

# SENATE . . . . . No. 1318

By Mr. Keating, petition (accompanied by bill, Senate, No. 1318) of William R. Keating for legislation relative to the taxation of non-resident shareholders of S corporations. Taxation.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Three.

### AN ACT RELATING TO THE TAXATION OF NONRESIDENT S CORPORATION SHAREHOLDERS.

*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 32D of Chapter 63 of the General Laws  
2 is hereby amended by adding the following subsections: —

3 (c) An S Corporation shall be permitted to file composite  
4 returns and to make composite payments of tax on behalf of some  
5 or all of its nonresident shareholders.

6 (d) With respect to each of its nonresident shareholders, an S  
7 Corporation shall for each Taxable Period either (1) timely file  
8 with the commissioner an agreement as provided in subsection  
9 (e) or (2) make a payment as provided in subsection (f). An S  
10 Corporation that timely files an agreement as provided in  
11 subsection (e) with respect to a nonresident shareholder for a  
12 Taxable Period shall be considered to have a timely filed such an  
13 agreement for each subsequent Taxable Period. An S Corporation  
14 that does not timely file such an agreement for a Taxable Period  
15 shall not be precluded from filing such an agreement for  
16 subsequent Taxable Periods.

17 (e) The agreement referred to in subsection (d) (1) is an  
18 agreement of a non resident shareholder of the S Corporation —

19 (1) to file a return in accordance with the provisions of chapter  
20 62C and to make timely payments of all taxes imposed on the  
21 shareholder by the Commonwealth with respect to the income of  
22 the S Corporation; and

23 (2) to be subject to personal jurisdiction in the Commonwealth  
24 for purposes of the collection of income taxes, together with

25 related interest and penalties, imposed on the shareholder by the  
26 Commonwealth with respect to the income of the S Corporation.

27 The agreement will be considered to be timely filed for a  
28 Taxable Period (and for all subsequent Taxable Periods) if it is  
29 filed at or before the time the annual individual income tax return  
30 for such Taxable Period is required to be filed pursuant to Chapter  
31 62C. (f) The payment referred to in subsection (d) (2) shall be in  
32 an amount equal to the tax imposed under chapter 62 on the  
33 shareholder's Pro Rata Share of the Income Attributable to the  
34 Commonwealth reflected on the corporation's return for the  
35 Taxable Period. An S Corporation shall be entitled to recover a  
36 payment made pursuant to the preceding sentence from the  
37 shareholder on whose behalf the payment was made. Any such  
38 payment for a Taxable Period must be made at or before the time  
39 payment of individual income tax is required under chapter 62C.

40 (g) Any amount paid by the corporation to the Commonwealth  
41 pursuant to the subsection (c) of (f) shall be considered to be a  
42 payment by the shareholder on account of the income tax imposed  
43 on the shareholder for the Taxable Period pursuant to Chap-  
44 ter 62.

1 SECTION 2. Section 17A of Chapter 62 of the General Laws  
2 is hereby amended by adding to the end of paragraph (b) the  
3 following:

4 A nonresident shareholder shall not include in his return any  
5 item of income, loss, deduction or credit from an S Corporation  
6 which has made a payment for the taxable income year on the  
7 shareholder's behalf under Section 32D of Chapter 63.