

HOUSE No. 3663

The Commonwealth of Massachusetts

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

An Act to clarify the net-worth measure of the corporate excise.

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. Paragraph 8 of section 30 of chapter 63, as amended by section 105 of
2 chapter 165 of the acts of 2014, is hereby amended by striking out the last sentence and inserting
3 in place thereof the following sentence:-

4 In determining whether an item shown on the books of a corporation is to be treated as
5 reflecting debt or equity, the taxpayer’s treatment of the item for accounting purposes shall be
6 considered to be controlling, unless the commissioner establishes that such treatment is not in
7 accordance with the accounting standards used by that taxpayer for making financial reports to
8 shareholders, such as, without limitation, generally accepted accounting principles or
9 International Financial Reporting Standards; and in determining the book value of any asset, the
10 commissioner may disallow any reserve, in whole or in part, established with respect thereto
11 which, in his judgment, is not reasonable and proper.

12 SECTION 2. Section 38(f) of chapter 63 is hereby amended after the word “include” by
13 adding the following phrase:-

14 “an item of income of a corporation that is organized outside of the United States to the
15 extent that such item is exempt from United States federal income tax either by virtue of a
16 federal income tax treaty or otherwise, or”

17 SECTION 3. By this act the general court clarifies its original intention that the treatment
18 of an item on the books of a corporation shall be controlling in determining its net worth. This
19 act shall be effective upon its passage, and shall be applicable to all open tax years.

20 SECTION 4. This act shall apply to tax years beginning on or after January 1, 2019.