
Accompanying the second recommendation of the Commissioner of Corporations and Taxation (House, No. 73). Taxation.

The Commonwealth of Massachusetts

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

An Act relative to Taxation of Certain Classes of Foreign Corporations.

1 *Whereas*, The deferred operation of this act would
2 in part 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. Section thirty of chapter sixty-three
2 of the General Laws, as last amended by chapter
3 three hundred twenty-seven of the acts of nineteen
4 hundred and thirty-three, is hereby further amended
5 by striking out paragraph two and inserting in place
6 thereof the following:—

7 2. "Foreign corporation", every corporation, as-
8 sociation or organization established, organized or
9 chartered under laws other than those of the com-
10 monwealth, for purposes for which domestic corpora-
11 tions may organize under chapter one hundred and

12 fifty-six, which has a usual place of business in this
13 commonwealth, or is engaged here permanently or
14 temporarily, in the construction, erection, alteration
15 or repair of a building, bridge, railroad, railway or
16 structure of any kind; provided, that said term shall
17 not apply to such corporations, associations or organi-
18 zations without capital stock as are subject to taxa-
19 tion under section eighteen of chapter one hundred
20 and fifty-seven, to foreign manufacturing corpora-
21 tions as defined in section forty-two B or to foreign
22 corporations engaged in this commonwealth ex-
23 clusively in interstate or foreign commerce, except as
24 provided in section forty-two E.

1 SECTION 2. Said section thirty is hereby further
2 amended by striking out paragraph four and insert-
3 ing in place thereof the following: —

4 4. "Corporate excess employed within the com-
5 monwealth", by a foreign corporation, except as
6 hereinafter provided, such proportion of the fair
7 value of its capital stock on the last day of the taxable
8 year as defined in paragraph numbered six of this
9 section, as the value of the assets, both real and per-
10 sonal, employed in any business within the common-
11 wealth on that date, after deducting therefrom the
12 value of (a) and (b) following, bears to the value of
13 the total assets of the corporation on said date: —

14 (a) Works, structures, real estate, motor vehicles,
15 machinery, poles, underground conduits, wires and
16 pipes owned by it within the commonwealth subject
17 to local taxation, except such part of said real estate
18 as represents the interest of a mortgagee.

19 (b) Securities held in the commonwealth, the in-
20 come of which, if any, if received by a natural person

21 resident therein, would not be liable to taxation,
22 except shares in national banks, voluntary associa-
23 tions, trusts and partnerships. In determining the
24 proportion of assets employed within the common-
25 wealth, the commissioner may include such bank
26 deposits in other states as are employed principally
27 in the conduct of the business in the commonwealth.

28 If by reason of recent organization, or otherwise,
29 the corporation is not required to make to the com-
30 missioner a return of net income for a taxable year
31 the value of the corporate excess employed in this
32 commonwealth shall be determined as of the first
33 day of April of the year in which the tax is to be
34 assessed.

1 SECTION 3. Said chapter sixty-three is hereby
2 amended by inserting after section forty-two B the
3 following new sections: —

4 *Section 42C.* Every corporation, association or
5 organization established, organized or chartered under
6 laws other than those of the commonwealth for pur-
7 poses for which domestic corporations may be or-
8 ganized under chapter one hundred and fifty-six,
9 which is engaged in this commonwealth exclusively
10 in interstate or foreign commerce, shall except as
11 provided in section forty-two E be subject to taxation
12 upon all its real estate and personal property, both
13 tangible and intangible, situated or employed within
14 the commonwealth on the first day of April of each
15 year. The valuation at which the machinery, mer-
16 chandise and all other personal property of said
17 corporation shall be assessed by the assessors of the
18 respective towns where such property is subject to
19 taxation shall be determined annually by the com-

20 missioner, subject to appeal to the board of tax
21 appeals as hereinafter provided, and shall by him be
22 certified to the assessors on or before June fifteenth.
23 A board of assessors or a corporation aggrieved by a
24 valuation made by the commissioner under this sec-
25 tion may within ten days after notice of his valua-
26 tion apply to the board of tax appeals. Said board
27 shall hear and decide the subject matter of such appeal
28 and give notice of its decision to the commissioner
29 and to the assessors; and its decision as to the valua-
30 tion of the property shall be final and conclusive
31 except as provided in section seventy-three of chap-
32 ter fifty-nine relative to abatements. The assessors
33 shall in the manner provided by law assess the real
34 estate at the value as determined by them, and shall
35 assess the personal property as certified and at the
36 value determined by the commissioner or by the
37 board of tax appeals, and such an assessment by a
38 board of assessors shall be deemed to be in full com-
39 pliance with the oath of office of each assessor and
40 the full performance of his official duty with relation
41 to the assessment of such property, except that every
42 board of assessors shall as and when required by the
43 commissioner furnish him with any and all informa-
44 tion in its knowledge and possession relating to any
45 property the value of which he is required to deter-
46 mine by the foregoing provisions.

47 *Section 42D.* Every corporation described in sec-
48 tion forty-two C shall except as provided in section
49 forty-two E pay annually, a tax at the rate of six per
50 cent upon its net income as defined in section thirty
51 which is derived from business carried on within the
52 commonwealth. The commissioner shall assess and
53 collect such tax and all provisions of this chapter

54 relative to the assessment, collection, payment,
55 abatement, verification and administration of excise
56 taxes applicable to foreign corporations, shall so far
57 as pertinent be applicable to taxes assessed under this
58 section. Taxes collected under this section shall
59 be distributed in accordance with the provisions of
60 section twenty of chapter fifty-eight.

61 *Section 42E.* Any corporation described in sec-
62 tion forty-two C may in lieu of the taxes provided in
63 sections forty-two C and forty-two D, upon giving
64 reasonable notice to the commissioner, file with him
65 an agreement to be taxed under the provisions of
66 section thirty-nine of this chapter. Any corporation
67 so agreeing in any year shall thereby submit itself to
68 taxation under said section thirty-nine, and shall be
69 subject to the provisions of all pertinent sections of
70 this chapter in the year for which it files the agree-
71 ment. In case of any breach of the terms of any
72 such agreement, the same may be enforced by infor-
73 mation and equity brought by the attorney general
74 at the relation of the commissioner in the supreme
75 judicial court for Suffolk county. This remedy
76 shall be in addition to all other means of collection
77 provided by chapter sixty-three and to penalties
78 therein imposed. Any corporation intending to file
79 such agreement with the commissioner shall give
80 notice to him, in writing, on or before the twentieth
81 day of February in the year in which it is to file such
82 agreement. Such agreement shall itself be filed on
83 or before April first and in such year after filing the
84 agreement such corporation shall not be subject to
85 the taxes imposed by sections forty-two C and forty-
86 two D. Such corporation shall, however, be subject
87 to the taxes imposed upon real estate and machinery,

88 used in the conduct of the business by chapter fifty-
89 nine and to the excise imposed with respect to motor
90 vehicles by chapter sixty A.

91 *Section 42F.* Every corporation described in sec-
92 tion forty-two C shall on or before the tenth day of
93 April, make a return, sworn to by its treasurer or
94 assistant treasurer, or in their absence or incapacity
95 by any other principal officer, in such form as the
96 commissioner prescribes, setting forth such informa-
97 tion as the commissioner may require for the deter-
98 mination of the taxes imposed by sections forty-two
99 C and forty-two D, or in case the corporation elects
100 to be taxed in accordance with the provisions of sec-
101 tion forty-two E, such information as the commis-
102 sioner requires for determination of the tax imposed
103 by section forty-two E.

1 SECTION 4. Section forty-three of said chapter
2 sixty-three is hereby repealed.

1 SECTION 5. This act shall apply to taxes assessed
2 in the year nineteen hundred and thirty-four and
3 thereafter.

