

SENATE No. 1543

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

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 modernizing the corporate excise tax.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Michael J. Rodrigues

First Bristol and Plymouth

Michael O. Moore

Second Worcester

SENATE No. 1543

By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 1543) of Michael J. Rodrigues and Michael O. Moore for legislation relative to the corporate excise tax. Revenue.

The Commonwealth of Massachusetts

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

An Act modernizing the corporate excise tax.

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, as appearing in the 2012 Official Edition,
2 is hereby amended by striking out section 39 and inserting in place thereof the following
3 section:-

4 Section 39. Except as otherwise provided in this section, every business corporation,
5 organized under the laws of the commonwealth, or exercising its charter or other means of legal
6 authority, or qualified to do business or actually doing business in the commonwealth, or owning
7 or using any part or all of its capital, plant or any other property in the commonwealth, shall pay,
8 on account of each taxable year, the excise provided in subsection (a) or (b), whichever is
9 greater. Without limitation, the excise levied in this section is due and payable on any 1 or all of
10 the following alternative incidents:-

11 (1) The authority or qualification to carry on or do business in this state or the actual
12 doing of business within the commonwealth. The term “doing business” as used herein shall

13 mean and include each and every act, power, right, privilege, or immunity exercised or enjoyed
14 in the commonwealth, as an incident to or by virtue of the powers and privileges acquired by the
15 nature of those organizations, as well as, the buying, selling or procuring of services or property.

16 (2) The exercising or continuance of a business corporation's charter or other means of
17 legal authority within the commonwealth.

18 (3) The owning or using any part or all of its capital, plant or other property in the
19 commonwealth.

20 It is the purpose of this section to require the payment of this excise to the commonwealth
21 by a business corporation for the enjoyment under the protection of the laws of the
22 commonwealth, of the powers, rights, privileges and immunities derived by reason of its
23 existence and operation.

24 (a) (i) For tax years beginning before January 1, 2010, 9.5 per cent of its net income
25 determined to be taxable in accordance with this chapter; (ii) for tax years beginning on or after
26 January 1, 2010, but before January 1, 2011, 8.75 per cent of its net income determined to be
27 taxable in accordance with this chapter; (iii) for tax years beginning on or after January 1, 2011,
28 but before January 1, 2012, 8.25 per cent of its net income determined to be taxable in
29 accordance with this chapter; or (iv) for tax years beginning on or after January 1, 2012, 8.0 per
30 cent of its net income determined to be taxable in accordance with this chapter.

31 (b) \$456.

32 A business corporation shall not be subject to the income measure of tax under subsection
33 (a) if it is engaged in the business of selling tangible personal property and taxation of that

34 business corporation under this chapter is precluded by the constitution or laws of the United
35 States, or would be so precluded except for the fact that the business corporation stored tangible
36 personal property in a licensed public storage warehouse, but no portion of any warehouse which
37 is owned or leased by a consignor or consignee of the tangible personal property shall be
38 considered a licensed public warehouse. A business corporation exempt from the income
39 measure of the excise under this paragraph pursuant to federal Public Law 86-272 shall be
40 subject to the excise subsection (b).

41 SECTION 2. Section 1 shall take effect January 1, 2016.