



June 11, 2019

Senate President Karen E. Spilka, Presiding Officer for the Constitutional Convention and Joint Session of the Senate and House of Representatives
House Speaker Robert A. DeLeo
Members of the Great & General Court
State House
Boston, MA

Re: Constitutional Convention and debate regarding proposals to impose an 80 percent surtax on individuals and businesses on incomes more than one million dollars

Senate 16 - Proposal for a legislative amendment to the Constitution to provide resources for education and transportation through an additional tax on incomes in excess of one million dollars

House 86 - Proposal for a legislative amendment to the Constitution to provide resources for education and transportation through an additional tax on incomes in excess of one million dollars

Dear Senate President Spilka, House Speaker DeLeo, and Members of the Great and General Court:

In advance of the June 12, 2019 Constitutional Convention and Joint Session of the House and Senate, we wish to communicate on behalf of the thousands of Associated Industries of Massachusetts (AIM) members and urge you to reject [Senate 16](#)¹ and [House 86](#),² as legislative proposals to amend the constitution and impose an 80 percent surtax on certain individuals.

AIM believes that taxes from individuals and business are necessary to fund the services of state and local government. The Massachusetts business community is pleased to have collaborated with the Legislature over the years to address state spending, seek efficiencies, modernize state operations, and – when necessary – support additional revenues for specific purposes.

But S. 16 and H. 86 would establish an unfair, 80 percent tax increase on many small, family-owned businesses, that pay income taxes at the individual rate. The proposals seek to impose a graduated income tax of 9.1 percent on all individual and business incomes more than \$1 million by amending the language of Article XLIV of the Massachusetts Constitution. That tax rate would be adjusted annually to reflect increases in the cost of living using the same method used for federal income tax brackets.

An identical proposal was rejected by the Massachusetts Supreme Judicial Court in 2018. Massachusetts voters have previously rejected five similar proposals to change the Constitution to allow for a graduated state income tax: in 1962, 1968, 1972, 1976, and 1994.³

¹ S.16 (Text) <https://malegislature.gov/Bills/191/S16>

² H.86 (Text) <https://malegislature.gov/Bills/191/H86>

³ [Misguided millionaires' tax was a nonstarter](#)

The 3,500 members of AIM oppose the income surtax amendment for several reasons:

1. The amendment will not guarantee that revenue from the surtax will be spent on education and transportation.

Neither proposal guarantees that tax revenue will be directed toward transportation or education. The Legislature has the constitutional authority to levy taxes and make all decisions relative to the manner in which those tax revenues are spent. S. 16 and H.86 would impose a tax that would be deposited to the Massachusetts General Fund, allowing the revenues to be spent any way the Legislature desires, not solely on education or transportation.

Any representation about how the money is used is wishful thinking that the constitution itself prohibits.

2. The proposal abrogates legislative authority and responsibility.

The proposals seek to insert what is traditionally legislative language into the body of the constitution. It is troubling that members of the Legislature are prepared to vote to abrogate their Constitutional authority to consider, levy, and alter Massachusetts tax laws. Do we really want to add legislative language to our state's Constitution? The Legislature throughout history closely guarded its constitutionally provided prerogative to make decisions regarding taxation and the dispersal of tax revenues.

3. This decision cannot be undone easily or promptly.

The Legislature will be powerless to make prompt changes or adjustments to the surtax once the constitutional change has been made. Even if the increased tax rate harms the Massachusetts economy or impacts the commonwealth's revenue, reversing or changing the Constitution would require a cumbersome and lengthy process. We know from the experiences of New York, Connecticut, and other jurisdictions that people and businesses can make quick decisions to move capital to other states. Massachusetts would require four to five years to address.

4. The tax system established by the Massachusetts Constitution is a model of fairness and equity.

It is no accident that we call ourselves a Commonwealth. The preamble of the Massachusetts Constitution states, "the body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people." This notion is affirmed in the language of Article XLIV of the Constitution, which states that taxes "shall be levied at a uniform rate throughout the commonwealth upon incomes derived from the same class of property." S. 16 and H. 86, as proposed, seek to upend the concept of a fair and uniform rate contained in the Massachusetts Constitution. The document has served as a foundational of fairness and equity.

5. An 80 percent tax increase on certain individuals and businesses is an unfair tax.

The proposed 80 percent tax increase imposed by S. 16 and H. 86 is unfair; could have a devastating impact on our economy; does not guarantee that additional taxes be spent on education or transportation; and, based on the experience of other states that have imposed this type of tax, will not raise the revenues expected by advocates.

As a mathematical proposition, those earning \$1 million of income pay 20 times more than those making \$50,000 annually. Income of \$50,000 generates a tax obligation of \$2,550, while the \$1 million-dollar income generate \$51,000 of income tax. (all things being equal.) According to the proposed language, every dollar of income above a million would be subjected to an approximate 9.1 percent tax rate, an 80 percent tax increase on income tax on those that earn over \$1 million dollars which would normally be taxed at the current 5.1 percent.

6. The surtax will have devastating impact on the economy.

The proposals would increase taxes for over 19,000 pass-through businesses that pay income tax at the individual rate. We should all be concerned about the ripple effect it will have on those taxpayers' ability to provide jobs, expand, pay local property taxes and make contributions to support state and community initiatives.

Massachusetts business owners already face more than \$2 billion in additional taxes and fees through a medical assessment ([EMAC](#)), and a new \$1 billion [Paid Family and Medical Leave program](#) in addition to some of the highest Unemployment Insurance, [Health care](#) and [Energy costs](#).

Taxes and fees influence individual and business decisions, especially when those taxes and fees combine with the high cost of doing business.

Some facts are important to note:

- The Massachusetts Department of Revenue's latest report on million-dollar earners shows 16,115 tax filings were submitted by residents statewide reporting an adjusted gross income of more than \$1 million during the 2016 tax year, the most recent year for which data is available. ⁴
- The Department of Revenue estimates that the proposal could generate \$1.6 billion to \$2.2 billion, with \$1.9 billion identified as the median.
- Of the taxpayers impacted, approximately 80 percent would file some business income.

Massachusetts can learn from other states' mistakes.

Massachusetts has become more attractive to business in recent years because other states have fostered unfriendly business climates with tax regimes similar to the proposal before the Legislature today.

⁴ [Where Million Dollar Earners Live in Massachusetts](#)

Connecticut provides us with the most recent and significant example of the dangers of raising taxes.

A newly-elected Legislature in Connecticut is considering several new taxes, even after enacting historically high back-to-back tax increases in 2011 and 2015 that in 2016 resulted in a 1.9 percent drop in state revenue. The Legislature is now considering tolls, a statewide property tax, a statewide car tax, a millionaires tax, home heating-oil tax, a second electricity tax, a tax on services and other taxes on surgery drinks, plastic bags, groceries, textbooks, nonprescription drugs, alcoholic beverage bottles, haircuts, dry cleaners, real estate, boat storage, interior design, newspapers, waste collection, parking renovation and repairs, sports programs and swim lessons.

Many Connecticut residents are fleeing to other states that tax less and have a strategy to attract new taxpayers and revenues. While some other states reduce taxes and grow, some suggest that Connecticut is at a tipping point.⁵

Massachusetts is already experiencing the same challenges relative to revenue loss due to migration. Recently published data in Bloomberg indicates that, *“Roughly 5 million Americans move from one state to another annually and some states are clearly making out better than others.”*⁶ The research shows Connecticut, New York, and Massachusetts as among the biggest revenue losers, specifically citing Massachusetts having a \$1.5 billion loss of tax revenues because of annual migration from the Commonwealth – and that’s without the millionaire’s tax.

AIM urges the members of this impending Joint Session of the Constitutional Convention to reject these proposals.

Sincerely,



Brad MacDougall
Vice President for Government Affairs
Associated Industries of Massachusetts

⁵ [Is Connecticut at a tipping point?](#)

⁶ [Florida Is the Big Winner as the Wealthy Move Out of Northern States](#)