

**SENATE . . . . . No. 1543**

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The Commonwealth of Massachusetts

PRESENTED BY:

***Michael J. Rodrigues***

*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 modernizing the corporate excise tax.

PETITION OF:

NAME:

*Michael J. Rodrigues*

*Michael O. Moore*

DISTRICT/ADDRESS:

*First Bristol and Plymouth*

*Second Worcester*

**SENATE . . . . . No. 1543**

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By Mr. Rodrigues, a petition (accompanied by bill, Senate, No. 1543) of Michael J. Rodrigues and Michael O. Moore for legislation relative to the corporate excise tax. Revenue.

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The Commonwealth of Massachusetts

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
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An Act modernizing the corporate excise tax.

*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 63 of the General Laws, as appearing in the 2012 Official Edition,  
2 is hereby amended by striking out section 39 and inserting in place thereof the following  
3 section:-

4 Section 39. Except as otherwise provided in this section, every business corporation,  
5 organized under the laws of the commonwealth, or exercising its charter or other means of legal  
6 authority, or qualified to do business or actually doing business in the commonwealth, or owning  
7 or using any part or all of its capital, plant or any other property in the commonwealth, shall pay,  
8 on account of each taxable year, the excise provided in subsection (a) or (b), whichever is  
9 greater. Without limitation, the excise levied in this section is due and payable on any 1 or all of  
10 the following alternative incidents:-

11 (1) The authority or qualification to carry on or do business in this state or the actual  
12 doing of business within the commonwealth. The term “doing business” as used herein shall  
13 mean and include each and every act, power, right, privilege, or immunity exercised or enjoyed

14 in the commonwealth, as an incident to or by virtue of the powers and privileges acquired by the  
15 nature of those organizations, as well as, the buying, selling or procuring of services or property.

16 (2) The exercising or continuance of a business corporation's charter or other means of  
17 legal authority within the commonwealth.

18 (3) The owning or using any part or all of its capital, plant or other property in the  
19 commonwealth.

20 It is the purpose of this section to require the payment of this excise to the commonwealth  
21 by a business corporation for the enjoyment under the protection of the laws of the  
22 commonwealth, of the powers, rights, privileges and immunities derived by reason of its  
23 existence and operation.

24 (a) (i) For tax years beginning before January 1, 2010, 9.5 per cent of its net income  
25 determined to be taxable in accordance with this chapter; (ii) for tax years beginning on or after  
26 January 1, 2010, but before January 1, 2011, 8.75 per cent of its net income determined to be  
27 taxable in accordance with this chapter; (iii) for tax years beginning on or after January 1, 2011,  
28 but before January 1, 2012, 8.25 per cent of its net income determined to be taxable in  
29 accordance with this chapter; or (iv) for tax years beginning on or after January 1, 2012, 8.0 per  
30 cent of its net income determined to be taxable in accordance with this chapter.

31 (b) \$456.

32 A business corporation shall not be subject to the income measure of tax under subsection  
33 (a) if it is engaged in the business of selling tangible personal property and taxation of that  
34 business corporation under this chapter is precluded by the constitution or laws of the United

35 States, or would be so precluded except for the fact that the business corporation stored tangible  
36 personal property in a licensed public storage warehouse, but no portion of any warehouse which  
37 is owned or leased by a consignor or consignee of the tangible personal property shall be  
38 considered a licensed public warehouse. A business corporation exempt from the income  
39 measure of the excise under this paragraph pursuant to federal Public Law 86-272 shall be  
40 subject to the excise subsection (b).

41 SECTION 2. Section 1 shall take effect January 1, 2016.