

HOUSE No. 1501

The Commonwealth of Massachusetts

PRESENTED BY:

Josh S. Cutler

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 closing off-shore tax haven loopholes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>
<i>Dylan Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>

<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>

HOUSE No. 1501

By Mr. Cutler of Duxbury, a petition (accompanied by bill, House, No. 1501) of Josh S. Cutler and others relative to closing off-shore tax haven loopholes. Revenue.

The Commonwealth of Massachusetts

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

An Act relative to closing off-shore tax haven loopholes.

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 32B of chapter 63 of the General Laws, as most recently amended by section 125
2 of chapter 240 of the Acts of 2010, is hereby amended by adding after subsection (c)(3)(iii), the
3 following new subsection:-

4 (iv) any member incorporated in a jurisdiction defined as a tax haven by the
5 commissioner.

6 The commissioner shall establish a list of tax haven jurisdictions. In establishing a list of
7 tax havens, the commissioner shall designate a tax haven as a jurisdiction that (1) for a particular
8 tax year in question has no, or nominal, effective tax on the relevant income; (2) has laws or
9 practices that prevent effective exchange of information for tax purposes with other governments
10 regarding taxpayers subject to, or benefitting from, the tax regime; (3) has a tax regime which
11 lacks transparency. A tax regime lacks transparency if the details of legislative, legal or
12 administrative provisions are not open and apparent or are not consistently applied among

13 similarly situated taxpayers, or if the information needed by tax authorities to determine a
14 taxpayer's correct tax liability, such as accounting records and underlying documentation, is not
15 adequately available; (4) facilitates the establishment of foreign-owned entities without the need
16 for a local substantive presence or prohibits these entities from having any commercial impact on
17 the local economy; and (5) explicitly or implicitly excludes the jurisdiction's resident taxpayers
18 from taking advantage of the tax regime benefits or prohibits enterprises that benefit from the
19 regime from operating in the jurisdiction's domestic market.

20 The commissioner may also designate a jurisdiction as a tax haven based upon an overall
21 assessment of relevant factors, including whether the jurisdiction has created a tax regime which
22 is favorable for tax avoidance and has a significant untaxed offshore financial or other services
23 sector relative to its overall economy.

24 Tax haven shall not include a jurisdiction that has entered into a comprehensive income
25 tax treaty with the United States, which the Secretary of the Treasury has determined is
26 satisfactory for purposes of Section 1(h)(11)(C)(i)(II) of the Internal Revenue Code.

27 On a biennial basis, the commissioner shall establish a list of tax haven jurisdictions and
28 shall submit the list to the Legislature. This report shall be made available to the public.