Client Corner

In response to the Covid-19 pandemic and associated mental health crisis, Nutter's longtime client, a private foundation dedicated to supporting organizations that meet unfulfilled needs, decided to make grants to seven local organizations that aim to meet unmet youth mental health needs. Some of the organizations are small, serving very local populations, while some are larger and are developing programs and approaches to share widely across the state and beyond. The private foundation realized that even modest grant dollars can make an enormous difference in larger organizations whose revenue streams consist largely of inflexible funds from government entities, prohibiting them from permitting their very experienced and capable staff to try new approaches to care, particularly in behavioral health.

Grant Recipients Include:

The Adolescent Substance Use & Addiction Program (ASAP) at Boston Children's Hospital, providing national leadership in the evaluation and treatment of substance use problems and disorders in children and adolescents.

The Brookline Center for Community Mental Health, for its pioneering BRYT (Bridge for Resilient Youth in Transition) Program for teens re-entering school following an extended mental health/health-related absence.

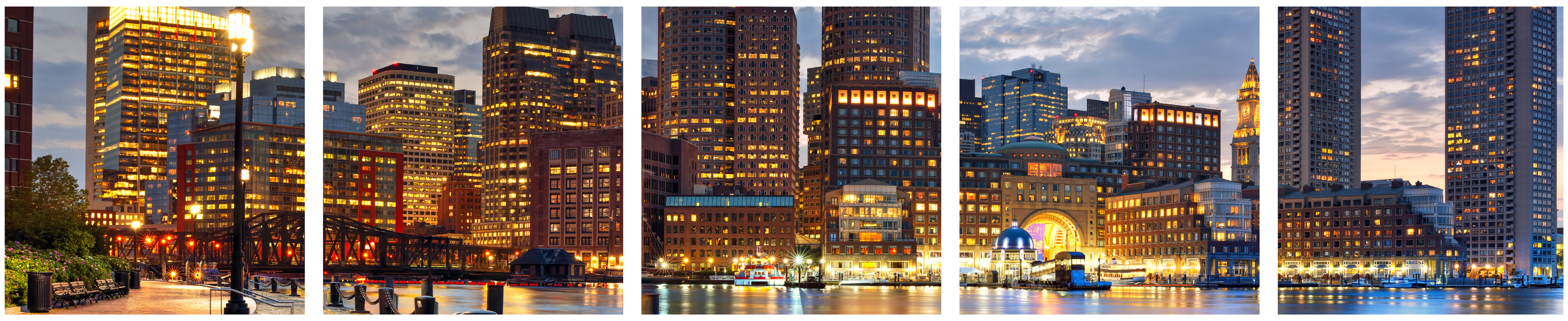
The Cambridge Community Center, for its Mental Health ACCESS (Advancement of Culturally Competent Education to Stop Stigma) program that exposes adolescents of color to mental health professions, aimed at fostering interest in pursuing post-secondary education and/or careers in mental health.

De Novo, for its affordable psychological counseling to low-income people, particularly those who are refugees from conflict zones who have experienced severe trauma.

Riverside Community Care, for its Signs of Suicide program for students and staff at high schools and institutions of higher education in Massachusetts, and now to more than 3.5 million people across the country and globally by equipping schools, workplaces, colleges, and other communities with evidence-based tools, consultations, and trainings to address mental health issues, substance use, and suicide risk.

Samaritans, for its Crisis Services program that trains and supports volunteers who listen with compassion to people who call and text seeking help, and its new teen peer-to-peer text line. ■

LEGACY MATTERS



Tax Tune-Up

Massachusetts Income Tax Deduction for Charitable Giving

Beginning January 1, 2023, Massachusetts taxpayers may claim a state income tax deduction for qualifying charitable contributions. The deduction is allowed for all contributions that meet the requirements of section 170 of the Internal Revenue Code and is available as a deduction against Massachusetts Part B adjusted gross income (e.g., wages, pensions, business income, rental income, alimony, and gambling/lottery winnings), but not against interest, dividends, short-term capital gains, and long-term capital gains. While the deduction is limited to Part B income, this tax benefit provides a powerful planning tool for taxpayers.

Residents, part-year residents, and non residents all may claim this deduction to varying degrees. Part-year residents are allowed a deduction based on the ratio of days spent in Massachusetts during that tax year. Deductions for nonresidents are calculated based on the ratio of Massachusetts income in relation to total income.

In contrast to the federal income tax charitable deduction, the Massachusetts charitable income tax deduction is available for taxpayers who do not itemize.

Massachusetts Millionaires Tax

Tax planning tools like the charitable contribution deduction can be significant in relation to the newly imposed so-called millionaires tax. Effective January 1, 2023, Massachusetts imposed a surtax of 4% on an individual's annual taxable income to the extent that it exceeds $1 million (adjusted for inflation annually).

This surtax is estimated to only apply to 0.6% of Massachusetts households in any given year. Though many taxpayers are subject to the surtax only in years when they have a significant event, such as a business or stock sale, some taxpayers will be subject to the surtax annually.

In addition to engaging in planning with charitable giving, taxpayers who want to minimize the impact of this surtax also may wish to plan when to recognize gains and losses and consider options surrounding changing tax domicile. ■

Estate and Income Tax Provisions in Massachusetts Tax Relief Package

Last month Governor Healey signed into law the most significant Massachusetts tax relief bill in more than two decades. We highlight below the most significant provisions of the legislation.

Estate Tax

One of the major provisions presented in the new law will have a significant effect on estate planning. For Massachusetts residents (and non-residents owning property in Massachusetts) who die on or after January 1st of this year, the Massachusetts estate tax exemption is increased from $1 million to $2 million. The legislation also creates a "true" exemption as it provides for a $99,600 credit against the tax. This means that the first $2 million of value in every estate will be exempt from estate tax, regardless of the total value of the entire estate.

Short-Term Capital Gains Tax

Another significant provision is the reduction in the rate at which short-term capital gains are taxed. The legislation reduces the short-term capital gain rate, which applies to gain from the sale or exchange of assets held for a year or less, from 12% to 8.5%, effective for the 2023 tax year.

Single Sales Factor Apportionment

Corporations doing business in the Commonwealth will also be affected by this law due to the change to a single sales factor apportionment. Currently, with some exceptions for certain industries, the Massachusetts corporate tax is calculated using a company's local payroll, property holdings, and in-state sales. The law replaces these factors with a simplified version that uses only a company's sales within the Commonwealth. This overhaul in how Massachusetts will calculate taxes owed by multistate companies, effective for tax years beginning in 2025, puts Massachusetts in line with 39 other states and is aimed at making Massachusetts more competitive with other states.

Provisions Affecting the Millionaire Tax Implementation

A series of tax policy proposals were included in the law as well. One to keep an eye on for tax planning purposes, especially with the so-called Millionaire's Tax that took effect on January 1, 2023, relates to married couple tax filings. This policy change is effective for tax years beginning on or after January 1, 2024, and requires married couples to align their state filing status with that of their federal filing status. The Millionaire's Tax provides for a surtax of 4% on an individual's annual taxable income to the extent that it exceeds $1 million, and this policy is intended to expand the scope of the surtax by taxing more couples whose combined income exceeds $1 million, even when the individual income of one or both falls short of the threshold.

Other Changes for Commonwealth Taxpayers

Numerous other provisions in the law provide tax credits and incentives to support policy priorities such as housing and childcare. These provisions affect areas such as housing development, low-income housing, rent reduction, earned income, and child and dependent care.

What's Next?

These changes could affect your existing estate and income tax planning. For more information, please contact your Nutter attorney. ■

NUTTER SPOTLIGHT

Julia Satti Cosentino

a partner in Nutter's Private Client Department and co-chair of the Nonprofit and Social Impact practice group, has served on the Board of Trustees for the Perkins School for the Blind since 2020. A longtime supporter of Perkins, Julia has been involved with the organization since her election as a Member of the Corporation in 2012. She is currently a member of its Audit Committee and the Corporator Leadership Council.

Founded in 1829, the Perkins School for the Blind was the first school for the blind in the United States. Perkins is the worldwide leader in education services for children and young adults with multiple, complex disabilities and visual impairments. Perkins is an international NGO, working to create a world where every child can learn, and that includes the 240 million children with disabilities around the world. Perkins helps families, teachers, schools, and governments see what's possible, and share what they've learned over the course of nearly 200-years: that every person can successfully contribute to their community, given the right support. ■

Corporate Transparency Act

What is The CTA?

The Corporate Transparency Act ("CTA") is intended to strengthen the federal government's anti-money laundering efforts by requiring many entities to report information regarding beneficial ownership of companies. As explained in more detail below, the CTA does not just cover operating businesses, but can cover entities formed simply to hold titles to assets and for other purposes that are employed in the context of estate planning and maintaining family wealth.

When Does the CTA Take Effect?

Reporting requirements take effect **January 1, 2024**:

- Reporting companies existing (or if foreign, registered in the U.S.) prior to January 1, 2024, will have until January 1, 2025, to submit initial reports.
- Reporting companies created after January 1, 2024, must submit an initial report to FinCEN within 30 calendar days of formation or registration.

Who Needs to File?

Unless one of the exemptions applies, any corporation, limited liability company, or other "similar entity" that is created (or registered) by the filing of a document with a secretary of state or a similar office is referred to as a "reporting company." **Most small businesses, fund manager entities, real estate holding entities, or entities created for estate planning purposes, such as family limited partnerships, will be reporting companies.**

For each entity that is a reporting company, it will need to provide information as to:

- The entity itself.
- Certain beneficial owners–anyone who owns more than 25% of the entity, and anyone who exercises "substantial control" over the entity (directors, LLC managers, certain trustees, control persons of general partner entities, etc.).
- The Applicant–the person who directly files formation or registration papers to create the entity. In the case where a Nutter paralegal files directly with a state to form an entity, both the paralegal and the attorney handling or supervising the matter will be the Applicant. For entities formed through service companies such as CSC or CT, the service company will be the Applicant.

Who Does Not Need to File?

There are **23 exemptions** from the requirements of the CTA. "Large operating companies" are exempt from filing. A "large operating company" is defined as an entity that (i) employs **more than 20 full-time employees** (as defined under IRS regs) in the U.S.; (ii) has an operating presence at a physical address in the U.S. (i.e., a shared workspace or just a physical address is not enough); and (iii) filed a federal income tax return for the previous year demonstrating more than **$5 million in gross receipts or sales.**

Entities subject to other federal or state regulations (such as financial institutions, insurance companies, and companies registered with SEC) also do not need to file (regardless of whether they meet the large companies test). Entities owned or controlled by an exempt entity (i.e., subsidiaries) are also exempt.

What Needs to Be Filed?

The reporting company is required to provide certain information concerning the entity, its beneficial owner(s), and its company applicant(s) (depending on when the entity was formed). **The reporting company is responsible for all information included in the filing, including beneficial owner and company applicant information.**

Reporting Company: The reporting company is required to provide its full legal name, any d/b/a's, principal office, jurisdiction, and EIN.

Beneficial Owner(s): The reporting company is required to provide, for each beneficial owner, the beneficial owner's full legal name, date of birth, current residential address, a unique identifying number from an acceptable identification document (a non-expired passport, driver's license, or similar document), and a copy of the identification document.

Company Applicant(s): For reporting companies **formed after January 1, 2024**, the reporting company is required to provide, for each company applicant, essentially the same information as for beneficial owners. For reporting companies **already in existence on January 1, 2024**, the reporting company does not need to include company applicant information in its initial reports.

What Are the Penalties for Non-Compliance?

Penalties for failure to timely file can result in a fine of **$500 for each day the violation continues**. Criminal violations may be punished by up to **two years imprisonment and a $10,000 fine.** ■