

HOUSE No. 2611

The Commonwealth of Massachusetts

PRESENTED BY:

Jay R. Kaufman

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 to promote best tax expenditure practices.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Ruth B. Balser</i>	<i>12th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Solomon Goldstein-Rose</i>	<i>3rd Hampshire</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>
<i>Jose F. Tosado</i>	<i>9th Hampden</i>

HOUSE No. 2611

By Mr. Kaufman of Lexington, a petition (accompanied by bill, House, No. 2611) of Jay R. Kaufman and others for legislation to provide for an annual review of certain tax expenditures . Revenue.

The Commonwealth of Massachusetts

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

An Act to promote best tax expenditure practices.

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 1 of chapter 29 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the definition of “Tax expenditures”, the
3 following definition:-

4 “Tax expenditure budget”, an annual report reviewing and summarizing tax expenditures
5 as required by section 5B 1/2 of this chapter.

6 SECTION 2. Section 5B of said chapter 29, as so appearing, is hereby amended by
7 inserting after the words “section 5G”, in line 10, the following:- , the tax expenditure revenue
8 loss estimates included in the most recent tax expenditure budget

9 SECTION 3. Said section 5B of said chapter 29, as so appearing, is hereby further
10 amended by striking out the third paragraph and inserting in place thereof the following
11 paragraph:-

12 The commissioner of revenue shall annually prepare and present with the governor's
13 proposed budget the tax expenditure budget, as required by section 5B 1/2.

14 SECTION 4: Said chapter 29, as so appearing, is hereby amended by inserting after
15 section 5B the following section:-

16 Section 5B 1/2. (a) The tax expenditure budget shall be published annually by the
17 secretary of administration and finance concurrently with the governor's proposed budget and be
18 made available to the general public in a conspicuous manner on the commonwealth's official
19 website. The tax expenditure budget shall, at a minimum:

20 (1) provide a description of the basic structure of each tax type, which for the purposes of
21 this section shall include personal income tax, corporate or other business taxes, and sales and
22 use taxes;

23 (2) provide a description of the types of tax expenditures, including, but not limited to,
24 exclusions, deferrals, deductions and credits, and the rationale and methodology by which tax
25 expenditures are distinguished from the basic tax structure of each tax type;

26 (3) provide a description of the data sources used to estimate revenue losses, identify
27 benefits to the commonwealth and determine the extent to which metrics for tax expenditures
28 under evaluation have been met, and include in this description the limitations of those sources
29 and the resulting limitations of the conclusions drawn from those sources;

30 (4) list every tax expenditure by tax type and, for each expenditure, include:

31 (i) the date of enactment,

32 (ii) the citation of the enabling state or federal law,

33 (iii) the tax policy rationale and desired outcome, where specified in law or as may be
34 appropriately identified by context and legislative intent,

35 (iv) the target beneficiaries,

36 (v) the revenue loss caused by the tax expenditure in the preceding fiscal year, according
37 to the best available information,

38 (vi) an estimate of the projected revenue losses which will occur in the current fiscal year
39 and the ensuing fiscal year, according to the best available information,

40 (vii) an estimate or description of the benefits to the commonwealth as a result of the tax
41 expenditure, according to the best available information, and

42 (viii) the expiration or sunset date of the tax expenditure, if specified in law;

43 (5) facilitate the comparison of the revenue losses of the previous, current and ensuing
44 fiscal years;

45 (6) facilitate the comparison of previous revenue loss estimates with actual revenue losses
46 or updated projected revenue losses, and identify and analyze reasons for necessary updates or
47 significant discrepancies;

48 (7) provide a summary of tax expenditure revenue losses, including, but not limited to,
49 total revenue losses from all tax expenditures and total revenue losses for each tax type;

50 (8) include the review schedule established by the secretary of administration and finance
51 as required by subsection (b); and

52 (9) include the findings of completed tax expenditure evaluations conducted in
53 accordance with subsection (c).

54 (b) The secretary of administration and finance shall establish a review schedule to
55 ensure that each tax expenditure is evaluated in accordance with subsection (c) at least every 5
56 years.

57 (c) The secretary of administration and finance, in conjunction with the state auditor,
58 shall conduct an evaluation of each tax expenditure in accordance with the schedule required by
59 subsection (b) and in each tax expenditure evaluation, shall:

60 (1) identify or clarify policy goals of the tax expenditure;

61 (2) determine or refine metrics to measure the success of achieving those policy goals;

62 (3) determine the extent to which existing metrics have been met, based on the best
63 available information;

64 (4) provide a recommendation as to whether the tax expenditure should be repealed,
65 allowed to sunset, amended to better achieve its policy goals and metrics or allowed to continue
66 in its current form, and provide the reasoning for such recommendations; and

67 (5) provide a recommendation as to whether a sunset or clawback provision should be
68 applied, if such provisions do not already exist for the expenditure.

69 SECTION 5. Section 21 of chapter 62C of the General Laws, as amended by section 68
70 of chapter 46 of the acts of 2015, is hereby amended by inserting in subsection (b), after
71 paragraph (28), the following new paragraph:-

72 (29) notwithstanding any special or general law to the contrary, including without
73 limitation section 12 of chapter 11 and section 20 of this chapter, the state auditor's access to tax
74 returns and related tax records already in the possession of the department of revenue, but
75 excluding information provided to the commonwealth by other federal and state tax agencies
76 where such access is precluded by law or agreement, necessary for participating in the evaluation
77 of tax expenditures, as required by section 5B 1/2 of chapter 29, provided that the identity of any
78 particular taxpayer shall be deemed to be confidential information and not a public record, shall
79 not be included in any published audit report and shall be maintained as confidential information
80 in accordance with government auditing standards as established by the Comptroller General of
81 the United States, and provided further that any such audit shall be conducted for the sole
82 purposes of evaluating the effectiveness of tax expenditures under review and not for the purpose
83 of auditing any specific taxpayer.