

HOUSE No. 1380

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 28, 1933.

The committee on Taxation, to whom was referred so much of the recommendations of the Commissioner of Corporations and Taxation (House, No. 69) as relates to amending the laws relating to taxation of certain classes of corporations (accompanied by bill, House, No. 74), report the accompanying bill (House, No. 1380).

For the committee,

ARTHUR I. BURGESS.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Three.

An Act amending the Laws relating to Taxation of
Certain Classes of Corporations.

1 *Whereas*, The deferred operation of this act would
2 tend to defeat its purpose, therefore it is hereby
3 declared to be an emergency law, necessary for the
4 immediate preservation of the public convenience.

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 sixty-three of the General
2 Laws as appearing in the Tercentenary edition thereof
3 is hereby amended by striking out section thirty-two
4 and inserting in place thereof the following:—

5 *Section 32.* Except as otherwise provided in sec-
6 tions thirty-four and thirty-eight B, every domestic
7 business corporation shall pay annually an excise
8 equal to the sum of the following, provided, that
9 every such corporation shall pay annually a total
10 excise not less in amount than one twentieth of one
11 per cent of the fair value of its capital stock on the
12 day fixed for determination of the value of its cor-
13 porate excess.

14 (1) An amount equal to five dollars per thousand
15 upon the value of its corporate excess.

16 (2) An amount equal to two and one half per cent
17 of its net income determined to be taxable in accord-
18 ance with the provisions of this chapter.

19 Liability for such excise shall be incurred by cor-
20 porate existence at any time within the taxable year,
21 or, in case the corporation has not established a tax-
22 able year, upon April first.

1 SECTION 2. Section thirty-eight of chapter sixty-
2 three as so appearing is hereby amended by adding
3 at the end thereof the following new paragraph:—

4 10. A corporation shall be deemed to carry on busi-
5 ness outside this commonwealth within the meaning
6 of this section only when its activities in another state
7 or country give such state or country jurisdiction to
8 tax the corporation in respect to such activities.

1 SECTION 3. Section thirty-nine of chapter sixty-
2 three as so appearing is hereby amended by adding
3 at the end thereof the following new paragraph:—

4 Liability for such excise shall be incurred by cor-
5 porate activity within the commonwealth at any time
6 within the taxable year, or, in case the corporation
7 has not established a taxable year, upon April first.

1 SECTION 4. Chapter sixty-three as so appearing is
2 hereby further amended by striking out section forty-
3 two and inserting in place thereof the following:—

4 *Section 42.* A foreign corporation carrying on part
5 of its business outside the commonwealth may, by
6 notification to the commissioner on or before the
7 time when its return under this chapter is due to be
8 filed, refuse to accept the allocating method set forth
9 in the preceding section. A foreign corporation,

10 which so refuses, and every such corporation, which
11 is foreign to the United States, and which is required
12 to return to the federal government only income from
13 sources within the United States, shall, on or before
14 May tenth, file with the commissioner, under oath of
15 its treasurer, a statement in such detail as the com-
16 missioner shall require, showing the amount of its
17 annual net income derived from business carried on
18 within the commonwealth, and such further informa-
19 tion as the commissioner may require with reference
20 thereto, and the commissioner shall determine the
21 amount of the net income received from business
22 carried on within the commonwealth. The commis-
23 sioner may in his discretion require similar informa-
24 tion from any other foreign corporation if he considers
25 that the allocating method set forth in the preceding
26 section does not fairly reflect the income received
27 from business carried on within the commonwealth
28 and may by reasonable methods determine such
29 income. Income determined by the commissioner
30 pursuant to the provisions of this section to be income
31 received from business carried on within the com-
32 monwealth shall be the net income taxable under this
33 chapter, and such determination shall be in lieu of
34 the determination required by the preceding section.

1 SECTION 5. This act shall take effect as of Janu-
2 ary first, nineteen hundred and thirty-three, and
3 shall apply to taxes assessed in the year nineteen
4 hundred and thirty-three and thereafter.