

SENATE No. 01523

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

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 passage of the accompanying bill:

An Act to strengthen tax administration and promote taxpayer fairness .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, and Franklin</i>

SENATE No. 01523

By Ms. Spilka, petition (accompanied by bill, Senate, No. 1523) of Downing, Rodrigues and Spilka for legislation to strengthen tax administration and promote taxpayer fairness [Joint Committee on Revenue].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to strengthen tax administration and promote taxpayer fairness .

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. Subsection (a) of section 32 of chapter 62C of the General Laws, as
2 appearing in the 2008 Official Edition, is hereby amended by inserting after the second sentence
3 the following sentence:-

4 "However, notwithstanding any other provision, to the extent that, for any period, interest is
5 payable on equivalent underpayments and overpayments by the same taxpayer of tax, the net rate
6 of interest on such amounts shall be 0 for such period."

7 SECTION 2. Section 35A of chapter 62C of the General Laws, as appearing in the
8 2008 Official Edition, is hereby amended by inserting after subsection (e) the following new
9 subsection:-

10 (f) The penalty set forth in this section shall not be imposed if the Commissioner takes
11 more than 18 months, measured by 548 audit days, to issue a proposed assessment. The term

12 "audit days" refers to the time period during which a taxpayer is under audit. The counting of
13 audit days begins with the date that the Commissioner issues a letter notifying a taxpayer that it
14 has been selected for an audit of its return, but any day for which the taxpayer has requested
15 additional time beyond the meeting date or response date set forth by the Commissioner shall not
16 be counted as an audit day up until the date the requested meeting takes place or the date the
17 requested information has been substantially provided. If there is an interruption in the counting
18 of audit days due to a delay requested by the taxpayer, the counting of days will resume once the
19 delayed meeting has taken place or the date the requested information has been substantially
20 provided. The Commissioner must provide at least 30 days notice in setting a meeting date and
21 provide a taxpayer with at least 60 days to respond to a request for information.

22 SECTION 3. The second paragraph of section 37 of chapter 62C of the General Laws,
23 as appearing in the 2008 Official Edition, is hereby amended by striking out the fifth sentence.

24 SECTION 4. Said section 37 of said chapter 62C, as so appearing, is hereby amended
25 by striking out, in lines 4-6, inclusive, the words "three years from the last day for filing the
26 return for such tax, determined without regard to any extension of time," and inserting in place
27 thereof the following words:-

28 "3 years after the date the return was filed or the date it was required to be filed, whichever
29 occurs later,"

30 SECTION 5. The first paragraph of said section 37 of said chapter 62C, as so
31 appearing, is hereby amended by inserting after the first sentence the following sentence:-

32 "When such period for abatement or for abating such tax has been extended, the amount of the
33 abatement claim shall be limited to an amount equal to the amount of any tax assessed plus the
34 amount of the tax liability shown on the return."

35 SECTION 6. Section 40 of chapter 62C of the General Laws, as appearing in the 2008
36 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof
37 the following subsection:-

38 (a) If any refund of any tax, interest or penalties is made pursuant to sections 30, 31A,
39 36, 36A, 37 or 39 of this chapter, or sections 27 or 27A of chapter 65, or section 6 of chapter
40 65A, the state treasurer shall repay to the taxpayer the amount of such refund with interest
41 thereon at the rate established under section 32 of this chapter, except as hereinafter provided,
42 from the date of overpayment to a date, to be determined by the commissioner, preceding the
43 date of the refund check by not more than 30 days, whether or not such refund check is accepted
44 by the taxpayer after tender of such to the taxpayer. The acceptance of such check shall be
45 without prejudice to any right of the taxpayer to claim any additional overpayment and interest
46 thereon.

47 SECTION 7. On the first business day of each month, the Commissioner shall publish
48 on its website a Report of Policy Issues Under Development. This report shall list all draft
49 regulations and Directives the Commissioner is considering issuing in the current and following
50 months, with a brief description of the issued covered by each draft regulation and Directive and
51 a brief rationale for the draft regulation and Directive.

52 No draft regulation or Directive shall be released before it has been listed in two
53 successive Reports, excepting emergency circumstances. Emergency circumstances shall be

54 defined as those instances in which the delayed issuance of said draft regulation or Directive
55 would significantly harm taxpayer compliance or oversight. If emergency circumstances require
56 the release of a draft regulation or Directive before it has been listed in two successive Reports,
57 the Commissioner must publish an Emergency Report of Policy Issues Under Development on
58 its website. A draft regulation or Directive listed in an Emergency Report may be released 7
59 calendar days after the publication of said report but not sooner.

60 SECTION 8. SECTIONS 1 and 2 shall take effect July 1, 2011.

61 SECTION 9. SECTION 3 shall take effect retroactively to all open tax periods as of
62 the date this act is approved.

63 SECTION 10. SECTION 6 shall take effect retroactively to all open tax periods as of
64 the effective date this act. This amendment shall not open a tax period that had already closed
65 prior to the amendment's effective date.

66 SECTION 11. SECTION 8 shall take effect retroactively to all open tax periods as of
67 the effective date of this act.