

# HOUSE . . . . No. 283

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At the request of Mr. Gott of Arlington, the petition of Henry F. Long (Commissioner of Corporations and Taxation) for a more equitable method of taxing corporate franchises and relative to the disposition of the proceeds, was taken from the files of the preceding year. Taxation.

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## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Forty-Nine.

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AN ACT TO PROVIDE A MORE EQUITABLE METHOD OF TAXING CORPORATE FRANCHISES AND RELATING TO THE DISPOSITION OF THE PROCEEDS.

*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 is  
2 hereby amended by striking out section 58, as  
3 appearing in the Tercentenary Edition, and inserting  
4 in place thereof the following:—

5 *Section 58.* Every corporation subject to section  
6 fifty-three or fifty-four shall annually pay a tax  
7 upon its corporate franchise, after making the  
8 deductions provided for in section fifty-five, at a  
9 rate equal to the average of the annual rates for  
10 three years preceding that in which such assessment  
11 is laid, said annual rates to be determined by an  
12 apportionment of the whole amount of money to be  
13 raised by taxation upon property in the common-  
14 wealth during each of the said three years, as re-

15 turned by the assessors of the several towns under  
16 section forty-seven of chapter fifty-nine, upon the  
17 aggregate valuation of all towns for each of the said  
18 three years, as return under said section forty-  
19 seven; provided, that every such corporation shall  
20 pay a minimum tax hereunder not less in amount  
21 than one per cent of its gross revenue assignable  
22 to this commonwealth for the calendar year next  
23 preceding. The term "gross revenue" as herein  
24 used shall include any and all of the following  
25 revenue:—

26 (a) The gross revenue or value proceeding or  
27 accruing from the performance by the corporation  
28 of any public service or transportation business,  
29 including operations incidental thereto, but without  
30 any deductions on account of the cost of the com-  
31 modity furnished or sold, the cost of materials  
32 used, labor costs, interest, discount, delivery costs,  
33 taxes or any other expenses whatsoever paid or  
34 accrued and without any deduction on account of  
35 losses.

36 (b) The gross revenue, without deduction, from  
37 rentals or other forms of compensation for the use  
38 or benefit of any real estate or tangible personal  
39 property, or any interest in real estate or tangible  
40 personal property.

41 (c) The gross income from any source other than  
42 from the performance by the corporation of any  
43 public service or transportation business and from  
44 rentals or other form of compensation for the use or  
45 benefit of real estate or tangible personal property  
46 or any interest in real estate or tangible personal  
47 property.

48 If a corporation carries on no business and rents

49 no property owned by it outside this commonwealth  
50 all of its gross revenue shall be deemed to be assign-  
51 able to this commonwealth.

52 If a corporation carries on business in part out-  
53 side the commonwealth or rents property owned  
54 by it outside the commonwealth, its gross revenue  
55 assignable to this commonwealth shall be determined  
56 in accordance with the following rules, provided  
57 that if in any case the application of such rules is  
58 not reasonably adapted to approximate the gross  
59 revenue fairly assignable to this commonwealth,  
60 the commissioner may, either at the request of the  
61 corporation made prior to the time its tax return  
62 is due to be filed or without such request, determine  
63 the gross revenue assignable to this commonwealth  
64 by such alternative method as will fairly reflect  
65 the gross revenue assignable to this common-  
66 wealth:—

67 (a) In the case of a street railway or telegraph  
68 company operating lines in part within and in part  
69 without the commonwealth, the revenue assignable  
70 to this commonwealth shall be deemed to be such  
71 proportion of the entire gross revenue of the com-  
72 pany as the length of lines operated by it in this  
73 commonwealth bears to the length of lines operated  
74 by it within and without the commonwealth.

75 (b) In the case of a street railway or telegraph  
76 company not operating lines owned by it in part  
77 without the commonwealth, but leasing or renting  
78 the same, the revenue assignable to this common-  
79 wealth shall be deemed to be such proportion of  
80 the entire gross revenue of the company as the  
81 length of lines owned and leased or rented by it in  
82 this commonwealth bears to the length of lines

83 owned and leased or rented by it within and without  
84 the commonwealth.

85 (c) In the case of a telephone company operating  
86 in part outside the commonwealth, the gross revenue  
87 assignable to this commonwealth shall be deemed  
88 to be such proportion of the entire gross revenue  
89 of the company as the number of telephones within  
90 the commonwealth used or controlled by it or under  
91 letters patent owned or controlled by it bears to the  
92 number of telephones used or controlled by it, or  
93 under any letters patent owned or controlled by it,  
94 within and without the commonwealth.

95 (d) In all other cases, the gross revenue assignable  
96 to this commonwealth shall be deemed to be such  
97 proportion of the entire gross revenue of the com-  
98 pany as the sum of the amounts charged for services  
99 performed for or rendered to customers within the  
100 commonwealth and rentals from the use of property  
101 within the commonwealth bears to the sum of the  
102 amounts charged for services performed for or  
103 rendered to customers within and without the  
104 commonwealth and rentals from the use of property  
105 within and without the commonwealth.

1 SECTION 2. Section 53 of said chapter 63 as  
2 most recently amended by section 7 of chapter 509  
3 of the acts of 1941, is hereby further amended by  
4 adding at the end thereof the following new clause: —  
5 Fifth. Such other information as the commis-  
6 sioner may require for determination of the minimum  
7 tax provided by section fifty-eight.

1 SECTION 3. Chapter 58 of the General Laws is  
2 hereby amended by striking out section 25, as most

3 recently amended by chapter 687 of the acts of  
4 1945, and inserting in place thereof the following: —

5 *Section 25.* The commissioner shall ascertain  
6 and determine the amount due to each town under  
7 section twenty and the amount distributable under  
8 section ten of chapter sixty-four B, notify the treas-  
9 urer of each town thereof, specifying with respect  
10 to said section twenty the amount determined to  
11 be due to each town, or that no amount is due, as  
12 the case may be, and certify the amount as deter-  
13 mined to the state treasurer who shall thereupon  
14 pay the same. The commissioner in his discretion  
15 may from time to time within the twelve month  
16 period prescribed in section twenty make partial  
17 distributions of taxes paid therein and distributable  
18 under the provisions of section twenty, withholding  
19 such sums as may to him seem proper to provide  
20 for refunds and abatements.

1 SECTION 4. Said chapter 58 is hereby further  
2 amended by striking out section 25A, as most  
3 recently amended by section 5 of chapter 624 of the  
4 acts of 1945 and inserting in place thereof the  
5 following: —

6 *Section 25A.* Annually on or before May first,  
7 the commissioner shall, upon the basis of the infor-  
8 mation then in his possession, estimate the amount  
9 each town is to receive under sections seventeen,  
10 eighteen and twenty of this chapter and the amount  
11 each town is to receive of the one-third of the sums  
12 received under chapter sixty-four B and distributable  
13 under section ten of said chapter and notify the  
14 assessors of such town thereof. Such assessors, in  
15 determining the rate of taxation to be levied upon

16 taxable property for the year, shall include in the  
17 estimated receipts, lawfully applicable to the pay-  
18 ment of expenditures, the aforesaid amount.

1 SECTION 5. Section 27 of said chapter 58, as  
2 most recently amended by section 1 of chapter 521  
3 of the acts of 1943, is hereby further amended by  
4 striking out the next to the last sentence and in-  
5 serting in place thereof the following: — The state  
6 treasurer shall retain from the sums, next to be  
7 distributed to any city or town under sections  
8 eighteen and twenty an amount equal to the sum  
9 which has already been paid to such city or town  
10 on account of any tax or excise refunded under this  
11 section.

1 SECTION 6. Section 60 of said chapter 63, as  
2 most recently amended by section 8 of chapter 509  
3 of the acts of 1941, is hereby further amended by  
4 striking out the last sentence and inserting in place  
5 thereof the following: — If an abatement of a tax  
6 paid is granted the overpayment with interest  
7 thereon at the rate of six per cent per annum from  
8 the date of payment shall be refunded to the tax-  
9 payer by the state treasurer without any appropri-  
10 ation therefor by the general court.

1 SECTION 7. Sections twenty-four and twenty-  
2 four A of said chapter fifty-eight of the General  
3 Laws are hereby repealed.

1 SECTION 8. This act shall apply with respect  
2 to corporate franchise taxes assessed in the year  
3 nineteen hundred and forty-eight and thereafter.



