

HOUSE No. 2697

The Commonwealth of Massachusetts

PRESENTED BY:

Chris Walsh

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 sales tax exemption for the sale of art.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/15/2015</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/21/2015</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>11/26/2019</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	<i>11/26/2019</i>

HOUSE No. 2697

By Mr. Walsh of Framingham, a petition (accompanied by bill, House, No. 2697) of Chris Walsh and others relative to sales tax exemptions for certain works of art. Revenue.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to sales tax exemption for the sale of art.

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

1 An Act relative to Sales tax exemption for the Sale of Art

2 SECTION 1. The sale of a work defined as an original and creative work, whether
3 written, composed, created or executed for “one of a kind, limited” production, which falls into
4 the following categories, shall be exempt from the sale and use tax when sold by a writer,
5 composer or artist who created such work and resides in the Commonwealth and who sells the
6 work in the Commonwealth. The sale of a work by an art gallery located in the Commonwealth
7 is also exempt from the sales and use tax.

8 (a) A book or other writing;

9 (b) A play or the performance of said play;

10 (c) A musical composition or the performance of said composition;

11 (d) A painting or drawing;

- 12 (e) A sculpture;
- 13 (f) Traditional and fine crafts;
- 14 (g) The creation of a film or the acting within said film;
- 15 (h) The creation of a dance or the performance of said dance

16 SECTION 2: Exceptions.

- 17 (a) A “work” shall not include any piece or performance created or executed for
18 industry oriented or related production.

19 Section 3: A writer, composer or artist is deemed to be residing in the Commonwealth if
20 he/she:

- 21 (a) Is domiciled in the Commonwealth
- 22 (b) Is not domiciled in the Commonwealth but maintains a permanent place of abode
23 in the Commonwealth and is in the Commonwealth for more than one-hundred, eighty three days
24 of the taxable year.
- 25 (c) Meets the requirements of either (a) or (b) above and physically occupies a place
26 of abode in the Commonwealth.

27 Section 4: Application for Exemption

- 28 (a) Sales by Individuals – for a sale of a work to be exempt, an eligible writer,
29 composer or artist must prior to the sale of the work, apply to the Department of Revenue for a
30 Certificate of Exempt Sale on a form prescribed by the Department of Revenue. In determining

31 the eligibility of the work for exemption the Department of Revenue may require the submission
32 of all books, documents or other evidence relating to the creation of the work.

33 (b) Sales by Art Galleries – for the sale of work to be exempt by an art gallery, the
34 operator of the art gallery must apply to the Department of Revenue for a sales tax exemption.

35 (c) The Department of Revenue may also require a writer, composer or artist, or the
36 operator of an art gallery to submit an annual certified accounting of the numbers of works sold,
37 the type of work sold and the date of sale. Failure to file such a report may, in the sole discretion
38 of the Department of Revenue, terminate any further eligibility of the writer, composer, artist or
39 art gallery.

40 Section 5: Compliance Under the Sales/Use Tax Law

41 (a) At the time of application, every writer, composer, artist or art gallery making any
42 retail sales, whether or not such sales are exempt, shall hold a valid permit to make sales at retail
43 and shall comply with all the administrative, collection and remittance requirements of the sales
44 and use tax laws.

45 (b) The exemption number assigned to the artistic work by the Department of
46 Revenue must be shown on the customer invoice. This exemption number must also be shown on
47 the line designated as “other” deductions on the Sales and Use Tax Returns of the artist, writer,
48 composer or art gallery, to substantiate the deduction taken from the gross sales being reported.

49 Section 6: Use Tax Exemption

50 (a) Any person storing, using or otherwise consuming in the Commonwealth any
51 work or works which is deemed to be exempt from the sales tax pursuant to this section shall not
52 be liable for the use tax on such work or works.