State Tax Observations

Massachusetts Millionaires Tax Passes

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As a follow-up to our previous Massachusetts update, the State's voters recently approved the "Fair Share Amendment." Beginning in 2023, taxable income over $1 million on any Massachusetts income tax return will be taxed an additional 4% on top of the State's current income tax (which is 5% for all income except short-term capital gains which are taxed at 12%).

2022 Planning Considerations

Since this additional tax begins January 1, 2023, there are some planning opportunities to consider before year-end 2022. These should be considered in addition to any federal and other State tax planning that you are already considering. These include the following:

- **Acceleration of ordinary income into 2022 that may be taxed at the higher rate for 2023:** For example, if you have been considering a Roth IRA conversion that would push your income over $1 million, 2022 may be the year to do the conversion to avoid the 4% additional tax.

- **Acceleration of capital gains into 2022, including consideration of forgoing installment sales:** You may wish to hold off on harvesting losses until 2023 when the losses may be more beneficial from a tax perspective.

2023+ Planning Considerations

With this change in tax, there are also some other planning items to consider for 2023 and beyond. These include items such as:

- **Charitable contributions** – Massachusetts is slated to allow charitable deductions against Part B income (not long-term capital gains) starting in 2023.

- **Consideration of installment sales** – Starting in 2023, it may be beneficial to spread out any taxable gain over several years. Depending upon the amount of the gain, there are specific rules to Massachusetts installment sales that would need to be considered as part of this planning as well.

- **Consideration of U.S. obligations and Massachusetts municipal bonds** – To the extent that your portfolio includes U.S. obligations and municipal bonds, as part of your overall investment strategy, considering both U.S. obligations and Massachusetts-specific municipal bonds will allow the related interest income to be excluded from your taxable income.

- **Consideration of establishing trusts outside of Massachusetts** – In some situations, there could be an opportunity to establish a trust in a state that does not have state income tax (such as New Hampshire) to avoid the Massachusetts income tax on such trust. However, if distributions are taken by a Massachusetts resident from that trust that income could be subject to Massachusetts income tax. There are additional legal ramifications to this as well that would need to be considered.

- **Gifting** – Taxpayers may consider gifting assets that are producing income subject to the additional Massachusetts tax if their situation and estate plan allows.

- **Changing domicile** – Taxpayers may decide to move to a no or lower tax state. If the taxpayer is not domiciled in Massachusetts, the only income taxable to Massachusetts would be Massachusetts-sourced income. For many taxpayers, most of their income as a non-resident would, therefore, not be subject to Massachusetts income tax. Changing domicile has many legal and tax implications and involves several steps to truly substantiate that your domicile has changed from Massachusetts to another state.

Planning Opportunity

This change in the Massachusetts tax provides an opportunity to review your tax and estate planning and see if any changes should be made.

Contact Us

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