

HOUSE No. 3026

By Mr. Marzilli of Arlington, petition of J. James Marzilli, Jr., and others relative to the reporting of the combined taxable income of certain corporations. Revenue.

The Commonwealth of Massachusetts

PETITION OF:

J. James Marzilli, Jr.	Kay Khan
Carl M. Sciortino, Jr.	Susan C. Fargo
Benjamin Swan	David B. Sullivan
Denise Provost	Michael E. Festa
Ruth B. Balsler	Martha M. Walz
Matthew C. Patrick	Jennifer M. Callahan
Peter V. Kocot	Steven J. D'Amico
Alice K. Wolf	

In the Year Two Thousand and Seven.

AN ACT REQUIRING COMBINED TAXABLE INCOME REPORTING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 63 of the Massachusetts General Laws is hereby
2 amended by inserting after section 30, as appearing in the 2002 Offi-
3 cial Edition, the following section:—
4 Section 30B. (a) For purposes of this chapter, the income of 2 or
5 more corporations, the voting stock of which is more than 50 per
6 cent owned directly or indirectly by a common owner, and which are
7 engaged in an unitary business, except as provided in subsection (j)
8 of section 38, shall be allocated or apportioned as if the group of
9 corporations were a single corporation, in which event:
10 (1) The taxable income of any corporation subject to taxation in
11 this commonwealth shall be determined by use of a combined report
12 which includes the income of all corporations which are members of
13 the unitary business, allocated and apportioned using apportionment
14 factors for all corporations included in the combined report under
15 the methods set out in this chapter.

16 (2) Subject to the limitations of clause (3), the combined report
17 shall include, but shall not be limited to, the income of all corpora-
18 tions which are members of the unitary business and are part of a
19 combined group, as defined by, or are included in a combined report
20 required by, the laws of another state.

21 (3) Notwithstanding the preceding clause, the combined report
22 shall be limited to the following affiliated entities:

23 (i) a domestic international sales corporation, as described in Sec-
24 tions 991 to 994, inclusive, of the Internal Revenue Code and a for-
25 eign sales corporation as described in Sections 921 to 927, inclusive,
26 of the Internal Revenue Code;

27 (ii) any corporation, other than a bank, life insurance company, or
28 utility corporation within the meaning of this chapter, regardless of
29 the place where it is incorporated if the average of its property, pay-
30 roll, and sales factors within the United States is 20 per cent or more;

31 (iii) a corporation incorporated in the United States, excluding a
32 corporation making an election pursuant to Sections 931 to 936,
33 inclusive, of the Internal Revenue Code or that is a bank, life insur-
34 ance company, or utility corporation within the meaning of this
35 chapter;

36 (iv) any corporation that is not described in clauses (i) to (iii),
37 inclusive, or clause (v), but only to the extent of its income derived
38 from or attributable to sources within the United States and its fac-
39 tors assignable to a location within the United States. Income of that
40 corporation derived from or attributable to sources within the United
41 States as determined by federal income tax laws shall be limited to
42 and determined from the books of account maintained by the corpo-
43 ration with respect to its activities conducted within the United
44 States;

45 (v) an export trade corporation, as described in Sections 970 to
46 972, inclusive, of the Internal Revenue Code; and

47 (vi) any affiliated corporation which is a “controlled foreign cor-
48 poration,” as defined in Section 957 of the Internal Revenue Code, if
49 all or part of the income of that affiliate is defined in Section 952 of
50 Subpart F of the Internal Revenue Code, “Subpart F income”. The
51 income and apportionment factors of any affiliate to be included
52 under this paragraph shall be determined by multiplying the income
53 and apportionment factors of that affiliate without application of this
54 paragraph by a fraction, not to exceed 1, the numerator of which is

55 the “Subpart F income” of that corporation for that taxable year and
56 the denominator of which is the “earnings and profits” of that corpo-
57 ration for that taxable year, as defined in Section 964 of the Internal
58 Revenue Code.

59 (b) The commissioner shall adopt regulations necessary to ensure
60 that the tax liability or net income of any corporation whose income
61 is derived from or attributable to sources within this commonwealth
62 and which is required to submit a report under subsection (a), and of
63 each entity included in said report, both during and after the period
64 of inclusion in the combined report, is properly reported, deter-
65 mined, computed, assessed, collected, or adjusted.