

Accompanying the sixteenth recommendation of the Department of Revenue (House, No. 223). Taxation.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Seven.

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AN ACT RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF CERTAIN STATE TAXES.

*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. The second paragraph of section 5 of chapter 62B  
2 of the General Laws, as appearing in the 1984 Official Edition, is  
3 hereby amended by striking out the second sentence and inserting  
4 in place thereof the following sentence: — The term “employer”, as  
5 used in this paragraph, includes an officer, director or employee of  
6 a corporation or of a dissolved corporation, a member or employee  
7 of a partnership or an employee of an individual proprietorship  
8 who as such officer, director, employee or member is under a duty  
9 to withhold and pay over taxes in accordance with this section and  
10 section two.

1 SECTION 2. Section 24 of chapter 62C of the General Laws, as  
2 appearing in the 1984 Official Edition, is hereby amended by  
3 adding at the end thereof the following paragraph: —  
4 If the books, papers, records and other data of the taxpayer are  
5 so voluminous as to make a complete audit thereof impractical and  
6 inefficient, the commissioner may use such statistical sample  
7 methods in conducting such an audit as may be agreed to by the  
8 parties and project the audit findings derived therefrom over the  
9 entire audit period to determine the proper tax. If, after a good faith  
10 effort, the parties cannot reach such an agreement, the commis-  
11 sioner may utilize such statistical sample methods as he deems  
12 appropriate.

1 SECTION 3. Section 30 of chapter 62C of the General Laws, as  
2 amended by section 16 of chapter 593 of the acts of 1985, is hereby  
3 further amended by striking out the third paragraph and inserting  
4 in place thereof the following paragraph: —

5 Any person or estate failing to comply with the provisions con-  
6 tained in the first paragraph hereof shall be assessed the penalties  
7 applicable to returns and taxes under sections twenty-eight and  
8 thirty-three.

1 SECTION 4. Section 33 of said chapter 62C, as amended by  
2 section 18 of chapter 593 of the acts of 1985, is hereby further  
3 amended by striking out subsection (a) and inserting in place there-  
4 of the following subsection: —

5 (a) If any return is not filed with the commissioner on or before its  
6 due date or within any extension of time granted by him, there shall  
7 be added to and become a part of the tax, as an additional tax, a  
8 penalty of one percent of the amount required to be shown as the  
9 tax on such return for each month or fraction thereof during which  
10 such failure continues, not exceeding, in the aggregate, twenty-five  
11 percent of said amount; provided, however, that such penalty shall  
12 not be less than one hundred dollars, or ten percent of the amount  
13 required to be shown as the tax on such return, whichever sum is the  
14 lesser.

1 SECTION 5. Section 52 of chapter 62C of the General Laws, as  
2 appearing in the 1984 Official Edition is hereby amended by strik-  
3 ing out the second sentence and inserting in place thereof the  
4 following sentence: — There shall be charged and collected a fee for  
5 each application for such waiver or certificate and a fee for each  
6 duplicate copy of any waiver or certificate issued.

1 SECTION 6. Section 79 of chapter 62C of the General Laws, as  
2 appearing in the 1984 Official Edition, is hereby amended by  
3 adding at the end thereof the following subsection: —

4 (e) Any interest, penalty or addition to tax imposed by this  
5 chapter shall be computed upon the amount of tax exclusive of any  
6 interest, penalty or addition to tax that may be assessed as a part  
7 thereof. Interest under section thirty-two shall be imposed upon

8 any assessed penalty; however, no interest shall be imposed upon  
9 any assessed interest.

1 SECTION 7. Section 7B of chapter 64G of the General Laws, as  
2 appearing in the 1984 Official Edition, is hereby amended by strik-  
3 ing out the last sentence and inserting in place thereof the following  
4 sentence: — The term “operator”, as used in this section, includes  
5 an officer, director or employee of a corporation or of a dissolved  
6 corporation, a member or employee of a partnership or an  
7 employee of an individual proprietorship who as such officer,  
8 director, employee or member is under a duty to pay over the taxes  
9 imposed by this chapter.

1 SECTION 8. Section 16 of chapter 64H of the General Laws, as  
2 appearing in the 1984 Official Edition, is hereby amended by strik-  
3 ing out the last sentence and inserting in place thereof the following  
4 sentence: — The term “person”, as used in this section, includes an  
5 officer, director or employee of a corporation or of a dissolved  
6 corporation, a member or employee of a partnership or an  
7 employee of an individual proprietorship who as such officer,  
8 director, employee or member is under a duty to pay over the taxes  
9 imposed by this chapter.

1 SECTION 9. Section 17 of chapter 64I of the General Laws, as  
2 appearing in the 1984 Official Edition, is hereby amended by strik-  
3 ing out the last sentence and inserting in place thereof the following  
4 sentence: — The term “person”, as used in this section, includes an  
5 officer, director or employee of a corporation or of a dissolved  
6 corporation, a member or employee of a partnership or an  
7 employee of an individual proprietorship who as such officer,  
8 director, employee or member is under a duty to pay over the taxes  
9 imposed by this chapter.

