

HOUSE No. 2895

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 17, 1954.

The committee on Taxation, to whom were referred so much of the recommendations of the State Tax Commission (House, No. 89) as relates to the basis of determination of gain or loss realized from the sale of capital assets under the income tax law (House, No. 109), and as relates to the determination of gain or loss under certain circumstances in connection with the income tax (House, No. 110), report the accompanying bill (House, No. 2895).

For the committee,

HOLLIS GOTT.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Four.

AN ACT RELATIVE TO THE BASIS OF DETERMINATION OF GAIN OR LOSS REALIZED FROM THE SALE OF CAPITAL ASSETS UNDER THE INCOME TAX LAW.

1 *Whereas*, The deferred operation of this act would
2 tend to defeat its purpose, which is to make im-
3 mediately effective the provisions thereof, therefore
4 it is hereby declared to be an emergency law, necessary
5 for the immediate preservation of the public con-
6 venience.

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 (c) of section 5 of chapter
2 62 of the General Laws, as amended by section 1 of
3 chapter 481 of the acts of 1935, is hereby further
4 amended by striking out, in lines 11 and 12, the words
5 “, when acquired by purchase, or value when ac-
6 quired by gift,” — and by adding at the end the
7 following paragraph: —

8 As used in this subsection the term “cost” shall
9 mean, in the case of a purchase by the taxpayer, the
10 purchase price of the property; in the case of property
11 acquired by gift prior to July first, nineteen hundred
12 and fifty-four, the cost shall be the fair market value
13 at the date of the gift; in the case of property ac-
14 quired by gift after June thirtieth, nineteen hundred
15 and fifty-four, the cost shall be the cost to the donor
16 or the last preceding owner by whom it was not ac-
17 quired by gift, or the fair market value at the date
18 of the gift, whichever is lower; and in the case of
19 property acquired by bequest or inheritance, the cost

20 shall be the fair market value of the property at the
21 date acquired.

1 SECTION 2. Section 7 of said chapter 62, as
2 amended, is hereby further amended by striking out
3 the second and third paragraphs, as appearing in
4 the Tercentenary Edition, and inserting in place
5 thereof the following paragraphs:—

6 In determining gains or losses realized from the
7 sale of capital assets, the basis of determination in
8 case of property owned on January first, nineteen
9 hundred and sixteen, shall be the value on that date
10 or the cost thereof, whichever is higher, and in case of
11 property acquired by purchase thereafter, except as
12 otherwise expressly provided, the cost thereof. If
13 the property other than stock dividends in new stock
14 of the company issuing the same and rights to sub-
15 scribe to securities was acquired by gift prior to July
16 first, nineteen hundred and fifty-four, the basis of
17 determination of the gain or loss shall be the fair
18 market value on the date when it was so acquired.
19 If the property other than stock dividends in new
20 stock of the company issuing the same and rights to
21 subscribe to securities was acquired by gift after
22 June thirtieth, nineteen hundred and fifty-four, the
23 basis of determination of the gain or loss shall be the
24 cost to the donor or the last preceding owner by whom
25 it was not acquired by gift, or the fair market value
26 at the date of the gift, whichever is lower. If the
27 property other than stock dividends in new stock of
28 the company issuing the same and rights to subscribe
29 to securities was acquired by devise, bequest or
30 inheritance, the cost shall be the fair market value
31 of the property on the date when it was so acquired.

32 In the case of real or tangible personal property
33 acquired by purchase, the foregoing basis shall be
34 diminished by the amount of depreciation allowable
35 to the taxpayer under the provisions of this chapter
36 and corresponding provisions of earlier laws. In the

37 case of real or tangible personal property acquired
38 by gift, if the foregoing basis is determined by reference
39 to cost to the donor or previous owner who did not
40 acquire the property by gift, such basis shall be
41 further reduced by the amount of depreciation allow-
42 able to such previous owner or owners under the
43 provisions of this chapter and corresponding provisions
44 of earlier laws. In the case of intangible personal
45 property, the foregoing basis shall be diminished
46 by any amounts received in distribution of capital.