

**SENATE . . . . . No. 1720**

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The Commonwealth of Massachusetts

PRESENTED BY:

***Mark C. Montigny***

*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 closing a corporate tax haven loophole.

PETITION OF:

NAME:

*Mark C. Montigny*

DISTRICT/ADDRESS:

*Second Bristol and Plymouth*

**SENATE . . . . . No. 1720**

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By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1720) of Mark C. Montigny for legislation to close a corporate tax haven loophole. Revenue.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1569 OF 2017-2018.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-First General Court  
(2019-2020)**  
\_\_\_\_\_

An Act closing a corporate tax haven loophole.

*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 32B of chapter 63 of the General Laws is hereby amended by adding after  
2 subsection (c)(3)(iii), the following subsections:

- 3           (v) any member incorporated in a jurisdiction defined herein as a tax haven, including  
4 Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize,  
5 Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Cyprus, Dominica, Gibraltar,  
6 Grenada, Guernsey-Sark-Alderney, Hong Kong, Isle of Man, Jersey, Liberia, Liechtenstein,  
7 Luxembourg, Malta, Mauritius, the Kingdom of the Netherlands, San Marino, Seychelles,  
8 Singapore, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Switzerland, Turks and  
9 Caicos Islands, U.S. Virgin Islands, and Vanuatu.

10 (vi) On a biannual basis, the commissioner shall submit a report to the Legislature. The  
11 report shall include recommendations for legislation related to tax haven jurisdictions listed in  
12 subsection (c)(3)(iv), including recommendations for additions to or subtractions from the list.  
13 This report shall be made available to the public.

14 (viii) In developing its annual report and for the purposes of this section, the  
15 commissioner shall consider a tax haven a jurisdiction that, during the tax year in question has no  
16 or nominal effective tax on the relevant income and that meets at least two of the following three  
17 criteria:

18 a. The income being reported by a member to the suspected tax haven jurisdiction is  
19 disproportionately large as compared to the average percentage of property, payroll, and sales  
20 factors within that jurisdiction.

21 b. The laws, rules, and tax administrative rulings and practices of that jurisdiction  
22 encourage the disproportionately large income to be reported in that jurisdiction. Such laws,  
23 rules, tax administrative rulings and practices may:

24 1. prevent effective exchange of information for tax purposes with other governments on  
25 taxpayers benefiting from the tax regime;

26 2. lack transparency by having legislative, legal, or administrative provisions that are not  
27 open and apparent or are not consistently applied among similarly situated taxpayers, or if the  
28 information needed by tax authorities to determine a taxpayer's correct tax liability, such as  
29 accounting records and underlying documentation, is not adequately available;

30           3. facilitate the establishment of foreign-owned entities without the need for a local  
31 substantive presence or prohibit these entities from having any commercial impact on the local  
32 economy;

33           4. explicitly or implicitly exclude the jurisdiction's resident taxpayers from taking  
34 advantage of the tax regime's benefits or prohibit enterprises that benefit from the regime from  
35 operating in the jurisdiction's domestic market; or

36           5. create a tax regime that is favorable for tax avoidance, based upon an overall  
37 assessment of relevant factors, including whether the jurisdiction has a significant untaxed  
38 offshore financial and related services sector relative to its overall economy.

39           c. The jurisdiction is recognized by experts or is marketed as a tax haven for  
40 corporations.

41           (vii) The commissioner may require the taxable member making a water's-edge election  
42 to submit within six (6) months after the taxable member files its federal income tax return a  
43 domestic disclosure spreadsheet to provide full disclosure of the income reported to each state  
44 for the year, the tax liability for each state, the method used for allocating or apportioning  
45 income to the states, and the identity of the water's-edge group and those of its United States  
46 affiliated corporations. The commissioner may require the taxable member to disclose the same  
47 information for income reported to tax havens as listed in subsection (c)(3)(iv).