

By Mr. Tamkin of Boston, petition of Alvin C. Tamkin for imposing a tax on amounts charged for the use of off-street parking facilities. Taxation.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Sixty-One.

AN ACT IMPOSING A TAX ON AMOUNTS CHARGED FOR THE USE OF  
OFF-STREET PARKING FACILITIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 The General Laws are hereby amended by inserting after  
2 chapter sixty-four F the following chapter:—

3 CHAPTER 64G.

4 EXCISE UPON CHARGES FOR USE OF PARKING FACILITIES.

5 *Section 1.* As used in this chapter, the following words and  
6 phrases shall have the following meanings unless the context  
7 otherwise requires:

8 “Person”, an individual, partnership, society, association,  
9 and corporation, including fiduciaries, receivers and the like.

10 “Taxable charge”, any amount charged by a person engaged  
11 in the business of conducting or maintaining a garage, open-air  
12 parking space or other off-street parking facility within the  
13 commonwealth for the use of such garage, parking space or  
14 parking facility for the parking of a motor vehicle.

15 “Taxpayer”, any person making a taxable charge.

16 *Section 2.* There is hereby levied and there shall be collected  
17 and paid a tax equivalent to six per cent of the amount charged  
18 by every person engaged in the business of conducting or  
19 maintaining a garage, open-air parking space or other off-street  
20 parking facility within the commonwealth for the use of such  
21 garage, parking space or parking facility for the parking of a  
22 motor vehicle. The state tax commission shall prescribe the  
23 method of determining the portion of an entire charge which is

24 applicable to such use in the event that such entire charge is in  
25 part for such use and in part for another item or service. The  
26 excise shall be paid by the taxpayer to the commissioner at the  
27 time and in the manner hereinafter provided.

28 *Section 3.* Every taxpayer shall register with the commis-  
29 sioner and pay to him the sum of one dollar, upon receipt of  
30 which the commissioner shall issue a numbered identification  
31 certificate in such form as he may determine, attesting that  
32 such registration has been made. The certificate so issued  
33 shall remain in effect so long as the taxpayer is engaged in the  
34 business of conducting or maintaining a garage, open-air park-  
35 ing space or other off-street parking facility within the common-  
36 wealth and has complied with the provisions of this chapter.  
37 No taxpayer shall engage in such business without such regis-  
38 tration certificate. Violation of any provision of this section  
39 shall be punishable by a fine of not less than two hundred nor  
40 more than five hundred dollars.

41 *Section 4.* Every taxpayer shall keep such records of taxable  
42 charges and in such reasonable form as the commissioner may  
43 require. Such records shall be open for inspection and examina-  
44 tion at any time upon demand by the commissioner or his duly  
45 authorized agent or employee and shall be preserved for a  
46 period of two years; provided, that the commissioner or his  
47 duly authorized agent may consent to their destruction within  
48 that period.

49 *Section 5.* Every taxpayer shall file with the commissioner  
50 a return of his taxable charges for each calendar month. Every  
51 such return shall be filed within ten days after the expiration  
52 of the period covered thereby; provided, that the commissioner  
53 may extend the time for filing. The form of return hereunder  
54 shall be prescribed by the state tax commission and shall con-  
55 tain such information as it may deem necessary for the proper  
56 administration of this chapter.

57 *Section 6.* At the time of the filing of any return required  
58 under section five the taxpayer shall pay to the commissioner  
59 the excise imposed by this chapter for the period covered by  
60 such return. The excise for the period for which a return is  
61 required to be filed shall be due and payable on the date deter-  
62 mined for the filing of the return for such period, without regard  
63 to whether the return is filed or whether the return which is  
64 filed correctly shows the amount of tax due. A taxpayer failing

65 to pay the excise assessed by the commissioner under this chap-  
66 ter shall pay interest at the rate of six per cent per annum from  
67 the time when such excise was payable until paid, if such pay-  
68 ment is made before the commencement of proceedings for the  
69 recovery thereof, and twelve per cent if made after the com-  
70 mencement thereof. The commissioner shall have for the  
71 collection of this excise all the remedies which are provided in  
72 chapters sixty-two and sixty-three for the collection of income  
73 and corporation taxes. Any taxpayer shall file with the com-  
74 missioner, if so required by him at any time, a bond, running  
75 to the commonwealth, in a penal sum determined, and in a form  
76 approved, by the commissioner, executed by such taxpayer  
77 and by a surety company authorized to do business in the com-  
78 monwealth as surety, and conditioned upon the payment of any  
79 excise or penalties due or which may become due from such  
80 taxpayer under this chapter.

81 Any taxpayer who complies with the provisions of this section  
82 may withhold and retain from said payments an amount equal  
83 to one per cent from each payment as compensation for services  
84 rendered in compliance with this chapter; provided, that the  
85 taxpayer has complied with all pertinent rules and regulations  
86 promulgated by the state tax commission and all other require-  
87 ments of this chapter.

88 *Section 7.* If a taxpayer, having failed to file a return, or  
89 having filed an incorrect or insufficient return, without reason-  
90 able excuse fails to file within twenty days after the receipt of  
91 notice by him from the commissioner of his delinquency, a cor-  
92 rect and sufficient return and to pay the tax therein shown to  
93 be due and interest thereon as provided in section six, the com-  
94 missioner, at any time within three years from the date when  
95 the return should have been filed, shall determine the amount  
96 due and give written notice of the amount so determined to  
97 the taxpayer. The amount so determined shall be payable  
98 forthwith and shall bear interest at the rate of six per cent per  
99 annum from the date when the original correct return should  
100 have been filed to the date of payment. The taxpayer may  
101 within two years of the date of notice of such determination or  
102 within two years of the date of an overpayment of the excise  
103 apply to the commission upon a form prescribed by it for an  
104 abatement or refund and may appeal to the appellate tax  
105 board from the decision of the commission on such application

106 for an abatement or refund within ten days of the date of the  
107 notice of such decision, which notice the commission shall send  
108 by mail, postage prepaid, to the taxpayer forthwith upon  
109 making such a decision. The decision of the appellate tax  
110 board shall be final. The taxpayer shall be reimbursed by the  
111 commonwealth for any overpayment of tax determined by the  
112 decision of the appellate tax board, with interest at the rate of  
113 six per cent per annum from the time of payment.

114 *Section 8.* A taxpayer who fails to file a return required by  
115 this chapter when due shall forfeit to the commonwealth and  
116 shall pay to the commissioner on demand the sum of five dollars  
117 for each day of delay after written notice by the commissioner  
118 of such failure. The commissioner may remit the whole or any  
119 part of said penalty.

120 *Section 9.* A taxpayer who violates any provision of this  
121 chapter for which no other penalty is provided, or who files a  
122 false return, shall be punished by a fine of not more than one  
123 thousand dollars or by imprisonment for not more than one  
124 year, or both.

125 *Section 10.* Sums received under this chapter as excise,  
126 penalties or forfeitures, interest, costs of suit and fines, after  
127 deducting therefrom a sum sufficient to reimburse the common-  
128 wealth for the expenses incurred in the collection and distribu-  
129 tion thereof, for such of said excises as are refunded, and for  
130 interest and costs paid on account of refunds, shall be distrib-  
131 uted to the city or town where the use taxed occurred.