

HOUSE No. 2559

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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 corporate tax amnesty.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Bradford R. Hill</i>	<i>4th Essex</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>
<i>Leah Cole</i>	<i>12th Essex</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>

<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>
<i>Kate D. Campanale</i>	<i>17th Worcester</i>

HOUSE No. 2559

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 2559) of Bradley H. Jones, Jr. and others relative to the establishment of a tax amnesty program . Revenue.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to corporate tax amnesty.

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. (a) Notwithstanding section 264 of chapter 165 of the acts of 2014 or any
2 other general or special law to the contrary, the commissioner of revenue shall establish a tax
3 amnesty program during which all penalties that could be assessed by the commissioner shall be
4 waived without the need for any showing by the taxpayer of reasonable cause or the absence of
5 willful neglect for the failure of the taxpayer to: (i) timely file any proper return for any tax type
6 and for any tax period; (ii) file proper returns which report the full amount of the taxpayer's
7 liability for any tax type and for any tax period; (iii) timely pay any tax liability; or (iv) pay the
8 proper amount of any required estimated payment toward a tax liability. The waiver of a
9 taxpayer's liability under this section shall apply if the taxpayer files returns, makes payments as
10 required by the commissioner or otherwise comes into compliance with the tax laws of the
11 commonwealth pursuant to the tax amnesty program. The scope of the program, including the
12 particular tax types and periods covered, including any limited look-back period for unfilled

13 returns, shall be determined by the commissioner; provided, however, that the commissioner
14 shall include, but not be limited to, the following tax types within the scope: corporate excise.

15 (b) The amnesty program shall be established for 2 consecutive months in fiscal year
16 2015 to be determined by the commissioner and all required payments shall be made by June 30,
17 2015 in order for the amnesty to apply. If a taxpayer fails to pay the full liability before June 30,
18 2015, the commissioner shall retain any payments made and shall apply those payments against
19 the outstanding liability and the tax amnesty program shall not apply.

20 (c) (1) The commissioner's authority to waive penalties during the amnesty period
21 shall not apply to any taxpayer who, before or during the period of the amnesty program selected
22 by the commissioner, was or is the subject of a tax-related criminal investigation or prosecution
23 or to any taxpayer who delivers or discloses or has delivered or disclosed any false or fraudulent
24 application, document, return or other statement. The amnesty program shall not authorize the
25 waiver of interest or any amount treated as interest. The commissioner may offer tax amnesty to
26 those taxpayers who have either an unpaid self-assessed liability or who have been assessed a tax
27 liability, whether before or after the filing of a return, which assessed liability remains unpaid.

28 (2) A taxpayer who delivers or discloses any false or fraudulent application,
29 document, return or other statement to the department of revenue in connection with an amnesty
30 application under this section shall be ineligible for amnesty and shall be subject to the greater
31 of: (i) applicable penalties under chapter 62C of the General Laws; or (ii) a penalty not to exceed
32 \$10,000 which shall be calculated and assessed according to rules determined by the
33 commissioner and may be subject to de minimis or other exceptions that the commissioner may

34 consider appropriate. This penalty shall be subject to said chapter 62C and shall be added to and
35 become part of the tax due.

36 (d) To the extent that a taxpayer within the scope of the amnesty program as
37 determined by the commissioner and wishing to participate in the amnesty program has
38 postponed the payment of an assessment of tax, interest and penalty under subsection (e) of
39 section 32 of chapter 62C of the General Laws, the taxpayer shall waive in writing all rights
40 under said subsection (e) of said section 32 of said chapter 62C to further delay the payment of
41 the tax and interest portions of the assessment. The tax and interest portions of the assessment
42 shall be payable in full from the date of the commissioner's notice of assessment. Upon payment
43 by the taxpayer of the tax and interest of the outstanding assessment, the commissioner shall
44 waive all penalties associated with that assessment. Thereafter, the taxpayer and the
45 commissioner shall proceed with all administrative appeal rights that the taxpayer wishes to
46 pursue with respect to the assessment.

47 (e) Amnesty shall not apply to those penalties which the commissioner would not
48 have the sole authority to waive including, but not limited to, fuel taxes administered under the
49 International Fuel Tax Agreement or under the local option portions of taxes or excises collected
50 for the benefit of cities, towns or state governmental authorities.

51 (f) The commissioner shall maintain records of the amnesty provided under this
52 section including, but not limited to: (i) the number of taxpayers provided with amnesty; (ii) the
53 types of tax liability for which amnesty was provided and, for each type of liability, the amount
54 of tax liability collected and the amount of penalties foregone by virtue of the amnesty program;
55 and (iii) the total outstanding tax liability for amnesty-eligible taxpayers at the conclusion of the

56 tax amnesty program after the collection of all funds under this section. The commissioner shall
57 file a report detailing the information with the clerks of the senate and the house of
58 representatives, the joint committee on revenue, the house and senate committees on ways and
59 means and the house and senate minority leaders not later than September 1, 2015; provided,
60 however, that the report shall not contain information sufficient to identify an individual taxpayer
61 or the amnesty that an individual taxpayer was provided under this section.

62 (g) The commissioner shall establish administrative procedures and methods to
63 prevent any taxpayer who utilizes the tax amnesty program from utilizing any future tax amnesty
64 programs for the next consecutive 10 years, beginning in calendar year 2015.