

NEW DRAFT

H4362, An Act to improve tax administration in the Commonwealth.

SECTION 1. Chapter 14 of the General Laws is hereby amended by adding following section:-

Section 15. (a) The commissioner shall establish and maintain a uniform statewide system for filing notices of tax liens, which shall be called the State Tax Lien Centralized Registry. The uniform statewide system shall be limited to tax liens on real property and personal property, tangible and intangible, of taxpayers or other persons against whom the commonwealth has liens pursuant to law for unpaid liabilities administered by the commissioner, including liens arising pursuant to section 50 of chapter 62C or section 27C of chapter 149. Once established, if any taxpayer or other person liable to pay any tax neglects or refuses to pay the same after demand, the commissioner may file in the State Tax Lien Centralized Registry a notice of tax lien.

(b) When a notice of tax lien is filed by the commissioner in the State Tax Lien Centralized Registry, the tax lien is perfected and shall be attached to all of the existing and after-acquired property and rights to property of the taxpayer, both real and personal, tangible and intangible, which is located in any and all counties within the commonwealth. The lien shall also extend to property or rights to property of a trust with respect to tax amounts due from a grantor or other person treated as the owner of a portion of such trust by reason of sections 671-678 of the Internal Revenue Code, as amended and in effect, and to property or rights to property of a disregarded entity with regard to tax amounts due from the owner of the entity. The amount of the tax lien shall be a debt due to the commonwealth and shall remain a lien upon all property and rights to property belonging to the taxpayer, both real and personal, tangible and intangible, which is located in any and all counties within the commonwealth. Interest and penalty shall accrue on the tax lien at the same rate and with the same restrictions, if any, as specified by statute for the accrual of interest and penalty for the type of tax or taxes which the tax lien was issued. The filing of a notice of tax lien in the State Tax Lien Centralized Registry shall not act to invalidate, supersede or modify the filing date of any notice of tax lien previously filed with a county registry of deeds or the secretary of the commonwealth, prior to the effective date of this section.

(c) The commissioner shall promulgate such regulations or other guidance as may be necessary for the implementation of this section.

(d) A tax lien shall be valid against any mortgagee, pledgee, purchaser or judgment creditor, and shall fulfill any and all notice or registration required under Massachusetts law for any tax lien in favor of the commonwealth, when notice is filed in the State Tax Lien Centralized Registry in the manner prescribed in section 50 of chapter 62C and pursuant to this section.

SECTION 2. Section 6 of chapter 58A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The commissioner of revenue shall have authority to act on any request for appeal after the date of any denial if the applicant has not seasonably taken an appeal from such denial. During the period allowed for the taking of an appeal, or during the pendency of such appeal, the commissioner may abate the tax in whole or in part, or, by agreement with the applicant, abate the tax in whole or in part in final settlement of said application subject to the provisions of section 37A or 37C of chapter 62C.

SECTION 3. Section 1 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out the definition of “Code” and inserting in place thereof the following definition:- “Code”, the Internal Revenue Code of the United States, as amended and in effect for the taxable year.

SECTION 4. Said section 1 of said chapter 62C, as so appearing, is hereby further amended by inserting after the definition of “Commissioner” the following definition:- “Deficiency assessment”, any assessment of tax, penalties or additions to tax assessed by the commissioner.

SECTION 5. Said section 1 of said chapter 62C, as so appearing, is hereby further amended by inserting after the definition of “Secretary” the following definition:- “Self-assessment” or “self-assessed”, the amount of tax due declared on a return filed by a taxpayer. For the purposes of this definition, taxes shall be deemed to be self-assessed at the amount of tax shown as the tax due upon any return filed under the provisions of this chapter and on any amendment, correction or supplement thereof, or at the amount properly due, whichever is less, and at the time when the return is filed or required to be filed, whichever occurs later.

SECTION 6. Section 9 of said chapter 62C, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- If any person or entity required to file a return under 62C fails to file such a return, any justice of the supreme judicial or the superior court, on petition of the commissioner, shall issue a writ of mandamus requiring such person or entity to file such return.

SECTION 7. The first paragraph of section 11 of said chapter 62C, as so appearing, is hereby amended by adding the following sentence:- In the instance of an S corporation that files as a taxable member of a combined group pursuant to section 32B of chapter 63, the S corporation shall file its return with respect to the income measure of its corporate excise on or before the fifteenth day of the fourth month following the close of the combined group’s taxable year, and, when the S corporation’s taxable year is the same as the combined group’s taxable year, shall file its return with respect to its non-income measure on or before this same date.

SECTION 8. Section 11A of said chapter 62C, as so appearing, is hereby amended by striking out, in line 12, the word “abatements” and inserting in place thereof the following words:- requests for appeal.

SECTION 9. Section 12 of said chapter 62C, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-
(a) Except as provided in this paragraph, every financial institution, as defined in section 1 of chapter 63, including an S corporation that is a financial institution, shall, on or before the fifteenth day of the fourth month following the close of each taxable year, make a return to the commissioner giving such information as the commissioner considers necessary for the determination of the tax imposed as required by section 2 or section 2B of chapter 63, respectively; provided, however, that an S corporation that is a financial institution that does not file as a taxable member of a combined group shall, on or before the fifteenth day of the third

month following the close of each taxable year, make a return to the commissioner giving such information as the commissioner considers necessary for the determination of the tax imposed as required by section 2B of chapter 63.

If any financial institution shall have participated in filing a consolidated return of income to the federal government, it shall file with the commissioner a statement of net income showing its gross income and deductions in accordance with the law and regulations governing the usual federal returns of corporations not so participating.

SECTION 10. Subsection (h) of section 16 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 96, the words "64I or 64L" and inserting in place thereof the following words:- 64I, 64L or 64N.

SECTION 11. Clause (25) of subsection (b) of section 21 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 162, the words "and, chapter 64L" and inserting in place thereof the following words:- , chapter 64L, chapter 64J.

SECTION 12. The first paragraph of section 24 of said chapter 62C, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- In any examination in which the commissioner reasonably anticipates that the period for assessment of tax will be extended pursuant to sections 26, 28, 30 or 30A, the period for examination of records otherwise applicable under this section shall be extended to correspond with the periods in which tax may be assessed pursuant to such subsections.

SECTION 13. Said section 24 of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 21 and 22, the words "and which comply with the provisions of the Internal Revenue Code".

SECTION 14. Section 24A of said chapter 62C, as so appearing, is hereby amended by striking out, in line 60, the word "abatement" and inserting in place thereof the following words:- request for appeal.

SECTION 15. Said section 24A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 118, the word "abatement" and inserting in place thereof the following words:- request for appeal.

SECTION 16. Said section 24A of said chapter 62C, as so appearing, is hereby further amended by striking out, in lines 121 and 122, the words "an application for abatement" and inserting in place thereof the following words:- a request for appeal.

SECTION 17. Said section 24A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 133, the words "abatement requests and" and inserting in place thereof the following words:- requests for appeal and other.

SECTION 18. Said chapter 62C is hereby further amended by striking out section 25 and inserting in place thereof the following section:-

Section 25. A distributor, unclassified importer, unclassified exporter or purchaser referred to in section 1 of chapter 64A, a stamper appointed under section 30 of chapter 64C, a user-seller or supplier of special fuels, as defined in section 1 of chapter 64E, a motor carrier required to be licensed under chapter 64F, an operator required to register under chapter 64G, a vendor required to register under chapter 64H or 64I, a user-seller or supplier of aircraft fuel, as defined in section 1 of chapter 64J, a direct broadcast satellite service provider as defined in section 1 of chapter 64M, a marijuana retailer as referred to in section 1 of chapter 64N and a licensee referred to in section 21 of chapter 138 shall keep and preserve suitable records of taxable charges and such other books, papers, records and data as the commissioner may require to determine the amount of the tax due under those respective chapters. Such records, including electronically stored information, shall be open to inspection and examination at any reasonable time by the commissioner or his duly authorized representative and such records shall, unless the commissioner consents in writing to an earlier destruction, be preserved for 3 years after the date the return was filed or the date it was due, whichever occurs later, and for such further period as may be agreed upon for the assessment of any additional tax; provided further that the commissioner may require such records to be kept for up to 6 years after the date the return was filed or the date it was due, whichever occurs later, where he finds there is a material failure to maintain full and accurate records during any taxable periods reviewed by the commissioner.

SECTION 19. Section 26 of said chapter 62C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out subsections (a) to (c), inclusive, and inserting in place thereof the following 3 subsections:-

- (a) (1) A taxpayer must file an amended return to adjust amounts of tax previously self-assessed, or to adjust a credit, including an adjustment attributable to federal or state changes of income under the provisions of sections 30 and 30A, respectively. A taxpayer may not modify a previous self-assessment, adjust a credit or report a change that has no net effect on a tax previously self-assessed by filing a request for appeal under section 37, and any such request for appeal will not extend the time limits for filing an amended return under paragraph (2) or (3) of this subsection.
- (2) A taxpayer filing an amended return pursuant to paragraph (1) of this subsection that seeks to decrease an amount of tax or to increase an amount of credit previously self-assessed, must file an amended return at any time (i) within 3 years from the date of filing of the original return, taking into account subsection (a) of section 79, (ii) within 3 years from the date the tax or credit was deemed to be self-assessed, or (iii) within 1 year from the date the tax was paid, whichever is later; provided, however, that where the commissioner and a taxpayer have agreed to extend the period for assessment of a tax pursuant to section 27, the period for decreasing such tax or increasing such credit shall not expire prior to the extended period within which an assessment may be made pursuant to such agreement or any extension thereof; and provided further that any adjustment that would result in a refund of tax, including a credit of such refund against another liability, is subject to section 36 to the extent of such refund or credit. The commissioner shall not accept an amended return decreasing a self-assessment of tax shown on a prior return after such dates, provided that the period for filing amended returns attributable to federal or state changes in income shall be determined under the provisions of sections 30 and 30A, respectively.
- (3) A taxpayer filing an amended return pursuant to paragraph (1) of this subsection that seeks to offset a deficiency assessment, as defined in subsection (b), by decreasing an amount of tax previously self-assessed pursuant to this subsection, based on issues unrelated to the deficiency assessment, must file an amended return at any time (i) within 3 years from the date of filing of

the original return, taking into account subsection (a) of section 79; (ii) within 2 years from the date of the deficiency assessment; or (iii) within 1 year from the date that the tax was paid, whichever is later, and the commissioner shall be authorized by this section to reduce all or part of such deficiency assessment; provided, however, that any reduction that would result in a refund or credit is subject to section 36 to the extent of such refund or credit.

(4) An amended return shall be processed by the commissioner in a manner comparable to the processing of an original return. If the commissioner determines, from the verification of an amended return or otherwise, that the full amount of any tax has not been assessed or is not considered to be assessed or that a credit should be disallowed on any amended return, the commissioner may, notwithstanding the limitation in subsection (b) of this section, at any time within 3 years after the date the amended return was filed, assess the same with interest as provided in section 32 to the date when the self-assessment is required to be paid, first giving notice of the commissioner's intention to the person to be assessed; provided, however, that said 3-year period for making an assessment shall be tolled during the period of time that the taxpayer has a bankruptcy case pending under the appropriate chapters of Title 11 of the United States Code. An assessment made under this section shall be subject to applicable penalties under this chapter, including those set forth in sections 33, 35A, 35D and 35E. An assessment by the commissioner under this section shall be limited to the tax attributable to the sum of the negative adjustments shown on any amended return. Errors evident on the face of the amended return may be corrected by the commissioner in the manner provided in subsection (c) of this section. Interest under section 40 shall accrue on any refund attributable to the filing of an amended return, provided that in the case of an amended return filed after the last day prescribed for the filing of the original return, if an overpayment is refunded within 90 days after the date the amended return is filed, no interest shall be allowed on such overpayment and the term date of overpayment under section 40 shall mean the date when the commissioner shall have received the properly completed amended return seeking such overpayment.

(5) In consideration of an amended return, the commissioner may offset, against the proposed reduction or allowance, additional tax due or reduction of credit whether or not the offset is based on issues related to the changes reflected on the amended return. Offsets may reduce or eliminate the reduction or allowance, but in no case shall the offset give rise to a net amount of tax due based on an assessment that would otherwise be barred as untimely. Any such offsets applied by the commissioner shall be treated as deficiency assessments for purposes of filing an appeal under section 37.

(b) (1) If the commissioner determines, from the verification of a return or otherwise, that the full amount of any tax has not been assessed or is not considered to be assessed, the commissioner may, at any time within 3 years after the date the return was filed or the date it was required to be filed, whichever occurs later, assess the same with interest as provided in section 32 to the date when the deficiency assessment is required to be paid, first giving notice of the commissioner's intention to the person to be assessed; provided, however, that said 3-year period for making an assessment shall be tolled during the period of time that the taxpayer has a bankruptcy case pending under the appropriate chapters of Title 11 of the United States Code. The taxpayer or the taxpayer's representative may confer with the commissioner or the commissioner's duly authorized representative as to the proposed assessment within 30 days after the date of such notification. After the expiration of 30 days from the date of such notification, the commissioner shall assess the amount of tax remaining due to the commonwealth, or any portion thereof, which the commissioner believes has not been assessed.

(2) In the case of 1 or more corporations that participated or were required to participate in a filing through the means of a combined report under section 32B of chapter 63, the commissioner may issue a notice of the intention to assess or a notice of assessment to each corporation that participated or was required to participate in the combined report with respect to any tax liability due from such corporation under said chapter 63, whether relating to the income measure or non-income measure of the corporate excise or minimum excise tax liability, by issuing a single notice to the principal reporting corporation on its own behalf and as the agent for each corporation that is being assessed. The single notice shall state the net cumulative liability of all such assessed corporations. In such cases, the commissioner shall provide detail as to the assessment that is being issued to each corporation included in the cumulative assessment in the form of work papers made available to the principal reporting corporation in connection with the notice of the cumulative assessment that is directed to such principal reporting corporation. Nothing in this paragraph shall preclude the commissioner from separately and directly assessing any individual corporation subject to tax under said chapter 63, rather than assessing such corporation through the means of a cumulative assessment as referenced in this paragraph, even when such corporation participated in or was required to participate in the filing of a combined report.

(3) If the commissioner audits or verifies the returns of the same tax for 2 or more tax periods and determines, as a result thereof, that the amounts assessed result in overpayments for some tax periods and underpayments for others, the commissioner shall offset the overpayments against the underpayments and refund any net overpayment as required by section 36. An application for abatement under section 37 shall not be required for overpayments resulting from assessments made pursuant to this section.

(4) If the commissioner determines, from the verification of a return or otherwise, that a credit should be disallowed, the commissioner may, at any time within 3 years after the date the return was filed or the date it was required to be filed, whichever occurs later, notwithstanding the erroneous payment provisions in section 36A, disallow the credit and assess any resulting tax due and any credit amounts which were refunded previously as tax, with interest as provided in section 32 as of the date the deficiency assessment is required to be paid, by first giving notice of the commissioner's intention to the person to be assessed; provided, however, that said 3-year period for making an assessment shall be tolled during the period of time that the taxpayer has a bankruptcy case pending under the appropriate chapters of Title 11 of the United States Code. The taxpayer or the taxpayer's representative may confer with the commissioner or the commissioner's duly authorized representative as to the proposed assessment or credit disallowance within 30 days after the date of such notification. After the expiration of 30 days from the date of such notification, the commissioner shall disallow the credit, and assess the amount of tax remaining due and any credit amounts which were refunded previously as tax, or any portion thereof.

(5) Failure to receive the notice provided for by this section shall not affect the validity of the tax.

(c) In the case of an arithmetic, clerical or other obvious error, including any exclusion of taxable unemployment compensation or Massachusetts state lottery winnings, apparent either upon the face of the return or from a comparison of the return with any records pertaining to the taxpayer's liability or payment thereof, which are maintained by the commissioner or furnished to the commissioner from any third party source, the commissioner may assess a deficiency attributable to such error without giving notice to the person being assessed. The commissioner

may make such corrections to errors found upon a taxpayer's return and to the amount shown as the tax assessed thereon, including an increase in tax due or a reduction in a refund claimed, as will cause the return to conform with any records pertaining to the taxpayer's liability or payment thereof, which are maintained by the commissioner or furnished to the commissioner by any third-party. Concurrently with the making of such corrections, the commissioner shall notify the taxpayer in writing of the changes made to the return. A taxpayer that disagrees with the changes made to the return may either submit an amended return within the period permitted under paragraph (3) of subsection (a) or submit a request for appeal within the period permitted under section 37, in a manner prescribed by the commissioner.

SECTION 20. Said chapter 62C is hereby further amended by striking out section 30 and inserting in place thereof the following section:-

Section 30. If the federal government finally determines that there is a difference from the amount previously reported in (1) the taxable income of a person subject to taxation under chapter 62, (2) a federal credit to which such person may be entitled, but only if the calculation of such credit has an effect on the computation of the tax imposed or the credits allowed under chapter 62, or (3) the adjusted gross income of a person subject to taxation under chapter 62, but only if the change in adjusted gross income has an effect on the computation of the tax imposed or credits allowed under chapter 62, the final determination shall be reported, accompanied by payment of any additional tax due or repayment of any refunded credits reduced by the change with interest as provided in section 32, to the commissioner by filing an amended return within 1 year of receipt of notice of such final determination. If the federal government finally determines that there is a difference from the amount previously reported in (1) the taxable income of a person subject to taxation under chapter 63, or (2) a federal credit to which the person may be entitled, but only if the calculation of the credit has an effect on the computation of the tax imposed or the credits allowed under chapter 63, the final determination shall be reported, accompanied by payment of any additional tax due or repayment of any credits refunded with interest as provided in section 32, to the commissioner by filing an amended return within 3 months of receipt of notice of the final determination. If the federal taxable estate of an estate subject to taxation under chapter 65C is finally determined by the federal government to be different from the taxable estate as previously reported, the final determination shall be reported, accompanied by payment of any additional tax due with interest as provided in section 32, to the commissioner by filing an amended return within 2 months of receipt of notice of the final determination. The amended return reporting the change shall include a statement of the reasons for the difference in a form as the commissioner may require. If from the amended return reporting the change or upon investigation it shall appear that any tax under chapter 62, chapter 63 or chapter 65C has not been fully assessed or a credit has been over reported, the commissioner shall, notwithstanding the 3 year limitation in section 26, assess an additional tax, if any, with respect thereto, with interest as provided in section 32. An assessment under this section shall be made in the manner provided in section 26 within 1 year of the receipt of the amended return reporting the change or, where no amended return is filed with the commissioner, within 2 years of the receipt by the commissioner of information from the federal government that it has made a final determination of the person's federal taxable income or credits or of the federal taxable estate. A person or estate may include in the amended return reporting a change under this paragraph proposed offsets to the additional tax due based on issues unrelated to the change. The offsets, if allowed, may reduce or eliminate the additional tax

due, but in no case shall the offset give rise to a credit or refund of tax that would otherwise be barred as untimely.

If, as a result of the change by the federal government in a person's federal taxable income, adjusted gross income, federal credits or federal taxable estate, the person or estate believes that a lesser tax was due the commonwealth than was assessed or additional refundable credits should be allowed, the person or estate may file an amended return seeking a reduction in the assessment or allowance of additional credits thereof under subsection (a) of section 26 within 1 year of the date of notice of the final determination by the federal government. The commissioner in his consideration of the amended return may offset against the proposed reduction or allowance additional tax due or reduction of credit whether or not the offset is based on issues related to the change. Offsets based on issues unrelated to the change may reduce or eliminate the reduction or allowance, but in no case shall the offset give rise to a net amount of tax due based on an assessment that would otherwise be barred as untimely. Any such offsets applied by the commissioner shall be treated as deficiency assessments for purposes of filing an appeal under section 37.

The commissioner shall make no assessment under this section, nor allow any reduction of a self-assessment or additional refundable credit under this section unless the assessment, reduction or additional credits, less any offset allowable against the assessment, reduction or additional credits under this section, is directly attributable to changes, adjustments or corrections to the taxpayer's federal taxable income or credits or federal estate resulting in a final determination.

Any person or estate failing to comply with the first paragraph shall be assessed a penalty of 10 per cent of the additional tax found due and such penalty shall become part of the additional tax found due. For reasonable cause shown, the commissioner may, in the commissioner's discretion, abate the penalty in whole or in part.

For purposes of this section, the term "person" shall include any individual, partnership, trust, corporate trust or any other fiduciary subject to taxation under chapters 62 or 65C, or any corporation subject to taxation under chapter 63.

For purposes of this section, a final determination of a change by the federal government may be initiated by the filing of an amended federal return by the taxpayer.

For purposes of this section, a final determination of a change by the federal government includes a closing agreement or accepted offer in compromise under the Code, as amended and in effect for the taxable year, or any similar agreement that results in a change in federal taxable income or a credit, that has an effect on the computation of the tax imposed or the credits allowed under chapter 62, 63 or 65C, whether or not the audit or other review is complete with respect to issues not addressed in the agreement.

In the case of the filing of a combined report pursuant to section 32B of said chapter 63, the principal reporting corporation shall file all notices of change as provided under this section, together with payment of additional amounts due or a request for appeal, as the case may be, on behalf of all corporations participating in or required to participate in the filing of the combined report. Without limitation, such notices of change shall be required from the principal reporting corporation in the event of a final determination of federal change to the income or credits included or required to be included in the combined report, or any portion thereof, without regard to the particular corporations taking such income or credits into account for federal income tax purposes or to whether such corporations are required to file a return under this chapter. A principal reporting corporation shall be subject to the penalties provided under the fourth

paragraph of this section if it fails to file a required notice of change under this paragraph. Nothing in this paragraph shall preclude the commissioner from separately and directly assessing any individual corporation subject to tax under said chapter 63 even when such corporation participated in or was required to participate in the filing of a combined report. The commissioner of revenue may promulgate rules and regulations necessary to implement this section.

SECTION 21. Section 30A of said chapter 62C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out subsections (a) and (b) and inserting in place thereof the following subsections:-

(a) If the tax due any other state, territory or possession of the United States, or the Dominion of Canada or any of its provinces, on account of any item of Massachusetts gross income of a Massachusetts resident, is finally determined by that jurisdiction to be less than the tax previously reported, and such tax was the basis for a credit claimed by the Massachusetts resident under subsection (a) of section 6 of chapter 62, the final determination shall be reported, accompanied by payment of any additional tax due with interest as provided in section 32, to the commissioner by filing an amended return within 1 year of receipt of notice of the final determination. The amended return reporting the change shall include a statement of the reasons for the difference in a form as the commissioner may require. If from the amended return reporting the change or upon investigation it shall appear that any tax under chapter 62 has not been fully assessed, the commissioner shall, notwithstanding the limitation in section 26, assess an additional tax, if any, with respect thereto, with interest as provided in section 32. An assessment under this section shall be made in the manner provided in section 26 within 1 year of the receipt of the amended return reporting the change or, where no amended return is filed with the commissioner, within 2 years of the receipt by the commissioner of information from the jurisdiction that it has made a final determination of the person's tax. A person may include in the amended return reporting a change under this paragraph proposed offsets to the additional tax due based on issues unrelated to the change. The offsets, if allowed, may reduce or eliminate the additional tax due, but in no case shall the offset give rise to a credit or refund of tax that would otherwise be barred as untimely.

(b) If, as a result of a change by such a jurisdiction in a person's tax due that jurisdiction, the person believes that he is entitled to additional credit under subsection (a) of section 6 of chapter 62 and that a lesser tax was due the commonwealth than was paid, the person may file an amended return seeking a reduction in the assessment thereof under subsection (a) of section 26 within 1 year of the date of notice of the final determination. The commissioner in his consideration of the amended return may offset against the proposed reduction additional tax due or reduction of credit whether or not the offset is based on issues related to the change. Offsets based on issues unrelated to the change may reduce or eliminate the reduction, but in no case shall the offset give rise to a net amount of tax due based on an assessment that would otherwise be barred as untimely. Any such offsets applied by the commissioner shall be treated as deficiency assessments for purposes of filing an appeal under section 37.

SECTION 22. Section 31A of said chapter 62C, as so appearing, is hereby amended by striking out, in line 6, the words "or section 6 of chapter 64L" and inserting in place thereof the following words:- , section 6 of chapter 64L or section 6 of chapter 64N.

SECTION 23. Section 32 of said chapter 62C, as so appearing, is hereby amended by inserting, in line 35, after the words “inclusive,” the following words:- and chapters 64L to 64N, inclusive,.

SECTION 24. Said section 32 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 38, the word “if” and inserting in place thereof the following words:- provided that.

SECTION 25. Said section 32 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 43, the words “application for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 26. Said section 32 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 65, the words “an abatement” and inserting in place thereof the following words:- a request for appeal.

SECTION 27. Said section 32 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 71, the words “an abatement of the tax” and inserting in place thereof the following words:- a request for appeal.

SECTION 28. Said section 32 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 90, the words “application for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 29. Said section 32 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 120, the words “application for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 30. Section 33A of said chapter 62C, as so appearing, is hereby amended by striking out, in line 1, the words “application for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 31. Said section 33A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 7, the word “application” and inserting in place thereof the following word:- request.

SECTION 32. Said section 33A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 18, the word “application” and inserting in place thereof the following word:- request.

SECTION 33. Section 35C of said chapter 62C, as so appearing, is hereby amended by striking out, in line 2, the words “claim for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 34. Said section 35C of said chapter 62C, as so appearing, is hereby further amended by striking out, each time it appears, in lines 5, 8 and 12, the word “claim” and inserting in place thereof, in each instance, the following word:- request.

SECTION 35. Said section 35C of said chapter 62C, as so appearing, is hereby further amended by striking out, in said line 12, the words “claim for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 36. Said section 35C of said chapter 62C, as so appearing, is hereby amended by striking out, in line 30, the words “claim for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 37. Section 35E of said chapter 62C, as so appearing, is hereby amended by striking out, in line 16, the words “claim for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 38. Section 36 of said chapter 62C, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

A request for a refund or credit of an overpayment of any tax where an original return has not been timely filed, shall be made by filing the overdue original return within 3 years from the due date of the return, taking into account any extension of time for filing the return, or within 2 years of the date that the tax was paid, whichever is later. A request for a refund or credit of an overpayment of any tax where no return is required shall be made by the taxpayer within 2 years from the time the tax was paid in a manner as prescribed by the commissioner. All other requests for a refund or credit of an overpayment of tax relating to a self-assessment under subsection (a) of section 26 shall be made by filing an amended return within the period permitted under paragraph (2) of subsection (a) of section 26. A request for a refund or credit relating to a deficiency assessment shall be made either by submitting a request for appeal within the period permitted under section 37 or, if seeking an offset, by submitting an amended return within the period permitted under paragraph (3) of subsection (a) of section 26. Any request for a refund or credit filed beyond these deadlines shall be denied by the commissioner. Where a refund or credit results from an amended return or from a request for appeal, the amount of such refund or credit shall be limited to the amount paid, or deemed paid pursuant to section 79, within 3 years of the date that the amended return or request for appeal is filed, taking into account any extension of time for filing the original return. Notwithstanding the preceding sentence and any contrary provision of section 27, where the commissioner and the taxpayer have agreed to extend the period for assessment of a tax pursuant to section 27, the amount of any refund or credit, whether determined by the commissioner to be an overpayment pursuant to section 27 or claimed by the taxpayer pursuant to a timely filed amended return or request for appeal, shall not exceed the amount of the tax paid after the execution of the agreement and before the expiration of the agreed extension period or periods plus the amount of the tax paid which would otherwise be eligible for refund under this section if an amended return or request for appeal had been filed on the date the agreement was first executed. This section shall not limit refunds or credits otherwise allowed pursuant to section 30 or 30A.

SECTION 39. Said chapter 62C is hereby further amended by striking out section 37 and inserting in place thereof the following section:-

Section 37. Any person aggrieved by a deficiency assessment may file a request for appeal on a form approved by the commissioner for a reduction of the deficiency assessment thereof at any

time: (1) within 3 years from the date of filing of the original return, taking into account subsection (a) of section 79; (2) within 2 years from the date of the deficiency assessment; or (3) within 1 year from the date that the tax was paid, whichever is later, and the commissioner shall be authorized by this section to reduce all or part of such deficiency assessment; provided, however, that any reduction that would result in a refund of tax, including a credit of such refund against another liability, is subject to section 36 to the extent of such refund or credit.

A request for a determination of innocent spouse status with respect to an assessment under this chapter shall be made by the taxpayer by filing a request for appeal, on a form approved by the commissioner, (1) within 3 years from the date of filing of the original return, taking into account subsection (a) of section 79; (2) within 2 years from the date the tax was assessed or deemed to be assessed; or (3) within 1 year from the date that the tax was paid, whichever is later, and the commissioner shall be authorized by this section to determine innocent spouse status for such person with respect to all or part of such assessed tax. A taxpayer that has been deemed a responsible person with respect to an assessed tax may contest the commissioner's determination by filing a request for appeal, on a form approved by the commissioner, (1) within 3 years from the date of filing of the original return, taking into account subsection (a) of section 79; (2) within 2 years from the date of the responsible person assessment; or (3) within 1 year from the date that the tax was paid, whichever is later, and the commissioner shall be authorized by this section to determine that such person is not responsible for all or part of such assessed tax. Any reduction that would result in a refund of tax under this paragraph, including a credit of such refund against another liability, is subject to section 36 to the extent of such refund or credit.

The applicant shall, at the time of filing its request for appeal, include and attach to it all supporting information, documents, explanations, arguments and authorities that will reasonably enable the commissioner to determine whether the applicant is entitled to the relief requested.

The applicant shall not be considered to have submitted a completed written request for appeal until the date on which all such information reasonably requested from the applicant and reasonably necessary for a decision has been furnished to the commissioner. If the commissioner has made a written request to the applicant for additional information, not then contained in the taxpayer's pending request for appeal, and the applicant fails to provide such information within 30 days after such request, or within any extended period allowed by the commissioner, that request for appeal shall be considered incomplete and shall be denied without prejudice to its timely renewal. The commissioner shall give such applicant written notice that the denial is based upon the lack of sufficient information to grant the taxpayer's request for appeal. In a case in which the commissioner has denied a request for appeal based upon incomplete supporting information, no interest under section 40 shall begin to accrue upon any such claim which is appealed to the appellate tax board or to a probate court under section 39 before the date on which a decision on such claim on the merits is rendered by the board or court in favor of the taxpayer.

The commissioner shall, if requested, give the applicant a hearing upon its request for appeal; and if the commissioner finds that applicant is entitled to all or part of the relief sought in its request for appeal and that such relief is authorized by this section, the commissioner shall grant the requested relief in whole or part. The commissioner shall give notice to the applicant of his decision upon the request for appeal.

The commissioner shall, if requested, give the applicant a hearing upon its request for appeal if the applicant has not already had a pre-assessment hearing under subsection (b) of section 26; unless the applicant first establishes to the satisfaction of the commissioner that a further hearing

is necessary either due to the availability of new factual information or new legal precedent not available to the applicant at the time of the conference permitted under said subsection (b) of said section 26; and if the commissioner finds that the applicant is entitled to all or part of the relief sought in its request for appeal and that such relief is authorized by this section, the commissioner shall grant the requested relief in whole or part. The commissioner shall give notice to the applicant of his decision upon the request for appeal.

If such person is an operator as defined in section 1 of chapter 64G, a vendor as defined in section 1 of chapter 64H or section 1 of chapter 64I, a direct broadcast satellite service provider as defined in section 1 of chapter 64M or a marijuana retailer as defined in section 1 of chapter 64N, who has collected such tax, no actual refund of money shall be made to such person until he establishes to the satisfaction of the commissioner, under such regulations as the commissioner may prescribe, that he has repaid to the purchaser the amount for which the application for refund is made.

In the case of a combined report filed pursuant to section 32B of chapter 63, the principal reporting corporation may act under this section as the agent for any and all corporations that participated in or were required to participate in such filing. In the case of such combined report, the commissioner may offset against a reduction of the deficiency assessment with respect to such corporation, as determined by the commissioner under this section, additional excise that is due or determined to be due under said chapter 63 from any corporation that participated in or was required to participate in the combined report filing, whether that additional excise due may result from the application of the income or non-income measures of the corporate excise or to the minimum excise tax and whether or not the additional tax is based on issues related to the request for appeal. Offsets based on issues unrelated to the request for appeal may reduce or eliminate such reduction of the deficiency assessment, but in no case shall such offset give rise to a net amount of tax due where an assessment would otherwise be barred as untimely.

SECTION 40. Section 37A of said chapter 62C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out subsections (c) and (d) and inserting in place thereof the following subsection:-

(c) There is a written agreement, signed by all parties, setting forth the commissioner's reasons for the settlement and all relevant information, including, but not limited to, the names of all parties, the amount and type of tax, interest, penalties and charges settled, and the amount actually paid in accordance with the terms of the settlement. Any amount assessed that is not collected pursuant to the provisions of this section shall be abated by the commissioner.

Upon request the commissioner shall make available for public inspection the written agreement containing a settlement pursuant to this section.

Notwithstanding any provision of law to the contrary, any tax liability settlement under this section which proposes to accept an amount which is less than the full amount of the tax liability owed by the taxpayer by \$20,000 or more, or which proposes to accept an amount which is less than 50 per cent of the full amount of the tax liability owed by the taxpayer shall be submitted to the attorney general for review. Any such settlement proposal shall take effect 21 days after its receipt by the attorney general unless the attorney general objects in writing to the settlement. In the event the attorney general objects to a settlement proposal, such settlement shall not take effect until the objection is resolved by the commissioner and the attorney general. Any settlement approved under the terms of this section will not be subject to the confidentiality provisions of section 21 of this chapter.

Neither the taxpayer nor the commissioner, upon signing the agreement, shall be permitted to reopen the matter which is the subject of such agreement, except by reason of (1) falsification or concealment of assets by the taxpayer, or (2) mutual mistake of a material fact sufficient to cause a contract to be reformed or set aside.

The commissioner shall, as part of his annual report under section 6 of chapter 14, list all settlements entered into pursuant to this section during the fiscal year. Such report shall list the name of each taxpayer agreeing to a settlement and the amount of such settlement.

SECTION 41. Section 37C of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words "an application for abatement" and inserting in place thereof the following words:- a request for appeal.

SECTION 42. Said chapter 62C, as so appearing, is hereby amended by striking out sections 38 and 39 and inserting in place thereof the following sections:-

Section 38. No tax assessed on any person liable to taxation shall be reduced unless the person assessed shall have filed, at or before the time of bringing his request for appeal, a return as required by this chapter for the period to which his request for appeal relates; and if he filed a fraudulent return, or having filed an incorrect or insufficient return, has failed, after notice, to file a proper return, the commissioner shall not abate the tax below double the amount for which the person assessed was properly taxable under this chapter.

Section 39. Any person aggrieved by the refusal of the commissioner to grant relief in whole or part pursuant to a request for appeal under sections 36 and 37 may appeal therefrom, within 60 days after the date of notice of the decision of the commissioner as follows:

- (a) appeals from the decision of the commissioner as to the value of an asset of the estate for purposes of chapter 65C shall be made by filing a petition with the clerk of the appellate tax board;
- (b) appeals from the decision of the commissioner as to all other matters arising under chapter 65C shall be made by filing a petition with either the clerk of the appellate tax board or the probate court having jurisdiction of the estate of the decedent;
- (c) appeals from the commissioner's refusal to grant relief in whole or part pursuant to a request for appeal under section 37 shall be made by filing a petition with the clerk of the appellate tax board. If, on hearing, the board or the court, whichever the case may be, finds that the person making the appeal was entitled to obtain further relief under section 37 than was granted by the commissioner, it shall order such further relief, to the extent such relief is authorized by section 37. If the appellate tax board orders the abatement of a tax and the tax so abated has been paid, the state treasurer, upon presentation to him of the notice of the decision of the board, or the court, shall repay to the petitioner the amount of the abatement and interest computed in accordance with section 40. If the commissioner has not acted on a request for appeal under section 37, after the expiration of 6 months from the date of the request, the applicant may seek an appeal with the appellate tax board under this subparagraph; and
- (d) appeals from the decision of the commissioner to deny a request for refund or credit of amounts paid in whole or in part under section 36 shall be made by filing a petition with the clerk of the appellate tax board. If, on hearing, the board or the court, whichever the case may be, finds that the person making the appeal was entitled to obtain further relief under section 36, it shall order such further relief, to the extent such relief is authorized by section 36. If the taxpayer is entitled to a refund, the state treasurer, upon presentation to him of the notice of the decision of

the board, or the court, shall pay the petitioner the amount of the refund and interest computed in accordance with section 40. If the commissioner has not acted on a request for refund or credit under section 36, after the expiration of 6 months from the date of the request, the applicant may seek an appeal with the appellate tax board under this subparagraph.

SECTION 43. Section 40 of said chapter 62C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, in line 21, the words “application for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 44. Said section 40 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 24, the word “application” and inserting in place thereof the following word:- request.

SECTION 45. Section 47A of said chapter 62C, as so appearing, is hereby amended by striking out, in line 30, the words “application for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 46. Said section 47A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 61, the words “abatement application” and inserting in place thereof the following words:- request for appeal.

SECTION 47. Said section 47A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 62, the words “an abatement application” and inserting in place thereof the following words:- a request for appeal.

SECTION 48. Said section 47A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 73, the word “abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 49. Section 47B of said chapter 62C, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “application for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 50. Said section 47B of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 29, the words “abatement application” and inserting in place thereof the following words:- request for appeal.

SECTION 51. Said section 47B of said chapter 62C, as so appearing, is hereby further amended by striking out, in lines 30 and 31, the words “an abatement application” and inserting in place thereof the following words:- a request for appeal.

SECTION 52. Said section 47B of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 41, the word “appeal” and inserting in place thereof the following word:- request.

SECTION 53. Said section 47B of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 45, the word “abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 54. Section 49A of said chapter 62C, as so appearing, is hereby amended by striking out, in line 44, the words “application for abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 55. Said section 49A of said chapter 62C, as so appearing, is hereby further amended by striking out, in lines 87 and 88, the words “abatement application” and inserting in place thereof the following words:- request for appeal.

SECTION 56. Said section 49A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 89, the words “an abatement application” and inserting in place thereof the following words:- a request for appeal.

SECTION 57. Said section 49A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 99, the word “appeal” and inserting in place thereof the following word:- request.

SECTION 58. Said section 49A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 103, the word “abatement” and inserting in place thereof the following words:- request for appeal.

SECTION 59. Said chapter 62C of the General Laws is hereby amended by striking out section 50 and inserting in place thereof the following section:-

Section 50. (a) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount, including any interest, additional amount, addition to tax, assessable penalty or forfeiture, together with any costs that may accrue in addition thereto, shall be a lien in favor of the commonwealth upon all property and rights to property, whether real or personal, belonging to such person. The lien shall also extend to property or rights to property of a trust with respect to tax amounts due from a grantor or other person treated as the owner of a portion of such trust by reason of sections 671-678 of the Code, as defined in subsection (c) of section 1 of chapter 62, and to property or rights to property of a disregarded entity with regard to tax amounts due from the owner of the entity, but with respect to real property and fixtures, the lien shall not be valid against a mortgagee, pledge, purchaser or judgment creditor unless the notice to be recorded pursuant to paragraph (1) of subsection (b) includes therein the names of the persons in whom the record title to the real property or fixtures stands at the time of recording the notice. The lien shall arise at the time the assessment is made or deemed to be made and shall continue until: (1) the liability for the amount assessed or deemed to be assessed is satisfied; (2) a judgment against the taxpayer arising out of such liability is satisfied; or (3) any such liability or judgment becomes unenforceable by reason of the lapse of time within the meaning of section 6322 of the Code. The lien created in favor of the commonwealth for any unpaid tax shall remain in full force and effect for: (i) a period of 10 years after the date of assessment, deemed assessment or self-assessment of the tax; or (ii) for such longer period of time as permitted by section 6322 of the Code, in effect and as amended from time to time, and as construed or

interpreted either by the regulations or other authorities promulgated under said section 6322 of the Code by the Internal Revenue Service or by any federal court or United States Tax Court decision. If, by operation of said section 6322 of the Code, a tax lien in favor of the commonwealth would extend beyond its initial or any subsequent 10-year period, the commissioner shall be authorized to refile his notice of lien. If any such refiled lien is filed within the "required refiling period", as that term is defined in section 6323(g)(3) of the Code, the lien in favor of the commonwealth shall relate back to the date of the first such lien filing. Otherwise, any such refiled lien shall be effective from the date of its filing. A notice of tax lien filed prior to the effective date of regulations promulgated pursuant to section 15 of chapter 14 with the secretary of the commonwealth or a county registry of deeds shall be extended by the refiling of that notice of lien on or after the effective date of regulations promulgated pursuant to section 15 of chapter 14, in the State Tax Lien Centralized Registry. The information contained in the State Tax Lien Centralized Registry shall be controlling, and the State Tax Lien Centralized Registry shall supersede the records of the secretary of the commonwealth or a county registry of deeds. The commissioner of revenue shall promulgate such rulings and regulations as may be necessary for the implementation of this subsection.

(b) The lien imposed by this section shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor until notice thereof has been filed by the commissioner. On or after the effective date of regulations promulgated pursuant to section 15 of chapter 14, the notice shall be filed in the State Tax Lien Centralized Registry. Prior to that date the notice shall be filed as follows:

(1) With respect to real property or fixtures, in the registry of deeds of the county where such property is situated, and

(2) With respect to personal property other than fixtures, in the filing office in which the filing of a financing statement would perfect, under Article 9 of chapter 106, an attached nonpossessory security interest in tangible personal property belonging to the person liable to pay the tax as if the person were located in the commonwealth under section 9-307 of said chapter 106. The filing of a notice of any such lien or of a waiver or release of any such lien shall be received and registered or recorded without payment of any fee.

(c) Even though notice of a lien provided in this section has been filed in the manner prescribed in subsection (b), the lien shall not be valid with respect to a security, as hereinafter defined, as against any mortgagee, pledgee or purchaser of such security, for an adequate and full consideration in money or money's worth, if at the time of such mortgage, pledge or purchase such mortgagee, pledgee, or purchaser is without notice or knowledge of the existence of such lien. As used in this subsection, the term "security" means any bond, debenture, note or certificate or other evidence of indebtedness issued by any corporation, including one issued by a governmental or political subdivision thereof, with interest coupons or in registered form, share of stock, voting trust certificate, or any certificate of interest or participation in, certificate of deposit or receipt for, temporary or interim certificate for, warrant or right to subscribe to or purchase, any of the foregoing; negotiable instrument; or money.

(d) If notice of a lien has been filed under subsection (b), the commissioner may provide by regulation the extent to which, and the conditions under which, information as to the amount of the outstanding obligation secured by such lien may be disclosed.

(e) In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the commissioner, in addition to other modes of relief, may direct a civil action to be filed in a district or superior court of the

commonwealth to enforce the lien of the commonwealth under this section with respect to such tax or liability or to subject any property of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such tax or liability.

(f) The commissioner may issue a waiver or release of any lien imposed by this section. Such waiver or release shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished. The waiver or release filed in the State Tax Lien Centralized Registry shall constitute a release of the tax lien within the State Tax Lien Centralized Registry, the secretary of the commonwealth, and the county in which the tax lien was previously filed. The information contained in the State Tax Lien Centralized Registry shall be controlling, and the State Tax Lien Centralized Registry shall supersede the records of any county.

SECTION 60. Section 55A of said chapter 62C of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out, in lines 60 to 61, the words “paragraphs (1) to (9), inclusive, of section 152(a)” and inserting in place thereof the following words:- section 152(d)(2).

SECTION 61. Said section 55A of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 67, the words “paragraph (9) of section 152(a)” and inserting in place thereof the following words:- paragraph (H) of section 152(d)(2).

SECTION 62. Section 65 of said chapter 62C, as so appearing, is hereby amended by adding the following paragraph:-

If a proceeding in court for the collection of a tax is commenced within the period of limitations in this section, the period during which such tax may be collected shall be extended and shall not expire until the liability or a judgment against the taxpayer arising from such liability is satisfied or becomes unenforceable.

SECTION 63. Section 81 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 23, the words “an application for abatement” and inserting in place thereof the following words:- a request for appeal.

SECTION 64. Paragraph (f) of section 6 of chapter 64H of the General Laws, as so appearing, is amended by adding after the word “project.”, the following:-

“Contractors renting said construction vehicles, equipment, and machinery, including but not limited to office trailers, storage containers, portable restrooms, and vehicles, from a rental vendor shall be required to provide at time of rental a Contractor’s Sales Tax Exempt Purchase Certificate issued by the department of revenue that includes the following: name of exempt organization; exempt number, or in the alternative, the exempt entity’s ST-2; the purchasing contractor or subcontractor’s name; the contract/subcontract date and estimated date of completion (if no estimated date of completion is provided, certificate is valid for a maximum of 24 months from the contract date); the contractor’s signature and title; and the location and description of the exempt project. A rental vendor accepting the Contractor’s Sales Tax Exempt Purchase Certificate from the contractor shall be held harmless from collection of the sales/use tax if accepted in good faith. In this paragraph the following words shall have the following meaning: “Rental Vendor” includes a rental business that rents equipment and other tangible personal property in the state under rental agreements for 365 days or less, or under open-ended agreements. “Purchaser” means

a contractor or subcontractor that is renting from a rental vendor equipment to be used on a tax exempt project in the state pursuant to this paragraph. "Contractor's Sales Tax Exempt Purchase Certificate" means an exemption form that includes the information provided above. "Good faith" means the acceptance of a completed tax exempt purchase certificate under this paragraph."

SECTION 65. Section 24 of chapter 64I of the General Laws, as so appearing, is hereby repealed.

SECTION 66. Chapter 64N of the General Laws is hereby amended by inserting after section 5 the following section:-

Section 6. A marijuana establishment that fails to pay to the commissioner any sums required by this chapter shall be personally and individually liable therefor to the commonwealth. As used in this section, the term "marijuana establishment" shall include an officer or employee of a corporation or a member or employee of a partnership or a limited liability company who, as such officer, employee or member, is under a duty to pay the excises imposed by this chapter.

SECTION 67. Subsection (a) of section 24F of chapter 175 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

For the purpose of this section, the word "claimant" shall mean an individual who brings a claim against an insured party under a liability insurance policy issued in the commonwealth or under the liability coverage portion of a multi-peril policy issued in the commonwealth, a beneficiary 13 years of age or older under a life insurance contract issued in the commonwealth, or a beneficiary 13 years of age or older living in the commonwealth who is designated to receive payment under a life insurance contract issued by a company licensed in the commonwealth. For the purposes of this section, the term "non-recurring payment" shall not include fines paid by companies to claimants pursuant to subsection (e). For purposes of this chapter, the department of revenue shall not consider a person to owe taxes to the commonwealth during the period of time that the person is contesting a tax as set forth in subsection (e) of section 32 of chapter 62C, provided that all of the conditions and limitations contained therein also apply.

SECTION 68. Subsection (b) of section 11 of chapter 176I of the General Laws, as so appearing, is hereby amended by striking out, in line 18, the word "March" and inserting in place thereof the following word:- April.

SECTION 69. The commissioner of revenue may issue regulations or other guidance announcing transition rules with respect to implementing the purposes of this act.

SECTION 70. Section 1 shall take effect on July 1, 2023. A lien that is perfected prior to such effective date shall continue to be perfected and to be entitled to priority on the same terms as provided in subsection (b) of section 50 of chapter 62C, or other applicable provisions; provided that nothing shall preclude the refiling of such lien pursuant to subsection (a) of section 50 of chapter 62C.

SECTION 71. Except as otherwise specified, this act shall take effect 90 days following the date of enactment.

SECTION BY SECTION:
H4362, An Act to improve tax administration in the Commonwealth

SECTION 1: updates the Department of Revenue by creating a “State Tax Lien Centralized Registry” limited to tax liens on real and personal property of taxpayers against whom the commonwealth has liens for unpaid liabilities.

SECTION 2: updates the jurisdiction of the Tax Appellate Board

SECTION 3: updates definitions in chapter 62C

SECTION 4: updates definitions in chapter 62C

SECTION 5: updates definitions in chapter 62C

SECTION 6: updates the writ of mandamus for failure to file a tax return

SECTION 7: updates the date upon which an S Corporation should file a return

SECTION 8: amends section 11A of chapter 62C by replacing “abatements” with “requests for appeal” among the list of notices and actions for which the Commissioner may treat the principal reporting corporation as the agent for all corporations that are required to participate in filing a combined report under section 32B of chapter 63.

SECTION 9: includes S corporations that are financial institutions among the financial institutions that must file returns with the commissioner

SECTION 10: requires marijuana vendors who have made any sale taxable to file a return

SECTION 11: amends the disclosure of information necessary for administration of the local option tax, to include chapter 64J, “Taxation of fuels used in the propulsion of aircraft.”

SECTION 12: extends the period for examination of records.

SECTION 13: allows the commissioner to utilize such statistical sample methods which he or she deems appropriate.

SECTION 14: replaces the term “abatement” with “requests for appeal” with respect to income reporting of the owner or indirect owner of a pass-through entity during a unified audit procedure

SECTION 15: replaces the term “abatement” with “requests for appeal” with respect to income reporting of the owner or indirect owner of a pass-through entity during a unified audit procedure

SECTION 16: replaces the term “abatement” with “requests for appeal” with respect to income reporting of the owner or indirect owner of a pass-through entity during a unified audit procedure

SECTION 17: replaces the term “abatement” with “requests for appeal” with respect to income reporting of the owner or indirect owner of a pass-through entity during a unified audit procedure.

SECTION 18: include marijuana vendors among vendors required to keep records of taxable charges which shall be open to inspection and examination

SECTION 19: updates the general laws relating to the assessment of taxes.

SECTION 20: update the federal income tax changes, assessment, and abatement penalty.

SECTION 21: updates the adjustments based on final determination of tax due in certain other jurisdictions.

SECTION 22: amends section 31A of Chapter 62C to include the marijuana tax with respect to notice of unpaid corporate or partnership assessments.

SECTION 23: amends section 32 of Chapter 62C to the marijuana tax, and the local option meals excise.

SECTION 24: amends section 32 or chapter 62C with a technical change from “if” to “provided that”.

SECTIONS 25-37: replaceS the terms “abatement” or “application for abatement” with the term “request for appeal” with respect to taxes payment date and notice update; US postmark/alternative delivery service update; and understatement of liability with respect to any return or claim for abatement or refund update.

SECTION 38: updates the governing overpayments and proposes that requests for a refund or credit of an overpayment of tax relating to a self-assessment.

SECTION 39: updates the governing application for abatement, hearing, and notice of decision.

SECTION 40: updates the governing the settlement of tax liability and removes the language explicitly requiring that the settlement be approved by at least two deputy commissioners of the department of revenue, in addition to the commissioner.

SECTION 41: updates the governing acceptance of amounts less than assessed tax liability in full and final settlement, replacing “an application for abatement” with “request for appeal.”

SECTION 42: updates the prerequisites for abatement by replacing the term “abated” with “reduced,” and replacing the term “application for abatement” with “request for appeal.”

SECTIONS 43-58: replace the terms “abatement” or “application for abatement” in sections 40, 47A, 47B, and 49A of chapter 62C.

SECTION 59: updates governing liens upon property for nonpayment of taxes by including reference to the proposed State Tax Lien Centralized Registry.

SECTION 60: updates the exempt property by updating citations to the section 152(d)(2) of the Code, defining individuals who bear a relationship to the taxpayer for the purposes of exempting property from levy.

SECTION 61: updates the exempt property by updating citations to the section 152(d)(2) of the Code, defining individuals who bear a relationship to the taxpayer for the purposes of exempting property from levy.

SECTION 62: timing for collection of taxes by extending the period during which a tax may be collected if a proceeding in court for collection of a tax is commenced within the 10-year period.

SECTION 63: deadlines for armed forces personnel by replacing “application for abatement” with “request for appeal.”

SECTION 64: updates the DOR form ST-5C to vendors to avoid sales tax on projects for exempt organizations

SECTION 65: repeals section that makes it unlawful for a vendor to advertise or hold out to the public or any customer that the tax.

SECTION 66: a marijuana establishment that fails to pay to the commissioner any sums required by this chapter will be personally and individually liable.

SECTION 67: updates the governing the duty to exchange information with department of revenue, stating the department shall not consider a person to owe taxes to the commonwealth during the period that the person is contesting a tax as set forth in subsection (e) of section 32 of chapter 62C.

SECTION 68: changes the date upon which every organization operating a preferred provider arrangement shall provide an annual return from March 15 to April 15.

SECTION 69: states the commissioner of revenue may issue regulations or other guidance announcing transition rules with respect to implementing the purposes of this act.

SECTION 70: the State Tax Lien Registry effective July 1, 2023,

SECTION 71: effective date of legislation

COMMITTEE ON REVENUE ~BILL SUMMARY

Bill Number: H.4362

Name: AN ACT TO IMPROVE TAX ADMINISTRATION IN THE COMMONWEALTH

Sponsor(s): Governor Charles D. Baker

Hearing Date: February 22, 2022

Prior History: N/A

PROPOSED CHANGE(S):

This legislation updates the MA tax administration rules and procedures, in order to help the Department of Revenue to manage the state tax system. Through this bill the new return process will become automated, eliminates manual review, and decreases the amount of time required to process amended returns. Further this bill attempts to simplify the appeals process for taxpayers. Updates the tax administration statute cross-references to coincide with the current federal code in effect. Marijuana vendors are added to the MA recordkeeping statute provisions that apply to sales, meals and room occupancy vendors. Additionally, this legislation updates the period for which the DOR Commissioner may examine the records of taxpayers. The following is a in depth look at all the Sections, summarized, included in the legislation filed by Gov. Baker:

SECTION BY SECTION:

Section 1 amends chapter 14 governing the Department of Revenue by creating a “State Tax Lien Centralized Registry” limited to tax liens on real and personal property of taxpayers against whom the commonwealth has liens for unpaid liabilities. Under newly created section 15, any such lien is perfected after notice is filed by the commissioner in the Registry and will be attached to all existing and after-acquired property and rights to property of the taxpayer within the commonwealth. Filing notice in the Registry will not invalidate, supersede or modify the filing date of any notice of tax lien previously filed with a county registry of deeds or the secretary of the commonwealth, prior to the effective date of this section. Notice filed in the Registry will fulfill all notice or registration required under Massachusetts law for any tax lien in favor of the Commonwealth, and will be valid against any mortgagee, pledgee, purchaser or judgment creditor.

Section 2 amends section 6 of chapter 58A governing the jurisdiction of the Tax Appellate Board and grants the commissioner the authority to act on any request for appeal after the date of any denial if the applicant has not seasonably appealed the denial. During the period allowed for the taking of an appeal, or while pending appeal, the commissioner may abate the tax in whole or in part, or, by agreement with the applicant, abate the tax in whole or in part in final settlement subject to sections 37A or 37C of chapter 62C.

Sections 3, 4, & 5 amend definitions in section 1 of Chapter 62C. The definition of the “Code” is amended to reflect the Internal Revenue Code “as amended and in effect for the taxable year,” rather than the version in effect on July 1, 1983. Definitions for “Deficiency assessment” and “self-assessment” or “self-assessed” are also added.

Section 6 updates the writ of mandamus for failure to file a tax return by including “entities” in addition to “persons.” This section would also remove language allowing “any ten taxable inhabitants of the commonwealth” to petition for such a writ.

Section 7 updates the date upon which an S Corporation, as a taxable member of a combined group, should file a return under section 11 of chapter 62C. An S corporation filing as a taxable member of a combined group, pursuant to section 32B of Chapter 63, should file its return with respect to the income measure of its corporate excise on or before the fifteenth day of the fourth month following the close of the combined group’s taxable year. When the S corporation’s taxable year is the same as the combined group’s taxable year, it shall file its return with respect to its non-income measure on or before this same date.

Section 8 amends section 11A of chapter 62C by replacing “abatements” with “requests for appeal” among the list of notices and actions for which the Commissioner may treat the principal reporting corporation as the agent for all corporations that are required to participate in filing a combined report under section 32B of chapter 63.

Section 9 amends section 12 of chapter 62C to include S corporations that are financial institutions among the financial institutions that must file returns with the commissioner on the fifteenth day of the fourth month following the close of each taxable year, as required by section 2 or section 2B of the chapter 63. Financial institution that filed a consolidated return of income to the federal government shall also file with the commissioner a statement of net income showing its gross income and deductions in accordance with the law and regulations governing the usual federal returns of corporations not so participating.

Section 10 amends section 16 of chapter 62C governing the filing of return by taxpayers to require marijuana vendors who have made any sale taxable under the provisions of chapter 64N to file a return with the commissioner for each calendar month.

Section 11 amends clause (25) of subsection (b) of section 21 of chapter 62C, disclosure of information necessary for administration of the local option tax, to include chapter 64J, “Taxation of fuels used in the propulsion of aircraft.”

Section 12 amends section 24 of chapter 62C by extending the period for examination of records. For any examination in which the commissioner reasonably anticipates that the period for assessment of tax will be extended pursuant to sections 26, 28, 30 or 30A, the period for examination of records will be extended to correspond with the periods in which tax may be assessed pursuant to those subsections.

Sections 13 removes reference from section 24 of chapter 62C to compliance “with the provisions of the Internal Revenue Code” in the event the commissioner and a taxpayer are unable to agree on a statistical sample method in conducting an audit of a taxpayer’s records, where such records are so voluminous that a complete audit would be impractical and inefficient. The proposed amendment would allow the commissioner to utilize such statistical sample methods which he or she deems appropriate.

Sections 14, 15, 16, & 17 amend section 24A of chapter 62C by generally replacing the term “abatement” with “requests for appeal” with respect to income reporting of the owner or indirect owner of a pass-through entity in the course of a unified audit procedure.

Section 18 amends section 25 of chapter 62C to include marijuana vendors among vendors required to keep records of taxable charges which shall be open to inspection and examination by the commissioner at any reasonable time.

Section 19 amends section 26 of chapter 62C relating to the assessment of taxes. Procedures and timelines for taxpayers to file amended returns are expanded and detailed in proposed section 26(a)(1)-(5). Proposed section 26(a)(1) requires an amended return be filed to adjust amounts of tax previously self-assessed, or to adjust a credit. It prohibits modification of a previous self-assessment, adjustment of a credit, or reporting a change that has no net effect on a tax previously self-assessed by filing a request for appeal under section 37. Proposed section 26(a)(2) sets forth the timeline for filing an amended return to decrease an amount of tax or to increase the amount of a credit.¹ Proposed section 26(a)(3) governs the timelines for a taxpayer filing an amended return that seeks to offset a deficiency assessment.² The commissioner is authorized to reduce all or part of such deficiency assessment provided that any reduction resulting in a refund or credit is subject to section 36.

Proposed section 26(a)(4) states that an amended return will be processed in a manner comparable to the processing of an original return, and sets forth timelines, procedures, and notice requirements if the commissioner determines that the full amount of any tax has not been assessed or that a credit should be disallowed on any amended return. The commissioner shall have 3 years from the date the amended return was filed to make such a determination, which shall be tolled during a pending chapter 11 bankruptcy. Applicable penalties under this chapter include those set forth in sections 33, 35A, 35D and 35E. Interest may also accrue on a refund of a timely filed amended return.

Proposed section 26(a)(5) provides that the commissioner may offset, against the proposed reduction or allowance, additional tax due or reduction of credit, but in no case shall the offset give rise to a net amount of tax due based on an assessment that would otherwise be barred as untimely. Any such offsets applied by the commissioner shall be treated as deficiency assessments for purposes of filing an appeal under section 37.

Proposed section 26(b)(4) sets forth timelines, procedures, and notice requirements if the commissioner determines that a credit should be disallowed on any return or otherwise. The commissioner shall have 3 years after the date the return was filed or was required to be filed, whichever was later, to disallow the credit and assess any resulting tax due.

Section 26(c) of chapter 62C is amended, setting forth that a taxpayer that disagrees with the changes made by the commissioner to the return with respect to arithmetic, clerical, or other obvious error, may either submit an amended return within the period permitted under paragraph (3) of subsection (a) or submit a request for appeal within the period permitted under section 37, in a manner prescribed by the commissioner.

Section 20 amends section 30 of chapter 62C governing federal income tax changes, assessment, and abatement penalty. If the federal government finally determines that there is a difference from the amount previously reported in the adjusted gross income of a person subject to taxation under chapter 62, but only if the change in adjusted gross income has an effect on the computation of the tax imposed or credits allowed under chapter 62, such a change must be reported to the commissioner within 1 year accompanied by

¹ (i) Within 3 years from the date of filing of the original return, taking into account subsection (a) of section 79; (ii) within 3 years from the date the tax or credit was deemed to be self-assessed; (iii) or within 1 year from the date the tax was paid, whichever is later. These periods may be extended by agreement between the taxpayer and the commissioner.

² (i) Within 3 years from the date of filing of the original return, taking into account subsection (a) of section 79; (ii) within 2 years from the date of the deficiency assessment; or (iii) within 1 year from the date that the tax was paid, whichever is later.

payment of additional tax due. Throughout section 30, the term “report” is generally changed to “amended return reporting the change.” The section is further amended in that a person or estate may file an amended return seeking a reduction in the assessment or allowance of additional credits thereof under subsection (a) of section 26 within 1 year of the date of notice of the final determination by the federal government of a change by the federal government in a person's federal taxable income, federal credits or federal taxable estate. Should the commissioner, in their consideration of the amended return, offset against the proposed reduction or allowance additional tax due or reduction of credit, any such offsets applied by the commissioner shall be treated as deficiency assessments for purposes of filing an appeal under section 37.

Section 21 amends section 30A of chapter 62C governing the adjustments based on final determination of tax due in certain other jurisdictions. This section updates so that if there is a change in a report or assessment because of a jurisdiction, the taxpayer may present an amended return as long as it abides by the time period placed in the law.

Section 22 amends section 31A of Chapter 62C to include chapter 64N governing the marijuana tax with respect to notice of unpaid corporate or partnership assessments.

Section 23 amends section 32 of Chapter 62C to include 64N, governing the marijuana tax, and 64L, governing the local option meals excise, with respect to the involuntary payment of tax during the period the taxpayer is contesting the tax.

Section 24 amends section 32 of chapter 62C with a technical change from “if” to “provided that”.

Sections 25-37 generally replace the terms “abatement” or “application for abatement” with the term “request for appeal” with respect to taxes payment date and notice update; US postmark/alternative delivery service update; and understatement of liability with respect to any return or claim for abatement or refund update.

Section 38 amends section 36 of chapter 62C governing overpayments and proposes that requests for a refund or credit of an overpayment of tax relating to a self-assessment under subsection (a) of section 26 shall be made by filing an amended return within the period permitted under paragraph (2) of subsection (a) of section 26. A request for offset relating to a deficiency assessment shall be made by submitting an amended return within the period permitted under paragraph (3) of subsection (a) of section 26.

Section 39 amends section 37 of chapter 62C governing application for abatement, hearing, and notice of decision. The term “abatement application” is generally replaced by the term “request for appeal.” The commissioner is granted authority to reduce all or part of the deficiency assessment following a timely filed request for appeal, which remains unchanged. A request for “innocent spouse status” may be made with respect to an assessment by filing a request for appeal on a form provided by the commissioner. A taxpayer that has been deemed a responsible person with respect to an assessed tax may contest the commissioner's determination by filing a request for appeal, on a form approved by the commissioner. Any reduction that would result in a refund of tax under this paragraph, including a credit of such refund against another liability, is subject to section 36 to the extent of such refund or credit.³ Marijuana retailers as defined in chapter 64N are added to the section.

³Request for appeals must be filed: (1) within 3 years from the date of filing of the original return, taking into account subsection (a) of section 79; (2) within 2 years from the date of the responsible person assessment; or (3) within 1 year from the date that the tax was paid, whichever is later, and the commissioner shall be authorized by this section to determine that such person is not responsible for all or part of such assessed tax.

Section 40 amends section 37A of chapter 62C governing the settlement of tax liability and removes the language explicitly requiring that the settlement be approved by at least two deputy commissioners of the department of revenue, in addition to the commissioner.

Section 41 amends section 37C of chapter 62C governing acceptance of amounts less than assessed tax liability in full and final settlement, replacing “an application for abatement” with “request for appeal.”

Section 42 amends section 38 of chapter 62C governing the prerequisites for abatement by replacing the term “abated” with “reduced,” and replacing the term “application for abatement” with “request for appeal.”

This section also amends section 39 of chapter 62C governing appeals for refusal of abatement by adding paragraph (d), clarifying procedures for appealing decisions of the commissioner to deny a request for refund or credit amounts paid under section 36.

Sections 43-58 replace the terms “abatement” or “application for abatement” in sections 40, 47A, 47B, and 49A of chapter 62C.

Section 59 amends section 50 of chapter 62C governing liens upon property for nonpayment of taxes by including reference to the proposed State Tax Lien Centralized Registry created under section 15 of chapter 14. The information in the Registry will be controlling and will supersede the records of the Secretary of the Commonwealth or a county registry of deeds. A lien imposed by this section will not be valid against any mortgagee, creditor, pledgee or purchaser until notice has been filed by the commissioner. A waiver or release issued by the commissioner and filed with the Registry will also be controlling and shall supersede the records of any county.

Section 60 & 61 amend section 55A of chapter 62C governing exempt property by updating citations to the section 152(d)(2) of the Code, defining individuals who bear a relationship to the taxpayer for the purposes of exempting property from levy.

Section 62 amends section 65 of chapter 62C governing the time for collection of taxes by extending the period during which a tax may be collected if a proceeding in court for collection of a tax is commenced within the 10-year period. The period will not expire until the liability or judgment against the taxpayer is satisfied or becomes unenforceable.

Section 63 amends section 81 of chapter 62C governing deadlines for armed forces personnel by replacing “application for abatement” with “request for appeal.”

Section 64 amends section 6 (f) of chapter 64H by updating the DOR Form ST-5C to vendors to avoid sales tax on projects for exempt organizations, such as state government or 501(c)(3). The change is eliminating the existing dual signature requirement on the Form. There is no intention of imposing any new requirements upon contractors filling out the form.

Section 65 repeals section 24 of chapter 64I which makes it unlawful for a vendor to advertise or hold out to the public or any customer that the tax, or any part thereof, will be assumed or absorbed by the vendor or that it will not be added to the selling price of the property or services sold.

Section 66 amends chapter 64N by creating section 6, proposing that a marijuana establishment that fails to pay to the commissioner any sums required by this chapter will be personally and individually liable therefor to the Commonwealth.

Section 67 amends section 24F of Chapter 175 governing the duty to exchange information with department of revenue, stating the department shall not consider a person to owe taxes to the commonwealth during the period that the person is contesting a tax as set forth in subsection (e) of section 32 of chapter 62C.

Section 68 amends section 11 of chapter 176I governing annual assessment by changing the date upon which every organization operating a preferred provider arrangement shall provide an annual return from March 15 to April 15.

Section 69 states the commissioner of revenue may issue regulations or other guidance announcing transition rules with respect to implementing the purposes of this act.

Section 70 states that the State Tax Lien Registry shall take effect on July 1, 2023, and that a lien that is perfected prior to such effective date shall continue to be perfected and to be entitled to priority on the same terms as provided in subsection (b) of section 50 of chapter 62C, or other applicable provisions; provided that nothing shall preclude the refiling of such lien pursuant to subsection (a) of section 50 of chapter 62C.

Section 71 states that this act shall take effect 90 days following the date of enactment.