

By Mr. Ahern of Norwood, petition of David C. Ahearn and other members of the House that provision be made for tax deductions for certain business and manufacturing corporations for the construction or improvement of air pollution control facilities. Taxation.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING FOR AN ELECTIVE DEDUCTION AND EXEMPTION UNDER THE BUSINESS AND MANUFACTURING CORPORATION EXCISE FOR THE CONSTRUCTION AND IMPROVEMENT OF AIR POLLUTION CONTROL 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 SECTION 1. Chapter 63 of the General Laws is hereby
2 amended by inserting after section 38D the following sec-
3 tion:—

4 *Section 38E. (a)* In determining the net income subject to
5 tax under this chapter a domestic or foreign business corpora-
6 tion, at its election, may deduct the expenditures paid or in-
7 curred during the taxable year for the construction, reconstruc-
8 tion, erection or improvement of air pollution control facili-
9 ties.

10 (b) Such deduction shall be allowed only —

11 (1) with respect to tangible property which is depreciable,
12 pursuant to section one hundred sixty-seven of the Federal In-
13 ternal Revenue Code, having a situs in the commonwealth and
14 used in the corporation's trade or business, the construction,
15 reconstruction, erection or improvement of which is initiated
16 on or after January first, nineteen hundred and sixty-eight,
17 and only for expenditures paid or incurred prior to January
18 first, nineteen hundred seventy-four, and

19 (2) on condition that such facilities have been certified by the
20 commissioner of public health as complying with applicable

21 provisions of the air pollution control law and regulations,
22 permits or orders issued by him pursuant to law, and

23 (3) on condition that the net income for the taxable year
24 and all succeeding taxable years be computed without any de-
25 ductions for such expenditures or for depreciation of the prop-
26 erty other than the deductions allowed by this section, except
27 to the extent that the cost or other basis of the property may
28 be attributable to factors other than such expenditures, or in
29 the case a deduction is allowable pursuant to this section for
30 only a part of such expenditures, on condition that any de-
31 duction allowed under the Federal Internal Revenue Code for
32 such expenditures or for depreciation of the same property be
33 proportionately reduced in computing net income for the taxa-
34 ble year and all succeeding taxable years.

35 (c) If expenditures in respect to an air pollution control
36 facility have been deducted as provided herein and if within
37 ten years from the end of the taxable year in which such de-
38 duction was allowed such property or any part thereof is used
39 for the primary purpose of salvaging materials which are usa-
40 ble in the manufacturing process or are marketable, the cor-
41 poration shall report such change of use in its return for the
42 first taxable year during which it occurs, and the commissioner
43 may recompute the tax for the year or years for which such
44 deduction was allowed and may assess any additional tax re-
45 sulting from such recomputation within the period of assess-
46 ment applicable to such return.

47 If a deduction is allowed as herein provided for expendi-
48 tures paid or incurred during any taxable year on the basis
49 of a temporary certificate of compliance and if the corporation
50 fails to obtain a permanent certificate of compliance upon
51 completion of the facilities with respect to which such tempo-
52 rary certificate was issued, the corporation shall report such
53 failure in its return for the taxable year during which such
54 facilities are completed, and the commissioner may recompute
55 the tax for the year or years for which such deduction was al-
56 lowed and may assess any additional tax resulting from such
57 recomputation within the period of assessment applicable to
58 such return.

59 (d) In any taxable year when property is sold or otherwise
60 disposed of, with respect to which a deduction has been al-

61 lowed pursuant to this section, such deduction shall be dis-
62 regarded in computing gain or loss, and the gain or loss on
63 the sale or other disposition of such property shall be the gain
64 or loss resulting if the deduction provided by this section had
65 not been elected and the cost or other basis of the property
66 had been reduced by straight-line depreciation based on the use-
67 ful life of the property; provided, however, that if such sale or
68 other disposition of such property occurs within three years of
69 the date such property is placed in service the basis shall be
70 zero.

71 (e) An air pollution control facility which qualifies for the
72 deduction provided for by this section shall not be subject to
73 taxation under the tangible property measure of the excise
74 imposed by clause (1) (i) of subsection (a) of section thirty-
75 two or clause (1) (i) of subsection (a) of section thirty-nine.

