

**HOUSE . . . . . No. 2607**

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**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 single sales factor.

PETITION OF:

NAME:

*Elizabeth A. Poirier*

DISTRICT/ADDRESS:

*14th Bristol*

**HOUSE . . . . . No. 2607**

By Mrs. Poirier of North Attleborough, a petition (accompanied by bill, House, No. 2607) of Elizabeth A. Poirier relative to single sales factor in the calculation of taxes for certain financial institutions. Revenue.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-First General Court  
(2019-2020)**

An Act relative to single sales factor.

*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 2A of chapter 63, as appearing in the 2016 Official Edition, is  
2 hereby amended by striking out subsection (b) and inserting in place thereof the following new  
3 subsection:-  
4

5 (b)(1) Except as provided by subsection (b)(2), if the financial institution has income  
6 from business activity which is taxable both within and without this commonwealth, its net  
7 income shall be apportioned to this commonwealth by multiplying its net income by the  
8 applicable apportionment percentage. For purposes of subsection (b)(1), the applicable  
9 apportionment percentage is determined by adding the taxpayer's receipts factor, property factor  
10 and payroll factor together and dividing the sum by three. If one of the factors is missing, the two  
11 remaining factors are added and the sum is divided by two. If two of the factors are missing, the  
12 remaining factor is the apportionment percentage. If all three factors are missing, the whole of

13 the financial institution's net income shall be taxable under section two. A factor is missing if  
14 both its numerator and denominator are zero, but it is not missing merely because its numerator  
15 is zero.

16

17 (b)(2), Notwithstanding subsection (b)(1), a financial institution that has income from  
18 business activity which is taxable both within and without this commonwealth, may elect to have  
19 its net income apportioned to this commonwealth by multiplying said taxable net income by the  
20 resulting percentage as determined in the following formulas:

21

22 (i) For taxable years beginning on or after January 1, 2015 but before January 1, 2016, 20  
23 percent of the property factor plus 20 percent of the payroll factor plus 60 percent of the receipts  
24 factor.

25

26 (ii) For taxable years beginning on or after January 1, 2016 but before January 1, 2017,  
27 15 percent of the property factor plus 15 percent of the payroll factor plus 70 percent of the  
28 receipts factor.

29

30 (iii) For taxable years beginning on or after January 1, 2017 but before January 1, 2018,  
31 10 percent of the property factor plus 10 percent of the payroll factor plus 80 percent of the  
32 receipts factor.

33

34 (iv) For taxable years beginning on or after January 1, 2018 but before January 1, 2019, 5  
35 percent of the property factor plus 5 percent of the payroll factor plus 90 percent of the receipts  
36 factor.

37

38 (v) For taxable years beginning on or after January 1, 2019, 100 percent of the receipts  
39 factor.

40

41 SECTION 2. Subsection (d) of section 2A of chapter 63, as appearing in the 2016  
42 Official Edition, is hereby amended by inserting after paragraph (xiii) the following new  
43 paragraph:-

44

45 (xiv) Notwithstanding the foregoing, a financial institution that elects to apportion its  
46 taxable net income pursuant to subsection (b)(2) of this section shall apply the rules applicable to  
47 the receipts factor as set forth in this section, with the following exceptions:

48

49 (A) In lieu of sourcing receipts pursuant to paragraph (xi), receipts from services not  
50 otherwise apportioned under this section are sourced to this commonwealth if the gross receipts  
51 are derived from customers in this commonwealth or otherwise attributable to this  
52 commonwealth's marketplace.

53

54 (B) In lieu of sourcing receipts pursuant to paragraph (xii), the numerator of the receipts  
55 factor includes the income described in paragraph (xii)(A) multiplied by a fraction, the  
56 numerator of which is the total amount included in the numerator of the receipts factor pursuant  
57 to paragraphs (iii), (iv), (vi) and (xiv)(A) and the denominator of which is the taxpayer's total  
58 amount of (1) interest and fees or penalties in the nature of interest from loans, (2) interest and  
59 fees or penalties in the nature of interest from credit card receivables and receipts from fees  
60 charged to card holders, such as annual fees, and (3) receipts from services subject to  
61 apportionment pursuant to (xiv)(A).

62

63 SECTION 3. Section 38 of chapter 63, as appearing in the 2016 Official Edition, is  
64 hereby amended by striking out subsection (c) and inserting in place thereof the following new  
65 subsection:-

66

67 (c)(1) Except as provided by subsection (c)(2), if a business corporation, other than a  
68 defense corporation as described in subsection (k), a manufacturing corporation as described in  
69 subsection (l), or a mutual fund service corporation to the extent of its mutual fund sales as  
70 described in subsection (m), has income from business activity which is taxable both within and  
71 without this commonwealth, its taxable net income, as determined under the provisions of  
72 subsection (a), shall be apportioned to this commonwealth by multiplying said taxable net  
73 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
74 twice times the sales factor, and the denominator of which is four.

75

76           (2) Notwithstanding subsection (c)(1), any business corporation, other than a defense  
77 corporation as described in subsection (k), a manufacturing corporation as described in  
78 subsection (l), or a mutual fund service corporation, as described in subsection (m), to the extent  
79 of its non-mutual fund sales, that has income from business activity which is taxable both within  
80 and without this commonwealth, may elect to have its taxable net income, as determined under  
81 the provisions of subsection (a), apportioned to this commonwealth by multiplying said taxable  
82 net income by the resulting percentage as determined in the following formulas:

83

84           (i) For taxable years beginning on or after January 1, 2015 but before January 1, 2016, 20  
85 percent of the property factor plus 20 percent of the payroll factor plus 60 percent of the sales  
86 factor.

87

88           (ii) For taxable years beginning on or after January 1, 2016 but before January 1, 2017,  
89 15 percent of the property factor plus 15 percent of the payroll factor plus 70 percent of the sales  
90 factor.

91

92           (iii) For taxable years beginning on or after January 1, 2017 but before January 1, 2018,  
93 10 percent of the property factor plus 10 percent of the payroll factor plus 80 percent of the sales  
94 factor.

95

96 (iv) For taxable years beginning on or after January 1, 2018 but before January 1, 2019, 5  
97 percent of the property factor plus 5 percent of the payroll factor plus 90 percent of the sales  
98 factor.

99  
100 (v) For taxable years beginning on or after January 1, 2019, 100 percent of the sales  
101 factor.

102  
103 SECTION 4. Subsection (f) of section 38 of said chapter 63, as appearing in the 2016  
104 Official Edition, is hereby amended by inserting after the third paragraph the following new  
105 paragraph:-

106  
107 Notwithstanding the foregoing, a business corporation that elects to apportion its taxable  
108 net income pursuant to subsection (c)(2) of this section shall apportion such income using the  
109 sales factor rules set forth in this subsection, with the exception that (i) sales other than sales of  
110 tangible personal property are sourced to this commonwealth if the gross receipts are derived  
111 from customers in this commonwealth or otherwise attributable to this commonwealth's  
112 marketplace; and (ii) gross receipts from the licensing of intangible property are sourced to this  
113 commonwealth to the extent that the intangible property is used in the commonwealth.

114

115 SECTION 5. Section 2A of chapter 63 of the General Laws, as so appearing, is hereby  
116 amended by striking out subsection (b) and by inserting in place thereof the following  
117 subsection:-

118  
119 (3)(a) The portion of net income derived from business carried on within the  
120 commonwealth by a corporation subject to tax under this section shall be determined under the  
121 provisions of sections thirty-eight and forty-two; provided, however, that under subsection (c)(1)  
122 of section 38 its taxable net income shall be multiplied by a fraction, the numerator of which is  
123 the property factor plus the payroll factor plus the sales factor, and the denominator is three.

124  
125 (b) Notwithstanding subdivision(3)(a), any corporation subject to tax under this section  
126 that has net income derived from business carried on within the commonwealth may elect to  
127 determine the portion of such net income subject to tax in accordance with subsection (c)(2) of  
128 section 38.

129  
130 SECTION 6. Sections 1 to 5 shall be effective for tax years beginning on or after January  
131 1, 2018.