

Part I ADMINISTRATION OF THE GOVERNMENT**Title IX** TAXATION**Chapter 62** TAXATION OF INCOMES**Section 1** DEFINITIONS

Section 1. When used in this chapter the following words or terms shall, unless the context indicates otherwise, have the following meanings:—

(a) "Commissioner", the commissioner of revenue.

[There is no paragraph (b).]

[Paragraph (c) effective for taxable years beginning on or after January 1, 2024. See 2024, 140, Secs. 251 and 264.]

(c) "Code", the Internal Revenue Code of the United States, as amended on January 1, 2024 and in effect for the taxable year; but Code shall mean the Code as amended and in effect for the taxable year for sections 62(a)(1), 72, 105, 106, 108(f)(5), 139C, 223, 274(m), 274(n), 401 through 420, inclusive, 457, 529, 529A, 530, 951, 951A, 959, 961, 3401 and 3405 but excluding sections 402A and 408(q).

(d) "Federal gross income", gross income as defined under the Code.

(e) "Dividend", any item of federal gross income which is treated as a dividend under the provisions of the Code. Amounts included in federal gross income pursuant to sections 951 and 951A of the Code shall be treated as dividends under this chapter.

(f) "Resident" or "inhabitant", (1) any natural person domiciled in the commonwealth, or (2) any natural person who is not domiciled in the commonwealth but who maintains a permanent place of abode in the commonwealth and spends in the aggregate more than one hundred eighty-three days of the taxable year in the commonwealth, including days spent partially in and partially out of the commonwealth. For purposes of clause (1), the making of a financial contribution, gift, bequest, donation or any other financial instrument or pledge in any amount or the donation or loan of any object of any value, or any combination of the foregoing, qualifying for deduction as a charitable contribution under section 170 (a) of the Code to any corporation, foundation, organization or institution, which is exempt from taxation under section 501(c)(3) of the Code, shall not be used in any manner to determine domicile in the commonwealth or any other jurisdiction. For purposes of clause (2), a day spent in the commonwealth while on active duty in the armed forces of the United States shall not be counted as a day in the commonwealth. The word "non-resident" shall mean any natural person who is not a resident or inhabitant.

(g) The determination of whether the taxpayer is married shall be made as of the close of his taxable year, except that if his spouse dies during his taxable year such determination shall be made as of the time of such death. An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(h) "Taxable year" shall have the same meaning as in the Code, except as otherwise provided in section sixty-two of this chapter.

(i) "Interest" shall have the same meaning as in section one hundred and sixty-three of the Code, including all amounts treated as interest by virtue of the operation of any other sections of the Code, including, without limitation, section four hundred and eighty-three of the Code, and including any amount required to be included currently in income under section four hundred and fifty-four or one thousand two hundred and thirty-two (a)(3) of the Code.

(j) "Corporate trust", any partnership, association or trust, the beneficial interest of which is represented by transferable shares.

[There is no paragraph (k).]

(l) "Trade or business" shall have the same meaning as in section sixty-two of the Code.

(m) The term "capital asset" shall have the meaning as given in section one thousand two hundred and twenty-one of the Code and shall be limited to assets which are sold, exchanged or otherwise disposed of by a person while he is subject to taxation under this chapter on any Part A or Part C taxable income; provided, further, that property used in a trade or business within the meaning of section one thousand two hundred and thirty-one (b) of the Code, without regard to the holding period requirement in said section, and property held in connection with a trade or business or transaction entered into for profit within the meaning of section one thousand two hundred and thirty-one (a)(3)(A)(ii)(II) of the Code, without regard to the holding period requirement in said section,

shall be treated as if such property were a "capital asset" within the meaning of section one thousand two hundred and twenty-one of the Code.

The term "capital gain income" shall mean gain from the sale or exchange of a capital asset. The terms "short-term capital gain", "short-term capital loss", "long-term capital gain", "long-term capital loss", "net short-term capital gain", "net short-term capital loss", "net long-term capital gain" and "net long-term capital loss" shall have the meanings as provided in section 1222 of the Code, as amended and in effect for the taxable year. In determining the amount of gain or loss on any sale, exchange or other disposition of property, section 6F shall be taken into account and in determining the amount of long-term capital loss or short-term capital loss for any year, clause (2) of subsection (c) of section 2 shall be taken into account; provided, however, that losses from the sale or exchange of capital assets shall not include any item the deduction of which is or, but for some other section, would be prohibited by section 165(c), section 262 or section 267 of the Code.

(n) "Baseline tax revenues", the amount of state tax revenues that would have been credited to the budgeted funds had there been no change in federal or state tax law or administrative practices that affected tax collections for the year, as estimated by the commissioner.

(o) "Inflation adjusted change in baseline tax revenues", the commissioner's estimate of the percentage change from the preceding fiscal year in the amount of baseline tax revenues minus the percentage change in the consumer price index for all urban consumers for Boston as most recently reported by the federal Bureau of Labor Statistics, from the index so reported 12 months before. The estimate shall be provided to the

secretary of administration, the house and senate committees on ways and means and the joint committee on taxation annually, on or before August 30 for the preceding fiscal year. Monthly, on or before the fifteenth day, the commissioner shall provide an estimate for the preceding 3 months to the same recipients.

(p) "Partnership", an entity that is classified for the taxable year as a partnership for federal income tax purposes, except as otherwise provided in this chapter.

(q) "Disregarded entity", an entity that is disregarded as a separate entity from its owner for federal income tax purposes. Such an entity shall be similarly disregarded for purposes of this chapter; and, without limitation, all income, assets, and activities of the entity shall be considered to be those of the owner.

(r) "Tax-free earnings and profits", earnings and profits that were considered tax-free earnings and profits under section 8 as in effect on December 31, 2008.