, and frustrating process.

The ramifications of the Fair Share Amendment will continue to play out over the coming years. But, even at this early stage, each side can argue their projections were correct. Proponents of the tax can point to the much-needed revenue flowing in for education and transportation, while opponents try to quantify the adverse economic impact of taxpayers relocating to other states.

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