

By Mr. Wetherbee of Pepperell, petition of Bruce E. Wetherbee for legislation relative to corrective changes in the capital gains deduction. Taxation.

The Commonwealth of Massachusetts

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

AN ACT MAKING CORRECTIVE CHANGES IN THE CAPITAL GAINS DEDUCTION.

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 1 of chapter 62 of the General Laws, as
2 most recently amended by section 1 of chapter 409 of the acts of
3 1979, is hereby amended by adding after subsection (1) the follow-
4 ing subsection: —

5 (m) The terms “long term capital gain”, “short term capital
6 gain”, “long-term capital loss”, “short-term capital loss”, “net long-
7 term capital gain”, “net short-term capital loss”, “net short-term
8 capital loss”, “net short-term capital gain”, “capital gain net in-
9 come”, and “net capital gain” shall have the meanings given in
10 section one thousand and twenty-two of the Code; provided,
11 however, that in determining the amount of gain or loss on any
12 sale, exchange, or other disposition of property; the provisions of
13 section seven A shall be taken into account, and in determining the
14 amount of long-term capital loss or short-term capital loss for any
15 year, the provisions of paragraph two of subsection (c) of section
16 two of this chapter be taken into account; and provided, further,
17 that the term capital asset as used in section one thousand two
18 hundred and twenty-two of the Code shall be limited to assets
19 described only in section one thousand two hundred and twenty-
20 one of the Code which are sold, exchanged or otherwise disposed
21 of by a person while he is subject to taxation under this chapter on
22 any Part A taxable income; and provided further that the term

23 “capital loss” does not include any item the deduction of which is,
24 or but for some other section would be, prohibited by section two
25 hundred and sixty-two of the Code.

1 SECTION 2. Section 2 of said chapter 62, as most recently
2 amended by section 2 of chapter 723 of the acts of 1973, is hereby
3 amended by striking out paragraph 1 of subsection (b) and insert-
4 ing in place thereof the following paragraph: —

5 (1) Part A gross income shall be the total interest, dividends and
6 capital gain net income, included in Massachusetts gross income
7 other than: —

1 SECTION 3. Section 2 of said chapter 62, as most recently
2 amended by section 2 of chapter 409 of the acts of 1979, is hereby
3 amended by striking out paragraph 2 of subsection (c) and insert-
4 ing in place thereof the following paragraph: —

5 (2) The excess, if any, of the net short-term capital loss for the
6 year over the net long-term capital gain for the year, but not more
7 than two thousand dollars, shall be applied against any interest
8 and dividends included in Part A gross income. If the amount of
9 such excess is less than two thousand dollars, then one-half of the
10 excess, if any, of the net long-term capital loss for the year over the
11 net short-term capital gain for the year shall be applied against the
12 balance of such interest and dividends; provided, however, that the
13 aggregate amount of the deduction under this paragraph shall not
14 be more than two thousand dollars. The excess of the net short-
15 term capital loss over the net long-term capital gain, reduced by
16 the amount allowed under this paragraph which is attributable to
17 such excess, shall be a short-term capital loss in the succeeding
18 taxable year. The excess of the net long-term capital loss over the
19 net short-term capital gain, reduced by twice the amount allowed
20 under this paragraph which is attributable to such excess, shall be
21 a long-term capital loss in the succeeding taxable year.

1 SECTION 4. Said subsection (c) of said section 2 of said chap-
2 ter 62, is hereby amended by striking out paragraph (3), as appear-
3 ing in section 2 of chapter 409 of the acts of 1979, and inserting in
4 place thereof the following paragraph: —

5 (3) a deduction equal to sixty per cent of the net capital gain for
6 the year.

1 SECTION 5. Section four of chapter four hundred and nine of
2 the acts of nineteen hundred and seventy-nine is hereby repealed.

1 SECTION 6. Said chapter 62 is hereby further amended by
2 inserting after section 7 the following section: —

3 *Section 7A.* In determining Massachusetts gross income for
4 gain or loss with respect to property, the Massachusetts adjusted
5 basis shall be the same as the federal adjusted basis of such
6 property.

7 In determining capital gains and capital losses the basis of the
8 property acquired from a decedent shall be determined under
9 section one thousand and fourteen of the Code as amended on
10 April second, nineteen hundred and eighty.

1 SECTION 7. All capital losses incurred in taxable years begin-
2 ning prior to nineteen hundred and seventy-nine which are availa-
3 ble under chapter sixty-two of the General Laws to offset capital
4 gains in a taxable year beginning in nineteen hundred and seventy-
5 nine, and which are not applied in such year against gains or
6 interest and dividends included in the Part A gross income shall be
7 treated as short-term capital losses in the next succeeding taxable
8 year.

1 SECTION 8. Notwithstanding the provisions of paragraph (3)
2 of subsection (c) of section two of chapter sixty-two of the General
3 Laws, added by section four of this act, for taxable years com-
4 mencing during nineteen hundred and eighty, the amount of the
5 deduction allowed by said paragraph (3) shall not exceed twenty
6 per cent of the net capital gain; for taxable years commencing
7 during nineteen hundred and eighty-one; the amount of the deduc-
8 tion shall not exceed forty per cent of the net capital gain. This
9 section shall be inoperative for the taxable year commencing
10 during nineteen hundred and eighty-two and thereafter.

1 SECTION 9. The provisions of this act shall apply to taxable
2 years commencing on or after January first, nineteen hundred and
3 eighty.

