

Accompanying the second recommendation of the Department of Revenue (House, No. 269). Taxation.

The Commonwealth of Massachusetts

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

AN ACT MAKING CORRECTIVE CHANGES IN EXISTING TAX LAWS.

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 1 of chapter 62 of the General Laws is
2 hereby amended by striking out paragraph (e), as most recently
3 amended by section 2 of chapter 106 of the acts of 1988, and insert-
4 ing in place thereof the following paragraph: —
5 (e) “Dividend”, any item of federal gross income which is
6 treated as a dividend under the provisions of the Code; or with
7 respect to a federal S corporation treated as a C corporation or
8 corporate trust under this chapter and chapter sixty-three, any
9 item of federal gross income which, but for Subchapter S of the
10 Code, would be treated as a dividend under the Code.

1 SECTION 2. Subparagraph (A) of paragraph (1) of subsection
2 (a) of section 2 of chapter 62 of the General Laws, as appearing
3 in the 1986 Official Edition, is hereby amended by striking out,
4 in lines 8 and 9, the words “is exempt from taxation under clause
5 Twenty-fifth of section five of chapter fifty-nine or any other pro-
6 vision of law” and inserting in place thereof the following words:
7 — states on its face that it is exempt from taxation in
8 Massachusetts or which is exempt from taxation in Massachu-
9 setts under any other provision of law.

1 SECTION 3. The first sentence of paragraph (b) of section 8
2 of said chapter 62, as most recently amended by section 12 of
3 chapter 106 of the acts of 1988, is hereby further amended by strik-

4 ing out clause (v) and inserting in place thereof the following
5 clause: — (v) has elected to be an S corporation, as defined in
6 section thirteen hundred and sixty-one of the Code, for federal
7 income tax purposes for the taxable year and is qualified as a Mas-
8 sachusetts S corporation under this chapter; provided, however,
9 to the extent that income is taxable at the entity level under the
10 Code such income shall also be so taxable to the corporate trust.

1 SECTION 4. Paragraph (i) of section 1 of chapter 62 of the
2 General Laws, as appearing in section 3 of chapter 106 of the acts
3 of 1988, is hereby amended by striking out, in the last line, the
4 words “or one thousand two hundred and thirty-two (a)(3).”

1 SECTION 5. The first sentence of section 40 of chapter 62C
2 of the General Laws, as appearing in the 1986 Official Edition,
3 is hereby amended by striking out, in lines 55 and 56, the words
4 “twelve per cent per annum, or such adjusted rate as is established
5 under section thirty-two”, and inserting in place thereof the
6 words: — eighteen per cent per annum.

1 SECTION 6. Section 1 of chapter 63 of the General Laws, as
2 appearing in the 1986 Official Edition, is hereby amended by strik-
3 ing out, in lines 39 and 40, the definition of “Taxable year” and
4 inserting in place thereof the following definition: —

5 “Taxable year”, any fiscal or calendar year or period for which
6 the bank is required to make a return to the federal government;
7 or the period for which a return is made, if a return is made (i)
8 for a period of less than twelve months or (ii) for a period for
9 which no return to the federal government is required.

1 SECTION 7. Section 30 of said chapter 63, as amended by sec-
2 tions 9 and 10 of chapter 202 of the acts of 1988 is hereby further
3 amended by striking out paragraph 6, and inserting in place
4 thereof the following paragraph: —

5 6. “Taxable year”, any fiscal or calendar year or period for
6 which the corporation is required to make a return to the federal
7 government; or the period for which a return is made, if a return
8 is made (i) for a period of less than twelve months, or (ii) for a
9 period for which no return to the federal government is required.

1 SECTION 8. Subsection (1) of section 52A of said chapter 63,
2 as so appearing, is hereby amended by striking out paragraph (c)
3 and inserting in place thereof the following paragraph: —

4 (c) “Taxable year”, means any fiscal or calendar year or period
5 for which the utility corporation is required to make a return to
6 the federal government; or the period for which a return is made,
7 if a return is made (i) for a period of less than twelve months,
8 or (ii) for a period for which no return to the federal government
9 is required.

1 SECTION 9. Paragraph (q) of section 6 of chapter 64H of the
2 General Laws, as appearing in the 1986 Official Edition, is hereby
3 amended by striking out the first sentence, in lines 239 to 244,
4 inclusive, and inserting in place thereof the following sentence:
5 — Sales of (1) both returnable and nonreturnable containers when
6 sold without the contents to persons who place the contents in
7 the container and sell the contents together with the container;
8 (2) containers when sold with the contents if the sales price of the
9 contents is not required to be included in the measure of the taxes
10 imposed by this chapter; and (3) returnable containers when sold
11 with the contents or resold for refilling.

1 SECTION 10. Subsection (b) of Section 4A of chapter 65C of
2 the General Laws, as appearing in the 1986 Official Edition, is
3 hereby amended by striking out, in lines 15 and 16 the words “two
4 of the Internal Revenue Code of the United States in effect on
5 December thirty-first, nineteen hundred and eighty-one” and
6 inserting in place thereof the following words: — four of the
7 Internal Revenue Code of the United States in effect on January
8 first, nineteen hundred and eighty-seven.

1 SECTION 11. Subsection (c) of section 4A of said chapter
2 65C, as so appearing, is hereby amended by striking out, in lines
3 22 to 24, inclusive, the words “two of the Internal Revenue Code
4 of the United States in effect on December thirty-first, nineteen
5 hundred and eighty-one” and inserting in place thereof the follow-
6 ing words: — four of the Internal Revenue Code of the United
7 States in effect on January first, nineteen hundred and eighty-
8 seven.

1 SECTION 12. Section 16 of chapter 181 of the General Laws,
2 as appearing in the 1986 Official Edition, is hereby amended by
3 striking out the last paragraph and inserting in place thereof the
4 following paragraph: —

5 The state secretary shall not receive for filing a certificate of
6 withdrawal unless it is accompanied by a certificate of the com-
7 missioner of revenue that all taxes referred to in section two of
8 chapter sixty-two C due and payable by the foreign corporation
9 to the commonwealth have been paid or provided for.

1 SECTION 13. Sections ten and eleven of this act shall apply
2 to transfers made on or after October twenty-second, nineteen
3 hundred and eighty-six.