

By Mr. Nagle of Northampton, petition of William P. Nagle, Jr., relative to the computation of net income under the tax laws of the Commonwealth. Taxation.

The Commonwealth of Massachusetts

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

AN ACT TO PREVENT TAX EVASION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 M.G.L. c. 63, §30(4), shall be amended by the addition at the  
2 end thereof:

3 The computation of net income under this section shall further  
4 require the disallowance of any deduction for intangible expenses  
5 and costs directly or indirectly paid, accrued or incurred to any of  
6 the following members:

7 (1) Any related member whose activities, in any one state, are  
8 primarily limited to the maintenance and management of  
9 intangible investments or of the intangible investments of  
10 corporations, business trusts, or other entities registered as  
11 investment companies under the "Investment Company Act  
12 of 1940," 15 U.S.C. 80a-1 et seq., as amended, and the collection  
13 and distribution of the income from such investments or from  
14 tangible property physically located outside such state. For pur-  
15 poses of this section, "intangible investments" includes, without  
16 limitation, investments in stocks, bonds, notes, and other debt  
17 obligations, including debt obligations of related members, inter-  
18 ests in partnerships, patents, patent applications, trademarks,  
19 trade names, and similar types of intangible assets.

20 (2) Any related member that is a personal holding company  
21 as defined in section 542 of the Internal Revenue Code  
22 without regard to the stock ownership requirements set forth in  
23 section 542 (a)(2) of the Internal Revenue Code.

24 (3) Any related member that is not a corporation and is  
25 directly, indirectly, constructively, or beneficially owned in whole

51 or in part by a personal holding company as defined in sec-  
52 tion 542 of the Internal Revenue Code without regard to the stock  
53 ownership requirements set forth in section 542(a)(2) of the  
54 Internal Revenue Code.

55 (4) Any related member that is a foreign personal holding  
56 company as defined in section 552 of the Internal Revenue Code;

57 (5) Any related member that is not a corporation and is  
58 directly, indirectly, constructively, or beneficially owned in whole  
59 or in part by a foreign personal holding company as defined in  
60 section 552 of the Internal Revenue Code;

61 (6) Any related member if that related member or another  
62 related member directly or indirectly paid, accrued, or incurred  
63 intangible expenses and costs in an amount less than, equal to, or  
64 greater than such amounts received from the taxpayer.

65 As used in this section:

66 (1) "Affiliated group" has the same meaning as in section 1504  
67 of the Internal Revenue Code.

68 (2) "Asset value" means the adjusted basis of assets as deter-  
69 mined in accordance with Subchapter O of the Internal Revenue  
70 Code and the Treasury Regulations thereunder.

71 (3) "Intangible expenses and costs" include expenses and costs  
72 for the use of intangible property to the extent such amounts are  
73 allowed as deductions or costs in determining taxable income  
74 before operating loss deduction and special deductions for the  
75 taxable year under the Internal Revenue Code. Such expenses and  
76 costs include, but are not limited to, royalty, patent, technical, and  
77 copyright fees, licensing fees, and other similar expenses and  
78 costs.

79 (4) "Member" has the same meaning as in U.S. Treasury  
80 Regulation section 1.1502-1.

81 (5) "Related member" means a person that, with respect to the  
82 taxpayer during all or any portion of the taxable year, is a compo-  
83 nent member as defined in section 1563(b) of the Internal  
84 Revenue Code, or is a person to or from whom there is attribution  
85 of stock ownership in accordance with section 1563(e) of the  
86 Internal Revenue Code except, for purposes of determining  
87 whether a person is a related member under this division, "twenty  
88 per cent" shall be substituted for "5 percent" wherever "5 per-  
89 cent" appears in section 1563(e) of the Internal Revenue Code.

90 If, in connection with any exchange described in sections 332,  
91 351, 354, 356 or 361 of the Code, a corporation subject to tax  
92 under this chapter transfers property to a related member not sub-  
93 ject to tax under this chapter, the non-recognition provision of  
94 section 332, 351, 354, 356 or 361 of the Code shall not apply in  
95 computing the net income of the taxpayer.”

The following is a list of the names of the persons who have been admitted to the membership of the Society since the last meeting. The names are given in the order in which they were admitted, and are followed by the date of their admission. The names are given in full, and are not abbreviated. The names are given in the order in which they were admitted, and are followed by the date of their admission. The names are given in full, and are not abbreviated.

1. Mr. John Smith, admitted on the 1st day of January, 1880.

2. Mr. James Brown, admitted on the 1st day of January, 1880.

3. Mr. William Jones, admitted on the 1st day of January, 1880.

4. Mr. Robert Taylor, admitted on the 1st day of January, 1880.

5. Mr. Thomas White, admitted on the 1st day of January, 1880.

6. Mr. Charles Black, admitted on the 1st day of January, 1880.

7. Mr. Henry Green, admitted on the 1st day of January, 1880.

8. Mr. George Grey, admitted on the 1st day of January, 1880.

9. Mr. Edward Hall, admitted on the 1st day of January, 1880.

10. Mr. Frank King, admitted on the 1st day of January, 1880.

11. Mr. William Lee, admitted on the 1st day of January, 1880.

12. Mr. John Miller, admitted on the 1st day of January, 1880.

13. Mr. James Moore, admitted on the 1st day of January, 1880.

14. Mr. William Reed, admitted on the 1st day of January, 1880.

15. Mr. Robert Scott, admitted on the 1st day of January, 1880.

16. Mr. Thomas Stone, admitted on the 1st day of January, 1880.

17. Mr. Charles Young, admitted on the 1st day of January, 1880.

18. Mr. Henry Adams, admitted on the 1st day of January, 1880.

19. Mr. George Baker, admitted on the 1st day of January, 1880.

20. Mr. Edward Clark, admitted on the 1st day of January, 1880.

21. Mr. Frank Evans, admitted on the 1st day of January, 1880.

22. Mr. William Fisher, admitted on the 1st day of January, 1880.

23. Mr. John Gibson, admitted on the 1st day of January, 1880.

24. Mr. James Hill, admitted on the 1st day of January, 1880.

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