

Report of the Tax Expenditure Review Commission

Massachusetts Tax Expenditure Review Commission

2023

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TERC REPORT OVERVIEW 2023

A. Overview

This document is the 2023 Report to the Legislature of the Tax Expenditure Review Commission (referred to herein as “TERC” or the “Commission”) filed pursuant to Chapter 14, section 14, of the General Laws.

“Tax expenditures” are defined under Chapter 29 of the General Laws as state tax revenue foregone due to statutory provisions that allow “exemptions, deferrals, deductions from or credits against taxes” imposed on income, businesses, or sales. The Commissioner of Revenue prepares an annual tax expenditure budget estimating the cost of tax expenditures to the Commonwealth in the fiscal year, as directed by section 5B of Chapter 29.

It is the statutory responsibility of the Commission to review the various tax expenditures adopted by the Commonwealth on a five-year cycle and to report biennially to the Legislature on the goals and effectiveness of the expenditures reviewed. The Commission voted to provide annual reports to the Legislature to provide information more promptly. This 2023 Report is the Commission’s third report. It considers a group of tax expenditures that relate to agriculture, transportation, housing, income security, employment and social services. Future reports will review the balance of the state’s tax expenditures, as grouped by the Commission, over the remainder of its five-year review cycle. For information on current and previous studies of Massachusetts Tax Expenditures, see **Appendix G**.

B. TERC Approach to Implementation of its Statutory Mandate

The Commission is directed by G.L. c. 14, s. 14(c), as follows:

(c) The commission shall use best practices and standardized criteria to evaluate: (i) the purpose, intent and goal of each tax expenditure and whether the expenditure is an effective means of accomplishing those ends; (ii) the fiscal impact of each tax expenditure on state and local taxing authorities, including past fiscal impacts and expected future fiscal impacts; (iii) the economic impact of each tax expenditure including, but not limited to, revenue loss compared to economic gain and jobs created, retained or lost as a result of the tax expenditure; (iv) the return on the investment made by the tax expenditure and the extent to which the tax expenditure is a cost effective use of resources; and (v) similar tax expenditures, if any, offered by other states and the impact of the tax expenditure on regional and national economic competitiveness.

C. TERC Observations and Recommendations for the Legislature

As described in **Appendix C**, the Commission developed a standardized evaluation template to enable consistency in its analysis of different tax expenditures. The evaluation template completed for each tax expenditure represents the report of the Commission to the Legislature on its view of the effectiveness of the tax expenditure. Each evaluation is accompanied by a detailed Department of Revenue (“DOR”) analysis provided to the Commission in association with its discussion. Taking all the reviewed tax expenditures together, the cumulative distribution of the Commission’s ratings for each evaluative statement included in this report is shown in the following chart. For the cumulative distribution of the Commission’s ratings for all tax expenditures evaluated to date see **Appendix I**.

2023 Report	<i>Strongly Disagree</i>	<i>Somewhat Disagree</i>	<i>Somewhat Agree</i>	<i>Strongly Agree</i>	<i>Not Applicable</i>	<i>Total</i>
We can measure the overall benefit toward achieving the goal(s)	3	11	6	2	0	22
The TE's benefit justifies its fiscal cost	1	6	13	2	0	22
The TE is claimed by its intended beneficiaries	2	3	4	13	0	22
The TE is claimed by a broad group of taxpayers	7	5	8	2	0	22
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	3	3	13	3	0	22
The TE is relevant today	1	1	8	11	1	22
The TE is easily administered	2	4	12	4	0	22
Business only						
-The TE is beneficial to smaller businesses	1	1	8	4	8	22
Individuals only						
-The TE benefits lower income taxpayers	1	3	5	1	12	22

It is, of course, the province of the Legislature and the Governor to set tax policy for the Commonwealth, including whether the Commonwealth should maintain a particular tax expenditure.¹ The Commission aims to provide information and guidance through its evaluations of expenditures that

¹ See Appendix H for recent legislative changes related to Massachusetts tax expenditures.

the Legislature and Governor may find useful in reviewing the efficacy of those expenditures. The Commission understands this to be its statutory purpose.

1. Particular tax expenditures flagged in evaluation process: In reviewing the Commission's evaluations with an eye toward considering the effectiveness of each tax expenditure, it may be most useful for the Legislature to focus on tax expenditures that received "strongly disagree" or "somewhat disagree" ratings for any of the following evaluative statements in the template:

- i. The tax expenditure's benefit justifies its fiscal cost.
- ii. The tax expenditure is claimed by its intended beneficiaries.
- iii. The tax expenditure amount claimed by each beneficiary is meaningful as an incentive/benefit.
- iv. The tax expenditure is relevant today.

Tax expenditures reviewed in the past year that were rated "strongly disagree" or "somewhat disagree" in the indicated categories, and the reasons for those ratings, are described below.

- *1.423 Commuter Deduction. Annual fiscal cost: \$7.8 - \$10.9 million. This tax expenditure provides individuals with a deduction for certain commuting expenses including: (i) tolls paid through a Massachusetts EZ Pass account; and (ii) the cost of weekly or monthly passes for Massachusetts Bay Transit Authority (MBTA). Commission members voted between "strongly disagree" and "somewhat disagree" for the statement that the benefit claimed per taxpayer is meaningful as an incentive. The deduction is limited to \$750 of eligible expenses per year; joint filers may each deduct up to \$750. For TY2020, average tax savings were \$28 per benefiting taxpayer. Commission members also noted that the list of eligible expenses may be outdated. For example, the inclusion of EZ-Pass expenses was likely intended to incentivize use of EZ-Pass over cash tolls, but tolls in Massachusetts no longer have a cash option. EZDriveMA, the electronic tolling system on Massachusetts roadways, replaced cash toll booths. Commission members noted that Governor Healey filed a bill (H.42) in 2023 that would expand eligible expenses to regional transit authority (RTA) passes, bikeshare memberships, and bicycles. Commission members agreed this may increase the number of beneficiaries of this tax expenditure and promote group ridership but would not necessarily increase the benefit claimed per taxpayer. The legislature may wish to reconsider the limit on this deduction and the list of eligible expenses.*
- *2.603 Vanpool Credit. Annual fiscal cost is negligible or under \$50,000. This tax expenditure allows business corporations a credit equal to 30% of the cost of company shuttle vans used in Massachusetts in an employer-sponsored ridesharing program. Commission members voted between "strongly disagree" and "somewhat disagree" for the following statements: (1) the tax expenditure is claimed by its intended beneficiaries; and (2) the benefit claimed per taxpayer is meaningful as an incentive. Historically, very few taxpayers have claimed this credit and no credits were claimed in recent years. The legislature may wish either to encourage use of or repeal this tax expenditure.*
- *3.417 Exemption for Commuter Boats. Annual fiscal cost: \$6.5-\$7.1 million. This tax expenditure exempts from sales and use tax boats that will be used exclusively to provide scheduled commuter passenger service. The exemption also applies to repair and replacements parts for such commuter*

boats and to materials and tools used for maintenance and repair. Commission members voted between “strongly disagree” and “somewhat disagree” that the benefits of this tax expenditure justify its fiscal cost. This exemption can be claimed by private and public entities. If the exemption were repealed, private businesses would face this tax while the MBTA’s purchases of boats and parts would remain exempt (due to other exemptions for the MBTA). Commission members agreed that the purpose of the tax expenditure is unclear but assumes the goal of this expenditure is to support and promote the use of water transport in Massachusetts. The Legislature may wish to reconsider the purpose of this tax expenditure.

- *3.419 Exemption for Fuel Used in Operating Aircraft and Railroads. Annual fiscal cost: \$19.3 - \$95.3 million. This tax expenditure exempts from sales and use tax fuel used in the operation of aircraft or railroads.* Commission members voted between “strongly disagree” and “somewhat disagree” for the statement that the benefits of this tax expenditure justify its fiscal cost. Commission members agreed the primary reason for keeping this expenditure seems to be competitiveness – other states have similar exemptions for fuel – but questioned whether the legislature should exempt purchases of fuel considering climate concerns.
- *3.420 Exemption for Sales of Certain New and Used Buses. Annual fiscal cost: \$5.8 - \$7.0 million. This tax expenditure exempts from sales and use tax new and used buses that a common carrier uses to provide scheduled intra-city local service. The exemption also extends to the purchase of replacement parts, materials and tools used to maintain or repair these buses. “Common carrier” is a general term that applies to an entity that transports goods or passengers for compensation.* Commission members voted between “strongly disagree” and “somewhat disagree” for the following statements: (1) the benefits of this tax expenditure justify its fiscal cost; (2) the tax expenditure is claimed by its intended beneficiaries; and (3) the tax expenditure is relevant today. The Commission assumes the original intent was to incentivize private companies to offer local bus service, but the exemption is available to any business with a Department of Public Utilities (“DPU”) certificate, regardless of whether the bus is used on a local intracity route. The Legislature may wish to reconsider the relevance of this tax expenditure.
- *1.204 & 2.206 Abandoned Building Renovation Deduction. Annual fiscal cost is negligible (less than \$50,000). This tax expenditure provides a deduction to corporations and individuals for 10% of the cost of renovating abandoned buildings.* Commission members voted between “strongly disagree” and “somewhat disagree” for the following statements: (1) the benefits of this tax expenditure justify its fiscal cost; and (2) the benefit claimed per taxpayer is meaningful as an incentive. The Commission sought to understand why the cost of the incentive is so low. Information from the Massachusetts Office of Business Development (MOBD) suggested two possible causes: (1) the deduction may be insufficient to incentivize developers to renovate, rather than tear down, old buildings, and (2) lack of awareness of the incentive. The Legislature may wish to reconsider this tax expenditure in light of the above.
- *3.409 Exemption for Books used for Religious Worship. Annual fiscal cost: \$0.7 - \$0.9 million. This tax expenditure exempts from sales and use tax books used for religious worship.* Commission members voted between “strongly disagree” and “somewhat disagree” for the statement that the benefit claimed per taxpayer is meaningful as an incentive, concluding that the cost of sales tax is unlikely to be a factor in the decision to purchase books used for religious worship. Separately, Commission members noted that similar sales and use tax exemptions have been held to be unconstitutional in a number of states on the grounds that they promote the establishment of a

religion or infringe on the freedom of the press. Commission members also noted that this exemption may overlap with certain other exemptions, such as 3.607 Exemptions for Publications of Tax-Exempt Organizations. The Legislature may wish to reconsider this tax expenditure.

- *3.607 Exemptions for Publications of Tax-Exempt Organizations. Annual fiscal cost: \$19.0 - \$23.0 million. This tax expenditure exempts from sales and use tax publications of organizations that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code.* Commission members voted between “strongly disagree” and “somewhat disagree” for the statement that the benefits of this tax expenditure justify its fiscal cost. Most states with a sales or use tax require tax-exempt organizations to collect tax on their sales unless another exemption applies. The Commission also noted that this tax expenditure appears to primarily benefit large institutions of higher education with their own publishing houses. In addition, some of these publications may already be exempt from sales and use tax under the exemption for newspaper and magazine. The legislature may wish to reconsider this expenditure.
- *1.621 & 2.624 Apprentice Tax Credit. Annual cost: \$0.2 - \$0.3 million. This tax expenditure allows employers to claim a credit against the personal income tax or corporate excise if they establish apprenticeship programs and hire apprentices in designated computer technology, health care technology, or manufacturing occupations.* The total amount of cumulative credit available annually is limited to \$2.5 million. Commission members voted between “strongly disagree” and “somewhat disagree” for the statement that the tax expenditure is claimed by its intended beneficiaries, given that the cost of the expenditure is significantly lower than the annual cap. The Division of Apprentice Standards confirmed there are multiple contributing factors that could have an effect on the current number of employers taking advantage of this tax credit. For both manufacturing and technology, nearly all of the apprenticeships are “sponsored” by intermediary organizations and, as a result, information disseminated by the Commonwealth to these primary contacts on when and how to apply for the credit may not have reached the employer audience directly. Legislation proposed in 2022 would have given the Executive Office of Labor and Workforce Development the authority to expand the list of occupations eligible for the credit, but that legislation was not enacted. Commission members noted that Governor Healey filed a bill (H.42) in 2023 that includes similar changes. The Legislature may wish to reconsider expanding the list of eligible occupations, and how to better promote this credit.
- *3.003 Exemption for Sales to Tax-Exempt Organizations. Annual cost: \$627.3 - \$833.0 million. This tax expenditure exempts from sales and use tax tangible personal property and services purchased by organizations that are exempt from taxation under §501(c)(3) of the Internal Revenue Code.* While most states that impose a sales and use tax have a similar exemption, Commission members noted the annual cost of this tax expenditure is about 10% of annual sales tax revenue. The legislature may wish to pay close attention to this tax expenditure due to its high cost.
- *1.021 Exemption of Capital Gains on Home Sale. Annual fiscal cost: \$350.6 - \$422.2 million. This tax expenditure allows a taxpayer to exclude from gross income up to \$250,000 of capital gain on the sale or exchange of a principal residence.* To qualify for the exclusion, taxpayers must have owned the residence, and used it as their primary home, for an aggregate of at least 2 of the 5 years prior to the sale. Ownership and use need not span the same 2-year period, but both must occur within the 5-year period prior to the sale. Taxpayers may only have one principal residence at a time. The exclusion may be taken any number of times so long as at least 2 years pass between each sale for which the exclusion is claimed. Commission members recognized that this tax expenditure is a

result of the state’s conformity to the Internal Revenue Code (“Code”) and that in many instances, decoupling from Code expenditures would either be illogical or create significant administrative challenges for taxpayers and DOR. Commission members noted a 4% surtax will be imposed on Massachusetts taxpayers with taxable income in excess of \$1 million effective for tax years beginning on or after January 1, 2023. The Legislature may want to consider the interplay between this expenditure and the new surtax.

2. Observations Applying to Multiple Tax Expenditures

The Commission’s discussions of particular tax expenditures occasionally led to observations that cut across multiple tax expenditures. The Commission thought it appropriate to point out separately in this report certain of those observations.

Transportation Tax Expenditures. Commission members discussed tax expenditures related to transportation. There are a total of six tax expenditures in this budget function. These tax expenditures include the following: (1) Exclusion from Gross Income of Parking, T-Pass and Vanpool Fringe Benefits, (2) Commuter Deduction, (3) Vanpool Credit, (4) Exemption for Commuter Boats, (5) Exemption for Fuel Used in Operating Aircraft and Railroads, and (6) Exemption for Sales of Certain New and Used Buses. This report flags five of these tax expenditures for legislative review.

State Tax expenditures resulting from conformity with the Internal Revenue Code (“Code”). Many state tax expenditures result from conformity with the Code. The Commission recognized that in many instances, decoupling from federal tax expenditures would either be illogical or create significant administrative challenges for taxpayers and DOR. For that reason, the Commission concluded that not all federal conformity expenditures merited the same degree of scrutiny as other expenditures. Commission members agreed that if (1) the tax expenditure has a relatively low annual revenue loss estimate, (2) many other states conform to the federal tax expenditure, and (3) no other state has decoupled from the federal tax expenditure, then a less rigorous economic analysis was required. Members agreed to update the evaluation template with a checkbox identifying whether the tax expenditure is a result of the state’s conformity with the Code. All tax expenditure evaluation templates in this report reflect this update.

Sunset Dates. The Commission has evaluated a total of 84 tax expenditures. 26 tax expenditures were evaluated in the March 2021 report, 36 were evaluated in the June 2022 report, and 22 were evaluated in this report.² Of these 84 tax expenditures, 79, or over 94%, did not have sunset dates while five, or less than 6%, did have sunset dates. Looking at the year of adoption for these tax expenditures, 80% were adopted during or prior to the 1990s. Members unanimously supported the establishment of sunset dates as an incentive to analyze technological and other changes that may impact the relevance and annual revenue loss associated with tax expenditures.

² See **Appendix J** for a list of all tax expenditures evaluated by year.

Appendix A

Chapter 207 of the Acts of 2018

Chapter 207
of the Acts of 2018

T H E C O M M O N W E A L T H O F M A S S A C H U S E T T S

In the One Hundred and Ninetieth General Court

AN ACT RELATIVE TO THE EXAMINATION OF TAX EXPENDITURES BY THE DEPARTMENT OF REVENUE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith the examination of tax expenditures by the department of revenue, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

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

Section 14. (a) There shall be a tax expenditure commission that shall examine, evaluate and report on the administration, effectiveness and fiscal impact of tax expenditures, as defined in section 1 of chapter 29, and as presented with the governor's proposed budget under paragraph 3 of section 5B of said chapter 29.

(b) The commission shall be comprised of: the commissioner of revenue or the commissioner's designee, who shall serve as chair; the state auditor or the auditor's designee; the state treasurer or the state treasurer's designee; the chair of the house committee on ways and means or the chair's designee; the chair of the senate committee on ways and means or the chair's designee; the house and senate chairs of the joint committee on revenue or their respective designees; the minority leader of the house of representatives or the house minority leader's designee; the minority leader of the senate or the senate minority leader's designee; and 3 members to be appointed by the governor, who shall have expertise in economics or tax policy. The 3 members appointed by the governor shall each serve 4-year terms.

(c) The commission shall use best practices and standardized criteria to evaluate: (i) the purpose, intent and goal of each tax expenditure and whether the expenditure is an effective means of accomplishing those ends; (ii) the fiscal impact of each tax expenditure on state and local taxing authorities, including past fiscal impacts and expected future fiscal impacts; (iii) the economic impact of each tax expenditure including, but not limited to, revenue loss compared to economic gain and jobs created, retained or lost as a result of the tax expenditure; (iv) the return on the investment made by the tax expenditure and the extent to which the tax expenditure is a cost effective

use of resources; and (v) similar tax expenditures, if any, offered by other states and the impact of the tax expenditure on regional and national economic competitiveness.

(d) The commission shall establish a schedule to review tax expenditures so that each tax expenditure shall be reviewed at least once every 5 years. The review schedule may group tax expenditures by those benefitting from the tax expenditures, the objectives of the tax expenditures or the policy rationale for the tax expenditures. The commission's review of each tax expenditure shall include the date the tax expenditure was enacted and the statutory or legal citation.

(e) Biennially, not later than March 1, the commission shall file a report of its findings and its recommendations to the clerks of the house of representatives and senate, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on revenue. The report shall include all information required to be reviewed by this section and recommendations. The report shall be made available electronically and prominently displayed on the official website of the department of revenue.

(f) The commission shall have access to information, including aggregate tax return information and related documents maintained by the department of revenue, necessary for the performance of the commission's duties under this section but excluding information provided to the commonwealth by other federal and state tax agencies where such access is prohibited by law; provided, however, that tax returns and related documents shall not include a taxpayer's personal identifying information and such returns and documents shall be confidential and exempt from disclosure as a public record under section 7 of chapter 4 and under chapter 66. The commission, in collaboration with the department of revenue, shall adopt policies and procedures to ensure taxpayer confidentiality.

SECTION 2. This act shall take effect as of July 1, 2018.

House of Representatives, August 2, 2018.

Preamble adopted,

Paul Donato, Speaker.

In Senate, August 2, 2018.

Preamble adopted,

Karen E. Spilke, President.

House of Representatives, August 2, 2018.

Bill passed to be re-enacted,

Paul Donato, Speaker.

In Senate, August 2, 2018.

Bill passed to be re-enacted,

Rafael Espinoza, President.

August 9, 2018.

Approved,

at

1 o'clock and *46* minutes, *P*. M.

Charles D. Travis

Governor.

Appendix B

Members of the Tax Expenditure Review Commission

Chairperson Rebecca Forter, Massachusetts Department of Revenue

Suzanne Bump, Massachusetts State Auditor

Kerri-Ann Hanley, Designee, Massachusetts State Auditor

Deb Goldberg, Massachusetts State Treasurer and Receiver General

Sue Perez, Designee, Massachusetts State Treasurer and Receiver General

Representative Mark J. Cusack, Joint Committee on Revenue, House Chairperson

Ryan Sterling, Designee, Joint Committee on Revenue, House Chairperson

Representative Michael Rodrigues, Chair, Senate Ways and Means

Jacob Blanton, Designee, Chair, Senate Ways and Means

Representative Aaron Michlewitz, Chairperson, House Ways and Means Committee

Tim Sheridan, Designee, Chairperson, House Ways and Means Committee

Representative Bradley Jones, House Minority Leader

Representative Michael Soter, Designee, House Minority Leader

Senator Bruce E. Tarr, Senate Minority Leader

Chris Anderson, Massachusetts High Technology Council, Designee, Senate Minority Leader

Professor Michelle Hanlon, Massachusetts Institute of Technology, Appointee,
Former Massachusetts Governor Charlie Baker

Professor Matthew Weinzierl, Harvard Business School, Appointee, Former
Massachusetts Governor Charlie Baker

Additional Members-Participants

Cole Doherty-Crestin, TERC Project Manager, Massachusetts Department of
Revenue

Appendix C

Evaluation Rating Templates & Tax Expenditure Summaries

Appendix C

Template for Evaluating Expenditures

Name of Expenditure:	Annual cost:	Year of adoption:	Sunset date:	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

Appendix C

Template for Review of Tax Expenditures

The review template for each tax expenditure is the vehicle chosen by the Commission to achieve standardized criteria for review of tax expenditures. As a process matter, a draft of the template was completed for each tax expenditure by one or more Commission members assigned by the Chair. The assigned member or members offered a draft rating that was then discussed by all TERC members in a public meeting. The Commission voted on the ratings of each tax expenditure reviewed. For final evaluation rating templates and tax expenditure summaries see **Appendix D**. TERC meeting minutes are attached at **Appendix E**.

In addition to fields for basic background information, the template is structured in three parts: (1) goals; (2) measurement and effectiveness ratings; and (3) a narrative summary of the TERC discussion of each tax expenditure.

- 1. Goals:** Few tax expenditures have stated policy goals in their authorizing legislation, and the Commission has been left to infer policy goals in most cases, based upon the structure of the expenditure and its beneficiaries. The template lists both business-related goals, such as job-creation and competitiveness, and non-business goals, often related to individuals, such as relief of poverty and access to opportunity. Some commonly applicable goals are identified, with a space to identify other goals as well. The Commission has found that more than one goal often seems relevant to a single tax expenditure. Identification of goals is a necessary step in examining the effectiveness of a tax expenditure.
- 2. Measurement and Effectiveness Ratings:** The second section of the template contains a series of statements, some of which are descriptive and some of which attempt to rate the effectiveness of a tax expenditure in benefitting the policy goal(s) identified for that tax expenditure. Each statement receives a TERC rating on a scale running from “strongly agree” to “strongly disagree.”

The descriptive statements relate to the beneficiaries of the expenditure, identifying the degree to which the tax expenditure is broadly used, and the degree to which it benefits small businesses or low-income taxpayers.

The effectiveness ratings begin with a statement as to the degree to which the impact of a tax expenditure on achieving its identified goals is measurable. There are then effectiveness statements relating to different aspects of effectiveness: the degree, in the Commission’s judgment, to which the benefit of the tax expenditure justifies its cost; the degree to which the tax expenditure is claimed by its intended beneficiaries; the degree to which the incentive that a tax expenditure creates is meaningful to taxpayers claiming the benefit of the expenditure; and the degree to which the tax expenditure remains relevant today. Finally, this section of the template has a statement as to the ease of administration of the tax expenditure.

The effectiveness ratings represent the judgment of the Commission members in light of the information available. Based on the uncertainties expressed by Commission members in discussion of various ratings, differences of one level in an evaluation such as, for example, the difference between a “strongly agree” rating and a “somewhat agree” rating, may not be highly meaningful. However, ratings of “strongly agree” and “strongly disagree” generally represent a consensus on a rating among the TERC members and are meaningful as to the statement. It is notable that, to date, the Commission has successfully operated on a consensus basis; there has not been significant disagreement among Commission members as to particular tax expenditure ratings. To date, all tax expenditure ratings have been approved unanimously by the Commission members.

One of the statutory directives in TERC’s enabling legislation directs the Commission to evaluate “the return on the investment made by the tax expenditure and the extent to which the tax expenditure is a cost-effective use of resources.” The Commission interprets this directive as an instruction to rate the extent to which the benefit of an expenditure justifies its cost, and TERC has found its cost/benefit evaluative statement to be the most difficult to rate. The rating is particularly problematic, of course, to the extent that the benefit is difficult to measure. However, even though there are prominent tax expenditures such as the Investment Tax Credit or the Research & Development credit where research data on economic impact of comparable federal credits or credits in other states may be available, economic data are seldom sufficient to determine the extent to which a tax expenditure may incent activity that would not otherwise have occurred, as opposed to merely reducing the tax burden for a desired activity, whether or not that activity would have occurred without the tax expenditure. TERC generally concluded that benefits of expenditures justified the costs in situations where the policy goals were reasonably inferred, and the tax expenditure reasonably related to these goals, particularly if the tax expenditure was available in other states.

In many cases the Commission judged interstate competitiveness to be a goal of a business tax expenditure and tax expenditures matching similar tax benefits in other states were often found to be responsive to this goal, thus justifying their cost on this basis. TERC found such tax expenditures to justify their cost even where dynamic analysis of the tax expenditure using the REMI model did not show growth in jobs from a tax expenditure, given the uncertainty in application of such models and the impact of the economic assumptions necessary to such modeling. Information regarding the application of the REMI model is available at **Appendix F**.

- 3. Summary Comments:** The final section of the template is a narrative summary of the discussion among the Commission members of the tax expenditure at issue, including any comments or recommendations of the members with respect to the different tax expenditures.

Appendix D

Evaluation Rating Templates & Tax Expenditure Summaries

Template for Evaluating Expenditures

Name of Expenditure: 1.030 Exclusion from Gross Income Parking, TPass, VanPool	Annual cost: \$30.5-\$41.2 million per year FY20-FY24	Year of adoption: 1992	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input checked="" type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>	<i>Individual:</i>			
<input type="checkbox"/> Job creation & maintenance	<input type="checkbox"/> Relief of poverty			
<input type="checkbox"/> Investment	<input type="checkbox"/> Progressivity/assistance to low earners			
<input type="checkbox"/> Competitiveness/Strategic	<input type="checkbox"/> Access to opportunity			
<input type="checkbox"/> Health/Environment/Social Justice	<input type="checkbox"/> Health/Environment/Social Justice			
<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> Other: defray commuting costs			
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit <i>\$3,360 x 5% = \$168 maximum benefit</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments (1.030 Exclusion from Gross Income Parking, TPass, VanPool)

All states that tie to the Code for personal income tax purposes have this exclusion unless they have specifically decoupled (DOR is not aware of any states that have). The Commission believes these benefits are more common for salaried employees in the corporate world, and therefore the TE may disproportionately impact higher-income taxpayers.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exclusion from Gross Income of Parking, T-Pass and Vanpool Fringe Benefits
TAX EXPENDITURE NUMBER	1.030
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 1(c), 1(d), and § 2(a); Code § 132(f).
YEAR ENACTED	1992
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$30.5 - \$41.2 million per year during FY20-FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: Massachusetts conforms to the federal tax exclusion for employer-provided parking, transit passes, and vanpool benefits provided under the Internal Revenue Code (the "Code"). In 2022, the Massachusetts and federal exclusions are subject to monthly maximums of \$280 for parking and \$280 for combined transit pass and vanpool benefits.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? DOR assumes that the goal of the expenditure is to help taxpayers defray the cost of commuting to work.</p>	<p>Are there other states with a similar Tax Expenditure? All states that tie to the Code for personal income tax purposes have this exclusion unless they have specifically decoupled (DOR is not aware of any that have). The actual amount of the exclusion in each state may vary depending on the Code conformity date in that state.</p>

INTRODUCTION

This tax expenditure comes from Code § 132(f), which allows an income tax exclusion for employer-provided parking and transportation benefits, including transit passes and vanpool services. The exclusion amount in Code § 132(f) was last amended in 2015 and is adjusted annually for inflation. Prior to 2022, Massachusetts followed the 2005 Code which resulted in different federal and state exclusion limits. In 2022, Massachusetts conforms to the federal monthly maximum exclusion amounts, which are \$280 for parking and \$280 for combined transit pass and vanpool benefits. The amounts are adjusted for inflation. See Table 1 below for exclusion monthly maximums from 2019 thru 2022. The revenue that Massachusetts foregoes as a result of the exclusion is a state tax expenditure.

Table 1: Exclusion Monthly Maximums

Tax Year	Federal		Massachusetts	
	Parking	Combined Transit Pass and Vanpool	Parking	Combined Transit Pass and Vanpool
2022	\$280	\$280	\$280	\$280
2021	\$270	\$270	\$275	\$145
2020	\$270	\$270	\$270	\$140
2019	\$265	\$265	\$265	\$140

Source: U.S. IRS and multiple Massachusetts Technical Information Releases.

POLICY GOALS

DOR assumes that the goal of the expenditure is to help taxpayers defray the cost of commuting to work.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$30.5 - \$41.2 million per year during FY20-FY24. See Table 2 below.

Table 2. Tax Revenue Loss Estimates for Exclusion of Parking, T-Pass and Vanpool Fringe Benefits

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$33.9	\$30.5	\$31.1	\$41.2	\$38.3

DOR does not have in-house data to measure the revenue impact of this tax expenditure. Therefore, the estimates reported in the table above should be used with extreme caution. Revenue losses are based on estimates provided by the Joint Committee on Taxation (“JCT”) on the impact of federal tax collections due to this income exclusion. The JCT’s

estimates are shared down to Massachusetts based on the state's share of national nonfarm employment. Shared down estimates are adjusted for differences between federal and state fiscal years and tax rates.¹

DIRECT BENEFITS

Employees working for employers who offer one or more of these fringe benefits are the direct beneficiaries of this tax expenditure. Employees pay no income tax on contributions for these benefits, an annual maximum of \$3,360 (\$280 monthly maximum for 12 months) for combined transit pass and vanpool or for qualified parking in tax year 2022. DOR does not have information on the total number of beneficiaries of this tax expenditure.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exclusion) are equal to the direct benefits (to employees) of this tax expenditure. The direct cost is the tax that would have been collected absent this exclusion. The direct benefits afforded by the tax expenditure is the state income tax saving to employees.

Furthermore, there may be indirect and induced costs and benefits associated with this exclusion. To measure indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that tie to the Code for personal income tax purposes have this exclusion unless they have specifically decoupled (DOR is not aware of any that have). The actual amount of the exclusion in each state may vary depending on the Code conformity date in that state.

¹ Note that the federal fiscal year runs from October 1st to September 30th of the following year, while the Massachusetts fiscal year runs from July 1st to June 30th of the following year.

Template for Evaluating Expenditures

Name of Expenditure: 1.423 Commuter Deduction	Annual cost: \$7.8 - \$10.9 million per year FY20-FY24	Year of adoption: 2004 then 2006 in current form	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input checked="" type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input type="checkbox"/> Health/Environment/Social Justice		<input checked="" type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input checked="" type="checkbox"/> Other: encourage use of public transportation		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Average claimant savings is \$28</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers – <i>anyone can claim</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments (1.423 Commuter Deduction)

Pandemic restrictions and increased teleworking have resulted in a reduced number of commuters. Tax revenue loss from commuter deductions declined 14% from FY19 to FY20 and 16% from FY20 to FY21. By FY24, DOR estimates that revenue loss will be 26% less than the FY19 revenue loss. Expanding eligibility to regional transit authority customers may increase the number of beneficiaries of this tax expenditure and promote group ridership.

Assuming the goal of the expenditure was to incentivize behavior, members agreed that the EZ-Pass portion of this tax expenditure may be outdated given that most (if not all) tolls in Massachusetts no longer have a cash option.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Commuter Deduction
TAX EXPENDITURE NUMBER	1.423
TAX EXPENDITURE CATEGORY	Deductions from Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. Chapter 62, § 3(B)(a)(15)
YEAR ENACTED	Originally enacted for 2004 tax year only. St. 2004, c. 352, s. 165. M.G.L. c. 62, § 3(B)(a)(15) was adopted in its present form in 2006. There was no deduction in the 2005 tax year.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$7.8 - \$10.9 million per year during FY19-FY24.
NUMBER OF TAXPAYERS	272,360 in TY2020.
AVERAGE TAXPAYER BENEFIT	For TY2020 average tax savings were \$28 per benefiting taxpayer.

<p>Description of the Tax Expenditure: Individuals may deduct certain commuting expenses that exceed \$150. Eligible expenses are limited to tolls paid through an EZ Pass account and the cost of weekly or monthly passes for Massachusetts Bay Transit Authority (MBTA) transit. Amounts that are reimbursed or are otherwise deducted are not eligible. The deduction is limited to \$750 of such expenses per taxpayer. Joint filers may each deduct up to \$750.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? DOR assumes that the goal of the expenditure is to encourage commuters to use EZ Pass accounts or take public transportation.</p>	<p>Are there other states with a similar Tax Expenditure? No New England state has a similar tax expenditure. Neither does California or New York.</p>

INTRODUCTION

The tax expenditure provides individuals with a deduction for certain commuter expenses. The following commuter expenses qualify: (i) Tolls paid through a Massachusetts EZ Pass account; and (ii) The cost of weekly or monthly passes for Massachusetts Bay Transit Authority (MBTA) transit, bus, commuter rail, or commuter boat service. Passes that provide a set number of rides are eligible if they allow for ten rides or more. However, stored value passes that do not provide for a set number of rides are not eligible. The deduction is limited to the portion of eligible expenses that exceeds \$150. The deduction is limited to \$750 of such expenses per year. Joint filers may each deduct up to \$750 if they each incur sufficient eligible expenses. No deduction is allowed for any portion of the expenses that are reimbursed (e.g., by an employer) or that are deductible under a different provision of Massachusetts law. The revenue forgone as a result of the deduction is a Massachusetts tax expenditure.

POLICY GOALS

DOR assumes that the goal of the expenditure is to encourage commuters to use EZ Pass accounts or take public transportation.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$7.8 - \$10.9 million per year during FY19-FY24. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Commuter Deduction

Fiscal Year	2019	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$10.9	\$9.3	\$7.8	\$7.9	\$8.0	\$8.1

The estimates in the above table are derived from the Massachusetts Department of Revenue (DOR)'s individual income tax return database for those who claimed the deduction. In March 2020, mandated pandemic restrictions were implemented. These restrictions brought about a transition to teleworking for employees and caused businesses to close or operate with reduced staff for extended periods. These changes resulted in reduced number of commuters. Although the number of commuters has recovered significantly since March 2020, it may take some time to reach the pre-pandemic level. The tax revenue loss resulting from the commuter deduction declined 14% from FY19 to FY20 and 16% from FY20 to FY21. By FY24, we estimate that the revenue loss will still be 26% less than the FY19 revenue loss.

DIRECT BENEFITS

Massachusetts filers that use public transportation and EZ Pass on a regular basis are the direct beneficiaries of this tax expenditure. Table 2 shows the distribution of the deduction and the resulting tax savings by income bracket for tax year 2020.

Table 2: Commuter Deduction by Income Bracket, Tax Year 2020

Massachusetts Net Adjusted Gross Income (AGI)	Count of All Filers	Commuter Deduction (For claimants with tax liability)				Average Claimant Tax Savings (at a 5% rate)
		Number of claimants	Amount Deducted	Average Deduction per Claimant	Income Group's % of Total Deduction	
Under \$5,000	408,133	330	\$37,918	\$115	0.0%	\$6
\$5,000 under \$10,000	204,116	1,940	\$831,641	\$429	0.5%	\$21
\$10,000 under \$15,000	188,003	5,915	\$3,142,717	\$531	2.0%	\$27
\$15,000 under \$20,000	191,873	8,322	\$4,681,056	\$562	3.0%	\$28
\$20,000 under \$25,000	230,701	14,802	\$8,701,730	\$588	5.6%	\$29
\$25,000 under \$30,000	205,190	16,137	\$9,724,501	\$603	6.3%	\$30
\$30,000 under \$35,000	194,395	16,999	\$10,302,718	\$606	6.7%	\$30
\$35,000 under \$40,000	183,897	17,099	\$10,340,826	\$605	6.7%	\$30
\$40,000 under \$45,000	167,578	16,571	\$9,941,796	\$600	6.4%	\$30
\$45,000 under \$50,000	150,429	15,293	\$9,242,928	\$604	6.0%	\$30
\$50,000 under \$60,000	259,603	25,940	\$15,322,303	\$591	9.9%	\$30
\$60,000 under \$70,000	214,929	20,753	\$11,934,292	\$575	7.7%	\$29
\$70,000 under \$80,000	179,742	16,913	\$9,686,751	\$573	6.3%	\$29
\$80,000 under \$90,000	147,484	13,177	\$7,625,661	\$579	4.9%	\$29
\$90,000 under \$100,000	121,687	10,512	\$6,083,780	\$579	3.9%	\$29
\$100,000 under \$150,000	397,087	31,281	\$17,560,214	\$561	11.4%	\$28
\$150,000 under \$200,000	209,127	15,775	\$8,124,093	\$515	5.3%	\$26
\$200,000 under \$500,000	277,950	20,765	\$9,729,533	\$469	6.3%	\$23
\$500,000 under \$1,000,000	49,568	2,793	\$1,186,120	\$425	0.8%	\$21
\$1,000,000 or Over	26,056	1,043	\$416,363	\$399	0.3%	\$20
Total	4,007,548	272,360	\$154,616,941	\$568	100.0%	\$28

Source: Massachusetts Department of Revenue, 2020 individual income tax return data

Table 2 shows that in 2020, 272,360 filers (6.8% of all filers), claimed about \$155 million in commuter deductions. Filers with a net adjusted gross income (AGI) between \$100,000 and \$150,000 are the largest cohort for this deduction, claiming 11.4% of all tax savings resulting from this tax expenditure. The average claimant tax savings is about \$28.

Table 3: Commuter Deduction by Filing Status, Tax Year 2020

Filing Status	Count of All Filers	Commuter Deduction (For claimants with tax liability)				Average Claimant Tax Savings (at a 5% rate)
		Number of claimants	Amount Deducted	Average Deduction per Claimant	Income Group's % of Total Deduction	
Single	2,148,588	142,630	\$70,605,636	\$495	45.7%	\$25
Joint	1,364,289	83,257	\$56,647,503	\$680	36.6%	\$34
Married, filing Separately	101,295	6,999	\$3,579,951	\$511	2.3%	\$26
Head-of-Household	393,376	39,474	\$23,783,851	\$603	15.4%	\$30
All	4,007,548	272,360	\$154,616,941	\$568	100.0%	\$28

Source: Massachusetts Department of Revenue, 2020 individual income tax return data

Table 3 shows the commuter deduction by filing status for tax year 2020. The largest group of claimants is single filers. The smallest group of claimants is married, filing separately. Single filers claimed 45.7% of all deductions while married filing separately claimed only 2.3%.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this deduction) are equal to the direct benefits of this tax expenditure. The direct cost is the tax that would have been collected absent this deduction. The direct benefits afforded by the tax expenditure is the state income tax saving to commuters.

Furthermore, there may be indirect and induced costs and benefits associated with this deduction. To measure indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

In addition, by encouraging use of public transportation, this expenditure helps create a cleaner environment through fewer vehicle emissions and reduced stress on infrastructure (i.e., highways, bridges, etc.), which would generate positive externalities¹, or benefits to each member of the society. Such positive externalities are often difficult to quantify.

¹ A positive externality occurs when the production and/or consumption of a good or service exerts a positive effect on a third party independent of the transaction. A cleaner and safer environment will benefit each member of the society.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

No New England state has a similar tax expenditure. Neither does California or New York.

Template for Evaluating Expenditures

Name of Expenditure: 2.603 Vanpool Credit	Annual cost: Negligible	Year of adoption: 1987 [St. 1987, c. 736]	Sunset date: None	
Tax Type (check all that apply): <input checked="" type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input checked="" type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input checked="" type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input checked="" type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (2.603 Vanpool Credit)

The tax expenditure allows business corporations a credit equal to 30% of the cost of company shuttle vans used in Massachusetts in an employer-sponsored ridesharing program. Historically, very few taxpayers claimed this credit and no credits were claimed in recent years. Members agreed the credit is a reasonable incentive, but it is not being used. Members agreed the legislature may wish to either encourage use of or repeal this tax expenditure.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Vanpool Credit
TAX EXPENDITURE NUMBER	2.603
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Corporate and Business Excise
LEGAL REFERENCE	M.G.L. c. 63, § 31E
YEAR ENACTED	1987 [St. 1987, c. 736]
REPEAL/EXPIRATION DATE	N/A
ANNUAL REVENUE IMPACT	Negligible
NUMBER OF TAXPAYERS	Negligible
AVERAGE TAXPAYER BENEFIT	Negligible

<p>Description of the Tax Expenditure: Business corporations are allowed a credit equal to 30% of the cost of company shuttle vans used in Massachusetts in an employer-sponsored ridesharing program. The shuttle vans must be used for transporting employees to and from the workplace.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? DOR assumes that the goal of the expenditure is to encourage corporations to provide transportation for employees as a means of reducing traffic congestion and providing employees a low-cost way of commuting to and from work.</p>	<p>Are there other states with a similar Tax Expenditure? Only Maryland provides a similar credit against corporate tax. Connecticut and Washington allow a sales and use tax exemption for vehicles purchased for employer-sponsored vanpools.</p>

INTRODUCTION

The tax expenditure allows business corporations a credit equal to 30% of the cost of company shuttle vans used in Massachusetts in an employer-sponsored ridesharing program. The credit applies to the cost of purchasing or leasing the shuttle vans. The shuttle vans must be used for transporting employees to and from the workplace. The credit is neither transferable nor refundable and cannot be carried forward. Recapture provisions apply to vans that are taken out of vanpool service before the end of their useful lives.

If the credit did not exist, the cost of acquiring vans used in vanpools would be borne entirely by employers, who might then be less inclined to provide their employees with vanpool services. The amount of revenue foregone as a result of the credit constitutes a tax expenditure.

POLICY GOALS

DOR assumes that the goal of the expenditure is to encourage corporations to provide transportation for employees as a means of reducing traffic congestion and providing employees a low-cost way of commuting to and from work.

DIRECT COSTS

The preliminary statistics indicate a negligible number of credits and dollar amounts claimed.¹ It is likely that the negligible impact will continue.

Tax Revenue Loss Estimates for Vanpool Credit

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss	Negligible	Negligible	Negligible	Negligible	Negligible

DIRECT BENEFITS

This credit provides a fiscal incentive to employers to offer commuting assistance. This benefits the employer in being able to attract employees. In addition, the employee would benefit from reduced cost in commuting. The general public would benefit from reduced traffic congestion and emissions. However, the direct benefits of this credit are negligible since few claims have been made for this credit.

¹ More data on the number and amount of vanpool credit claimed can be found in DOR's annual corporate excise returns report (<https://www.mass.gov/lists/dor-corporate-excise-return-reports>). Generally, more credits were claimed in earlier years than in later years.

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we reported the direct costs to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance the Vanpool credit, and the direct benefits to employers and employees. In this instance, the direct costs to the Commonwealth, namely the corporate excise tax that would have been collected, are equal to the direct benefits afforded by the tax expenditure to employers and employees who will collectively reduce individual transportation costs related to employment.

In addition to the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. Generally, the indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the impacted businesses, such as van makers in this case. The induced impact (cost or benefit) occurs when an impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.²

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. We did not use any such model in this analysis. As the direct costs and benefits of the vanpool credit are negligible, the indirect and induced costs and benefits are also negligible.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Maryland is the only other state that provides a similar credit against corporate tax. Connecticut and Washington allow a sales and use tax exemption for vehicles purchased for employer-sponsored vanpools.

² For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Template for Evaluating Expenditures

Name of Expenditure: 3.308 Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production	Annual cost: \$16.2 - \$26.3 million per year FY20-FY24	Year of adoption: 1967 & 1968	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>	<i>Individual:</i>			
<input type="checkbox"/> Job creation & maintenance	<input type="checkbox"/> Relief of poverty			
<input type="checkbox"/> Investment	<input type="checkbox"/> Progressivity/assistance to low earners			
<input checked="" type="checkbox"/> Competitiveness/Strategic	<input type="checkbox"/> Access to opportunity			
<input type="checkbox"/> Health/Environment/Social Justice	<input type="checkbox"/> Health/Environment/Social Justice			
<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> Other: Lower food prices by avoiding tax pyramiding			
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

The exemption prevents tax pyramiding on food products, thereby lowering the cost of a basic necessity to consumers. Additionally, given that most states with a sales tax have a similar exemption, this tax expenditure supports the competitiveness of Massachusetts' agricultural industry, which is made up of mostly small farms.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production
TAX EXPENDITURE NUMBER	3.308
TAX EXPENDITURE CATEGORY	Exempt Component of a product or Consumed in Production
TAX TYPE	Sales and Use tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(p), (r) and (s)
YEAR ENACTED	1968 (§6(p)); 1967 (§ 6(r), (s)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$16.2 - \$26.3 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: Materials, tools, fuels, and machinery, including spare parts, are exempt from sales and use tax if they are consumed or used directly and exclusively in agricultural production. Also exempt under this expenditure are sales of livestock and poultry used for food for human consumption, and sales of feed, and the bags in which the feed is contained, used for animals that either (i) ordinarily constitute food for human consumption, (ii) are used for research or testing for health and safety purposes, or (iii) are fur-bearing animals whose pelts are sold in the regular course of business. In addition, seeds and plants are exempt if used to grow food for human consumption.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure?</p>	<p>Are there other states with a similar Tax Expenditure?</p>

<p>DOR assumes that the goal of the expenditure is to exempt items used in agricultural production from sales and use tax, thus preventing tax paid by producers from being incorporated into food prices paid by consumers.</p>	<p>Most states that impose a sales and use tax adopt a similar exemption for items used in agriculture. For example, Connecticut, Maine, New York, Rhode Island, and Vermont allow such an exemption. California allows a partial exemption for farming equipment but not for fuels or other consumables used in agriculture.</p>
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INTRODUCTION

The tax expenditure provides an exemption from the sales and use tax on the purchase or use of materials, tools, fuels, and machinery, including spare parts, used directly and exclusively in agricultural production as well as purchases of certain animals and animal feed, and seeds and plants used to grow food for human consumption. The statute does not define the term “agricultural production”, but the Department has interpreted that term to be “limited to the following activities: the preparation for and the activities of cultivation, growing, harvesting, and storage of any agricultural, floricultural, or horticultural commodity; dairying; the raising of livestock including horses, swine, cattle, or other domesticated animals used for food purposes; the raising of fur-bearing animals for the purpose of selling the pelts or furs in the regular course of business; the growing and harvesting of forest products on forest land; forestry or lumbering operations performed by a farmer; and beekeeping. Agricultural production also encompasses certain incidental agricultural operations, including the storage of crops and preparation for market, to the extent that such storage and preparation activities occur on the agricultural premises.” DOR Directive 92-2. Under this interpretation, marijuana production would also be considered agricultural production.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for items used in agriculture as described above.

While the sales and use tax is imposed on retail sales, it is not necessarily a tax on final consumption by households, as is the case with the value added taxes (VATs) imposed in most other countries. A retail sale to a business may also be subject to tax. For example, paper, desks, computers, and similar items purchased for office use would generally be taxable. The exclusion of sales for resale and the application of certain exemptions prevents the imposition of the tax on many business inputs, but other business inputs remain taxable. Aside from specific statutory exclusions and exemptions, there is no general prohibition in the sales and use tax statutes on the application of the tax to retail sales at multiple stages of the production and sales process.

Absent the exemption afforded by this tax expenditure, sales of materials, tools, fuels, and machinery, including replacement parts, used in agricultural production, as well as sales of certain animals and animal feed, and seeds and plants used to grow food for human consumption would be taxable when purchased by producers. If applied, the sales and use tax would likely be passed on to consumers in the form of higher food prices. Further, to the extent that other states allow an exemption for such items, Massachusetts producers would be placed at a competitive disadvantage with out-of-state producers.

POLICY GOALS

DOR assumes that the goal of the expenditure is to exempt items used in agricultural production from sales and use tax, thus preventing tax paid by producers from being incorporated into food prices paid by consumers. This promotes fairness and equity while supporting local agriculture.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$16.2 - \$26.3 million per year during FY20-FY24.¹

**Revenue Loss Estimates for Sales Tax Exemption
for Materials, Tools, Fuels, and Machinery Used in Agricultural Production**

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$16.2	\$20.7	\$25.4	\$25.8	\$26.3

DIRECT BENEFITS

The Massachusetts businesses that buy or sell exempt products (materials, tools, fuels, and machinery used in agricultural production) are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after tax” price while sellers benefit from the sales tax exemption in the form of receiving a higher “before tax” price. The exact split of the direct benefits depends on the interaction of demand and supply and is often difficult to quantify.

¹ DOR does not have in-house data to measure sales of the exempt products. The estimates reported above are based mostly on data from the U.S. Department of Agriculture (the USDA), Farm Income and Wealth Statistics. The USDA data does not cover marijuana production, for which DOR used data from the Massachusetts Cannabis Control Commission. Due to the use of external data and the limitations of the data for estimating this tax expenditure, the estimates reported in the table may have significant estimation uncertainty and should be used with caution.

Eligible buyers include the 7,241 farms in Massachusetts as reported by Massachusetts Department of Agricultural Resources (MDAR).² These farms operate on 491,653 acres of farmland, employ 25,920 individuals, and produce an annual market value of over \$475 million in agricultural goods. The average farm produces \$65,624 worth of goods on 68 acres. Other potential buyers include 675,000 Massachusetts households that may grow food in a garden³ as well as about 400 Massachusetts marijuana cultivators.⁴ Sellers of feed, livestock and poultry, seed, plants, fertilizers and lime, and pesticides to Massachusetts farms and households also benefit from this tax expenditure as well as sellers of petroleum fuel, oil, electricity, and agricultural equipment to Massachusetts farms. DOR does not have data on such sellers.

Massachusetts' agriculture industry is ranked 47th out of 50 states in total commodities but is a producer of crops specialized to the eastern seaboard area.⁵ Massachusetts' most valuable crops include greenhouse and nursery commodities, making up over one third of the state's total agricultural production, followed by cranberries, sweet corn, and apples. Massachusetts is the second largest producer of cranberries, after Wisconsin. Massachusetts' most valuable livestock products are dairy products. Massachusetts has seen positive trending in the growth and sustainability of agriculture. The state currently ranks in the top ten nationally for number of farmers' markets and direct sales of farm products to consumers.

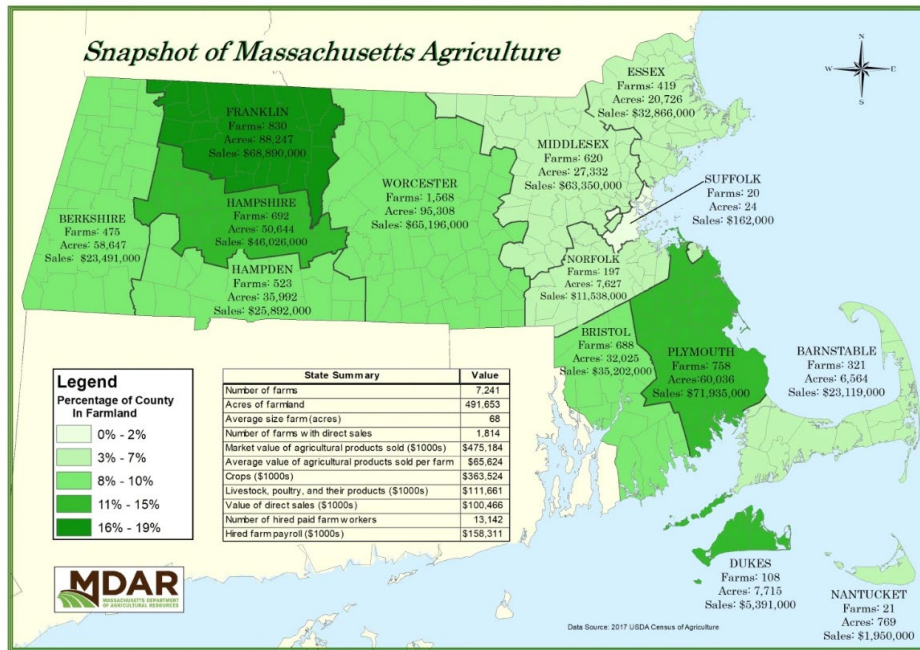
² <https://www.mass.gov/info-details/agricultural-resources-facts-and-statistics>.

³ According to <https://www.yourgreenpal.com/blog/home-gardening-statistics-in-the-us>, about 25% of households in the U.S have a garden. There are about 2,700,000 households in Massachusetts.

⁴ <https://masscannabiscontrol.com/press-media/>

⁵ <https://www.nasda.org/organizations/massachusetts-department-of-agricultural-resources>

Snapshot of Massachusetts Agriculture



Source: Massachusetts Department of Agricultural Resources

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exemption) are equal to the direct benefits of this tax expenditure. The direct cost is the sales tax that would have been collected from exempt transactions. The direct benefits afforded by the tax expenditure is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”⁶.

⁶ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not attempt to use such models given their complexity and the data limitations present in this instance.

Please note that the tax expenditure has a specific purpose. The goal is to avoid tax pyramiding. If a business must pay sales tax on inputs used in the operation of business, then that tax becomes part of the price of the final good or service. The business must then collect sales tax on its own products, with the result that a tax is being charged on a price that already contains taxes. This tax pyramiding invariably results in some industries being taxed more heavily than others, which violates the principle of neutrality and causes economic distortions. In the case of food production, this would be particularly distorting as it would increase the price of a basic necessity. From the standpoint of avoiding tax pyramiding and unnecessarily increasing the price of the agricultural produce to the final consumers, this tax expenditure meets the policy goal.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a sales tax adopt a similar exemption for items used in agriculture. For example, Connecticut, Maine, New York, Rhode Island, and Vermont allow such an exemption. California allows a partial exemption for farming equipment but not for fuels or other consumables used in agriculture.

Template for Evaluating Expenditures

Name of Expenditure: 3.417 Exemption for Commuter Boats	Annual cost: \$6.5 - \$7.1 million per year FY20-FY24	Year of adoption: 1990	Sunset date: None
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other			
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Goal of expenditure (check all that apply):			
<i>Business:</i>		<i>Individual:</i>	
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty	
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners	
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity	
<input type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice	
<input checked="" type="checkbox"/> Other: Not clear but assumed to promote water transport		<input checked="" type="checkbox"/> Other: Not clear but assumed to promote water transport	
Measurement and Effectiveness Ratings:			
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>			
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>			
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (3.417 Exemption for Commuter Boats)

If the goal is to use the Ferry system to take some traffic off the roads, then the exemption makes more sense. Also, if the exemption were repealed, private businesses would face this tax while the MBTA does not (due to other exemptions for the MBTA).

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Commuter Boats
TAX EXPENDITURE NUMBER	3.417
TAX EXPENDITURE CATEGORY	Exemptions for Specified Uses of Product/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(pp)
YEAR ENACTED	1990
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$6.5 - \$7.1 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: Boats used exclusively to provide scheduled commuter passenger service and parts, materials and tools used to maintain and repair such vessels, are exempt from sales and use tax.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? DOR assumes the goal of this expenditure is to support and promote the use of water transport in Massachusetts.</p>	<p>Are there other states with a similar Tax Expenditure? Maine provides a refund of sales and use tax paid on the purchase of parts and supplies for certain sailing ships used primarily for providing overnight passenger cruises but does not have a general exemption for commuter boats. New York has an exemption for ferry boats used to provide ferry service for vehicles and passengers.</p>

INTRODUCTION

The tax expenditure provides a sales and use tax exemption for purchases of boats that will be used exclusively to provide scheduled commuter passenger service. The exemption also applies to repair and replacements parts for such commuter boats and to materials and tools used in their maintenance and repair. Based on the terms of the statute, the Department of Revenue (DOR) construes the exemption to apply to vessels that carry passengers, their personal effects, and passengers' vehicles. It does not apply to boats that transport cargo.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for transfers of specified precious metals.

Absent the exemption afforded by this tax expenditure, the sales and use tax would apply to sales of boats used for commuter passenger service and to parts, materials and tools used to maintain and repair such boats. Please note that certain vessels covered by this exemption may also be covered by the exemption afforded by M.G.L. c. 64H, § 6(d) for sales to the Commonwealth and its agencies (e.g., commuter boats or ferries purchased by the Massachusetts Bay Transportation Authority (MBTA) or the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority).

POLICY GOALS

DOR assumes the goal of this expenditure is to support and promote the use of water transport in Massachusetts.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$6.5 - \$7.1 million per year during FY20-FY24, as shown in Table 1 below. Please note, the revenue loss associated with this tax expenditure has been estimated using information from various sources, which are listed in the references below. Due to the lack of in-house data to measure exempt sales, the revenue loss reported in Table 1 should be used with caution. This tax expenditure has two components: 1) the exemption for the purchase of boats that are used exclusively to provide scheduled commuter passenger services, and 2) the

exemption for the purchase of materials and tools used in the maintenance and repair of these boats.

To estimate the revenue loss associated with the exemption for the purchase of boats, DOR applied the state sales tax rate of 6.25% to the estimated Massachusetts passenger ferry vessels market size. According to the “Fortune Business Insights”¹ report, the national passenger ferry vessels market size was about \$1.305 billion in 2018 with a forecasted average annual growth rate of 1.7% per year. DOR shared down the national passenger ferry vessels market size for Massachusetts based on the state’s share of national passenger ferry vessels by using data from the National Census of Ferry Operators (NCFO). According to NCFO, there were 676 passenger ferry vessels in service nationally in 2019 with 62 operating in Massachusetts². Massachusetts ranked second largest in number of in-service passenger ferry vessels in the country, after New York.

To estimate the revenue loss associated with the exemption for the purchase of materials and tools used in the maintenance and repair of these boats, DOR used information compiled by the U.S. Census, which reports national sales data for maintenance, repair, and related services for maritime vessels. DOR shared down the national sales data for Massachusetts based on the state’s estimated passenger ferry vessels market size, and then applied the state sales tax rate of 6.25% to estimate revenue loss.

Table 1 Tax Expenditure Estimates for Exemption for Commuter Boats

Fiscal Year		2020	2021	2022	2023	2024
Tax Expenditure (\$Million)	Vessel Purchases	\$7.0	\$6.4	\$6.5	\$6.6	\$6.7
	Parts, materials and tools used to maintain and repair ferry vessels	\$0.1	\$0.1	\$0.1	\$0.1	\$0.1
	Total	\$7.1	\$6.5	\$6.6	\$6.7	\$6.8

Please also note that, according to M.G.L. c. 64H, § 6(d), sales to the Commonwealth, its agencies and political subdivisions are exempt from sales tax (TE 3.002). Therefore, passenger ferry vessels and replacement parts, materials and tools used to maintain or repair these vessels, if sold to the MBTA or other regional transit authorities, are exempt

¹ <https://www.fortunebusinessinsights.com/marine-vessel-market-102699>

² Note that the U.S.DOT indicated that their ferry vessel data relied on voluntary reports of ferry vessel operators or owners and that not all of them reported.

under both TE 3.002 and this tax expenditure (TE 3.417). Also, if the vessel is of 50 tons burden or over and is constructed in Massachusetts and sold by the builder, it is also exempt from sales tax pursuant to M.G.L. c. 64H, § 6(o) (TE 3.609). DOR does not have enough data to estimate the overlap between TE 3.417 and TE 3.002, and the overlap between TE 3.417 and TE 3.609.

DIRECT BENEFITS

The Massachusetts businesses that buy or sell exempt products are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after tax” price while sellers benefit from the sales tax exemption in the form of receiving a higher “before tax” price. The exact split of the direct benefits depends on the interaction of buyers and sellers and is difficult to quantify.

Massachusetts businesses that provide scheduled commuter passenger service with commuter boats are the direct beneficiaries of this tax expenditure. According to the U.S. DOT, there were at least 10 ferry operators in Massachusetts in 2019. Some of them may be scheduled commuter passenger service providers. In addition, the public who use the service would be indirect beneficiaries.

Table 2 shows ridership data by year for MBTA ferries. Ridership has declined substantially since the beginning of the pandemic. Ridership averaged more than 1.3 million annually from 2016 to 2019. Ridership averaged more than 300,000 from 2020 to 2021. Please note actual ridership is higher than that reported in Table 2 as it does not account for privately operated ferries. DOR is unable to measure ridership for privately operated ferried due to the absence of in-house data.

Table 2: MBTA Ferry Ridership by Year

Year	Weekdays
2016	1,348,598
2017	1,343,735
2018	1,371,321
2019	1,479,596
2020	373,310
2021	328,409
2022 (through May)	189,342

Source: MBTA monthly ridership data by mode.
<https://mbta-massdot.opendata.arcgis.com/maps/mbta-monthly-ridership-by-mode>
 Note: No weekend ridership data is available.

The tax expenditure also benefits the economies of the islands of Martha’s Vineyard and Nantucket by reducing travel costs for the residents of those islands and promoting tourism on the islands.

Sellers of exempt products, including both sellers of exempt vessels and sellers of parts, materials, and tools used in maintenance and repair of exempt vessels, are also direct beneficiaries of this tax expenditure. Table 3 below shows Massachusetts ship and boat building industry data for 2017. Some businesses in this industry may be direct beneficiaries of this tax expenditure.

Table 3. Annual Payroll, Sales, and Employment of the Industry of Ship and Boat Building in Massachusetts

2017 NAICS Code	Meaning of NAICS Code	Number of Firms	Number of Establishments	Sales, Value of Shipments, or Revenue (\$Millions)	Annual Payroll (\$Millions)	Number of Employees
33661	Ship and boat building	36	36	\$137.8	\$35.4	621
336611	Ship building and repairing	11	11	\$76.9	\$22.8	381
336612	Boat building	25	25	\$60.9	\$12.6	240

Source: The U.S. Census Bureau, 2017 Economic Census, which is the most recent version of Economic Census. The next version will be 2022 Economic Census.

In 2017, Massachusetts had 11 firms in the ship building and repairing industry that employed 381 people and generated \$22.8 million in annual payroll and \$76.9 million in annual sales. In the same year, Massachusetts had 25 firms in the boat building industry that employed 240 people and generated \$12.6 million in annual payroll and \$60.9 million in annual sales.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exemption) are equal to the direct benefits of this tax expenditure. The direct cost is the sales tax that would have been collected from exempt transactions. The direct benefits afforded by the tax expenditure is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when an impacted business passes

on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.³

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

In addition, by encouraging use of public transportation, this expenditure helps create a cleaner environment through fewer vehicle emissions and reduced stress on infrastructure (i.e., highways, bridges, etc.), which would generate positive externalities,⁴ or benefits to each member of the society. Such positive externalities are often difficult to quantify.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Maine provides a refund of sales and use tax paid on the purchase of parts and supplies for certain sailing ships used primarily for providing overnight passenger cruises but does not have a general exemption for commuter boats. None of the other New England states that impose sales and use taxes (Connecticut, Rhode Island, and Vermont) allow exemptions for passenger boats. New York provides an exemption for ferry boats used to provide ferry service for vehicles and passengers.

³ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

⁴ A positive externality occurs when the production and/or consumption of a good or service exerts a positive effect on a third party independent of the transaction. A cleaner and safer environment will benefit each member of the society.

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[massdot.opendata.arcgis.com/datasets/MassDOT::mbta-monthly-ridership-by-mode/explore](https://mbta-massdot.opendata.arcgis.com/datasets/MassDOT::mbta-monthly-ridership-by-mode/explore)

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Template for Evaluating Expenditures

Name of Expenditure: 3.419 Exemption for Fuel Used in Operating Aircraft and Railroads	Annual cost: \$19.3-\$95.3 million per year FY20-FY24	Year of adoption: 1967/1977	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>	<i>Individual:</i>			
<input type="checkbox"/> Job creation & maintenance	<input type="checkbox"/> Relief of poverty			
<input type="checkbox"/> Investment	<input type="checkbox"/> Progressivity/assistance to low earners			
<input checked="" type="checkbox"/> Competitiveness/Strategic	<input type="checkbox"/> Access to opportunity			
<input type="checkbox"/> Health/Environment/Social Justice	<input type="checkbox"/> Health/Environment/Social Justice			
<input type="checkbox"/> Other:	<input type="checkbox"/> Other:			
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (3.419 Exemption for Fuel Used in Operating Aircraft and Railroads)

The primary reason for keeping this expenditure seems to be competitiveness – other states have similar exemptions for fuel. But we wonder about governments exempting fuel from sales tax given current climate concerns.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Fuel Used in Operating Aircraft and Railroads
TAX EXPENDITURE NUMBER	3.419
TAX EXPENDITURE CATEGORY	Exemptions for Specified Use of Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(j)(3)
YEAR ENACTED	1967 (fuel used in the operation of aircraft); 1977 (fuel used in the operation of railroads).
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$19.3-\$95.3 million per year during FY20-FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: The tax expenditure provides an exemption from the sales and use tax for purchases of fuel used in the operation of aircraft or railroads. Note that a separate fuel excise applies to aircraft fuel.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? DOR assumes that the expenditure is intended to promote air and rail transportation by exempting fuel used in such transportation activity from sales and use tax, thus reducing the service providers' operating costs and preventing the sales and use tax paid by service providers from being passed on to consumers or businesses in the form of higher fares.</p>	<p>Are there other states with a similar Tax Expenditure? California, Connecticut, Maine, New York, and Vermont allow sales and use and fuel tax exemptions for purchases of fuel by airlines and railroads. Rhode Island subjects aircraft fuel to a fuel excise but exempts it from the sales tax and subjects railroad fuel to sales and use tax but exempts it from the fuel excise.</p>

INTRODUCTION

The tax expenditure provides an exemption from the sales and use tax for purchases of fuel used in the operation of aircraft or railroads.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for sales of fuel used in operating aircraft and railroads.

While the sales and use tax is imposed on retail sales, it is not necessarily a tax on final consumption by households, as is the case with the value added taxes (VATs) imposed in most other countries. A retail sale to a business may also be subject to tax. For example, paper, desks, computers, and similar items purchased for office use would generally be taxable. While the exclusion of sales for resale and the application of certain exemptions prevents the imposition of the tax on many business inputs, certain other business inputs remain taxable. Aside from specific statutory exclusions and exemptions, the sales and use tax statutes do not prohibit the application of the tax to retail sales at multiple stages of the production and sales process.

Absent the exemption afforded by this tax expenditure, fuel purchased for use in the operation of aircraft or railroads would be subject to the sales and use tax. In the case of aircraft fuel this would result in the imposition of multiple taxes, as a fuel excise applies to aircraft fuel. If applied, the sales and use tax would increase the operating cost of air and railroad service providers. These costs would likely be passed on to consumers or other businesses in the form of higher transportation prices. Further, to the extent that other states allow an exemption for such items, Massachusetts air transport and rail service providers and facilities would be placed at a competitive disadvantage with out-of-state providers and facilities.

Although exempt from the sales and use tax, aircraft fuel is potentially subject to two additional excises, depending upon whether the fuel is jet fuel or aviation gasoline¹, while railroad fuel is not subject to any other tax.

¹According to <https://www.naa.edu/aviation-fuel/>, there are two types of aviation fuel used in general aviation: jet fuel and aviation gasoline. Jet fuel is primarily used to power turbine engines, such as turboprop

First, MGL c. 64A adopts a state-level excise on gasoline, including aviation gasoline. The excise tax on aviation gasoline is 7.5% of the average price per gallon (as determined by the Commissioner) computed to the nearest 10th of a cent per gallon. The minimum tax is \$0.10/gallon.² In Fiscal Year 2022, DOR collected \$0.7 million from the excise imposed on aviation gasoline tax. The excise under MGL c. 64A does not apply to jet fuel.

Second, MGL c. 64J allows cities and towns to impose a local excise on jet fuel. Revenue from the excise is not part of the Commonwealth’s general fund. The Department of Revenue (DOR) administers and collects the excise on behalf of cities and towns that adopt the excise, and then distributes it to those cities and towns. Currently, eight cities and towns have enacted jet fuel excise. The excise tax rate on jet fuel is 5% of the average price per gallon (as determined by the Commissioner) computed to the nearest 10th of a cent per gallon; the minimum tax is \$0.05/gallon.³ In Fiscal Year 2022, DOR collected \$25.7 million in local excise on jet fuel. The excise under MGL c. 64J does not apply to aviation gasoline.

POLICY GOALS

DOR assumes that the expenditure is intended to promote air and rail transportation by exempting fuel used in such transportation activity from sales and use tax, thus reducing the service providers’ operating costs and preventing the sales and use tax paid by service providers from being passed on to consumers or businesses in the form of higher fares.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$19.3 - \$95.3 million per year during FY20-FY24⁴. See the table below. The estimate of \$19.3 million for FY2021 reflects the impact of the pandemic on the aviation industry. Fuel prices rose quickly in the first half of 2022. Therefore, the estimated revenue loss increases quickly from FY2021 to FY2022. See footnote 4 for discussion of estimation uncertainty.

**Tax Revenue Loss Estimates for Sales Tax Exemption
for Fuel Used in Operating Aircraft and Railroads**

Fiscal Year	2020	2021	2022	2023	2024
Jet Fuel	\$36.0	\$13.7	\$49.6	\$71.4	\$76.1

and jet engines. Aviation gasoline is used by traditional propellor aircraft and small piston-engine airplanes. Aircrafts that are based on aviation gasoline typically operate on a smaller scale that includes crop-dusting, private flying, and flight training.

² <https://www.mass.gov/administrative-procedure/ap-110-gasoline-excise>

³ <https://www.mass.gov/administrative-procedure/ap-113-jet-fuel-tax>

⁴DOR does not have data on fuel used in operating railroads, but was able to estimate that revenue loss by looking at national data on spending on railroad fuel relative to spending on aircraft fuel.

Aviation Gasoline	\$0.5	\$0.5	\$0.7	\$0.9	\$1.0
Railroad Fuel	\$17.7	\$5.0	\$14.2	\$19.5	\$18.2
Total Estimated Revenue Loss (\$Million)	\$54.2	\$19.3	\$64.6	\$91.8	\$95.3

Note: Totals may not add due to rounding.

Please note that the revenue loss resulting from the sales tax exemption for aviation gasoline, which was estimated to be \$0.5-\$1.0 million per year during FY20-FY24, was included both in the above table and in the revenue loss estimates for the tax expenditure “3.202 motor fuels sales tax exemption”. The latter was evaluated in a previous report by the Tax Expenditure Review Commission (TERC)⁵.

DIRECT BENEFITS

The Massachusetts businesses that buy or sell fuels used in operating aircraft and railroads are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after tax” price while sellers benefit from the sales tax exemption in the form of receiving a higher “before tax” price. The exact split of the direct benefits depends on the interaction of demand and supply and is often difficult to quantify.

Eligible beneficiaries are the businesses purchasing fuel in Massachusetts, such as airports, airlines, and rail companies. Complete data on eligible beneficiaries is not available. A recent study provides information on some potential beneficiaries in Massachusetts. The 2019 Massachusetts Statewide Airport Economic Impact Study prepared by the MassDOT Aeronautics Division⁶ quantifies employment, payroll, and economic output derived from Massachusetts’ 39 public-use airports. DOR is unable to determine how much of this economic impact is due to this tax expenditure.

In 2021, there were thirteen jet fuel tax filers and seven aviation gasoline tax filers in Massachusetts. DOR assumes that without this tax expenditure, these tax filers would collect the sales tax and remit to DOR. Therefore, they would be the major direct beneficiaries.

DOR does not have data on sellers of fuel used in the operation of railroads.

EVALUATION: COMPARING COSTS AND BENEFITS

⁵ Please see tax expenditure 3.202 - Exemption for Motor Fuels in the March 2021 TERC report posted on the DOR website: <https://www.mass.gov/doc/terc-march-2021-final-report/download>

⁶ Massachusetts Statewide Airport Economic Impact Study Update Executive Summary, January 2019 <https://www.mass.gov/economic-impact-study>

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exemption) are equal to the direct benefits of this tax expenditure. The direct cost is the sales tax that would have been collected from exempt transactions. The direct benefits afforded by the tax expenditure is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”⁷.

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

Besides the economic costs and benefits discussed above, one may also want to consider the factor of negative externality when evaluating this tax expenditure. A negative externality occurs when the production and/or consumption of a good or service exerts a negative effect on a third party independent of the transaction. For example, airplanes/aircrafts and rails operations may cause noise and air pollution during the process. By encouraging aviation and rail operation, this tax expenditure may aggravate the problem of negative externality such as noise and air pollution if there are no other policies to offset the impact.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

California, Connecticut, Maine, New York, and Vermont allow sales and use and fuel tax exemptions for purchases of fuel by airlines and railroads. Rhode Island subjects aircraft fuel to a fuel excise but exempts it from the sales tax and subjects railroad fuel to sales and use tax but exempts it from the fuel excise.

⁷ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Template for Evaluating Expenditures

Name of Expenditure: 3.420 Exemption for Sales of Certain New and Used Buses	Annual cost: \$5.8 - \$7.0 million per year FY20 - FY24	Year of adoption: 1973	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>	<i>Individual:</i>			
<input type="checkbox"/> Job creation & maintenance	<input type="checkbox"/> Relief of poverty			
<input checked="" type="checkbox"/> Investment	<input type="checkbox"/> Progressivity/assistance to low earners			
<input checked="" type="checkbox"/> Competitiveness/Strategic	<input type="checkbox"/> Access to opportunity			
<input type="checkbox"/> Health/Environment/Social Justice	<input type="checkbox"/> Health/Environment/Social Justice			
<input type="checkbox"/> Other:	<input type="checkbox"/> Other:			
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (3.420 Exemption for Sales of Certain New and Used Buses)

The intent of this expenditure is not clear to us, which makes it difficult to evaluate its effectiveness. We think the original intent was to incentivize private companies to offer local bus service, but the exemption is available to any business with a DPU certificate, regardless of whether the bus is used on a local intracity route.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Sales of Certain New and Used Buses
TAX EXPENDITURE NUMBER	3.420
TAX EXPENDITURE CATEGORY	Exemptions for Specified Uses of Product/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(aa)
YEAR ENACTED	1973 [St. 1973, c. 1141. App. 12/5/73]
REPEAL/EXPIRATION DATE	None.
ANNUAL REVENUE IMPACT	Tax loss of \$5.8 - \$7.0 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: New and used buses purchased by carriers that provide scheduled intra-city bus service as certified by the Department of Public Utilities are exempt from sales and use tax. The exemption includes replacement parts, materials and tools used to maintain or repair these buses.</p> <p>The exemption has been interpreted as applying to all buses and equipment purchased by a carrier that has at least on DPU certificate.</p>	<p>Is the purpose defined in the statute? The statutes note that “public convenience and necessity require” the operation of intra-city bus service. See M.G.L. c. 159A, § 7, which provides for the certification required for carriers to claim the exemption.</p>
<p>What are the policy goals of the expenditure? The goal of the expenditure is to promote scheduled intra-city public transportation, which the Legislature views as a “public convenience and necessity.”</p>	<p>Are there other states with a similar Tax Expenditure? Indiana, Maryland, and New Jersey provide a similar exemption. California has a partial, temporary exemption for low emission buses. No similar exemption is provided by</p>

	Connecticut, Maine, New York, Rhode Island, or Vermont.
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INTRODUCTION

The tax expenditure provides a sales and use tax exemption for new and used buses that a common carrier uses to provide scheduled intra-city local service. The exemption also extends to the purchase of replacement parts, materials and tools used to maintain or repair these buses. “Common carrier” is a general term that applies to an entity that transports goods or passengers for compensation. To claim the exemption common carriers must obtain a certificate of public convenience or necessity from the Department of Public Utilities (“DPU certificate”). See M.G.L. c. 159A, § 7. Based on court decisions and DOR practice, the exemption has been broadly interpreted to extend to all bus purchases and maintenance activities for any carrier that has at least one valid DPU certificate for any one of its routes. Thus, the exemption could be claimed by a holder of one valid certificate for the purchase of buses that are used for other purposes, such as recreational touring.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable.

While the sales and use tax is imposed on retail sales, it is not necessarily a tax on final consumption by households, as is the case with the value added taxes (VATs) imposed in most other countries. A retail sale to a business may also be subject to tax. For example, paper, desks, computers, and similar items purchased for office use would generally be taxable. In addition, items purchased by businesses in order to provide services to customers are generally taxable. The exclusion of sales for resale and the application of certain exemptions prevents the imposition of the tax on many business inputs, but other business inputs remain taxable. Aside from specific statutory exclusions and exemptions, there is no general prohibition in the sales and use tax statutes on the application of the tax to retail sales at multiple stages of the production and sales process.

Absent the exemption afforded by this tax expenditure, sales of buses would be subject to the sales and use tax, as would the materials used to maintain the buses. If applied, the sales and use tax would increase service providers’ operating costs. These costs would likely be passed on to consumers in the form of higher transportation prices.

POLICY GOALS

The goal of the expenditure is to promote scheduled intra-city public transportation, which the Legislature views as a “public convenience and necessity.” See M.G.L. c. 159A, § 7.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$5.8 - \$7.0 million per year during FY20-FY24, as shown in Table 1 below. Please note, the revenue loss associated with this tax expenditure has been estimated using information from various sources, which are listed in the references below. Due to the lack of in-house data to measure the exempt sales, the revenue loss reported in Table 1 may be overestimated.

This tax expenditure has two components: 1) the exemption for the purchase of buses that will be used by carriers that hold at least one valid DPU certificate, and 2) the exemption for the purchase of replacement parts, materials and tools used to maintain or repair these buses.

Table 1 Tax Expenditure Estimates for Exemption for Sales of Certain New and Used Buses

Fiscal Year		2020	2021	2022	2023	2024
Tax Expenditure (\$Million)	Bus Purchases	\$5.6	\$5.9	\$6.1	\$6.4	\$6.7
	Maintenance and Repair	\$0.2	\$0.2	\$0.2	\$0.3	\$0.3
	Total	\$5.8	\$6.1	\$6.4	\$6.7	\$7.0

To estimate the revenue loss associated with the exemption for the purchase of buses, DOR applied the state sales tax rate of 6.25% to the estimated Massachusetts bus market size. DOR used information from “U.S. Bus Market Size Report” from Prescient & Strategic Intelligence. This report indicates that the national bus market size was about \$7.5 billion in 2021 with approximately 97%, or \$7.2 billion, of the buses deployed for intrastate transportation. The report also indicates that the national bus market is forecasted to grow at an annual rate of 4.7% during 2021-2030. DOR shared down the national bus market size for Massachusetts based on the state’s share of national registered buses using bus registration data compiled by the U.S. Department of Transportation (DOT).

To estimate the portion of revenue loss associated with the exemption for the purchase of replacement parts, materials and tools used to maintain or repair these buses, DOR used information from the MBTA capital investment plan (the “plan”). The plan provided expenditure data on bus purchases, repair and maintenance. DOR estimated the ratio of

expenditure on repair and maintenance to expenditure on buses at 4%. This ratio was applied to the revenue loss estimates resulting from the exemption for the purchase of buses to get the revenue loss estimates for the exemption for the purchase of replacement parts, materials and tools used to maintain or repair these buses.

Please also note that, according to M.G.L. c. 64H, § 6(d), sales to the Commonwealth, its agencies and political subdivisions are exempt from sales tax (TE 3.002). Therefore, buses and replacement parts, materials and tools used to maintain or repair these buses, if sold to MBTA and other regional transit authorities, are exempt under both TE 3.002 and this tax expenditure (TE 3.420). DOR does not have enough data to estimate that overlap.

DIRECT BENEFITS

The Massachusetts businesses that buy or sell exempt products are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after tax” price while sellers benefit from the sales tax exemption in the form of receiving a higher “before tax” price. The exact split of the direct benefits depends on the interaction of buyers and sellers and is difficult to quantify.

Eligible buyers are the Massachusetts businesses that provide scheduled intra-city local services using buses, in other words, common carriers to offer bus services to the public. The public who uses the service would be indirect beneficiaries.

Table 2 shows ridership data by year for MBTA buses. Ridership has declined substantially since the beginning of the pandemic. Ridership averaged more than 110 million annually from 2016 to 2019 for MBTA buses, prior to the pandemic. Ridership averaged more than 60 million annually from 2020 to 2021 for MBTA buses. Please note actual ridership for buses is higher than that reported in Table 2 as it does not account for privately operated buses. DOR is unable to measure ridership for privately operated buses due to the absence of in-house data.

Table 2 MBTA Bus Ridership by Year (million)

Year	Weekdays	All days
2016	101	112
2017	96	112
2018	96	115
2019	97	115
2020	48	60
2021	53	65
2022(through May)	26	31

Source: MBTA monthly ridership data by mode.
<https://mbta-massdot.opendata.arcgis.com/maps/mbta-monthly-ridership-by-mode>

Furthermore, DOR does not currently have data on the sellers of the exempt products.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exemption) are equal to the direct benefits of this tax expenditure. The direct cost is the sales tax that would have been collected from exempt transactions. The direct benefits afforded by the tax expenditure is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. Generally, the indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when an impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.¹

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

Besides the economic costs and benefits discussed so far, one may also want to consider the specific purpose of this tax expenditure: providing public convenience and necessity. The large ridership as reported in Table 2 indicates that this goal is achieved. Since not everyone has access to an automobile or other private transportation, the availability of bus transit promotes the societal goal of fairness and equity.

In addition, by encouraging use of public transportation, this expenditure helps create a cleaner environment through fewer vehicle emissions and reduced stress on infrastructure

¹ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

(i.e., highways, bridges, etc.), which would generate positive externalities², or benefits to each member of the society. Such positive externalities are often difficult to quantify.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Indiana, Maryland, and New Jersey provide a similar exemption. California has a partial, temporary exemption for low emission buses. No similar exemption is provided by Connecticut, Maine, New York, Rhode Island, or Vermont.

² A positive externality occurs when the production and/or consumption of a good or service exerts a positive effect on a third party independent of the transaction. A cleaner and safer environment will benefit each member of the society.

References:

Massachusetts Bay Transportation Authority. *Capital Investment Plan (for multiple years)*. Retrieved from <https://www.mbta.com/financials/capital-investment-plan>

Massachusetts Bay Transportation Authority. *MBTA monthly rideship by mode*. Retrieved from Massachusetts Bay Transportation Authority: <https://mbta-massdot.opendata.arcgis.com/datasets/MassDOT::mbta-monthly-ridership-by-mode/explore>

U.S. Bus Market Report: By Vehicle Type, Body Type, Ownership, Propulsion, Length (2022, May). Retrieved from Prescient & Strategic Intelligence: https://www.psmarketresearch.com/market-analysis/us-bus-market?utm_source=PRN&utm_medium=referral&utm_campaign=PRN_PAID

U.S. DOT, Federal Highway Administration. *Bus registrations by state*. Retrieved from Highway Statistics 2016-2020: <https://www.fhwa.dot.gov/policyinformation/statistics.cfm>

Template for Evaluating Expenditures

Name of Expenditure: 1.014 Exemption of Rental Value of Parsonages	Annual cost: \$4M	Year of adoption: 1973 (or earlier)	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input checked="" type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input type="checkbox"/> Health/Environment/Social Justice		<input checked="" type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (1.014 Exemption of Rental Value of Parsonages):

The report from the DOR notes: “When enacted in 1921, the income exclusion [in the federal code, which MA follows] was intended to place ministers on par with other employees that enjoyed an exclusion for employer-provided housing. The exclusion for ministers has remained in effect since 1921 while the exclusion for other employees has been limited by Congress.” In general, employer-provided housing may be exempt from personal income tax if the housing is being provided for the convenience of the employer, not as a fringe benefit, or as part of the duties of the employee. Arguably, these conditions apply for ministers, whose residence near the church and availability to church members may be viewed as important.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption of Rental Value of Parsonages
TAX EXPENDITURE NUMBER	1.014
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 1(c), 1(d), and § 2(a); Code § 107
YEAR ENACTED	M.G.L. c. 62, §§ 1 and 2 were enacted in 1973. The federal exclusion stems from a provision of the Revenue Act of 1921. The exclusion was reenacted in 1954 as Code § 107.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$3.1 - \$4.1 million per year during FY20-FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: Massachusetts conforms to Internal Revenue Code (the “Code”) § 107, which allows ministers to exclude from gross income a housing allowance or the rental value of a parsonage furnished as part of their compensation. As defined in Internal Revenue Service pronouncements and federal case law, the term “minister” includes people holding various titles in a variety of religious organizations.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? When enacted in 1921, the income exclusion was intended to place ministers on par with other employees that enjoyed an exclusion for</p>	<p>Are there other states with a similar Tax Expenditure? States that have rolling conformity to the Code or static conformity to a 1954 or later version of the Code, and have not decoupled from §</p>

<p>employer-provided housing. The exclusion for ministers has remained in effect since 1921 while the exclusion for other employees has been limited by Congress.</p>	<p>107, provide the same income exclusion. Such states include California, Connecticut, Maine, New York, Rhode Island, and Vermont.</p>
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INTRODUCTION

This tax expenditure is based on Internal Revenue Code (the “Code”) § 107, which allows ministers to exclude from income a housing allowance or the rental value of housing provided to them as a part of their compensation. The Code does not define the term “minister”, but IRS pronouncements and federal case law have clarified it to include people holding various titles in a variety of religious organizations. IRS rules generally require a person to hold an official position in a religious organization and to perform religious functions in order to qualify for the exclusion. A 2002 amendment to Code § 107 limits the exclusion to the amount that a minister actually uses for housing.

Massachusetts follows the federal exclusion because it adopts Code § 107. See M.G.L. c. 62, §§ 1(c), 1(d), and (2)(a). The revenue that Massachusetts foregoes as a result of the exclusion is a state tax expenditure.

POLICY GOALS

When enacted in 1921, the income exclusion was intended to place ministers on par with other employees that enjoyed an exclusion for employer-provided housing. The exclusion for ministers has remained in effect since 1921 while the exclusion for other employees has been limited by Congress.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$3.1 - \$4.1 million per year during FY20-FY24. See the table below.

Tax Revenue Loss Estimates for Exemption of Rental Value of Parsonages

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$3.1	\$3.5	\$3.6	\$3.9	\$4.1

Massachusetts’ revenue loss estimates are based on estimates prepared by the federal Joint Committee on Taxation (the JCT)¹. The JCT reports the impact on federal tax collections resulting from the income tax exclusion applicable to the rental value of parsonages. The JCT’s estimates are shared down to Massachusetts based on the state’s share of national employment of religious workers, and are adjusted for differences in fiscal year, median house price, and tax rate between the U.S. and Massachusetts.² Given the use of external data and the fact that the housing market can be volatile and difficult to forecast, the

¹ The Joint Committee on Taxation is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. <https://www.jct.gov/>.

² Note that the federal fiscal year runs from October 1st to September 30th of the following year, while the Massachusetts fiscal year runs from July 1st to June 30th of the following year.

revenue loss estimates are uncertain. Estimates reported in the table above should be used with caution.

DIRECT BENEFITS

Ministers who exclude from income a housing allowance or the rental value of housing provided to them part of their compensation are the direct beneficiaries of this tax expenditure. DOR does not have in-house data on the total number of direct beneficiaries of this tax expenditure. However, the County Business Patterns (CBP) survey data from the U.S. Census Bureau indicates that there were 2,898 establishments in the industry of “religious organizations” (NAICS 813110) in 2020. Though not all establishments in this industry are places of worship and have religious workers eligible for this tax expenditure, it seems that the number of direct beneficiaries could be in thousands.³

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exemption) are equal to the direct benefits (to ministers) of this tax expenditure. The direct cost is the tax that would have been collected absent this exemption. The direct benefits afforded by the tax expenditure is the state income tax saving to ministers.

Furthermore, there may be indirect and induced costs and benefits associated with this exemption. To measure indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that have rolling conformity to the Code or static conformity to a 1954 or later version of the Code, and have not decoupled from § 107, provide the same income exclusion. Note that every state with rolling conformity uses a post-1954 version of the Code. States that allow the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont).

³ The Bureau of Labor Statistics’ Occupational, Employment and Wage Statistics (OEWS) program provides data on employment of religious workers, which include clergy (with standard occupation classification code or SOC code of 21-2011), directors of religious activities and education (SOC code of 21-2021), and other religious workers (SOC code of 21-2099). OEWS data indicates that Massachusetts has about only 600 to 700 religious workers. However, these numbers may significantly underestimate the number of direct beneficiaries of this tax expenditure, probably because some people with other occupations may be also eligible for this tax expenditure.

Template for Evaluating Expenditures

Name of Expenditure: 1.021 Exemption of Capital Gains on Home Sales	Annual cost: \$350.6M - \$422.2M	Year of adoption: 1973 (current form enacted in 1997)	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input checked="" type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input checked="" type="checkbox"/> Other: Ease cost of living (housing) burden		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (1.021 Exemption of Capital Gains on Home Sales)

Policy makers may want to consider the interplay between this expenditure and the new surtax. A 4% surtax will be imposed on Massachusetts taxpayers with taxable income in excess of \$1 million effective for tax years beginning on or after January 1, 2023.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption of Capital Gains on Home Sales
TAX EXPENDITURE NUMBER	1.021
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 1(c), 1(d), and § 2(a); Code § 121
YEAR ENACTED	M.G.L. c. 62, §§ 1 and 2 were enacted in 1973; Code § 121 was enacted in its current form in 1997.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$350.6 - \$422.2 million per year during FY20-FY24.
NUMBER OF TAXPAYERS	Estimated 49,400 – 52,700 households annually.
AVERAGE TAXPAYER BENEFIT	Estimated \$7,100 - \$8,000 per benefiting household for FY20-FY24.

<p>Description of the Tax Expenditure: Massachusetts conforms to the Internal Revenue Code (“Code”) § 121 exclusion from gross income for up to \$250,000 of capital gain (or \$500,000 if filing jointly) on the sale of a principal residence.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to support homeownership and enhance mobility in the housing and labor markets by ameliorating the tax burden of selling a primary residence.</p>	<p>Are there other states with a similar Tax Expenditure? All states that conform to a version of the Code as amended on or after 1997 provide the same or a similar income exclusion, unless the state specifically decouples from the federal exclusion. States that adopt the exclusion include, California, Connecticut, Maine, New York, Rhode Island, and Vermont. DOR is not aware of any state that has decoupled.</p>

INTRODUCTION

The tax expenditure is in effect due to Massachusetts' conformity with Internal Revenue Code ("Code") § 121, which Massachusetts adopts as it appears as of January 1, 2022. Code § 121 allows a taxpayer to exclude from gross income up to \$250,000 of capital gain on the sale or exchange of a principal residence. The exclusion limit is \$500,000 for married taxpayers filing jointly. To qualify for the exclusion, taxpayers must have owned the residence, and used it as their primary home, for an aggregate of at least 2 of the 5 years prior to the sale. Ownership and use need not span the same 2-year period, but both must occur within the 5-year period prior to the sale. Taxpayers may only have one principal residence at a time. The exclusion may be taken any number of times so long as at least 2 years pass between each sale for which the exclusion is claimed. Personal income tax foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the goal of the tax expenditure is to support homeownership and enhance mobility in the housing and labor markets by ameliorating the tax burden of selling a primary residence.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$350.6 - \$422.2 million per year during FY20-FY24. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Exemption of Capital Gains on Home Sales

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$350.6	\$363.6	\$378.9	\$401.3	\$422.2

DOR does not have in-house data on excluded capital gains since they are not reported to DOR on tax returns or otherwise. Massachusetts' revenue loss estimates reported in Table 1 are based on national estimates prepared by the federal Joint Committee on Taxation (the JCT).¹ The JCT reports the impact on federal tax collections resulting from the income tax exclusion applicable to capital gains on the sale of principal residence. The JCT's estimates are shared down to Massachusetts based on the state's share of national owner-occupied housing units, and are adjusted for differences in fiscal year, median house price, and tax rate between the U.S. and Massachusetts.² Given the use of external data and the fact that

¹ The Joint Committee on Taxation is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. <https://www.jct.gov/>

² Note that the federal fiscal year runs from October 1st to September 30th of the following year, while the Massachusetts fiscal year runs from July 1st to June 30th of the following year.

the housing market and capital gains can be volatile and difficult to forecast,³ the revenue loss estimates are very uncertain. Estimates reported in Table 1 should be used with caution.

DIRECT BENEFITS

The direct beneficiaries are residents who sell their primary residence at a price over that at which they purchased it, provided they have satisfied the required occupancy guidelines. Table 2 shows the estimated number of beneficiaries and average benefit, using home sales data from the Massachusetts Association of Realtors and home ownership data from the U.S. Census, American Community Survey.

Table 2. Estimated Number of Beneficiaries and Average Benefit

Fiscal Year	2020	2021	2022	2023	2024
Estimated Number of Beneficiaries	49,429	50,607	51,761	52,198	52,651
Estimated Average Benefit	\$7,094	\$7,184	\$7,321	\$7,689	\$8,019

SOURCES: US Census Bureau; Massachusetts Department of Revenue (DOR); Massachusetts Association of Realtors
 Note: Average benefit is estimated by dividing total tax savings as reported in Table 1 (revenue loss to Massachusetts is equal to tax savings to taxpayers) by the estimated number of beneficiaries.

An estimated 50,607 owner-occupied homes were sold in Massachusetts in FY2021, with an average tax savings of \$7,184 per owner. The estimated number of beneficiaries and average benefit are projected to grow to 52,651 owner-occupied homes and \$8,019 average tax savings in FY2024. Table 2 may overestimate the number of beneficiaries and underestimate the average tax savings as a portion of the homes sold may not meet the applicable ownership and occupancy requirements for the exemption. In addition, the number of beneficiaries could be understated as married couples who sell their primary residence could decide to file separately and be able to exclude up to \$250,000 gains each from their gross income. Given these limitations, estimates reported in Table 2 should also be used with caution.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exemption) are equal to the direct benefits (to the owners of sold principal residences) of this tax expenditure. The direct cost is the tax that would have been

³ As the Federal Reserve tightens the monetary policy, the mortgage rates rise sharply causing steep decline in home sales and will finally hurt the home prices. Such market condition will finally cause the capital gains realized from selling principal residence to decline sharply. Numbers reported in Table 1 are based on JCT's estimates made in November 2020 and therefore do not reflect the recent development in the housing market.

collected absent this exemption. The direct benefits afforded by the tax expenditure is the state income tax saving to the owners of sold principal residences.

Furthermore, there may be indirect and induced costs and benefits associated with this exemption. To measure indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that conform to a version of the Code as amended on or after 1997 provide the same or a similar income exclusion, unless the state specifically decouples from the federal exclusion. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont. DOR is not aware of any state that has decoupled.

Template for Evaluating Expenditures

Name of Expenditure: 1.204 & 2.206 Abandoned Building Renovation Deduction	Annual cost: Negligible	Year of adoption: 1993	Sunset date: None	
Tax Type (check all that apply): <input checked="" type="checkbox"/> Corporate <input checked="" type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input checked="" type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input checked="" type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input checked="" type="checkbox"/> Health/Environment/Social Justice		<input checked="" type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comment (1.204 & 2.206 Abandoned Building Renovation Deduction)

The Commission reached out to HED to try to figure out why the incentive is claimed so infrequently. MOBD staff thought it could be due to the fact that the deduction is available only when renovating a building. According to them, often old mill buildings are so deteriorated that a company will tear it down and construct a new one on that location rather than renovating the building. It was also suggested that its lack of use could be in part due to the marketing of the deduction to companies - MOBD regional directors may be the only ones notifying companies of its availability.

Without more data, we do not know whether the deduction benefits smaller businesses. Additionally, the question of whether the deduction is meaningful as an incentive can only be answered in the context of the broader EDIP program. Even though the dollar amount per taxpayer is fairly small, it may be meaningful when taken together with other local property tax incentives.

This tax expenditure is unique to Massachusetts. While every state with a corporate or personal income tax allows the recovery of business expenses incurred in renovating real property, either through immediate expensing or through depreciation allowances, no other state allows an additional deduction similar to the one allowed in Massachusetts.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Abandoned Building Renovation Deduction
TAX EXPENDITURE NUMBER	1.204 & 2.206
TAX EXPENDITURE CATEGORY	Deductions from Gross Income
TAX TYPE	Personal Income Tax / Corporate & Business Tax
LEGAL REFERENCE	M.G.L. c. 62, § 3(B)(a)(10), c. 63, §380
YEAR ENACTED	M.G.L. c. 62, § 3(B)(a)(10): St. 1993, c. 19, § 15 M.G.L. c. 63, § 380: St. 1993, c. 19, § 18
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Negligible
NUMBER OF TAXPAYERS	Annually 44 - 72 for personal income tax filers, 0 - 8 for corporate & business tax filers from 2016 to 2021.
AVERAGE TAXPAYER BENEFIT	Negligible

<p>Description of the Tax Expenditure: A deduction is provided to corporations and individuals for 10% of the cost of renovating abandoned buildings in certain areas. The deduction is in addition to any other deduction available for the cost of such renovation. Thus, an additional deduction may be allowed for expenses already included in deductible business expenses or deductible depreciation.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The deduction is part of the Economic Development Incentive Program (EDIP), which was established to provide incentives to stimulate job creation and economic growth in Massachusetts. See M.G.L. c. 23A, §§ 3A(a), 3C(a).</p>	<p>Are there other states with a similar Tax Expenditure? Every state with a corporate or personal income tax allows the recovery of business expenses incurred in renovating real property, either through immediate expensing or through depreciation allowances. No other state allows an additional deduction similar to the one allowed in Massachusetts. South</p>

	Carolina has a tax credit for renovation expenses under its Abandoned Buildings Revitalization Act.
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INTRODUCTION

Corporations and individuals are subject to tax on their taxable net income (under the corporate excise) and taxable income (under the personal income tax), respectively. In determining the applicable tax base, a deduction is provided to corporations and individuals for 10% of the cost of renovating abandoned buildings. The deduction is allowed in addition to any other deduction available for the cost of such renovation that is available. For example, amounts allowed under the renovation deduction might also be included in deductible business expenses or deductible depreciation. Thus, the deduction functions as an extra, or bonus, deduction for eligible renovation expenses.

The deduction is part of the Massachusetts Economic Development Incentive Program (EDIP), administered by the Economic Assistance Coordinating Council (EACC). The EDIP generally employs local property tax incentives to spur economic development, often in blighted areas. These incentives are available for projects that will create new jobs. In addition to the local property tax incentives, the EACC administers the abandoned building renovation deduction. The deduction is allowed only for renovations that are part of projects approved by EACC. The revenue lost as a result of the deduction constitutes a tax expenditure.

POLICY GOALS

The deduction is part of the EDIP, which was established to provide incentives to stimulate job creation and economic growth in Massachusetts. See M.G.L. c. 23A, §§ 3A(a), 3C(a).

DIRECT COSTS

Based on Massachusetts tax return data, the revenue loss resulting from this tax expenditure is very small or negligible. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Abandoned Building Renovation Deduction

Fiscal Year		2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	Personal Income Tax	\$0.055	Negligible	Negligible	Negligible	Negligible
	Corporate & Business Tax	Negligible	Negligible	Negligible	Negligible	Negligible
	Total	\$0.055	Negligible	Negligible	Negligible	Negligible

Note: "Negligible" means that the estimate is less than \$50,000 but greater than zero.

DIRECT BENEFITS

The direct beneficiaries of this deduction are the corporations and individuals renovating abandoned buildings. Table 2 shows the number of taxpayers who claimed the deduction

by tax type and year. On average, 56 personal income tax filers and 3 corporate and business tax filers claimed the deduction annually from 2016 to 2021. Table 3 shows the dollar amount claimed for the deduction by tax type and year.

Table 2. Number of Taxpayers Who Claimed Abandoned Building Renovation Deduction by Tax Type and Year

Tax Year	2016	2017	2018	2019	2020	2021
Corporate and business tax	8	4	3	*	*	*
Personal income tax	68	62	46	72	44	45
Total	76	66	49	*	*	*

Source: Massachusetts Department of Revenue: Corporate & business tax return data and personal income tax return data.

Notes: * Information withheld to maintain confidentiality since the numbers were less than 3.

Table 3. Claimed Dollar Amount (\$000) of Abandoned Building Renovation Deduction by Tax Type and Year

Tax Year	2016	2017	2018	2019	2020	2021
Corporate and business tax	\$9	\$230	\$10	*	*	*
Personal income tax	\$1,699	\$3,392	\$1,621	\$808	\$1,398	\$419
Total	\$1,708	\$3,622	\$1,631	*	*	*

Source: Massachusetts Department of Revenue: Corporate & business tax return data and personal income tax return data.

Notes: * Information withheld to maintain confidentiality.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this deduction) are equal to the direct benefits (to the individuals or corporations who claim this deduction) of this tax expenditure. The direct cost is the tax that would have been collected absent this deduction. The direct benefits afforded by the tax expenditure is the state income tax saving or corporate and business tax saving to the tax filers who claim this deduction.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. Generally, the indirect impact (cost or benefit) is felt

by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when an impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.¹

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. However, since the direct costs and benefits are negligible in recent years and perhaps in the near future, the indirect and induced costs and benefits are also negligible.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Every state with a corporate or personal income tax allows the recovery of business expenses incurred in renovating real property, either through immediate expensing or through depreciation allowances. No other state allows an additional deduction similar to the one allowed in Massachusetts. South Carolina has a tax credit for renovation expenses under its Abandoned Buildings Revitalization Act.

¹ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Template for Evaluating Expenditures

Name of Expenditure: 1.301 & 2.301 Modified Accelerated Depreciation on Rental Housing	Annual cost: \$28M - \$33.7M	Year of adoption: 1986	Sunset date: None
Tax Type (check all that apply): <input checked="" type="checkbox"/> Corporate <input checked="" type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other			
This tax expenditure is a result of state conformity to the Federal Code: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Goal of expenditure (check all that apply):			
<i>Business:</i>		<i>Individual:</i>	
<input type="checkbox"/> Job creation & maintenance		<input checked="" type="checkbox"/> Relief of poverty	
<input checked="" type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners	
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity	
<input checked="" type="checkbox"/> Health/Environment/Social Justice		<input checked="" type="checkbox"/> Health/Environment/Social Justice	
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:	
Measurement and Effectiveness Ratings:			
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>
<i>Strongly agree</i>			
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>			
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Individuals only</i>			
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments (Modified Accelerated Depreciation on Rental Housing)

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Modified Accelerated Depreciation on Rental Housing
TAX EXPENDITURE NUMBER	1.301 & 2.301
TAX EXPENDITURE CATEGORY	Accelerated Deductions from Gross Income
TAX TYPE	Personal Income Tax / Corporate & Business Excise Tax
LEGAL REFERENCE	IRC § 168(b)
YEAR ENACTED	1986
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$6.2 ~ \$7.3 million for corporate and business tax filers, and \$21.8 ~ \$26.4 million for personal income tax filers annually during FY2020 to FY2024.
NUMBER OF TAXPAYERS	500 - 700 for corporate and business tax and about 27,000 - 33,000 for personal income tax.
AVERAGE TAXPAYER BENEFIT	\$8,857 - \$14,600 for corporate and business tax and about \$661 - \$978 for personal income tax for FY20-FY24.

<p>Description of the Tax Expenditure: In general, taxpayers 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 new and used buildings placed in service as rental property.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to increase the amount of available rental housing by encouraging</p>	<p>Are there other states with a similar Tax Expenditure? Most states conform to the current Code deduction allowing depreciation of residential rental property. States that do so include</p>

<p>investment in residential rental property. Conformity with federal depreciation rules also simplifies tax compliance and administration by allowing the same general depreciation rules to be used for Massachusetts and federal purposes.</p>	<p>Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. California requires the use of traditional financial accounting depreciation schedules for all buildings.</p>
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INTRODUCTION

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 require 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 use of straight-line depreciation over a 40-year useful life to recover cost of buildings is considered to conform to traditional financial accounting rules.

The Internal Revenue Code (the "Code") allows landlords and investors to determine their depreciation deduction for new and used rental housing using an accelerated method of depreciation. Rental housing placed in service after 1986 is depreciated on a straight-line basis over a 27.5-year period rather than the 40-year recovery period used under traditional financial accounting rules. Rental housing placed in service before 1986 was depreciable over shorter periods, generally 19 or 20 years, and, instead of straight-line depreciation, the 175% declining balance method was permitted.

Massachusetts generally adopts the business expense deductions allowed under the Code, including the federal deduction for depreciation. As a result, Massachusetts conforms to the use of straight-line depreciation over a 27.5-year accelerated recovery period for residential rental property. This allows for a larger depreciation deduction in the earlier years of the useful life of residential rental property 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. The deferral constitutes a Massachusetts tax expenditure.

POLICY GOALS

The Commission assumes the policy goal of this expenditure is to increase the amount of available rental housing by encouraging investment in new and used rental housing. Conformity with federal depreciation rules also simplifies tax compliance and administration by allowing the same general depreciation rules to be used for Massachusetts and federal purposes.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$28 million to \$33.7 million per year during FY20-FY24. By tax type, the estimates range from \$6.2 million to \$7.3 million for corporate and business tax, and from \$21.8 million to \$26.4 million for personal income tax. See table 1 below. Revenue loss estimates for Massachusetts are based on the most recent tax expenditure report prepared by the Joint Committee on Taxation (the JCT).¹ To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years,² effective tax rates, and size of tax base.

Table 1. Revenue Loss Estimates for Modified Accelerated Depreciation on Rental Housing (\$ Million)

	FY2020	FY2021	FY2022	FY2023	FY2024
Corporate and Business Tax	\$7.3	\$7.3	\$7.1	\$6.4	\$6.2
Personal Income Tax	\$25.7	\$26.4	\$25.0	\$23.4	\$21.8
Total	\$33.0	\$33.7	\$32.1	\$29.8	\$28.0

DIRECT BENEFITS

IRS form 4562 is used to report information on the tax benefits claimed by taxpayers. More specifically, this form captures depreciation deduction on residential rental property. After matching IRS form 4562 data and Massachusetts return data, DOR estimated that about 600 corporate and business return filers and about 30,000 personal income taxpayers benefited from this tax expenditure.³

Tables 2 through 7 below show the percentage of impacted businesses or individuals, the average percentage change in taxable income due to this tax expenditure, and the average change in taxable income per impacted business or individuals by *range of taxable income*, by *range of employees*, and by *industry* for both corporate taxpayers and personal income taxpayers. Impacted personal income taxpayers include both businesses (schedule C filers) and non-businesses (schedule E filers who reported income and loss from rental real estate).

¹ JCT is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. Among other tasks, JCT provides revenue estimates for federal tax expenditures and tax legislation considered by the Congress. See <https://www.jct.gov/about-us/overview/>.

² Note that the federal fiscal year runs from October 1st to September 30th of the following year, while the Massachusetts fiscal year runs from July 1st to June 30th of the following year.

³ Please note that the exact number of taxpayers who are potentially benefiting from this tax expenditure could not be determined due to data limitations.

Corporate and business taxpayers:

Table 2. Impact on Corporate and Business Taxpayers by Taxable Income Range

Taxable Income Range	% of Affected Corporations	Average % Change in Taxable Income	Average Taxable Income Change per Impacted Corporation
Less than \$0	11.6%	-69.6%	-\$192,986
\$0 to \$9,999	17.4%	-37.9%	-\$1,447
\$10,000 to \$99,999	27.5%	-0.5%	-\$265
\$100,000 to \$999,999	20.3%	-0.3%	-\$1,063
\$1,000,000 to \$9,999,999	20.3%	-0.1%	-\$3,735
\$10,000,000 or more	2.9%	-0.0%	-\$137
Total or average	100.0%	-1.1%	-\$23,677

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate and business tax returns and federal form 4562)

Note: Numbers are estimates using available sample data.

Looking at the impact on corporate and business taxpayers by taxable income range, the highest percentage of impacted corporations fall within the range of \$10,000 to \$99,999, at 27.5% (see second column). Corporations with negative taxable incomes average the largest dollar and percentage reduction from the expenditure (see third and fourth column). Corporations in the taxable income range of \$10 million or more average the smallest dollar and percentage reduction from the expenditure (see third and fourth column). On average, the taxable income reduction for all corporations benefitting from the tax expenditure is estimated to be \$23,677, reducing their taxable income by 1.1%.

Table 3. Impact on Corporate and Business Taxpayers by Range of Employees

Range of Employees	% of Affected Corporations	Average % Change in Taxable Income	Average Taxable Income Change per Impacted Corporation
Less than 5	49.3%	-1.9%	-\$14,623
5 to 49	15.9%	-0.1%	-\$652
50 to 99	1.4%	-0.1%	-\$145
100 to 199	1.4%	-1.4%	-\$691
200 to 499	8.7%	-14.1%	-\$186,172
500 or more	23.2%	0.0%	-\$720
Total or average	100.0%	-1.1%	-\$23,677

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate and business returns and federal form 4562)

Note: Numbers are estimates using available sample data.

Looking at the impact on corporate and business taxpayers by range of employees, 49.3% of all impacted corporations have less than 5 employees (see second column). 23.2% of all impacted corporations have 500 or more employees. On average, corporations with 200 - 499 employees have the highest reduction in taxable income, which is estimated to be \$186,172 (see fourth column).

Table 4. Impact on Corporate and Business Taxpayers by Industry:

Industry	% of Affected Corporations	Average % Change in Taxable Income	Average Taxable Income Change per Impacted Corporation
11 Agriculture, Forestry, Fishing and Hunting	1.4%	-0.1%	-\$42
23 Construction	2.9%	-0.4%	-\$45
31-33 Manufacturing	15.9%	0.0%	-\$462
42 Wholesale Trade	8.7%	-0.1%	-\$229
44-45 Retail Trade	2.9%	0.0%	-\$938
48-49 Transportation and Warehousing	2.9%	0.0%	-\$2
52 Finance and Insurance	2.9%	-18.0%	-\$558,183
53 Real Estate and Rental and Leasing	26.1%	-4.6%	-\$27,296
54 Professional, Scientific, and Technical Services	14.5%	0.0%	-\$166
55 Management of Companies and Enterprises	8.7%	-0.1%	-\$1,609
61 Educational Services	1.4%	2.2%	-\$21
62 Health Care and Social Assistance	4.3%	0.0%	-\$1,382
71 Arts, Entertainment, and Recreation	2.9%	0.0%	-\$83
72 Accommodation and Food Services	2.9%	0.2%	-\$930
81 Other Services (except Public Administration)	1.4%	-0.2%	-\$40
Total or average	100.0%	-1.1%	-\$23,677

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate and business returns and federal form 4562)

Note: Numbers are estimates using available sample data.

Looking at the impact on corporate and business taxpayers by industry, the average taxable income reduction per corporation varied from \$2 for “Transportation and Warehousing” to \$558,183 for “Finance and Insurance” (see fourth column). Impacted corporations are concentrated mostly in the following industries: “Real Estate and Rental and Leasing”, “Manufacturing”, and “Professional, Scientific, and Technical Services”.

Personal Income Taxpayers:

Table 5. Impact on Personal Income Taxpayers by Taxable Income Range:

Taxable Income Range	% of Affected Businesses or Individuals	Average % Change in Taxable Income	Average Taxable Income Change per Impacted Business or Individuals
\$0 to \$9,999	20.1%	-71.1%	-\$5,659
\$10,000 to \$99,999	40.3%	-6.3%	-\$3,251
\$100,000 to \$999,999	36.7%	-1.4%	-\$4,124
\$1,000,000 to \$9,999,999	2.7%	-0.4%	-\$9,886
\$10,000,000 or more	0.2%	-0.1%	-\$21,611
Total or average	100.0%	-1.8%	-\$4,276

Source: Massachusetts Department of Revenue (tax year 2018 data on state personal income tax returns and federal form 4562)

Note: Numbers are estimates using available sample data.

Looking at the impact on personal income taxpayers by taxable income range, the highest percentage of impacted businesses or individuals fall within the range of \$10,000 to \$99,999, at 40.3% (see second column). On average, businesses or individuals in the

taxable income range of \$10,000,000 or more average the largest dollar benefit from the expenditure (taxable income reduction of \$21,611, see fourth column). On average, businesses or individuals in the taxable income range of \$0 to \$9,999 average the largest percentage reduction in taxable income from the expenditure (71.1%, see third column). The average taxable income reduction for all impacted businesses or individuals due to the tax expenditure is estimated to be \$4,276. On average, the impacted businesses or individuals reduced their taxable income by 1.8% due to the tax expenditure.

Table 6. Impact on Personal Income Taxpayers by *Range of Employees*:

Range of Employees	% of Affected Businesses or Individuals	Average % Change in Taxable Income	Average Taxable Income Change per Impacted Business or Individuals
Less than 5	30.9%	-1.3%	-\$3,659
Not reported as business*	69.1%	-2.2%	-\$4,553
Total	100.0%	-1.8%	-\$4,276

Source: Massachusetts Department of Revenue (tax year 2018 data on state personal income tax returns and federal form 4562)

Note: Numbers are estimates using available sample data.

* Schedule E filers

Looking at the impact on personal income taxpayers by number of employees, 30.9% of total impacted filers report as a business (schedule C filers) and have less than 5 employees. On the other hand, 69.1% of total impacted filers did not report as a business therefore do not have a range of employees (schedule E filers). The average reduction in taxable income is \$3,659 for schedule C filers and \$4,553 for schedule E filers.

Table 7. Impact on Personal Income Taxpayers by *Industry*:

Industry	% of Affected Businesses or Individuals	Average % Change in Taxable Income	Average Taxable Income Change per Impacted Business or Individuals
11 Agriculture, Forestry, Fishing and Hunting	0.1%	-0.6%	-\$788
21 Mining, Quarrying, and Oil and Gas Extract	**	**	**
22 Utilities	**	**	**
23 Construction	1.7%	-1.9%	-\$2,691
31-33 Manufacturing	0.2%	-2.4%	-\$5,488
42 Wholesale Trade	0.3%	-1.5%	-\$4,507
44-45 Retail Trade	1.5%	-1.0%	-\$2,187
48-49 Transportation and Warehousing	1.0%	-4.8%	-\$3,652
51 Information	0.5%	-2.0%	-\$3,455
52 Finance and Insurance	0.8%	-2.8%	-\$7,426
53 Real Estate and Rental and Leasing	3.6%	-1.5%	-\$4,179
54 Professional, Scientific, and Technical Services	8.9%	-1.0%	-\$3,951
56 Administrative and Support and Waste Management	1.1%	-1.4%	-\$2,653

61 Educational Services	1.3%	-2.4%	-\$3,527
62 Health Care and Social Assistance	3.3%	-1.0%	-\$3,415
71 Arts, Entertainment, and Recreation	2.5%	-1.9%	-\$3,189
72 Accommodation and Food Services	0.7%	-0.4%	-\$2,812
81 Other Services (except Public Administration)	2.0%	-1.6%	-\$3,321
Not reported as business*	69.8%	-2.2%	-\$4,533
Others	0.6%	-2.5%	-\$5,658
Total or average	100.0%	-1.8%	-\$4,276

Source: Massachusetts Department of Revenue (tax year 2018 data on state personal income tax returns and federal form 4562)

Notes: 1) Numbers are estimates using available sample data; 2) *: schedule E filers; 3) **: Counts of less than 3.

Looking at the impact on personal income taxpayers by industry, the taxable income reduction per impacted business or individual varied from \$788 for “Agriculture, Forestry, Fishing and Hunting” to \$7,426 for “Finance and Insurance” (see fourth column). Impacted businesses or individuals are concentrated in the following industries: “Professional, Scientific, and Technical Services” followed by “Real Estate and Rental and Leasing”, and “Health Care and Social Assistance”.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this tax expenditure) are equal to the direct benefits (to businesses or individuals that used modified accelerated depreciation on rental housing) of this tax expenditure. The direct cost is the corporate and business tax and personal income tax that would have been collected. The direct benefits afforded by the tax expenditure is the reduction of corporate and business tax and personal income tax the affected taxpayers have to pay to the Commonwealth.

There are also indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees in the form of lower or higher income, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.⁴

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact

⁴ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states conform to the current Code deduction allowing depreciation of buildings used for rental housing. States that do so include Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. California requires the use of traditional financial accounting depreciation schedules for all buildings.

References

JOINT COMMITTEE ON TAXATION . (2020). *ESTIMATES OF FEDERAL TAX EXPENDITURES FOR FISCAL YEARS 2020-2024*. JOINT COMMITTEE ON TAXATION, Congress of United States . Washington D.C.: JOINT COMMITTEE ON TAXATION . Retrieved from <https://www.jct.gov/publications/2020/jcx-23-20/>

Template for Evaluating Expenditures

Name of Expenditure: 1.604 & 2.606 Credit for Employing Former Full-Employment Program Participants	Annual cost: \$0	Year of adoption: 1995	Sunset date: 2021 (effectively)	
Tax Type (check all that apply): <input checked="" type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input checked="" type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments (1.604 & 2.606 Credit for Employing Former Full-Employment Program Participants)

The credit was required to be authorized by the Department of Transitional Assistance (DTA). However, the DTA implemented a new incentive program, Pathways to Work.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Credit for Employing Former Full-Employment Program Participants
TAX EXPENDITURE NUMBER	1.604 & 2.606
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax / Corporate & Business Excise Tax
LEGAL REFERENCE	St. 1995, c. 5, § 110(m)
YEAR ENACTED	1995
REPEAL/EXPIRATION DATE	The Department of Transitional Assistance stopped authorizing the credit around 2016
ANNUAL REVENUE IMPACT	Not applicable
NUMBER OF TAXPAYERS	Not applicable
AVERAGE TAXPAYER BENEFIT	Not applicable

<p>Description of the Tax Expenditure: This tax expenditure relates to a credit that is no longer active. The credit was required to be authorized by the Department of Transitional Assistance (DTA). However, the DTA is no longer authorizing this credit. When in effect, the credit provided employers an incentive to retain certain employees who had been hired under DTA's full employment program after program subsidies had run out.</p>	<p>Is the purpose defined in the statute? The statute states that the full employment program, of which the expenditure is a part, was adopted "for the purposes of promoting the principles of family unity, individual responsibility and self-reliance and to structure financial and economic incentives and disincentives that promote such principles in the administration of said program."</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure was to promote the retention of disadvantaged employees who had previously participated in DTA's full employment program.</p>	<p>Are there other states with a similar Tax Expenditure? Rhode Island allows a similar credit equal to \$250 per employee and requires that the employee work for the employer for 24 consecutive months.</p>

INTRODUCTION

This tax expenditure is no longer in effect. It previously provided a tax credit for employers who continued to employ former participants in the full employment program adopted by the Department of Transitional Assistance (DTA). The program subsidized the salaries of certain disadvantaged individuals. The credit was equal to \$100 per month for each month of non-subsidized employment, up to a maximum of \$1,200 per employee, per year, for each employee retained after DTA subsidies ceased. The credit was required to be authorized by the DTA. The credit was neither transferable nor refundable. The reduction of revenue resulting from the credit constituted a state tax expenditure.

The full employment program was created by St. 1995, c. 5, § 110(m) but was never codified into the General Laws. The law authorizing the program was never repealed, but the DTA stopped authorizing the credit in 2016. It is not clear why DTA stopped authorizing the credit. However, the DTA implemented a new incentive program, Pathways to Work, at approximately the same time as the DTA stopped funding the credit. It is possible that the DTA decided to reallocate resources to the new program.

Note that although the DTA stopped authorizing the credit in 2016, the credit continued to affect state finances until 2021. This was because unused credit could be carried forward for five years. As a result of these circumstances, this tax expenditure is not active for 2022 or later years.

POLICY GOALS

The Commission assumes the policy goal of this expenditure was to support and facilitate the continued employment of disadvantaged individuals who had previously been employed through the full employment program by providing a credit for employers who continued employing these individuals after the cessation of state subsidies.

DIRECT COSTS

Given that the tax credit is not active, the direct costs have been zero.

DIRECT BENEFITS

Given that the tax credit is not active, no actual benefits have accumulated.

EVALUATION: COMPARING COSTS AND BENEFITS

Both costs and benefits for this tax expenditure are currently zero.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Rhode Island allows a similar credit equal to \$250 per employee and requires that the employee work for the employer for 24 consecutive months. None of the other New England states appear to have tax expenditures for the continued employment of individuals transitioning from a state employment program. Neither does California or New York.

Template for Evaluating Expenditures

Name of Expenditure: 3.603 Exemption for Certain Meals	Annual cost: \$93.7M-\$128M	Year of adoption: 1977	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input checked="" type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input checked="" type="checkbox"/> Health/Environment/Social Justice		<input checked="" type="checkbox"/> Health/Environment/Social Justice		
<input checked="" type="checkbox"/> Other: Reduce the cost of meals provided by eligible institutions		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments (3.603 Exemption for Certain Meals)

The Commission's understanding is that airline meals are included in this tax expenditure in part as a constitutional consideration. The scope of the states' authority to tax transactions in interstate commerce was not clear at the time the tax expenditure was adopted.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Certain Meals
TAX EXPENDITURE NUMBER	3.603
TAX EXPENDITURE CATEGORY	Miscellaneous Exemptions
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(cc)
YEAR ENACTED	1977 (Acts, 1977, c. 363A, § 47)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$93.7 to \$128.0 million annually for FY20 to FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available

<p>Description of the Tax Expenditure: A sales and use tax exemption is allowed for meals provided by (i) religious institutions, (ii) hospitals, (iii) facilities for senior citizens or individuals with disabilities, (iv) educational institutions that provide meals to students, and (v) other meal providers enumerated in M.G.L. c. 64H, § 6(cc) except summer camps, which are covered in TE 3.605.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the tax expenditure is to prevent the sales and use tax from increasing the cost of meals provided by eligible institutions and reducing the cost of sales and use tax compliance for such institutions.</p>	<p>Are there other states with a similar Tax Expenditure? Most states that tax meals allow an exemption for meals provided by religious institutions, hospitals, and residential facilities for senior citizens and individuals with disabilities. These states include California, Connecticut, Maine, New Hampshire, and Vermont. New York and Rhode Island do not appear to have such an exemption. Similarly, most states, including California, Connecticut, Maine, New Hampshire,</p>

	New York, Rhode Island, and Vermont, allow an exemption for meals provided by educational institutions to their students.
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INTRODUCTION

The tax expenditure provides an exemption from the sales and use tax for meals provided by (i) religious institutions, (ii) hospitals, (iii) facilities for senior citizens or individuals with disabilities, (iv) educational institutions that provide meals to students, and (v) other meal providers enumerated in M.G.L. c. 64H, § 6(cc) except summer camps, which are covered in TE 3.605.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including meals) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for meals described above.

Absent the exemption afforded by this tax expenditure, charges for meals provided by religious institutions, hospitals, facilities serving senior citizens or individuals with disabilities, educational institutions, and other meal providers enumerated in M.G.L. c. 64H, § 6(cc) except summer camps would be subject to sales and use tax. Further, where meals are included in other fees, sales and use tax could apply even if no specific charge is made for the meal. In such cases, part of the fee could be attributed to the meals, subjecting the meals to tax. The exemption prevents these results. In addition, the exemption relieves institutions eligible for the exemption of the administrative burden of collecting and reporting sales and use tax. The revenue foregone as a result of the exemption constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the goal of the tax expenditure is to prevent the sales and use tax from increasing the cost of meals provided by eligible institutions and reducing the cost of sales and use tax compliance for such institutions.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$93.7 - \$128.0 million per year during FY20-FY24.¹ See the table below. The estimate of \$128.0 million

¹ DOR does not have in-house data to measure sales of the exempt meals. The estimates reported in the table are based on external data DOR gathered from various sources for the many types of providers of exempt meals. Due to the use of external data and the limitations of the data for estimating this tax expenditure, the estimates reported in the table may have significant estimation uncertainty and should be used with caution.

for FY2022, much higher than in other years, reflects the impact of the COVID-19 reimbursement funds from the federal government for the K-12 school meals component of the tax expenditure.

**Tax Revenue Loss Estimates for Sales Tax Exemption
for Certain Meals**

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$98.9	\$93.7	\$128.0	\$118.3	\$124.1

The revenue loss estimates reported in the table above reflect only the state sales tax. Massachusetts also has a 0.75% local option tax on meals.² Based on DOR data, 248 out of 352 cities and towns in Massachusetts have adopted the local option meals tax. The annual revenue loss for municipalities due to this sales tax exemption is estimated to be \$7.9 - \$10.8 million per year during FY20-FY24.

DIRECT BENEFITS

The direct beneficiaries of this exemption include both the entities providing meals, and their clients. The exact split of the direct benefits between these entities and their clients is difficult to quantify. The direct beneficiaries include:

1. K-12 educational institutions and students enrolled in these institutions: Based on the data provided by the Massachusetts Department of Education, \$585.8 million was spent on the school lunch program in FY2022, with \$8.6 million from state funds and \$577.2 million from federal funds. In FY2022, 976,794 students across 440 schools in Massachusetts benefited from the National School Lunch Program (NSLP: <https://www.fns.usda.gov/nslp>). Schools, and their students, that do not participate in the "national school lunch program" could also benefit from this sales tax exemption, but data on the number of non-participant schools are not available.
2. Colleges and universities and students enrolled in these institutions: According to the [Massachusetts Colleges Statistics \(univstats.com\)](http://univstats.com), for the academic year 2021-2022, 175 colleges and universities– (44 public and 131 private) are active in Massachusetts. 97 are four-year or more, 26 are two- to four-year schools, and 52 are less than two-years. For the academic year 2021-2022, there were 476,999 students enrolled in Massachusetts colleges and universities, but it is difficult to ascertain how many of their students benefitted from this sales tax exemption. The average cost of a college meal plan was \$6,754 for private colleges and \$5,302 for

² https://dls.gateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=LocalOptions.Local_Options_Tax

public colleges in Massachusetts for the academic year 2019-2020 (educationdata.org).

3. Hospitals and their patients: American Hospital Directory (www.ahd.com) reports 3.59 million patient days for 72 Massachusetts hospitals vs. 153.8 million patient days for 3,944 hospitals nationwide in 2022. According to a report published by MarketsandMarkets™, the U.S. healthcare food services market is projected to reach \$22.8 billion by 2026 from \$13.2 billion in 2021, at a compound annual growth rate (CAGR) of 11.5% (www.prnewswire.com).
4. Nursing homes and their residents: The market size of the U.S. nursing home industry will be \$146.9 billion in 2022, compared with \$140.6 billion in 2021 and \$134.95 billion in 2020 (zippia.com). There are 34,363 residents currently living in 371 nursing homes in Massachusetts (zippia.com and <https://health.usnews.com/>).
5. Assisted living facilities and their residents: The U.S. assisted living facility market size was valued at \$87.4 billion in 2021 and is expected to expand at a compound annual growth rate (CAGR) of 5.48% from 2022 to 2030 (grandviewresearch.com). More than 810,000 people resided in assisted living facilities nationwide in 2021 (consumeraffairs.com). Massachusetts's population is about 2.1% of the national population. Sharing down national estimates there are 373 assisted living facilities (seniorhomes.com) in Massachusetts with a total residency of approximately 17,180.
6. Public housing and their residents: According to the Massachusetts Executive Office of Elder Affairs, the State Nutrition Program consists of 27 programs that serve 9.1 million meals to seniors each year. More than 400 congregate meal sites serve meals. Meals are also delivered to elders in their homes. Some of them may live in public housing. The data on the actual number of residents living in the public housing taking benefit from this sales tax exemption is not known.
7. Religious institutions: According to the County Business Patterns (CBP) survey from the U.S. Census Bureau, there were 2,898 establishments in the industry of “religious organizations” (NAICS 813110) in 2020. It is possible that not all establishments in this industry provide exempt meals, and therefore 2,898 may overstate the number of religious institutions that benefit from this exemption directly.
8. Airlines and their passengers: There are nine commercial service airports in Massachusetts, including Boston Logan Airport according to the Massachusetts Statewide Economic Impact Study in 2019.³ Data on all passengers, both domestic and international flights, in and out of all commercial service airports is hard to find; however, there were 266,034 total airport flight operations with 22.7 million

³ <https://www.univstats.com/states/massachusetts/impact-study-2019/download>

passengers from Boston Logan airport alone, both incoming and outgoing. ([Airport Statistics for Boston Logan International Airport \(massport.com\)](#)).

9. Massachusetts national guard and its members: The Massachusetts National Guard consists of both the Army National Guard and the Air National Guard, with full and part-time soldiers and airmen. According to National Guard Association of Massachusetts, there are more than 8,000 members of the Massachusetts Army and Air National Guard.⁴
10. Facilities serving the persons with disabilities: Stateofthestates (thestateofthestates.org) reported that there were 16,711 people with intellectual and developmental disabilities living in Massachusetts in 2019. 3,645 of them lived in nursing and supported living facilities. The rest lived in state institutions or other residential.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exemption) are equal to the direct benefits of this tax expenditure. The direct cost is the sales tax that would have been collected from exempt sales of meals. The direct benefits afforded by the tax expenditure is the sales tax the affected individuals would have paid to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then, in turn, reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the "Multiplier Effect."⁵

⁴ <https://www.ngama.org/legislation/>

⁵ For an illustration of "Multiplier Effect", see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models, given their complexity and the data limitations present in this instance.

The goal of the tax expenditure is assumed to be preventing the sales and use tax from increasing the cost of meals provided by eligible institutions and reducing the cost of sales and use tax compliance for such institutions. Food is considered a basic human right, and this tax expenditure may promote social welfare by reducing poverty among the sick, elderly, disabled, and other needy individuals.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that tax meals allow an exemption for meals provided by religious institutions, hospitals, and residential facilities for senior citizens and individuals with disabilities. These states include California, Connecticut, Maine, New Hampshire, and Vermont. New York and Rhode Island do not appear to have such an exemption. Similarly, most states, including California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont, allow an exemption for meals provided by educational institutions to their students.

Template for Evaluating Expenditures

Name of Expenditure: 3.605 Exemption for Certain Summer Camps from Sales Tax on Meals	Annual cost: \$0.7M	Year of adoption: 1987	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input checked="" type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	
<i>Strongly agree</i>				
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (3.605 Exemption for Certain Summer Camps from Sales Tax on Meals)

The Commission relied on national data to evaluate this tax expenditure. These estimates most likely understate the number of camps that benefit from this tax expenditure as some local camps may not be included. Due to the use of external data and the limitations of the data, the estimates for this tax expenditure may have significant uncertainty and should be used with caution.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Certain Summer Camps from Sales Tax on Meals
TAX EXPENDITURE NUMBER	3.605
TAX EXPENDITURE CATEGORY	Miscellaneous Exemptions
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(cc)
YEAR ENACTED	1987 (Acts 1987 c. 581 § 2)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Average tax loss of \$0.7 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: A sales and use tax exemption is allowed for meals provided by summer camps for children aged 18 and under, or by summer camps for developmentally disabled individuals.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the tax expenditure is to reduce the cost of meals provided by summer camps serving youths and disabled persons and to reduce the burden of collecting and reporting sales and use tax for such summer camps.</p>	<p>Are there other states with a similar Tax Expenditure? A number of states, including California, Connecticut, Maine, and Rhode Island adopt specific exemptions for meals provided by summer camps.</p>

INTRODUCTION

The tax expenditure provides a sales and use tax exemption for meals provided by summer camps for children aged 18 and under, and for summer camps for developmentally disabled individuals. The exemption is allowed regardless of whether the meals are provided to campers or other individuals (e.g., counselors, administrators, visiting parents, etc.). A camp may offer its facilities in the off-season to individuals 60 years of age or over for 30 days or less in any calendar year without losing its status as a summer camp for purposes of the exemption. Meals provided by summer camps to individuals sixty years of age or older during the off-season as described above are also exempt from tax.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including meals) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for transfers of meals provided by summer camps.

Absent the exemption afforded by this tax expenditure, specific charges for meals provided by summer camps would be subject to sales and use tax. Further, where meals are included in camp fees, sales and use tax could apply even if no specific charge is made for the meal. In such cases, part of the fee could be attributed to the meals, subjecting the meals to tax. The exemption prevents these results. In addition, the exemption relieves summer camps of the administrative burden of collecting and reporting sales and use tax. The revenue foregone as result of the exemption constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the goal of the tax expenditure is to reduce the cost of meals provided by summer camps serving youths and disabled persons and to reduce the burden of collecting and reporting sales and use tax for such summer camps.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$0.68 million to \$0.71 million per year during FY20-FY24. DOR does not have in-house data to measure sales of the exempt meals. The estimates reported in the table are based mostly on Statista's data on market size of the summer camp sector in the United States and camp count data by camp type and by state, as well as camp financial data from the American Camp Association. Due to the use of external data and the limitations of the data for

estimating this tax expenditure, the estimates reported in the table may have significant estimation uncertainty and should be used with caution. See the table below.

**Revenue Loss Estimates for Sales Tax Exemption
for Certain Meals Provided by Summer Camps**

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$0.69	\$0.68	\$0.69	\$0.70	\$0.71

DIRECT BENEFITS

The Massachusetts businesses that provide exempt meals (summer camps) and their customers (campers and other consumers of camp meals) are the direct beneficiaries of this sales tax exemption. Customers benefit from the sales tax exemption in the form of paying a lower “after-tax” price for meals, while camps benefit from the sales tax exemption in the form of receiving a higher “before-tax” price for meals. The exact split of the direct benefits depends on the interaction of demand and supply and is often difficult to quantify.

During the summer season, the sales tax exemption provides benefits to the parents or guardians of children aged 18 and under and developmentally disabled individuals. During the off-season the sales tax expenditure provides benefits to individuals aged 60 or over. According to the American Camp Association, annually there were about 10 million to 26 million campers nationwide in recent years. After adjusting for the adult campers and Massachusetts’ population size relative to the national population, DOR estimated that about 215 thousand to 550 thousand Massachusetts campers benefit from this tax expenditure annually. Please note that out-of-state campers from the targeted population could also benefit from this sales tax exemption but are not included in the previous estimated counts.

Massachusetts summer camps also benefit from this sales tax exemption. The exemption relieves summer camps of the administrative burden of collecting and reporting sales and use tax. The American Camp Association’s¹ online database indicates there are 427 summer camps in Massachusetts, of which 150 are day camps, 79 are overnight camps, and 198 are both day and overnight camps. However, some camps may choose not to list their camps on the American Camp Association’s website. These numbers may undercount the summer camps in Massachusetts.

¹ www.acacamps.org

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this exemption) are equal to the direct benefits of this tax expenditure. The direct cost is the sales tax that would have been collected from exempt sales of meals. The direct benefits afforded by the tax expenditure is the sales tax the campers would have paid to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”².

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models, given their complexity and the data limitations present in this instance.

Besides the economic costs and benefits discussed so far, one may also want to consider the factor of positive externality when evaluating this tax expenditure. A positive externality occurs when the production and/or consumption of a good or service exerts a positive effect on a third party independent of the transaction. For example, the usage of summer camps by children and developmentally disabled individuals will promote the physical and mental health of the users of such summer camps, which will indirectly benefit people around them and the society as a whole.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

A number of states, including California, Connecticut, Maine, and Rhode Island adopt specific exemptions for meals provided by summer camps.

² For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Template for Evaluating Expenditures

Name of Expenditure: 1.412 Nontaxation of charitable Purpose Income of Trustees and Estates	Annual cost: ~\$14.2M - \$15.4M	Year of adoption: 1973	Sunset date: None
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input checked="" type="checkbox"/> Other: Trust and Estate			
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Goal of expenditure (check all that apply):			
<i>Business:</i>		<i>Individual:</i>	
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty	
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners	
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity	
<input type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice	
<input type="checkbox"/> Other:		<input checked="" type="checkbox"/> Other: Encourage charitable giving	
Measurement and Effectiveness Ratings:			
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>
<i>Strongly agree</i>			
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers *no data really	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>			
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>			
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments (1.412 Nontaxation of charitable Purpose Income of Trustees and Estates)

While this tax expenditure is not a result of conformity to the Code, there is an analogous federal deduction. Absent this tax expenditure, Massachusetts would be out of sync with the Code as well as other states.

There are really no data for the amounts, but estimates made loosely on Federal charitable giving for individuals.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Nontaxation of Charitable Purpose Income of Trustees and Estates
TAX EXPENDITURE NUMBER	1.412
TAX EXPENDITURE CATEGORY	Deductions from Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 3A(a)(2), 3B(a)(2), and 3C(a)(2)
YEAR ENACTED	1973
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$14.2 - \$15.4 million per year during FY20 to FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available

<p>Description of the Tax Expenditure: Trusts and estates subject to the personal income tax can deduct trust or estate income that is currently payable to or irrevocably set aside for charitable purposes.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the expenditure is intended to encourage charitable giving.</p>	<p>Are there other states with a similar Tax Expenditure? A number of states allow a deduction for trust and estate income that has been paid to, or permanently set aside for, charitable organizations. These states include California, Connecticut, Maine, New York, Rhode Island, and Vermont.</p>

INTRODUCTION

The income of trusts and estates is subject to the personal income tax. When a trust receives income, it is required to report and pay tax on the income at the trust level, unless it is a simple trust. A simple trust is a trust where all of the trust income is required to be distributed to beneficiaries as it is earned. In the case of a simple trust, the beneficiaries report and pay taxes on distributions on their own accounts. Estates are required to report and pay tax on all of their income. In determining taxable income, trusts and estates are allowed a deduction for income they receive that is payable to or irrevocably set aside for a charitable purpose, as per the terms of the trust or will. The deduction is allowed for amounts payable to or set aside for 501(c)(3) organizations. In addition, the deduction is allowed to a so-called “charitable trust” that receives income and spends it or sets it aside for “the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes or other purposes which are beneficial to the community.”¹ Charitable trusts may be required to register with the Massachusetts Secretary of State. Note that this deduction operates independently of the deductions for charitable contributions by individuals and corporations to 501(c)(3) organizations. Unlike the deduction for charitable contributions by individuals, the deduction for trusts and estates has never been suspended and has been in effect continuously since 1973. Note that the federal rules pertaining to the income taxation of trusts provide a similar deduction. Massachusetts disallows the federal deduction and adopts its own deduction as described above.

Absent the deduction afforded by this tax expenditure, the income of trusts and estates would not be reduced by amounts devoted to charitable purposes. The personal income tax revenue reduction that results from the deduction is a Massachusetts tax expenditure.

POLICY GOALS

The Commission assumes that the expenditure is intended to encourage charitable giving.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$14.2 - \$15.4 million per year during FY20-FY24. See the table below.

Tax Revenue Loss Estimates for Nontaxation of Charitable Purpose Income of Trustees, Executors or Administrators

Fiscal Year	2020	2021	2022	2023	2024
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¹ M.G.L. c. 203E, § 405.

Estimated Revenue Loss (\$Million)	\$14.2	\$14.7	\$15.4	\$14.6	\$15.3
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The estimated annual revenue loss in the above table is the average of estimates based on the Joint Committee of Taxation (JCT) expenditure estimates on individual charitable contribution deductions, which is shared down to Massachusetts by adjusting for the difference in fiscal year² and income tax rate between the U.S. and Massachusetts, and by removing the estimated portion of revenue loss due to charitable contributions made by individuals. The IRS publishes fiduciary income tax return data by state on their website³ but the most recent year for which such data is available is 2014. Due to lack of data, the estimates reported in the table do not include the deduction allowed to charitable trusts for their income spent or set aside for the specific charitable purpose as described in the introduction. Estimates reported in the table should be used with extreme caution.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure include the trusts and estates and their beneficiaries, as well as charitable organizations that receive donations from these trusts and estates. Trusts and estates file with the IRS and with the Massachusetts Department of Revenue, where they report their income, deductions, and tax liability. For tax year 2014, 92,557 Massachusetts trusts and estates filed according to IRS data. 86,837 Massachusetts trusts and estates filed according to Massachusetts data. It is unknown how many of them took the charitable contribution deduction.⁴

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this deduction) and direct benefits of this tax expenditure. Since the direct costs to the Commonwealth are the direct benefits to taxpayers, they are equal.

Furthermore, there may be indirect and induced costs and benefits associated with this exclusion. To measure indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

² Note that the federal fiscal year runs from October 1st to September 30th of the following year, while the Massachusetts fiscal year runs from July 1st to June 30th of the following year.

³ <https://www.irs.gov/statistics/soi-tax-stats-fiduciary-income-and-deductions-by-state-and-entity-type>

⁴ The Massachusetts Form 2 does not require separate reporting of the charitable deduction from other deductions such as the nonresident deduction or the income distribution deduction.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

A number of states allow a deduction for trust and estate income that has been paid to, or permanently set aside for, charitable organizations. These states include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.415 & 2.201 Charitable Contributions and Gifts	Annual cost: \$47.1 M - \$71.4M (c&b only). Est of \$64M for personal income tax in FY23	Year of adoption: Corp. – 1903 and revised 1963. Ind. – 2000; in effect in 2021 then 2023 onward.	Sunset date: None	
Tax Type (check all that apply): <input checked="" type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>	<i>Individual:</i>			
<input type="checkbox"/> Job creation & maintenance	<input type="checkbox"/> Relief of poverty			
<input type="checkbox"/> Investment	<input type="checkbox"/> Progressivity/assistance to low earners			
<input type="checkbox"/> Competitiveness/Strategic	<input type="checkbox"/> Access to opportunity			
<input type="checkbox"/> Health/Environment/Social Justice	<input type="checkbox"/> Health/Environment/Social Justice			
<input checked="" type="checkbox"/> Other: Encourage charitable giving	<input type="checkbox"/> Other: Encourage charitable giving			
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers *no data	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (1.415 & 2.201 Charitable Contributions and Gifts)

Because the reinstatement of the personal income tax charitable deduction will take effect 1/1/23, this report will only cover the corporate and business charitable deduction.

This is an expenditure that is in conformity with Federal rules.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Charitable Contributions and Gifts
TAX EXPENDITURE NUMBER	1.415 & 2.201
TAX EXPENDITURE CATEGORY	Deductions from Gross Income
TAX TYPE	Personal Income Tax / Corporate & Business Excise Tax
LEGAL REFERENCE	M.G.L. c. 62, § 3(B)(a)(13); M.G.L. c. 63, § 30.4; IRC § 170
YEAR ENACTED	M.G.L. c. 62, §3(B)(a)(13) was enacted in 2000, was in effect for 2001 tax years and then suspended until 2023 tax years. M.G.L. c. 63, § 30.4 was enacted in 1903 and revised into the precursor of its current version in 1963. IRC § 170 was enacted in 1954, but the charitable deduction was allowed under predecessor statutes since 1917.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$47.1 - \$71.4 million per year during FY20 to FY24.
NUMBER OF TAXPAYERS	About 27,800 in 2018
AVERAGE TAXPAYER BENEFIT	Approximately \$1,700 per taxpayer for FY20

<p>Description of the Tax Expenditure: Corporations are permitted to deduct charitable contributions for purposes of determining the net income measure of the corporate excise. Beginning with 2023 tax years, individuals will be permitted to deduct contributions to § 501(c)(3) organizations for personal income tax purposes.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure?</p>	<p>Are there other states with a similar Tax Expenditure?</p>

<p>The Commission assumes that the expenditure is intended to encourage charitable giving.</p>	<p>Most states with an income tax allow a deduction for charitable contributions. States that do so for individual income tax purposes include California, Connecticut, Maine, New York, and Rhode Island. Vermont offers a credit for up to \$400 of charitable contributions. States that allow a charitable for corporate income tax purposes include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.</p>
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INTRODUCTION

The tax expenditure allows corporations (and will allow individuals) to deduct charitable contributions in determining taxable income. The deduction for individuals and the deduction for corporations are based on separate provisions of Massachusetts law, but both deductions derive from Internal Revenue Code (“Code”) § 170. Code § 170 allows both individuals and corporations a federal deduction for charitable contributions to § 501(c)(3) organizations.

The Massachusetts *personal income tax deduction* for charitable contributions was adopted by ballot proposition in 2000. It was in effect for the 2001 tax year. The Massachusetts Legislature then suspended the deduction multiple times in a series of laws passed between 2001 and 2021. Under current law, the deduction will be available again for 2023 tax years. When in effect, the Massachusetts deduction is equal to the federal deduction, except that no deduction is allowed for contributions of household goods or used clothing. Massachusetts adopts all federal requirements and limits pertaining to the deduction except that Massachusetts does not require taxpayers to itemize in order to claim the credit. The most important limit on the federal, and therefore, the Massachusetts deduction, is that the amount of the deduction generally cannot exceed 60% of the taxpayer’s adjusted gross income for cash gifts or 30% of adjusted gross income for non-cash contributions.

The Massachusetts *corporate excise deduction* for charitable contributions results from the general allowance of federal deductions in the determination of net income. Thus, Massachusetts allows the deduction in the same amount as the federal deduction. All federal requirements and limits pertaining to the deduction apply for Massachusetts purposes. The most important of these limits is that the deduction cannot exceed 10% of a corporation’s taxable income. The federal limit was temporarily increased to 25% for certain corporate contributions made in 2020 and 2021. Massachusetts followed those temporary increases.

The personal income tax and corporate excise revenue lost as a result of the deduction for charitable contributions is a Massachusetts tax expenditure. Because the reinstatement of the personal income tax charitable deduction will take effect 1/1/23, this report will only cover the corporate and business charitable deduction.

POLICY GOALS

The Commission assumes that the expenditure is intended to encourage charitable giving.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$47.1 - \$71.4 million per year during FY20-FY24. See Table 1 below.

Table 1. Estimates of Revenue Loss due to Charitable Contributions and Gifts

Fiscal Year	2020	2021	2022	2023	2024
Tax Revenue Loss (\$ Million)	47.1	55.4	66.1	69.8	71.4

As noted above, the tax revenue loss estimates in Table 1 reflect only the corporate and business tax impact. Note that the FY23 state budget assumed a tax revenue loss of \$64 million for the personal income tax deduction for charitable contributions; the FY24 budget is expected to assume a \$300 million tax revenue loss.

DIRECT BENEFITS

The direct beneficiaries of the tax expenditures include § 501(c)(3) organizations and the donors who contribute to them. The donors receive a tax subsidy in the form of a deduction, and the organizations are subsidized by being tax-exempt (Margalioth, 2017). In addition, the communities that benefit from the charitable organizations are indirect beneficiaries.¹

Using 2018 corporate and business return data from Massachusetts and federal returns, DOR was able to estimate that about 27,800 corporate and business return filers benefited from this tax expenditure in that year. While many other taxpayers claimed the deduction, they did not necessarily benefit from the tax incentive after apportioning their federal claimed amounts to Massachusetts.

Tables 2 through 4 below show the percentage of impacted corporate and business taxpayers by *range of taxable income*, by *range of employees*, and by *industry*.

Corporate and business taxpayers:

Table 2. Impact on Corporate and Business Taxpayers by Taxable Income Range

Taxable Income Range (after deduction)	% of Affected Taxpayers
< \$10,000	46.4%
\$10,000 to \$99,999	21.1%
\$100,000 to \$999,999	21.1%
\$1,000,000 to \$9,999,99	9.7%
\$10,000,000 or more	1.7%
Total or average	100.0%

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate excise returns)
 Note: Numbers are estimated using available sample data. The data are preliminary and subject to change.

¹ See <https://www.irs.gov/pub/irs-pdf/fl120.pdf>

According to Table 2, corporate and business taxpayers with taxable income less than \$10,000 have the highest percentage of affected taxpayers at 46.4%. 1.7% of affected corporate and business taxpayers have \$10 million or more taxable income.

Table 3. Impact on Corporate and Business Taxpayers by Range of Employees

Range of Employees	% of Affected Taxpayers
Less than 5	59.8%
5 to 49	17.9%
50 to 99	6.1%
100 to 199	5.1%
200 to 499	4.6%
500 or more	6.6%
Total or average	100.0%

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate excise returns)
 Note: Numbers are estimated using available sample data. The data are preliminary and subject to change.

Looking at Table 3, about 59.8% of all impacted corporate and business taxpayers have less than 5 employees. 6.6% of all impacted corporate and business taxpayers have 500 or more employees.

Table 4. Impact on Corporate and Business Taxpayers by Industry:

Industry	% of Affected Taxpayers
11 Agriculture, Forestry, Fishing and Hunting	0.4%
21 Mining, Quarrying, and Oil and Gas Extract	0.1%
22 Utilities	0.2%
23 Construction	8.1%
31-33 Manufacturing	13.4%
42 Wholesale Trade	9.0%
44-45 Retail Trade	5.5%
48-49 Transportation and Warehousing	2.3%
51 Information	3.4%
52 Finance and Insurance	8.7%
53 Real Estate and Rental and Leasing	4.0%
54 Professional, Scientific, and Technical Services	20.8%
55 Management of Companies and Enterprises	3.8%
56 Administrative and Support and Waste Management	4.5%
61 Educational Services	0.6%
62 Health Care and Social Assistance	1.5%
71 Arts, Entertainment, and Recreation	1.6%
72 Accommodation and Food Services	1.9%
81 Other Services (except Public Administration)	1.8%
Others or unmatched	8.4%
Total or average	100.0%

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate excise returns)
 Note: Numbers are estimated using available sample data. The data are preliminary and subject to change.

Looking at Table 4, top industries with most impacted corporate and business taxpayers include “Professional Scientific, and Technical Services” (20.8%), “Manufacturing” (13.4%), “Wholesale Trade” (9.0%), “Finance and Insurance” (8.7%), and “Construction” (8.1%).

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we reported the direct costs to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this deduction, and the direct benefits. In this instance, the direct costs to the Commonwealth, namely the corporate and business excise tax that would have been collected, are equal to the direct benefits afforded by the tax expenditure to the businesses that will claim the deduction.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. Generally, the indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when an impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.²

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states with an income tax allow a deduction for charitable contributions. States that do so for individual income tax purposes include California, Connecticut, Maine, New York, and Rhode Island. Vermont offers a credit for up to \$400 of charitable contributions. States that allow a charitable deduction for corporate income tax purposes include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.

² For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

References

Margalioth, Y. (2017). How Charitable Is the Charitable Contribution Deduction?
Theoretical Inquiries in Law, 18(37), 37-60.

Template for Evaluating Expenditures

Name of Expenditure: 1.621 & 2.624 Apprentice Tax Credit	Annual cost: \$0.2- \$0.3M	Year of adoption: 2018	Sunset date: None	
Tax Type (check all that apply): <input checked="" type="checkbox"/> Corporate <input checked="" type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input checked="" type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input checked="" type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (1.621 & 2.624 Apprentice Tax Credit)

The Commission noted the small number of credits claimed. The Division of Apprentice Standards confirmed there are multiple contributing factors that could have an effect on the current number of employers taking advantage of this tax credit:

Specific to FY21, there were 58 active apprentices in all computer occupations, 122 in all healthcare occupations, and 236 in all manufacturing occupations. Of those who may have been eligible (i.e. employed one or more apprentices for more than 180 days and in a specific Standard Occupational Code required by the legislation):

- Technology employers submitted applications for 9 apprentices (or 16% of those potentially eligible); of these, 8 apprentices were approved for a tax credit occupations
- Healthcare employers submitted applications for 15 apprentices (or 12% of those potentially eligible); of these, 5 apprentices were approved for a tax credit occupations
- Manufacturing employers submitted applications for 36 apprentices (or 10% of those potentially eligible); of these, 36 apprentices were approved for a tax credit occupations

In short, a low number of eligible applicants have applied for this credit. For both manufacturing and technology, nearly all of the apprenticeships are “sponsored” by intermediary organizations and, as a result, information disseminated by the Commonwealth to these primary contacts on when and how to apply for the RATC may have not reached the employer audience directly. For manufacturing, this number may have been even lower with only production manufacturers eligible. And, for healthcare, the majority of apprentices are EMTs employed by local municipalities who are not eligible for the tax credit.

Additionally, for both FY20 and FY21, these results likely mirror the temporary downturn in apprenticeship participation (and workforce programming generally) due to the pandemic with a decrease in credits awarded by \$27 K and \$14 K in FY20 and FY21, respectively.

Legislation proposed in 2022 would have given EOLWD the authority to expand the list of occupations eligible for the credit, but that legislation was not enacted.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Apprentice Tax Credit
TAX EXPENDITURE NUMBER	1.621 & 2.624
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax / Corporate & Business Tax
LEGAL REFERENCE	M.G.L. c. 62, § 6(v); M.G.L. c. 63, § 38HH
YEAR ENACTED	2018 (St. 2018, c. 228 §§ 14, 17)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.2 - \$0.3 million per year during FY20-FY24.
NUMBER OF TAXPAYERS	8-10 employers awarded the credit during tax year 2019-2021.
AVERAGE TAXPAYER BENEFIT	Average awarded credit amount varied between \$23,000 and \$35,000 during tax year 2019-2021.

<p>Description of the Tax Expenditure: A personal income tax and corporate excise credit is allowed to employers that establish apprenticeship programs in designated computer technology, health care technology or manufacturing occupations. The credit is equal to the lesser of \$4,800 or 50% of the wages paid to the apprentice in a taxable year.</p>	<p>Is the purpose defined in the statute? The statutes authorizing the credit state that the purpose of the credit is to “create talent pipelines for businesses and provide career pathways toward high demand occupations for unemployed and underemployed residents of the commonwealth.”¹</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to encourage companies to create apprenticeship programs in designated</p>	<p>Are there other states with a similar Tax Expenditure? A number of states have adopted tax credits and incentives for employers that employ apprentices in various occupations. However,</p>

¹ M.G.L. c. 62, § 6(v)(7); M.G.L. c. 63, § 38HH(f).

<p>occupations in order to develop a workforce that is trained for jobs requiring technological skill and to provide opportunities for unemployed and underemployed residents to enter those fields.</p>	<p>the types of eligible occupations and credit-generating activities vary widely. States, that offer such credits and incentives include Alabama, Connecticut, Illinois, Louisiana, Maryland, New York, Rhode Island, and South Carolina.</p>
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INTRODUCTION

The tax expenditure allows employers to claim a credit against the personal income tax or corporate excise if they establish apprenticeship programs and hire apprentices in designated computer technology, health care technology, or manufacturing occupations. The apprentice tax credit is equal to the lesser of \$4,800 or 50% of the wages paid to the apprentice. Employers that claim the credit in a taxable year will be eligible for an additional credit in the following year with respect to apprentices that are retained. Apprentices must be Massachusetts residents working for employers with business premises in the Commonwealth. The credit is refundable but nontransferable. The credit applies to taxable years beginning on or after January 1, 2019.

Occupations eligible for the credit include a range of jobs in the designated fields. Such occupations generally include jobs that require technical skills but do not necessarily require post-secondary education. To be eligible for the credit, employers must register their apprenticeship programs and program participants with the Massachusetts Executive Office of Labor and Workforce Development, Division of Apprentice Standards. The amount of the credit available to any employer is determined by the Secretary for Labor and Workforce Development in consultation with the Massachusetts Executive Office for Administration and Finance. The total amount of cumulative credit available annually is limited to \$2.5 million. The credit is a Massachusetts tax expenditure because it reduces the amount of tax revenue that would otherwise be available to appropriate for other purposes.

POLICY GOALS

The statutes authorizing the credit state that the purpose of the credit is to “create talent pipelines for businesses and provide career pathways toward high demand occupations for unemployed and underemployed residents of the commonwealth.”² The Commission assumes that the goal of the expenditure is to encourage companies to create apprenticeship programs in designated occupations in order to develop a workforce that is trained for jobs in such fields and to provide opportunities for unemployed and underemployed residents to enter those fields.

DIRECT COSTS

Based on DOR’s tax return data and tax credit transparency report data, the revenue loss resulting from this tax expenditure is estimated to be \$0.2- \$0.3 million annually. See Table 1 below. As noted, the credit amount awarded annually is capped at \$2.5 million. However, the total amount of credit awarded has not reached the cap in any prior year.

² Id.

Table 1. Revenue Loss Estimates for Apprentice Tax Credit (\$ Million)

	FY2020	FY2021	FY2022	FY2023	FY2024
Corporate Excise	\$0.3	\$0.2	\$0.2	\$0.3	\$0.3
Personal Income Tax	Negligible	Negligible	Negligible	Negligible	Negligible
Total	\$0.3	\$0.2	\$0.2	\$0.3	\$0.3

Note: "Negligible" means that the estimate is less than \$50,000 but greater than zero.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure include the apprentices for whom the credit was awarded and the employers (sponsors) who hired these apprentices. Table 2 shows that from 2019 to 2021, the number of Massachusetts sponsors that claimed the tax credit ranged from 8 to 10, and the number of apprentices for whom the credit was awarded ranged from 49 to 58. The average awarded tax credit per sponsor ranged from \$23,520 to \$34,700, and the average awarded tax credit per apprentice was about \$4,800, the maximum allowed credit amount per apprentice.

Table 2 Apprentices, Employers, and Tax Credit Awarded Amount by Year

Calendar Year	2019	2020	2021
Number of Employers (Sponsors)	8	9	10
Number of Apprentices	58	52	49
Awarded Tax Credit	\$277,600	\$249,600	\$235,200
Average Awarded Tax Credit per Employer (Sponsor)	\$34,700	\$27,733	\$23,520
Average Awarded Tax Credit per Apprentice	\$4,786	\$4,800	\$4,800

Source: Massachusetts Department of Labor Standards (DLS), the Division of Apprentice Standards (DAS)

Tables 3 through 5 present various data on registered apprentices and sponsors at both the state and national levels. Please note that some of the apprentices and sponsors in Massachusetts may potentially benefit from this tax credit program if they meet the criteria as mentioned in the introduction section. Data in Tables 3-5 may help us understand the current scope of the credit program.

As of the current year, there are 1,007 active sponsors who registered apprentice programs with the Massachusetts Executive Office of Labor and Workforce Development (Department of Labor Standards, and the Division of Apprentice Standards). Table 3 shows

the number of apprentices by year. About 2,800 - 4,000 new apprentices have been added every year from 2015 to 2021 except in 2020, which is possibly due to the pandemic.

Table 3 The Number of New Apprentices by Year

Year	2015	2016	2017	2018	2019	2020	2021
Number of New Apprentice	2,954	2,847	3,199	3,899	3,418	1,707	2,952

Source: Massachusetts Department of Labor Standards (DLS), the Division of Apprentice Standards (DAS)

Looking at Table 4, which shows active apprentices by state for federal fiscal year 2021, the number of all active apprentices in Massachusetts was approximately 12,911, which was about 2.2% of the total active apprentices in the U.S.

**Table 4 Active Apprentices by State for Federal Fiscal Year 2021
(10/01/2020 to 9/30/2021)**

State	Active Apprentices		State	Active Apprentices	
	Count	Percent		Count	Percent
AK	1,934	0.3%	MN	11,063	1.9%
AL	3,098	0.5%	MO	13,944	2.3%
AR	7,199	1.2%	Northern Marianas	2	0.0%
American Samoa	5	0.0%	NE	3,869	0.7%
AZ	4,595	0.8%	NH	2,741	0.5%
CA	79,494	13.4%	NJ	8,087	1.4%
CO	5,540	0.9%	NM	2,263	0.4%
CT	5,770	1.0%	NV	5,840	1.0%
DC	6,507	1.1%	NY	17,501	2.9%
DE	1,516	0.3%	OH	19,848	3.3%
FL	11,770	2.0%	OK	1739	0.3%
Federated States of Micronesia	0	0.0%	OR	10,685	1.8%
GA	9,380	1.6%	PA	17,221	2.9%
Guam	617	0.1%	PR	513	0.1%
HI	7,324	1.2%	RI	2,333	0.4%
IA	8,475	1.4%	SC	6,631	1.1%
ID	1,681	0.3%	SD	741	0.1%
IL	16,194	2.7%	TN	7,102	1.2%
IN	18,552	3.1%	TX	21909	3.7%
KS	1,903	0.3%	UT	4,279	0.7%
KY	4,074	0.7%	VA	11,168	1.9%
LA	3,519	0.6%	VI	13	0.0%
MA	12,911	2.2%	VT	1,827	0.3%
MD	8,040	1.4%	WA	17,676	3.0%
ME	1,109	0.2%	WI	11,190	1.9%
MI	18,026	3.0%	WV	5,092	0.9%
MS	2,022	0.3%	WY	412	0.1%
MT	1,955	0.3%	National Programs	134,966	22.7%
NC	8,775	1.5%			

ND	1,050	0.2%	Grand Total	593,690	100.0%
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Source: Employment and Training Administration, U.S. Department of Labor.

Table 5 below presents the distribution of active apprentices by industry in the U.S. for the federal fiscal year 2021. The top three industries with the most active apprentices were construction (36.05% of all active apprentices), public administration (24.7%) and educational services (12.27%). The industries targeted by the Massachusetts tax credit program have relatively fewer active apprentices with 4.33% of all active apprentices for manufacturing, 2.52% for health care and social assistance, 0.35% for Professional, Scientific, and Technical Services and 0.03% for information. The relatively small number of active apprentices in these industries could help explain why the Massachusetts tax credit program has not been fully utilized.

**Table 5 Active Apprentices by Industry in the U.S. for Federal Fiscal Year 2021
(10/01/2020 to 9/30/2021)**

Industry	Active Apprentices	Percent
Construction	197,421	36.05%
Public Administration	135,269	24.70%
Educational Services	67,202	12.27%
Manufacturing	23,720	4.33%
Other Services (except Public Administration)	15,038	2.75%
Health Care and Social Assistance	13,782	2.52%
Utilities	13,539	2.47%
Transportation and Warehousing	8,651	1.58%
Administrative and Support and Waste Management and Remediation Services	2,684	0.49%
Accommodation and Food Services	2,668	0.49%
Professional, Scientific, and Technical Services	1,897	0.35%
Wholesale Trade	1,793	0.33%
Retail Trade	1,642	0.30%
Mining, Quarrying, and Oil and Gas Extraction	1,065	0.19%
Finance and Insurance	1,053	0.19%
Real Estate and Rental and Leasing	350	0.06%
Arts, Entertainment, and Recreation	241	0.04%
Information	189	0.03%
Management of Companies and Enterprises	2	0.00%
Total	547,617	100.00%

Source: Employment and Training Administration, U.S. Department of Labor.

EVALUATION: COMPARING COSTS AND BENEFITS

The direct costs to the Commonwealth (or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to

finance the tax credit) are equal to the direct benefits (to employers with eligible apprenticeship programs that claimed the tax credit) of this tax expenditure. The direct cost is the tax that would have been collected absent this credit. The direct benefit afforded by the tax expenditure is the state income tax saving or corporate and business tax saving to the tax filers who claim this credit.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. Generally, the indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when an impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.³

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. However, since the direct costs and benefits are negligible in recent years and perhaps in the near future, the indirect and induced costs and benefits are also negligible. Therefore, DOR did not use any such models.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

A number of states have adopted tax credits and incentives for employers that employ apprentices in various occupations. However, the types of eligible occupations and credit-generating activities vary widely. States, that offer such credits and incentives include Alabama, Connecticut, Illinois, Louisiana, Maryland, New York, Rhode Island, and South Carolina.

³ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

References

Employment and Training Administration, U.S. Department of Labor. (2022). Retrieved from Registered Apprenticeship National Results for Fiscal Year 2021:
<https://www.dol.gov/agencies/eta/apprenticeship/about/statistics/2021>

Template for Evaluating Expenditures

Name of Expenditure: 2.303 Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly	Annual cost: \$0.7M	Year of adoption: 1990	Sunset date: none	
Tax Type (check all that apply): <input checked="" type="checkbox"/> Corporate <input checked="" type="checkbox"/> Personal Income <input type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input checked="" type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	
<i>Strongly agree</i>				
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (2.303 Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly)

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly
TAX EXPENDITURE NUMBER	2.303
TAX EXPENDITURE CATEGORY	Accelerated Deductions from Gross Income
TAX TYPE	Corporate & Business Excise Tax/Personal Income Tax
LEGAL REFERENCE	IRC § 190 M.G.L. c. 63, § 30.4. M.G.L. c. 62, § (2)(d)(1).
YEAR ENACTED	1990
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.4 million for corporate excise tax filers, and \$0.3 million for personal income tax filers annually during FY20-FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available

<p>Description of the Tax Expenditure: Massachusetts conforms to Internal Revenue Code (“Code”) § 190, which allows taxpayers to elect an immediate deduction of up to \$15,000 of costs incurred in removing architectural or transportation barriers to the handicapped and elderly. The immediate deduction of these expenses, which would otherwise have to be capitalized and depreciated over a longer period, results in a deferral of tax. The deferral constitutes a Massachusetts tax expenditure.</p>	<p>Is the purpose defined in the statute? The federal deduction was enacted as part of the Americans with Disabilities Act of 1990. The stated goal of the deduction is to make places of business accessible to the handicapped and elderly.</p>
<p>What are the policy goals of the expenditure? The accelerated deduction is meant to encourage businesses to make places of</p>	<p>Are there other states with a similar Tax Expenditure? States that conform to the Code in determining personal and corporate business expense deductions adopt the accelerated deduction</p>

<p>business accessible to the handicapped and elderly.</p>	<p>under Code § 190, unless they specifically decouple from that provision. California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont allow the accelerated deduction. The Commission is not aware of any state that has decoupled.</p>
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INTRODUCTION

Massachusetts conforms to Internal Revenue Code (“Code”) § 190, which allows taxpayers to elect an immediate deduction of up to \$15,000 of expenses incurred in removing architectural or transportation barriers to the handicapped and elderly. The cost of an improvement to a business asset is normally a capital expense, which would have to be capitalized and deducted over a period of years. Any costs over \$15,000 must be capitalized and deducted under the generally applicable depreciation schedules set out in the Code.

Expenses incurred in making a building or public transportation vehicle more accessible to people with disabilities and the elderly are eligible for the deduction. Examples with regard to buildings include installing ramps, widening doors, modifying restrooms, and lowering counters to accommodate customers in wheelchairs. Examples with regard to vehicles include installing lifts for wheelchairs and modifying signage and public address systems to accommodate the visually or hearing impaired. The deduction is not available for costs incurred in completely renovating a building or vehicle or for the cost of replacing depreciable property in the normal course of business.

The immediate deduction of eligible expenses results in a deferral of tax. The deferral constitutes a Massachusetts tax expenditure.

POLICY GOALS

The policy goal stated in Code § 190(b)(1) is to make “any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.”

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$0.7 million annually, with \$0.4 million for corporate and business tax filers and \$0.3 million for personal income tax filers during FY20-FY24. See Table 1 below. Estimates of revenue loss resulting from this tax expenditure are based on revenue loss estimates for the corresponding federal deduction provided by the Joint Committee on Taxation, Congress of the United States (JCT)¹ in the most recent tax expenditure report. To share down the federal estimates to Massachusetts, DOR adjusted the federal estimates for the differences between federal and state fiscal years,² effective tax rates, and size of tax base.

¹ JCT is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. Among other tasks, JCT provides revenue estimates for federal tax expenditures and tax legislation considered by the Congress. See <https://www.jct.gov/about-us/overview/>.

² Note that the federal fiscal year runs from October 1st to September 30th of the following year, while the Massachusetts fiscal year runs from July 1st to June 30th of the following year.

Table 1. Revenue Loss Estimates for Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly (\$ Million)

Fiscal Year	2020	2021	2022	2023	2024
Corporate & Business Tax	\$0.4	\$0.4	\$0.4	\$0.4	\$0.4
Personal Income Tax	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Total	\$0.7	\$0.7	\$0.7	\$0.7	\$0.7

DIRECT BENEFITS

The direct beneficiaries of the tax expenditure include businesses that remove architectural and transportation barriers. Beneficiaries may also include people with disabilities and elderly. DOR does not have in-house data on the actual direct beneficiaries. Below is some data on those who may potentially benefit from this tax expenditure.

Taxpayers benefitting from the deduction: According to the US Census Bureau, in Massachusetts, there were 755,984 establishments in 2020.³ It is uncertain what percent of businesses in Massachusetts incurred expenses for removing architectural or transportation barriers to the handicapped and elderly.

Handicapped and elderly beneficiaries: According to the US Census Bureau⁴, 1.21 million or 17.4% of Massachusetts' total population of 6.98 million were aged 65 or over in 2021. It is uncertain what percent of the aged 65 and over population is using such facilities or structures that are improved by businesses.

Table 2 presents data from the Massachusetts Rehabilitation Commission (MRC) on people with a disability. As of FY22, MRC data reports 861,605 individuals with a disability in Massachusetts with 46.3% of having an ambulatory disability and 14.8% having a vision disability. 43% of those with a disability (=374,553/861,605) are age 65 or older. Table 2 also shows that a smaller percentage of the Massachusetts population has an ambulatory or vision disability than that of the total U.S. population.

Table 2: Total Numbers of People with a Disability by Age and by Type of Disability in FY2022

Area	Type of Disability	Total	Under 18	18-64	65 or older
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³ The U.S. Census Bureau reports different categories for businesses such as employer and non-employer firms. See [U.S. Census Bureau QuickFacts: Massachusetts](#).

⁴ <https://www2.census.gov/programs-surveys/popest/tables/2020-2021/state/detail/sc-est2021-agesex-25.xlsx>

Massachusetts	Ambulatory Disability	399,187 (46.3%)	6,313 (8.6%)	151,922 (36.8%)	240,952 (64.3%)
	Vision Disability	127,524 (14.8%)	8,557 (11.6%)	62,098 (15.0%)	56,869 (15.2%)
	Other disabilities	344,894 (38.9%)	58,954 (79.9%)	199,208 (48.2%)	76,732 (20.5%)
	Total	861,605	73,824	413,228	374,553
U.S.	Ambulatory Disability	21,779,183 (49.2%)	313,534 (8.6%)	9,304,426 (43.2%)	12,161,223 (63.7%)
	Vision Disability	8,032,555 (18.2%)	567,770 (15.6%)	4,001,765 (18.6%)	3,463,020 (18.2%)
	Other disabilities	14,428,501 (32.6%)	2,758,897 (75.8%)	8,216,859 (38.2%)	3,452,745 (18.1%)
	Total	44,240,239	3,640,201	21,523,050	19,076,988

Source: Massachusetts Rehabilitation Commission (MRC)

These numbers show the total population of elderly and people with disabilities in Massachusetts, any of whom may benefit from this tax expenditure. DOR does not have data on the actual number of those beneficiaries.

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance this deduction) and direct benefits (to the businesses claiming this deduction) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the accelerated tax deduction that result in lower revenues in the current tax year, are equal to the direct benefits afforded by the tax expenditure to the businesses claiming this deduction. Note that as with other accelerated tax deduction programs, the amount of tax collected in later years is higher because there is no depreciation deduction attributable to the same expense.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. Generally, the indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when an impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits

to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.⁵

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. However, since the direct costs and benefits are negligible in recent years and perhaps in the near future, the indirect and induced costs and benefits are also negligible.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that conform to the Code in determining personal and corporate business expense deductions adopt the accelerated deduction under Code § 190, unless they specifically decouple from that provision. California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont allow the accelerated deduction. The Commission is not aware of any state that has decoupled.

References

Staff of Joint Committee on Taxation. (2020, November 5). *Estimates Of Federal Tax Expenditures For Fiscal Years 2020-2024*. Retrieved from The Joint Committee on Taxation:
https://www.jct.gov/publications/?it=content&category_name=Tax%20Expenditures

Massachusetts Rehabilitation Commission (MRC) data for Total Numbers of Disabled People by Age and by Type of Disability in FY2022

⁵ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Template for Evaluating Expenditures

Name of Expenditure: 3.003 Exemption for Sales to Tax-Exempt Organizations	Annual cost: \$627.3 - \$833.0 million	Year of adoption: 1967	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input checked="" type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (3.003 Exemption for Sales to Tax-Exempt Organizations)

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Sales to Tax-Exempt Organizations
TAX EXPENDITURE NUMBER	3.003
TAX EXPENDITURE CATEGORY	Exempt Entities
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(e) and (x)
YEAR ENACTED	1967 (§ 6(e)); 1970 (§ 6(x))
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$627.3 - \$833.0 million per year during FY20-FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available

<p>Description of the Tax Expenditure: Non-profit organizations that are exempt from taxation under Internal Revenue Code (the "Code") § 501(c)(3) are exempt from sales and use tax on purchases of tangible personal property and services used in carrying out their tax-exempt purposes. Purchases by non-profit volunteer fire departments and ambulance services are also exempt.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the expenditure is intended to reduce the expenses of § 501(c)(3) organizations, thereby increasing the resources such an organization has available to devote to its mission.</p>	<p>Are there other states with a similar Tax Expenditure? Most states that impose a sales and use tax have a similar exemption. These states include Connecticut, Maine, New York, Rhode Island, and Vermont. California does not have an exemption for purchase by § 501(c)(3) organizations.</p>

INTRODUCTION

The tax expenditure provides a sales and use tax exemption for tangible personal property and services purchased by organizations that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code (the “Code”). Purchases by non-profit volunteer fire departments and ambulance services are also exempt. To qualify for the exemption the tangible personal property or services must be used by such organizations in carrying out their tax-exempt purposes. To claim the exemption a 501(c)(3) organization or non-profit volunteer fire department or ambulance service must apply to the Department of Revenue (DOR) for an exemption certificate and present the certificate to the vendor when making purchases.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for purchases by 501(c)(3) organizations and volunteer non-profit fire departments and ambulance services.

Absent the exemption afforded by this tax expenditure, purchases by 501(c)(3) organizations and volunteer non-profit fire departments and ambulance services would be subject to sales use tax.

POLICY GOALS

The Commission assumes that the expenditure is intended to reduce the expenses of § 501(c)(3) organizations, thereby increasing the resources such an organization has available to devote to its mission.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$627.3 - \$833.0 million per year during FY20-FY24. See the table below.

**Revenue Loss Estimates for Sales Tax Exemption for
Sales to Tax Exempt Organizations**

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$627.3	\$652.2	\$720.3	\$786.1	\$833.0

DOR does not have in-house data to measure the exemption for sales to 501(c)(3) organizations. The estimates reported above are based on the Internal Revenue Service (IRS) functional expense data for 501(c)(3) organizations that filed form 990 or form 990-EZ¹, apportioned to Massachusetts based on the state's share of national personal income and adjusted for inflation based on nominal personal income growth. However, this data does not include the purchases by many organizations eligible for this sales tax exemption. According to an IRS study², only 26% of 501(c)(3) organizations filed form 990 or form 990-EZ for tax year 2012. Certain nonprofit charitable organizations were not required to file either of those forms; these included churches and certain other religious organizations, as well as organizations with annual gross receipts totaling less than \$50,000. Nonprofit private foundations, which are also tax-exempt under section 501(c)(3), file Form 990-PF. To roughly correct for the impact on estimation of 501(c)(3) organizations that did not file form 990 or form 990-EZ, estimates were adjusted based on the share of donations by Americans to religious charities, out of donations by Americans to all charities³. This share varies from 27% to 35% year over year⁴.

This expenditure also reflects the exemption for sales of fire trucks and ambulances to any volunteer, nonprofit company or similar organization furnishing public fire protection or ambulance service. However, data on actual purchase price, purchase year, frequency, and purchaser(s) of ambulances and firetrucks is not available. Therefore, those exempt sales are not reflected in the estimates, and the estimates in the above table may be understated.

Due to the use of external data and the limitations of the data as discussed above, the estimates reported in the table may have significant estimation uncertainty and should be used with extreme caution.

DIRECT BENEFITS

The Massachusetts 501(c)(3) organizations and volunteer non-profit fire departments and ambulance services (buyers), and sellers, whether in or out of state, who sell tangible personal property and services to these organizations are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower "after tax" price while sellers benefit from the sales tax exemption in the form of

¹ <https://www.irs.gov/statistics/soi-tax-stats-charities-and-other-tax-exempt-organizations-statistics>

² <https://www.irs.gov/pub/irs-soi/soi-a-npco-id1603.pdf>

³ Data is from Giving USA (<https://givingusa.org/>), a public service initiative of the Giving Institute.

⁴ In 2021, Americans gave \$484.85 billion to charity. Out of \$484.85 billion on charitable donations, \$135.78 billion or 27% was given to religion. The rest of the charitable dollars went to Education (14%), Human Services (13%), Foundation (13%), Public -Society benefits (11%), health (8%), International affairs (5%), Arts Culture and Humanities (5%), Environment/Animals (3%), and individuals (2%).

receiving a higher “before tax” price. The exact split of the direct benefits depends on the interaction of demand and supply and is often difficult to quantify.

As mentioned above, eligible buyers include 501(c)(3) organizations in Massachusetts, for which DOR does not have data. According to the Attorney General's Office⁵, there are more than 23,000 public charities in Massachusetts. However, this number does not include private foundations, who are also IRC section 501(c)(3) organizations.

Eligible buyers also include volunteer non-profit fire departments and ambulance services. There are 93 volunteer firefighter companies employing 407 people in Massachusetts (causeiq.com). Sellers benefitting from transactions with these buyers are typically organizations such as the National Fire Protection Association, Home Fire Sprinkler Coalition, National Board on Fire Service Professional Qualifications, project Smile, and Spirit Fire Meditative Retreat Center.

There are 39 volunteer ambulance and emergency medical transport (EMT) organizations employing 781 people in Massachusetts (causeiq.com). Sellers benefitting from transactions with these buyers include organizations such as Boston Medflight, Metrowest Emergency Physicians, Northern Berkshire Ems, Webster Emergency Medical Services, and Lower Cape Ambulance Association.

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance the sales tax exemption for sales to the exempt organizations) and direct benefits (to organizations exempt under M.G.L. c. 64H, § 6(e) and (x)) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the sales tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to buyers and sellers of the exempt products, which is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total

⁵ <https://www.mass.gov/orgs/the-attorney-generals-non-profit-organizationspublic-charities-division>

costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”⁶.

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a sales and use tax have a similar exemption. These states include Connecticut, Maine, New York, Rhode Island, and Vermont. California does not have an exemption for purchase by § 501(c)(3) organizations.

⁶ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Template for Evaluating Expenditures

Name of Expenditure: 3.406 Exemption for Funeral Items	Annual cost: Tax loss of \$11.7 - \$13.8	Year of adoption: 1967	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input checked="" type="checkbox"/> Other:		<input checked="" type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (3.406 Exemption for Funeral Items)

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Funeral Items
TAX EXPENDITURE NUMBER	3.406
TAX EXPENDITURE CATEGORY	Exemptions for Specified Use of Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(n)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$11.7 - \$13.8 million per year during FY20–FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: Coffins, caskets, burial garments, and other materials that are generally sold by a funeral director as part of the business of funeral directing are exempt from sales tax.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to lessen the funeral costs of the bereaved upon the death of a loved one.</p>	<p>Are there other states with a similar Tax Expenditure? Connecticut, Maine, Rhode Island, and Vermont provide similar exemptions. New York exempts retail sales by funeral directors from sales and use tax, but taxes purchases by funeral directors. California does not provide any exemption for funeral directors.</p>

INTRODUCTION

The tax expenditure provides a sales and use tax exemption for coffins, caskets, burial garments, and other materials that are generally sold by a funeral director as part of the business of funeral directing. Department of Revenue (“DOR”) administrative practice is to apply the exemption only to items normally transferred by funeral directors as part of their business as a funeral director. DOR has interpreted the exemption to also apply to transfers by persons that are not funeral directors so long as the items transferred would be exempt if transferred by a funeral director. DOR does not apply the exemption to sales of monuments, grave markers, or funeral flowers.

Funeral directors are subject to sales and use tax on items that they use or consume in their businesses other than coffins, caskets, burial garments and other items covered by the exemption. Such taxable items include motor vehicles, business fixtures, embalming supplies, and instruments and equipment.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for transfers of coffins, caskets, burial garments, and similar items by funeral directors.

Absent the exemption afforded by this tax expenditure, sales of coffins, caskets, burial garments, and similar items sold by a funeral director would generally be subject to the sales and use tax.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to lessen the funeral costs of the bereaved upon the death of a loved one.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$11.7 - \$13.8 million per year during FY20-FY24. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Sales Tax Exemption for Funeral Items

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$11.7	\$12.0	\$12.7	\$13.4	\$13.8

DOR does not have in-house data to measure the exempt items. The estimates reported above are based on data from the 2017 economic census produced by the U.S. Census Bureau and the National Funeral Directors Association (NFDA)¹. Due to the use of external data and limitations of that data, the estimates reported in Table 1 may have significant uncertainty and should be used with caution.

DIRECT BENEFITS

The Massachusetts businesses that sell the exempt funeral items and their Massachusetts customers are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after-tax price” while sellers benefit from the sales tax exemption in the form of receiving a higher “before tax price”. The exact split of the direct benefits depends on the interaction of demand and supply and is often difficult to quantify. Out of state sellers who sell exempt products to Massachusetts residents are also direct beneficiaries of this sales tax exemption.

Sellers of the exempt products are often businesses in the “funeral homes and funeral services” industry identified by NAICS code 812210. According to the U.S. Census Bureau, in 2017 Massachusetts had 311 firms in the funeral homes and funeral services industry. These firms employed 2,428 individuals generating \$98.0 million in annual payroll and \$392.3 million in annual sales. See Table 2 below. Please note, businesses in this industry may provide products or services beyond the scope of this tax expenditure.

Table 2. Annual Payroll, Sales and Employment for the Funeral Homes and Funeral Services Industry in Massachusetts

2017 NAICS Code	Meaning of NAICS Code	Number of Firms	Number of Establishments	Sales, Value of Shipments, or Revenue (\$Millions)	Annual Payroll (\$Millions)	Number of Employees
812210	Funeral homes and funeral services	311	394	\$392.3	\$98.0	2,428

The U.S. Bureau of Labor Statistics provides Massachusetts employment and wage data for selected occupations related to funeral services as of May 2021. See Table 3 below..

¹ <https://nfda.org/news/media-center/nfda-news-releases/id/6182/2021-nfda-general-price-list-study-shows-funeral-costs-not-rising-as-fast-as-rate-of-inflation>

Table 3. Employment and Annual Mean Wage of Selected Funeral Related Occupations in Massachusetts

Occupation Code	Occupation Title	Employment	Annual Mean Wage
11-9171	Funeral Home Managers	240	\$76,490
39-4021	Funeral Attendants	880	\$38,840
39-4031	Morticians, Undertakers, and Funeral Arrangers	590	\$70,670

Please note that “Morticians, Undertakers, and Funeral Arrangers” are often referred to as “funeral directors”.

Note that the employment data in Table 2 and Table 3 are slightly different because a) the “funeral homes and funeral services” industry in Table 2 above could employ people with occupations other than those listed in Table 3, and b) industries other than the “funeral homes and funeral services” industry in Table 2 could also employ people with occupations listed in Table 3.

Direct beneficiaries of this sales tax exemption also include Massachusetts residents who buy the exempt products. Buyers are often bereaved families. According to the Massachusetts Department of Public Health, 58,660 residents died in 2019.²

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance the sales tax exemption) and direct benefits (to buyers and sellers of the exempt products) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the sales tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to buyers and sellers of the exempt products, which is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its

² <https://www.mass.gov/doc/2019-death-report/download>, Table 1. More death data can be found in this report.³ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”³.

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Connecticut, Maine, Rhode Island, and Vermont provide similar exemptions. New York exempts retail sales by funeral directors from sales and use tax, but taxes purchases by funeral directors. California does not provide any exemption for funeral directors.

³ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Template for Evaluating Expenditures

Name of Expenditure: 3.409 Exemption for Books Used for Religious Worship	Annual cost: \$0.7M-\$0.9M	Year of adoption: 1967	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>		<i>Individual:</i>		
<input type="checkbox"/> Job creation & maintenance		<input type="checkbox"/> Relief of poverty		
<input type="checkbox"/> Investment		<input type="checkbox"/> Progressivity/assistance to low earners		
<input type="checkbox"/> Competitiveness/Strategic		<input type="checkbox"/> Access to opportunity		
<input type="checkbox"/> Health/Environment/Social Justice		<input type="checkbox"/> Health/Environment/Social Justice		
<input type="checkbox"/> Other:		<input checked="" type="checkbox"/> Other: Accessibility of religious materials		
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (3.409 Exemption for Books Used for Religious Worship)

Similar sales and use tax exemptions have been held to be unconstitutional in a number of states on the grounds that they promote the establishment of a religion or infringe on the freedom of the press.

Please note that this exemption may overlap with certain other exemptions, such as 3.607 Exemptions for Publications of Tax-Exempt Organizations.

We lack any information to determine whether this exemption benefits lower income taxpayers.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Books Used for Religious Worship
TAX EXPENDITURE NUMBER	3.409
TAX EXPENDITURE CATEGORY	Exemptions for Specified Use of Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(m)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.7 - \$0.9 million per year during FY20- FY24.
NUMBER OF TAXPAYERS	Not available.
AVERAGE TAXPAYER BENEFIT	Not available.

<p>Description of the Tax Expenditure: Books used for religious worship are exempt from sales tax.</p>	<p>Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to make religious materials more accessible.</p>	<p>Are there other states with a similar Tax Expenditure? There is no similar exemption in California, Connecticut, Maine, New York, Rhode Island, or Vermont. Similar sales and use tax exemptions have been held to be unconstitutional in a number of states on the grounds that they promote the establishment of a religion or infringe on the freedom of the press. States where similar exemptions have been stricken include Georgia, North Carolina, and Rhode Island. A number of states, including New Jersey, continue to exempt religious material.</p>

INTRODUCTION

The tax expenditure provides a sales and use tax exemption for books used for religious worship. The exemption is limited to printed material and does not apply to audio or video recordings or to books that are simply religion-themed. The exemption applies to eligible books whether sold by publishers to religious institutions or sold by retailers to such institutions or to individuals.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for transfers of books used for religious worship.

Absent the exemption afforded by this tax expenditure, books used for religious worship would be subject to sales tax.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to make religious materials more accessible.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$0.7 - \$0.9 million per year during FY20-FY24. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Sales Tax Exemption for Religious Books Used for Worship

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$0.7	\$0.8	\$0.8	\$0.8	\$0.9

DOR does not have in-house data to measure the exempt items. The estimates reported above are based on data from Statista, the U.S. Census Bureau, and Pew Research Center. The source for “religious book sales” data, Statista, did not provide a definition for “religious book sales”. For estimation purposes, DOR assumed that “religious book sales” is limited to books used specifically for religious worship and does not include those which are simply religion-themed. Due to the use of external data and the limitations of the data

for estimating this tax expenditure, the estimates reported in Table 1 may have significant uncertainty and should be used with caution.

DIRECT BENEFITS

The Massachusetts businesses that sell religious books used for worship and their customers are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after-tax price” while sellers benefit from the sales tax exemption in the form of receiving a higher “before tax price”. The exact split of the direct benefits depends on the interaction of demand and supply and is often difficult to quantify. Out of state sellers who sell exempt products to Massachusetts residents are also direct beneficiaries of this sales tax exemption.

Sellers of the exempt products are bookstores selling religious books used for worship to Massachusetts residents. According to the U.S. Census Bureau, in 2017 Massachusetts had 90 bookstores. These stores employed 2,937 individuals generating \$48.0 million in annual payroll and \$371.1 million in annual sales.¹ However, the 2017 economic census data does not tell us how many bookstores sell religious books used for worship. Please note, retailers other than bookstores, such as Amazon, may also sell religious books used for worship.²

Table 2. Annual Payroll, Sales and Employment for Book Stores in Massachusetts

2017 NAICS Code	Meaning of NAICS Code	Number of Firms	Number of Establishments	Sales, Value of Shipments, or Revenue (\$Millions)	Annual Payroll (\$Millions)	Number of Employees
451211	Book stores	90	194	\$371.1	\$48.0	2,937

Direct beneficiaries of this sales tax exemption also include Massachusetts residents who buy religious books for worship. According to the Pew Research Center, 56% of the Massachusetts adult population, or 3.1 million people, attend religious services to some extent.³

¹ Annual sales of bookstores include sales of products other than books.

² Based on the U.S. Census Bureau data, DOR estimated that in 2017 75% of book sales by Massachusetts retailers were from bookstores.

³ <https://www.pewresearch.org/religion/religious-landscape-study/compare/attendance-at-religious-services/by/state#attendance-at-religious-services>.

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance the sales tax exemption) and direct benefits (to buyers and sellers of exempt products) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the sales tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to buyers and sellers of the exempt product, which is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”⁴.

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

There is no similar exemption in California, Connecticut, Maine, New York, Rhode Island, or Vermont. Similar sales and use tax exemptions have been held to be unconstitutional in a number of states on the grounds that they promote the establishment of a religion or infringe on the freedom of the press. States where similar exemptions have been stricken include Georgia, North Carolina, and Rhode Island. A number of states, including New Jersey, continue to exempt religious material.

⁴ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Template for Evaluating Expenditures

Name of Expenditure: 3.607 Exemption for Publications of Tax-Exempt Organizations	Annual cost: Tax loss of \$19.0-\$23.0 million	Year of adoption: 1967	Sunset date: None	
Tax Type (check all that apply): <input type="checkbox"/> Corporate <input type="checkbox"/> Personal Income <input checked="" type="checkbox"/> Sales <input type="checkbox"/> Other				
This tax expenditure is a result of state conformity to the Federal Code: <input type="checkbox"/> Yes <input type="checkbox"/> No				
Goal of expenditure (check all that apply):				
<i>Business:</i>	<i>Individual:</i>			
<input type="checkbox"/> Job creation & maintenance	<input type="checkbox"/> Relief of poverty			
<input type="checkbox"/> Investment	<input type="checkbox"/> Progressivity/assistance to low earners			
<input checked="" type="checkbox"/> Competitiveness/Strategic	<input type="checkbox"/> Access to opportunity			
<input checked="" type="checkbox"/> Health/Environment/Social Justice – provide towards mission statements	<input type="checkbox"/> Health/Environment/Social Justice			
<input type="checkbox"/> Other:	<input type="checkbox"/> Other:			
Measurement and Effectiveness Ratings:				
<i>Which best reflects your opinion on each statement?</i>	<i>Strongly disagree</i>	<i>Somewhat disagree</i>	<i>Somewhat agree</i>	<i>Strongly agree</i>
We can measure the overall benefit toward achieving the goal(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE's benefit justifies its fiscal cost	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by its intended beneficiaries	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is claimed by a broad group of taxpayers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The TE is relevant today	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The TE is easily administered	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is beneficial to smaller businesses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE benefits lower income taxpayers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments (3.607 Exemption for Publications of Tax-Exempt Organizations)

Most states with a sales or use tax require tax-exempt organizations to collect tax on their sales unless another exemption applies. The Commission notes that this tax expenditure appears to primarily benefit large institutions of higher education, which are most likely to have significant publishing operations. According to causeiq.com, “Harvard Business Publishing Corporate Learning” accounted for about 80% of the annual revenue for Massachusetts’ 117 nonprofit presses and publishers.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2023

TAX EXPENDITURE TITLE	Exemption for Publications of Tax-Exempt Organizations
TAX EXPENDITURE NUMBER	3.607
TAX EXPENDITURE CATEGORY	Miscellaneous Exemptions
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(m)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$19.0-\$23.0 million annually for FY20 to FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available

<p>Description of the Tax Expenditure: Sales of publications of 501(c)(3) organizations are exempt from sales and use tax.</p>	<p>Is the purpose defined in the statute? The statute does not state the purpose of this tax exemption.</p>
<p>What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to support tax-exempt organizations by relieving them from the burden of sales and use tax compliance and by reducing the cost of their publications to consumers.</p>	<p>Are there other states with a similar Tax Expenditure? Most states with a sales or use tax require tax-exempt organizations to collect tax on their sales unless another exemption applies. Connecticut, Maine, New York, Rhode Island, and Vermont apply such a requirement. California exempts the sale of periodicals (defined as a publication with different issues published at least four times per year) published by 501(c)(3) nonprofit organizations only for their members or without commercial advertising. A number of states, including Massachusetts, generally exempt sales of newspapers and magazines that meet specified requirements. A few states, such as Arizona, do</p>

	not require 501(c) nonprofit organizations to collect sales tax on any of their sales.
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INTRODUCTION

The tax expenditure provides a sales and use tax exemption for sales of the publications of organizations that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code (the “Code”). The exemption applies to all printed material published and sold by such organizations.

Massachusetts also allows an exemption from sales and use tax for sales of newspapers and magazines.¹ Some, but not all, publications of eligible tax-exempt organizations may also be eligible for the newspaper and magazine exemption. The revenue foregone as a result of not taxing sales of publications by eligible tax-exempt organizations constitutes a tax expenditure to the extent that such sales would not otherwise be exempt as sales of newspapers and magazines.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable. One such exemption is the exemption for sales of publications of eligible tax-exempt organizations.

Absent the exemption afforded by this tax expenditure, sales of publications of tax-exempt organizations would be subject to sales and use tax unless the exemption for newspapers and magazines, or another exemption, applies.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to support tax-exempt organizations by relieving them from the burden of sales and use tax compliance and by reducing the cost of their publications to consumers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$19.0 - \$23.0 million per year during FY20-FY24. See the Table below.

¹ Whether a publication qualifies as a newspaper or magazine depends on a number of factors, including whether the publication (i) is of interest to a substantial segment of the public, (ii) is published at regular intervals, (iii) contains articles by multiple authors and (iv) contains advertising.

**Revenue Loss Estimates for Sales Tax Exemption for Publications of
Tax-Exempt Organizations**

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss (\$Million)	\$19.0	\$19.9	\$20.9	\$21.9	\$23.0

According to causeiq.com, there are 117 nonprofit presses and publishers in Massachusetts earning more than \$334 million in revenue each year. Revenue loss estimates were derived by applying the sales tax rate to the annual revenue and adjusting for growth. This method assumes that all revenue of the nonprofit presses and publishers are from sales of publications. That may not be the case and therefore the estimates may be overstated. On the other hand, estimates may be understated as publications by eligible tax-exempt organizations other than presses and publishers are not included in the estimates due to the unavailability of data.

Please note, newspapers and magazines published by eligible tax-exempt organizations qualify for both this tax expenditure and 3.106, which exempts sales of periodicals. 3.106 was evaluated in the Commission’s March 2021 Report². DOR does not have data on the sale of newspapers and magazines published by eligible tax-exempt organizations.

Due to the use of external data and the limitations of the data as discussed above, the estimates reported in the table may have significant estimation uncertainty and should be used with extreme caution.

DIRECT BENEFITS

The Massachusetts tax-exempt organizations that sell exempt publications (sellers) and their customers (buyers) are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after tax” price while sellers benefit from the sales tax exemption in the form of receiving a higher “before tax” price. The exact split of the direct benefits depends on the interaction of demand and supply and is often difficult to quantify.

DOR does not have data on the number of tax-exempt entities claiming this exemption. According to the Attorney General's Office, there are more than 23,000 public charities in Massachusetts.³ However, this number does not include private foundations, which are also tax-exempt.

² <https://www.mass.gov/doc/terc-march-2021-final-report/download>

³ <https://www.mass.gov/orgs/the-attorney-generals-non-profit-organizationspublic-charities-division>

DOR also does not have data on the number of buyers benefitting from the exemption.

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance the sales tax exemption) and direct benefits (to eligible tax-exempt organizations) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the sales tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to buyers and sellers of the exempt product, which is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”⁴.

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and the data limitations present in this instance.

Through sales tax exemptions, the state supports the publications by the eligible tax-exempt organizations, which benefit society. For example, the mission of MIT Technology Review is to bring about better-informed and more conscious decisions about technology through authoritative, influential, and trustworthy journalism. The National Braille Press is a Boston book publisher that promotes the literacy of children with blindness and provides access to information that empowers people with blindness to actively engage in work, family, and community affairs.

⁴ For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states with a sales or use tax require tax-exempt organizations to collect tax on their sales unless another exemption applies. Connecticut, Maine, New York, Rhode Island, and Vermont apply such a requirement. California exempts the sale of periodicals (defined as a publication with different issues published at least four times per year) published by 501(c)(3) nonprofit organizations only for their members or without commercial advertising. A number of states, including Massachusetts, generally exempt sales of newspapers and magazines that meet specified requirements. A few states, such as Arizona, do not require 501(c) nonprofit organizations to collect sales tax on any of their sales.

Appendix E

Tax Expenditure Review Commission Meeting Minutes

Tax Expenditure Review Commission Public Meeting Minutes
September 30, 2022
Via Teleconference
10:00AM

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
Professor Michelle Hanlon, Governor’s Appointee
Sue Perez, Designee, MA Treasurer
Kerri-Ann Hanley, Designee, MA Auditor
Ted Thomas, Designee, Senate Minority Leader
Jacob Blanton, Designee, Senate Ways and Means Committee
Conor O’Shaughnessy, Designee, House Minority Leader

Commission Members Absent:

Chairman Aaron Michlewitz, House Ways and Means Committee
Chairman Mark Cusack, Joint Revenue Committee, House Co-Chair
Professor Matthew Weinzierl, Governor’s Appointee

List of Documents:

1. Meeting Agenda
2. June 2022 TERC Report
3. Draft Minutes – May 6, 2022 Meeting
4. Draft Reports of Tax Expenditures:

1.030	Exclusion from Gross Income of Parking, T-Pass and Vanpool Fringe Benefits
1.423	Commuter Deduction
2.603	Vanpool Credit
3.308	Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production
3.417	Exemption for Commuter Boats
3.419	Exemption for Fuel Used in Operating Aircraft and Railroads
3.420	Exemption for Sales of Certain New and Used Buses

Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 10:05AM.

Chairperson Forter put the Commission and public on notice that the meeting is recorded for purposes of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter requested that Commission members provide any changes to the May 6, 2022 draft meeting minutes. Hearing none, members voted unanimously to approve the May 6, 2022 meeting minutes.

Chairperson Forter led a discussion on the June 2022 TERC report. The Commission drafted a report to address tax expenditures reviewed during the year two evaluation cycle. This report includes 36 tax expenditures that were reviewed between October 7, 2021 and May 6, 2022. The report was distributed to members for review prior to this meeting. Members voted to approve the final report with a minor change to the introduction addressing the repeal of 1.020 & 2.002 Exemption of Income from the Sale, Lease or Transfer of Certain Patents. The report will be posted on the Commission's website and submitted to legislature.

Sue Perez led a discussion on the Exclusion from Gross Income of Parking, T-Pass and Vanpool Fringe Benefits. This tax expenditure was adopted in 1992 and has a current annual revenue impact of \$30.5-\$41.2 million per year during FY20-FY24 with no sunset date. Starting with tax years beginning on or after January 1, 2022, Massachusetts conforms to the federal tax exclusion for employer-provided parking, transit pass, and vanpool benefits provided under Internal Revenue Code (the "Code") §132(f) as in effect on January 1, 2022. For prior years, Massachusetts conformed to §132(f) as in effect as of January 1, 2005. In 2022, the Massachusetts and federal exclusions are subject to monthly maximums of \$280 for parking and \$280 for combined transit pass and vanpool benefits. All states that tie to the Code for personal income tax purposes have this exclusion unless they have specifically decoupled (the Commission is not aware of any that have). The actual amount of the exclusion in each state may vary depending on the Code conformity date in that state. The Commission assumes that the goal of the expenditure is to help taxpayers defray the cost of commuting to work. Members voted to approve the Exclusion from Gross Income of Parking, T-Pass and Vanpool Fringe Benefits evaluation template with an additional comment to the effect that these benefits are more common for salaried employees in the corporate world, and therefore the TE may disproportionately benefit higher-income taxpayers.

Sue Perez led a discussion on the Commuter Deduction. This tax expenditure was originally enacted for the 2004 tax year only but was then adopted in its present form in 2006 (there was no deduction in the 2005 tax year). It has a current revenue impact of \$7.8 - \$10.9 million per year during FY20-FY24 with no sunset date. The tax expenditure provides individuals with a deduction for certain commuter expenses. The following commuter expenses qualify: (i) tolls paid through a Massachusetts EZ Pass account; and (ii) the cost of weekly or monthly passes for Massachusetts Bay Transit Authority (MBTA) transit, bus, commuter rail, or commuter boat service. Passes that provide a set number of rides are eligible if they allow for ten rides or more. However, stored value passes that do not provide for a set number of rides are not eligible. The deduction is limited to the portion of eligible expenses that exceeds \$150 annually. The deduction is limited to \$750 of such expenses per year. Joint filers may each deduct up to \$750 if they each incur sufficient eligible expenses. The largest group of claimants by income bracket is \$100,000-\$150,000 of adjusted gross income, and by filing status is single filers. Pandemic restrictions and increased teleworking have resulted in a reduced number of commuters. Consequently, tax revenue loss from commuter deductions declined 14% from FY19 to FY20 and 16% from FY20 to FY21. By FY24, DOR estimates that revenue loss will be 26% less than the FY19 revenue loss. No neighboring states have a similar tax expenditure. The Commission assumes that the goal of the expenditure is to encourage commuters to use EZ Pass accounts or take public transportation. Members voted to approve the Commuter Deduction evaluation template with a change from Strongly Agree to Somewhat Agree for Easily Administer, Relevant Today, and Benefits a Broad Group of Taxpayers, with an additional comment addressing whether the EZ Pass portion of the tax expenditure is relevant today given there are no cash tolls in Massachusetts. Members noted that expanding eligibility to regional transit authority customers may increase the number of beneficiaries of this tax expenditure and promote group ridership.

Kerri-Ann Hanley led a discussion on the Vanpool Credit. This tax expenditure was adopted in 1987 and has a current negligible annual revenue impact per year during FY20-FY24 with no sunset date. The tax expenditure allows business corporations a credit equal to 30% of the cost of company shuttle vans used in Massachusetts in an employer-sponsored ridesharing program. The credit applies to the cost of purchasing or leasing the shuttle vans. The shuttle vans must be used for transporting employees to and from the workplace. If the credit did not exist, the cost of acquiring vans used in vanpools would be borne entirely by employers, who might then be less inclined to provide their employees with vanpool services. Historically, very few taxpayers claimed this credit and no credits were claimed in recent years. Only Maryland provides a similar credit against corporate tax. Connecticut and Washington allow a sales and use tax exemption for vehicles purchased for employer-sponsored vanpools. The Commission assumes that the goal of the expenditure is to encourage corporations to provide transportation for employees as a means of reducing traffic congestion and providing employees a low-cost way of commuting to and from work. Members agreed the legislature may wish to either encourage use of or repeal this tax expenditure, since it is not being used. Members voted to approve the Vanpool Credit evaluation template with a change from Somewhat Disagree to Somewhat Agree for Easily Administered.

Jacob Blanton led a discussion on the Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production. This tax expenditure was adopted in 1968 and has a current annual revenue impact of \$16.2-\$26.3 million per year during FY20-FY24 with no sunset date. The tax expenditure provides an exemption from the sales and use tax on the purchase or use of materials, tools, fuels, and machinery, including spare parts, used directly and exclusively in agricultural production as well as purchases of certain animals and animal feed, and seeds and plants used to grow food for human consumption. Most states that impose a sales and use tax adopt a similar exemption for items used in agriculture. For example, Connecticut, Maine, New York, Rhode Island, and Vermont allow such an exemption. California allows a partial exemption for farming equipment but not for fuels or other consumables used in agriculture. The Commission assumes that the goal of the expenditure is to exempt items used in agricultural production from sales and use tax, thus preventing tax paid by producers from being incorporated into food prices paid by consumers. Members agreed that this tax expenditure benefits lower income taxpayers as 94.2% of farms in Massachusetts are small scale and individually owned, generating less than \$250,000 in sales per year. Members voted to approve the Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production evaluation template as presented.

Professor Hanlon led a discussion on the Exemption for Commuter Boats. This tax expenditure was adopted in 1990 and has a current annual revenue impact of \$6.5-\$7.1 million per year during FY20-FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for purchases of boats that will be used exclusively to provide scheduled commuter passenger service. The exemption also applies to repair and replacements parts for such commuter boats and to materials and tools used for maintenance and repair. It does not apply to boats that transport cargo. Maine provides a refund of sales and use tax paid on the purchase of parts and supplies for certain sailing ships used primarily for providing overnight passenger cruises but does not have a general exemption for commuter boats. New York has an exemption for ferry boats used to provide ferry service for vehicles and passengers. The Commission agreed that the purpose of the tax expenditure is unclear but assumes the goal of this expenditure is to support and promote the use of water transport in Massachusetts. Members voted to approve the Exemption for Commuter Boats evaluation template as presented.

Chairperson Forter led a discussion on the Exemptions for Fuel Used in Operating Aircraft and Railroads. These tax expenditures were adopted in 1967 (fuel used in the operation of aircraft) and 1977 (fuel used in the operation of railroads) and have a current annual revenue impact of \$19.3-\$95.3 million per year

during FY20-FY24 with no sunset date. These tax expenditures provide an exemption from the sales and use tax for purchases of fuel used in the operation of aircraft or railroads. There is no other tax on railroad fuel, but there are two excises that possibly apply to aircraft fuel. First, MGL c. 64A adopts a state-level excise on gasoline, including aviation gasoline. The excise tax on aviation gasoline is 7.5% of the average price per gallon (as determined by the Commissioner) computed to the nearest 10th of a cent per gallon. The minimum tax is \$0.10/gallon. In Fiscal Year 2022, DOR collected \$0.7 million from the excise imposed on aviation gasoline tax. The excise under MGL c. 64A does not apply to jet fuel. Second, MGL c. 64J allows cities and towns to impose a local excise on jet fuel. Revenue from the excise is not deposited into the Commonwealth's General Fund. DOR administers and collects the excise on behalf of cities and towns that adopt it, and then distributes it to those cities and towns. Currently, eight cities and towns have enacted jet fuel excise. The excise tax rate on jet fuel is 5% of the average price per gallon (as determined by the Commissioner) computed to the nearest 10th of a cent per gallon; the minimum tax is \$0.05/gallon. In Fiscal Year 2022, DOR collected \$25.7 million in local excise on jet fuel. The excise under MGL c. 64J does not apply to aviation gasoline. California, Connecticut, Maine, New York, and Vermont allow sales and use and fuel tax exemptions for purchases of fuel by airlines and railroads. Rhode Island subjects aircraft fuel to a fuel excise but exempts it from sales tax and subjects railroad fuel to sales and use tax but exempts it from fuel excise. The Commission questioned whether the legislature should incentivize fuels considering climate concerns. The Commission concluded this may be a competitiveness issue; if Massachusetts does not offer this exemption consumers may be incentivized to refuel out-of-state. Members voted to approve the Exemptions for Fuel Used in Operating Aircraft and Railroads evaluation template as presented.

Jacob Blanton led a discussion on the Exemption for Sales of Certain New and Used Buses. This tax expenditure was adopted in 1973 and has a current annual revenue impact of \$5.8-\$7.0 million per year during FY20-FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for new and used buses that a common carrier uses to provide scheduled intra-city local service. The exemption also extends to the purchase of replacement parts, materials and tools used to maintain or repair these buses. "Common carrier" is a general term that applies to an entity that transports goods or passengers for compensation. To claim the exemption common carriers must obtain a certificate of public convenience or necessity from the Department of Public Utilities ("DPU certificate"). See M.G.L. c. 159A, § 7. Based on court decisions and DOR practice, the exemption has been broadly interpreted to extend to all bus purchases and maintenance activities for any carrier that has at least one valid DPU certificate for any one of its routes. Thus, the exemption could be claimed by a holder of one valid certificate for the purchase of buses that are used for other purposes, such as recreational touring. Indiana, Maryland, and New Jersey provide a similar exemption. California has a partial, temporary exemption for low emission buses. No similar exemption is provided by Connecticut, Maine, New York, Rhode Island, or Vermont. The Commission agreed the intent of this expenditure is not clear, which makes it difficult to evaluate its effectiveness. The Commission assumes the original intent was to incentivize private companies to offer local bus service, but the exemption is available to any business with a DPU certificate, regardless of whether the bus is used on a local intracity route. Members voted to approve the Exemption for Sales of Certain New and Used Buses evaluation template as presented.

Members discussed the next batch of tax expenditures to be reviewed at the next Commission meeting. Members agreed to schedule the next meeting for mid-November. Chairperson Forter concluded the meeting at 11:22AM.

Tax Expenditure Review Commission Public Meeting Minutes
November 21, 2022
Via Teleconference
10:00AM

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
Professor Michelle Hanlon, Governor’s Appointee
Sue Perez, Designee, MA Treasurer
Kerri-Ann Hanley, Designee, MA Auditor
Chris Anderson, Designee, Senate Minority Leader
Jacob Blanton, Designee, Senate Ways and Means Committee
Representative Michael Soter, Designee, House Minority Leader
Professor Matthew Weinzierl, Governor’s Appointee

Commission Members Absent:

Chairman Aaron Michlewitz, House Ways and Means Committee
Chairman Mark Cusack, Joint Revenue Committee, House Co-Chair

List of Documents:

1. Meeting Agenda
2. Draft Minutes – September 30, 2022 Meeting
3. Draft Reports of Tax Expenditures:

1.014	Exemption of Rental Value of Parsonages
1.021	Exemption of Capital Gains on Home Sale (formerly only for Persons 55 and Over)
3.603	Exemption for Certain Meals
3.605	Exemption for Certain Summer Camps from Sales Tax on Meals and Room Occupancy Excise
1.204 & 2.206	Abandoned Building Renovation Deduction
1.301 & 2.301	Modified Accelerated Depreciation on Rental Housing
1.604 & 2.606	Credit for Employing Former Full-Employment Program Participants

Chairperson Forter welcomed the Commission’s new designees. Chris Anderson has been appointed as the designee for the Senate Minority Leader. Representative Michael Soter has been appointed as the designee for the House Minority Leader. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 10:05AM.

Chairperson Forter put the Commission and public on notice that the meeting is recorded for purposes of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter requested that Commission members provide any changes to the September 30, 2022 draft meeting minutes. Hearing none, members voted unanimously to approve the September 30, 2022 meeting minutes.

Professor Weinzierl led a discussion on the Exemption of Rental Value of Parsonages. This tax expenditure was adopted in 1973 and has an annual revenue impact of \$4 million per year during FY20-FY24 with no sunset date. This tax expenditure is based on Internal Revenue Code (the “Code”) § 107, which allows ministers to exclude from income a housing allowance or the rental value of housing provided to them as a part of their compensation. Massachusetts follows the federal exclusion because it adopts Code § 107. See M.G.L. c. 62, §§ 1(c), 1(d), and (2)(a). The revenue that Massachusetts foregoes as a result of the exclusion is a state tax expenditure. When enacted in 1921, the income exclusion was intended to place ministers on par with other employees that enjoyed an exclusion for employer-provided housing. States that have rolling conformity to the Code or static conformity to a 1954 or later version of the Code, and have not decoupled from § 107, provide the same income exclusion. States that allow the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state that has decoupled. Members agreed that absent this tax expenditure ministers would experience financial difficulty securing housing. Members voted to approve the Exemption of Rental Value of Parsonages evaluation template as presented.

Professor Hanlon led a discussion on the Exemption of Capital Gains on Home Sale. This tax expenditure was adopted in 1973 and has an annual revenue impact of \$350.6M-\$422.2M per year during FY20-FY24 with no sunset date. The tax expenditure is in effect due to Massachusetts’ conformity with Internal Revenue Code (“Code”) § 121, which Massachusetts adopts as it appears as of January 1, 2022. Code § 121 allows a taxpayer to exclude from gross income up to \$250,000 of capital gain on the sale or exchange of a principal residence. The exclusion limit is \$500,000 for married taxpayers filing jointly. To qualify for the exclusion, taxpayers must have owned the residence, and used it as their primary home, for an aggregate of at least 2 of the 5 years prior to the sale. Ownership and use need not span the same 2-year period, but both must occur within the 5-year period prior to the sale. Taxpayers may only have one principal residence at a time. The exclusion may be taken any number of times so long as at least 2 years pass between each sale for which the exclusion is claimed. Personal income tax foregone as a result of the exclusion constitutes a tax expenditure. The Commission assumes that the goal of the tax expenditure is to support homeownership and enhance mobility in the housing and labor markets by ameliorating the tax burden of selling a primary residence. All states that conform to a version of the Code as amended on or after 1997 provide the same or a similar income exclusion, unless the state specifically decouples from the federal exclusion. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state that has decoupled. Chris Anderson mentioned the context for this incentive may become more important in light of rising housing costs and Massachusetts’ new surtax on millionaires. Members agreed policy makers may want to consider the interplay between this expenditure and the new surtax. Members voted to approve the Exemption of Capital Gains on Home Sale evaluation template as presented.

Kerri-Ann Hanley led a discussion on the Exemption for Certain Meals. The tax expenditure was adopted in 1977 and has an annual revenue impact of \$93.7M-\$128M per year during FY20-FY24 with no sunset date. The tax expenditure provides an exemption from the sales and use tax for meals provided by (i) religious institutions, (ii) hospitals, (iii) facilities for senior citizens or individuals with disabilities, (iv) educational institutions that provide meals to students, and (v) other meal providers enumerated in M.G.L. c. 64H, § 6(cc). Absent the exemption afforded by this tax expenditure, charges for meals would be subject to sales and use tax. In addition, the exemption relieves institutions eligible for the exemption of the administrative burden of collecting and reporting sales and use tax. The revenue foregone as a result of the exemption constitutes a tax expenditure. The Commission assumes that the goal of the tax expenditure is to prevent the sales and use tax from increasing the cost of meals provided by eligible

institutions and reducing the cost of sales and use tax compliance for such institutions. Most states that tax meals allow an exemption for meals provided by religious institutions, hospitals, and residential facilities for senior citizens and individuals with disabilities. These states include California, Connecticut, Maine, New Hampshire, and Vermont. New York and Rhode Island do not appear to have such an exemption. Similarly, most states, including California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont, allow an exemption for meals provided by educational institutions to their students. The Commission's understanding is that airline meals are included in this tax expenditure as a constitutional consideration. States may not adopt taxes on interstate commerce. Members voted to approve the Exemption for Certain Meals evaluation template as presented.

Chairperson Forter led a discussion on the Exemption for Certain Summer Camps from Sales Tax on Meals. This tax expenditure was adopted in 1987 and has an annual revenue impact of \$0.7 million per year during FY20-FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for meals provided by summer camps for children aged 18 and under, and for summer camps for developmentally disabled individuals. The exemption is allowed regardless of whether the meals are provided to campers or other individuals (e.g., counselors, administrators, visiting parents, etc.). A camp may offer its facilities in the off-season to individuals 60 years of age or over for 30 days or less in any calendar year without losing its status as a summer camp for purposes of the exemption. Meals provided by summer camps to individuals sixty years of age or older during the off-season as described above are also exempt from tax. In addition, the exemption relieves summer camps of the administrative burden of collecting and reporting sales and use tax. The revenue foregone as result of the exemption constitutes a tax expenditure. The Commission assumes that the goal of the tax expenditure is to reduce the cost of meals provided by summer camps serving youths and disabled persons and to reduce the burden of collecting and reporting sales and use tax for such summer camps. A number of states, including California, Connecticut, Maine, and Rhode Island adopt specific exemptions for meals provided by summer camps. Members voted to approve the Exemption for Certain Summer Camps from Sales Tax on Meals with a change from Strongly agree to Somewhat agree for Easily Administered and an additional comment addressing estimation uncertainty due to the use of national data.

Jacob Blanton led a discussion on the Abandoned Building Renovation Deduction. This tax expenditure was adopted in 1993 and has a negligible revenue impact during FY20-FY24 with no sunset date. The deduction is part of the Massachusetts Economic Development Incentive Program (EDIP), administered by the Economic Assistance Coordinating Council (EACC). The EDIP generally employs local property tax incentives to spur economic development, often in blighted areas. These incentives are available for projects that will create new jobs. In addition to the local property tax incentives, the EACC administers the abandoned building renovation deduction. The deduction is allowed only for renovations that are part of projects approved by EACC. The revenue lost as a result of the deduction constitutes a tax expenditure. Every state with a corporate or personal income tax allows the recovery of business expenses incurred in renovating real property, either through immediate expensing or through depreciation allowances. No other state allows an additional deduction similar to the one allowed in Massachusetts. South Carolina has a tax credit for renovation expenses under its Abandoned Buildings Revitalization Act. Members discussed potential reasons as to why the amount claimed per year is negligible. Members agreed to reach out to EEAC for more data and to revisit the Abandoned Building Renovation Deduction evaluation template at the next Commission meeting.

Chairperson Forter led a discussion on the Modified Accelerated Depreciation on Rental Housing. This tax expenditure was adopted in 1986 and has an annual revenue impact of \$28M-\$33.7M during FY20-FY24

with no sunset date. The Internal Revenue Code (the “Code”) allows landlords and investors to determine their depreciation deduction for new and used rental housing using an accelerated method of depreciation. Rental housing placed in service after 1986 is depreciated on a straight-line basis over a 27.5-year period rather than the 40-year recovery period used under traditional financial accounting rules. Rental housing placed in service before 1986 was depreciable over shorter periods, generally 19 or 20 years, and, instead of straight-line depreciation, the 175% declining balance method was permitted. Massachusetts generally adopts the business expense deductions allowed under the Code, including the federal deduction for depreciation. As a result, Massachusetts conforms to the use of straight-line depreciation over a 27.5-year accelerated recovery period for residential rental property. This allows for a larger depreciation deduction in the earlier years of the useful life of residential rental property 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, or tax. The Commission assumes the policy goal of this expenditure is to increase the amount of available rental housing by encouraging investment in new and used rental housing. Conformity with federal depreciation rules also simplifies tax compliance and administration by allowing the same general depreciation rules to be used for Massachusetts and federal purposes. Most states conform to the current Code deduction allowing depreciation of buildings used for rental housing. States that do so include Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. California requires the use of traditional financial accounting depreciation schedules for all buildings. Members voted to approve the Modified Accelerated Depreciation on Rental Housing evaluation template as presented.

Professor Weinzierl led a discussion on the Credit for Employing former Full-Employment Program Participants. This tax expenditure is no longer active. It previously provided a tax credit for employers who continued to employ former participants in the full employment program adopted by the Department of Transitional Assistance (DTA). The program subsidized the salaries of certain disadvantaged individuals. The credit was equal to \$100 per month for each month of non-subsidized employment, up to a maximum of \$1,200 per employee, per year, for each employee retained after DTA subsidies ceased. The credit was required to be authorized by the DTA. The credit was neither transferable nor refundable. The reduction of revenue resulting from the credit constituted a state tax expenditure. The full employment program was created by St. 1995, c. 5, § 110(m) but was never codified into the General Laws. The law authorizing the program was never repealed, but the DTA stopped authorizing the credit in 2016. It is not clear why DTA stopped authorizing the credit. However, the DTA implemented a new incentive program, Pathways to Work, at approximately the same time as the DTA stopped funding the credit. It is possible that the DTA decided to reallocate resources to the new program. Note that although the DTA stopped authorizing the credit in 2016, the credit continued to affect state finances until 2021. This was because unused credit could be carried forward for five years. As a result of these circumstances, this tax expenditure is not active for 2022 or later years. Members agreed to reach out to DTA to see if the department intends to maintain this credit. Members voted to approve the Credit for Employing former Full-Employment Program Participants evaluation template with a change to Strongly Disagree for Claimed by Intended Beneficiaries, Broad Group, and Amount Claimed is Meaningful.

Members discussed the next batch of tax expenditures to be reviewed at the next Commission meeting. Members agreed to schedule the next meeting for early January. Chairperson Forter concluded the meeting at 11:21 AM.



The Commonwealth of Massachusetts
SENATE MINORITY LEADER
MASSACHUSETTS SENATE

SENATOR BRUCE E. TARR
First Essex and Middlesex

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October 17, 2022

His Excellency Charles Baker
Governor of the Commonwealth
The State House, Room 360
Boston, MA 02133

Dear Governor Baker,

I am writing to inform you that, pursuant to my authority under chapter 207 of the acts of 2018, I hereby appoint Christopher Anderson, President of the Massachusetts High Technology Council to replace my former appointee Gregory Sullivan to serve as my appointee to the tax expenditure commission that shall examine, evaluate and report on the administration, effectiveness and fiscal impact of tax expenditures, as defined in section 1 of chapter 29, and as presented with the governor's proposed budget under paragraph 3 of section 5B of said chapter 29.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Tarr".

Bruce Tarr
State Senator

Cc: The Honorable Karen Spilka
The Honorable Ronald Mariano
The Honorable Bradley H. Jones, Jr.
Mr. Michael Hurley, Senate Clerk
Mr. Steven James, House Clerk
Mr. Christopher Anderson, 339-222-2881 (cell), chris@mhtc.org



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

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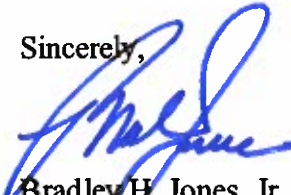
October 24, 2022

Mr. Steven T. James
House Clerk
State House, Room 145
Boston, MA 02133

Dear Mr. Clerk:

I am writing to inform you that, pursuant to my authority granted under Section 14 of Chapter 14 of the Massachusetts General Laws, I hereby appoint Representative Michael Soter of Bellingham to serve as my designee on the Tax Expenditure Review Commission.

Thank you for your consideration in this important matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

Bradley H. Jones, Jr.
Minority Leader

BHJ/mes

- cc: His Excellency Charles D. Baker, Governor of the Commonwealth
- The Honorable Ronald Mariano, House Speaker
- The Honorable Karen E. Spilka, Senate President
- The Honorable Bruce E. Tarr, Senate Minority Leader
- The Honorable Aaron Michlewitz, House Ways and Means Chair
- The Honorable Michael J. Rodrigues, Senate Ways and Means Chair
- The Honorable Mark J. Cusack, House Chair, Joint Committee on Revenue
- The Honorable Brendan P. Crighton, Senate Vice Chair, Joint Committee on Revenue
- The Honorable Michael Soter
- The Honorable Suzanne M. Bump, State Auditor
- The Honorable Deborah B. Goldberg, State Treasurer
- Commissioner Geoffrey E. Snyder, Massachusetts Department of Revenue
- Sean Pierce, Governor's Office of Boards and Commissions
- Michael D. Hurley, Clerk of the Senate
- John Walsh, Office of the Speaker of the House

Tax Expenditure Review Commission Public Meeting Minutes
 January 09, 2023
 Via Teleconference
 10:00AM

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
 Professor Michelle Hanlon, Governor’s Appointee
 Sue Perez, Designee, MA Treasurer
 Kerri-Ann Hanley, Designee, MA Auditor
 Chris Anderson, Designee, Senate Minority Leader
 Jacob Blanton, Designee, Senate Ways and Means Committee
 Professor Matthew Weinzierl, Governor’s Appointee

Commission Members Absent:

Tim Sheridan, Designee, House Ways and Means Committee
 Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
 Representative Michael Soter, Designee, House Minority Leader

List of Documents:

1. Meeting Agenda
2. Draft Minutes – November 21, 2022 Meeting
3. Draft Reports of Tax Expenditures:

TE No.	TE Name
1.412	Nontaxation of Charitable Purpose Income of Trusts and Estates
1.415 & 2.201	Charitable Contributions and Gifts Deduction
2.303	Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly
3.003	Exemption for Sales to Tax-Exempt Organizations
3.406	Exemption for Funeral Items
3.409	Exemption for Books used for Religious Worship
3.607	Exemptions for Publications of Tax-Exempt Organizations
1.621 & 2.624	Apprentice Tax Credit

Chairperson Forter welcomed the Commission members. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 10:05AM.

Chairperson Forter put the Commission and public on notice that the meeting is recorded for purposes of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter continued a discussion on the Abandoned Building Renovation Deduction. The Commission reached out to HED to try to figure out why the incentive is claimed so infrequently. MOBD staff thought it could be due to the fact that the deduction is available only when renovating a building. According to them, often old mill buildings are so deteriorated that a company will tear it down and

construct a new one on that location rather than renovating the building. It was also suggested that its lack of use could be in part due to the marketing of the deduction to companies - MOBD regional directors may be the only ones notifying companies of its availability. Without more data, the Commission does not know whether the deduction benefits smaller businesses. Additionally, the question of whether the deduction is meaningful as an incentive can only be answered in the context of the broader EDIP program. Even though the dollar amount per taxpayer is fairly small, it may be meaningful when taken together with other local property tax incentives. This tax expenditure is unique to Massachusetts. While every state with a corporate or personal income tax allows the recovery of business expenses incurred in renovating real property, either through immediate expensing or through depreciation allowances, no other state allows an additional deduction similar to the one allowed in Massachusetts. Members voted to approve the Abandoned Building Renovation Deduction evaluation template as presented.

Chairperson Forter requested that Commission members provide any changes to the November 21, 2022 draft meeting minutes. Hearing none, members voted unanimously to approve the November 21, 2022 meeting minutes.

Professor Hanlon led a discussion on the Nontaxation of Charitable Purpose Income of Trusts and Estates. This tax expenditure was adopted in 1973 and has an annual revenue impact of \$14.2 - \$15.4 million during FY20 - FY24 with no sunset date. The income of trusts and estates is subject to the personal income tax. When a trust receives income, it is required to report and pay tax on the income at the trust level, unless it is a simple trust. Estates are required to report and pay tax on all their income. In determining taxable income, trusts and estates are allowed a deduction for income they receive that is payable to or irrevocably set aside for a charitable purpose, as per the terms of the trust or will. The deduction is allowed for amounts payable to or set aside for 501(c)(3) organizations. In addition, the deduction is allowed to a so-called "charitable trust" that receives income and spends it or sets it aside for "the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes or other purposes which are beneficial to the community." Note that this deduction operates independently of the deductions for charitable contributions by individuals and corporations to 501(c)(3) organizations. Note that the federal rules pertaining to the income taxation of trusts provide a similar deduction. Massachusetts disallows the federal deduction and adopts its own deduction as described above. The Commission assumes that the expenditure is intended to encourage charitable giving. A number of states allow a deduction for trust and estate income that has been paid to, or permanently set aside for, charitable organizations. These states include California, Connecticut, Maine, New York, Rhode Island, and Vermont. Members voted to approve the Nontaxation of Charitable Purpose Income of Trusts and Estates evaluation template with an additional comment highlighting the analogous federal deduction. Absent this tax expenditure, Massachusetts would be out of sync with the Internal Revenue Code (the "Code") as well as other states.

Professor Hanlon led a discussion on Charitable Contributions and Gifts Deduction. The corporate portion of this tax expenditure was adopted in 1903 and revised in 1963 and has an annual revenue impact of \$47.1 - \$71.4 million during FY20 – FY24 with no sunset date. The tax expenditure allows corporations (and will allow individuals) to deduct charitable contributions in determining taxable income. The deduction for individuals and the deduction for corporations are based on separate provisions of Massachusetts law, but both deductions derive from Code § 170. Code § 170 allows both individuals and corporations a federal deduction for charitable contributions to § 501(c)(3) organizations. The Massachusetts corporate excise deduction for charitable contributions results from the general allowance of federal deductions in the determination of net income. Thus, Massachusetts allows the deduction in

the same amount as the federal deduction. All federal requirements and limits pertaining to the deduction apply for Massachusetts purposes. The most important of these limits is that the deduction cannot exceed 10% of a corporation's taxable income. The federal limit was temporarily increased to 25% for certain corporate contributions made in 2020 and 2021. Massachusetts followed those temporary increases. The personal income tax and corporate excise revenue lost as a result of the deduction for charitable contributions is a Massachusetts tax expenditure. Because the reinstatement of the personal income tax charitable deduction will take effect 1/1/23, this report will only cover the corporate and business charitable deduction. The Commission assumes that the expenditure is intended to encourage charitable giving. Most states with an income tax allow a deduction for charitable contributions. States that do so for individual income tax purposes include California, Connecticut, Maine, New York, and Rhode Island. Vermont offers a credit for up to \$400 of charitable contributions. States that allow a charitable deduction for corporate income tax purposes include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. Members discussed data limitations and agreed to revisit the Charitable Contributions and Gifts Deduction evaluation template at the next Commission meeting. DOR agreed to revise the summary report for this tax expenditure.

Chairperson Forter led a discussion on the Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly. This tax expenditure was adopted in 1990 and has an annual revenue impact of \$0.7 million during FY20 – FY24 with no sunset date. Massachusetts conforms to Code § 190, which allows taxpayers to elect an immediate deduction of up to \$15,000 of expenses incurred in removing architectural or transportation barriers to the handicapped and elderly. The cost of an improvement to a business asset is normally a capital expense, which would have to be capitalized and deducted over a period of years. Any costs over \$15,000 must be capitalized and deducted under the generally applicable depreciation schedules set out in the Code. Expenses incurred in making a building or public transportation vehicle more accessible to people with disabilities and the elderly are eligible for the deduction. Examples with regard to buildings include installing ramps, widening doors, modifying restrooms, and lowering counters to accommodate customers in wheelchairs. Examples with regard to vehicles include installing lifts for wheelchairs and modifying signage and public address systems to accommodate the visually or hearing impaired. The deduction is not available for costs incurred in completely renovating a building or vehicle or for the cost of replacing depreciable property in the normal course of business. The policy goal stated in Code § 190(b)(1) is to make "any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals." States that conform to the Code in determining personal and corporate business expense deductions adopt the accelerated deduction under Code § 190, unless they specifically decouple from that provision. California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont allow the accelerated deduction. The Commission is not aware of any state that has decoupled. Members voted to approve the Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly evaluation template as presented.

Professor Weinzierl led a discussion on the Exemption for Sales to Tax-Exempt Organizations. This tax expenditure was adopted in 1967 and has an annual revenue impact of \$627.3 - \$833.0 million during FY20 – FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for tangible personal property and services purchased by organizations that are exempt from taxation under §501(c)(3) of the Code. Purchases by non-profit volunteer fire departments and ambulance services are also exempt. To qualify for the exemption the tangible personal property or services must be used by

such organizations in carrying out their tax-exempt purposes. To claim the exemption a 501(c)(3) organization or non-profit volunteer fire department or ambulance service must apply to DOR for an exemption certificate and present the certificate to the vendor when making purchases. The Commission assumes that the expenditure is intended to reduce the expenses of § 501(c)(3) organizations, thereby increasing the resources such an organization has available to devote to its mission. Most states that impose a sales and use tax have a similar exemption. These states include Connecticut, Maine, New York, Rhode Island, and Vermont. California does not have an exemption for purchase by § 501(c)(3) organizations. Members voted to approve the Exemption for Sales to Tax-Exempt Organizations evaluation template with a change from Somewhat Disagree to Somewhat Agree for Benefits Justify Costs and Claimed by a Broad Group.

Kerri-Ann Hanley led a discussion on Exemption for Funeral Items. This tax expenditure was adopted in 1967 and has an annual revenue impact of \$11.7 - \$13.8 million during FY20 – FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for coffins, caskets, burial garments, and other materials that are generally sold by a funeral director as part of the business of funeral directing. DOR's administrative practice is to apply the exemption only to items normally transferred by funeral directors as part of their business as a funeral director. DOR has interpreted the exemption to also apply to transfers by persons that are not funeral directors so long as the items transferred would be exempt if transferred by a funeral director. DOR does not apply the exemption to sales of monuments, grave markers, or funeral flowers. Funeral directors are subject to sales and use tax on items that they use or consume in their businesses other than coffins, caskets, burial garments and other items covered by the exemption. Such taxable items include motor vehicles, business fixtures, embalming supplies, and instruments and equipment. Absent the exemption afforded by this tax expenditure, sales of coffins, caskets, burial garments, and similar items sold by a funeral director would generally be subject to the sales and use tax. The Commission assumes that the goal of the expenditure is to lessen the funeral costs of the bereaved upon the death of a loved one. Connecticut, Maine, Rhode Island, and Vermont provide similar exemptions. New York exempts retail sales by funeral directors from sales and use tax, but taxes purchases by funeral directors. California does not provide any exemption for funeral directors. Members discussed data limitations and the methodology for revenue loss estimates. Members agreed to revisit the Exemption for Funeral Items evaluation template at the next Commission meeting.

Jacob Blanton led a discussion on Exemption for Books used for Religious Worship. This tax expenditure was adopted in 1967 and has an annual revenue impact of \$0.7 - \$0.9 million during FY20 – FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for books used for religious worship. The exemption is limited to printed material and does not apply to audio or video recordings or to books that are simply religion-themed. The exemption applies to eligible books whether sold by publishers to religious institutions or sold by retailers to such institutions or to individuals. Absent the exemption afforded by this tax expenditure, books used for religious worship would be subject to sales tax. The Commission assumes that the goal of the expenditure is to make religious materials more accessible. There is no similar exemption in California, Connecticut, Maine, New York, Rhode Island, or Vermont. Similar sales and use tax exemptions have been held to be unconstitutional in a number of states on the grounds that they promote the establishment of a religion or infringe on the freedom of the press. States where similar exemptions have been stricken include Georgia, North Carolina, and Rhode Island. A number of states, including New Jersey, continue to exempt religious material. Members voted to approve the Exemption for Books used for Religious Worship evaluation template as presented with an

additional comment acknowledging that similar sales and use tax exemptions have been held to be unconstitutional in a number of states on the grounds that they promote the establishment of a religion or infringe on the freedom of the press. The Commission also noted that this exemption may overlap with certain other exemptions, such as 3.607 Exemptions for Publications of Tax-Exempt Organizations.

Kerri-Ann Hanley led a discussion on the Exemptions for Publications of Tax-Exempt Organizations. This tax expenditure was adopted in 1967 and has an annual revenue impact of \$19.0 - \$23.0 million during FY20 – FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for sales of the publications of organizations that are exempt from taxation under § 501(c)(3) of the Code. The exemption applies to all printed material published and sold by such organizations. Massachusetts also allows an exemption from sales and use tax for sales of newspapers and magazines. Some, but not all, publications of eligible tax-exempt organizations may also be eligible for the newspaper and magazine exemption. Absent the exemption afforded by this tax expenditure, sales of publications of tax-exempt organizations would be subject to sales and use tax unless the exemption for newspapers and magazines, or another exemption, applies. The Commission assumes that the goal of the expenditure is to support tax-exempt organizations by relieving them from the burden of sales and use tax compliance and by reducing the cost of their publications to consumers. Most states with a sales or use tax require tax-exempt organizations to collect tax on their sales unless another exemption applies. Connecticut, Maine, New York, Rhode Island, and Vermont apply such a requirement. California exempts the sale of periodicals (defined as a publication with different issues published at least four times per year) published by 501(c)(3) nonprofit organizations only for their members or without commercial advertising. Members voted to approve the Exemptions for Publications of Tax-Exempt Organizations evaluation template with an additional comment acknowledging that many states do not exempt these sales. The Commission noted that this tax expenditure appears to primarily benefit large institutions of higher education, which are most likely to have significant publishing operations. According to causeiq.com, “Harvard Business Publishing Corporate Learning” accounted for about 80% of the annual revenue for Massachusetts’ 117 nonprofit presses and publishers.

Chairperson Forter led a discussion on the Apprentice Tax Credit. This tax expenditure was adopted in 2018 and has an annual revenue impact of \$0.2 - \$0.3 million during FY20 – FY24 with no sunset date. The tax expenditure allows employers to claim a credit against the personal income tax or corporate excise if they establish apprenticeship programs and hire apprentices in designated computer technology, health care technology, or manufacturing occupations. The apprentice tax credit is equal to the lesser of \$4,800 or 50% of the wages paid to the apprentice. Apprentices must be Massachusetts residents working for employers with business premises in the Commonwealth. Occupations eligible for the credit include a range of jobs in the designated fields. Such occupations generally include jobs that require technical skills but do not necessarily require post-secondary education. The statutes authorizing the credit state that the purpose of the credit is to “create talent pipelines for businesses and provide career pathways toward high demand occupations for unemployed and underemployed residents of the commonwealth.” To be eligible for the credit, employers must register their apprenticeship programs and program participants with the Massachusetts Executive Office of Labor and Workforce Development, Division of Apprentice Standards. The amount of the credit available to any employer is determined by the Secretary for Labor and Workforce Development in consultation with the Massachusetts Executive Office for Administration and Finance. The total amount of cumulative credit available annually is limited to \$2.5 million. The Division of Apprentice Standards confirmed there are multiple contributing factors

that could have an effect on the current number of employers taking advantage of this tax credit. For both manufacturing and technology, nearly all of the apprenticeships are “sponsored” by intermediary organizations and, as a result, information disseminated by the Commonwealth to these primary contacts on when and how to apply for the RATC may have not reached the employer audience directly. For manufacturing, this number may have been even lower with only production manufacturers eligible. And, for healthcare, the majority of apprentices are EMTs employed by local municipalities who are not eligible for the tax credit. Additionally, for both FY20 and FY21, these results likely mirror the temporary downturn in apprenticeship participation (and workforce programming generally) due to the pandemic with a decrease in credits awarded by \$27 K and \$14 K in FY20 and FY21, respectively. Legislation proposed in 2022 would have given EOLWD the authority to expand the list of occupations eligible for the credit, but that legislation was not enacted. A number of states have adopted tax credits and incentives for employers that employ apprentices in various occupations. However, the types of eligible occupations and credit-generating activities vary widely. Members voted to approve the Apprentice Tax Credit as presented with an additional comment noting the small number of credits claimed.

Members discussed the next batch of tax expenditures to be reviewed and discussed drafting a report to be voted on during the next Commission meeting. Members agreed to schedule the next meeting for late February or early March. Chairperson Forter concluded the meeting at 11:48 AM.

Appendix F

Economic Analysis and Its Use in TERC Reports

This appendix explains why the Commission uses a static economic impact analysis model for the evaluation of a tax expenditure. A static model is used to measure only the direct impacts. A dynamic model is used to measure the direct impacts and indirect impacts. As explained below, a tax expenditure generates not only direct impacts, but also indirect impacts.

On the one hand, a tax expenditure generates direct benefits to some taxpayers in the form of lower production or capital cost, or higher disposable income, or lower consumer price, etc. On the other hand, because the Commonwealth must balance its budget, spending on a tax expenditure means fewer funds available to spend on other expenditure items if there is no increase in state revenues. Reduced spending on other expenditure items means forgone benefits from those items. This is a direct cost¹ to the Commonwealth, which is ultimately borne by the Massachusetts residents or businesses that would have benefitted from additional spending on those other expenditure items. The direct costs to the Commonwealth in the form of other foregone benefits are equal to the direct benefits to taxpayers of the particular tax expenditure.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with a tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the directly impacted businesses. The induced impact (cost or benefit) is felt by the chain of businesses that benefit when the employees working for the directly impacted businesses spend their wages and salaries to buy goods and services. Accordingly, the total benefits and/or costs to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.² To measure indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. The citation in footnote 2 provides a comparison of these three models. DOR did not use such models given their complexity and the data limitations present in this instance.

¹ Called “Opportunity Cost” in economics.

² For an illustration of “Multiplier Effect”, see Slide 4 of:
<https://www.ilw.com/seminars/JohnNeillCitation.pdf>

Besides the indirect and induced costs and benefits, there may also be externalities to consider when evaluating a tax expenditure. A negative or positive externality occurs when the production and/or consumption of a good or service exerts a negative or positive effect on a third party independent of the transaction. Below are examples of negative and positive externalities associated with tax expenditures that have been evaluated by the Commission.

Examples of Negative Externalities

1. 3.302 Exemption for Materials, Tools, Fuels and Machinery Used in Manufacturing
 - Manufacturing plants may cause noise and air pollution during the manufacturing process. By encouraging manufacturing activities, this tax expenditure may aggravate the problem of negative externality such as noise and pollution if there are no other policies to offset the impact.
2. 3.108 Exemption for Certain Precious Metals
 - In order to mint coins and bullion of precious metals, ore must first be extracted from mines. The extraction process for these ores can create dust, land erosion, and possible run-off to local waterways, all of which are detrimental to the environment. By encouraging these activities, this tax expenditure may aggravate the problem of negative externality such as noise and pollution if there are no other policies to offset such negative externalities.
3. 3.609 Exemption for Vessels or Barges of 50 Tons or Over
 - A shipyard involved in the building of large vessels may cause noise and air pollution during the building process. By encouraging this activity, this tax expenditure may aggravate these negative externalities if there are no offsetting policies to dampen the impact.
4. 3.109 Exemption for Cement Mixers
 - Water, sand, gravel (or crushed stone), and the binder of cement combine to produce concrete. To acquire these aggregates involves quarrying, which in turn create large amounts of dust, and the kilns that are used in the process that ultimately produces cement require significant amounts of energy as they need to reach a temperature of approximately 1,500 degrees centigrade. A by-product of this process is large amounts of carbon dioxide (CO₂). By encouraging these activities, this tax expenditure will aggravate the problem of negative externality such as noise and pollution if there are no other policies to offset the impact. On the other hand, by encouraging the construction of infrastructure, such as roads, bridges, airports, and other products that are often viewed as “public goods”, this exemption generates positive externalities.

³ REMI's Tax-PI is a versatile tool for evaluating the total fiscal and economic impacts of tax policy changes. Tax-PI is a ready-to-use dynamic fiscal and economic impact model which captures the direct, indirect, and induced fiscal and economic impacts of taxation and other policy changes over multiple years. The model integrates input-output, computable general equilibrium, econometric and economic geography methodologies. For an introduction of Tax-PI, please see the following linked file: <https://www.remi.com/wp-content/uploads/2020/07/Estimating-Economic-Fiscal-Impacts-in-Tax-PI.pdf>

5. 3.304 Exemption for Materials, Tools, Fuels, and Machinery Used in Furnishing Power, Water, and Steam
 - According to the U.S. Environmental Protection Agency, nearly all parts of the electricity system can affect the environment, and the size of these impacts will depend on how and where the electricity is generated and delivered. In general, the environmental effects can include air and water pollution, solid waste, use of land and water resources, etc. Similarly, burning natural gas emits carbon dioxide. Constant introduction of carbon dioxide into atmosphere will lead to climate change and global warming. In addition, some of the potential problems associate with natural gas pipelines and infrastructure include destruction of thousands of acres of vital habitat, forest, and pristine lands. Loss of the valuable water and air filtering that forests provide.
6. 3.418 Exemption for Fuels, Supplies, and Repairs for Vessels Engaged in Interstate or Foreign Commerce
 - A greater movement of vessels engaged in interstate and foreign commerce may impact the life of some aquatic (endangered) species and may create some water and air pollution during the repairing and fueling process. By encouraging this activity, this tax expenditure may aggravate these negative externalities if there are no offsetting policies to dampen the impact.
7. 3.306 Exemption for Materials, Tools, Fuels, and Machinery Used in Newspaper Printing
 - The newspaper publishing industry may produce significant amounts of volatile organic compounds (VOCs) along with heavy metals from ink which may cause air and soil pollution. By indirectly encouraging this activity, this tax expenditure may aggravate these negative externalities if there are no offsetting policies to dampen the impact.
8. 3.411 Exemption for Certain Sales by Typographers, Compositors and Color Separators
 - The printing industry may produce significant amounts of volatile organic compounds (VOCs) along with heavy metals from ink which may cause air and soil pollution. By indirectly encouraging this activity, this tax expenditure may aggravate these negative externalities if there are no offsetting policies to dampen the impact.
9. 2.101 Deferral of Tax on Certain Shipping Companies
 - A shipyard involved in the building or repairing of vessels may cause noise and air pollution during the building/repairing process. By encouraging this activity, this tax expenditure may aggravate these negative externalities if there are no offsetting policies to dampen the impact.
10. 3.419 Exemption for Fuel Used in Operating Aircraft and Railroads
 - Airplanes/aircrafts and rails operations may cause noise and air pollution during the process. By encouraging aviation and rail operation, this tax expenditure may aggravate the problem of negative externality such as noise and air pollution if there are no other policies to offset the impact.

Examples of Positive Externalities

1. 3.303 Exemption for Materials, Tools, Fuels and Machinery Used in Research and Development
 - Research and development conducted by a company can have positive externalities. Research and development increases the private profits of a company but also has the added benefits of increasing the general level of knowledge within a society and promoting economic growth through its positive effect on innovation and productivity. Since positive externalities cannot be paid for through the market, government intervention, such as subsidy (or public funding to research and development), is often viewed as necessary.

2. 3.310 Exemption for Materials, Tools, Fuels, and Machinery Used in Radio and TV Broadcasting
 - Radio and television broadcasting firms produce and broadcast comprehensive coverage of news and current affairs, sports, and other entertainments, the benefits of which extend beyond individual consumers. Hence, the society at large could benefit from a thriving radio and television broadcasting sector. Please note, this exemption would apply to traditional broadcasters and to cable broadcasters, but presumably not to Internet streaming or other Internet services.
3. 3.405 Exemption for Certain Energy Conservation Equipment
 - By encouraging the use of clean energy, this expenditure seeks to support a cleaner environment, curb climate change, and enhance public health, which would generate positive externalities. Such positive externalities are often difficult to quantify.
4. 3.601 Exemption for Casual or Isolated Sales
 - This expenditure results in a positive externality because it incentivizes the sale of used items, which may reduce the demand for new goods and therefore pollution associated with the manufacturing of such new goods, especially for textiles. In addition, resale of used items may reduce solid waste if the used items would otherwise be disposed.
5. 3.610 Exemption for Rental Charges for Refuse Containers
 - By encouraging proper refuse disposal, including the re-use of refuse containers, this expenditure helps create a cleaner and safer environment, which would generate positive externalities.
6. 3.417 Exemption for Commuter Boats, 3.420 Exemption for Sales of Certain New and Used Buses, 1.423 Commuter Deduction
 - By encouraging use of public transportation, these expenditures help create a cleaner environment through fewer vehicle emissions and reduced stress on infrastructure (i.e., highways, bridges, etc.), which would generate positive externalities, or benefits to each member of the society.
7. 3.605 Exemption for Certain Summer Camps from Sales Tax on Meals
 - The usage of summer camps by children and developmentally disabled individuals will promote the physical and mental health of the users of such summer camps, which will indirectly benefit people around them and the society as a whole.

Appendix G

Background: Current and Previous Studies of Massachusetts Tax Expenditures

There has been considerable interest in the last decade regarding the Commonwealth's tax expenditures. The current TERC, which was created by the Acts of 2018, follows up on the work of an earlier *ad hoc* Tax Expenditure Commission, formed pursuant to Acts 2011, section 160, that issued an extensive report to the Legislature on April 30, 2012. Indeed, the formation of the current TERC may be seen as an implementation of certain recommendations of the previous Commission, which advocated for the periodic review of tax expenditures to ensure their continued relevance and effectiveness. The current TERC represents an institutionalization of such an ongoing review process.

The 2012 Report, along with its multiple appendices, provides a wealth of information regarding state and federal tax expenditures. Additionally, the Tax Expenditure Budget, published annually by the Commissioner of Revenue, provides current cost estimates associated with tax expenditures applicable to the particular fiscal year. Readers are referred to these sources for background information related to Massachusetts tax expenditures. The 2012 Report, with associated materials, is available at: <https://www.mass.gov/lists/2011-2012-tax-expenditure-commission-materials>. The annual Tax Expenditure Budget is available at: <https://www.mass.gov/lists/tax-expenditure-budget>.

The current Tax Expenditure Review Commission was created under Chapter 207 of the Acts of 2018 to review each tax expenditure in the Tax Expenditure Budget every five years; to consider the purpose, goal, and effectiveness of each Tax Expenditure in this review; and to report its findings biennially to the Legislature. The full text of Chapter 207, which is now codified at Chapter 14, section 14 of the General Laws, is reproduced at **Appendix A**.

The TERC is chaired by the Commissioner of the Department of Revenue or designee. Other members include the State Auditor; the State Treasurer; the chair of the House Committee on Ways and Means; the chair of the Senate Committee on Ways and Means; the House and Senate chairs of the Joint Committee on Revenue; the Minority Leader of the House of Representatives; the Minority Leader of the Senate; and 3 members to be appointed by the governor, who have expertise in economics or tax policy. The 3 members appointed by the governor will serve 4-year terms. The statutory TERC members listed above may appoint designees. Recent participating members of the Commission, including designees, are identified in **Appendix B**.

In March 2021 the Tax Expenditure Review Commission released a [report](#) to the legislature. The report provided the Commission's review of certain tax expenditures pertaining to commerce, energy and research & development which the Commission had reviewed in the prior year.

In June 2022 the Tax Expenditure Review Commission released a [report](#) to the legislature. The report provided the Commission's review of certain tax expenditures pertaining to agriculture, transportation, housing, income security, employment and social services which the Commission had reviewed in the prior year.

Appendix H

Legislative Changes to Tax Expenditures Reviewed by the Commission

In March 2021 the Tax Expenditure Review Commission released its first annual [report](#) to the legislature. The report provided the Commission's review of tax expenditures pertaining to commerce, energy and research & development. The final fiscal year 2022 state budget included the following tax expenditure changes¹:

- 1.613 & 2.615 [Medical Device User Fee Credit](#): repealed.
- 2.607 [Harbor Maintenance Credit](#): repealed.
- 1.611 & 2.611 & 3.004 [Film Incentives Credit](#): 2023 sunset repealed. 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.
- 1.610 & 2.610 [Historical Rehabilitation Credit](#): 2022 sunset extended to 2027.
- 1.020 & 2.002 [Exemption of Income from the Sale, Lease or Transfer of Certain Patents](#): These tax expenditures were evaluated in the March 2021 Report and were repealed in the Fiscal Year 2022 state budget effective January 1, 2022.

¹ <https://malegislature.gov/Laws/SessionLaws/Acts/2021/Chapter68>

Appendix I

Cumulative Distribution of TERC's Ratings for All Tax Expenditures

Below is the cumulative distribution of TERC's ratings for all tax expenditures evaluated to date. The Commission has reviewed a total of 84 tax expenditures pertaining to commerce, energy, research & development, agriculture, transportation, housing, income security, employment and social services.

ALL TAX EXPENDITURES EVALUATED BY TERC	<i>Strongly Disagree</i>	<i>Somewhat Disagree</i>	<i>Somewhat Agree</i>	<i>Strongly Agree</i>	<i>Not Applicable</i>	<i>Total</i>
We can measure the overall benefit toward achieving the goal(s)	15	38	20	10	1	84
The TE's benefit justifies its fiscal cost	9	19	39	17	0	84
The TE is claimed by its intended beneficiaries	6	7	24	47	0	84
The TE is claimed by a broad group of taxpayers	33	14	16	21	0	84
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	13	15	47	9	0	84
The TE is relevant today	9	8	24	42	1	84
The TE is easily administered	4	11	40	29	0	84
Business only						
-The TE is beneficial to smaller businesses	8	7	35	17	17	84

Individuals only						
-The TE benefits lower income taxpayers	21	10	19	1	33	84

Appendix J

All Tax Expenditures Evaluated by Year

Below is the list of all tax expenditures that TERC has evaluated to date. The Commission has reviewed a total of 62 tax expenditures pertaining to commerce, energy, and research & development.

2021

- 1.019 Exclusion from Employee Income of Business-Related Meals and Entertainment
- 1.020 & 2.002 Exemption of Income from the Sale, Lease, or Transfer of Certain Patents
- 1.201 Capital Gains Deduction for Collectibles
- 1.413 Exemption of Interest on Savings in Massachusetts Banks
- 1.421 Deduction for Clean Fuel Vehicles and Certain Refueling Property
- 1.601 Renewable Energy Source Credit (tax credit)
- 2.001 Small Business Corporations
- 2.203 Net Operating Loss Carryover
- 2.401 Unequal Weighting of Sales, Payroll, and Property in Apportionment Formula
- 2.502 Exemption for Property Subject to Local Taxation
- 2.602 Investment Tax Credit
- 2.604 Research Credit
- 2.607 Harbor Maintenance Tax Credit
- 2.701 Exemption of Credit Union Income
- 3.106 Exemption for Newspapers and Magazines
- 3.201 Exemption for Alcoholic Beverages
- 3.202 Exemption for Motor Fuels
- 3.302 Exemption for Materials, Tools, Fuels, and Machinery Used in Manufacturing
- 3.303 Exemption for Materials, Tools, Fuels, and Machinery Used in Research and Development
- 3.309 Exemption for Vessels, Materials, Tools, Fuels, and Machinery Used in Commercial Fishing
- 3.602 Exemption for Vending Machine Sales
- 1.603 & 2.605 EDIP/Economic Development Incentive Program
- 1.610 & 2.610 Credit Massachusetts Historic Rehabilitation Tax Credit
- 1.613 & 2.615 Medical Device User Fee Credit
- 2.617 & 3.005 Life Sciences Tax Incentive Program
- 1.611 & 2.611 & 3.004 Film Production Incentives

2022

- 1.018 Exemption of Meals and Lodging Provided at Work
- 1.022 Exemption for Capital Gains at Time of Death
- 1.102 Treatment of Incentive Stock Options
- 1.103 Exemption of Earnings on Stock Bonus Plans or Profit-Sharing Trusts
- 1.106 Exemption for Capital Gains at Time of Gift

- 1.202 Deduction of Capital Losses Against Interest and Dividend Income
- 1.501 Favorable Tax Treatment of Qualified Small Business Stock (QSBS) Gain
- 2.101 Deferral of Tax on Certain Shipping Companies
- 2.205 Deduction for Certain Dividends of Cooperatives
- 2.312 Expensing of Certain Expenditures for Alternative Energy Sources
- 2.501 Nontaxation of Certain Energy Property
- 2.703 Exemption for Regulated Investment Companies
- 3.108 Exemption for Certain Precious Metals
- 3.109 Exemption for Cement Mixers
- 3.112 Exemption for Aircraft & Aircraft Parts
- 3.301 Exemption for Items Used in Making Clothing
- 3.304 Exemption for Materials, Tools, Fuels, and Machinery Used in Furnishing Power, Water, and Steam
- 3.306 Exemption for Materials, Tools, Fuels, and Machinery Used in Newspaper Printing
- 3.310 Exemption for Materials, Tools, Fuels, and Machinery Used in Radio and TV Broadcasting
- 3.405 Exemption for Certain Energy Conservation Equipment
- 3.410 Exemption for Containers
- 3.411 Exemption for Certain Sales by Typographers, Compositors and Color Separators
- 3.418 Exemption for Fuels, Supplies, and Repairs for Vessels Engaged in Interstate or Foreign Commerce
- 3.421 Exemption for Films
- 3.601 Exemption for Casual or Isolated Sales
- 3.604 Exemption for Certain Bed and Breakfast Establishments from Sales Tax on Meals and Room Occupancy Excise
- 3.606 Exemption for Trade-in Allowances for Motor Vehicles and Trailers
- 3.609 Exemption for Vessels or Barges of 50 Tons or Over
- 3.610 Exemption for Rental Charges for Refuse Containers
- 3.611 Exemption for Honor Trays
- 1.303 & 2.307 Modified Accelerated Depreciation on Buildings (other than Rental Housing)
- 1.304 & 2.305 Modified Accelerate Cost Recovery System (MACRS) for Equipment
- 1.305 & 2.306 Expense Deduction for Excess First-Year Depreciation
- 1.306 & 2.304 Election to Deduct and Amortize Business Startup Costs
- 1.308 & 2.309 Expensing of Exploration and Development Costs
- 1.309 & 2.308 Expensing of Research and Development Expenditures in One Year

2023

- 1.030 Exclusion from Gross Income of Parking, T-Pass and Vanpool Fringe Benefits
- 1.423 Commuter Deduction
- 2.603 Vanpool Credit
- 3.308 Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production
- 3.417 Exemption for Commuter Boats
- 3.419 Exemption for Fuel Used in Operating Aircraft and Railroads
- 3.420 Exemption for Sales of Certain New and Used Buses
- 1.014 Exemption of Rental Value of Parsonages

- 1.021 Exemption of Capital Gains on Home Sale (formerly only for Persons 55 and Over)
- 3.603 Exemption for Certain Meals
- 3.605 Exemption for Certain Summer Camps from Sales Tax on Meals
- 1.204 & 2.206 Abandoned Building Renovation Deduction
- 1.301 & 2.301 Modified Accelerated Depreciation on Rental Housing
- 1.604 & 2.606 Credit for Employing Former Full-Employment Program Participants
- 1.412 Nontaxation of Charitable Purpose Income of Trustees, Executors or Administrators
- 1.415 & 2.201 Charitable Contributions and Gifts Deduction
- 2.303 Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly
- 3.003 Exemption for Sales to Tax-Exempt Organizations
- 3.406 Exemption for Funeral Items
- 3.409 Exemption for Books used for Religious Worship
- 3.607 Exemptions for Publications of Tax-Exempt Organizations
- 1.621 & 2.624 Apprentice Tax Credit