

By Mr. Galvin of Boston, petition of William F. Galvin, Robert Correia and Albert Herren relative to taxation on corporate income. Taxation.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO TAX ON CORPORATE INCOME.

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 62 of the General Laws is hereby
2 amended by striking out in subsection (d) and by inserting in place
3 thereof the following subsection: —

4 (d) Part B adjusted gross income shall be the Part B gross
5 income less the sum of the (1) deductions allowable under sections
6 sixty-two and four hundred four, without regard to section two
7 hundred and sixty-five of the Code, and (2) the allocable share
8 of the income of a corporation on which the taxpayer has elected
9 to pay a tax pursuant to section four A; provided, however, the
10 following deductions shall not be allowed:.

1 SECTION 2. The chapter shall be further amended by
2 inserting after section 4 the following two sections: —

3 4A. Tax on Certain S Corporation Income.

4 Section 4A. A nonresident person subject to tax under this
5 chapter, and owning any interest in an S corporation (including
6 a corporate trust electing to be treated as an S corporation) having
7 total receipts of six million dollars or more for the taxable year,
8 may elect to pay a tax as computed in this section. The tax imposed
9 hereunder shall be equal to the person's pro rata portion of the
10 corporate tax which would be assessed on such S corporation for
11 such year pursuant to section 32 or section 39 of this chapter,
12 whichever is applicable, if such S corporation were a C
13 corporation for such year. For purposes of this section, a person's

14 pro rata portion of such corporate tax shall be an amount which
15 bears to the aggregate allocable shares of income for such year
16 of all persons owning interests in such S corporation in such year.
17 The commissioner shall, by regulation, apply the six million dollar
18 limitation to corporations or corporate trusts which may
19 intermittently exceed such limit but which have average annual
20 total receipts below such limit over a longer period of time; and
21 shall, by regulation, apply such limitation on an aggregate basis
22 to S corporations engaged in a unitary business and with majority
23 stock ownership by common stockholders. The phrase "total
24 receipts", as used in this section, means gross receipts or sales,
25 less returns and allowances, and includes dividends, interest,
26 royalties, net capital gains, rental income and all other income.
27 The cost of goods sold or the cost of operations shall not be
28 deductible in determining such total receipts.

29 4B. Pass-through Treatment for Nonresident S Corporation
30 Shareholders.

31 Section 4B. Any allocable share of income from an S
32 corporation upon which tax is paid by a nonresident person
33 pursuant to section 4A shall be treated as income from an S
34 corporation under this chapter. Such S corporation shall be
35 treated as an S corporation, and not a C corporation, to the extent
36 of such allocable share under this chapter.