

By Mr. Flaherty of Cambridge, petition of Charles F. Flaherty relative to public reporting of corporate tax information and analysis of certain expenditures. Ways and Means (House).

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO PUBLIC REPORTING OF CORPORATE TAX INFORMATION AND ANALYSIS OF CERTAIN TAX EXPENDITURES.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose which is to immediately provide for the public
3 reporting of corporate tax information and analysis of certain tax
4 expenditures, therefore it is hereby declared to be an emergency
5 law, necessary for the immediate preservation of the public
6 convenience.

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. Subsection (b) of section 5 of chapter 29 of the
2 General Laws, is hereby amended by striking out the para-
3 graph added by section 5 of chapter 255 of the acts of 1992.

1 SECTION 2. Section twelve A of chapter sixty-two C of the
2 General Laws, inserted by section one of said chapter two hundred
3 fifty-five, is hereby repealed.

1 SECTION 3. Subsection (b) of section 21 of said chapter 62C
2 as most recently amended by section 2 of said chapter 255 is hereby
3 further amended by striking out clause (15).

1 SECTION 4. Section twenty-one A of said chapter sixty-
2 two C, inserted by section three hundred ninety-four of chapter
3 one hundred thirty-three of the acts of nineteen hundred ninety-
4 two, is hereby repealed.

1 SECTION 5 Said chapter 62C is hereby further amended by
2 inserting after section 81 the following two sections: —

3 Section 82. (a) The commissioner annually shall prepare and
4 publish an aggregate statistical report of taxes collected from
5 corporations and other businesses, other than marine insurance
6 companies, taxable under section twenty-nine A of chapter sixty-
7 three, that: are (i) taxable under any provision of chapter sixty-
8 three and (ii) required to file a return under section eleven or
9 twelve of this chapter.

10 (b) The report shall contain the following tax return infor-
11 mation:

12 (1) the aggregate amount of tax collected under chapter sixty-
13 three;

14 (2) the aggregate amount of each credit, deduction, exemption
15 and exclusion allowed under chapter sixty-three that results in a
16 tax expenditure by the commonwealth, provided that the report
17 need not contain such information with respect to (i) any
18 deduction, exemption, or exclusion, allowed under the Internal
19 Revenue Code and adopted by the commonwealth, that results
20 in a tax expenditure by the commonwealth of less than five million
21 dollars for the calendar year to which the report relates or (ii)
22 any credit, deduction, exemption, or exclusion, that is determined
23 separately from any credit, deduction, exemption, or exclusion
24 allowed under the Internal Revenue Code that results in a tax
25 expenditure by the commonwealth of less than one million dollars
26 for the calendar year to which the report relates.

27 (3) such other aggregate information as the commissioner
28 deems appropriate.

29 (c) For purposes of the report, the relevant aggregate tax return
30 information designated under subsection (b) shall be stated
31 separately for taxpayers within each of several major industry
32 groups determined by the commissioner. In addition, such infor-
33 mation shall be stated separately for each of the ranges of amounts
34 of relevant items included in the reports required under
35 section eighty-three as such ranges are determined by the commis-
36 sioner.

37 (d) Each report shall be based on a period of one calendar year
38 and shall include returns for the taxable years beginning during
39 that calendar year. The report for each period shall be issued

40 within three calendar years of the end of such period; provided,
41 however, that the initial report required by this section shall be
42 issued by December thirty-first, nineteen hundred and ninety-
43 three and shall be based on tax return information relating to
44 taxable years beginning during the calendar year nineteen
45 hundred and ninety. Notwithstanding any other provision of this
46 section, information not required to be reported on Massachu-
47 setts tax returns need not be included in reports relating to taxable
48 years beginning before January first, nineteen hundred and
49 ninety-three, and information regarding the amount of any excess
50 tax credit or credits subject to carry-over to future taxable years
51 and the amount of domestic life insurance company income
52 subject to apportionment need not be included in reports relating
53 to taxable years beginning before January first, nineteen hundred
54 and ninety-two.

55 (e) Nothing in this section shall allow or require the commis-
56 sioner to disclose the identity of any taxpayer that provides tax
57 return information included in the report required by this section.

58 Section 83. (a) (i) Every corporation that is required to file
59 both a report pursuant to section thirteen or section fifteen of the
60 Securities and Exchange Act of 1934 and successor acts and a tax
61 return pursuant to section eleven of this chapter and (ii) every
62 bank and every insurance company that is required to file both
63 a report pursuant to the Securities and Exchange Act of 1934 and
64 successor acts or Title 12 of the United States Code or under
65 section seven of chapter one hundred and sixty-seven or
66 section twenty-six of chapter one hundred and sixty-eight or
67 section eighteen of chapter one hundred and seventy or
68 section twenty-two of chapter one hundred and seventy-two or
69 section twenty-five of chapter one hundred and seventy-five and
70 a tax return pursuant to paragraphs (a), (d), or (e) of
71 section twelve of this chapter shall report on March first, nineteen
72 hundred and ninety-five and on March first of each year thereafter
73 to the state secretary certain information as specified herein from
74 such tax return or other document on a form prepared by the state
75 secretary containing information as specified herein from its most
76 recently filed tax return or other document filed on or before the
77 prior June thirtieth. Such form shall be treated as a report for
78 the purpose of section one hundred and twelve of chapter one

79 hundred and fifty-six B, section nine of chapter one hundred and
80 eighty-one, and sections seven and eight of chapter one hundred
81 and sixty-seven and as part of the annual report for purposes of
82 section twenty-six of chapter one hundred and seventy-five, and
83 such report or amended report shall be maintained by the state
84 secretary as a public record.

85 (b) The forms of report prepared by the state secretary shall
86 be made available to taxpayers required to report under this
87 section no later than November first, nineteen hundred and
88 ninety-three and on November first of each year thereafter.

89 (c) In the case of corporations that are required to report under
90 this section, such form shall require the reporting of the following
91 information, provided that where two or more corporations file
92 a combined return of income all numerical information shall be
93 reported on a combined basis and the names and addresses of all
94 such corporations shall be listed:

95 (1) the name of the taxpayer;

96 (2) the location, including street address, of the principal office;

97 (3) gross receipts or sales, as reported on item 1 of schedule E
98 of form 355A or 355B, or the sum of items 1 of schedule E of
99 form 355C-A or 355C-B;

100 (4) either (a) gross profit, as reported on item 2 of schedule E
101 of form 355A or 355B, or the sum of items 2 of schedule E of
102 form 355C-A or 355C-B, or (b) any excess tax credit or credits
103 subject to carry-over to future years, as determined by adding the
104 amount reported on item 28 of schedule H of form 355A or 355B
105 and the amount reported on item 25 of schedule RC of form 355A
106 or 355B, or the sum of items 28 of schedule H of form 355C-A
107 or 355C-B and the sum of items 30 of schedule RC-A of form
108 355C-A or 355C-B;

109 (5) income subject to apportionment, as reported on item 13
110 of schedule E of form 355A or 355B, or the sum of items 13 of
111 schedule E of form 355C-A or 355C-B;

112 (6) income taxable in Massachusetts as reported on item 18 of
113 schedule E of form 355A or 355B, or column g of item 18 of
114 schedule E of form 355C-A, or 355C-B;

115 (7) total non-income tax excise as reported on item 3 of form
116 355A or 355B, or the sum of items 3 of form 355C-A or 355C-
117 B; and

118 (8) the excise due, as reported on item 15 of form 355A or 355B,
119 or the sum of items 15 of form 355C-A or 355C-B.

120 (d) In the case of banks required to report under this section,
121 such form shall require the reporting of:

122 (1) the name of the taxpayer;

123 (2) the location, including street address, of the principal office;

124 (3) net interest income as reported on line 3 of schedule RI-
125 Income Statement of the Report of Condition and Income filed
126 with the federal financial institutions examination council or
127 comparable reports filed with the office of thrift supervision;

128 (4) income taxable in Massachusetts as reported on item 7 on
129 form 63 B. T. C.; and

130 (5) total Massachusetts excise or tax due, as reported on item 8
131 on form 63 B. T. C.

132 (e) In the case of domestic life insurance companies required
133 to report under this section, such form shall require the reporting
134 of:

135 (1) the name of the taxpayer;

136 (2) the location, including street address, of the principal office;

137 (3) gross receipts or sales as reported on the company's
138 National Association of Insurance Commissioners Annual
139 Statement, determined by adding the amounts reported in
140 columns 3, 4 and 5 of line 98 of schedule T of said statement and
141 the amounts reported on the summary of operations on lines 2
142 and 6 of page 4 of said statement;

143 (4) income subject to apportionment as reported on item 7 of
144 schedule C of form DL-2;

145 (5) premiums and income taxable in Massachusetts as
146 determined by adding (i) items 10 and 11 of part 1 of form
147 DL-1 or item 12 of part 2 of schedule DL-1A and (ii) item 2 of
148 form DL-2; and

149 (6) total Massachusetts excise or tax due as determined by
150 adding item 8 of form DL-1 and item 4 of form DL-2.

151 (f) In the case of domestic property and casualty insurance
152 companies required to report under this section, such form shall
153 require the reporting of:

154 (1) the name of the taxpayer;

155 (2) the location, including street address, of the company's
156 principal office;

157 (3) gross receipts or sales as reported on the company's
158 National Association of Insurance Commissioners Annual
159 Statement, determined by adding the amounts reported in
160 columns 2 and 8 of line 98 of schedule T of said Annual Statement
161 and the amounts reported on the Underwriting and Investment
162 Exhibit Statement of Income on line 12 of page 4 of said Annual
163 Statement;

164 (4) premiums and income taxable in Massachusetts as
165 determined by adding item 5 of part I of form 63-22 and item 10
166 of part II of form 63-22; and

167 (5) total Massachusetts excise or tax due as reported on item 6
168 of form 63-22.

169 (g) In the case of foreign life insurance companies required to
170 report under this section, such form shall require the reporting
171 of:

172 (1) the name of the taxpayer;

173 (2) the location, including street address of the principal office;

174 (3) gross receipts or sales as reported on the company's
175 National Association of Insurance Commissioners Annual
176 Statement, determined by adding the amounts reported in
177 columns 3, 4 and 5 of line 98 of schedule T of said Annual
178 Statement and the amounts reported on the Summary of
179 Operations on lines 2 and 6 of page 4 of said Annual Statement;

180 (4) premiums taxable in Massachusetts as determined by
181 adding (i) the larger of item 7 of part 1 or column A of part 2
182 of form 63-20-23 and (ii) the larger of item 12 of part 1 or
183 column B of part 2 of form 63-20-23; and

184 (5) total Massachusetts excise or tax due as reported on item 9
185 of form 63-20-23.

186 (h) In the case of foreign property and casualty insurance
187 companies required to report under this section, such form shall
188 require the reporting of:

189 (1) the name of the taxpayer;

190 (2) the location, including street address of the principal office;

191 (3) gross receipts or sales as reported on its National
192 Association of Insurance Commissioners Annual Statement,
193 determined by adding the amounts reported in columns 2 and 8
194 of line 98 of Schedule T of said Annual Statement and the
195 amounts reported on the Underwriting and Investment Exhibit

196 Statement of Income on line 12 of page 4 of said Annual
197 Statement;

198 (4) premiums taxable in Massachusetts as reported on item 5
199 of form 63-23; and

200 (5) total Massachusetts excise or tax due as reported on item 10
201 of form 63-23.

202 (i) In the case of preferred provider companies required to
203 report under this section, such form shall require the reporting
204 of:

205 (1) the name of the taxpayer;

206 (2) the location, including street address of the principal office;

207 (3) gross receipts or sales as reported on line 1 of schedule A,
208 of Internal Revenue Service form 1120-PC;

209 (4) income taxable in Massachusetts as reported on item 3 of
210 form 176-I; and

211 (5) total Massachusetts excise or tax due as reported on item 4
212 of form 176-I.

213 (j) Any taxpayer required to report under this section which
214 chooses to supplement the foregoing information with additional
215 information may do so on the form provided by the state secretary.

216 (k) For purposes of this section, all references to tax return or
217 other forms, schedules and items are to the Massachusetts
218 department of revenue or other forms, schedules and items used
219 for taxable or other reporting years beginning during calendar
220 year nineteen hundred and ninety-one. Should any such tax return
221 or other form, schedule or item change for any subsequent taxable
222 year, the state secretary, in consultation with the department of
223 revenue, shall amend the form of report to require the reporting
224 of the amount contained in the form, schedule or item used for
225 such subsequent year that corresponds to the form, schedule and
226 item referenced herein.

227 (l) Where the amount of any item reported under this
228 section changes, the taxpayer shall, within thirty days of the final
229 determination of such change, file an amended report in a form
230 prescribed by the state secretary.

231 (m) The state secretary shall make available for public
232 inspection by April first, nineteen hundred and ninety-four and
233 by April first of each year thereafter a list of all taxpayers which
234 are required to file under subsection (a).

1 SECTION 6. Notwithstanding the provisions of
2 section eighty-three of chapter sixty-two C of the General Laws,
3 inserted by section five of this act, every corporation, bank and
4 insurance company required to report to the state secretary
5 pursuant to said section eighty-three, shall file an initial report
6 in accordance with the provisions of said section eighty-three on
7 or before December thirty-first, nineteen hundred and ninety-
8 three.