

SENATE No. 1421

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 passage of the accompanying bill:

An Act to reform state economic substance rules.

PETITION OF:

NAME:

Karen E. Spilka

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

SENATE No. 1421

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 1421) of Karen E. Spilka for legislation to reform state economic substance rules. Revenue.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
—————

An Act to reform state economic substance rules.

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. Chapter 62C of the General Laws, as appearing in the 2010 Official
2 Edition, is hereby amended by deleting Section 3A and replacing it with the following new
3 section:-

4 In applying the laws referred to in section 2, the commissioner may, in his discretion,
5 disallow the asserted tax consequences of a transaction by asserting the application of the sham
6 transaction doctrine or any other related tax doctrine, in which case the taxpayer shall have the
7 burden of demonstrating by a preponderance of the evidence as determined by the commissioner
8 that the transaction met both of the following tests: (i) the transaction changes in a meaningful
9 way (apart from state income tax consequences) the taxpayer’s economic position, and (ii) the
10 taxpayer has a substantial non-state-tax purpose for entering into such transaction. Nothing in
11 this section shall be construed to limit or negate the commissioner’s authority to make tax
12 adjustments as otherwise permitted by law.

13 SECTION 2. Section 1 is effective for tax years beginning on or after January 1, 2013.