

HOUSE No. 3227

By Mr. Peterson of Grafton, petition of George N. Peterson, Jr., and Bradley H. Jones, Jr., relative to assertions by taxpayers of evidence of certain non-tax business benefits under the administrative provisions of the tax laws. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE TAX LAWS OF THE COMMONWEALTH.

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 62C of the General Laws, as appearing in
2 the 2004 Official Edition, as most recently amended by Section 10
3 of Chapter 4 of the acts of 2003, is hereby amended by striking
4 Section 3A and inserting in place thereof the following:—

5 Section 3A. In applying the laws referred to in Section 2, the
6 commissioner may disallow the asserted tax consequences of a
7 transaction by asserting the application of the sham transaction doc-
8 trine or any other related tax doctrine, in which case the taxpayer
9 shall have the burden of demonstrating by a preponderance of the
10 evidence that the transaction possessed both (1) a valid, good faith
11 business purpose other than tax avoidance and (2) economic sub-
12 stance apart from the asserted tax benefit.

13 Nothing in this section shall be construed to limit or negate the
14 commissioner's authority to make tax adjustments as otherwise per-
15 mitted by law.

1 SECTION 2. Chapter 262 of the acts of 2004 is hereby amended
2 by striking Sections 12, 35, 41 and 73.