

HOUSE No. 1516

By Mr. Chadwick of Winchester, petition of the Massachusetts Society of Certified Public Accountants, Inc., for the imposition of an income tax on members of partnerships to replace the tax levied on partnerships as separate entities. Taxation.

The Commonwealth of Massachusetts

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

AN ACT TO CORRELATE MASSACHUSETTS TAXATION OF PARTNERSHIPS WITH FEDERAL PRACTICE BY REPLACING THE INCOME TAX PRESENTLY LEVIED AGAINST THE PARTNERSHIP WITH A TAX LEVIED AGAINST ITS MEMBERS.

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 17 of chapter 62 of the General Laws,
2 as last amended by chapter 780 of the acts of 1955, is hereby
3 amended by striking out the period at the end of the first sen-
4 tence and inserting in place thereof the following: — for taxable
5 years beginning before January first, nineteen hundred and
6 fifty-eight.

1 SECTION 2. Said chapter 62 is hereby amended by inserting
2 after section 17 a new section 17A, as follows: —

3 *Section 17A. — Partnerships. — (a)* A partnership as such
4 shall not be subject to the tax imposed by this chapter. The
5 partners thereof shall be liable for the tax imposed by this
6 chapter only in their separate or individual capacities. Each
7 partnership having a usual place of business in the common-
8 wealth shall file an information return for each taxable year in
9 the form prescribed by the commissioner as provided in section
10 twenty-two.

11 (b) In determining his income tax, each partner shall take
12 into account separately in his separate return his distributive
13 share of the partnership's income, gain, loss, deductions or
14 credits attributable to — (1) interest, (2) dividends, (3) an-
15 nuidities, (4) professions, employment, trade and business, (5)
16 gains or losses from the sale or exchange of intangible personal
17 property, (6) gains or losses from the sale or exchange of real
18 estate, (7) gains from certain transactions in real estate de-
19 scribed in section seven A of this chapter, (8) and such other
20 items of income, gain, loss, deduction or credit as the commis-
21 sioner, or his delegate, may by regulations prescribe.

22 (c) The character of any item of income, gain, loss, deduction
23 or credit included in a partner's distributive share shall be de-
24 termined as if such item were realized directly by the partner
25 from the source from which realized by the partnership, or
26 incurred in the same manner as incurred by the partnership.
27 The amount of each such item to be taken into account by the
28 partnership in determining the total of its income, gain, loss,
29 deductions or credits to be reported in the separate returns of
30 its partners shall be computed as in the case of a natural person
31 as otherwise provided by this chapter, except that there shall
32 not be allowed to the partnership — (1) The exemptions
33 allowed by section five (b), (2) the reduction on account of
34 "net capital losses" provided by section five (c), (3) the exemp-
35 tions allowed by section five (f), (4) the deduction for taxes
36 allowed by section six (c) and the credit for taxes allowed by
37 section six A to the extent that such taxes are assessed to the
38 partners in their individual capacities, but such deductions
39 or credits shall be allowed to the partners in their individual
40 returns, (5) the deductions allowed by section six (h).

41 (d) A partner's distributive share of any item of income,
42 gain, loss, deduction or credit shall be determined by agreement
43 among the partners. If the partnership agreement contains no
44 provision in respect of the partners' distributive shares of any
45 item of income, gain, loss, deduction or credit, it shall be appor-
46 tioned in accordance with his ratio of sharing income or losses
47 from the profession, employment, trade or business.

48 (e) The partner's distributive share of the various classes of
49 income, gains, losses, deductions and credits shall be reported

50 by such partner in his return for his taxable year during which
51 or with which the partnership taxable year ends.

52 (1) In the case of a partnership having a usual place of busi-
53 ness in the commonwealth, a non-resident who is a partner
54 thereof shall include in his return his distributive share of the
55 various classes of income, gains, losses, deductions or credits
56 only to the extent that they are required to be included by
57 section five A.

58 (2) In the case of a partnership not having a usual place of
59 business in the commonwealth, an inhabitant who is a partner
60 thereof shall include in his return his distributive share of the
61 various classes of the income, gains, losses, deductions or credits
62 of the partnership to the extent that such items are required by
63 this chapter to be included in the returns of residents.

64 (f) This section shall apply to partnership taxable years
65 beginning after December thirty-first, nineteen hundred and
66 fifty-seven.

1 SECTION 3. Section 18 of said chapter 62 is hereby amended
2 by inserting after the words "in computing its taxable income"
3 in the first sentence the following: — for taxable years beginning
4 before January first, nineteen hundred and fifty-eight.

1 SECTION 4. Section 19 of said chapter 62 is hereby amended
2 by inserting at the beginning of the first sentence the following:—
3 For taxable years beginning before January first, nineteen
4 hundred and fifty-eight.

1 SECTION 5. Section 20 of said chapter is hereby amended by
2 striking out the words "subject to taxation under this chapter"
3 and inserting in place thereof the following: — "having a usual
4 place of business within the commonwealth."

1 SECTION 6. Section 22 of said chapter 62, as last amended
2 by chapter 780 of the acts of 1955, is hereby amended by striking
3 out the first paragraph and inserting in place thereof the fol-
4 lowing: —

5 Every individual inhabitant of the commonwealth, including
6 every association or trust, whose annual income from all sources,

7 including distributive partnership income or gains as provided
8 in section seventeen A, exceeds two thousand dollars shall
9 annually make a return of his entire income, except income
10 derived (a) from rentals of real estate, including reasonable
11 amounts charged on account of services, facilities or utilities
12 furnished tenants of said real estate, provided that said services,
13 facilities or utilities are related directly to the business of renting
14 real estate, or gains from the sale or exchange of real estate which
15 is used as the principal residence of the taxpayer; (b) from
16 dividends exempt from taxation under section one; (c) from
17 interest upon bonds or other obligations of the United States;
18 (d) from interest upon such bonds, notes and certificates of
19 indebtedness of the commonwealth and political subdivisions
20 thereof as are exempt from taxation under clause twenty-fifth
21 of section five of chapter fifty-nine; (e) from loans secured
22 exclusively by duly recorded mortgage of real estate, taxable
23 as real estate, situated in the commonwealth, to an amount not
24 exceeding the assessed value of the mortgaged real estate less
25 the amount of all prior mortgages; and (f) from wages, sal-
26 aries or compensation exempted from taxation by subsection (b)
27 of section five. Every other individual inhabitant, including
28 every association or trust who receives income, including dis-
29 tributive partnership income or gains as provided in section
30 seventeen A, taxable under section one or subsection (a) or
31 (c) of section five shall make an annual return of such taxable
32 income.

33 For taxable years beginning after December thirty-first,
34 nineteen hundred and fifty-seven, every partnership having a
35 usual place of business in the commonwealth shall make a
36 return of its entire income for each taxable year, setting forth its
37 income, gains, losses, deductions or credits attributable to the
38 various classes of income described in paragraph (b) of section
39 seventeen A, and such other information for the purpose of
40 carrying out the provisions of section seventeen A as the com-
41 missioner may prescribe, and shall include in the return the
42 names and addresses of the partners and the distributive shares
43 of the various classes of partnership income, gains, losses, deduc-
44 tions or credits apportioned to each.

1 SECTION 7. The amendments effected by this chapter shall
2 be effective for all taxable years beginning after December
3 thirty-first, nineteen hundred and fifty-seven, except that a
4 distributive share of partnership income, gain, loss, deduction
5 or credit which has been reported in a partnership return, and
6 for which the partnership was taxable, shall not be reported in
7 the return of a taxpayer who was a member of such partnership.

Theorem 1318. Let α and β be any two real numbers such that $\alpha < \beta$. Then there exists a real number γ such that $\alpha < \gamma < \beta$. This theorem is a special case of the more general theorem that between any two real numbers there exists another real number. This theorem is often used to show that the real numbers are dense. It is also used to show that the real numbers are complete. The proof of this theorem is given in the following.

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