

By Mr. Locke, a petition (accompanied by bill, Senate, No. 1294) of David H. Locke, Argeo Paul Cellucci, William F. Weld, Steven D. Pierce, Peter C. Webber, Kevin Poirier, Robert H. Marsh and Henri S. Rauschenbach for legislation to establish a Massachusetts taxpayers bill of rights. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT ESTABLISHING A MASSACHUSETTS TAXPAYERS BILL OF RIGHTS.

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. It is hereby found and declared:

2 That, the vast majority of taxpayers in the commonwealth
3 regularly pay their taxes on time and in full and,

4 That, these taxpayers are entitled to a Department of Revenue
5 characterized by efficiency, professionalism, integrity, openness,
6 and to just, reasonable, and nondiscriminatory enforcement of the
7 tax laws of the commonwealth and,

8 That, the state's obligations to the taxpayers of the common-
9 wealth in this connection are of such fundamental importance that
10 they merit codification in laws of the commonwealth, and

11 That, the current system of tax enforcement in the common-
12 wealth does not contain safeguards sufficient to balance the rights
13 and dignity of the individual taxpayer against the size and power
14 of state government when a dispute does arise;

15 Therefore, the purpose of this act and the following six sections,
16 to be known as the "Massachusetts Taxpayer's Bill of Rights,"
17 is to guarantee the taxpayers of the commonwealth certain
18 minimum rights which shall include but not be limited to the
19 following general maxims and the specific sections of law which
20 follow in sections 2 through 7:

21 — fair enforcement of the tax laws to insure that taxpayers
22 making an honest and reasonable effort to comply with their obli-

- 23 gation are helped and not harassed by the department, and to
24 ensure that tax evaders are identified and required to comply
25 — prompt and accurate refunds on tax overpayment
26 — clearly written and understandable tax forms
27 — taxpayer assistance in filing returns and in seeking
28 abatements
29 — a guarantee of courteous and professional service from all
30 department of revenue employees
31 — fair audits with the right to be represented by tax
32 professionals
33 — objective abatement proceedings with the prompt rendering
34 of decisions and prompt payment of abatements found to be due
35 — fair property tax assessments.

1 SECTION 2. Section 6 of chapter 14 of the General Laws is
2 hereby amended by adding, at the end thereof, the following
3 subparagraphs: —

4 3. Shall, no later than the last Wednesday of January of each
5 calendar year, prepare a statement which sets forth in simple non-
6 technical terms —

7 a) the rights of the commonwealth's taxpayers and the obli-
8 gations of the Department of Revenue as described in the "Massa-
9 chusetts Taxpayers Bill of Rights";

10 b) all procedures by which a taxpayer may appeal any adverse
11 decision of the department;

12 c) the procedures for prosecuting refund claims and filing
13 taxpayer complaints;

14 d) the procedures which the department may use in enforcing
15 the tax laws.

16 The Commissioner shall transmit copies of the statement
17 required under this section to the House and Senate Committees
18 on Ways and Means and to the Joint Committee on Taxation no
19 later than the last Wednesday of January in each calendar year,
20 and shall distribute the statement to all taxpayers the Department
21 contracts with respect to the determination or collection of any
22 tax, with the exception of the routine provision of tax forms.

23 4. Shall make, with the approval of the secretary, and from time
24 to time may revise, in like manner, such reasonable regulations,
25 as are necessary to guarantee prompt returns of taxpayer refunds

26 for overpayment of taxes, and to guarantee the earliest possible
27 rendering of abatement decisions. Such regulations shall include
28 but not be limited to the requirement that abatements be issued
29 to taxpayers within 30 days of the commissioner's favorable
30 decision.

1 SECTION 3. Section 14 of the General Laws is hereby
2 amended by adding the following new section: —

3 Section 7. The department shall not use the records of tax
4 enforcement results —

5 a) to evaluate employees directly involved in collection
6 activities, or their supervisors, or

7 b) to impose or suggest production quotas or goals with respect
8 to the collection of any tax, or

9 c) to determine the rate of compensation to be paid to any
10 employee of the department.

1 SECTION 4. The first sentence of section 36A of chapter 62C
2 is hereby amended by striking the words "he may, at his
3 discretion" and inserting in place thereof the following: — he
4 shall, within 90 days of the discovery of such error,.

1 SECTION 5. Chapter 62C of the General Laws is hereby
2 amended by adding the following sections: —

3 Section 80. When filing returns for the payment of any tax
4 imposed by this chapter or the statutes referred to in Section 2,
5 the taxpayer may rely on the written advice of the department
6 of revenue.

7 The commissioner shall abate any portion of any penalty or
8 addition to any tax attributable to erroneous advice furnished to
9 the taxpayer in writing by an officer or employee of the
10 department, acting in such officer's or employee's official capacity,
11 provided that:

12 (a) the written advice was reasonably relied upon by the
13 taxpayer and

14 (b) the portion of the penalty or addition to the tax did not
15 result from a failure by the taxpayer to provide adequate or
16 accurate information.

17 The Commissioner shall prescribe such regulations as are
18 necessary to enforce this section.

19 Section 81. Taxes determined to be due as a result of
20 reinterpretation of the tax laws, or taxes being collected as a result
21 of the enforcement of tax laws after more than a 12 month lapse
22 in enforcement, shall be due and collected only prospectively and
23 only after notification of those taxpayers who will be affected by
24 the changes in enforcement policy.

25 The Commissioner of Revenue shall prescribe such guide-
26 lines as are necessary to carry out this section.

27 Section 82. Prior to the commencement of any audit, or
28 interview with a taxpayer, relating to the determination of any
29 tax, an officer or employee of the Department of Revenue shall
30 provide to the taxpayer: —

31 1) an explanation of the audit process and the taxpayers rights
32 under such process,

33 2) an explanation of the tax collection procedures available to
34 the department and the taxpayer's rights under such process, and

35 3) the right to consult with and, or be represented by an
36 attorney, certified public accountant, or any other person who is
37 qualified to represent the taxpayer before the department.

38 Section 83. In any action to recover a deficiency assessment or
39 payment from a taxpayer, who has filed a return within the time
40 prescribed by law, the burden of establishing that the tax is due
41 by the taxpayer will be upon the commonwealth, and the taxpayer
42 will be presumed to be in faithful compliance with the tax laws
43 until his tax liability is conclusively proven by the commonwealth.

44 Section 84. Any tax abatement determined to be due a taxpayer
45 shall be issued to the taxpayer within thirty days of the commis-
46 sioner's decision.

1 SECTION 6. Chapter 65C of the General Laws is hereby
2 amended by adding the following new section: —

3 Section 2B. A pre-payment incentive shall be applied to any
4 tax which is imposed by this chapter and paid in full before the
5 original date fixed for payment. Said pre-payment incentive shall
6 be in the form of a percentage reduction in the tax due, for each
7 month prior to the due date for which the tax is paid at a rate
8 equal to 1% per annum in excess of the prime lending rate of

9 interest per annum announced, from time to time, by the Bank
10 of Boston (or a successor bank thereto) at its principal office in
11 Boston, Massachusetts at its prime rate.

1 SECTION 7. The second sentence of paragraph (a) of
2 section 17 of chapter 65C is hereby amended by striking the second
3 sentence and inserting in place thereof the following: —

4 Such returns shall be in such form as may be prescribed by the
5 commissioner and shall contain a description of the prepayment
6 incentive described in section 2b of chapter sixty-five C.



