

# HOUSE . . . . . No. 4104

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## The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2406) of the House Bill to improve the Commonwealth's competitiveness, affordability, and equity (House, No. 3770), reports, in part, recommending passage of the accompanying bill (House, No. 4104). September 26, 2023.

Aaron Michlewitz	Michael J. Rodrigues
Mark J. Cusack	Susan L. Moran
Michael J. Soter	Bruce E. Tarr

**HOUSE . . . . . No. 4104**

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**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Third General Court  
(2023-2024)**

An Act to improve the Commonwealth’s competitiveness, affordability, and equity.

*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. Section 2H of chapter 29 of the General Laws, as appearing in the 2022  
2 Official Edition, is hereby amended by striking out, in line 29, the figure “15” and inserting in  
3 place thereof the following figure:- 25.5.

4           SECTION 2. Section 5K of chapter 59 of the General Laws, as so appearing, is hereby  
5 amended by striking out, in lines 14 and 39, the figure “\$1,500” and inserting in place thereof, in  
6 each instance, the following figure:- \$2,000.

7           SECTION 3. Said chapter 59 is hereby further amended by inserting after section 5N the  
8 following section:-

9           Section 5O. (a) In any city or town that accepts this section, the board of selectmen or  
10 select board of the town, the town council of a municipality having a town council form of  
11 government, the city manager, with the approval of the city council, in the case of a city with a  
12 plan D or plan E form of government, or the mayor, with the approval of the city council, in all

13 other cities, may establish a property tax exemption for real property classified as Class One,  
14 residential in the city or town. To qualify for the exemption, the property shall be: (i) rented at an  
15 affordable housing rate, as determined by the city or town and in accordance with the United  
16 States Department of Housing and Urban Development guidance and regulations; (ii) rented on a  
17 yearly basis; and (iii) occupied year-round by a person or persons whose household income does  
18 not exceed an amount to be set by the city or town; provided, however, that said income shall not  
19 be more than 200 per cent of the area median income. The property tax exemption shall be for an  
20 amount determined by the city or town; provided, however, that the amount shall not be more  
21 than the tax otherwise due on the parcel based on the full and fair assessed value multiplied by  
22 the square footage of the housing units rented and occupied by a person or persons whose  
23 household income is not more than the income limit set pursuant to clause (iii), divided by the  
24 total square footage of a structure located on the parcel. Assessment of property seeking an  
25 exemption under this section, if by an income approach to value, shall assume fair market rent  
26 for all units. The property owner seeking the exemption shall submit to the city or town any  
27 documentation the city or town deems necessary, including, but not limited to, a signed lease and  
28 proof of the occupying person or persons' household income, to confirm the eligibility of the  
29 property for the exemption under this section.

30 (b) A municipality may adopt ordinances or by-laws to implement this section.

31 SECTION 4. Section 3 of chapter 62 of the General Laws, as appearing in the 2022  
32 Official Edition, is hereby amended by striking out, in line 72, the figure "\$3,000" and inserting  
33 in place thereof the following figure:- \$4,000.

34 SECTION 5. Said section 3 of said chapter 62, as so appearing, is hereby further  
35 amended by striking out, in lines 121 and 122, the words “weekly or monthly transit commuter  
36 passes” and inserting in place thereof the following word:- fares.

37 SECTION 6. Said section 3 of said chapter 62, as so appearing, is hereby further  
38 amended by inserting after the word “boat”, in line 123, the following words:- , or for regional  
39 transit authority fares, or for bikeshare memberships, or for bicycles, including electric bicycles,  
40 or for bicycle improvements, repair and storage, or for any fare for a commuter boat owned,  
41 operated or contracted by a municipality, public or quasi-public entity, agency or authority.

42 SECTION 7. Paragraph (a) of part B of said section 3 of said chapter 62, as so appearing,  
43 is hereby amended by adding the following subparagraph:-

44 (20) An amount equal to the amount of student loan payment assistance received by an  
45 individual from their employer during the taxable year not already excluded under section 127 of  
46 the Code. For the purposes of this subparagraph, “student loan payment assistance” shall mean  
47 the payment of principal or interest on a qualified education loan, as defined in section 221 of the  
48 Code.

49 SECTION 8. Section 4 of said chapter 62 is hereby amended by inserting after the word  
50 “cent”, in line 5, as so appearing, the following words:- ; provided, however, that any gain from  
51 the sale or exchange of capital assets held for 1 year or less shall be taxed at the rate of 8.5 per  
52 cent.

53 SECTION 9. Subsection (e) of section 6 of said chapter 62, as so appearing, is hereby  
54 amended by striking out, in line 75, the words “one thousand five hundred dollars” and inserting  
55 in place thereof the following figure:- \$3,000.

56 SECTION 10. Said subsection (e) of said section 6 of said chapter 62, as so appearing, is  
57 hereby further amended by striking out, in line 86, the words “five hundred dollars” and inserting  
58 in place thereof the following figure:- \$1,000.

59 SECTION 11. Subsection (h) of said section 6 of said chapter 62, as so appearing, is  
60 hereby amended by striking out, in lines 245 and 250, the figure “30”, each time it appears, and  
61 inserting in place thereof, in each instance, the following figure:- 40.

62 SECTION 12. Subsection (i) of said section 6 of said chapter 62, as so appearing, is  
63 hereby amended by striking out, in line 269, the figure “40” and inserting in place thereof the  
64 following figure:- 60.

65 SECTION 13. Said subsection (i) of said section 6 of said chapter 62, as so appearing, is  
66 hereby further amended by striking out, in lines 271 and 272, the words “as promulgated by the  
67 department of environmental protection in 1995” and inserting in place thereof the following  
68 words:- of the State Environmental Code.

69 SECTION 14. Said subsection (i) of said section 6 of said chapter 62, as so appearing, is  
70 hereby further amended by striking out, in line 273, the figure “\$15,000” and inserting in place  
71 thereof the following figure:- \$30,000.

72 SECTION 15. Said subsection (i) of said section 6 of said chapter 62, as so appearing, is  
73 hereby further amended by striking out, in line 277, the figure “\$1,500” and inserting in place  
74 thereof the following figure:- \$4,000.

75 SECTION 16. Said subsection (i) of said section 6 of said chapter 62, as so appearing, is  
76 hereby further amended by striking out, in lines 279 to 282, inclusive, the words “\$6,000. The

77 amount of any such credit shall be reduced by an amount equal to the total interest subsidy or  
78 grant received from the commonwealth, whether directly or indirectly, toward the cost of said  
79 expenditures” and inserting in place thereof the following figure:- \$18,000.

80 SECTION 17. Subsection (k) of said section 6 of said chapter 62, as so appearing, is  
81 hereby amended by striking out, in line 447, the figure “\$750” and inserting in place thereof the  
82 following figure:- \$1,500.

83 SECTION 18. Subsection (o) of said section 6 of said chapter 62, as so appearing, is  
84 hereby amended by striking out, in line 732, the figure “\$6,000,000” and inserting in place  
85 thereof the following figure:- \$8,000,000.

86 SECTION 19. Subsection (q) of said section 6 of said chapter 62, as amended by sections  
87 218 to 220, inclusive, of chapter 7 of the acts of 2023, is hereby further amended by striking out  
88 paragraph (5) and inserting in place thereof the following paragraph:-

89 (5) EOHLC may authorize not more than \$30,000,000 in credits annually under this  
90 subsection and section 38BB of chapter 63. EOHLC may authorize annually any credits under  
91 this subsection or said section 38BB of said chapter 63 returned to EOHLC by a certified  
92 housing development project. The total amount of credits authorized during a year shall include:  
93 (1) credits granted during the year pursuant to this subsection or said section 38BB of said  
94 chapter 63; and (2) carry forwards of credits from prior years pursuant to this subsection or said  
95 section 38BB of said chapter 63, to the extent that such credit carry forwards are estimated by the  
96 commissioner to offset tax liabilities during the year. Any portion of the \$30,000,000 annual cap  
97 not awarded by EOHLC in a calendar year shall not be applied to awards in a subsequent year.  
98 EOHLC shall provide the commissioner of revenue with any documentation that the

99 commissioner deems necessary to confirm compliance with the annual cap and the commissioner  
100 shall provide a report confirming compliance with the annual cap to the secretary of  
101 administration and finance and the secretary of housing and livable communities.

102 SECTION 20. Subsection (v) of said section 6 of said chapter 62, as appearing in the  
103 2022 Official Edition, is hereby amended by inserting after the figure “31-33”, in line 1158, the  
104 following words:- or other expansion industries the secretary of labor and workforce  
105 development identifies as critical to a regional labor market economy.

106 SECTION 21. Said section 6 of said chapter 62 is hereby further amended by striking out  
107 subsections (x) and (y), as so appearing, and inserting in place thereof the following subsection:-

108 (x) For the purposes of this subsection, “maintains a household” shall have the same  
109 meaning as in section 21 of the Code. With respect to a taxpayer who is a non-resident for part of  
110 the taxable year, the credit shall be further limited to the amount of allowable credit multiplied  
111 by a fraction, the numerator of which shall be the number of days in the taxable year the person  
112 resided in the commonwealth and the denominator of which shall be the number of days in the  
113 taxable year. A taxpayer who maintains a household that includes as a member at least 1  
114 individual: (i) under the age of 13 who qualifies for exemption as a dependent under section 151  
115 of the Code; (ii) who is a qualifying individual as defined in said section 21 of the Code; or (iii)  
116 who (A) is not less than 65 years of age or is disabled and (B) qualifies as a dependent under  
117 section 152 of the Code, shall be allowed a credit in an amount equal to \$310 for each such  
118 dependent or qualifying individual with respect to the taxpayer; provided, however, that if the  
119 taxpayer is married at the close of the taxable year, the credit provided in this subsection shall be  
120 allowed if: (a) the taxpayer and the taxpayer’s spouse file a joint return for the taxable year; or

121 (b) the taxpayer qualifies as a head of household under section 2(b) of the Code. A person who is  
122 a non-resident for the entire taxable year shall not qualify for the credit. If the amount of the  
123 credit allowed under this subsection exceeds the taxpayer's tax liability, the commissioner shall  
124 treat the excess as an overpayment and shall pay the taxpayer the entire amount of the excess  
125 without interest.

126 SECTION 22. Subsection (x) of said section 6 of said chapter 62, as appearing in section  
127 21, is hereby further amended by striking out the figure "\$310" and inserting in place thereof the  
128 following figure:- \$440.

129 SECTION 23. Section 6I of said chapter 62, as appearing in the 2022 Official Edition, is  
130 hereby amended by striking out, in line 70, the figure "\$40,000,000" and inserting in place  
131 thereof the following figure:- \$60,000,000.

132 SECTION 24. Section 6 of chapter 62C of the General Laws, as so appearing, is hereby  
133 amended by striking out subsection (a) and inserting in place thereof the following subsection:-

134 (a)(1) Every individual inhabitant of the commonwealth who receives or accrues during  
135 the taxable year Massachusetts gross income, as defined in section 2 of chapter 62, in excess of  
136 \$8,000 shall make a return of such income.

137 Every nonresident whose Massachusetts gross income, determined in accordance with  
138 section 5A of chapter 62, exceeds \$8,000 or the personal exemption to which such nonresident  
139 may be entitled under section 3 of said chapter 62, whichever is the lesser, and every partnership,  
140 association or trust whose federal gross income, as defined in section 1 of said chapter 62,  
141 exceeds \$100, shall make a return of such income.



142 Every individual, not otherwise required to file a return under this subsection, who is a  
143 resident for a portion of a 12-month period beginning on the first day of a taxable year and a  
144 nonresident for a portion of the same 12-month period and whose Massachusetts gross income,  
145 as defined in section 2 of chapter 62, exceeds \$8,000 shall make separate returns as a resident  
146 and a nonresident of his income subject to taxation under said chapter 62.

147 A husband and wife may make a single return jointly of income taxes under chapter 62,  
148 even though one of the spouses has neither income nor deductions, provided that their taxable  
149 years begin on the same day and either end on the same day or on different days solely because  
150 of the death of either or both. Such return shall be known as a joint return and shall include the  
151 income, exemptions and deductions of both spouses. Each spouse shall be jointly and severally  
152 liable for the entire tax.

153 (2) A married couple shall file a joint return for any year in which they file a joint federal  
154 income tax return. In cases where 1 spouse or both spouses are non-residents of the  
155 commonwealth and have items of income, exemptions or deductions unrelated to their  
156 Massachusetts income, the department shall provide, by regulation, for appropriate adjustments  
157 or for exemption from the requirement to file a joint return.

158 SECTION 25. Section 5 of chapter 62F of the General Laws, as so appearing, is hereby  
159 amended by adding the following subsection:-

160 (e) Monthly, the commissioner shall submit a report to the clerks of the senate and the  
161 house of representatives, the joint committee on revenue and the senate and house committees on  
162 ways and means on net state tax revenue for the current fiscal year, projections for net state tax

163 revenue for the remainder of said fiscal year and an estimate of if, and when, net state tax  
164 revenue may exceed allowable state tax revenue for said fiscal year.

165 SECTION 26. The first paragraph of section 6 of said chapter 62F, as so appearing, is  
166 hereby amended by striking out the second sentence and inserting in place thereof the following  
167 3 sentences:- The credit shall be applied against the then current personal income tax liability of  
168 each taxpayer who files an income tax return in both the then current and the previous taxable  
169 year in an amount determined by dividing the total amount of excess revenues by the total  
170 number of taxpayers filing an income tax return in the previous taxable year. For the purposes of  
171 this section, a married couple filing a joint return shall be counted as 2 taxpayers. If the amount  
172 of the credit allowed under this section exceeds the taxpayer's liability, the commissioner shall  
173 treat the excess as an overpayment and shall pay the taxpayer the amount of the excess without  
174 interest.

175 SECTION 27. Section 2A of chapter 63 of the General Laws, as so appearing, is hereby  
176 amended by striking out subsections (b) and (c) and inserting in place thereof the following 2  
177 subsections:-

178 (b) If the financial institution has income from business activity which is taxable both  
179 within and without the commonwealth, its net income shall be apportioned to the commonwealth  
180 by multiplying its net income by its receipts factor. If the receipts factor is missing, the whole of  
181 the financial institution's net income shall be taxable pursuant to section 2. The receipts factor  
182 shall be missing if both its numerator and denominator are zero, but it shall not be missing  
183 merely because its numerator is zero.

184 (c) The receipts factor shall be computed according to the method of accounting, cash or  
185 accrual basis, used by the taxpayer for federal income tax purposes for the taxable year.

186 SECTION 28. Subsection (d) of said section 2A of said chapter 63, as so appearing, is  
187 hereby amended by striking out paragraph (xii) and inserting in place thereof the following  
188 paragraph:-

189 (xii)(A) Interest, dividends, net gains, but not less than zero, and other income from  
190 investment assets and activities and from trading assets and activities shall be included in the  
191 receipts factor. Investment assets and activities and trading assets and activities include but are  
192 not limited to: investment securities; trading account assets; federal funds; securities purchased  
193 and sold under agreements to resell or repurchase; options; futures contracts; forward contracts;  
194 notional principal contracts such as swaps; equities; and foreign currency transactions. With  
195 respect to the investment and trading assets and activities described in clauses (1) and (2), the  
196 receipts factor shall include the amounts described in said clauses (1) and (2).

197 (1) The receipts factor shall include the amount by which interest from federal funds sold  
198 and securities purchased under resale agreements exceeds interest expense on federal funds  
199 purchased and securities sold under repurchase agreements.

200 (2) The receipts factor shall include the amount by which interest, dividends, gains and  
201 other income from trading assets and activities, including, but not limited to, assets and activities  
202 in the matched book, in the arbitrage book and foreign currency transactions, exceed amounts  
203 paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and  
204 activities.

205 (B) The amount of interest, dividends, net gains, but not less than zero, and other income  
206 from investment assets and activities and from trading assets and activities to be attributed to the  
207 commonwealth and included in the numerator shall be determined by multiplying all such  
208 income from such assets and activities by a fraction, the numerator of which shall be the total  
209 receipts included in the numerator pursuant to paragraphs (i) through (x), inclusive, and  
210 paragraph (xii) and the denominator of which shall be all total receipts of the taxpayer included  
211 in the denominator other than interest, dividends, net gains, but not less than zero, and other  
212 income from investment assets and activities and from trading assets and activities.

213 SECTION 29. Said section 2A of said chapter 63, as so appearing, is hereby further  
214 amended by striking out subsections (e) to (g), inclusive, and inserting in place thereof the  
215 following subsection:-

216 (e) If the provisions of subsections (a) to (d), inclusive, are not reasonably adapted to  
217 approximate the net income derived from business carried on within the commonwealth, a  
218 financial institution may apply to the commissioner, or the commissioner may require the  
219 financial institution, to have its income derived from business carried on within the  
220 commonwealth determined by a method other than that set forth in subsections (a) to (d),  
221 inclusive. Such application shall be made by attaching to its duly-filed return a statement of the  
222 reasons why the financial institution believes that subsections (a) to (d), inclusive, are not  
223 reasonably adapted to approximate its net income derived from business carried on within the  
224 commonwealth and a description of the method sought by it. A financial institution which so  
225 applies shall, upon receipt of a request therefor from the commissioner, file with the  
226 commissioner, under oath of its treasurer, a statement of such additional information as the  
227 commissioner may require.

228 If, after such application by the financial institution, or after the commissioner's own  
229 review, the commissioner determines that the provisions of subsections (a) to (d), inclusive, are  
230 not reasonably adapted to approximate the financial institution's net income derived from  
231 business carried on within the commonwealth, the commissioner shall by reasonable methods  
232 determine the amount of net income derived from business activity carried on within the  
233 commonwealth. The amount thus determined shall be the net income taxable under section 2 and  
234 the foregoing determination shall be in lieu of the determination required by subsections (a) to  
235 (d), inclusive. If an alternative method is used by the commissioner hereunder, the  
236 commissioner, in their discretion, with respect to the 2 next succeeding taxable years, may  
237 require similar information from such financial institution if it shall appear that the provisions of  
238 subsections (a) to (d), inclusive, are not reasonably adapted to approximate for the applicable  
239 year the financial institution's net income derived from business carried on within the  
240 commonwealth and may again by reasonable methods determine such income.

241 SECTION 30. Section 31H of said chapter 63, as so appearing, is hereby amended by  
242 striking out, in line 71, the figure "\$40,000,000" and inserting in place thereof the following  
243 figure:- \$60,000,000.

244 SECTION 31. Said chapter 63 is hereby further amended by striking out section 38, as so  
245 appearing, and inserting in place thereof the following section:-

246 Section 38. The commissioner shall determine the part of the net income of a business  
247 corporation derived from business carried on within the commonwealth as follows:

248 (a) Net income, as defined in section 30, adjusted as follows shall constitute taxable net  
249 income:

250 (1) 95 per cent of dividends, exclusive of distributions in liquidation, included therein  
251 shall be deducted other than dividends from or on account of the ownership of:

252 (i) shares in a corporate trust, as defined in section 1 of chapter 62, to the extent such  
253 dividends represent tax-free earnings and profits, as defined in section 8 of said chapter 62, as in  
254 effect on December 31, 2008;

255 (ii) deemed distributions and actual distributions, except actual distributions out of  
256 previously taxed income, from a domestic international sales corporation, as defined in 26 U.S.C.  
257 § 992, which is not a wholly owned domestic international sales corporation; or

258 (iii) any class of stock, if the corporation owns less than 15 per cent of the voting stock of  
259 the corporation paying such dividend.

260 (2) Long-term capital gains realized and long-term capital losses sustained from the sale  
261 or exchange of intangible property affected under the provisions of the Federal Internal Revenue  
262 Code, as amended, and in effect for taxable years that ended on or before December 31, 1962,  
263 shall not be included in any part therein.

264 (b) If the corporation does not have income from business activity which is taxable in  
265 another state, the whole of its taxable net income, determined pursuant to subsection (a), shall be  
266 allocated to the commonwealth. For purposes of this section, a corporation is taxable in another  
267 state if: (1) in that state such corporation is subject to a net income tax, a franchise tax measured  
268 by net income, a franchise tax for the privilege of doing business or a corporate stock tax; or (2)  
269 that state has jurisdiction to subject such corporation to a net income tax regardless of whether,  
270 in fact, the state does or does not. Notwithstanding any other provision of this section, the  
271 portion of the taxable net income of a corporation that a non-domiciliary state is prohibited from

272 taxing under the Constitution of the United States shall be allocated in full to the commonwealth  
273 if the commercial domicile of the corporation is in the commonwealth.

274 (c) If a corporation has income from business activity which is taxable both within and  
275 without the commonwealth, its taxable net income, as determined pursuant to subsection (a),  
276 shall be apportioned to the commonwealth by multiplying such taxable net income by the sales  
277 factor.

278 (d) The sales factor is a fraction, the numerator of which is the total sales of the  
279 corporation in the commonwealth during the taxable year, and the denominator of which is the  
280 total sales of the corporation everywhere during the taxable year.

281 As used in this section, unless specifically stated otherwise, “sales” shall mean all gross  
282 receipts of the corporation, including deemed receipts from transactions treated as sales or  
283 exchanges under the Code, except interest, dividends and gross receipts from the maturity,  
284 redemption, sale, exchange or other disposition of securities; provided, however, that “sales”  
285 shall not include gross receipts from transactions or activities to the extent that a non-domiciliary  
286 state would be prohibited from taxing the income from such transactions or activities under the  
287 Constitution of the United States.

288 (e) Sales of tangible personal property are in the commonwealth for purposes of this  
289 section if: (1) the property is delivered or shipped to a purchaser within the commonwealth  
290 regardless of the f.o.b. point or other conditions of the sale; or (2) the corporation is not taxable  
291 in the state of the purchaser and the property was not sold by an agent or agencies chiefly  
292 situated at, connected with or sent out from premises for the transaction of business owned or

293 rented by the corporation outside the commonwealth. “Purchaser”, as used in clauses (1) and (2)  
294 shall include the United States government.

295 (f) Sales, other than sales of tangible personal property, are in the commonwealth for  
296 purposes of this section if the corporation’s market for the sale is in the commonwealth. The  
297 corporation’s market for a sale is in the commonwealth and the sale is thus assigned to the  
298 commonwealth for the purpose of this section:

299 (1) in the case of sale, rental, lease or license of real property, if and to the extent the  
300 property is located in the commonwealth;

301 (2) in the case of rental, lease or license of tangible personal property, if and to the extent  
302 the property is located in the commonwealth;

303 (3) in the case of sale of a service, if and to the extent the service is delivered to a  
304 location in the commonwealth;

305 (4) in the case of lease or license of intangible property, including a sale or exchange of  
306 such property where the receipts from the sale or exchange derive from payments that are  
307 contingent on the productivity, use or disposition of the property, if and to the extent the  
308 intangible property is used in the commonwealth; and

309 (5) in the case of the sale of intangible property, other than as provided in clause (4),  
310 where the property sold is a contract right, government license or similar intangible property that  
311 authorizes the holder to conduct a business activity in a specific geographic area, if and to the  
312 extent that the intangible property is used in or otherwise associated with the commonwealth;



313 provided, however, that any sale of intangible property, not otherwise described in this clause or  
314 clause (4), shall be excluded from the numerator and the denominator of the sales factor.

315 (g) If the sales factor is missing, the whole of the corporation's net income shall be  
316 taxable net income allocated to the commonwealth. The sales factor shall be missing if both its  
317 numerator and denominator are zero, but it shall not be missing merely because its numerator is  
318 zero.

319 (h) For the purposes of this section:

320 (1) in the case of sales, other than sales of tangible personal property, if the state or states  
321 to which sales should be assigned cannot be determined, it shall be reasonably approximated;

322 (2) in the case of sales other than sales of tangible personal property if the taxpayer is not  
323 taxable in a state to which a sale is assigned, or if the state or states to which such sales should be  
324 assigned cannot be determined or reasonably approximated, such sale shall be excluded from the  
325 numerator and denominator of the sales factor;

326 (3) the corporation shall be considered to be taxable in the state of the purchaser if  
327 tangible personal property is delivered or shipped to a purchaser in a foreign country;

328 (4) sales of tangible personal property to the United States government or any agency or  
329 instrumentality thereof for purposes of resale to a foreign government or any agency or  
330 instrumentality thereof are not sales made in the commonwealth;

331 (5) in the case of sale, exchange or other disposition of a capital asset, as defined in  
332 paragraph (m) of section 1 of chapter 62, used in a taxpayer's trade or business, including a

333 deemed sale or exchange of such asset, “sales” shall be measured by the gain from the  
334 transaction;

335 (6) “security” shall mean any interest or instrument commonly treated as a security as  
336 well as other instruments which are customarily sold in the open market or on a recognized  
337 exchange, including, but not limited to, transferable shares of a beneficial interest in any  
338 corporation or other entity, bonds, debentures, notes and other evidences of indebtedness,  
339 accounts receivable and notes receivable, cash and cash equivalents including foreign currencies  
340 and repurchase and futures contracts;

341 (7) in the case of a sale or deemed sale of a business, “sales” shall not include receipts  
342 from the sale of the business “goodwill” or similar intangible value, including, without  
343 limitation, “going concern value” and “workforce in place”;

344 (8) in the case of a business deriving receipts from operating a gaming establishment or  
345 otherwise deriving receipts from conducting a wagering business or activity, income-producing  
346 activity shall be considered to be performed in the commonwealth to the extent that the location  
347 of wagering transactions or activities that generated the receipts is in the commonwealth;

348 (9) in the case of a business deriving receipts from operating a marijuana establishment or  
349 otherwise deriving receipts from conducting a marijuana business or activity, income-producing  
350 activity shall be considered to be performed in the commonwealth to the extent that the location  
351 of marijuana transactions or activities that generated the receipts is in the commonwealth; and

352 (10) dividends that are deemed to be received from an entity, including amounts included  
353 in federal gross income pursuant to sections 951 or 951A of the Code, shall not be considered  
354 “sales”.

355 (i)(1) As used in this subsection, the following words shall, unless the context requires  
356 otherwise, have the following meanings:

357 “Administration services”, include, but are not limited to, clerical, fund or shareholder  
358 accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial,  
359 internal auditing, legal and tax services performed for a regulated investment company, but only  
360 if the provider of such service or services during the taxable year in which such service or  
361 services are provided also provides or is affiliated with a person that provides management or  
362 distribution services to any regulated investment company.

363 “Affiliated person”, the meaning as set forth in 15 USC section 80a-2(a)(3)(C), as may be  
364 amended from time to time.

365 “Distribution services”, include, but are not limited to, the services of advertising,  
366 servicing, marketing or selling shares of a regulated investment company, but, in the case of  
367 advertising, servicing or marketing shares, only where such service is performed by a person  
368 who is, or in the case of a close end company, was, either engaged in the services of selling  
369 regulated investment company shares or affiliated with a person that is engaged in the service of  
370 selling regulated investment company shares. In the case of an open end company, such service  
371 of selling shares shall be performed pursuant to a contract entered into pursuant to 15 USC  
372 section 80a-15(b), as from time to time amended.

373 “Domicile”, presumptively the shareholder’s mailing address on the records of the  
374 regulated investment company. If, however, the regulated investment company or the  
375 corporation has actual knowledge that the shareholder’s primary residence or principal place of  
376 business is different than the shareholder’s mailing address said presumption shall not control. If

377 the shareholder of record is a company which holds the shares of the regulated investment  
378 company as depositor for the benefit of a separate account, then the shareholder shall be the  
379 contract owners or policyholders of the contracts or policies supported by the separate account,  
380 and it shall be presumed that the domicile of said shareholder is the contract owner's or  
381 policyholder's mailing address to the extent that the company maintains such mailing addresses  
382 in the regular course of business. If the regulated investment company or the corporation has  
383 actual knowledge that the shareholder's principal place of business is different than the  
384 shareholder's mailing address said presumption shall not control.

385 "Management services", include, but shall not necessarily be limited to, the rendering of  
386 investment advice directly or indirectly to a regulated investment company, making  
387 determinations as to when sales and purchases of securities are to be made on behalf of the  
388 regulated investment company, or the selling or purchasing of securities constituting assets of a  
389 regulated investment company, and related activities, but only where such activity or activities  
390 are performed: (i) pursuant to a contract with the regulated investment company entered into  
391 pursuant to 15 USC section 80a-15(a), as amended; (ii) for a person that has entered into such  
392 contract with the regulated investment company; or (iii) for a person that is affiliated with a  
393 person that has entered into such contract with a regulated investment company.

394 "Mutual fund sales", taxable net income derived within the taxable year directly or  
395 indirectly from the rendering of management, distribution or administration services to a  
396 regulated investment company, including net income received directly or indirectly from  
397 trustees, sponsors and participants of employee benefit plans, which have accounts in a regulated  
398 investment company.

399 “Regulated investment company”, the meaning as set forth in section 851 of the Code.

400 (2) Mutual fund sales, other than the sale of tangible personal property, shall be assigned  
401 to the commonwealth to the extent that shareholders of the regulated investment company are  
402 domiciled in the commonwealth as follows:

403 (i) By multiplying the taxpayer’s total dollar amount of sales of such services on behalf  
404 of each regulated investment company by a fraction, the numerator of which shall be the average  
405 of the number of shares owned by the regulated investment company’s shareholders domiciled in  
406 the commonwealth at the beginning of and at the end of the regulated investment company’s  
407 taxable year that ends with or within the taxpayer’s taxable year and the denominator of which  
408 shall be the average of the number of shares owned by the regulated investment company  
409 shareholders everywhere at the beginning of and at the end of the regulated investment  
410 company’s taxable year that ends with or within the taxpayer’s taxable year.

411 (ii) A separate computation shall be made to determine the sale for each regulated  
412 investment company, the sum of which shall equal the total sales assigned to the commonwealth.

413 (3) Nothing in this subsection shall limit the commissioner’s authority under subsection  
414 (k).

415 (j) If a corporation maintains an office, warehouse or other place of business in a state  
416 other than the commonwealth for the purpose of reducing its tax under this chapter, the  
417 commissioner shall, in determining the amount of taxable net income apportionable to the  
418 commonwealth, adjust the sales factor to properly reflect the amount which the factor ought  
419 reasonably to assign to the commonwealth.

420 (k) If the apportionment provisions of this section are not reasonably adapted to  
421 approximate the net income derived from business carried on within the commonwealth by any  
422 type of industry group, the commissioner may, by regulation, adopt alternative apportionment  
423 provisions to be applied to such an industry group in lieu of the foregoing provisions.

424 (l) In any case in which a purchasing corporation makes an election under section 338 of  
425 the Code, the target corporation shall be treated as having sold its assets for purposes of this  
426 section.

427 (m) The commissioner shall adopt regulations to implement subsections (d) to (i),  
428 inclusive.

429 SECTION 32. Section 38Z of said chapter 63, as so appearing, is hereby amended by  
430 striking out, in line 28, the figure “\$6,000,000” and inserting in place thereof the following  
431 figure:- \$8,000,000.

432 SECTION 33. Section 38BB of said chapter 63 is hereby amended by striking out  
433 subdivision (5), as amended by sections 231 and 232 of chapter 7 of the acts of 2023, and  
434 inserting in place thereof the following subdivision:-

435 (5) EOHLC may authorize up to \$30,000,000 in credits annually under this section and  
436 subsection (q) of section 6 of chapter 62. EOHLC may authorize annually any credits under this  
437 section or said subsection (q) of said section 6 of said chapter 62 returned to EOHLC by a  
438 certified housing development project. The total amount of credits authorized during a year shall  
439 include: (1) credits granted during the year under this section or said subsection (q) of section 6  
440 of chapter 62; and (2) carry forwards of credits from prior years under this section or said  
441 subsection (q) of section 6 of chapter 62, to the extent that such credit carry forwards are

442 estimated by the commissioner of revenue to offset tax liabilities during the year. Any portion of  
443 the \$30,000,000 annual cap not awarded by EOHLC in a calendar year shall not be applied to  
444 awards in a subsequent year. EOHLC shall provide the commissioner of revenue with any  
445 documentation that the commissioner deems necessary to confirm compliance with the annual  
446 cap and the commissioner shall provide a report confirming compliance with the annual cap to  
447 the secretary of administration and finance and the secretary of housing and livable communities.

448 SECTION 34. Section 38HH of said chapter 63, as appearing in the 2022 Official  
449 Edition, is hereby amended by inserting after the figure “31-33”, in line 18, the following  
450 words:- or other expansion industries the secretary of labor and workforce development  
451 identifies as critical to a regional labor market economy.

452 SECTION 35. Section 42B of said chapter 63, as so appearing, is hereby amended by  
453 adding the following subsection:-

454 (e) For the purposes of this section, a “manufacturing corporation” shall be a corporation  
455 that is engaged in manufacturing; provided, however, that in order to be engaged in  
456 manufacturing, the corporation shall be engaged, in substantial part, in transforming raw or  
457 finished physical materials by hand or machinery, and through human skill and knowledge, into  
458 a new product possessing a new name, nature and adapted to a new use.

459 Any operation manufacturing, in substantial part, value-added agricultural products shall  
460 be considered a manufacturing corporation.

461 A manufacturing corporation’s activities will be considered to be substantial if any 1 of  
462 the following 5 tests are met:

463 (1) 25 per cent or more of its gross receipts are derived from the sale of manufactured  
464 goods that it manufactures;

465 (2) 25 per cent or more of its payroll is paid to employees working in its manufacturing  
466 operations and 15 per cent or more of its gross receipts are derived from the sale of manufactured  
467 goods that it manufactures;

468 (3) 25 per cent or more of its tangible property is used in its manufacturing operations  
469 and 15 per cent or more of its gross receipts are derived from the sale of manufactured goods that  
470 it manufactures;

471 (4) 35 per cent or more of its tangible property is used in its manufacturing operations; or

472 (5) the corporation's manufacturing activities are deemed substantial under relevant  
473 regulations promulgated by the commissioner.

474 In determining whether a process constitutes manufacturing, the commissioner will  
475 examine the facts and circumstances of each case.

476 SECTION 36. Section 2A of chapter 65C of the General Laws, as so appearing, is hereby  
477 amended by striking out subsection (a) and inserting in place thereof the following subsection:-

478 (a) A tax is hereby imposed upon the transfer of the estate of each person dying on or  
479 after January 1, 1997 who, at the time of death, was a resident of the commonwealth. The  
480 amount of the tax shall be equal to the credit for state death taxes that would have been allowable  
481 to a decedent's estate as computed under section 2011 of the Code, as in effect on December 31,  
482 2000, hereinafter referred to as the "credit". If the federal gross estate of a person includes real or  
483 tangible personal property located outside of the commonwealth at the time of death, the tax



484 shall be reduced by an amount equal to the proportion of such allowable credit as the value of  
485 such real or tangible personal property located outside of the commonwealth bears to the value  
486 of the entire federal gross estate wherever situated, as determined under section 2011 of the  
487 Code, as in effect on December 31, 2000.

488 SECTION 37. Said section 2A of said chapter 65C, as so appearing, is hereby further  
489 amended by adding the following 2 subsections:-

490 (f) For the estates of decedents dying on or after January 1, 2023, a credit shall be  
491 allowed against the tax imposed by subsections (a) and (b) equal to the amount of such tax;  
492 provided, however, that the credit shall not exceed \$99,600.

493 (g) The estates of decedents dying on or after January 1, 2023 shall not be required to pay  
494 any tax under subsections (a) and (b) if the value of the federal taxable estate is not more than  
495 \$2,000,000.

496 SECTION 38. Section 21 of chapter 138 of the General Laws, as so appearing, is hereby  
497 amended by striking out, in lines 20 and 21, the words “six per cent of alcohol by weight” and  
498 inserting in place thereof the following words:- 8½ per cent of alcohol by volume.

499 SECTION 39. Said section 21 of said chapter 138, as so appearing, is hereby further  
500 amended by striking out, in line 25, the word “six” and inserting in place thereof the following  
501 figure:- 8 ½.

502 SECTION 40. Sections 46, 48, 61, 63 and 124A of chapter 287 of the acts of 2014 are  
503 hereby repealed.

504 SECTION 41. Chapter 358 of the acts of 2020 is hereby amended by striking out sections  
505 59, 61 and 112.

506 SECTION 42. Notwithstanding any general or special law to the contrary, in calendar  
507 year 2023, the executive office of housing and livable communities may authorize not more than  
508 \$57,000,000 in credits under subsection (q) of section 6 of chapter 62 of the General Laws and  
509 section 38BB of chapter 63 of the General Laws. Any portion of this amount that is not  
510 authorized in calendar year 2023 shall be added to the amount the executive office of housing  
511 and livable communities may authorize in subsequent years under said subsection (q) of said  
512 section (6) of said chapter 62 and said section 38BB of said chapter 63.

513 SECTION 43. The executive office for administration and finance shall conduct a study  
514 on the feasibility of creating a program of advance quarterly payments to taxpayers for credits  
515 that the department of revenue estimates would be treated as allowed for a taxpayer under  
516 subsection (x) of section 6 of chapter 62 of the General Laws for a taxable year. The study shall  
517 include, but not be limited to: (i) an operational plan for how the department of revenue could  
518 establish and maintain such a program; (ii) a description of the processes by which the  
519 department could collect information from taxpayers and from other agencies to maximize the  
520 accuracy of the department's estimate of the amount that would be treated as allowed for a  
521 taxpayer under said subsection (x) of said section 6 of said chapter 62 for a taxable year; (iii) a  
522 description of the options for maximizing participation in such a program by taxpayers who are  
523 eligible for credits under said subsection (x) of said section 6 of said chapter 62; (iv) an analysis  
524 of any other credits against tax included in said section 6 of said chapter 62 that the department  
525 could include in an advance quarterly payment program; (v) potential challenges to the  
526 establishment of such a program and strategies by which the department could address those

527 challenges; (vi) any legislative recommendations to support the establishment of such a program,  
528 if applicable; and (vii) an estimate of the funds that would be necessary for the department to  
529 establish and maintain such a program, if applicable.

530 The executive office shall submit a report of its findings to the house and senate  
531 committees on ways and means not later than January 1, 2024.

532 SECTION 44. (a) Notwithstanding any general or special law to the contrary, the  
533 department of revenue shall analyze the potential impact of implementing an additional, elective  
534 entity-level tax of up to 4 per cent on a portion of qualified taxable income in the commonwealth  
535 of eligible pass-through entities defined in section 1 of chapter 63D of the General Laws,  
536 coupled with a refundable tax credit. The analysis shall consider: (i) the impacts on the  
537 commonwealth's taxpayers and tax revenue; (ii) the feasibility of administering the additional  
538 elective tax; (iii) the feasibility of determining the portion of qualified income taxable in the  
539 commonwealth pursuant to this section based on: (A) an annual threshold tied to the threshold  
540 under Article XLIV of the Amendments of the Constitution; or (B) the consent of each qualified  
541 member to have a portion of the member's share of qualified income taxable in the  
542 commonwealth subject to the additional tax; (iv) passthrough entity tax regimes in other states;  
543 and (v) the impact of any tax on qualified members with taxable income below the annual  
544 threshold under said Article XLIV.

545 (b) The department of revenue shall submit a report of its findings to the clerks of the  
546 senate and house of representatives, the joint committee on revenue and the senate and house  
547 committees on ways and means not later than February 1, 2024.

548 SECTION 45. Sections 19, 22 and 33 shall take effect on January 1, 2024.

549 SECTION 46. Section 24 shall apply to tax years beginning on or after January 1, 2024.

550 SECTION 47. Sections 27 to 29, inclusive, and sections 31 and 35 shall take effect on  
551 January 1, 2025.

552 SECTION 48. Sections 36 and 37 shall take effect for the estates of decedents dying on  
553 or after January 1, 2023.

554 SECTION 49. Except as otherwise specified, this act shall take effect for taxable years  
555 beginning on or after January 1, 2023.