

SENATE No. 1544

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia D. Jehlen

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act closing an unfair tax loophole.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>1/31/2017</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/2/2017</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>2/2/2017</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/3/2017</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	<i>2/3/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>2/10/2017</i>

SENATE No. 1544

By Ms. Jehlen, a petition (accompanied by bill, Senate, No. 1544) of Patricia D. Jehlen, Jason M. Lewis, James B. Eldridge, Kenneth I. Gordon and other members of the General Court for legislation to closing an unfair tax loophole. Revenue.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act closing an unfair tax loophole.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 62 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by adding the following new subsection:-

3 (s) “Investment Management Services Interest:” Any interest in a business which is held
4 by any person if such person provides, directly or indirectly, in the active conduct of a trade or
5 business, a substantial quantity of any of the following services to the business:

6 (1) Advising the business (partnership, S corporation or any business entity) as to the
7 advisability of investing in, purchasing, or selling any specified asset or

8 (2) Managing, acquiring, or disposing of any specified asset, or

9 (3) Arranging financing with respect to acquiring specified asses or

10 (4) Any activity in support of any service descried in subparagraphs 1-3

11 a. For the purposes of this definition, the term specified asset means securities (as
12 defined in section 475(c)(2) of the Internal Revenue Code) real estate held for rental or
13 investment, interest in partnerships, commodities (as defined in section 475(E)(2) of the Internal
14 Revenue Code) or options or derivative contracts to any of these;

15 b. A partner or shareholder will not be deemed to hold an investment management
16 services interest if at least eighty percent of the average fair market value of the specified assets
17 of business during the taxable year consists of real estate

18 SECTION 2. Section 2 of said chapter 62, as so appearing, is hereby amended by striking
19 subsection (b) and inserting in place thereof the following subsection:-

20 (b) Massachusetts gross income shall be divided into four Parts:

21 (1) Part A gross income shall be the total interest, dividends and capital gain income
22 included in Massachusetts gross income, other than:

23 (A) Interest and dividends from savings deposits, including term and time deposits
24 having a principal amount of less than one hundred thousand dollars, savings accounts, share or
25 share savings accounts in any savings or cooperative bank, trust company or credit union
26 incorporated in or chartered by the commonwealth; in any national bank, federal savings and
27 loan association, federal savings bank or federal credit union located in the commonwealth; in
28 any banking company or Morris Plan company subject to chapter one hundred and seventy-two
29 A; in any savings or loan association or banking partnership under the supervision of the
30 commissioner of banks.

31 (B) Interest from loans made in the course of business by persons subject to the
32 provisions of sections seventy to eighty-five, inclusive, of chapter one hundred and forty.

33 (C) Gain income from the sale or exchange of capital assets held for more than one year,
34 with such holding period beginning on January 1, 1995 but not including gain income from the
35 sale or exchange of property defined under section four hundred and eight (m)(2) of the Code, as
36 amended and in effect for the taxable year.

37 (2) Part B gross income shall be Massachusetts gross income not included in Part A or
38 Part C gross income; provided, however, that Part B gross income shall include bribes, corrupt
39 gifts and any income gained through illegal activities.

40 (3) Part C gross income shall be capital gain income which equals the gains from the sale
41 or exchange of capital assets held for more than 1 year, excluding any income from an
42 investment management services interest.

43 For purposes of this subsection, property acquired prior to January 1, 1996 shall be
44 deemed to have been acquired on January 1, 1995 or on the date of actual acquisition, whichever
45 is later.

46 (4) Part D gross income shall be any income derived from an investment management
47 services interest.

48 SECTION 3. Section 4 of said chapter 62, as so appearing, is hereby amended by
49 inserting the following subsection:-

50 (d) Part D taxable income shall be taxed at a the rate of 24 percent until such time as the
51 United States Congress has passed and the President of the United States has signed legislation

52 having an identical effect with this act applicable to such income earned in all of the states and
53 territories.

54 SECTION 4. Sections 1-3 shall take effect upon enactment into law by the states of
55 Connecticut, New Jersey and New York of legislation having an identical effect with this act, but
56 if the states of Connecticut, New Jersey and New York shall have already enacted such
57 legislation, this act shall take effect immediately.