SENATE DOCKET, NO. 408 FILED ON: 1/13/2009

SENATE . . . . . No. 1382

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the taxation of financial institutions..

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

SECTION 1. Section 1 of chapter 63 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by inserting at the end of the definition of financial institution the following: —

Provided further that for taxable years beginning on or after January 1, 1999, any partnership or any S corporation, as defined under section 1361 of the Internal Revenue Code that otherwise falls within this definition shall not be taxable as a financial institution under this chapter. The partners in such a partnership shall be subject to tax on their distributive share of the partnership's income. Such an S corporation shall be subject to the provisions of section 32D of this chapter and its shareholders shall be subject to tax on their distributive share of the S corporation's income. Where such a partnership or S corporation has income from business activity which is taxable both within and without this commonwealth, the provisions of sections 1 and 2A of this chapter shall apply for purposes of determining the net income taxable under said section 32D and the portion of partnership or S corporation distributive income taxable under this chapter or chapter 62.

SECTION 2. Section 1 of this act shall take effect retroactively to January 1, 1999.