

**HOUSE . . . . . No. 2477**

The Commonwealth of Massachusetts

PRESENTED BY:

*Josh S. Cutler*

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 closing a certain corporate tax haven loophole.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>

<i>Ellen Story</i>	<i>3rd Hampshire</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Aaron Vega</i>	<i>5th Hampden</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>Kate Hogan</i>	<i>3rd Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>John J. Mahoney</i>	<i>13th Worcester</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>
<i>Leonard Mirra</i>	<i>2nd Essex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Barbara L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>
<i>Brendan P. Crighton</i>	<i>11th Essex</i>

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By Mr. Cutler of Duxbury, a petition (accompanied by bill, House, No. 2477) of Josh S. Cutler and others relative to tax havens. Revenue.

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The Commonwealth of Massachusetts

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

An Act closing a certain corporate tax haven loophole.

*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 32B of chapter 63 of the General Laws, as most recently amended by section 125  
2 of chapter 240 of the Acts of 2010, is hereby amended by inserting after subsection (c)(3)(iii),  
3 the following subsections:

4 (iv) any member incorporated in a jurisdiction defined herein as a tax haven, including  
5 Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize,  
6 Bermuda, British Virgin Islands, Cayman Islands, Cook Islands, Cyprus, Dominica, Gibraltar,  
7 Grenada, Guernsey-Sark-Alderney, Hong Kong, Isle of Man, Jersey, Liberia, Liechtenstein,  
8 Luxembourg, Malta, Mauritius, San Marino, Seychelles, Singapore, St. Kitts and Nevis, St.  
9 Lucia, St. Vincent and the Grenadines, Switzerland, Turks and Caicos Islands, U.S. Virgin  
10 Islands, and Vanuatu.

11 (v) On a biannual basis, the commissioner shall submit a report to the Legislature. The  
12 report shall include recommendations for legislation related to tax haven jurisdictions listed in

13 subsection (c)(3)(iv), including recommendations for additions to or subtractions from the list.  
14 This report shall be made available to the public.

15 (vi) In developing its annual report and for the purposes of this section, the commissioner  
16 shall consider a tax haven a jurisdiction that, during the tax year in question has no or nominal  
17 effective tax on the relevant income and that meets at least two of the following three criteria:

18 a. The income being reported by a member to the suspected tax haven jurisdiction is  
19 disproportionately large as compared to the average percentage of property, payroll, and sales  
20 factors within that jurisdiction.

21 b. The laws, rules, and tax administrative rulings and practices of that jurisdiction  
22 encourage the disproportionately large income to be reported in that jurisdiction. Such laws,  
23 rules, tax administrative rulings and practices may:

24 1. prevent effective exchange of information for tax purposes with other  
25 governments on taxpayers benefiting from the tax regime;

26 2. lack transparency by having legislative, legal, or administrative provisions that are  
27 not open and apparent or are not consistently applied among similarly situated taxpayers, or if  
28 the information needed by tax authorities to determine a taxpayer's correct tax liability, such as  
29 accounting records and underlying documentation, is not adequately available;

30 3. facilitate the establishment of foreign-owned entities without the need for a local  
31 substantive presence or prohibit these entities from having any commercial impact on the local  
32 economy;

33           4.       explicitly or implicitly exclude the jurisdiction’s resident taxpayers from taking  
34 advantage of the tax regime’s benefits or prohibit enterprises that benefit from the regime from  
35 operating in the jurisdiction’s domestic market; or

36           5.       create a tax regime that is favorable for tax avoidance, based upon an overall  
37 assessment of relevant factors, including whether the jurisdiction has a significant untaxed  
38 offshore financial and related services sector relative to its overall economy.

39           c.       The jurisdiction is recognized by experts or is marketed as a tax haven for  
40 corporations.

41           (vii) The commissioner may require the taxable member making a water’s-edge election  
42 to submit within six (6) months after the taxable member files its federal income tax return a  
43 domestic disclosure spreadsheet to provide full disclosure of the income reported to each state  
44 for the year, the tax liability for each state, the method used for allocating or apportioning  
45 income to the states, and the identity of the water’s-edge group and those of its United States  
46 affiliated corporations. The commissioner may require the taxable member to disclose the same  
47 information for income reported to tax havens as listed in subsection (c)(3)(iv).