

Tax Expenditure Budget

Tax Expenditure Budget - Introduction	3
Introduction - Personal Income Tax.....	9
List of Personal Income Tax Expenditures	13
Introduction - Corporate Excise Tax	41
List of Corporate and Other Business Excise Expenditures	50
Introduction - Sales Tax	73
List of Sales and Use Tax Expenditures	78
Appendix A - Recent Law Changes Affecting Tax Expenditures	89
Appendix B - Tax Expenditure Glossary.....	95
Appendix C - Summary	97
Appendix D - Non-Tax Expenditure Budget Items.....	106



Tax Expenditure Budget - Introduction

While taxes are an essential source of revenue for all state governments, the manner in which they are imposed varies widely from state to state. In its simplest form, a tax is an across-the-board levy on a base, such as income, to which a specific rate applies and for which no modifications exist. Taxes are rarely levied in this manner, however. Instead, most state tax codes incorporate a number of exemptions, deductions, credits, and deferrals designed to encourage certain taxpayer activities or to limit the tax burden on certain types of individuals or endeavors. Known as "tax expenditures", these provisions can have a significant impact on state tax revenues.

This document offers a summary of the tax expenditures affecting the taxes from which Massachusetts derives the bulk of its revenues: the personal income tax, the corporate excise and other business excises, and the sales and use tax. It also provides revenue estimate for each tax expenditure, as mandated by Massachusetts state law. Organized into five separate sections, this study analyzes all aspects of Massachusetts tax expenditures. Part I contains a detailed explanation of how we identify and estimate the costs of tax expenditure provisions in the tax code. In the next sections (Parts II - IV), we have provided detailed information about each of the three major tax types, including an explanation of how each tax is calculated and the ways in which that tax's basic structure is modified to produce the various types of tax expenditures. The tax expenditures for each tax are listed after the description of the tax.

Following the expenditure listings, Part V provides four appendices. The first lists recent law changes which affect this year's tax expenditure budget; the second is a glossary that defines terms used throughout the text; the third gives five-year tax expenditure estimates that are consistent with our most recent estimation methodology; and the fourth appendix is used for items that no longer qualify as tax expenditures due to legislative changes but are estimated for the purpose of comparisons to prior reports. In reviewing this document it is important to remember that although a tax expenditure represents a deviation from the generally agreed-upon, or basic, structure of a given tax, determining whether a provision is a tax expenditure is not the same as making a judgment about its desirability. An element of the basic structure of a tax can be inequitable or have undesirable economic effects, just as a tax expenditure can. If so, it can be changed by legislative action just as a tax expenditure can.

The estimates of the costs of tax expenditures included in this volume are revised annually. As improved methodologies and data become available over the course of the year, some estimates may be reexamined and occasionally revised.

What Are Tax Expenditures?

Tax expenditures are provisions in the tax code, such as exclusions, deductions, credits, and deferrals, which are designed to encourage certain kinds of activities or to aid taxpayers in special circumstances. When such provisions are enacted into the tax code, they reduce the amount of tax revenues that may be collected. Massachusetts General Laws (MGL), Ch 29, Sec 1 as modified by the Ch. 165 of the Acts of 2012 (section 112) defines *tax expenditures* as

"state tax revenue foregone as a direct result of any general or special law which allows exemptions, deferrals, deductions from or credits against taxes imposed on income, businesses and corporations, financial institutions, insurance and sales but excluding revenue foregone as a direct result of any general or special law which allows a personal income tax exemption. Sales that do not involve tangible personal property shall not result in tax expenditures under this definition."

In this sense, the fiscal effects of a tax expenditure are just like those of a direct government expenditure. Some tax expenditures involve a permanent loss of revenue, and thus are comparable to a payment by the government; others cause a deferral of revenue to the future, and thus are

comparable to an interest-free loan to the taxpayer. Since tax expenditures are designed to accomplish certain public goals that otherwise might be met through direct expenditures, it seems reasonable to apply to tax expenditures the same kind of analysis and review that the appropriations budget receives.

It is essential to distinguish between those provisions of the tax code that represent tax expenditures and those that are part of the "basic structure" of a given tax. The basic structure is the set of rules that defines the tax; a tax expenditure is an exception to those rules. In general, most taxes have a series of features that define their basic structure. These features are:

1. A base, on which the tax is levied, such as net income, or a particular class of transactions;
2. A taxable unit, such as a person or a corporation;
3. A rate, to be applied to the base;
4. A definition of the geographic limits of the state's exercise of its tax jurisdiction; and
5. Provisions for the administration of the tax.

Defining the Basic Tax Structure

A tax expenditure is a deviation from the generally agreed-upon, or basic, structure of a given tax. For example, the base of the sales tax includes all retail sales to final consumers. The exemption for sales of energy conservation equipment is an exception, created to encourage purchases of such equipment. The sales tax that is not collected because of the existence of this exemption is tax expenditure.

While this general definition seems straightforward enough, the task of compiling a comprehensive list of tax expenditures presents many conceptual problems. For example, some of the deductions and exemptions allowed under the tax statutes are not tax expenditures. The broad category of income tax deductions allowed for business expenses is not listed as tax expenditure. Since the income tax is generally considered to be a tax on income net of the costs of producing that income, deductions for business expenses are taken against gross income and therefore occur prior to calculation of the tax base. In addition, tax provisions reflecting constitutional prohibitions, such as the prohibition on taxation of sales to the federal government, are considered parts of the basic tax structure and therefore are not properly considered tax expenditures. These distinctions are fairly simple, but more complex analytical questions quickly arise.

For example, deductions for the depreciation of property and equipment used in a trade or business are considered part of the basic tax structure because the use of productive assets is a legitimate cost of doing business. However, federal depreciation rules allow larger depreciation deductions in the early years of a property's useful life. These accelerated depreciation rules could be viewed as properly reflecting changing notions of obsolescence and thus as part of the basic tax structure; or the faster rates of depreciation could be considered a special adjustment in the tax base designed to provide an incentive for investment, and therefore a tax expenditure. Past federal tax expenditure budgets prepared by the Congressional Budget Office and versions prepared by the Treasury Department have disagreed on exactly this issue.

We have adopted the point of view that accelerated depreciation is tax expenditure. Although accelerated depreciation still allows the same total deduction for a piece of property; the rate of depreciation allowed in the early years is faster than would be permitted under traditional accounting principles. Generally, revenue cost estimates in this document for tax expenditures associated with accelerated depreciation rely on assumptions used in congressional federal tax expenditure analysis concerning ordinary depreciation rates.

We have chosen to view the rules for personal exemptions and for no tax status in the Commonwealth's personal income tax as provisions which help to define the income tax base, and thus as a part of the basic structure of the tax (much as the progressive rate structure of the federal income tax, which similarly reduces the tax burden on low-income people, is a part of its basic structure). The base of the tax is defined as net income above what is required for subsistence. Since personal

exemptions help define the amount of income needed for subsistence, and therefore the base, they should not be classified as tax expenditures. According to this reasoning, exemptions allowed for dependents would also be considered part of the basic tax structure, since subsistence requirements increase with the size of the taxpayer's household. However, we note that this view of the tax structure does not always lead to easy conclusions. First, taxpayers are allowed exemptions for dependents even if those dependents have their own income and take personal exemptions for themselves. We have treated the use of the dependents' exemption as tax expenditure. Second, the fact that the no tax status amount is greater than the personal exemption suggests that the intent behind the no tax status and personal exemptions goes beyond simple definition of an income base. Although personal exemptions and the no tax status are not listed in this document as tax expenditures, estimates for the revenue losses associated with these provisions are provided in an endnote.

Many Massachusetts tax expenditures in the personal income tax and corporate tax derive from federal income tax rules and thus piggyback on many but not all, federal tax expenditures. We have chosen to include such tax expenditures in this tax expenditure budget, as Massachusetts generally has the ability legally to “decouple” from federal tax expenditures, and has done so in certain cases (e.g., bonus depreciation) from time to time. However, one can question whether federal tax expenditures should generally be included in the Massachusetts tax expenditure budget, because for the most part they simply reflect the fact that Massachusetts has generally chosen to incorporate much of the federal tax laws into the determination of Massachusetts taxable income for personal and corporate income tax purposes.

The sales tax presents the most difficult case. The sales tax statute and its legislative history indicate that the established base of the tax is all “retail” sales. At a minimum, the sales tax exemptions for business purchases of component parts and of products to be resold appear to be provisions that help define which sales are considered non-retail sales, and therefore should not be classified as tax expenditures. However, it is difficult if not impossible to decide which other sales tax exemptions might also cover non-retail sales. For example, manufacturing companies are allowed an exemption from the sales tax for purchases of machinery used in the production process. Since this machinery is not a direct component part of any product being manufactured and is not purchased simply to be resold, it could be argued that the machinery purchase is a retail sale and that the machinery exemption is a tax expenditure. Others would argue that because these purchases are not made by the final consumers of an end product, and because they represent legitimate business expenses, these sales tax exemptions should not be considered tax expenditures.

The largest proportion of Massachusetts tax expenditure dollars used to be sales and use tax expenditures. This was largely because of the exclusion (or non-taxation) of certain property and services (other than telecom) from sales and use taxation. The Center on Budget and Policy Priorities’ tax expenditure survey report indicates that items such as non-taxation of services, which are so-called “implicit tax expenditures”, should be included in the tax expenditure budget. They also report that about 16 states have such items in their annual tax expenditure reports (<http://www.cbpp.org/files/4-9-09sfp.pdf>). This provides a means of quantifying the cost of not taxing most services, and allows for comparison with other states that do apply their sales and use tax to various types of specified services. However, in July 2012 legislation was enacted stating explicitly that “sales that do not involve tangible personal property shall not result in tax expenditures”. See St 2012, c.165, §112. Pursuant to this legislation, from fiscal year 2014 on, we remove some items, including non-taxation of services, from our tax expenditure estimates, which we regularly reported in prior years. But to facilitate comparison to tax expenditure estimates in prior years, we list these items in Appendix D.

As stated in the introduction, the most important thing to remember is that making a judgment about whether a provision is tax expenditure is not the same as making a judgment about its desirability. With this in mind, we have attempted to provide more rather than fewer tax expenditure estimates, so that necessary information is available for those charged with making policy judgments.

Description of the Data

This budget should be considered part of an ongoing effort to list tax expenditures, describe their characteristics, and estimate their revenue costs. Each year, we attempt to improve upon the analysis presented in the prior year's tax expenditure budget. For purposes of comparison, we have provided an appendix containing updated tax expenditure estimates for the past four years as well as for Fiscal Year 2023.

Information collected by the Department of Revenue (DOR) from Massachusetts tax returns was an important source of data in this budget. Estimates made from these data tend to be the most reliable. Unfortunately, many tax expenditures cannot be estimated from DOR records. When a particular category of income is excluded from taxation, amounts often do not appear on tax records. This is especially likely to be the case for those tax expenditures brought about by "coupling" the state tax code to the federal code, since exclusions and some deductions are not reported explicitly, but are simply carried over to state tax calculations as part of the reporting of federal income. In such cases we have had to estimate a Massachusetts figure using national tax data, census information, sales statistics, and other information.

You will note that in several cases, this year's tax expenditure estimates are very different from last year's. Revisions to the estimates occur for four reasons: we have new data sources; federal tax expenditure estimates on which we rely have changed; we have refined our estimation methodologies; or changes in Massachusetts tax law have modified existing estimates. In a few instances, more than one of these factors operates to explain the difference. All estimates are projections forward from a base year (which varies depending on the availability of data) to Fiscal Year 2023.

We have incorporated the economic impacts of COVID-19 into our estimates for Fiscal Year 2020 and beyond, where practical.

Data Limitations

There are some additional caveats that the reader should keep in mind when reading this budget. First, most revenue loss estimates have been made without taking into account how repeal of a provision might change taxpayer behavior. For example, if the sales tax exemption for a particular item were repealed, the item would become more expensive to consumers, so one would expect sales of that item to decline. The revenue gain from repealing the provision would be, therefore, somewhat less than if the level of sales for the affected items remained the same. On the other hand, some of the income not spent on that item might be spent on other taxable items. To the extent that consumers and businesses pay more taxes and have less income available for other purposes, the repeal of a tax expenditure might have much broader economic and revenue effects. Clearly, the full estimation of these effects demands extensive data which are not easily available.

Second, interactions among different taxes and tax expenditures may be quite complex. Repealing some tax expenditures may increase or decrease the value of others. For example, increasing the no tax status amount would mean that fewer people would pay taxes, and thus fewer people would claim other exemptions. This would reduce the revenues lost through other exemptions. Therefore the combined cost of several tax expenditure items may be different from the total of the cost of the separate tax expenditure items.

Third, the revenue cost estimates do not generally reflect compliance factors that may significantly reduce revenues available from tax expenditure repeal. In particular, where Massachusetts tax provisions are "coupled" with federal tax rules, audits of Massachusetts taxpayers generally compare state and federal returns. If Massachusetts tax provisions were "decoupled", taxpayers would have to make separate calculations for Massachusetts tax purposes, and these provisions would require special audit procedures. Compliance difficulties would certainly result.

And fourth, particular caution is appropriate with respect to the tax expenditure budget's totals for expenditures for particular taxes. Not only do these totals reflect the imprecision of the specific estimates, but they also omit those items for which no estimates were available. In consequence, particular totals may be substantially understated. At the same time, included in the totals, particularly with regard to the sales tax, are a number of substantial items that many analysts would not regard as tax expenditures, but rather as features of the underlying tax itself. The general approach in preparing the tax expenditure budget has been to count questionable items as tax expenditures, so that information concerning them would be available for analysis. The result is that the totals are higher than they would be under a more restrained analytic approach.

Reading the Budget

In this document, tax expenditures and cost estimates are listed according to the taxes to which they pertain: personal income, corporate excise, and sales and use. Note that the corporate section of the Tax Expenditure Budget includes other business excises along with the corporate excise. These additional business excise taxes are the financial institution excise, the public utility excise, which was repealed effective January 1, 2014, the excises on insurance companies, and the excise on security corporations. Each of the three major taxes includes an introductory section with a description of the tax, followed by a listing of the tax expenditures for that tax. Each tax expenditure item includes a brief description, the cost estimate, a statutory citation, and an indication of the tax expenditure's type. The various special excises on motor fuels, cigarettes, and alcoholic beverages are not covered in this budget.

Note on the impact of Federal Law changes

Recent federal law changes have impacted tax expenditures. On December 22, 2017, Public Law 115-97, commonly known as the Tax Cuts and Jobs Act (TCJA) was signed into law. On March 27, 2020, Public Law No. 116-136, the federal "Coronavirus Aid, Relief and Economic Security Act," also known as the CARES Act was signed into law. Most recently, the Federal Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021 were enacted. These Acts provide for federal changes to a variety of provisions in the Internal Revenue Code ("Code") that affect the personal income tax and corporate excise.

For income tax regulations, as a general rule, Massachusetts does not adopt any federal personal income tax law changes incorporated into the IRC after January 1, 2005. However, certain specific Massachusetts personal income tax provisions, as set forth in MGL ch 62, § 1(c), automatically conform to the current IRC. See Appendix A.

For corporate and business tax regulations, in general, Massachusetts adopts federal tax expenditure items. For tax expenditure that are newly created or significantly altered, these changes are discussed in detail in Appendix A.

Note that where Massachusetts automatically conforms to federal changes, existing tax expenditures in the state's Tax Expenditure Budget (TEB) that are calculated based on federal estimates will reflect the impact of those changes.

While we have incorporated federal tax law changes into this year's budget wherever possible, some more recent changes may have been excluded. DOR will continue to review the impact of tax law changes at the federal level and will incorporate those impacts into future TEBs as necessary.



Introduction - Personal Income Tax

Although income from professions, trades or employment was taxed throughout the nineteenth century under the local property tax, it was not until 1916, under the authority of Article 44 of the Amendments to the Massachusetts Constitution, that the Massachusetts personal income tax was enacted as a separate tax. Because Article 44 requires that all income of the same class be taxed at the same rate, Massachusetts applies a flat tax rate regardless of total income; the federal tax structure (and that used in most states) uses graduated rates.

Generally, the Massachusetts personal income tax ties into the federal Internal Revenue Code as it was on January 1, 2005. To the extent that the Massachusetts tax takes federal law as its starting point, it adopts many federal tax expenditures (see Appendix A for more details).

The personal income tax is the state's largest revenue source, accounting for 57.8% of Department of Revenue tax collections in Fiscal Year 2021.

Personal Income Tax: Basic Structure

Tax Base: The personal income tax base is gross income minus the costs of producing the gross income (trade or business expenses). Massachusetts gross income is defined as federal gross income with certain modifications. Effective January 1, 1996 it was divided into three classes: interest, dividends, and short-term capital gains ("Part A" income); long-term capital gains ("Part C" income); and all other income ("Part B" income). Massachusetts taxpayers are entitled to a basic personal exemption, which varies according to taxpayer status. The exempted amounts are considered to be outside the generally accepted tax base. They reflect the notion that income needed for bare subsistence should be free from tax. Thus, for the purposes of this document, these exemptions are not listed as tax expenditures. In addition, taxpayers whose income is below a specified level are entitled to "no tax status." For the same reason, this status is not listed as tax expenditure. On the other hand, because policy makers are often interested in the effects of adjusting the dollar amounts for the personal exemptions and the no tax status, estimates are provided for them in endnote 3 to item 1.405 in the list of personal income tax expenditures.

Taxable Unit: Individuals are taxed separately, with the exception of married couples, who may file a joint return. The income of children is not aggregated with that of their parents. The income of trusts, estates, and unincorporated associations is also subject to the personal income tax.

Rate Structure: The rate structure has been evolving to a system where most income is taxed at the Part B rate. Also, the Part B rate has been rolling back during years in which certain trigger levels of collections are met. The rate was 5.10% for tax years 2017 and 2018 but decreased to 5.05% for tax year 2019. It decreased further to 5.00% for tax year 2020 and will remain at that level for 2021 and subsequent years. Currently, only short-term capital gains and long-term capital gains on collectibles are taxed at a different rate. The vast majority of income is linked to the Part B rate.

Historical Notes

Prior to tax year 1999, the tax rate on interest and dividend income (one component of Part A income) was 12% compared with the Part B "earned" taxable income rate of 5.95%. Effective January 1, 2000, the rate on both Part B and the linked Part A income (Interest and Dividends) dropped to 5.85%, then to 5.60% on January 1, 2001, and to 5.30% on January 1, 2002. The rate was scheduled to decline to 5.00% on January 1, 2003; however, Chapter 186 of the Acts of 2002 ("An Act Enhancing State Revenues") delayed the final phase of the rate reduction. The tax rates on interest and dividend income and Part B income, declined to 5.25% for tax year 2012 and 2013, to 5.20% for tax year 2014, to 5.15% for tax year 2015, and to 5.10% for tax years 2016, 2017, and 2018. The rate was 5.05% for tax year 2019 and 5.00% for tax year 2020 and beyond. All other things being equal, a reduction in tax rates -- which are part of the basic tax structure -- has the effect of reducing the value of tax

expenditures, because when tax rates decline, so does the value of any exceptions to that basic structure.

Of historical interest, between January 1, 1996 and January 1, 2003, Part C income (long-term capital gains), was subject to the following tax rates based on how long the assets were held:

<u>Holding Period</u>	<u>Tax Rate</u>
more than one, but less than two years	5%
more than two, but less than three years	4%
more than three, but less than four years	3%
more than four, but less than five years	2%
more than five, but less than six years	1%
more than six years	0%

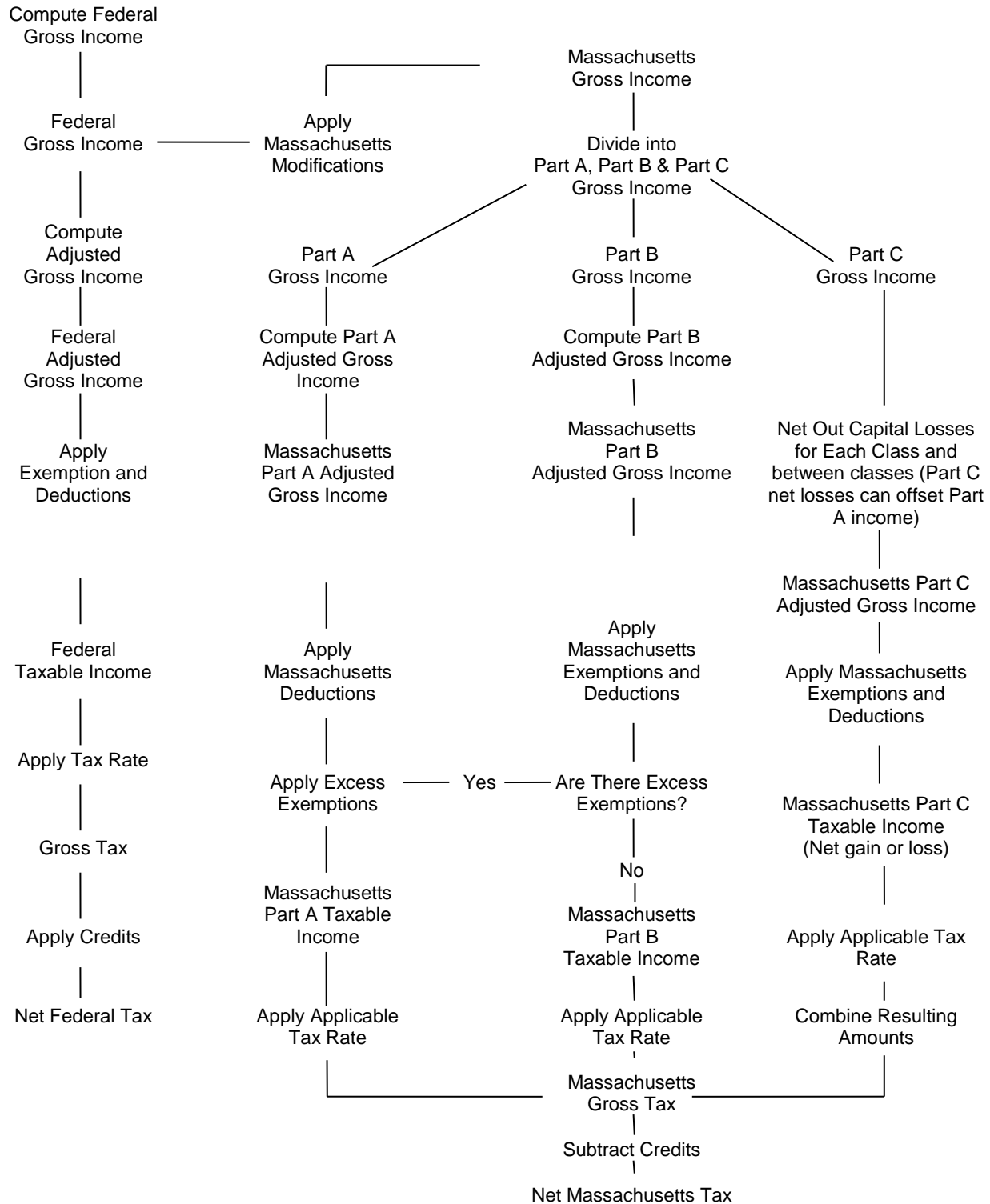
Assets acquired prior to January 1, 1996 were deemed to have been acquired on the later of January 1, 1995 or the actual date of acquisition. Note that capital assets held less than one year are considered Part A income; these short-term realizations are taxed at 12%.

Chapter 186 of the Acts of 2002 eliminated the “sliding scale” treatment of capital gains on assets held for more than one year. This was originally effective May 1, 2002; subsequent legislation changed the effective date of the tax change to apply to assets sold on or after January 1, 2003. Gains on such transactions are now taxed at the Part B rate of 5.00% for tax year 2020 and beyond.

Taxable Period: The taxable period is one year (or less), usually the calendar year. Income may be reported according to the cash or accrual method. Where property is sold on a deferred payment basis, gains may be reported in the years the payments are received. There is no Massachusetts provision for income averaging. Net capital losses may be carried forward to future years. Ordinary losses may not be carried forward.

Interstate and International Aspects: Residents are taxed upon their entire income, whether derived from Massachusetts sources or elsewhere, without allocation or apportionment. Nonresidents are taxed only on income from sources within Massachusetts. A resident may take a limited credit against the Massachusetts income tax for income taxes due to other states, the District of Columbia, any territory or possession of the United States, or Canada or its provinces on any item of Massachusetts gross income.

Computation of the Personal Income Tax



Types of Tax Expenditures under the Personal Income Tax

The basic structure of the personal income tax can be modified in a number of different ways to produce tax expenditures. Brief explanations of the various types of tax expenditures follow:

Exclusions from Gross Income: Gross income is the starting point in the calculation of income tax liability and, in the absence of tax expenditures, would include all income received from all sources. Typically, the taxpayer does not report items of income that are excluded from gross income on his or her tax return. Thus, they escape taxation permanently.

Deferrals of Gross Income: Where an item of income is not included in gross income in the year when it is actually received, but is instead included in a later year, the result is tax expenditure in the form of an interest-free loan from the state to the taxpayer in the amount of the tax payment that is postponed.

Deductions from Gross Income: Certain amounts are subtracted from gross income to arrive at adjusted gross income (AGI). Many of these deducted amounts reflect the costs of producing income (business expenses), and are not properly part of the income tax base. Such deductions are not tax expenditures. Other deductions that do not reflect business expenses constitute tax expenditures, which permit corresponding amounts of income to escape taxation permanently.

Accelerated Deductions from Gross Income: In a number of cases, taxpayers are allowed to deduct business expenses from gross income at a time earlier than such expenses would ordinarily be recognized under Generally Accepted Accounting Principles. The total amount of the permissible deduction is not increased, but it can be utilized more quickly to reduce taxable income. The result is to defer taxes, thus in effect occasioning an interest-free loan from the state to the taxpayer.

Deductions from Adjusted Gross Income (AGI): Taxable income results from the subtraction of certain deductions and exemptions from AGI. Certain of these subtracted items represent amounts of income necessary for subsistence; their exclusion is part of the basic structure of the income tax. Other subtracted items represent tax expenditures, which permit corresponding amounts of income to escape taxation permanently.

Credits against Tax: After a taxpayer's basic tax liability has been calculated by applying the tax rates to taxable income, the taxpayer may subtract certain credit amounts from this initial liability in determining the actual amount of taxes that must be paid. It is important to note that, whereas a one-dollar exclusion or deduction results in a tax savings of only a few cents (one dollar times the applicable tax rate), a one-dollar credit results in a one-dollar tax savings.

Note on Personal Exemptions, Dependent Exemptions, No Tax Status, and Limited Income

Credit: *These exempted amounts are considered to be outside the generally accepted tax base, and thus, for the purposes of this document, these exemptions are not listed as tax expenditures. However, because policy makers are often interested in the impact of adjusting their dollar amounts, estimates are provided for them in a footnote following the "Credits against Tax" section.*

List of Personal Income Tax Expenditures

1.000 EXCLUSIONS FROM GROSS INCOME

1.001 Exemption of Premiums on Accident and Accidental Death Insurance¹

Employer contributions for premiums on accident and accidental death insurance are not included in the income of the employee and are deductible by the employer

Origin: IRC § 106

Estimate: \$31.5

1.002 Exemption of Premiums on Group-Term Life Insurance¹

Employer payments of employee group-term life insurance premiums for coverage up to \$50,000 per employee are not included in income by the employee and are deductible by the employer.

Origin: IRC § 79

Estimate: \$26.5

1.003 Exemption of Interest on Life Insurance Policy and Annuity Cash Value

Interest, which is credited annually on the cash value of a life insurance policy or annuity contract, is not included in the income of the policyholder or annuitant. Only when a life insurance policy is surrendered before death or when annuity payments commence does the interest become subject to tax. (Interest on dividends left on deposit is taxable.)

Origin: IRC § 101

Estimate: \$268.3

1.004 Exemption of Employer Contributions for Medical Insurance Premiums and Medical Care¹

Employer contributions for medical insurance premiums and reimbursements for medical care are not included in the income of the employee and are deductible by the employer.

Origin: IRC §§ 105 and 106

Estimate: \$1,421.9

1.005 Exemption of Annuity or Pension Payments to Fire and Police Personnel

Income from noncontributory annuities or pensions to certain retired fire and police personnel or their survivors are tax-exempt.

Origin: M.G.L. c. 32

Estimate: N.A.

1.006 Exemption of Distributions from Certain Contributory Pension and Annuity Plans²

Certain pensions and annuity distributions are tax-exempt under Massachusetts law. They are payments from contributory plans of the U.S. government, Massachusetts and its subdivisions, and other states that do not tax such income from Massachusetts. Any benefits in excess of contributions not taxed by Massachusetts constitute this tax expenditure.

Origin: M.G.L. c. 62, §§ 2(a)(2)(E)

Estimate: \$356.5

1.007 Exemption of Railroad Retirement Benefits

Railroad retirement benefits are not taxed. (Massachusetts has not adopted Internal Revenue Code section 86, which taxes some of these benefits if a taxpayer's income is above a certain level.)

Comment: No adjustment is made for any prior payments taxpayers may have made to fund this system since employee payments to this system are taxes rather than contributions.

Origin: M.G.L. c. 62, § 2(a)(2)(H)

Estimate: \$5.5

1.008 Exemption of Public Assistance Benefits

Public assistance or welfare benefits are not taxed. These include Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI) benefits, and the like.

Origin: IRC § 61(a)(1); Rev. Rul. 71-425, 1971-2 C.B. 76

Estimate: \$247.9

1.009 Exemption of Social Security Benefits

Social Security benefits paid to people age 65 or older and their dependents, to persons under 65 who are survivors of deceased workers, and to disabled workers and their dependents are not taxed. Massachusetts has not adopted Internal Revenue Code section 86, which taxes a portion of these payments where a taxpayer's income is above a certain level.

Comment: The comment under item 1.007 applies to this item as well.

Origin: M.G.L. c. 62, § 2 (a)(2)(H)

Estimate: \$1,230.0

1.010 Exemption of Workers' Compensation Benefits

Workers' compensation benefits are not taxed. These are benefits paid to disabled employees or their survivors for employment-related injuries or diseases.

Origin: IRC § 104 (a)(1)

Estimate: \$6.7

1.011 Exemption for Dependent Care Expenses¹

Day care paid for or provided by an employer to an employee, the value of which does not exceed the employee's or employee's spouse's "earned" income, and does not exceed the amount of \$5,000, is not included in the income of the employee and is deductible by the employer.

Origin: IRC § 129

Estimate: \$14.6

1.012 Exemption of Certain Foster Care Payments

Qualified foster care payments are not includible in the income of a foster parent.

Origin: IRC § 131(a)

Estimate: \$4.9

1.013 Exemption of Payments Made to Coal Miners

Coal miners or their survivors may exclude from income payments for disability or death from black lung disease.

Origin: IRC § 104(a)(1); Rev. Rul. 72-400

Estimate: Negligible

1.014 Exemption of Rental Value of Parsonages¹

A minister may exclude from gross income a rental allowance or the rental value of a parsonage furnished to him or her.

Origin: IRC § 107

Estimate: \$4.0

1.015 Exemption of Scholarships and Fellowships

Degree candidates can exclude scholarships and fellowship income if the amounts are not compensation for services or for the payment of room, board or travel expenses.

Origin: IRC § 117(a)

Estimate: \$32.7

1.016 Exemption of Certain Prizes and Awards

Prizes and awards are generally required to be included in income. The exemption of certain prizes and awards is generally limited to taxpayers who donate the proceeds to a charitable organization. Certain employee achievement awards are also excluded from gross income.

Origin: IRC § 74

Estimate: N.A.

1.017 Exemption of Cost-Sharing Payments

Portions of government cost-sharing payments to assist in water and soil conservation projects are not includible in the recipient's income.

Origin: IRC § 126

Estimate: Negligible

1.018 Exemption of Meals and Lodging Provided at Work¹

The value of meals and lodging furnished to the employee by the employer on the business premises for the employer's convenience is not included in the income of the employee. The employer's expenses are deductible.

Origin: IRC § 119

Estimate: \$50.8

1.019 Exclusion from Employee Income of Business-Related Meals and Entertainment¹

Provides an income exclusion for the value of business-related meals and entertainment provided to employees, consistent with the federal exclusion

Origin: M.G.L. c. 62, § 2(a)

Estimate: \$28.7

1.020 Exemption of Income from the Sale, Lease, or Transfer of Certain Patents

Exempts from tax income from the sale or transfer of certain patents, or from the production of royalty or other income from property subject to such patents, for a period of five years. The patents must be issued to or applied for by a Massachusetts resident or a Massachusetts corporation, support energy conservation or alternative energy, and be approved by the commissioner of energy resources.

Origin: M.G.L. c. 62, § 2(a)(2)(G); M.G.L. c. 63, § 30.3

Estimate: N.A.

1.021 Exemption of Capital Gains on Home Sales

Taxpayers may exclude up to \$250,000 of capital gain (or \$500,000 if filing jointly) on the sale of a principle residence. This exclusion from gross income may be taken any number of times, provided the home was the filer's primary residence for an aggregate of at least 2 of the previous 5 years.

Comment: Massachusetts does not adopt the cancellation of Indebtedness on Principal Residence; for federal tax purposes, the exclusion from gross income for qualified principal residence indebtedness that was discharged has been extended until December 31, 2020. Massachusetts does not adopt the extension of the exclusion because it was enacted after January 1, 2005.

Origin: IRC § 121

Estimate: \$505.0

1.022 Nontaxation of Capital Gains at Death

Ordinarily, capital gains are taxed at the time appreciated property is transferred. However, no tax is imposed on a capital gain when appreciated property is transferred at death. The appreciation that accrued during the lifetime of the transferor is never taxed as income.

Comment: See also item 1.106

Origin: IRC §§ 1001 and 1014

Estimate: \$1,306.9

1.023 Exemption of Interest from Massachusetts Obligations

Interest earned on Massachusetts bonds is exempt. The exclusion applies to bonds of Massachusetts agencies, and local subdivisions (cities and towns) as well.

Origin: M.G.L. c. 62, § 2 (a)(1)(A)

Estimate: \$68.4

1.024 Exemption of Benefits and Allowances to Armed Forces Personnel¹

Under the January 1, 1998 Code, Massachusetts allowed the federal exclusion for certain military fringe benefits including combat zone compensation, veterans' and medical benefits, disability benefits, moving allowances and a death gratuity benefit of \$3,000. As a result of legislation under which the Commonwealth incorporated into Massachusetts personal income tax law the Code as amended and in effect on January 1, 2005 (hereinafter referred to as the "Code Update"). This exclusion was extended to include dependent care assistance under a dependent care assistance program, travel benefits received under the Operation Hero Miles program and an increased death benefit gratuity of \$12,000.

Origin: IRC §§ 112

Estimate: \$35.4

1.025 Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits

These veterans' benefits are not taxed.

Origin: 38 U.S.C. § 5301

Estimate: \$57.5

1.026 Exemption of Military Disability Pensions

Disability pensions paid to service personnel are fully excluded from gross income. The portion of a regular pension that is paid on the basis of disability may also be excluded.

Origin: IRC § 104(a)(4)

Estimate: \$0.8

1.027 Exemption of Compensation to Massachusetts-Based Nonresident Military Personnel

Compensation paid by the U.S. to nonresident uniformed military personnel on duty at bases within Massachusetts for services rendered while on active duty is defined as compensation from sources outside Massachusetts. It is therefore not taxed.

Comment: This tax treatment follows U.S. statutory law.

Origin: 50 U.S.C. App. 574; M.G.L. c. 62, § 5A(c)

Estimate: \$11.8

1.028 Exemption for Taxpayers Killed in Military Action or by Terrorist Activity

Massachusetts residents who die in combat while in active military service, or who die as a result of terrorist or military action outside of the U.S. while serving as military or civilian employees of the U.S. are exempt from income taxation.

Origin: M.G.L. c. 62, § 25

Estimate: N.A.

1.029 Exemption for Retirement Pay of the Uniformed Services

Effective January 1, 1997, income received from the United States government as retirement pay and survivorship benefits for a retired member of the Uniformed Services of the United States is exempt from the personal income tax. The Uniformed Services of the United States are: the Army, Navy, Air Force, Marine Corps, Coast Guard, and the Commissioned Corps of the Public Health Service and National Oceanic and Atmospheric Administration.

Origin: M.G.L. c. 62, § 2(a)(2)(E)

Estimate: \$24.8

1.030 Parking, T-Pass and Vanpool Fringe Benefits

A federal and Massachusetts exclusion is allowed for employer-provided parking, transit passes and vanpool benefits (i.e. "qualified transportation benefits"), subject to monthly maximums. Massachusetts adopts the federal exclusion as it appeared in the Code on January 1, 2005. Although the Tax Relief Act of 2010 temporarily increased this amount at the federal level, Massachusetts did not conform. For taxable years beginning in 2022, the Massachusetts monthly exclusion amounts are \$280 for employer-provided parking and \$150 for combined transit pass and commuter highway vehicle transportation benefits. Under Massachusetts law, these numbers reflect an inflation adjustment but do not include the increase in the federal monthly exclusion amount for the combined transit pass and commuter highway vehicle transportation benefits that was signed into law on December 18, 2015. Massachusetts adopts monthly exclusion amounts based on the January 1, 2005 Code. For further discussion, see TIR 21-12.

Origin: IRC § 132(f)

Estimate: \$32.1

1.031 Health Savings Accounts

For federal income tax purposes, the earnings in a Health Savings Account (HSA) accrue on a tax-free basis, and qualified distributions from a HSA are excluded from gross income. Prior to the most recent Code update, Massachusetts taxed earnings in a HSA and also taxed distributions to the extent such amounts were not previously taxed by Massachusetts. As a result of the Code update, Massachusetts adopts the federal exclusion for earnings in, and qualified distributions from, a HSA.

Origin: IRC § 223

Estimate: Included in 1.422

1.032 Employer-Provided Adoption Assistance

Massachusetts adopted the federal exclusion for employer-provided adoption expenses paid (or treated as paid under IRC sec. 137). However, as Massachusetts follows the 2005 Code, the exclusion sunset after 2010. If Massachusetts were to update to the current code, this expenditure would be restored.

Origin: IRC § 137

Estimate: Not Active

1.033 Employer-Provided Educational Assistance

Massachusetts adopts the federal exclusion for qualified educational expenses reimbursed to an employee under an employer-provided education assistance program in effect as of the 2005 Code Update. Massachusetts adopts the federal exclusion for qualified educational expenses for undergraduate and graduate education expenses up to the federal annual maximum of \$5,250 per calendar year.

Origin: IRC § 127 and 132(j)(8)

Estimate: \$14.1

1.035 Department of Defense Homeowners Assistance Plan

Massachusetts adopts the federal exclusion for the employee fringe benefit of payments received under the Homeowners Assistance Plan. Such payments are intended to compensate military personnel and certain civilian employees for a reduction in the fair market value of their homes resulting from military or Coast Guard base closure or realignment.

Origin: IRC § 132(n)

Estimate: N.A.

1.036 Survivor Annuities of Fallen Public Safety Officers

For both Massachusetts and federal tax purposes, an exclusion from income is allowed for amounts paid under a governmental plan as an annuity to the survivor of a public safety officer killed in the line of duty. Massachusetts adopts the federal exclusion as amended and in effect on January 1, 2005, that excludes these annuities.

Origin: IRC § 101(h)

Estimate: N.A.

1.037 Survivor Annuities of Fallen Astronauts

Massachusetts adopts the federal exclusion for death benefits paid by the U.S. government to the survivors of astronauts who die in the line of duty. The Massachusetts exclusion is effective for payments made on or after January 1, 2005.

Origin: IRC § 101(i)

Estimate: N.A.

1.039 Discharge of Indebtedness for Health Care Professionals

Massachusetts adopts the federal exclusion for National Health Service Corps Loan Program repayments made to health care professionals. Loan repayments received under similar state programs eligible for funds under the Public Health Service Act are also excluded from income.

Origin: IRC § 108(f)(4)

Estimate: \$1.4

1.040 Archer Medical Savings Accounts

For federal income tax purposes, the earnings in an Archer Medical Savings Account (MSA) accrue on a tax-free basis, and qualified distributions from an Archer MSA are excluded from gross income. Prior to the 2005 Code update, Massachusetts taxed earnings in an Archer MSA for individuals who became active participants on or after January 1, 2001 and also taxed distributions for such individuals to the extent such amounts were not previously taxed by Massachusetts. As a result of the Code update, Massachusetts adopts the federal exclusion for earnings in, and qualified distributions from, an Archer MSA for all federally qualified individuals.

Origin: IRC § 220

Estimate: Included in 1.420

1.041 Earnings of Pre-paid and Tuition Savings ("529" plans)

For both Massachusetts and federal tax purposes, an exclusion from income is allowed for the earnings of pre-paid tuition programs and tuition savings accounts. Massachusetts has available the U.Fund College Investing Plan, a direct-sold 529 college savings plan managed by Fidelity Investments using Fidelity mutual funds. The plans are opened for a student beneficiary, and contributions are accepted until all account balances in Massachusetts' 529 plans for the same beneficiary reach \$375,000. Qualified distributions from Massachusetts are exempt from state taxation. Note that Massachusetts also has the "U.Plan Prepaid Tuition Program", offered by the Massachusetts Education Financing Authority (MEFA). The U.Plan is not a qualifying 529 plan but is nevertheless tax-free for federal and Massachusetts income tax purposes because participants are purchasing Massachusetts general obligation bonds (see Item 1.023). The bonds are redeemable to pay specified percentages of tuition and mandatory fees at 80 participating private and

public Massachusetts colleges and universities. New provisions that began in 2018 also allow 529 plan account funds to be used for elementary or secondary school expenses, up to \$10,000 per year. Massachusetts adopts this change as Massachusetts follows the current IRC with respect to IRC § 529. See TIR 18-14 for more information.

Origin: IRC § 529

Estimate: \$12.2

1.042 Exclusion of Gains of Qualified Small Business Stock (QSBS) Gain

For federal tax purposes Internal Revenue Code ("IRC") § 1202 allows individuals an income exclusion for gains derived from the sale of qualified small business stock ("QSBS"). Because Massachusetts generally follows the IRC as in effect in 2005 for personal income tax purposes, Massachusetts allows an income exclusion for 50% of such gains.

Origin: IRC § 1202

Estimate: \$32.6

1.100 DEFERRALS OF GROSS INCOME

1.101 Net Exemption of Employer Contributions and Earnings of Private Pension Plans²

Employer contributions to private, qualified employee pension plans are deductible by the employer up to certain amounts and are not included in the income of the employees. Income earned by the invested funds is not currently taxable to the employees. Benefits in excess of any employee contributions previously taxed by Massachusetts are taxable when paid out. The value of the tax deferral on contributions and on the investment income is a tax expenditure.

Origin: IRC §§ 401-415 in effect January 1, 1985 and M.G.L. c. 62 §§ 2(a)(2)(F)

Estimate: \$3,304.8

1.102 Treatment of Incentive Stock Options

Massachusetts has adopted the federal rules for employee stock options. Generally, employers may offer employees options to purchase company stock at a later date at a price equal to the fair market value of the stock when the option was granted. At the time employees exercise the option, they do not include in income the difference between the fair market value and the price they pay. If they later sell the stock, they are taxed on the amount by which the price they receive for the stock exceeds the price they paid. Thus, income is deferred and is taxed as a capital gain instead of as compensation.

Origin: IRC §§ 421-424

Estimate: N.A.

1.103 Exemption of Earnings on Stock Bonus Plans or Profit Sharing Trusts

Investment income earned by stock bonus plans or profit sharing trusts is not taxed currently for employees.

Origin: M.G.L. c. 62, § 5(b)

Estimate: N.A.

1.104 Exemption of Earnings on IRA and Keogh Plans²

This includes exclusions from income for gains on retirement contributions; these earnings are taxed upon distribution. The deferral of tax on the investment income is a tax expenditure.

Origin: M.G.L. c. 62, §§ 2(a)(2)(F)

Estimate: \$322.2

1.106 Non-taxation of Capital Gains at the Time of Gift

Ordinarily, capital gains are taxed at the time appreciated property is transferred. However, no tax is imposed on a capital gain when appreciated property is transferred by gift. The taxation of appreciation is deferred until the recipient transfers the property.

Comment: See also item 1.022 above.

Origin: IRC §§ 1001, 1015

Estimate: \$127.2

1.200 DEDUCTIONS FROM GROSS INCOME

1.201 Capital Gains Deduction for Collectibles

The expenditure provides a 50% deduction for long-term capital gains on the sale or exchange of collectibles

Origin: M.G.L. c. 62, § 2(c)(3)

Estimate: \$2.2

1.202 Deduction of Capital Losses Against Interest and Dividend Income

Taxpayers may deduct up to \$2,000 of net capital loss against interest and dividend income. This limit was reestablished in 2002.

Origin: M.G.L. c. 62, § 2(c)(2)

Estimate: N.A.

1.203 Excess Natural Resource Depletion Allowance

Individuals or investors in extractive industries (mining or drilling natural resources) may deduct a percentage of gross mining income as a depletion allowance. The allowance may exceed the actual cost of the resource property. For a more detailed description of this tax expenditure, see corporate excise item 2.204.

Origin: IRC §§ 611, 613, and 613A

Estimate: \$0.2

1.204 Abandoned Building Renovation Deduction

Businesses renovating eligible buildings in Economic Opportunity Areas may deduct 10% of the cost of renovation from gross income. This deduction may be in addition to any other deduction for which the cost of renovation may qualify. To be eligible for this deduction, renovation costs must relate to buildings designated as abandoned by the Economic Assistance Coordinating Council.

Previously, the deduction was available only for improvements to abandoned buildings located in Economic Opportunity Areas ("EOA"), as designated by the EACC. However, in 2016, the legislature enacted An Act Relative To Job Creation And Workforce Development, which eliminated the EOA requirement, and inserted the requirement that the EACC need only "certify" a project. These changes are effective for tax years beginning on or after January 1, 2019.

Origin: M.G.L. c. 62, § 3(B)(a)(10)

Estimate: \$0.1

1.300 ACCELERATED DEDUCTIONS FROM GROSS INCOME

1.301 Modified Accelerated Depreciation on Rental Housing

Landlords and investors in rental housing may use accelerated methods of depreciation for new and used rental housing. Rental housing placed in service after 1988 is depreciated on a straight-line basis over a 27.5-year period. Rental housing placed in service before 1988 was depreciable over shorter periods (generally 19 or 20 years), and, instead of straight-line depreciation, the 175% declining balance method was permitted. Straight-line depreciation over the property's expected useful life is the generally accepted method for recovering the cost of building structures. The excess of allowable depreciation over such generally accepted depreciation is a tax expenditure, resulting in a deferral of tax or an interest-free loan.

Origin: IRC § 168(b)

Estimate: \$22.8

1.303 Modified Accelerated Depreciation on Buildings (other than Rental Housing)

In general, businesses may recover the cost of durable business assets only by capitalizing the cost and claiming depreciation deductions over a period of years. This expenditure reflects Massachusetts' conformity with federal rules allowing for accelerated depreciation of nonresidential buildings.

Origin: IRC § 168(b)

Estimate: \$3.0

1.304 Modified Accelerated Cost Recovery System (MACRS) for Equipment

In general, businesses may recover the cost of durable business assets only by capitalizing the cost and claiming depreciation deductions over a period of years. Traditional financial accounting rules required the cost to be recovered pro rata over a set number of years. However, Massachusetts conforms to the Modified Accelerated Cost Recovery System (MACRS) set out in the Internal Revenue Code (the "Code"). MACRS allows more of the cost of the property to be deducted in the first few years of an asset's life, and relatively less later. MACRS also allows taxpayers to choose an alternative depreciation method that more closely conforms to traditional financial accounting rules. The use of the accelerated method instead of the alternative method results in a temporary reduction of tax in the earlier years of an asset's life, which constitutes a tax expenditure. The deferral of tax is analogous to an interest-free loan from the Commonwealth to taxpayers.

Origin: IRC § 168

Estimate: \$28.7

1.305 Expense Deduction for First-Year Business Assets

Under the Internal Revenue Code (the "Code"), businesses may recover the cost of durable business assets only by capitalizing the cost and claiming depreciation deductions over a period of years. The Code adopts different depreciation schedules for specified classes of assets. Massachusetts follows the federal depreciation rules, with modifications. Code § 179 allows federal taxpayers to elect to claim an immediate expense deduction in the tax year during which the asset was first placed in service. Due to its conformity to the Code for determining business expense deductions, Massachusetts allows the Code § 179 deduction in the same amount as it is allowed for federal tax purposes. The tax expenditure is a result of such conformity. The immediate deduction of the cost of business assets constitutes a tax expenditure because it results in a deferral of tax.

Origin: IRC § 179

Estimate: \$40.3

1.306 Election to Deduct and Amortize Business Start-up Costs

Individuals or investors in a trade or business may elect to treat business start-up expenditures as deferred expenses and amortize them over a period of not less than 180 months, starting with the month in which the business begins. For a more detailed description of this tax expenditure, see corporate excise item 2.304.

Origin: IRC § 195

Estimate: \$0.9

1.308 Expensing Exploration and Development Costs

Individuals or investors in extractive industries (mining or drilling natural resources) may take an immediate deduction for certain exploration and development costs. For a more detailed description of this tax expenditure, see corporate excise item 2.309; the provisions for individual taxpayers are somewhat more liberal than those that apply to corporations.

Origin: IRC §§ 263(c), 616 and 617 in effect January 1, 1985

Estimate: Negligible

1.309 Expensing Research and Experimental Expenditures in One Year

Individuals or investors in a trade or business may take an immediate deduction for research and Experimental expenditures. For a more detailed description of this tax expenditure, see corporate excise item 2.308.

Origin: IRC § 174

Estimate: \$0.3

1.310 Five-Year Amortization of Pollution Control Facilities

Individuals or investors in a trade or business may elect to amortize the cost of a certified pollution control facility over a five-year period. For a more detailed description of this tax expenditure, see corporate excise item 2.311.

Origin: IRC § 169

Estimate: N.A.

1.311 Seven-Year Amortization for Reforestation

Individuals or investors in the forestry business may amortize the costs of reforestation over a seven-year period. For a more detailed description of this tax expenditure, see corporate excise item 2.313.

Origin: IRC § 194

Estimate: N.A.

1.312 Expensing Certain Capital Outlays of Farmers

Farmers may use certain favorable accounting rules. For instance, they may use the cash basis method of accounting and may deduct up to 50% of non-paid farming expenses as current expenses even though these expenditures are for inventories on hand at the end of the year. They also may deduct certain capital outlays, such as expenses for fertilizers and soil and water conservation if they are consistent with a federal- or state-approved plan. Generally, these special rules are not available to farming corporations and syndicates.

Origin: IRC §§ 175 and 180, and Reg. §§ 1.61-4, 1.162-12 and 1.471-6

Estimate: \$0.5

1.400 DEDUCTIONS FROM ADJUSTED GROSS INCOME

1.401 Deduction for Employee Social Security and Railroad Retirement Payments

Taxes paid by employees to fund the Social Security and Railroad Retirement systems are deductible against "earned" income up to a maximum of \$2,000 per individual.

Comment: The estimate also covers item 1.402 below.

Origin: M.G.L. c. 62, § 3B(a)(3)

Estimate: \$351.0

1.402 Deduction for Employee Contributions to Public Pension Plans²

Employee contributions to federal and state contributory pension plans are deductible against "earned" income up to a maximum of \$2,000 per individual.

Origin: M.G.L. c. 62, § 3B(a)(4)

Estimate: Included in 1.401

1.403 Additional Exemption for the Elderly

A taxpayer age 65 or over is entitled to an additional exemption against "earned" income of \$700 (\$1,400 for a married couple filing jointly if both spouses are age 65 or over).

Origin: M.G.L. c. 62, §§ 3B(b)(1)(C), (1A)(C), and (2)(C)

Estimate: \$28.3

1.404 Additional Exemption for the Blind

A blind taxpayer is allowed an additional exemption against "earned" income of \$2,200 (\$4,400 for a married couple filing jointly if both spouses are blind).

Origin: M.G.L. c. 62, §§ 3B(b)(1)(B), (1A)(B), and (2)(B)

Estimate: \$0.6

1.405 Dependents Exemption Where the Child Earns Income³

Taxpayers are allowed an additional exemption of \$1,000 for a dependent child even when the child earns income against which a personal exemption can be taken.

Comment: The estimate cannot be separated from the figure for the dependents exemption in endnote 3.

Origin: IRC § 151(c) in effect January 1, 1988 and M.G.L. c. 62 § 3B(b)(3)

Estimate: N.A.

1.406 Deduction for Dependents Under 12

Individual taxpayers and married taxpayers filing jointly with one or more dependents under age 12, who do not claim the deduction for child care described in item 1.409 below, may claim this deduction. Filers with one dependent under 12 may deduct \$3,600, while filers with two or more dependents under 12 may deduct \$7,200.

Origin: M.G.L. c. 62, § 3B(a)(8)

Estimate: N.A.

1.407 Personal Exemption for Students Age 19 or Over

A taxpayer may claim a dependent exemption of \$1,000 for a child who is a full-time student even if he or she is 19 or over.

Origin: IRC §§ 151-152; M.G.L. c. 62 § 3B(b)(3)

Estimate: \$10.4

1.408 Deduction for Adoption Fees

Adoption fees paid to a registered adoption agency are deductible against Part B income.

Origin: M.G.L. c. 62, § 3B(b)(5)

Estimate: \$0.4

1.409 Deduction for Business-Related Child Care Expenses

Taxpayers qualifying for the credit for employment-related childcare expenses in the Internal Revenue Code are allowed a deduction against "earned" income for the amount of the expenses that qualify for the credit. Beginning in tax year 2001, the cap on this deduction was increased, and the coverage expanded to include elderly and disabled dependents. The cap increased from \$2,400 to \$3,600 for filers with one dependent, and from \$2,400 to \$4,800 for filers with two or more dependents. Beginning in tax year 2002, the cap was further increased to \$4,800 for qualifying filers with one dependent and to \$9,600 for filers with two or more dependents.

Comment: For federal tax purposes, the requirement that employment-related child care expenses relate only to children under age 15 was further restricted to children under age 13. In addition, a federal change now requires a taxpayer to include employer-provided dependent care expenses when calculating the limitation amount of qualifying expenses.

Origin: IRC § 21, and M.G.L. c. 62, § 3B(a)(7)

Estimate: N.A.

1.410 Exemption of Medical Expenses

Medical and dental expenses in excess of 7.5% of federal adjusted gross income are deductible against "earned" income for taxpayers who itemize deductions on their federal returns.

Origin: IRC § 213 and M.G.L. c. 62, § 3B(b)(4)

Estimate: \$165.4

1.411 Rent Deduction

Renters are able to deduct against Part B income one-half of the rent paid for a principal residence located in Massachusetts up to a maximum deduction of \$3,000 per year. This maximum was last raised in tax year 2001.

Origin: M.G.L. c. 62, § 3B(a)(9)

Estimate: \$159.0

1.412 Nontaxation of Charitable Purpose Income of Trustees, Executors or Administrators

The adjusted gross income of trustees, executors or administrators, which is currently payable to or irrevocably set aside for public charitable purposes, is tax-exempt.

Origin: M.G.L. c. 62, §§ 3A(a)(2) and 3B(a)(2)

Estimate: N.A.

1.413 Exemption of Interest on Savings in Massachusetts Banks

Up to \$100 (\$200 on a joint return) of interest from savings deposits or savings accounts in Massachusetts banks is deductible from gross income.

Origin: M.G.L. c. 62, § 2(b)(1)(A); M.G.L. c. 62, § 3B(a)(6)

Estimate: \$4.5

1.414 Tuition Deduction (Over 25% of Income)

A deduction is allowed for tuition payments paid, on behalf of a filer or their dependent, to a two- or four-year college leading to a degree or certificate. The deduction is equal to the amount by which the net tuition payments exceed 25% of the filer's Massachusetts AGI. See TIR 97-13 for more information. Non-residents and part year residents are ineligible for the deduction, effective for tax years beginning on or after January 1, 2017.

Origin: IRC § 222; M.G.L. c. 62, § 3B(a)(11),(12)

Estimate: \$35.6

1.415 Charitable Contributions Tax Deduction

For tax year 2001, a deduction was allowed for charitable contributions in determining Part B taxable income. The deduction amount was equal to the taxpayer's charitable contributions for the year, as defined under the Federal Internal Revenue Code and without regard to whether the taxpayer elected to itemize deductions on his or her federal income tax return. Chapter 186 of the Acts of 2002 suspended this deduction until the year following the tax year the Part B rate declined to 5.00%. The Part B rate rolled back to 5.00% for tax year 2020, however the start date was rolled back one year, delaying the reinstitution of this deduction until tax year 2022 and thereafter. The tax loss in FY22 results from filers adjusting their estimated payment during that fiscal year.

Origin: IRC § 170; M.G.L. c. 62, §3B (a)(13)

Estimate: \$64.0

1.418 Deduction for Costs Involved in Unlawful Discrimination Suits

Massachusetts adopts the federal deduction for attorney fees and court costs paid to recover a judgment or settlement for a claim of unlawful discrimination, up to the amount included in gross income for the tax year from such claim.

Origin: IRC §§ 62(a)(20) and 62(e)

Estimate: N.A.

1.419 Business Expenses of National Guard and Reserve Members

Massachusetts adopts the deduction for unreimbursed overnight travel, meals and lodging expenses of National Guard and Reserve Members who must travel more than 100 miles from home to perform services as a National Guard or reserve member.

Origin: IRC §§ 62(a)(2)(E) and 162(p)

Estimate: Negligible

1.420 Archer Medical Savings Accounts

Under the January 1, 1998 Code, Massachusetts allowed a deduction for an Archer Medical Savings Account (MSA) contribution only for individuals who were active MSA participants before January 1, 2001. As a result of legislation that aligned the Massachusetts tax code with the Internal Revenue Code as of January 1, 2005, Massachusetts adopts the federal deduction for Archer MSA contributions made on or after January 1, 2005 for all federally qualified individuals.

Origin: IRC § 220

Estimate: Negligible

1.421 Deduction for Clean-Fuel Vehicles and Certain Refueling Property

A deduction is allowed for a portion of the cost of qualifying motor vehicles that use clean-burning fuel placed in service on or before December 31, 2006. The deduction exists in Massachusetts because it was present in the Code as of 1/1/05. The federal deduction was repealed in 2014.

Origin: IRC §§ 62(a)(14) and 179A

Estimate: Negligible

1.422 Health Savings Accounts

Massachusetts adopted the federal deduction allowed to individuals for contributions to a Health Savings Account, subject to federal limitations, which are adjusted annually for inflation. For calendar year 2021, the maximum deduction limit is \$3,600 for an individual plan and \$7,200 for a family plan. Filers age 55 or older may increase the maximum deduction by \$1,000.

Origin: IRC §§ 62(a)(19) and 223

Estimate: \$16.2

1.423 Commuter Deduction

(Note: item 1.423 was formerly the temporary Tuition and Fees Deduction)

For tax years beginning on or after January 1, 2006, individuals may deduct certain commuting costs paid in excess of \$150 for:

- Tolls paid through the Massachusetts FastLane account; and

- The cost of weekly or monthly passes for MBTA transit, bus, commuter rail, or commuter boat.

The total amount deducted may not exceed \$750 per individual. Amounts paid must be reduced by any amounts reimbursed or otherwise deductible.

Origin: M.G.L. Chapter 62, § 3 (B) (a) (15)

Estimate: \$7.9

1.424 Self-Employed Health Insurance Deduction

Massachusetts adopts the federal deduction allowed to self-employed individuals for premiums on health insurance. Insurance may be for the individual, spouse, or family member. The insurance must be established under the self-employed individual's business.

Origin: IRC § 162(I)

Estimate: \$52.4

1.425 Student Loan Interest Deduction (allowed Federally or by Massachusetts)

Massachusetts allows as an option the federal "interest on education loans" deduction. The federal deduction phases out based on modified AGI. As a result of the 2005 Code update, Massachusetts adopted the federal provision that temporarily repealed the 60-month limitation raised taxpayer income limitations through the end of 2010.

Alternatively, Massachusetts allows a deduction of undergraduate student loan interest. Filers may only choose one of these deductions.

Origin: M.G.L. c. 62, § 2(d)(1) and I.R.C. §§ 62(a)(17), 221.

Estimate: \$58.1

1.426 Expenses of Human Organ Transplant

Massachusetts allows the expenses incurred in the donation of a human organ to be deducted from taxable income.

Origin: M.G.L. c. 62, § 3B(a) (16)

Estimate: Negligible

1.427 Prepaid Tuition or College Savings Plan Deduction

A deduction against Part B income is allowed in an amount equal to 1) purchases of or 2) contributions made in a taxable year to an account in a pre-paid tuition program or a college savings program established by the Commonwealth or an instrumentality or authority of the Commonwealth. The deduction is capped at \$1,000 for a single person or head of household and \$2,000 for a married couple filing a joint return.

The deduction applies to tax years beginning on or after January 1, 2017 through the tax year beginning on January 1, 2021.

Origin: G.L. c. 62, § 3.B(a) paragraph (19)

Estimate: \$5.5

1.428 Gambling Loss Deduction

For tax years beginning on or after January 1, 2015 a deduction is allowed from Part B income for gambling losses incurred at certain licensed gaming establishments or "racing meeting licensee or simulcasting licensee" establishments but only to the extent of winnings from such establishments included in gross income for the calendar year. See TIR 15-14 and Schedule Y, line 17 for more information. The new gambling loss deduction is the only deduction for gambling losses allowed for a Massachusetts taxpayer, unless the gambling activities constitute a trade or business. See DD 03-3. Note that Massachusetts does not adopt the federal deduction under IRC § 165(d) for gambling losses.

Origin: Origin: G.L. c. 62, § 3.B(a) paragraph (18)

Estimate: \$2.0

1.429 Moving Deduction

Filers who moved due to a change in their job or business location or to start a new job or business can deduct reasonable unreimbursed moving expenses if all of the following requirements are met: 1) The move was closely related to the start of work; 2) It meets a distance test; and 3) It meets a time test.

Under the TCJA, a deduction for moving expenses is no longer allowed except for certain members of the Armed Forces; However, Massachusetts does not adopt this change. A deduction for moving expenses continues to be allowed if the above requirements are met as Massachusetts follows the Code as in effect as of January 1, 2005.

Origin: Origin: IRC § 217

Estimate: \$3.1

1.500 PREFERRED RATE OF TAXATION

1.501 Small Business Stock, Capital Gains Tax Rate

Massachusetts provides a reduced tax rate for the 50% of such gains that are included in income, if certain additional requirements are met. Specifically, gains on the sale of qualified small business stock are taxed at a reduced rate of 3%, instead of the generally applicable long-term gain rate of 5%, if the stock that is sold (i) was acquired within five years of the corporation's date of incorporation (ii) was held for three years or more prior to the sale, and (iii) was issued by a C corporation or S corporation which (a) is domiciled in Massachusetts, (b) was incorporated on or after January 1, 2011, (c) had less than \$50 million in assets at the time of investment, and (d) complies with certain of the "active business" requirements of IRC § 1202.

Origin: IRC § 1202; M.G.L. c. 62, § 4(c)

Estimate: \$13.1

1.600 CREDITS AGAINST TAX**1.601 Renewable Energy Source Credit**

Provide homeowners and tenants a credit equal to 15% of the net expenditure for renewable energy source property or \$1,000, whichever is less. The credit is limited to certain types of equipment used directly for the production of solar or wind energy for residential properties.

Origin: M.G.L. c. 62, § 6(d)

Estimate: \$5.6

1.602 Credit for Removal of Lead Paint

A tax credit is provided in the amount of the cost of removing or covering lead paint on each residential unit up to \$1,500. A seven-year carryover of any unused credit is permitted. Credit is neither transferable nor refundable.

Origin: M.G.L. c. 62, § 6(e)

Estimate: \$2.3

1.603 Economic Development Incentive Program Credit

Under the provisions of the Economic Development Incentive Program (EDIP), the Economic Assistance Coordinating Council (EACC) may authorize taxpayers participating in certified projects to claim tax credits. To be eligible, a project must be certified by the EACC. The total dollar amount of the EDIP credit that may be authorized in a calendar year is \$30 million. See item # 2.605 for more details.

Origin: M.G.L. c. 63, § 38N; c. 62, § 6(g)

Estimate: \$3.7

1.604 Credit for Employing Former Full-Employment Program Participants

Employers who continue to employ former participants of the §110(1) full employment program in non-subsidized positions are eligible to receive a tax credit equal to \$100 per month for each month of non-subsidized employment, up to a maximum of \$1,200 per employee, per year. Credit is neither transferable nor refundable.

Origin: St. 1995, c. 5, § 110(m)

Estimate: Not Active

1.605 Earned Income Credit

Effective January 1, 1997, taxpayers were allowed a refundable credit against Massachusetts tax equal to 10% of the amount of the earned income credit claimed on their federal individual income tax returns. Effective January 1, 2001, the allowed percentage was increased to 15%. The credit was raised as of January 1, 2016 to 23% of the federally allowed amount, and increased to 30% as of January 1, 2019. Note that, since the state credit amount is based on the federal, any changes, temporary or permanent, to the calculation of the federal credit will be automatically reflected in credit

claims made against state tax. Note that while credit is refundable, it is not transferable.

Origin: M.G.L. c. 62, § 6(h)

Estimate: \$268.5

1.606 Septic System Repair Credit

Taxpayers required to repair or replace a failed cesspool or septic system pursuant to the provisions of Title V, as promulgated by the Department of Environmental Protection in 1995, are allowed a credit equal to 40% of the design and construction costs incurred (less any subsidy or grant from the Commonwealth), up to a maximum of \$1,500 per tax year and \$6,000 in total. Unused credits may be carried forward for up to five years. Credit is neither transferable nor refundable.

Origin: M.G.L. c. 62, § 6(i)

Estimate: \$7.7

1.607 Low Income Housing Credit

The Low-Income Housing Tax Credit (LIHTC) is administered through the Massachusetts Department of Housing and Community Development (DHCD). The LIHTC is a five- year, non-refundable credit available to corporate excise and personal income taxpayers for (i) the construction or development of new low income housing, (ii) the preservation and improvement of existing state or federally-assisted housing or (iii) the donation of real or personal property to certain non-profit entities for use in purchasing, constructing or rehabilitating a project otherwise eligible for the LIHTC. The amount of credit that Massachusetts taxpayers may claim for a qualified Massachusetts project is allocated by the DHCD and is subject to an annual cap of \$125 million through 2024, and \$50 million thereafter (unless otherwise authorized by DHCD). The LIHTC is not subject to the 50% limitation rule for corporate taxpayers. If the taxpayer disposes of the property generating the LIHTC, a portion of the credit is subject to recapture.

The LIHTC is a transferable, non-refundable, five year credit, which may be carried forward for up to 5 years.

The credit for the donation of property is a non-refundable, single year tax credit for corporate excise and personal income. This credit is generally limited to 50% but may be increased to 65% of the amount of the donation. The credit must be claimed in the year that the qualifying donation is made and credit amounts that exceed the tax due may be carried forward for up to five years. For further information, see TIR 16-15.

See also Corporate item 2.609.

Origin: M.G.L. c. 62, § 6I (a)

Estimate: \$3.5

1.608 Brownfields Credit

Taxpayers are allowed to take a credit for amounts expended to rehabilitate contaminated property owned or leased for business purposes and located within an economically distressed area. The eligibility period for the Brownfields Credit has been lengthened.

Recent legislation extended the Brownfields credit to nonprofit organizations, extended the deadline for incurring eligible costs, and permitted the credit to be transferred, sold, or assigned. As a result of the recent legislation, the environmental response action commencement cut-off date has been extended to August 5, 2018, and the time for incurring eligible costs that qualify for the credit to January 1, 2019. See TIR 13-15 for more information. Most recently, Chapter 99 of the Acts of 2018 extended the deadline for "commencement" to August 5, 2013 and set the period for incurring costs to between August 1, 1998 and January 1, 2024.

The amount of the credit varies according to the extent of the environmental remedy. If the taxpayer's permanent solution or remedy operation status includes an activity and use limitation, then the amount of the credit is 25% of the net response and removal costs incurred by the taxpayer. However, if there is no activity and use limitation, then the amount of the credit is 50% of the net response and removal costs. Note that although recent legislation made these credits transferable to another taxpayer, they are not refundable. The credit may be carried forward for up to 5 years.

Origin: M.G.L. c. 62, §6 (j)

Estimate: \$4.3

1.609 Refundable State Tax Credit Against Property Taxes for Seniors ("Circuit Breaker")

Seniors are eligible for a tax credit to the extent that their property taxes - or 25% of rent - exceed 10% of their income. Income limits and a cap on the maximum assessed value of the filer's primary residence apply. The maximum credit is also adjusted annually for inflation, see Appendix A.

Income limits and the maximum credit are adjusted for inflation over a 1999 base year; however, chapter 136 of the Acts of 2005 increased the assessed home valuation to \$600,000 and set its base year to 2004. The credits may not be sold or transferred to another taxpayer, but are refundable.

Origin: M.G.L. c. 62, § 6 (k)

Estimate: \$99.4

1.610 Massachusetts Historic Rehabilitation Credit

The Massachusetts historic rehabilitation tax credit is a credit for qualified expenditures made by a taxpayer in rehabilitating a qualified historic structure.

Origin: M.G.L. c. 62, § 6J; M.G.L c. 63, § 38R

Estimate: \$7.3

1.611 Film (or Motion Picture) Credit

The Massachusetts film tax incentives, as amended in July 2007, allow a producer of a motion picture a tax credit equal to 25% of the film's production cost and 25% of the film's payroll costs. They also provide an exemption from sales tax for film productions in Massachusetts.

Origin: M.G.L. c. 62, § 6(l), c. 63, § 38X, c. 64H, § 6(ww)

Estimate: \$2.0

1.613 Medical Device User Fee Credit

The Medical Device Credit is equal to 100% of the user fees actually paid to the United States Food and Drug Administration (FDA) by a medical device company during the taxable year for which the tax is due for premarket submissions to market new technologies or upgrades, changes, or enhancements to existing technologies, developed or manufactured in Massachusetts.

Origin: M.G.L. c. 63, § 31L; c. 62, § 6½

Estimate: Negligible

1.614 Dairy Farmer Credit

A taxpayer who holds a certificate of registration as a dairy farmer pursuant to section 16A of chapter 94 may be allowed a refundable income tax credit based on the amount of milk produced and sold. The total cumulative value of the credits authorized pursuant to this section combined with section 38Z of chapter 63, originally \$4 million annually, was increased from \$4 million to \$6 million each year by Ch. 154 (H.B. 4800), Laws 2018, effective July 1, 2018. See corporate item 2.618 for more details. These credits may not be sold or transferred to another taxpayer, but are refundable at 100% of face value.

Origin: M.G.L. c. 62, § 6 (o)

Estimate: \$6.0

1.615 Conservation Land Credit

Filers who donate land for conservation in perpetuity for the use of all citizens of the Commonwealth can receive a credit of up to \$75,000. Approval of the donation is required from the Secretary of the Office of Energy & Environment Affairs.

The credits may not be sold or transferred to another taxpayer, but are refundable. The total credits that may be approved are capped at \$2.0 million annually.

Origin: M.G.L. c. 62, § 6 (p)

Estimate: \$1.8

1.616 Employer Wellness Program Tax Credit

The 2012 Health Care Act establishes an Employer Wellness Program Tax Credit that is effective for tax years beginning on or after January 1, 2013 and is set to expire on December 31, 2017. The Employer Wellness Program Tax Credit was created to provide incentives for business to recognize the benefits of wellness programs with the goal of providing smaller businesses with an expanded opportunity to implement these programs. The credit is available to both chapter 62 and chapter 63 taxpayers (personal income taxpayers and corporate & business excise taxpayers).

The credit is set at 25 percent of the costs associated with implementing a "certified wellness program." The maximum amount of Employer Wellness Program Credits available to a taxpayer is \$10,000 in any tax year. The total amount of Employer Wellness Program Credits authorized by the Department of Public Health is subject to a \$15 million annual

cap starting calendar year 2013. The Employer Wellness Program Tax Credit is non-refundable and non-transferrable. However, the portion of the Employer Wellness Program Tax Credit that exceeds the tax for the taxable year may be carried forward and applied against such taxpayer's tax liability in any of the succeeding 5 taxable years.

Origin: St. 2012, c. 224, §§ 41, 41A, 56, 56A, 238, 239, 297, and 298. M.G.L. c. 62, § 6N; M.G.L. c. 63, § 38FF.

Estimate: Negligible

1.617 Community Investment Tax Credit

The 2012 Jobs Act provides a Community Investment Tax Credit that is effective January 1, 2014 and is set to expire on December 31, 2019. However, St. 2018, chapter 99, § 25 extended the sunset date for the credit to year 2025. The credit was created to enable local residents and stakeholders to work with and through community development corporations to partner with nonprofit, public and private entities to improve economic opportunities for low and moderate income households and other residents in urban, rural and suburban communities across the commonwealth. The credit is available to both chapter 62 and chapter 63 taxpayers (personal income taxpayers and corporate & business excise taxpayers).

The Department of Housing and Community Development will administer the credit program by: 1) issuing a certification to a taxpayer after the taxpayer makes a qualified investment; 2) authorizing a dollar amount of credit for a qualified investment; 3) developing regulations and procedures with the Department of Revenue to implement the Community Investment Credit.

The certification will be acceptable as proof that the expenditures related to such investment constitute qualified investments for purposes of the community investment credit. The Community Investment Credit is set at 50 percent of the total qualified investments made by a taxpayer in a "community partner," i.e., a "community development corporation" or a "community support organization," selected by the Department of Housing and Community Development through a competitive process. A qualified investment must be in the form of a cash contribution of at least \$1,000. A taxpayer may invest in more than one community partner, but may not claim more than \$1 million of credits in any single taxable year. A taxpayer must claim the credit in the taxable year in which a qualified investment is made. The total amount of the credit was subject to a \$3 million cap in taxable year 2014, and \$6 million in each year of taxable years 2015 through 2018, \$8 million in each year of taxable years 2019 and 2020, \$10 million in each year of taxable years 2021 and 2022, and \$12 million in each year of taxable years 2023 through 2025. This credit is refundable, but not transferrable and it could be carried over up to five years.

Effective August 10, 2016, the standard for determining whether a recipient of a prior community investment tax credit allocation is eligible for a subsequent allocation has changed. As of that date, a community partner is eligible to receive a subsequent community investment tax credit allocation if the Department of Housing and Community Development determines that the community partner has made a satisfactory progress towards utilizing any prior allocation it has received. Prior to this change, a community partner was required to have utilized at least 95% of its prior allocation to be eligible for a subsequent allocation. For further information, see TIR 16-15.

Origin: St. 2012, c. 238, §§ 29, 30, 35, 36; M.G.L. c. 62, § 6M; M.G.L. c. 63, § 38EE

Estimate: \$5.5

1.618 Farming and Fisheries Income Tax Credit

Personal income taxpayers who are primarily engaged in agriculture, farming or commercial fishing qualify for an investment credit, similar to that available to manufacturing, R&D corporations and corporations primarily engaged in agriculture or commercial fishing. The amount of the credit is 3% of the cost or other basis for federal income tax purposes of qualifying property acquired, constructed or erected during the tax year. Qualifying property is defined as tangible personal property and other tangible property including buildings and structural components thereof which are located in MA, used solely in farming, agriculture or fishing, and are depreciable with a useful life of at least 4 years. The same credit is allowed to lessees, calculated as follows: 3% of a lessor's adjusted basis in qualifying property for federal income tax purposes at the beginning of the lease term, multiplied by a fraction, the numerator of which is the number of days of the tax year during which the lessee leases the qualifying property and the denominator of which is the number of days in the useful life of the property. Where the lessee is eligible for the credit, the lessor is generally not eligible, with the exception of "equine-based businesses where care and boarding of horses is a function of the agricultural activity". There is also a recapture provision, i.e., if the property on which a credit is taken is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and allowed for actual use must be added back as additional taxes due in the year of disposition, unless the property has been in qualified use for more than 12 years. This credit is effective for tax years beginning on or after January 1, 2015.

Origin: Section 50 of St. 2014, c. 287, establishing M.G.L. c. 62, § 6 (s).

Estimate: \$0.9

1.619 Certified Housing Development Tax Credit

Certified Housing Development Program provides a credit for certain qualified rehabilitation expenditures with respect to a certified housing development projects created by adding subsection (q) to G.L. c. 62, § 6 and section 38BB to G.L. c. 63. The credit may be up to 10% of the cost of "qualified substantial rehabilitation expenditures" of the market rate units within the projects as defined in G.L. c. 40V, § 1.

While the original cap on annual credits was \$5 million, this has been increased to \$10 million for the period January 1, 2015 to December 31, 2023 for the amount of credit that may be awarded under the program in a calendar year. Before 2017, the cap is part of an over-all \$25 million (\$30 million for 2015 and 2016) cap imposed on the Economic Development Incentive Program (EDIP) credit authorized pursuant to G.L. c. 62 § 6(g) and c. 63, 38N.

Effective January 1, 2017, the certified housing development tax credit is available for 25% of "qualified project expenditures" instead of 10% of "qualified substantial rehabilitation expenditures." The carry forward period for which the credit can be used is changed from 5 to 10 years. In addition, the annual cap is no longer a part of the overall annual cap imposed on the EDIP. For further information, see TIR 16-15.

Origin: St. 2010, c. 240; M.G.L. c. 40V; G.L. c. 62, § 6(q).

Estimate: \$1.0

1.620 Veteran's Hire Tax Credit

A credit is available to businesses that hire veterans who live and work in Massachusetts. The credit is equal to \$2,000 for each qualified veteran hired. The business must employ fewer than 100 employees; be certified by the Commissioner of Veteran's Services; and qualify for and claim the federal Work Opportunity Credit allowed under I.R.C. § 51. A business may be eligible for a second credit for the next taxable year if the veteran continues to work for the business. The credit cannot be transferred or refunded. Any amount of credit that exceeds the tax due in the current taxable year may be carried forward to any of the three subsequent taxable years. The credit is available for qualified veterans hired after July 1, 2017. See TIR 17-10.

Origin: M.G.L. c. 62, § 6(u)

Estimate: \$0.5

1.621 **Apprentice Tax Credit**

St. 2018, c. 228, an Act relative to economic development in the Commonwealth established the Apprentice credit for individual and corporate taxpayers. The credit is awarded to employees, who are registered with the an apprenticeship program and enter into an apprentice agreement with an employer. Employers that claim the credit in a taxable year will be eligible for an additional credit in the following year.

The credit is equal to the lesser of \$4,800 or 50% of the wages paid to the apprentice. The total cumulative amount of credits authorized annually is \$2.5 million. The credit is refundable and nontransferable. The credit applies to the taxpayers whose tax year starts from January 1, 2019.

Origin: M.G.L. c. 62, § 6(v)

Estimate: \$1.3

1.622 **Disability Hire Credit**

Effective for tax years beginning on or after January 1, 2023, employers that hire disabled employees may claim a nontransferable, refundable credit equal to (i) the lesser of \$5,000 or 30% of the wages paid to a disabled employee in the employee's first year of employment, and (ii) the lesser of \$2,000 or 30% of the wages paid to a disabled employee in each subsequent year of the employee's employment.

The credit is available to employers provided that (i) the employee is certified by the Massachusetts Rehabilitation Commission as having a disability as defined under the Americans with Disabilities Act, 42 U.S.C. § 12102; (ii) the employee is capable of working independently; (iii) the employee has a mental or physical disability that constitutes or results in a substantial impediment to employment; (iv) the employee is hired after July 1, 2021; (v) the employee's primary place of employment and primary place of residence is in Massachusetts; (vi) the employer must obtain certification from the Massachusetts Rehabilitation Commission that the employee is qualified no later than the employee's first day of work; and (vii) the employer employs the employee for at least 12 consecutive months prior to and in the taxable year in which the credit is claimed.

Origin: M.G.L. c. 62, § 6(z).

Estimate: \$1.0

1.623 **Cranberry Bog Renovation Credit**

Effective for tax years beginning on or after January 1, 2020, taxpayers primarily engaged in cranberry production may claim a nontransferable, refundable credit equal to 25% of expenses incurred in the renovation, repair, replacement, regrading or restoration of a cranberry bog for the cultivation, harvesting or production of cranberries. The Secretary for Energy and Environmental Affairs determines eligible costs and the amount of the credit. The amount of credit that can be claimed by a taxpayer for a taxable year cannot exceed \$100,000.

Origin: M.G.L. c. 62, § 6(w).

Estimate: \$1.0

1.624 Credit for Eligible Dependents

Effective for tax years beginning on or after January 1, 2021, taxpayers may claim a nontransferable, refundable credit for eligible dependents. To claim the credit, a taxpayer must furnish over half of the cost of maintaining a household. The household must include a dependent that qualifies as a dependent under IRC § 152 and who is (i) under the age of 12; (ii) age 65 or over; or (iii) disabled. The credit is equal to \$180 if the taxpayer claims one dependent, or \$360 if the taxpayer claims two or more dependents. The credit cannot be claimed by married taxpayers that file separate Massachusetts personal income tax returns. A taxpayer claiming this credit may not also claim the credit for dependent care expenses allowed under G.L. c. 62, § 6(x).

Origin: M.G.L. c. 62, § 6(y).

Estimate: \$142.3

1.625 Dependent Care Expenses Credit

Effective for tax years beginning on or after January 1, 2021, taxpayers may claim a refundable, nontransferable credit for dependent care expenses. The credit is equal to "employment-related expenses" allowed for purposes of determining the credit provided under IRC § 21. Under IRC § 21, employment-related expenses include certain expenses incurred to enable the taxpayer to be gainfully employed, including household expenses and expenses for the care of a qualified individual. A qualifying individual is (i) a dependent of the taxpayer who is younger than 13 years old; or (ii) a dependent of the taxpayer, including a spouse, who is physically or mentally incapable of taking care of himself or herself and principally lives with the taxpayer.

The credit cannot exceed \$240 if the taxpayer claims expenses for one qualifying individual, or \$480 if the taxpayer claims expenses for two or more qualifying individuals. Married taxpayers must file a joint federal income tax return to claim the credit. For taxpayers that file a joint federal income tax return and who file as married filing separately in Massachusetts, either spouse may claim the credit for expenses he or she incurred, but the combined credit for both spouses cannot exceed \$240 for one qualifying individual or \$480 for two or more qualifying individuals. A taxpayer claiming the credit may not also claim the dependent credit allowed under G.L. c. 62, § 6(y).

Origin: M.G.L. c. 62, § 6(x).

Estimate: \$25.1

KEY	ORIGIN	
	IRC	Federal Internal Revenue Code (26 U.S.C.)
	U.S.C	United States Code
	M.G.L.	Massachusetts General Laws
	Rev. Rul.; C.B.	Revenue Ruling; Cumulative Bulletin of the U.S. Treasury
	ESTIMATES	All estimates are in \$ millions.

¹ 1 This item and others citing this endnote cover employee fringe benefits. We accept as standard the following treatment of these benefits: the expense incurred by the employer in providing the benefit is properly deductible as a business expense and the benefit is taxed as compensation to the employee as if the employee had received taxable compensation and then used it to purchase the benefit. Of course, there are problems with this analysis. In some cases, the "benefit" is more a condition of employment than a true benefit. For example, a teacher required to have lunch in the school cafeteria may prefer to eat elsewhere even if the school lunch is free. On the other hand, in many cases the provision of tax-free employee benefits is clearly a substitution for taxable compensation.

² 2 This item and others citing this endnote cover contributory pension plans. The standard tax treatment of these plans is as follows:

Component	Standard Treatment
Contributions:	Made out of income that is currently taxed to employees.
Investment Income:	Taxed to the employee as "earned" income.
Distributions from Pension Funds:	Tax-free to the extent they are made out of dollars previously taxed to the employees as contributions or investment income.

The non-standard treatment of contributions, investment income, or distributions as described in items 1.006, 1.101, 1.104, 1.402, and 1.427, results in either nontaxation or deferrals of tax.

³ 3 FY23 estimates for the basic personal exemptions and the no-tax status discussed in the introduction to the personal income tax are (in millions of dollars):

Personal exemption for single taxpayers: \$389
 Personal exemption for married couples: \$589
 Personal exemption for married taxpayers filing separately: \$18
 Dependents exemption: \$87
 Personal exemption for heads of households: \$118
 Limited income credits: \$14
 No tax status: \$11

Introduction - Corporate Excise Tax

Beginning in Fiscal Year 2013, the corporate section of the Tax Expenditure Budget includes other business excises along with the corporate excise. These additional business excise taxes are the financial institution excise, the public utility excise which was repealed effective January 1, 2014, the excises on insurance companies, and the excise on security corporations. The financial institution excise is structured similarly to the corporate excise. It begins with federal net income with certain Massachusetts modifications, proceeds to additional Massachusetts deductions, applies the appropriate apportionment percentage, applies the appropriate tax rate to compute the excise due before credits and applies credits to reach the final excise due. The revenue estimates for the items in the list will now reflect their use by financial institutions. Note that most of the expenditure items are unavailable to insurance companies as these companies are not taxed on net income. However, insurance companies can apply certain credits to reduce their excises. Credits available to insurance companies are so indicated within the item descriptions and the revenue estimates for these credits will reflect their use.

In Fiscal Year 2021, revenues from the corporate excise and the other business excises mentioned above represented 12.2% of total Department of Revenue tax collections. Together these taxes ranked third in Fiscal Year 2021 in terms of total taxes collected, after the individual income tax and the sales and use tax.

Corporate Excise: Short History and Basic Structure

The corporate excise was enacted in 1919, replacing a corporate franchise tax, which was levied on the value of capital stock. Initially, the corporate excise was imposed on corporate excess and on net income.

In 1962, the corporate excess measure was repealed. The corporate excise tax is now levied on tangible property or net worth (depending on the mix of property held by the corporation) and on net income.

Tax Base:

Most business corporations are subject to tax under the corporate excise which has three components: an income measure, a non-income measure, and a minimum excise.

The income measure of the tax is based on net income for federal tax purposes with certain additions, such as interest earned on state obligations, and certain deductions, most of which are allowable under the provisions of the Internal Revenue Code. Many of the deductions are considered to be part of the basic structure. For example, in providing for depreciation deductions, the basic structure would allow the cost of property to be written-off evenly over its useful life (so-called "straight-line depreciation"). However, rules that allow accelerated depreciation deductions are listed as tax expenditures.

Under the non-income measure, corporations with qualifying tangible assets in Massachusetts that equal or exceed 10% of their qualifying total assets in Massachusetts (apportioned according to their income apportionment percentages) are taxed on the values of their tangible properties. Other corporations are taxed on a net worth basis.

The minimum excise is \$456.

Taxable Unit: A corporation is a taxpayer separate and distinct from its shareholders.

Rate Structure: Overall, the rates have declined since January 2010. See Appendix A for further details. However, the minimum excise remains unchanged at \$456. The current (tax year 2020) excise rate on C-corporations is 8.00% of net income apportioned to Massachusetts, and \$2.60 per \$1,000 of

the value of Massachusetts tangible property (as determined to be taxable under § 30(7)) or net worth allocable to Massachusetts (as determined to be taxable under § 30(8) – (9)). The tax rate on S-corporations is 3.00% for companies with total receipts greater than \$9 million, and 2.00% for companies with total receipts between \$6 million and \$9 million. The tax rate on tangible property or net worth is the same as for C-corporations.

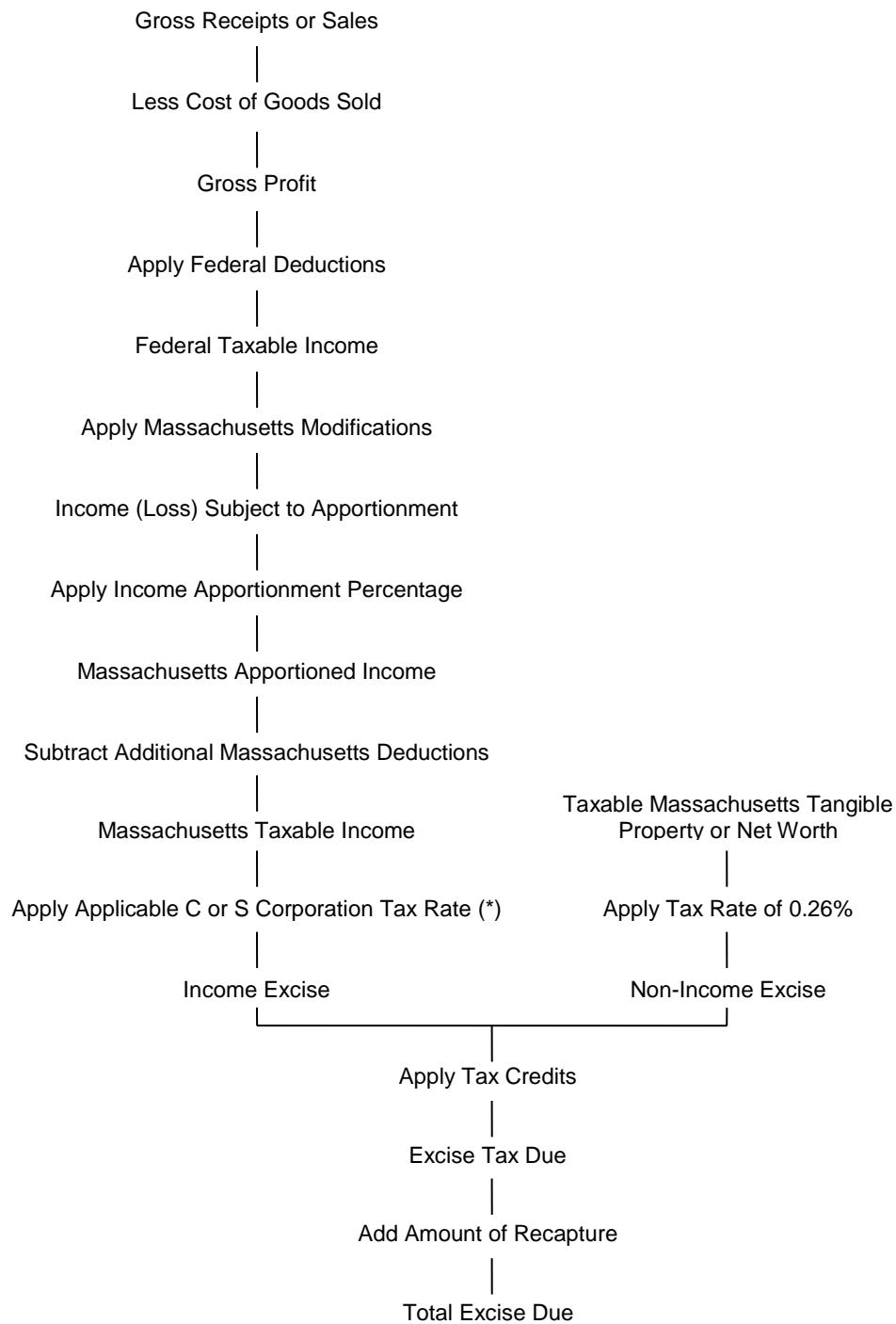
Taxable Period and Net Operating Loss Carry-forward: The taxable periods for corporations are diverse and can be chosen by each tax filer. Estimated payments are made every three months during the taxable period. Net operating loss (NOL) carry-forwards are allowed for future deductions. Before January 2010, qualifying losses could be carried forward up to five years. However, there was a statutory expansion of the general NOL carry-forward period from 5 to 20 years for business corporations. Refer to Appendix A of the FY2016 tax expenditure budget report for details.

Interstate and International Aspects: All domestic and foreign corporations with nexus in Massachusetts are subject to the corporate excise. Corporations are required to apportion their net incomes if they have incomes from business activity that is taxable in another jurisdiction using a formula based on the proportions of corporate real and tangible property, payroll, and sales that are located in Massachusetts. Under certain circumstances, taxpayers may petition for, or the Commissioner may impose, alternative methods of accounting to reflect more fairly a taxpayer's income from business operations in Massachusetts.

Combined Reporting: Since January 1, 2009, Massachusetts has required certain businesses engaged in a unitary business to calculate their income on a combined basis. A corporation is subject to this requirement if it is subject to a tax on its income under Massachusetts General Laws (M.G.L.) c. 63, §2, §2B, §32D, §39 or §52A and it is engaged in a unitary business with one or more other corporations under common control, whether or not the other corporations are taxable in Massachusetts. Those certain businesses can be general corporations, financial institutions, or public utilities. Note that combined reporting does not apply to the non-income measure of corporate excise.

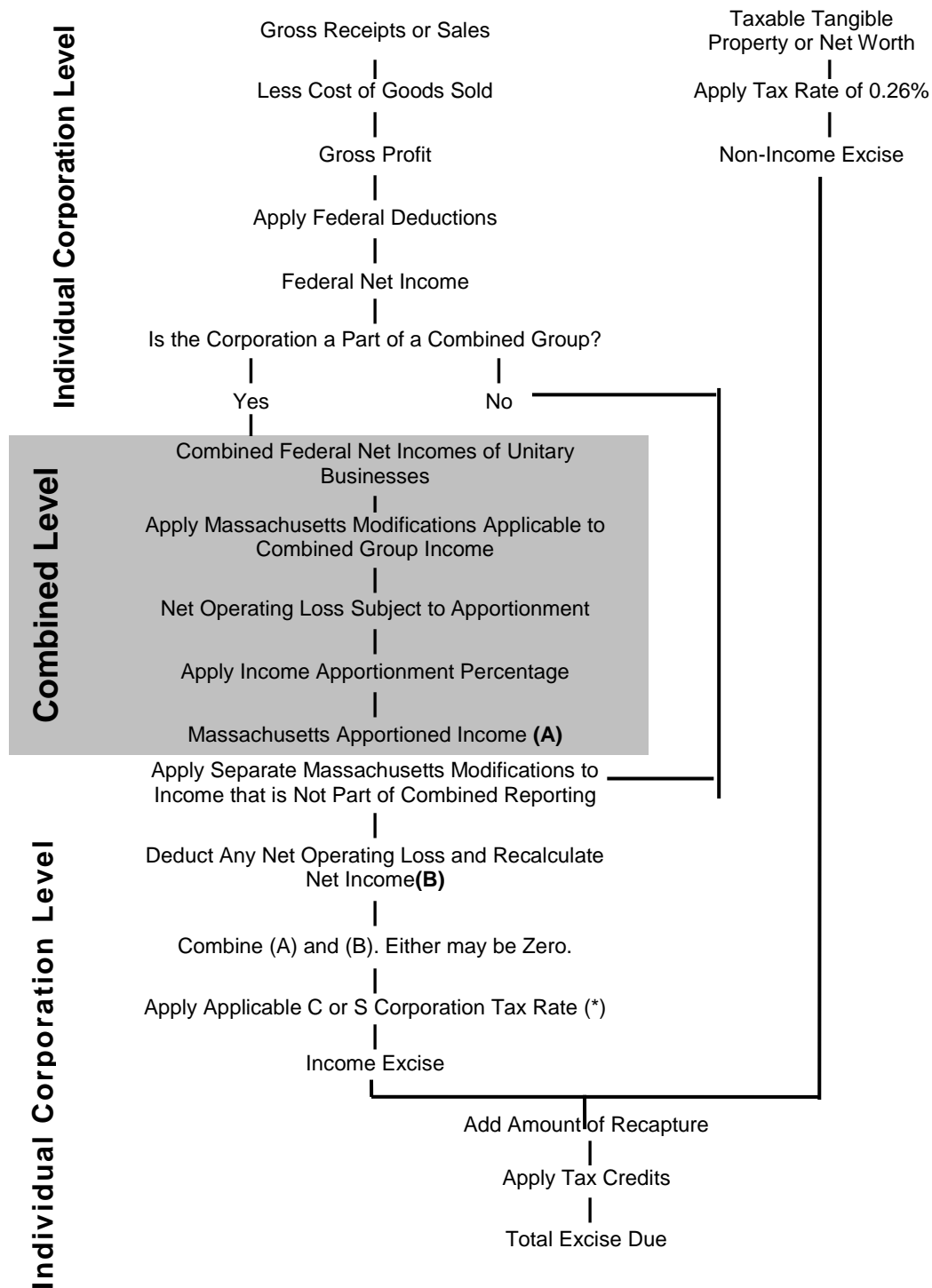
The Other Business Excises

The other business excises possess some different features from the corporate excise. First, many of the financial institutions still do not qualify for combined reporting, and no insurance companies are subject to combined reporting. Second, these businesses are not allowed to take net operating loss deductions. Third, financial institutions weigh the three apportionment factors (sales, payroll, property) equally. Fourth, the main tax base of insurance companies is the insurance premiums those companies have charged. Fifth, some credits such as the investment tax credit are not applicable to these businesses. There are some additional differences. For further details, refer to the applicable tax return forms. The basic structures of the excises for these businesses are described in the diagrams that follow.

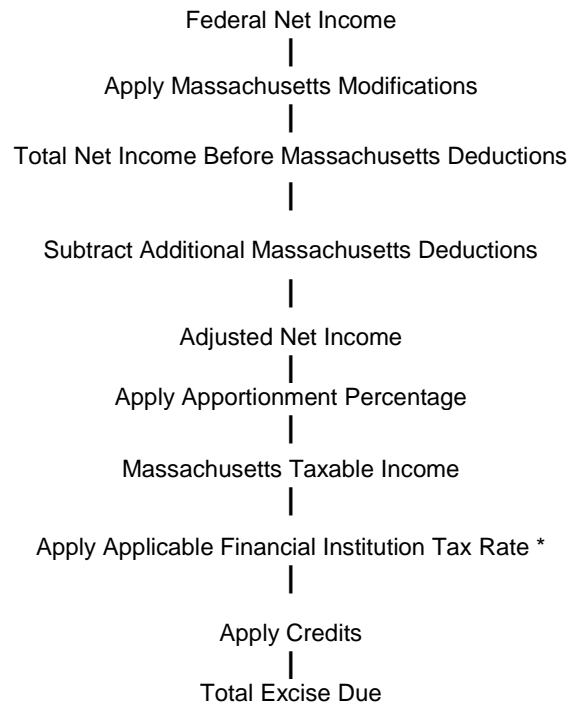
Computation of Massachusetts Corporate Excise under Non-Combined Reporting

* See Appendix A for Further Details.

Computation of Massachusetts Corporate Excise under Combined Reporting



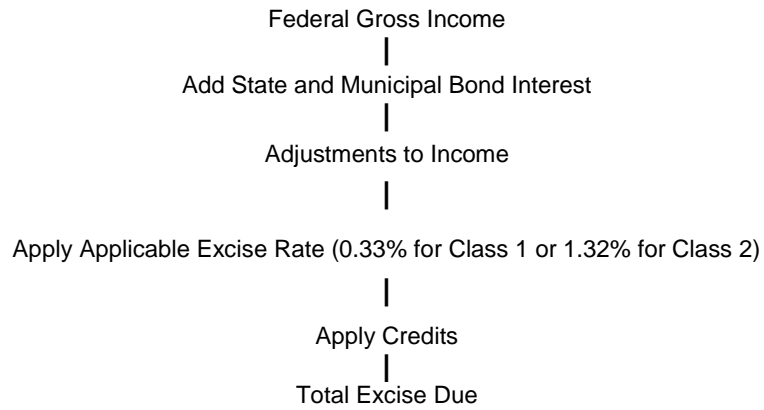
(*) See Appendix A for further details. Except for non-income excise, this diagram applies to all combined filers.

Computation of the Financial Institution Excise (Non-Combined Reporting)**Financial Institution Excise**

* See Appendix A for Details.

Computation of the Security Corporation Excise

Security Corporation Excise



Summary of 2021 Tax Forms for Insurance Companies

Tax Form	Type of Company	Foreign or Domestic	Base of Tax	Tax Rate	Retaliatory Tax Provision
63-20P	Life Insurance	Domestic	Taxable life, accident and health insurance premiums, net value of policies	2% on life and acc./health ins. Premiums	N/A
	Life Insurance	Foreign	Taxable life insurance premiums attributable to Massachusetts, accident and health insurance premiums	2% on all premiums	Yes
63-23P	Insurance Companies, except Life Insurance or Ocean Marine	Domestic	Taxable (non-life) insurance premiums and gross investment income	2.28% on premiums; then: 1%, 0.8%, 0.6%, 0.4%, 0.2% or 0.0% on investment income	N/A
	Insurance Companies, except Life Insurance or Ocean Marine	Foreign	Taxable premiums for insurance of property or interests attributable to Massachusetts	2.28%	Yes
	Preferred Providers (Accident and Health Insurers, Nonprofit Hospitals, HMO's, and other nonprofit medical, optometric or dental companies)	Domestic and Foreign	Gross premiums for coverage of persons who reside in Massachusetts	2.28%	N/A

Types of Tax Expenditures

As with the personal income tax, the basic structure of the corporate excise tax is subject to several different types of modifications that can produce tax expenditures.

Exclusions from Gross Income: Gross income is the starting point in the calculation of the income component of the corporate excise. In the absence of tax expenditures, it would include all income received from all sources. Items of income that are excluded from gross income escape taxation permanently.

Deferrals of Gross Income: Where an item of income is not included in gross income in the year when it is actually received, but is instead included in a later year, the result is a tax expenditure in the form of an interest-free loan from the state to the taxpayer in the amount of the tax payment that is postponed.

Deductions from Gross Income: Certain amounts are subtracted from gross income to arrive at taxable income. Many of these deducted amounts reflect the costs of producing income (business expenses) and are not included in the corporate income measure of excise; such deductions are not tax expenditures. Other deductions, which do not reflect business expenses, but permit income to escape taxation permanently, do constitute tax expenditures.

Accelerated Deductions from Gross Income: In a number of cases, corporations are allowed to deduct business expenses from gross income at a time earlier than such expenses would ordinarily be recognized under accepted accounting principles. The total amount of the permissible deduction is not increased but it can be utilized more quickly to reduce taxable income. The result is to defer taxes, thus in effect occasioning an interest-free loan from the state to the taxpayer.

Adjustments to Apportionment Formula: In the case of a business that earns income both inside and outside the Commonwealth, an apportionment formula is used to determine what portion of the total business income to allocate to Massachusetts for the calculation of corporate excise. When the standard formula is adjusted to reduce the apportionment ratios for certain businesses, tax expenditures result. The practical effect is to exclude certain portions of those business incomes from taxation.

Exclusions from Property Component: In addition to the excise based on income, corporations pay the excise tax based on the value of their property in the state. To the extent that certain classes of property are not included in the excise's property measure, tax expenditures result.

Credits against Tax: After a corporation has computed its basic tax liability, it may subtract certain credit amounts in determining the actual amount of taxes due. It is important to note that, whereas one-dollar exclusion or deduction results in tax savings of only a few cents (one dollar times the applicable tax rate), one-dollar credit generally results in one-dollar tax saving.

Entity Exempt from Taxation: In some cases, a business or other entity may be completely exempt from taxation. To the extent businesses or investment incomes go untaxed, tax expenditures result.

List of Corporate and Other Business Excise Expenditures

2.000 EXCLUSIONS FROM GROSS INCOME

2.001 Small Business Corporations

In general, corporations organized under, or subject to, Chapters 156, 156A, 156B, 156C, 156D or 180 of Massachusetts General Laws (M.G.L.) or that have privileges, powers, rights or immunities not possessed by individuals or partnerships are subject to the corporate excise. Most corporations have an income tax component of their excise. For those corporations, income is taxed at a rate of between 8 and 9%. Dividends distributed to Massachusetts residents are also subject to the personal income tax rate of 5%.

Certain corporations with no more than 100 shareholders may elect to be taxed, for both federal and state tax purposes, as "S corporations." Under federal law, most S corporation income is passed through and taxed only as personal income to shareholders, and is not taxable at the entity level. Only limited categories of income are subject to an entity-level tax for federal tax purposes.

For Massachusetts purposes generally, S corporation income is not subject to an entity level tax, except as follows: 1) those limited categories of income that are subject to an entity-level tax for federal tax purposes are also taxable in Massachusetts at the full corporate rate; and 2) the income of an S corporation with receipts of \$6 million or more is subject to tax at reduced corporate rates.

As of 2020, S corporations with total receipts of at least \$6 million but less than \$9 million are subject to a corporate excise of 2.00% of net income for non-financial institutions and 2.67% for financial institutions. An S corporation with total receipts of \$9 million or more is subject to an excise of 3.00% of net income for non-financial institutions and 4.00% for financial institutions.

The favorable manner in which income is taxed to an S corporation and its shareholders as compared to an ordinary business corporation (including its shareholders) constitutes a tax expenditure. Massachusetts first adopted this treatment of S corporations in 1986.

Origin: IRC §§ 1361-1363; M.G.L. c. 63, §32D; c. 62, § 17A

Estimate: \$169.2

2.002 Exemption of Income from the Sale, Lease or Transfer of Certain Patents

Similarly for individual income tax, for purposes of the corporate excise the starting point for the computation of Massachusetts taxable net income is federal gross income as defined under the IRC, as amended and in effect for the taxable year (with certain modifications not relevant here). Federal gross income includes income from the sale, lease or other transfer of all patents and income from property subject to such patents. Pursuant to M.G.L. c. 63, § 30.3 income from certain patents that are useful for energy conservation or alternative energy development may be deducted from Massachusetts gross income (and therefore is not subject to tax) for a period of five years. The five-year period begins on the date of issuance of the United States patent or the date of approval by the Commissioner of Energy Resources, whichever expires first.

The income may only be deducted in relation to patents that were issued to or applied for by a Massachusetts resident or a Massachusetts corporation. Also, the patents must be of economic value, practicable, and necessary for the Commonwealth. Finally, the patents

must be approved by the Commissioner of Energy Resources.

The FY22 Budget repeals the exemption effective for taxable years beginning on or after January 1, 2022.

Origin: M.G.L. c. 63, § 30.3; c. 62, § 2(a)(2)(G)

Estimate: N.A.

2.100

DEFERRALS OF GROSS INCOME

2.101

Deferral of Tax on Certain Shipping Companies

Federal law provides for the creation of special funds ("merchant marine capital construction funds" or "CCFs") by taxpayers who own eligible vessels. Taxpayers can use CCFs to set aside funds for the acquisition, construction, modernization, and major repair of ships that are constructed or reconstructed in the U.S., registered in the U.S., and used in trade or fishing activity. A deduction is allowed under the Code for amounts properly deposited into a CCF. Tax on income earned on amounts in the fund is deferred. Amounts placed in the CCF must be used for an eligible purpose within 25 years of being contributed or they will be taxed. Massachusetts conforms to the federal tax treatment of the contributions by virtue of its conformity with the Code.

Amounts withdrawn from a CCF are characterized as either qualified withdrawals or nonqualified withdrawals. Qualified withdrawals are those made for the purpose of either the acquisition, construction, or repair of qualified vessels, or making principal payments on the mortgage of a qualified vessel. Qualified withdrawals are excluded from a taxpayer's taxable income. Instead, taxpayers must reduce the depreciable basis of the vessel by the amount of the qualified withdrawal. Nonqualified withdrawals, which are any withdrawals that are not qualified withdrawals, are taxable. Nonqualified withdrawals include amounts used to make principal payments on the mortgage of a vessel if the basis of that vessel has already been reduced to zero.

Amounts that remain in a CCF after the termination of the agreement with the U.S. Secretary of Commerce or the U.S. Department of Transportation (see the next paragraph) are taxable. In addition, any amount left in the account for more than 25 years after being contributed must be recaptured through the inclusion of twenty percent of such amount in income in each of the next five years.

The Department of Transportation's Maritime Administration (MARAD) and the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) are responsible for administering the CCF program, with MARAD handling commercial vessels, and NOAA handling those in the fishing industry.

The deferral of the tax is essentially an interest-free loan from the government.

Origin: IRC § 7518(c), (g)(5); M.G.L. c. 63, § 30.3, 30.4

Estimate: \$0.8

2.102

Deferral of Gain Invested in Qualified Opportunity Zones

The TCJA added Code Subchapter Z, §§ 1400Z-1 and 1400Z-2, effective December 22, 2017. Under Subchapter Z, Taxpayers may elect to defer gain from the sale or exchange of

property to an unrelated party by reinvesting that gain within 180 days of the sale or exchange in a "qualified opportunity fund," which is defined as an investment vehicle organized as a corporation or partnership for the purpose of investing in "qualified opportunity zones." The Code defines qualified opportunity zones as population census tracts that are low income communities nominated by a state governor and designated by the U.S. Treasury as qualified opportunity zones. The deferred federal gain must be included in income upon the earlier of (i) the tax year in which the taxpayer's investment in the qualified opportunity fund is sold or exchanged, and (ii) tax year 2026, if the taxpayer's investment in the qualified opportunity fund is not sold or exchanged by December 31, 2026. In either case, the amount of gain includable in the taxpayer's federal gross income is the excess of: the amount of gain excluded or the fair market value of the investment in the qualified opportunity fund, whichever is less, over the taxpayer's federal basis in the investment. For Massachusetts corporate excise purposes, the gain will be similarly determined. See TIR 19-7 for more information.

Origin: IRC § 1400Z-1, 2

Estimate: \$10.6

2.200 DEDUCTIONS FROM GROSS INCOME

2.201 Charitable Contributions and Gifts Deduction

In calculating net income, corporations may deduct charitable donations up to 10% of taxable income computed without the deduction. The Tax Cuts and Jobs Act (TCJA; enacted December 22, 2017) changed the limitation and the charitable deduction is no longer allowed for contributions to a college or university in exchange for athletic event seating rights. There is a carryover of excess contributions available for 5 succeeding taxable years.

Origin: IRC § 170

Estimate: \$58.5

2.203 Net Operating Loss Carryover

The net operating loss (NOL) deduction is a current-year deduction for losses sustained in prior years. Losses incurred in years a corporation is not subject to the corporate excise in Massachusetts (for example, where the corporation does no business in Massachusetts) are not allowed to be carried forward. While the Internal Revenue Code provides a federal deduction for NOLs, Massachusetts does not conform to those rules; rather the General Laws provide for a specific Massachusetts deduction. The deduction was enacted in 1988. Prior to 2010, NOLs incurred by Massachusetts corporate excise filers could be carried forward for not more than 5 years, and could not be carried back. Losses incurred in taxable years beginning on or after January 1, 2010 can be carried forward for 20 years, and cannot be carried back.

Origin: IRC § 172; M.G.L. c. 63, § 30.5

Estimate: \$202.3

2.204 Excess Natural Resource Depletion Allowance

Taxpayers in extractive industries (mining or drilling for natural resources) may deduct a

percentage of gross mining income as a depletion allowance ("percentage depletion") even if the cost basis of the property has been reduced to zero. The deduction may not exceed 50% (in some cases, 100%) of taxable income from the property. In the case of oil and gas, percentage depletion is available only to domestic oil and gas sold by "independent producers" (nonintegrated companies). The excess of the deduction, which is available using the percentage of gross income method of depletion over a depletion deduction based on cost, is a tax expenditure.

Origin: IRC §§ 613, 613A; M.G.L. c. 63, § 30.3

Estimate: \$2.1

2.205 Deduction for Certain Dividends of Cooperatives

Cooperatives are organizations comprised of separate businesses that band together for limited purposes to take advantage of economies of scale, for example when buying supplies or selling products. Farmers' cooperatives and certain corporations acting as cooperatives may deduct so-called "patronage dividends" from their gross incomes. A "patronage dividend" is a dividend paid to members of the cooperative: (i) based on the quantity or value of business done with the members, (ii) under a pre-existing obligation of the cooperative; and (iii) determined by the cooperative's net earnings from business with members. In order to deduct the dividends, cooperatives must provide notice to members of the total patronage dividend and must pay a minimum of 20% of each member's dividend in cash within 8½ months following the close of the cooperative's taxable year.

The deduction is based on the notion that the cooperative is an agent working for the members and that any funds transferred to members already belong to the members. See *Farm Service Cooperative v. Commissioner*, 619 F.2d 718, 722 (1979). In this view, the primary function of a cooperative is the allocation of the economic benefits of the cooperative, either in the form of net savings or net earnings. The deduction recognizes that taxing patronage dividends would discourage such allocation and could result in double taxation of income (first when earned by the cooperative and second as a dividend received by the member).

Origin: IRC §§ 1381-1383

Estimate: \$4.0

2.206 Deduction for Renovation of Abandoned Buildings as Part of Certified Project

Businesses renovating eligible buildings that are part of a project certified by the Economic Assistance Coordinating Council (EACC) may deduct 10% of the costs of renovation from gross incomes. This deduction may be in addition to any other deduction for which the cost of renovation may qualify. To be eligible for this deduction, renovation costs must be related to buildings designated as abandoned by the EACC. Previously, the deduction was available only for improvements to abandoned buildings located in Economic Opportunity Areas (EOA), as designated by the EACC. However, in 2016, the legislature enacted "An Act Relative To Job Creation And Workforce Development", which eliminated the EOA requirement, and inserted the requirement that the EACC needs to only certify a project. These changes are effective for tax years beginning on or after January 1, 2019.

Origin: M.G.L. c. 63, §38O

Estimate: Negligible

2.300 ACCELERATED DEDUCTIONS FROM GROSS INCOME**2.301 Modified Accelerated Cost Recovery System on Rental Housing**

Landlords and investors in rental housing may use accelerated methods of depreciation for new and used rental housing. Straight-line depreciation over the property's expected useful life is the generally accepted method for recovering cost, which is close to economic depreciation. However, through the past decades, systems which adopt accelerated depreciation methods have been introduced. The current system is MACRS (Modified Accelerated Cost Recovery System) which was enacted in 1986. This system further accelerated the rate of recovery of depreciation than under ACRS (Accelerated Cost Recovery System) which was enacted in 1981. Differences between MACRS and ACRS are 1) deductions from the 150% declining balance method to 200-percent declining balance; 2) certain assets were reclassified and the number of asset classes (80) was increased; and 3) the recovery period for residential rental property was extended to 27.5 years and for nonresidential real property to 39 years. For details, refer to the document, Background and Present Law Relating to Cost Recovery and Domestic Production Activities, which was published by the Joint Committee on Taxation in their homepage on March 6th, 2012.

The excess of allowable depreciation over economic depreciation constitutes a tax expenditure, resulting in a deferral of tax or an interest-free loan.

The Tax Cuts and Jobs Act (TCJA) provides that an electing real property trade or business must use the alternative depreciation system for its residential or nonresidential real property. The alternative depreciation system period for nonresidential real property remains 40 years, while the period for residential real property is now 30 years.

Origin: IRC § 168

Estimate: \$6.0

2.303 Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly

Taxpayers may elect to deduct up to \$15,000 of the costs of removing architectural or transportation barriers to the handicapped in the year these costs are incurred. The immediate deduction of these expenditures, which would otherwise have to be capitalized and depreciated over a longer period, constitutes a tax expenditure, resulting in a deferral of tax or an interest-free loan.

Origin: IRC § 190; M.G.L. c. 63, § 30.4

Estimate: \$0.4

2.304 Election to Deduct and Amortize Business Start-up Costs

Taxpayers who pay or incur business start-up costs and who subsequently enter the trade or business can elect to expense to the lesser of the amount of start-up expenditures with respect to the active trade or business or \$5,000 of the costs. The \$5,000 deduction amount is reduced dollar for dollar when the start-up expenses exceed \$50,000. The balance of start-up expenses, if any, is amortized over a period of 180 months, starting with the month in which the business begins. The election must be made no later than the date (including extensions) for filing the return for the tax year in which the business begins or is

acquired. A taxpayer is deemed to have made an election to deduct and amortize start-up expenses for the tax year in which the active trade or business to which the expenses relate begins. A taxpayer who does not make the election must capitalize the expenses.

Origin: IRC § 195

Estimate: \$0.8

2.305 Modified Accelerated Cost Recovery System for Equipment

An essential characteristic of a business income tax is that it is imposed on the net of business receipts over deductible business expenses. However, an immediate deduction is generally not allowed for the full cost of durable business property that has a useful life measured in years. Rather, the cost of such property must be capitalized and deducted as depreciation expense over a number of years based on the property's useful life.

Traditional financial accounting rules required the cost of depreciable tangible personal property to be recovered pro rata over a period intended to approximate the property's anticipated actual useful life. This depreciation schedule is referred to as the "straight-line" method.

The Internal Revenue Code (the "Code") follows the general approach to cost recovery described above by providing depreciation schedules applicable to different classes of property. However, the Code permits taxpayers to use depreciation schedules that are more favorable than straight-line depreciation. Specifically, the Code adopts the Modified Accelerated Cost Recovery System (MACRS), which allows accelerated cost recovery over a period that is shorter than the property's anticipated useful life and allows more of the cost of the property to be deducted in the first few years of an asset's life, and relatively less later. In addition to such accelerated depreciation, MACRS allows taxpayers to elect to use an alternative method that conforms more closely to traditional financial accounting rules by requiring the use of straight-line depreciation.

Massachusetts conforms to MACRS for purposes of determining taxable net income under the corporate excise and taxable income under the personal income tax. The state tax expenditure is a result of this conformity. Allowing accelerated depreciation under MACRS is a tax expenditure because it allows a larger depreciation deduction earlier in an asset's life than would be allowed under alternative depreciation. To the extent that taxpayers employ accelerated depreciation instead of alternative depreciation, a temporary reduction of tax results. The reduction is temporary because the depreciation deduction is smaller in the later years of an asset's useful life. The temporary deferral of tax can be viewed as an interest-free loan from the Commonwealth to taxpayers.

Origin: IRC § 168

Estimate: \$121.0

2.306 Expense Deduction for Excess First-Year Business Assets

An essential characteristic of a business income tax is that it is imposed on the net of business receipts over deductible business expenses. However, an immediate deduction is generally not allowed for the full cost of durable business property that has a useful life measured in years. Rather, the cost of such property must be capitalized and deducted as depreciation expense over a number of years based on the property's useful life. The Internal Revenue Code (the "Code") adopts this approach in providing depreciation schedules applicable to different classes of property. The net income measure of the Massachusetts corporate excise and the Massachusetts personal income tax both adopt the federal depreciation rules, with modifications not relevant to this report.

Code § 179 allows taxpayers an election to immediately deduct in a given year 100% of the cost of depreciable property placed in service in that year, up to a limit of \$1 million. If the taxpayer's asset purchases for the year exceed \$2.5 million, the deduction is reduced on a dollar-for-dollar basis for each additional dollar spent. Both these thresholds are adjusted annually for inflation. The Code § 179 deduction is allowed in addition to the allowable depreciation deduction, but the basis for depreciation is reduced by the amount of the deduction. Massachusetts conforms to the Code § 179 deduction for both corporate excise net income tax and personal income tax purposes. The Massachusetts tax expenditure is a result of this conformity. The Code § 179 deduction is a tax expenditure because it allows the cost of eligible assets to be deducted earlier in an asset's useful life, resulting in a temporary reduction of tax. The tax reduction is temporary because it reduces the allowable depreciation deduction later in the asset's useful life. The deferral of tax can be viewed as an interest-free loan from the Commonwealth to taxpayers.

Origin: IRC § 179

Estimate: \$10.0

2.307 Modified Accelerated Depreciation on Buildings (other than Rental Housing)

An essential characteristic of a business income tax is that it is imposed on the net of business receipts over deductible business expenses. However, an immediate deduction is generally not allowed for the full cost of buildings, which have a useful life measured in years. Rather, the cost of such property must be capitalized and deducted as depreciation expense over a number of years based on the property's useful life. Traditional financial accounting rules required the cost of buildings to be recovered pro rata over a period intended to approximate the property's anticipated actual useful life. This depreciation schedule is referred to as the "straight-line" method.

The Internal Revenue Code (the "Code") follows the general approach to cost recovery described above by providing depreciation schedules applicable to different classes of property. Since 1993, the Code has allowed nonresidential buildings to be depreciated using straight-line depreciation over 39 years. The Code refers to this method as "accelerated". The Code also provides an option to use straight-line depreciation over a period of 40 years. This method is considered to conform to traditional financial accounting rules. The benefit of using the 39-year recovery period instead of the 40-year recovery period is a federal tax expenditure to which Massachusetts conforms.

The expenditure also reflects more favorable federal depreciation rules in effect for nonresidential buildings prior to 1993. These rules allowed a larger depreciation deduction over a shorter recovery period than the current Code rules. For example, a building placed in service in 1992 could be depreciated over 31.5 years. Some of buildings placed in service prior to 1993 are still in service and continue to be depreciated under these historical rules. For such legacy buildings, the Code allows more of the cost of the property to be deducted than would be allowed under the current depreciation rules. This legacy effect is also considered to be part of the federal tax expenditure.

Massachusetts generally adopts the business expense deductions allowed under the Code, including the federal deduction for depreciation. Specifically, Massachusetts allows the use of the 39-year accelerated recovery period for nonresidential buildings under the current Code and adopts the favorable historic rules applicable to legacy buildings under the Code. These rules allow a larger depreciation deduction in the earlier years of the useful life of nonresidential buildings than would be available under traditional accounting concepts. However, the depreciation deduction is smaller in the later years. The net result is a temporary reduction, or deferral, of tax. The deferral of tax can be viewed as an

interest-free loan from the Commonwealth to taxpayers.

Origin: IRC § 168

Estimate: \$2.3

2.308 Expensing Research and Development Expenditures in One Year

Taxpayers may elect to treat research or experimental expenditures incurred in connection with a trade or business as currently deductible expenses, and not chargeable to their capital account. Under generally accepted accounting principles, at least some of these expenses would otherwise be treated as capital expenditures and depreciated or amortized over a period of years. The current deduction constitutes a tax expenditure, resulting in a deferral of tax similar to an interest-free loan

Origin: IRC § 174

Estimate: \$3.2

2.309 Expensing Exploration and Development Costs

Certain capital costs incurred in bringing a known mineral deposit into production are deductible in the year incurred. A portion of domestic mining exploration costs can also be expensed, although they will be recaptured if the mine reaches the production stage. Certain intangible drilling and development costs of domestic oil, gas, and geothermal wells are deductible when made, but to a certain extent may be recaptured upon disposition of oil, gas, or geothermal property to which they are properly chargeable. The immediate expensing of these costs, which would otherwise be capitalized and recovered through depreciation or through depletion as the natural resource is removed from the ground, results in a deferral of tax or an interest-free loan.

Origin: IRC §§ 193, 263(c), 616, 617; M.G.L. c. 63, § 30.4.

Estimate: \$0.1

2.311 Five-Year Amortization of Pollution Control Facilities

Taxpayers may elect to amortize the cost of a certified pollution control facility over a five-year period, allowing for accelerated recovery of these costs. Accelerated recovery is only available for pollution control facilities subsequently added to plants that were in operation before 1976. The excess of accelerated recovery over depreciation deductions otherwise allowable results in a deferral of tax or an interest-free loan.

Origin: IRC § 169

Estimate: \$1.6

2.312 Expensing of Alternative Energy Units

Massachusetts General Laws chapter 63, § 38H, adopted in 1976, allows a corporation to deduct "expenditures paid or incurred during the taxable year with respect to the installation of any solar or wind powered climatic control unit and any solar or wind powered water heating unit, or any other type of unit or system powered thereby." Without this provision, such costs would have to be capitalized and depreciated. To qualify for the deduction, the equipment must be located in Massachusetts and used exclusively in the trade or business

of the corporation. The statute provides that equipment must meet certain technical standards that are required to be set by a now-defunct state agency – the Bureau of Building Construction.

In the past, a corporation was required to submit technical documentation regarding the equipment to the Bureau of Building Construction for certification of the deduction. The Bureau of Building Construction was abolished in 1980 and was absorbed by the Division of Capital Planning and Operations ("DCPO"), which was subsequently renamed the Division of Capital Asset Management & Maintenance ("DCAMM"). There is now no certification process in place and no current published guidance in effect.

DOR has received few inquiries regarding the deduction. One of the reasons for this may be that there are other tax benefits available to corporations with respect to alternative energy equipment that are generally more favorable, such as expensing under Internal Revenue Code §§ 179, 179D and depreciation under Code §§ 167, 168. Further, as noted, no state agency is currently responsible for issuing certification standards, guidelines or regulations defining eligible equipment or corporations seeking to take the § 38H deduction.

Origin: M.G.L. c. 63, § 38H

Estimate: Not Active

2.313 Seven-Year Amortization for Reforestation

Taxpayers may elect to amortize reforestation costs for qualified timber property over a seven-year period. In the absence of this special provision, these costs would be capitalized and depreciated over a longer period or recovered when the timber is sold. The accelerated cost recovery results in a deferral of tax or an interest-free loan.

Origin: IRC § 194

Estimate: \$0.2

2.400 ADJUSTMENTS TO APPORTIONMENT FORMULA

2.401 Unequal Weighting of Sales, Payroll, and Property in the Apportionment Formula

Apportionment formulas are used throughout the country to determine the share of a multistate corporation's income that an individual state may tax. Massachusetts employs such formulas. Corporations with a presence both in Massachusetts and in other states generally apportion income to the Commonwealth using a three-factor apportionment formula. A corporation's sales, payroll, and property in Massachusetts are compared to those outside Massachusetts and the resulting percentage is applied to total income to determine income taxable in the Commonwealth.

Double-Weighted Sales Factor

An apportionment calculation that counts the sales factor twice (so-called "double-weighted sales") was adopted for most business corporations beginning with taxable years ending on or after December 31, 1976. Companies with property and payroll in Massachusetts and sales in other states tend to benefit from an apportionment formula that weights sales more heavily than the other factors. On the other hand, businesses located outside of the state with a large volume of sales into Massachusetts are hurt by double weighted sales factor formula. On balance, apportionment with double-weighted sales factor is a tax expenditure.

Single-Sales Factor

Certain corporations are permitted to apportion their income using only the sales factor (so-called "single-sales factor" apportionment). Eligible defense corporations were permitted to apportion using a single-sales factor formula starting in 1996. Single-sales factor apportionment was extended to other qualified manufacturers (referred to in this report as "section 38 manufacturers") in 2000. Starting in 1997, corporations that perform services for a mutual fund are allowed to apportion their income to Massachusetts based solely on the percentage of the mutual fund's shareholders that are Massachusetts residents. As is the case with double-weighted sales factor, not all corporations that apportion using single-sales factor benefit from the rule, in particular those that are located outside of Massachusetts. However, on balance, single-sales factor apportionment is a tax expenditure.

Origin: M.G.L. c. 63, § 38 (c), (k), (l), (m)

Estimate: \$451.0

2.500

EXCLUSIONS FROM PROPERTY COMPONENT

2.501

Nontaxation of Certain Energy Property

This tax expenditure allows a corporate excise deduction for certain alternative energy property. It is not currently active, although the statute authorizing it is still in effect, because the deduction requires certification by a state agency that no longer exists. In the absence of that agency or a successor agency to certify the property, no exemption can be allowed. These circumstances are further explained below.

In addition to a tax on net income, the Massachusetts corporate excise also imposes a tax on net worth or tangible personal property. The tax on tangible personal property applies if the book value of the taxpayer's tangible personal property located in Massachusetts and not subject to local taxation is ten percent or more of the taxpayer's total assets (with certain adjustments). If this is the case, the non-income measure of the corporate excise is based on the book value of the corporation's tangible property located in Massachusetts and is not subject to local tax.

The statute provides for a deduction from tangible property subject to the excise for "expenditures paid or incurred during the taxable year with respect to the installation of any solar or wind powered climatic control unit and any solar or wind powered water heating unit or any other type unit or system powered thereby." The statute further provides that the exemption is limited to equipment "for which the manufacturer's British thermal unit impact statement has been submitted to the director of the bureau of building construction and which have been certified by said director as complying with applicable provisions of regulations and standards issued by him pursuant to law."

Historically, the Bureau of Building Construction was responsible for setting construction standards in Massachusetts. In 1980, it was absorbed by the Division of Capital Planning and Operations ("DCPO"), now the Division of Capital Asset Management & Maintenance ("DCAMM"). The Bureau of Construction's function in certifying alternative energy property was not specifically delegated to any successor agency. No certification standards, guidelines or regulations have been established by DCAMM or any other Massachusetts agencies for corporations seeking to take the alternative energy property deduction.

As a result of these circumstances this tax expenditure is not active.

Origin: M.G.L. c. 63, § 38H(f)

Estimate: Not Active

2.502 Exemption for Property Subject to Local Taxation

Under M.G.L. c. 63, § 39, all business corporations organized or doing business in Massachusetts are required to pay the corporate excise "for the enjoyment under the protection of the laws of the commonwealth, of the powers, rights, privileges and immunities derived by reason of its existence and operation." The corporate excise is comprised of a net income measure and a non-income measure based on the value of a corporation's property or net worth, depending upon the type of corporation. In calculating the non-income measure, a taxpayer may exclude property subject to local taxation from the value of the business corporation. M.G.L. c. 59, § 5, paragraph sixteen, identifies what property of a business corporation is exempt from local taxation. Generally, the state taxes only the machinery of manufacturing corporations, but it exempts business real estate and tangible personal property. For purposes of estimating revenue loss from this tax expenditure, the state's rate on property (non-income measure), \$2.60 per \$1,000, has been applied. The incentive to exempt property subject to local taxation from the value of the property/net worth measure was enacted in 1962.

Note that corporations are subject to the non-income measure of corporate excise based on different computations depending on whether the corporations are classified as tangible property corporations or intangible property corporations. The determination of whether a corporation is a tangible property corporation or an intangible property corporation is generally made by taking the ratio at book value of: (i) tangible assets located in Massachusetts on the last day of the taxable year and not subject to local taxation to (ii) total assets on the last day of the taxable year (less assets locally taxed and less investments in subsidiary corporations which represent 80% or more of the voting stock of those corporations) multiplied by the income apportionment percentage. If the ratio of (i) to (ii) is 10% or more, the corporation is a "tangible property corporation", if the ratio is less than 10%, the corporation is an "intangible property corporation."

For tangible property corporations, the non-income measure of the excise is imposed at a rate of 0.26% on the book value of tangible property located in Massachusetts on the last day of the taxable year and that is not subject to local taxation. For intangible property corporations, the non-income measure of the excise is imposed at a rate of 0.26% on the book value of a corporation's total assets on the last day of the taxable year, less the sum of (i) its liabilities on said date, (ii) the book value of its tangible property situated in Massachusetts on said date and subject to local taxation, and (iii) the book value on said date of its investment in subsidiary corporations which represent 80% or more of the voting stock of said corporations, multiplied by the intangible property corporation's income apportionment percentage.

Origin: M.G.L. c. 63, § 30(7) ; c. 63, § 30.8; c. 63 § 39(a)(1)

Estimate: \$316.4

2.600 CREDITS AGAINST TAX
2.602 Investment Credit

Manufacturing corporations and corporations engaged primarily in research and

development, agriculture or commercial fishing are allowed to take an investment tax credit (ITC) of 3% (for tax years ending before January 1, 1993 the rate was 1%) of the cost of qualifying tangible property. Both owners and eligible corporate lessees of property may claim the ITC. Qualifying property includes tangible personal property, real property including buildings and build-outs. It does not include motor vehicles. The property must be depreciable under Code § 167 and have a useful life of four years or more, and it must be used in Massachusetts and situated in Massachusetts on the last day of the taxable year. The maximum amount of ITC allowed in any one taxable year cannot exceed fifty percent of the excise due for the taxable year. The credit is neither transferable nor refundable. A corporation that does not use the full amount of ITC generated in a taxable year because the credit exceeded its excise for the taxable year may carry over the credit, as reduced from year to year, for three years. Any portion of ITC not used in a taxable year because of the fifty percent limitation may be carried over, as reduced from year to year, indefinitely. A portion of the credit is subject to a recapture tax if the qualifying property sold or otherwise transferred before the end of its useful life, unless the property was in qualified use for more than twelve years. The incentive was enacted on July 1, 1971, and applied to qualifying tangible property acquired, constructed, reconstructed, or erected after December 31, 1969.

Origin: M.G.L. c. 63, § 31A (i), (j)

Estimate: \$77.8

2.603 Vanpool Credit

Domestic and foreign corporations are allowed a credit of 30% of the cost incurred during the taxable year for the purchase or lease of company shuttle vans used in the Commonwealth as part of an employer-sponsored ridesharing program. The shuttle vans must be used for transporting employees to and from the workplace. This credit is neither transferable nor refundable, and cannot be carried forward.

Origin: M.G.L. c. 63, § 31E

Estimate: Negligible

2.604 Research Credit

Massachusetts provides corporations a credit for increased spending in research and development. The credit is available only for expenditures for research activity conducted in Massachusetts. The Massachusetts research credit, in large part, is based on the research credit allowed under Internal Revenue Code (Code) § 41. In particular, the alternative simplified method for calculating the credit is modeled after the federal alternative simplified method. The credit can be shared among affiliated corporations that are members of the same combined group, subject to limitations.

There are two methods for calculating the Massachusetts research credit. Under one method, the amount of the credit is equal to: 10% of the difference between the current year's Massachusetts qualified research expenses and a "base amount" plus 15% of the Massachusetts basic research payments for the taxable year as determined under Code § 41(e)(1)(A). The actual computation of the credit under this method can be complex. Pursuant to legislation enacted in 2014, a taxpayer can now elect to determine its credit using the so-called "alternative simplified method." This method is based on the federal simplified method which was enacted in 2006. Using this method, the amount of the credit is equal to a percentage of the difference between the corporation's qualified research expenses for the current taxable year and 50% of the corporation's average qualified

research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined. The percentage used to calculate the credit under the alternate simplified method is being phased in over a 7-year period. For calendar years 2015, 2016 and 2017, a rate of 5 percent was used to calculate the credit under the alternative simplified method, for calendar years 2018, 2019 and 2020, that rate was 7.5 percent and for calendar years beginning on or after January 1, 2021, the rate is 10 percent.

Regardless of which method the corporation uses to determine the credit amount to which it is entitled for a taxable year, the amount of research credit that can be used in a taxable year is limited to 100 percent of a corporation's first \$25,000 of excise, plus 75 percent of the corporation's excise in excess of \$25,000. A single \$25,000 amount applies to affiliated groups of corporations. Credit not used because of the limitations generally can be carried over for 15 years. In certain instances, the credit can be carried forward indefinitely. The research credit is not transferable and generally is not refundable. However, a certified Life Science Company may apply to the Massachusetts Life Science Center for a refund of a portion of its available excess research credits in lieu of carrying such credits forward for use in later years.

Origin: M.G.L. c. 63, § 38M

Estimate: \$481.8

2.605 Economic Development Incentive Program Credit

Under the Economic Development Incentive Program (EDIP), the Economic Assistance Coordination Council (EACC) may award tax credits to taxpayers that participate in a "certified project" (as defined in G.L. c. 23A, §§ 3A and 3F). The amount of credit allowed in each case is determined by the EACC based on numerous factors set forth in G.L. c. 23A, § 3D, including the number of jobs expected to be created, the amount of capital to be invested, and the net new economic benefit expected to be created. The EACC may designate the credit as refundable for any certified project, subject to a limitation that the EACC may not award more than \$5 million in refundable credits per year.

Unless designated as refundable, the maximum amount of credit allowed in any one taxable year cannot exceed fifty percent of the excise due for the taxable year. The amount of credit allowed cannot reduce the excise below the minimum excise. The EACC is authorized to eliminate or limit carry-over of the credit. The EDIP credits used in a calendar year are subject to an annual cap of \$30 million. Recapture is required if the EACC revokes a business project certification

The credit is not transferable; however, if a certified project is sold or otherwise disposed of, the credit allowed may be transferred to the purchaser of the certified project, provided that the EDIP contract is assigned to and assumed by the purchaser and approved in writing by the EACC.

When it was first enacted in 1993, the credit was for a fixed 5 percent of the costs of qualifying tangible property, and the project had to be located in a designated "economic opportunity area". In 2010, the statute was amended to increase the percentage to "up to 10 percent" and "up to a refundable forty percent" in some cases, eliminate the "economic opportunity area" requirement and impose an annual cap of \$25 million. As of 2017, the credit is whatever amount is awarded by the EACC as part of the certification process.

Origin: M.G.L. c. 63, § 38N; c. 62, § 6(g)

Estimate: \$16.1

2.606 Credit for Employing Former Full-Employment Program Participants

Employers who continue to employ former participants of the §110(1) full employment program in non-subsidized positions are eligible to receive a tax credit equal to \$100 per month for each month of non-subsidized employment, up to a maximum of \$1,200 per employee, per year. For further discussion, see 830 CMR 118.1.

Origin: St. 1995, c. 5, § 110(m)

Estimate: Not Active

2.607 Harbor Maintenance Credit

Domestic and foreign corporations that are shippers, importers, or exporters are allowed to claim a dollar-for-dollar credit against the corporate excise for certain harbor maintenance taxes paid to the federal government. To qualify for the credit the federal tax paid must be attributable to the shipment of break-bulk or containerized cargo by sea and ocean-going vessels through one of three designated Massachusetts ports. The allowable credit is not subject to the 50% limitation of G.L. c. 63, §32C. The credit may not reduce the taxpayer's corporate excise due below the minimum excise, currently \$456. The credit is not refundable or transferable. Unused credit may be carried forward for up to 5 years. The expenditure was enacted on August 9, 1996, applicable to harbor maintenance tax paid on or after July 1, 1996.

The FY22 Budget repeals the credit effective for taxable years beginning on or after January 1, 2022. However, unused portions of the credit claimed in taxable years beginning before January 1, 2022 may continue to be carried forward.

Origin: M.G.L. c. 63, § 38P

Estimate: Expired

2.608 Brownfields Credit

Taxpayers are allowed to claim a credit for amounts expended to remediate contaminated property owned or leased for business purposes and located within an economically distressed area.

The Brownfields credit may be claimed by a business corporation that commences and diligently pursues an environmental response action and achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E. Taxpayers may sell, transfer, or assign the credit. Under prior law, net response and removal costs incurred by a taxpayer between August 1, 1998 and January 1 2019, were eligible for the credit provided that the environmental response action commenced before August 5, 2018. Chapter 99 of the Acts of 2018 changed the date by which the environmental response action must be commenced to August 5, 2023, and the time for incurring eligible costs that qualify for the credit to January 1, 2024.

The credit may be carried forward for up to 5 years. The amount of the credit varies according to the extent of the environmental remedy. If the taxpayer's permanent solution or remedy operation status includes an activity and use limitation, then the amount of the credit is 25% of the net response and removal costs incurred by the taxpayer. However, if there is no activity and use limitation, then the amount of the credit is 50% of the net response and removal costs.

Origin: M.G.L. c. 63, § 38Q

Estimate: \$32.3

2.609 Low Income Housing Credit

Under G.L. c. 62, § 6I and G.L. c. 63, § 31H, a low-income housing credit is available to eligible c. 62 or c. 63 taxpayers that invest in affordable rental housing ("Qualified Massachusetts Projects"). The Low-Income Housing Tax Credit (LIHTC) is administered through the Massachusetts Department of Housing and Community Development (DHCD). The credit may be claimed in the year that the Qualified Massachusetts Project is placed in service and for each of the four subsequent taxable years.

DHCD ultimately allocates the amount of credit a taxpayer can claim based on an annual aggregate statewide limit, which, prior to the Economic Development Act, was \$20 million. Effective for tax years beginning on or after January 1, 2021 and ending on or before December 31, 2025, the Economic Development Act raises the credit's annual limit from \$20 million to \$40 million. For tax years beginning on or after January 1, 2026, the credit's annual limit will revert to \$20 million.

The LIHTC is a transferable, non-refundable, and may be carried forward for up to 5 years.

Origin: St. 2018, c. 228; M.G.L. c. 63, § 31H

Estimate: \$111.4

2.610 Historic Buildings Rehabilitation Credit

The Massachusetts historic rehabilitation tax credit ("MHRTC") is a credit equal to a percentage, not to exceed 20%, of the qualified rehabilitation expenditures made by a taxpayer in rehabilitating a qualified historic structure which has received final certification by the Massachusetts Historical Commission ("MHC") and has been placed in service. The MHRTC is available to both chapter 62 (personal income) and chapter 63 (corporate) taxpayers.

Unused portions of the MHRTC may be carried forward for up to 5 years and may be transferred or sold to another taxpayer, but are not refundable. The MHRTC cannot be used to reduce the corporate excise due below the minimum excise provided by G.L. c. 63, § 39(b), currently \$456. The allowable corporate credit is not subject to the 50% limitation of G.L. c. 63, § 32C. If, before the end of the five-year period beginning on the date on which the qualified historic structure received final certification and was placed in service, the taxpayer disposes of its interest in the structure, the credit will be subject to recapture and the taxpayer's tax for the taxable year in which the disposition occurs will be increased by the recapture amount.

The MHRTC is currently capped at \$55 million per year, effective for taxable years beginning January 1, 2018 and ending December 31, 2022. Previously the cap was set at \$50 million per year, for taxable years beginning January 1, 2017 and ending December 31, 2022. The original cap was set at \$15 million per year, effective for taxable years beginning January 1, 2005 and ending December 31, 2009.

Effective August 13, 2014, taxpayers subject to the personal income tax imposed by G.L. c. 62 that acquire a qualified historic structure may transfer MHRTC awards subject to criteria established by the MHC. In the case of a multi-phased project MHRTC awards may be transferred for any phase of the project that meets the MHC's criteria. Effective August 10,

2016, MHRTC awards also may be transferred by taxpayers subject to the corporate excise under G.L. c. 63. See TIR 15-6 and 16-15.

The credit was due to expire on December 31, 2022. The FY22 Budget amends G.L. c. 62, § 6J and G.L. c. 63, § 38R to extend the credit to tax years ending on or before December 31, 2027.

Origin: M.G.L. c. 63, § 38R; c. 62, § 6J

Estimate: \$48.2

2.614 Film (or Motion Picture) Credit

The Massachusetts film tax incentives, as amended in July 2007, are allowed for taxpayers engaged in the production of feature-length films, videos, digital media projects, television series, and commercials, for theatrical or television viewing. The statute makes no reference to productions that are instead made for viewing on the Internet.

The film tax incentives consist of a tax credit equal to 25% of a film's production cost and 25% of a film's payroll cost, and an exemption from sales tax for film productions. The incentives are dependent upon a taxpayer incurring Massachusetts production expenses of at least \$50,000 in a twelve-month period. Assuming that threshold requirement is met, a taxpayer may claim the payroll portion of the credit for any in-state employment of persons in connection with the filming and production of a motion picture, so long as the payment constitutes Massachusetts source income to the recipient.

The credits were due to expire on January 1, 2023. However, the FY22 Budget amends "An Act Providing Incentives to the Motion Picture Industry," which created the film incentive credits, to make them permanent. The FY22 Budget also amends credit eligibility with respect to production expenses. For taxable years beginning on or after January 1, 2022, a taxpayer must incur at least 75% of its production expenses in Massachusetts for a film project to qualify for the credit. A 50% threshold applies to prior taxable years.

The tax credits are available to both corporate excise and personal income tax filers and can be used to reduce the taxpayer's liability. At the taxpayer's election, the Department of Revenue will refund 90% of any amount of the tax credit that exceeds the taxpayer's liability. The tax credits may also be transferred or sold by taxpayers to third parties that may use the tax credits to reduce their Massachusetts corporate, insurance, financial institution, or personal income tax liabilities.

Origin: M.G.L. c. 63, § 38X, c. 64H, § 6(ww); c. 62, § 6(l)

Estimate: \$77.8

2.615 Medical Device User Fee Credit

Medical device companies subject to tax under either the personal income tax under M.G.L. c. 62 or a corporate excise under M.G.L. c. 63, and which develop or manufacture medical devices in Massachusetts can claim a transferable credit equal to 100% of the user fees paid by them when submitting certain medical device applications and supplements to the FDA.

The credit may not be carried forward to subsequent tax years and is not refundable. However, unused portions of the credit may be transferred, and the transferee may carry over the credit, but must use it within 5 years.

This particular tax expenditure was enacted on July 8, 2006, making the incentive applicable from tax years beginning on or after January 1, 2006. St. 2006, c. 144, 145. The FY22 Budget repeals the credit effective for taxable years beginning on or after January 1, 2022. However, taxpayers will still be able to transfer previously awarded credits, and transferees will be able to apply unused amounts of the credit within five years of the credit's transfer.

Origin: M.G.L. c. 63, § 31L; c. 62, § 6½

Estimate: Expired

2.617 Life Sciences Tax Incentive Program

While often referred to as a singular "Life Science credit," Massachusetts offers an array of life sciences tax incentives for the life sciences industry, which consist of multiple tax credits, a corporate excise deduction, and a sales and use tax exemption. The original tax incentives enacted in "An Act Providing for the Investment in and Expansion of the Life Sciences Industry in the Commonwealth," (St. 2008, c. 130), include the following tax credits: the Life Sciences FDA User Fees Tax Credit, the Life Sciences Refundable Investment Tax Credit, and the Life Sciences Research Tax Credit (and also a modified version of the standard Research Tax Credit); as well as a corporate excise deduction allowing for the deduction of qualified clinical expenses for certain drugs that would not be fully deductible otherwise, and a sales and use tax exemption for materials used to construct a life sciences facility. Effective January 1, 2011, the Life Sciences Refundable Jobs Tax Credit was added to this program (St. 2011, c. 58, §§ 65, 70). Most recently, the Angel Investor Tax Credit was added to the ambit of life sciences tax incentives (St. 2016, c. 219, § 139).

While most of the tax credits are available to life sciences companies subject to either the personal income tax or the corporate excise, the Life Sciences Research Tax Credit and the modified version of the standard Research Tax Credit are available only to life sciences companies subject to a corporate excise, and the Angel Investor Tax Credit is only available to personal income taxpayers.

The Life Sciences Tax Incentive Program is administered by the Massachusetts Life Sciences Center (MLSC). The MLSC is charged with reviewing and, as appropriate, approving applications from life sciences companies, which certifies them as eligible for various life sciences tax incentives. The life sciences tax incentives are available only to certified life sciences companies to the extent authorized by the MLSC. Prior to receiving any life sciences tax incentives, a company must be certified by the MLSC. To become a certified life sciences company, the company must apply to the MLSC by a date set by the MLSC. The company must be registered to do business in Massachusetts, maintain at least 22810 full-time employees as of the end of the previous calendar year, and be in good standing with the Secretary of the Commonwealth and the Massachusetts Department of Revenue.

In evaluating an applicant, the MLSC considers certain criteria, such as whether the applicant has shown it has the ability to create and retain jobs for five years, as well as general considerations including a wide geographic distribution of life sciences operations in Massachusetts, a wide distribution of life sciences technologies and industries supported by the MLSC, and diversity among businesses at different stages of product development and commercialization. The MLSC particularly encourages companies from outside Greater Boston to apply.

All of the life sciences tax incentives provided to a life sciences company are subject to

recapture if the life sciences company's certification is revoked by the MLSC.

Origin: M.G.L. c. 62, §§ 6(m), (n), (r), and (t); c.63, §§ 31M, 38M(k), 38U, 38W, 38V, and 38CC; c. 64H, § 6(xx)

Estimate: \$19.6

2.618 Dairy Farmer Credit

The Massachusetts dairy farmer tax credit was established to offset the cyclical downturns in milk prices paid to dairy farmers and is based on the U.S. Federal Milk Marketing Order for the applicable market, such that when the U.S. Federal Milk Marketing Order price drops below a trigger price anytime during the taxable year the taxpayer will be entitled to the tax credit. The total cumulative value of the credits authorized pursuant to this section combined with section 6(o) of chapter 62 of the General Laws shall not exceed \$6 million annually. The Chapter 154 of the Acts of 2018 increased the cap from \$4 million.

A taxpayer who holds a certificate of registration as a dairy farmer pursuant to M.G.L. Ch. 94, sec. 16A is allowed to take a refundable tax credit based on the amount of milk produced and sold. These credits may not be sold or transferred to another taxpayer, but are refundable at 100% of face value.

Origin: M.G.L. c. 63, § 38Z

Estimate: \$0.0

2.619 Conservation Land Credit

A tax credit is allowed for qualified donations of certified land to a public or private conservation agency. The credit is equal to 50% of the fair market value of the qualified donation. The amount of the credit that may be claimed by a taxpayer for each qualified donation cannot exceed \$75,000. Approval of the donation is required from the Secretary of the Office of Energy & Environment Affairs. The credits may not be sold or transferred to another taxpayer, but are refundable. The total credits that may be approved are capped at \$2.0 million annually for the combined amount from personal income tax filers and chapter 63 taxpayers.

Origin: M.G.L. c. 63, § 38AA; c. 62, § 6(p)

Estimate: \$0.0

2.620 Employer Wellness Program Credit

The 2012 Health Care Act established an Employer Wellness Program Tax Credit effective for tax years beginning on or after January 1, 2013 and which expired on December 31, 2017. The tax credit was created to provide incentives for business to recognize the benefits of wellness programs with the goal of providing smaller businesses with an expanded opportunity to implement these programs. The credit, available to both personal income taxpayers and corporate & business excise taxpayers, was set at 25 percent of the costs associated with implementing a "certified wellness program." The maximum amount of credits available to a taxpayer was \$10,000 in any tax year. The credit was neither refundable nor transferrable. However, the portion of the tax credit that exceeded the tax for the taxable year was allowed to be carried forward and applied against the taxpayer's tax liability in any of the succeeding 5 taxable years. The Department of Public Health has promulgated a regulation, 105 CMR 216.000, entitled

Massachusetts Wellness Tax Credit Incentive, which set forth criteria for authorizing and certifying the credit.

This credit has expired and is no longer available to employers for taxable years beginning after December 31, 2017. However, certain unused credits previously granted to personal income or corporate excise taxpayers remain available to be claimed against their tax liability incurred during tax years up until the period beginning on January 1, 2023.

Origin: St. 2012, c. 224, §§ 41, 41A, 56, 56A, 238, 239, 297, and 298; M.G.L. c. 63, § 38FF; c. 62, § 6N

Estimate: \$0.1

2.621 Community Investment Credit

A tax credit is allowed for qualified investments made by a taxpayer to a "community partner," i.e., a "community development corporation" or a "community support organization," selected by the Department of Housing and Community Development through a competitive process, or a community investment fund. The credit is equal to 50% of the total qualified investment made by the taxpayer for the taxable year. No credit will be allowed to a taxpayer that makes a qualified investment of less than \$1,000. A taxpayer must claim the credit in the taxable year in which a qualified investment is made. The credit is refundable, or alternatively may be carried forward by the taxpayer for 5 years. The credit is not transferable. The total cumulative value of all credits authorized pursuant to M.G.L. c. 62 § 6M and M.G.L. c. 63, § 38EE cannot \$3 million in taxable year 2014, \$6 million in each year of taxable years 2015 through 2018, \$8 million in each year of taxable years 2019 and 2020, \$10 million in each year of taxable years 2021 and 2022, and \$12 million in each year of taxable years 2023 through 2025.

Origin: St. 2012, c. 238, §§ 29, 30, 35, 36 ; M.G.L. c. 63, § 38EE; c. 62, § 6M; St. 2018, c. 99, §§ 21, 25

Estimate: \$5.0

2.622 Certified Housing Development Credit

Corporations that invest in certified housing development projects in Massachusetts can claim a credit against the corporate excise and personal income tax. G.L. c. 63 § 38BB. The credit may be up to 25% of the cost of "qualified project expenditures" for new construction or rehabilitation of property that results in multi-unit residential housing, which contain a minimum of 80% market rate.

There is a \$10 cap on the amount of credit that may be awarded under the program in a calendar year, until December 31, 2023. Beginning after that date, the cap is set to be reduced to \$5 million.

The carry forward period for which the credit can be used is 10 years. In addition, the annual cap is no longer a part of the overall annual cap imposed on the Economic Development Incentive Program. For further information, see TIR 16-15.

Origin: St. 2010, c. 240; M.G.L. c. 40V; c. 63, § 38BB

Estimate: \$9.0

2.623 Veteran's Hire Credit

Certain employers that hire "qualified veterans" who live and work in Massachusetts may be eligible to claim a tax credit equal to \$2,000 for each qualified veteran hired. In order to

be eligible for the credit, the employer must (i) employ less than 100 employees; (ii) be certified by the commissioner of veteran's services; and (iii) qualify for and claim the Work Opportunity Credit allowed under I.R.C. § 51, as amended and in effect for the taxable year.

In order to claim the credit, the primary place of employment and the primary residence of the qualified veteran must be in Massachusetts. An employer must obtain certification that the veteran is a qualified veteran from the Department of Career Services (or any successor agency), no later than the employee's first day of work.

An employer that is eligible for and claims the credit allowed under this subsection in a taxable year, with respect to a qualified veteran employee, will be eligible for a second credit equal to \$2,000 in the subsequent taxable year, subject to certification of the veteran employee's continued employment during the subsequent taxable year.

The credit is non-transferrable and non-refundable. However, any excess amount of credit over the tax due may be carried forward up to 3 subsequent taxable years. The total cumulative value of the credits authorized must not exceed \$1,000,000 annually. The credit is available for qualified veterans hired after July 1, 2017 for tax years beginning on or after January 1, 2017. See TIR 17-10 for additional details.

Origin: Origin: St. 2017, c. 47; M.G.L. c. 63, § 38GG

Estimate: \$0.5

2.624 Apprentice Credit

"An Act relative to economic development in the commonwealth" (St. 2018, c. 228) established the apprentice credit for individual and corporate taxpayers for tax years beginning on or after January 1, 2019. The credit is awarded to employers, who are (i) registered with the division of apprentice standards as apprenticeship program sponsors and (ii) enter into an apprentice agreement with each apprentice for whom the credit is claimed. Employers that claim the credit in a taxable year will be eligible for an additional credit in the following year if they continue to employ the apprentice during the subsequent year.

The credit is equal to the lesser of \$4,800 or 50% of the wages paid to the apprentice for each apprentice. The total cumulative amount of credits authorized annually is \$2.5 million. The credit is refundable and nontransferable.

Origin: St. 2018, c. 228; M.G.L. c. 63, § 38HH

Estimate: \$1.3

2.625 Cranberry Bog Renovation Credit

Effective for tax years beginning on or after January 1, 2020, taxpayers primarily engaged in cranberry production may claim a nontransferable, refundable credit equal to 25% of expenses incurred in the renovation, repair, replacement, regrading or restoration of a cranberry bog for the cultivation, harvesting or production of cranberries. The Secretary for Energy and Environmental Affairs determines eligible costs and the amount of the credit. The amount of credit that can be claimed by a taxpayer for a taxable year cannot exceed \$100,000. The annual total cap amount is \$2 million.

Origin: M.G.L. c. 63, § 38II

Estimate: \$1.0

2.626 Disability Hire Credit

Effective for tax years beginning on or after January 1, 2023, employers that hire disabled employees may claim a nontransferable, refundable credit equal to (i) the lesser of \$5,000 or 30% of the wages paid to a disabled employee in the employee's first year of employment, and (ii) the lesser of \$2,000 or 30% of the wages paid to a disabled employee in each subsequent year of the employee's employment. The credit cannot reduce the excise due below the minimum excise

The credit is available to employers provided that (i) the employee is certified by the Massachusetts Rehabilitation Commission as having a disability as defined under the Americans with Disabilities Act, 42 U.S.C. § 12102; (ii) the employee is capable of working independently; (iii) the employee has a mental or physical disability that constitutes or results in a substantial impediment to employment; (iv) the employee is hired after July 1, 2021; (v) the employee's primary place of employment and primary place of residence is in Massachusetts; (vi) the employer must obtain certification from the Massachusetts Rehabilitation Commission that the employee is qualified no later than the employee's first day of work; and (vii) the employer employs the employee for at least 12 consecutive months prior to and in the taxable year in which the credit is claimed.

Origin: M.G.L. c. 63, § 38JJ

Estimate: \$1.0

2.700 ENTITY EXEMPT FROM TAXATION

2.701 Exemption of Credit Union Income

Credit unions, which are member-owned financial cooperatives, are considered tax-exempt organizations for both federal and state income tax purposes and therefore are generally exempt from the income measure of the corporate excise. However, like other nonprofit entities, unrelated business income of credit unions is subject to the income measure of the corporate excise. In 1909, the enactment of the Massachusetts Credit Union Act (Chapter 419 of the Acts of 1909) authorized the creation of Massachusetts chartered credit unions as tax-exempt entities. In 1934, the enactment of the Federal Credit Union Act, 12 USC § 1751, et seq., authorized the creation of federally chartered credit unions, which are exempt from federal income tax pursuant to 26 USC § 501(c)(14)(a).

Origin: IRC §501(c)(14)(A); M.G.L. c. 63, § 30

Estimate: \$25.9

2.702 Tax-Exempt Organizations

Corporations considered to be tax-exempt under section 501 of the Internal Revenue Code (such as religious, scientific and educational organizations) are taxable under the corporate excise only on their unrelated business taxable income as defined in section 512 of the Code. They are not taxable on other income and are not subject to the non-income measure or to the minimum excise. This creates a tax expenditure..

Origin: IRC § 501; M.G.L. c. 63, § 30; c. 63, § 39

Estimate: \$11.4

2.703 Exemption for Regulated Investment Companies

Regulated Investment Companies (RICs) are specialized corporations that serve as investment vehicles. RICs hold securities, receive earnings from those securities and pay out virtually all of their earnings to shareholders. They hire service providers for investment advice and administrative services. RICs are typically established by financial services corporations that sponsor the RIC, provide the RIC's corporate management, and market shares of the RIC to the investing public. The RIC's management decides whom to hire to provide investment advice and administrative services to the RIC. The service providers hired are frequently subsidiaries or affiliates of the financial services corporation that established the RIC. The RIC itself has no employees and no property other than the securities it holds and its own books and records. Federal tax and securities law imposes limitations on the type of assets RICs can hold and requires RICs to distribute at least 90% of their income as dividends to shareholders.

Federal tax law allows RICs a deduction for dividends paid, which is generally not available to other corporations. See Internal Revenue Code § 852(b). The Massachusetts exemption for RICs is a statutory provision that employs the federal definition of a RIC but is not otherwise tied to the federal deduction.

The Massachusetts corporate excise imposes a tax on a corporation's apportioned net income and a tax on the corporation's apportioned net worth or tangible property located in Massachusetts. See M.G.L. c. 63, § 39. RICs are exempt from both taxes because they are not taxable corporations pursuant to M.G.L. c. 63, § 68C(8).

This exclusion constitutes a tax expenditure in Massachusetts because, absent the exclusion, RICs would be subject to the corporate excise.

Origin: M.G.L. c. 63, § 68C(8); c. 63, § 30

Estimate: \$496.2

KEY	ORIGIN	
	IRC	Federal Internal Revenue Code (26 U.S.C.)
	M.G.L.	Massachusetts General Laws
	U.S.C.	United States Code
	ESTIMATES	All estimates are in \$ millions.



Introduction - Sales Tax

Massachusetts imposes a sales and use tax on retail sales. In addition to the sales and use tax, there are several separate excises, each limited to a particular type of commodity. These special excises have not been included in this tax expenditure budget.

The Massachusetts sales and use tax, first imposed in 1966, was levied at a rate of 5%. Effective on and after August 1, 2009, the rate was changed from 5% to 6.25%. The sales tax applies to sales made within the state, and the use tax to property and services purchased outside of Massachusetts but intended for use within the state.

Revenue from the sales and use tax represented 23.1% of total Department of Revenue tax collections for Fiscal Year 2021 and was the second largest source of tax revenue after the income tax.

Sales and Use Tax: Basic Structure

Tax Base: For the purposes of this tax expenditure budget, we have chosen not to make any assumptions about the base of the Massachusetts sales and use tax. Some people take a narrow view of what a retail sale is, limiting the term to sales to final consumers, i.e., individuals. Others would include sales to businesses, especially in instances where the purchase will not become an ingredient or component in a product to be sold. In an effort to acknowledge both theories, we will simply list the various exemptions under the sales tax. Some or many of these exemptions could be properly excluded from the tax base depending upon one's point of view.

Taxable Unit: The sales and use tax is levied on the property or service to be sold or used.

Rate Structure: The sales and use tax rate is 6.25% of the price.

Taxable Period: Except for sales of motor vehicles, in which the tax is imposed and paid by the purchaser to the Registry of Motor Vehicles, the tax is imposed at the time of sale and remitted at specified intervals by the vendor. The use tax is paid directly to the Department of Revenue by the user of the item and may be paid annually or more often (typically monthly).

Interstate and International Aspects: Massachusetts applies the destination principle to international and interstate sales. Accordingly, exports are exempt, and imports are taxable under the sales and use tax. Statutory exemptions for exports of property and for services used outside of the Commonwealth are therefore not listed as tax expenditures.

Computation of Massachusetts Sales and Use Tax by Vendor*

Gross Receipts
From Taxable Sales
|
Apply 6.25% Tax
|
Sales Tax

* A purchaser is also responsible for paying use tax directly to the Commonwealth on the sales price of taxable property or services purchased out-of-state and stored, used, or otherwise consumed in the Commonwealth, provided that a sales and use tax of 6.25% or more has not been paid separately to another state.

Types of Tax Expenditures under the Sales and Use Tax

In the case of the sales and use tax, all tax expenditures are of a single type. They all result from the exclusion of certain transactions from the taxable base. The exclusion can be based on any of a number of characteristics of the transaction - who the buyer is, who the seller is, what the product or service is, what the product or service will be used for, etc. - but structurally all such tax expenditures operate in the same way. Hence, we have omitted the designation of tax expenditure types from the descriptions in this section.



List of Sales and Use Tax Expenditures

3.000 EXEMPT ENTITIES

3.001 Exemption for Sales to the Federal Government

Sales to the federal government are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(d)

Estimate: N.A.

3.002 Exemption for Sales to the Commonwealth

Sales to the Commonwealth, its agencies and political subdivisions are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(d)

Estimate: N.A.

3.003 Exemption for Sales to Tax-Exempt Organizations

Non-profit organizations are exempt from sales tax on purchases of goods and services to be used in carrying out their tax-exempt purposes.

Comment: This estimate excludes sales of building materials and supplies used in construction contracts, which are covered under item 3.412.

Origin: M.G.L. c. 64H, § 6(e) and (x)

Estimate: \$613.2

3.004 Exemption for Sales of Tangible Personal Property to Motion Picture Production Companies

Sales of tangible personal property to a qualifying motion picture production company or to an accredited film school student for the production expenses related to a school film project are exempt from the sales tax.

Origin: M.G.L. c. 62, § 6(l), c. 63, § 38X, c. 64H, § 6(ww)

Estimate: \$0.3

3.005 Exemption for Sales of Certain Tangible Personal Property Purchased for a Certified Life Sciences Company

Sales of tangible personal property purchased for a certified life sciences company, to the extent authorized pursuant to the life sciences tax incentive program, for use in connection with the construction, alteration, remodeling, repair or remediation of research, development or manufacturing facilities and utility support systems, are exempt from sales tax.

Origin: M.G.L. c. 62, §§ 6(m), (n), (r), and (t); c.63, §§ 31M, 38M(k), 38U, 38W, 38V, and 38CC; c. 64H, § 6(xx)

Estimate: \$0.4

3.100 EXEMPT PRODUCTS/SERVICES

3.101 Exemption for Food

Food for human consumption is exempt from sales tax, including food purchased with federal food stamps. The exemption does not cover meals served in restaurants and similar establishments. Meals are taxed under the sales tax at a rate of 6.25%.

Origin: M.G.L. c. 64H, § 6(h) and (kk)

Estimate: \$1,053.6

3.102 Exemption for Certain Food and Beverages Sold in Restaurants

Although generally food and beverages sold in restaurants are taxed, there are certain exceptions. These are: a) food sold by weight, measure, count, or in unopened original containers or packages (for example, milk, meat, bread); b) beverages in unopened original containers which have a capacity of at least 26 fluid ounces; and c) bakery products sold in units of six or more.

Origin: M.G.L. c. 64H, § 6(h)

Estimate: N.A.

3.103 Exemption for Clothing

Sales of clothing or footwear up to \$175 per item are exempt from sales tax. The exemption does not include special clothing or footwear designed for athletic or protective uses and not normally worn except for these uses.

Origin: M.G.L. c. 64H, § 6(k)

Estimate: \$282.3

3.104 Exemption for Medical and Dental Supplies and Devices

Medical and dental supplies and devices, such as prescription drugs, oxygen, blood, artificial limbs and eyeglasses, are exempt from sales tax.

Comment: This estimate includes new estimate of \$7.0 million of medical marijuana for FY20, FY21, and FY22.

Origin: M.G.L. c. 64H, § 6(l) and (z)

Estimate: \$639.9

3.105 Exemption for Water

Sales and service of water are exempt from sales tax.

Comment: This estimate excludes sales of bottled water, which are included under item

3.101.

Origin: M.G.L. c. 64H, § 6(i)

Estimate: \$64.1

3.106 Exemption for Newspapers and Magazines

Sales of periodicals such as newspapers and magazines are exempt from the sales and use tax.

Origin: M.G.L. c. 64H, § 6(m)

Estimate: \$19.1

3.107 Exemption for the American Flag

The American flag is exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(w)

Estimate: N.A.

3.108 Exemption for Certain Precious Metals

Sales valued at \$1,000 or more of the following precious metals are exempt from the sales tax: rare coins of numismatic value; gold or silver bullion or coins; and gold or silver tender of any nation which is traded and sold according to its value as precious metal. Fabricated precious metals that have been processed or manufactured for industrial, professional, or artistic use do not qualify for the exemption.

Origin: M.G.L. c. 64H, § 6(ll)

Estimate: N.A.

3.109 Exemption for Cement Mixers

Concrete mixing units mounted on the back of trucks are exempt from sales tax. Spare parts for such units are also exempt. The truck chassis is subject to sales tax.

Origin: M.G.L. c. 64H, § 6(y)

Estimate: \$1.7

3.112 Exemption for Aircraft & Aircraft Parts

Airplanes, helicopters, gliders and other aircraft are exempt from sales tax. Parts used exclusively for the repair of aircraft are also exempt.

Origin: M.G.L. c. 64H, § 6(uu) and (vv); M.G.L. c. 64I, § 7(d) and (e)

Estimate: \$25.9

3.113 Exemption for Breast Pumps

Physician-prescribed, medically necessary breast pumps are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(l)

Estimate: included in 3.104

3.200 EXEMPT, TAXED UNDER ANOTHER EXCISE

3.201 Exemption for Alcoholic Beverages

Alcoholic beverages, except those sold as part of a meal, are exempt from sales tax. They are instead subject to an excise tax determined by volume rather than retail price under another provision of state law.

Comment: Revenues collected under the alcoholic beverages excise were \$87.6 million in Fiscal Year 2020 and \$92.7 million in Fiscal Year 2021.

Origin: M.G.L. c. 64H § 6(g)

Estimate: \$135.8

3.202 Exemption for Motor Fuels

Motor fuels are exempt from sales and use tax. They are instead subject to an excise tax determined by price per gallon under another provision of state law.

Comment: Revenues collected under the motor fuels excise were \$707.9 million in Fiscal Year 2020 and \$662.9 million in Fiscal Year 2021.

Origin: M.G.L. c. 64H, § 6(g)

Estimate: \$534.3

3.300 EXEMPT COMPONENT OF A PRODUCT OR CONSUMED IN PRODUCTION

3.301 Exemption for Items Used in Making Clothing

Sales of materials used in making clothes, such as thread and fabric, are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(v)

Estimate: N.A.

3.302 Exemption for Materials, Tools, Fuels and Machinery Used in Manufacturing

Materials, tools, fuels and machinery, and replacement parts, used directly and exclusively in manufacturing are exempt from sales tax if they become components of a product to be sold, or are consumed or directly used in the manufacturing process.

Origin: M.G.L. c. 64H, § 6(r) and (s)

Estimate: \$646.5

3.303 Exemption for Materials, Tools, Fuels and Machinery Used in Research and Development

Materials, tools, fuels, machinery, and replacement parts used directly and exclusively in research and development by manufacturing or research and development corporations are exempt from sales tax.

Comment: This estimate includes sales /use tax exemption of \$7.9 million for qualifying limited partnership engaged in research activities under Section 66 in St. 2014, c. 287.

Origin: M.G.L. c. 64H, § 6(r) and (s)

Estimate: \$95.9

3.304 Exemption for Materials, Tools, Fuels, and Machinery Used in Furnishing Power

Materials, tools, fuels, and machinery, including spare parts, used in furnishing gas, water, steam, or electricity to consumers through mains, lines or pipes are exempt from sales tax if they are consumed or directly used in furnishing the power.

Comment: Estimate excludes costs associated with the natural gas industry due to a lack of reliable data.

Origin: M.G.L. c. 64H, § 6(r) and (s)

Estimate: \$61.7

3.306 Exemption for Materials, Tools, Fuels, and Machinery Used in Newspaper Printing

Materials, tools, fuels, and machinery, including replacement parts, are exempt from sales tax if they are consumed and used directly and exclusively in an industrial plant for purposes of publishing a newspaper to be sold.

Origin: M.G.L. c. 64H, § 6(r) and (s)

Estimate: \$3.3

3.308 Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production

Materials, tools, fuels, and machinery, including spare parts, used in agricultural production are exempt from sales tax if they become components of products to be sold or are consumed or directly used in agricultural production. The exemption includes the same items when used for the production of livestock, poultry and animals in research. Also included are seeds and plants used to grow food for human consumption outside the agricultural industry (e.g., by home gardeners).

Comment: This estimate includes sales/use tax exemption of \$3.0 million for materials, tools, fuel, machinery and replacement parts, used directly and exclusively in production and manufacturing of marijuana.

Origin: M.G.L. c. 64H, § 6(r), (s) and (p)

Estimate: \$18.0

3.309 Exemption for Vessels, Materials, Tools, Fuels, and Machinery Used in Commercial Fishing

Vessels, materials, tools, fuels, and machinery, and replacement parts which are consumed and used directly and exclusively in commercial fishing are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(r), (s) and (o)

Estimate: \$15.6

3.310 Exemption for Materials, Tools, Fuels and Machinery Used in Commercial Radio and TV Broadcasting

Materials, tools, fuels and machinery, including spare parts, used in commercial radio and TV broadcasting are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(r) and (s)

Estimate: N.A.

3.400 EXEMPTIONS FOR SPECIFIED USES OF PRODUCTS/SERVICES

3.401 Exemption for Electricity

Residential electricity, electricity purchased by businesses with five or fewer employees, and electricity purchased for qualified industrial use is exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(i) and (qq)

Estimate: \$333.4

3.402 Exemption for Fuel Used for Heating Purposes

Residential heating fuel, heating fuel purchased by businesses with five or fewer employees, and heating fuel purchased for qualified industrial use is exempt from sales tax.
Comment: This estimate is based on purchases of heating oil only; natural gas is included in item 3.403.

Origin: M.G.L. c. 64H, § 6(j) and (qq)

Estimate: \$70.6

3.403 Exemption for Piped and Bottled Gas

Residential gas, gas purchased by businesses with five or fewer employees, and gas purchased for qualified industrial use is exempt from sales tax.
Comment: Estimate is for piped gas only.

Origin: M.G.L. c. 64H, § 6(i) and (qq)

Estimate: \$222.4

3.404 Exemption for Steam

Residential steam, steam purchased by businesses with five or fewer employees, and

steam purchased for qualified industrial use are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(i) and (qq)

Estimate: \$14.4

3.405 Exemption for Certain Energy Conservation Equipment

Equipment for a solar, wind or heat pump system used as a primary or auxiliary energy source in a principal residence is exempt from sales and use tax.

Origin: M.G.L. c. 64H, § 6(dd)

Estimate: N.A.

3.406 Exemption for Funeral Items

Coffins, caskets, and other funeral items are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(n)

Estimate: \$14.4

3.407 Exemption for a Motor Vehicle for a Paraplegic

A motor vehicle owned and registered for the personal use of a paraplegic is exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(u)

Estimate: \$1.4

3.408 Exemption for Textbooks

Textbooks and other books required for instruction in educational institutions are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(m)

Estimate: \$56.9

3.409 Exemption for Books Used for Religious Worship

Bibles, prayer books and other books used for religious worship are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(m)

Estimate: N.A.

3.410 Exemption for Containers

Sales of several types of containers are exempt from sales tax. Sales eligible for the exemption include sales of empty containers to be filled and resold, containers the contents of which are exempt from the sales tax, and returnable containers when sold with the contents or resold for refilling.

Origin: M.G.L. c. 64H, § 6(q)

Estimate: \$148.9

3.411 Exemption for Certain Sales by Typographers, Compositors, Color Separators

Sales by typographers, compositors or color separators of composed type, film positives and negatives and reproduction proofs, or the fabrication or transfer of such items to a printer, publisher, or manufacturer of folding boxes, for use in printing are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(gg)

Estimate: N.A.

3.412 Exemption for Sales of Building Materials and Supplies to be Used in Connection with Certain Construction Contracts

Materials and supplies used in connection with construction contracts with the United States and the Commonwealth of Massachusetts, or any of its subdivisions are tax exempt where the construction is for public purposes. Materials and supplies used in connection with construction contracts with a tax-exempt organization are tax exempt where the construction is to be used exclusively in carrying out the organization's charitable purpose. The exemption includes rentals of equipment as well.

Origin: M.G.L. c. 64H, § 6(f)

Estimate: \$230.9

3.417 Exemption for Commuter Boats

Vessels, materials, tools, repair and spare parts used exclusively to provide scheduled commuter passenger service are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(pp)

Estimate: N.A.

3.418 Exemption for Fuels, Supplies and Repairs for Vessels Engaged in Interstate or Foreign Commerce

Fuels, supplies and repairs for vessels engaged in interstate or foreign commerce are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(o)

Estimate: \$0.9

3.419 Exemption for Fuel Used in Operating Aircraft and Railroads

Fuel used in operating aircraft and railroads is exempt from sales tax.

Comment: At a community's option, kero-jet fuel may be subject to a local tax at 5% of average price or \$0.05 per gallon, whichever is higher.

Origin: M.G.L. c. 64H, § 6(j)

Estimate: \$30.8

3.420 Exemption for Sales of Certain New or Used Buses

New and used buses that provide scheduled intra-city local service and are used by common carriers certified by the Department of Telecommunications and Energy are exempt from sales tax. The exemption includes replacement parts, materials and tools used to maintain or repair these buses.

Origin: M.G.L. c. 64H, § 6(aa)

Estimate: N.A.

3.421 Exemption for Films

Motion picture films sold for commercial exhibition are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(m)

Estimate: \$2.9

3.600 MISCELLANEOUS EXEMPTIONS

3.601 Exemption for Casual or Isolated Sales

Casual or isolated sales (sales by private parties) are exempt from sales tax, except casual sales of motor vehicles, trailers, and boats. Sales of these listed items are exempt only when they are between family members.

Origin: M.G.L. c. 64H, § 6(c) and M.G.L. c. 64I, § 7(b)

Estimate: N.A.

3.602 Exemption for Vending Machine Sales

Vending machine sales of items costing ten cents or less are exempt from sales tax. In addition, sales through vending machines which exclusively sell snacks and candy with a sales price of less than three dollars and fifty cents are exempt from the sales tax on meals.

Origin: M.G.L. c. 64H, § 6(h) and (t)

Estimate: \$1.4

3.603 Exemption for Certain Meals

Meals prepared by churches and hospitals, meals provided to organizations for the elderly, and meals provided by educational institutions are exempt from sales tax.

Comment: Estimate is for meals served in schools only.

Origin: M.G.L. c. 64H, § 6(cc)

Estimate: \$21.0

3.604 Exemption for Certain Bed and Breakfast Establishments from Sales Tax on Meals and Room Occupancy Excise

Owner-occupied one-, two-, and three-bedroom bed and breakfast establishments are exempt from both the sales tax on meals and the room occupancy excise.

Origin: M.G.L. c. 64G, § 1, 2, 3, 3A and 6, and M.G.L. c. 64H, § 6(h)

Estimate: N.A.

3.605 Exemption for Certain Summer Camps from Sales Tax on Meals and Room Occupancy Excise

An exemption from both the sales tax on meals and the room occupancy excise is provided for summer camps for children age 18 and under, or for summer camps for developmentally disabled individuals. Camps that satisfy the above criteria but offer their facilities during the off-season to individuals 60 years of age or over for 30 days or less in any calendar year will not lose their exemption.

Comment: Estimate is for meals only.

Origin: M.G.L. c. 64G, § 2 and M.G.L. c. 64H, § 6(cc)

Estimate: \$1.6

3.606 Exemption for Trade-in Allowances for Motor Vehicles and Trailers

In most cases, motor vehicles and trailers bought from a dealer in a trade-in transaction are subject to tax only on the excess of the purchase price over the amount credited for the trade-in, rather than on the full purchase price.

Origin: M.G.L. c. 64H, § 26, c. 64I, § 27

Estimate: \$134.7

3.607 Exemption for Publications of Tax-Exempt Organizations

The publications of tax-exempt organizations are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(m)

Estimate: \$20.9

3.608 Exemption for Gifts of Scientific Equipment

Gifts of scientific equipment or apparatus by manufacturers to non-profit educational institutions or to the Massachusetts Technology Park Corporation are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(jj)

Estimate: N.A.

3.609 Exemption for Vessels or Barges of 50 Tons or Over

Vessels or barges of 50 tons burden or over are exempt from sales tax when constructed in-state and sold by the builder.

Origin: M.G.L. c. 64H, § 6(o)

Estimate: \$0.4

3.610 Exemption for Rental Charges for Refuse Bins and Containers

Rental charges for refuse containers or bins in connection with service contracts by waste-service firms are exempt from sales and use tax when the containers are placed on the customer's premises by the waste service firm.

Origin: M.G.L. c. 64H, § 6(ii)

Estimate: \$0.9

3.611 Exemption for Honor Snack Trays

Snacks and candy purchased from honor trays are exempt from the sales tax on meals, provided all items in the tray are sold for less than \$3.50.

Comment: Honor trays are vending carts in workplaces from which snacks may be purchased on the honor system.

Origin: M.G.L. c. 64H, § 6(h)

Estimate: \$0.3

3.612 Sales Tax Holiday

Retail sales of tangible personal property during a 2-day weekend Sales Tax Holiday in August each year are exempt from sales tax.

Origin: St. 2018, c. 121, § 4

Estimate: \$34.4

KEY

ORIGIN

M.G.L.

ESTIMATES

Massachusetts General Laws

All estimates are in \$ millions.

Appendix A - Recent Law Changes Affecting Tax Expenditures

The Personal Income Tax:

Note on the impact of recent Federal Law changes:

On December 22, 2017, Public Law 115-97, commonly known as the Tax Cuts and Jobs Act (TCJA) was signed into law. On March 27, 2020, Public Law No. 116-136, the federal “Coronavirus Aid, Relief and Economic Security Act,” also known as the CARES Act was signed into law. Most recently, the Federal Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021 were enacted. These Acts provide for federal changes to a variety of provisions in the Internal Revenue Code (“Code”) that affect the personal income tax and corporate excise.

As a general rule, Massachusetts does not adopt any federal personal income tax law changes incorporated into the Code after January 1, 2005. However, certain specific Massachusetts personal income tax provisions, as set forth in G.L. c. 62, § 1(c), automatically conform to the current Code. Provisions of the Code that Massachusetts adopts on a current basis are:

- The exclusion for income earned by Roth IRAs;
- The exclusion for income earned by IRAs;
- The exclusion for gain on the sale of a principal residence;
- Trade or business expenses;
- Travel expenses;
- Meals and entertainment expenses;
- The maximum deferral amount of government employees’ deferred compensation plans;
- The deduction for health insurance costs of self-employed taxpayers;
- Medical and dental expenses;
- Annuities;
- Health savings accounts;
- Employer-provided health insurance coverage;
- Amounts received by an employee under a health and accident plan; and
- Contributions to qualified tuition programs.

Since Massachusetts automatically conforms to any change in the above tax items, any existing tax expenditures in the state’s Tax Expenditure Budget (TEB) that are calculated based on Federal estimates will reflect the impact of those changes. DOR will continue to review the impact of tax law changes at the federal level and will update future TEBs as necessary.

The following is a summary of the recent federal tax law changes, as well as other legislative and regulatory measures that modify Massachusetts personal income tax expenditures.

On March 27, 2020, Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), was signed into law. The CARES Act provides for federal changes to a variety of provisions of the Internal Revenue Code (IRC) that affect personal income taxpayers. In response to the CARES Act, the Department of Revenue (DOR) issued written guidance addressing the impact of the CARES Act in Massachusetts. See TIR 20-9: Massachusetts Tax Implications of Selected Provisions of the Federal CARES Act. More recently, the Federal Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021 were enacted. For their impact on Massachusetts personal income tax and corporate excise, See Working Draft TIR 21-XX: Massachusetts Tax Implications of Selected Provisions of the Federal Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021

Eligible 529 Plan Expenses, IRC § 529 (TE Item 1.041)

MGL allows a deduction for contributions to a Massachusetts 529 college savings plan or a prepaid tuition program, up to \$1,000 per individual or \$2,000 per married couple filing jointly. This deduction was available to taxpayers for tax years beginning January 1, 2017 through January 1, 2021. The deduction was scheduled to expire, however, the FY22 Budget made the deduction permanent.

Parking, Combined Commuter Highway Vehicle Transportation, and T-Pass Fringe Benefit — IRC sec. 132(f) (TE Item 1.030)

Massachusetts follows Code § 132(f) as amended and in effect as of January 1, 2005. For taxable years beginning in 2022, the Massachusetts monthly exclusion amounts are \$280 for employer-provided parking and \$150 for combined transit pass and commuter highway vehicle transportation benefits. Under Massachusetts law, these numbers reflect an inflation adjustment but do not include the increase in the federal monthly exclusion amount for the combined transit pass and commuter highway vehicle transportation benefits that was signed into law on December 18, 2015. See TIR 21-12 for more information.

Favorable Tax Treatment of Qualified Small Business Stock (QSBS) Gain — IRC § 1202; M.G.L. c. 62, § 4(c) (TE Item 1.042).

For federal tax purposes IRC § 1202 allows individuals to exclude 50% of their gains derived from the sale of qualified small business stock ("QSBS"). Because Massachusetts generally follows the IRC as in effect in 2005 for personal income tax purposes, Massachusetts allows an income exclusion for 50% of such gains.

Massachusetts also provides a reduced rate for such gains that are included in income if certain statutory requirements are met. Specifically, gains on the sale of qualified small business stock are taxed at a reduced rate of 3%, instead of the generally applicable long-term gain rate of 5%. To qualify for the 3% rate, the stock that is sold (i) must have been acquired within five years of the corporation's date of incorporation (ii) must be held for three years or more prior to the sale, and (iii) must have been issued by a C corporation or S corporation which (a) is domiciled in Massachusetts, (b) was incorporated on or after January 1, 2011, (c) has less than \$50 million in assets at the time of investment, and (d) complies with certain of the "active business" requirements of IRC § 1202.

Charitable Deduction — IRC § 170; M.G.L. c. 62, §3B (a)(13) (TE Item 1.415)

Beginning in calendar year 2023, Massachusetts personal income taxpayers will be allowed to deduct an amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under § 170 of the Code, as in effect on January 1, 2005 (i.e., the deduction shall be limited to 10% of taxpayers' federal taxable income). However, no deduction is allowed for contributions of household goods or used clothing. See 830 CMR 62.3.2, TIR 21-4, and the FY22 Budget (St. 2021, c. 24, s. 99) for more information.

Health Savings and Flexible Spending Accounts — IRC §§ 62(a)(19) and 223 (TE Item 1.422)

The CARES Act amended Code §§ 106(f), 220(d)(2)(A), and 223(d)(2) to allow amounts paid or expenses incurred for medicine or drugs without a medical prescription to be covered by an HSA or FSA. These changes apply to amounts paid or expenses incurred after December 31, 2019. The Act also amended Code § 223(c)(2) to allow, for plan years beginning on or before December 31, 2021, high-deductible health plans with an HSA to cover telehealth and other remote care services, notwithstanding whether the plan allows for such a deductible. For Massachusetts personal income tax purposes, payments for such services from HSAs or FSAs will similarly be allowable. This change became effective upon the enactment of the Act on March 27, 2020. See TIR 20-9 for more information.

Circuit Breaker Tax Credit Increased — M.G.L. c. 62, § 6 (k) (TE item 1.609)

A credit is allowed to certain qualified owners and renters of residential property located in Massachusetts equal to the amount by which the real estate tax payment or 25% of the rent constituting real estate tax payment exceeds 10% of the taxpayer's total income, not to exceed \$1,170 (for tax year 2021). The amount of the credit is subject to limitations based on the taxpayer's total

income and the assessed value of the real estate, which cannot exceed \$884,000. For tax year 2021, an eligible taxpayer's total income cannot exceed \$62,000 in the case of a single filer who is not a head of household filer, \$78,000 for a head of household filer, and \$93,000 for joint filers. In order to qualify for the credit, a taxpayer must be age 65 or older and must occupy the property as his or her principal residence. See TIR 21-11 for more information.

Film (or Motion Picture) Credit — M.G.L. c. 62, § 6 (l) (TE item 1.611)

Motion picture companies subject to tax under G.L. c. 62 or G.L. c. 63 may claim credits with respect to certain payroll expenses and certain production expenses. The credits were due to expire on January 1, 2023. However, the FY22 Budget amends "An Act Providing Incentives to the Motion Picture Industry," which created the film incentive credits, to make them permanent. The FY22 Budget also amends credit eligibility with respect to production expenses. For taxable years beginning on or after January 1, 2022, a taxpayer must incur at least 75% of its production expenses in Massachusetts for a film project to qualify for the credit. A 50% threshold applies to prior taxable years.

Disability Hire Credit — M.G.L. c. 62, § 6 (z) (TE item 1.622)

Effective for tax years beginning on or after January 1, 2023, employers that hire disabled employees may claim a nontransferable, refundable credit equal to (i) the lesser of \$5,000 or 30% of the wages paid to a disabled employee in the employee's first year of employment, and (ii) the lesser of \$2,000 or 30% of the wages paid to a disabled employee in each subsequent year of the employee's employment.

Cranberry Bog Renovation Credit — M.G.L. c. 62, § 6 (w) (TE item 1.623)

Beginning in calendar year 2020, taxpayers primarily engaged in cranberry production may claim a nontransferable, refundable credit equal to 25% of expenses incurred in the renovation, repair, replacement, regrading or restoration of a cranberry bog for the cultivation, harvesting or production of cranberries. The amount of credit that can be claimed by a taxpayer for a taxable year cannot exceed \$100,000.

Credit for Eligible Dependents — M.G.L. c. 62, § 6 (y) (TE item 1.624)

The parameters of the credit are substantially the same as the former deduction. To claim the credit, a taxpayer must furnish over half of the cost of maintaining a household. The household must include a dependent that qualifies as a dependent under IRC § 152 and who is (1) under the age of 12; (2) age 65 or over; or (3) disabled. The credit is equal to \$180 if the taxpayer claims one dependent, or \$360 if the taxpayer claims two or more dependents. A taxpayer claiming this credit may not also claim the credit for dependent care expenses allowed under G.L. c. 62, § 6(x).

Credit for Dependent Care Expenses — M.G.L. c. 62, § 6 (x) (TE item 1.625)

The parameters of the credit are substantially the same as the former deduction. The credit is equal to "employment-related expenses" allowed for purposes of determining the credit provided under Internal Revenue Code ("IRC") § 21. A qualifying individual is (1) a dependent of the taxpayer who is younger than 13 years old; or (2) a dependent of the taxpayer, including a spouse, who is physically or mentally incapable of taking care of himself or herself and principally lives with the taxpayer.¹ The credit cannot exceed \$240 if the taxpayer claims expenses for one qualifying individual, or \$480 if the taxpayer claims expenses for two or more qualifying individuals. A taxpayer claiming the credit may not also claim the dependent credit allowed under G.L. c. 62, § 6(y).

The Corporate and Other Business Excise:

New Cranberry Bog Renovation Credit

¹ IRC § 21(b)(1).

The Economic Development Act and the FY22 Budget adopt new credits for expenses incurred in renovating cranberry bogs. Specifically, the Economic Development Act adds G.L. c. 62, § 6(w) and the FY22 Budget adds G.L. c. 63, § 38II. These provisions allow taxpayers primarily engaged in cranberry production to claim a nontransferable, refundable credit equal to 25% of expenses incurred in the renovation, repair, replacement, regrading or restoration of a cranberry bog for the cultivation, harvesting or production of cranberries. The Secretary for Energy and Environmental Affairs (the "Secretary") determines eligible costs and the amount of the credit. The amount of credit that can be claimed by a taxpayer for a taxable year cannot exceed \$100,000. The annual total cap amount is \$2 million.

To receive the credit, a taxpayer must file a summary of renovation expenditures with the Secretary, who will notify the Commissioner of the amount of credit awarded. The Commissioner will allow the amount of the credit determined by the Secretary on the taxpayer's return for the tax year in which the qualified renovation expense was incurred. Further guidance from the Commissioner and the Secretary regarding the credit is anticipated. The credit is available for taxpayers subject to G.L. c. 62 ("c. 62 taxpayers") and taxpayers subject to the corporate excise ("c. 63 taxpayers") for taxable years beginning on or after January 1, 2020.

New Disability Hire Credit

The FY22 Budget adds a new credit for employers that hire disabled employees. Specifically, the FY22 Budget adds G.L. c. 62, § 6(z) and new G.L. c. 63, § 38JJ. These provisions allow employers subject to tax under G.L. c. 62 or G.L. c. 63 to claim a nontransferable, refundable credit equal to (i) the lesser of \$5,000 or 30% of the wages paid to a disabled employee in the employee's first year of employment, and (ii) the lesser of \$2,000 or 30% of the wages paid to a disabled employee in each subsequent year of the employee's employment. The credit is available to employers subject to tax under G.L. c. 62 or G.L. c. 63 provided that:

- (1) the employee is certified by the Massachusetts Rehabilitation Commission as having a disability as defined under the Americans with Disabilities Act, 42 U.S.C. § 12102;
- (2) the employee is capable of working independently;
- (3) the employee has a mental or physical disability that constitutes or results in a substantial impediment to employment;
- (4) the employee is hired after July 1, 2021;
- (5) the employee's primary place of employment and primary place of residence is in Massachusetts;
- (6) the employer must obtain certification from the Massachusetts Rehabilitation Commission that the employee is qualified no later than the employee's first day of work; and
- (7) the employer employs the employee for at least 12 consecutive months prior to and in the taxable year in which the credit is claimed.

For employers subject to tax under G.L. c. 62, the credit will be attributed on a pro rata basis to the owners, partners, or members of the legal entity that hires eligible employees. For employers subject to an excise under G.L. c. 63, the credit cannot reduce the excise due below the minimum excise.

The FY22 Budget requires that the Secretary of Health and Human Services, in consultation with the Commissioner, promulgate regulations establishing an application process for the credit. Further guidance from the Secretary of Health and Human Services and the Commissioner regarding the credit is anticipated.

The credit is available for tax years beginning on or after January 1, 2023.

Changes to the Film Incentive Credits

Motion picture companies subject to tax under G.L. c. 62 or G.L. c. 63 may claim credits with respect to certain payroll expenses and certain production expenses. The credits were due to expire on January 1, 2023. However, the FY22 Budget amends “An Act Providing Incentives to the Motion Picture Industry,” which created the film incentive credits, to make them permanent. The FY22 Budget also amends credit eligibility with respect to production expenses. For taxable years beginning on or after January 1, 2022, a taxpayer must incur at least 75% of its production expenses in Massachusetts for a film project to qualify for the credit. A 50% threshold applies to prior taxable years.

Changes to the Low-Income Housing Credit

Under G.L. c. 62, § 6I and G.L. c. 63, § 31H, a low-income housing credit is available to eligible c. 62 or c. 63 taxpayers that invest in affordable rental housing (“Qualified Massachusetts Projects”) to the extent authorized by the Department of Housing and Community Development (“DHCD”). The credit may be claimed in the year that the Qualified Massachusetts Project is placed in service and for each of the four subsequent taxable years.

DHCD ultimately allocates the amount of credit a taxpayer can claim based on an annual aggregate statewide limit, which, prior to the Economic Development Act, was \$20 million. Effective for tax years beginning on or after January 1, 2021 and ending on or before December 31, 2025, the Economic Development Act raises the credit’s annual limit from \$20 million to \$40 million. For tax years beginning on or after January 1, 2026, the credit’s annual limit will revert to \$20 million.

Extension of the Massachusetts Historic Rehabilitation Credit

The Massachusetts historic rehabilitation credit, which allows c. 62 and c. 63 taxpayers to claim a credit for certain expenditures made to rehabilitate certain qualified historic structures, was due to expire on December 31, 2022. The FY22 Budget amends G.L. c. 62, § 6J and G.L. c. 63, § 38R to extend the credit to tax years ending on or before December 31, 2027.

Repeal of Certain Deductions and Credits

1. Repeal of Deduction for Energy Patents

Under the law in effect for taxable years beginning before January 1, 2022, G.L. c. 62, § 2(a)(2)(G) and G.L. c. 63, § 30.3 allow taxpayers to deduct income from certain patents that are useful for energy conservation or alternative energy development. The FY22 Budget repeals the deduction effective for taxable years beginning on or after January 1, 2022.

2. Repeal of Medical Device User Fee Credit

Under the law in effect for taxable years beginning before January 1, 2022, G.L. c. 62, § 6½ and G.L. c. 63, § 31L allow taxpayers that develop or manufacture medical devices in Massachusetts to claim a transferable credit equal to 100% of the user fees they pay when submitting certain medical device applications and supplements to the Food and Drug Administration. A taxpayer claiming the credit cannot carry forward the credit, but can transfer unused portions of the credit. The transferee may carry over the credit, but must use it within five years of the credit’s transfer.

The FY22 Budget repeals the credit effective for taxable years beginning on or after January 1, 2022. However, taxpayers will still be able to transfer previously awarded credits, and transferees will be able to apply unused amounts of the credit within five years of the credit’s transfer.

3. Repeal of Harbor Maintenance Credit

Under the law in effect for taxable years beginning before January 1, 2022, G.L. c. 63, § 38P allows taxpayers subject to the corporate excise to claim a nonrefundable, nontransferable credit equal to certain harbor maintenance taxes paid to the federal government to the extent the taxes are attributable

to the shipment of break-bulk or containerized cargo by sea and ocean-going vessels through one of three designated Massachusetts ports. Unused portions of the credit may be carried forward for up to five years. The FY22 Budget repeals the credit effective for taxable years beginning on or after January 1, 2022. However, unused portions of the credit claimed in taxable years beginning before January 1, 2022 may continue to be carried forward.

Sales and Use Tax:

Sales Tax Holiday Weekend — M.G.L. c. 64H, § 6A (TE Item 3.612)

Pursuant to M.G.L. c. 64H, § 6A, a 2-day weekend in August of each year shall be designated as the annual “sales tax holiday.” During the annual sales tax holiday, no tax shall be imposed upon otherwise taxable non-business retail sales of tangible personal property. Retail sales eligible for the exemption must occur during one of two days during the holiday weekend, i.e., transfer of possession of or original payment in full for the property shall occur on such days. However (i) transactions where a deposit, prepayment or binding promise to pay is made before the designated days; (ii) prior sales; and (iii) layaway sales do not qualify for the exemption.

Appendix B - Tax Expenditure Glossary

Amortization: Annual deduction allowed for the gradual exhaustion or obsolescence of intangible assets having a limited useful life which are used in the production of income, such as patents and copyrights; analogous to depreciation of tangible assets.

Capital Expenditure: An expenditure made in acquiring, adding to or bettering a fixed asset. For accounting purposes, capital expenditures are not charged against current revenue. They are added to capital account or "capitalized" and then may be depreciated, amortized, or recovered when a business is sold. This concept should be distinguished from an expense.

Credit: Amount by which a taxpayer is allowed to reduce a tax liability, as computed by applying the tax rates to the tax base, to be distinguished from a deduction from the tax base.

Deduction: Amount that a taxpayer is allowed to subtract from the gross tax base.

Depreciation: Annual deduction allowed for the gradual exhaustion or obsolescence of tangible property used in the production of income.

Exclusion: The legal elimination from the tax base of items recognized as falling within its definition. The federal term for what is sometimes called an exemption for Massachusetts. (See below.)

Exemption: The legal elimination from the tax base of items or transactions recognized as falling within its definition, or of taxable units that would normally be subject to tax.

Expense: A revenue expenditure or cost, which, for accounting purposes, is charged against current revenue. To be distinguished from a capital expenditure.

Gross income: The total of all items included in the concept of income that a taxpayer receives during the taxable period.

Net income: Amount remaining after subtracting exempt income and deductions from gross income.

Personal exemption: A specific amount or percentage of net income on which the tax rate is zero. To be distinguished from an exemption as defined above, which applies to a class of income or taxpayers. Sometimes called an "allowance".

Taxable income: Amount to which the tax rates are applied in computing tax liability, after subtracting personal exemptions from net income.



**Fiscal Year 2022 Tax Expenditure Budget: Appendix C
Summary Table**

The following table shows tax expenditure estimates for the three major taxes from Fiscal Year 2018 to Fiscal Year 2022. In general, the revenue estimate for a tax expenditure tends to follow the anticipated growth of tax collections. However, year-to-year changes in estimates may vary for four other principal reasons: new data sources; refinements to the estimate methodology; changes to federal tax expenditure estimates which are used as the basis for many of the state tax expenditure estimates; and changes in tax laws.

Where possible, we have recalculated past estimates based on revised data, improved methodologies, and changes in statute.

Personal Income Tax (In Millions)

Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
EXCLUSIONS FROM GROSS INCOME						
Exclusions from Gross Income	1.000	4,517.7	4,913.8	4,847.0	4,872.4	5,127.6
Exemption of Premiums on Accident and Accidental Death Insurance ¹	1.001	28.5	27.6	28.7	30.0	31.4
Exemption of Premiums on Group-Term Life Insurance ¹	1.002	23.0	25.4	25.1	25.0	25.7
Exemption of Interest on Life Insurance Policy and Annuity Cash Value	1.003	221.9	246.5	250.2	255.3	261.9
Exemption of Employer Contributions for Medical Insurance Premiums and Medical Care ¹	1.004	990.0	1,108.0	1,212.5	1,278.0	1,355.3
Exemption of Annuity or Pension Payments to Fire and Police Personnel	1.005	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption of Distributions from Certain Contributory Pension and Annuity Plans ²	1.006	308.9	317.4	324.5	333.5	344.6
Exemption of Railroad Retirement Benefits	1.007	4.8	4.8	4.9	5.0	5.1
Exemption of Public Assistance Benefits	1.008	192.2	195.8	198.6	202.3	207.2
Exemption of Social Security Benefits	1.009	1,003.3	1,049.8	1,090.9	1,132.5	1,181.6
Exemption of Workers' Compensation Benefits	1.010	6.3	6.4	6.4	6.5	6.6
Exemption for Dependent Care Expenses ¹	1.011	13.5	14.5	14.6	14.5	14.5
Exemption of Certain Foster Care Payments	1.012	3.3	3.3	4.1	4.1	4.0
Exemption of Payments Made to Coal Miners	1.013	Negligible	Negligible	Negligible	Negligible	Negligible
Exemption of Rental Value of Parsonages ¹	1.014	2.7	2.9	2.9	3.2	3.2
Exemption of Scholarships and Fellowships	1.015	23.8	30.8	31.0	31.5	32.0
Exemption of Certain Prizes and Awards	1.016	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption of Cost-Sharing Payments	1.017	Negligible	Negligible	Negligible	Negligible	Negligible
Exemption of Meals and Lodging Provided at Work ¹	1.018	19.0	21.1	21.5	22.8	23.5
Treatment of Business-Related Entertainment Expenses ¹	1.019	24.6	25.4	25.9	27.5	28.1

FY2023 Governor's Budget Recommendation

Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
Exemption of Income from the Sale, Lease, or Transfer of Certain Patents	1.020	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption of Capital Gains on Home Sales	1.021	470.4	418.2	415.2	453.7	488.8
Nontaxation of Capital Gains at Death	1.022	968.2	1,176.7	952.4	809.2	870.1
Exemption of Interest from Massachusetts Obligations	1.023	50.9	51.3	51.5	51.9	52.5
Exemption of Benefits and Allowances to Armed Forces Personnel ¹	1.024	28.5	33.1	30.5	31.4	33.7
Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits	1.025	42.8	53.8	52.7	51.5	53.3
Exemption of Military Disability Pensions	1.026	0.5	0.7	0.7	0.8	0.8
Exemption of Compensation to Massachusetts-Based Nonresident Military Personnel	1.027	9.9	10.2	10.7	11.3	11.3
Exemption for Taxpayers Killed in Military Action or by Terrorist Activity	1.028	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Retirement Pay of the Uniformed Services	1.029	23.4	23.8	24.1	24.5	25.0
Parking, T-Pass and Vanpool Fringe Benefits	1.030	36.9	40.8	41.5	41.9	43.1
Health Savings Accounts	1.031	Included in 1.422	Included in 1.422	Included in 1.422	Included in 1.422	Included in 1.422
Employer-Provided Adoption Assistance	1.032	Not Active	Not Active	Not Active	Not Active	Not Active
Employer-Provided Educational Assistance	1.033	11.7	14.4	15.1	15.1	13.2
Department of Defense Homeowners Assistance Plan	1.035	N.A.	N.A.	N.A.	N.A.	N.A.
Survivor Annuities of Fallen Public Safety Officers	1.036	N.A.	N.A.	N.A.	N.A.	N.A.
Survivor Annuities of Fallen Astronauts	1.037	N.A.	N.A.	N.A.	N.A.	N.A.
Discharge of Indebtedness for Health Care Professionals	1.039	1.3	1.4	1.4	1.4	1.4
Archer Medical Savings Accounts	1.040	Included in 1.420	Included in 1.420	Included in 1.420	Included in 1.420	Included in 1.420
Earnings of Pre-paid and Tuition Savings ("529" plans)	1.041	7.3	9.7	9.5	8.0	9.4
DEFERRALS OF GROSS INCOME						
Deferrals of Gross Income	1.100	2,112.3	2,293.6	2,629.1	2,918.8	3,279.4
Net Exemption of Employer Contributions and Earnings of Private Pension Plans ²	1.101	1,776.6	1,891.0	2,278.2	2,568.0	2,901.5
Treatment of Incentive Stock Options	1.102	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption of Earnings on Stock Bonus Plans or Profit Sharing Trusts	1.103	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption of Earnings on IRA and Keogh Plans ²	1.104	241.4	288.1	258.2	272.0	293.1
Non-taxation of Capital Gains at the Time of Gift	1.106	94.3	114.6	92.7	78.8	84.7
DEDUCTIONS FROM GROSS INCOME						
Deductions from Gross Income	1.200	1.8	2.3	2.3	2.4	2.4
Capital Gains Deduction	1.201	1.6	2.0	2.1	2.1	2.2
Deduction of Capital Losses Against Interest and Dividend Income	1.202	N.A.	N.A.	N.A.	N.A.	N.A.
Excess Natural Resource Depletion Allowance	1.203	0.2	0.2	0.2	0.2	0.2
Abandoned Building Renovation Deduction	1.204	0.1	0.1	0.1	0.1	0.1

Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
ACCELERATED DEDUCTIONS FROM GROSS INCOME						
Accelerated Deductions from Gross Income	1.300	212.9	220.1	229.1	228.1	228.0
Modified Accelerated Depreciation on Rental Housing	1.301	16.9	18.1	26.6	25.5	24.0
Modified Accelerated Depreciation on Buildings (other than Rental Housing)	1.303	10.3	11.6	11.9	12.3	12.7
Modified Accelerated Cost Recovery System (MACRS) for Equipment	1.304	83.3	80.6	81.0	81.8	83.0
Deduction for Excess First-Year Depreciation	1.305	101.2	108.1	107.1	106.6	106.8
Election to Deduct and Amortize Business Start-up Costs	1.306	0.5	0.5	0.7	0.8	0.8
Expensing Exploration and Development Costs	1.308	Negligible	Negligible	Negligible	Negligible	Negligible
Expensing Research and Experimental Expenditures in One Year	1.309	0.2	0.8	1.3	0.6	0.3
Five-Year Amortization of Pollution Control Facilities	1.310	N.A.	N.A.	N.A.	N.A.	N.A.
Seven-Year Amortization for Reforestation	1.311	N.A.	N.A.	N.A.	N.A.	N.A.
Expensing Certain Capital Outlays of Farmers	1.312	0.4	0.5	0.5	0.5	0.5
DEDUCTIONS FROM ADJUSTED GROSS INCOME						
Deductions from Adjusted Gross Income	1.400	921.8	946.0	967.4	995.6	1,096.6
Deduction for Employee Social Security and Railroad Retirement Payments	1.401	316.2	323.0	327.7	334.2	342.5
Deduction for Employee Contributions to Public Pension Plans ²	1.402	Included in 1.401	Included in 1.401	Included in 1.401	Included in 1.401	Included in 1.401
Additional Exemption for the Elderly	1.403	24.2	25.5	26.0	26.6	27.4
Additional Exemption for the Blind	1.404	0.7	0.7	0.7	0.6	0.6
Dependents Exemption Where the Child Earns Income	1.405	N.A.	N.A.	N.A.	N.A.	N.A.
Deduction for Dependents Under 12	1.406	130.0	129.9	128.8	128.7	129.5
Personal Exemption for Students Age 19 or Over	1.407	10.1	10.2	10.2	10.3	10.5
Deduction for Adoption Fees	1.408	0.4	0.4	0.4	0.4	0.4
Deduction for Business-Related Child Care Expenses	1.409	19.4	19.9	20.9	22.1	23.2
Exemption of Medical Expenses	1.410	131.8	137.3	144.9	154.0	164.5
Rent Deduction	1.411	139.1	144.0	146.7	150.2	154.6
Nontaxation of Charitable Purpose Income of Trustees, Executors or Administrators	1.412	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption of Interest on Savings in Massachusetts Banks	1.413	3.2	3.5	3.8	4.1	4.5
Tuition Deduction (Over 25% of Income)	1.414	33.1	31.7	32.3	33.1	34.1
Charitable Contributions Tax Deduction	1.415	Not Active	Not Active	Not Active	Not Active	66.3
Deduction for Costs Involved in Unlawful Discrimination Suits	1.418	N.A.	N.A.	N.A.	N.A.	N.A.
Business Expenses of National Guard and Reserve Members	1.419	Negligible	Negligible	Negligible	Negligible	Negligible
Archer Medical Savings Accounts	1.420	Negligible	Negligible	Negligible	Negligible	Negligible
Deduction for Clean-Fuel Vehicles and Certain Refueling Property	1.421	Negligible	Negligible	Negligible	Negligible	Negligible

FY2023 Governor's Budget Recommendation

Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
Health Savings Accounts	1.422	8.5	9.9	10.4	11.3	12.3
Commuter Deduction	1.423	10.3	10.8	11.1	11.4	11.8
Self-Employed Health Insurance Deduction	1.424	45.6	46.8	47.9	49.2	50.8
Student Loan Interest Deduction (allowed Federally or by Massachusetts)	1.425	40.4	43.2	46.0	49.5	53.5
Expenses of Human Organ Transplant	1.426	Negligible	Negligible	Negligible	Negligible	Negligible
Prepaid Tuition or College Savings Plan Deduction	1.427	4.2	4.4	4.7	4.9	5.2
Gambling Loss Deduction	1.428	1.7	2.0	2.0	2.0	2.0
Moving Deduction	1.429	2.9	2.9	2.9	3.0	3.0
PREFERENTIAL RATE OF TAXATION						
Preferential Rate of Taxation	1.500	5.7	7.5	9.5	11.7	13.5
Small Business Stock, Capital Gains Tax Rate	1.501	5.7	7.5	9.5	11.7	13.5
CREDITS AGAINST TAX						
Credits Against Tax	1.600	307.3	317.5	390.3	399.5	409.9
Renewable Energy Source Credit	1.601	4.2	4.4	4.6	4.9	5.2
Credit for Removal of Lead Paint	1.602	1.8	1.7	2.5	2.4	2.4
Economic Development Incentive Program Credit	1.603	4.1	4.1	4.2	4.2	4.2
Credit for Employing Former Full-Employment Program Participants	1.604	Not Active	Not Active	Not Active	Not Active	Not Active
Earned Income Credit	1.605	189.8	189.7	252.5	257.7	263.1
Septic System Repair Credit	1.606	8.7	8.5	8.3	8.1	7.9
Low Income Housing Credit	1.607	3.7	3.5	3.5	3.5	3.5
Brownfields Credit	1.608	0.7	4.4	4.7	4.9	5.2
Refundable State Tax Credit Against Property Taxes for Seniors ("Circuit Breaker")	1.609	79.2	83.6	86.6	89.6	92.7
Historic Buildings Rehabilitation Credit	1.610	6.0	6.2	6.5	6.7	7.0
Film (or Motion Picture) Credit	1.611	2.0	2.0	2.0	2.0	2.0
Medical Device User Fee Credit	1.613	Negligible	Negligible	Negligible	Negligible	Negligible
Dairy Farmers Credit	1.614	3.4	5.3	5.3	5.2	6.0
Conservation Land Credit	1.615	1.9	2.0	2.0	2.0	2.0
Employer Wellness Program Tax Credit	1.616	0.1	Negligible	Negligible	Negligible	Negligible
Community Investment Tax Credit	1.617	0.5	0.5	4.0	4.5	5.0
Farming and Fisheries Income Tax Credit	1.618	0.1	0.1	0.9	0.9	0.9
Certified Housing Development Tax Credit	1.619	0.6	1.0	1.0	1.0	1.0
Veteran's Hire Tax Credit	1.620	0.5	0.5	0.5	0.5	0.5
Apprentice Tax Credit	1.621	N.A.	N.A.	1.3	1.3	1.3

Fiscal Year 2022 Tax Expenditure Budget: Appendix C Summary Table

Corporate Tax (In Millions)

Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
EXCLUSIONS FROM GROSS INCOME						
Exclusions from Gross Income	2.000	134.7	149.4	152.6	156.6	161.3
Small Business Corporations	2.001	134.7	149.4	152.6	156.6	161.3
Exemption of Income from the Sale, Lease or Transfer of Certain Patents	2.002	0.0	0.0	0.0	0.0	0.0
DEFERRALS OF GROSS INCOME						
Deferrals of Gross Income	2.100	6.1	9.8	10.4	9.8	10.2
Deferral of Tax on Certain Shipping Companies	2.101	0.8	0.8	0.8	0.8	0.8
Deferral of Gain Invested in Qualified Opportunity Zones	2.102	5.3	8.9	9.5	9.0	9.4
DEDUCTIONS FROM GROSS INCOME						
Deductions from Gross Income	2.200	201.0	213.3	216.8	224.0	231.3
Charitable Contributions and Gifts Deduction	2.201	31.4	33.9	31.6	33.2	34.8
Net Operating Loss (NOL) Carry-Forward	2.203	167.1	177.4	182.8	188.3	194.0
Excess Natural Resource Depletion Allowance	2.204	2.4	1.9	2.3	2.5	2.5
Deduction for Certain Dividends of Cooperatives	2.205	N.A.	N.A.	N.A.	N.A.	N.A.
Deduction for Renovation of Abandoned Buildings as Part of Certified Project	2.206	Negligible	Negligible	Negligible	Negligible	Negligible
ACCELERATED DEDUCTIONS FROM GROSS INCOME						
Accelerated Deductions from Gross Income	2.300	326.3	311.4	294.6	284.2	269.6
Modified Accelerated Cost Recovery System on Rental Housing	2.301	4.8	4.8	6.6	6.6	6.4
Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly	2.303	0.4	0.4	0.4	0.4	0.4
Election to Deduct and Amortize Business Start-up Costs	2.304	0.8	0.8	0.8	0.8	0.8
Modified Accelerated Cost Recovery System for Equipment	2.305	206.0	211.4	216.9	222.9	229.2
Expense Deduction for Excess First-Year Business Assets	2.306	66.5	31.1	11.1	8.2	7.4
Modified Accelerated Depreciation on Buildings (other than Rental Housing)	2.307	2.4	1.8	1.6	1.6	1.6
Expensing Research and Development Expenditures in One Year	2.308	42.7	59.2	55.4	42.0	22.2
Expensing Exploration and Development Costs	2.309	0.2	0.2	0.2	0.2	0.2
Five-Year Amortization of Pollution Control Facilities	2.311	2.1	1.5	1.3	1.3	1.3
Expensing of Alternative Energy Units	2.312	Not Active	Not Active	Not Active	Not Active	Not Active
Seven-Year Amortization for Reforestation	2.313	0.3	0.2	0.2	0.2	0.2
ADJUSTMENTS TO APPORTIONMENT FORMULA						
Adjustments to Apportionment Formula	2.400	371.2	382.4	394.0	405.9	418.1
Unequal Weighting of Sales, Payroll, and Property in the Apportionment Formula	2.401	371.2	382.4	394.0	405.9	418.1
EXCLUSIONS FROM PROPERTY COMPONENT						

FY2023 Governor's Budget Recommendation

Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
Exclusions from Property Component	2.500	245.5	260.5	273.5	287.2	301.6
Nontaxation of Certain Energy Property	2.501	Not Active	Not Active	Not Active	Not Active	Not Active
Exemption for Property Subject to Local Taxation	2.502	245.5	260.5	273.5	287.2	301.6
CREDITS AGAINST TAX						
Credits Against Tax	2.600	604.7	700.9	723.8	801.4	880.4
Investment Credit	2.602	66.4	70.5	72.6	74.8	77.1
Vanpool Credit	2.603	Negligible	Negligible	Negligible	Negligible	Negligible
Research Credit	2.604	288.4	337.6	344.3	410.3	477.6
Economic Development Incentive Program Credit	2.605	15.8	15.9	15.9	16.0	16.0
Credit for Employing Former Full-Employment Program Participants	2.606	Not Active	Not Active	Not Active	Not Active	Not Active
Harbor Maintenance Credit	2.607	1.3	1.4	1.4	1.5	1.5
Brownfields Credit	2.608	31.4	24.4	25.1	25.9	26.7
Low Income Housing Credit	2.609	85.3	100.0	105.0	110.0	115.0
Historic Buildings Rehabilitation Credit	2.610	43.7	48.1	49.5	51.0	52.5
Film (or Motion Picture) Credit	2.614	54.7	77.1	78.0	78.0	78.0
Medical Device User Fee Credit	2.615	0.4	0.6	0.6	0.5	0.5
Life Sciences Tax Incentive Program	2.617	12.0	16.1	16.5	18.0	19.6
Dairy Farmers Credit	2.618	0.0	0.0	0.0	0.0	0.0
Conservation Land Credit	2.619	0.0	0.0	0.0	0.0	0.0
Employer Wellness Program Credit	2.620	0.1	0.1	0.1	0.1	0.1
Community Investment Credit	2.621	0.5	1.8	4.0	4.5	5.0
Certified Housing Development Credit	2.622	4.7	7.3	9.0	9.0	9.0
Veteran's Hire Credit	2.623	Negligible	0.3	0.5	0.5	0.5
Apprentice Credit	2.624	N.A.	N.A.	1.3	1.3	1.3
ENTITY EXEMPT FROM TAXATION						
Entity Exempt from Taxation	2.700	21.5	23.3	24.3	25.5	26.8
Exemption of Credit Union Income	2.701	21.5	23.3	24.3	25.5	26.8
Tax-Exempt Organizations	2.702	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Regulated Investment Companies	2.703	N.A.	N.A.	N.A.	N.A.	N.A.

Fiscal Year 2022 Tax Expenditure Budget: Appendix C Summary Table

Sales Tax (In Millions)						
Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
EXEMPT ENTITIES						
Exempt Entities	3.000	514.7	533.7	550.9	567.8	569.1
Exemption for Sales to the Federal Government	3.001	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Sales to the Commonwealth	3.002	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Sales to Tax-Exempt Organizations	3.003	514.2	532.9	550.1	567.1	568.4
Exemption for Sales of Tangible Personal Property to Motion Picture Production Companies	3.004	0.3	0.3	0.3	0.3	0.3
Exemption for Sales of Certain Tangible Personal Property Purchased for a Certified Life Sciences Company	3.005	0.2	0.5	0.4	0.4	0.4
EXEMPT PRODUCTS/SERVICES						
Exempt Products/Services	3.100	1,747.8	1,814.9	1,873.9	1,928.4	1,986.0
Exemption for Food	3.101	800.2	825.3	848.2	874.7	899.0
Exemption for Certain Food and Beverages Sold in Restaurants	3.102	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Clothing	3.103	293.5	320.5	335.2	341.3	350.0
Exemption for Medical and Dental Supplies and Devices	3.104	548.7	562.6	582.2	604.9	629.0
Exemption for Water	3.105	52.2	56.0	60.1	61.2	62.8
Exemption for Newspapers and Magazines	3.106	34.3	30.6	26.9	24.0	21.4
Exemption for the American Flag	3.107	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Certain Precious Metals	3.108	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Cement Mixers	3.109	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Aircraft & Aircraft Parts	3.112	18.9	20.0	21.2	22.4	23.7
Exemption for Breast Pumps	3.113	included in 3.104	included in 3.104	included in 3.104	included in 3.104	included in 3.104
EXEMPT, TAXED UNDER ANOTHER EXCISE						
Exempt, Taxed Under Another Excise	3.200	669.9	691.1	620.0	546.3	548.5
Exemption for Alcoholic Beverages	3.201	120.9	123.2	124.8	127.5	131.6
Exemption for Motor Fuels	3.202	549.0	568.0	495.2	418.8	416.9
EXEMPT COMPONENT OF A PRODUCT OR CONSUMED IN PRODUCTION						
Exempt Component of a Product or Consumed in Production	3.300	865.8	882.9	897.7	905.6	916.4
Exemption for Items Used in Making Clothing	3.301	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Materials, Tools, Fuels and Machinery Used in Manufacturing	3.302	630.5	633.7	636.9	640.1	643.3
Exemption for Materials, Tools, Fuels and Machinery Used in Research and Development	3.303	82.8	88.4	92.3	94.2	95.1
Exemption for Materials, Tools, Fuels, and Machinery Used in Furnishing Power	3.304	71.2	73.7	79.2	79.2	81.8
Exemption for Materials, Tools, Fuels, and Machinery Used in Newspaper Printing	3.306	54.1	56.5	58.4	60.4	63.6

FY2023 Governor's Budget Recommendation

Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production	3.308	14.2	16.9	16.6	16.9	17.2
Exemption for Vessels, Materials, Tools, Fuels, and Machinery Used in Commercial Fishing	3.309	12.9	13.7	14.3	14.9	15.5
Exemption for Materials, Tools, Fuels and Machinery Used in Commercial Radio and TV Broadcasting	3.310	N.A.	N.A.	N.A.	N.A.	N.A.
EXEMPTIONS FOR SPECIFIED USES OF PRODUCTS/SERVICES						
Exemptions for Specified Uses of Products/Services	3.400	1,078.2	1,125.3	1,121.7	1,130.4	1,170.1
Exemption for Electricity	3.401	310.0	315.5	311.9	310.4	309.0
Exemption for Fuel Used for Heating Purposes	3.402	64.0	68.0	57.2	53.4	66.7
Exemption for Piped and Bottled Gas	3.403	173.3	184.2	179.4	180.0	192.4
Exemption for Steam	3.404	14.4	14.4	14.4	14.4	14.4
Exemption for Certain Energy Conservation Equipment	3.405	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Funeral Items	3.406	12.9	13.1	13.4	13.6	13.9
Exemption for a Motor Vehicle for a Paraplegic	3.407	1.3	1.3	1.3	1.3	1.3
Exemption for Textbooks	3.408	54.3	54.7	55.1	55.9	57.4
Exemption for Books Used for Religious Worship	3.409	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Containers	3.410	198.0	201.7	206.0	211.0	216.3
Exemption for Certain Sales by Typographers, Compositors, Color Separators	3.411	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Sales of Building Materials and Supplies to be Used in Connection with Certain Construction Contracts	3.412	201.0	215.8	227.1	234.9	243.0
Exemption for Commuter Boats	3.417	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Fuels, Supplies and Repairs for Vessels Engaged in Interstate or Foreign Commerce	3.418	0.7	0.7	0.8	0.8	0.8
Exemption for Fuel Used in Operating Aircraft and Railroads	3.419	48.3	55.9	55.1	54.7	54.8
Exemption for Sales of Certain New or Used Buses	3.420	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Films	3.421	N.A.	N.A.	N.A.	N.A.	N.A.
MISCELLANEOUS EXEMPTIONS						
Miscellaneous Exemptions	3.600	131.9	162.8	166.4	170.1	174.0
Exemption for Casual or Isolated Sales	3.601	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Vending Machine Sales	3.602	1.3	1.3	1.3	1.3	1.4
Exemption for Certain Meals	3.603	13.5	14.2	14.8	15.5	16.2
Exemption for Certain Bed and Breakfast Establishments from Sales Tax on Meals and Room Occupancy Excise	3.604	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Certain Summer Camps from Sales Tax on Meals and Room Occupancy Excise	3.605	1.4	1.5	1.6	1.6	1.6
Exemption for Trade-in Allowances for Motor Vehicles and Trailers	3.606	98.0	100.1	101.7	104.2	106.6
Exemption for Publications of Tax-Exempt Organizations	3.607	17.6	18.5	19.1	19.2	19.4
Exemption for Gifts of Scientific Equipment	3.608	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Vessels or Barges of 50 Tons or Over	3.609	N.A.	N.A.	N.A.	N.A.	N.A.
Exemption for Rental Charges for Refuse	3.610	N.A.	N.A.	N.A.	N.A.	N.A.

Tax Expenditure	Item Number	FY2018	FY2019	FY2020	FY2021	FY2022
Containers						
Exemption for Honor Trays	3.611	N.A.	N.A.	N.A.	N.A.	N.A.
Sales Tax Holiday	3.612	N.A.	27.2	27.8	28.3	28.9

Appendix D - Non-Tax Expenditure Budget Items

Fiscal Year 2023 Tax Expenditure Budget – Appendix D Non-TEB Items

In July 2012 legislation was enacted stating explicitly that “sales that do not involve tangible personal property shall not result in tax expenditures”. See St 2012, c.165, §112. Pursuant to this legislation, from fiscal year 2014 on, we remove some items from our tax expenditure estimates, which we regularly reported in prior years. But to facilitate comparison to tax expenditure estimates in prior years, we list these items in this appendix.

Items:

3.203 Exemption for Hotel/Motel Rooms

Rental charges for real property are exempt from sales tax. However, rentals of rooms in hotels, motels or lodging houses are subject to a state excise at a rate of 5.7% of the rental price, and, at a municipality’s option, to a local excise of up to 6% of the rental price (6.5% in the city of Boston). A Convention Center financing fee of 2.75% is also included in certain areas.

Origin: General exclusion of real property transactions
Estimate: \$180.5

Comment: Revenues collected under the budgeted state room occupancy excise were \$146.6 million in Fiscal Year 2020 and \$88.7 million in Fiscal Year 2021. Beginning July 1, 2019, the room occupancy excise also applies to short-term rentals of property for 31 days or less.

3.422 Exemption for Telephone Services

Sales of residential telecommunications services of up to \$30 per month are exempt from sales tax.

Origin: M.G.L. c. 64H, § 6(i)
Estimate: \$19.8

Comment: Telegraph services are also exempt but are not included in this estimate.

3.501 Nontaxation of Transfers of Real Property

Real estate is exempt from sales tax but is subject to a deeds excise at a rate of 0.456% of the taxable price of the property (0.342% in Barnstable County). The estimate represents revenues that would be collected under the sales tax if sales of real property were taxed at 6.25%.

Origin: General exclusion of real property transactions
Estimate: \$6,134.0

Comment: Revenues collected under the Deeds Excise Tax (including Secretary State Deeds) were \$314.2 million in Fiscal Year 2020 and \$397.2 million in Fiscal Year 2021.

3.502 Nontaxation of Rentals of Real Property

Rental charges for real property, whether for residential or business purposes, are exempt from sales tax.

Origin: General exclusion of real property transactions
Estimate: \$2,188.3

Comment: This estimate excludes rentals of hotel/motel rooms, which are separately stated under item 3.203.

- 3.503 **Nontaxation of Certain Services**
Certain services are not subject to sales tax. This estimate includes a range of services to individuals and businesses which are excluded from taxation by their omission from the statutory definition of services.

Origin: M.G.L. c. 64H § 1
Estimate: \$18,861.2

- 3.504 **Nontaxation of Internet Access and Related Services**
Internet access services, electronic mail services, electronic bulletin board services, web hosting services or similar on-line computer services are not subject to the sales and use tax.

Origin: M.G.L. c. 64H § 1
Estimate: \$216.5

Summary:

Description of Item	Former TEB number	FY2019	FY2020	FY2021	FY2022	FY2023
Exemption for Hotel/Motel Rooms	3.203	185.1	160.8	107.8	169.6	180.5
Exemption for Telephone Services	3.422	25.5	23.5	21.4	19.6	19.8
Nontaxation of Transfers of Real Property	3.501	4,743.2	4,680.7	5,917.8	5,797.4	6,134.0
Nontaxation of Rentals of Real Property	3.502	1,945.5	1,987.2	2,027.6	2,105.4	2,188.3
Nontaxation of Certain Services	3.503	16,383.0	17,163.3	17,155.9	17,231.9	18,861.2
Nontaxation of Internet Access and Related Services	3.504	177.6	181.0	198.9	209.2	216.5

