

HOUSE No. 1511

By Mr. Silvano of Brookline, petition of John Dane, Jr., and Joseph Silvano for an amendment of the income tax law relative to the recognition of gain and loss on reorganizations of corporations, associations or trusts. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Five.

AN ACT TO ALTER THE PROVISIONS OF THE INCOME TAX LAW,
SO CALLED, RELATIVE TO THE RECOGNITION OF GAIN AND
LOSS ON REORGANIZATIONS.

*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 (g) of section 1 of chapter 62
2 of the General Laws, as most recently amended by
3 chapter 545 of the acts of 1954, is hereby further amended
4 by striking out said subsection (g) and inserting in place
5 thereof the following: —

6 (g) If a corporation, association or trust, the beneficial
7 interest in which is represented by transferable shares,
8 cancels or redeems its shares in whole or in part, the dis-
9 tribution made in connection with such cancellation or
10 redemption shall not be taxable under this section.

1 SECTION 2. Subsection (c) of section 5 of chapter 62
2 of the General Laws, as most recently amended by
3 section 1 of chapter 599 of the acts of 1954, is hereby
4 further amended by striking out said subsection (c) and
5 inserting in place thereof the following: —

6 (c) The excess of the gains over the losses received by
7 the taxpayer from purchases, sales or exchanges of in-
8 tangible personal property shall be taxed at the rate of
9 three per cent. When such intangible personal property

10 is sold or exchanged the basis for recognition of gain or
11 loss shall be determined in accordance with the pro-
12 visions of section seven of this chapter. If a corporation
13 cancels or redeems its stock, such transaction shall con-
14 stitute a sale or exchange for the purposes of this section.
15 The gain or loss shall be determined by comparing the fair
16 market value of the property received in cancellation or
17 redemption with the basis of the stock cancelled or re-
18 deemed. In the case of a partial liquidation the basis
19 of the stock cancelled or redeemed shall be determined by
20 multiplying the basis of the stock to which such partial
21 liquidation was attributable by a fraction whose numera-
22 tor is the fair market value of all the property distributed
23 by the corporation in such partial liquidation, and whose
24 denominator is the fair market value of the entire stock
25 on which such partial liquidation was made immediately
26 before the distribution. If, in any exchange of shares
27 upon the reorganization of one or more corporations, the
28 new shares received in exchange for the shares sur-
29 rendered represent the same interest in the same assets,
30 or if such exchange constitutes a non-taxable exchange
31 as defined in subsection (h) of this section, no gain or loss
32 shall be recognized until a sale or further exchange, other
33 than a non-taxable exchange, of such new shares is made.

1 SECTION 3. Section 5 of chapter 62 of the General
2 Laws is hereby amended by adding at the end thereof the
3 following new subsection: —

4 (h) For the purpose of subsection (c) and of this sub-
5 section, the following terms shall have the following
6 meanings: —

7 (1) Non-taxable exchange.

8 The term “non-taxable exchange” shall mean the
9 exchange of stock in a corporation, a party to a reorgani-
10 zation, solely for stock of another corporation, a party to
11 the reorganization.

12 (2) Reorganization.

13 The term “reorganization” shall mean —

14 (A) A statutory merger or consolidation; or

15 (B) The acquisition by one corporation, in exchange
16 solely for all or a part of its voting stock, of substantially
17 all of the properties of another corporation, but, in de-
18 termining whether the exchange is solely for voting stock,
19 the assumption by the acquiring corporation of a liability
20 of the other or the fact that property acquired is subject
21 to a liability, shall be disregarded.

22 (3) Party to a reorganization.

23 The term "party to a reorganization" shall mean —

24 (A) Both the merging corporation or corporations and
25 the continuing corporation in the case of a statutory
26 merger or consolidation; and

27 (B) Both corporations in the case of a reorganization
28 resulting from the acquisition by one corporation of sub-
29 stantially all of the properties of another.

30 (4) Corporation.

31 The term "corporation" shall mean a corporation,
32 association or trust the beneficial interest in which is
33 represented by transferable shares.

