

**HOUSE . . . . . No. 2545**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Peter J. Koutoujian***

*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 Relative to certain tax exemptions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Peter J. Koutoujian</i>	<i>10th Middlesex</i>	<i>1/21/2011</i>

**HOUSE . . . . . No. 2545**

By Mr. Koutoujian of Waltham, a petition (accompanied by bill, House, No. 2545) of Peter J. Koutoujian relative to tax exemptions for certain businesses in the Commonwealth. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 2805 OF 2009-2010.]

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Eleven**

An Act Relative to certain tax exemptions.

*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. Chapter 63 of the General Laws is hereby amended by deleting section 42B  
2 thereof and substituting therefor the following section: --

3 Section 42B. (a) Every business corporation subject to taxation under section 39 that has  
4 a usual place of business in the commonwealth, and is engaged in manufacturing in the  
5 commonwealth, or engaged in the commonwealth in research and development shall, for the  
6 purposes of this chapter, be considered to be a manufacturing corporation or a research and  
7 development corporation. Every manufacturing corporation shall be taxed in the same manner  
8 and shall have the same duties under this chapter and chapter 62C as other business corporations  
9 subject to taxation under section 39, except insofar as the determination of the excise under this  
10 chapter may be affected by reason of the exemption from local taxation of the machinery of a  
11 manufacturing corporation.

12 (b) A research and development corporation for the purposes of this section is a business  
13 corporation subject to taxation under section 39 whose principal activity herein is research and  
14 development and which, during the taxable year, derives more than 2/3 of its receipts attributable  
15 to the commonwealth from the activity. Receipts from research and development shall include  
16 receipts from the provision of research and development services and from royalties or fees  
17 derived from the licensing of patents, know-how or other technology developed from research  
18 and development. For purposes of this section and of section 6 of chapter 64H, research and  
19 development is experimental or laboratory activity having as its ultimate goal the development of  
20 new products, the improvement of existing products, the development of new uses for existing  
21 products, and the development or improvement of methods for producing products, and does  
22 not include testing or inspection for quality control purposes, efficiency surveys, management  
23 studies, consumer surveys or other market research, advertising or promotional activities, or  
24 research in connection with literacy, historical or similar projects. Nothing in this section shall be  
25 construed to provide for an exemption from local taxation of the machinery of a corporation  
26 deemed to be a research and development corporation which is not deemed to be a  
27 manufacturing corporation.

28 (c) For purposes of this section and section 38, the development and sale of standardized  
29 computer software shall be considered a manufacturing activity, without regard to the manner of  
30 delivery of the software to the customer.

31 SECTION 2. Section 6 of Chapter 64H of the General Laws is hereby amended by  
32 deleting subsection (r) thereof and substituting therefor the following subsection: --

33 (r) Sales of materials, tools and fuel, or any substitute therefor, which become an  
34 ingredient or component part of tangible personal property to be sold or which are consumed and  
35 used directly and exclusively in agricultural production; in commercial fishing; in an industrial  
36 plant in the actual manufacture of tangible personal property to be sold, including the publishing  
37 of a newspaper; in the operation of commercial radio broadcasting or television transmission; in  
38 the furnishing of power to an industrial manufacturing plant; in the furnishing of gas, water,  
39 steam or electricity when delivered to consumers through mains, lines or pipes; in the production  
40 of animals for research, testing, or other purposes relating to the promotion or maintenance of the  
41 health, safety or well being of human beings or animals; or in research and development as  
42 defined in section 42B of chapter 63. However, the exemption in this paragraph so far as it  
43 applies to sales of electricity, gas and steam consumed and used directly and exclusively in an  
44 industrial plant in the actual manufacture of tangible personal property to be sold shall be limited  
45 to the extent allowed in paragraph (i). For the purpose of this paragraph, the raising of poultry  
46 and livestock shall be construed to be included in the term "agricultural production"; any  
47 material, tool or fuel shall be construed to be consumed and used only if its normal useful life is  
48 less than one year or if its cost is allowable as an ordinary and necessary business expense for  
49 federal income tax purposes or if it is nuclear fuel or a nuclear fuel assembly; and the term  
50 "industrial plant" shall mean a factory at a fixed location primarily engaged in the manufacture,  
51 conversion or processing of tangible personal property to be sold in the regular course of  
52 business.

53 SECTION 3. Section 6 of Chapter 64H of the General Laws is hereby further amended  
54 by deleting subsection (s) thereof and substituting therefor the following subsection: --

55 (s) Sales of machinery, or replacement parts thereof, used directly and exclusively in  
56 agricultural production; in commercial fishing; in an industrial plant in the actual manufacture of  
57 tangible personal property to be sold, including the publishing of a newspaper; in the operation  
58 of commercial radio broadcasting or television transmission; in the furnishing of power to an  
59 industrial manufacturing plant; in the furnishing of gas, water, steam or electricity when  
60 delivered to consumers through mains, lines or pipes; in the production of animals for research,  
61 testing, or other purposes relating to the promotion or maintenance of the health, safety or well  
62 being of human beings or animals; or in research and development as defined in Section 42B of  
63 chapter 63. For the purpose of this paragraph, the raising of poultry and livestock shall be  
64 construed to be included in the term "agricultural production"; the term "industrial plant" shall  
65 mean a factory at a fixed location primarily engaged in the manufacture, conversion or  
66 processing of tangible personal property to be sold in the regular course of business; and  
67 machinery shall be deemed to be used directly and exclusively in the actual manufacture,  
68 conversion or processing of tangible personal property to be sold only where such machinery is  
69 used solely during a manufacturing, conversion or processing operation to effect a direct and  
70 immediate physical change upon the tangible personal property to be sold; to guide or measure a  
71 direct and immediate physical change upon such property where such function is an integral and  
72 essential part of tuning, verifying or aligning the component parts of such property; or to test or  
73 measure such property where such function is an integral part of the production flow or function;  
74 used solely to store, transport, convey or handle such property during the manufacturing,  
75 converting, or processing operations heretofore specified; or used solely to place such property in  
76 the container, package or wrapping in which such property is normally sold to the ultimate  
77 consumer thereof. Machinery used directly and exclusively in the actual manufacture, conversion

78 of processing of any tangible personal property which is not to be sold and which would be  
79 exempt under paragraph (r) or this paragraph if purchased from a vendor thereof or machinery  
80 used during any manufacturing, converting or processing, conveying or packaging operation or  
81 function or for any other purpose, except as heretofore specified, shall not be exempt under this  
82 paragraph even though such operation, function or purpose is an integral or essential part of a  
83 continuous production flow or manufacturing process. Where a portion of a group of portable or  
84 mobile machinery is used directly and exclusively in the actual manufacture, conversion or  
85 processing of tangible personal property to be sold, as heretofore defined, the number  
86 represented by such portion, if otherwise qualifying, shall be exempt under this paragraph even  
87 though the machinery in said group is used interchangeably and not otherwise identifiable as to  
88 use.

89 SECTION 4. This act shall take effect with respect to sales made on or after July 1,  
90 2011.