

HOUSE No. 2647

The Commonwealth of Massachusetts

PRESENTED BY:

Alice Hanlon Peisch

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 reforming economic substance rules.

PETITION OF:

NAME:

Alice Hanlon Peisch

DISTRICT/ADDRESS:

14th Norfolk

HOUSE No. 2647

By Ms. Peisch of Wellesley, a petition (accompanied by bill, House, No. 2647) of Alice Hanlon Peisch for legislation to authorize the Commissioner of the Department of Revenue to disallow the asserted tax consequences of certain transactions. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2653 OF 2015-2016.]

The Commonwealth of Massachusetts

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

An Act reforming 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 2014 Official
2 Edition, is hereby amended by striking out section 3A and inserting in place thereof the
3 following section:-

4 Section 3A. In applying the laws referred to in section 2, the commissioner may, in his
5 discretion, disallow the asserted tax consequences of a transaction by asserting the application of
6 the sham transaction doctrine or any other related tax doctrine, in which case the taxpayer shall
7 have the burden of demonstrating by a preponderance of the evidence as determined by the
8 commissioner that the transaction met both of the following tests: (i) the transaction changes in a
9 meaningful way, apart from state income tax consequences, the taxpayer’s economic position,
10 and (ii) the taxpayer has a substantial non-state-tax purpose for entering into such transaction.

11 Nothing in this section shall be construed to limit or negate the commissioner's authority to
12 make tax adjustments as otherwise permitted by law.

13 SECTION 2. Section 1 shall take effect January 1, 2017.