

HOUSE No. 62

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
· , MA

KARYN POLITO
LIEUTENANT GOVERNOR

March 4, 2015

To the Honorable Senate and House of Representatives,

I am filing for your consideration, “An Act to Support Working Families.”

This legislation expands the Massachusetts counterpart to the federal earned income tax credit (the “EITC”). Under current law, working families in Massachusetts are eligible for up to \$937 in tax relief, equal to 15% of the federal EITC. I propose to double that percentage to 30% over four years, ultimately delivering up to \$1,874 in annual tax relief for eligible working families. The EITC is one of the most effective tax credits at putting money into the hands of low and moderate income workers, and these families deserve our support.

To compensate for this reduction in the income tax burden on working families, this legislation also proposes a wind down of the Massachusetts’ film tax credit, and eliminates that tax credit on July 1, 2017. In contrast to the EITC, the film tax credit primarily benefits individuals living outside of Massachusetts. The most recent Department of Revenue study of the film tax credit showed that two-thirds of the spending generated by the credit went to out-of-state workers or businesses. That study also estimated that in 2012 the film tax credit created 730 jobs, but cost \$118,000 for each Massachusetts job created.

This legislation also proposes a tax amnesty program for non-filers available during fiscal year 2016. The last non-filer tax amnesty program operated in 2002 and generated \$176 million in payments. In addition to generating revenue in the near-term, a tax amnesty program targeted at non-filers continues to generate tax payments by bringing taxpayers into compliance, and encouraging them to stay on the tax rolls.

This legislation, through the tax amnesty program, is estimated to generate \$100 million in revenue in fiscal year 2016. The changes in the film tax credit and earned income tax credit have no net fiscal impact in fiscal year 2016. At full implementation, in fiscal year 2019, this legislation would reduce the tax burden on Massachusetts taxpayers by \$65 million, or approximately 0.2% of anticipated tax revenues, before accounting for additional revenues from taxpayers who join the tax rolls as a result of the fiscal year tax amnesty program.

I urge your prompt consideration and passage of this important legislation.

Sincerely,

Charles D. Baker,
Governor

HOUSE No. 62

Message from His Excellency the Governor recommending legislation relative to to support working families.

The Commonwealth of Massachusetts

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

An Act to support working families.

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 (h) of section 6 of chapter 62, as appearing in the 2012 Official
2 Edition, is hereby amended by striking out the second and third sentences and inserting in place
3 thereof the following sentences:-

4 The credit allowed by this subsection shall equal the following amounts: (i) for each
5 taxable year beginning on or after January 1, 1997 but before January 1, 2016, 15 per cent of the
6 federal credit received by the taxpayer for the taxable year; (ii) for each taxable year beginning
7 on or after January 1, 2016 but before January 1, 2017, 24 per cent of the federal credit received
8 by the taxpayer for the taxable year; (iii) for each taxable year beginning on or after January 1,
9 2017 but before January 1, 2018, 27 per cent of the federal credit received by the taxpayer for the
10 taxable year; (iv) for each taxable year beginning on or after January 1, 2018 and thereafter, 30
11 per cent of the federal credit received by the taxpayer for the taxable year. With respect to a
12 person who is a nonresident for all or part of the taxable year, the credit shall be limited to the
13 amount specified in the preceding sentence, multiplied by a fraction the numerator of which shall

be the earned income of the nonresident from Massachusetts sources and the denominator of which shall be the earned income of the nonresident from all sources.

SECTION 2. Paragraph (h) of said section 6 of said chapter 62, as so appearing, is hereby amended by adding the following words:-

The Commissioner may adopt filing procedures that require any credit under this paragraph to be claimed on a return filed electronically by the taxpayer on a designated system maintained by the commissioner or on a return filed electronically on the taxpayer's behalf by a third party preparer, which preparer (1) shall previously have registered in a manner prescribed by the commissioner; and (2) shall be identified on the return in a manner prescribed by the commissioner. Claims for credit under this paragraph that do not comply with any such filing procedures shall be denied. In the case of a return filed by a preparer and claiming a credit under this paragraph, section 35C of chapter 62C shall apply to an understatement of tax liability or improper claim for refund on the return.

SECTION 3. Said section 6 of said chapter 62, as so appearing, is hereby amended by striking out subsection (l).

SECTION 4. Section 38X of chapter 63 of the General Laws, as so appearing, is hereby repealed.

SECTION 5. Section 6 of chapter 64H of the General Laws, as so appearing, is hereby amended by striking out subsection (ww).

SECTION 6. (a) Notwithstanding any general or special law to the contrary, the commissioner of revenue may establish a tax amnesty program during which all penalties that

could be assessed by the commissioner for the failure of the taxpayer: (i) to timely file any proper return for any tax types and for any tax periods; (ii) to timely pay any tax liability; or (iii) to pay the proper amount of any required estimated payment toward a tax liability shall be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect, if the taxpayer, prior to the expiration of the amnesty period, voluntarily files proper returns and pays the full amount of tax shown on the taxpayer's returns or upon the commissioner's assessments, together with all interest due thereon. The waiver shall not apply to any penalties that may be due under sections 35A or 35D of chapter 62C with regard to returns filed pursuant to the amnesty. The waiver of penalties shall not apply to any period for which the taxpayer does not file such proper returns. The amnesty program shall not apply to a tax liability of any tax type for a period commencing on or after January 1, 2014. The scope of the program, including the particular tax types and periods covered, including any limited look-back period for unfiled returns, such period not to exceed 3 years, shall be determined by the commissioner

(b) The amnesty program shall be established for a period of 60 days within fiscal year 2016 to be determined by the commissioner, such period to expire not later than June 30, 2016. If a taxpayer fails to pay the full liability on or before June 30, 2016, the commissioner shall retain any payments made and shall apply those payments against the outstanding liability and the tax amnesty program shall not apply.

(c) (1) The commissioner may offer amnesty to those taxpayers who have failed to file required returns due for any tax period beginning before January 1, 2014, provided that the taxpayer files the required return and pays the tax shown as due on the return during the amnesty period together with accrued interest.

(2) The commissioner shall not authorize the waiver of any interest or amount treated as interest.

(3) The commissioner's authority to waive penalties during the amnesty period shall not apply to any taxpayer who is or has been the subject of a tax related criminal investigation or prosecution or to any taxpayer who delivers or discloses or has delivered or disclosed any false or fraudulent application, document, return or other statement.

(4) A taxpayer who delivers or discloses any false or fraudulent application, document, return or other statement to the department of revenue in connection with an amnesty application under this section shall be ineligible for amnesty and shall be subject to the greater of: (i) applicable penalties under chapter 62C of the General Laws; or (ii) a penalty not to exceed \$10,000 which shall be calculated and assessed according to rules determined by the commissioner and may be subject to de minimis or other exceptions that the commissioner may consider appropriate. This penalty shall be subject to said chapter 62C and shall be added to and become part of the tax due.

(d) Amnesty shall not apply to those penalties which the commissioner would not have the sole authority to waive including, but not limited to, fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes or excises collected for the benefit of cities, towns or state governmental authorities.

(e) The commissioner shall maintain records of the penalties waived under the tax amnesty program established by this section including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the types of tax liability for which amnesty was provided

and, for each type of liability, the amount of tax liability collected and the amount of penalties foregone by virtue of the tax amnesty program; and (iii) the total outstanding tax liability for amnesty-eligible taxpayers at the conclusion of the tax amnesty program after the collection of all funds under this section. The commissioner shall file a report detailing the information with the clerks of the senate and the house of representatives, the joint committee on revenue, the house and senate committees on ways and means and the house and senate minority leaders not later than September 1, 2016; provided, however, that the report shall not contain information sufficient to identify an individual taxpayer or the amnesty that an individual taxpayer was provided under this section.

(f) The commissioner shall establish administrative procedures and methods to prevent any taxpayer who utilizes the tax amnesty program from utilizing any future tax amnesty programs for the next consecutive 10 years, beginning in calendar year 2015.

SECTION 7. Notwithstanding any general or special law to the contrary, the department of revenue shall not accept any applications for exemptions from the sales tax from a motion picture production company under subsection (ww) of section 6 of chapter 64H after June 30, 2015.

SECTION 8. Notwithstanding any general or special law to the contrary, the department of revenue shall not allow a credit under subsection (l) of section 6 of chapter 62 or under section 38X of chapter 63 for any total aggregate payroll or production expense, as those terms are used in subsection (l) of section 6 of chapter 62 and in section 38X of chapter 63, incurred after June 30, 2016.

101 SECTION 9. Sections 1 and 2 shall take effect for the tax year beginning on January 1,
102 2016.

103 SECTION 10. Sections 3, 4 and 5 shall take effect on July 1, 2017.

104 SECTION 11. Except as otherwise provided, this act shall take effect upon enactment.