

Report of the Tax Expenditure Review Commission

Massachusetts Tax Expenditure Review Commission

2025

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TERC REPORT OVERVIEW 2025

A. Overview

This document is the 2025 Report to the Legislature of the Tax Expenditure Review Commission (referred to herein as “TERC” or the “Commission”) filed pursuant to Section 14 of Chapter 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 of the General Laws.

The Commission is statutorily required 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 2025 Report is the Commission’s fifth report. It considers a group of tax expenditures that relate to (i) Commerce and Housing, (ii) Education, Training, Employment and Social Services, (iii) General Purpose Fiscal Assistance, (iv) Health (v) Income security, (vi) Natural Resources and Environment, and (vii) Veterans' Benefits and Services. 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.

Many state tax expenditures result from conformity with the Internal Revenue Code (“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 (i) the

tax expenditure has a relatively low annual revenue loss estimate, (ii) many other states conform to the federal tax expenditure, and (iii) no other state has decoupled from the federal tax expenditure, then a less rigorous evaluation was required. As such, the evaluation template includes a checkbox identifying whether the tax expenditure is a result of the state's conformity with the Code.

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**.

Below are the cumulative tax expenditure evaluation template ratings included in this report.

<i>2025 Report</i>	<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)	0	2	28	4	0	34
The TE's benefit justifies its fiscal cost	0	2	23	9	0	34
The TE is claimed by its intended beneficiaries	0	0	16	18	0	34
The TE is claimed by a broad group of taxpayers	6	17	10	1	0	34
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	1	5	24	4	0	34
The TE is relevant today	0	2	13	19	0	34
The TE is easily administered	3	3	10	18	0	34
The TE is beneficial to smaller businesses	2	6	2	0	24	34
The TE is beneficial to lower income taxpayers	3	19	4	0	8	34

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 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: The tax expenditure evaluation template includes a checkbox that allows the Commission to flag a particular tax expenditure for legislative review. This update gives the Commission more flexibility to highlight specific issues for the Legislature and the Governor. The tax expenditures that were reviewed in the past year and flagged for legislative review, and the reasons for doing so, are described below.

- *1.608 & 2.608 Brownfields Credit. Annual fiscal cost: \$24.5 - 27.2 million. Massachusetts allows a credit for costs incurred in remediating contamination of real estate. The taxpayer must complete the remediation in compliance with standards set out by the Massachusetts Department of Environmental Protection (“DEP”). The contaminated property must be owned or leased for business purposes by the claimant and must be located within an economically distressed area. Members noted that (i) this credit has no cap and therefore the fiscal impact of the credit is unpredictable, (ii) there is administrative complexity in the fact that DEP regulations determine eligibility for the credit but the statute tasks DOR with reviewing applications and granting credits, requiring DOR to develop technical expertise. Members voted “Strongly Disagree” on the question of whether this tax expenditure is easily administered. Given the significant and unpredictable revenue impact and administrative challenges, the legislature may wish to consider reviewing this expenditure.*
- *1.009 Exemption of Social Security Benefits. Annual fiscal cost: \$483.7 - \$660.5 million. Up to 85% of Social Security benefits may be includable in federal gross income under the Code. Due to the Massachusetts modification, Social Security benefits are excluded from Massachusetts gross income entirely. The tax expenditure covered in this report is the exclusion of the amount of Social Security benefits that is otherwise includable in federal gross income, not the amount that is excluded for federal purposes. The Commission agreed to flag this tax expenditure for legislative review solely based on its significant revenue impact. The legislature may wish to consider whether this tax expenditure’s benefits justify its fiscal costs.*

2. Tax expenditures receiving ratings that may warrant legislative review: In reviewing the Commission’s evaluations with an eye toward considering the effectiveness of each tax expenditure, it may also be useful for the Legislature to focus on tax expenditures that

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

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.

Select tax expenditures that were reviewed in the past year, not otherwise flagged for legislative review above, and rated “strongly disagree” or “somewhat disagree” in the indicated categories, are identified below, along with the reasons for those ratings. Some tax expenditures that were rated “strongly disagree” or “somewhat disagree” in the indicated categories are not identified below due to reasons described in the comment section of the evaluation templates for those tax expenditures. **See Appendix D.**

- *1.041 Earnings of Pre-paid and Tuition Savings ("529" plans). Annual Cost: \$15.9 – \$37.3 million. Due to Massachusetts’ reliance on the Code for purposes of determining income, Massachusetts allows an income exclusion for amounts earned by pre-paid tuition programs and tuition savings accounts. The Commission voted between “strongly disagree” and “somewhat disagree” on the questions of whether (i) the benefit justifies its fiscal cost and (ii) the amount claimed per taxpayer is a meaningful as an incentive or benefit. Members agreed that the federal tax expenditure dwarfs the state benefit making the state tax expenditure less of an incentive. The Commission noted that the benefits of this exemption go disproportionately to higher income families. The legislature may wish to consider whether there may be a more efficient or effective way to support college attendees.*
- *3.408 Exemption for Textbooks. Annual Cost: \$10.2 - \$12.2 million. The exemption is available without regard to the academic level of the course and is available regardless of whether the educational institution is public or private. The exemption also applies to purchases of textbooks used in courses at for-profit educational institutions. The Commission voted between “strongly disagree” and “somewhat disagree” on the question of whether the benefit justifies its fiscal cost. The Commission noted that (i) at the K-12 level, most public schools do not require students to purchase books, and (ii) private schools are more likely to require textbook purchases. The legislature may wish to (i) revisit and update the exemption or to (ii) consider whether there may be a more efficient or effective way to support students.*

- 1.013 Exemption of Payments Made to Coal Miners. Annual Fiscal Cost: Negligible (less than \$50,000). Due to Massachusetts' reliance on the Code for purposes of determining income, amounts received by coal miners or their survivors as compensation for disability or death from black lung disease are excluded from Massachusetts gross income. The Commission voted between "strongly disagree" and "somewhat disagree" on the questions of whether (i) the tax expenditure is relevant today and (ii) the amount claimed per taxpayer is meaningful as an incentive or benefit. The Commission noted that (i) this exemption is targeted to a very specific worker and (ii) the exemption cost seems to shrink annually as the number of workers in the coal mining industry diminishes. The legislature may wish to consider whether the tax expenditure is relevant today.
3. **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.
- *Year Enacted and Sunset Dates.*
The Commission has evaluated a total of 150 tax expenditures.² The Commission noted that (i) 50 of these tax expenditures were enacted prior to the 1970's and that (ii) 144 of these tax expenditures, or 96%, did not have sunset dates. In previous reports, 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.

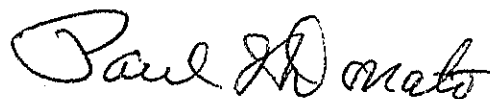
(e) Biennially, not later than March 1, the commission shall file a report of its findings and its recommendations to the clerks of the house of representatives and senate, the chairs of the house and senate committees on ways and means and the chairs of the joint committee on revenue. The report shall 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.

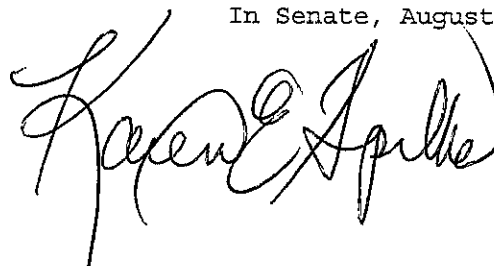
Preamble adopted,



, Speaker.

In Senate, August 2, 2018.

Preamble adopted,



, 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 Expillor, President.

August 4, 2018.

Approved,

at

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

Charles D. Trant

Governor.

Appendix B

Members of the Tax Expenditure Review Commission

Rebecca Forter, Massachusetts Department of Revenue, Chairperson

Diana DiZoglio, Massachusetts State Auditor, Member

Lindsay Janeczek, Massachusetts State Auditor, Designee

Deb Goldberg, Massachusetts State Treasurer and Receiver General, Member

Sue Perez, Massachusetts State Treasurer and Receiver General, Designee

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

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

Senator Susan L. Moran, Joint Committee on Revenue, Senate Chairperson, Member

Stephen Maher and Nicole Manfredi, Joint Committee on Revenue, Senate Designees

Senator Michael J. Rodrigues, Chairperson, Senate Ways and Means

Amar Patel and Katie Verra, Senate Ways and Means, Designees

Representative Aaron Michlewitz, Chairperson, House Ways and Means Committee, Member

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

Representative Bradley H. Jones, House Minority Leader, Member

Representative Michael J. Soter, House Minority Leader, Designee

Senator Bruce E. Tarr, Senate Minority Leader, Member

Chris Carlozzi, Senate Minority Leader, Designee

Professor Natasha Varyani, Roger Williams University School of Law, Member,
Appointed by Governor Maura Healey

Professor Thomas Downes, Tufts University, Member, Appointed by Governor
Maura Healey

Additional Participants

Cole Doherty-Crestin, Massachusetts Department of Revenue

Professor Michelle Hanlon, Massachusetts Institute of Technology

Professor Matthew Weinzierl, Harvard Business School

Appendix C

Template for Review of Tax Expenditures

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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

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: (i) goals; (ii) measurement and effectiveness ratings; and (iii) comments.

- 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.

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. **Comments:** The final section of the template is a comments section to allow members to explain “Strongly Disagree” or “Somewhat Disagree” ratings and other considerations to be highlighted, such as policy proposals

Appendix D

Evaluation Rating Templates & Tax Expenditure Summaries

Template for Evaluating Expenditures

Name of Expenditure: 1.007 Exemption of Railroad Retirement Benefits	Annual cost: \$1.4 - \$1.6 million	Year of adoption: 1985	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Railroad Retirement Benefits
TAX EXPENDITURE NUMBER	1.007
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 2(a)(2)(H)
YEAR ENACTED	1985
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$1.4 - \$1.6 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	1,757 – 1,807 per year during FY22-FY26.
AVERAGE TAXPAYER BENEFIT	\$782 – \$891 per benefiting individual.
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Tier 1 Railroad Retirement benefits are excluded from Massachusetts gross income.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the tax expenditure is to provide tax relief to recipients of Railroad Retirement benefits, who include retired railroad workers and their spouses, surviving dependents of deceased railroad workers, and disabled railroad workers.	Are there other states with a similar Tax Expenditure? Most states allow an exclusion or exemption for the full amount of Tier 1 Railroad Retirement benefits, as Massachusetts does. States that do so include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

INTRODUCTION

Railroad Retirement benefits are excluded from Massachusetts gross income for personal income tax purposes. Railroad retirement benefits are paid in two parts: Tier 1, which is analogous to Social Security, and Tier 2, which is analogous to a pension plan. Neither Tier 1 nor Tier 2 benefits are included in Massachusetts gross income.

The Massachusetts exclusion for Tier 1 Railroad Retirement benefits is effectuated by a modification to federal gross income, upon which the personal income tax is generally based. See M.G.L. c. 62, § 2(a)(2)(H). A portion of Tier 1 benefits is included in federal gross income if the recipient's income exceeds certain levels set out in Internal Revenue Code (Code) § 86. Note that the inclusion rule under Code § 86 applies to both Social Security and Tier 1 Railroad Retirement benefits. Up to 85% of Tier 1 Railroad Retirement benefits may be includable in federal gross income under the Code. Due to the Massachusetts modification, Tier 1 Railroad Retirement benefits are excluded from Massachusetts gross income entirely.

The Massachusetts exclusion for Tier 2 Railroad Retirement benefits is the result of a federal law prohibiting states from taxing such benefits. See 45 USC, § 231m. Because the exemption for Tier 2 Railroad Retirement benefits is not the result of any Massachusetts general or special law, it is not considered a tax expenditure and therefore is not evaluated in this report.

Railroad Retirement benefits are generally paid to retired railroad workers and their spouses, surviving dependents of deceased railroad workers, and disabled railroad workers. In the absence of the exclusion, such recipients would be required to include Tier 1 Railroad Retirement benefits in their Massachusetts gross income to the same extent that the benefits are included in federal gross income. The personal income tax revenue forgone as a result of the exclusion constitutes a Massachusetts tax expenditure.

POLICY GOALS

The Commission assumes the goal of the tax expenditure is to provide tax relief to recipients of Railroad Retirement benefits, who include retired railroad workers and their spouses, surviving dependents of deceased railroad workers, and disabled railroad workers.

ADMINISTRABILITY

The personal income tax exclusion for Railroad Retirement benefits does not impose any special challenges for the Department of Revenue (DOR) or taxpayers. Tier 1 benefits are subject to federal reporting rules. Thus, the benefits are easily distinguishable from other types of income.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$1.4 - \$1.6 million per year during FY22 - FY26. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Railroad Retirement Benefits

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$1.4	\$1.4	\$1.5	\$1.5	\$1.6

Massachusetts' revenue loss estimates above are based on data from the Railroad Retirement Board (RRB)¹, which is an independent agency in the executive branch of the Federal Government. The RRB provides retirement data by state and by federal fiscal year, including the number of railroad retirees and survivors and monthly retirement payment. The RRB's data have been adjusted for the differences between the federal and state fiscal year.²

DIRECT BENEFITS

The direct benefit of this tax expenditure is the reduction of the tax burden on former railroad workers, thus encouraging these individuals to continue to reside in Massachusetts during retirement, and to offer an incentive for other railroad retirees to retire to Massachusetts.

The direct beneficiaries of this tax expenditure are the qualified retired individuals and survivors of railroad retirees. They can exclude their railroad retirement and survivor benefit payments from Part B income. Table 2 below shows the estimated number of direct beneficiaries and the resulting tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	1,807	1,794	1,782	1,770	1,757
Average Tax Benefit	\$782	\$808	\$835	\$862	\$891

Source: Estimated by Massachusetts Department of Revenue (DOR) based on Table 1 and data from the RRB's annual Retirement and Survivors Benefit report.

¹ The Railroad Retirement Board is an independent agency in the executive branch of the Federal Government. The primary function of the RRB's is administration of the retirement-survivor and unemployment-sickness benefit programs provided to the nation's railroad workers and their families, under the Railroad Retirement and Railroad Unemployment Insurance Acts. <https://www.rrb.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.

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 exclusion) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the personal income tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to the taxpayers who benefit from this tax expenditure.

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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states allow an exclusion or exemption for the full amount of Tier 1 Railroad Retirement benefits, as Massachusetts does. States that do so include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.009 Exemption of Social Security Benefits	Annual cost: \$483.7 - \$658.9 million during FY22 - FY26	Year of adoption: 1985	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> Business: <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> Individual: <input checked="" type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Members agreed to flag this tax expenditure for legislative review due to its significant revenue impact.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Social Security Benefits
TAX EXPENDITURE NUMBER	1.009
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 2 (a)(2)(H)
YEAR ENACTED	1985
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$482.3 - \$658.9 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Estimated 531,780 – 713,384 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	Estimated \$907 - \$1,014 per benefiting taxpayer.
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Social Security benefits are excluded from Massachusetts gross income.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the tax expenditure is to provide tax relief to recipients of Social Security benefits, who include retired workers and their spouses, surviving dependents of deceased workers, and disabled workers.	Are there other states with a similar Tax Expenditure? Most states allow an exclusion or exemption for the entire amount of Social Security benefits. States that do so include California, Maine, and New York. Other states exclude or exempt all or a portion of Social Security benefits only if the taxpayer's income is under a particular threshold. States that adopt this limited approach include Connecticut, Rhode Island, and Vermont.

INTRODUCTION

Social Security benefits are excluded from Massachusetts gross income for personal income tax purposes. See M.G.L. c. 62, § 2(a)(2)(H). The exclusion is effectuated by a modification to federal gross income, upon which the personal income tax is generally based. A portion of such benefits is included in federal gross income if the recipient's income exceeds certain levels set out in Internal Revenue Code (Code) § 86. Up to 85% of Social Security benefits may be includable in federal gross income under the Code. Due to the Massachusetts modification, Social Security benefits are excluded from Massachusetts gross income entirely. The tax expenditure covered in this report is the exclusion of the amount of Social Security benefits that is otherwise includable in federal gross income, not the amount that is excluded for federal purposes.

Social Security benefits are generally paid to retired workers and their spouses, surviving dependents of deceased workers, and disabled workers. In the absence of the exclusion, such recipients would be required to include Social Security benefits in their Massachusetts gross income to the same extent that the benefits are included in federal gross income. The personal income tax revenue forgone as a result of the exclusion constitutes a Massachusetts tax expenditure.

POLICY GOALS

The Commission assumes the goal of the tax expenditure is to provide tax relief to recipients of Social Security benefits, who include retired workers and their spouses, surviving dependents of deceased workers, and disabled workers.

ADMINISTRABILITY

The personal income tax exclusion for Social Security benefits does not impose any special challenges for the Department of Revenue (DOR) or taxpayers. Social Security benefits are reported as such to taxpayers on Form SSA-1099 and are easily distinguishable from other types of income.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$482.3 - \$658.9 million per year during FY22-FY26. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Social Security Benefits

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$482.3	\$526.3	\$589.5	\$626.2	\$658.9

Massachusetts' revenue loss estimates above are mostly based on data from the Internal Revenue Service (IRS)¹. More specifically, DOR used the data on federally taxable social security benefits reported by Massachusetts residents on their federal tax returns. Without this tax expenditure, such benefits would have also been taxable in Massachusetts.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are recipients of Social Security benefits, who include retired workers and their spouses, surviving dependents of deceased workers, and disabled workers, and whose benefits exceed the exemption provided by the IRC. As such, they can exclude such payments from gross income for Massachusetts tax purposes. Table 2 below shows the estimated number of beneficiaries² and average tax benefit per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	531,780	547,827	581,380	635,045	713,384
Average Tax Benefit	\$907	\$961	\$1,014	\$986	\$924

Source: Internal Revenue Service (IRS); Massachusetts Department of Revenue (DOR)

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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.

¹ Internal Revenue Service (IRS). <https://www.irs.gov/>

² Please note that, the estimated number of beneficiaries reported in Table 2 is the estimated number of Massachusetts taxpayers who will report taxable social security benefits on their federal tax return. Given that joint filers may have two recipients of social security benefits, the number of beneficiaries reported in Table 2 may be underestimated while the average tax benefit per beneficiary may be overestimated.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

The majority of states allow an exclusion or exemption for the entire amount of Social Security benefits. States that do so include California, Maine, and New York. Other states exclude or exempt a portion of Social Security benefits, depending upon the taxpayer's income. States that adopt this approach include Connecticut, Rhode Island, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.011 Exemption of Dependent Care Expenses	Annual cost: \$5.0 – \$5.7 million	Year of adoption: 1981	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Somewhat disagree on the idea that this tax expenditure is primarily beneficial to low-income taxpayers because the exemption is generally available to any taxpayer with employer-provided dependent care assistance.

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Dependent Care Expenses
TAX EXPENDITURE NUMBER	1.011
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 1(c), 1(d), 2(a); Internal Code § 129
YEAR ENACTED	1981
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$5.0 - \$5.7 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	25,021 – 28,190 taxpayers per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	\$202 - \$203 per benefiting taxpayer.
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

<p>Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, dependent care assistance provided by employers to employees is excluded from Massachusetts gross income.</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 help taxpayers defray the cost of dependent care so that they are better able to maintain their employment while caring for a dependent.</p>	<p>Are there other states with a similar Tax Expenditure? All states that conform to the Code for income tax purposes provide an exclusion for dependent care assistance unless they have specifically decoupled from the Code with regard to the exclusion. The Commission is not aware of any states that have decoupled. The actual amount of the exclusion in each state may vary depending on the Code conformity date in that state.</p>

INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, dependent care assistance provided by employers to employees is excluded from Massachusetts gross income for personal income tax purposes.¹ Specifically, Massachusetts adopts Code § 129, which excludes dependent care assistance from employees' gross income.

Dependent care assistance consists of the value of an employer's provision of, or payment for, the care of employees' qualifying dependents, which enables those employees to work. Qualifying dependents include dependent children under the age of thirteen, certain disabled dependents, and certain disabled spouses.

For the exclusion to apply, the dependent care assistance must be paid pursuant to a plan that meets the administrative requirements set out in the Code. The amount of the exclusion under Code § 129 may not exceed \$5,000 (\$2,500 for married filing separately) during a taxable year. Further, the amount excluded may not exceed the earned income of the employee or, if the employee is married, the lesser of the earned income of the employee or the spouse for the taxable year.

In the absence of the exclusion, employees would be required to pay Massachusetts personal income tax on amounts they receive from their employers as dependent care assistance. Personal income tax revenue foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to help taxpayers defray the cost of dependent care so that taxpayers are better able to maintain their employment while caring for a dependent.

ADMINISTRABILITY

The administration of the exclusion from employees' gross income of employer-provided dependent care assistance does not present any special challenges for the Department of Revenue (DOR). Dependent care assistance is identified as such on employees' W-2s. Conformity with the federal exclusion simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal

¹ Effective for tax years beginning on or after January 1, 2022, Massachusetts conforms to Code § 129 as amended on January 1, 2022, and in effect for the taxable year, with certain exceptions not relevant to this report. M.G.L. c. 62, § 1(c).

purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for employers and employees.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$5.0 - \$5.7 million per year during FY22 - FY26. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Dependent Care Expenses

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$5.0	\$5.2	\$5.4	\$5.6	\$5.7

Massachusetts' revenue loss estimates above are based on the estimates of excluded or deductible dependent care benefits reported on federal tax returns by the Internal Revenue Service (IRS)², adjusted for the level of Massachusetts employment relative to the national employment.

DIRECT BENEFITS

The direct beneficiaries of the exemption of dependent care expenses are workers with employer-provided dependent care benefits.³ Workers can exclude up to \$5,000 from gross income when they receive employer-provided dependent care benefits. By claiming the exemption, taxpayers can reduce their taxable income and potentially lower their overall tax liability.

Based on IRS data, DOR estimates that, during FY22 - FY26, 25,021 - 28,190 Massachusetts taxpayers benefit from the exemption with an average tax savings of \$202 - \$203 per taxpayer. See Table 2.

Table 2. Estimated Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Direct Beneficiaries	25,021	25,778	26,558	27,362	28,190
Average Tax Benefit	\$202	\$202	\$203	\$203	\$203

Source: Internal Revenue Service (IRS); Massachusetts Department of Revenue (DOR)

² <https://www.irs.gov/statistics/soi-tax-stats-individual-income-tax-returns-line-item-estimates-publication-4801>

³ Dependent care benefits from employers include direct payments by employers to a childcare or adult day care provider, on-site child and dependent care offered by employers, employers' reimbursement of employee child and dependent care costs, and flexible spending arrangements (FSAs). FSAs allow employees to deposit pre-tax money into an account to pay for qualifying dependent care expenses.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 to quantify the indirect and induced costs and benefits given the models' complexity and data limitations present in this instance. Instead, qualitative description of some major indirect or induced impacts is presented below.

Dependent care providers such as childcare centers, daycare providers, in-home caregivers, and other types of dependent care providers that provide care for dependents benefit indirectly from the exemption. The exemption encourages families to seek and utilize formal care services, which can help support the dependent care industry and potentially create employment opportunities in this sector.

Employers that provide free or subsidized daycare to their employees at work sites also benefit indirectly from the exemption. Employers are likely to attract and retain employees, particularly those with dependents at home.⁴ Employers are also likely to see less worker-absenteeism associated with dependent care needs, increasing employees' productivity at work as employees with employer-provided childcare services at work sites may be able to balance their work and family responsibilities more effectively. One study reported that "higher childcare subsidy expenditures significantly increase labor force participation and employment rates of low-income mothers in the United States".⁵

More data related to the dependent care benefits are provided in the Appendix.

⁴ "Incentivizing Employer-Supported Childcare in Massachusetts" by Massachusetts Taxpayer Association,, https://www.masstaxpayers.org/sites/default/files/publications/2023-07/Employer%20Supported%20Care%20Paper%20Final_0.pdf

⁵ "The Effects of Child care Subsidies on Maternal Labor Force Participation in the United States" by Kimberly Burgess, Nina Chien, Maria Enchautegui, Department of Health and Human Services, December 2016, https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//171051/EffectsCCSubsidiesMaternalLFPBrief.pdf

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that conform to the Code for personal income tax provide an exclusion for dependent care assistance, unless they have specifically decoupled from Code with regard to the exclusion. The Commission is not aware of any states that have decoupled. The actual amount of the exclusion in each state may vary depending on the Code conformity date in that state.

APPENDIX

In this appendix, we provide data on workers that may potentially benefit from the exemption of dependent care benefits.

Estimates of Civilians Aged 16+ with Access to Workplace-Funded Childcare in Massachusetts, 2023

Annually, the U.S. Bureau of Labor Statistics (BLS) publishes National Compensation Survey data on various types of employee compensation, including workplace-funded childcare, access to Flexible Spending Account (FSAs), etc. The employee compensation data is published for the U.S., the four regions, and the nine geographic regions. For the U.S., compensation data is estimated by selected major industry and occupation, establishment size, employees' full-time/part-time status, union status, and wage percentile categories. Note that BLS does not publish data at the state level.

DOR estimated the number of Massachusetts workers with access to employer-provided childcare using BLS regional data for New England. During 2021 -2023, about 14% of workers in the New England region had access to workplace-funded childcare. Government sector employees were more likely to have access to workplace-funded childcare than private sector employees (17.7% versus 13.3%, respectively). Assuming that the workplace-funded childcare access rate for Massachusetts is consistent with that of the New England region, DOR estimated that 502,485 workers (both private and governments sectors) had access to workforce-funded childcare from their employers in the state in 2023. See Table A-1.

Table A-1. Estimates of Civilians Aged 16+ with Access to Workplace-Funded Childcare in Massachusetts, 2023:

Sector	(A) Employment in 2023*	(B) % of Employees with Workplace-Funded Childcare in New England Region, 2021-2023 Averages	(C)=(A)*(B) Numbers of Employed in MA with Workplace-Funded childcare
Private Sector	3,198,424	13.3%	426,457
Government Sector	430,347	17.7%	76,028
Total	3,628,771	13.8%	502,485

Note: *January-September 2023 averages.

Source: (i). Employment data- Quarterly Census of Employment and Wages Program (QCEW), U.S. Bureau of Labor Statistics, <https://data.bls.gov/cgi-bin/dsrv?nb> (ii). Workplace-funded childcare data- National Compensation Survey-Benefits, U.S. Bureau of Labor Statistics, <https://data.bls.gov/cgi-bin/dsrv?nb> (iii) Massachusetts Department of Revenue (DOR)

Estimates of Civilians Aged 16+ with Access to Dependent Care Flexible Spending Account (FSAs) from Employers in Massachusetts, 2023

Employers are more likely to offer their workers dependent care Flexible Spending Accounts (FSAs) than to provide access to workplace-funded childcare. During 2021 - 2023, 45.4% of workers in New England had access to employer provided FSAs. Government sector employees were more likely to have access to FSAs than private sector employees (53.0% versus 44.3%, respectively). Assuming the employer-provided FSA access rate for Massachusetts is consistent with the New England region, DOR estimated that about 1.6 million employees (both private and governments sectors) had access to employer-provided FSAs in the state in 2023. See Table A-2.

Table A-2. Estimates of Civilians Aged 16+ with Access to Dependent Care Flexible Spending Account (FSAs) from Employers in Massachusetts, 2023:

Sector	(A) Employment in 2023*	(B) % of Employees with Access to Dependent Care Flexible Spending Account in New England Region, 2021-2022- 2023 Averages	(C)=(A)*(B) Numbers of Employed in MA with Access to Dependent Care Flexible Spending Account
Private Sector	3,198,424	44.3%	1,417,968
Government Sector	430,347	53.0%	228,084
Total	3,628,771	45.4%	1,645,052

Note: *January-September 2023 averages.

Source: (i). Employment data- Quarterly Census of Employment and Wages Program (QCEW), U.S. Bureau of Labor Statistics, <https://data.bls.gov/cgi-bin/dsrv?nb> (ii). Workplace-funded childcare data- National Compensation Survey-Benefits, U.S. Bureau of Labor Statistics, <https://data.bls.gov/cgi-bin/dsrv?nb> (iii) Massachusetts Department of Revenue (DOR)

Numbers of Households with Children < 13 Where At least One Household Member Was Employed or Households with Disabled Persons (Physical/Mental) Persons with No Earnings or Earnings < \$4,700, Massachusetts, 2018-2022

Based on the estimates from the 2018 - 2022 American Community Survey (ACS)⁶, 597,691 households in Massachusetts had children under 13 years old or disabled person with no earnings or earnings below \$4,700 annually.⁷ About 998,350 persons (16 and older) living

⁶ The American Community Survey (ACS) is conducted by the U.S. Census Bureau throughout the year. The Bureau selects about 3.5 million households each year for the survey. The ACS replaced the long form in the 2010 Decennial Census. In Massachusetts, 179,700 housing units were interviewed during 2018 - 2022. Detailed information on ACS can be found at the U.S. Census Bureau's Web site, <https://www.census.gov/programs-surveys/acs/about.html>

⁷ According to the Internal Revenue Service (IRS), qualifying persons for dependent care include child under age 13 whom can be claimed as a dependent, any disabled persons in household who lived in the households

in such households were employed during 2018 – 2022. See Table A-3. These households are the potential beneficiaries of employer provided dependent care exemption.

Table A-3. Numbers of Households with Children < 13 Where At least One Household Member Was Employed or Households with Disabled Persons (Physical/Mental) Persons with No Earnings or Earnings < \$4,700, Massachusetts, 2018-2022:

Household Type	Number of Households with Children < 13 Where At least One Household Member Was Employed or Households with Disabled Persons (Physical/Mental) Persons with No Earnings or Earnings < \$4,700	Number of Employed Persons Living in Households with Children < 13 or Households with Disabled Persons (Physical/Mental) Persons with no Earnings or Earnings < \$4,700	Total Households	Total Employed
1. Married couple household	420,102	753,497	1,270,215	2,136,714
2. Other family household: Male householder, no spouse present	46,839	71,585	125,104	197,889
3. Other family household: Female householder, no spouse present	129,750	173,256	318,334	448,083
Total	596,691	998,338	1,713,653	2,782,686

Source: 2018-2022 American Community Survey (ACS), U.S. Census Bureau, public use files, calculation by Massachusetts Department of Revenue (DOR). ACS public use data file can be accessed from <https://www.census.gov/programs-surveys/acs/microdata/access.html>

for more than half the year with no earnings or earnings below \$4,700 annually. For more detail, see: <https://www.irs.gov/instructions/i2441>

Template for Evaluating Expenditures

Name of Expenditure: 1.013 Exemption of Payments Made to Coal Miners Exemption	Annual cost: <\$50,000	Year of adoption: 1972	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: This exemption is very targeted to a very specific worker. The exemption cost seems to shrink annually as the number of workers in the coal mining industry diminishes. The cost is negligible and now under \$50,000 per year.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Payments Made to Coal Miners
TAX EXPENDITURE NUMBER	1.013
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 104(a)(1); Rev. Rul. 72-400
YEAR ENACTED	1972
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Negligible
NUMBER OF TAXPAYERS	Negligible
AVERAGE TAXPAYER BENEFIT	Negligible
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, amounts received by coal miners or their survivors as compensation for disability or death from black lung disease are excluded from Massachusetts gross income.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to prevent amounts paid to coal miners or their survivors as compensation for disability or death from black lung disease from being diminished by subjecting the compensation to income tax.	Are there other states with a similar Tax Expenditure? All states that conform to the Code for income tax purposes provide an exclusion for amounts paid to coal miners or their survivors as compensation for disability or death from black lung disease, unless they decouple from the Code with regard to the exclusion. The Commission is not aware of any state that has decoupled.

INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, amounts received by coal miners or their survivors as compensation for disability or death from black lung disease are excluded from Massachusetts gross income. Such compensation is payable under the federal Black Lung Benefits Act of 1972.¹²

Code § 104 provides that gross income does not include "amounts received under workman's compensation acts as compensation for personal injuries or sickness." In Revenue Ruling 72-400, the Internal Revenue Service ruled that compensation received by coal miners or their survivors as compensation for disability or death from black lung disease is excludable from gross income under Code § 104(a)(1). Note that the general exclusion for workers' compensation benefits is a separate tax expenditure (see tax expenditure number 1.010).

In the absence of the exclusion, amounts paid to coal miners or their survivors as compensation for disability or death from black lung disease would be subject to personal income tax. The revenue foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to prevent the amounts paid to coal miners or their survivors as compensation for disability or death from black lung disease from being diminished by subjecting the compensation to income tax.

ADMINISTRABILITY

The administration of the income exclusion for amounts received by coal miners or their survivors as compensation for disability or death from black lung disease does not present any special challenges for the Department of Revenue. Such compensation is not reported as taxable income to the recipients on Form 1099 or any similar form. Conformity with the federal exclusion simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

¹ 30 USC §§ 901-945.

²The federal Black Lung Program provides cash benefits to miners totally disabled due to black lung disease and to the survivors of miners who die from black lung disease. Part B of the federal Black Lung Benefits Act of 1972 refers to cases filed on or before December 31, 1973 and Part C refers to all cases filed thereafter. Amounts received under Part B or Part C are excluded from Massachusetts gross income.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be negligible, or less than \$50,000 per year, during FY22 - FY26. See Table 1 below.

Table 1. Revenue Loss Estimates for Exemption of Payments Made to Coal Miners from Massachusetts Personal Income Tax

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss	Negligible	Negligible	Negligible	Negligible	Negligible

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

According to the U.S. Energy Information Administration and the U.S. Mine Safety and Health Administration, there are no coal mines in Massachusetts or the surrounding states. There is the possibility of coal miners or their survivors moving to Massachusetts from other states, but the numbers are likely very small. As shown in Table 2 below, from 2019 to 2023 black lung benefits under part C of the Black Lung Benefits Act were paid to less than 10 Massachusetts residents each year, in an amount less than \$100,000 in total each year.

Federally, this tax expenditure has been categorized as a “quantitatively di minimis tax expenditure”, a category with revenue loss impact of less than \$50 million a year.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the individuals who receive compensation after being diagnosed with black lung disease or the survivors of individuals who died of black lung disease. These individuals can exclude such compensation from gross income for Massachusetts tax purposes.³

The distribution of black lung disease claims and disbursements in Massachusetts and the U.S. is shown in Table 2 below.

³ The federal government pays benefits to coal miners affected by coal workers’ pneumoconiosis (CWP, commonly referred to as black lung disease) and other lung diseases linked to coal mining in cases where responsible mine operators are not able to pay.⁴ For 2024, the monthly benefit rate for a primary beneficiary with no dependent is \$772. Benefits can be as much as \$1,545 per month for a primary beneficiary with three or more dependents.⁵ Medical benefits are provided separately from disability benefits.

**Table 2. Distribution of Black Lung Disease Claims and Disbursements
in Massachusetts and U.S.**

Federal Fiscal Year	Massachusetts (under Part C of BLBA ⁽¹⁾)		U.S. (under Part C of BLBA ⁽¹⁾)		U.S. (under Part B of BLBA ⁽¹⁾)	
	Claims in Payment ⁽²⁾	Dollar Paid ⁽³⁾	Claims in Payment ⁽²⁾	Dollar Paid ⁽³⁾	Claims in Payment	Dollar Paid
2019	8	\$71,481	18,643	\$166,577,570	7,444	\$65,635,521
2020	7	\$62,866	18,075	\$162,329,144	6,452	\$58,310,145
2021	6	\$51,645	17,347	\$149,315,171	5,539	\$50,596,435
2022	5	\$42,043	16,662	\$140,103,909	4,690	\$43,541,476
2023	5	\$41,761	16,358	\$136,624,745	3,998	\$38,582,863

Source: U.S. Department of Labor, Division of Coal Mine Workers' Compensation

⁽¹⁾ Black Lung Benefits Act

⁽²⁾ Active claims in pay status as of the end of the federal fiscal year. Includes Trust Fund (TF), interim and responsible coal mine operator liability (RO) pay claims.

⁽³⁾ Disbursements of income and medical benefits for all Part C claims, including claims paid by the Trust Fund and claims in interim pay status, during each federal fiscal year. Does not include benefits paid by responsible coal mine operators and insurers.

According to Table 2, there were only 5 Part C Black Lung Disease claims⁴ in Massachusetts with a total claim amount of \$41,761 in 2023, while in all states, including foreign countries, there were 16,358 claims with a total claim amount of \$136.6 million in 2023. For claims under Part B⁵ of the Black Lung Benefits Act, no data could be found for Massachusetts. Nationally, 3,998 primary beneficiaries were paid \$38.6 million under Part B of the Black Lung Benefits Act.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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

⁴ claims approved by the U.S. Department of Labor

⁵ claims originally approved by the Social Security Administration

complexity and data limitations present in this instance. However, since the direct costs and benefits of the exemption of payments made to coal miners are negligible, the indirect and induced costs and benefits are also negligible.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that conform to the Code for income tax purposes provide an exclusion for amounts paid to coal miners or their survivors as compensation for disability or death from black lung disease. The Commission is not aware of any state that has decoupled from the exclusion in the Code.

Template for Evaluating Expenditures

Name of Expenditure: 1.015 Exemption of Scholarships, Fellowships, and Tuition Reductions	Annual cost: \$43 - \$55 million	Year of adoption: 1954	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Business only</i>					
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Portion of benefit goes to higher-education institutions, institutions with higher tuitions more likely to benefit, lower income taxpayers less likely to benefit both because they are less likely to attend and because the exemption is less likely to matter for them, benefit of linking state tax code to federal

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Scholarships, Fellowships, and Tuition Reductions
TAX EXPENDITURE NUMBER	1.015
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	Internal Revenue Code § 117(a), (d)
YEAR ENACTED	1954
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$43.0 - \$55.0 million per year during FY22 – FY26.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, qualifying scholarships, fellowship grants, and tuition reductions are excluded from Massachusetts gross income.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to incentivize formal education by helping students defray its costs.	Are there other states with a similar Tax Expenditure? All states that adopt the Code for individual income tax purposes allow an exclusion for qualifying scholarships, fellowship grants, and tuition reductions unless they have specifically decoupled from the Code in that regard. The

	Commission is not aware of any state that has decoupled.
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INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, certain scholarships, fellowship grants, and tuition reductions are excluded from Massachusetts gross income. Specifically, Massachusetts adopts Code § 117(a), which excludes from gross income amounts received as a qualified scholarship by an individual who is a candidate for a degree¹ at a non-profit educational organization described in Code § 170(b)(1)(A)(ii).² Additionally, Massachusetts adopts Code § 117(d), which excludes from gross income amounts received as a qualified tuition reduction.³ A qualified scholarship is "any amount received by an individual as a scholarship or fellowship grant to the extent the individual establishes that, in accordance with the conditions of the grant, such amount was used for qualified tuition and related expenses." Code § 170(b). Qualified tuition and related expenses generally include tuition and course-related expenses. Such expenses do not include room, board, or travel expenses. Code § 170(b)(2). With certain limited exceptions, the exclusion does not apply to any amounts received as payment for teaching, research, or other services required as a condition of receiving the qualifying scholarship. Code § 170(c).

Under Code § 117(d), amounts of any qualified tuition reduction are also excluded from gross income. A qualified tuition reduction is the amount of any reduction in tuition provided to an employee of a qualified, non-profit educational organization for the education of the employee or the employee's spouse or dependents at a qualified, non-profit educational organization. The exclusion is generally available for tuition below the graduate level.

In the absence of the exclusion, qualifying scholarships, fellowship grants, and tuition reductions would be included in Massachusetts gross income. The personal income tax revenue forgone as a result of the exclusion constitutes a Massachusetts tax expenditure.

¹ The term "candidate for degree" is not defined by statute or promulgated regulation. Under proposed regulations, 26 CFR 1.117-6, a candidate for a degree is a student at a primary or secondary school, or an undergraduate or graduate student at a college or university who is pursuing studies or conducting research to meet the requirements for an academic or professional degree. A candidate for a degree also includes full-time and part-time students at an educational institution that either offers credits toward a graduate or undergraduate degree or offers training in a recognized occupation and is accredited by a nationally recognized accreditation agency.

² Pursuant to Code § 170(b)(1)(A)(ii), an educational organization is one "which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on."

³ Effective for tax years beginning on or after January 1, 2022, Massachusetts conforms to Code § 117(a), (d) as amended on January 1, 2022, and in effect for the taxable year, with certain exceptions not relevant to this report. M.G.L. c. 62, § 1(c).

POLICY GOALS

The Commission assumes the goal of the expenditure is to incentivize formal education by helping students defray its costs.

ADMINISTRABILITY

The administration of this exclusion does not present any special challenges for the Department of Revenue (DOR). Educational institutions must provide most students with IRS Form 1098-T (tuition statement), which includes a box for scholarships or fellowship grants. Taxpayers are instructed to include taxable portions of scholarships, fellowship grants, and tuition reductions in federal gross income. The Internal Revenue Service (IRS) uses this information to monitor compliance with Code § 117(a) and (d) and shares the results with the DOR.

The Commission assumes that the consistency of treatment of qualifying scholarships, fellowship grants, and tuition reductions for federal and Massachusetts purposes also eases the compliance burden for taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$43 - \$55 million per year during FY22 - FY26. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Exemption of Scholarships, Fellowships, and Tuition Reductions

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$43	\$45	\$47	\$49	\$55

Massachusetts' revenue loss estimates are based on estimates prepared by the federal Joint Committee on Taxation ("JCT").⁴ The JCT reports the impact on federal tax collections resulting from the corresponding federal exclusion of scholarships, fellowships, and tuition reductions. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years⁵, effective tax rates, and size of tax base. Given the use of external data and the lack of state specific data, the revenue loss estimates are uncertain. Therefore, estimates reported in Table 1 should be used with caution.

⁴ The JCT is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. Among other tasks, the JCT provides revenue estimates for federal tax expenditures and tax legislation considered by the Congress. The most recent JCT tax expenditure report can be found on the JCT's website: <https://www.jct.gov/getattachment/4bb6796c-df84-4179-9226-8cce61c7c4b5/x-59-23.pdf>

⁵ It should be noted 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.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are recipients of scholarships, fellowship grants, and tuition reductions that qualify for the exclusion. The exclusion reduces net cost of education for such beneficiaries.

Generally, students enrolled in schools with higher tuition receive a larger benefit from the expenditure in comparison to those enrolled in schools with lower tuition. Also, taxpayers with higher marginal tax rates benefit more from such exclusion than taxpayers with lower marginal tax rates. A Congressional Research Service report prepared for the use of the Senate Committee on the Budget indicates that, *“Some students with very low incomes may not benefit at all from this [federal] exclusion, as they could reduce their taxable income to zero by claiming the standard deduction regardless. However, the exclusion’s benefit may be substantial for students with other income or married postsecondary students who file joint returns with their employed spouses”*.⁶

There are no direct data on the number of beneficiaries of this tax expenditure. In the appendix, DOR reports an estimate of the number of students enrolled in Massachusetts who received certain type of financial aid. But, as discussed in the appendix, such students may not necessarily benefit from this tax expenditure. For example, some students who are Massachusetts filers are enrolled in out-of-state institutions.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

⁶ See Senate Committee on the Budget, *Tax Expenditures: Compendium of Background Material on Individual Provisions*, Section 117, page 721-724 (December 2022), [CPRT-117SPRT49569.pdf \(govinfo.gov\)](#)

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that adopt the Code for individual income tax purposes allow an exclusion for qualifying scholarships, fellowship grants, and tuition reductions unless they have specifically decoupled from the Code in that regard. The Commission is not aware of any state that has decoupled.

APPENDIX

In this section, DOR reports an estimate of the number of students enrolled in Massachusetts' institutions who received a certain type of financial aid. Student financial aid can be classified as grants, loans, work-study, and other. The type of financial aid that is most likely covered by this tax expenditure is "grants", which include scholarships, tuition waivers, employer tuition reimbursements, and federal grants such as Pell Grants. DOR examined publicly available data on enrollment and financial aid for post-secondary institutions in Massachusetts from the U.S. Department of Education.⁷ Table A-1 displays the estimated number and percentage of students (undergraduates and graduates combined) in Massachusetts with any grant aid awarded from the federal government, a state or local government, institution, and other sources known by the institution for years from 2016 - 2022. During that period, 257,000 - 280,000, or 54 - 55% of students enrolled in degree-granting institutions in Massachusetts received some type of grant.

**Table A-1. Estimates of Number of College Students in Massachusetts
with Some Type of Grant Aid, 2016 - 2022**

Year	Total Number of Students (Undergraduate and Graduate)	Number of Students with Grant Aid	% of Students with Grant Aid
2016	511,794	279,881	54.7%
2017	507,149	276,745	54.6%
2018	504,805	275,014	54.5%
2019	494,729	268,942	54.4%
2020	492,689	267,736	54.3%
2021	479,487	258,708	54.0%
2022	476,178	257,100	54.0%

Note: The most current data on enrollment are available for 2022.

However, the numbers reflected in Table A-1 do not necessarily reflect the beneficiaries of this tax expenditure, for several reasons. First, some students enrolled in Massachusetts institutions are not Massachusetts residents and may not be required to file a Massachusetts tax return. On the other hand, some students who are Massachusetts filers are enrolled in out-of-state institutions. In addition, as mentioned in the report, some students with low incomes may not benefit at all from this tax expenditure, as they could reduce their taxable Massachusetts income to zero by claiming personal exemption or no

⁷ As required by the Higher Education Act (1965), the U.S. Department of Education's National Center for Education Statistics (NCES) Integrated Post Secondary Education Data System (IPEDS) survey collect data on student financial aid and the net price from each post-secondary institutions. For more information on financial component of IPEDS survey, see, <https://nces.ed.gov/ipeds/survey-components/12>

tax status. Finally, some types of “grant aid” may be taxable in Massachusetts, such as scholarships or fellowships used to pay room and board.

Template for Evaluating Expenditures

Name of Expenditure: 1.016 Exclusion of Certain Prizes and Awards	Annual cost: \$3 - \$4 million	Year of adoption: 1954	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Incentive certain religious, charitable, scientific, educational, artistic, literary, civic, employment, or athletic achievement </div> </div>				
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 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Seems unlikely that most individuals who receive these prizes are engaging in these activities because of the availability of the prizes, benefit of linking state tax code to federal, complicated to administer and monitor because many of the prizes and awards are not reported

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exclusion of Certain Prizes and Awards
TAX EXPENDITURE NUMBER	1.016
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 74
YEAR ENACTED	1954
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$3 - \$4 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, prizes for achievements in specified fields and certain cash payments received for participating in the Olympics or Paralympics are excluded from Massachusetts gross income.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to avoid having taxes diminish the value of certain prizes and awards.	Are there other states with a similar Tax Expenditure? All states that adopt the Code for individual income tax purposes allow the federal exclusion for achievement prizes, unless they have specifically decoupled from the Code in that regard. The Commission is not aware of any state that has decoupled.

INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, certain prizes and awards are excluded from Massachusetts gross income. The exclusion also applies to certain cash payments received for participating in the Olympics or Paralympics. Specifically, Massachusetts adopts Code § 74¹, which excludes certain prizes and awards from gross income including (i) prizes and awards made primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civic achievement, (ii) certain employee achievement awards, and (iii) Olympic and Paralympic medals and prizes.²

Awards and prizes for religious, charitable, scientific, educational, artistic, literary, or civic achievement are excludable if: (i) the recipient is selected without any action on his or her part to enter the contest or proceeding under which the prize is awarded; (ii) the recipient is not required to render substantial future services as a condition to receiving the prize; and (iii) the prize or award is transferred by the payer to a qualified governmental unit or charitable organization pursuant to a designation made by the recipient. Code §74(b).

Noncash prizes for employee achievement are excludable if they are awarded by an employer to an employee for length of service achievement or safety achievement as part of a meaningful presentation under conditions that indicate the payment is not disguised compensation. Code §§ 74(c)(1), 274(j). In general, the amount of the exclusion for an employee achievement award is limited to the employer's cost for the award and cannot be more than \$1,600 in the taxable year for any employee.

The value of Olympic and Paralympic medals is excluded from income. In addition, prize money awarded by the United States Olympic Committee (USOC) on account of competition in the Olympic Games or Paralympic Games is excludable. The exclusion for Olympic and Paralympic medals and cash prizes does not apply to any taxpayer with adjusted gross income, determined without regard to the exclusion, exceeding \$1,000,000 for the tax year (\$500,000 for a married individual filing a separate return). Code § 74(d)(2).

In the absence of the exclusion, prizes for charitable, scientific, educational, artistic, literary, or civic (such as Nobel prizes) achievement, employee achievement awards, and

¹ Effective for tax years beginning on or after January 1, 2022, Massachusetts conforms to Code § 74 as amended on January 1, 2022, and in effect for the taxable year, with certain exceptions not relevant to this report. M.G.L. c. 62, § 1(c).

² Code § 74(a) provides that, pursuant to Code § 117, qualified scholarships are also excluded from gross income. See report on tax expenditure 1.015 for more information about the exclusion for qualified scholarships.

Olympic and Paralympic medals and prize money would be taxable. Personal income tax revenue foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to avoid having taxes diminish the value of certain prizes and awards.

ADMINISTRABILITY

The administration of this exclusion presents some challenges for the Department of Revenue (DOR). Olympic and Paralympic medals and prizes are required to be reported by the payor on Form 1099-Misc, but it is not necessarily the case that the value of other prizes will be reported on 1099s or W-2s. Individual audits may be required to monitor the exclusion. However, conformity with the federal exclusion simplifies tax compliance and administration of the exclusion by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. Further, such conformity allows the DOR to use audit results shared by the Internal Revenue Service (IRS) to monitor the exclusion.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$3 - \$4 million per year during FY22 - FY26. See Table 1 below.

Table 1: Tax Revenue Loss Estimates for Exemption of Certain Prizes and Awards

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$3	\$3	\$4	\$4	\$4

Massachusetts' revenue loss estimates are based mostly on estimates prepared by the federal Joint Committee on Taxation ("JCT").³ The JCT reports the impact on federal tax collections resulting from the corresponding federal exclusion of certain employee awards.⁴ To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years⁵, effective tax rates, and size of tax base. JCT's estimates do not include the exclusion of Olympic and Paralympic medals and USOC prize money, for which DOR used the IRS's individual income

³ The JCT is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. Among other tasks, the JCT provides revenue estimates for federal tax expenditures and tax legislation considered by the Congress. The most recent JCT tax expenditure report can be found on the JCT's website: <https://www.jct.gov/getattachment/4bb6796c-df84-4179-9226-8cce61c7c4b5/x-59-23.pdf>

⁴ JCT's estimates for exclusion of employee awards cover exclusions allowed under Code §74(b) & (c).

⁵ It should be noted 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.

tax return line-item estimates.⁶ The IRS's estimates are for the entire country and were apportioned to Massachusetts using limited online information on Massachusetts' share of U.S. Olympic and Paralympic medals.⁷ Given the use of external data and the lack of state-specific data, the revenue loss estimates are uncertain. Therefore, estimates reported in Table 1 should be used with caution.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are individuals that receive (i) prizes and awards made primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civic achievement, (ii) certain employee achievement awards, and (iii) Olympic and Paralympic medals and prizes.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that adopt the Code for individual income tax purposes allow the federal exclusion for achievement prizes, unless they have specifically decoupled from the Code in that regard. The Commission is not aware of any state that has decoupled.

⁶ <https://www.irs.gov/statistics/soi-tax-stats-individual-income-tax-returns-line-item-estimates-publications-4801-and-5385>.

⁷ According to IRS estimates, for tax year 2021, about 3,003 tax filers reported non-taxable Olympic and Paralympic medals and USOC prize money with the non-taxable amount totaling about \$9 million. However, IRS does not decompose the above estimates by state.

Template for Evaluating Expenditures

Name of Expenditure: 1.017 Exclusion of Payments Received Under Government Conservation, Reclamation and Restoration Programs (previously Exemption of Cost-Sharing Payments)	Annual cost: ~\$0.4m per annum	Year of adoption: 1978	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: </div> </div>				
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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

Administrability for the DOR (Federal conformity) is simplified by the existence of this code section. Providing an incentive for sustainable environmental practices is a worthy goal. It may be worth continuing to keep track of the taxpayer types that take advantage of this (individual / corporate).

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exclusion of Payments Received Under Government Conservation, Reclamation and Restoration Programs
TAX EXPENDITURE NUMBER	1.017
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	Code § 126
YEAR ENACTED	1978
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.4 million for personal income tax filers annually during FY 22 - FY 26.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, property owners may exclude from income certain payments they receive for participating in designated conservation, reclamation, and restoration programs.	Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.
What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to encourage taxpayers to participate in conservation, reclamation and restoration programs.	Are there other states with a similar Tax Expenditure? All states that conform to the Code for income tax purposes provide an exclusion for payments received under government conservation, reclamation, and restoration programs, unless they specifically decouple

	from the Code in that regard. The Commission is not aware of any states that have decoupled.
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INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, property owners may exclude from income certain payments they receive for participating in designated conservation, reclamation and restoration programs. Specifically, Massachusetts adopts Code § 126.¹ That section allows an exclusion for payments made by federal and state government agencies to offset the costs that property owners incur to conserve soil and water, protect or restore the environment, improve forests, or provide a habitat for wildlife.² Payments are not eligible for the exclusion if they result in a substantial increase in the annual income derived from the property by the owner.³

In the absence of the exclusion, property owners would be required to pay Massachusetts personal income tax on amounts they receive from government conservation, reclamation and restoration programs. Personal income tax revenue foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to encourage taxpayers to participate in conservation, reclamation and restoration programs.

ADMINISTRABILITY

The administration of the exclusion for payments from government conservation, reclamation and restoration programs does not present any special challenges for the Department of Revenue (DOR). Conformity with the federal exclusion simplifies tax

¹ Effective for tax years beginning on or after January 1, 2022, Massachusetts conforms to Code § 126 as amended on January 1, 2022, and in effect for the taxable year, with certain exceptions not relevant to this report. M.G.L. c. 62, § 1(c).

² Qualifying government programs include (i) the rural clean water program authorized by section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)), (ii) the rural abandoned mine program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236), (iii) the water bank program authorized by the Water Bank Act (16 U.S.C. 1301 et seq.), (iv) the emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978, (v) the agricultural conservation program authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a), (vi) the resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a et seq.), (vii) any small watershed program administered by the Secretary of Agriculture which is determined by the Secretary of the Treasury or his delegate to be substantially similar to the type of programs described in paragraphs (1) through (8), or (viii) any program of a State, possession of the United States, a political subdivision of any of the foregoing, or the District of Columbia under which payments are made to individuals primarily for the purpose of conserving soil, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

³ An increase in annual income is considered substantial if it exceeds the greater of: (1) 10% of the average annual income derived from the affected property prior to receipt of the improvement, or (2) an amount equal to \$2.50 times the number of affected acres. Temporary Reg. § 16A.126-1).

compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for employers and employees.

DIRECT COSTS

Revenue loss estimates resulting from this tax expenditure are based on estimates for the corresponding federal exclusion provided by the Joint Committee on Taxation, Congress of the United States (JCT)⁴ in the most recent federal tax expenditure report. To share down the federal estimates to Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years,⁵ effective tax rates, and size of tax base. Table 1 provides revenue loss estimates resulting from this tax expenditure during the FY22 - FY26 period, which are \$0.4 million per year.

Table 1. Tax Revenue Loss Estimates for Exclusion of Payments Received Under Government Conservation, Reclamation and Restoration Programs

Fiscal Year	2022	2023	2024	2025	2026
Revenue Loss (\$ Million)	\$0.4	\$0.4	\$0.4	\$0.4	\$0.4

DIRECT BENEFITS

Property owners (e.g., farmers) participating in the various designated conservation, reclamation and restoration programs⁶ are the direct beneficiaries of this tax expenditure.

Looking at Table 2, as of 2022, there were 582 farms in Massachusetts that received payments for various government programs, according to the data from the U.S. Department of Agriculture (USDA). 136 of the 582 farms were owned by corporations and 337 were individual or family owned. The total value of government payments was approximately \$14 million. It is not clear from this data if the entirety of these payments would be within the scope of this tax expenditure.

⁴ 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/>.

⁵ 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.

⁶ Visit <https://www.fsa.usda.gov/programs-and-services/conservation-programs/index>

Table 2. Statistics for Potential Beneficiaries of Exclusion of Payments Received Under Government Conservation, Reclamation and Restoration Programs (Year 2022) - Massachusetts

Type of Organization	Number of Farms	Value of Government Payments (\$000) *
Family or individual	337	6,087
Partnership	92	3,181
Corporation	136	4,390
Other	17	383
Total	582	14,041

Source: USDA (2022). See the reference for full source information.

* It includes all government programs, not specific for the tax incentive.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that conform to the Code for income tax purposes provide an exclusion for payments received under government conservation, reclamation and restoration programs unless they specifically decouple from the Code in that regard. The Commission is not aware of any states that have decoupled.

References

Joint Committee on Taxation. (2023, December 7). *Estimates Of Federal Tax Expenditures For Fiscal Years 2023-2027*. Retrieved from The Joint Committee on Taxation:

<https://www.jct.gov/publications/2023/jcx-59-23/>

USDA, National Agriculture Statistics Service. (2022). *2022 Census of Agriculture - State Data (Massachusetts)*. Table 74. Retrieved from

https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_1_State_Level/Massachusetts/

Template for Evaluating Expenditures

Name of Expenditure: 1.024 Exemption of Benefits, Allowances, and Combat Zone Pay to Armed Forces Personnel	Annual cost: \$14.2 - \$17.4M per year during FY22 - FY26	Year of adoption: 1954	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Business only</i>					
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Benefits, Allowances, and Combat Zone Pay to Armed Forces Personnel
TAX EXPENDITURE NUMBER	1.024
TAX EXPENDITURE CATEGORY	Exclusions from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	Code §§ 112, 134
YEAR ENACTED	1954
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$14.2 - \$17.4 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Estimated 13,306 – 14,377 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	Estimated \$985 – \$1,309 per benefiting individual.
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to its reliance on the Internal Revenue Code (Code) for purposes of determining income, Massachusetts excludes from gross income several benefits to members of the armed services, including, under Code § 112, (i) compensation earned by members of the Armed Forces serving in a combat zone and (ii) income received by such individuals who were hospitalized as a result of injury incurred while serving in a combat zone, and under Code § 134, certain qualified military benefits, such as certain medical and disability benefits, moving allowances, dependent care assistance, and certain travel benefits.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
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<p>What are the policy goals of the expenditure?</p> <p>The Commission assumes the goal of the exclusion is to provide tax relief to members of the Armed Forces for their services generally, and also to those who (i) serve in a combat zone, or (ii) were hospitalized as a result of injury incurred while serving in a combat zone.</p>	<p>Are there other states with a similar Tax Expenditure?</p> <p>All states that impose an income tax adopt the federal exclusion for income received for serving in a combat zone or during hospitalization as a result of injuries incurred during such service, as well as the exclusion for certain benefits to the members of the armed forces, unless those states decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont.</p>
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INTRODUCTION

Members of the Armed Forces are granted exclusions from gross income under the Internal Revenue Code (Code). Code § 112 applies specifically to those who serve in a combat zone, or who are hospitalized as a result of injuries received during such service and excludes from income certain pay attributable to their service. Combat zones are designated by the President by Executive Order. The exemption for those hospitalized continues for two years after the end of combatant activities.

Code § 134 applies more broadly to all members of the armed forces and excludes from income qualified benefits that are attributable to the member's service. Examples of qualifying benefits are veterans' and medical benefits, disability benefits, moving allowances, certain dependent care assistance, and certain travel benefits. If a state provides bonus payments to a current or former uniformed services member, these payments are also excludable from income. Note that some of these benefits, such as certain employer-provided health benefits, might be generally excludable under other Code provisions even in the absence of these statutory sections.

Massachusetts adopts the federal exclusions under Code §§ 112, 134.¹

In the absence of the exclusion, Armed Forces members would be required to pay Massachusetts personal income tax on the income they receive for service in a combat zone or during hospitalization for injuries incurred in a combat zone, and also for certain fringe benefits received that would not be generally excluded under another Code provision. The revenue foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the exclusion is to provide tax relief to members of the Armed Forces generally, and specifically to those who (i) serve in a combat zone, or (ii) were hospitalized as a result of injury incurred while serving in a combat zone.

ADMINISTRABILITY

The administration of the exclusion for qualifying benefits and for income received by Armed Forces members for serving in a combat zone or during hospitalization as a result of injuries incurred during such service does not present special challenges for DOR. Payors of such income will identify it as excludable on Form W-2. Conformity with the federal exclusion based on the 2024 Code simplifies tax compliance and administration by

¹ Effective for tax years beginning on after January 1, 2024, Massachusetts conforms to Code § 117(a) as amended on January 1, 2024, and in effect for the taxable year, with certain exceptions not relevant to this report. M.G.L. c. 62, § 1(c).

allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$14.2 - \$17.4 million per year during FY22 - FY26. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Benefits, Allowances, and Combat Zone Pay to Armed Forces Personnel

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$14.2	\$15.3	\$16.2	\$16.6	\$17.4

Massachusetts' revenue loss estimates above are based mostly on data from the Joint Committee on Taxation (JCT)², the Defense Manpower Data Center (DMDC)³, and the United States Census Bureau⁴. The JCT reports the impact on federal tax collections resulting from the corresponding exemption at the federal level. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years⁵, effective tax rates, and size of tax base.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the individuals who receive certain military compensation, benefits, and allowances eligible for the exclusion. Table 2 below shows the estimated number of direct beneficiaries and the resulting tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	14,377	14,052	13,720	13,511	13,306
Average Tax Benefit	\$985	\$1,089	\$1,183	\$1,226	\$1,309

Source: Estimated by Massachusetts Department of Revenue (DOR) based on Table 1 and data from the Defense Manpower Data Center (DMDC) and the U.S. Census Bureau.

In general, the number of beneficiaries is believed to be very small and likely reflected in tax expenditure 1.025 Exemption of Veterans' Pensions, Disability Compensation and G.I.

² The Joint Committee on Taxation (JCT). <https://www.jct.gov/>

³ The Defense Manpower Data Center. <https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports>

⁴ The United States Census Bureau. <https://www.census.gov/>

⁵ It should be noted 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.

Benefits. Due to the data limitations, estimates in Table 1 and 2 should be used with caution.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that impose an income tax adopt the federal exclusion for income received for serving in a combat zone or were hospitalized as a result of injuries incurred during such service, and for all armed services members for certain benefits attributable to their service, unless those states decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.025 Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits	Annual cost: \$49.7 - \$69.5 million	Year of adoption: 1958	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> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:		<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input checked="" type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <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 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 checked="" type="checkbox"/>	<input 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits
TAX EXPENDITURE NUMBER	1.025
TAX EXPENDITURE CATEGORY	Exclusions from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	38 U.S.C. § 5301
YEAR ENACTED	1958
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$49.7 - \$69.5 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Estimated 81,240 – 81,384 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	Estimated \$610 – \$856 per benefiting individual.
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Federal law provides that amounts received as veterans' disability pensions, disability compensation and G.I. benefits are exempt from federal and state taxation. Massachusetts is thus not permitted to tax such amounts.	Is the purpose defined in the statute? Federal law prevents the taxation of veterans' disability pensions, disability compensation and G.I. benefits. There is no provision in the Internal Revenue Code (Code) or the Massachusetts statute adopting the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the federal law exempting veterans' disability pensions, disability compensation and G.I. benefits from taxation is to prevent such	Are there other states with a similar Tax Expenditure? Federal law prevents the federal government or any state from imposing an income tax on veterans' disability pensions, disability compensation, and G.I. benefits.

benefits from being diminished by subjecting them to income tax.	
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INTRODUCTION

Federal law provides that “[p]ayments of benefits due or to become due under any law administered by the Secretary [of Veterans Affairs] . . . made to, or on account of, a beneficiary shall be exempt from taxation.” 38 U.S.C. 5301(a)(1). The preemption applies for both federal and state tax purposes. As a result of this preemption, Massachusetts is not permitted to impose income tax on veterans’ disability pensions, disability compensation, and G.I. benefits. Note that the exemption does not apply to ordinary pensions received for serving in the military. There is no provision in the Internal Revenue Code (Code) or the Massachusetts General Laws specifically adopting the federal preemption.

POLICY GOALS

The Commission assumes the goal of the federal preemption is to prevent amounts received as veterans’ disability pensions, disability compensation and G.I. benefits from being diminished by subjecting them to income tax.

ADMINISTRABILITY

The administration of the exclusion for military disability income does not present special challenges for DOR. Such income is not reported as taxable on Forms W-2 or 1099 for either federal or state purposes and is therefore distinguishable from other income. Conformity with the federal preemption simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$49.7 - \$69.5 million per year during FY22 - FY26. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Veterans’ Pensions, Disability Compensation and G.I. Benefits

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$49.7	\$57.4	\$61.0	\$63.9	\$69.5

Massachusetts’ revenue loss estimates above are based on data from the Joint Committee on Taxation (JCT)¹ and the U.S. Department of Veterans Affairs (VA)². The VA provides benefits to military veterans and their dependents, while the JCT reports the impact on federal tax collections resulting from the corresponding exemption of such benefits at the

¹ The Joint Committee on Taxation (JCT). <https://www.jct.gov/>

² The U.S. Department of Veterans Affairs (VA). <https://department.va.gov/>

federal level. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years³, effective tax rates, and size of tax base.

DIRECT BENEFITS

The direct benefits of this tax expenditure are the tax savings from the exemption of benefits administered by the VA.

Military veterans and their dependents who receive disability pensions, disability compensation, and G.I. benefits are the direct beneficiaries of this exemption. The exemption allows these taxpayers to exclude the benefit payment(s) received from their gross income subject to tax. Table 2 below shows the estimated number of direct beneficiaries and the resulting tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	81,384	81,348	81,312	81,276	81,240
Average Tax Benefit	\$610	\$705	\$750	\$786	\$856

Source: Estimated by Massachusetts Department of Revenue (DOR) based on Table 1 and data from the Department of Veterans Affairs.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

³ It should be noted 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.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Federal law prevents the federal government or any state from imposing an income tax on veterans' pensions, disability compensation, and G.I. benefits.

Template for Evaluating Expenditures

Name of Expenditure: 1.026 Exemption of Military Disability Pensions	Annual cost: \$0.6 - \$0.8 million per year during FY22 - FY26	Year of adoption: 1971	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> Business: <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> Individual: <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Gratitude/incentive for military service </div> </div>				
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 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 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 type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Military Disability Pensions
TAX EXPENDITURE NUMBER	1.026
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 1(c); IRC §§ 104(a)(4) and (5), and IRC §§ 104 (b)
YEAR ENACTED	1971
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.6 - \$0.8 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Estimated 3,015 – 3,161 per year during FY22- FY26.
AVERAGE TAXPAYER BENEFIT	Estimated \$198 – \$243 per benefiting individual.

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, amounts received as military disability pensions are excluded from gross income.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to prevent amounts received as military disability pensions from being diminished by subjecting them to income tax.	Are there other states with a similar Tax Expenditure? All states that impose an income tax adopt the exclusion for military disability pensions unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

INTRODUCTION

Massachusetts adopts federal gross income as the starting point for determining income subject to the personal income tax. Massachusetts uses the definition of federal gross income as determined under the Internal Revenue Code (Code) as it appeared on January 1, 2022. As a result, Massachusetts adopts the federal income exclusion for “amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces or as a result of certain terrorist attacks.” See Code §§ 104(a)(4),(5) (b).¹ To qualify for the exclusion under Code §§ 104(a)(4), a payment generally must be made because of a combat-related injury. This report refers to payments that are excludable from federal and Massachusetts income under Code § 104 as military disability pensions. The revenue foregone by not taxing these amounts constitutes a tax expenditure.

Note that there is a different exemption for military retirement payments that are unrelated to personal injury or sickness resulting from active service. Please see TERC Report 1.029.

POLICY GOALS

The Commission assumes the goal of the expenditure is to prevent amounts received as military disability pensions from being diminished by subjecting them to income tax.

ADMINISTRABILITY

The administration of the exclusion for military disability retirement income does not present special challenges for DOR. Conformity with the federal exclusion based on the 2022 Code simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers. Note, however, that changes to the federal rules in the future could complicate administration of the exclusion if Massachusetts law is not updated to conform to those changes.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$0.6 - \$0.8 million per year during FY22-FY26. See Table 1.

¹ The exclusion applies to service in any country’s military and also to service in the National Oceanic and Atmospheric Administration, the Public Health Service, or the Foreign Service.

Table 1. Tax Revenue Loss Estimates for Exemption of Military Disability Benefits

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$0.6	\$0.6	\$0.6	\$0.7	\$0.8

Massachusetts' revenue loss estimates above are based mostly on data from the Joint Committee on Taxation (JCT)² and data from the Office of the Actuary (OACT)³, an agency of the United States Department of Defense (DoD). The JCT reports the impact on federal tax collections resulting from the corresponding exemption at the federal level. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years⁴, effective tax rates, and size of tax base using the DoD data.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the individuals who receive military disability retirement payments eligible for the exclusion. As such, they can exclude their federal government disability pension payments received from Massachusetts Part B income. Table 2 below shows the estimated number of direct beneficiaries and the resulting tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	3,015	3,051	3,087	3,124	3,161
Average Tax Benefit	\$215	\$206	\$198	\$238	\$243

Source: Estimated by Massachusetts Department of Revenue (DOR) based on Table 1 and data from the DoD's annual "Statistical Report on the Military Retirement System"

Disability payments from the DoD are computed by two separate methods, the years-of-service or the percentage-of-disability. Payments determined by the number of years of service are taxable under the Code. From their annual report, the DoD data does not distinguish between disability payments that are taxable and those that are non-taxable but rather reports all payments in the aggregate. Due to this, the number of beneficiaries in Table 2 may be overstated as it may include recipients of taxable disability benefits. Disability benefits that are taxable under the Code may still be exempt under Massachusetts law as reflected in Tax Expenditure item 1.029.

² <https://www.jct.gov/>

³ The Office of the Actuary fulfils the statutory requirements for the actuarial reporting of the Military Retirement System, Military Health System, Education Benefits Fund, and the Voluntary Separation Incentive Fund. <https://actuary.defense.gov/>

⁴ It should be noted 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.

This tax expenditure may also include certain Department of Veteran Affairs (VA) benefits. However, it is not possible to determine the breakout between the DoD and VA payments for this tax expenditure as DOR's estimates are derived from that of the JCT. In addition, DOR does not have data to estimate the number of VA payment recipients or the number of recipients of other disability retirement payments, who are also the beneficiaries of this tax expenditure.⁵

Lastly, the estimates also include federal income tax exemption IRC §§ 104(a)(5) which provides for the exclusion of disability payments stemming from injuries sustained from a terrorist attack, while on official duties, outside of the U.S.A. before 2001. The total number of beneficiaries is believed to be very small, with an even smaller number of those individuals currently residing in Massachusetts.

Due to the data limitations discussed above, estimates in Table 2 should be used with caution.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that impose an income tax adopt the exclusion for military disability pensions unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

⁵ In general, disability compensation provided by VA is non-taxable. See tax expenditure item 1.025 for V.A. benefits and beneficiaries.

Template for Evaluating Expenditures

Name of Expenditure: 1.027 Exemption of Compensation to Massachusetts-Based Nonresident Military Personnel	Annual cost: \$10.6 - \$12.8 million per year during FY22 - FY26	Year of adoption: 1973	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> Business: <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> Individual: <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Aligning Massachusetts law with federal law, recognizing/rewarding military service. </div> </div>																																																										
Measurement and Effectiveness Ratings: <div style="display: flex; justify-content: space-between; font-weight: normal;"> <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> </div> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 45%;">We can measure the overall benefit toward achieving the goal(s).</td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> <td style="width: 10%; text-align: center;"><input type="checkbox"/></td> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>The TE's benefit justifies its fiscal cost.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>The TE is claimed by its intended beneficiaries.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>The TE is claimed by a broad group of taxpayers.</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>The TE amount claimed per taxpayer is meaningful as an incentive/benefit.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>The TE is relevant today.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td>The TE is easily administered.</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Business only</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>-The TE is primarily beneficial to smaller businesses.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Individuals only</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>-The TE is primarily beneficial to lower income taxpayers.</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>				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 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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	The TE is easily administered.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Business only					-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Individuals only					-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																																																										

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: While the exemption is challenging to administer because identifying beneficiaries is “a fact-intensive determination which requires a case-by-case analysis,” eliminating the exemption would have no impact since federal law does not allow states to tax the compensation of non-resident service members. Commission discussed the possibility of removing this from the list of tax expenditures, since the Commonwealth is not able to tax non-resident military personnel, making this more of an unfunded mandate than an expenditure. We also noted that keeping this on the list does mean that, if there is a change in federal law that enables the state to tax non-resident military personnel, we would have a record of reviews of what would then be a tax expenditure.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Compensation to Massachusetts-Based Nonresident Military Personnel
TAX EXPENDITURE NUMBER	1.027
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 5A(c)
YEAR ENACTED	1973
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$10.6 - \$12.8 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Estimated 3,231 – 3,377 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	Estimated \$3,279 – \$3,807 per benefiting individual.
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Nonresident servicemembers are not subject to personal income tax on compensation for active-duty military service, even if the service is performed in Massachusetts.	Is the purpose defined in the statute? The statute does not state the purpose of the personal income tax exemption.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to ensure that nonresident servicemembers do not become subject to personal income tax by reason of their assignments to military posts in Massachusetts.	Are there other states with a similar Tax Expenditure? Most states exempt nonresident servicemembers' military compensation from income tax. However, even if a state does not explicitly do so by statute, federal law imposes such an exemption.

INTRODUCTION

Nonresident servicemembers are not subject to personal income tax on compensation for active-duty military service, even if the service is performed in Massachusetts. In general, nonresidents are subject to personal income tax on income from Massachusetts sources, including employment in the Commonwealth. See M.G.L. c. 62, § 5A(a). However, Massachusetts provides an exception to the general rule with regard to compensation received by nonresidents for active-duty military service. The exception is implemented by M.G.L. c. 62, § 5A(c), which deems such compensation “to be from sources other than sources within the Commonwealth.” Further, days spent in the Commonwealth while on active duty in the Armed Forces of the United States do not count toward the 183-day residency rule.¹ See M.G.L. c. 62, § 1(f).

Note that federal law imposes the same rule as M.G.L. c. 62, § 5A(c) by providing that compensation for active-duty military service may not be sourced to a state in which a nonresident servicemember is serving in compliance with military orders. See 50 U.S.C.A. § 4001(b). The federal exemption also applies to certain income earned by spouses of nonresident servicemembers. See 50 U.S.C.A. § 4001(c). Massachusetts follows the federal exemption for military spouses even though spouses are not referenced in M.G.L. c. 62, § 5A(c). The federal exemption, including for military spouses, applies regardless of whether Massachusetts imposes its own exemption under M.G.L. c. 62, § 5A(c).

Personal income tax revenue foregone as a result of exempting nonresident servicemembers’ military compensation constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to ensure that nonresident servicemembers do not become subject to personal income tax by reason of their assignments to military posts in Massachusetts.

ADMINISTRABILITY

The administration of the exemption for nonresident servicemembers’ military compensation presents some challenge for the Department of Revenue (DOR). Such compensation is taxable if received by resident service members. Thus, to monitor eligibility for the exemption the DOR must distinguish between resident and nonresident servicemembers. Residency is a fact-intensive determination, which requires a case-by-case analysis. Administration is relatively simple for nonresident servicemembers as they

¹ The 183-day residency rule is codified in G.L. c. 62, § 1(f), which defines the term “resident” to include a person who “who maintains a permanent place of abode in the commonwealth and spends in the aggregate more than one hundred and eighty-three days in the commonwealth.” A “nonresident” is “any natural person who is not a resident or inhabitant.” G.L. c. 62, § 1(f).

are not required to provide any documentation of their residency status to the DOR in order to claim the exemption and are not required to file returns reporting exempt income. Nonresident servicemembers are required to provide such information if they are subjected to an audit.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$10.6 - \$12.8 million per year during FY22 - FY26. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Compensation to Massachusetts-based Non-resident members of the Uniformed Services

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$10.6	\$11.1	\$11.9	\$12.5	\$12.8

Massachusetts' revenue loss estimates² are based mostly on data from the Defense Manpower Data Center (DMDC)³, which serves under the Office of the Secretary of Defense (OSD), to provide data for the United States Department of Defense (DoD). The DMDC provides monthly military personnel data by state.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the active-duty members of the U.S. armed forces who are temporarily stationed in Massachusetts but are not residents of the Commonwealth. As such, they can exclude their federal government pay from Part B income. Table 2 below shows the estimated number of direct beneficiaries and the average tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	3,231	3,304	3,377	3,369	3,361
Average Tax Benefit	\$3,279	\$3,368	\$3,522	\$3,706	\$3,807

Source: Estimated by Massachusetts Department of Revenue (DOR) based on Table 1 and data from the Defense Manpower Data Center.

² DOR does not have data on the amount of exempt income earned by spouses of nonresident servicemembers. Therefore, the revenue loss due to the exemption of such income is not reflected in the estimates in Table 1.

³ The Defense Manpower Data Center collates personnel, manpower, training, financial, and other data for the Department of Defense (DoD). <https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports>.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states exempt nonresident servicemembers' military compensation from income tax. However, even if a state does not explicitly do so by statute, federal law imposes such an exemption.

Template for Evaluating Expenditures

Name of Expenditure: 1.028 Exemption of Income Received by Persons Killed in Military Action or Terrorist Activity	Annual cost: <\$50,000	Year of adoption: 1988 (Kill in Military); 2002 (Terrorist Activity)	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> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:		<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other:		
Measurement and Effectiveness Ratings:				
Which best reflects your opinion on each statement?	Strongly disagree	Somewhat disagree	Somewhat agree	Strongly agree
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 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 type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

- Strongly disagree that the TE is claimed by a broad group of taxpayers, as the average number of taxpayers eligible to claim this benefit is less than 5.
- Strongly disagree that the TE is primarily beneficial to lower income taxpayers because the TE is broadly available without any income considerations.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Income Received by Persons Killed in Military Action or Terrorist Activity
TAX EXPENDITURE NUMBER	1.028
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 25; IRC, § 692.
YEAR ENACTED	1988 for deaths in active military service; 2002 for deaths related to certain terrorist acts.
REPEAL/EXPIRATION DATE	N/A
ANNUAL REVENUE IMPACT	Negligible
NUMBER OF TAXPAYERS	Negligible
AVERAGE TAXPAYER BENEFIT	Negligible
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Certain individuals that died as a result of injuries sustained in (i) military service in a combat zone, (ii) military or civilian service in a military action or terrorist attack, or (iii) specified terrorist attacks on civilians are exempted from the Massachusetts personal income tax, subject to certain limitations. The Massachusetts exemption parallels a similar federal exemption.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to provide tax relief to the families of taxpayers that die as a result of injuries sustained in (i) military service in a	Are there other states with a similar Tax Expenditure? Many states provide a similar exemption from income taxes, including California, Connecticut, Maine, New York, Rhode Island, and Vermont.

combat zone, (ii) military or civilian service in a military action or terrorist attack, or (iii) specified terrorist attacks.	The Commission is not aware of any state without a similar exemption.
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INTRODUCTION

Certain individuals that died as a result of injuries sustained in (i) military service in a combat zone, (ii) military or civilian service in a military action or terrorist attack, or (iii) specified terrorist attacks on civilians are exempted from the Massachusetts personal income tax, subject to certain limitations. M.G.L. c. 62, § 25. Section 25 is a Massachusetts-specific exemption, but it generally follows the same rules and definitions as are used in a similar federal exemption set out in Internal Revenue Code (Code) § 692. See Technical Information Release (TIR) 02-19.

The Massachusetts and federal exemptions from personal income tax apply only to eligible tax years. For deaths resulting from injuries sustained in military service in a combat zone, eligible tax years are the tax year in which the death occurred and all immediately preceding tax years starting with the tax year in which the decedent first served in the combat zone. M.G.L. c. 62, § 25(b); Code § 692(a). For other deaths, the exemption applies to the year of death and all immediately preceding tax years starting with the year immediately preceding the year the injury occurred. M.G.L. c. 62, § 25(b); Code § 692(c), (d). Note that the exemption for civilian victims of terrorist attacks who were not employees of the United States applies only to individuals who died: (i) of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or (ii) of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001 and before January 1, 2002.

Combat zones are designated by the President by Executive Order. A military action is defined as any military action involving the US armed forces and resulting from violence or aggression against the US or any of its allies (or threat thereof). See M.G.L. c. 62, § 25(b), referring to Code § 692(c)(2)(B). Terrorist attacks are limited to the Oklahoma City bombing of April 1995, the World Trade Center attack of September 2001, and attacks involving anthrax occurring on or after September 11, 2001, and before January 1, 2002. See M.G.L. c. 62, § 25(c)(4); 26 USC, see also Code § 692(d)(4).

In the absence of the exemption, individuals who die as a result of service in combat zones, military actions, or specified terrorist attacks would be required to pay Massachusetts personal income tax on all of their income. The revenue foregone as a result of the exemption constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to provide tax relief to the families of taxpayers that die as a result of injuries sustained in (i) military service in a combat zone,

(ii) military or civilian service in a military action or terrorist attack, or (iii) specified terrorist attacks.

ADMINISTRABILITY

The administration of this exemption does not present special challenges for the Department of Revenue (DOR). The exemption conforms to an analogous federal exemption. This simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be negligible, or less than \$50,000 per year, during FY22 - FY26. See Table 1 below.

Table 1. Revenue Loss Estimates for Exemption for Taxpayers Killed in Military Action or by Terrorist Activity

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss	Negligible	Negligible	Negligible	Negligible	Negligible

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

According to data from the Defense Manpower Data Center¹, there were 2,857,681 active-duty military, national guard/reserve, and appropriated fund (APF) Department of Defense (DOD) civilian personnel in the United States including those posted in foreign countries as of September 30, 2023. Massachusetts' share is estimated to be about 0.9%, or approximately 26,000 personnel.

Similarly, based on data from the Defense Casualty Analysis System², DOR estimated that there were about 460 active-duty military and civilian death in calendar 2022. Assuming Massachusetts's share of military and civilian death is also 0.9% as estimated above, and assuming \$50,000 as an average annual income of the deceased personnel eligible for the tax expenditure, and the average number of eligible tax years for each deceased personnel is less than 5, the annual revenue impact of this tax expenditure is estimated to be less than \$50,000, or negligible.

¹ <https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports>

² <https://dcas.dmdc.osd.mil/dcas/app/summaryData/deaths/byYearManner>

DIRECT BENEFITS

The direct benefits of this exemption are to provide tax relief to individuals who have lost a family member to service during a military action or a terrorist attack. No direct data on these direct beneficiaries has been found except for the estimates provided in the previous section.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance. However, since the direct costs and benefits of this exemption are negligible, the indirect and induced costs and benefits are also negligible.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Many states provide a similar exemption from income tax, including California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state without a similar exemption.

Template for Evaluating Expenditures

Name of Expenditure: 1.031 & 1.422 Health Savings Accounts (exemption & deduction)	Annual cost: \$36.0 - \$68.5 million	Year of adoption: 2005	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Business only</i>					
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

Because the report does not cover the business contributions, we completed this form for the individual taxpayer only. But the business benefits as well via lower premiums as well as no income tax, and no payroll taxes on the employer contributions.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Health Savings Accounts (exemption & deduction)
TAX EXPENDITURE NUMBER	1.031 (earnings and distributions) & 1.422 (contributions)
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income & Deductions from Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 1(c), 1(d), and 2(d)(1); IRC § 223
YEAR ENACTED	2005
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$36.0 - \$68.5 million per year during FY22 – FY26.
NUMBER OF TAXPAYERS	1.422: 43,621 – 57,600 taxpayers per year during FY22 - FY26 1.031: 537,200 – 681,413 funded HSA accounts per year during FY22 - FY26
AVERAGE TAXPAYER BENEFIT	\$121 - \$129 per benefiting taxpayer during FY22-FY26 for 1.422; \$35-\$90 per funded HSA account during FY22-FY26
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, eligible contributions to, earnings in, and qualified distributions from health savings accounts (HSAs) are not subject to the personal income tax.	Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to incentivize individuals with	Are there other states with a similar Tax Expenditure? States that conform to the Code for income tax purposes provide an exemption, deduction, or

high deductible health care plans to save for medical expenses that they may incur before meeting their plan's annual deductible.	exclusion for eligible contributions to, earnings in, and qualified distributions from HSAs, unless they have specifically decoupled from the Code in that regard. Connecticut, Maine, New York, Rhode Island, and Vermont follow the federal treatment of HSAs. California has decoupled from the federal treatment and taxes both employee and employer contributions to HSAs.
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INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income and Massachusetts' adoption of the deductions included in Code § 62, eligible contributions to, earnings in, and qualified distributions from health savings accounts (HSAs) are not subject to the personal income tax. Specifically, Massachusetts adopts Code § 223, which sets out the federal tax treatment of HSAs. Code § 223 allows employees a deduction for eligible contributions to an HSA. Employer contributions may be excluded from employee income under Code § 106. (The exclusion for employer contributions is described in Tax Expenditure Report 1.004). In addition, Code § 223 allows earnings to accumulate in an HSA free of tax. Code § 223 also allows an exclusion from income for qualified distributions. Massachusetts adopts Code § 223 as currently in effect.¹

An HSA is a tax-exempt trust created for the purpose of paying a taxpayer's qualified medical expenses. An HSA may receive cash contributions from the taxpayer or any other person (*e.g.*, a family member or employer) on behalf of the taxpayer. Contributions other than those from an employer may be deductible from the taxpayer's gross income.

To qualify for the deduction for contributions in a taxable year, the taxpayer must be an "eligible individual" for any month in that tax year. In general, to be eligible for a given month a person must: (i) be covered under a high deductible health plan on the first day of the month, (ii) have no other health coverage (except for coverage that is expressly permitted by Code § 223, such as coverage for dental care or workers' compensation claims) for that month, (iii) not be enrolled in Medicare for that month, and (iv) not be claimed as a dependent on someone else's return for that tax year.

Contributions to an HSA are subject to federal limitations, which are adjusted annually for inflation. For calendar year 2024, the deduction limit is \$4,150 for an individual and \$8,300 for a family. The limit is increased by \$1,000 for individuals who are age 55 or older. The limit is reduced by the amount of any contributions to an Archer Medical Savings Account (Archer MSA). (Archer MSAs are described in Tax Expenditure Reports 1.040 and 1.420). The limit may also be lower depending on the taxpayer's: (i) type of high deductible health plan, (ii) age, and (iii) number of months of eligibility during the taxable year.

Interest and any other earnings in an HSA accrue on a tax-free basis.

¹ M.G.L. c. 62, §§ 1(c) (stating that when used in chapter 62, "Code shall mean the Code as amended and in effect for the taxable year for sections . . . 223"); M.G.L. c. 62, § 1(d) (stating that when used in chapter 62, the term "Federal gross income" shall mean "gross income as defined under the Code.")

Qualified distributions from HSAs are excluded from gross income. To qualify, distributions must be used for “qualified medical expenses.” In general, qualified medical expenses are medical expenses that are not reimbursed by an individual’s high deductible health plan because the beneficiary has not yet reached the deductible amount. Qualified medical expenses may be incurred by the taxpayer or the taxpayer’s spouse or dependents. Distributions that are not used for qualified medical expenses are included in the taxpayer’s income and will be subject to a 20 percent federal penalty unless a penalty exemption applies.²

In the absence of the special treatment of HSAs described above, taxpayer contributions to HSAs, HSA earnings, and HSA distributions would be subject to personal income tax. The revenue foregone as a result of such special treatment constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to incentivize individuals with high deductible health care plans to save for medical expenses that they may incur before meeting their plan’s annual deductible.

ADMINISTRABILITY

The administration of this exclusion and deduction does not present special challenges for the Department of Revenue (DOR). Administrators of HSAs report account activity, including gross distributions and “prohibited transactions” on Form 1099-SA, which must be provided to the taxpayer, Internal Revenue Service (IRS), and DOR. The prohibited transaction information indicates a potential taxable distribution. This information provides a means for the IRS and DOR to monitor compliance with the distribution rules. Conformity with federal treatment of HSAs simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers.

DIRECT COSTS

The revenue loss resulting from the exemption of earnings in the HSA accounts³ is estimated to be \$30.7 - \$61.1 million per year during FY22 - FY26. The revenue loss resulting from the deduction for contributions to HAS accounts is estimated to be \$5.3 -

² In general, states do not impose such a penalty. The federal penalty does not affect federal taxable income. Rather, it is an addition to the federal tax. *See* Code § 223(f)(4)(A).

³ To avoid double counting of tax benefits, exemption of HSA distribution is not covered in the estimates of 1.031 since the exempt distribution has already been either exempted as earnings or deducted as contribution before distribution.

\$7.4 million per year for the same period. The combined total revenue loss for the period is estimated to be \$36.0 - \$68.5. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Health Savings Accounts (\$Million)

Fiscal Year	FY2022	FY2023	FY2024	FY2025	FY2026
1.422 (Deduction of Contributions *)	\$5.3	\$5.3	\$5.9	\$6.4	\$7.4
1.031 (Exemption of Earnings)	\$30.7	\$19.6	\$25.8	\$52.7	\$61.1
Total	\$36.0	\$25.1	\$32.6	\$62.2	\$74.1

* Excluding employer contributions

To estimate the revenue loss resulting from the deduction for contributions to HAS accounts, DOR's personal income tax return data on the HSA deduction amounts was employed on personal income tax returns. The deduction amounts were multiplied by the personal income tax rate (5%) to arrive at the revenue loss ⁴

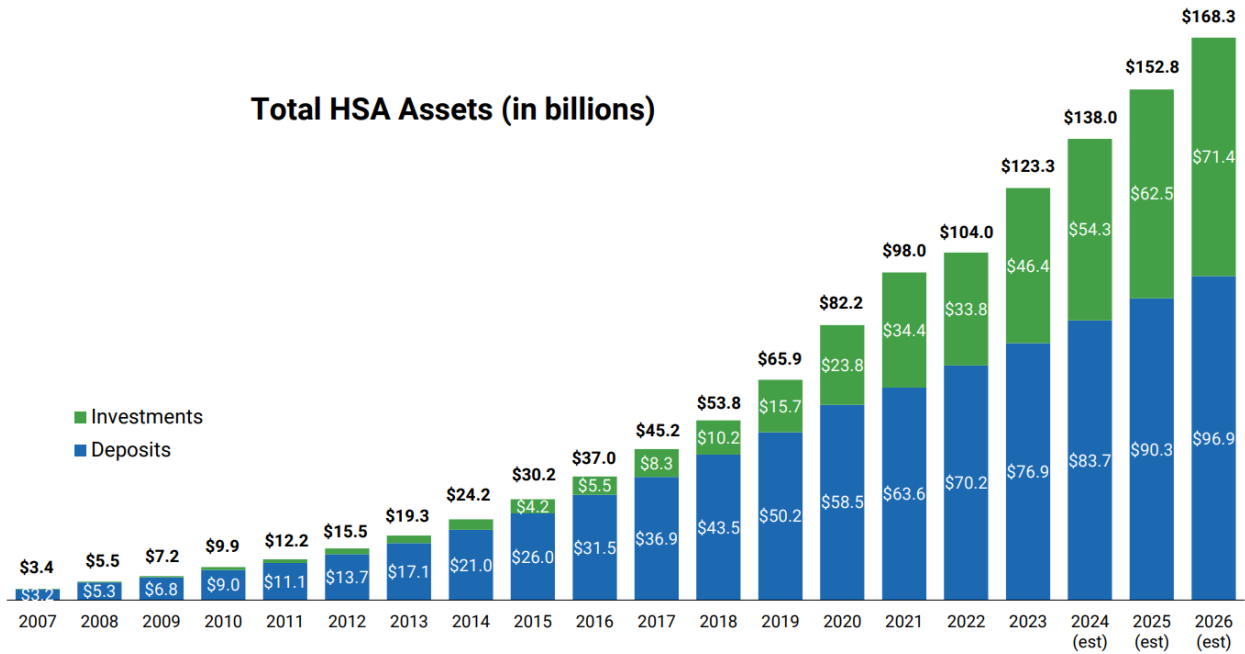
To estimate the revenue loss resulting from the exemption for earning, DOR relied on data from Devenir Research, a leading provider of investment solutions for HSAs. Devenir Research regularly publishes reports and data on HSA market trends. Looking at Figure 1 from Devenir (2023), the total balance of HSA assets in the U.S. has grown exponentially, especially for HSA investment assets. According to Devenir (2022), as of 2022, the total balance of HSA assets for Massachusetts was about 2.5% of that for the U.S. Multiplying that balance by the Massachusetts personal income tax rate (5%) and by a weighted average yield for HSA assets⁵ produced estimates of revenue loss resulting from the exemption of earnings in the HSA accounts⁶

⁴ Further minor adjustments, such as growth for future years, qualified HSA funding distributions (not included in deduction but is not taxable), were incorporated to arrive at the final estimates.

⁵ There is no reliable data on this yield, and so we had to assume a certain percent after examining general economic trends and statistics.

⁶ Given the use of external data and the assumption needed for weighted average yield for HSA assets, the estimates for 1.031 are more uncertain than the estimates for 1.422 and should be used with more caution.

Figure 1. Total HSA Assets by Type for the U.S.



Source: Devenir (2023). Please see the reference for a full citation.

DIRECT BENEFITS

Direct beneficiaries of the tax expenditure are individuals with health savings accounts.⁷ Since not all health saving accounts receive employee contributions for a given year, the number of direct beneficiaries for 1.422 (deduction component) is smaller than that for 1.031 (exemption component). The direct beneficiaries for the deduction and exemption components of this tax expenditure are discussed separately.

Table 2 shows the distribution of the deduction by income brackets for tax year 2022. 44,091 personal income taxpayers (1.1% of all tax filers) claimed a total of \$104.2 million in health savings account deduction for tax year 2022.⁸ The average deduction amount per taxpayer was \$2,363 resulting in an average tax saving of \$118.

⁷ Health savings account holders' spouses and dependents may also benefit from this tax expenditure. For tax year 2022, on average each taxpayer who claimed the deduction on the return represents 2.3 persons, including the taxpayer (a joint filer is counted as two persons) and the taxpayer's dependents.

⁸ Note that the deduction reported in Table 2 does not include exclusion of employer contributions (including employee payroll contributions through a cafeteria plan) from employee income, which is covered by tax expenditure 1.004.

Table 2. Health Savings Accounts Deduction by Income Bracket, Tax Year 2022

Massachusetts Net Adjusted Gross Income (AGI)	Count of All Filers	Health Savings Accounts 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 \$50,000	1,994,190	8,368	\$6,155,784	\$736	5.9%	\$37
\$50,000 under \$100,000	922,323	9,961	\$15,209,120	\$1,527	14.6%	\$76
\$100,000 under \$150,000	409,770	6,786	\$14,717,687	\$2,169	14.1%	\$108
\$150,000 under \$200,000	224,101	4,588	\$12,190,007	\$2,657	11.7%	\$133
\$200,000 under \$500,000	332,666	9,900	\$33,113,649	\$3,345	31.8%	\$167
\$500,000 under \$1,000,000	62,272	2,650	\$12,282,444	\$4,635	11.8%	\$232
\$1,000,000 or Over	30,351	1,838	\$10,500,878	\$5,713	10.1%	\$286
Total	3,975,673	44,091	\$104,169,569	\$2,363	100.0%	\$118

Source: Massachusetts Department of Revenue, 2022 individual income tax return data, preliminary and subject to change
Note: Massachusetts Net Adjusted Gross Income (AGI) is the sum of Earned Income, Interest and Dividends, Short-Term Capital Gains and Long-Term Capital Gains.

Massachusetts taxpayers with a net AGI higher than \$1 million constituted a smaller proportion of taxpayers (1,838 or 4% of all taxpayers claiming this deduction) than those in other income brackets. On the other hand, this income bracket had the highest average deduction per taxpayer (\$5,713) and average tax saving (\$286) among all income brackets. In contrast, Massachusetts taxpayers with a net AGI under \$50,000 had 8,368 claimants with the lowest average deduction per taxpayer (\$736) and average tax saving (\$37). In addition, this income bracket claimed only 5.9% of the total deduction amount, although 19% (=8,368/44,091) of claimants are represented in this income bracket. Massachusetts taxpayers with net AGI from \$200,000 to \$500,000 claimed the highest percentage of the total deduction amount (31.8%) with a total of 9,900 taxpayers and \$33.1 million in deductions, which was the highest among all income brackets. Table 2 also shows that the average deduction and average tax saving increase with income indicating that taxpayers with higher income are more likely to make more contributions to their health savings accounts than taxpayers with lower income.

Although this report does not cover employer contributions to health savings accounts, interested readers can find the distribution of employer contributions by income vs the distribution of employee or individual contributions by income in the appendix. For the deduction (1.422), table 3 shows DOR's projection of the number of taxpayers who will claim the health savings account deduction in future years and their average tax saving.⁹

⁹ Different from Table 2, average tax saving in Table 3 includes tax saving resulting from qualified HSA funding distributions, which are also not taxed.

Table 3. Number of Direct Beneficiaries & Average Tax Benefit for Deduction Component (1.422)

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	43,621	44,091	47,455	50,932	57,600
Average Tax Benefit	\$121	\$121	\$124	\$126	\$129

Source: Internal Revenue Service (IRS); Massachusetts Department of Revenue (DOR)

For the exemption (1.031), table 4 shows DOR's projection of the number of funded HSA accounts in future years and average tax saving per such account. DOR created projections using data from Devenir (2022) and Devenir (2023). Please note that a person may hold multiple health savings accounts, therefore Table 4 does not show the number of accountholders and average tax savings per accountholder. DOR estimated that each funded HSA account may cover 2.53 persons on average, including accountholders and their spouses and dependents.

Table 4. Number of Funded HSA Accounts & Average Tax Benefit per Such Account Due to Exemption of Earnings in These Account (1.031)

Fiscal Year	2022	2023	2024	2025	2026
Number of Funded HSA Accounts	537,200	553,000	592,862	635,597	681,413
Average Tax Benefit per Such Account	\$57	\$35	\$44	\$83	\$90

Source: Devenir Research; Massachusetts Department of Revenue (DOR)

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that conform to the Code for income tax purposes provide an exemption, deduction or exclusion for eligible contributions to, earnings in, and qualified distributions from

HSAs, unless they have specifically decoupled from the Code in that regard. Connecticut, Maine, New York, Rhode Island, and Vermont follow the federal treatment of HSAs. California has decoupled from the federal treatment and taxes both employer and employee contributions to HSAs.

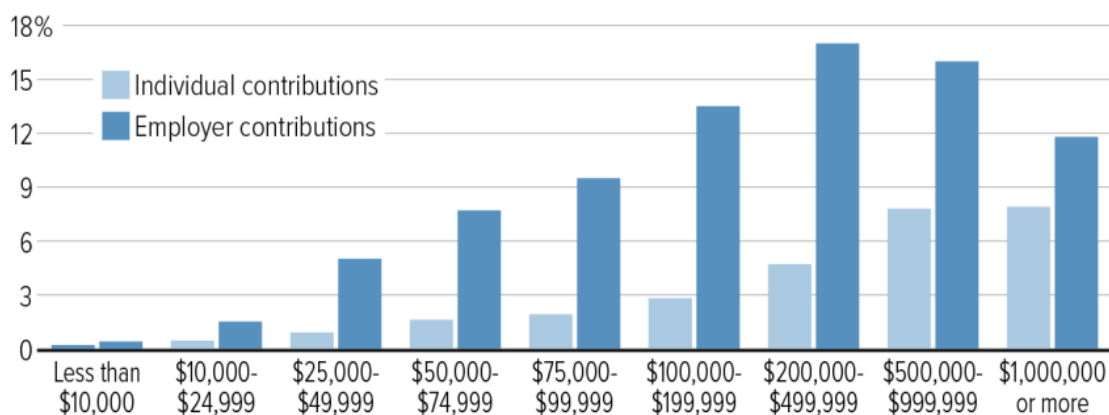
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APPENDIX

Figure A1 below, taken from a report published by the Center on Budget and Policy Priorities, shows that (i) employer contributions are much larger than individual contributions to HSAs, (ii) HSAs benefit high income people, (iii) tax returns reporting more than \$500,000 in adjusted gross income were most likely to report individual HSA contributions, and (iv) tax returns reporting between \$200,000 and \$1 million in income were most likely to report employer HSA contributions. As of January 2022, total HSA assets exceeded \$100 billion, with HSA investment assets, such as stocks and bonds, comprising a significant and rapidly growing portion of those assets.

Figure A1. Percentage of tax returns reporting Health Savings Account(HAS) contributions



Note: Income is measured as adjusted gross income.

Source: Congressional Research Service analysis of Internal Revenue Service data for tax year 2017

CENTER ON BUDGET AND POLICY PRIORITIES | CBPP.ORG

Source: Lukens, G. (2023). Please see the references for a full citation.

Template for Evaluating Expenditures

Name of Expenditure: 1.032 Employer-Provided Adoption Assistance	Annual cost: Under \$50,000	Year of adoption: 2022	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Ease the financial burden on taxpayers who adopt children by excluding employer-provided adoption benefits from gross income </div> </div>				
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 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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Claimed by about 90 taxpayers each year, cost is negligible, individuals with access to such employee benefits are likely to be higher income, but benefit phases out for taxpayers with high annual incomes (phase out starts at \$252,150). Due to conformity.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Employer-Provided Adoption Assistance
TAX EXPENDITURE NUMBER	1.032
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 137, M.G.L. c. 62, §§ 1, 2(a)
YEAR ENACTED	Massachusetts conformed to the federal expenditure as of 2022
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Negligible (under \$50,000)
NUMBER OF TAXPAYERS	Estimated about 90 annually
AVERAGE TAXPAYER BENEFIT	Estimated about \$300 annually
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to its reliance on the Internal Revenue Code (Code) for purposes of determining gross income for personal income tax purposes, Massachusetts allows an exclusion for amounts received by employees through employer-sponsored adoption assistance programs.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes that the goal of the exclusion is to ease the financial burden on taxpayers who adopt children by excluding employer-provided adoption benefits from gross income.	Are there other states with a similar Tax Expenditure? States that conform to the Internal Revenue Code for individual income tax purposes adopt the exclusion for employer-provided adoption benefits, unless they have specifically decoupled from the Code. The Commission is not aware of any state that has decoupled.

INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, amounts received by employees through employer-sponsored adoption assistance programs are excluded from Massachusetts gross income. Specifically, Massachusetts adopts Code § 137 (as amended and in effect for the 2024 tax year), which allows the exclusion for federal tax purposes. M.G.L. c. 62, §§ 1, 2(a). The maximum amount of employer-provided adoption benefits that can be excluded is \$16,810 per child, with higher amounts excluded for the adoption of children with special needs. The exclusion amount begins to phase out for taxpayers with income in excess of \$252,150 and is completely phased out when income reaches \$292,150. The limitation amounts are adjusted annually for inflation. See Code § 137(f). The exclusion applies to amounts used for reasonable and necessary adoption fees, court costs, attorney fees, and certain other expenses.¹ Adoption expenses related to surrogacy, or the adoption of a spouse's child are ineligible for the exclusion.²

In the absence of the tax expenditure, qualified adoption expenses paid by an employer through an adoption assistance program would be included in an employee's taxable income. The revenue foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the goal of the exclusion is to ease the financial burden on taxpayers who adopt children by excluding employer-provided adoption benefits from gross income.

ADMINISTRABILITY

The administration of the exclusion for employer-provided adoption assistance does not present any special challenges for DOR. Conformity with the federal treatment simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers and employers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be very small or negligible (under \$50,000) during FY22 - FY26. See Table 1 below.

¹ Under Code § 137 allowable expenses are defined by reference to Code § 23(d), which by its terms excludes surrogacy and the adoption of a spouse's child.

² Id.

Table 1. Tax Revenue Loss Estimates for Employer-Provided Adoption Assistance

Fiscal Year	FY2022	FY2023	FY2024	FY2025	FY2026
Estimated Revenue Loss (\$Million)	Not Active	Negligible	Negligible	Negligible	Negligible

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

There are no direct statistics on employer-provided adoption benefits excluded from Massachusetts gross income. However, taxpayers need to file IRS Form 8839 to claim the exclusion of employer-provided adoption benefits and/or adoption credits for federal tax purposes. The IRS publishes estimates for the number of returns and amounts for selected lines in Form 8839 for each tax year.³

For tax year 2018, the IRS estimated that 5,995 taxpayers reported a total receipt of \$45.3 million in employer-provided adoption benefits. 4,578 out of 5,995 taxpayers (76%) reported a total of \$43.9 million in benefits eligible for the exclusion (97% of the total receipt).⁴ Note that for many other tax years, the IRS only provided estimates for the total receipt of employer-provided adoption benefits and did not provide a breakdown of benefits eligible for the exclusion.

Massachusetts' revenue loss estimates are based on the IRS' estimates. DOR adjusted the IRS' 2018 estimates to arrive at estimates of excluded benefits for all tax years. DOR then applied Massachusetts' share of U.S. employment (~2.4%) and Massachusetts' part-B income tax rate to those adjusted estimates of excluded benefits to estimate Massachusetts' revenue loss. The estimates are volatile and less than \$50,000 for most years.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are those employees who adopt children, and the children themselves. Taxpayers with employer provided adoption benefits do not pay taxes on some or all of the value of the adoption benefit. Note that the exclusion is capped and begins to phase out for taxpayers with income in excess of certain level. Based on the IRS' 2018 estimates, DOR estimated that about 90 Massachusetts taxpayers claim the exclusion annually with an average tax benefit of about \$300 per taxpayer. Please note that these numbers do not take into account of the number of adopted children.⁵

³ <https://www.irs.gov/statistics/soi-tax-stats-individual-income-tax-returns-line-item-estimates-publications-4801-and-5385>

⁴ For the same year, IRS estimated that 76,127 taxpayers claimed \$384.6 million adoption credit.

⁵ According to the FY23 annual report released by the Massachusetts Department of Children and Families (DCF) (<https://www.mass.gov/doc/fy2023-dcf-annual-report/download>, Table/Figure 34), 720-934 adoptions were legalized annually during FY19-FY23. However, these numbers include all adopted children for whom the taxpayers claimed either adoption credit or exclusion. IRS' estimates of selected Form 8839 lines indicate that much more taxpayers claimed adoption credit than exclusion.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that conform to the Internal Revenue Code for individual income tax purposes adopt the exclusion for employer-provided adoption benefits, unless they have specifically decoupled from the Code. The Commission is not aware of any state that has decoupled.

Template for Evaluating Expenditures

Name of Expenditure: 1.033 Employer-Provided Education Assistance	Annual cost: \$13.7-\$14.8 million	Year of adoption: 1979	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: This credit acts as an incentive for Massachusetts employers to offer education assistance to their workers.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Employer-Provided Education Assistance
TAX EXPENDITURE NUMBER	1.033
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 1(c); Code §§ 127 and 132(j)(8)
YEAR ENACTED	Massachusetts has conformed to Code § 127 since 1979, ¹ and has conformed to Code § 132(j)(8) since 1998.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$13.7-\$14.8 million per year during FY22 – FY26
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, certain employer payments for employee education and training assistance are excluded from employee gross income.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to encourage employees to take	Are there other states with a similar Tax Expenditure? All states that impose an income tax adopt the federal exclusion for employer-provided education and training assistance unless they

¹ Massachusetts conformity to Code § 127 has not been continuous because the federal exclusion has expired several times and Massachusetts irregularly updates its conformity to the Code.

<p>advantage of employer-provided education and training assistance programs.</p>	<p>decouple from the Code in that regard. States that adopt the federal exclusion include Connecticut, Maine, New York, Rhode Island, and Vermont. California has its own state-specific exclusion for education and training assistance.</p>
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INTRODUCTION

Massachusetts adopts the Internal Revenue Code (Code) definition of gross income as it appears in the Code as of January 1, 2022 for personal income tax purposes. Under the 2022 Code, certain amounts paid by an employer for employee education or training are excluded from employee gross income.

Specifically, under Code § 127, employees can annually exclude up to \$5,250 of employer payments made pursuant to an “educational assistance program.” Code § 127(a). An “educational assistance program” is a written plan created by an employer to provide employees with educational assistance. Code § 127(b)(1). The plan must meet various non-discrimination requirements. Code § 127(b)(2). Employer assistance may include payments for an employee’s tuition, fees, textbooks, or other similar expenses. It may also include payments towards an employee’s qualified student loan principal or interest after March 27, 2020 and before 2026.² Employer assistance does not include payments for lodging, meals, transportation, tools, or supplies. An employee’s education or training does not need to be related to their employment unless the education or training pertains to sports, games, or hobbies. Code § 127(c)(1).

Code § 132(j)(8) supplements Code § 127 by allowing employees to exclude employer-provided education assistance that is not covered by Code § 127 (*e.g.*, assistance above \$5,250 or assistance unrelated to an educational assistance plan.). The § 132(j)(8) exclusion is only available if the education assistance benefit constitutes a “working condition fringe.” In this context, the term “working condition fringe” means an employer-provided benefit that the employee would be allowed to deduct as a trade or business expense under Code § 162 if the employee had paid for the benefit directly.

Note that employees cannot claim a tax deduction or credit for amounts excluded under Code §§ 127 or 132(j)(8).

Because of the Commonwealth’s reliance on the Code for purposes of determining income, employer-provided education assistance is not included in employee gross income for

² Beginning in tax year 2023, G.L. c. 62, § 3(B)(a)(20) allows taxpayers to deduct payments by their employer of principal or interest with respect to the employee’s qualified education loan, as defined by Code § 221, when those payments are not otherwise excluded from gross income under Code § 127. The parameters of the deduction are substantially identical to the federal exclusion from gross income provided by Code § 127(c)(1). However, while Code § 127(c)(1) is limited to \$5,250 per employee and applies only to employer payments made by January 1, 2026, the new Massachusetts deduction is not subject to a dollar limit, nor does it have a sunset date. Therefore, for taxable years beginning on or after January 1, 2023, G.L. c. 62 taxpayers will be able to deduct employer payments of principal or interest for qualified education loans pursuant to G.L. c. 62, § 3(B)(a)(20) that are not otherwise excluded from gross income under Code § 127, including the amount of such payments that exceeds \$5,250.

Massachusetts tax purposes. The revenue lost by not taxing these amounts constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to encourage employees to take advantage of employer-provided education and training assistance programs.

ADMINISTRABILITY

The administration of the exclusion for employer-provided education assistance does not present special challenges for DOR. Conformity with the federal exclusion based on the 2022 Code simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers. Note, however, that changes to the federal rules in the future could complicate administration of the exclusion, if Massachusetts law does not conform to those changes.

DIRECT COSTS

The revenue loss resulting from conformity to Code § 127 is estimated to be \$13.7 - \$14.8 million per year during FY22 - FY26. See Table 1.

Table 1. Revenue Loss Estimates for Exclusion of Employer-Provided Education Assistance

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$13.7	\$14.1	\$14.2	\$14.8	\$13.7

Massachusetts' revenue loss estimates above are based mostly on data from the Congressional Joint Committee on Taxation (JCT)³. The JCT reports the impact on federal tax collections resulting from the corresponding exclusion at the federal level. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years⁴, effective tax rates, and size of tax base.

Table 1 reflects only the estimated cost of conformity with Code § 127 because the JCT does not report on the cost of Code § 132(j)(8). Therefore, the estimates in Table 1 underestimate the cost of this expenditure. However, DOR estimates that the cost of conformity with Code § 127 far exceeds the cost of conformity with Code § 132(j)(8).

³ <https://www.jct.gov/>.

⁴ It should be noted 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.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the employees who receive employer-provided educational assistance. Employers who provide educational assistance to their workers are indirect beneficiaries.

Educational assistance programs help workers pursue further education, certification, or professional development courses, which in turn boost their skills and knowledge, make them more productive, and help their personal development and future career.

Employers also benefit from providing educational assistance to their employees. Evidence shows that employer tuition benefits reduce employee turnover.⁵ Employers with tuition reimbursement benefits are also more likely to attract and retain employees. In addition, education and training make workers more skilled and productive, benefiting employers.

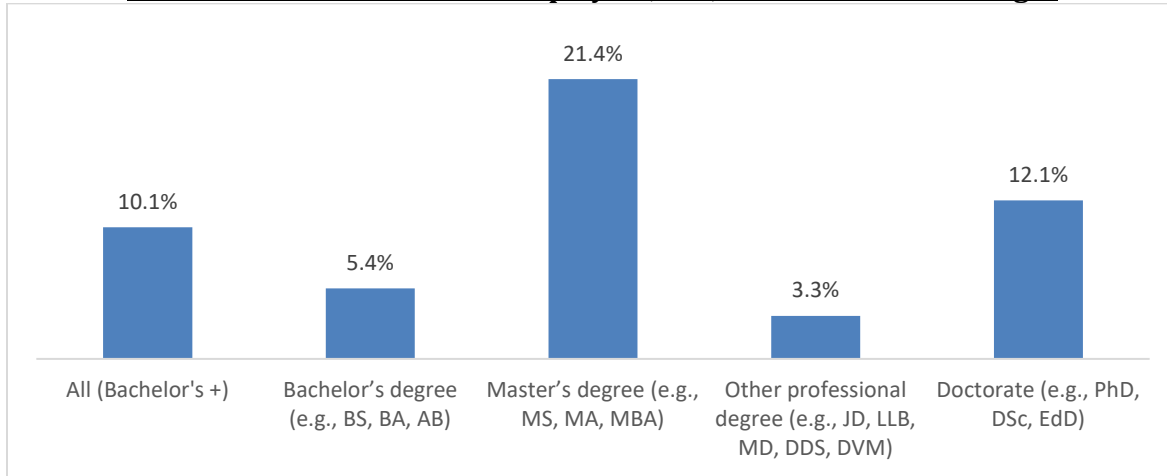
90% of midsize and large companies offer their employees some kind of tuition reimbursement; however, only a small share of workers (less than 10%) use the benefits annually.⁶ Data from the National Survey of College Graduates (NSCG)⁷ for 2019 and 2021 showed that among employed individuals with a bachelor's degree or higher, 10.1% reported that they received tuition reimbursement from their employers. The receipt of tuition reimbursement among those with at least a bachelor's degree varied by type of degree. Only 5.4% of employed bachelor's degree holders reported receipt of tuition reimbursement while 21.4% of employed master's degree holders reported that they received tuition reimbursement from their current employers. Of those with a doctorate degree, 12.1% reported receipt of tuition reimbursement from their current employers. The incidence of tuition reimbursement from current employers among those with professional degrees such as JD, LLB, MD, DDS, and DVM was only 3.3%. See Chart 1 below.

⁵ Colleen H. Faherty, "The Effect of Tuition Reimbursement on Turnover: A Case Study Analysis", National Bureau of Economic Research (NBER), Working Paper 12975, <http://www.nber.org/papers/w12975>

⁶ Jillian Berman, "Companies Help Employees Pay Tuition- but Few Accept the Offer", *The Wall Street Journal*, June 10, 2018, <https://www.wsj.com/articles/companies-help-employees-pay-tuitionbut-few-accept-the-offer-1528682580>

⁷ The National Survey of College Graduate (NSCG) is a biennial survey of individuals with at least a bachelor's degree. The survey is conducted by the U.S. Census Bureau in partnership with the National Center for Science and Engineering Statistics (NCSES) at the National Science Foundation (NSF). The sample of college graduates in 2019 and 2022 combined was 311,000 (147,000 in 2019 and 164,000 in 2021). For more information about the survey, see: <https://nces.nsf.gov/surveys/national-survey-college-graduates/2021>

Chart 1. Percent of Employed Bachelor's or Higher Degree Holders Receiving Tuition Reimbursement from Their Employers, U.S., 2019 and 2021 Averages



Source: The National Survey of College Graduates (NSCG) public use data files, 2019 and 2021; the Massachusetts Department of Revenue.

To estimate the number of currently employed workers with a bachelor's degree or higher in Massachusetts who received employer-provided tuition reimbursement, DOR applied the U.S. percentage of workers with a bachelor's degree or higher with employer-provided tuition reimbursement (displayed in Chart 1) to household employment level from the American Community Survey (ACS) for those with bachelor's degree or higher. DOR estimated that 192,000 - 198,000 workers in Massachusetts with a bachelor's degree or higher receive employer-provided tuition reimbursement during 2022 - 2026. It should be noted that workers without a bachelor's degree or higher also benefit from employer-provided tuition reimbursement; however, DOR does not have data on such workers. Therefore, the estimates of workers in Massachusetts with employer-provided tuition reimbursement in Table 2 are probably understated; the actual counts of workers with such benefits could be higher.

Table 2. Estimated Numbers of Workers with Employer Tuition Reimbursement in Massachusetts, 2022-2027

Highest Degree	Year	Total Wage and Salary Employment	% of Workers with Tuition Reimbursement	Estimated Number of Workers with Employer Tuition Reimbursement
All Workers, All Education Level	2022	3,595,632		
	2023	3,636,128		
	2024	3,674,992		
	2025	3,693,311		

	2026	3,698,242		
	2027	3,702,917		
Bachelor's degree	2022	1,032,533	5.40%	55,723
	2023	1,044,162	5.40%	56,350
	2024	1,055,322	5.40%	56,953
	2025	1,060,582	5.40%	57,237
	2026	1,061,998	5.40%	57,313
	2027	1,063,341	5.40%	57,386
Master's degree	2022	543,736	21.43%	116,540
	2023	549,860	21.43%	117,853
	2024	555,737	21.43%	119,113
	2025	558,507	21.43%	119,706
	2026	559,253	21.43%	119,866
	2027	559,960	21.43%	120,018
Professional degree	2022	110,421	3.29%	3,637
	2023	111,664	3.29%	3,678
	2024	112,858	3.29%	3,717
	2025	113,420	3.29%	3,735
	2026	113,572	3.29%	3,740
	2027	113,715	3.29%	3,745
Doctorate degree	2022	134,026	12.14%	16,277
	2023	135,536	12.14%	16,460
	2024	136,984	12.14%	16,636
	2025	137,667	12.14%	16,719
	2026	137,851	12.14%	16,742
	2027	138,025	12.14%	16,763
Total (Bachelor's +)	2022	1,820,716		192,177
	2023	1,841,222		194,342
	2024	1,860,901		196,419
	2025	1,870,177		197,398
	2026	1,872,674		197,661
	2027	1,875,042		197,911

Source: (i). Quarterly Census of Employment and Wages, the U.S. Bureau of Labor Statistics; (ii). 2022 American Community Survey (ACS) public use files, the U.S. Census Bureau, tabulated by the Massachusetts Department of Revenue; (iii). The National Survey of College Graduates (NSCG) public use data files, 2019 and 2021, tabulated by the Massachusetts Department of Revenue.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the

tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance. But some of the indirect benefits to employers are discussed in the previous section.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that impose an income tax adopt the federal exclusion for employer-provided education and training assistance unless they decouple from Code in that regard. States that adopt the federal exclusion include Connecticut, Maine, New York, Rhode Island, and Vermont. California has its own state-specific exclusion for education and training assistance.

Template for Evaluating Expenditures

Name of Expenditure: 1.035 Department of Defense Homeowners Assistance Plan	Annual cost: \$0.0 - \$0.2 million from FY22 – FY26	Year of adoption: 1984	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Support of military service members </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Support of military service members
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Support of military service members				
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 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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Business only</i>					
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

Support for service members eligible for the Homeowners Assistance Plan is worthy and relevant goal for the Commonwealth. Those who are eligible for HAP (and their spouses) may not be a broad base of taxpayers, yet the expenditure is still justified. Military income is varied, and not always in the lowest tier in the Commonwealth.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Department of Defense Homeowners Assistance Plan
TAX EXPENDITURE NUMBER	1.035
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 1(c) ; IRC § 132 (a)(8), (n); 42 U.S. Code § 3374
YEAR ENACTED	1984
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.0 - \$0.2 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	No taxpayers have claimed this benefit during FY22 - FY24. Average tax benefit could reach \$13K per taxpayer in FY24 and annually thereafter.
AVERAGE TAXPAYER BENEFIT	No beneficiaries during FY22 - FY24. Average tax benefit per taxpayer could reach \$12K in FY25 and annually thereafter. Average number of beneficiaries could be in the low tens per year.
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' conformity with the Internal Revenue Code (Code), Massachusetts adopts the federal exclusion for qualified military base realignment and closure fringe benefits paid by the Department of Defense (DOD) to military personnel, eligible civilian personnel, or their spouses. Such benefits are paid to eligible individuals to compensate them for certain losses incurred on the sale of their	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
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homes as a result of having to move because of base closures or injury related to military service.	
<p>What are the policy goals of the expenditure?</p> <p>The Commission assumes the goal of the expenditure is to allow the DOD to make tax-free payments to military personnel, eligible civilian personnel, or their spouses, to compensate such individuals for loss of home property values owing to relocation resulting from military base closures or because of injury from military service.</p>	<p>Are there other states with a similar Tax Expenditure?</p> <p>States that conform to the Code for individual income tax purposes allow the federal exclusion for qualified military base realignment and closure fringe benefits, unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled.</p>

INTRODUCTION

Due to Massachusetts' conformity with the Internal Revenue Code (Code), Massachusetts adopts the federal exclusion for qualified military base realignment and closure fringe benefits paid by the Department of Defense (DOD) to military personnel, eligible civilian personnel, or their spouses. Such payments are made under the DOD Homeowners Assistance Plan authorized by 42 U.S. Code § 3374. The payments are paid to eligible individuals to compensate them for certain losses incurred from the sale of their homes as a result of having to move because of military base closings or a permanent change of station. *Id.* The plan benefit extends to military personnel and eligible DOD civilian employees who are required to move for medical treatment or rehabilitation or due to medical retirement where a medical condition is the result of an injury incurred in the line of duty. *Id.*

In the absence of the exclusion qualified military base realignment and closure fringe benefits would be subject to the personal income tax. Revenue lost as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to allow the DOD to make tax-free payments to military personnel, eligible civilian personnel, or their spouses, to compensate such individuals for loss of home property values owing to military base closures or because of injury from military service.

ADMINISTRABILITY

The administration of the exclusion for qualified military base realignment and closure fringe benefits does not present any special challenges for the Department of Revenue (DOR) as it is based on a federal exclusion that is monitored by the Internal Revenue Service (IRS). The Commission assumes that the consistency of treatment of such payments for federal and Massachusetts purposes also eases the compliance burden for taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$0 per year during FY22 - FY24 but \$0.2 million for FY25 and annually thereafter. The U.S. Army Corps of Engineers¹ is responsible for administering the Home Assistance Program (HAP) and has reported that since 2014 there have been no approved Massachusetts applications for this benefit. See Table 1 below.

¹ Department of Defense, Military Benefits: <https://myarmybenefits.us.army.mil/>

Table 1. Tax Revenue Loss Estimates for Exemption of Department of Defense Homeowners Assistance Plan

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$0.0	\$0.0	\$0.0	\$0.2	0.2

DIRECT BENEFITS

The direct benefit of this tax expenditure is the tax exemption for compensation received by military personnel and certain civilian employees and certain spouses who are eligible for the Department of Defense Homeowners Assistance Plan. From 1995 - 2014 the U.S. Army Corps of Engineers (the ACE) approved an average of 12 applications per year. Income tax savings averaged \$12,000 per taxpayer. DOR projects that the annual number of approvals and beneficiaries in the near term will be in the low teens.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that conform to the Code for individual income tax purposes allow the federal exclusion for qualified military base realignment and closure fringe benefits, unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled.

Template for Evaluating Expenditures

Name of Expenditure: 1.036: Exemption for Survivor Annuities for Fallen Public Safety Officers	Annual cost: <\$50,000	Year of adoption: 1958	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> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:		<i>Individual:</i> <input checked="" type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Support of sacrifice / service		
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 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 checked="" type="checkbox"/>	<input 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Survivor Annuities of Fallen Public Safety Officers
TAX EXPENDITURE NUMBER	1.036
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 101(h); M.G.L. c. 62, §§ 1, 2(a)
YEAR ENACTED	1958
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Negligible (under \$50,000)
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

<p>Description of the Tax Expenditure: Due to its reliance on the Internal Revenue Code (Code) for purposes of determining gross income for personal income tax purposes, Massachusetts adopts the federal exclusion for annuity income paid under a governmental plan to the survivors of public safety officers killed in the line of duty.</p>	<p>Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.</p>
<p>What are the policy goals of the expenditure? The Commission assumes the goal of the exclusion is to ease the financial burden for survivors of public officers killed in the line of duty.</p>	<p>Are there other states with a similar Tax Expenditure? States that conform to the Code for individual income tax purposes adopt the exclusion unless they have specifically decoupled from the Code in that regard. The Commission is not aware of any state that has decoupled.</p>

INTRODUCTION

Due to its reliance on the Internal Revenue Code (Code) for purposes of determining gross income for personal income tax purposes, Massachusetts excludes from income certain payments to eligible survivors of public safety officers killed in the line of duty. Specifically, Massachusetts adopts Code § 101(h), which allows a federal exclusion for annuities paid under a governmental plan. To be treated as an eligible governmental plan, the plan must meet certain funding, participation and anti-discrimination requirements.¹ Public safety officers include law enforcement officers, firefighters, members of rescue squads and members of ambulance crews.² Eligible survivors are limited to the spouses and children of public safety officers. See § 101(h)(1)(A). The federal and state exclusion is not allowed in certain circumstances detailed in IRC § 101(h)(2), where the public safety officer was engaged in misconduct or negligence when he or she was killed, or if the survivor contributed to the public safety officer's death.

In the absence of the exclusion, surviving spouses and children of public safety officers would be required to pay personal income tax on annuities received as a result of the public safety officer's death in the line of duty. The revenue foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the exclusion is to ease the financial burden on survivors of public officers killed in the line of duty.

ADMINISTRABILITY

The administration of the exclusion for annuity income paid under a governmental plan to the survivors of public safety officers killed in the line of duty does not present any special challenges for DOR. Conformity with the federal treatment simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be negligible (under \$50,000) during FY22 - FY26. See Table 1.

¹ See IRC § 101(h)(1)(A), which incorporates the eligibility rules set out for qualified retirement plans in IRC § 401(a).

² See IRS Publication 721 (2023)

Table 1. Tax Revenue Loss Estimates for Exemption of Survivor Annuities of Fallen Public Safety Officers

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	Negligible	Negligible	Negligible	Negligible	Negligible

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

Massachusetts' revenue loss estimates above are based mostly on data from the Joint Committee on Taxation (JCT)³, the Officer Down Memorial Page, Inc. (ODMP)⁴, and the U.S. Fire Administration (USFA)⁵. The JCT reports the impact on federal tax collections resulting from the corresponding exemption at the federal level. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years⁶, effective tax rates, and size of tax base⁷.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the survivors, and any dependents, of public safety officers killed in the line of duty. DOR does not have data on the number of direct beneficiaries.⁸

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

³ The Joint Committee on Taxation (JCT). <https://www.jct.gov/>

⁴ The Officer Down Memorial Page, Inc. <https://www.odmp.org/>

⁵ The U.S. Fire Administration. <https://www.usfa.fema.gov/>

⁶ It should be noted 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.

⁷ Using Massachusetts' share of annual national fatalities for police officers and firefighters based on data from ODMP and USFA.

⁸ Although ODMP and USFA provide count of fatalities of Massachusetts police officers and firefighters by year, DOR does not have similar data for members of rescue squads and members of ambulance crews. In addition, one fallen public safety officer may leave behind multiple survivors and dependents.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that conform to the Code for individual income tax purposes adopt the exclusion unless they have specifically decoupled from the Code in that regard. The Commission is not aware of any state that has decoupled.

Template for Evaluating Expenditures

Name of Expenditure: 1.040 & 1.420 Archer Medical Savings Accounts (exemption & deduction)	Annual cost: \$0.09 - \$0.18 million	Year of adoption: 1998	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <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 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: This is a legacy TE tied to the federal code. It is already small in scope and is expected to gradually fade from use over time, as no new qualifying MSAs are being created.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Archer Medical Savings Accounts (exemption & deduction)
TAX EXPENDITURE NUMBER	1.040 (earnings and distributions) & 1.420 (contributions)
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income & Deductions from Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 1(c), 1(d), and 2(d)(1); IRC § 220
YEAR ENACTED	1998
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.09 - \$0.18 million per year during FY22 – FY26.
NUMBER OF TAXPAYERS	137 – 148 per year during FY22 - FY26 for 1.420; Not available for 1.040
AVERAGE TAXPAYER BENEFIT	\$134 - \$162 per benefiting taxpayer during FY22-FY26 for 1.420; Not available for 1.040
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, eligible contributions to, earnings in, and qualified distributions from Archer medical savings accounts (Archer MSAs) are not subject to the personal income tax.	Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to incentivize eligible individuals	Are there other states with a similar Tax Expenditure? States that conform to the Code for income tax purposes provide an exemption, deduction, or

with high deductible health care plans to save for medical expenses that they may incur before meeting their plan's annual deductible.	exclusion for eligible contributions to, earnings in, and qualified distributions from Archer MSAs, unless they have specifically decoupled from the Code in that regard. California, Connecticut, Maine, New York, Rhode Island, and Vermont follow the federal treatment of Archer MSAs.
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INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, and Massachusetts' adoption of the deductions included in Code § 62, eligible contributions to, earnings in, and qualified distributions from Archer medical savings accounts (Archer MSAs) are not subject to the personal income tax. Specifically, Massachusetts adopts Code § 220 as in effect for the 2022 tax year,¹ which sets out the federal tax treatment of Archer MSAs.

Archer MSAs have largely been discontinued and replaced by health savings accounts (HSAs) (the expenditures for HSAs are described in Tax Expenditure Reports 1.031 and 1.422). New Archer MSAs generally cannot be created. As such, the only taxpayers with Archer MSAs are taxpayers with legacy Archer MSAs,² and taxpayers working for legacy Archer MSA employers.³ For those taxpayers, eligible contributions are deductible,⁴ earnings accumulate free of tax, and income from qualified distributions is excluded.⁵

An Archer MSA is a tax-exempt trust created for the purpose of paying a taxpayer's qualified medical expenses. An Archer MSA can only be created for taxpayers who are self-employed or work for a small employer, and the spouses of such taxpayers. In any given year, an Archer MSA may receive cash contributions from either the taxpayer or the taxpayer's employer.

To qualify for the deduction for contributions, a taxpayer must be an "eligible individual" on the first day of the month in which the contribution was made. In general, to be eligible for a given month a person must, on the first day of that month: (i) be covered under a high deductible health plan, (ii) have no other health coverage (except for coverage that is expressly permitted by Code § 220, such as coverage for dental care or workers'

¹ M.G.L. c. 62, §§ 1(c) (stating that when used in chapter 62, "Code" shall mean "the Internal Revenue Code of the United States, as amended on January 1, 2022 and in effect for the taxable year."); M.G.L. c. 62, § 1(d) (stating that when used in chapter 62, the term "Federal gross income" shall mean "gross income as defined under the Code.")

² Taxpayers with legacy Archer MSAs, also known as "active MSA participants," are taxpayers who had an Archer MSA in 2007 or prior. Code § 220(i)(3).

³ Legacy Archer MSA employers, also known as "MSA-participating employers", are small employers who offered health care coverage under a high deductible plan to any employee in 2007 or prior. In addition, the employer must have contributed to an employee Archer MSA in 2007 or a prior year, or at least 20 percent of the employer's employees who were "eligible individuals" in any month of 2007 contributed at least \$100 to their Archer MSAs. Code § 220(i)(4).

⁴ Employer contributions may be excluded from employee income under Code § 106. The exclusion for employer contributions is described in Tax Expenditure Report 1.004.

⁵ In general, qualified medical expenses will be medical expenses that are not reimbursed by an individual's high deductible health plan because the beneficiary has not yet reached the deductible amount.

compensation claims), and (iii) not be enrolled in Medicare.⁶ Additionally, the person must not be claimed as a dependent on someone else's return for that tax year. There are additional limits on eligibility for an individual with a high deductible family health plan that covers the individual and their spouse if the spouse has their own Archer MSA to which the spouse's employer makes contributions.

Contributions to an Archer MSA are subject to federal limitations. The limit is 65% of the annual deductible of an individual high deductible health plan, or 75% of the annual deductible for a family high deductible health plan. Additionally, contributions cannot exceed the amount of an account holder's earnings.

In the absence of the special treatment of Archer MSAs described above, taxpayer contributions to Archer MSAs, Archer MSA earnings, and Archer MSA distributions could be subject to the personal income tax. The revenue foregone as a result of such special treatment constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to incentivize eligible individuals with high deductible health care plans to save for medical expenses that they may incur before meeting their plan's annual deductible.

ADMINISTRABILITY

The administration of these expenditures does not present special challenges for the Department of Revenue (DOR). Administrators of Archer MSAs report account activity, including gross distributions and "prohibited transactions" on Form 1099-SA, which must be provided to the taxpayer, Internal Revenue Service (IRS), and DOR. The prohibited transaction information indicates a potential taxable distribution. This information provides a means for the IRS and DOR to monitor compliance with the distribution rules. Conformity with federal treatment of Archer MSAs simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers.

⁶ An individual who is ineligible for an Archer MSA because of Medicare enrollment may be eligible for a Medicare Advantage MSA. A Medicare Advantage MSA is an Archer MSA that is designated by Medicare to pay the qualified medical expenses of an account holder that is eligible for Medicare.

DIRECT COSTS

The revenue loss resulting from the exemption of earnings in the Archer MSA accounts⁷ is estimated to be about \$0.07 - \$0.16 million per year during FY22 - FY26. The revenue loss from the deduction for contributions to Archer MSAs is estimated to be \$0.02 million per year for the same period. The combined total revenue loss for the period is estimated to be \$0.09 - \$0.18 million. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Archer Medical Savings Accounts (\$Million)

Fiscal Year	FY2022	FY2023	FY2024	FY2025	FY2026
1.420 (Deduction of Contributions)	\$0.02	\$0.02	\$0.02	\$0.02	\$0.02
1.040 (Exemption of Earnings)	\$0.13	\$0.07	\$0.09	\$0.16	\$0.16
Total	\$0.15	\$0.09	\$0.11	\$0.18	\$0.18

To estimate the revenue loss from the deduction for contributions, DOR started with the Archer MSA deduction amounts on personal income tax returns. The deduction amounts were multiplied by the personal income tax rate (5%) to arrive at the revenue loss estimates.⁸

To estimate the revenue loss from the exemption for earnings, DOR started with the estimates for 1.031 (exemption of earnings in HSA accounts) and 1.422 (deduction of employee contributions to HSA accounts). Given that Archer MSA accounts are similar to HSA accounts, DOR assumed that the average yields for Archer MSA accounts are close to that for HSA accounts. DOR arrived at estimates for the exemption by multiplying estimates for the deduction component by the ratio of estimates for 1.031 to the estimates for 1.422.⁹

DIRECT BENEFITS

Direct beneficiaries are individuals with an Archer MSA.¹⁰ Since not all Archer MSAs receive employee contributions for a given year, the number of direct beneficiaries for the

⁷ To avoid double counting of tax benefits, exemption of Archer MSA distribution is not covered in the estimates of 1.040 since the exempt distribution has already been either exempted as earnings or deducted as contribution before distribution.

⁸ Further minor adjustments, such as growth for future years, were incorporated to arrive at the final estimates.

⁹ Given the use of estimates for the tax expenditure for health savings account and the assumption that the ratio of 1.040 to 1.420 is the same as the ratio of 1.031 to 1.422, the estimates for 1.040 are more uncertain than the estimates for 1.420 and should be used with more caution.

¹⁰ Archer medical savings account holders' spouses and dependents may also benefit from this tax expenditure. For tax year 2022, on average each taxpayer who claimed the deduction on the return represents 2.1 persons, including the taxpayer (a joint filer is counted as two persons) and the taxpayer's dependents.

deduction (1.420) is smaller than that for the exemption (1.040). Due to lack of data, only direct beneficiaries for 1.420 are discussed below.

Table 2 shows that 144 personal income taxpayers claimed a total of \$0.4 million in Archer MSA deductions for tax year 2022.¹¹ The average deduction amount was \$2,683 per taxpayer resulting in an average tax saving of \$134.

**Table 2. Archer Medical Savings Account Deduction by Income Bracket
Tax Year 2022**

Massachusetts Net Adjusted Gross Income (AGI)	Count of All Filers	Archer Medical Savings Account 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 \$50,000	1,994,190	19	\$39,086	\$2,057	10.1%	\$103
\$50,000 under \$100,000	922,323	50	\$129,376	\$2,588	33.5%	\$129
\$100,000 under \$150,000	409,770	29	\$54,931	\$1,894	14.2%	\$95
\$150,000 under \$200,000	224,101	17	\$63,136	\$3,714	16.3%	\$186
\$200,000 under \$500,000	332,666	24	\$78,807	\$3,284	20.4%	\$164
\$500,000 under \$1,000,000	62,272	*	*	*	*	*
\$1,000,000 or Over	30,351	*	*	*	*	*
Total	3,975,673	144	\$386,336	\$2,683	100.0%	\$134

Source: Massachusetts Department of Revenue, 2022 individual income tax return data, preliminary and subject to change

Note: Massachusetts Net Adjusted Gross Income (AGI) is the sum of Earned Income, Interest and Dividends,

Short-Term Capital Gains and Long-Term Capital Gains.

* Information withheld due to confidentiality rules

Table 2 shows that the income bracket with MA net AGI from \$50,000 to \$100,000 claimed the most (33.5%) of the total deduction amount. This income bracket had 50 taxpayers (35% of all claimants) with total deductions of \$0.13 million, which was the highest among all income brackets.

Table 3 shows DOR's projection of the number of taxpayers who will claim a deduction for contributions to an Archer MSA in future years, and the average expected tax benefit for those taxpayers.

Table 3. Number of Direct Beneficiaries & Average Tax Benefit for 1.420

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	137	144	145	147	148
Average Tax Benefit	\$162	\$134	\$134	\$134	\$134

Source: Massachusetts Department of Revenue (DOR)

¹¹ Note that the deduction reported in Table 2 does not include exclusion of employer contributions (including employee payroll contributions through a cafeteria plan) from employee income, which is covered by tax expenditure 1.004.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that conform to the Code for income tax purposes provide an exemption, deduction, or exclusion for eligible contributions to, earnings in, and qualified distributions from Archer MSAs, unless they have specifically decoupled from the Code in that regard. California, Connecticut, Maine, New York, Rhode Island, and Vermont follow the federal treatment of Archer MSAs.

Template for Evaluating Expenditures

Name of Expenditure: 1.041 Exemption of Earnings of Pre-paid and Tuition Savings ("529" plans)	Annual cost: \$15.9 – \$37.3 million from FY22 - FY26	Year of adoption: 1996	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <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 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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Because this exemption is a result of conformance with the Federal code, it is not worth eliminating. But savers are disproportionately higher-income, as are college attendees. That means the benefits of this exemption go disproportionately to higher income families.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption of Earnings of Pre-paid and Tuition Savings ("529" plans)
TAX EXPENDITURE NUMBER	1.041
TAX EXPENDITURE CATEGORY	Exclusions from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 529
YEAR ENACTED	1996
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$15.9 - \$37.3 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Estimated 242,843 – 317,223 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	Estimated \$66 – \$118 per benefiting individual.
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, Massachusetts allows an income exclusion for amounts earned by pre-paid tuition programs and tuition savings accounts.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to encourage taxpayers to save for higher education costs.	Are there other states with a similar Tax Expenditure? States that conform to the Code for individual income tax purposes provide an exclusion for the earnings of pre-paid tuition programs and tuition savings accounts unless they

	specifically decouple from the Code in this regard. The Commission is not aware of any states that have decoupled.
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INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, Massachusetts allows an income exclusion for amounts earned by pre-paid tuition programs and tuition savings accounts.¹ Under Code § 529(a) and (c), the earnings of such programs and accounts are excluded from income.²

In the absence of the exclusion, income earned by pre-paid tuition programs and tuition savings accounts would be subject to the Massachusetts personal income tax. The revenue lost as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to encourage taxpayers to save for higher education costs.

ADMINISTRABILITY

The administration of this exclusion does not present any special challenges for the Department of Revenue (DOR). The consistency of treatment of pre-paid tuition programs and tuition savings accounts for federal and Massachusetts purposes allows the DOR and taxpayers to rely on the federal rules and definitions pertaining to such programs and accounts.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$15.9 - \$37.3 per year during FY22 - FY26.³

Table 1. Tax Revenue Loss Estimates for Exemption of Earnings of Pre-paid and Tuition Savings ("529" plans)

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$15.9	\$27.0	\$32.5	\$34.2	\$37.3

¹ Massachusetts has the U.Fund College Investing Plan, a direct-sold 529 college savings plan managed by Fidelity Investments using Fidelity mutual funds.

² Distributions from pre-paid tuition programs and tuition savings accounts generally must be used for qualified higher education expenses. As of the 2018 tax year, 529 plan account funds can be used for elementary or secondary school expenses, up to \$10,000 per year. Massachusetts adopts this change as Massachusetts follows the current Code with respect to [Code § 529](#). See TIR 18-14 for more information.

³ The rapid increase in estimated revenue loss from FY22 - FY24 reflects two factors: (i) the stock market surged in 2020 and 2021, resulting in strong earnings and (ii) recent tax law changes have made 529 plans more attractive resulting in an increase of 529 plans. For example, with the passage of the Secures 2.0 Act of 2022, beginning in tax year 2024 any excess funds from an established 529 plan can be rolled over to a ROTH IRA for a lifetime maximum of up to \$35,000 under certain conditions.

Massachusetts' revenue loss estimates above are based mostly on data from the Joint Committee on Taxation (JCT)⁴ and the National Center for Education Statistics (NCES)⁵. The JCT reports the impact on federal tax collections resulting from the corresponding exemption at the federal level. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years⁶, effective tax rates, and size of tax base.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are taxpayers with registered pre-paid tuition programs and tuition savings accounts eligible for the exemption. Table 2 shows the estimated number of direct beneficiaries⁷ and the resulting tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	242,843	257,256	274,766	295,232	317,223
Average Tax Savings	\$66	\$105	\$118	\$116	\$117

Source: Estimated by Massachusetts Department of Revenue (DOR) based on Table 1 and data from Massachusetts Educational Financing Authority (MEFA).

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. For example, educational institutions who receive the withdrawn money benefit from increased enrollment and tuition payments. Moreover, financial institutions, which manage qualified plans likewise benefit, as the expenditure fosters the use of such plans, thereby providing such financial institutions with access to increased capital.

⁴ The Joint Committee on Taxation (JCT). <https://www.jct.gov/>

⁵ The National Center for Education Statistics (NCES). <https://nces.ed.gov/>

⁶ It should be noted 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.

⁷ The count reported in Table 2 is the number of pre-paid tuition programs and tuition savings accounts, which may differ from the number of account owners given that an account owner may own multiple accounts. In addition, the "beneficiary" refers to the account owner who benefit from this tax expenditure, not the students who benefit from money deposited in such accounts. The figures reported above should be used with caution.

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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that conform to the Code for individual income tax purposes provide an exclusion for the earnings of pre-paid tuition programs and tuition savings accounts unless they specifically decouple from the Code in this regard. The Commission is not aware of any states that have decoupled.

Template for Evaluating Expenditures

Name of Expenditure: 1.203 & 2.204 Excess Natural Resource Depletion Allowance	Annual cost: \$2.8-4 Corp; \$0.4 Pers. from FY22 – FY26	Year of adoption: 1976	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input checked="" type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input checked="" type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input checked="" type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Business only</i>					
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

- **Broad Group:** This only impacts people involved in this specific field, which according to the statistics is very small group in the state. Although it is broad in the sense that it covers a wide range of extractive activities, it is narrowly focused into this one field as opposed to allowing this adjusted calculation to be used for income producing properties in other industries.
- **Beneficial to Small Businesses:** These extractive sites don't strike me as being smaller businesses, but I am not familiar enough to opine affirmatively one way or the other.
- **Beneficial to Lower Income Taxpayers:** This does primarily benefit lower income earners, although because it is based on percentages of income generated, and there is the lack of a relationship to ones cost basis and the fact that the percentages are based upon the material extracted as opposed to the revenue generated, this is clearly beneficial to all the taxpayers of this group equally as opposed to being primarily beneficial to lower income taxpayers.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Excess Natural Resource Depletion Allowance
TAX EXPENDITURE NUMBER	1.203 & 2.204
TAX EXPENDITURE CATEGORY	Deductions from Gross Income
TAX TYPE	Personal Income Tax / Corporate Excise
LEGAL REFERENCE	IRC §§ 613, 613A; M.G.L. c. 62, § 2(d)(1); M.G.L. c. 63, § 30.3
YEAR ENACTED	1976
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$2.8 - \$4.0 million per year for corporate excise filers, and \$0.4 million per year for personal income tax filers during FY22 - FY26.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, taxpayers in extractive industries such as mining or drilling for natural resources may deduct a percentage of gross mining income as a depletion allowance ("percentage depletion") without regard to their cost basis in the income producing property and may continue to claim the depletion allowance even after the cost of the property has been reduced to zero. This method of cost recovery is often more beneficial to taxpayers than the traditional cost recovery method applicable to natural resource property.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
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<p>What are the policy goals of the expenditure?</p> <p>The Commission assumes that the tax expenditure is intended to stimulate extractive industries' investment in natural resource property such as mines, wells, and other mineral deposits.</p>	<p>Are there other states with a similar Tax Expenditure?</p> <p>All states that impose an individual or corporate income tax adopt the depletion allowance unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.</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 investments in natural resources such as mineral, natural gas or oil deposits. Rather, the cost of the natural resource property is required to be recovered over time as the natural resources are depleted by extraction. Traditional financial accounting and tax accounting rules base cost recovery on the percentage of the volume of natural resources extracted in a year over the estimated total volume of natural resources included in the investment. This traditional cost recovery method is referred to as the “cost-depletion” method.

Internal Revenue Code (Code) § 613 gives taxpayers the option to use an alternative cost recovery method for investments in natural resource property. The alternative method is referred to as “percentage depletion.” Under this method the deduction for cost recovery is based on a percentage of the income generated by the natural resource property. Specially, percentage depletion permits deduction of a statutory percentage of gross income from natural resource property, and bears no relationship to cost or other basis. In fact, an allowance calculated under percentage depletion is deductible even when the taxpayer's adjusted basis in the property is zero, provided that the taxpayer has gross income from the property. The statutory percentage of gross income allowed as a deduction depends on the type of natural resource that is extracted. The percentages range from 22% for sulfur, uranium and other designated minerals including most metals, to 5% for sand and gravel. See Code § 613(b). The deduction may not exceed 50% (in some cases, 100%) of net income from the property. The percentage depletion method is not available to large, integrated oil companies or for natural gas resources located outside the US. See Code §§ 613(d), 613A.

Due to Massachusetts’ reliance on the Internal Revenue Code (Code) for purposes of determining income, taxpayers must recover the cost of natural resource property in the same manner and in the same amount as they do for federal tax purposes. Thus, Massachusetts permits the use of the percentage depletion method if it is used for federal tax purposes. The percentage depletion method often results in a larger deduction than traditional cost depletion method. The excess of the deduction determined using the percentage depletion method over the deduction using the cost depletion method constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the tax expenditure is intended to stimulate extractive industries' investment in natural resource property such as mines, wells, and other mineral deposits.

ADMINISTRABILITY

The administration of the depletion percentage method for recovering the cost of natural resource property does not present any special challenges for the DOR. Conformity with the federal system of cost recovery for natural resources simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers and practitioners.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$2.8 - \$4.0 million for corporate and business tax filers and \$0.4 for personal income tax filers per year during FY22 - FY26. See Table 1.

Table 1. Revenue Loss Estimates for Excess Natural Resource Depletion Allowance (\$ Million)

Fiscal Year	2022	2023	2024	2025	2026
Corporate & Business Tax	\$2.8	\$3.7	\$4.0	\$3.7	\$3.6
Personal Income Tax	\$0.4	\$0.4	\$0.4	\$0.4	\$0.4
Total	\$3.1	\$4.0	\$4.4	\$4.0	\$3.9

Note: Details may not add to total due to rounding.

Massachusetts' revenue loss estimates above are based on revenue loss estimates for the corresponding federal deduction provided by the Joint Committee on Taxation (JCT)¹ in the most recent tax expenditure report. To share down the federal estimates to 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.

¹ JCT is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. Among other tasks, JCT provides estimates of federal tax expenditures and revenue estimates of 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.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure include taxpayers in the extractive industries, including mining companies and oil and gas producers. Shareholders and investors may indirectly benefit from this tax expenditure.

Table 2 shows U.S. Census data for the number of establishments and employees in the oil and gas extraction and other mining industries. In 2022, there were 67 mining establishments in Massachusetts with a total of 759 employees. Note that Massachusetts' oil and gas extraction and other mining establishments account for only 0.6% of U.S. total.

Table 2. Statistics for Potential, Major Beneficiaries of Excess Natural Resource Depletion Allowance (Year 2022)

In Oil & Gas Extraction and Other Mining (NAICS 211 and 212). ³		Corporations	Individual proprietorships	Partnerships	Other Non-corporate Entities	Total
Massachusetts	Number of establishments	56	0	6	5	67 (0.6%)
	Number of employees	726	0	18	15	759 (0.3%)
U.S.	Number of establishments	8,312	728	2,207	86	11,333 (100%)
	Number of employees	195,045	10,303	45,685	1,481	252,514 (100%)

Source: Data for County Business Patterns, U.S. Census Bureau.

³ U.S. Geological Survey at U.S. Department of Interior reports that Massachusetts is a major producer of dimension stone (mostly granite), and produces common clay, construction sand and gravel, crushed stone, lime, and natural gemstones. (<https://www.usgs.gov/centers/national-minerals-information-center/mineral-industry-massachusetts>.)

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that impose an individual or corporate income tax adopt the depletion allowance unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.

REFERENCES

Staff of Joint Committee on Taxation. (2023, December 7). *Estimates Of Federal Tax Expenditures For Fiscal Years 2023-2027*. Retrieved from The Joint Committee on Taxation: <https://www.jct.gov/publications/2023/jcx-59-23/>

U.S. Census Bureau. (2021). County Business Patterns. U.S.A. Retrieved from https://data.census.gov/table?q=CBP2022.CB2200CBP&g=010XX00US_040XX00US25&n=211:212:213

Template for Evaluating Expenditures

Name of Expenditure: 1.310 & 2.311 Five-Year Amortization of Pollution Control Facilities	Annual cost: \$0.3 million from FY22 – FY26	Year of adoption: 1969	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

The complexity of administration and the cost of remediation / pollution control facilities makes this an expenditure best suited for larger taxpayers (not broad based). Given its low cost to the Commonwealth and its relation to the IRC it is a rational choice.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Five-Year Amortization of Pollution Control Facilities
TAX EXPENDITURE NUMBER	1.310 & 2.311
TAX EXPENDITURE CATEGORY	Accelerated Deductions from Gross Income
TAX TYPE	Personal Income Tax / Corporate Excise
LEGAL REFERENCE	IRC § 169; M.G.L. c. 62, § 2(d)(1); M.G.L. c. 63, § 30.3
YEAR ENACTED	1969
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.3 million per year for corporate excise tax filers and \$0.0 for personal income tax filers during FY22 - FY26.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, taxpayers may elect to amortize the cost of a certified pollution control facility over a five-year period, potentially allowing for accelerated recovery of these costs.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to incentivize the construction of pollution control facilities by allowing accelerated recovery of the cost of such facilities.	Are there other states with a similar Tax Expenditure? All states that impose an income tax adopt the amortization unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the amortization include California,

	Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.
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INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, taxpayers may elect to amortize the cost of a certified pollution control facility over a five-year period, allowing for potential accelerated recovery of these costs. See Code § 169. Five-year amortization is only available for pollution control facilities subsequently added to plants that were in operation before 1976.¹ Special rules apply to atmospheric pollution control facilities, which are allowed seven-year amortization if they are placed in service in connection with a plant or other property placed in operation after December 31, 1975. See Code § 169(d)(5). In the absence of Code § 169, taxpayers would be required to recover the cost of pollution control facilities using one of the depreciation methods that is generally available for machinery and equipment under Code § 167. To the extent that five-year, or seven-year, amortization allows accelerated cost recovery, it results in a deferral of tax, which could be viewed as an interest-free loan. Such a deferral of tax constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to incentivize the construction of pollution control facilities by allowing accelerated recovery of the cost of such facilities.

ADMINISTRABILITY

The administration of the five-year, or seven-year, amortization of pollution control facilities does not present any special challenges for the DOR. Conformity with the federal treatment simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers and practitioners.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$0.3 million annually for corporate and business tax filers and \$0.0 for personal income tax filers² per year during FY22 - FY26. See Table 1.

¹ A certified pollution control facility is a treatment facility "used, in connection with a plant or other property in operation before January 1, 1976, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes, or heat." Code § 169. Such facilities shall not "(i) increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or (ii) alter the nature of the manufacturing or production process or facility." *Id.*

² Different from this Massachusetts tax expenditure is Code § 169(d)(5) which applies to certain air pollution control facilities. The Code allows a 7-year amortization option to air pollution control facilities placed in service in connection with a plant or other property placed in operation after December 31, 1975. Estimates in Table 1 are not adjusted for such differences between Massachusetts tax expenditure and federal tax expenditure, therefore should be used with caution.

**Table 1. Revenue Loss Estimates for Five-Year Amortization
of Pollution Control Facilities (\$ Million)**

Fiscal Year	2022	2023	2024	2025	2026
Corporate Excise	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Personal Income Tax	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Total	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3

Massachusetts' revenue loss estimates above are based on revenue loss estimates for the corresponding federal tax expenditure provided by the Joint Committee on Taxation (JCT)³ in the most recent tax expenditure report. To share down the federal estimates to Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years,⁴ effective tax rates, and size of tax base.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure include individuals or entities that own certified pollution control facilities. There are five distinct types of facilities including water pollution control facilities, air pollution control facilities, atmospheric pollution control facilities for coal-fired plants, waste recovery facilities, and a broad category of general pollution control equipment and structures.

According to Massachusetts Department of Environment Protection (DEP), as of January 2024, there are about 17,674 air pollution control facilities in Massachusetts. DOR does not have data for other types of pollution control facilities.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

These benefits extend to a reduction in negative externalities resulting from economic activities causing pollution. Furthermore, there may be indirect and induced costs and

³ JCT is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. Among other tasks, JCT provides estimates of federal tax expenditures and revenue estimates of tax legislation considered by the Congress. See <https://www.jct.gov/about-us/overview/>.

⁴ 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.

benefits associated with this expenditure. For example, developers, investors and manufacturers of pollution control technologies, who create facilities eligible for amortization, would benefit from increased market demand due to the financial incentives offered through this provision. This can drive innovation and investment in cleaner technologies.

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 impose an income tax adopt the amortization unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the amortization include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.

REFERENCES

Joint Committee on Taxation. (2023, December 7). *Estimates Of Federal Tax Expenditures For Fiscal Years 2023-2027*. Retrieved from The Joint Committee on Taxation:
<https://www.jct.gov/publications/2023/jcx-59-23/>

Template for Evaluating Expenditures

Name of Expenditure: 1.311 & 2.313 Deduction and Seven-Year Amortization for Reforestation	Annual cost: \$0.4 million for FY22-26	Year of adoption: 1983 for personal, 1980 for corporate	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Since benefits are environmental, beneficiaries include many residents who are not the affected taxpayers. Provided information sheds little light on businesses that can take the deduction. Result of conformity.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Deduction and Seven-Year Amortization for Reforestation
TAX EXPENDITURE NUMBER	1.311 & 2.313
TAX EXPENDITURE CATEGORY	Accelerated Deductions from Gross Income
TAX TYPE	Personal Income Tax / Corporate Excise
LEGAL REFERENCE	IRC § 194; M.G.L. c. 62, §§ 1(c), 1(d), and 2(d); M.G.L. c. 63, § 30.4
YEAR ENACTED	Massachusetts has followed Code § 194 since 1983 for purposes of the personal income tax, and 1980 for purposes of the corporate excise.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.2 million per year for corporate excise and \$0.2 million for personal income tax during FY22-FY26.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' conformity to Internal Revenue Code (Code) § 194, taxpayers can elect to deduct up to \$10,000 of forestation or reforestation expenditures in a taxable year, with excess amounts amortized over seven years. The election applies to both the personal income tax and the net income measure of the corporate excise.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
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<p>What are the policy goals of the expenditure?</p> <p>The Commission assumes the goal of the expenditure is to incentivize forestation and reforestation.</p>	<p>Are there other states with a similar Tax Expenditure?</p> <p>All states that impose an income tax based on federal adjusted gross income adopt the \$10,000 deduction and seven-year amortization deduction for forestation or reforestation expenses unless they decouple from the Code in that regard. States that adopt the deduction and seven-year amortization include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. Note that California limits its conformity to expenditures on timber property located within the state. New Hampshire does not have a personal income tax but conforms to Code § 194 for the purpose of its corporate income tax.</p>
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INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) § 194(b) for purposes of determining income, taxpayers may elect to deduct up to \$10,000 of "reforestation expenditures" incurred with respect to qualified timber property in the year in which expenditures are incurred. The deduction applies to both the personal income tax and to the net income measure of the corporate excise. See M.G.L. c. 62 §§ 1(c), 2(d)(1); M.G.L. c. 63, § 30.4. If reforestation expenditures exceed \$10,000, taxpayers may amortize the excess over a seven-year period. The amortization deduction has no dollar limit. See Code § 194(a). Trusts are not eligible for the deduction but may elect seven-year amortization for such expenses. See Code § (b)(1)(B)(iii).

Qualified timber property is a "woodlot or other site located in the United States" used for the "planting, cultivating, caring for, and cutting of" a commercial volume of trees for the purpose of producing timber products. See Code § 194(c). The property must be at least one acre in size. Reforestation expenditures include the direct costs of forestation or reforestation, such as site preparation, seeds, labor, and equipment. See Code § 194(c).

In the absence of a Code § 194 election, forestation or reforestation expenses are recovered as cost of goods sold when the trees are harvested and sold as timber products. Thus, the election allows the accelerated recovery of such expenses, resulting in the equivalent of an interest-free loan from the Commonwealth to the taxpayer. The time value of the amount of the accelerated expense recovery constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to incentivize forestation and reforestation.

ADMINISTRABILITY

The administration of the deduction and seven-year amortization of forestation and reforestation expenses does not present any special challenges for the DOR. Conformity with the federal treatment simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers and practitioners.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$0.4 million annually during FY22-FY26 with \$0.2 million for corporate and business tax filers and \$0.2 for personal income tax filers. See table 1 below.

Table 1. Revenue Loss Estimates for Deduction and Seven-Year Amortization for Reforestation (\$ Million)

Fiscal Year	2022	2023	2024	2025	2026
Corporate Excise	\$0.2	\$0.2	\$0.2	\$0.2	\$0.2
Personal Income Tax	\$0.2	\$0.2	\$0.2	\$0.2	\$0.2
Total	\$0.4	\$0.4	\$0.4	\$0.4	\$0.4

Massachusetts' revenue loss estimates above 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 its most recent tax expenditure report. To share down the federal estimates to 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.

DIRECT BENEFITS

Direct beneficiaries are qualified timber property owners or lessees who incurred the expenses covered by this tax expenditure. Qualified timber property owners may be individuals, partnerships, corporations, and estates who own or lease qualified timber property.

According to the website 'MassWoods.org'³, over 60% (3.1 million acres) of Massachusetts is forested making the state 8th most-forested state by percentage of forest cover. The same source further indicates that over 212,000 private landowners, mostly families and individuals, own over 75% of Massachusetts' forests.⁴ It is likely that only a fraction of those landowners meet the criteria to be eligible for the tax incentive or claim the deduction for a given tax year. The IRS estimated that, for tax year 2022, 17,262 personal income taxpayers claimed this deduction on their federal tax returns. DOR estimates that

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 Refer to <https://masswoods.org/>. MassWoods.org is a website maintained by the UMass Extension Forest Conservation Program.

⁴ For the entire USA, most forestland is privately owned (444 million acres, or 58%). Nonindustrial private landowners (i.e., private, noncorporate entities that do not own wood-processing facilities) own 288 million acres. Refer to <https://crsreports.congress.gov/product/pdf/IF/IF12054>

approximately 100 of them may be from Massachusetts.⁵ IRS data for other types of taxpayers, however, is not currently available. Generally, taxpayers do not report amortization breakdown by type.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

In addition, by encouraging reforestation, the expenditure assists to protect public health and environment, which would generate positive externalities, or benefits to each member of the society. Such positive externalities are often difficult to quantify.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that impose an income tax based on federal adjusted gross income adopt the \$10,000 deduction and seven-year amortization deduction for forestation or reforestation expenses unless they decouple from the Code in that regard. States that adopt the deduction and seven-year amortization include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. Note that California limits its conformity to expenditures on timber property located within the state. New Hampshire does not have a personal income tax but conforms to Code § 194 for the purpose of its corporate income tax.

⁵ <https://www.irs.gov/pub/irs-pdf/p4801.pdf>, page 24

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University of Amherst (n.d.). *Massachusetts Forests*. Retrieved from MassWoods: <https://masswoods.org/massachusetts-forests#:~:text=Facts%20about%20MA%20Forests%3A&text=Some%20towns%20in%20western%20Massachusetts,Department%20of%20Conservation%20and%20Recreation>

Template for Evaluating Expenditures

Name of Expenditure: 1.407 Personal Exemption for Students Aged 19 to 23	Annual cost: \$10- \$10.6.6 million	Year of adoption: 1986	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

Legislators may wish to keep in mind the changing demographics of the Commonwealth and the significant cost this may incur for the state.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Personal Exemption for Students Aged 19 to 23
TAX EXPENDITURE NUMBER	1.407
TAX EXPENDITURE CATEGORY	Deductions From Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC §§ 151-152; M.G.L. c. 62 § 3B(b)(3)
YEAR ENACTED	1986
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$10.0 - \$10.6 million per year during FY22 – FY26.
NUMBER OF TAXPAYERS	Estimated 169,288 – 180,253 taxpayers.
AVERAGE TAXPAYER BENEFIT	Estimated \$58.80 per benefiting taxpayer.
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Massachusetts provides a \$1,000 personal income tax exemption for each of a taxpayer's dependent children. The exemption for children who are full-time students between the ages of 19 and 23 is treated as a tax expenditure.	Is the purpose defined in the statute? The statute does not state the purpose of this tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to lessen the financial burden of individuals that have children or dependents over 18 and under 24 who are pursuing higher education.	Are there other states with a similar Tax Expenditure? Most states that impose a personal income tax allow exemptions for dependent children who are full-time students between the ages of 19 and 23, including New York, Rhode Island, and Vermont. California and Maine allow credits for such dependents rather than exemptions. Connecticut does not allow an exemption for dependents of any age.

INTRODUCTION

Massachusetts provides a personal income tax exemption for each of a taxpayer's dependents, as determined under Internal Revenue Code (Code) § 151(c). See M.G.L. c. 62, § 3B(b)(3). The exemption allows taxpayers to reduce their taxable income by \$1,000 for each dependent. The Code's definition of a dependent includes qualifying children and qualifying relatives. See Code § 152(a). Qualifying children generally include a taxpayer's children (or certain specified close relatives) who are under the age of 19 and meet certain other requirements. However, qualifying children also include a taxpayer's children (including specified close relatives) that are full-time students under the age of 24, so long as they otherwise meet the definition of qualifying children.¹ A qualifying relative is a relative (or non-relative that lives with the taxpayer) for whom the taxpayer provides more than half the support and who is not a qualifying child. See Code § 152(d).

The dependent exemption for qualifying children under 19 and qualifying relatives is not considered a tax expenditure for purposes of the Massachusetts Tax Expenditure Budget. This is because the tax expenditure analysis considers the family unit to be the basis of analysis. Taxpayers are assumed to have an obligation to support children and qualifying relatives under 19 and the exemption is not considered to be a special benefit for doing so. However, individuals aged 19 and over are assumed to be capable of supporting themselves, so the exemption applies to older children and qualifying relatives only if they are full-time students between the ages of 19 and 23. The exemption for such children and qualifying relatives is considered a tax expenditure equal to the amount of personal income tax foregone as a result of allowing the exemption for such dependents.²

¹ See Code § 152(c), which provides that a qualifying child must:

1. Be a child of the taxpayer or a descendant of such a child, or a brother, sister, stepbrother, or stepsister of the taxpayer, or the descendant or such relative;
2. Have the same principal place of abode as the taxpayer for more than half the taxable year;
3. Be under the age of 19 or be a full-time student who has attained the age of 19 but has not attained the age of 24;
4. Not have provided more than half of the child's own support for the calendar year in which the taxable year of the taxpayer begins; and
5. Not have filed a joint return with the taxpayer's spouse for the taxable year.

² The Department of Revenue views the rules for personal exemptions and for no tax status in the Commonwealth's personal income tax as provisions which help to define the income tax base, and thus as a part of the basic structure of the tax (much as the progressive rate structure of the federal income tax, which similarly reduces the tax burden on low-income individuals, is a part of its basic structure). The base of the tax is defined as net income above what is required for subsistence. Since personal exemptions help define the amount of income needed for subsistence, and therefore the base, they should not be classified as tax expenditures. According to this reasoning, exemptions allowed for dependents would also be considered part of the basic tax structure, since subsistence requirements increase with the size of the taxpayer's household.

POLICY GOALS

The Commission assumes the goal of the expenditure is to allow taxpayers to continue claiming dependent exemptions for children over 18 and under 24 who are pursuing higher education.

ADMINISTRABILITY

The administration of this exclusion does not present special challenges for the Department of Revenue (DOR). Conformity with federal age requirements for dependents simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$10.0 - \$10.6 million per year during FY22 - FY26. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Dependent Exemption for Students Aged 19-23

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$10.0	\$10.4	\$10.5	\$10.6	\$10.6

The estimates are based mostly on Massachusetts individual income tax return data, including data from the schedule DI Dependent Information³, which provides each dependent's date of birth and, if applicable, disability information. DOR counted the number of claimed dependents who were in the age group of 19 - 23 but do not have a disability, assuming that these dependents are claimed because they are full-time students. Some students may have a disability, but they were excluded from DOR's analysis because they can be claimed as dependents even if they are not students.

DOR also reviewed the student enrollment data from the U.S. Department of Education's National Center for Education Statistics (NCES) but did not use that data (except for its projection of student enrollment in future years) for estimating the revenue loss from this tax expenditure due to the limitations of that data. See Appendix for more information on the NCES data.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are taxpayers with a child who is a full-time student between the ages of 19 - 23 but does not have a disability. During tax years 2019 - 2022, 1.6 - 1.8 million dependents were claimed annually by taxpayers in Massachusetts.

³ <https://www.mass.gov/doc/2022-schedule-di-dependent-information/download>

The number of dependents aged 19 - 23 who did not have a disability⁴ ranged from 191,000 - 227,000 annually, accounting for 12% - 13% of the total number of dependents claimed by taxpayers in the state. See Table 2 below.

Table 2. Numbers of All Dependents and Dependents Aged 19-23 but Not Disabled Claimed by Taxpayers, Tax Year 2019 to 2022

Tax Year	Dependent Aged 19-23 But Not Disabled	Total Dependent	% of Dependent Aged 19-23 But Not Disabled
2019	226,692	1,746,161	13.0%
2020	191,699	1,661,904	11.5%
2021	199,176	1,667,680	11.9%
2022	207,437	1,686,232	12.3%

Source: Massachusetts Department of Revenue, compiled from tax year 2019-2022 individual income tax return data

Table 3 below shows the estimated number of direct beneficiaries and the average tax savings per beneficiary.

Table 3. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Affected Taxpayers	169,288	176,304	177,929	179,569	180,253
Benefit per Affected Taxpayer	\$58.8	\$58.8	\$58.8	\$58.8	\$58.8
Numbers of Affected Dependents	199,176	207,437	209,349	211,278	212,083
Benefit per Affected Dependent	\$50.0	\$50.0	\$50.0	\$50.0	\$50.0

Source: Estimated by Massachusetts Department of Revenue (DOR) based on Table 1, Table 2 and other return data

Table 4 below shows that, in tax year 2022, 985,153 taxpayers claimed an exemption for 1,686,232 dependents of any age, with an average of 1.71 ($=1,686,232 / 985,153$) dependents per taxpayer. Among those taxpayers that claimed an exemption for dependents, 18% or 176,304 taxpayers claimed an exemption for dependents aged 19 – 23 who do not have a disability, with an average of 1.18 ($=207,437 / 176,304$) such dependents per taxpayer. Taxpayers with a net adjusted gross income (AGI) between \$200,000 - \$500,000 claimed the most such exemptions, accounting for 23.1% of all such taxpayers and 24.2% of all such dependents. Taxpayers in this AGI bracket made up a disproportionately high percentage of claimants of this exemption, given that these taxpayers make up only 9.7% of all taxpayers, and only 18.0% of all taxpayers claiming an exemption for dependents.

⁴ Among the dependents aged 19-23, about 2.4%-2.6% are reported as having a disability.

Table 4. Number of Dependents Aged 19-23 but Not Disabled by Income Bracket, Tax Year 2022

Massachusetts Net Adjusted Gross Income (AGI)	Number of Taxpayers		Number of Taxpayers Claiming Dependent Exemption		Number of Dependents of Any Age		Number of Taxpayers Reporting Dependent Aged 19-23		Number of Dependents Aged 19-23	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Under \$5,000	74,025	2.2%	18,573	1.9%	34,360	2.0%	3,707	2.1%	4,521	2.2%
\$5,000 under \$10,000	109,398	3.2%	10,532	1.1%	18,367	1.1%	1,592	0.9%	1,872	0.9%
\$10,000 under \$15,000	166,414	4.8%	11,560	1.2%	18,397	1.1%	1,384	0.8%	1,620	0.8%
\$15,000 under \$20,000	168,723	4.9%	28,963	2.9%	44,575	2.6%	2,761	1.6%	3,050	1.5%
\$20,000 under \$25,000	164,137	4.8%	34,489	3.5%	56,359	3.3%	3,503	2.0%	3,881	1.9%
\$25,000 under \$30,000	157,375	4.6%	35,244	3.6%	57,217	3.4%	4,027	2.3%	4,434	2.1%
\$30,000 under \$35,000	159,001	4.6%	36,963	3.8%	59,848	3.5%	4,403	2.5%	4,831	2.3%
\$35,000 under \$40,000	158,421	4.6%	37,548	3.8%	60,205	3.6%	4,483	2.5%	4,947	2.4%
\$40,000 under \$45,000	152,766	4.4%	35,604	3.6%	57,513	3.4%	4,613	2.6%	5,086	2.5%
\$45,000 under \$50,000	141,363	4.1%	32,364	3.3%	52,128	3.1%	4,387	2.5%	4,866	2.3%
\$50,000 under \$60,000	250,979	7.3%	57,220	5.8%	91,975	5.5%	8,034	4.6%	8,942	4.3%
\$60,000 under \$70,000	211,613	6.2%	48,828	5.0%	78,569	4.7%	7,512	4.3%	8,487	4.1%
\$70,000 under \$80,000	180,987	5.3%	44,264	4.5%	71,804	4.3%	7,261	4.1%	8,163	3.9%
\$80,000 under \$90,000	153,670	4.5%	40,712	4.1%	66,564	3.9%	6,974	4.0%	7,891	3.8%
\$90,000 under \$100,000	126,002	3.7%	36,355	3.7%	60,026	3.6%	6,344	3.6%	7,246	3.5%
\$100,000 under \$150,000	411,073	12.0%	144,437	14.7%	246,528	14.6%	27,848	15.8%	32,320	15.6%
\$150,000 under \$200,000	225,144	6.5%	102,546	10.4%	182,341	10.8%	22,263	12.6%	26,636	12.8%
\$200,000 under \$500,000	334,771	9.7%	177,105	18.0%	326,557	19.4%	40,739	23.1%	50,170	24.2%
\$500,000 under \$1,000,000	62,970	1.8%	35,655	3.6%	69,619	4.1%	9,209	5.2%	11,665	5.6%
\$1,000,000 or Over	31,010	0.9%	16,191	1.6%	33,280	2.0%	5,260	3.0%	6,809	3.3%
Total	3,439,842	100.0%	985,153	100.0%	1,686,232	100.0%	176,304	100.0%	207,437	100.0%

Source: Massachusetts Department of Revenue, compiled from tax year 2022 individual income tax return data

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a personal income tax allow exemptions for dependent children who are fulltime students between the ages of 19 and 23, including New York, Rhode Island, and Vermont. California and Maine allow credits for such dependents rather than exemptions. Connecticut does not allow any exemption for dependents of any age.

APPENDIX

As mentioned in the text, DOR looked at the student enrollment data from the U.S. Department of Education's National Center for Education Statistics (NCES). Using data from NCES' Integrated Post Secondary Education Data System (IPEDS), DOR estimated the numbers of full-time students aged 19 - 23 enrolled in fall in Massachusetts' colleges from 2009 - 2021. The full-time fall enrollment count includes both U.S. residents and international students. The share of international students in Massachusetts' colleges is high and has increased over time. Our analysis of the IPEDS data shows that the share of international students in Massachusetts' colleges increased from 7.9% in 2009 to 15.2% in 2021. Excluding international students, the numbers of resident students enrolled in Massachusetts' colleges are much lower. DOR also estimated that the numbers of resident students enrolled in Massachusetts' colleges were 34 - 39% of persons aged 19 - 23 in Massachusetts. See the table below.

Numbers of Students Enrolled in Massachusetts' Colleges by Age and Full-Time Enrollment Status, 2009-2021

Year	All Ages		Aged 19-23				
	Fall Enrolled	Fall Enrolled, Full-Time	Fall Enrolled	Fall Enrolled, Full-Time	Fall Enrolled, Full-Time Excluding International Students	U.S. Census Population Estimates, 19-23	% Enrolled Full-Time in Colleges
2009	487,016	334,157	234,622	202,662	186,596	484,257	38.5%
2011	499,133	342,714	236,965	203,402	184,585	495,406	37.3%
2013	506,539	347,489	241,446	205,106	182,479	502,579	36.3%
2015	504,692	348,059	244,907	208,576	180,917	506,869	35.7%
2017	501,637	352,051	244,851	210,792	180,250	503,344	35.8%
2019	496,018	349,734	244,341	210,590	179,271	496,531	36.1%
2021	483,129	341,443	237,020	205,525	174,377	510,229	34.2%

Source: (i). Student enrollment data for Massachusetts, 2019-2021 are downloaded from U.S. Department of Education's National Center for Education Statistics (NCES) Integrated Post Secondary Education Data System (IPEDS), <https://nces.ed.gov/ipeds/>. Enrollment and graduation data for every post secondary educational institution are available for download in IPEDS. Please note that in IPEDS survey, submission of fall enrollment data by age group are mandatory, but optional for even years.

(ii). The IPEDS enrollment data needs to be adjusted for international students. We used foreign full-time students count (all ages) by post-secondary educational institutions in Massachusetts using IPEDS public use files. Data for foreign students are not broken out by age group. For full-time enrolled share of foreign students aged 19-23, we assumed the share of all full-time foreign students. (iii). Population estimates data are from the U.S. Census Bureau's Population Estimates Division, <https://www.census.gov/programs-surveys/popest/data/tables.html>

As mentioned in the text, the NCES data has limitations for the estimation of this tax expenditure: (1) The NCES data counts the students enrolled in Massachusetts' colleges. Though we have excluded international students, the count still includes out-of-state students whose parents do not need to file Massachusetts income tax return; (2) Students claimed by parents on Massachusetts income tax return may be enrolled in out of state

colleges. Due to these limitations, NCES data are not completely comparable with the return data. In the table above, the count of full-time resident students is about 80% - 90% of the count in Table 2.

Template for Evaluating Expenditures

Name of Expenditure: 1.414 Tuition Tax Deduction	Annual cost: \$17.4 - \$17.7 million from FY22 - FY26	Year of adoption: 1996	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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

**MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY**

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Tuition Tax Deduction
TAX EXPENDITURE NUMBER	1.414
TAX EXPENDITURE CATEGORY	Deductions From Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 3(B)(a)(11)
YEAR ENACTED	1996
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$17.4 - \$17.7 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	37,000 - 42,000 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	\$416 - \$477 per year during FY22 - FY26.
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: A deduction is allowed for tuition payments made by taxpayers, for themselves or their dependents, for programs that would lead to a degree or certificate from a two or four-year college. The deduction is equal to the amount by which the net tuition payments exceed 25% of the filer's Massachusetts adjusted gross income.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to decrease the financial barriers to higher education by helping students and their parents defray tuition costs.	Are there other states with a similar Tax Expenditure? Few states offer a deduction for tuition payments. New York allows a credit of up to \$400 or an itemized deduction of up to \$10,000 for tuition payments, with no income limitations. Maine allows a credit of up to \$3,500 for student loan repayments made by low-income taxpayers. No deduction is

	available in California, Connecticut, Rhode Island, or Vermont.
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INTRODUCTION

A Massachusetts personal income tax deduction is allowed for tuition payments made by taxpayers for themselves or their dependents. The deduction is authorized by M.G.L. c. 62, § 3(B)(a)(11). To qualify for the deduction, payments must be made for a degree or certificate program offered by a two-or four-year college. The deduction is equal to the amount by which the net tuition payments exceed 25% of the filer's Massachusetts adjusted gross income. Net tuition is the cost of tuition reduced by scholarships, financial aid, or similar grants. The deduction is not allowed for individuals who are nonresidents for all or part of the taxable year.

The deduction subsidizes the cost of tuition and therefore reduces the cost of higher education. The revenue lost as a result of the deduction constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to decrease the financial barriers to higher education by helping students and their parents defray tuition costs.

ADMINISTRABILITY

The administration of the tuition deduction presents some challenge for the Department of Revenue (DOR). As there is no corresponding federal deduction, the DOR cannot rely on federal enforcement measures to monitor the deduction. However, there are federal credits for tuition. Educational institutions must provide most students with a US Form 1098-T (tuition statement) for purposes of reporting these credits. Form 1098-T includes a box for payments received for qualified tuition. This information can be used to monitor compliance with the Massachusetts tuition deduction.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$17.4 - \$17.7 million per year during FY22 - FY26. See Table 1.¹

Table 1. Tax Revenue Loss Estimates for College Tuition Tax Deduction

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$17.4	\$17.5	\$17.5	\$17.6	\$17.7

¹ Revenue loss estimates reported in Table 1 and estimates reported in Table 2 were derived by microsimulation using Massachusetts individual income tax return data for multiple tax years (see Appendix for more details), supplemented with projection to future years based on tax return data and Massachusetts' college age population data from the U.S. Census Bureau.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are taxpayers with “qualifying college tuition payments”. The beneficiaries include students themselves, parents who pay tuition for their children, and other family members who pay college tuition. Table 2 shows the estimated number of direct beneficiaries (taxpayers only) and the average tax savings for FY22 – FY26.²

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	41,909	39,412	38,620	37,844	37,084
Average Tax Savings	\$416	\$443	\$454	\$465	\$477

Table 3 shows the distribution of tax saving resulting from tuition tax deduction by income bracket for tax year 2022. In 2022, taxpayers with a net adjusted gross income (AGI)³ under \$50,000 claimed 56% of the tax savings resulting from this expenditure. On the other hand, taxpayers with a net AGI of \$100,000 or more claimed about 25% of total tax savings.

**Table 3. Tax Saving Resulting from Tuition Tax Deduction by Income Bracket
Tax Year 2022**

Massachusetts Net Adjusted Gross Income (AGI)	Count of All Filers	Beneficiaries of Tuition Tax Deduction			
		Number of Beneficiaries	Tax Saving	Average Tax Saving	Income Group's % of Total Tax Saving
Under \$5,000	417,769	17	\$9	\$1	0.0%
\$5,000 under \$10,000	247,164	3,224	\$514,414	\$160	2.9%
\$10,000 under \$15,000	212,002	6,649	\$1,678,317	\$252	9.6%
\$15,000 under \$20,000	184,944	5,216	\$1,753,481	\$336	10.0%
\$20,000 under \$25,000	166,883	3,919	\$1,503,262	\$384	8.6%
\$25,000 under \$30,000	159,066	2,916	\$1,211,263	\$415	6.9%
\$30,000 under \$35,000	160,022	2,270	\$1,060,292	\$467	6.1%
\$35,000 under \$40,000	159,147	1,736	\$819,873	\$472	4.7%

² Revenue loss estimates reported in Table 1 and estimates reported in Table 2 were derived by microsimulation using Massachusetts individual income tax return data for multiple tax years (see Appendix for more details), supplemented with projection to future years based on tax return data and Massachusetts' college age population data from the U.S. Census Bureau.

³ Massachusetts Net Adjusted Gross Income (AGI) is calculated as the sum of Earned 5.0% Income, 5.0% Interest and Dividends, 12% Short-Term Capital Gains and 5.0% Long-Term Capital Gains. In tax year 2022, these income types include those reported on line 10, line 20, Line 23a, plus Long-Term Capital Gains derived from Line 24, of Form 1, and corresponding lines of other forms.

\$40,000 under \$45,000	153,543	1,428	\$729,197	\$511	4.2%
\$45,000 under \$50,000	142,121	1,038	\$527,653	\$508	3.0%
\$50,000 under \$60,000	252,516	1,642	\$914,395	\$557	5.2%
\$60,000 under \$70,000	213,189	1,312	\$764,950	\$583	4.4%
\$70,000 under \$80,000	182,138	1,012	\$626,122	\$619	3.6%
\$80,000 under \$90,000	154,666	900	\$575,470	\$639	3.3%
\$90,000 under \$100,000	126,866	678	\$478,165	\$705	2.7%
\$100,000 under \$150,000	414,198	2,498	\$1,764,008	\$706	10.1%
\$150,000 under \$200,000	226,567	1,515	\$1,159,513	\$765	6.6%
\$200,000 under \$500,000	337,034	1,397	\$1,312,969	\$940	7.5%
\$500,000 under \$1,000,000	63,519	39	\$61,239	\$1,570	0.4%
\$1,000,000 or Over	31,565	6	\$22,143	\$3,691	0.1%
Total	4,004,919	39,412	\$17,476,736	\$443	100.0%

Source: Massachusetts Department of Revenue, preliminary tax year 2022 individual income tax return data.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Only a few states offer a deduction for tuition payments. New York allows a credit of up to \$400 or an itemized deduction of up to \$10,000 for tuition payments, with no income limitations. Maine allows a credit of up to \$3,500 for student loan repayments made by low-income taxpayers. Other states that allow a deduction similar to the Massachusetts deduction include Ohio and Louisiana. No deduction is available in California, Connecticut, Rhode Island, or Vermont.

APPENDIX

For Tables 1 & 2, DOR estimated the number of beneficiaries and tax savings by using microsimulations and Massachusetts individual income tax return data for tax years 2017 – 2022 reported in Table A-1 below.

**Table A-1. Tuition Tax Deduction Beneficiaries in Massachusetts
Tax Years 2017 - 2022**

Tax Year	Number of Tuition Tax Deduction Beneficiaries	Amount of Tax Saving for Beneficiaries	Number of Tax Filers Who Claimed Tuition Tax Deduction	Total Amount of Tuition Tax Deduction Claimed by All Tax Filers
2017	48,061	\$18,981,410	67,458	\$1,289,109,838
2018	41,359	\$16,107,368	58,528	\$742,736,456
2019	44,268	\$17,855,482	62,267	\$881,572,838
2020	41,182	\$15,847,342	59,036	\$794,051,073
2021	41,909	\$17,447,668	57,514	\$863,467,287
2022	39,412	\$17,476,736	53,403	\$803,763,238

Source: Massachusetts Department of Revenue, tax year 2017 - 2022 individual income tax return data.

Note that not all tuition tax deduction claimants benefit from the deduction. In tax year 2022, 53,403 taxpayers claimed \$804 million in tuition tax deductions, but only 39,412 taxpayers benefited from the deduction with total tax saving of \$17 million. The difference in claimants and beneficiaries may be due to some filers having insufficient income against which to apply the deduction.

Template for Evaluating Expenditures

Name of Expenditure: 1.419 Deduction for Business Expenses of National Guard and Reserve Members	Annual cost: \$1.5 - \$1.6 million	Year of adoption: 2003	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input checked="" type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Tax Relief </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input checked="" type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Tax Relief
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input checked="" type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Tax Relief				
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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Business only</i>					
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: The overall fiscal impact of this tax expenditure is minimal and provides a fair tax break to those in the armed services, particularly those that live farther away from where they must report for duty.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Deduction for Business Expenses of National Guard and Reserve Members
TAX EXPENDITURE NUMBER	1.419
TAX EXPENDITURE CATEGORY	Deduction from Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 2(d)(1); Code § 62(a)(2)(E)
YEAR ENACTED	2003
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$1.5 - \$1.6 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Estimated 13,709 - 14,770 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	Estimated \$102 - \$119 per benefiting individual.
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for determining employee business expense deductions, Massachusetts allows a personal income tax deduction for travel expenses incurred by National Guard and Armed Forces reserve members who must travel more than 100 miles from their homes to their assigned posts.	Is the purpose defined in the statute? The statute does not state the purpose of this tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the deduction is to defray National Guard and	Are there other states with a similar Tax Expenditure? States that conform to the Code for individual income tax purposes allow the federal deduction for business expenses of National

Armed Forces reserve members' cost of travelling to their assigned posts.	Guard and Armed Forces reserve members, unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled.
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INTRODUCTION

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for determining employee business expense deductions, Massachusetts allows a personal income tax deduction for travel expenses incurred by National Guard and Armed Forces reserve members who must travel more than 100 miles from their homes to their assigned posts. The Massachusetts deduction is effectuated by M.G.L. c. 62, § 2(d)(1), which adopts the federal deductions allowable under Code § 62 that "consist of expenses of travel, meals and lodging while away from home, or expenses of transportation paid or incurred by the taxpayer in connection with the performance by him of services as an employee." Code § 62(a)(2)(E) allows members of the National Guard and Armed Forces reserve to deduct expenses that are incurred in connection with military services performed more than 100 miles away from home. The amount of the deduction is limited to (i) the regular federal per diem rate for lodging, meals, and incidental expenses and (ii) the standard federal mileage rate for car expenses, plus any parking fees, ferry fees, and tolls.¹ The deduction is allowed only if (i) the taxpayer is not reimbursed for such expenses or (ii) the taxpayer is reimbursed and the reimbursement is reported as wages on the taxpayer's W-2.² National Guard and Armed Forces reserve members are not required to itemize deductions in order to claim the federal or Massachusetts deduction.

Revenue that is lost as a result of the deduction constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to defray National Guard and Armed Forces reserve members' cost of travelling to their assigned posts.

ADMINISTRABILITY

The administration of the deduction for qualifying expenses incurred by National Guard and Armed Forces reserve members does not present any special challenges for the Department of Revenue (DOR). Adoption of the federal deduction simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$1.5 - \$1.6 million per year during FY22 - FY26. See Table 1.

¹ See IRS Publication 463 at p. 31.

² *Id.*

Table 1. Tax Revenue Loss Estimates for Deduction for Business Expenses of National Guard and Reserve Members

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$1.5	\$1.6	\$1.6	\$1.6	\$1.6

Massachusetts' revenue loss estimates above are based mostly on data from the Joint Committee on Taxation (JCT)³. The JCT reports the impact on federal tax collections resulting from the corresponding deduction at the federal level. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years⁴, effective tax rates, and size of tax base.

DIRECT BENEFITS

The direct benefits of this tax expenditure are the tax savings from the deduction for the National Guard and Armed Forces reserve members.

The National Guard and Armed Forces reserve members who must travel more than 100 miles from home to perform services are the direct beneficiaries of this deduction. The deduction allows these taxpayers to subtract the cost of eligible expenses from their gross income subject to tax. Table 2 below shows the estimated number of direct beneficiaries and the resulting tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	14,770	14,445	14,120	13,913	13,709
Average Tax Benefit	\$102	\$113	\$116	\$117	\$119

Source: Estimated by Massachusetts Department of Revenue (DOR) based on Table 1 and data from the Defense Manpower Data Center.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

³ <https://www.jct.gov/>

⁴ It should be noted 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.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States that conform to the Code for individual income tax purposes allow the federal deduction for business expenses of National Guard and Armed Forces reserve members, unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled.

Template for Evaluating Expenditures

Name of Expenditure: 1.425 Student Loan Interest Deduction	Annual cost: \$15.6 - \$17.5 million from FY22 – FY26	Year of adoption: 1997 by Fed, 1999 by MA	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 checked="" type="checkbox"/> No Up to \$2,500 for federal additional deduction for undergrad student loan interest					
Goal of expenditure (check all that apply): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity - decrease financial barriers to higher education <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity - decrease financial barriers to higher education <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity - decrease financial barriers to higher education <input type="checkbox"/> Health/Environment/Social Justice <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 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 type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>Business only</i>					
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: May be worthwhile to evaluate state and federal expenditures separately.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Student Loan Interest Deduction
TAX EXPENDITURE NUMBER	1.425
TAX EXPENDITURE CATEGORY	Deductions From Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 2(d)(1), 3B(a)(12); I.R.C. § 62(a)(17), § 221
YEAR ENACTED	1997 (federal); 1999 (Massachusetts)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$15.6 - \$17.5 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	180,300 - 211,200 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	\$78 - \$95 per year during FY22 - FY26.
FEDERAL TAX EXPENDITURE	<input checked="" type="checkbox"/> YES (1. Deduction for student loan interest allowed under the Internal Revenue Code (Code)) <input checked="" type="checkbox"/> NO (2. Massachusetts deduction that applies to interest on undergraduate student loans)

Description of the Tax Expenditure: Massachusetts allows two alternative deductions for student loan interest. The first is the deduction for student loan interest allowed under the Internal Revenue Code (Code), to which Massachusetts conforms. The Code allows a deduction of up to \$2,500 of interest paid on loans used to pay for undergraduate or graduate education, subject to income limitations. The second deduction is a Massachusetts deduction that applies to interest on undergraduate student loans. This	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
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<p>deduction is not limited in amount and is not subject to income limitations. Taxpayers cannot take both deductions for the same interest payments.</p>	
<p>What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to decrease the financial barriers to higher education by helping students defray interest expenses related to student loans.</p>	<p>Are there other states with a similar Tax Expenditure? Most states that adopt the Code for individual income tax purposes allow the federal deduction of up to \$2,500 for student loan interest. California, Connecticut, Maine, Rhode Island, and Vermont allow such a deduction. New York allows an uncapped deduction for interest on undergraduate student loans similar to the second Massachusetts deduction summarized above.</p>

INTRODUCTION

Massachusetts allows two alternative deductions for student loan interest. The first is authorized by M.G.L. c. 62, § 2(d)(1) and is equal to the federal deduction for student loan interest available under Internal Revenue Code (Code) §§ 62(a)(17), 221. The deduction is allowed for interest paid by individuals subject to the personal income tax, up to an annual maximum of \$2,500, on qualified education loans for graduate or undergraduate education. The deduction is subject to income limitations. For taxable years beginning in 2024, the deduction begins to phase-out for taxpayers with federal modified adjusted gross income in excess of \$80,000 (\$165,000 for joint returns) and is completely phased out for taxpayers with modified adjusted gross income of \$95,000 or more (\$195,000 or more for joint returns).

The second deduction is authorized by M.G.L. c. 62, § 3(B)(a)(12). The deduction is allowed for the full amount of interest paid on undergraduate student loans. It is not subject to any income limitations.

Taxpayers cannot take both deductions for the same interest payments.

The deductions subsidize the cost of interest on student loans and therefore reduce the cost of higher education. The revenue lost as a result of the deductions constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to decrease the financial barriers to higher education by helping students defray interest expenses related to student loans.

ADMINISTRABILITY

The administration of this expenditure does not present any special challenges for the Massachusetts Department of Revenue (DOR). Conformity with the federal deduction simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. Although the second Massachusetts deduction is not based on the Code, it poses no particular administrability challenge. Educational institutions must provide students with a US Form 1098-E, which includes a box for student loan interest. DOR can use this information to monitor compliance with both deductions.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$15.6 - \$17.5 million per year during FY22 - FY26. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Student Loan Interest Deduction

Fiscal Year	2022	2023	2024	2025	2026
Revenue Loss Estimates (\$ Million)	\$16.6	\$15.6	\$16.2	\$16.9	\$17.5

Massachusetts' revenue loss estimates reported above are based on DOR's individual income tax return data.¹

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are taxpayers making higher education student loan interest payments. Table 2 shows the estimated number of direct beneficiaries and the resulting tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	211,151	180,347	181,596	182,853	184,120
Average Tax Savings	\$78	\$87	\$89	\$92	\$95

Table 3 shows the distribution of the deduction and the resulting tax savings by income group for tax year 2022. In 2022, 180,347 taxpayers or 4.5% of all filers claimed \$312.7 million in student loan interest deductions. Taxpayers with a net adjusted gross income (AGI)² of \$100,000 and over are the largest cohort for this deduction, claiming about 43% of all tax savings resulting from this tax expenditure. In contrast, only 21% of all tax savings went to taxpayers with net AGI under \$50,000. The average claimant tax saving is about \$87.

¹ Please note that the revenue loss estimates as reported in Table 1 do not reflect the phase out of the deduction authorized by Internal Revenue Code (Code) §§ 62(a)(17), 221 beginning in 2024 as mentioned in the "Introduction" section. Part of that deduction can be substituted by the second deduction authorized by M.G.L. c. 62, § 3(B)(a)(12) if the interest payments are used to pay for undergraduate education.

² Massachusetts Net Adjusted Gross Income (AGI) is calculated as the sum of Earned Income, 5.0% Interest and Dividends, 12% Short-Term Capital Gains and 5.0% Long-Term Capital Gains. In tax year 2022, these income types include those reported on line 10, line 20, Line 23a, plus Long-Term Capital Gains derived from Line 24, of Form 1, and corresponding lines of other forms.

Table 3. Student Loan Interest Deduction by Income Bracket, Tax Year 2022

Massachusetts Net Adjusted Gross Income (AGI)	Number of All Filers	Student Loan Interest Deduction (For claimants with tax liability)				Average Tax Saving per Claimant (at a 5% rate)
		Number of Claimants	Amount Deducted	Average Deduction per Claimant	Income Group's % of Total Deduction	
Under \$5,000	417,769	2,481	\$275,833	\$111	0.1%	\$6
\$5,000 under \$10,000	247,164	2,219	\$742,347	\$335	0.2%	\$17
\$10,000 under \$15,000	212,002	3,289	\$2,735,105	\$832	0.9%	\$42
\$15,000 under \$20,000	184,944	3,850	\$4,201,923	\$1,091	1.3%	\$55
\$20,000 under \$25,000	166,883	4,330	\$5,565,456	\$1,285	1.8%	\$64
\$25,000 under \$30,000	159,066	4,778	\$6,919,455	\$1,448	2.2%	\$72
\$30,000 under \$35,000	160,022	5,613	\$9,044,319	\$1,611	2.9%	\$81
\$35,000 under \$40,000	159,147	6,335	\$11,306,505	\$1,785	3.6%	\$89
\$40,000 under \$45,000	153,543	6,904	\$11,777,334	\$1,706	3.8%	\$85
\$45,000 under \$50,000	142,121	7,213	\$13,129,729	\$1,820	4.2%	\$91
\$50,000 under \$60,000	252,516	14,992	\$27,527,775	\$1,836	8.8%	\$92
\$60,000 under \$70,000	213,189	14,931	\$28,198,796	\$1,889	9.0%	\$94
\$70,000 under \$80,000	182,138	14,035	\$24,369,183	\$1,736	7.8%	\$87
\$80,000 under \$90,000	154,666	11,099	\$18,700,626	\$1,685	6.0%	\$84
\$90,000 under \$100,000	126,866	8,064	\$14,680,345	\$1,820	4.7%	\$91
\$100,000 under \$150,000	414,198	31,058	\$56,006,458	\$1,803	17.9%	\$90
\$150,000 under \$200,000	226,567	19,816	\$34,802,813	\$1,756	11.1%	\$88
\$200,000 under \$500,000	337,034	17,838	\$38,489,549	\$2,158	12.3%	\$108
\$500,000 under \$1,000,000	63,519	1,311	\$3,737,176	\$2,851	1.2%	\$143
\$1,000,000 or Over	31,565	191	\$446,947	\$2,340	0.1%	\$117
Total	4,004,919	180,347	\$312,657,674	\$1,734	100.0%	\$87

Source: Massachusetts Department of Revenue, 2022 individual income tax return data

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that adopt the Code for individual income tax purposes allow the federal deduction of up to \$2,500 for student loan interest similar to the federal deduction, including similar income limitations. California, Connecticut, Maine, Rhode Island, and Vermont allow such a deduction. New York allows an uncapped deduction for interest on undergraduate student loans similar to the second Massachusetts deduction summarized above.

Template for Evaluating Expenditures

Name of Expenditure: 1.427 Prepaid Tuition or College Savings Plan Contribution Deduction	Annual cost: \$3.2-\$3.7 million from FY22 - FY26	Year of adoption: 2016	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input checked="" type="checkbox"/> Relief of poverty <input checked="" type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input checked="" type="checkbox"/> Relief of poverty <input checked="" type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input checked="" type="checkbox"/> Relief of poverty <input checked="" type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

As the cost of higher education continues to increase families are beginning to plan to this major expense. If college savings plans were taxed, it would act as a disincentive to save. Other states allow for this deduction, Massachusetts, with its many colleges and universities should do so as well. This deduction is necessary.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Prepaid Tuition or College Savings Plan Contribution Deduction
TAX EXPENDITURE NUMBER	1.427
TAX EXPENDITURE CATEGORY	Deductions from Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 3B(a)(19)
YEAR ENACTED	2016 (Acts of 2016 c. 133, § 135)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$3.2 - \$3.7 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Estimated 39,406 – 45,068 per year during FY22 - FY26.
AVERAGE TAXPAYER BENEFIT	Estimated \$82 per benefiting taxpayer.
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Massachusetts allows taxpayers a deduction of up to \$1,000 per individual or \$2,000 per married couple filing jointly for contributions to an account in a pre-paid tuition program or college savings program.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to encourage taxpayers to save for higher education costs.	Are there other states with a similar Tax Expenditure? Many states allow a deduction for contributions to education savings accounts. The amount of the deduction varies. States that allow a deduction include Connecticut (up to \$5,000 for single filers and \$10,000 for joint filers), New York (up to \$5,000 for single filers and \$10,000 for joint filers), and Rhode Island

	(up to \$500 for single filers and \$1,000 for joint filers). Vermont allows a credit for 10% of contributions up to \$2,500 of contributions by single filers and up \$5,000 of contributions by joint filers. California and Maine do not allow a deduction or a credit.
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INTRODUCTION

Massachusetts allows a deduction for amounts contributed to an account in a pre-paid tuition program or college savings program established by Massachusetts.¹ The deduction is authorized by M.G.L. c. 62, § 3B(a)(19). The deduction is capped at \$1,000 for single filers and heads of household and \$2,000 for joint filers. Such programs and plans must meet administrative requirements set out by state and federal law. Withdrawals from such programs and plans are free of federal and state tax if the proceeds are used for qualified education purposes. This report covers only the deduction for contributions. The treatment of withdrawals is covered in TERC 1.041.

Absent the deduction, all contributions to pre-paid tuition programs and college savings accounts would be subject to the personal income tax. The revenue that Massachusetts forgoes as a result of allowing the deduction constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to encourage taxpayers to save for higher education costs.

ADMINISTRABILITY

The administration of the deduction for contributions to pre-paid tuition programs and college savings accounts presents some challenge for the Department of Revenue (DOR) as it is not based on any current federal deduction. However, plan sponsors are required to report contributions, earnings and withdrawals with respect to such programs and plans for both state and federal purposes. Such reporting assists the DOR in monitoring the deduction and helps taxpayers comply with the rules pertaining to the deduction.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$3.2 - \$3.7 million per year during FY22 - FY26. See Table 1.

Table 1. Tax Revenue Loss Estimates for Prepaid Tuition or College Savings Plan Contribution Deduction

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$3.2	\$3.3	\$3.4	\$3.6	\$3.7

¹ Massachusetts has available the U.Fund College Investing Plan, a direct-sold 529 college savings plan managed by Fidelity Investments using Fidelity mutual funds.

Massachusetts' revenue loss estimates above are based on the Massachusetts Department of Revenue's Statistic of Income data (SOI).

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the taxpayers making contributions to and students benefitting from pre-paid tuition programs and tuition savings accounts.

Table 2 shows the estimated number of contributing taxpayers and the resulting tax savings per taxpayer.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2022	2023	2024	2025	2026
Number of Beneficiaries	39,406	41,012	42,210	43,616	45,068
Average Tax Savings	\$82	\$82	\$82	\$82	\$82

Table 3 shows the distribution of the deduction and the resulting tax savings by income group for tax year 2022. In tax year 2022, taxpayers with a net adjusted gross income (AGI)² of \$200,000 - \$500,000 claimed 51.8% of all tax savings resulting from this tax expenditure. Taxpayers with net AGI of \$100,000 or more claimed 91.6% of all tax savings. The average tax saving per claimant is about \$82.

**Table 3. Prepaid Tuition or College Savings Plan Contribution Deduction by Income Bracket
Tax Year 2022**

Massachusetts Net Adjusted Gross Income (AGI)	Number of All Filers	Prepaid Tuition or College Savings Plan Contribution Deduction (For claimants with tax liability)				Average Tax Saving per Claimant (at a 5% rate)
		Number of Claimants	Amount Deducted	Average Deduction per Claimant	Income Group's % of Total Deduction	
Under \$5,000	417,769	86	\$23,683	\$275	0.0%	\$14
\$5,000 under \$10,000	247,164	101	\$41,974	\$416	0.1%	\$21
\$10,000 under \$15,000	212,002	151	\$99,474	\$659	0.1%	\$33
\$15,000 under \$20,000	184,944	184	\$156,339	\$850	0.2%	\$42
\$20,000 under \$25,000	166,883	191	\$174,075	\$911	0.3%	\$46
\$25,000 under \$30,000	159,066	218	\$221,099	\$1,014	0.3%	\$51

² Massachusetts Net Adjusted Gross Income (AGI) is calculated as the sum of Earned 5.0% Income, 5.0% Interest and Dividends, 12% Short-Term Capital Gains and 5.0% Long-Term Capital Gains. In tax year 2022, these income types include those reported on line 10, line 20, Line 23a, plus Long-Term Capital Gains derived from Line 24, of Form 1, and corresponding lines of other forms.

\$30,000 under \$35,000	160,022	231	\$232,743	\$1,008	0.3%	\$50
\$35,000 under \$40,000	159,147	244	\$259,205	\$1,062	0.4%	\$53
\$40,000 under \$45,000	153,543	279	\$299,696	\$1,074	0.4%	\$54
\$45,000 under \$50,000	142,121	242	\$242,931	\$1,004	0.4%	\$50
\$50,000 under \$60,000	252,516	554	\$589,049	\$1,063	0.9%	\$53
\$60,000 under \$70,000	213,189	607	\$684,344	\$1,127	1.0%	\$56
\$70,000 under \$80,000	182,138	674	\$763,976	\$1,133	1.1%	\$57
\$80,000 under \$90,000	154,666	757	\$894,561	\$1,182	1.3%	\$59
\$90,000 under \$100,000	126,866	751	\$912,421	\$1,215	1.4%	\$61
\$100,000 under \$150,000	414,198	4,758	\$6,497,502	\$1,366	9.7%	\$68
\$150,000 under \$200,000	226,567	6,214	\$9,791,066	\$1,576	14.6%	\$79
\$200,000 under \$500,000	337,034	19,361	\$34,693,141	\$1,792	51.8%	\$90
\$500,000 under \$1,000,000	63,519	4,237	\$8,103,559	\$1,913	12.1%	\$96
\$1,000,000 or Over	31,565	1,172	\$2,239,691	\$1,911	3.3%	\$96
Total	4,004,919	41,012	\$66,920,529	\$1,632	100.0%	\$82

Source: Massachusetts Department of Revenue -Preliminary tax year 2022 individual income tax return data.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. For example, financial institutions, which manage qualified plans benefit indirectly, as the expenditure fosters the use of such plans, thereby providing such financial institutions with access to increased capital and demand for their services.

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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Many states allow a deduction for contributions to education savings accounts. The amount of the deduction varies. States that allow a deduction include Connecticut (up to

\$5,000 for single filers and \$10,000 for joint filers), New York (up to \$5,000 for single filers and \$10,000 for joint filers), and Rhode Island (up to \$500 for single filers and \$1,000 for joint filers). Vermont allows a credit for 10% of contributions up to \$2,500 of contributions by single filers and up to \$5,000 of contributions by joint filers. California and Maine do not allow a deduction or a credit.

Template for Evaluating Expenditures

Name of Expenditure: 1.606 & 2.608 Brownfields Credit	Annual cost: Total: \$24.5m to 27.2m (personal \$2.3m - \$2.8m; corporate \$22.2m to \$26.4m) FY22 -FY26	Year of adoption: 1998	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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <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 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 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Business only</i>					
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

- **Comments:** Members noted that (i) this credit has no cap and therefore the fiscal impact of the credit is unpredictable, (ii) there is administrative complexity in the fact that DEP regulations determine eligibility for the credit but the statute tasks DOR with reviewing applications and granting credits, requiring DOR to develop technical expertise. Members voted “Strongly Disagree” on the question of whether this tax expenditure is easily administered. Given the significant and unpredictable revenue impact, and administrative challenges the legislature may wish to consider reviewing this expenditure.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Brownfields Credit
TAX EXPENDITURE NUMBER	1.608 & 2.608
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax/Corporate and Business Excise
LEGAL REFERENCE	M.G.L. c. 62, §6(j); M.G.L. c. 63, §38Q
YEAR ENACTED	1998
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$2.3 - \$2.8 million per year for personal income tax, and \$22.2 - \$26.4 million per year for corporate and business excise during FY22 – FY26.
NUMBER OF TAXPAYERS	40 – 45 per year for personal income tax, 13 – 20 per year for corporate and business excise during tax years 2018 - 2022.
AVERAGE TAXPAYER BENEFIT	\$17,000 - \$70,000 per year for personal income tax, and \$1.1 million - \$3.1 million per year for corporate and business excise during tax years 2018 - 2022.
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Massachusetts allows a personal income tax and corporate excise credit for costs incurred in remediating contamination of real estate.	Is the purpose defined in the statute? The statute does not explicitly state the purpose of this tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the credit is to promote clean-up of contaminated property in Massachusetts in accordance with	Are there other states with a similar Tax Expenditure? Few other states allow a credit similar to the Brownfields Credit. No credit is available in California, Connecticut, Maine, New Hampshire,

standards set out by the Massachusetts Department of Environmental Protection (DEP).	Rhode Island, or Vermont. However, New York allows a similar credit.
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INTRODUCTION

Massachusetts allows a credit for costs incurred in remediating contamination of real estate. See M.G.L. c. 62, §6 (j); M.G.L. c. 63, § 38Q. The credit may be claimed by personal income taxpayers, business corporations or non-profit corporations. The credit is available for expenses incurred to remediate contaminated property in Massachusetts. To claim the credit a taxpayer must commence and diligently pursue an environmental response action and achieve and maintain a permanent solution or remedy operation status in compliance with M.G.L. c. 21E, § 2. The taxpayer must complete the cleanup in compliance with standards set out by the Massachusetts Department of Environmental Protection (DEP). The contaminated property must be owned or leased for business purposes by the claimant and must be located within an economically distressed area. The remediation must be commenced on or before August 5, 2028 and eligible costs that qualify for the credit must be incurred before January 1, 2029.

The credit is equal to either 25% or 50% of the taxpayer's net response and removal costs, depending on whether any limitations on the use of the property remain after remediation. The taxpayer's net response and removal costs are the eligible costs less any reimbursement received by the taxpayer. Unused credit may be carried forward for up to five years. Taxpayers may sell, transfer or assign the credit. The credit may be carried forward for up to 5 years.

In the absence of the credit, taxpayers would bear the full cost of remediation of contaminated property. The revenue foregone as a result of the credit constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the credit is to promote clean-up of contaminated property in Massachusetts in accordance with standards set out by DEP.

ADMINISTRABILITY

The administration of the Brownfields Credit presents challenges for the Department of Revenue (DOR). DOR is responsible for administering the credit. Verification of eligible expenses often raises technical environmental matters that require specialized expertise. DOR audits the credit as part of its personal income tax and corporate excise audit processes.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$24.5 - \$29.2 million per year during FY22 - FY26. See Table 1 below. The estimates are made based on historical data on credits claimed on tax returns. By tax type, the revenue loss estimates are \$2.3 - \$2.8 million per year for personal income tax, and \$22.2 - \$26.4 million per year for corporate and business tax.

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

Fiscal Year	2022	2023	2024	2025	2026
Personal Income Tax	\$2.3	\$2.4	\$2.6	\$2.7	\$2.8
Corporate and Business Tax	\$22.2	\$23.1	\$24.1	\$25.2	\$26.4
Total	\$24.5	\$25.5	\$26.7	\$27.9	\$29.2

Table 2 below shows the amount and count of available and claimed credits for personal income taxpayers in recent years. “Available credit” is the maximum amount of credit that a taxpayer can claim based on tax liability, provided that there are no other restrictions; “Claimed credit” is the credit amount that a taxpayer actually claimed.

During the tax years 2018 - 2022, the number of taxpayers who claimed the credit ranged from 40 - 45, and the dollar amount of claimed credits ranged from \$0.772 - \$2.986 million. The average credit amount per claimant ranged from \$17,555 - \$69,452. The annual amount of credits claimed was 21.9% - 75.5% of the available credit amount.

**Table 2. The Amount and Count of Brownfields Credit by Tax Year
for Personal Income Tax**

Tax Year	2018		2019		2020		2021		2022	
	Amount (\$000)	Count	Amount (\$000)	Count	Amount (\$000)	Count	Amount (\$000)	Count	Amount (\$000)	Count
Available Credit - A	\$1,944	45	\$3,527	44	\$2,506	44	\$3,953	45	\$2,517	44
Claimed Credit - B	\$1,100	45	\$772	44	\$1,392	44	\$2,986	43	\$1,656	40
B/A	56.6%	100.0%	21.9%	100.0%	55.6%	100.0%	75.5%	95.6%	65.8%	90.9%
Average Claimed Credit Amount (\$)	\$24,453		\$17,555		\$31,645		\$69,452		\$41,398	

Source: Massachusetts Department of Revenue. Data for 2022 are preliminary and subject to change.

Table 3 below shows the amount and count of available and claimed or shared credits for corporate and business taxpayers. “Available credit” is the maximum amount of credit that a taxpayer can claim based on tax liability, provided that there are no other restrictions;

“Claimed credit” is the credit amount that a taxpayer actually claimed; and “shared credit” is the credit amount used by other members of a taxpayer’s combined group.

During the tax years from 2018 - 2022, the number of corporate and business taxpayers who claimed or shared the credit ranged from 13 - 20, and the amount of claimed or shared credits ranged from \$20.1 - \$46.2 million. The average credit amount per claimant ranged from \$1.1 - \$3.1 million. The annual amount of credits claimed or shared was 89.3% - 96.7% of the available credit amount.

**Table 3. The Amount and Count of Brownfields Credit by Tax Year
for Corporate and Business Tax**

Tax Year	2018		2019		2020		2021		2022	
	Amount (\$000)	Count	Amount (\$000)	Count	Amount (\$000)	Count	Amount (\$000)	Count	Amount (\$000)	Count
Available Credit – A	\$50,360	15	\$29,751	20	\$22,619	19	\$22,079	19	\$25,022	17
Claimed or Shared Credit - B	\$46,164	15	\$26,575	20	\$21,136	13	\$20,114	19	\$24,192	17
B/A	91.7%	100.0%	89.3%	100.0%	93.4%	68.4%	91.1%	100.0%	96.7%	100.0%
Average Claimed or Shared Amount	\$3,077.6		\$1,328.8		\$1,625.8		\$1,058.6		\$1,423.1	

Source: Massachusetts Department of Revenue. Data for 2021 and 2022 are preliminary and subject to change.

DIRECT BENEFITS

The beneficiaries of this credit are taxpayers that clean up contaminated property in Massachusetts.

First, developers revitalizing brownfield sites benefit from the tax credit as they undertake costly cleanup activities. The tax credit is expected to encourage them to invest in these challenging projects, helping to transform neglected areas into productive properties. The tax credit provides financial relief by covering a significant portion of cleanup costs, making it appealing for organizations that might otherwise lack the resources to undertake such projects. Besides individuals or organizations who are awarded brownfields credits, credit brokers and credit buyers also benefit from the credit directly.

Second, those who provide environmental remediation services, such as licensed site professionals, benefit from the tax credit program indirectly as their services are essential

for securing the tax credits. Compliance with the program's regulations aids consultants and contractors by securing contracts for necessary remediation work.

Communities benefit from the redeveloped properties through revitalized local economies, increased property values,¹ and improved public health. The cleanup of brownfields sites activates previously unusable land, bringing it back into productive use, which could spur local development and job creation.

Tables 4 - 6 below provide information on the taxpayers who claimed the credit on their tax returns for the most recent year for which such data is complete.² These tables reflect the data for the taxpayers who claimed the credit which, because the credit is transferable, may not be the taxpayer that generated the credit.

Personal Income Taxpayers:

Table 4 shows the distribution of claimed credit by income level for tax year 2021. The average tax savings was \$75,144. While the tax credit was claimed by individuals in most income brackets, the greatest percentage of claimants (33%) had net adjusted gross income of \$1 million or more. That group claimed 81.9% of the total personal income tax credit amount, with an average tax saving of \$184,659 per claimant, which is higher than that for other income groups.

**Table 4. Brownfields Credit Claims by Net Adjusted Gross Income
for Personal Income Taxpayers for 2021**

Massachusetts Net Adjusted Gross Income	Percent of claimed amounts	Percent of the number of claimants	Tax Saving per Claimant (\$)
0 less than \$50,000	**	**	**
\$50,000 less than \$100,000	None	None	None
\$100,000 less than \$150,000	**	**	**
\$150,000 less than \$200,000	None	None	None
\$200,000 less than \$500,000	1.7%	12.8%	\$10,076
\$500,000 less than \$ 1 million	5.4%	25.6%	\$15,791
\$1 million or over	81.9%	33.3%	\$184,659
Unspecified	10.6%	20.5%	\$38,969
Total or average	100.0%	100.0%	\$75,144

Source: Massachusetts Department of Revenue (Massachusetts personal income tax returns-tax year 2021).

Notes: 1) Massachusetts Net Adjusted Gross Income (AGI) is the sum of Earned Income, Interest and Dividends, Short-Term Capital Gains and Long-Term Capital Gains.

2) ** Information withheld to maintain taxpayer confidentiality

¹ Note, however, that increased property values may adversely affect lower-income households that can no longer afford to live there.

² Note: Tables 4 - 6 were created using samples due to data limitations.

Corporate and business taxpayers:

Tables 5 and 6 show the percentage of claimed or shared amounts, percentage of number of claimants, and average tax savings per claimant by number of employees (Table 5) and by industry (Table 6), respectively, for tax year 2020.

Looking at Table 5, the greatest percentage (36.4%) of all corporate claimants had 500 or more employees. That group claimed or shared 53.3% of the total corporate and business credit amount, with an average tax savings of \$4.1 million per claimant. 27.3% of all corporate claimants had 5 - 49 employees. That group claimed or shared 34.3% of the total corporate and business credit amount, with an average tax savings of \$3.5 million per claimant.

**Table 5. Brownfields Credit Claims by Number of Employees
for Corporate and Business Taxpayers for 2020**

Number of Employees	Percent of claimed or shared amounts	Percent of the number of claimants	Tax Saving per Claimant (\$000)
Less than 5	**	**	**
5 to 49	34.3%	27.3%	\$3,470
50 to 99	**	**	**
100 to 199	None	None	None
200 to 499	None	None	None
500 or more	53.3%	36.4%	\$4,051
Unspecified or not found	6.9%	22.7%	\$844
Total or average	100.0%	100.0%	\$2,762

Source: Massachusetts Department of Revenue (Massachusetts corporate and business tax returns -tax year 2020).
Notes: ** Information withheld to maintain taxpayer confidentiality

Looking at Table 6, a significant majority (86.7%) of total corporate and business claimants of the credit were in the Insurance industry. This group accounted for 72.7% of the total amount of corporate and business credits claimed or shared, with an average tax savings of \$3.3 million per claimant.

**Table 6. Brownfields Credit Claims by Industry
for Corporate and Business Taxpayers for 2020**

Industry	Percent of claimed or shared amounts	Percent of the number of claimants	Tax Saving per Claimant (\$000)
Manufacturing	**	**	**
Finance	**	**	**
Real Estate and Rental and Leasing	**	**	**
Management of Companies and Enterprises	**	**	**
Insurance	86.7%	72.7%	\$3,292
Unspecified or others	**	**	**

Total or average	100.0%	100.0%	\$2,762
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Source: Massachusetts Department of Revenue (Massachusetts corporate and business tax returns -tax year 2020).

Notes: ** Information withheld to maintain taxpayer confidentiality

Gunawan and Leon (2017) highlight the immediate benefits of assisting (through tax incentives) private developers in repurposing brownfields, which include reintegrating land into the local tax base. This process enhances the financial resources available for local government services such as education, transportation, and emergency services. By transforming these areas, the overall attractiveness and land value rise, leading to higher tax revenues, and many other benefits such as job creation and fewer vehicle miles traveled.

Sullivan (2017) reports that the cleanup of brownfield sites resulted in a rise in residential property values by 5% - 15.2% within a 1.29-mile radius of the sites. Haninger et al. (2017) also report that with cleanup, property values increase by an average of 5.0% - 11.5%.

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 tax expenditure) and the direct benefits. In this instance, the direct costs to the Commonwealth, namely the personal income tax or corporate and business excise tax that would have been collected, are equal to the direct benefits afforded by the tax expenditure to the taxpayers who claim the credit.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. 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. But in the previous section, DOR cited some studies on some indirect benefits.

In addition, by encouraging the cleanup of contaminated property, the expenditure assists to protect public health and environment, which would generate positive externalities, or benefits to each member of the society. Such positive externalities are often difficult to quantify.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Few other states allow a credit similar to the Brownfields Credit. No credit is available in California, Connecticut, Maine, New Hampshire, Rhode Island, or Vermont. However, New York allows a similar credit.

REFERENCES

- Greenberg, M., Craighill, P., Mayer, H., Zukin, C., & Wells, J. (2001). Brownfield redevelopment and affordable housing: A case study of New Jersey. *Housing Policy Debate*, 12(3), 515-540. doi:10.1080/10511482.2001.9521417
- Gunawan, G., & Leon, S. (2017, November 20). *The Economic and Social Impacts of Brownfield Redevelopment*. Retrieved from Geo Engineer: <https://www.geoengineer.org/education/web-class-projects/cee-549-geoenvironmental-engineering-fall-2017/assignments/brownfield-remediation#:~:text=Most%20immediately%2C%20helping%20private%20develo pers%20reuse%20brownfields%20brings%20land%20back%20into%2>
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- USEPA. (2021, January 11). *Brownfields Program Environmental and Economic Benefits*. Retrieved 2024, from USEPA: https://19january2021snapshot.epa.gov/brownfields/brownfields-program-environmental-and-economic-benefits_.html#:~:text=Revitalizing%20brownfield%20sites%20creates%20benefit s,revolving%20loan%20fund%20cooperative%20agreements.

Template for Evaluating Expenditures

Name of Expenditure: 3.001 Exemption for Sales to the Federal Government	Annual cost: \$50.9 - \$62.4M per year during FY22 - FY26	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 checked="" type="checkbox"/> Yes (constitutionally required) <input type="checkbox"/> No				
Goal of expenditure (check all that apply): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p><i>Business:</i></p> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Mandated by federal law </div> <div style="width: 48%;"> <p><i>Individual:</i></p> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

This is not really an expenditure because the Commonwealth has no choice but to exempt these sales. Sales to the federal government and its agencies are not subject to the sales and use tax because the US Constitution prohibits states from taxing such sales. The prohibition is effectuated by an exemption set out in the Massachusetts sales and use tax statutes. Administration of the expenditure is challenging because the federal government and its agencies generally decline to present exemption certificates, meaning that DOR must audit vendors to ensure that they are properly excluding sales to the federal government from taxable receipts.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption for Sales to the Federal Government
TAX EXPENDITURE NUMBER	3.001
TAX EXPENDITURE CATEGORY	Exempt Entities
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(d)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$50.9 - \$62.4 million per year during FY22 - FY26
NUMBER OF TAXPAYERS	Not Available
AVERAGE TAXPAYER BENEFIT	Not Available
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Sales to the federal government and its agencies are not subject to the sales and use tax because the US Constitution prohibits states from taxing such sales. The prohibition is effectuated by an exemption set out in the Massachusetts sales and use tax statutes.	Is the purpose defined in the statute? The statute does not state the purpose of this tax expenditure.
What are the policy goals of the expenditure? There is no policy goal of the tax expenditure. The statute merely prevents Massachusetts from purporting to impose an unconstitutional tax on sales to the federal government and its agencies.	Are there other states with a similar Tax Expenditure? The US Constitution prohibits any state from imposing a sales and use tax on sales to the federal government or its agencies.

INTRODUCTION

Sales to the federal government and its agencies are not subject to the Massachusetts sales and use tax because the US Constitution prohibits states from taxing such sales. Specifically, the US Supreme Court has held that the Supremacy Clause of the US Constitution prevents states from doing so.¹ The prohibition is effectuated by an exemption set out in the Massachusetts sales and use tax statutes. See M.G.L. c. 64H, § 6(d); M.G.L. c. 64I, § 7(b).

POLICY GOALS

The Commission assumes that the goal of the tax expenditure is to prevent Massachusetts from purporting to impose an unconstitutional tax on sales to the federal government and its agencies.

ADMINISTRABILITY

The sales and use tax rules for sales to the federal government and its agencies are administered through the Department of Revenue (DOR) audit function. The DOR has issued exemption certificates (Form ST-5), that the federal government and its agencies may present to vendors to claim the Massachusetts statutory exemption. The federal government and its agencies generally decline to present such certificates. Thus, the DOR must audit vendors to ensure that they are properly excluding sales to the federal government from taxable receipts.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$50.9 - \$62.4 million per year during FY22 - FY26. See the table below.

Table 1. Revenue Loss Estimates for Exemption for Sales to the Federal Government

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$Million)	\$50.9	\$53.5	\$56.4	\$59.3	\$62.4

DOR does not have micro-level data on federal purchases (sales to federal government) that are subject to Massachusetts sales and use tax absent this tax expenditure.

Revenue loss estimates are based on the total federal government spending from the Monthly Treasury Statement (MTS) from the US Treasury², share of contractual supplies

¹ See *McCulloch v. Maryland*, 17 U.S. 316 (1819); *Alabama v. King & Boozer*, 314 U.S. 1 (1941); *United States v. New Mexico*, 455 U.S. 720 (1982).

² [Monthly Treasury Statement \(MTS\) | U.S. Treasury Fiscal Data](#)

from USASPENDING.gov³, Massachusetts' share of federal civilian employment from U.S. Office of Personnel Management⁴, and Massachusetts sales tax return data from DOR.

An alternate method using the tax expenditure estimates of other states including Rhode Island, New York, and New Jersey was utilized, adjusted for tax rate and economic size differentials. Estimates from both methods were comparable. The estimates reported in Table 1 are an average of the two methods.

Due to the use of external data and the limitations of these data for estimating this tax expenditure, the estimates reported in Table 1 may have significant estimation uncertainty and should be used with caution.

DIRECT BENEFITS

The Federal agencies and political subdivisions that purchase, and the Massachusetts residents or businesses that sell, the 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 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 businesses selling exempt products to the Federal agencies and political subdivisions located in Massachusetts are also direct 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 the tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

³ [Government Spending Explorer | USAspending](#)

⁴ [Federal Civilian Employment \(opm.gov\)](#)

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

The US Constitution prohibits any state from imposing a sales and use tax on sales to the federal government or its agencies.

Template for Evaluating Expenditures

Name of Expenditure: 3.002 Exemption for Sales to the Commonwealth	Annual cost: \$96.0 - \$119.2 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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input checked="" type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption for Sales to the Commonwealth
TAX EXPENDITURE NUMBER	3.002
TAX EXPENDITURE CATEGORY	Exempt Entities
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(d)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$96.0 - \$119.2 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Not Available
AVERAGE TAXPAYER BENEFIT	Not Available
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Sales to the Commonwealth, its agencies and political subdivisions are exempt from sales tax.	Is the purpose defined in the statute? The statutes do not state the purpose of this tax expenditure.
What are the policy goals of the expenditure? The Commission assumes that the expenditure is intended to reduce the expenses of Commonwealth agencies and political subdivisions, thereby increasing the resources government organizations have available to devote to their missions.	Are there other states with a similar Tax Expenditure? Most states that impose a sales and use tax provide an exemption for sales to the state and its agencies. Connecticut, Maine, New York, Rhode Island, and Vermont have such an exemption. California does not have such an exemption but allows government organizations to apply for refunds of sales tax paid on certain purchases.

INTRODUCTION

All retail sales of tangible personal property are subject to sales and use tax unless an exemption applies. M.G.L. c. 64H, § 6(d) provides an exemption for sales to the Commonwealth, its agencies and political subdivisions. The exemption does not apply to sales to other states.

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 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.

Absent the exemption afforded by this tax expenditure, sales to the Commonwealth, its agencies and political subdivisions would be subject to sales and use tax, increasing the cost of government operations.

POLICY GOALS

The Commission assumes that the expenditure is intended to reduce the expenses of the Commonwealth, its agencies and political subdivisions, thereby increasing the resources such government organizations have available to devote to their missions.

ADMINISTRABILITY

Administration of the exemption for sales to the Commonwealth, its agencies and political subdivisions does not present any special challenge to taxpayers or the Department of Revenue (DOR). To claim the exemption government organizations must present exemption certificates to vendors. The DOR monitors the exemption when it audits vendors as part of its sales and use tax audit function.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$96.0 - \$119.2 million per year during FY22 - FY26. See the table below.

Revenue Loss Estimates for Exemption for Sales to the Commonwealth

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$ in million)	\$96.0	\$101.4	\$107.0	\$112.9	\$119.2

The revenue loss estimates are based on state expenditure data by detailed expenditure categories from the Massachusetts Office of the Comptroller¹, local expenditure data from the Division of Local Services at the DOR², state and local direct general expenditure data from the Tax Policy Center³ and state government finance data from the US Census Bureau.⁴

Some of the state expenditure items are partly covered by other sales tax exemptions, such as the sales tax exemption for newspapers and magazines. Therefore, there are overlaps between this sales tax expenditure and other sales tax expenditures (for example: TE 3.106 Exemption for Newspapers and Magazines). In estimating the revenue loss from this expenditure, DOR excluded the revenue loss attributable to sales that would still be exempt absent this expenditure.

DIRECT BENEFITS

The Commonwealth agencies and political subdivisions that buy the exempt products, and the Massachusetts residents or businesses who sell the exempt products, are the direct beneficiaries of this sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after tax” price while sellers benefit 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 businesses selling exempt products to the Commonwealth agencies and political subdivisions are also direct beneficiaries.

On the buyer’s side, besides the state government and its agencies, there are 351 cities and towns in Massachusetts. The number of sellers who benefit from this tax expenditure is not available.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

¹ For expenditure categories, see <https://www.macomptroller.org/expenditure-classification-handbook/>

² https://dls.gateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=dashboard.category_4

³ <https://www.taxpolicycenter.org/statistics/state-and-local-direct-general-expenditures-capita>

⁴ <https://www.census.gov/data/datasets/2021/econ/local/public-use-datasets.html>

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a sales and use tax provide an exemption for sales to the state and its agencies. Connecticut, Maine, New York, Rhode Island, and Vermont have such an exemption. California does not have such an exemption but allows government organizations to apply for refunds of sales tax paid on certain purchases.

Template for Evaluating Expenditures

Name of Expenditure: 3.107 Exemption for American Flag	Annual cost: ~\$1.3 million	Year of adoption: 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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Promote Patriotism </div> </div>				
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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

Massachusetts is one of 10 states nationally that exempts all sales of U.S. flags from the sales and use tax. The discount is small on a percentage basis and is not widely publicized. Further, it is likely that demand for U.S. flags is reasonably price inelastic. Thus, it seems likely that the exemption changes behavior little and only provides benefits to a select group of individuals and businesses. That said, given the low dollar amount, this expenditure does achieve the originally intended goal.

Since 1968, patriotism has changed considerably, which may be something to consider. Some states offer this exemption only for sales by non-profit veteran's organizations or on sales to veterans. Limited exemptions like these seem like a more accurate reflection of our current values, but it feels unlikely that we have the data to understand how much this exemption is used on the sale of flags to and by veterans.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption for the American Flag
TAX EXPENDITURE NUMBER	3.107
TAX EXPENDITURE CATEGORY	Exempt Products / Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(w)
YEAR ENACTED	1968
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$1.1 - \$1.3 million per year during FY22 - FY26.
NUMBER OF TAXPAYERS	Not Available
AVERAGE TAXPAYER BENEFIT	Not Available
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Sales of the flag of the United States are exempt from sales and use tax.	Is the purpose defined in the statute? The statute does not state the purpose of the exemption.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to promote patriotism by reducing the cost of the U.S. flag to consumers.	Are there other states with a similar Tax Expenditure? Several states provide a sales and use tax exemption for sales of U.S. flags. Connecticut, New York, and Rhode Island provide such an exemption. Vermont exempts sales of U.S. flags to and by non-profit veterans' organizations. California exempts sales of U.S. flags by non-profit veterans' organizations. Maine does not have a sales tax exemption for sales of U.S. flags. New Hampshire does not impose a sales and use tax.

INTRODUCTION

All retail sales of tangible personal property are subject to sales and use tax unless an exemption applies. M.G.L. c. 64H, § 6(w) exempts “[s]ales of the flag of the United States.” Sales of other flags, including state flags, are not exempt. Letter Ruling [92-3](#).

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 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 U.S. flags.

Absent the exemption, all sales of the U.S. flag would be subject to sales and use tax. The revenue foregone as a result of the exemption constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to promote patriotism by reducing the cost of the U.S. flag to consumers.

ADMINISTRABILITY

Administration of the exemption for the U.S. flag does not present any special challenge to taxpayers or the DOR. Vendors are generally aware of the exemption and do not charge sales tax on sales of U.S. flags. Exemption certificates are not required. The DOR reviews retailers’ sales as part of its sales and use tax audit program.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$1.1 - \$1.3 million per year during FY22 - FY26. See the table below.

Revenue Loss Estimates for Exemption for the American Flag

Fiscal Year	2022	2023	2024	2025	2026
Estimated Revenue Loss (\$ in million)	\$1.10	\$1.23	\$1.24	\$1.27	\$1.30

The revenue loss estimates are based mostly on data from the U.S. Census Bureau (CB), the Flag Manufacturing Association of America, the IBISWorld, and the U.S. Bureau of Labor

Statistics (BLS).¹ Due to the use of external data for estimation of this tax expenditure and limitations of these data, the estimates reported in the table should be used with caution.

DIRECT BENEFITS

The Massachusetts residents and businesses that buy or sell American flags 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 businesses selling exempt products to Massachusetts residents or businesses are also direct beneficiaries.

Based on Statista² survey in 2018, 62% of U.S. consumers responded that they owned an American flag. Based on the Statista survey and Massachusetts population of about 7 million in 2023, approximately 4.3 million Massachusetts residents benefited from this tax expenditure in 2023 by purchasing a flag. Data on the number of sellers of American flags is not available.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

¹ According to the U.S. Census Bureau, in 2012, the United States imported \$4 million of American flags. According to the Flag Manufacturing Association of America, 94% of the American Flags are manufactured in the United States. Therefore, the American flags sold in the United States were about \$66.7 million in 2012. This estimate is grown to future years to reflect sales growth and is then apportioned to Massachusetts using Massachusetts’ share of the national population.

² <https://www.statista.com/statistics/882408/share-of-consumers-who-own-patriotic-items-us-by-product-type/>

Besides economic costs and benefits, this sales tax exemption helps promote patriotism in Massachusetts.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Several states provide a sales and use tax exemption for sales of U.S. flags. Connecticut, New York, and Rhode Island provide such an exemption. Vermont exempts sales of U.S. flags to and by non-profit veterans' organizations. California exempts sales of U.S. flags by non-profit veterans' organizations. Maine does not have a sales tax exemption for sales of U.S. flags. New Hampshire does not impose a sales and use tax.

Template for Evaluating Expenditures

Name of Expenditure: 3.408 Exemption for textbooks	Annual cost: \$10.2 - \$12.2 million from FY22 – FY26	Year of adoption: 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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input checked="" type="checkbox"/> Access to opportunity <input checked="" type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 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 primarily beneficial to smaller businesses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Reducing the cost of textbooks for low-income students, and thus reducing the cost of attending college, is a reasonable goal. But this exemption is a blunt tool to do that. At the K-12 level, most public schools do not require students to purchase books. Private schools are more likely to require purchases. Any benefits to consumers go disproportionately to higher-income families. At the college level, attendees tend to have higher lifetime incomes. Again, benefits to consumers go disproportionately to higher-income families. Further, given that demand for textbooks has become increasing elastic, a significant portion of benefits goes to textbook publishers and, to a lesser extent, authors.

Nevertheless, an important group of lower-income students find textbooks prohibitively expensive. With the growth of electronic books, a better strategy to support those students may be to provide the libraries of public colleges and universities with the resources to make electronic versions of textbooks available for students. At a minimum, this should be happening at community colleges.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption for Textbooks
TAX EXPENDITURE NUMBER	3.408
TAX EXPENDITURE CATEGORY	Exemptions For Specified Uses of Product/ Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(m)
YEAR ENACTED	1968
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$10.2 - \$12.2 million per year during FY22 – FY26.
NUMBER OF TAXPAYERS	Not Available
AVERAGE TAXPAYER BENEFIT	Not Available
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Sales of textbooks and other books required for instructional purposes at educational institutions are exempt from sales and use tax.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the expenditure is to help defray the cost of course materials that students are required to purchase for classes at educational institutions.	Are there other states with a similar Tax Expenditure? States vary in their sales and use tax treatment of textbooks required for courses at educational institutions. The Massachusetts exemption is broader than similar exemptions in most other states. For example, Connecticut, New York, and Rhode Island generally limit the exemption to college-level textbooks. A substantial number of states, including California, Maine and Vermont do not provide any exemption for textbooks.

INTRODUCTION

All retail sales of tangible personal property are subject to sales and use tax unless an exemption applies. M.G.L. c. 64H, § 6(m) provides an exemption for sales of textbooks and other books required for instructional purposes in courses offered by educational institutions. The exemption is available without regard to the academic level of the course and is available regardless of whether the educational institution is public or private. The exemption also applies to purchases of textbooks used in courses at for-profit educational institutions.

Absent the exemption afforded by this tax expenditure textbooks and other books required for courses at educational institutions would be subject to sales and use tax when purchased by students. Thus, the exemption marginally reduces the cost of course materials. The revenue lost as a result of the exemption constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to help defray the cost of course materials that students are required to purchase for classes at educational institutions.

ADMINISTRABILITY

The administration of the exemption for textbooks and other books required for courses at educational institutions presents some challenge for the Department of Revenue (DOR). Vendors of textbooks at the retail level are likely to have a variety of exempt and non-exempt sales. The only way to monitor the exemption is by auditing vendors. However, vendors are generally aware of the exemption for textbooks and take steps to collect sales and use tax appropriately. Thus, although audits are necessary to monitor compliance with the exemption, the DOR does not view non-compliance as a widespread problem. Vendors should maintain adequate records to demonstrate that exempt sales were properly classified in the case they are audited.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$10.2 - \$12.2 million per year during FY22 - FY26. See Table 1 below.

**Table 1. Tax Revenue Loss Estimates
for Exemption for Textbooks**

Fiscal Year	2022	2023	2024	2025	2026
Revenue Loss Estimates (\$Million)	\$10.2	\$10.7	\$11.4	\$11.7	\$12.2

The revenue loss estimates are based on national PreK-12 and higher education textbooks sales data¹ from the Association of American Publishers (AAP)².

National PreK-12 textbook sales were apportioned to Massachusetts using Massachusetts' share of the national population (age 5-19)³. Similarly, national higher education textbook sales were apportioned to Massachusetts using Massachusetts' share of national fall enrollment in degree-granting post-secondary institutions⁴.

Due to the use of external data and the limitations of the data for estimating this tax expenditure, the estimates reported in the table above may have significant estimation uncertainty and should be used with caution.

DIRECT BENEFITS

Massachusetts residents (students, families, households, school districts, etc.) who buy the exempt products and the Massachusetts residents or businesses who sell the 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 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 students who enroll in Massachusetts postsecondary institutions and out of state businesses who sell textbooks in Massachusetts are also direct beneficiaries.

Based on NCES data, 468,960 students enrolled in Massachusetts degree-granting postsecondary institutions in Fall of 2022. Based on Massachusetts Department of Education's enrollment by grade data⁵, 914,959 students were enrolled in Pre-K through high school in the 2023 - 24 school year.

The exact number of textbook sellers is not available. Based on the 2017 Economic Census data, there were 194 Massachusetts bookstore establishments with a total of 2,937 employees. In 2017, these establishments had annual payroll and sales of \$48.0 million and \$371.1 million, respectively.

¹ Sales of digital textbooks are excluded because they would not be subject to the sales tax even without this tax expenditure. However, online sales of textbook in print formats (paperbacks, hardbacks, mass market, and special bindings) would be taxable without this tax expenditure.

² <https://publishers.org>

³ Population data is from the U.S. Census Bureau: <https://www.census.gov>

⁴ Data on fall enrollment in the degree granting post-secondary institutions is from the National Center for Education Statistics (NCES): https://nces.ed.gov/programs/digest/d23/tables/dt23_304.10.asp

⁵ <https://profiles.doe.mass.edu/profiles/student.aspx?orgcode=00000000&orgtypecode=0&>

Book publishers also benefit directly from this tax expenditure if selling books directly to the final consumers such as school districts, etc. Data on textbook publishers is not available. Based on the 2017 Economic census data, there were 92 Massachusetts book publishing establishments with a total of 5,868 employees. In 2017, these establishments had annual payroll and sales of \$539 million and \$2.7 billion, respectively.

Similarly, book merchant wholesalers may also benefit directly from this tax expenditure if they sell textbooks directly to the final consumers. However, data for Massachusetts book merchant wholesalers are not available.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States vary in their sales and use tax treatment of textbooks required for courses at educational institutions. The Massachusetts exemption is broader than similar exemptions in most other states. For example, Connecticut, New York, and Rhode Island generally limit the exemption to college level textbooks. A substantial number of states, including California, Maine and Vermont do not provide any exemption for textbooks.

Template for Evaluating Expenditures

Name of Expenditure: 3.412 Exemption for Sales of Building Materials and Supplies Used in federal and Massachusetts Government Construction Contracts and Construction Contracts with Tax Exempt Organizations	Annual cost: \$352.2 - \$375.1 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): <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input checked="" type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> <td style="width: 50%; vertical-align: top;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </td> </tr> </table>				<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input checked="" type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:
<i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input type="checkbox"/> Investment <input checked="" type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other:	<i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <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 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 primarily beneficial to smaller businesses.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Individuals only</i>					
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments: Members noted that higher education institutions are eligible for the exemption. Members noted this tax expenditure was adopted in 1967 which led to a discussion regarding the age of some Massachusetts tax expenditures. Members agreed that age could be used as a factor for deciding which tax expenditures are flagged for legislative review. Members agreed that this tax expenditure should not be flagged for legislative review.

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

EVALUATION YEAR: 2025

TAX EXPENDITURE TITLE	Exemption for Sales of Building Materials and Supplies Used in federal and Massachusetts Government Construction Contracts and Construction Contracts with Tax Exempt Organizations
TAX EXPENDITURE NUMBER	3.412
TAX EXPENDITURE CATEGORY	Exemptions For Specified Uses of Product / Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(f)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$352.2 - \$375.1 million per year during FY22 – FY26.
NUMBER OF TAXPAYERS	Not Available
AVERAGE TAXPAYER BENEFIT	Not Available
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Massachusetts allows a sales and use tax exemption for the sale of building materials and supplies used by contractors in fulfilling construction contracts with federal and Massachusetts government entities or with certain tax-exempt organizations.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes that the expenditure is intended to reduce the cost of construction projects funded by government entities and tax-exempt organizations, thereby increasing the	Are there other states with a similar Tax Expenditure? Most states that impose a sales and use tax allow an exemption for sales of building materials and supplies used in construction contracts with the federal government, their

resources such entities and organizations have available to devote to their missions.	own state's government and tax-exempt organizations. Connecticut, Maine, New York, Rhode Island and Vermont allow such an exemption. California allows exemption for federal construction projects but generally taxes building materials and supplies used in state and local construction contracts and contracts with tax-exempt organizations.
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INTRODUCTION

Massachusetts allows a sales and use tax exemption for the sale of building materials and supplies used by contractors in fulfilling construction contracts with federal and Massachusetts government entities or with corporations, foundations, organizations or institutions that are exempt from taxation under Internal Revenue Code § 501(c)(3). M.G.L. c. 64H, § 6(f). The exemption also applies to construction equipment that contractors rent for exclusive use in such construction contracts.

For purposes of the exemption, a construction contract is an agreement that will result in the construction, reconstruction, repair, or remodeling of certain building structures, public highways, bridges, or other public works. Exempt building materials and supplies include materials that will be incorporated into building structures (e.g., concrete or steel) and supplies that will be consumed in fulfilling the contract (e.g., fuel used to operate construction equipment). The exemption does not apply to items used by the contractor to administer the construction contract (e.g., telecommunications services or office equipment).

With respect to construction contracts with the federal government, Massachusetts or any political subdivision thereof, or their respective agencies, sales of building materials and supplies are generally exempt if the building structure, public highway, bridge or other public works under construction is owned by or held in trust for the benefit of the governmental entity and used exclusively for public purposes. With respect to construction contracts with a corporation, foundation, organization or institution that is tax-exempt under Internal Revenue Code § 501(c)(3), sales of building materials and supplies are generally exempt if the building structure under construction is owned by or held in trust for the benefit of the tax-exempt entity and used exclusively in the conduct of its religious, scientific, charitable or educational purposes. Further, the property must be used for the owner's governmental or tax-exempt purposes.

Absent the exemption, sales of construction materials and supplies used by contractors in contracts with government entities and tax-exempt organizations would be subject to sales and use tax, increasing the cost of construction for such entities. The revenue foregone as a result of the exemption constitutes a tax expenditure,

POLICY GOALS

The Commission assumes that the expenditure is intended to reduce the cost of construction projects funded by government entities and tax-exempt organizations, thereby increasing the resources such organizations have available to devote to their missions.

ADMINISTRABILITY

The exemption for building materials and supplies used in construction contracts with government entities and tax-exempt organizations is administered through the DOR audit function. To facilitate the exemption the DOR issues Certificates of Exemption, Forms ST-2 to exempt organizations and entities upon request. The Form ST-2 documents the organizations' and entities' exempt status. Furthermore, the purchasing entities must generally complete either a *Sales Tax Exempt Purchaser Certificate*, Form ST-5, or a *Contractor's Sales Tax Exempt Purchase Certificate*, Form ST-5C and provide the forms to vendors at the time of purchase in order to claim the exemption. However, DOR must audit vendors and contractors to ensure that they are applying the exemption correctly.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be \$352.2 - \$375.1 million per year during FY22 - FY26. See the table below.

Tax Revenue Loss Estimates for Exemption for Sales of Building Materials and Supplies Used in Connection with Certain Construction Contracts

Fiscal Year	2022	2023	2024	2025	2026
Revenue Loss Estimates (\$ Million)	\$360.4	\$356.2	\$352.2	\$363.2	\$375.1

Massachusetts' revenue loss estimates are based mostly on the 2022 Economic Census¹ data for Massachusetts construction sector (NAICS code 23), including the cost of building materials, fuels, and rental of construction machinery and equipment. The census data also provides the value of construction work on government owned and private owned projects. Using the Census Bureau's Annual Capital Expenditure Survey² data and the IRS' Form 990 data,³ DOR estimated the share of construction work owned by governments and 501(c)(3) organizations, for which the cost of building materials, fuels and rental of construction machinery and equipment is exempt from sales tax under this tax expenditure.

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

DIRECT BENEFITS

This exemption directly benefits (i) federal and state government organizations and their agencies, subdivisions, etc. and nonprofit entities with property in Massachusetts, (ii)

¹ <https://www.census.gov/programs-surveys/economic-census/data/tables.html>

² <https://www.census.gov/programs-surveys/aces.html>

³ <https://www.irs.gov/statistics/soi-tax-stats-charities-and-other-tax-exempt-organizations-statistics>

individuals and/or businesses performing construction or contracting services for the aforementioned entities, (iii) and (iii) vendors selling building materials in Massachusetts. The individuals and entities benefit from the sales tax exemption in the form of paying a lower “after tax” price and 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 businesses selling exempt products in Massachusetts are also direct beneficiaries.

According to the 2022 U.S. Census Bureau, Massachusetts had 21,290 construction firms. These firms jointly employed 165,896 people, generating \$14.3 billion in annual payroll and \$75.1 billion in annual sales.

In addition to the construction sector, lumber and other construction materials merchant wholesalers including manufacturers' sales branches and offices (NAICS 4233) also benefit from the tax exemption on the seller's side. According to the 2022 U.S. Census Bureau, Massachusetts had 231 lumber and other construction materials merchant wholesalers including manufacturers' sales branches and offices. These firms jointly employed 5,027 people, generating \$425.1 million in annual payroll and \$6.1 billion in annual sales. Garden equipment and supplies dealers (NAICS 444) may also benefit from this sales tax exemption. According to the 2022 U.S. Census Bureau, Massachusetts had 1,089 firms in this industry. These firms jointly employed 30,402 people, generating \$1.3 billion in annual payroll and \$11.6 billion in annual sales.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose sales and use tax allow an exemption for sales of building materials and supplies used in construction contracts with the federal government, their own state's government and tax-exempt organizations. Connecticut, Maine, New York, Rhode Island and Vermont allow such an exemption. California allows exemption for federal construction projects but generally taxes building materials and supplies used in state and local construction contracts and contracts with tax-exempt organizations.

Template for Evaluating Expenditures

Name of Expenditure: 3.608 Exemptions for Gifts of Scientific Equipment	Annual cost: <\$50K	Year of adoption: 1983	Sunset date: None	
Tax Type (check all that apply): <input checked="" 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): <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <i>Business:</i> <input type="checkbox"/> Job creation & maintenance <input checked="" type="checkbox"/> Investment <input type="checkbox"/> Competitiveness/Strategic <input type="checkbox"/> Health/Environment/Social Justice <input checked="" type="checkbox"/> Other: Incentivize Donations to nonprofit education </div> <div style="width: 48%;"> <i>Individual:</i> <input type="checkbox"/> Relief of poverty <input type="checkbox"/> Progressivity/assistance to low earners <input type="checkbox"/> Access to opportunity <input type="checkbox"/> Health/Environment/Social Justice <input type="checkbox"/> Other: </div> </div>				
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 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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Business only</i>				
-The TE is primarily beneficial to smaller businesses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Individuals only</i>				
-The TE is primarily beneficial to lower income taxpayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
This tax expenditure is flagged for legislative review: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.

Comments:

MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

Evaluation YEAR: 2025

TAX EXPENDITURE TITLE	Exemption for Gifts of Scientific Equipment
TAX EXPENDITURE NUMBER	3.608
TAX EXPENDITURE CATEGORY	Miscellaneous Exemptions
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(jj)
YEAR ENACTED	1983
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Negligible
NUMBER OF TAXPAYERS	Not Available
AVERAGE TAXPAYER BENEFIT	Not Available
FEDERAL TAX EXPENDITURE	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Description of the Tax Expenditure: Massachusetts provides a sales and use tax exemption for donations of scientific equipment by manufacturers to non-profit educational institutions, to the Massachusetts Technology Park Corporation, or to the Bay State Skills Corporation.	Is the purpose defined in the statute? The statute does not state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the goal of the exemption is to allow manufacturers to donate scientific equipment to public and private nonprofit educational institutions without incurring sales and use tax.	Are there other states with a similar Tax Expenditure? The Commission is not aware of any state that has a specific exemption for donations of scientific equipment. However, several states, including California, Connecticut, Maine, New York, and Vermont allow broader exemptions for donations of any tangible personal property by vendors to tax-exempt organizations.

INTRODUCTION

Chapter 64H, Section 2 of the Massachusetts General Laws imposes a sales tax on retail sales of tangible personal property. A sale is defined as any transfer of title or possession for consideration. G.L. c. 64H, § 1(12)(a). Massachusetts provides a sales and use tax exemption for donations of scientific equipment or apparatus by manufacturers to non-profit educational institutions, to the Massachusetts Technology Park Corporation, or to the Bay State Skills Corporation.¹ Although donations of tangible personal property are not subject to the sales or use tax because donations are not “for consideration,” without this exemption the sales tax would be imposed upon otherwise exempt inputs required to make the tangible personal property. A manufacturer’s purchase of inputs such as materials, tools, fuel, and machinery to be used in the manufacture of tangible personal property to be sold is exempt from the sales and use tax under G.L. c. 64H, § 6(r) and (s). To claim the exemption the manufacturer presents an exempt use certificate when purchasing the inputs and the sales and use tax is imposed upon the subsequent sale of the manufactured products (in this case, scientific equipment or apparatus) by the manufacturer, unless an exemption applies. However, if after presenting the certificate, the manufacturer donates the manufactured products instead of selling them, the manufacturer is required to pay sales tax on the cost of the inputs for which the manufacturer previously claimed an exemption. M.G.L. c. 64H, §§ 8 (h). See also Letter Ruling 84-62. Donation of manufactured equipment would trigger the sales tax if not for the exemption. The revenue foregone as a result of the exemption constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the exemption is to allow manufacturers to donate scientific equipment to public and private nonprofit educational institutions without incurring sales and use tax.

ADMINISTRABILITY

The exemption for donations of scientific equipment presents some challenge to the Department of Revenue (DOR) because no certificate or other documentation is required to claim the exemption, and the recipient of the donation will be a tax-exempt entity with no sales and use tax filing requirement. Thus, the exemption can be verified only by auditing manufacturers.

¹ M.G.L. c. 64H, § 6(jj) states, in its entirety: “(jj) sales of “scientific equipment or apparatus” within the meaning of section 170 (e) (4) (B) (v) of the Internal Revenue Code of the United States as amended on January first, nineteen hundred and eighty-three, by the manufacturer when such scientific equipment or apparatus is donated by said manufacturer at no charge to a public or private nonprofit educational institution located in the commonwealth or to the Massachusetts Technology Park Corporation for the purposes of clause (4) of paragraph (b) of section six of chapter forty J, or to the Bay State Skills Corporation.”

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be negligible per year during FY22 - FY26. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Exemption for Gifts of Scientific Equipment

Fiscal Year	2022	2023	2024	2025	2026
Revenue Loss Estimates (\$ Million)	Negligible	Negligible	Negligible	Negligible	Negligible

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

Massachusetts' revenue loss estimates are based mostly on the 2022 Economic Census² data for Massachusetts' manufacturing sector (NAICS code 31-33). DOR selected a subset of this sector that potentially donate scientific equipment to educational institutions for research and experiment in physical or biological sciences.³ A list of manufacturing industries in this subset is included in the Appendix at the end of this report.⁴ Economic Census data included sales and inputs, such as materials, fuel, tools, and machinery, used in production. DOR estimated the dollar amount of inputs that are potentially eligible for exemption under this tax expenditure.

IndustryWeek reported that manufacturers generally give less than 1% (0.08%) of their total revenue in donations in 2014.⁵ According to Giving USA,⁶ 3.4% of all contributions went to the education sector. Applying these shares and sales tax rate to the estimated dollar amount of inputs potentially eligible for this tax expenditure, DOR estimated the revenue loss to be less than \$50,000 per year.

Due to the use of external data and the limitations of the data for estimating this tax expenditure, the estimates reported in the table above may have very significant estimation uncertainty and should be used with caution.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the public and private nonprofit educational institutions located in Massachusetts and their students, the Massachusetts Technology Park Corporation, and the Bay State Skills Corporation, as well as

² <https://www.census.gov/programs-surveys/economic-census/data/tables.html>

³ See IRC 170 (e)(4)(B)(v)

⁴ Given that "scientific equipment or apparatus" refers to a diverse array of tools and equipment used in scientific settings to conduct experiments, collect data, and analyze results, this list is very likely not exhaustive. On the other hand, these industries also produce a lot of equipment and apparatus that are usually not used in scientific research and experiment.

⁵ <https://www.industryweek.com/leadership/companies-executives/media-gallery/21964346/giving-back-8-of-the-most-charitable-us-manufacturers>

⁶ <https://givingusa.org/giving-usa-limited-data-tableau-visualization/>

manufacturers making such donations. However, given that tax saving resulting from this tax expenditure is negligible, these beneficiaries (further described below) hardly benefit from this tax expenditure if any.

Based on the 2022 Economic Census, DOR assumed 16 possible manufacturing industries that could have donated scientific equipment or apparatus to educational institutions in 2022. These 16 manufacturing industries had 259 firms and jointly employed 19,899 people, generating \$2.5 billion in annual payroll and \$9.7 billion in annual sales in 2022. Please note that this list may not be exhaustive.

All the public and private non-profit education institutions in Massachusetts are potential beneficiaries of this tax exemption. According to the Massachusetts Colleges Statistics⁷, for the academic year 2023 - 24, 151 colleges and universities are active in Massachusetts - 42 public, 77 not-for-profit private, and 32 for-profit private schools. By school level, 88 four-year or higher schools, 22 two to four-year community colleges, and 41 two-year trade schools. In the 2023-2024 school year, according to the Massachusetts Department of Elementary and Secondary Education, Massachusetts had 398 school districts⁸, 1,826 elementary and secondary schools and 914,959 enrolled students⁹.

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 tax expenditure) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the tax revenue that would have been collected, are equal to the direct benefits afforded by the tax expenditure to taxpayers.

Furthermore, there may be indirect and induced costs and benefits associated with this expenditure. 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 data limitations present in this instance.

⁷ <https://www.univstats.com/states/massachusetts/>

⁸ <https://www.doe.mass.edu/InfoServices/reports/enroll/2024/district-grade.xlsx>

⁹ <https://www.doe.mass.edu/InfoServices/reports/enroll/2024/school-grade.xlsx>

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

The Commission is not aware of any state that has a specific exemption for donations of scientific equipment. However, several states, including California, Connecticut, Maine, New York, and Vermont allow broader exemptions for donations of any tangible personal property by vendors to tax-exempt organizations.

APPENDIX

List of Manufacturing Industries Potentially Gifting Scientific Equipment to Non-Profit Educational Institutions in Massachusetts *

2022 NAICS code	Meaning of NAICS code	Year	Number of Firms	Number of Establishments	Total Sales or Revenue (mil. of \$)	Annual Payroll (mil. of \$)	Employment
327215	Glass Product Manufacturing Made of Purchased Glass	2022	27	28	99	28	489
332216	Saw Blade and Handtool Manufacturing	2022	19	19	D	86	1,487
332410	Power Boiler and Heat Exchanger Manufacturing	2022	3	3	128	41	512
333310	Commercial and Service Industry Machinery Manufacturing	2022	56	59	885	235	2,952
333415	Air-conditioning and warm air heating equipment and commercial and industrial refrigeration equipment manufacturing	2022	13	13	314	80	1,138
333991	Power-Driven Handtool Manufacturing	2022	4	4	31	8	116
333998	All Other Miscellaneous General Purpose Machinery Manufacturing	2022	39	39	1,239	303	2,886
334111	Electronic Computer Manufacturing	2022	9	9	498	39	435
334112	Computer Storage Device Manufacturing	2022	4	4	D	D	250 to 499 employees
334118	Computer Terminal and Other Computer Peripheral Equipment Manufacturing	2022	11	11	D	D	100 to 249 employees
334513	Instruments and related products manufacturing for measuring, displaying, and controlling industrial process variables	2022	40	41	1,060	267	1,915
334514	Totalizing fluid meter and counting device manufacturing	2022	5	5	27	5	94
334515	Instrument manufacturing for measuring and testing electricity and electrical systems	2022	35	36	471	138	1,308
334516	Analytical laboratory instrument manufacturing	2022	67	72	3,304	918	9,010
334517	Irradiation apparatus manufacturing	2022	12	12	822	174	1,744
334519	Other measuring and controlling device manufacturing	2022	38	40	803	187	2,202
Total			259	269	9,681	2,508	19,899

Source: The U.S. Census Bureau, 2022 Economic Census

* The list of the industries may not be exhaustive.

D Withheld to avoid disclosing data for individual companies; data are included in higher level totals.

Appendix E

Tax Expenditure Review Commission Meeting Minutes

Tax Expenditure Review Commission Meeting
Wednesday, April 24, 2024
1:00 PM
Via Zoom

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
Sue Perez, Designee, MA Treasurer
Amar Patel, Designee, Senate Ways and Means Committee
Eli Roerden, Designee, House Minority Leader
Chris Carlozzi, Designee, Senate Minority Leader
Professor Michelle Hanlon, Governor's Appointee
Lindsay Janeczek, Designee, MA Auditor
Professor Matthew Weinzierl, Governor's Appointee
Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair

Commission Members Absent:

Tim Sheridan, Designee, House Ways and Means Committee
Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair

List of Documents:

- I. Meeting Agenda
- II. Draft Minutes
 - i. February 28, 2024 Meeting
- III. TERC 2024 Final Report
- IV. Presentation of April tax expenditure evaluation ratings, discuss and vote on ratings
 - i. 1.031 & 1.422 Health Savings Accounts (exemption & deduction)
 - ii. 1.040 & 1.420 Archer Medical Savings Accounts (exemption & deduction)
 - iii. 1.007 Exemption of Railroad Retirement Benefits
 - iv. 1.009 Exemption of Social Security Benefits
 - v. 1.011 Exemption of Dependent Care Expenses
 - vi. 1.013 Exemption of Payments Made to Coal Miners
 - vii. 1.028 Exemption of Income Received by Persons Killed in Military Action or Terrorist Activity

Chairperson Forter welcomed 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 1:05AM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for the purpose of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter asked for any comments or changes on the February 28, 2024 draft meeting minutes. Members did not provide any comment. Members voted to approve the February '24 meeting minutes as drafted. The meeting minutes will be posted to the TERC website.

Chairperson Forter provided a brief overview of the updates made to the draft TERC 2024 Report. Updates to the report are outlined in the February '24 meeting minutes. Members voted to approve the TERC 2024 Final Report as presented. Chairperson Forter noted that the report will be submitted to the Legislature and posted to the TERC website following this meeting.

Professor Michelle Hanlon led a discussion on the Exemption and Deduction of Health Savings Accounts. This tax expenditure was adopted in 2005 and has an annual revenue impact of \$36.0- \$68.5 million during FY22 – FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income and Massachusetts' adoption of the deductions included in Code § 62, eligible contributions to, earnings in, and qualified distributions from health savings accounts (HSAs) are not subject to the personal income tax. Specifically, Massachusetts adopts Code § 223, which sets out the federal tax treatment of HSAs. Code § 223 allows employees a deduction for eligible contributions to an HSA. Employer contributions may be excluded from employee income under Code § 106. (The exclusion for employer contributions is described in Tax Expenditure Report 1.004). In addition, Code § 223 allows earnings to accumulate in an HSA free of tax. Code § 223 also allows an exclusion from income for qualified distributions. Massachusetts adopts Code § 223 as currently in effect. An HSA is a tax-exempt trust created for the purpose of paying a taxpayer's qualified medical expenses. An HSA may receive cash contributions from the taxpayer or any other person (e.g., a family member or employer) on behalf of the taxpayer. Contributions other than those from an employer may be deductible from the taxpayer's gross income.

States that conform to the Code for income tax purposes provide an exemption, deduction, or exclusion for eligible contributions to, earnings in, and qualified distributions from HSAs, unless they have specifically decoupled from the Code in that regard. Connecticut, Maine, New York, Rhode Island, and Vermont follow the federal treatment of HSAs. California has decoupled from the federal treatment and taxes both employee and employer contributions to HSAs.

The Commission assumes the goal of the expenditure is to incentivize individuals with high deductible health care plans to save for medical expenses that they may incur before meeting their plan's annual deductible.

Members voted to approve the evaluation template for the Exemption and Deduction of Health Savings Accounts as presented.

Professor Matt Weinzierl led a discussion on the Exemption and Deduction of Archer Medical Savings Accounts. This tax expenditure was adopted in 1998 and has an annual revenue impact of \$0.09- \$0.18 million during FY22 – FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income and Massachusetts' adoption of the deductions included in Code § 62, eligible contributions to, earnings in, and qualified distributions from Archer medical savings accounts (Archer MSAs) are not subject to the personal income tax. Specifically, Massachusetts adopts Code § 220 as in effect for the 2022 tax year, which sets out the federal tax treatment of Archer MSAs. Archer MSAs have largely been discontinued and replaced by health savings accounts (HSAs) (the expenditures for HSAs are described in Tax Expenditure Reports 1.031 and 1.422). New Archer MSAs generally cannot be created. As such, the only

taxpayers with Archer MSAs are taxpayers with legacy Archer MSAs, and taxpayers working for legacy Archer MSA employers. For those taxpayers, eligible contributions are deductible, earnings accumulate free of tax, and income from qualified distributions is excluded. An Archer MSA is a tax-exempt trust created for the purpose of paying a taxpayer's qualified medical expenses. An Archer MSA can only be created for taxpayers who are self-employed or work for a small employer, and the spouses of such taxpayers. In any given year, an Archer MSA may receive cash contributions from either the taxpayer or the taxpayer's employer.

States that conform to the Code for income tax purposes provide an exemption, deduction, or exclusion for eligible contributions to, earnings in, and qualified distributions from Archer MSAs, unless they have specifically decoupled from the Code in that regard. California, Connecticut, Maine, New York, Rhode Island, and Vermont follow the federal treatment of Archer MSAs.

The Commission assumes the goal of the expenditure is to incentivize eligible individuals with high deductible health care plans to save for medical expenses that they may incur before meeting their plan's annual deductible.

Members voted to approve the evaluation template for the Exemption and Deduction of Archer Medical Savings Accounts as presented.

Chairperson Forter led a discussion on the Exemption of Railroad Retirement Benefits. This tax expenditure was adopted in 1985 and has an annual revenue impact of \$1.4- \$1.6 million during FY22 – FY26 with no sunset date.

Railroad Retirement benefits are excluded from Massachusetts gross income for personal income tax purposes. Railroad retirement benefits are paid in two parts: Tier 1, which is analogous to Social Security, and Tier 2, which is analogous to a pension plan. Neither Tier 1 nor Tier 2 benefits are included in Massachusetts gross income. The Massachusetts exclusion for Tier 1 Railroad Retirement benefits is effectuated by a modification to federal gross income, upon which the personal income tax is generally based. See M.G.L. c. 62, § 2(a)(2)(H). A portion of Tier 1 benefits is included in federal gross income if the recipient's income exceeds certain levels set out in Internal Revenue Code (Code) § 86. Note that the inclusion rule under Code § 86 applies to both Social Security and Tier 1 Railroad Retirement benefits. Up to 85% of Tier 1 Railroad Retirement benefits may be includable in federal gross income under the Code. Due to the Massachusetts modification, Tier 1 Railroad Retirement benefits are excluded from Massachusetts gross income entirely. The Massachusetts exclusion for Tier 2 Railroad Retirement benefits is the result of a federal law prohibiting states from taxing such benefits. See 45 USC, § 231m. Because the exemption for Tier 2 Railroad Retirement benefits is not the result of any Massachusetts general or special law, it is not considered a tax expenditure and therefore is not evaluated in this report. Railroad Retirement benefits are generally paid to retired railroad workers and their spouses, surviving dependents of deceased railroad workers, and disabled railroad workers. In the absence of the exclusion, such recipients would be required to include Tier 1 Railroad Retirement benefits in their Massachusetts gross income to the same extent that the benefits are included in federal gross income. The personal income tax revenue forgone as a result of the exclusion constitutes a Massachusetts tax expenditure.

Most states allow an exclusion or exemption for the full amount of Tier 1 Railroad Retirement benefits, as Massachusetts does. States that do so include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

The Commission assumes the goal of the tax expenditure is to provide tax relief to recipients of Railroad Retirement benefits, who include retired railroad workers and their spouses, surviving dependents of deceased railroad workers, and disabled railroad workers.

Members voted to approve the evaluation template for Railroad Retirement Benefits as presented.

Chairperson Forter led a discussion on the Exemption of Social Security Benefits. This tax expenditure was adopted in 1985 and has an annual revenue impact of \$483.7- \$660.5 million during FY22 – FY26 with no sunset date.

Social Security benefits are excluded from Massachusetts gross income for personal income tax purposes. See M.G.L. c. 62, § 2(a)(2)(H). The exclusion is effectuated by a modification to federal gross income, upon which the personal income tax is generally based. A portion of such benefits is included in federal gross income if the recipient's income exceeds certain levels set out in Internal Revenue Code (Code) § 86. Up to 85% of Social Security benefits may be includable in federal gross income under the Code. Due to the Massachusetts modification, Social Security benefits are excluded from Massachusetts gross income entirely. The tax expenditure covered in this report is the exclusion of the amount of Social Security benefits that is otherwise includable in federal gross income, not the amount that is excluded for federal purposes. Social Security benefits are generally paid to retired workers and their spouses, surviving dependents of deceased workers, and disabled workers. In the absence of the exclusion, such recipients would be required to include Social Security benefits in their Massachusetts gross income to the same extent that the benefits are included in federal gross income. The personal income tax revenue forgone as a result of the exclusion constitutes a Massachusetts tax expenditure.

Most states allow an exclusion or exemption for the entire amount of Social Security benefits. States that do so include California, Maine, and New York. Other states exclude or exempt all or a portion of Social Security benefits only if the taxpayer's income is under a particular threshold. States that adopt this limited approach include Connecticut, Rhode Island, and Vermont.

The Commission assumes the goal of the tax expenditure is to provide tax relief to recipients of Social Security benefits, who include retired workers and their spouses, surviving dependents of deceased workers, and disabled workers.

Members voted to approve the evaluation template for the Exemption of Social Security Benefits as presented.

Amar Patel led a discussion on the Exemption of Dependent Care Expenses. This tax expenditure was adopted in 1981 and has an annual revenue impact of \$5.0- \$5.7 million during FY22 – FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, dependent care assistance provided by employers to employees is excluded from Massachusetts gross income for personal income tax purposes. Specifically, Massachusetts adopts Code § 129, which excludes dependent care assistance from employees' gross income. Dependent care assistance consists of the value of an employer's provision of, or payment for, the care of employees' qualifying dependents, which enables those employees to work. Qualifying dependents include dependent children under the age of thirteen, certain disabled dependents, and certain disabled spouses. For the exclusion to apply, the dependent care assistance must be paid pursuant to a plan that meets the administrative requirements set out in the Code. The amount of the exclusion under Code § 129 may not exceed \$5,000 (\$2,500 for married filing separately) during a taxable year. Further, the amount excluded may not exceed the earned income of the employee or, if the employee is married, the lesser of the earned income of the employee or the spouse for the taxable year. In the absence of the exclusion, employees would be required to pay Massachusetts personal income tax on amounts they receive from their employers as dependent care assistance. Personal income tax revenue foregone as a result of the exclusion constitutes a tax expenditure.

All states that conform to the Code for income tax purposes provide an exclusion for dependent care assistance unless they have specifically decoupled from the Code with regard to the exclusion. The Commission is not aware of any states that have decoupled. 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 dependent care so that they are better able to maintain their employment while caring for a dependent.

Members voted to approve the evaluation template for the Exemption of Dependent Care Expenses as presented.

Chris Carlozzi led a discussion on the Exemption of Payments Made to Coal Miners. This tax expenditure was adopted in 1972 and has an annual revenue impact of less than \$50,000 during FY22 – FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, amounts received by coal miners or their survivors as compensation for disability or death from black lung disease are excluded from Massachusetts gross income. Such compensation is payable under the federal Black Lung Benefits Act of 1972. Code § 104 provides that gross income does not include "amounts received under workman's compensation acts as compensation for personal injuries or sickness." In Revenue Ruling 72-400, the Internal Revenue Service ruled that compensation received by coal miners or their survivors as compensation for disability or death from black lung disease is excludable from gross income under Code § 104(a)(1). Note that the general exclusion for workers' compensation benefits is a separate tax expenditure (see tax expenditure number 1.010). In the absence of the exclusion, amounts paid to coal miners or their survivors as compensation for disability or death from black lung disease would be subject to personal income tax. The revenue foregone as a result of the exclusion constitutes a tax expenditure. All states that conform to the Code for income tax purposes provide an exclusion for amounts paid to coal miners or their survivors as compensation for disability or death from black lung

disease, unless they decouple from the Code with regard to the exclusion. The Commission is not aware of any state that has decoupled.

The Commission assumes the goal of the expenditure is to prevent the amounts paid to coal miners or their survivors as compensation for disability or death from black lung disease from being diminished by subjecting the compensation to income tax.

Members voted to approve the evaluation template for the Exemption of Dependent Care Expenses as presented.

Amar Patel led a discussion on the Exemption of Income Received by Persons Killed in Military Action or Terrorist Activity. This tax expenditure was adopted in 1988 for deaths in active military service; 2002 for deaths related to certain terrorist acts and has an annual revenue impact of less than \$50,000 during FY22 – FY26 with no sunset date.

Certain individuals that died as a result of injuries sustained in (i) military service in a combat zone, (ii) military or civilian service in a military action or terrorist attack, or (iii) specified terrorist attacks on civilians are exempted from the Massachusetts personal income tax, subject to certain limitations. M.G.L. c. 62, § 25. Section 25 is a Massachusetts-specific exemption, but it generally follows the same rules and definitions as are used in a similar federal exemption set out in Internal Revenue Code (Code) § 692. See Technical Information Release (TIR) 02-19. The Massachusetts and federal exemptions from personal income tax apply only to eligible tax years. For deaths resulting from injuries sustained in military service in a combat zone, eligible tax years are the tax year in which the death occurred and all immediately preceding tax years starting with the tax year in which the decedent first served in the combat zone. M.G.L. c. 62, § 25(b); Code § 692(a). For other deaths, the exemption applies to the year of death and all immediately preceding tax years starting with the year immediately preceding the year the injury occurred. M.G.L. c. 62, § 25(b); Code § 692(c), (d). Note that the exemption for civilian victims of terrorist attacks who were not employees of the United States applies only to individuals who died: (i) of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or (ii) of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001 and before January 1, 2002. Combat zones are designated by the President by Executive Order. A military action is defined as any military action involving the US armed forces and resulting from violence or aggression against the US or any of its allies (or threat thereof). See M.G.L. c. 62, § 25(b), referring to Code § 692(c)(2)(B). Terrorist attacks are limited to the Oklahoma City bombing of April 1995, the World Trade Center attack of September 2001, and attacks involving anthrax occurring on or after September 11, 2001, and before January 1, 2002. See M.G.L. c. 62, § 25(c)(4); 26 USC, see also Code § 692(d)(4). In the absence of the exemption, individuals who die as a result of service in combat zones, military actions, or specified terrorist attacks would be required to pay Massachusetts personal income tax on all of their income. The revenue foregone as a result of the exemption constitutes a tax expenditure.

Many states provide a similar exemption from income taxes, including California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state without a similar exemption.

The Commission assumes the goal of the expenditure is to provide tax relief to the families of taxpayers that die as a result of injuries sustained in (i) military service in a combat zone, (ii) military or civilian service in a military action or terrorist attack, or (iii) specified terrorist attacks.

Members voted to approve the evaluation template for the Exemption of Income Received by Persons Killed in Military Action or Terrorist Activity as presented.

Chairperson Forter noted that Professor Michelle Hanlon's and Professor Matthew Weinzierl's terms are set to expire after this meeting. Chairperson Forter thanked Professor Michelle Hanlon and Professor Matthew Weinzierl for serving the Commission. Michelle and Matt helped lay the groundwork for how we evaluate tax expenditures have made significant contributions to the Commission over the past 4 years. The Commission is appreciative of the collaborative spirit and generosity displayed by Michelle and Matt. Michelle and Matt's support in this endeavor speaks volumes about the teamwork and collaboration that are at the core of our Commission's success. Michelle and Matt brought a wealth of knowledge, skills, and experience to the table. Their dedication and enthusiasm were evident. Chairperson Forter mentioned that the Governor's Office is working on appointing new members. Members agreed to schedule the next meeting for May/June. The purpose of the next meeting is to review the next batch of tax expenditures. Chairperson Forter concluded the meeting at 1:53 PM.

Tax Expenditure Review Commission Meeting
Wednesday, June 26, 2024
1:00 PM
Via Zoom

Commission Members in Attendance:

- Chairperson Rebecca Forter, MA Department of Revenue
- Chris Carlozzi, Designee, Senate Minority Leader
- Eli Roerden, Designee, House Minority Leader
- Lindsay Janeczek, Designee, MA Auditor
- Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair
- Professor Natasha Varyani, Governor's Appointee
- Professor Thomas Downes, Governor's Appointee

Commission Members Absent:

- Amar Patel, Designee, Senate Ways and Means Committee
- Tim Sheridan, Designee, House Ways and Means Committee
- Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
- Sue Perez, Designee, MA Treasurer

List of Documents:

- Meeting Agenda
- Draft Minutes
 - April 24, 2024 Meeting
- Presentation of June tax expenditure evaluation ratings, discuss and vote on ratings
 - 1.026 Exemption of Military Disability Pensions
 - 1.027 Exemption of Compensation to Massachusetts-Based Nonresident Military Personnel
 - 1.419 Business Exp of National Guard and Reserve Members
 - 1.033 Employer-Provided Education Assistance
 - 1.407 Personal Exemption for Students Aged 19 or Over
 - 3.002 Exemption for Sales to the Commonwealth
 - 3.107 Exemption for the American Flag

Meeting Minutes:

Chairperson Forter welcomed Commission members, and a quorum was recognized. The meeting via teleconference was called to order at 1:05 PM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for the purpose of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter noted changes in membership. Two new members were appointed by the Governor's office, Professor Natasha Varyani and Professor Thomas Downes. Varyani is a professor of law at Roger Williams University School of Law and Downes is a professor of economics at Tufts University. Appointment letters are attached at the end of this document. Chairperson Forter asked all members to introduce themselves.

Chairperson Forter asked for any comments or changes on the April 24, 2024, draft meeting minutes. Members did not provide any comment. Members voted to approve the April '24 meeting minutes as drafted. The meeting minutes will be posted to the TERC website.

Chairperson Forter provided a brief overview of the Commission's review process for the benefit of its newest members. Chairperson Forter explained that the Commission's goal is to flag expenditures that are determined to be problematic for various reasons, whether administrative or based on relevancy or other considerations. Chairperson Forter noted that this year marks the fifth year of the Commission's first evaluation cycle.

Chairperson Forter led a discussion on the Exemption of Military Disability Pensions. This tax expenditure was adopted in 1971 and has an annual revenue impact of \$ 0.6 - 0.8 million during FY22 - FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, amounts received as military disability pensions are excluded from gross income. Massachusetts adopts federal gross income as the starting point for determining income subject to the personal income tax. Massachusetts uses the definition of federal gross income as determined under the Internal Revenue Code (Code) as it appeared on January 1, 2022. As a result, Massachusetts adopts the federal income exclusion for "amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces or as a result of certain terrorist attacks." See Code §§ 104(a)(4),(5) (b). To qualify for the exclusion under Code §§ 104(a)(4), a payment generally must be made because of a combat-related injury. This report refers to payments that are excludable from federal and Massachusetts income under Code § 104 as military disability pensions. The revenue foregone by not taxing these amounts constitutes a tax expenditure.

All states that impose an income tax adopt the exclusion for military disability pensions unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

The Commission assumes the goal of the expenditure is to prevent amounts received as military disability pensions from being diminished by subjecting them to income tax.

The administration of the exclusion for military disability retirement income does not present special challenges for DOR. Conformity with the federal exclusion based on the 2022 Code simplifies tax

compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers. Note, however, that changes to the federal rules in the future could complicate administration of the exclusion if Massachusetts law is not updated to conform to those changes.

Members voted to approve the evaluation template for the Exemption of Military Disability Pensions as presented.

Professor Thomas Downs led a discussion on the Exemption of Compensation to MA-Based Nonresident Military Personnel. This tax expenditure was adopted in 1973 and has an annual revenue impact of \$10.6 - \$12.8 million during FY22 - FY26 with no sunset date.

Nonresident servicemembers are not subject to personal income tax on compensation for active-duty military service, even if the service is performed in Massachusetts. In general, nonresidents are subject to personal income tax on income from Massachusetts sources, including employment in the Commonwealth. See M.G.L. c. 62, § 5A(a). However, Massachusetts provides an exception to the general rule with regard to compensation received by nonresidents for active-duty military service. The exception is implemented by M.G.L. c. 62, § 5A(c), which deems such compensation “to be from sources other than sources within the Commonwealth.” Further, days spent in the Commonwealth while on active duty in the Armed Forces of the United States do not count toward the 183-day residency rule. See M.G.L. c. 62, § 1(f).

Note that federal law imposes the same rule as M.G.L. c. 62, § 5A(c) by providing that compensation for active-duty military service may not be sourced to a state in which a nonresident servicemember is serving in compliance with military orders. See 50 U.S.C.A. § 4001(b). The federal exemption also applies to certain income earned by spouses of nonresident servicemembers. See 50 U.S.C.A. § 4001(c). Massachusetts follows the federal exemption for military spouses even though spouses are not referenced in M.G.L. c. 62, § 5A(c). The federal exemption, including for military spouses, applies regardless of whether Massachusetts imposes its own exemption under M.G.L. c. 62, § 5A(c). Personal income tax revenue foregone as a result of exempting nonresident servicemembers’ military compensation constitutes a tax expenditure.

Most states exempt nonresident servicemembers’ military compensation from income tax. However, even if a state does not explicitly do so by statute, federal law imposes such an exemption.

The Commission assumes the goal of the expenditure is to ensure that nonresident servicemembers do not become subject to personal income tax by reason of their assignments to military posts in Massachusetts.

The administration of the exemption for nonresident servicemembers' military compensation presents some challenge for the Department of Revenue (DOR). Such compensation is taxable if received by resident service members. Thus, to monitor eligibility for the exemption the DOR must distinguish between resident and nonresident servicemembers. Residency is a fact-intensive determination, which requires a case-by-case analysis.

Administration is relatively simple for nonresident servicemembers as they are not required to provide any documentation of their residency status to the DOR in order to claim the exemption and are not required to file returns reporting exempt income. Nonresident servicemembers are required to provide such information if they are subjected to an audit.

Of note in the discussion is the distinction that the exemption applies to the personnel and to their spouses in the Commonwealth, even where language does not explicitly state so. Additionally, discussion took place regarding whether this is, in fact, a tax expenditure. The Commission agreed that this may be an issue that merits revisiting. These notes were added to the comment section of the evaluation template.

Members voted to approve the evaluation template for the Exemption of Compensation to MA-Based Nonresident Military Personnel as presented.

Stephen Maher led a discussion on the Deduction for Business Expenses of National Guard and Reserve Members. This tax expenditure was adopted in 2003 and has an annual revenue impact of \$1.5 - \$1.6 million during the FY22 - FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for determining employee business expense deductions, Massachusetts allows a personal income tax deduction for travel expenses incurred by National Guard and Armed Forces reserve members who must travel more than 100 miles from their homes to their assigned posts. The Massachusetts deduction is effectuated by M.G.L. c. 62, § 2(d)(1), which adopts the federal deductions allowable under Code § 62 that "consist of expenses of travel, meals and lodging while away from home, or expenses of transportation paid or incurred by the taxpayer in connection with the performance by him of services as an employee." Code § 62(a)(2)(E) allows members of the National Guard and Armed Forces reserve to deduct expenses that are incurred in connection with military services performed more than 100 miles away from home. The amount of the deduction is limited to (i) the regular federal per diem rate for lodging, meals, and incidental expenses and (ii) the standard federal mileage rate for car expenses, plus any parking fees, ferry fees, and tolls. The deduction is allowed only if (i) the taxpayer is not reimbursed for such expenses or (ii) the taxpayer is reimbursed and the reimbursement is reported as wages on the taxpayer's W-2. National Guard and Armed Forces reserve members are not required to itemize deductions in order to claim the federal or Massachusetts deduction. Revenue that is lost as a result of the deduction constitutes a tax expenditure.

States that conform to the Code for individual income tax purposes allow the federal deduction for business expenses of National Guard and Armed Forces reserve members, unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled.

The Commission assumes the goal of the expenditure is to defray National Guard and Armed Forces reserve members' cost of travelling to their assigned posts.

The administration of the deduction for qualifying expenses incurred by National Guard and Armed Forces reserve members does not present any special challenges for the Department of Revenue (DOR). Adoption of the federal deduction simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

Members voted to approve the evaluation template for the Deduction for Business Expenses of National Guard and Reserve Members as presented.

Christopher Carlozzi led a discussion on the Employer-Provided Education Assistance. This tax expenditure was conformed to since 1998 and has an annual revenue impact of \$13.7- \$14.8 million during the FY22 – FY26 with no sunset date.

Massachusetts adopts the Internal Revenue Code (Code) definition of gross income as it appears in the Code as of January 1, 2022 for personal income tax purposes. Under the 2022 Code, certain amounts paid by an employer for employee education or training are excluded from employee gross income.

Specifically, under Code § 127, employees can annually exclude up to \$5,250 of employer payments made pursuant to an "educational assistance program." Code § 127(a). An "educational assistance program" is a written plan created by an employer to provide employees with educational assistance. Code § 127(b)(1). The plan must meet various non-discrimination requirements. Code § 127(b)(2). Employer assistance may include payments for an employee's tuition, fees, textbooks, or other similar expenses. It may also include payments towards an employee's qualified student loan principal or interest after March 27, 2020 and before 2026. Employer assistance does not include payments for lodging, meals, transportation, tools, or supplies. An employee's education or training does not need to be related to their employment unless the education or training pertains to sports, games, or hobbies. Code § 127(c)(1).

Code § 132(j)(8) supplements Code § 127 by allowing employees to exclude employer-provided education assistance that is not covered by Code § 127 (e.g., assistance above \$5,250 or assistance unrelated to an educational assistance plan.). The § 132(j)(8) exclusion is only available if the education assistance benefit constitutes a "working condition fringe." In this context, the term "working condition fringe" means an employer-provided benefit that the employee would be allowed to deduct as a trade or business expense under Code § 162 if the employee had paid for the benefit directly. Note that employees cannot claim a tax deduction or credit for amounts excluded under Code §§ 127 or 132(j)(8).

Because of the Commonwealth's reliance on the Code for purposes of determining income, employer-provided education assistance is not included in employee gross income for Massachusetts tax purposes. The revenue lost by not taxing these amounts constitutes a tax expenditure.

All states that impose an income tax adopt the federal exclusion for employer-provided education and training assistance unless they decouple from the Code in that regard. States that adopt the federal exclusion include Connecticut, Maine, New York, Rhode Island, and Vermont. California has its own state-specific exclusion for education and training assistance.

The Commission assumes the goal of the expenditure is to encourage employees to take advantage of employer-provided education and training assistance programs. The Commission agreed to add comments to the form to ensure that the benefit incurred by employers is made clear alongside the benefit to the employees.

The administration of the exclusion for employer-provided education assistance does not present special challenges for DOR. Conformity with the federal exclusion based on the 2022 Code simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers. Note, however, that changes to the federal rules in the future could complicate administration of the exclusion, if Massachusetts law does not conform to those changes.

Members voted to approve the evaluation template for the Employer-Provided Education Assistance as presented.

Christopher Carlozzi led a discussion on the Personal Exemption for Students Aged 19 - 23. This tax expenditure was adopted in 1986 and has an annual revenue impact of \$10 - \$10.6 million during FY22- FY26 with no sunset date.

Massachusetts provides a personal income tax exemption for each of a taxpayer's dependents, as determined under Internal Revenue Code (Code) § 151(c). See M.G.L. c. 62, § 3B(b)(3). The exemption allows taxpayers to reduce their taxable income by \$1,000 for each dependent. The Code's definition of a dependent includes qualifying children and qualifying relatives. See Code § 152(a). Qualifying children generally include a taxpayer's children (or certain specified close relatives) who are under the age of 19 and meet certain other requirements. However, qualifying children also include a taxpayer's children (including specified close relatives) that are full-time students under the age of 24, so long as they otherwise meet the definition of qualifying children. A qualifying relative is a relative (or non-relative that lives with the taxpayer) for whom the taxpayer provides more than half the support and who is not a qualifying child. See Code § 152(d).

The dependent exemption for qualifying children under 19 and qualifying relatives is not considered a tax expenditure for purposes of the Massachusetts Tax Expenditure Budget. This is because the tax expenditure analysis considers the family unit to be the basis of analysis. Taxpayers are assumed to have an obligation to support children and qualifying relatives under 19 and the exemption is not considered to be a special benefit for doing so. However, individuals aged 19 and over are assumed to be capable of supporting themselves, so the exemption applies to older children and qualifying relatives only if they are full-time students between the ages of 19 and 23. The exemption for such children and qualifying

relatives is considered a tax expenditure equal to the amount of personal income tax foregone as a result of allowing the exemption for such dependents

Most states that impose a personal income tax allow exemptions for dependent children who are full-time students between the ages of 19 and 23, including New York, Rhode Island, and Vermont. California and Maine allow credits for such dependents rather than exemptions. Connecticut does not allow an exemption for dependents of any age.

The Commission assumes the goal of the expenditure is to allow taxpayers to continue claiming dependent exemptions for children over 18 and under 24 who are pursuing higher education.

The administration of this exclusion does not present special challenges for the Department of Revenue (DOR). Conformity with federal age requirements for dependents simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers.

The Commission made note, with special attention from Professor Varyani, to keep in mind the changing demographics of the Commonwealth and the significant cost this may incur for the state. Members added this note to the comment section of the evaluation template

Members voted to approve the evaluation template of Personal Exemption for Students Aged 19 – 23 as presented.

Lindsay Janeczek led a discussion on the Exemption for Sales to the Commonwealth. This tax expenditure was adopted in 1967 and has an annual revenue impact of \$96.0-119.2 million during FY22-FY26 with no sunset date.

All retail sales of tangible personal property are subject to sales and use tax unless an exemption applies. M.G.L. c. 64H, § 6(d) provides an exemption for sales to the Commonwealth, its agencies and political subdivisions. The exemption does not apply to sales to other states.

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 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.

Absent the exemption afforded by this tax expenditure, sales to the Commonwealth, its agencies and political subdivisions would be subject to sales and use tax, increasing the cost of government operations.

Most states that impose a sales and use tax provide an exemption for sales to the state and its agencies. Connecticut, Maine, New York, Rhode Island, and Vermont have such an exemption. California does not have such an exemption but allows government organizations to apply for refunds of sales tax paid on certain purchases.

The Commission assumes that the expenditure is intended to reduce the expenses of the Commonwealth, its agencies and political subdivisions, thereby increasing the resources such government organizations have available to devote to their missions.

Administration of the exemption for sales to the Commonwealth, its agencies and political subdivisions does not present any special challenge to taxpayers or the Department of Revenue (DOR). To claim the exemption government organizations must present exemption certificates to vendors. The DOR monitors the exemption when it audits vendors as part of its sales and use tax audit function.

Members voted to approve the evaluation template for the Exemption for Sales in the Commonwealth as presented.

Professor Varyani led a discussion on the Exemption for the American Flag. This tax expenditure was adopted in 1968 and has an annual revenue impact of \$1.0 - \$1.5 million during FY22- FY26 with no sunset date.

All retail sales of tangible personal property are subject to sales and use tax unless an exemption applies. M.G.L. c. 64H, § 6(w) exempts “[s]ales of the flag of the United States.” Sales of other flags, including state flags, are not exempt. Letter Ruling 92-3.

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 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 U.S. flags.

Absent the exemption, all sales of the U.S. flag would be subject to sales and use tax. The revenue foregone as a result of the exemption constitutes a tax expenditure.

Several states provide a sales and use tax exemption for sales of U.S. flags. Connecticut, New York, and Rhode Island provide such an exemption. Vermont exempts sales of U.S. flags to and by non-profit veterans’ organizations. California exempts sales of U.S. flags by non-profit veterans’ organizations. Maine does not have a sales tax exemption for sales of U.S. flags. New Hampshire does not impose a sales and use tax.

The Commission assumes the goal of the expenditure is to promote patriotism by reducing the cost of the U.S. flag to consumers.

Administration of the exemption for the U.S. flag does not present any special challenge to taxpayers or the DOR. Vendors are generally aware of the exemption and do not charge sales tax on sales of U.S. flags. Exemption certificates are not required. The DOR reviews retailers’ sales as part of its sales and use tax audit program.

Professor Varyani made special note that compared to the year which this tax expenditure was enacted, patriotism may be different than that felt today. Additionally of note is commentary denoting that some states provide an exemption for those with nonprofit or veteran status.

Members voted to approve the evaluation template for the Exemption for the American Flag as presented.

Members agreed to reconvene in September. The purpose of the next meeting is to discuss the next batch of tax expenditures. Chairperson Forter thanked members for contributions to the Commission. Chairperson Forter concluded the meeting at 2:03 PM.



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MAURA T. HEALEY
GOVERNOR

KIMBERLEY DRISCOLL
LIEUTENANT GOVERNOR

April 17, 2024

Natasha N. Varyani, Esq.
Boston, MA 02111

Dear Attorney Varyani,

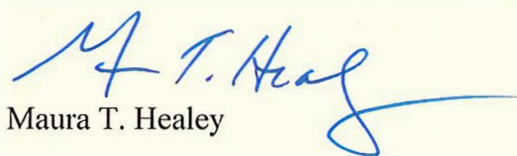
I am pleased to appoint you as a member of the Tax Expenditure Commission, pursuant to Chapter 207 of the Acts of 2018.

Before commencing your responsibilities, you must take an oath of office. The appointment will be void unless that oath is taken within three months of the date of this letter. Consistent with the statute under which you were appointed, your term will expire on July 1, 2026.

Lieutenant Governor Driscoll and I appreciate your willingness to serve the Commonwealth in this capacity.

Congratulations on your appointment.

Sincerely,


Maura T. Healey

cc: Kimberley Driscoll, Lieutenant Governor
William Francis Galvin, Secretary of the Commonwealth
William J. McNamara, Comptroller of the Commonwealth
Matthew Gorkowicz, Secretary of the Executive Office of Administration and Finance



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MAURA T. HEALEY
GOVERNOR

KIMBERLEY DRISCOLL
LIEUTENANT GOVERNOR

May 24, 2024

Thomas A. Downes, Ph.D.
Brookline, MA 02446

Dear Dr. Downes,

I am pleased to appoint you as a member of the Tax Expenditure Commission, pursuant to Chapter 207 of the Acts of 2018.

Before commencing your responsibilities, you must take an oath of office. The appointment will be void unless that oath is taken within three months of the date of this letter. Consistent with the statute under which you were appointed, your term will expire on July 1, 2026.

Lieutenant Governor Driscoll and I appreciate your willingness to serve the Commonwealth in this capacity.

Congratulations on your appointment.

Sin

cerely,

A handwritten signature in blue ink, appearing to read "M. T. Healey", written over a large, stylized blue flourish.

Maura T. Healey

cc: Kimberley Driscoll, Lieutenant Governor
William Francis Galvin, Secretary of the Commonwealth
William J. McNamara, Comptroller of the Commonwealth
Matthew Gorkowicz, Secretary of the Executive Office of Administration and Finance

Tax Expenditure Review Commission Meeting
Tuesday, October 1, 2024
1:00 PM
Via Zoom

Commission Members in Attendance:

- Chairperson Rebecca Forter, MA Department of Revenue
- Lindsay Janeczek, Designee, MA Auditor
- Sue Perez, Designee, MA Treasurer
- Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair
- Amar Patel, Designee, Senate Ways and Means Committee
- Chris Carlozzi, Designee, Senate Minority Leader
- John Keeler, Designee, House Minority Leader

Commission Members Absent:

- Tim Sheridan, Designee, House Ways and Means Committee
- Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
- Professor Natasha Varyani, Governor's Appointee
- Professor Thomas Downes, Governor's Appointee

List of Documents:

- Meeting Agenda
- Draft Minutes
 - June 26, 2024 Meeting
- Presentation of October tax expenditure evaluation ratings, discuss and vote on ratings
 - 1.024 Exemption of Benefits and Allowances to Armed Forces Personnel
 - 1.025 Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits
 - 1.017 Exclusion of Payments Received Under Government Conservation, Reclamation and Restoration Programs (previously Exemption of Cost-Sharing Payments)
 - 1.015 Exemption of Scholarships, Fellowships, and Tuition Reductions
 - 1.016 Exclusion of Certain Prizes and Awards
 - 3.001 Exemption for Sales to the Federal Government

Meeting Minutes:

Chairperson Forter welcomed Commission members, and a quorum was recognized. The meeting via teleconference was called to order at 1:03 PM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for the purpose of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter asked for any comments or changes on the June 26, 2024 draft meeting minutes. Members did not provide any comment. Members voted to approve the June '24 meeting minutes as drafted. The meeting minutes will be posted to the TERC website.

Chairperson Forter led a discussion on the Exemption of Benefits and Allowances to Armed Forces Personnel. This tax expenditure was adopted in 1954 and has a revenue impact of \$14.2 - \$17.4 million per year during FY22 – FY26 with no sunset date.

Due to its reliance on the Internal Revenue Code (Code) for purposes of determining income, Massachusetts excludes from gross income several benefits to members of the armed services, including, under Code § 112, (i) compensation earned by members of the Armed Forces serving in a combat zone and (ii) income received by such individuals who were hospitalized as a result of injury incurred while serving in a combat zone, and under Code § 134, certain qualified military benefits, such as certain medical and disability benefits, moving allowances, dependent care assistance, and certain travel benefits.

All states that impose an income tax adopt the federal exclusion for income received for serving in a combat zone or during hospitalization as a result of injuries incurred during such service, as well as the exclusion for certain benefits to the members of the armed forces, unless those states decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

The Commission assumes the goal of the exclusion is to provide tax relief to members of the Armed Forces for their services generally, and also to those who (i) serve in a combat zone, or (ii) were hospitalized as a result of injury incurred while serving in a combat zone.

The administration of the exclusion for qualifying benefits and for income received by Armed Forces members for serving in a combat zone or during hospitalization as a result of injuries incurred during such service does not present special challenges for DOR. Payors of such income will identify it as excludable on Form W-2. Conformity with the federal exclusion based on the 2024 Code simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

Members voted to approve the evaluation template for the Exemption of Benefits and Allowances to Armed Forces Personnel as presented. Members agreed that this tax expenditure should not be flagged for legislative review.

Lindsay Janeczek led a discussion on the Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits. This tax expenditure was adopted in 1958 and has a revenue impact of \$49.7 - \$69.5 million per year during FY22 – FY26 with no sunset date.

Federal law provides that “[p]ayments of benefits due or to become due under any law administered by the Secretary [of Veterans Affairs] . . . made to, or on account of, a beneficiary shall be exempt from taxation.” 38 U.S.C. 5301(a)(1). The preemption applies for both federal and state tax purposes. As a result of this preemption, Massachusetts is not permitted to impose income tax on veterans’ disability pensions, disability compensation, and G.I. benefits. Note that the exemption does not apply to ordinary pensions received for serving in the military. There is no provision in the Internal Revenue Code (Code) or the Massachusetts General Laws specifically adopting the federal preemption.

Federal law prevents the federal government or any state from imposing an income tax on veterans’ disability pensions, disability compensation, and G.I. benefits.

The Commission assumes the goal of the federal law exempting veterans’ disability pensions, disability compensation and G.I. benefits from taxation is to prevent such benefits from being diminished by subjecting them to income tax.

The administration of the exclusion for military disability income does not present special challenges for DOR. Such income is not reported as taxable on Forms W-2 or 1099 for either federal or state purposes and is therefore distinguishable from other income. Conformity with the federal preemption simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

Members voted to approve the evaluation template for the Exemption of Veterans’ Pensions, Disability Compensation and G.I. Benefits as presented. Members agreed that this tax expenditure should not be flagged for legislative review.

Stephen Maher led a discussion on the Exclusion of Payments Received Under Government Conservation, Reclamation and Restoration Programs (previously Exemption of Cost-Sharing Payments). This tax expenditure was adopted in 1978 and has a revenue impact of \$0.4 million per year during FY22 – FY26 with no sunset date.

Due to Massachusetts’ reliance on the Internal Revenue Code (Code) for purposes of determining income, property owners may exclude from income certain payments they receive for participating in designated conservation, reclamation, and restoration programs.

All states that conform to the Code for income tax purposes provide an exclusion for payments received under government conservation, reclamation, and restoration programs, unless they specifically decouple from the Code in that regard. The Commission is not aware of any states that have decoupled.

The Commission assumes that the goal of the expenditure is to encourage taxpayers to participate in conservation, reclamation and restoration programs.

The administration of the exclusion for payments from government conservation, reclamation and restoration programs does not present any special challenges for the Department of Revenue (DOR). Conformity with the federal exclusion simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for employers and employees.

Members voted to approve the evaluation template for the Exclusion of Payments Received Under Government Conservation, Reclamation and Restoration Programs with a change to Somewhat Agree on the question of whether the tax expenditure is primarily beneficial to small businesses. Members agreed that this tax expenditure should not be flagged for legislative review.

Chairperson Forter led a discussion on the Exemption of Scholarships, Fellowships, and Tuition Reductions. This tax expenditure was adopted in 1954 and has a revenue impact of \$43 - \$55 million per year during FY22 – FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, qualifying scholarships, fellowship grants, and tuition reductions are excluded from Massachusetts gross income.

All states that adopt the Code for individual income tax purposes allow an exclusion for qualifying scholarships, fellowship grants, and tuition reductions unless they have specifically decoupled from the Code in that regard. The Commission is not aware of any state that has decoupled.

The Commission assumes the goal of the expenditure is to incentivize formal education by helping students defray its costs.

The administration of this exclusion does not present any special challenges for the Department of Revenue (DOR). Educational institutions must provide most students with IRS Form 1098-T (tuition statement), which includes a box for scholarships or fellowship grants. Taxpayers are instructed to include taxable portions of scholarships, fellowship grants, and tuition reductions in federal gross income. The Internal Revenue Service (IRS) uses this information to monitor compliance with Code § 117(a) and (d) and shares the results with the DOR. The Commission assumes that the consistency of treatment of qualifying scholarships, fellowship grants, and tuition reductions for federal and Massachusetts purposes also eases the compliance burden for taxpayers

Members voted to approve the evaluation template for the Exemption of Scholarships, Fellowships, and Tuition Reductions as presented. Members agreed that this tax expenditure should not be flagged for legislative review.

Amar Patel led a discussion on the Exclusion of Certain Prizes and Awards. This tax expenditure was adopted in 1954 and has a revenue impact of \$3- \$4 million per year during FY22 – FY26.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, prizes for achievements in specified fields and certain cash payments received for participating in the Olympics or Paralympics are excluded from Massachusetts gross income.

All states that adopt the Code for individual income tax purposes allow the federal exclusion for achievement prizes, unless they have specifically decoupled from the Code in that regard. The Commission is not aware of any state that has decoupled.

The Commission assumes the goal of the expenditure is to avoid having taxes diminish the value of certain prizes and awards.

The administration of this exclusion presents some challenges for the Department of Revenue (DOR). Olympic and Paralympic medals and prizes are required to be reported by the payor on Form 1099-Misc, but it is not necessarily the case that the value of other prizes will be reported on 1099s or W-2s. Individual audits may be required to monitor the exclusion. However, conformity with the federal exclusion simplifies tax compliance and administration of the exclusion by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. Further, such conformity allows the DOR to use audit results shared by the Internal Revenue Service (IRS) to monitor the exclusion.

Members agreed to approve the evaluation template for the Exclusion of Certain Prizes and Awards with an additional comment noting that this tax expenditure is complicated to administer and monitor because many of the prizes and awards are not reported. Members agreed that this tax expenditure should not be flagged for legislative review.

Chairperson Forter led a discussion on the Exemption for Sales to the Federal Government. This tax expenditure was adopted in 1968 and has a revenue impact of \$50.9 – \$62.4 million per year during FY22 – FY26 with no sunset date.

Sales to the federal government and its agencies are not subject to the sales and use tax because the US Constitution prohibits states from taxing such sales. The prohibition is effectuated by an exemption set out in the Massachusetts sales and use tax statutes.

The US Constitution prohibits any state from imposing a sales and use tax on sales to the federal government or its agencies.

There is no policy goal of the tax expenditure. The statute merely prevents Massachusetts from purporting to impose an unconstitutional tax on sales to the federal government and its agencies.

The sales and use tax rules for sales to the federal government and its agencies are administered through the Department of Revenue (DOR) audit function. The DOR has issued exemption certificates (Form ST-5), that the federal government and its agencies may present to vendors to claim the Massachusetts statutory exemption. The federal government and its agencies generally decline to present such certificates. Thus, the DOR must audit vendors to ensure that they are properly excluding sales to the federal government from taxable receipts.

Members agreed to approve the evaluation template for Exemption for Sales to the Federal Government with an additional comment noting that this is not really an expenditure because the Commonwealth has no choice but to exempt these sales. Sales to the federal government and its agencies are not subject to the sales and use tax because the US Constitution prohibits states from taxing such sales. The prohibition is effectuated by an exemption set out in the Massachusetts sales and use tax statutes. Administration of the expenditure is challenging because the federal government and its agencies generally decline to present exemption certificates, meaning that DOR must audit vendors to ensure that they are properly excluding sales to the federal government from taxable receipts. Members agreed that this tax expenditure should not be flagged for legislative review.

Members agreed to reconvene in November. The purpose of the next meeting is to discuss the next batch of tax expenditures. Chairperson Forter thanked members for contributions to the Commission. Chairperson Forter concluded the meeting at 1:35 PM.

Tax Expenditure Review Commission Meeting
Friday, November 22, 2024
1:00 PM
Via Zoom

Commission Members in Attendance:

- Chairperson Rebecca Forter, MA Department of Revenue
- Lindsay Janeczek, Designee, MA Auditor
- Sue Perez, Designee, MA Treasurer
- Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair
- Amar Patel, Designee, Senate Ways and Means Committee
- Chris Carlozzi, Designee, Senate Minority Leader
- Professor Natasha Varyani, Governor's Appointee
- Professor Thomas Downes, 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:

- Meeting Agenda
- Draft Minutes
 - October 1, 2024 Meeting
- Presentation of October tax expenditure evaluation ratings, discuss and vote on ratings
 - 1.203 & 2.204 Excess Natural Resource Depletion Allowance
 - 1.310 & 2.311 Five-Year Amortization of Pollution Control Facilities
 - 1.041 Earnings of Pre-paid and Tuition Savings ("529" plans)
 - 1.427 Prepaid Tuition or College Savings Plan Deduction
 - 1.414 Tuition Tax Deduction
 - 1.425 Student Loan Interest Deduction
 - 3.408 Exemption for Textbooks
 - 1.035 Department of Defense Homeowners Assistance Plan

Meeting Minutes:

Chairperson Forter welcomed Commission members, and a quorum was recognized. The meeting via teleconference was called to order at 1:01 PM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for the purpose of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter noted a change in membership. Stephen Maher will no longer be serving the Commission as the designee for Senator Susan L. Moran, Senate Chair, Joint Revenue Committee. Nicole Manfredi will be serving as the replacement designee. Chairperson Forter welcomed Nicole and Nicole introduced herself.

Chairperson Forter asked for any comments or changes on the October 1, 2024 draft meeting minutes. Members did not provide any comment. Members voted to approve the October '24 meeting minutes as drafted. The meeting minutes will be posted to the TERC website.

Lindsay Janeczek led a discussion on the Excess Natural Resource Depletion Allowance. This tax expenditure was adopted in 1976 and has an annual revenue impact of \$2.8 - \$4.0 million per year for corporate excise filers, and \$0.4 million per year for personal income tax filers during FY22 - FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, taxpayers in extractive industries such as mining or drilling for natural resources may deduct a percentage of gross mining income as a depletion allowance ("percentage depletion") without regard to their cost basis in the income producing property and may continue to claim the depletion allowance even after the cost of the property has been reduced to zero. This method of cost recovery is often more beneficial to taxpayers than the traditional cost recovery method applicable to natural resource property.

All states that impose an individual or corporate income tax adopt the depletion allowance unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the exclusion include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.

The Commission assumes that the tax expenditure is intended to stimulate extractive industries' investment in natural resource property such as mines, wells, and other mineral deposits.

The administration of the depletion percentage method for recovering the cost of natural resource property does not present any special challenges for the DOR. Conformity with the federal system of cost recovery for natural resources simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers and practitioners.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the Excess Natural Resource Depletion Allowance evaluation template with a change from Strongly Agree to Somewhat Agree on the question of whether the amount claimed per taxpayer is meaningful as an incentive/benefit.

Natasha Varyani led a discussion on the Five-Year Amortization of Pollution Control Facilities. This tax expenditure was adopted in 1969 and has an annual revenue impact of \$0.3 million per year for corporate excise tax filers and \$0.0 for personal income tax filers during FY22 - FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, taxpayers may elect to amortize the cost of a certified pollution control facility over a five-year period, potentially allowing for accelerated recovery of these costs.

All states that impose an income tax adopt the amortization unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled. States that adopt the amortization include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.

The Commission assumes the goal of the expenditure is to incentivize the construction of pollution control facilities by allowing accelerated recovery of the cost of such facilities.

The administration of the five-year, or seven-year, amortization of pollution control facilities does not present any special challenges for the DOR. Conformity with the federal treatment simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers and practitioners.

Members discussed why the group of claimants may be small. Members noted that this tax expenditure was adopted in 1969 and that the types of pollution control facilities, and the technology used, has since changed. Members also questioned the potential impact of Governor Healey's ClimateTech Initiative on this tax expenditure.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the Five-Year Amortization of Pollution Control Facilities evaluation template as presented.

Thomas Downes led a discussion on Earnings of Pre-paid and Tuition Savings ("529" plans). This tax expenditure was adopted in 1996 and has an annual revenue impact of \$15.9 - \$37.3 million per year during FY22 - FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, Massachusetts allows an income exclusion for amounts earned by pre-paid tuition programs and tuition savings accounts.

States that conform to the Code for individual income tax purposes provide an exclusion for the earnings of pre-paid tuition programs and tuition savings accounts unless they specifically decouple from the Code in this regard. The Commission is not aware of any states that have decoupled.

The Commission assumes the goal of the expenditure is to encourage taxpayers to save for higher education costs.

The administration of this exclusion does not present any special challenges for the Department of Revenue (DOR). The consistency of treatment of pre-paid tuition programs and tuition savings accounts for federal and Massachusetts purposes allows the DOR and taxpayers to rely on the federal rules and definitions pertaining to such programs and accounts.

Members noted that this tax expenditure is mostly claimed by higher income earners and questioned whether this tax expenditure produces savings or shifts the way in which people save. Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the Earnings of Pre-paid and Tuition Savings ("529" plans) evaluation template with a change from Somewhat Disagree to Somewhat Agree on the question of whether the tax expenditure is claimed by a broad group of taxpayers.

Amar Patel led a discussion on the Prepaid Tuition or College Savings Plan Deduction. This tax expenditure was adopted in 2016 and has an annual revenue impact of \$3.2 - \$3.7 million per year during FY22 - FY26 with no sunset date.

Massachusetts allows taxpayers a deduction of up to \$1,000 per individual or \$2,000 per married couple filing jointly for contributions to an account in a pre-paid tuition program or college savings program.

Many states allow a deduction for contributions to education savings accounts. The amount of the deduction varies. States that allow a deduction include Connecticut (up to \$5,000 for single filers and \$10,000 for joint filers), New York (up to \$5,000 for single filers and \$10,000 for joint filers), and Rhode Island (up to \$500 for single filers and \$1,000 for joint filers). Vermont allows a credit for 10% of contributions up to \$2,500 of contributions by single filers and up \$5,000 of contributions by joint filers. California and Maine do not allow a deduction or a credit.

The Commission assumes the goal of the expenditure is to encourage taxpayers to save for higher education costs.

The administration of the deduction for contributions to pre-paid tuition programs and college savings accounts presents some challenge for the Department of Revenue (DOR) as it is not based on any current federal deduction. However, plan sponsors are required to report contributions, earnings and withdrawals with respect to such programs and plans for both state and federal purposes. Such reporting assists the DOR in monitoring the deduction and helps taxpayers comply with the rules pertaining to the deduction.

Members agreed that this tax expenditure should not be flagged for legislative review. Members discussed the similarities between this tax expenditure and the Earnings of Pre-paid and Tuition Savings

("529" plans) and agreed to reconcile evaluation template ratings. Members voted to approve the Prepaid Tuition or College Savings Plan Deduction evaluation template with a change from Strongly Agree to Somewhat Agree on the question of whether the tax expenditure's benefit justifies its fiscal cost and a change from Somewhat Agree to Somewhat Disagree on the question whether the tax expenditure is primarily beneficial to lower income taxpayers.

Chairperson Forter led a discussion on the Tuition Tax Deduction. This tax expenditure was adopted in 1996 and has an annual revenue impact of \$17.4 - \$17.7 million per year during FY22 - FY26 with no sunset date.

A deduction is allowed for tuition payments made by taxpayers, for themselves or their dependents, for programs that would lead to a degree or certificate from a two or four-year college. The deduction is equal to the amount by which the net tuition payments exceed 25% of the filer's Massachusetts adjusted gross income.

Few states offer a deduction for tuition payments. New York allows a credit of up to \$400 or an itemized deduction of up to \$10,000 for tuition payments, with no income limitations. Maine allows a credit of up to \$3,500 for student loan repayments made by low-income taxpayers. No deduction is available in California, Connecticut, Rhode Island, or Vermont.

The Commission assumes the goal of the expenditure is to decrease the financial barriers to higher education by helping students and their parents defray tuition costs.

The administration of the tuition deduction presents some challenge for the Department of Revenue (DOR). As there is no corresponding federal deduction, the DOR cannot rely on federal enforcement measures to monitor the deduction. However, there are federal credits for tuition. Educational institutions must provide most students with a US Form 1098-T (tuition statement) for purposes of reporting these credits. Form 1098-T includes a box for payments received for qualified tuition. This information can be used to monitor compliance with the Massachusetts tuition deduction.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the Tuition Tax Deduction evaluation template as presented.

Sue Perez led a discussion on the Student Loan Interest Deduction. This tax expenditure was adopted in 1999 and has an annual revenue impact of \$15.6 - \$17.5 million per year during FY22 - FY26 with no sunset date.

Massachusetts allows two alternative deductions for student loan interest. The first is the deduction for student loan interest allowed under the Internal Revenue Code (Code), to which Massachusetts conforms. The Code allows a deduction of up to \$2,500 of interest paid on loans used to pay for undergraduate or graduate education, subject to income limitations. The second deduction is a

Massachusetts deduction that applies to interest on undergraduate student loans. This deduction is not limited in amount and is not subject to income limitations. Taxpayers cannot take both deductions for the same interest payments.

Most states that adopt the Code for individual income tax purposes allow the federal deduction of up to \$2,500 for student loan interest. California, Connecticut, Maine, Rhode Island, and Vermont allow such a deduction. New York allows an uncapped deduction for interest on undergraduate student loans similar to the second Massachusetts deduction summarized above.

The Commission assumes the goal of the expenditure is to decrease the financial barriers to higher education by helping students defray interest expenses related to student loans.

The administration of this expenditure does not present any special challenges for the Massachusetts Department of Revenue (DOR). Conformity with the federal deduction simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. Although the second Massachusetts deduction is not based on the Code, it poses no particular administrability challenge. Educational institutions must provide students with a US Form 1098-E, which includes a box for student loan interest. DOR can use this information to monitor compliance with both deductions.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the Student Loan Interest Deduction evaluation template with an additional comment noting that it may be worthwhile to evaluate the state and federal expenditures separately when this tax expenditure is revisited by the Commission during the next evaluation cycle.

Thomas Downes led a discussion on the Exemption for Textbooks. This tax expenditure was adopted in 1968 and has an annual revenue impact of \$10.2 - \$12.2 million per year during FY22 – FY26 with no sunset date

Sales of textbooks and other books required for instructional purposes at educational institutions are exempt from sales and use tax.

States vary in their sales and use tax treatment of textbooks required for courses at educational institutions. The Massachusetts exemption is broader than similar exemptions in most other states. For example, Connecticut, New York, and Rhode Island generally limit the exemption to college-level textbooks. A substantial number of states, including California, Maine and Vermont do not provide any exemption for textbooks.

The Commission assumes the goal of the expenditure is to help defray the cost of course materials that students are required to purchase for classes at educational institutions.

The administration of the exemption for textbooks and other books required for courses at educational institutions presents some challenge for the Department of Revenue (DOR). Vendors of textbooks at the retail level are likely to have a variety of exempt and non-exempt sales. The only way to monitor the exemption is by auditing vendors. However, vendors are generally aware of the exemption for textbooks and take steps to collect sales and use tax appropriately. Thus, although audits are necessary to monitor compliance with the exemption, the DOR does not view non-compliance as a widespread problem. Vendors should maintain adequate records to demonstrate that exempt sales were properly classified in the case they are audited.

Members discussed that reducing the cost of textbooks for low-income students, and thus reducing the cost of attending college, is a reasonable goal. But that this exemption is a blunt tool to do that. At the K-12 level, most public schools do not require students to purchase books. Any benefits to consumers go disproportionately to higher-income families. Private schools are more likely to require purchases. At the college level, attendees tend to have higher lifetime incomes. Further, given that demand for textbooks has become increasing elastic, a significant portion of benefits goes to textbook publishers and, to a lesser extent, authors. Nevertheless, an important group of lower-income students find textbooks prohibitively expensive. With the growth of electronic books, a better strategy to support those students may be to provide the libraries of public colleges and universities with the resources to make electronic versions of textbooks available for students.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the Exemption for Textbooks evaluation template as presented.

Chairperson Forter led a discussion on the Department of Defense Homeowners Assistance Plan. This tax expenditure was adopted in 1984 and has an annual revenue impact of \$0.0 - \$0.2 million per year during FY22 - FY26 with no sunset date.

Due to Massachusetts' conformity with the Internal Revenue Code (Code), Massachusetts adopts the federal exclusion for qualified military base realignment and closure fringe benefits paid by the Department of Defense (DOD) to military personnel, eligible civilian personnel, or their spouses. Such benefits are paid to eligible individuals to compensate them for certain losses incurred on the sale of their homes as a result of having to move because of base closures or injury related to military service.

States that conform to the Code for individual income tax purposes allow the federal exclusion for qualified military base realignment and closure fringe benefits, unless they decouple from the Code in that regard. The Commission is not aware of any state that has decoupled.

The Commission assumes the goal of the expenditure is to allow the DOD to make tax-free payments to military personnel, eligible civilian personnel, or their spouses, to compensate such individuals for loss of home property values owing to relocation resulting from military base closures or because of injury from military service.

The administration of the exclusion for qualified military base realignment and closure fringe benefits does not present any special challenges for the Department of Revenue (DOR) as it is based on a federal exclusion that is monitored by the Internal Revenue Service (IRS). The Commission assumes that the consistency of treatment of such payments for federal and Massachusetts purposes also eases the compliance burden for taxpayers.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the Department of Defense Homeowners Assistance Plan evaluation template as presented.

Members agreed to reconvene in January. The purpose of the next meeting is to discuss the next batch of tax expenditures. Chairperson Forter thanked members for their contributions to the Commission and concluded the meeting at 2:09 PM.

Tax Expenditure Review Commission Meeting
Thursday, January 30, 2025
1:00 PM
Via Zoom

Commission Members in Attendance:

- Chairperson Rebecca Forter, MA Department of Revenue
- Lindsay Janeczek, Designee, MA Auditor
- Chris Carlozzi, Designee, Senate Minority Leader
- Professor Natasha Varyani, Governor's Appointee
- Professor Thomas Downes, Governor's Appointee
- John Keeler on behalf of Representative Michael Soter, Designee, House Minority Leader
- Katie Verra, Designee, Senate Ways and Means Committee

Commission Members Absent:

- Tim Sheridan, Designee, House Ways and Means Committee
- Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
- Sue Perez, Designee, MA Treasurer
- Vacant (House Chair, Joint Committee on Revenue)
- Vacant (Senate Chair, Joint Committee on Revenue)

List of Documents:

- Meeting Agenda
- Draft Minutes
 - November 22, 2024 Meeting
- Presentation of January tax expenditure evaluation ratings, discuss and vote on ratings
 - 1.311 & 2.313 Deduction and Seven Year Amortization for Reforestation
 - 1.608 & 2.608 Brownfields Credit
 - 3.412 Exemption for Sales of Building Materials and Supplies to be Used in Connection with Certain Construction Contracts
 - 3.608 Exemption for Gifts of Scientific Equipment
 - 1.032 Employer-Provided Adoption Assistance
 - 1.036 Survivor Annuities of Fallen Public Safety Officers

Meeting Minutes:

Chairperson Forter welcomed Commission members, and a quorum was recognized. The meeting via teleconference was called to order at 1:03 PM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for the purpose of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter noted changes in membership. Amar Patel, designee for Senate Ways and Means, will be out on leave until April 7, 2025. Katie Verra (Deputy General Counsel) will attend on behalf of Amar Patel while he is on leave. Commission members welcomed Katie Verra. TERC members include the House and Senate chairs of the Joint Committee on Revenue. There are no members appointed in the current General Court at the time of this meeting. The previous Senate chair was Susan Moran. The previous House chair was Mark Cusack.

Chairperson Forter asked for any comments or changes on the November 22, 2024 draft meeting minutes. Members did not provide any comment. Members voted to approve the November '24 meeting minutes as drafted. The meeting minutes will be posted to the TERC website.

Tom Downes led a discussion on the Deduction and Seven Year Amortization for Reforestation. This tax expenditure was adopted in 1983 for purposes of the personal income tax, and 1980 for purposes of the corporate excise and has an annual revenue impact of \$0.2 million for personal income tax and \$0.2 million for corporate excise during FY22-FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) § 194(b) for purposes of determining income, taxpayers may elect to deduct up to \$10,000 of "reforestation expenditures" incurred with respect to qualified timber property in the year in which expenditures are incurred. The deduction applies to both the personal income tax and to the net income measure of the corporate excise. See M.G.L. c. 62 §§ 1(c), 2(d)(1); M.G.L. c. 63, § 30.4. If reforestation expenditures exceed \$10,000, taxpayers may amortize the excess over a seven-year period. The amortization deduction has no dollar limit. See Code § 194(a). Trusts are not eligible for the deduction but may elect seven-year amortization for such expenses. See Code § (b)(1)(B)(iii).

Qualified timber property is a "woodlot or other site located in the United States" used for the "planting, cultivating, caring for, and cutting of" a commercial volume of trees for the purpose of producing timber products. See Code § 194(c). The property must be at least one acre in size. Reforestation expenditures include the direct costs of forestation or reforestation, such as site preparation, seeds, labor, and equipment. See Code § 194(c).

All states that impose an income tax based on federal adjusted gross income adopt the \$10,000 deduction and seven-year amortization deduction for forestation or reforestation expenses unless they decouple from the Code in that regard. States that adopt the deduction and seven-year amortization include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. Note that California limits its conformity to expenditures on timber property located within the state. New Hampshire does not have a personal income tax but conforms to Code § 194 for the purpose of its corporate income tax.

The Commission assumes the goal of the expenditure is to incentivize forestation and reforestation.

The administration of the deduction and seven-year amortization of forestation and reforestation expenses does not present any special challenges for the DOR. Conformity with the federal treatment simplifies tax compliance and administration by allowing the same general rules and definitions to be

used for Massachusetts and federal purposes. DOR assumes that this consistency of treatment also eases the compliance burden for taxpayers and practitioners.

Members noted that to be eligible for the deduction, the taxpayer must be cultivating a commercial volume of trees. Members discussed how this tax expenditure's beneficiaries extend far beyond the taxpayers claiming the deduction.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the evaluation template for the Deduction and Seven-Year Amortization for Reforestation as presented.

Natasha Varyani led a discussion on the Brownfields Credit. This tax expenditure was adopted in 1998 and has an annual revenue impact of \$2.3 - \$2.8 million for personal income tax, and \$22.2 - \$26.4 million for corporate and business excise during FY22 – FY26 with no sunset date.

Massachusetts allows a credit for costs incurred in remediating contamination of real estate. See M.G.L. c. 62, § 6 (j); M.G.L. c. 63, § 38Q. The credit may be claimed by personal income taxpayers, business corporations or non-profit corporations. The credit is available for expenses incurred to remediate contaminated property in Massachusetts. To claim the credit a taxpayer must commence and diligently pursue an environmental response action and achieve and maintain a permanent solution or remedy operation status in compliance with M.G.L. c. 21E, § 2. The taxpayer must complete the cleanup in compliance with standards set out by the Massachusetts Department of Environmental Protection (DEP). The contaminated property must be owned or leased for business purposes by the claimant and must be located within an economically distressed area. The remediation must be commenced on or before August 5, 2028 and eligible costs that qualify for the credit must be incurred before January 1, 2029.

The credit is equal to either 25% or 50% of the taxpayer's net response and removal costs, depending on whether any limitations on the use of the property remain after remediation. The taxpayer's net response and removal costs are the eligible costs less any reimbursement received by the taxpayer. Unused credit may be carried forward for up to five years. Taxpayers may sell, transfer or assign the credit. The credit may be carried forward for up to 5 years.

Few other states allow a credit similar to the Brownfields Credit. No credit is available in California, Connecticut, Maine, New Hampshire, Rhode Island, or Vermont. However, New York allows a similar credit.

The Commission assumes the goal of the credit is to promote clean-up of contaminated property in Massachusetts in accordance with standards set out by the Massachusetts Department of Environmental Protection (DEP).

The administration of the Brownfields Credit presents challenges for the Department of Revenue (DOR). DOR is responsible for administering the credit. Verification of eligible expenses often raises technical environmental matters that require specialized expertise. DOR audits the credit as part of its personal income tax and corporate excise audit processes.

Members noted that (i) this credit has no cap and therefore the fiscal impact of the credit is unpredictable, (ii) there is administrative complexity in the fact that DEP regulations determine eligibility

for the credit but the statute tasks DOR with reviewing applications and granting credits, requiring DOR to develop technical expertise.

Members agreed that this tax expenditure should be flagged for legislative review. Members voted to approve the evaluation template for the Brownfields Credit as presented. Chris Carlozzi abstained.

Lindsay Janeczek led a discussion on the Exemption for Sales of Building Materials and Supplies to be Used in Connection with Certain Construction Contracts. This tax expenditure was adopted in 1967 and has an annual revenue impact of \$352.2 - \$375.1 million during FY22 – FY26 with no sunset date.

Massachusetts allows a sales and use tax exemption for the sale of building materials and supplies used by contractors in fulfilling construction contracts with federal and Massachusetts government entities or with corporations, foundations, organizations or institutions that are exempt from taxation under Internal Revenue Code § 501(c)(3). M.G.L. c. 64H, § 6(f). The exemption also applies to construction equipment that contractors rent for exclusive use in such construction contracts.

For purposes of the exemption, a construction contract is an agreement that will result in the construction, reconstruction, repair, or remodeling of certain building structures, public highways, bridges, or other public works. Exempt building materials and supplies include materials that will be incorporated into building structures (e.g., concrete or steel) and supplies that will be consumed in fulfilling the contract (e.g., fuel used to operate construction equipment). The exemption does not apply to items used by the contractor to administer the construction contract (e.g., telecommunications services or office equipment).

With respect to construction contracts with the federal government, Massachusetts or any political subdivision thereof, or their respective agencies, sales of building materials and supplies are generally exempt if the building structure, public highway, bridge or other public works under construction is owned by or held in trust for the benefit of the governmental entity and used exclusively for public purposes. With respect to construction contracts with a corporation, foundation, organization or institution that is tax-exempt under Internal Revenue Code § 501(c)(3), sales of building materials and supplies are generally exempt if the building structure under construction is owned by or held in trust for the benefit of the tax-exempt entity and used exclusively in the conduct of its religious, scientific, charitable or educational purposes. Further, the property must be used for the owner's governmental or tax-exempt purposes.

Most states that impose a sales and use tax allow an exemption for sales of building materials and supplies used in construction contracts with the federal government, their own state's government and tax-exempt organizations. Connecticut, Maine, New York, Rhode Island and Vermont allow such an exemption. California allows exemption for federal construction projects but generally taxes building materials and supplies used in state and local construction contracts and contracts with tax-exempt organizations.

The Commission assumes that the expenditure is intended to reduce the cost of construction projects funded by government entities and tax-exempt organizations, thereby increasing the resources such entities and organizations have available to devote to their missions.

The exemption for building materials and supplies used in construction contracts with government entities and tax-exempt organizations is administered through the DOR audit function. To facilitate the exemption the DOR issues Certificates of Exemption, Forms ST-2 to exempt organizations and entities upon request. The Form ST-2 documents the organizations' and entities' exempt status. Furthermore, the purchasing entities must generally complete either a Sales Tax Exempt Purchaser Certificate, Form ST-5, or a Contractor's Sales Tax Exempt Purchase Certificate, Form ST-5C and provide the forms to vendors at the time of purchase in order to claim the exemption. However, DOR must audit vendors and contractors to ensure that they are applying the exemption correctly.

Members noted this tax expenditure was adopted in 1967 which led to a discussion regarding the age of some Massachusetts' tax expenditures. Members agreed that age could be used as a factor for deciding which expenditures are flagged for legislative review. Members also noted that higher education institutions are eligible for the exemption.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the evaluation template for the Exemption for Sales of Building Materials and Supplies Used in federal and Massachusetts Government Construction Contracts and Construction Contracts with Tax Exempt Organizations as presented.

John Keeler led a discussion on the Exemption for Gifts of Scientific Equipment. This tax expenditure was adopted in 1983 and has an annual revenue impact of under \$50,000 during FY22 – FY26 with no sunset date.

Chapter 64H, Section 2 of the Massachusetts General Laws imposes a sales tax on retail sales of tangible personal property. A sale is defined as any transfer of title or possession for consideration. G.L. c. 64H, § 1(12)(a). Massachusetts provides a sales and use tax exemption for donations of scientific equipment or apparatus by manufacturers to non-profit educational institutions, to the Massachusetts Technology Park Corporation, or to the Bay State Skills Corporation. Although donations of tangible personal property are not subject to the sales or use tax because donations are not "for consideration," without this exemption the sales tax would be imposed upon otherwise exempt inputs required to make the tangible personal property. A manufacturer's purchase of inputs such as materials, tools, fuel, and machinery to be used in the manufacture of tangible personal property to be sold is exempt from the sales and use tax under G.L. c. 64H, § 6(r) and (s). To claim the exemption the manufacturer presents an exempt use certificate when purchasing the inputs and the sales and use tax is imposed upon the subsequent sale of the manufactured products (in this case, scientific equipment or apparatus) by the manufacturer, unless an exemption applies. However, if after presenting the certificate, the manufacturer donates the manufactured products instead of selling them, the manufacturer is required to pay sales tax on the cost of the inputs for which the manufacturer previously claimed an exemption. M.G.L. c. 64H, §§ 8 (h). See also Letter Ruling 84-62. Donation of manufactured equipment would trigger the sales tax if not for the exemption. The revenue foregone as a result of the exemption constitutes a tax expenditure.

The Commission is not aware of any state that has a specific exemption for donations of scientific equipment. However, several states, including California, Connecticut, Maine, New York, and Vermont

allow broader exemptions for donations of any tangible personal property by vendors to tax-exempt organizations.

The Commission assumes the goal of the exemption is to allow manufacturers to donate scientific equipment to public and private nonprofit educational institutions without incurring sales and use tax.

The exemption for donations of scientific equipment presents some challenge to the Department of Revenue (DOR) because no certificate or other documentation is required to claim the exemption, and the recipient of the donation will be a tax-exempt entity with no sales and use tax filing requirement. Thus, the exemption can be verified only by auditing manufacturers.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the evaluation template for the Exemptions for Gifts of Scientific Equipment with a change from Strongly Disagree to Somewhat agree on the question of whether the tax expenditure is easily administered.

Chris Carlozzi led a discussion on the Employer-Provided Adoption Assistance. Massachusetts conformed to the federal expenditure as of 2022. This tax expenditure has an annual revenue impact of under \$50,000 during FY22 – FY26 with no sunset date.

Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, amounts received by employees through employer-sponsored adoption assistance programs are excluded from Massachusetts gross income. Specifically, Massachusetts adopts Code § 137 (as amended and in effect for the 2024 tax year), which allows the exclusion for federal tax purposes. M.G.L. c. 62, §§ 1, 2(a). The maximum amount of employer-provided adoption benefits that can be excluded is \$16,810 per child, with higher amounts excluded for the adoption of children with special needs. The exclusion amount begins to phase out for taxpayers with income in excess of \$252,150 and is completely phased out when income reaches \$292,150. The limitation amounts are adjusted annually for inflation. See Code § 137(f). The exclusion applies to amounts used for reasonable and necessary adoption fees, court costs, attorney fees, and certain other expenses. Adoption expenses related to surrogacy, or the adoption of a spouse's child are ineligible for the exclusion.

States that conform to the Internal Revenue Code for individual income tax purposes adopt the exclusion for employer-provided adoption benefits, unless they have specifically decoupled from the Code. The Commission is not aware of any state that has decoupled.

The Commission assumes that the goal of the exclusion is to ease the financial burden on taxpayers who adopt children by excluding employer-provided adoption benefits from gross income.

The administration of the exclusion for employer-provided adoption assistance does not present any special challenges for DOR. Conformity with the federal treatment simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers and employers.

Members agreed that this tax expenditure should not be flagged for legislative review. Members vote to approve the evaluation template for the Employer-Provided Adoption Assistance as presented.

John Keeler led a discussion on the Survivor Annuities of Fallen Public Safety Officers. This tax expenditure was adopted in 1958 and has an annual revenue impact of under \$50,000 during FY22 – FY26 with no sunset date.

Due to its reliance on the Internal Revenue Code (Code) for purposes of determining gross income for personal income tax purposes, Massachusetts excludes from income certain payments to eligible survivors of public safety officers killed in the line of duty. Specifically, Massachusetts adopts Code § 101(h), which allows a federal exclusion for annuities paid under a governmental plan. To be treated as an eligible governmental plan, the plan must meet certain funding, participation and anti-discrimination requirements. Public safety officers include law enforcement officers, firefighters, members of rescue squads and members of ambulance crews. Eligible survivors are limited to the spouses and children of public safety officers. See § 101(h)(1)(A). The federal and state exclusion is not allowed in certain circumstances detailed in IRC § 101(h)(2), where the public safety officer was engaged in misconduct or negligence when he or she was killed, or if the survivor contributed to the public safety officer's death.

States that conform to the Code for individual income tax purposes adopt the exclusion unless they have specifically decoupled from the Code in that regard. The Commission is not aware of any state that has decoupled.

The Commission assumes the goal of the exclusion is to ease the financial burden for survivors of public officers killed in the line of duty.

The administration of the exclusion for annuity income paid under a governmental plan to the survivors of public safety officers killed in the line of duty does not present any special challenges for DOR. Conformity with the federal treatment simplifies tax compliance and administration by allowing the same general rules and definitions to be used for Massachusetts and federal purposes. The Commission assumes that this consistency of treatment also eases the compliance burden for taxpayers.

Members agreed that this tax expenditure should not be flagged for legislative review. Members voted to approve the evaluation template for the Exemption for Survivor Annuities for Fallen Public Safety Officers as presented.

Members agreed to reconvene in late February. The purpose of the next meeting is to discuss and vote on the annual report. Chairperson Forter noted that the draft report will be circulated for review in upcoming weeks and thanked members for their contributions to the Commission. The meeting concluded at 2:02 PM.

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 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 data limitations present in this instance.

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.

¹ Called “Opportunity Cost” in economics.

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

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.
11. 3.401 Exemption for Electricity
 - Electricity generation, transmission, and distribution operations may cause noise and air pollution during the process. By encouraging the usage of electricity, this tax expenditure may aggravate negative externalities such as noise and air pollution if there are no other policies to offset the impact.

- Heating fuel production, storage, and distribution operations may cause water, noise and air pollution during the process. By encouraging the usage of heating fuel, this tax expenditure may aggravate negative externalities such as water, noise and air pollution if there are no other policies to offset the impact.
13. 3.403 Exemption for Gas
- Natural gas exploration, drilling, production, storage, and distribution operations may cause water, soil, noise and air pollution during the process, though probably less compared with the production, storage, distribution of other types of fuel. By encouraging the usage of natural gas, this tax expenditure may aggravate negative externalities such as water, soil, noise and air pollution if there are no other policies to offset the impact.
14. 3.404 Exemption for Steam
- By encouraging the usage of steam, 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. 1.423 Commuter Deduction
 - 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.
3. 3.417 Exemption for Commuter Boats / 3.420 Exemption for Sales of Certain New and Used Buses
 - 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, or benefits to each member of the society.
4. 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.
5. 1.606 Septic System Credit
 - By encouraging the repair or replacement of a failed septic system, the expenditure assists to protect public health and environment, which would generate positive externalities, or benefits to each member of the society.

6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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 2021, the Tax Expenditure Review Commission released its first [report](#) to the legislature. The report provided the Commission's review of certain tax expenditures pertaining to commerce, energy and research & development.

In 2022, the Tax Expenditure Review Commission released its second [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.

In 2023, the Tax Expenditure Review Commission released its third [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.

In 2024, the Tax Expenditure Review Commission released its third [report](#) to the legislature. The report provided the Commission's review of certain tax expenditures pertaining to agriculture, commerce, regional development, employment & social services, health, housing, and income security.

Appendix H

Legislative Changes to Tax Expenditures

Fiscal Year 2025

The following tax expenditures have been revised or created due to recent law changes.

Personal Income Tax Changes:

“An Act Making Appropriations for the Fiscal Year 2023 for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects,” “An Act Making Appropriations for the Fiscal Year 2024 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects,” the Fiscal Year 2025 (FY25) Budget, “An Act Relative to the Affordable Homes Act”, “An Act Honoring, Empowering, and Recognizing Our Servicemembers and Veterans”, and “An Act Relative to Strengthening Massachusetts’ Economic Leadership” enacted various changes to the personal income tax.

Repeal of the deduction of interest and dividends from Massachusetts banks (TE Item 1.413)
For taxable years beginning on or after January 1, 2024, personal income taxpayers can no longer deduct interest and dividends from savings deposits, savings accounts, shares or share savings accounts that are in a Massachusetts bank. Prior to the repeal, taxpayers could deduct such interest and dividends in the amount of \$100 for a single person, head of household or a married person filing a separate return, or \$200 for a husband and wife filing a joint return.

Expansion of wagering loss deduction to sports wagering losses (TE Item 1.428)
For taxable years beginning on or after January 1, 2023, the wagering loss deduction has been expanded to allow personal income taxpayers to deduct losses from sports wagering that are incurred from wagers placed through a licensed sports wagering operator. Taxpayers may claim this deduction for sports wagering losses incurred in a calendar year only if they had wagering winnings from any such sports wagering operator, gaming establishment, racing meeting licensee, or simulcasting licensee in the same calendar year. The deduction allowed for sports wagering losses may not exceed the amount of any wagering winnings included in gross income for the calendar year. See TIR 24-6 for more information.

Increase of the annual cap for and extension of the Massachusetts historic rehabilitation credit (TE Item 1.610)
For taxable years beginning on or after January 1, 2024, the Massachusetts historic rehabilitation credit’s annual cap has been increased from \$55 million to \$110 million. The credit was due to expire on December 31, 2027, but has been extended to taxable years ending on or before December 31, 2030.

Increase of the annual cap for and extension of the community investment credit (TE Item 1.617)
For taxable years beginning on or after January 1, 2025, the community investment credit's annual cap has been increased from \$12 million to \$15 million. The credit was due to expire on December 31, 2025, but has been made permanent.

Increase to the Qualified Veterans Hire Tax Credit (TE Item 1.620)
For taxable years beginning on or after January 1, 2024, the amount of credit a business can claim for each qualified veteran it hires has been increased from \$2,000 to \$2,500.

Cranberry Bog Renovation Credit (TE Item 1.623)
Effective for tax years beginning on or after January 1, 2020, taxpayers primarily engaged in cranberry production may claim a nontransferable, refundable credit equal to 25% of expenses incurred in the renovation, repair, replacement, regrading or restoration of a cranberry bog for the cultivation, harvesting or production of cranberries. The Secretary for Energy and Environmental Affairs determines eligible costs and the amount of the credit. The amount of credit that can be claimed by a taxpayer for a taxable year cannot exceed \$100,000. The annual total cap amount is \$2 million. The credit is no longer available for taxable years beginning on or after January 1, 2030.

Temporary authorized training tax credit for emergency assistance (New TE Item 1.629)
Starting with taxable years beginning on or after January 1, 2024, partnerships, limited liability corporations, or other legal entities subject to the personal income tax that provide training to a qualified trainee through an authorized training program may claim a temporary authorized training tax credit for emergency assistance. A qualified individual is an individual receiving benefits through the emergency housing assistance program pursuant to G.L. c. 23B, § 30. To qualify for the credit, a taxpayer must (1) have a place of business in the Commonwealth; (2) conduct an authorized training program in the Commonwealth that is in compliance with recommendations of the Executive Office of Labor and Workforce Development ("EOLWD"); (3) enroll the qualified trainee in an authorized training program on or after April 30, 2024; and (4) meet any additional requirements determined by the Executive Office for Administration and Finance and EOLWD. The credit is equal to \$2,500 for each qualified trainee that receives the training from the entity. The amount of the credit that exceeds the tax due for a taxable year may be carried forward to the subsequent taxable year. The credit is subject to an annual cap of \$10 million. The credit may no longer be claimed as of (1) January 1, 2026; or (2) the taxable year in which the end of the capacity limitation on the emergency shelter assistance program occurs, whichever is sooner. See TIR 24-7 for more information.

Massachusetts homeownership credit (New TE Item 1.630)
Starting with taxable years beginning on or after January 1, 2025, personal income taxpayers may claim a Massachusetts homeownership tax credit in relation to a qualified homeownership development project to the extent authorized by the Executive Director of the Massachusetts Housing Finance Agency ("MHFA"). The credit is non-refundable but is transferrable. The amount of the credit authorized by MHFA cannot exceed the maximum credit amount, which is 35% of the lesser of either: (1) the project's total qualified project expenditures calculated on a per

single-family dwelling basis; or (2) 80% of the area median new single-family dwelling sales price, subject to further limitations established by MHFA. A sponsor cannot claim the credit before the first taxable year stated on the eligibility certificate issued to the sponsor by MHFA. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward for the duration of the qualified homeownership development project's affordability period, which is a 10-year period that begins as of the date of the first sale of a single-family dwelling that was constructed as part of the project. The credit is subject to recapture.

The amount of credits that MHFA can authorize annually cannot exceed the sum of (1) \$10 million; (2) any credit amounts not authorized in the preceding taxable year; and (3) any credits returned to MHFA by a sponsor. Effective January 1, 2030, the amount of credits that can be authorized annually is the sum of (1) any credit amounts not authorized in the preceding taxable year; and (2) any credits returned to MHFA by a sponsor.

Qualified conversion credit (New TE Item 1.631)

Starting with taxable years beginning on or after January 1, 2025, personal income taxpayers may claim a refundable, non-transferable qualified conversion credit in relation to a qualified conversion project that has been certified by the Executive Office of Housing and Livable Communities ("EOHLC"). To claim the credit, a sponsor must submit a project proposal to EOHLC requesting the certification of a housing development project as a qualified conversion project. After certifying the project, EOHLC determines the amount of credit awarded to the sponsor, which cannot exceed 10% of the qualified conversion's project's development costs.

The credit is allowed for the taxable year in which EOHLC notifies the Commissioner of the certified qualified conversion project's completion. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward to any of the 10 taxable years subsequent to the taxable year that the credit was allowed. The credit is subject to recapture.

The credit is no longer available for taxable years ending after December 31, 2029.

Climatetech Tax Incentive Program (New TE item 1.632)

Massachusetts provides a climatetech tax incentive program, which is administered by the Massachusetts clean energy center ("CEC"), in consultation with DOR. The tax incentives consist of three tax credits, the climatetech capital investment tax credit, a refundable climatetech jobs tax credit, and a climatetech qualified research expenses tax credit; as well as a sales and use tax exemption for purchases of tangible personal property to be used for the construction of research, development or manufacturing or other commercial climatetech facilities. The incentives all share an annual cap of \$30 million and are effective for taxable years beginning on or after January 1, 2024.

The climatetech capital investment tax credit is a refundable tax credit available to personal income and corporate excise taxpayers who make capital investments in a climatetech facility. The amount of the credit is determined by the CEC, but cannot exceed 50% of the owner's total capital investment in the facility.

The refundable climatetech jobs tax credit is a refundable tax credit available to personal income taxpayers who commit to creating at least 5 net new jobs in Massachusetts. The amount of credit is determined by the CEC. Where the credit exceeds the taxpayer's liability, 90% of excess credit amount is refunded to the taxpayer.

Live Theater Tax Credit (New TE item 1.633)

The live theater tax credit program is administered by the Massachusetts Office of Business Development, in consultation with DOR. The credit is available to personal income and corporate excise taxpayers. The amount of the credit cannot exceed \$7 million and is equal to (1) 35% of the total in-state payroll costs; (2) 25% of production and performance expenditures; and (3) 25% of transportation expenditures. The credit is not refundable, but is transferrable. Any unused amount of credit may be carried forward to the next 5 taxable years. The annual amount of credits that can be authorized cannot exceed \$7 million.

The credit is effective for taxable years beginning on or after January 1, 2025 and expires on January 1, 2030.

Qualified Internship Tax Credit (New TE item 1.634)

The qualified internship tax credit is available to personal income and corporate excise taxpayers who hire a qualified intern. The credit is equal to the lesser of \$5,000 or 50% of the wages paid to the intern. The annual amount of credits that can be authorized cannot exceed \$10 million. A single employer cannot claim more than \$100,000 in credits in a taxable year.

The credit is effective starting for the taxable year beginning on or after January 1 of the first calendar year following the next fiscal year that closes after November 20, 2024 with a consolidated net surplus of at least \$400 million. The credit expires on January 1 of the sixth tax year following the effective date of the credit.

Corporate Excise Changes:

"An Act Making Appropriations for the Fiscal Year 2024 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects", "An Act Relative to the Affordable Homes Act", "An Act Honoring, Empowering, and Recognizing Our Servicemembers and Veterans", and "An Act Relative to Strengthening Massachusetts' Economic Leadership" enacted various changes to the corporate excise.

Economic Development Incentive Program Credit (TE Item 2.605)

Under the Economic Development Incentive Program (EDIP), the Economic Assistance Coordination Council (EACC) may award tax credits to taxpayers that participate in a "certified project" (as defined in G.L. c. 23A, [§§ 3A](#) and [3F](#)). The amount of credit allowed in each case is determined by the EACC based on numerous factors set forth in G.L. c. 23A, [§ 3D](#), including the number of jobs expected to be created, the amount of capital to be invested, and the net new economic benefit expected to be created. The EACC may designate the credit as refundable for any certified project. Prior to January 1, 2024, the EACC could not annually designate more than \$5 million in refundable credits. This limitation is eliminated effective January 1, 2024.

Increase of the cap for and extension of the Massachusetts historic rehabilitation credit (TE Item 2.610)

For taxable years beginning on or after January 1, 2024, the Massachusetts historic rehabilitation credit's annual cap has been increased from \$55 million to \$110 million. The credit was due to expire on December 31, 2027, but has been extended to taxable years ending on or before December 31, 2030.

Life Sciences Tax Incentive Program (TE Item 2.617)

Effective for taxable years beginning on or after January 1, 2024, the Angel Investor Tax Credit is no longer available. In addition, the annual amount of life science tax incentives that can be authorized has been increased from \$30 million to \$40 million.

Increase of the cap for and extension of the community investment credit (TE Item 2.621)

For taxable years beginning on or after January 1, 2025, the community investment credit's annual cap has been increased from \$12 million to \$15 million. The credit was due to expire on December 31, 2025, but has been made permanent.

Increase to the qualified veterans hire tax credit (TE Item 2.623)

For taxable years beginning on or after January 1, 2024, the amount of credit a business can claim for each qualified veteran it hires has been increased from \$2,000 to \$2,500.

Cranberry Bog Renovation Credit (TE Item 2.625)

Effective for tax years beginning on or after January 1, 2020, taxpayers primarily engaged in cranberry production may claim a nontransferable, refundable credit equal to 25% of expenses incurred in the renovation, repair, replacement, regrading or restoration of a cranberry bog for the cultivation, harvesting or production of cranberries. The Secretary for Energy and Environmental Affairs determines eligible costs and the amount of the credit. The amount of credit that can be claimed by a taxpayer for a taxable year cannot exceed \$100,000. The annual total cap amount is \$2 million. The credit is no longer available for taxable years beginning on or after January 1, 2030.

Temporary authorized training tax credit for emergency assistance (New TE Item 2.629)

Starting with taxable years beginning on or after January 1, 2024, business corporations taxable under G.L. c. 63 that provide training to a qualified trainee through an authorized training program may claim a temporary authorized training tax credit for emergency assistance. A qualified individual is an individual receiving benefits through the emergency housing assistance program pursuant to G.L. c. 23B, § 30. To qualify for the credit, a taxpayer must (1) have a place of business in the Commonwealth; (2) conduct an authorized training program in the Commonwealth that is in compliance with recommendations of the Executive Office of Labor and Workforce Development ("EOLWD"); (3) enroll the qualified trainee in an authorized training program on or after April 30, 2024; and (4) meet any additional requirements determined by the Executive Office for Administration and Finance and EOLWD. The credit is equal to \$2,500 for each qualified trainee that receives the training from the entity. The amount of the credit that exceeds the tax due for a taxable year may be carried forward to the subsequent taxable year. The credit is subject to an annual cap of \$10 million.

The credit may no longer be claimed as of (1) January 1, 2026; or (2) the taxable year in which the end of the capacity limitation on the emergency shelter assistance program occurs, whichever is sooner. See TIR 24-7 for more information.

Massachusetts homeownership credit (New TE Item 2.630)

Starting with taxable years beginning on or after January 1, 2025, taxpayers subject to tax under G.L. c. 63 may claim a Massachusetts homeownership tax credit in relation to a qualified homeownership development project to the extent authorized by the Executive Director of the Massachusetts Housing Finance Agency (“MHFA”). The credit is non-refundable but is transferrable. The amount of the credit authorized by MHFA cannot exceed the maximum credit amount, which is 35% of the lesser of either: (1) the project’s total qualified project expenditures calculated on a per single-family dwelling basis; or (2) 80% of the area median new single-family dwelling sales price, subject to further limitations established by MHFA. A sponsor cannot claim the credit before the first taxable year stated on the eligibility certificate issued to the sponsor by MHFA. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward for the duration of the qualified homeownership development project’s affordability period, which is a 10-year period that begins as of the date of the first sale of a single-family dwelling that was constructed as part of the project. The credit is subject to recapture if MHFA determines that a sponsor or qualified homeownership development project does not qualify for the credit, ceases to qualify for the credit, or did not qualify for the credit at the time they claimed the credit.

The amount of credits that MHFA can authorize annually cannot exceed the sum of (1) \$10 million; (2) any credit amounts not authorized in the preceding taxable year; and (3) any credits returned to MHFA by a sponsor. Effective January 1, 2030, the amount of credits that can be authorized annually is the sum of (1) any credit amounts not authorized in the preceding taxable year; and (2) any credits returned to MHFA by a sponsor.

Qualified conversion credit (New TE Item 2.631)

Starting with taxable years beginning on or after January 1, 2025, taxpayers subject to tax under G.L. c. 63 may claim a refundable, non-transferable qualified conversion credit in relation to a qualified conversion project that has been certified by the Executive Office of Housing and Livable Communities (“EOHLC”). To claim the credit, a sponsor must submit a project proposal to EOHLC requesting the certification of a housing development project as a qualified conversion project. After certifying the project, EOHLC determines the amount of credit awarded to the sponsor, which cannot exceed 10% of the qualified conversion’s project’s development costs. The credit is allowed for the taxable year in which EOHLC notifies the Commissioner of the certified qualified conversion project’s completion. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward to any of the 10 taxable years subsequent to the taxable year that the credit was allowed. The credit is subject to recapture. The credit is no longer available for taxable years ending after December 31, 2029.

Climatetech Tax Incentive Program (New TE Item 2.632)

Massachusetts provides a climatetech tax incentive program, which is administered by the Massachusetts clean energy center (“CEC”), in consultation with DOR. The tax incentives consist of three tax credits, the climatetech capital investment tax credit, a refundable climatetech jobs tax credit, and a climatetech qualified research expenses tax credit; as well as a sales and use tax exemption for purchases of tangible personal property to be used for the construction of research, development or manufacturing or other commercial climatetech facilities. The

incentives all share an annual cap of \$30 million and are effective for taxable years beginning on or after January 1, 2024.

The climatetech capital investment tax credit is a refundable tax credit available to personal income and corporate excise taxpayers who make capital investments in a climatetech facility. The amount of the credit is determined by the CEC, but cannot exceed 50% of the owner's total capital investment in the facility.

The climatetech qualified research expenses tax credit is available to corporate excise taxpayers. The credit amount is based on the taxpayer's qualified research expenses in a manner similar to the standard research expense tax credit. The credit is not refundable, but unused amounts of the credit may be carried forward to the next subsequent 15 taxable years.

Live Theater Credit (New TE Item 2.633)

The live theater tax credit program is administered by the Massachusetts Office of Business Development, in consultation with DOR. The credit is available to personal income and corporate excise taxpayers. The amount of the credit cannot exceed \$7 million and is equal to (1) 35% of the total in-state payroll costs; (2) 25% of production and performance expenditures; and (3) 25% of transportation expenditures. The credit is not refundable, but is transferrable. Any unused amount of credit may be carried forward to the next 5 taxable years. The annual amount of credits that can be authorized cannot exceed \$7 million.

The credit is effective for taxable years beginning on or after January 1, 2025 and expires on January 1, 2030.

Qualified Internship Credit (New TE Item 2.634)

The qualified internship tax credit is available to personal income and corporate excise taxpayers that hire a qualified intern. The credit is equal to the lesser of \$5,000 or 50% of the wages paid to the intern. The annual amount of credits that can be authorized cannot exceed \$10 million. A single employer cannot claim more than \$100,000 in credits in a taxable year.

The credit is effective starting the taxable year beginning on or after January 1 of the first calendar year following the next fiscal year that closes after November 20, 2024 with a consolidated net surplus of at least \$400 million. The credit expires on January 1 of the sixth tax year following the effective date of the credit.

Sales and Use Tax Changes

The FY25 Budget and "An Act Relative to Strengthening Massachusetts' Economic Leadership" enacted the following changes to the sales and use tax.

Repeal of the sales tax exemption for certain publications of tax-exempt organizations (TE Items 3.607)

Effective September 27, 2024, the sales and use tax exemption for sales of publications of any corporation, foundation, organization or institution that is an exempt organization pursuant to Code § 501(c)(3) and described in G.L. c. 64H, § 6(e) is repealed, except in cases where such publications are produced in an accessible format, including, but not limited to, braille, enlarged print, audio or electronic text, for use by individuals unable to read other print due to disability.

Exemption for Sales of Certain Tangible Personal Property Purchased for a Certified Climatetech Company (New TE Item 3.006)

Effective for taxable years beginning on or after January 1, 2024, sales of tangible personal property purchased for a certified climatetech company, to the extent authorized pursuant to the climatetech tax incentive program, for use in connection with the construction, alteration, remodeling, repair or remediation of research, development or manufacturing facilities and utility support systems, are exempt from sales tax.

Qualified Data Center Sales and Use Tax Exemption (New TE Item 3.007)

A sales and use tax exemption is available to the owner or operator of a qualified data center for the purchase of eligible data center equipment, software, electricity used in a qualified data center, and construction costs incurred in the building, renovation, or refurbishment of a qualified data center. For a data center to be qualified, it must meet certain criteria and be certified by the Secretary of the Executive Office of Economic Development ("EOED"). However, EOED will not accept applications for certification until it completes its development, in consultation with DOR, of the required regulations and a standardized application form for the certification of qualified data centers.

Fiscal Year 2024

The following tax expenditures have been revised or created due to law changes.

The Personal Income Tax:

The Fiscal Year 2024 (FY24) Budget and “An Act to Improve the Commonwealth’s Competitiveness, Affordability, and Equity” enacted various changes to the personal income tax.

Increase to the rental deduction (TE Item 1.411)

The rental deduction is equal to half of the rent paid for a principal residence located in Massachusetts in a taxable year up to a certain amount. For tax years beginning on or after January 1, 2023, the maximum amount of the rental deduction is increased to \$4,000 (\$2,000 if married filing a separate return).

Expansion of the commuter deduction (TE Item 1.423)

For tax years beginning on or after January 1, 2023, the commuter deduction has been expanded to include expenses incurred for all Massachusetts Bay Transit Authority (“MBTA”) fares, Massachusetts regional transit authority fares, fares for any commuter boat owned, operated, or contracted by a municipality, public or quasi-public entity, agency, or authority, bikeshare memberships, and the cost of bicycles purchased for commuting (including electric bicycles and bicycle improvements, repairs, and storage).

Deduction for employer-provided student loan payment assistance (New TE Item 1.430)

For tax years beginning on or after January 1, 2023, employees may deduct employer payments of principal or interest on a qualified education loan during the taxable year that have not already been excluded from their federal gross income. Employees claiming the deduction may not claim any other deduction, such as for student loan interest, for the same amounts paid by their employer. See TIR 23-5 for more information on the federal exclusion of employer payments of student loans.

Increase to the lead paint removal tax credit (TE Item 1.602)

Effective for tax years beginning on or after January 1, 2023, the maximum amount of the lead paint removal tax credit has been increased to \$3,000 for each residential unit in which certain accessible materials containing lead, including paint, were removed, contained, or replaced. In addition, the maximum amount of the credit for residential units in which such materials were partially covered or removed has been increased to \$1,000.

Increase in the Massachusetts earned income tax credit – (TE Item 1.605)

Effective for tax years beginning on or after January 1, 2023, the amount of the Massachusetts earned income tax credit (“EITC”) an individual may claim is increased to 40% of the computed federal credit. The credit cannot be claimed by married taxpayers that file separate Massachusetts personal income tax returns. With respect to a taxpayer who is a non-resident for part of the taxable year, the credit must be pro-rated. A taxpayer who is a non-resident for the entire taxable year cannot claim the credit.

Increase to the septic tax credit (TE Item 1.606)

Effective for tax years beginning on or after January 1, 2023, the maximum amount of the septic tax credit taxpayers may claim per taxable year has been increased to \$4,000. The maximum

total credit amount that can be claimed with respect to a particular project is increased to \$18,000. In addition, the percentage of allowable septic system expenditures used to calculate the credit is increased to 60%.

Increase to the low-income housing tax credit cap (TE Item 1.607)

For tax years beginning on or after January 1, 2023, the low-income housing tax credit's annual cap has been increased to \$60,000,000.

Extension of the brownfields tax credit (TE Item 1.608)

The brownfields tax credit, previously scheduled to expire on August 5, 2023, has been extended for five additional years. Under prior law, to qualify for a brownfields tax credit, the taxpayer must have commenced the environmental response action on or before August 5, 2023, and incurred net response and removal costs before January 1, 2024. Under the revisions made by the FY24 Budget, the taxpayer must commence the environmental response action on or before August 5, 2028, and incur net response and removal costs before January 1, 2029.

Increase to the circuit breaker tax credit (TE Item 1.609)

Taxpayers aged 65 or older who own or rent residential property located in Massachusetts are allowed a credit equal to the amount by which their total real estate tax payments, or 25% of their rent in the case of a renter, exceeds 10% of the taxpayer's total income up to a certain amount. Effective for tax years beginning on or after January 1, 2023, the statutory base amount has been doubled, resulting in an increase of the maximum credit to \$2,590. For tax year 2023, an eligible taxpayer's total income cannot exceed \$69,000 in the case of a single filer who is not a head of household filer, \$86,000 for a head of household filer, and \$103,000 for joint filers. In order to qualify for the credit, a taxpayer must be aged 65 or older and must occupy the property as his or her principal residence. See TIR 23-11 for more information.

Increase to the dairy farm tax credit cap (TE Item 1.614)

For tax years beginning on or after January 1, 2023, the dairy farm tax credit's annual cap has been increased to \$8,000,000.

Increase to the certified housing development tax credit cap (TE Item 1.619)

For the 2023 calendar year, the certified housing development tax credit's annual cap has been increased to \$57,000,000. For tax years beginning on or after January 1, 2024, the annual cap is set at \$30,000,000.

Child and family tax credit (New TE Item 1.628)

Starting with tax years beginning on or after January 1, 2023, individuals subject to the personal income tax may claim a refundable, non-transferable child and family tax credit if they maintain a household that includes an individual who is (1) under the age of 13 and who may be claimed as a dependent for purposes of the dependent for exemption as a dependent for federal purposes; (2) a dependent, or the taxpayer's spouse, who is physically or mentally incapable of taking care of himself or herself and principally lives with the taxpayer; or (3) a dependent who is age 65 or over or disabled. For the tax year beginning on or after January 1, 2023, the amount of

the credit is equal to \$310 for each such individual. The credit will be increased to \$440 for each such individual for tax years beginning on or after January 1, 2024.

Other changes:

Reinstatement of the Personal Income Tax Deduction for Charitable Contributions (TE Item 1.415)

For tax years beginning on or after January 1, 2023, a deduction for charitable contributions is available for M.G.L. c. 62 taxpayers. This deduction had been suspended since the 2002 tax year. Pursuant to M.G.L. c. 62, § 1(c), Massachusetts conforms to certain Internal Revenue Code (“Code”) provisions currently in effect, rather than as of a fixed date. Provisions of the Code that Massachusetts will continue to apply on a current basis are those related to:

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

Any changes to those Code sections are automatically adopted in Massachusetts, and any tax expenditure derived from those sections will reflect the impact of any such changes. DOR will continue to review the impact of tax law changes at the federal level and will update future Tax Expenditure Budgets as necessary.

Corporate excise changes:

The Fiscal Year 2024 (FY24) Budget and “An Act to Improve the Commonwealth’s Competitiveness, Affordability, and Equity” enacted various changes to the corporate excise.

Extension of the Brownfields Credit (TE Item 2.608)

The brownfields tax credit, previously scheduled to expire on August 5, 2023, has been extended for five additional years. Under prior law, to qualify for a brownfields tax credit, the taxpayer must have commenced the environmental response action on or before August 5, 2023, and incurred net response and removal costs before January 1, 2024. Under the revisions made by the FY24 Budget, the taxpayer must commence the environmental response action on or before August 5, 2028, and incur net response and removal costs before January 1, 2029.

Increase to the low-income housing tax credit cap (TE Item 2.609)

For tax years beginning on or after January 1, 2023, the low-income housing tax credit's annual cap has been increased to \$60,000,000.

Increase to the dairy farm tax credit cap (TE Item 2.618)

For tax years beginning on or after January 1, 2023, the dairy farm tax credit's annual cap has been increased to \$8,000,000.

Increase to the certified housing development tax credit cap (TE Item 2.622)

For the 2023 calendar year, the certified housing development tax credit's annual cap has been increased to \$57,000,000. For tax years beginning on or after January 1, 2024, the annual cap is set at \$30,000,000.

The following tax expenditures have been revised or created due to law changes.

The Personal Income Tax:

Pursuant to the Fiscal Year 2023 (FY23) Budget, for tax years beginning on or after January 1, 2022, Massachusetts generally conforms to the Internal Revenue Code (“IRC”) in effect as of January 1, 2022 for personal income tax purposes. Prior to the FY23 Budget, the Massachusetts personal income tax generally conformed to the IRC in effect as of January 1, 2005. The updating of the IRC conformity date triggered changes in Massachusetts’ conformity with numerous federal tax expenditures, as reflected in this Appendix. However, pursuant to M.G.L. c. 62, § 1(c), Massachusetts conforms to certain IRC provisions currently in effect, rather than as of a fixed date. Provisions of the IRC that Massachusetts will continue to apply on a current basis are those related to:

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

Any changes to those IRC sections are automatically adopted in Massachusetts, and any tax expenditure derived from those sections will reflect the impact of any such changes.

Federal Tax Law Changes

The following is a list of Massachusetts tax expenditures that were affected by Massachusetts’ adoption of the IRC in effect on January 1, 2022. Note that although some of these expenditures affect unincorporated business entities, they are not included in the “Corporate and Other Business Excise” section, below, because they will only apply to business taxpayers subject to the personal income tax (e.g., members of pass-through entities). For more information on the

updated IRC conformity date in Massachusetts, please see Working Draft TIR: 23-1, Tax Provisions in the Fiscal Year 2023 Budget, Including Massachusetts Personal Income Tax Code Update.

Exemption of Premiums on Group-Term Life Insurance – IRC § 79(f) (TE Item 1.002)

In 2012, Congress expanded this exemption, allowing employers to transfer excess defined benefit plan assets to group life insurance and allowing the cost of such transfers to be excluded from the gross income of the employee. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, these amounts will be excluded for Massachusetts personal income tax purposes. See IRC § 79(f) (as amended by P.L. 112-141 § 40242(d)).

Exemption of Interest on Life Insurance Policy and Annuity Cash Value Interest – IRC § 101(a)(3), (j) (TE Item 1.003)

Under the 2005 IRC, IRC § 101(a) generally excluded life insurance proceeds from federal gross income. The scope of the federal exclusion was narrowed by legislation enacted after 2005. First, starting in 2006, proceeds in excess of premiums (and other policyholder payments) from employer-owned life insurance contracts were made taxable unless certain exceptions apply. See P.L. 109-280, § 863(a), (c)(1) (adding IRC § 101(j)). Second, starting in 2017, the exclusion was further limited in certain cases where the insurance policy was sold or transferred. See P.L. 115-97, § 13522(a) (amending IRC § 101(a)(2) and adding IRC § 101(a)(3)). Pursuant to the recent adoption of the IRC in effect on January 1, 2022, the Massachusetts personal income tax conforms to the exclusion for insurance proceeds to the same extent it is allowed for federal tax purposes.

Exemption of Workers Compensation Benefits – IRC §§ 101(h), 104(a)(6) (TE Item 1.010)

Beginning in 2015, certain federal and state death benefits paid on behalf of public safety officers who die due to injuries received in the line of duty were excluded from federal gross income. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, such benefits will be excluded for Massachusetts personal income tax purposes. See IRC §§ 101(h), 104(a)(6).

Exemption of scholarships and fellowships – IRC § 117(c)(2) (TE Item 1.015)

Beginning in 2015, amounts received from a comprehensive student work-learning service program were excluded from federal gross income. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, such benefits will be excluded for Massachusetts personal income tax purposes. See IRC § 117(c)(2) (as amended by P.L. 114-113 § 301(a)).

Exemption of Certain Prizes and Awards – IRC § 74(d) (TE Item 1.016)

Beginning in 2016, the value of any medal or prize awarded on account of competition in the Olympics or Paralympics was excluded from federal gross income. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, the value of such awards will be excluded for Massachusetts personal income tax purposes. See IRC § 74(d) (as amended by P.L. 114-239 §2(a)).

Exemption of Benefits and Allowances to Armed Forces Personnel – IRC § 134(b)(6) (TE Item 1.024)

In 2008 Congress amended the IRC to exclude from federal gross income bonus payments made by a state or subdivision to a soldier for the soldier's service in a combat zone. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, such amounts will be excluded for Massachusetts personal income tax purposes. See IRC § 134(b)(6) (as amended by P.L. 110-245 § 112(a)).

Parking and Combined Commuter Highway Vehicle Transportation and Transit Pass (T-Pass) Fringe Benefit – IRC § 132(f) (TE Item 1.030)

IRC § 132(f) excludes from an employee's gross income employer-provided parking, transit pass, and commuter highway vehicle transportation benefits, subject to monthly maximum exclusion amounts. However, the monthly maximum amount for these exclusions differed for Massachusetts and federal purposes because Congress increased the maximum amount after 2005, a change to which Massachusetts did not conform under prior law. Because Massachusetts now adopts the IRC in effect as of January 1, 2022, Massachusetts conforms to this increase and the monthly maximum for these exclusions will be the same for Massachusetts and federal purposes for tax years beginning on or after January 1, 2022. For the 2022 tax year, the monthly maximum exclusion for both Massachusetts and federal purposes is \$280 for employer-provided parking and \$280 for combined transit pass and commuter highway vehicle transportation benefits. For the 2023 tax year, as noted in TIR 22-15, the monthly maximum exclusion will be \$300 for employer-provided parking and \$300 for combined transit pass and commuter highway vehicle transportation benefits. In addition, IRC § 132(f) also excludes from an employee's gross income employer-provided, qualified bicycle commuting reimbursements, subject to monthly maximum exclusion amounts. See P.L. 110-343, § 211. IRC § 132(f)(8) suspends this exclusion for tax years 2018 through 2025. Congress added the exclusion for qualified bicycle commuting reimbursements after 2005 and Massachusetts did not conform to it before the recent change to chapter 62's conformity date. As a result of this change, Massachusetts will exclude from employees' Massachusetts gross income employer-provided, qualified bicycle commuting reimbursements for taxable years beginning on or after January 1, 2026.

Employer-Provided Adoption Assistance – IRC § 137(f) (TE Item 1.032)

Under the IRC in effect on January 1, 2005, to which Massachusetts previously conformed, the federal exclusion for employer-provided adoption expenses was set to expire in 2010. Therefore, under prior law, this expenditure was not available for Massachusetts tax purposes after 2010 even though Congress subsequently delayed IRC § 137's expiration and then, in 2012, codified IRC § 137 permanently. See P.L. 112-240, § 101(a). However, in adopting the IRC in effect as of January 1, 2022, Massachusetts resumes the exclusion of these expenses from gross income. See IRC § 137(f) (as amended by P.L. 111-148 § 10909(a)(2), (b)(2)(j)).

Department of Defense Homeowners Assistance Plan – IRC § 132(a)(8), (n) (TE Item 1.035)
IRC § 132(n) excludes from federal gross income payments received under the United States Department of Defense Homeowners Assistance Plan for the compensation of military personnel and certain civilian employees for a reduction in the fair market value of their homes resulting from military or Coast Guard base closure or realignment. This exclusion was legislatively expanded after 2005 to apply to wounded members of the Armed Forces and their spouses.

Massachusetts conforms to IRC § 132(n), as noted in TIR 05-16. However, because the later expansion of this exclusion was enacted by Congress after 2005, Massachusetts did not previously conform to this later change. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts now conforms to the expansion of the exclusion provided by IRC § 132(n) for tax years beginning on or after January 1, 2022.

Discharge of Indebtedness for Health Care Professionals – IRC § 108(f)(4) (TE Item 1.039)
In 2010, Congress expanded this expenditure to exclude from federal gross income amounts received pursuant to a state student loan repayment or forgiveness program that was intended to provide for increased availability of health care services in underserved or health professional shortage areas. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, such amounts will be excluded for Massachusetts personal income tax purposes. See IRC § 108(f)(4) (as amended by P.L. 111-148 § 10908(a)).

Archer Medical Savings Accounts (MSA) – IRC § 220(d)(2)(A) (TE Items 1.040, 1.420)
In 2020, Congress expanded the definition of qualified medical expenses for the purposes of an Archer MSA. Specifically, amounts paid, or expenses incurred, for certain medicine or drugs without a medical prescription were classified as a qualified medical expense. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts adopts this broadened definition of qualified medical expenses for personal income tax purposes. See IRC § 220(d)(2)(A) (as amended by P.L. 116-136).

Exclusion of Qualified Small Business Stock Capital Gains (TE Item 1.042); Non-Qualified Small Business Stock Capital Gains Tax Rate (TE Item 1.501) – IRC § 1202; M.G.L. c. 62, § 4(c)
IRC § 1202 excludes from federal gross income all of the gain from the sale or exchange of qualified small business stock held for more than 5 years. See IRC § 1202(a)(4) (as amended by P.L. 111-240 § 2011(a), (b)). The exclusion applies to gain on qualified small business stock acquired on or after September 27, 2010. However, under the 2005 IRC, only 50% of the gain was excluded. In adopting the IRC in effect on January 1, 2022, Massachusetts conforms to the 100% exclusion with respect to sales or exchanges of qualified small business stock that occur on or after January 1, 2022. In addition to the exclusion, Massachusetts taxes gain on the sale or exchange of certain small business stock at a reduced rate of 3%. M.G.L. c. 62, § 4(c). The reduced rate is no longer applicable to gain that is eligible for the 100% exclusion as such gain is not included in Massachusetts gross income. However, the reduced rate continues to apply to gain that is not eligible for the federal exclusion (e.g., gain on a sale or exchange of stock that would otherwise qualify for the exclusion but for the fact that it was issued by an S corporation), if all of the requirements for the reduced rate are met.

Treatment of Incentive Stock Options – IRC §§ 83(i), 421-424 (TE Item 1.102)
IRC § 421-424 provides rules for the exclusion of income from incentive stock options. In 2017, Congress added IRC § 83(i), which affects certain stock options. Among other things, IRC § 83(i) permits eligible employees to obtain qualified stock in exchange for the performance of services. Employees were further permitted to defer the recognition of income on the stock for up to 5 years in certain instances. Prior to the adoption of the IRC in effect on January 1, 2022, Massachusetts did not conform to IRC § 83(i), which was not a part of the 2005 IRC. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, taxpayers subject to the personal income tax will be able to defer this income for Massachusetts personal income tax purposes in the same manner as for federal purposes. See IRC §§ 83(i), 421-424 (as amended by P.L. 115-97 § 13603(c)(1)).

Personal Exemption for Students Age 19 or Over – M.G.L. c. 62, § 3B(b)(3) (TE Item 1.407)
A taxpayer may claim a \$1,000 exemption for each individual who qualifies as a “dependent” as defined by reference to IRC § 152. See M.G.L. c. 62, § 3B(b)(3). IRC § 152 defines the term “dependent.” In 2008, Congress (i) narrowed the definition of a dependent for purposes of the federal income tax to exclude individuals who file joint returns, and (ii) permitted taxpayers who are not the parent of a child to claim the child as a dependent, provided that the taxpayer’s adjusted gross income is higher than that of the child’s parent. See IRC § 152(b)(2), (c)(4)(C). Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts will adopt these rules for personal income tax purposes.

Tuition Deduction (Over 25% of Income) – M.G.L. c. 62, § 3B(a)(11) (TE Item 1.414)

Pursuant to M.G.L. c. 62, § 3B(a)(11), a deduction from Massachusetts gross income is allowed for tuition payments made by a taxpayer to a two- or four-year college in which the taxpayer or a “dependent” of the taxpayer is enrolled. The deduction is generally equal to the amount by which the net tuition payments exceed 25% of the taxpayer’s Massachusetts adjusted gross income. See M.G.L. c. 62, § 3B(a)(11). The term “dependent” in the tuition deduction is defined by reference to IRC § 152. As a result, this expenditure will be affected by the changes described above in TE Item 1.407.

Deduction for Clean-Fuel Vehicles and Certain Refueling Property – IRC § 62(a)(14) (TE Item 1.421)

The IRC provisions that this expenditure is tied to were repealed after 2005. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts now conforms to the repeal and will no longer offer this deduction for personal income tax purposes. See IRC § 62(a)(14) (as amended by P.L. 113-295 § 221(a)(34)(C)).

Self-Employed Health Insurance Deduction – IRC § 162(l) (TE Item 1.424)

IRC § 162(l) allows self-employed individuals to deduct the cost of health insurance for themselves, a spouse, dependents and any children not yet age 27. Massachusetts conforms to IRC § 162(l) on a current basis. However, under prior law, Massachusetts conformed to the 2005 IRC definition of “dependent.” Pursuant to the recent adoption of the IRC in effect on January 1, 2022, this expenditure now includes the cost of health insurance for self-employed individuals, their spouses, their “dependents” as defined by the 2022 IRC – see TE Item 1.407 (above) for a discussion of changes to the IRC’s definition of “dependent” between 2005 and 2022 – and any children not yet age 27.

Student Loan Interest Deduction – IRC §§ 127(c)(1) and 221(e); M.G.L. c. 62, § 3B(a)(12) (TE Item 1.425)

The federal Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), P.L. 116-136, § 1102(a), and the Consolidated Appropriations Act of 2021 (“CAA 2021”), P.L. 116-260, excluded payments made by an employer of certain student loans owed by an employee from the employee’s gross income. See IRC § 127(c)(1). To the extent that the payments are excluded from the employee’s gross income, the employee is not allowed to deduct student loan interest that he or she might otherwise have been able to deduct pursuant to IRC § 221. The exclusion and corresponding denial of the student loan interest deduction expire for tax years beginning on or after January 1, 2026. In addition to following these changes for personal income tax purposes, Massachusetts also adopts the inflation adjustments affecting IRC § 221. See IRC § 221(f) (as amended by P.L. 116-136). Further, M.G.L. c. 62, § 3B(a)(12) allows a deduction from Massachusetts gross income for interest payments on certain undergraduate student loans, including those interest payments made on behalf of a taxpayer’s dependent. This expenditure will be affected by the changes to the IRC definition of dependent described above in TE Item 1.407. A deduction from Massachusetts gross income may be taken under M.G.L. c. 62, § 3B(a)(12) or IRC § 221, but not both.

Moving expense deduction and exclusion from gross income of qualified moving expense reimbursement – IRC §§ 132(g) and 217 (TE Item 1.429)

IRC § 217 provides a deduction for moving expenses paid or incurred during the taxable year in connection with the commencement of work by a taxpayer as an employee, or as a self-employed individual at a new principal place of work. IRC § 132(g) provides an exclusion from federal gross income for any qualified moving expense reimbursement. However, both the exclusion and deduction are disallowed for tax years beginning on or before December 31, 2025, and reinstated for subsequent tax years. The disallowance does not apply to qualifying members of the Armed Forces. P.L. 115–97 §§ 11048, 11049. Because the suspension of IRC §§ 217 and 132(g) went into effect after January 1, 2005, Massachusetts continued to allow the moving expense deduction and moving expense reimbursement exclusion to all taxpayers, as noted in TIR 18-14. However, pursuant to the recent adoption of the IRC in effect on January 1, 2022, for tax years beginning on or after January 1, 2022 through tax years beginning on or before December 31, 2025, Massachusetts will no longer allow most chapter 62 taxpayers to either (i) exclude qualified moving expense reimbursements from their Massachusetts gross income or (ii) deduct qualified moving expenses. During that period, the deduction and exclusion will be available only to qualifying members of the Armed Forces.

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

M.G.L. c. 62, § 6(y) allows certain taxpayers to claim a credit for eligible dependents. In defining who qualifies as an eligible dependent, M.G.L. c. 62, § 6(y) relies on the IRC § 152 definition of “dependent.” As such, this expenditure will be affected by the changes to IRC § 152 described above in TE Item 1.407.

Dependent Care Expenses Credit – M.G.L. c. 62, § 6(x) (TE Item 1.625)

Massachusetts law converted this expenditure from a deduction to a credit, made available pursuant to M.G.L. c. 62, § 6(x). The credit adopts the rules in IRC § 21, which in turn rely on the IRC § 152 definition of “dependent.” Therefore, this expenditure will be affected by the changes to IRC § 152 described above in TE Item 1.407. See IRC § 152(b)(2), (c)(4)(C).

Educator’s Expense Deduction – IRC § 62(a)(2)(D) (New TE Item)

IRC § 62(a)(2)(D) allows an eligible educator to deduct from federal gross income unreimbursed, qualified expenses (e.g., expenses for books, supplies, and computer equipment used in the classroom; expenses incurred during qualified professional development courses). Under the 2005 IRC the educator’s expense deduction was scheduled to expire on December 31, 2005. See TIRs 05-16 and 07-4. Consequently, the deduction has not been allowed for Massachusetts tax purposes subsequent to 2005. However, the federal deduction was made permanent after 2005. See P.L. 114-113, Title VI, Part 1, § 104. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, eligible educators may deduct qualified expenses under IRC § 62(a)(2)(D), as

described above, for Massachusetts purposes for tax years beginning on or after January 1, 2022. The deduction is limited to an inflation-adjusted amount. See IRC § 62(d)(3). For the 2022 tax year, the deduction is limited to \$300, and, if the educator is married and files a joint return with another eligible educator, the limit rises to \$600 with not more than \$300 deducted per spouse.

Deduction for Whistleblower Attorneys Fees – IRC § 62(a)(21) (New TE Item)

In 2006 and 2021, Congress expanded this expenditure to allow for the deduction of attorney's fees in relation to certain whistleblower lawsuits. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts adopts this expansion for personal income tax purposes. See IRC § 62(a)(21) (as amended by P.L. 109-432 § 406(a)(3) and P.L. 115-123 § 41107(a)).

Exclusion from Gross Income of Discharged Qualified Principal Residence Indebtedness – IRC § 108(a)(1)(E) (New TE Item)

After 2005, Congress amended the IRC to exclude the discharge of indebtedness for a qualified principal residence (i.e., a mortgage) that is discharged before January 1, 2026, or which will be discharged subject to a written arrangement entered into before January 1, 2026. See IRC § 108(a)(1)(E) (as amended by P.L. 110-142 § 2; P.L. 116-260, Division EE, § 114). Pursuant to the recent adoption of the IRC in effect on January 1, 2022, such discharged indebtedness income will be excluded for Massachusetts personal income tax purposes for tax years beginning on or after January 1, 2022 to the same extent as for federal purposes. The maximum amount excludable from gross income as discharged qualified principal residence indebtedness is \$750,000 (\$375,000 if married filing separately). See IRC § 108(h)(2).

Exclusion of Benefits Provided to Volunteer Firefighters and Emergency Medical Responders – IRC § 139B (New TE Item)

For taxable years beginning on or after January 1, 2021, Congress excluded qualified state and local tax benefits and qualified payments provided to any member of a qualified volunteer emergency response organization in an amount up to \$300 from gross income. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts will exclude the amounts from gross income for personal income tax purposes. See IRC § 139B (as amended by P.L. 116-260).

Exclusion of Indian Healthcare Benefits – IRC § 139D (New TE Item)

In 2010, Congress added IRC § 139D which provides, in general, that federal gross income does not include the value of "any qualified Indian health care benefit." See P.L. 111-148, Title IX, Subtitle B, § 9021(a). Pursuant to the recent adoption of the IRC in effect on January 1, 2022,

Massachusetts will also exclude from gross income the value of “any qualified Indian health care benefit,” as defined by IRC § 139D, for taxable years beginning or after January 1, 2022.

Exclusion of Indian General Welfare Benefits – IRC § 139E (New TE Item)

In 2014, Congress added IRC § 139E, which excludes from federal gross income the value of certain “Indian general welfare benefit(s)” if the requirements of IRC § 139E are satisfied. See [P.L. 113-168](#), § 2(a). Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts will also exclude from gross income the value of qualifying “Indian general welfare benefit(s),” as defined by IRC § 139E, for taxable years beginning or after January 1, 2022.

Exclusion of Certain Amounts Received by Wrongfully Incarcerated Individual - IRC § 139F (New TE Item)

In 2015, Congress added IRC § 139F, which excludes from gross income amounts received as civil damages, restitution, or other monetary awards relating to the wrongful incarceration of an individual. See P.L. 114-113, Div Q, Title III, Subtitle A, § 304(a). Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts conforms to this exclusion for taxable years beginning or after January 1, 2022.

Limitation on Non-corporate Taxpayers’ Deduction of Excess Business Losses – IRC § 461(l)

For taxable years beginning on or after January 1, 2021 and ending before January 1, 2027, IRC § 461(l) prevents noncorporate taxpayers from deducting excess business losses. Excess business losses generally include losses in excess of gross business income plus \$250,000 (adjusted for inflation). Disallowed excess business losses may be carried forward as net operating losses for federal income tax purposes. Pursuant to the recent adoption of the IRC in effect on January 1, 2022, Massachusetts now conforms to the limitations under IRC § 461(l) for tax years beginning on or after January 1, 2022. However, losses disallowed because of the limitation may not be carried forward for Massachusetts purposes because Massachusetts does not allow a chapter 62 tax deduction for net operating losses. See IRC § 146(l); see also, TIR 18-14, and TIR 20-9. The limitation on deductions for excess business losses will reduce expenditures for this deduction.

Other Federal Tax Law Changes

Modified Accelerated Depreciation on Rental Housing - IRC § 168(g)

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 (“TCDTRA”) reduced the depreciation period for certain residential rental property from 40 years to 30 years under the alternative depreciation system (“ADS”) provided by IRC § 168(g). See P.L. 116-260, Division EE, § 202. This

federal tax law change is elective and applies retroactively to taxable years beginning after December 31, 2017. Massachusetts adopts these changes for purposes of both the personal income tax and the corporate excise. See TIR 22-2 for more information.

Other Tax Law Changes

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

A credit is allowed to certain qualified owners and renters of residential property located in Massachusetts equal to the amount by which the real estate tax payment or 25% of the rent constituting real estate tax payment exceeds 10% of the taxpayer's total income, not to exceed \$1,200 (for tax year 2022). The amount of the credit is subject to limitations based on the taxpayer's total income and the assessed value of the real estate, which cannot exceed \$912,000. For tax year 2022, an eligible taxpayer's total income cannot exceed \$64,000 in the case of a single filer who is not a head of household filer, \$80,000 for a head of household filer, and \$96,000 for joint filers. In order to qualify for the credit, a taxpayer must be age 65 or older and must occupy the property as his or her principal residence. See TIR 22-12 for more information.

Income Exclusion for Forgiveness of Student Loans – IRC § 108(f)(5); M.G.L. 62, § 2(a)(2)(R) (Potential New TE Item)

The FY23 Budget added M.G.L. 62, § 2(a)(2)(R), which provides an exclusion from Massachusetts gross income for income attributable to most discharges of student loans where such income is otherwise not excluded from Massachusetts gross income. This exclusion is substantially identical to the federal exclusion provided by IRC § 108(f)(5), which Massachusetts follows as in effect for the taxable year. However, while the federal exclusion provided by IRC § 108(f)(5) only applies to discharges of certain student loans for taxable years beginning on or after January 1, 2021 and ending on or before December 31, 2025, the new Massachusetts exclusion does not have a sunset date. See TIR 23-1 for more information.

National Guard Employee Credit – M.G.L. c. 62, § 6(aa) (New TE Item 1.627)

For tax years beginning on or after January 1, 2023, a business subject to tax under Chapter 62 that employs not more than 100 employees may be allowed a credit equal to \$2,000 for each member of the Massachusetts national guard hired by the business after July 1, 2022. To be eligible for a credit: (i) the primary place of employment and the primary residence of the member of the Massachusetts national guard must be in Massachusetts; and (ii) not later than the day an individual begins work, a business shall have obtained the applicable certification from the office of the adjutant general that the individual is a member of the Massachusetts national guard. A business that claims this credit is eligible for a second credit of \$2,000 in the subsequent taxable year with respect to such member of the Massachusetts national guard, subject to certification of continued employment during the subsequent taxable year. The total cumulative credits awarded for all taxpayers may not exceed \$1,000,000 annually and shall be authorized on a first-come, first-served basis. The credit is nontransferable and nonrefundable.

Any amount of the credit that exceeds the tax due for a taxable year may be carried forward to any of the three subsequent taxable years. In the case of a pass-through entity claiming the credit, the credit must be attributed on a pro rata basis to the owners, partners, or members of the pass-through entity. See M.G.L. c. 62, § 6(aa).

Wind Power Incentive Jobs Credit – M.G.L. c. 62, § 6(bb) (New TE Item 1.626)

For tax years beginning on or after January 1, 2023, and until tax years beginning on or after January 1, 2033, a business subject to tax under Chapter 62 may, to the extent authorized by the offshore wind tax incentive program established in M.G.L. c. 23J, § 8A(d), be allowed a refundable jobs credit in an amount determined by the Massachusetts Clean Energy Technology Center, in consultation with the Department of Revenue. A business taking this credit must commit to the creation of a minimum of 50 net new permanent full-time employees in Massachusetts. If the credit exceeds the taxpayer's income tax liability for the taxable year, 90 percent of such excess credit may be refunded to the taxpayer. Excess credit amounts cannot be carried forward to subsequent taxable years. In the event a taxpayer's certification as an offshore wind company is revoked, the recapture of credit may be required. In the case of a pass-through entity claiming the credit, the credit must be attributed on a pro rata basis to the owners, partners, or members of the pass-through entity. See M.G.L. c. 62, § 6(bb).

Wind Power Incentive Investment Credit – M.G.L. c. 62, § 6(cc) (New TE Item 1.626)

For tax years beginning on or after January 1, 2023, and until tax years beginning on or after January 1, 2033, a business subject to tax under Chapter 62 may, to the extent authorized by the offshore wind tax incentive program established in M.G.L. c. 23J, § 8A(d), be allowed a refundable credit in an amount, as determined by the Massachusetts Clean Energy Technology Center, of up to 50 percent of its total capital investment in an offshore wind facility. The total amount of the credit awarded will be distributed in equal parts over five taxable years that correspond to the period in which the business is certified. Eligibility requirements vary depending on whether the business owns or leases the offshore wind facility, but, in general, the business must (i) be a certified offshore wind company; (ii) have a total capital investment in an offshore wind facility that equals not less than \$35,000,000; and (iii) that offshore wind facility must employ not less than 200 new full-time employees by the fifth year of the business' certification. A business claiming this credit may not also claim the Wind Power Incentive Jobs Credit, M.G.L. c. 62, § 6(bb), or the Economic Development Incentive Program Credit, M.G.L. c. 62, § 6(g), in the same taxable year. In the event a taxpayer's certification as an offshore wind company is revoked, the recapture of credit may be required. In the case of a pass-through entity claiming the credit, the credit must be attributed on a pro rata basis to the owners, partners, or members of the pass-through entity. See M.G.L. c. 62, § 6(cc).

The Corporate and Other Business Excise:

Massachusetts generally follows the IRC as currently in effect for corporate excise purposes. However, Massachusetts has expressly decoupled from certain provisions of the IRC. The

following is a summary of the federal and state tax law changes which affect business corporations subject to the corporate excise, as well as unincorporated business entities doing business in Massachusetts.

Federal Tax Law Changes

Depreciation of Certain Residential Rental Property over 30-year period – IRC § 168(g)

The Taxpayer Certainty and Disaster Tax Relief Act of 2020 reduced the depreciation period for certain residential rental property from 40 years to 30 years under the alternative depreciation system (“ADS”) provided by IRC § 168(g). See P.L. 116-260, Division EE, § 202. This federal tax law change is elective and applies retroactively to taxable years beginning after December 31, 2017. Massachusetts adopts these changes for purposes of both the personal income tax and the corporate excise. See TIR 22-2 for more information.

Expansion of disallowance of deduction for certain compensation paid by publicly traded corporations (New TE Item)

The American Rescue Plan Act of 2021 (“ARPA”), P.L. 117-2, expanded the limitation on the ability of publicly traded corporations to deduct executive compensation. Prior law limited the deduction to \$1,000,000 for the three highest paid corporate officers. ARPA amended IRC § 162(m) to apply the limitation to the next five highest compensated employees, in addition to the top three. The additional disallowance is set to take effect for tax years beginning after December 31, 2026. See TIR 22-2 for additional information.

Other Tax Law Changes

National Guard Employee Credit – M.G.L. c. 63, § 38KK (New TE Item 2.628)

For tax years beginning on or after January 1, 2023, a corporation subject to tax under Chapter 63 that employs not more than 100 employees may be allowed a credit equal to \$2,000 for each member of the Massachusetts national guard hired by the corporation after July 1, 2022. To be eligible for a credit: (i) the primary place of employment and the primary residence of the member of the Massachusetts national guard must be in Massachusetts; and (ii) not later than the day an individual begins work, the corporation shall have obtained the applicable certification from the office of the adjutant general that the individual is a member of the Massachusetts national guard. A corporation that claims this credit is eligible for a second credit of \$2,000 in the subsequent taxable year with respect to such member of the Massachusetts national guard, subject to certification of continued employment during the subsequent taxable year. The total cumulative credits awarded for all taxpayers may not exceed \$1,000,000 annually and shall be authorized on a first-come, first-served basis. The credit is nontransferable and nonrefundable. Any amount of the credit that exceeds the tax due for a taxable year may be carried forward to any of the three subsequent taxable years. For corporations subject to a minimum corporate excise, the credit cannot reduce the corporation’s excise liability below the minimum corporate excise amount. See M.G.L. c. 63, § 38KK (St.2022, c.154, § 8).

Wind Power Incentive Jobs Credit – M.G.L. c. 63, § 38LL (New TE Item 2.627)

For tax years beginning on or after January 1, 2023, and until tax years beginning on or after January 1, 2033, a corporation subject to tax under Chapter 63 may, to the extent authorized by the offshore wind tax incentive program established in M.G.L. c. 23J, § 8A(d), be allowed a refundable jobs credit in an amount determined by the Massachusetts Clean Energy Technology Center, in consultation with the Department of Revenue. A corporation taking this credit must commit to the creation of a minimum of 50 net new permanent full-time employees in Massachusetts. If the credit exceeds the taxpayer's income tax liability for the taxable year, 90 percent of such excess credit may be refunded to the taxpayer. Excess credit amounts cannot be carried forward to subsequent taxable years. In the event a taxpayer's certification as an offshore wind company is revoked, the recapture of credit may be required. The credit is subject to the offshore wind tax incentive program's annual cap of \$35,000,000. See M.G.L. c. 63, § 38LL (St. 2022, c.179, § 45).

Wind Power Incentive Investment Credit – M.G.L. c. 63, § 38MM (New TE Item 2.627)

For tax years beginning on or after January 1, 2023, and until tax years beginning on or after January 1, 2033, a corporation subject to tax under Chapter 63 may, to the extent authorized by the offshore wind tax incentive program established in M.G.L. c. 23J, § 8A(d), be allowed a refundable credit in an amount, as determined by the Massachusetts Clean Energy Technology Center, of up to 50 percent of its total capital investment in an offshore wind facility. The total amount of the credit awarded is distributed in equal parts over five taxable years that correspond to the period in which the business is certified. Eligibility requirements vary depending on whether the corporation owns or leases an offshore wind facility, but, in general, the corporation must (i) be a certified offshore wind company; (ii) have a total capital investment in an offshore wind facility that equals not less than \$35,000,000; and (iii) that offshore wind facility must employ not less than 200 new full-time employees by the fifth year of the business' certification. A corporation claiming this credit may not also claim the Wind Power Incentive Jobs Credit, G. L. c. 63, § 38LL, or the Economic Development Incentive Program Credit, M.G.L. c. 63, § 38N, in the same taxable year. In the event a taxpayer's certification as an offshore wind company is revoked, the recapture of credit may be required. The credit is subject to the offshore wind tax incentive program's annual cap of \$35,000,000. See M.G.L. c. 63, § 38MM (St. 2022, c.179, § 45).

Fiscal Year 2022

The following tax expenditures have been revised or created due to recent law changes.

On December 22, 2017, Public Law 115-97, commonly known as the Tax Cuts and Jobs Act (TCJA) was signed into law. On March 27, 2020, Public Law No. 116-136, the federal “Coronavirus Aid, Relief and Economic Security Act,” also known as the CARES Act was signed into law. Most recently, the Federal Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021 were enacted. These Acts provide for federal changes to a variety of provisions in the Internal Revenue Code (“Code”) that affect the personal income tax and corporate excise. As a general rule, Massachusetts does not adopt any federal personal income tax law changes incorporated into the Code after January 1, 2005. However, certain specific Massachusetts personal income tax provisions, as set forth in G.L. c. 62, § 1(c), automatically conform to the current Code. Provisions of the Code that Massachusetts adopts on a current basis are:

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

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

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

On March 27, 2020, Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), was signed into law. The CARES Act provides for federal changes to a variety of

provisions of the Internal Revenue Code (IRC) that affect personal income taxpayers. In response to the CARES Act, the Department of Revenue (DOR) issued written guidance addressing the impact of the CARES Act in Massachusetts. See [TIR 20-9](#): Massachusetts Tax Implications of Selected Provisions of the Federal CARES Act. More recently, the Federal Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021 were enacted. For their impact on Massachusetts personal income tax and corporate excise, See Working Draft TIR 21-XX: Massachusetts Tax Implications of Selected Provisions of the Federal Consolidated Appropriations Act, 2021 and the American Rescue Plan Act of 2021

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

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

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

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

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

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

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

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

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

Health Savings and Flexible Spending Accounts — IRC §§ 62(a)(19) and 223 (TE Item 1.422)
The CARES Act amended Code §§ 106(f), 220(d)(2)(A), and 223(d)(2) to allow amounts paid or expenses incurred for medicine or drugs without a medical prescription to be covered by an HSA or FSA. These changes apply to amounts paid or expenses incurred after December 31, 2019. The Act also amended Code § 223(c)(2) to allow, for plan years beginning on or before December 31, 2021, high-deductible health plans with an HSA to cover telehealth and other remote care services, notwithstanding whether the plan allows for such a deductible. For Massachusetts personal income tax purposes, payments for such services from HSAs or FSAs will similarly be allowable. This change became effective upon the enactment of the Act on March 27, 2020. See [TIR 20-9](#) for more information.

Circuit Breaker Tax Credit Increased — M.G.L. c. 62, § 6 (k) (TE item 1.609)
A credit is allowed to certain qualified owners and renters of residential property located in Massachusetts equal to the amount by which the real estate tax payment or 25% of the rent constituting real estate tax payment exceeds 10% of the taxpayer's total income, not to exceed \$1,170 (for tax year 2021). The amount of the credit is subject to limitations based on the taxpayer's total income and the assessed value of the real estate, which cannot exceed \$884,000. For tax year 2021, an eligible taxpayer's total income cannot exceed \$62,000 in the case of a single filer who is not a head of household filer, \$78,000 for a head of household filer, and \$93,000 for joint filers. In order to qualify for the credit, a taxpayer must be age 65 or older and must occupy the property as his or her principal residence. See [TIR 21-11](#) for more information.

Film (or Motion Picture) Credit — M.G.L. c. 62, § 6 (l) (TE item 1.611)
Motion picture companies subject to tax under G.L. c. 62 or G.L. c. 63 may claim credits with respect to certain payroll expenses and certain production expenses. The credits were due to expire on January 1, 2023. However, the FY22 Budget amends "An Act Providing Incentives to the Motion Picture Industry," which created the film incentive credits, to make them permanent. The FY22 Budget also amends credit eligibility with respect to production expenses. For taxable years beginning on or after January 1, 2022, a taxpayer must incur at least 75% of its production expenses in Massachusetts for a film project to qualify for the credit. A 50% threshold applies to prior taxable years.

Disability Hire Credit — M.G.L. c. 62, § 6 (z) (TE item 1.622)
Effective for tax years beginning on or after January 1, 2023, employers that hire disabled employees may claim a nontransferable, refundable credit equal to (i) the lesser of \$5,000 or 30% of the wages paid to a disabled employee in the employee's first year of employment, and

(ii) the lesser of \$2,000 or 30% of the wages paid to a disabled employee in each subsequent year of the employee's employment.

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

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

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

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

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

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

The Corporate and Other Business Excise:

New Cranberry Bog Renovation Credit

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

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

New Disability Hire Credit

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

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

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

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

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

Changes to the Film Incentive Credits

Motion picture companies subject to tax under G.L. c. 62 or G.L. c. 63 may claim credits with respect to certain payroll expenses and certain production expenses. The credits were due to expire on January 1, 2023. However, the FY22 Budget amends "An Act Providing Incentives to the Motion Picture Industry," which created the film incentive credits, to make them permanent. The FY22 Budget also amends credit eligibility with respect to production expenses. For taxable

years beginning on or after January 1, 2022, a taxpayer must incur at least 75% of its production expenses in Massachusetts for a film project to qualify for the credit. A 50% threshold applies to prior taxable years.

Changes to the Low-Income Housing Credit

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

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

Extension of the Massachusetts Historic Rehabilitation Credit

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

Repeal of Certain Deductions and Credits

Repeal of Deduction for Energy Patents

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

Repeal of Medical Device User Fee Credit

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

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

Repeal of Harbor Maintenance Credit

Under the law in effect for taxable years beginning before January 1, 2022, G.L. c. 63, § 38P allows taxpayers subject to the corporate excise to claim a nonrefundable, nontransferable credit equal to certain harbor maintenance taxes paid to the federal government to the extent the taxes are attributable to the shipment of break-bulk or containerized cargo by sea and ocean-going vessels through one of three designated Massachusetts ports. Unused portions of the credit may be carried forward for up to five years. The FY22 Budget repeals the credit effective for taxable years beginning on or after January 1, 2022. However, unused portions of the credit claimed in taxable years beginning before January 1, 2022 may continue to be carried forward.

Sales and Use Tax

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

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

Appendix I

Cumulative Distribution of TERC's Ratings

Below is the cumulative distribution of TERC's ratings for all tax expenditures evaluated to date.

	<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)	18	50	63	18	1	150
The TE's benefit justifies its fiscal cost	9	25	79	36	1	150
The TE is claimed by its intended beneficiaries	6	9	52	83	0	150
The TE is claimed by a broad group of taxpayers	47	35	36	32	0	150
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	16	24	84	25	1	150
The TE is relevant today	12	10	49	79	0	150
The TE is easily administered	8	20	60	62	0	150
The TE is beneficial to smaller businesses	12	16	44	19	59	150
The TE is benefits lower income taxpayers	27	36	36	5	46	150

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 150 Massachusetts tax expenditures pertaining to (i) Agriculture, (ii) Commerce and Housing, (iii) Community and Regional Development, (iv) Education, Training, Employment and Social Services, (v) Energy, (vi) General Purpose Fiscal Assistance, (vii) General Science, Space and Technology, (viii) Health, (ix) Housing, (x) Income security, (xi) Commerce and Housing, (xii) Natural Resources and Environment, (xiii) Transportation, (xiv) Veterans' Benefits.

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

- 1.014 Exemption of Rental Value of Parsonages
- 1.021 Exemption of Capital Gains on Home Sale (formerly only for Persons 55 and over)
- 1.030 Exclusion from Gross Income of Parking, T-Pass and Vanpool Fringe Benefits
- 1.412 Nontaxation of Charitable Purpose Income of Trustees, Executors or Administrators)
- 1.423 Commuter Deduction
- 2.303 Expenditures to Remove Architectural and Transportation Barriers to the Handicapped and Elderly
- 2.603 Vanpool Credit
- 3.003 Exemption for Sales to Tax-Exempt Organizations
- 3.308 Exemption for Materials, Tools, Fuels, and Machinery Used in Agricultural Production)
- 3.406 Exemption for Funeral Items
- 3.409 Exemption for Books used for Religious Worship
- 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
- 3.603 Exemption for Certain Meals
- 3.605 Exemption for Certain Summer Camps from Sales Tax on Meals
- 3.607 Exemptions for Publications of Tax-Exempt Organizations
- 1.204 & 2.206 Abandoned Building Renovation Deduction
- 1.301 & 2.301 Modified Accelerated Depreciation on Rental Housing
- 1.415 & 2.201 Charitable Contributions and Gifts Deduction
- 1.604 & 2.606 Credit for Employing Former Full-Employment Program Participants
- 1.621 & 2.624 Apprentice Tax Credit

2024

- 1.002 Exemption of Premiums on Group-Term Life Insurance
- 1.003 Exemption of Interest on Life Insurance Policy and Annuity Cash Value
- 1.004 Exemption of Employer Contributions to Accident and Health Plans and Certain Benefits Received
- 1.006 Exemption of Distributions from Certain Contributory Pension and Annuity Plans
- 1.008 Exemption of Public Assistance Benefits
- 1.01 Exemption of Workers' Compensation Benefits
- 1.012 Exclusion of Certain Foster Care Payments
- 1.023 Exemption of Interest from Massachusetts Obligations
- 1.029 Exemption for Retirement Pay of the Uniformed Services
- 1.039 Discharge of Indebtedness for Health Care Professionals
- 1.101 Net Exemption of Employer Contributions and Earnings of Private Pension Plans
- 1.104 Exemption of Earnings on IRA and Keogh Plans
- 1.312 Expensing of Certain Capital Outlays of Farmers
- 1.411 Rent Deduction
- 1.424 Self-Employed Health Insurance Deduction
- 1.426 Expenses of Human Organ Transplant
- 1.602 Credit for Removal of Lead Paint
- 1.606 Septic System Credit
- 1.618 Farming and Fisheries Tax Credit
- 2.702 Tax-Exempt Organizations
- 3.103 Exemption for Clothing
- 3.105 Exemption for Water
- 3.401 Exemption for Electricity
- 3.402 Exemption for Fuel Used for Heating Purposes
- 3.403 Exemption for Gas
- 3.404 Exemption for Steam
- 3.407 Exemption for Certain Motor Vehicles
- 1.607 & 2.609 Low Income Housing Tax Credit
- 1.614 & 2.618 Dairy Farmer Tax Credit
- 1.617 & 2.621 Community Investment Tax Credit
- 1.619 & 2.622 Certified Housing Development Tax Credit
- 3.104 & 3.113 Exemption for Medical and Dental Supplies and Devices Including Breast Pumps

2025

- 1.007 Exemption of Railroad Retirement Benefits
- 1.009 Exemption of Social Security Benefits
- 1.011 Exemption of Dependent Care Expenses
- 1.013 Exemption of Payments Made to Coal Miners
- 1.015 Exemption of Scholarships, Fellowships, and Tuition Reductions
- 1.016 Exclusion of Certain Prizes and Awards
- 1.017 Exclusion of Payments Received Under Government Conservation, Reclamation and Restoration Programs (previously Exemption of Cost-Sharing Payments)
- 1.024 Exemption of Benefits and Allowances to Armed Forces Personnel
- 1.025 Exemption of Veterans' Pensions, Disability Compensation and G.I. Benefits
- 1.026 Exemption of Military Disability Pensions
- 1.027 Exemption of Compensation to Massachusetts-Based Nonresident Military Personnel
- 1.028 Exemption of Income Received by Persons Killed in Military Action or Terrorist Activity
- 1.032 Employer-Provided Adoption Assistance
- 1.033 Employer-Provided Education Assistance
- 1.035 Department of Defense Homeowners Assistance Plan
- 1.036 Survivor Annuities of Fallen Public Safety Officers
- 1.041 Earnings of Pre-paid and Tuition Savings ("529" plans)
- 1.407 Personal Exemption for Students Aged 19 or Over
- 1.414 Tuition Tax Deduction
- 1.419 Business Exp of National Guard and Reserve Members
- 1.425 Student Loan Interest Deduction
- 1.427 Prepaid Tuition or College Savings Plan Deduction
- 3.001 Exemption for Sales to the Federal Government
- 3.002 Exemption for Sales to the Commonwealth
- 3.107 Exemption for the American Flag
- 3.408 Exemption for Textbooks
- 3.412 Exemption for Sales of Building Materials and Supplies to be Used in Connection with Certain Construction Contracts
- 3.608 Exemption for Gifts of Scientific Equipment
- 1.031 & 1.422 Health Savings Accounts (exemption & deduction)
- 1.040 & 1.420 Archer Medical Savings Accounts (exemption & deduction)
- 1.203 & 2.204 Excess Natural Resource Depletion Allowance
- 1.310 & 2.311 Five-Year Amortization of Pollution Control Facilities
- 1.311 & 2.313 Deduction and Seven Year Amortization for Reforestation
- 1.608 & 2.608 Brownfields Credit