

By Mr. Businger of Brookline, petition of John A. Businger relative to the taxation of corporations. Taxation.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE TAXATION OF CORPORATIONS.

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 22B of chapter 63 of the General Laws, as
2 inserted by section 28 of chapter 816 of the acts of 1977, is hereby
3 amended by striking out subsection (3) and inserting in place
4 thereof the following subsection:—

5 (3) Net investment income shall be adjusted as follows:

6 Dividends, whether considered deemed or actual distributions,
7 included therein shall not be deducted; provided, however, that
8 actual distributions out of previously taxed income form a DISC
9 which is not a wholly-owned DISC shall be deducted.

1 SECTION 2. Section 30 of said chapter 63 is hereby amended
2 by striking out paragraphs 1 and 2, as most recently amended by
3 section 45 of chapter 684 of the acts of 1975 and inserting in place
4 thereof the following paragraphs:—

5 1. "Domestic corporation", every corporation organized under
6 or subject to chapter one hundred and fifty-six, chapter one
7 hundred and fifty-six A, chapter one hundred and fifty-six B or
8 chapter one hundred and eighty which has privileges, powers,
9 rights or immunities not possessed by individuals or partnerships;
10 provided, however, that said term shall not apply to a corporation
11 organized under the provisions of section ten of chapter one
12 hundred and fifty-seven, a domestic manufacturing corporation as
13 defined in section thirty-eight or a corporation exempt from taxa-
14 tion under the provisions of section five hundred and one and
15 section five hundred and eleven of the Federal Internal Revenue
16 Code, as amended and in effect for the taxable year.

17 2. "Foreign corporation", every corporation, association or or-
18 ganization established, organized or chartered under laws other
19 than those of the commonwealth, for purposes of which domestic
20 corporations may be organized under chapter one hundred and
21 fifty-six, chapter one hundred and fifty-six A, chapter one hundred
22 and fifty-six B or chapter one hundred and eighty which has
23 privileges, powers, rights or immunities not possessed by individu-
24 als or partnerships; provided, however, that said term shall not
25 apply to a corporation, association or organization without capital
26 stock as is subject to taxation under section eighteen of chapter one
27 hundred and fifty-seven, to a foreign manufacturing corporation
28 as defined in section forty-two B or to such corporation, associa-
29 tion or organization as is exempt from taxation under the provi-
30 sions of section five hundred and one and section five hundred and
31 eleven of the Federal Internal Revenue Code, as amended and in
32 effect for the taxable year.

1 SECTION 3. Section 30 of said chapter 63, as so amended, as
2 most recently amended by adding at the end thereof the following
3 paragraph: —

4 16. The gross income and net income of a corporation, associa-
5 tion or organization subject to taxation under the provisions of five
6 hundred and eleven of the Federal Internal Revenue Code, as
7 amended and in effect for the taxable year, should be determined
8 under the provisions of section five hundred and twelve of said
9 Code, computed with the modifications provided in paragraph 5.

1 SECTION 4. Section 32 of said chapter 63 is hereby amended
2 by striking out subsection (a) and (b), as most recently amended by
3 sections 47 and 48 of chapter 684 of the acts of 1975, and inserting
4 in place thereof the following subsections: —

5 (a) An amount equal to the sum of: —

6 (1) Two dollars and sixty cents per thousand upon the value
7 of: —

8 (i) its tangible property as determined to be taxable under para-
9 graph 7 of section thirty if a tangible property corporation, or

10 (ii) its net worth as determined to be taxable under paragraph 8
11 of section thirty if an intangible property corporation; and

12 (2) Nine and one-half percent of its net income determined to be
13 taxable in accordance with the provisions of this chapter.

14 (b) Three hundred and fifty dollars.

1 SECTION 5. Subsection (a) of section 38 of said chapter 63 is
2 hereby amended by striking out clause (1), as appearing in section 1
3 of chapter 722 of the acts of 1974, and inserting in place thereof the
4 following clause: —

5 (1) Dividends, whether considered deemed or actual distribu-
6 tions, included therein shall not be deducted; provided, however,
7 that actual distributions out of previously taxed income from a
8 DISC which is not a wholly-owned DISC shall be deducted.

1 SECTION 6. Subsection (e) of section 38 of said chapter 63, as
2 most recently amended by section 1 of chapter 752 of the acts of
3 1973, is hereby further amended by striking out the second, third
4 and fourth paragraphs.

1 SECTION 7. Section 38 of said chapter 63, as most recently
2 amended by section 1 of chapter 530 of the acts of 1978, is hereby
3 further amended by striking out subsection (i) and inserting in
4 place thereof the following subsection: —

5 (i) If the apportionment provisions of this section are not rea-
6 sonably adapted to approximate the net income derived from
7 business carried on within this commonwealth by any type of
8 industry group, the commissioner may, by regulation, adopt alter-
9 native apportionment provisions to be applied to such an industry
10 group in lieu of the foregoing provisions.

1 SECTION 8. Section 38B of said chapter 63, as appearing in
2 section 51 of chapter 684 of the acts of 1975, is hereby amended by
3 striking out, in subsections (a) and (b), the words “two hundred
4 and twenty-eight dollars” and inserting in place thereof, in each
5 instance, the words: — three hundred and fifty dollars.

1 SECTION 9. Section 39 of said chapter 63 is hereby amended
2 by striking out subsections (a) and (b), as most recently amended
3 by sections 52 and 53 of chapter 684 of the acts of 1975, and
4 inserting in place thereof the following subsections: —

5 (a) An amount equal to the sum of: —

6 (1) Two dollars and sixty cents per thousand upon the value
7 of: —

8 (i) its tangible property as determined to be taxable under para-
9 graph 7 of section thirty if a tangible property corporation, or

10 (ii) its net worth as determined to be taxable under paragraph 9
11 of section thirty if an intangible property corporation; and

12 (2) Nine and one-half percent of its net income determined to be
13 taxable in accordance with the provisions of this chapter.

14 (b) Three hundred and fifty dollars.

1 SECTION 10. Said chapter 63 is hereby further amended by
2 striking out section 42, as most recently amended by section 1 of
3 chapter 599 of the acts of 19769, and inserting in place thereof the
4 following section: —

5 *Section 42.* If the apportionment provisions of this chapter do
6 not fairly represent the extent of the activity in this commonwealth
7 of any corporation subject to taxation under this chapter, such
8 corporation may petition for, or the commissioner may require, in
9 respect of all or any part of the corporation's business activity, if
10 reasonable: —

11 (1) separate accounting,

12 (2) exclusion of any one or more factors,

13 (3) inclusion of one or more additional factors which will fairly
14 represent the corporation's business activities in this common-
15 wealth, or

16 (4) employment of any other method to effectuate an equitable
17 apportionment of the corporation's income.

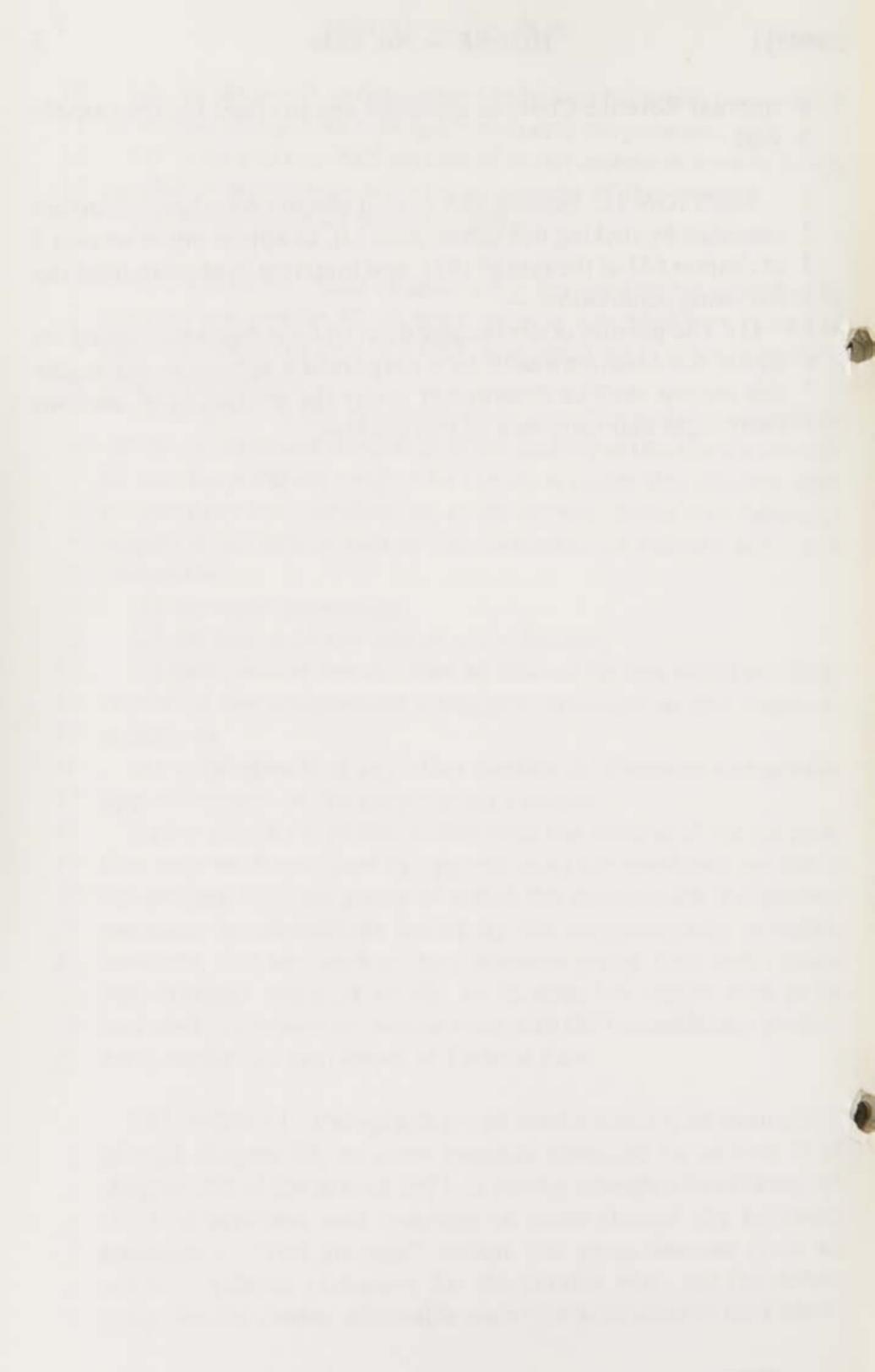
18 Under clause (4) of this subsection, the income of the corpora-
19 tion may be determined by apportioning the combined income of
20 the unitary business group of which the corporation is a member
21 pursuant to regulations issued by the commissioner; provided,
22 however, that any such unitary business group shall only include
23 corporations required to file an income tax return with or be
24 included in a report of income filed with the United States govern-
25 ment under the provisions of Federal Law.

1 SECTION 11. Paragraph (b) of subdivision (1) of section 52A
2 of said chapter 63, as most recently amended by section 37 of
3 chapter 555 of the acts of 1971, is hereby amended by striking out
4 the first sentence and inserting in place thereof the following
5 sentence: — "Net income" means the gross income from all
6 sources, without exclusion, for the taxable year, less the deduc-
7 tions, but not credits, allowable under the provisions of the Federal

8 Internal Revenue Code, as amended and in effect for the taxable
9 year.

1 SECTION 12. Section 52A of said chapter 63 is hereby further
2 amended by striking out subdivision (3), as appearing in section 1
3 of chapter 641 of the acts of 1951, and inserting in place thereof the
4 following subdivision: —

5 (3) The portion of net income derived from business carried on
6 within the commonwealth by a corporation subject to tax under
7 this section shall be determined under the provisions of sections
8 thirty-eight and forty-two of this chapter.



Mr. Springer of Brooklyn, reading of a bill to amend the laws to reduce the personal exemption limit for Federal estate tax.

The Committee of the Senate

Report and the Yeas and Nays thereon

IN SENATE, FEBRUARY 11, 1937.

REPORT OF THE COMMITTEE ON FINANCE OF THE SENATE

ON THE BILL (S. 1111) TO AMEND THE LAWS TO REDUCE THE PERSONAL EXEMPTION LIMIT FOR FEDERAL ESTATE TAX.

Submitted by the Finance Committee of the Senate, in compliance with the resolution of the Senate passed on December 15, 1936, and the report of the Finance Committee of the House of Representatives, passed on December 15, 1936.

Approved and reported by the Finance Committee of the Senate, February 11, 1937.

