

**SENATE . . . . . No. 1564**

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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 adoption of the accompanying bill:

An Act extending single sales factor apportionment to all retail and wholesale corporations.

PETITION OF:

NAME:

*Karen E. Spilka*

DISTRICT/ADDRESS:

*Second Middlesex and Norfolk*

**SENATE . . . . . No. 1564**

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By Ms. Spilka, a petition (accompanied by bill, Senate, No. 1564) of Karen E. Spilka for legislation to extend single sales factor apportionment to all retail and wholesale corporations. Revenue.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1420 OF 2013-2014.]

The Commonwealth of Massachusetts

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

An Act extending single sales factor apportionment to all retail and wholesale corporations.

*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 38 of chapter 63 of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by deleting subsection (c) and replacing it with the following  
3 new subsection:-

4 (c) If a corporation, other than a defense corporation as described in subsection (k), a  
5 manufacturing corporation as described in subsection (l), a mutual fund service corporation to  
6 the extent of its mutual fund sales as described in subsection (m), a retail corporation as  
7 described in subsection (o), or a wholesale corporation as described in subsection (p), has income  
8 from business activity which is taxable both within and without this commonwealth, its taxable  
9 net income, as determined under the provisions of subsection (a), shall be apportioned to this  
10 Commonwealth by multiplying said taxable net income by a fraction, the numerator of which is

11 the property factor plus the payroll factor plus twice times the sales factor, and the denominator  
12 of which is four.

13 SECTION 2. Section 38 of Chapter 63 of the General Laws, as so appearing, is hereby  
14 further amended by inserting the following new subsection:-

15 (o)(1) As used in this section, the following words shall, unless the context otherwise  
16 requires, have the following meaning: “Retail corporation”, a domestic or foreign corporation  
17 primarily engaged in activities that, in accordance with the North American Industry  
18 Classification System (NAICS), United States Manual, United States Office of Management and  
19 Budget, 1997 Edition, would be included in Sectors 44-45.

20 (2) If a retail corporation, as defined in paragraph (o), has income from business activity  
21 which is taxable both within and without this commonwealth, its taxable net income, determined  
22 under the provisions of subsection (a), shall not be apportioned pursuant to the percentage that  
23 results from the three-factor formula set forth in subsection (c) but, instead, shall be apportioned  
24 accordingly:

25 (i) For tax years beginning on or after January 1, 2016, by multiplying such taxable net  
26 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
27 triple the sales factor and the denominator of which is five, except that when the sales factor does  
28 not exist, the denominator of the fraction shall be the number of existing factors, and when the  
29 sales factor exists but the payroll factor or property factor does not exist, the denominator of the  
30 fraction shall be the number of existing factors plus two;

31 (ii) For tax years beginning on or after January 1, 2017, by multiplying such taxable net  
32 income by a fraction, the numerator of which is the property factor plus the payroll factor plus

33 quadruple the sales factor and the denominator of which is six, except that when the sales factor  
34 does not exist, the denominator of the fraction shall be the number of existing factors, and when  
35 the sales factor exists but the payroll factor or property factor does not exist, the denominator of  
36 the fraction shall be the number of existing factors plus three;

37 (iii) For tax years beginning on or after January 1, 2018, by multiplying such taxable net  
38 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
39 quintuple the sales factor and the denominator of which is seven, except that when the sales  
40 factor does not exist, the denominator of the fraction shall be the number of existing factors, and  
41 when the sales factor exists but the payroll factor or property factor does not exist, the  
42 denominator of the fraction shall be the number of existing factors plus four; and

43 (iv) For tax years beginning on or after January 1, 2019, and thereafter, by multiplying  
44 such taxable net income by one hundred percent of the sales factor.

45 (3) For purposes of the application of Section 32B of chapter 63 of the General Laws,  
46 each member of a combined group will be considered to be a “retail corporation” under this  
47 Section if fifty-percent or more of the combined group’s non-intercompany receipts are derived  
48 from sales at retail.

49 SECTION 3. Section 38 of Chapter 63 of the General Laws, as so appearing, is hereby  
50 further amended by inserting the following new subsection:-

51 (p)(1) As used in this section, the following words shall, unless the context otherwise  
52 requires, have the following meaning: “Wholesale corporation”, a domestic or foreign  
53 corporation primarily engaged in activities that, in accordance with the North American Industry

54 Classification System (NAICS), United States Manual, United States Office of Management and  
55 Budget, 1997 Edition, would be included in Sectors 42.

56 (2) If a Wholesale corporation, as defined in paragraph (p), has income from business  
57 activity which is taxable both within and without this commonwealth, its taxable net income,  
58 determined under the provisions of subsection (a), shall not be apportioned pursuant to the  
59 percentage that results from the three-factor formula set forth in subsection (c), but instead, shall  
60 be apportioned accordingly:

61 (i) For tax years beginning on or after January 1, 2016, by multiplying such taxable net  
62 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
63 triple the sales factor and the denominator of which is five, except that when the sales factor does  
64 not exist, the denominator of the fraction shall be the number of existing factors, and when the  
65 sales factor exists but the payroll factor or property factor does not exist, the denominator of the  
66 fraction shall be the number of existing factors plus two;

67 (ii) For tax years beginning on or after January 1, 2017, by multiplying such taxable net  
68 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
69 quadruple the sales factor and the denominator of which is six, except that when the sales factor  
70 does not exist, the denominator of the fraction shall be the number of existing factors, and when  
71 the sales factor exists but the payroll factor or property factor does not exist, the denominator of  
72 the fraction shall be the number of existing factors plus three;

73 (iii) For tax years beginning on or after January 1, 2018, by multiplying such taxable net  
74 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
75 quintuple the sales factor and the denominator of which is seven, except that when the sales

76 factor does not exist, the denominator of the fraction shall be the number of existing factors, and  
77 when the sales factor exists but the payroll factor or property factor does not exist, the  
78 denominator of the fraction shall be the number of existing factors plus four; and

79 (iv) For tax years beginning on or after January 1, 2019, and thereafter, by multiplying  
80 such taxable net income by one hundred percent of the sales factor.

81 (3) For purposes of the application of Section 32B of chapter 63 of the General Laws,  
82 each member of a combined group will be considered to be a “Wholesale corporation” under this  
83 Section if fifty-percent or more of the combined group’s non-intercompany receipts are derived  
84 from sales at wholesale trade.