COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

FIDUCIARY LITIGATION SESSION **DOCKET NO. BE-24E-0031QC**

SCOTT M. SCHNEIDERMAN, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOANNA WOLFF,
PLAINTIFF

v.

GEOFFREY E. SNYDER, AS COMMISSIONER OF THE DEPARTMENT OF REVENUE FOR THE COMMONWEALTH OF MASSACHUSETTS,
DEFENDANT

SUMMARY JUDGMENT

(On Scott Schneiderman's Equity Complaint, filed November 27, 2024)

For the reasons set forth in the accompanying Memorandum of Decision entered this same day, it is hereby **ORDERED AND ADJUDGED**:

1. Scott Schneiderman's motion for summary judgment, filed February 19, 2026, is **ALLOWED.**

2. Geoffrey Snyder's motion for summary judgment, filed March 5, 2026, is **DENIED**.

3. The estate tax assessed by the Commonwealth of Massachusetts on the estate of Joanna Wolff was an unconstitutional tax on out-of-state property over which Massachusetts lacked jurisdiction. Summary judgment hereby enters in favor of the Plaintiff, Scott Schneiderman as the personal representative of the estate of Joanna Wolff. The Department of Revenue of the Commonwealth of Massachusetts shall refund the estate of Joanna Wolff $18,242.88 plus interest calculated pursuant to Massachusetts General Laws, Chapter 62C, Section 40.

Date: June 1, 2026

/s/ Alexandra S. Flanders
Alexandra S. Flanders, Judge
Probate and Family Court

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PLAINTIFF

V.

GEOFFREY E. SNYDER, AS COMMISSIONER OF THE DEPARTMENT OF REVENUE FOR THE COMMONWEALTH OF MASSACHUSETTS,
DEFENDANT

MEMORANDUM OF DECISION

(On Scott Schneiderman's Motion for Summary Judgment, filed February 19, 2026, and Geoffrey Snyder's Motion for Summary Judgment, filed March 5, 2026)

These summary judgment motions came before the Court (Flanders, J.) for hearing on April 22, 2026. Attorneys Hyman Darling and Alexandre Pereira represented the Plaintiff, Scott Schneiderman. Attorneys Eugene Langner and Brett Goldberg represented the Defendant, the Commissioner of the Department of Revenue. After hearing and upon consideration of the summary judgment materials, the Court hereby enters this Memorandum of Decision and the accompanying Summary Judgment.

Background. On November 27, 2024, the Plaintiff filed an equity complaint appealing from an abatement determination and asserting that Massachusetts imposed an unconstitutional estate tax. The Commissioner of the Department of Revenue filed an answer denying that the tax was unconstitutional.

The following facts are undisputed. Joanna Wolff ("the Decedent") died on March 3, 2022. At the time of her death, she resided in New York. She owned an interest in real estate in Massachusetts; ownership was held as tenants by the entirety with her husband. This was the only Massachusetts real estate she owned at the time of her death. Her estate filed a Massachusetts estate tax return, calculated the federal credit for state death taxes as $82,425.34, and paid

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the Commonwealth of Massachusetts $18,242.88 in estate tax. The Commissioner of Revenue did not assert that the Decedent owned any tangible personal property in Massachusetts at the time of her death nor that she was a Massachusetts resident at the time of her death.

Analysis. The Plaintiff asserts the estate tax here is a violation of the due process clause of the Fourteenth Amendment of the United States Constitution. He asserts it is a tax on the transfer of real or tangible personal property located outside Massachusetts. "[T]he exaction by a state of a tax which it is without power to impose is a taking of property without due process of law in violation of the Fourteenth Amendment." *Frick v. Pennsylvania*, 268 U.S. 473, 488-489 (1925). "States may impose an estate tax only on tangible property, such as real estate, located within the State's jurisdiction." *Shaffer v. Commissioner of Revenue*, 485 Mass. 198, 204 (2020).

At the time of the Decedent's death, Massachusetts law provided: "A tax is hereby imposed upon the transfer of real property situated in this Commonwealth and upon tangible personal property having an actual situs in this Commonwealth of every person who at the time of his death was not a resident of this Commonwealth. The amount of this tax is a sum equal to the proportion of the credit which the value of Massachusetts real and tangible personal property taxed in this Commonwealth which qualifies for such credit bears to the value of the decedent's total federal gross estate." M. G. L. A. c. 65C, § 2A (b) (effective July 24, 2002). The "credit" is the federal credit for state death taxes that would have been allowable in 2000. *See* M. G. L. A. c. 65C, § 2A (a); *Shaffer*, 485 Mass. at 199-200 (describing this "sponge tax" calculation). As detailed below, determining the Massachusetts estate tax here required 1) calculating the federal taxable estate; 2) calculating the federal credit for state death taxes based on the federal taxable estate; and 3) multiplying the credit by the proportion of the Massachusetts property to all of the Decedent's property wherever located.

First, the Decedent's federal "taxable estate" was calculated (see Form 706, Part 2, Lines 3 and 15, attached to the equity complaint).[1] The federal taxable estate was calculated by subtracting the "total allowable deductions" from the "total gross estate less exclusion" (see Form 706, Part 2, Lines 1-3). The "total gross estate less exclusion" included the value of the Massachusetts real estate (see Form 706, Pages 3 and 17). However, the Decedent and her husband owned the real estate as tenants by the entirety. Because of this, the value of the

[1] The Commissioner did not assert that the Massachusetts estate tax was incorrectly calculated here.

Massachusetts real estate was part of the "total allowable deductions" and was subtracted from the "total gross estate" to calculate the "taxable estate." The "taxable estate" was then used to calculate the credit (see Form 706, Part 2, Lines 3 and 15). In other words, the value of the Massachusetts real estate was not included in the number that was used to calculate the credit.

Next, the credit was calculated based on the value of the "taxable estate," using Table B of Form 706. The credit is made up of a set amount plus a percentage, both based on the value of the taxable estate. The set amount and the percentage both increase as the value of the taxable estate increases. For this estate, where the taxable estate was $1,761,463, the credit was $82,425, calculated as follows: 1) $1,761,463 minus $60,000 equals $1,701,463; 2) $1,701,463 minus $1,540,000 equals $161,463; 3) $161,463 times 0.072 equals $11,625; and 4) 11,625 plus $70,800 equals $82,425. The calculation and table are set forth in the Form 706 instructions and the Massachusetts Estate Tax Guide provided by the Commonwealth of Massachusetts (https://www.mass.gov/info-details/massachusetts-estate-tax-guide).

Finally, the Massachusetts estate tax was calculated by multiplying the credit by the percentage of property in Massachusetts out of the total gross estate (not the taxable estate). The total gross estate here was $4,518,219; the value of the Massachusetts real estate was $1,000,000; and the credit was $82,425. This resulted in Massachusetts estate tax of $18,242 ($1,000,000 divided by $4,518,219 equals 0.2213, and 0.2213 times $82,425 equals $18,242). This calculation is set forth on Form M-706. The percentage of the property in Massachusetts was calculated based on the total gross estate, not the taxable estate.

In *Treichler v. Wisconsin*, 338 U.S. 251, 252, 254 (1949), an estate tax was unconstitutional because it was measured by the entire estate regardless of where property was located. In that case, a Wisconsin resident died owning property in Wisconsin, Illinois, and Florida. *Id.* at 252. Wisconsin imposed an "emergency" estate tax, which was calculated by taking a percent of the federal credit, subtracting taxes paid to states other than Wisconsin, subtracting Wisconsin's "normal" estate tax, multiplying that number by thirty percent, and adding thirty percent of the "normal" inheritance tax. *Id.* at 253-254. The United States Supreme Court reasoned that when the formula was reduced, it left the percent of the federal credit "rated and measured by the entire estate, regardless of situs." *Id.* at 254. This was an unconstitutional tax on out-of-state property. *Id.* at 254-255. Further, the fact that almost ninety percent of the decedent's property was located in Wisconsin did not justify the tax; the tax was not apportioned to property within the state. *Id.* at 254-255.

Similarly, in *Frick*, 268 U.S. at 494, the United States Supreme Court held that it was unconstitutional for Pennsylvania to impose an estate tax on tangible personal property located outside of Pennsylvania. The Court noted: "One ground on which the state court put its decision was that, in taxing the transfer of the property which the decedent owned in Pennsylvania, it was admissible to take as a basis for computing the tax the combined value of that property and the property in New York and Massachusetts. Of course, this was but the equivalent of saying that it was admissible to measure the tax by a standard which took no account of the distinction between what the state had power to tax and what it had no power to tax, and which necessarily operated to make the amount of the tax just what it would have been had the state's power included what was excluded by the Constitution. This ground, in our opinion, is not tenable. It would open the way for easily doing indirectly what is forbidden to be done directly, and would render important constitutional limitations of no avail." *Id.* at 494-495.

In contrast, in *Maxwell v. Bugbee*, 250 U.S. 525, 531-532 (1919), New Jersey law provided for varying estate tax rates and considered the decedent's entire estate, wherever situated, in determining what rate applied (from one to five percent). After the rate was determined based on the entire estate, the tax was "apportioned and assessed in the proportion that the taxable New Jersey estate bore to the entire estate." *Id.* at 534. This was constitutional. *Id.* at 539-540.

The Court finds that the Massachusetts estate tax assessed here was an unconstitutional tax on out-of-state property. The Massachusetts estate tax was calculated based on the federal credit, which was calculated based on the "taxable estate." As set forth above, the value of the "taxable estate" did not include the Massachusetts real estate; it only included property located outside of Massachusetts. The credit was composed of a specific number plus a percentage, and it increased as the value of the "taxable estate" increased. Because the Massachusetts real estate was not included in the "taxable estate" value that was used to calculate the credit, the credit was calculated solely based on out-of-state property which Massachusetts lacked jurisdiction to tax. *See Frick*, 268 U.S. at 492 ("[T]o impose [a] tax the state must have jurisdiction over the thing that is taxed"). This is a different situation than that found constitutional in *Maxwell*. In *Maxwell*, all of the property was used to determine what rate (one to three percent) was applied to determine the tax on in-state property. 250 U.S. at 531-534. Here, in contrast, the rate was both determined by the amount of out-of-state property (the "taxable estate") and applied to out-of-state property (using the amount plus percentage formula in Table B). In other words, the amount of the Massachusetts estate tax here was calculated based entirely on property outside of Massachusetts.

The calculation here also contradicted the language of the Massachusetts statute. The statute provided that the amount of the tax was a sum equal to the proportion of the credit "which the value of Massachusetts real and tangible personal property . . . *which qualifies for such credit* bears to the value of the . . . total gross estate." M. G. L. A. c. 65C, § 2A (b) (emphasis added). Here, because the value of the Massachusetts real estate was not part of the "taxable estate" value used to calculate the credit, the proportion should be zero. There was no Massachusetts property that "qualifie[d] for such credit," because no Massachusetts property was contained in the "taxable estate."

Summary judgment is appropriate where the facts are undisputed and the issue is a matter of law. Mass. R. Civ. P. 56 (c). The estate tax imposed here is unconstitutional because it was calculated based solely on out-of-state property which Massachusetts lacks jurisdiction to tax. Summary judgment shall enter for the Plaintiff.

Date: June 1, 2026

/s/ Alexandra S. Flanders

Alexandra S. Flanders, Judge
Probate and Family Court