

SENATE No. 1523

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 to strengthen tax administration and promote taxpayer fairness.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	
<i>Michael J. Rodrigues</i>	
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>

SENATE No. 1523

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 1523) of Karen E. Spilka, Michael J. Rodrigues and Benjamin B. Downing for legislation to strengthen tax administration and promote taxpayer fairness . Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to strengthen tax administration and promote taxpayer fairness.

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. Subsection (a) of section 32 of chapter 62C of the General Laws,
2 as appearing in the 2008 Official Edition, is hereby amended by inserting after the second
3 sentence the following sentence:-

4 "However, notwithstanding any other provision, to the extent that, for any period, interest
5 is payable on equivalent underpayments and overpayments by the same taxpayer of tax, the net
6 rate of interest on such amounts shall be 0 for such period."

7 SECTION 2. Section 35A of chapter 62C of the General Laws, as appearing in
8 the 2008 Official Edition, is hereby amended by inserting after subsection (e) the following new
9 subsection:-

10 (f) The penalty set forth in this section shall not be imposed if the
11 Commissioner takes more than 18 months, measured by 548 audit days, to issue a proposed
12 assessment. The term "audit days" refers to the time period during which a taxpayer is under

13 audit. The counting of audit days begins with the date that the Commissioner issues a letter
14 notifying a taxpayer that it has been selected for an audit of its return, but any day for which the
15 taxpayer has requested additional time beyond the meeting date or response date set forth by the
16 Commissioner shall not be counted as an audit day up until the date the requested meeting takes
17 place or the date the requested information has been substantially provided. If there is an
18 interruption in the counting of audit days due to a delay requested by the taxpayer, the counting
19 of days will resume once the delayed meeting has taken place or the date the requested
20 information has been substantially provided. The Commissioner must provide at least 30 days
21 notice in setting a meeting date and provide a taxpayer with at least 60 days to respond to a
22 request for information.

23 SECTION 3. The second paragraph of section 37 of chapter 62C of the
24 General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the
25 fifth sentence.

26 SECTION 4. Said section 37 of said chapter 62C, as so appearing, is hereby
27 amended by striking out, in lines 4-6, inclusive, the words "three years from the last day for
28 filing the return for such tax, determined without regard to any extension of time," and inserting
29 in place thereof the following words:-

30 "3 years after the date the return was filed or the date it was required to be filed,
31 whichever occurs later,"

32 SECTION 5. The first paragraph of said section 37 of said chapter 62C, as so
33 appearing, is hereby amended by inserting after the first sentence the following sentence:-

34 "When such period for abatement or for abating such tax has been extended, the amount
35 of the abatement claim shall be limited to an amount equal to the amount of any tax assessed plus
36 the amount of the tax liability shown on the return."

37 SECTION 6. Section 40 of chapter 62C of the General Laws, as appearing in
38 the 2008 Official Edition, is hereby amended by striking out subsection (a) and inserting in place
39 thereof the following subsection:-

40 (a) If any refund of any tax, interest or penalties is made pursuant to sections
41 30, 31A, 36, 36A, 37 or 39 of this chapter, or sections 27 or 27A of chapter 65, or section 6 of
42 chapter 65A, the state treasurer shall repay to the taxpayer the amount of such refund with
43 interest thereon at the rate established under section 32 of this chapter, except as hereinafter
44 provided, from the date of overpayment to a date, to be determined by the commissioner,
45 preceding the date of the refund check by not more than 30 days, whether or not such refund
46 check is accepted by the taxpayer after tender of such to the taxpayer. The acceptance of such
47 check shall be without prejudice to any right of the taxpayer to claim any additional overpayment
48 and interest thereon.

49 SECTION 7. On the first business day of each month, the Commissioner shall
50 publish on its website a Report of Policy Issues Under Development. This report shall list all
51 draft regulations and Directives the Commissioner is considering issuing in the current and
52 following months, with a brief description of the issued covered by each draft regulation and
53 Directive and a brief rationale for the draft regulation and Directive.

54 No draft regulation or Directive shall be released before it has been listed in
55 two successive Reports, excepting emergency circumstances. Emergency circumstances shall be

56 defined as those instances in which the delayed issuance of said draft regulation or Directive
57 would significantly harm taxpayer compliance or oversight. If emergency circumstances require
58 the release of a draft regulation or Directive before it has been listed in two successive Reports,
59 the Commissioner must publish an Emergency Report of Policy Issues Under Development on
60 its website. A draft regulation or Directive listed in an Emergency Report may be released 7
61 calendar days after the publication of said report but not sooner.

62 SECTION 8. SECTIONS 1 and 2 shall take effect July 1, 2011.

63 SECTION 9. SECTION 3 shall take effect retroactively to all open tax periods
64 as of the date this act is approved.

65 SECTION 10. SECTION 6 shall take effect retroactively to all open tax periods
66 as of the effective date this act. This amendment shall not open a tax period that had already
67 closed prior to the amendment's effective date.

68 SECTION 11. SECTION 8 shall take effect retroactively to all open tax periods
69 as of the effective date of this act.