

HOUSE . . . No. 1451

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 23, 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 taxation of banks, trust companies and certain other corporations, especially with respect to definition of net income (accompanied by bill, House, No. 76), report the accompanying bill (House, No. 1451).

For the committee,

ARTHUR I. BURGESS.

The Commonwealth of Massachusetts

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

An Act relative to Taxation of Banks, Trust Companies and Certain Other Corporations, Especially with Respect to Definition of Net Income.

1 *Whereas*, The deferred operation of this act would
2 tend to defeat its purpose, therefore it is hereby de-
3 clared to be an emergency law, necessary for the im-
4 mediate 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. Section one of chapter sixty-three of
2 the General Laws is further amended by striking out
3 the paragraph defining net income and inserting in
4 place thereof the following: —

5 “Net Income”, Total net income for the taxable
6 year from all sources, without deduction of (1) items
7 or sums excluded from the definition of gross income in
8 use by any other taxing authority, (2) dividends re-
9 ceived on stocks, (3) taxes paid to the government of
10 the United States on either profits or net income, (4)
11 any specific amount allowed by any other taxing
12 authority, or (5) losses sustained by the bank in other
13 fiscal or calendar years, whether deducted by the
14 government of the United States or not. Bona fide
15 gifts to a bank, other than unpaid salaries or compen-
16 sation due to officers, for which no consideration has

17 been given or made by the bank itself, shall not con-
18 stitute income nor be included in net income.

1 SECTION 2. Section two of said chapter sixty-
2 three is hereby further amended by adding at the end
3 of the first sentence the words:— and, provided,
4 further, that such rate shall not be higher than six
5 per cent, — so that said first sentence shall read as
6 follows:— Every bank shall pay annually a tax meas-
7 ured by its net income, as defined in section one, at
8 the rate assessed upon other financial corporations;
9 provided, that such rate shall not be higher than the
10 highest of the rates assessed under this chapter upon
11 mercantile and business corporations doing business
12 in the commonwealth; and, provided, further, that
13 such rate shall not be higher than six per cent.

1 SECTION 3. Section thirty of said chapter sixty-
2 three, as amended, is hereby further amended by strik-
3 ing out the paragraph numbered five and inserting in
4 place thereof the following:—

5 5. "Net Income", Total net income for the taxable
6 year from all sources, without deduction of (1) items or
7 sums excluded from the definition of gross income in
8 use by any other taxing authority, (2) dividends re-
9 ceived on stocks, (3) taxes paid to the government of
10 the United States on either profits or net income, (4)
11 any specific amount allowed by any other taxing
12 authority, or (5) losses sustained by the corporation
13 in other fiscal or calendar years, whether deducted by
14 the government of the United States or not. Bona
15 fide gifts to a corporation, other than unpaid salaries
16 or compensation due to officers, for which no consid-
17 eration has been given or made by the corporation

18 itself, shall not constitute income nor be included in
19 net income.

1 SECTION 4. Section thirty-four of said chapter
2 sixty-three as amended by section one of chapter five
3 hundred and forty-nine of the acts of nineteen hundred
4 and twenty is hereby further amended by striking out
5 all after the first sentence so that said section thirty-
6 four will read as follows:— *Section 34.* If two or
7 more domestic business corporations participated in
8 the filing of a consolidated return of income to the
9 federal government, the tax under paragraph (2) of
10 section thirty-two may, at their option, be assessed
11 upon their combined net income, which tax shall be
12 assessed to all said corporations and collected from any
13 one or more of them.

1 SECTION 5. Section thirty-nine of said chapter
2 sixty-three as last amended by section four of chapter
3 two hundred and fifty-eight of the acts of nineteen
4 hundred and twenty-seven is hereby further amended
5 by striking out the last sentence of the last paragraph
6 of said section so that said paragraph shall read as
7 follows:— If two or more foreign corporations doing
8 business in this commonwealth participated in the
9 filing of a consolidated return of income to the federal
10 government, the tax under paragraph (2) above may,
11 at their option, be assessed upon their combined net
12 income, in which case the tax shall be assessed to all
13 said corporations and collected from any one or more
14 of them.

1 SECTION 6. This act shall apply to taxes assessed
2 in the year nineteen hundred and thirty-three and
3 thereafter.