

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 20, 1982.

The committee on Taxation, to whom were referred so much of the recommendations of the Department of Revenue (House, No. 234) as relates to the definition of "code" under the state tax administration chapter (accompanied by bill, House, No. 246), so much of the recommendations of the Department of Revenue (House, No. 234) as relates to providing for a statute of limitation in the Collection of unpaid state taxes (accompanied by bill, House, No. 254), the petition (accompanied by bill, Senate, No. 1188) of Jack H. Backman for legislation to provide for Massachusetts to become a member of the Multistate Tax Commission, the petition (accompanied by bill, Senate, No. 1250) of Edward P. Kirby for legislation to prohibit the collection of sales, use and room occupancy taxes more often than on a monthly basis, the petition (accompanied by bill, House, No. 1250) of Haden G. Greenhalgh and Thomas K. Lynch relative to reducing the tax on unearned income to five per cent, the petition (accompanied by bill, House, No. 1259) of Anthony M. Scibelli relative to the collection of certain taxes, the petition (accompanied by bill, House, No. 1714) of Andrew S. Natsios and other members of the General Court relative to the payment schedule to be made by the Commonwealth to cities, towns and districts, the petition (accompanied by bill, House, No. 1859) of Antone S. Aguiar, Jr., for legislation to regulate the duties of the Department of Revenue relative to dividends and interest, the petition (accompanied by bill, House, No. 2342) of Edward W. Connelly, Walter A. DeFilippi and Steven D. Pierce relative to repealing the provisions for weekly returns of certain state taxes, the petition (accompanied by bill, House, No. 2529) of Joseph N. Hermann for legislation to require annual estimates of amounts owed cities and towns and amounts appropriated, the petition (accompanied by bill, House, No. 2544) of Salvatore F. DiMasi and other members of the House for legislation to require the approval of the Commissioner of Revenue on all housing

projects subject to tax abatements, the petition (accompanied by bill, House, No. 2886) of Andrew S. Natsios for legislation to provide for the separate deposit of taxes on sales of certain tangible personal property, the petition (accompanied by bill, House, No. 3380) of Gerald M. Cohen that the Commissioner of Revenue be required to make annual reports concerning property tax abatements, the petition (accompanied by bill, House, No. 3677) of Thomas F. Brownell for legislation to require public disclosure of certain information relating to corporation excise taxes, the petition (accompanied by bill, House, No. 4016) of Joseph N. Hermann relative to the method of remitting to the Commonwealth certain taxes withheld from employees, the petition (accompanied by bill, House, No. 4207) of Jeremiah F. Cahir relative to the rate of interest to be charged on unpaid property taxes, the petition (accompanied by bill, House, No. 4952) of Daniel F. Pokaski relative to the methods of valuation of real property, the petition (accompanied by bill, House, No. 5130) of Marie J. Parente for legislation to require the Commonwealth to notify cities and towns of the amounts due on or before March first of each year, the petition (accompanied by bill, House, No. 5319) of Leonard Witkins for legislation to eliminate interest and penalties for underpayment of estimated taxes, the petition (accompanied by bill, House, No. 5330) of Joseph M. Navin relative to the payment of real estate taxes on land taken for highway purposes, and the petition (accompanied by bill, House, No. 5512) of M. Joseph Manning for an investigation and study by the Massachusetts Historical Commission relative to the feasibility of certain tax advantages, reports recommending that the accompanying bill (House, No. 6263) ought to pass.

For the committee,

GERALD M. COHEN.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE COLLECTION OF STATE TAXES.

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. The first sentence of section 40 of Chapter 62C of
2 the General Laws, as appearing in section 5 of Chapter 27 of the
3 Acts of 1980, is hereby amended by inserting after the word
4 "Thirty-six" a comma and the words "Thirty-six A."

1 SECTION 2. Section 36 of chapter 62C of the General Laws, as
2 most recently amended by chapter 827 of the acts of 1977, is hereby
3 further amended by adding the following paragraph: —
4 The commissioner's good faith determination of the proper
5 party or parties to receive a refund of tax shall be final and shall
6 discharge the commonwealth or the commissioner from any obli-
7 gation or liability with respect to such refund to any other party.

1 SECTION 3. Said chapter 62C is hereby further amended by
2 adding, after section 36, as so amended, the following sections: —

3 *Section 36A.* If the commissioner determines that any tax has
4 been assessed at an excessive amount because of departmental
5 clerical error or that any payment has been received in error, he
6 may, in his discretion, correct such error at any time and adjust the
7 assessment accordingly or refund the erroneous payment without
8 application of the taxpayer. Interest on any resulting refund shall
9 be paid in accordance with section forty.

10 *Section 36B.* Prior to a court judgement or judgement by the
11 appellate tax board, the commissioner may compromise any case
12 arising under the tax laws specified in section two of this chapter;
13 provided, however, that the following conditions are met:

14 a. the commissioner finds that the taxpayer is unable to pay the
15 full amount of the tax assessed and that there is grave doubt as to

16 either the taxpayer's liability or as to the collectibility of the tax
17 due;

18 b. the commissioner finds that the taxpayer has not acted with
19 intent to defraud;

20 c. there is a written agreement signed by all parties; and

21 d. such agreement sets out the commissioner's reasons for the
22 compromise and all relevant information, including, but not limit-
23 ed to, the names of all parties, the amount and type of tax, interest,
24 penalty or charges compromised, and the amount actually paid in
25 accordance with the terms of the compromise.

26 If the amount compromised exceeds one hundred thousand dol-
27 lars, then the written agreement must also be signed by the execu-
28 tive secretary of administration and finance. Neither the taxpayer
29 nor the commissioner, upon signing the agreement, shall be per-
30 mitted to reopen the case except by reason of (1) falsification or
31 concealment of assets by the taxpayer, or (2) mutual mistake of a
32 material fact sufficient to cause a contract to be reformed or set
33 aside. The commissioner may, in writing, delegate his authority
34 under this section to a deputy commissioner, chief of bureau or the
35 equivalent.

1 SECTION 4. Chapter 62C of the General Laws is hereby
2 amended by striking out section 65, as appearing in section 22 of
3 chapter 415 of the acts of 1976, and inserting in place thereof the
4 following section: —

5 *Section 65.* Taxes shall be collected within ten years after the
6 assessment of the tax, or prior to the expiration of any period of
7 collection agreed upon in writing by the commissioner and the
8 taxpayer before the expiration of such ten-year period (or, if there
9 is a release of levy under section sixty-four after such ten-year
10 period, then before such release). The period so agreed upon may
11 be extended by subsequent agreements in writing made before the
12 expiration of the period previously agreed upon. When any ques-
13 tion relative to such taxes is pending before any agency or court at
14 the end of such ten-year period, the commissioner's right to collect
15 any tax due shall continue until one year after the final determina-
16 tion of such question.

1 SECTION 5. Said chapter 62C is hereby amended by striking
2 out section 65, as amended by section 1 of this act, and inserting in
3 place thereof the following section: —

4 *Section 65.* Taxes shall be collected within eight years after the
5 assessment of the tax, or prior to the expiration of any period of
6 collection agreed upon in writing by the commissioner and the
7 taxpayer before the expiration of such eighty-year period (or, if
8 there is a release of levy under section sixty-four after such eight-
9 year period, then before such release). The period so agreed upon
10 may be extended by subsequent agreements in writing made before
11 the expiration of the period previously agreed upon. When any
12 question relative to such taxes is pending before any agency or
13 court at the end of such eight-year period, the commissioner's right
14 to collect any tax due shall continue until one year after the final
15 determination of such question.

1 SECTION 6. Said chapter 62C is hereby amended by striking
2 out section 65, as amended by section 2 of this act, and inserting in
3 place thereof the following section: —

4 *Section 65.* Taxes shall be collected within six years after the
5 assessment of the tax, or prior to the expiration of any period of
6 collection agreed upon in writing by the commissioner and the
7 taxpayer before the expiration of such six-year period (or, if there
8 is a release of levy under section sixty-four after such six-year
9 period, then before such release). The period so agreed upon may
10 be extended by subsequent agreements in writing made before the
11 expiration of the period previously agreed upon. When any ques-
12 tion relative to such taxes is pending before any agency or court at
13 the end of such six-year period, the commissioner's right to collect
14 any tax due shall continue until one year after the final determina-
15 tion of such question.

1 SECTION 7. Sections 1 through 3 of this act shall take effect on
2 June first, nineteen hundred and eighty-two; provided, however,
3 that no agreements under section 3 shall be allowed before the
4 commissioner issues regulations which specify the procedure to be
5 followed. Section 4 of this act shall take effect on January first,
6 nineteen hundred and eighty-three; section 5 of this act shall take
7 effect on January first, nineteen hundred and eighty-four; and
8 section 6 of this act shall take effect on January first, nineteen

9 hundred and eighty-five; in each instance, the applicable provision
10 shall apply to all taxes assessed and remaining unpaid on the
11 effective date thereof; provided, however, where the period of time
12 is extended by written agreement, the provision applicable at the
13 time such agreement was first executed shall continue to apply to
14 the taxes included in such agreement.

