

HOUSE No. 1611

The Commonwealth of Massachusetts

PRESENTED BY:

Elizabeth A. Poirier

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the corporate excise tax.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Elizabeth A. Poirier

14th Bristol

Mathew Muratore

1st Plymouth

HOUSE No. 1611

By Mrs. Poirier of North Attleborough, a petition (accompanied by bill, House, No. 1611) of Elizabeth A. Poirier and Mathew Muratore relative to the corporate excise tax. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2664 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the corporate excise tax.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 63 of the General Laws is hereby amended by striking out section 39, as
2 appearing in the 2014 Official Edition, and inserting in place thereof the following section:-

3 Section 39. Except as otherwise provided in this section, every business corporation,
4 organized under the laws of the commonwealth, or exercising its charter or other means of legal
5 authority, or qualified to do business or actually doing business in the commonwealth, or owning
6 or using any part or all of its capital, plant or any other property in the commonwealth, shall pay,
7 on account of each taxable year, the excise provided in subsection (a) or (b), whichever is greater

8 Without limitation, the excise levied in this section is due and payable on any 1 or all of
9 the following alternative incidents:--

10 (1) The authority or qualification to carry on or do business in this state or the actual
11 doing of business within the commonwealth. The term “doing business” as used herein shall
12 mean and include each and every act, power, right, privilege, or immunity exercised or enjoyed
13 in the commonwealth, as an incident to or by virtue of the powers and privileges acquired by the
14 nature of those organizations, as well as, the buying, selling or procuring of services or property.

15 (2) The exercising or continuance of a business corporation's charter or other means of
16 legal authority within the commonwealth.

17 (3) The owning or using any part or all of its capital, plant or other property in the
18 commonwealth.

19 It is the purpose of this section to require the payment of this excise to the commonwealth
20 by a business corporation for the enjoyment under the protection of the laws of the
21 commonwealth, of the powers, rights, privileges and immunities derived by reason of its
22 existence and operation.

23 (a)

24 (i) For tax years beginning before January 1, 2010, 9.5 per cent of its net income
25 determined to be taxable in accordance with this chapter; (ii) for tax years beginning on or after
26 January 1, 2010, but before January 1, 2011, 8.75 per cent of its net income determined to be
27 taxable in accordance with this chapter; (iii) for tax years beginning on or after January 1, 2011,
28 but before January 1, 2012, 8.25 per cent of its net income determined to be taxable in
29 accordance with this chapter; or (iv) for tax years beginning on or after January 1, 2012, 8.0 per
30 cent of its net income determined to be taxable in accordance with this chapter.

31 (b) \$456.

32 A business corporation shall not be subject to the income measure of tax under subsection
33 (a) if it is engaged in the business of selling tangible personal property and taxation of that
34 business corporation under this chapter is precluded by the constitution or laws of the United
35 States, or would be so precluded except for the fact that the business corporation stored tangible
36 personal property in a licensed public storage warehouse, but no portion of any warehouse which
37 is owned or leased by a consignor or consignee of the tangible personal property shall be
38 considered a licensed public warehouse. A business corporation exempt from the income
39 measure of the excise under this paragraph pursuant to federal Public Law 86-272 shall be
40 subject to the excise under subsection (b).