Massachusetts: Fair Share Amendment to hit the ballot in 2018

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Millionaire's taxes, pursuant to which states impose additional levies on the richest of their residents, are gaining traction. In April, we addressed New York lawmakers' agreement to extend theirs, largely due to arguments captured in the 1% Plan for New York Tax Fairness put forth by the Fiscal Policy Institute and the Responsible Wealth project.

The Empire State's millionaire's tax was set to expire at the end of 2017, but now will bring in an extra $2.2 billion annually by imposing new marginal rates of 7.65 percent, 8.82 percent, 9.35 percent, 9.65 percent and 9.99 percent for brackets starting at $665,000, $1 million, $2 million, $10 million and $100 million, respectively. Anyone earning more than $665,000 in New York is in the top 1 percent.

Massachusetts is now on the cusp of deploying its own tax on the wealthy. Last week, the proposal for a legislative amendment to the Massachusetts Constitution passed, which will put the issue before voters in the 2018 election. The amendment, "An Initiative Petition for an Amendment to the Constitution of the Commonwealth to Provide Resources for Education and Transportation through an additional tax on incomes in excess of One Million Dollars," seeks approval for a new 4 percent tax on income over $1 million, for all tax years beginning on or after Jan. 1, 2019. The amendment also calls for annual adjustments to reflect increases to the cost of living. If approved by voters, the Massachusetts Department of Revenue estimates that the tax would bring in $1.9 billion in new annual revenue.

Also known as the Fair Share Amendment, the ballot initiative had the support of numerous stakeholders, including many economists, who wrote a letter explaining their position. They think the new revenue would be well spent because "[i]nvesting in our people and transportation system… [and] is a fair means by which to improve our economy's performance and create greater opportunities for all residents of the Commonwealth."

In addition, the letter acknowledges that the highest income earners, the top one percent, pay "a smaller share of their income in state and local taxes than the other 99 percent." Besides this, the tax rate for them, which would top out at 9 percent, is comparable to that in "New Jersey, New York, Vermont, Iowa, Oregon, Minnesota, and Washington, DC, but less than the top rate in California, which is 13.3 percent."

Beyond these reasons, the letter concedes that "Massachusetts is one of the wealthiest states in America. It is also one of the most unequal… acute inequality can lead to underinvestment in the education of lower and middle-income children, lessen the overall competitiveness of the workforce and reduce long-term economic growth."

To debunk criticism, the letter, which cites analysis from respected entities such as the Institute on Taxation and Economic Policy, the *Journal of Economic Perspectives*, and the Brookings Institute, among others, contends the following:

> Leading research generally does not show any statistically significant relationships between tax rates and state economic performance. While a very small number of wealthy taxpayers might decide to move in response to higher taxes, most will not. That is because state income tax rates—which are deductible on federal income taxes—are not typically the main reason people move. When taxes on the very rich are increased, the net result is an overall gain in revenue.

In contrast, the Tax Foundation disapproves of the initiative, asserting that it would "revive 'Taxachusetts.'" According to the group, "[t]he legality of the proposal is ambiguous, principally due to the appropriation of future revenue," which the Massachusetts Constitution prohibits. Supporters disagree, on the grounds that the text of the amendment dedicates the funds to education and transportation, like the allocation mechanism built into the gas tax, which was also passed by an initiative petition.

The Tax Foundation is also concerned about the impact of any millionaire's tax impact on pass-through businesses, which report their income on the owner's tax return, not a separate corporate filing. As a result, the top rate would expose these firms, which account for 97.8 percent of all employers in the Bay State, to the fifth highest rate in the nation.

Finally, while the Tax Foundation acknowledges the studies showing that high taxes do not prompt flight from a state, it nevertheless disputes the applicability of those results to this particular tax increase because of differences in context, and the size of the rate increase at issue in Massachusetts.

However, with respect to a tax-related exodus of the wealthy, we have pointed to different studies, like the American Sociological Review's *Millionaire Migration and Taxation of the Elite: Evidence from Administrative Data*, and the Massachusetts Budget and Policy Center's *The Evidence on Millionaire Migration and Taxes*, which corroborate the results that the economists' letter highlights.

Republican Gov.r Charlie Baker is said to be waffling on the issue, while two of the three democrats who will attempt to unseat him next year support the millionaire's tax, reported the Lowell Sun.

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