Report of the Tax Expenditure Review Commission

Massachusetts Tax Expenditure Review Commission

2024

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TERC REPORT OVERVIEW 2024

A. Overview

This document is the 2024 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 2024 Report is the Commission's fourth report. It considers a group of tax expenditures that relate to agriculture, commerce, regional development, employment & social services, health, housing, and income security. Future reports will review the balance of the state's tax expenditures, as grouped by the Commission, over the remainder of its five-year review cycle. For information on current and previous studies of Massachusetts Tax Expenditures, see **Appendix G**.

B. TERC Approach to Implementation of its Statutory Mandate

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

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

State Tax Expenditures resulting from conformity with the Internal Revenue Code (Code):

> Many state tax expenditures result from conformity with the Code. The Commission recognized that, in many instances, decoupling from federal tax expenditures would either be illogical or create significant administrative challenges for taxpayers and DOR. For that reason, the Commission concluded that not all federal conformity expenditures merited the same degree of scrutiny as other expenditures. Commission members agreed that if (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 economic analysis was required. Members agreed to update the evaluation template with a checkbox identifying whether the tax

expenditure is a result of the state's conformity with the Code. All tax expenditure evaluation templates in this report reflect this update.

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**.

2024 Report	*Strongly Disagree*	*Somewhat Disagree*	*Somewhat Agree*	*Strongly Agree*	*Not Applicable*	*Total*
We can measure the overall benefit toward achieving the goal(s)	3	10	15	4	0	32
The TE's benefit justifies its fiscal cost	0	4	17	10	1	32
The TE is claimed by its intended beneficiaries	0	2	12	18	0	32
The TE is claimed by a broad group of taxpayers	8	4	10	10	0	32
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	2	4	13	12	1	32
The TE is relevant today	3	0	11	18	0	32
The TE is easily administered	1	6	10	15	0	32
The TE is beneficial to smaller businesses	2	3	7	2	18	32

The TE is benefits lower income taxpayers	3	7	13	4	5	32

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:** For this report, the tax expenditure evaluation template was updated to include a checkbox that allows the Commission to flag a particular tax expenditure for legislative review. This update gave the Commission more flexibility to highlight specific issues for the Legislature and 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.

- *3.404 Exemption for Steam. Annual fiscal cost: $0.6 - $0.7 million. This tax expenditure provides a sales and use tax exemption for sales of (i) steam used for residential purposes, (ii) steam purchased for use by certain small businesses and (iii) steam purchased for use in an industrial plant.* Steam is typically generated by a third party (either the seller or a vendor of the seller) at a generation facility using oil or natural gas and delivered via a piping system to the customer. Members discussed the narrow market for steam in Massachusetts and questioned whether the purchase of steam should be incentivized. It is not known how many MA taxpayers benefit from this tax expenditure. The legislature may wish to consider whether this tax expenditure is relevant today.
- *3.104 & 3.113 Exemption for Medical and Dental Supplies and Devices Including Breast Pumps. Annual fiscal cost: $638.0 - $818.5 million. Massachusetts provides a sales and use tax exemption for sales of certain medicines, medical supplies and devices, and dental supplies and devices, as set forth in M.G.L. c. 64H, §§ 6(l) and 6(z). In general, medical supplies and devices that are not expressly listed in §§ 6(l) or 6(z) are not exempt from the sales and use tax.* Members noted that DOR receives a high volume of inquiries about whether certain items are exempt, and the nature of those inquiries is constantly evolving given the rapidly changing technology in this industry. In administering the exemption, DOR has ruled that certain items not specifically designated as exempt under § 6(l) may nonetheless be exempt if their purpose and function is sufficiently connected to items that are specifically enumerated in the statute. See Letter Ruling 14-3. For example, in Letter Ruling 02-6, the DOR ruled that sales of water filtration system equipment and various supplies necessary for the process of kidney dialysis were exempt, even though they are not expressly listed in the statute, because the dialysis machines themselves were exempt. Given the broad scope of this tax expenditure, significant revenue

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

impact, and administrative challenges the legislature may wish to periodically revisit and update the exemption.

- *1.617 & 2.621 Community Investment Tax Credit. Annual fiscal cost: $4.6 - $6.8 million for personal income tax and $3.2 - $5.2 million for corporate and business tax. A personal income tax and corporate excise credit is available for 50% of qualified investments in "community partners" selected by the Executive Office of Housing and Livable Communities through a competitive process. The community partner then uses the amount invested to fund approved programs designed to improve economic opportunities in Massachusetts communities.* The Commission concluded that the Community Investment Tax Credit is a worthwhile expenditure that encourages investment in local communities through financial incentive and that the credit positively impacts some of the main pressure points the state faces now (for example housing, business development, and job creation) with an emphasis on lower-income communities. Members noted that a majority of the impacted businesses were small businesses with fewer than 50 employees and that Massachusetts is the only state in New England that offers this credit. Members agreed that this credit serves as an advantage for further investment in local communities and that this is a measurable expenditure which appears to be working as intended with the target audience as beneficiaries. The credit is set to expire December 31, 2025. While the Commission does not take a position as to whether the credit should be extended, it flagged this tax expenditure for legislative review in consideration of its expiration date and positive evaluation ratings.
- *1.004 Exemption of Employer Contributions to Accident and Health Plans and Certain Benefits Received. Annual fiscal cost: $1,235 - $1,489 million. Massachusetts conforms to the federal individual income tax exclusions for: (i) employer contributions to employees' accident and health plans and (ii) benefits received by employees from such plans.* All states that impose a personal income tax adopt the expenditure unless they decouple from Code §§ 105 and 106. California has decoupled from the federal exclusion for the limited purpose of including in employee income certain employer contributions to medical savings accounts. Rhode Island allows a slightly expanded exclusion, covering employer contributions to certain medical savings accounts beyond the exclusion allowed under the Code. The exemption lowers the cost of health insurance relative to wages, so employers and employees are incentivized to purchase more generous health insurance plans than they would in an undistorted market. The Commission concluded that given the significant revenue impact of this tax expenditure, it is important for policymakers to understand its effects. The legislature may wish to review whether this is the optimal way to subsidize access to coverage.
- *1.006 Exemption of Distributions from Certain Contributory Pension and Annuity Plans. Annual fiscal cost: $488.0 - $582.1 million. Income from contributory pensions of the U.S. and Massachusetts governments, including their agencies and political subdivisions, is excluded from Massachusetts gross income.* The Commission discussed the high cost associated with this tax expenditure and agreed to flag it for legislative review. The Commission also questioned whether government employees were aware of this tax benefit such that the expenditure creates a meaningful incentive to pursue a career in federal, state, or local government. The legislature may wish to review whether this is the optimal way to encourage government service.

2. 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 received “strongly disagree” or “somewhat disagree” ratings for any of the following evaluative statements in the template:

I. The tax expenditure’s benefit justifies its fiscal cost.
II. The tax expenditure is claimed by its intended beneficiaries.
III. The tax expenditure amount claimed by each beneficiary is meaningful as an incentive/benefit.
IV. The tax expenditure is relevant today.

Tax expenditures that were reviewed in the past year, not otherwise flagged for legislative review, and rated “strongly disagree” or “somewhat disagree” in the indicated categories, and the reasons for those ratings, are described below.

- *1.312 Expensing of Certain Capital Outlays of Farmers. Annual fiscal cost: $0.2 - $0.3 million. This tax expenditure results from Massachusetts’ conformity to the Internal Revenue Code (Code) with regard to the immediate deduction allowed to farmers for soil and water conservation expenses, prevention of erosion, endangered species recovery, and fertilizer costs. Such items might otherwise have to be capitalized and depreciated or amortized over a number of years.* The Commission voted between “strongly disagree” and “somewhat disagree” on the question of whether the amount claimed per taxpayer is meaningful as an incentive or benefit. The benefit of this tax expenditure is difficult to quantify because DOR does not have data on the number of individuals claiming it, or the amount per claim. The Commission assumes that the federal deduction may be a meaningful incentive, but it is less clear that the addition of the state deduction provides an appreciable additional support and incentive for Massachusetts farmers or that it increases participation of farmers in the agricultural industry. It was not clear to the Commission why investments in water and soil conservation and expenses for fertilizer, two very different types of expenses, are included in one tax expenditure. Note that no other state has decoupled from this tax expenditure. The legislature may wish to consider whether there may be more efficient or effective ways to support farmers.
- *1.614 & 2.618 Dairy Farmer Tax Credit. Annual fiscal cost: $4.8 - $5.0 million for personal income tax and $1.0 - $1.1 million for corporate and business tax. Massachusetts provides dairy farmers a refundable personal income tax or corporate excise credit to offset cyclical downturns in milk prices. The credit is triggered when milk production costs exceed milk prices. The credit is determined by the Massachusetts Department of Agricultural Resources (MDAR), which notifies DOR of the amount of the credit awarded to each taxpayer.* The Commission voted between “strongly disagree” and “somewhat disagree” on the question of whether the tax expenditure’s benefit justifies its fiscal cost. At the time the summary report for this tax expenditure was drafted, the total credits that could be awarded across the state could not exceed $6 million in any year. Members noted that that annual cap was increased to $8 million for tax years beginning on or after January 1, 2023. Members noted that Massachusetts is not a leading state in dairy farming. The legislature may wish to consider observing other states’ programs more closely, as there may be more efficient or effective ways to support dairy farmers.

- *1.411 Rental Deduction. Annual fiscal cost: $145.7 - $159.9 million. A deduction is allowed for rent paid by the taxpayer during the tax year to a landlord for a principal residence located in Massachusetts. This deduction is limited to 50%of the rent paid and cannot exceed a total deduction of $4,000.* The Commission voted between "strongly disagree" and "somewhat disagree" on questions of (i) whether the amount claimed is meaningful as an incentive or benefit, and (ii) whether the tax expenditure is relevant today. At the time this tax expenditure was evaluated by the Commission, the deduction was limited to$3,000. Subsequently, the deduction cap was raised to $4,000 for tax years beginning on or after January 1, 2023. The maximum had last been raised in 2001 from its previous level of $2,500. The Commission noted that the estimated average tax saving per claimant was $139 in tax year 2020, and questioned whether that was meaningful as a benefit. The legislature may wish to consider whether this is the optimal way to subsidize renters.

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.

- *Utility Tax Expenditures.* During this evaluation year, the Commission reviewed a number of tax expenditures related to fuel sources. The Commission observed that the legislature may wish to consider how, and what types of, fuel is incentivized, given the rapidly changing technology in this area. These tax expenditures provide sales and use tax exemptions for specified uses of products/services including gas, steam, and fuel used for heating purposes.
- *Sunset Dates.* The Commission has evaluated a total of 116 tax expenditures. 26 tax expenditures were evaluated in the 2021 report, 36 were evaluated in the 2022 report, 22 were evaluated in the 2023 report, and 32 were evaluated in this report.[2] Of these 116 tax expenditures, 110, or over 94%, did not have sunset dates while six, or less than 6%, did have sunset dates. Looking at the year of adoption for these tax expenditures, over 70% were adopted during or prior to the 1990s. Members unanimously supported the establishment of sunset dates as an incentive to analyze technological and other changes that may impact the relevance and annual revenue loss associated with tax expenditures.

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

Appendix A

Chapter 207
of the
Acts of 2018

Chapter 207
of the Acts of 2018

THE COMMONWEALTH OF MASSACHUSETTS

In the One Hundred and Ninetieth General Court

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

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

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

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

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

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

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

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

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

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

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

House of Representatives, August 2 , 2018.

Preamble adopted,

Paul A. Donato, Speaker.

In Senate, August 2 , 2018.

Preamble adopted,

Karen E. Spilka, President.

H 4820

House of Representatives, August 2 , 2018.

Bill passed to be re-enacted, Paul J Donato , Speaker.

In Senate, August 2 , 2018.

Bill passed to be re-enacted, Karen E Spilka , President.

August 9 , 2018.

Approved,

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

Charles D Baker

Governor.

Appendix B

Members of the Tax Expenditure Review Commission

Chairperson Rebecca Forter, Massachusetts Department of Revenue

Diana DiZoglio, Massachusetts State Auditor

Stephen Lisauskas, Designee, Massachusetts State Auditor

Deb Goldberg, Massachusetts State Treasurer and Receiver General

Sue Perez, Designee, Massachusetts State Treasurer and Receiver General

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

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

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

Stephen Maher, Designee, Joint Committee on Revenue, Senate Chairperson

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

Representative Aaron Michlewitz, Chairperson, House Ways and Means Committee

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

Representative Bradley H. Jones, House Minority Leader

Representative Michael J. Soter, Designee, House Minority Leader

Senator Bruce E. Tarr, Senate Minority Leader

Chris Carlozzi, Designee, Senate Minority Leader

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

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

Additional Members-Participants

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

Kerri-Ann Hanley, Designee, Massachusetts State Auditor

Hailey Jenkins, Designee, Chair, Senate Ways and Means

Chris Anderson, Designee, Senate Minority Leader

Appendix C

Evaluation Rating Templates & Tax Expenditure Summaries

Template for Evaluating Expenditures

Name of Expenditure:	**Annual cost:**	**Year of adoption:**	**Sunset date:**

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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).	☐	☐	☐	☐
The TE's benefit justifies its fiscal cost.	☐	☐	☐	☐
The TE is claimed by its intended beneficiaries.	☐	☐	☐	☐
The TE is claimed by a broad group of taxpayers.	☐	☐	☐	☐
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	☐	☐	☐
The TE is relevant today.	☐	☐	☐	☐
The TE is easily administered.	☐	☐	☐	☐
Business only -The TE is primarily beneficial to smaller businesses.	☐	☐	☐	☐
Individuals only -The TE is primarily beneficial to lower income taxpayers.	☐	☐	☐	☐

This tax expenditure is flagged for legislative review: ☐ Yes ☐ 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: 1.002 Exemption of Premiums on Group-Term Life Insurance	**Annual cost:** $21.3 - $31.5 million	**Year of adoption:** 1964	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☒ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☒ Health/Environment/Social Justice
☐ 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).		X		
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.				X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			X	
The TE is relevant today.				X
The TE is easily administered.				X
Business only -The TE is primarily beneficial to smaller businesses.				
Individuals only -The TE is primarily beneficial to lower income taxpayers.	X			

This tax expenditure is flagged for legislative review: ☐ Yes ☒ 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: 2024

TAX EXPENDITURE TITLE	Exemption of Premiums on Group-Term Life Insurance
TAX EXPENDITURE NUMBER	1.002
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 79
YEAR ENACTED	1964
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $21.3 - 31.5 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Approximately 2.2 million.
AVERAGE TAXPAYER BENEFIT	Estimated tax savings of $10 - $15 per taxpayer.
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, employer payments of employees' group-term life insurance premiums for coverage up to $50,000 per employee are not included in income by the employee.	**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 purpose of the expenditure is to cause more people to be covered by group-term life insurance by allowing employers to provide employees with coverage on a tax-free basis.	**Are there other states with a similar Tax Expenditure?** All states that impose an income tax adopt the tax expenditure unless they decouple from Code § 79. The Commission is not aware of any state that that has decoupled. States that adopt the tax expenditure include California,

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

INTRODUCTION

Massachusetts conforms to Internal Revenue Code (Code) § 79 for purposes of determining gross income under the personal income tax. Under that section, employer payments of employees' group-term life insurance premiums for coverage up to $50,000 per employee are excluded from the employees' income. Amounts paid for coverage in excess of $50,000 are included in the employees' income unless (i) the insurance is provided through a retirement plan, (ii) the employer is a beneficiary of the insurance policy or (iii) a government or non-profit agency is the sole beneficiary of the insurance policy. Note that premiums paid by the employer are deductible as employee compensation whether or not they are excluded from employee income. This tax expenditure evaluation does not take the employer deduction into account.

Without this exclusion, employer payments of employees' term life insurance premiums would be considered taxable income to employees. Personal income tax foregone as a result of the exclusion constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the purpose of the expenditure is to cause more people to be covered by group-term life insurance by allowing employers to provide employees with coverage on a tax-free basis.

ADMINISTRABILITY

The administration of the exclusion for employer payments of employee group-term life insurance premiums 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 $21.3 - $31.5 million per year during FY21 - FY25. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Exemption of Premiums on Group-Term Life Insurance

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$21.3	$22.9	$26.4	$29.6	$31.5

Revenue loss estimates for Massachusetts are based on the estimates in the most recent federal tax expenditure report prepared by the Joint Committee on Taxation (JCT).[1] The JCT reports estimates of the impact on federal tax collections resulting from the exemption of premiums on group-term life insurance. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years[2], effective tax rates, and size of tax base.

DIRECT BENEFITS

There are no direct statistics on the numbers of group-term life insurance policy holders by state. The U.S. Bureau of Labor Statistics (BLS) published national data on life insurance provided to workers as employee benefits in 2022. Based on BLS data, it is estimated that 2.16 million workers had employer-provided life insurance in Massachusetts. See Table 2 below.

Table 2. Estimates of Workers with Employer Provided Life Insurance in Massachusetts, 2022

Sector	(A) Employment in 2022	(B) % With Life Insurance in the U.S. in 2022	(C) Numbers of Employed in MA with Life Insurance (=A*B)
Private Sector	3,166,885	57%	1,805,124
Government Sector	427,300	83%	354,659
Total	3,594,185	60%	2,159,783

Source: (i) Life insurance data, U.S. Bureau of Labor Statistics, https://www.bls.gov/news.release/pdf/ebs2.pdf
(ii) Employment data for Massachusetts, U.S. Bureau of Labor Statistics, https://data.bls.gov/PDQWeb/en
(iii) Calculation by 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 this tax expenditure) and the direct benefits. In this instance, the direct costs to the Commonwealth, namely the personal income tax that would have been collected, are equal to the direct benefits afforded by the tax expenditure to the employees who claim this exemption.

[1] 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/46c5da1a-424b-4a6f-bf6e-e076845b168d/x-22-22.pdf
[2] 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 exemption. To measure indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. DOR did not use such models given their complexity and data limitations present in this instance.

Similar Tax Expenditures Offered by Other States

All states that impose an income tax adopt the tax expenditure, unless they decouple from Code § 79. The Commission is not aware of any state that that has decoupled. States that adopt the tax expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.003 Exemption of Death Benefits and Interest on Life Insurance Policy and Annuity Cash Value	**Annual cost:** $326.8 - $419.4 million	**Year of adoption:** 1954	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☒ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: Retirement/Financial Security

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).	☐	x	☐	☐
The TE's benefit justifies its fiscal cost.	☐	☐	x	☐
The TE is claimed by its intended beneficiaries.	☐	☐	☐	x
The TE is claimed by a broad group of taxpayers.	☐	☐	x	☐
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	☐	x	☐
The TE is relevant today.	☐	☐	x	☐
The TE is easily administered.	☐	☐	x	☐
Business only -The TE is primarily beneficial to smaller businesses.	☐	☐	☐	☐
Individuals only -The TE is primarily beneficial to lower income taxpayers.	☐	☐	☐	☐

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- A wide array of residents of different income levels in Massachusetts hold life insurance plans, however, it’s difficult to see which income levels are utilizing the tax expenditure the most- are the tax expenditures being utilized by those whose beneficiaries wouldn’t be relying on the policy to make ends meet, or are they being utilized by families that the insurance policy would create real relief?

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption of Death Benefits and Interest on Life Insurance Policy and Annuity Cash Value
TAX EXPENDITURE NUMBER	1.003
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 101
YEAR ENACTED	IRC § 101 was enacted in its current form in 1954, but an exemption for life insurance proceeds paid on the death of the insured was allowed under predecessor statutes since 1913.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $326.8 - $419.4 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Due to Massachusetts' conformity with Internal Revenue Code (Code) § 101, increases in the cash value of life insurance policies and annuities are not taxed until distributed to the policy holder. If the policy holder dies with the policy in force, the increase in value and the death benefit are excluded from income when paid to policy or annuity beneficiaries.	**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?	**Are there other states with a similar Tax Expenditure?**

The Commission assumes that the purpose of this expenditure is to encourage taxpayers to purchase cash value life insurance thereby providing themselves and their families a measure of financial security after the taxpayer's death.	All states that impose an income tax adopt the tax expenditure, unless they decouple from Code § 101. The Commission is not aware of any state that has decoupled. States that adopt the tax expenditure include California, Connecticut, Maine, New Hampshire (interest and dividends tax), New York, Rhode Island, and Vermont.

INTRODUCTION

This tax expenditure is in effect because of Massachusetts' conformity with Internal Revenue Code (Code) § 101. Under that provision, increases in the cash value of life insurance policies and annuities are not included in the policy holder's income. Such increases in value are taxable when the policy is surrendered or when such amounts are paid as policy dividends, but only to the extent that they exceed total premiums paid and any cash consideration paid for the policy. If a life insurance policy or annuity is in force when the policy holder dies, the increases in cash value and the amount of any death benefit are excluded from the income of the beneficiaries of the insurance policy or annuity. Thus, taxation of income received by insurance policies or annuities is deferred until distributed to the policy holder. The deferral becomes permanent if the increase is distributed to policy beneficiaries when the policy holder dies. Death benefits paid in installments that include interest earned on the benefit after the policy holder's death are taxable.

In the absence of the tax expenditure, increases in policy or annuity values would result in taxable income to the policy holder each year and death benefits would be taxable when received by insurance policy or annuity beneficiaries. This would make insurance policies and annuities less attractive to taxpayers.

POLICY GOALS

The Commission assumes that the purpose of this expenditure is to encourage taxpayers to purchase cash value life insurance thereby providing themselves and their families a measure of financial security.

ADMINISTRABILITY

The administration of the tax rules pertaining to cash value life insurance and annuities 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 insurance companies.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $326.8 - $419.4 million per year during FY21 - FY25. See Table 1 below.

Table 1. Tax Revenue Loss Estimates for Exemption of Death Benefits and Interest on Life Insurance and Annuity

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$326.8	$335.8	$370.8	$407.7	$419.4

Revenue loss estimates for Massachusetts are based on the estimates in the most recent federal tax expenditure report prepared by the Joint Committee on Taxation (the JCT).[1] The JCT reports the impact on federal tax collections resulting from the exemption of death benefits and interest on life insurance and annuity. To share down the federal estimates into Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years[2], effective tax rates, and size of tax base.

DIRECT BENEFITS

This tax expenditure benefits insurance/annuity providers, policy holders/annuity owners, beneficiaries of policies, and annuity recipients. However, the direct beneficiaries of this tax expenditure are the policy holders/annuity owners who reduce or eliminate their tax liability on the interest earned within the policy or annuity. Policy holders/annuity owners accumulate wealth from these financial instruments on a tax-deferred basis, increasing the overall value of their investments. Note that once the policyholder surrenders the policy, the interest income is taxed.

Life insurance beneficiaries are also direct beneficiaries of this tax expenditure. These beneficiaries receive a benefit in the event of policyholder's passing. The beneficiaries receive the full amount without any tax liability on the accrued interest.

Insurance/annuity providers benefit from attracting more policyholders and annuity owners. For those seeking tax-efficient investment and retirement planning option, insurance companies and annuity providers are able to offer more attractive policy packages and increase their market share.

DOR does not have data on the number of direct beneficiaries of this tax expenditure.

DOR does not have in-house data to measure the revenue impact of this tax expenditure. Therefore, the estimates reported in the tables below should be used with extreme caution. Tables 2 - 5 show estimates for households and population with policies covered by this tax expenditure.

[1] 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/46c5da1a-424b-4a6f-bf6e-e076845b168d/x-22-22.pdf

[2] 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.

Based on the estimates from the Federal Reserve Board's 2019 Survey of Consumer Finances (SCF)[3], 59.4% of households in the U.S. reported to have life insurance. See Table 2 below. Affluent households were more likely than households with lower income to have life insurance policy. Only about 28% of households with income below $20,000 had life insurance policy. In a sharp contrast, 81-85% of households with income greater than $200,000 had life insurance policy.

Table 2. Percent of Household in the U.S. with Life Insurance Policy, Total and by Household Income Level, 2019

Household Income Level	% of Households With Life Insurance Policy
< $20,000	27.8%
$20,000-$39,999	41.7%
$40,000-$59,999	60.8%
$60,000-$79,999	67.0%
$80,000-$99,999	74.4%
$100,000-$199,999	79.8%
$200,000-$299,999	84.6%
$300,000+	80.7%
Total	**59.4%**

Source: 2019 Survey of Consumer Finances (SCF), the Federal Reserve Board, public use file, tabulations by Massachusetts Department of Revenue (DOR). For more information about SCF, see https://www.federalreserve.gov/econres/scfindex.htm

The SCF survey does not offer state level information. DOR estimated the numbers of Massachusetts households with life insurance policy based on the findings from the 2019 SCF survey for calendar years 2021 - 2025. For this period, DOR estimates that 1.64 - 1.71 million Massachusetts households had life insurance policies.[4] See Table 3 below.

Table 3. Estimates of Numbers of Households in Massachusetts with Life Insurance Policy, 2021-2025

Calendar Year	Total Households	Number of Households with Life Insurance Policy*
2021	2,759,018	1,639,288
2022	2,797,776	1,662,316
2023	2,825,212	1,678,617
2024	2,852,916	1,695,078
2025	2,880,892	1,711,700

Source: (i) For household estimates, the U.S. Census Bureau's American Community Survey (ACS), https://data.census.gov/advanced; (ii) Calculation by Massachusetts Department of Revenue (DOR)
*Assuming that 59.4% of households have life insurance policy, as estimated in Table 2.

Based on 2019 SCF data, 4.7% of U.S. households reported that they received income from or have an annuity during calendar years 2021 - 2025. Based on this share, DOR estimates

[3] The Survey of Consumer Finances (SCF) is a household survey.
[4] These estimates for Massachusetts are most likely to be understated as the life insurance policy holding rate among households tend to increase with the household income and Massachusetts is a high-income state.

that 129,000 - 135,000 Massachusetts households received income from or have an annuity during this period. See Table 4 below.

Table 4. Estimates of Numbers of Households in Massachusetts Who Received Income From or Have an Annuity, 2021-2025

Calendar Year	Total Households	Number of Households Who Received Income from or Have an Annuity
2021	2,759,018	128,971
2022	2,797,776	130,783
2023	2,825,212	132,065
2024	2,852,916	133,361
2025	2,880,892	134,668

Source: (i) For household estimates, the U.S. Census Bureau's American Community Survey (ACS), https://data.census.gov/advanced; (ii) For annuity, 2019 Survey of Consumer Finances (SCF), the Federal Reserve Board, public use file, tabulations by Massachusetts Department of Revenue (DOR). For more information about SCF, see, https://www.federalreserve.gov/econres/scfindex.htm

The above estimates for Massachusetts are roughly in line with estimates based on data from the Life Insurance Marketing and Research Association (LIMRA). According to the statistics published by the LIMRA, 52% of the general population (18-to-75-years old) in the U.S. own life insurance in 2023.[5] See Table 5 below.

LIMRA did not publish state level statistics on policy holder count. If it is assumed that 52% of Massachusetts a residents (18-75 years old) own life insurance policy, the count of the policyholders in the state would be 2.6 - 2.7 million between calendar years 2021 - 2025.

Table 5. Estimates of Population (18-75) with Life Insurance in Massachusetts, 2020-2025 (in 1,000s)

Calendar Year	2020	2021	2022	2023	2024	2025
Population	5,173	5,185	5,178	5,207	5,236	5,265
Population with Life Insurance*	2,690	2,696	2,692	2,707	2,723	2,738

Source: Life Insurance Marketing and Research Association (LIMRA); U.S. Census Bureau; Massachusetts Department of Revenue.
*Assuming that 52% of population own life insurance.

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

[5] LIMRA survey was administered among 18-to-75-year-old population in the U.S. https://www.limra.com/en/newsroom/news-releases/2023/new-study-shows-interest-in-life-insurance-at-all-time-high-in-2023/

income tax that would have been collected, are equal to the direct benefits afforded by the tax expenditure to the taxpayers who use this exemption.

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

All states that impose an income tax adopt the tax expenditure, unless they decouple from Code § 101. The Commission is not aware of any state that has decoupled. States that adopt the tax expenditure include California, Connecticut, Maine, New Hampshire (interest and dividends tax), New York, Rhode Island, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.004 Exemption of Employer Contributions to Accident and Health Plans and Certain Benefits Received	**Annual cost:** $1.2 - 1.5 billion	**Year of adoption:** 1973	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☒ Health/Environment/Social Justice
☐ 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).	☐	x	☐	☐
The TE's benefit justifies its fiscal cost.	☐	x	☐	☐
The TE is claimed by its intended beneficiaries.	☐	☐	x	☐
The TE is claimed by a broad group of taxpayers.	☐	☐	☐	x
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	☐	☐	x
The TE is relevant today.	☐	☐	x	☐
The TE is easily administered.	☐	☐	☐	x
Business only -The TE is primarily beneficial to smaller businesses.	☐	☐	☐	☐
Individuals only -The TE is primarily beneficial to lower income taxpayers.	☐	x	☐	☐

This tax expenditure is flagged for legislative review: ☒ Yes ☐ No

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

Comments:

- Missing from the current DOR report is a discussion of this TE's distortion of the market for health insurance, as has been extensively documented in the literature on the US health insurance system. The exemption lowers the cost of health insurance relative to wages, so employers and employees are incentivized to purchase more generous health insurance plans than they would in an undistorted market.
- Given the enormous size of this TE, it is important for policymakers to understand its effects and whether it continues to be an efficient way to subsidize access to coverage.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption of Employer Contributions to Accident and Health Plans and Certain Benefits Received
TAX EXPENDITURE NUMBER	1.004
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, §§ 1(c), 1(d), and § 2(a)(2)(Q); Code §§ 105 and 106
YEAR ENACTED	M.G.L. c. 62, §§ 1 and 2 were enacted in 1973 (M.G.L. c. 62, § 2(a)(2)(Q) was added in 2007); Code §§ 105 and 106 were enacted in 1954.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $1,235 - $1,489 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Massachusetts conforms to the federal individual income tax exclusions for: (i) employer contributions to employees' accident and health plans and (ii) benefits received by employees from such plans.	**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 promote employees' participation in employer-sponsored accident	**Are there other states with a similar Tax Expenditure?** All states that impose a personal income tax adopt the expenditure unless they decouple from Internal Revenue Code (Code) §§ 105 and 106. California has decoupled from the federal

and health plans by reducing employees' after-tax cost of participation.	exclusion for the limited purpose of including in employee income certain employer contributions to medical savings accounts. Rhode Island allows a slightly expanded exclusion, covering employer contributions to certain medical savings accounts beyond the exclusion allowed under the Code. Connecticut, Maine, New York, and Vermont conform to the federal exclusion.

INTRODUCTION

Massachusetts conforms to the federal individual income tax exclusions (i) for employer contributions to employees' accident and health plans and (ii) benefits received by employees from such plans. The federal exclusion for employer contributions to accident and health plans results from Code § 106. The term accident or health plan includes not only health insurance but also accidental death and dismemberment insurance, short-term and long-term disability coverage, and coverage through reimbursement arrangements such as health care flexible spending accounts (FSAs) and health reimbursement accounts (HRAs). The exclusion is generally available up to a statutory limit specified for each type of plan.

Note that Massachusetts law may require employer-provided accident or health plans to offer coverage beyond what is excludable under Code § 106. For example, in certain circumstances Massachusetts law requires health plans to cover former spouses, but under Code § 106 contributions to a plan for an employee's former spouse are not excluded. M.G.L. c. 62, § 2(a)(2)(Q) provides a deduction to cover employer contributions that are required under Massachusetts law and are included in federal gross income.

Code § 105 provides exclusions for the value of benefits received by employees under an accident and health plan. The exclusion generally applies to health care services received under such a plan, so long as the services would be eligible for the federal medical expense deduction under Code § 213. The exclusion for health care benefits is reduced in cases where the employee deducted the cost of the services as a medical expense deduction on a previously filed individual income tax return. Amounts received due to accidents are generally excludable if the accident results in the permanent loss or loss of use of a part of the body, or permanent disfigurement. Compensation for absence from work is generally not eligible for the exclusion.

Note that Code §§ 105 and 106 contain technical rules preventing discrimination in favor of highly compensated employees and requiring minimum participation thresholds among employees. Special rules may also apply to certain government plans. The revenue that Massachusetts forgoes as a result of its conformity to Code §§ 105 and 106, and M.G.L. c. 62, § 2(a)(2)(Q) constitutes a tax expenditure. Without the tax expenditure, all employer contributions to employees' accident and health plans and all payments from accident and health plans would be included in employees' gross income.

POLICY GOALS

The Commission assumes the goal of the expenditure is to promote employees' participation in employer-sponsored accident and health plans by reducing employees' after-tax cost of participation.

ADMINISTRABILITY

The administration of this exclusion does not present 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 employers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $1,235 - $1,489 million per year during FY21 - FY25.[1] See Table 1.

Table 1. Tax Revenue Loss Estimates for Exclusion of Employer Contributions to Accident and Health Plans and Certain Benefits Received

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$1,235	$1,309	$1,356	$1,415	$1,489

Revenue loss estimates for Massachusetts are based on the estimates in the most recent federal tax expenditure report prepared by the Joint Committee on Taxation (the JCT).[2] 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 years[3], effective tax rates, and size of tax base, but not the difference between the federal law and state law as discussed in the "Introduction" section due to lack of relevant data.

[1] Estimates do not include tax saving to employers in federal and Massachusetts corporate income tax and federal payroll taxes. See discussion in next section.

[2] 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's tax expenditure report can be found on JCT's website: https://www.jct.gov/getattachment/46c5da1a-424b-4a6f-bf6e-e076845b168d/x-22-22.pdf

[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.

DIRECT BENEFITS

Employees participating in employer-sponsored accident and health plans, and their dependents included on the plans, are direct beneficiaries of this tax expenditure.

Employers benefit from this tax expenditure indirectly. Premiums for health insurance paid by employers are exempt from federal and Massachusetts corporate income taxes and federal payroll taxes. The exclusion helps employers reduce their payroll tax obligations such as Medicare and Social Security as these taxes are calculated based on the total taxable wages. This will encourage employers to offer attractive packages to employees, which in turn helps attract new employees and retain employees.

The exclusion encourages employers to offer long-term care insurance to their employees which in turn is likely to boost the demand for long-term care and support insurance providers. In this sense, insurance companies also benefit from this tax expenditure indirectly.

The government also benefits indirectly from the exclusion despite the loss in revenue by promoting private health insurance coverage and reducing reliance on public healthcare programs.

According to the Massachusetts Center for Health Information and Analysis (CHIA)[4], in 2021, 82,845 Massachusetts private sector employers with 3 or more employees provided healthcare benefits to 1,434,215 employees, which accounted for 50.1% of their total employment of 2,858,401.[5,6] Because the CHIA data does not cover health benefits information for private sector firms with less than 3 employees or for the public sector, DOR also estimated the number of Massachusetts employers offering various health plans and employees covered by those plans using the U.S. Bureau of Labor Statistics' (BLS) National Compensation Survey data [7][8]

[4] CHIA is an agency of the Commonwealth of Massachusetts, https://www.chiamass.gov/

[5] Center for Health Information and Analysis (CHIA), 2021 Massachusetts Employer Survey: https://www.chiamass.gov/assets/docs/r/survey/Massachusetts-Employer-Survey-CHIA-2021.pdf; data for the survey can be assessed from https://www.chiamass.gov/assets/docs/r/survey/Massachusetts-Employer-Survey-Databook-CHIA-2021.xlsx

[6] For the scope of healthcare benefits as used in the CHIA survey, see https://www.chiamass.gov/assets/docs/r/survey/Massachusetts-Employer-Survey-Questionnaire-CHIA-2021.pdf

[7] For detailed information on BLS National Compensation Survey, see https://www.bls.gov/ebs/. For definition of health plans or healthcare benefits as used in the BLS National Compensation Survey, see https://www.bls.gov/ebs/publications/pdf/national-compensation-survey-glossary-of-employee-benefit-terms-2023.pdf

[8] The BLS compensation data cover various employee benefits in private and state/local government sectors. The employee benefits data are produced for the entire country, four regions, and nine geographic divisions.

According to the BLS data, on average across 2021, 2022 and 2023, 70% of private sector employees and 90% of state and local government employees had access to healthcare benefits through their employers in March. Based on these access rates, DOR estimated that 2.587 million employees in Massachusetts had access to healthcare benefits from their employers (see Table 2 below). It should be noted that not all the employees with access to employer provided healthcare benefits utilize the benefits. The take-up rate[9] of employer-provided healthcare benefits was 76% among private sector employees and 84% among state/local government employees in the New England region. DOR used these rates to estimate the numbers of employees in Massachusetts who used employer-provided healthcare benefits. Among those with access to healthcare benefits from the employer, DOR estimated that nearly 2 million (56%) of all employees in Massachusetts used employer-provided healthcare benefits.[10]

Table 2. Estimates of Employees with Employer-Provided Healthcare Benefits in Massachusetts, 2023Q1

Sector	(A) Number of Employees 2023Q1	(B) Healthcare Benefits Access Rate (New England, March 2021-2022- 2023 Averages)	(C=A*B) Numbers of Employees with Access to Employer Provided Healthcare Benefits	(D) Healthcare Benefits Take-Up Rate (New England, March 2021-2022-2023 Averages)	(E=C*D) Numbers of Employees Covered by the Employer Provided Healthcare Benefits	(F=E/A) % Of Employees Covered by Employer Provided Healthcare Benefits
Government	**437,659**	**90%**	**393,893**	**84%**	**329,557**	**75%**
Federal Government	44,832	90%	40,349	84%	33,758	75%
State Government	108,091	90%	97,282	84%	81,393	75%
Local Government	284,736	90%	256,263	84%	214,406	75%
Private Sector	**3,132,423**	**70%**	**2,192,696**	**76%**	**1,666,449**	**53%**
All Sectors	**3,570,082**	**72%**	**2,586,590**	**77%**	**1,996,007**	**56%**

Note: The U.S. Bureau of Labor Statistics (BLS) data are only for civilian employees. In our estimation, we assumed the same state/local government access and take-up rate for federal government employees. The BLS employee benefits data are not available at the state level. We used the New England region's data in our estimation.

However, data are not available at state level. In addition, the BLS National Compensation Survey is only for civilian workers, i.e., federal workers and armed force members are not covered by the survey. The BLS data include various employee benefits access rate, take-up rate, and participation rate (Access rate is the percentage of employees who have access to the benefit plan for their use. Take-up rate is the percentage of employees with access to the benefit plan who participate in the benefit plan). For the estimation of numbers of employees in Massachusetts covered by employer provided healthcare benefits, DOR used the New England region's healthcare benefits access and take-up rates.

[9] Take-up rate is the percentage of employees with access to the benefit plan who participate in the benefit plan.

[10] Dependents on employees' health plans are not included in this estimate though they are also direct beneficiaries of this tax expenditure.

Source: (1). Data for employee benefits can be downloaded from the U.S. Bureau of Labor Statistics' website, https://www.bls.gov/ebs/publications/xlsx/employee-benefits-in-the-united-states-dataset.xlsx; for a review of recent publication on employee benefits based on the National Compensation Survey published by the U.S. Bureau of Labor Statistics, see "Employee Benefits in the United States, March 2023, U.S. Bureau of Labor Statistics", https://www.bls.gov/news.release/pdf/ebs2.pdf

(2). Employment data for Massachusetts are from the Quarterly Census of Employment and Wages (QCEW) provided by the U.S. Bureau of Labor Statistics, https://data.bls.gov/PDQWeb/en

DOR also used BLS data to estimate the number of employers offering health care to their employees. According to the 2020 County Business Pattern data from the U.S. Bureau of Census[11], there were 143,812 private sector firms in Massachusetts. BLS data showed that about 62% of private sector employers in the New England region offered healthcare benefits to their employees. Applying this percentage to 143,812 private sector firms in 2020 yields 89,163 firms in Massachusetts who offered healthcare benefits to their employees in that 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 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, including those mentioned in the previous section. 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 a personal income tax adopt the expenditure unless they decouple from Code §§ 105 and 106. California has decoupled from the federal exclusion for the limited purpose of including in employee income certain employer contributions to medical savings accounts. Rhode Island allows a slightly expanded exclusion, covering employer contributions to certain medical savings accounts beyond the exclusion allowed under the Code. Connecticut, Maine, New York, and Vermont conform to the federal exclusion.

[11] https://www2.census.gov/programs-surveys/susb/tables/2020/us_state_6digitnaics_2020.xlsx

Template for Evaluating Expenditures

Name of Expenditure: 1.006 Exemption of Distributions from Certain Contributory Pension and Annuity Plans	**Annual cost:** $488.0 - $582.1 million	**Year of adoption:** 1973	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: Not stated but presumed to be to incentivize people to work in government positions.

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).		X		
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.			X	
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			X	
The TE is relevant today.			X	
The TE is easily administered.			X	
Business only -The TE is primarily beneficial to smaller businesses.	X			
Individuals only -The TE is primarily beneficial to lower income taxpayers.		X		

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- For the year 2023, the expenditure affects roughly 280,000 taxpayers at an average cost per taxpayer of roughly $1,900.
- In consideration of the expenditure's large revenue impact, the legislature may wish to review whether this is the optimal way to encourage government service.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption of Distributions from Certain Contributory Pension and Annuity Plans
TAX EXPENDITURE NUMBER	1.006
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 2(a)(2)(E)
YEAR ENACTED	1973
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $488.0 - $582.1 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Estimated 271,320 – 288,261 per year during FY21 - FY25.
AVERAGE TAXPAYER BENEFIT	Estimated $1,799 – $2,019 per benefiting individual.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Income from contributory pensions of the U.S. and Massachusetts governments, including their agencies and political subdivisions, is excluded from Massachusetts gross income.	**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 tax expenditure is to provide an incentive for workers to pursue careers in federal, state, and local government.	**Are there other states with a similar Tax Expenditure?** The treatment of federal and state pensions varies among states that have income taxes. A number of such states, including Pennsylvania, exempt all pension income. Other states, including Connecticut, Maine, Rhode Island, and Vermont, provide limited exemptions for pension income. New York provides a

	complete exemption for federal and New York state pensions. California does not provide an exemption for federal or state pension income or any other pension income.

INTRODUCTION

Income from contributory pensions of the U.S. and Massachusetts governments, including their agencies and political subdivisions, is excluded from Massachusetts gross income. Most federal and state pensions are contributory, meaning that the employees fund their pensions, at least in part, out of current compensation. In addition, income from contributory pensions of other states and their agencies and political subdivisions is excluded from Massachusetts gross income if the state does not tax comparable distributions from Massachusetts government pensions.

Without the exclusion, distributions from contributory retirement plans of the U.S. and Massachusetts would be subject to tax. The foregone revenue constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the tax expenditure is to provide an incentive for workers to pursue careers in federal, state, and local government.

ADMINISTRABILITY

The administration of the exclusion of federal and Massachusetts pension income does not present special challenges for the DOR. Federal and Massachusetts pension income is reported as such by the payors on annual statements (generally Forms 1099-R) provided to the recipients and to the IRS and DOR.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $488.0 - $582.1 million per year during FY21 - FY25. See Table 1 below.[1]

Table 1. Tax Revenue Loss Estimates for Exemption of Distributions from Certain Contributory Pensions and Annuity Plans

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$488.0	$516.3	$538.6	$559.9	$582.1

Massachusetts' revenue loss estimates above are based on data on the Massachusetts Public Retirement Systems[2] and the Federal Employees Retirement System (FERS). [3] Data

[1] Due to lack of data, Table 1 does not cover exemption of income from contributory pensions of other states and their agencies and political subdivisions even if those states do not tax comparable distributions from Massachusetts government pensions.

[2] The Massachusetts Public Retirement Systems: Annual Reports. https://www.mass.gov/massachusetts-public-retirement-systems

[3] The Federal Employees Retirement System: Summary of Recent Trends. https://crsreports.congress.gov/

on the FERS pension payments are nationwide and by federal fiscal year. DOR estimated the FERS pension payments to Massachusetts residents and converted the federal fiscal year into the state fiscal years for purposes of the analysis.[4]

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the individuals who receive pension payments eligible for the exclusion. Table 2 below shows the DOR's estimates of the number of beneficiaries and average tax benefit for these beneficiaries.

Table 2. Number of Direct Beneficiaries & Average Tax Benefit

Fiscal Year	2021	2022	2023	2024	2025
Number of Beneficiaries: Total	**271,320**	**275,453**	**280,428**	**284,312**	**288,261**
Federal Pension Recipient	*41,835*	*41,787*	*41,739*	*41,690*	*41,642*
Massachusetts State/Local Pension Recipient	*229,485*	*233,667*	*238,689*	*242,621*	*246,618*
Average Tax Benefit: Total	**$1,799**	**$1,874**	**$1,921**	**$1,969**	**$2,019**
Federal Pension Recipient	*$1,738*	*$1,758*	*$1,778*	*$1,798*	*$1,818*
Massachusetts State/Local Pension Recipient	*$1,810*	*$1,895*	*$1,946*	*$1,999*	*$2,053*

Source: Estimated by Massachusetts Department of Revenue (DOR) based on statistical reports on the Massachusetts Public Retirement Systems and the Federal Employees Retirement System.

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

The treatment of federal and state pensions varies among states that have income taxes. A number of such states, including Pennsylvania, exempt all pension income. Other states,

[4] 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.

including Connecticut, Maine, Rhode Island, and Vermont, provide limited exemptions for pension income. New York provides a complete exemption for federal and New York state pensions. California does not provide an exemption for federal or state pension income or any other pension income.

Template for Evaluating Expenditures

Name of Expenditure: 1.008 Exemption of Public Assistance Benefits	**Annual cost:** $877.5 - $1,293.1 million	**Year of adoption:** 1916 & 1971	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☒ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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)	☐	☐	☐	X
The TE's benefit justifies its fiscal cost.	☐	☐	☐	X
The TE is claimed by its intended beneficiaries.	☐	☐	☐	X
The TE is claimed by a broad group of taxpayers.	☐	☐	☐	X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	☐	☐	X
The TE is relevant today.	☐	☐	☐	X
The TE is easily administered.	☐	☐	☐	X
Business only -The TE is primarily beneficial to smaller businesses.	☐	☐	☐	☐
Individuals only -The TE is primarily beneficial to lower income taxpayers.	☐	☐	☐	x

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- Massachusetts adopts the Internal Revenue Code definition of income for personal income tax purposes. All states that adopt an income tax adopt the expenditures unless they decouple from Code §61. The Commission is not aware of any state that has decoupled.
- This tax expenditure is claimed by its intended beneficiaries and by a broad group of taxpayers. The direct beneficiaries are individuals who receive public assistance. The number of beneficiaries exceeded 1 million for SNAP and 50,000 – 100,000 for other benefit programs.
- The Commission assumes the goal of the expenditure is to prevent the benefits of public assistance from being diminished by subjecting them to income tax.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption of Public Assistance Benefits
TAX EXPENDITURE NUMBER	1.008
TAX EXPENDITURE CATEGORY	Exclusions from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 61(a)(1); Rev. Rul. 71-425, 1971-2 C.B. 76
YEAR ENACTED	1916 (statutory language specifying that income includes compensation for services); 1971 (revenue ruling confirming that payments made by a state welfare agency are not includible in gross income)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$877.5 - \$1,293.1 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, public assistance benefits 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 the benefits of public assistance 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 expenditure, unless they decouple from Code § 61. The Commission is not aware of any state that has decoupled. States that adopt the

	expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

INTRODUCTION

Massachusetts adopts the Internal Revenue Code (Code) definition of income for personal income tax purposes. Code § 61 broadly defines "gross income" as "all income from whatever source derived." However, notwithstanding this broad definition, payments made by a government welfare fund to persons in need are not includible in gross income. See Rev. Rul. 71-425, 1971-2 C.B. 76. The exclusion applies to payments (i) made by a governmental welfare fund; (ii) for the promotion of the general welfare (i.e., based on individual or family need, including financial or employment status); and (iii) not made for services furnished by the recipient. Because of the Commonwealth's reliance on the Code for purposes of determining income, public assistance benefits are not included in gross income for Massachusetts tax purposes. The revenue lost by not taxing public assistance benefits constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to prevent the benefits of public assistance from being diminished by subjecting them to income tax.

ADMINISTRABILITY

The administration of the income exclusion for public assistance benefits 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 taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $877.5 - $1,293.1 million per year during FY20 - FY25. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Public Assistance Benefits

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$877.5	$1,168.7	$1,208.8	$1,250.2	$1,293.1

Revenue loss estimates are based on data for Massachusetts from multiple sources including Massachusetts Statistics of Income (SOI), the Center on Budget and Policy Priorities (CBPP)[1], and the U.S. Bureau of Economic Analysis (BEA)[2]. The CBPP provides housing voucher data while the BEA provides statistical data for some other public

[1] The Center on Budget and Policy Priorities. https://www.cbpp.org/
[2] The Bureau of Economic Analysis. https://www.bea.gov/.

assistance programs[3]. Public assistance benefits included in Table 1 include public assistance medical care benefits, income maintenance benefits[4] such as Supplemental Security Income (SSI) benefits and Supplemental Nutrition Assistance Program (SNAP) benefits, [5] and "housing voucher assistance payments". The benefits reflected in Table 1 may not include all of the benefits excluded from gross income, the estimates reported in Table 1 should be used with caution.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the individuals who receive public assistance. Table 2 below provides the count of beneficiaries for selected public assistance programs, including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), the State Supplemental Program (SSP), and housing vouchers. Some of the beneficiaries could be recipients of benefits from multiple programs. Therefore, adding counts for these programs to get the total number of beneficiaries could result in double counting.

Table 2. Number of Beneficiaries by Select Public Assistance Benefits Program

Fiscal Year	2018	2019	2020	2021	2022
Supplement Nutrition Assistance Program (SNAP)	765,588	778,638	850,859	948,423	1,000,586
Temp. Assistance for Needy Families (TANF)	52,836	56,485	63,075	62,437	69,005
State Supplemental Program (SSP)	73,194	70,982	61,589	52,798	57,482
Number of Families using Vouchers	86,080	87,853	89,662	91,509	93,394

Source: compiled by Massachusetts Department of Revenue (DOR) using data from various sources including Center on Budget and Policy Priorities (CBPP), Federal Reserve Bank of St. Louis, U.S. Department of Agriculture, and U.S. Department of Health & Human Services.

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance the 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] This data is contained in the U.S. Bureau of Economic Analysis (BEA)'s personal current transfer receipts data. BEA defines "personal current transfer receipts" as "income payments to persons for which no current services are performed and net insurance settlements." It is the sum of government social benefits and net current transfer receipts from business. Data and definition of each personal current transfer receipt can be downloaded from the U.S. Bureau of Economic Analysis (BEA)'s website.

[4] Excluding various tax credits.

[5] Excluding Certain Foster Care Payments covered under TERC 1.012 Exemption of Certain Foster Care Programs.

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 expenditure, unless they decouple from Code § 61. The Commission is not aware of any state that has decoupled. States that adopt the expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.010 Exemption of Workers' Compensation Benefits	**Annual cost:** $45.8 - $53.0 million	**Year of adoption:** 1954	**Sunset date:** none

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:
- ☐ Job creation & maintenance
- ☐ Investment
- ☐ Competitiveness/Strategic
- ☐ Health/Environment/Social Justice
- ☐ Other:

Individual:
- ☒ Relief of poverty
- ☐ Progressivity/assistance to low earners
- ☐ Access to opportunity
- ☒ Health/Environment/Social Justice
- ☐ 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).			X	
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.			X	
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.		X		
The TE is relevant today.				X
The TE is easily administered.				X
Business only -The TE is primarily beneficial to smaller businesses.				
Individuals only -The TE is primarily beneficial to lower income taxpayers.			X	

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- The Commission notes that DOR does not have data on the average amount claimed per taxpayer. However, this expenditure is likely driven by the general view that exempting workers' comp benefits is good policy, and therefore whether the amount claimed per taxpayer is meaningful may not be particularly relevant to policymakers.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption of Workers' Compensation Benefits
TAX EXPENDITURE NUMBER	1.010
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 104 (a)(1)
YEAR ENACTED	1954
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $45.8 - $53.0 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Estimated 35,000 – 36,000 per year during FY21 - FY25 excluding federal employees.
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, amounts received under workers' compensation acts as compensation for personal injuries or sickness are excluded from gross income.	**Is the purpose defined in the statute?** The statue 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 workers' compensation for personal injury or sickness 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 expenditure, unless they decouple from Code § 104. The Commission is not aware of any state that has decoupled. States that adopt the expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

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. Code § 104 provides that gross income does not include "amounts received under workmen's compensation acts as compensation for personal injuries or sickness." Because of the Commonwealth's reliance on the Code for purposes of determining income, amounts received as workers' compensation for personal injuries or sickness are not included in gross income for Massachusetts tax purposes. The revenue lost by not taxing workers' compensation payments constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to prevent amounts received as workers' compensation for personal injury or sickness from being diminished by subjecting them to income tax.

ADMINISTRABILITY

The administration of the income exclusion for workers' compensation does not present any special challenges for 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 taxpayers.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $45.8 - $53.0 million per year during FY21 - FY25. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Workers' Compensation Benefits

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$45.8	$48.7	$50.7	$52.0	$53.0

Massachusetts' revenue loss estimates above are based on data from the Joint Committee on Taxation (JCT)[1], the National Academy of Social Insurance (NASI)[2], and the U.S. Bureau of Economic Analysis (BEA)[3].

[1] The Joint Committee on Taxation (JCT). https://www.jct.gov/
[2] The National Academy of Social Insurance. https://www.nasi.org/
[3] The U.S. Bureau of Economic Analysis. https://www.bea.gov/

The estimates are based on the average of two different estimation methods. The first method uses estimates in the most recent federal tax expenditure report prepared by the JCT.[4] 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 years[5], effective tax rates, and size of tax base. The second method uses direct data on workers' compensation benefits paid in Massachusetts from the BEA and NASI[6].

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the individuals who receive compensation for sickness or personal injury or the survivors of individuals who died of employment-related causes. They can exclude such compensation from gross income for Massachusetts tax purposes. Although DOR does not have direct data on all direct beneficiaries, Table 2 below shows the estimated number of First Reports of Injury (FROIs) filed with the Massachusetts Department of Industrial Accidents (DIA) [7] each year, which may be a good approximation of the number of direct beneficiaries. However, the counts do not include civilian employees of the federal government. Civilian federal employees are covered under the Federal Employees' Compensation Act (FECA)[8] They do not file with DIA. DOR does not have count data for civilian federal employees covered by FECA. For that reason, the counts in Table 2 may understate the total number of beneficiaries.

Table 2. Estimated Number of Direct Beneficiaries

Fiscal Year	2021	2022	2023	2024	2025
Number of Beneficiaries	35,690	35,548	35,406	35,555	35,706

Source: Massachusetts Department of Industrial Accidents (DIA) and Massachusetts Department of Revenue (DOR)

Please refer to the Appendix for a breakout of the numbers in Table 2 by industry pursuant to the North American Industry Classification System (NAICS). For more information on workers' compensation benefits in Massachusetts, refer to the DIA.

[4]Among other tasks, the JCT provides revenue estimates for federal tax expenditures and tax legislation considered by the Congress. The most recent JCT's tax expenditure report can be found on JCT's website: https://www.jct.gov/getattachment/46c5da1a-424b-4a6f-bf6e-e076845b168d/x-22-22.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.

[6]The BEA data accounts for federal civilian workers' compensation received from federal funds. The National Academy of Social Insurance data accounts for workers' compensation through private insurance or self-insurance.

[7]The Massachusetts Department of Industrial Accidents. https://www.mass.gov/info-details/learn-about-workers-compensation-benefits

[8]Civilian employees of the Federal government are covered under the Federal Employees' Compensation Act (FECA. https://www.dol.gov/agencies/owcp/FECA

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 expenditure, unless they decouple from Code § 104. The Commission is not aware of any state that has decoupled. States that adopt the expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

APPENDIX

Table 3: Worker's Compensation Claims by Calendar Year & NAICS Industry Code

NAICS	INDUSTRY TITLE	2020	2021	2022
11	Agriculture, Forestry, Fishing, & Hunting	89	128	147
21	Mining	21	25	36
22	Utilities	134	132	111
23	Construction	1,746	2,132	2,073
31 - 33	Manufacturing	1,410	1,850	1,856
42	Wholesale Trade	602	776	807
44 - 45	Retail Trade	1,908	2,363	2,291
48 - 49	Transportation & Warehousing	1,077	1,248	1,233
51	Information	129	123	111
52	Finance And Insurance	223	484	714
53	Real Estate And Rental And Leasing	235	300	271
54	Professional, Scientific, & Technical Services	307	365	349
55	Management Of Companies & Enterprises	16	22	29
56	Admin., Support, Waste Mgmt. & Remediation Services	1,173	1,390	1,721
61	Educational Services	463	534	515
62	Health Care & Social Assistance	5,361	3,968	3,293
71	Arts, Entertainment, & Recreation	152	152	204
72	Accommodation & Food Services	944	1,080	1,359
81	Other Services (Except Public Admin.)	719	658	809
92	Public Administration	142	131	40
99	Non-Classifiable Establishments	732	756	593
N.A.	Unassigned NAICS	18,031	17,148	16,769
	TOTAL	35,614	35,765	35,331

Source: Massachusetts Department of Industrial Accidents (DIA)

Of those who claim workers' compensation, the largest number work in the Health Care and Social Services industry as illustrated in Table 3.[9] However, given the significant number of claimants without an assigned NAICS code, there could be other sectors that have greater count.

Claimants from the Health Care & Social Assistance industry were approximately 9% of all workers' compensation claimants in calendar year 2022. This industry accounts for 18% of jobs in the Commonwealth of Massachusetts.

[9] Classification of number of claims by other criteria, such as sex, age group, injury vs illness, injury type, can be found in the following report: https://www.mass.gov/doc/dph-dia-and-dls-release-new-study-on-utilization-of-workers-compensation-data/download

Template for Evaluating Expenditures

Name of Expenditure: 1.012 Exemption for Certain Foster Care Payments	**Annual cost:** $3.7 - $4.4 million	**Year of adoption:** 1983	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:
- ☐ Job creation & maintenance
- ☐ Investment
- ☐ Competitiveness/Strategic
- ☐ Health/Environment/Social Justice
- ☐ Other:

Individual:
- ☐ Relief of poverty
- ☐ Progressivity/assistance to low earners
- ☐ Access to opportunity
- ☒ Health/Environment/Social Justice
- ☐ 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).	X			
The TE's benefit justifies its fiscal cost.				X
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.	X			
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			X	
The TE is relevant today.			X	
The TE is easily administered.			X	
Business only -The TE is beneficial to smaller businesses.				
Individuals only -The TE benefits lower income taxpayers.			X	

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- To be eligible to be a foster parent, once must already have a stable source of income and cannot apply to become a foster parent for monetary gain. This leads the Commission to assume that the purpose of the tax credit is to ease the financial burden of caring for foster children, not incentivizing one to become a foster parent.
- There is no clear measurement of the number of taxpayers claiming the deduction or what the average benefit to the taxpayer is; however, 6,500-6,800 foster children benefited from the tax expenditure during FY20 - FY24 with an average savings of $550 - $700 per child.
- All states conform to the Code for this exclusion.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption of Certain Foster Care Payments
TAX EXPENDITURE NUMBER	1.012
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 131
YEAR ENACTED	1983
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$3.7 - \$4.4 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available but the number of foster children benefiting from this tax expenditure varies within 6,500 - 6,800 during FY20 - FY24.
AVERAGE TAXPAYER BENEFIT	Not available but tax saving per foster child varies within \$550 - \$700 during FY20 - FY24.
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Massachusetts conforms to the federal income tax exclusion for payments by state and local social services agencies to taxpayers that provide foster care to children in need.	**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 ease the financial burden on taxpayers providing foster care to children in need by exempting foster care payments received from state and local social services agencies from income tax.	**Are there other states with a similar Tax Expenditure?** States that conform to the Internal Revenue Code for personal income tax purposes adopt the exclusion unless they have specifically decoupled. The Commission is not aware of any state that has decoupled.

INTRODUCTION

Massachusetts conforms to Internal Revenue Code (Code) § 131, which excludes from gross income amounts received from state and local social services agencies as foster care payments. The payments compensate foster care providers for care that they provide within their home to children in need. There is no limit to the amount that may be excluded. In Massachusetts, payments are set by the Department of Children and Families (DCF) and are based on the age of the foster child. Supplemental payments may be available based on the circumstances and special needs of the child. To be eligible for the exclusion, payments must be made pursuant to state or local government foster care programs and must be paid by either a state or local government, or a qualified foster care placement agency. In the absence of the exclusion, payments made to foster parents would be included in the recipients' gross income for federal and Massachusetts tax purposes.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to ease the financial burden on taxpayers providing foster care to children in need by exempting foster care payments received from state and local social services agencies from income tax.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $3.7 - $4.4 million per year during FY20 - FY24. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption of Certain Foster Care Payments

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$3.7	$3.9	$3.8	$4.2	$4.4

Source: Massachusetts Department of Children & Families and Massachusetts Department of Revenue.

Revenue loss estimates are based on data obtained from DCF's annual reports.[1] These reports provide the number of children in foster care by year and data on annual financial support (daily stipend, clothing allowance, etc.) DCF provided to foster care parents. Eligibility for DCF foster care and the amount of the payments are set by state law. Estimates reported in Table 1 should be used with some caution.[2]

[1] https://www.mass.gov/info-details/department-of-children-and-families-reports-data#dcf-annual-reports-

[2] Estimates reported in Table 1 are in general consistent with the estimates using an alternative method that adjusts the federal Joint Committee on Taxation (the JCT)'s estimates of the impact on federal tax collections resulting from this income exemption.

DIRECT BENEFITS

Individuals that provide foster care are the direct beneficiaries of this tax expenditure. Beneficiaries may also include children receiving foster care. The Department of Revenue (DOR) does not have information on the total number of beneficiaries of this tax expenditure, although DCF's annual report includes data on the number of children in foster care which gives some sense of the possible scope of beneficiaries. Table 2 below shows the number of children in foster care in Massachusetts, under age 22, for FY20 - FY24 based on DCF data. Please note that the number of children in FY23 and FY24 are forecasted by DOR based on the average growth rate in recent years.

Table 2. Number of Children in Foster Care in Massachusetts

Fiscal Year	2020	2021	2022	2023	2024
Number of Children	6,549	6,726	6,596	6,598	6,604

Source: Massachusetts Department. of Children and Families (DCF); 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 income tax exemption for certain foster care payments) and direct benefits (to those who provide foster care) of this tax expenditure. Since the direct costs to the Commonwealth are the direct benefits to taxpayers, they are equal.

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

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

Template for Evaluating Expenditures

Name of Expenditure: 1.023 Exemption of Interest from Massachusetts Obligations	**Annual cost:** $70.8 - $86.4 million	**Year of adoption:** 1973	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: make financing more attractive to investors

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).		x		
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.			X	
The TE is claimed by a broad group of taxpayers.			X	
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			x	
The TE is relevant today.				x
The TE is easily administered.		x		
Business only -The TE is primarily beneficial to smaller businesses.				
Individuals only -The TE is primarily beneficial to lower income taxpayers.		x		

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- Difficult to measure as all state and local obligations are exempt from federal taxes but only MA state and local is exempt from MA income taxes – only way DOR can verify is through the audit process. Indirect benefit – MA tax-exempt bonds used to fund capital projects across the state that benefit all MA residents.
- Members assumed the goal of the expenditure is to help finance state and local government projects by making state and local obligations more attractive to investors.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption of Interest from Massachusetts Obligations
TAX EXPENDITURE NUMBER	1.023
TAX EXPENDITURE CATEGORY	Exclusions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 2 (a)(1)(A); IRC § 103
YEAR ENACTED	M.G.L. c. 62, § 2 was enacted in 1973; Code § 103 was enacted in 1954
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $70.8 - $86.4 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Interest earned on Massachusetts state and local obligations is exempt from the personal income tax. The exemption applies to interest income from any obligation issued by the Commonwealth, any political subdivision of the Commonwealth, or any agency or instrumentality thereof.	**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 tax expenditure is intended to help finance state and local government projects by making state and local obligations more attractive to investors, thus ensuring access to funds at more favorable	**Are there other states with a similar Tax Expenditure?** Most states that impose a personal income tax provide a general exemption for interest on their own state and local obligations. These states include California, Connecticut, Maine, New Hampshire (interest and dividends tax),

interest rates than would apply without the exemption.	New York, Rhode Island, and Vermont. A few states, including Illinois and Wisconsin, allow an exemption only for obligations specifically designated as tax exempt by statute. These states tax interest on at least some of their obligations.

INTRODUCTION

Under Internal Revenue Code (Code) § 103, gross income generally excludes the interest earned on state and local bonds. Massachusetts does not conform to the federal exclusion but provides a personal income tax exemption for interest income from obligations issued by the Commonwealth of Massachusetts, political subdivisions of the Commonwealth, or any agency or instrumentality thereof. See M.G.L. c. 62, § 2 (a)(1)(A). Interest from such obligations issued by other states, their political subdivisions, agencies, and instrumentalities is added back to federal gross income when determining Massachusetts gross income and is thus taxable in Massachusetts. The exemption for interest from Massachusetts state and local obligations results in a state tax expenditure.

Note that gain from the sale of Massachusetts state and local obligations may be exempt if such an exemption is specifically allowed by the statute authorizing the issuance of the obligations.[1] Such obligations are not typical and exempt gain is not considered in this analysis.

In the absence of the personal income tax exemption, interest earned on Massachusetts state and local bonds would generally be taxable in Massachusetts. However, even in the absence of this tax exemption, income from interest earned or derived by a non-resident is generally not subject to Massachusetts income tax. See 830 CMR 62.5A.1(4). [2]

POLICY GOALS

The Commission assumes the tax expenditure is intended to help finance state and local government projects by making state and local obligations more attractive to investors, thus ensuring access to funds at more favorable interest rates than would apply without the exemption.

[1] *See* M.G.L. c. 164A, § 20 (exemption for obligations issued by municipal electric departments of cities & towns as members of New England Power Pool ("NEPOOL"); M.G.L. c. 161A, § 24 (exemption for obligations issued by the Massachusetts Bay Transportation Authority); M.G.L. c. 70B, § 3B (exemption for obligations issued by the School Building Assistance Program); M.G.L. c. 40N, § 19 (exemption for obligations issued by the Model Water and Sewer Commission); M.G.L. c. 29C, § 9 (exemption or obligations issued by the Massachusetts Clean Water Trust); M.G.L. c. 23I, § 14 (exemption for obligations issued by the Massachusetts Life Sciences Center); M.G.L. c. 23J, § 4 (exemption for obligations issued by the Massachusetts Clean Energy Technology Center); M.G.L. c. 15C, § 16 (exemption for obligations issued by the Massachusetts College Student Loan Authority); 2022 Mass. Acts c. 257, § 6 (exemption for obligations issued by the Grandin Water District); 2014 Mass. Acts c. 195, § 8 (exemption for obligations issued by the Commonwealth for Boston Convention and Exhibition Center); 2014 Mass. Acts c. 80, § 1 (exemption for obligations issued by the Mashpee Water and Sewer District); 2008 Mass. Acts c. 420, § 8 (exemption for obligations issued by the Geriatric Authority of Malden); 2008 Mass. Acts c. 307, § 4 (exemption for obligations issued by the Massachusetts Alternative and Clean Energy Investment Trust Fund); etc.

[2] https://www.mass.gov/regulations/830-CMR-625a1-non-resident-income-tax

ADMINISTRABILITY

The administration of the exemption of interest from Massachusetts state and local obligations presents challenges for DOR when taxpayers hold both Massachusetts state and local obligations and non-Massachusetts state and local obligations. Because federal law excludes interest earned on all state and local bonds from federal gross income, DOR cannot simply compare the taxpayer's Massachusetts return to their federal return to check that the taxpayer only claimed the exemption for interest from Massachusetts state and local obligations. The only way the DOR can verify the appropriate exemption amount is through the audit process.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $70.8 - $86.4 million per year during FY20 - FY24. See the table below.

Revenue Loss Estimates for Exemption of Interest from Massachusetts Obligations

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$70.8	$71.9	$78.4	$85.1	$86.4

Massachusetts' revenue loss estimates are based on the U.S. Census Bureau's Annual Survey of State and Local Government Finances data[3]. Along with other statistics, the survey provides data on "interest on debt" paid by state and local governments, including those in Massachusetts. To estimate the revenue loss resulting from this tax expenditure, this data is adjusted since not all holders of Massachusetts state and local debt owe Massachusetts individual income tax in the absence of this tax expenditure.

According to a Tax Policy Center (TPC) report[4], as of the fourth quarter of 2019, state and local debt were held by households (46%), mutual funds (20%), commercial banks (11%), property and casualty insurance (7%), money market funds (3%), life insurance companies (5%), and other (8%). To drive the estimates in the table above[5], DOR assumed that (i) all household debt holders are Massachusetts residents, and (ii) they together hold 46% of the Massachusetts state and local debts and (iii) would owe state individual income tax for interest on these debts in the absence of this tax expenditure; other debt holders do not owe state individual income tax in the absence of this tax expenditure.

[3] https://www.census.gov/programs-surveys/gov-finances.html. The survey provides statistics on state and local government revenue, expenditure, debt, and assets for the 50 states and D.C.

[4] https://www.taxpolicycenter.org/briefing-book/what-are-municipal-bonds-and-how-are-they-used#:~:text=Who%20Holds%20State%20and%20Local%20Government%20Debt%3F%20Most,funds%20%28which%20also%20represent%20household%20investors%29%20%28figure%203%29.

[5] Apply state income tax rate to interest on Massachusetts state and local obligations that would be taxable in the absence of this tax expenditure.

This methodology may overstate the revenue impact of this tax expenditure. Households include both residents and non-residents. Non-residents, as mentioned above, may not owe Massachusetts income tax on interest from Massachusetts state or local debts with and without this tax expenditure. Therefore, assuming all households are Massachusetts residents would result in overestimation of revenue impact.

This methodology may also understate the revenue impact of this tax expenditure by excluding other types of state and local debt holders mentioned in the TPC report. For example, shareholders of mutual funds and money market funds may be Massachusetts residents and would owe Massachusetts individual income tax on interest from Massachusetts state and local debts in the absence of this tax expenditure. In addition, TPC data is for all state and local debts in the United States.   Distribution of holders of Massachusetts state and local debts may be different from that shown in the TPC data.

The estimates reported in the table above are uncertain and should be used with caution.

DIRECT BENEFITS

Direct beneficiaries of this tax expenditure are taxpayers who owe individual income tax on interest from Massachusetts state and local debts in the absence of this tax expenditure. Due to data limitations, it is difficult to ascertain the exact number of these beneficiaries. [6]

This tax expenditure helps finance state and local government projects by making state and local obligations more attractive to potential investors, thus ensuring access to funds at more favorable interest rates than would apply without the exemption. This allows state and local governments to provide public goods and public services at lower costs. Indirectly, this tax expenditure benefits all Massachusetts residents.

EVALUATION: COMPARING COSTS AND BENEFITS

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who would ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance the income tax exemption for interest earned on Massachusetts obligations) and direct benefits (those who would owe individual income tax on interest from Massachusetts state and local debts in the absence of this tax expenditure) of this tax expenditure. Since the direct costs to the Commonwealth are the direct benefits to taxpayers, they are equal.

[6] DOR also looked at IRS data on tax-exempt interest as reported on tax return and financial documents of state and local bond issuers. Neither source provides data to accurately identify the direct beneficiaries of this tax expenditure or to measure the interest income affected by this tax expenditure.

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

Most states that impose a personal income tax provide a general exemption for interest on their own state and local obligations. Hence, this tax expenditure puts Massachusetts in a levelled playing field among other states in terms of having access to debt financing public projects.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a personal income tax provide a general exemption for interest on their own state and local obligations. These states include California, Connecticut, Maine, New Hampshire (interest and dividends tax), New York, Rhode Island, and Vermont. A few states, including Illinois and Wisconsin, allow an exemption only for obligations specifically designated as tax exempt by statute. These states tax interest on at least some of their obligations.

Template for Evaluating Expenditures

Name of Expenditure: 1.029 Exemption for Retirement Pay of the Uniformed Services	**Annual cost:** $22.7 - $24.4 million	**Year of adoption:** 1997	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☒ Health/Environment/Social Justice
☐ 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).			X	
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.			X	
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				X
The TE is relevant today.				X
The TE is easily administered.				X
Business only -The TE is primarily beneficial to smaller businesses.				
Individuals only -The TE is primarily beneficial to lower income taxpayers.		X		

This tax expenditure is flagged for legislative review: ☐ Yes ☒ 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: 2024

TAX EXPENDITURE TITLE	Exemption for Retirement Pay of the Uniformed Services
TAX EXPENDITURE NUMBER	1.029
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 2(a)(2)(E); St.1997, c. 139, s. 1
YEAR ENACTED	Effective tax years beginning on or after January 1, 1997
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $22.7 – $24.4 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Estimated 21,357 – 22,271 per year during FY21 - FY25.
AVERAGE TAXPAYER BENEFIT	Estimated $1,019 – $1,141 per benefiting individual.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Income from U.S. military pensions is excluded from Massachusetts gross income. Such pensions are those derived from service in the Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard, and the Commissioned Corps of the Public Health Service and National Oceanic and Atmospheric Administration. Note that income from such pensions is subject to the federal income 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 acknowledge veterans’	**Are there other states with a similar Tax Expenditure?** Most states have full or partial exemptions for income from U.S. military pensions.

service to the country and to make Massachusetts a more attractive place for veterans to live.	Connecticut, Maine, Rhode Island, and New York have full exemptions. Vermont exempts $10,000 of military pension income for lower-income taxpayers. California taxes the full amount of U.S. military pension income.

INTRODUCTION

Effective for tax years beginning on or after January 1, 1997, income from U.S. military pensions is excluded from Massachusetts gross income. The exclusion applies to pension payments and survivorship benefits and is available whether or not the retiree contributed to any military retirement system. U.S. military pensions are defined as pensions derived from service in the Army, Navy, Air Force, Marine Corps, Coast Guard, Space Force, and the Commissioned Corps of the Public Health Service and National Oceanic and Atmospheric Administration. Note that income from such pensions is subject to the federal income tax.

POLICY GOALS

The Commission assumes the goal of the expenditure is to acknowledge veterans' service to the country and to make Massachusetts a more attractive place for veterans to live.

ADMINISTRABILITY

The administration of the exemption for U.S. military pension income does not present any special challenges for the Department of Revenue (DOR) as income from U.S. military pensions is reported as such by the payors on annual statements (generally Forms 1099-R) provided to the recipients and to the IRS and DOR.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $22.7 - $24.4 million per year during FY21 - FY25. See Table 1.

Table 1. Tax Revenue Loss Estimates for Exemption for Retirement Pay of Uniformed Services

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$22.7	$23.6	$23.9	$24.1	$24.4

Massachusetts' revenue loss estimates above are based on data from the Office of the Actuary (OACT)[1], an agency of the United States Department of Defense (DoD). The OACT provides retirement data by state and by federal fiscal year, including the number of military retirees and survivors and data on monthly retirement payments. For purposes of DOR's analysis, the OACT's data have been adjusted to account for retirement payments not

[1] 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/.

made through the DoD[2] and for the differences between the federal and Massachusetts fiscal year. [3]

DIRECT BENEFITS

The direct benefit of this tax expenditure is the reduction of the tax burden on former members of the uniformed services, thus encouraging these members to continue to reside in Massachusetts during retirement, and incentivizing other military retirees to move to Massachusetts.

The direct beneficiaries of this tax expenditure are the qualified retired individuals and their survivors of the U.S. Uniformed Services. They can exclude their federal government pension payments received 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	2021	2022	2023	2024	2025
Number of Beneficiaries	22,271	22,005	21,787	21,571	21,357
Average Tax Benefit	$1,019	$1,073	$1,095	$1,118	$1,141

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"

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 military retirees and survivors 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.

[2] The OACT's data covers only members in plans administered by the Department of Defense (DoD). It excludes data for non-DoD uniformed services (the US Coast Guard (CG), National Oceanic and Atmospheric Administration (NOAA), and Public Health Service (PHS)).
[3] 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.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states have full or partial exemptions for income from U.S. military pensions. Connecticut, Maine, Rhode Island, and New York have full exemptions. Vermont exempts $10,000 of military pension income for lower-income taxpayers. California taxes the full amount of U.S. military pension income.

Template for Evaluating Expenditures

Name of Expenditure: 1.039 Discharge of Indebtedness for Health Care Professionals	**Annual cost:** $0.8 – $1.2 million	**Year of adoption:** 2005	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☒ Health/Environment/Social Justice
☐ 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).			X	
The TE's benefit justifies its fiscal cost.				X
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.	X			
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			X	
The TE is relevant today.				X
The TE is easily administered.				X
Business only -The TE is primarily beneficial to smaller businesses.				
Individuals only -The TE is primarily beneficial to lower income taxpayers.	X			

This tax expenditure is flagged for legislative review: ☐ Yes ☒ 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: 2024

TAX EXPENDITURE TITLE	Discharge of Indebtedness for Health Care Professionals
TAX EXPENDITURE NUMBER	1.039
TAX EXPENDITURE CATEGORY	Exclusion from Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 2; IRC § 108(f)(4)
YEAR ENACTED	Federal exclusion, American Jobs Creation Act of 2004, P.L. 108-357, Sec. 320(a), (c). Massachusetts adopted the exclusion with IRC conformity update in 2005, St. 2005, c. 163, § 3.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.8 - \$1.2 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Estimated 238 – 244 for FY21 - FY25.
AVERAGE TAXPAYER BENEFIT	Estimated tax savings of \$3,124 – \$4,713 per benefiting individual.
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Massachusetts adopts the federal exclusion for discharges of indebtedness related to certain costs for students entering health care professions.	**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 this expenditure is to encourage people to enter health care professions to address staff	**Are there other states with a similar Tax Expenditure?** Generally, states adopt the federal exclusion for discharges of indebtedness related to costs for students entering health care professions due

shortages and provide for increased availability of health care services in underserved areas.	to the states' reliance on the Internal Revenue Code (Code) for purposes of defining income. States that do so include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state that does not adopt the federal exclusion.

INTRODUCTION

In general, amounts attributable to the discharge of indebtedness, such as from loan forgiveness, are deemed to be taxable income. Among the exceptions to this rule is the federal exclusion of the discharge of indebtedness for amounts attributable to certain costs for students entering health care professions. Massachusetts adopts this federal exclusion. The exclusion applies to student loan cancellation, amounts received as loan repayments, and amounts attributable to loan forgiveness under certain programs established to increase the availability of health care services in underserved areas. These programs include the National Health Service Corps (NHSC) Loan Repayment Program under section 338B(g) of the Public Health Service Act; state run programs that are eligible under section 338I of the Public Health Service Act; and any other state loan repayment program or loan forgiveness program that is intended to provide for increased availability of health care services in underserved or health professional shortage areas. Code § 108(f)(4). Although eligible state loan repayment or forgiveness programs may require a participant to work in Massachusetts, there is no such requirement in the tax rules.

Absent the exclusion described above, amounts that students in the health care field receive in the form of loan repayment or forgiveness would be counted as taxable income to the student. Relief from such taxation removes a potential financial barrier to participating in programs that incentivize students to pursue health care careers in underserved areas.

POLICY GOALS

The Commission assumes that the goal of this expenditure is to encourage people to enter health care professions to address staff shortages and provide for increased availability of health care services in underserved areas. While the tax statutes themselves do not state the policy goals of this expenditure, the underlying federal Public Health Services Act requires that eligibility for the financial incentives offered under the various programs be restricted to those that provide for increased availability of health care services to underserved or health professional shortage areas.

ADMINISTRABILTY

The administration of the exclusion of the discharge of indebtedness for amounts attributable to certain costs for students entering health care professions 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 $0.8 - $1.2 million per year during FY21 - FY25. See Table 1.

Table 1. Tax Revenue Loss Estimates for Discharge of Indebtedness for Health Care Professionals

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$0.8	$0.9	$1.0	$1.1	$1.2

Massachusetts' revenue loss estimates above are based on data from the Health Resources & Services Administration (HRSA), an agency of the U.S. Department of Health and Human Services[1]. The HRSA provides data for each state on the count and amount of loan repayments eligible for this tax expenditure. The HRSA's data have been adjusted for differences in federal and state fiscal year[2].

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are the individuals with relevant student loans and who provide health care to geographically isolated, economically or medically underserved areas. As such, they can exclude loan repayments received from Part B income. Table 2 below shows the estimated number of direct beneficiaries[1] and the resulting tax savings per beneficiary.

Table 2. Number of Direct Beneficiaries & Average Benefit

Fiscal Year	2021	2022	2023	2024	2025
Number of Beneficiaries	242	241	238	241	244
Average Loan Repayment Amount	$72,112	$86,163	$94,619	$101,442	$108,773
Average Tax Benefit	$3,124	$3,733	$4,100	$4,395	$4,713

Please note that the wider benefit is assumed to be to the public, especially those in economically disadvantaged areas, in that the expenditure could improve access to health care professionals.

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

[1] The Health Resources & Services Administration assists in providing health care services through its various programs to underserved areas. https://www.hrsa.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.

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 health care professionals 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

Generally, states adopt the federal exclusion for discharges of indebtedness related to costs for students entering health care professions, due to the states' reliance on the Code for purposes of defining income. States that do so include California. Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state that does not adopt the federal exclusion.

Template for Evaluating Expenditures

Name of Expenditure: 1.101 Net Exemption of Contributions to Employee Stock Bonus Plans, Pensions, and Profit-Sharing Trusts	**Annual cost:** $734.1 - $1,082.3 million	**Year of adoption:** Various	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: Encourage savings/retirement savings

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).			X	
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.				X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			X	
The TE is relevant today.			X	
The TE is easily administered.				X
Business only -The TE is beneficial to smaller businesses.				
Individuals only -The TE benefits lower income taxpayers.			X	

This tax expenditure is flagged for legislative review: ☐ Yes ☒ 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: 2024

TAX EXPENDITURE TITLE	Net Exemption of Contributions to Employee Stock Bonus Plans, Pensions, and Profit-Sharing Trusts
TAX EXPENDITURE NUMBER	1.101
TAX EXPENDITURE CATEGORY	Deferral of Gross Income or Exemption of Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC §§ 401-415; M.G.L. c. 62, §§ 2(a)(2)(F); 2(a)(3)(C); and M.G.L. c. 62, § 2(a)(1)(I).
YEAR ENACTED	Various
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $734.1- $1,082.3 million annually for FY20 - FY24.
NUMBER OF TAXPAYERS	About 2.3 million.
AVERAGE TAXPAYER BENEFIT	$320 - $470 annually during FY20 - FY24.
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure:	**Is the purpose defined in the statute?**
Employee contributions to employee stock bonus plans, pensions, and profit-sharing trusts are not subject to the Massachusetts personal income tax when made, if requirements under federal pension law are met. Distributions from such plans are generally taxable when received. Where employee contributions are not eligible for an exclusion, the distributions from those plans are excluded up to the amount of previously taxed contributions. Massachusetts conforms to these federal rules. This results in a deferral	The statute does not explicitly state the purpose of this tax expenditure.

of tax on contributions to such plans, or an exclusion from tax on distributions, both of which constitute a state tax expenditure.	
What are the policy goals of the expenditure? The Commission assumes that the policy goal of the tax expenditure is to encourage private employers to provide and make contributions to employee stock bonus plans, pension plans, and profit-sharing trusts and to encourage employees to participate in those plans. In addition, general conformity with the federal rules simplifies tax compliance and administration.	**Are there other states with a similar Tax Expenditure?** States that impose a personal income tax generally follow federal tax law with regard to employee contributions to employee stock bonus plans, pension plans, and profit-sharing trusts unless they decouple from the Internal Revenue Code. The Commission is not aware of any states that have decoupled. A number of states allow full or partial exemptions for pension distributions. States that exempt all pension income include Georgia and Illinois. New York allows a partial exemption of up to $20,000 and Maine allows an exemption of up to $25,000. California, Connecticut, Rhode Island, and Vermont tax the full amount of pension income included in federal gross income.

INTRODUCTION

All or part of contributions made by employees to their employee stock bonus plans, pension plans, and profit-sharing trusts[1] may be eligible for an exclusion from the employees' taxable income.[2] Amounts contributed by employees under such plans qualify for an income exclusion if federal requirements under Internal Revenue Code (Code) §§ 401 through 415 are met. Most private sector plans are designed to meet these requirements. Employee contributions that are excluded from employee taxable income are referred to as pre-tax contributions. Employee contributions that are not eligible for the exclusion are referred to as after-tax contributions. Massachusetts adopts the federal rules allowing the exclusion of employee contributions due to conformity with the IRC definition of gross income.

Distributions from employee stock bonus plans, pension plans, and profit-sharing trusts are included in taxable income when received by employees, as required by IRC §§ 401 through 415, which are adopted into Massachusetts law by M.G.L. c. 62, § 2(a)(2)(F). Federal rules allow employees to recover the portion of each distribution that is attributable to after-tax contributions on a tax-free basis. Massachusetts allows after-tax contributions to be excluded from pension income until the full amount of pension income previously taxed by Massachusetts is recovered. See M.G.L. c. 62, § 2(a)(2)(F).

Overall, the tax expenditure delays the imposition of tax on eligible retirement contributions until the contributions are distributed to employees. Or, in the case of contributions not eligible for an exclusion, the tax expenditure excludes from income distributions up to the amount of previously-taxed contributions. Absent this tax expenditure, it would be more costly for employees to contribute to employee stock bonus plans, pension plans, and profit-sharing trusts.

Note that Massachusetts does not follow the federal pension rules with respect to most of its own public sector pensions. Rather, pursuant to M.G.L. c. 62, § 2(a)(1)(I), Massachusetts

[1] Stock bonus plans receive shares of an employer's stock at the employer's discretion. The plans hold the stock and accumulate dividends. Dividends and gain from the sale of stock can be used to fund retirement distributions to eligible employees. Pension plans include any type of retirement plan that accepts contributions from employers or employees. Pensions invest the contributions and use the amounts contributed and investment returns to fund employee retirement distributions. 401(k) and similar plans fall into this category. Profit-sharing plans are a type of pension plan that receives contributions only from employers – not employees. The plan invests the contributions to fund employee retirement.

[2] The full amount of contributions made by employers to employee stock bonus plans, pension plans, and profit-sharing trusts is deductible from the employers' taxable income for both personal income tax and corporate excise purposes, so long as the plan meets the requirements of federal pension law. This result stems from IRC §§ 401 through 415, which are adopted into Massachusetts law in G.L. c. 62, § 2(a)(3)(C). Although generally relevant, the deduction for contributions made by employers is separate from the tax expenditure presented in this report.

gross income includes the full amount of employee contributions when they are made.[3] Then, retirees receive their pensions free of Massachusetts tax pursuant to M.G.L. c. 62, § 2(a)(2)(E).

POLICY GOALS

The Commission assumes that the policy goal of the tax expenditure is to encourage private employers to provide and make contributions to employee stock bonus plans, pension plans, and profit-sharing trusts and to encourage employees to participate in those plans.

ADMINISTRABILITY

General conformity with the federal rules simplifies tax administration with respect to the tax treatment of contributions to employee stock bonus plans, pension plans, and profit-sharing trusts. However, it may be challenging for taxpayers and the DOR to track any previously taxed contributions to such plans for purposes of applying the exclusion for previously taxed amounts.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $734.1 - $1,082.3 million per year during FY20 - FY24. See the Table 1 below.

Table 1. Revenue Loss Estimates for Exemption of Contributions to Employee Stock Bonus Plans, Pensions, and Profit-Sharing Trusts

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$734.1	$833.5	$862.5	$959.5	$1,082.3

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 income tax deferral applicable to contributions on employee stock bonus plans, employee pension plans and employee profit-sharing plans. The Massachusetts share of the JCT's estimates is based on the state's share of national wages and salaries and adjusted for the difference between federal income tax rate and Massachusetts income tax rate, and further adjusted based on the U.S. Department of Labor's Form 5500 data on private pension plan. Given the use of external data and the lack of state specific data, the fact that market gains are volatile and difficult to forecast, the revenue loss estimates are

[3] A deduction of up to $2,000 in the aggregate is allowed for contributions to Massachusetts and federal retirement plans and for contributions to Social Security or Railroad Retirement. M.G.L. c. 62, § 3(B)(a)(3), (4).
[4] The Joint Committee on Taxation is a nonpartisan committee of the United States Congress, originally established under the Revenue Act of 1926. https://www.jct.gov/

uncertain. Therefore, estimates reported in the table above should be used with extreme caution.

DIRECT BENEFITS

Employees working for employers who offer one or more of these plans are the direct beneficiaries of this tax expenditure. Employees pay no income tax on contributions and a plan pays no income tax on interest, dividends, and capital gains earned by the assets held by the plan. Employees pay the income tax only when receiving distributions.

Although DOR does not have data on actual number of beneficiaries of this tax expenditure, outside sources provide data for estimating the number of individuals who have retirement plans in Massachusetts.

Table 2. Number of Active Participants in Private Pension Plans

Fiscal Year	2020	2021	2022	2023	2024
Total	2,278,404	2,262,379	2,284,614	2,285,999	2,312,042
Defined Benefit	287,052	272,918	263,274	251,474	242,696
Defined Cont.	1,991,352	1,989,461	2,021,340	2,034,524	2,069,347
401(k)-Type	1,683,759	1,686,908	1,718,784	1,734,832	1,769,371
403(b)	161,450	157,889	159,112	158,826	160,198
Other D.C.	146,143	144,664	143,443	140,866	139,777

Sources: U.S. Dept. of Labor (DOL), U.S. Bureau of Labor Statistics (BLS); Moody's Analytics; MA Dept. of Revenue

Table 2 shows estimated numbers of active participants[5] in employer sponsored defined benefit and defined contribution retirement plans in Massachusetts based on the U.S. Department of Labor's Form 5500 data on private pension plans.[6] The estimates are derived by using Massachusetts' share of national employment to estimate Massachusetts' share of the national data. Please note that Table 2 does not include active participants of federal, state and local pension plans. These participants are not beneficiaries of this tax expenditure because contributions to such plans are taxable for Massachusetts individual income tax.

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

[5] Total participants in Massachusetts are estimated to be about 3.3 million annually. Total participants in pension plans include active participants, retired or separated participants receiving benefits, other retired or separated participants entitled to future benefits, and deceased individuals who had one or more beneficiaries who are receiving or are entitled to receive benefits under the plan.
[6] https://www.dol.gov/agencies/ebsa/researchers/statistics/retirement-bulletins/private-pension-plan

government spending or increases taxes to finance the deferred taxation of income) and direct benefits (to employees) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely loss from the deferral of income tax, are equal to the direct benefits afforded by the tax expenditure to the employees.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax 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 impose a personal income tax generally follow federal tax law with regard to employee contributions to employee stock bonus plans, pension plans, and profit-sharing trusts unless they decouple from the Code. The Commission is not aware of any states that have decoupled. A number of states allow full or partial exemptions for pension distributions. States that exempt all pension income include Georgia and Illinois. New York allows a partial exemption of up to $20,000 and Maine allows an exemption of up to $25,000. California, Connecticut, Rhode Island and Vermont tax the full amount of pension income included in federal gross income.

Template for Evaluating Expenditures

Name of Expenditure: 1.104 Exemption of Earnings on IRAs and Keogh Plans	**Annual cost:** $190.7 - $209.4 million	**Year of adoption:** 1973	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:
- ☐ Job creation & maintenance
- ☐ Investment
- ☐ Competitiveness/Strategic
- ☐ Health/Environment/Social Justice
- ☐ Other:

Individual:
- ☐ Relief of poverty
- ☐ Progressivity/assistance to low earners
- ☐ Access to opportunity
- ☐ Health/Environment/Social Justice
- ☒ Other: Incentive to save/promote growth in assets for retirement

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).			X	
The TE's benefit justifies its fiscal cost.				X
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.			X	
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				X
The TE is relevant today.				X
The TE is easily administered.				X
Business only -The TE is beneficial to smaller businesses.				
Individuals only -The TE benefits lower income taxpayers.			X	

This tax expenditure is flagged for legislative review: ☐ Yes ☒ 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: 2024

TAX EXPENDITURE TITLE	Exemption of Earnings on IRAs and Keogh Plans
TAX EXPENDITURE NUMBER	1.104
TAX EXPENDITURE CATEGORY	Deferral of Gross Income or Exemption of Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 5(b)
YEAR ENACTED	1973
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $190.7 - $209.4 million annually for FY20 - FY24.
NUMBER OF TAXPAYERS	Estimated range of 1.49 - 1.59 million.
AVERAGE TAXPAYER BENEFIT	About $125 - $135 in tax savings.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Massachusetts exempts the earnings of IRAs and Keogh plans from the personal income tax until the earnings are distributed. Distributions of earnings from Roth IRAs may be exempt if the account is held for at least 5 years and certain additional requirements are satisfied. This is consistent with the federal tax treatment of such plans.	**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 policy goal of the expenditure is to promote the growth of assets in IRAs and Keogh plans by allowing investment income to accumulate tax-free until	**Are there other states with a similar Tax Expenditure?** The Commission is not aware of any state that taxes the income of IRAs or Keogh plans.

distribution. Consistency with the federal treatment of such plans also simplifies tax compliance and administration by allowing the same general definitions to be used for Massachusetts and federal purposes.	

INTRODUCTION

Massachusetts exempts the earnings of Individual Retirement Accounts (IRAs) and Keogh plans under M.G.L. c. 62, § 5(b). Such plans typically are organized as trusts, the income of which is generally subject to the personal income tax. See M.G.L. c. 62, §10. Without the statutory exemption, the plans would be required to pay personal income tax on their investment income as it is earned. With the exemption in place, such earnings are not subject to tax until they are distributed.

The Internal Revenue Code (Code) contains similar exemptions in Code §§ 501(a) and 408(e). Eligibility for the Massachusetts exemption is based on the definitions found in the Code. However, apart from the use of the federal definitions, M.G.L. c. 62, § 5(b) stands as an independent provision of state law.

The exemption allows amounts contributed to IRAs and Keogh plans to grow free of Massachusetts tax. Distributions to retirees from traditional IRAs and Keogh plans are generally treated as taxable income to the extent the distributions exceed the amount of previously taxed contributions. Distributions from Roth IRAs may be tax free if the account is held for at least 5 years and certain additional requirements are satisfied. Thus, the exemption functions as a temporary deferral of personal income with respect to traditional IRAs and Keogh plans and as a permanent exemption with respect to Roth IRAs. The deferral or exemption constitutes a Massachusetts tax expenditure.

POLICY GOALS

The Commission assumes that the policy goal of the expenditure is to promote the growth of assets in IRAs and Keogh plans by allowing investment income to accumulate tax-free until distribution.

ADMINISTRABILTY

The administration of the exclusion for the earnings of IRAs and Keough plans does not present any special administrative challenges for the DOR. Conformity with the federal treatment of such plans 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 $190.7- $209.4 million per year during FY20 - FY24. See the table below.

Table 1. Tax Revenue Loss Estimates for Exemption of Earnings on IRA and Keogh Plans

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$190.7	$192.8	$191.0	$196.9	$209.4

Massachusetts' revenue loss estimates are based on estimates prepared by the federal Joint Committee on Taxation ("JCT")[1]. The JCT reports the impact on federal tax collections resulting from the income tax deferral or income exemption applicable to earnings on IRA and Keogh Plans. The Massachusetts share of the JCT's estimates is based on the state's share of national wages and salaries and are adjusted for the difference between federal income tax rate and Massachusetts income tax rate. Given the use of external data and the fact that market gains are volatile and difficult to forecast, the revenue loss estimates are uncertain. Estimates reported in the table above should be used with extreme caution.

DIRECT BENEFITS

Those who are self-employed or small business owners benefit from Keogh plans and individuals with qualifying earned income benefit from the IRA plan and are the direct beneficiaries of this tax expenditure. Those who contribute to a Keogh plan pay no income tax on contributions and a plan pays no income tax on interest, dividends, and capital gains earned by the assets held by the plan. Employees pay the income tax only when receiving distributions. Those who contribute to an IRA plan do so on a post-tax basis at the state level, and a plan pays no income tax on interest, dividends, and capital gains earned by the assets held by the plan. Individuals pay the income tax when receiving distributions of a traditional IRA. Although DOR does not have data on the actual number of beneficiaries of this tax expenditure, the table below provides an estimate.

Table 2: Estimated Number of Beneficiaries with IRA and Small Business Plans in Massachusetts

Fiscal Year	2020	2021	2022	2023	2024
Total*	1,488,779	1,506,350	1,533,093	1,560,310	1,588,010
Trad. IRA Plans	1,168,127	1,175,721	1,195,237	1,215,076	1,235,245
SEP Plans	530,973	552,184	571,622	591,743	612,573
SIMPLE Plans	72,539	70,440	69,826	69,216	68,612
Roth IRA Plans	75,153	75,397	76,793	78,214	79,661

Sources: U.S. Internal Revue Service (IRS) Statistics of Income (SOI); U.S. Bureau of Labor Statistics (BLS); Moody's Analytics; MA Dept. of Revenue.

To estimate the number of beneficiaries in Table 2, national data (see the footnote for the sources) are shared down to Massachusetts using Massachusetts' share of national

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

employment. Please note that the sum of participants in each of the plans is greater than the count in the total as participants may have more than one plans.

Although the tax expenditure includes Keogh plans, and Keogh plans are reflected in the expenditure estimate, data for the number of individuals using these plans is unavailable. Furthermore, as noted by the Corporate Financial Institute, the Keogh plan is not as popular as when it was first introduced in 1962[2]. Since then, changes to the federal tax code have been adopted that provide less costly and cumbersome plans to administer for those who are self-employed, such as a SEP plan. Therefore, the number of individuals who have a Keogh plan is assumed to be quite small.

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 deferred taxation or exemption of income) and direct benefits (to employees and individuals) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely loss from the tax deferral or exemption of income, are equal to the direct benefits afforded by the tax expenditure to the employees and individuals.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax 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

The Commission is not aware of any state that taxes the income of IRAs or Keogh plans.

[2]Keogh Plan, *Corporate Finance Institute*, February 8, 2023. https://corporatefinanceinstitute.com/resources/wealth-management/keogh-plan/

Template for Evaluating Expenditures

Name of Expenditure: 1.312 & 2.314 Expensing of Certain Capital Outlays of Farmers	**Annual cost:** \$0.2 - \$0.3 million	**Year of adoption:** 1954/1960	**Sunset date:** None

Tax Type (check all that apply): ☒ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:
- ☐ Job creation & maintenance
- ☒ Investment
- ☐ Competitiveness/Strategic
- ☒ Health/Environment/Social Justice
- ☐ Other:

Individual:
- ☐ Relief of poverty
- ☐ Progressivity/assistance to low earners
- ☐ Access to opportunity
- ☐ Health/Environment/Social Justice
- ☐ 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).	☐	X	☐	☐
The TE's benefit justifies its fiscal cost.	☐	☐	X	☐
The TE is claimed by its intended beneficiaries.	☐	☐	X	☐
The TE is claimed by a broad group of taxpayers.	☐	X	☐	☐
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	X	☐	☐
The TE is relevant today.	☐	☐	☐	X
The TE is easily administered.	☐	☐	☐	X
Business only -The TE is primarily beneficial to smaller businesses	☐	☐	X	☐
Individuals only -The TE is primarily beneficial to lower income taxpayers	☐	☐	☐	X

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- The benefit of this TE is difficult to quantify because DOR does not have data on the number of individuals claiming it, or the amount per claim. We assume that the federal deduction is a meaningful incentive, but it is less clear that the addition of the state deduction moves the needle at all.
- It's not entirely clear why investments in conservation and expenditure on fertilizer are both included in this TE, but perhaps this is best thought of as a rule that is offsetting the general distortion on investment in farming due to the excise tax.
- Note no other state has decoupled from this tax expenditure.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Expensing of Certain Capital Outlays of Farmers
TAX EXPENDITURE NUMBER	1.312 & 2.314
TAX EXPENDITURE CATEGORY	Accelerated Deduction from Gross Income
TAX TYPE	Personal Income Tax/Corporate Excise
LEGAL REFERENCE	IRC §§ 175, 180 and MGL c. 62, §§ 1, 2(d)(1); c. 63, § 30
YEAR ENACTED	1954 (§ 175); 1960 (§ 180)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	\$0.2 - \$0.3 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: This tax expenditure results from Massachusetts' conformity to the Internal Revenue Code (Code) with regard to the immediate deduction allowed to farmers for soil and water conservation expenses, prevention of erosion, endangered species recovery, and fertilizer costs. Such items might otherwise have to be capitalized and depreciated or amortized over a number of years.	**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 tax expenditure is to support farmers by allowing	**Are there other states with a similar Tax Expenditure?** States that base their personal and corporate income taxes on the Code allow the immediate

an immediate deduction for conservation and fertilizer expenses, thereby encouraging participation in the agricultural industry, decreasing farmers' production costs, and encouraging farmers to undertake certain conservation efforts.	deduction of soil and water conservation expenses and fertilizer costs, unless they decouple from Code with respect to the deduction. The Commission is not aware of any state that has decoupled. States that adopt the deduction include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.

INTRODUCTION

Income tax or corporate excise as applied to business activity is typically imposed on the net of business receipts less deductible business expenses. However, an immediate deduction is generally not allowed for the full cost of items that will be used over multiple years. Rather, the cost of such items must be capitalized and deducted as depreciation or amortization expenses over several years, based on the item's useful life. Code §§ 175 and 180 provide exceptions to the capitalization requirement for expenses incurred by farmers for (i) soil and water conservation expenses and (ii) fertilizer costs, respectively.

Code § 175 allows a deduction for soil and water conservation expenses in the year they are incurred even if the conservation measures provide a benefit over a number of years. The deduction cannot exceed 25% of a taxpayer's gross income derived from farming. To qualify for an immediate deduction, expenses must be consistent with a plan approved by the federal Department of Agriculture or a similar state agency. Eligible expenses include amounts paid for (i) the treatment or moving of earth, including leveling, grading and terracing, (ii) contour furrowing, (ii) the construction, control, and protection of diversion channels, drainage ditches, earthen dams, watercourses, outlets, and ponds, (iv) the eradication of brush, (v) the planting of windbreaks, and (vi) expenses incurred in preserving endangered animal species under a recovery plan approved pursuant to the federal Endangered Species Act of 1973.

Code § 180 allows the immediate deduction of fertilizer costs even if the fertilizer's effect lasts for multiple years. There is no limit on the amount of the deduction and no requirement that the expenses be approved by any federal or state agency.

Massachusetts generally adopts the business expense deductions allowed under the Code, including the federal deduction allowed to farmers for soil and water conservation expenses and fertilizer costs. Thus, Massachusetts conforms to the federal provisions allowing farmers to deduct such expenses immediately, rather than recovering the expense over a period of years. The net result is a temporary reduction, or deferral, of tax. The deferral of tax can be viewed as an interest-free loan from the Commonwealth to farmers. The deferral constitutes a Massachusetts tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to support farmers by allowing an immediate deduction for conservation and fertilizer expenses, thereby encouraging participation in the agricultural industry, and decreasing farmers' production costs.

ADMINISTRABILITY

The administration of the deduction for farmers' soil and water conservation expenses and fertilizer costs does not present any special challenges for the 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. 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 $0.2 - 0.3 million per year during FY21 - FY25. See Table 1.

Table 1: Tax Revenue Loss Estimates for Expensing of Certain Capital Outlays of Farmers

Fiscal Year	2021	2022	2023	2024	2025
Revenue Loss ($Million)	$0.2	$0.2	$0.3	$0.2	$0.2

Estimates of revenue loss resulting from this tax expenditure are based on revenue loss estimates for the corresponding federal tax expenditure provided by the Joint Committee on Taxation (JCT)[1] in the most recent tax expenditure report[2]. To share down the federal estimates to Massachusetts estimates, DOR adjusted the federal estimates for the differences between federal and state fiscal years,[3] effective tax rates, and size of tax base.

DIRECT BENEFITS

Direct beneficiaries are farmers who incurred the expenses covered by this tax expenditure. Looking at Table 2, for tax year 2021 4,634 tax filers reported farming income or loss on their personal income tax returns.[4] The largest percentage of those filers (45.4%) had taxable income ranging from $10,000 to $99,999. Farming income was negative for all taxable income brackets except for the bracket from $100,000 to $999,999. It is not known how many of the tax filers who report farm income or loss benefit from this tax expenditure in a given year.

[1] 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. See https://www.jct.gov/about-us/overview/.

[2] https://www.jct.gov/getattachment/46c5da1a-424b-4a6f-bf6e-e076845b168d/x-22-22.pdf

[3] 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.

[4] For example, line 6b of tax year 2022 form 1.

Table 2. Tax Filers who reported Farm Income or Loss on Massachusetts Personal Income Tax Return (Tax Year 2021)

Taxable Income Range	Number of Impacted Filers	Percent of Impacted Filers	Farming Income ($000)
0 to $9,999	1,030	22.2%	-8,831
$10,000 to $99,999	2,102	45.4%	-4,187
$100,000 to $999,999	1,416	30.6%	656
$1,000,000 to $9,999,999	79	1.7%	-782
$10,000,000 or more	7	0.2%	-496
Total	4,634	100.0%	-13,639

Source: Massachusetts Department of Revenue (tax year 2021 data on state personal income tax returns).

According to the Massachusetts corporate excise returns report[5], for tax year 2019, 1,409 tax filers in the industry of agriculture, forestry, fishing and hunting filed corporate excise return. 211 of them reported $286 million Massachusetts taxable income. Again, it is not known how many of the 1,409 tax filers actually benefited from this tax expenditure.

The Census of Agriculture conducted by the United States Department of Agriculture provides more comprensive information for farms in Massachusetts. Tables and figures in the Appendix provide an overview of farms in Massachusetts based on data primarily from the 2017 Census of Agriculture. The Massachusetts Department of Agricultural Resources website also provides a summary of statistics and links to the data, which is listed in the references.

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

[5] https://www.mass.gov/lists/dor-corporate-excise-return-reports

(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 base their income taxes on the Code allow the immediate deduction of soil and water conservation expenses and fertilizer costs, unless they decouple from Code with respect to the deduction. The Commission is not aware of any state that has decoupled. States that adopt the deduction include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.

REFERENCES

Massachusetts Department of Agricultural Resources. (n.d.). *Agricultural Resources Facts and Statistics.* Retrieved from https://www.mass.gov/info-details/agricultural-resources-facts-and-statistics

Internal Data for Personal Income Tax Returns. Massachusetts Department of Revenue

United States Department of Agriculture. (2017). *State Profile: Massachusetts*. Retrieved from 2017 Census of Agriculture: https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Massachusetts/cp99025.pdf

Staff of Joint Committe on Taxation. (2022, December 22). *Estimates Of Federal Tax Expenditures For Fiscal Years 2022-2026.* Retrieved from The Joint Committe on Taxation: https://www.jct.gov/publications/?category_name=Tax%20Expenditures

Appendix

Tables and figures below provide an overview of farms in Massachusetts based on data primarily from the 2017 Census of Agriculture.

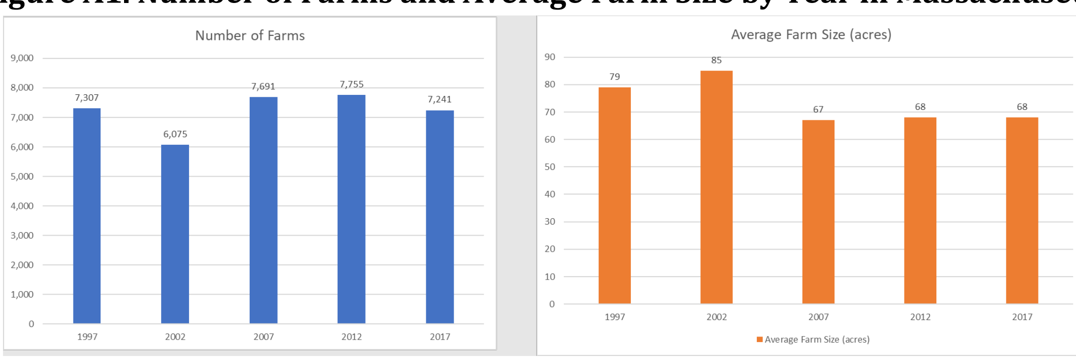
Looking at the table A1 and figure A1, as of 2017, there were 7,241 farms in Massachusetts with total land of 491,653 acres. Historically, the number of farms was 7,307 in 1997, 6,075 in 2002, 7,691 in 2007, and 7,755 in 2012. As of 2017, the average market value of products sold per farm was $65,624, average net cash farm income per farm was $7,859, and average farm size was 68.

Table A1. Overview of Farms in Massachusetts

Total and Per Farm Overview	2017
Number of farms	7,241
Land in farms (acres)	491,653
Average size of farm (acres)	68
Average market value of products sold per farm	$65,624
Average government payment per farm receiving	$7,583
Average farm-related income per farm	$28,009
Average farm production expense per farm	$68,038
Average net cash farm income per farm	$7,859

Note: See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

Figure A1. Number of Farms and Average Farm Size by Year in Massachusetts



Note: See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

Looking at Table A2, as of 2017, 3,258 or 45.0% of all farms, had less than $2,500 in sales, while 759 farmsor 10.5%, had sales greater than $100,000. Table A3 indicates that, as of 2017, 6,577 farms or 90.8%, had less than 179 acres in land.

Table A2. Farms by Value of Sales in Massachusetts (2017)

Farms by Value of Sales	Count	Distribution
Less than $2,500	3,258	45.0%
$2,500 to $4,999	752	10.4%
$5,000 to $9,999	767	10.6%
$10,000 to $24,999	774	10.7%
$25,000 to $49,999	526	7.3%
$50,000 to $99,999	405	5.6%
$100,000 or more	759	10.5%
Total	**7,241**	**100.0%**

Note: See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

Table A3. Farms by Size in Massachusetts (2017)

Farms by Size (acres)	Count	Distribution
1 to 9	2,373	32.8%
10 to 49	2,535	35.0%
50 to 179	1,669	23.0%
180 to 499	548	7.6%
500 to 999	92	1.3%
1,000+	24	0.3%
Total	**7,241**	**100.0%**

Note: See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

Template for Evaluating Expenditures

Name of Expenditure: 1.411 Rental Deduction	**Annual cost:** $145.7 - $159.9 million	**Year of adoption:** 1980	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☒ Relief of poverty
☒ Progressivity/assistance to low earners
☒ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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).			X	
The TE's benefit justifies its fiscal cost.			x	
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.				X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	x			
The TE is relevant today.	x			
The TE is easily administered.			x	
Business only -The TE is beneficial to smaller businesses.				
Individuals only -The TE benefits lower income taxpayers.				X

This tax expenditure is flagged for legislative review: ☒ Yes ☐ No

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

Comments

- Rental Deduction is NOT a federal deduction.
- The impact of this TE is negligible for most.
- Cap should be adjusted annually with current rental rates and property tax rates. (Report doesn't use an analysis model)
- A number of other states have rental deductions and credits based on age, disability and income – there does not seem to be a consistent formula.
- The average deduction per claimant tends to increase as net AGI increases.

<u>Rating discussion Points:</u>

Relevance: Strongly disagree

- The tax expenditure provides a tax deduction for rent paid. Renters may deduct against Part B income one-half of the rent paid for a principal residence located in Massachusetts, up to a maximum deduction of $3,000 per year. The maximum was last raised in tax year 2001 from its historical level of $2,500.

Relevancy/Current issues with this TE

- https://www.mass.gov/news/governor-healey-and-lieutenant-governor-driscoll-unveil-750-million-tax-relief-package
- This package also proposes to increase the rental deduction, currently capped at 50 percent of rent up to $3,000, to $4,000. At a cost of $40 million, this increase will help offset the high cost of housing for 880,000 renters.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Rental Deduction
TAX EXPENDITURE NUMBER	1.411
TAX EXPENDITURE CATEGORY	Deductions from Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 3B(a)(9)
YEAR ENACTED	1980: St. 1980, c. 580, sec. 11
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $145.7 - $159.9 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Approximately 1.052 million in tax year 2020.
AVERAGE TAXPAYER BENEFIT	Estimated average tax saving of $139 in tax year 2020.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Renters may deduct one-half of the rent paid for a principal residence located in Massachusetts up to a maximum deduction of $3,000 per year. The deduction is available to all renters, regardless of age or income.	**Is the purpose defined in the statute?** The statute does not specifically state the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to provide a subsidy to renters.	**Are there other states with a similar Tax Expenditure?** No other state provides a deduction to all taxpayers for rent paid, regardless of age, income level, or whether property taxes were paid through rent. Several other states have rent deductions or credits available to the elderly or to low-income taxpayers or for property taxes paid through rent. These states

	include California, Indiana, Maine, New Jersey, New York, and Vermont.

INTRODUCTION

The tax expenditure provides a tax deduction for rent paid. Renters may deduct against Part B income one-half of the rent paid for a principal residence located in Massachusetts, up to a maximum deduction of $3,000 per year. The maximum was last raised in tax year 2001 from its historical level of $2,500. The deduction results in a maximum tax savings of $150 based on the current 5% rate on Part B income. A principal residence can be any kind of housing, so long as a rental agreement exists creating a landlord-tenant relationship. Thus, principal residences can include mobile home sites, extended stay hotels, and nursing homes, if such an agreement exists. The deduction is not available to renters that have a principal residence elsewhere. The deduction is available regardless of the renter's age or income level.

Absent the deduction afforded by this tax expenditure, renters would have no tax benefit for the payment of rent.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to provide a subsidy to renters.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $145.7 - $159.9 million per year during FY20 - FY24. See Table 1.

Table 1. Tax Revenue Loss Estimates for Rental Deduction

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$145.7	$146.8	$151.0	$155.4	$159.9

The estimates in the above table are derived from the Massachusetts Department of Revenue (DOR)'s individual income tax return data for the taxpayers who claimed the deduction.

DIRECT BENEFITS

The direct beneficiaries of this tax expenditure are renters who are able to deduct against Part B income one-half of rent paid per year, up to a maximum of $3,000, for a principal residence located in Massachusetts. Table 2 below shows the distribution of the deduction and the resulting tax savings by income group for tax year 2020.

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

Massachusetts Net Adjusted Gross Income (AGI)	Number of All Filers	Rental 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	408,671	1,321	$2,396,699	$1,814	0.1%	$91
$5,000 under $10,000	204,320	11,903	$27,885,587	$2,343	0.9%	$117
$10,000 under $15,000	188,210	31,525	$79,911,961	$2,535	2.7%	$127
$15,000 under $20,000	192,074	43,431	$113,328,807	$2,609	3.9%	$130
$20,000 under $25,000	230,950	75,019	$199,025,798	$2,653	6.8%	$133
$25,000 under $30,000	205,370	82,614	$224,467,477	$2,717	7.6%	$136
$30,000 under $35,000	194,608	88,254	$243,014,455	$2,754	8.3%	$138
$35,000 under $40,000	184,076	85,362	$237,285,234	$2,780	8.1%	$139
$40,000 under $45,000	167,741	76,808	$215,215,500	$2,802	7.3%	$140
$45,000 under $50,000	150,580	67,346	$189,729,453	$2,817	6.5%	$141
$50,000 under $60,000	259,809	110,945	$314,414,265	$2,834	10.7%	$142
$60,000 under $70,000	215,115	85,252	$243,272,149	$2,854	8.3%	$143
$70,000 under $80,000	179,883	65,481	$188,073,506	$2,872	6.4%	$144
$80,000 under $90,000	147,637	47,975	$138,341,129	$2,884	4.7%	$144
$90,000 under $100,000	121,794	35,432	$102,408,455	$2,890	3.5%	$145
$100,000 under $150,000	397,388	85,697	$248,145,530	$2,896	8.5%	$145
$150,000 under $200,000	209,282	28,314	$82,253,644	$2,905	2.8%	$145
$200,000 under $500,000	278,104	26,098	$76,222,238	$2,921	2.6%	$146
$500,000 under $1,000,000	49,609	2,577	$7,527,041	$2,921	0.3%	$146
$1,000,000 or Over	26,069	832	$2,420,643	$2,909	0.1%	$145
Total	4,011,290	1,052,186	$2,935,339,571	$2,790	100.0%	$139

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

Table 2 shows that in 2020, out of about 4 million tax filers, more than 1 million filers (or 26.2%) claimed a total of $2.935 billion in rental deductions. The average tax savings per claimant was $139. Filers with a net adjusted gross income (AGI) between $50,000 and $60,000 were the largest cohort for this deduction, claiming $314 million or 10.7% of all deductions with an average tax savings of $142. Filers with a net AGI below $50,000 account for slightly more than half of all deductions (53.6% in count and 52.2% in dollar amount). The average deduction per claimant tends to increase as net AGI increases.

Table 3 below presents data from the U.S. Department of Housing and Urban Development (HUD)[1] for the median monthly rent by number of bedrooms in the Boston-Cambridge-

[1] https://www.huduser.gov/portal/datasets/50per.html

Quincy, MA-NH HUD Metro Fair Market Rents (FMR) Area for federal fiscal year 2019 through 2023.

Table 3: Median Monthly Rent in Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area

Fiscal Year	Studio / Efficiency	1-Bedroom	2-Bedroom	3-Bedroom	4-Bedroom
2023	$2,181	$2,368	$2,838	$3,454	$3,812
2022	$1,942	$2,139	$2,583	$3,193	$3,503
2021	$1,842	$2,034	$2,470	$3,072	$3,349
2020	$1,813	$2,008	$2,443	$3,044	$3,309
2019	$1,700	$1,904	$2,320	$2,907	$3,136

Source: The U.S. Department of Housing and Urban Development (HUD).

Table 3 implies that annual median rent in the Boston-Cambridge-Quincy, MA-NH HUD Metro FMR Area falls between $21,000 and $46,000, 50% of which is well above the maximum rent deduction of $3,000.

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 personal income tax deduction for the payment of rent on a primary residence) 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 from renters, are equal to the direct benefits afforded by the tax expenditure to renters.

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

No other state provides a deduction for rent paid to all taxpayers, regardless of age, income level, or whether property taxes were paid through rent. Several other states have rent deductions or credits available to the elderly or to low-income taxpayers or for property taxes paid through rent. These states include California, Indiana, Maine, New Jersey, New York, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.424 Self Employed Health Insurance Deduction	**Annual cost:** $44 - $49 million	**Year of adoption:** 1986	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☒ Competitiveness/Strategic (self-employed not disadvantaged compared to other businesses that can deduct similar costs)
☐ Health/Environment/Social Justice
☒ Other: Ease of compliance because conforms to Federal rules

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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).			X	
The TE's benefit justifies its fiscal cost.				X
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.			X	
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				X
The TE is relevant today.				X
The TE is easily administered.				X
Business only -The TE is primarily beneficial to smaller businesses.				X
Individuals only -The TE is primarily beneficial to lower income taxpayers.				

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- The Commission agreed not to flag this tax expenditure for legislative review but agreed that it is important for policymakers to understand its effects and whether it continues to be an efficient way to subsidize access to coverage.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Self-Employed Health Insurance Deduction
TAX EXPENDITURE NUMBER	1.424
TAX EXPENDITURE CATEGORY	Deductions From Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	IRC § 162(l), M.G.L. c. 62, §1(l), § 2(d)(1)
YEAR ENACTED	1986
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $44 - $49 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	91,716 in tax year 2021.
AVERAGE TAXPAYER BENEFIT	Tax saving of $492 per benefiting taxpayer in tax year 2021.
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Due to Massachusetts' adoption of the trade or business expense deductions allowed under the Internal Revenue Code (Code), Massachusetts allows a deduction for health insurance expenses incurred by self-employed taxpayers.	**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 ensure that self-employed taxpayers are not unfairly disadvantaged as compared to other businesses that are able to deduct health insurance benefits paid on behalf of their employees.	**Are there other states with a similar Tax Expenditure?** All states that impose an income tax adopt the expenditure, unless they decouple from Code § 162(l). The Commission is not aware of any state that has decoupled. States that adopt the expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

INTRODUCTION

Massachusetts adopts the trade or business expense deductions allowed under the Internal Revenue Code (Code) for personal income tax purposes. Code § 162(l) allows self-employed individuals to deduct the amount they pay for health insurance for themselves, their spouses, their dependents that are family members, and their children under the age of 27. The deduction cannot exceed the taxpayer's earned income derived from self-employment and must be reduced by any applicable federal credit that the taxpayer claims for health insurance. Because of the Commonwealth's reliance on the Code for purposes of determining deductible trade or business expenses, Massachusetts allows self-employed taxpayers a deduction for health insurance costs equal to the federal deduction. The 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 encourage taxpayers to start or continue businesses by allowing self-employed taxpayers a deduction for health insurance similar to the exclusion for health insurance benefits that is available to employees.

ADMINISTRABILITY

The administration of the deduction for health insurance expenses incurred by self-employed taxpayers does not present any special challenges for 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. 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 $44.1 - $49.3 million per year during FY21 - FY25. See Table 1.

Table 1. Tax Revenue Loss Estimates for Self-Employed Health Insurance Deduction, 2021-2025

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$44.1	$45.1	$46.8	$48.2	$49.3

Revenue loss estimates are derived by applying the income tax rate to the self-employment health insurance deduction reported on the Massachusetts individual income tax return. Estimates for future years are projections based on historical trends.

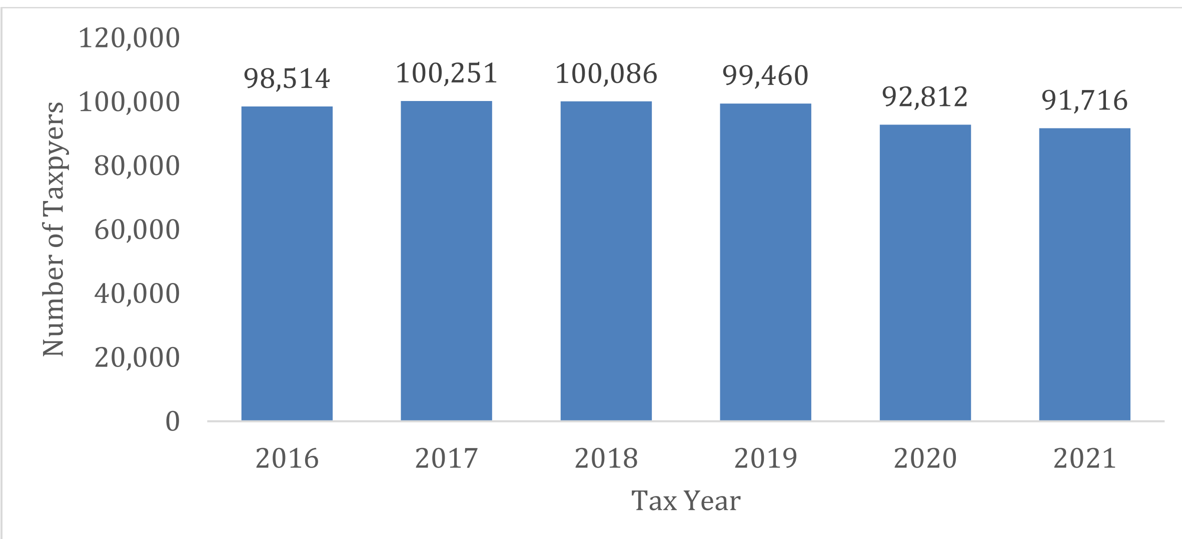
DIRECT BENEFITS

The direct benefits of this expenditure are the tax savings from the deduction for self-employed individuals[1] .

Self-employed individuals – and their families – who pay for their own health insurance are the direct beneficiaries of this deduction[2]. The deduction allows self-employed individuals to subtract the cost of health insurance coverage from their gross income subject to tax.

During tax years 2016 - 2021, between 91,716 and 100,251 Massachusetts taxpayers claimed the self-employed health insurance deduction each year. See Chart 1.

Chart 1. Numbers of Taxpayers Who Claimed Self-Employed Health Insurance Deduction, Tax Year 2016-2021, Massachusetts

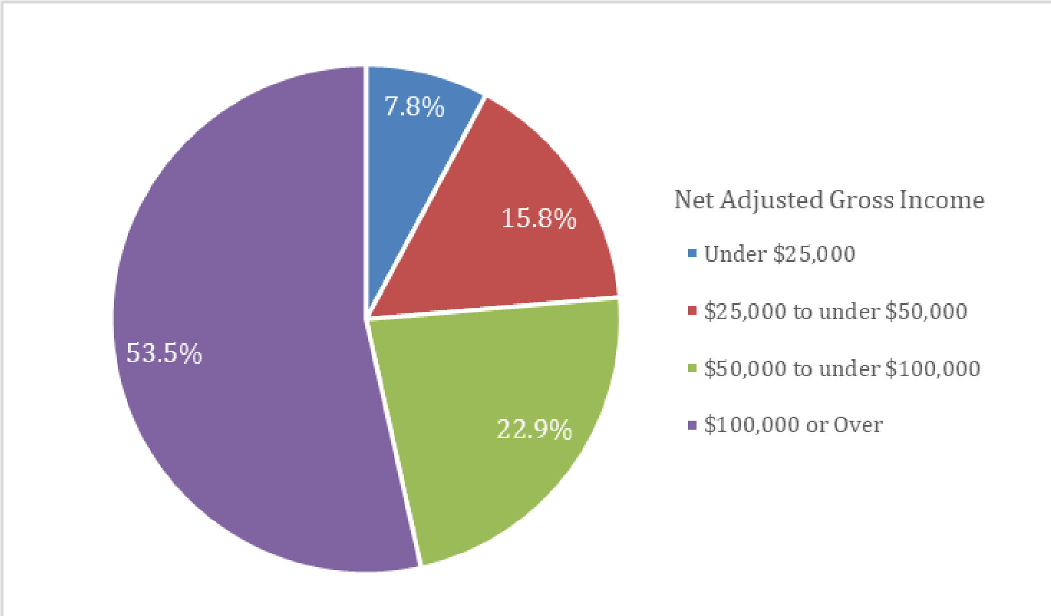


Source: Massachusetts Department of Revenue, individual income tax return data.

Chart 2 below indicates that during tax years 2016 - 2021 7.8% of all taxpayers claiming the deduction had annual net adjusted gross income (AGI) of less than $25,000. 53.5% of all taxpayers claiming the deductions had annual net AGI of more than $100,000.

[1] Such as sole proprietors, partners in partnership, and limited liability company owners.
[2] Other persons on the self-employed individuals' health insurance plans, who are not counted in this report, may be also considered direct beneficiaries.

Chart 2. Share of Taxpayers Who Claimed Massachusetts Self-Employed Health Insurance Deduction by Net Adjusted Gross Income Level, Average Over Tax Years 2016-2021



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

Table 2 below provides more detailed information on the distribution of this deduction and the resulting tax savings by income bracket for tax year 2021.

Table 2: Self-employed Health Insurance Deduction by Income Bracket Tax Year 2021

Massachusetts Net Adjusted Gross Income (AGI)	Count of All Filers	Self-employed Health Insurance Deduction (For claimants with tax liability)				Average Claimant Tax Savings (at a 5% rate)
		Number of claimants	Amount Deducted	Average Deduction per Claimant	Income Group's % of Total Deduction	
Under $5,000	397,867	490	$4,205,649	$8,583	0.5%	$429
$5,000 under $10,000	222,454	371	$1,014,655	$2,735	0.1%	$137
$10,000 under $15,000	204,804	946	$2,437,472	$2,577	0.3%	$129
$15,000 under $20,000	198,183	1,390	$3,773,791	$2,715	0.4%	$136
$20,000 under $25,000	207,187	2,157	$5,912,940	$2,741	0.7%	$137
$25,000 under $30,000	186,634	2,445	$7,252,375	$2,966	0.8%	$148
$30,000 under $35,000	183,029	2,495	$8,319,855	$3,335	0.9%	$167
$35,000 under $40,000	175,874	2,456	$9,078,872	$3,697	1.0%	$185
$40,000 under $45,000	163,359	2,377	$9,829,893	$4,135	1.1%	$207
$45,000 under $50,000	145,584	2,433	$10,907,613	$4,483	1.2%	$224
$50,000 under $60,000	254,253	4,645	$23,158,391	$4,986	2.6%	$249

$60,000 under $70,000	212,797	4,288	$22,953,326	$5,353	2.5%	$268
$70,000 under $80,000	179,788	3,965	$23,293,446	$5,875	2.6%	$294
$80,000 under $90,000	149,613	3,622	$23,264,636	$6,423	2.6%	$321
$90,000 under $100,000	124,433	3,223	$23,060,880	$7,155	2.6%	$358
$100,000 under $150,000	402,858	12,284	$102,500,674	$8,344	11.4%	$417
$150,000 under $200,000	215,042	8,151	$83,109,090	$10,196	9.2%	$510
$200,000 under $500,000	306,854	19,468	$264,968,237	$13,610	29.4%	$681
$500,000 under $1,000,000	60,518	7,603	$132,149,476	$17,381	14.6%	$869
$1,000,000 or Over	33,779	6,907	$141,127,697	$20,433	15.6%	$1,022
Total	**4,024,910**	**91,716**	**$902,318,968**	**$9,838**	**100.0%**	**$492**

Source: Massachusetts Department of Revenue, tax year 2021 individual income tax return data.

Table 2 shows that in 2021, 91,716 filers (2.3% of all filers) claimed about $902 million in self-employment health insurance deductions. Filers with a net AGI between $200,000 and $500,000 are the largest cohort (19,468 of 91,716 taxpayers) for this deduction, claiming 29.4% of all tax savings resulting from this tax expenditure. The average tax savings is about $492 per claimant.

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 in the absence of this deduction, 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, such as increased sales to health insurance companies. 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 expenditure, unless they decouple from Code § 162(l). The Commission is not aware of any state that has decoupled. States that adopt the expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.426 Deduction of Expenses of Human Organ Transplant	**Annual cost:** $0.02 - $0.07 million	**Year of adoption:** 2011/12	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☒ Health/Environment/Social Justice
☐ 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).			x	
The TE's benefit justifies its fiscal cost.			x	
The TE is claimed by its intended beneficiaries.			x	
The TE is claimed by a broad group of taxpayers.	x			
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.		x		
The TE is relevant today.			x	
The TE is easily administered.		x		
Business only -The TE is primarily beneficial to smaller businesses.				
Individuals only -The TE is primarily beneficial to lower income taxpayers.		x		

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

Instructions: Please provide comments below explaining Strongly Disagree/Somewhat Disagree ratings and other considerations to be highlighted, such as policy proposals.
Comments: Very small direct cost for a socially beneficial act

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Expenses of Human Organ Transplant
TAX EXPENDITURE NUMBER	1.426
TAX EXPENDITURE CATEGORY	Deductions from Adjusted Gross Income
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 3B (a) (16)
YEAR ENACTED	2011 (Effective January 1, 2012)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$0.02 - \$0.07 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	192 in tax year 2021
AVERAGE TAXPAYER BENEFIT	Tax saving of \$93 per benefiting taxpayer in tax year 2021.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Resident individuals that donate specified organs to another person may deduct certain expenses relating to the donation on their personal income tax returns.	**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 offset the costs that Massachusetts residents incur when donating organs to other individuals, thereby reducing financial barriers to organ donation.	**Are there other states with a similar Tax Expenditure?** A number of states allow income tax deductions for expenses relating to organ donation. Such states include Connecticut and New York. No deduction is available in California, Maine, Rhode Island, or Vermont.

INTRODUCTION

Massachusetts allows a deduction for certain expenses incurred by Massachusetts residents in the donation of specified human organs to other individuals. The deduction is allowed for travel expenses, lodging expenses, and up to $10,000 of lost wages.[1] For purposes of the deduction, a human organ is defined to include all or part of human bone marrow, liver, pancreas, kidney, intestine, or lung. The deduction applies only to donations by living persons to other living persons. Only taxpayers that are residents in Massachusetts for the entire tax year may claim the deduction. The deduction is allowed against Massachusetts adjusted gross income when determining Massachusetts taxable income.

In the absence of the deduction taxpayers would bear all of the costs involved in donating organs to persons in need of organ transplants. The revenue foregone as a result of the deduction constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to offset the costs that Massachusetts residents incur when donating organs to other individuals, thereby reducing financial barriers to organ donation.

ADMINISTRABILITY

The administration of the deduction for expenses relating to organ donations poses a challenge for the Department of Revenue (DOR). There is no federal deduction or credit for such expenses. As a result, there is no federal tax data to assist with preventing fraudulent claims. Instead, DOR must rely on audits of individual returns.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $0.02 - $0.07 million per year during FY21 - FY25.[2] See Table 1 below.

[1] In the United States, the medical and surgical costs associated with living organ donations such as kidney donation are directly covered by the transplant recipient's health insurance. These include costs for the initial evaluation and testing, health professional fees, hospitalization, readmissions, outpatient follow-up visits, and surgical or medical complications that occur within the first several months of surgery (based on the recipient's insurer).

[2] The annual estimates for the same tax expenditure in New York and Minnesota are less than $0.1 million and less than $50,000 respectively. See https://www.budget.ny.gov/pubs/archive/fy24/ex/ter/fy24ter.pdf and https://www.revenue.state.mn.us/sites/default/files/2022-02/2022%20Tax%20Expenditure%20Budget_0.pdf

Table 1. Revenue Loss Estimates for Deduction of Expenses of Human Organ Transplant

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$0.07	$0.02	$0.02	$0.02	$0.02

Revenue loss estimates are derived by applying the tax rate to the human organ donation deductions reported on Massachusetts individual income tax returns.[3] Estimates for future years are projections based on the historical trend.

DIRECT BENEFITS

This expenditure reduces the costs that individuals incur when they donate an organ to an individual in need. Massachusetts residents who donate human organs are the direct beneficiaries of this tax expenditure. Table 2 below shows the number of taxpayers who claim and benefit from this deduction.

Table 2. Number of Taxpayers Who Claim and Benefit from Deduction of Expenses of Human Organ Transplant in Massachusetts

Fiscal Year	2021	2022	2023	2024	2025
Number of Taxpayers	492	192	227	203	208

Source: Massachusetts Department of Revenue (DOR)

Please note that the number of benefiting taxpayers in FY24 and FY25 are forecasted by 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

[3] See, for example, tax year 2022 form 1, schedule Y, line 16: https://www.mass.gov/doc/2022-schedule-y-other-deductions/download.
For interested readers, other organ donation data are available from the Organ Procurement Transplant Network (OPTN) under the U.S. Department of Health and Human Services (HHS): https://optn.transplant.hrsa.gov/data/view-data-reports/state-data/

(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

A number of states allow income tax deductions for expenses relating to organ donation. Such states include Connecticut and New York. NY Tax Law Section 612(c)(38). CT GS Chapter 229, Title 12, sec 701(a)(20)(B)(xii). No deduction is available in California, Maine, Rhode Island, or Vermont.

Template for Evaluating Expenditures

Name of Expenditure: 1.602 Credit for Removal of Lead Paint	**Annual cost:** $1.8 - $5.8 million	**Year of adoption:** 1987	**Sunset date:** none

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to lower earners
☐ Access to opportunity
☒ Health/Environment/Social Justice
☐ 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).			X	
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.			X	
The TE is claimed by a broad group of taxpayers.		X		
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			X	
The TE is relevant today.			X	
The TE is easily administered.			X	
Business only -The TE is primarily beneficial to smaller businesses.				
Individuals only -The TE is primarily beneficial to lower income taxpayers.		X		

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- RI has credit similar to MA, VT allows credit to designated historical bldgs. No credit is available in CA, CT, ME, NH or NY.
- This tax expenditure is a personal income tax credit and is not available for corporations or businesses.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Credit for Removal of Lead Paint
TAX EXPENDITURE NUMBER	1.602
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 6(e)
YEAR ENACTED	1987
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $1.8 - $5.8 million per year during FY2021 to FY2025
NUMBER OF TAXPAYERS	845 – 1,031 per year during tax year 2017 - 2021.
AVERAGE TAXPAYER BENEFIT	$2,022 - $3,499 per taxpayer per year during tax year 2017 – 2021.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: A personal income tax credit is provided to defray the cost that property owners incur when removing, containing, or replacing paint, plaster, or other accessible structural materials containing dangerous levels of lead in residential buildings constructed prior to 1978. A smaller credit is available for partial removal, containment, or replacement of such materials, so long as the partial remediation meets statutory requirements.	**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 promote public health by	**Are there other states with a similar Tax Expenditure?** It appears that only a few states offer a credit for lead removal or containment. Rhode Island

encouraging property owners to remove, contain, or replace materials in a dwelling containing lead, exposure to which can cause serious harm to children.	allows a credit similar to the Massachusetts credit. Vermont allows a credit for improvements to designated historical buildings, which can apply to de-leading costs, but does not apply to residential property. No credit is available in California, Connecticut, Maine, New Hampshire, or New York.

INTRODUCTION

A personal income tax credit is provided to defray the cost that property owners incur when removing, containing, or replacing paint, plaster, or other accessible structural materials containing dangerous levels of lead in residential buildings constructed prior to 1978. The credit is equal to half the costs incurred for the removal, containment, or replacement of such materials, or the replacement of one or more window units, for the purpose of bringing a dwelling unit into compliance with the Commonwealth's health and safety laws. To qualify for the credit, the property owner must have the property inspected for lead paint by a person licensed to do so by the Department of Public Health (DPH). The de-leading work must be done by a contractor licensed to do so by the DPH. The property must then be re-inspected by a person approved by DPH, who certifies that the de-leading is complete. For 2023 tax years and thereafter, the maximum amount of the credit is $3,000 per dwelling unit.[1] For prior years, it was $1,500.

A smaller credit is available for costs associated with partial removal, containment, or replacement of materials containing dangerous levels of lead if such actions were incurred in pursuit of an emergency lead management plan and letter of interim control under DPH rules. The reduced credit is limited to $1,000 for 2023 tax years and thereafter. Prior to then it was $500 per dwelling unit.[2]

Unused credit amounts can be carried forward for seven years, as reduced from year to year. The credit is not refundable or transferable.

The amount of revenue foregone as a result of the credit constitutes a tax expenditure.

POLICY GOALS

The Commission assumes the goal of the expenditure is to promote public health by encouraging property owners to remove, contain, or replace materials in a dwelling containing lead, exposure to which can cause serious harm to children. Please note that, in addition to the lead paint tax credit program, there are also certain low-cost financing options available to Massachusetts residents under various programs with the same goal (https://www.mass.gov/info-details/learn-about-financial-assistance-for-deleading).

ADMINISTRABILITY

The administration of the credit for lead paint removal, containment and replacement does not pose significant challenges. Properly filed claims include copies of documentation provided by contractors and the DPH indicating the cost of de-leading and that the work

[1] Amended by St. 2023, c. 50, §§ 9, 10.
[2] Id.

was completed, providing DOR with the means of monitoring the credit. For taxpayers, claiming the credit involves completing the appropriate schedule (Schedule LP) and obtaining and submitting the required documentation.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $1.8 - $5.8 million per year during FY21 - FY25. See Table 1. The estimates are made based on historical credit claims and reflect the increase in maximum amount of the credit per dwelling unit for 2023 tax years and thereafter.

Table 1. Tax Revenue Loss Estimates for Credit for Removal of Lead Paint

Fiscal Year	FY2021	FY2022	FY2023	FY2024	FY2025
Estimated Revenue Loss ($Million)	$1.8	$3.1	$2.3	$5.2	$5.8

Table 2 below shows the amount and count of available and claimed credits, ratio of claimed credits to available credits, and average credit dollar amount claimed by the taxpayers who filed personal income tax returns in tax years 2017 through 2021. Here, "available credit" is the maximum amount of credit which a taxpayer can claim , provided that there are no other restrictions; "claimed credit" is the credit amount which a taxpayer actually claimed in a tax year. During these years, the number of claimed credits ranged from 845 - 1,031 annually, and the annual dollar amount of claimed credits ranged from $1.8 - $3.1 million. Claimed tax credit amount per year per taxpayer ranged from $2,022 to $3,499. Table 2 also shows that dollar amount of credit claimed as a percentage of available credit increased each year in the period from 62.1% in 2017 to 79.7% in 2021.

Table 2. The Amount and Count of Credit for Removal of Lead Paint by Tax Year for Personal Income Tax

Tax Year	2017		2018		2019		2020		2021	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit - A	$4,523	1,037	$3,402	1,032	$3,051	1,080	$2,458	917	$3,887	961
Claimed credit-B	$2,808	963	$2,209	975	$2,085	1,031	$1,836	845	$3,100	886
B/A	62.1%	92.9%	64.9%	94.5%	68.3%	95.5%	74.7%	92.1%	79.7%	92.2%
Average credit claim amount	$2.9		$2.3		$2.0		$2.2		$3.5	

Source: Massachusetts Department of Revenue. Data for 2021 are preliminary and subject to change.

DIRECT BENEFITS

The direct beneficiaries consist of personal income taxpayers who remove, contain, or replace paint, plaster, or other accessible structural materials containing dangerous levels of lead in residential buildings constructed prior to 1978 (as shown in Table 2, 845 – 1,031 taxpayers during tax year 2017-2021).

Table 3 shows the distribution of claimed credit by taxpayer income level for tax year 2021. Looking at the table, 53.4% of the claimants had taxable income greater than $100,000 but less than or equal to $ 1 million. That group claimed 53.9% of the total claimed credit amount representing an average tax saving of $3,218 per taxpayer. This is only slightly higher than the average tax saving of $3,185 per taxpayer for all income brackets. About 0.7% of taxpayers had taxable income higher than $10 million, while their share of the total claimed credit amount was 8.7% and their tax saving averaged $39,460 per taxpayer, the highest of all of the groups.

Table 3. Credits for Removal of Lead Paint by Taxable Income Range for Personal Income Taxpayers

Taxable Income Range	Percent of Claimed Amounts	Percent of Number of Claimants	Tax Saving per Claimant
Greater than $0 and less than or equal to $10,000	0.3%	7.2%	$144
Greater than $10,000 less than or equal to $100,000	14.4%	34.4%	$1,338
Greater than $100,000 less than or equal to $ 1 million	53.9%	53.4%	$3,218
Greater than $1 million less than or equal to $10 million	22.6%	4.3%	$16,715
$10 million more	8.7%	0.7%	$39,460
Total or average	100.0%	100.0%	$3,185

Source: Massachusetts Department of Revenue (tax year 2021 data on state personal income tax returns)
Note: Numbers are estimates using available sample 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

It appears that only a few states offer a credit for lead removal or containment. Rhode Island allows a credit similar to the Massachusetts credit. Vermont allows a credit for improvements to designated historical buildings, which can apply to de-leading costs, but does apply to residential property. No credit is available in California, Connecticut, Maine, New Hampshire, or New York.

Template for Evaluating Expenditures

Name of Expenditure: 1.606 Septic System Credit	**Annual cost:** $8.5 - $8.9 million	**Year of adoption:** 1997	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☒ Health/Environment/Social Justice
☐ 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).	☐	☐	x	☐
The TE's benefit justifies its fiscal cost.	☐	☐	X	☐
The TE is claimed by its intended beneficiaries.	☐	☐	x	☐
The TE is claimed by a broad group of taxpayers.	☐	☐	X	☐
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	x	☐	☐
The TE is relevant today.	☐	☐	☐	X
The TE is easily administered.	☐	x	☐	☐
Business only -The TE is beneficial to smaller businesses.	☐	☐	☐	☐
Individuals only -The TE benefits lower income taxpayers.	☐	☐	X	☐

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments

- OSA said somewhat disagree for easily administered because how do we know DEP keeps track of all septic systems?
- CMR: https://www.mass.gov/doc/310-cmr-15-state-environmental-code-title-5-standard-requirements-for-the-siting-construction/download
- Septic systems last 20-30 years so the average homeowner should not be replacing one often. Average of $20k to replace. Is it meaningful?
- Title 5 is very relevant, but are there overlaps, grant-like programs that are similar? Septic Systems & Title 5
- Other states have similar programs but they may not be considered tax expenditures. These programs are typically in the form of grants or loan programs.
- MA has a number of local programs; municipalities are talking it upon themselves to help residents.
- There is a pending proposal to double the cap of this credit.
- The cap of this credit has not increased since 1997, although associated costs have increased.
- This is an ongoing issue on south shore, especially on the Cape. This tax expenditure benefits elderly on fixed incomes. All Cape Cod residents need to replace septic system within next 10 years.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Septic System Credit
TAX EXPENDITURE NUMBER	1.606
TAX EXPENDITURE CATEGORY	Credits against Tax
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 6(i)
YEAR ENACTED	1997: St. 1997, c 43, §§ 63, 307
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $8.5 - $8.9 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	About 6,800 claimants for TY21.
AVERAGE TAXPAYER BENEFIT	For TY21 average credit was $1,265.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: The tax expenditure allows a personal income tax credit for the cost incurred in repairing or replacing a failed septic system in a residential property as required under Massachusetts environmental laws, or in connecting to a municipal sewer system as required by a court order, administrative consent order, state court order, consent decree, or similar mandate. The credit is equal to 40% of the cost (less any interest subsidy or grant from the Commonwealth) or $6,000, whichever is less. Only $1,500 of the credit can be used per tax year, but unused credits may be carried forward for up to 5 years.	**Is the purpose defined in the statute?** The purpose of the credit is not stated in statute.
What are the policy goals of the expenditure?	**Are there other states with a similar Tax Expenditure?**

The Massachusetts Department of Environmental Protection (DEP) states in its regulations that the purpose of the law requiring repair or replacement of failed septic systems is to provide for the protection of public health and the environment by requiring the proper siting, construction, and maintenance of septic systems. See 310 CMR 15.001. The Commission assumes that the purpose of the credit is to provide relief for taxpayers required by law to repair or replace their septic systems.	The Commission is not aware of any other states that have similar tax expenditures. Hawaii had a temporary tax credit for upgrading septic systems that expired in 2022.

INTRODUCTION

The tax expenditure allows a personal income tax credit for the cost incurred in repairing or replacing a failed septic system in a residential property as required under Massachusetts environmental laws, or in connecting to a municipal sewer system as required by a court order, administrative consent order, state court order, consent decree, or similar mandate. The credit may be claimed only by an owner that resides in the property. The credit is equal to 40% of the cost (less any interest subsidy or grant from the Commonwealth) or $6,000, whichever is less. Only $1,500 of the credit can be used per tax year, but unused credits may be carried forward for up to 5 years. The credit is neither transferable nor refundable.

Whether a septic system has failed is determined under regulations promulgated by the Massachusetts Department of Environmental Protection (DEP). See 310 CMR 15.002, 15.303 and 15.304. Costs eligible for the credit include all necessary and reasonable costs paid by the taxpayer with respect to the repair or replacement of the system, including the costs for construction, materials, machinery and equipment, demolition, relocation, design, engineering, testing, and inspection of such systems. The repair or replacement must be authorized pursuant to a Disposal System Construction Permit issued by the DEP.

Absent this tax expenditure, current credit-eligible repair and replacement costs of failed septic systems would be borne entirely by the taxpayer.

POLICY GOALS

The Massachusetts Department of Environmental Protection (DEP) states in its regulations that the purpose of the law requiring repair or replacement of failed septic systems is to provide for the protection of public health and the environment by requiring the proper siting, construction, and maintenance of septic systems. See 310 CMR 15.001. The Commission assumes that the purpose of the credit is to provide relief for taxpayers required by law to repair or replace their septic systems.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $8.5 - $8.9 million per year during FY20 - FY24. See Table 1.

Table 1. Tax Revenue Loss Estimates for Septic System Credit

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$8.7	$8.5	$8.6	$8.7	$8.9

The estimates in the above table are derived from the Massachusetts Department of Revenue (DOR)'s personal income tax return data.

DIRECT BENEFITS

Filers who incur costs in repairing or replacing a failed septic system in a residential property are the direct beneficiaries of this tax expenditure. Table 2 below reports the number of beneficiaries and the average benefit per beneficiary during FY20 – FY24.

Table 2. Number of Beneficiaries & Average Benefit

Fiscal Year	2020	2021	2022	2023	2024
Number of Beneficiaries	7,116	6,802	6,824	6,846	6,868
Average Benefit	$1,221	$1,245	$1,265	$1,278	$1,291

Source: Massachusetts Department of Revenue (DOR)'s personal income tax return data. FY22 data are preliminary and subject to change. FY23-FY24 data are DOR's estimates.

From FY20 - FY24, 6,802-7,116 filers benefitted or are estimated to benefit from this tax expenditure, with an average credit of $1,221 - $1,291 per beneficiary.

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 septic system credit) and direct benefits (to homeowners) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the personal income tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to homeowners, the subsidy in the form of a tax credit that will serve to protect the groundwater supply.

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

In addition, 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[1], or benefits to each member of the society. Such positive externalities are often difficult to quantify.

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

The Commission is not aware of any other states that have similar tax expenditures. Hawaii had a temporary tax credit for upgrading septic systems that expired in 2022.

Template for Evaluating Expenditures

Name of Expenditure: 1.607 & 2.609 Low Income Housing Tax Credit	**Annual cost:** $100 - $180 million	**Year of adoption:** 1999/2001 (effective)	**Sunset date:** None

Tax Type (check all that apply): ☒ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☒ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☒ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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)			x	
The TE's benefit justifies its fiscal cost.			x	
The TE is claimed by its intended beneficiaries.			x	
The TE is claimed by a broad group of taxpayers.		x		
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			x	
The TE is relevant today.				x
The TE is easily administered.		x		
Business only -The TE is beneficial to smaller businesses.		x		
Individuals only -The TE benefits lower income taxpayers.		x		

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- Those who claim this TE are largely high-income individuals and sizable corporations, and their average claims are substantial (e.g., several million dollars for the average claimant, see Tables 4, 5, and 6 of the DOR report), but they can claim it only by investing in low-income housing. The annual expenditures exceed annual statutory caps because only the first year of payments from awards that extend for multiple years are counted (see the DOR writeup, page 3, note 1).
- The Commission noted the for tax years 2021 - 2025, Massachusetts LIHTC is subject to an annual statewide cap of $40 million, plus an additional $5 million to preserve and improve existing state or federally-assisted housing. For tax years 2026 and later, the statewide cap is $20 million, plus an additional $5 million to preserve and improve existing state or federally assisted housing. HCD continues to allocate credits up to the cap.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Low Income Housing Tax Credit
TAX EXPENDITURE NUMBER	1.607 & 2.609
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax / Corporate Excise
LEGAL REFERENCE	M.G.L. c. 62, § 6I, c. 63, § 31H
YEAR ENACTED	Passed 1999, effective January 1, 2001
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $95.4 - $168.1 million for corporate excise filers, and $6.7 - $11.7 million for personal income tax filers per year during FY20 - FY24.
NUMBER OF TAXPAYERS	282 - 333 for corporate excise and 29 - 89 for personal income tax during tax years 2016 - 2020.
AVERAGE TAXPAYER BENEFIT	$285,000 - $345,000 for corporate excise and $54,000 - $254,000 for personal income tax during tax years 2016 – 2020.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure:	**Is the purpose defined in the statute?**
The Low-Income Housing Tax Credit (LIHTC) is available to corporate excise and personal income taxpayers that invest in low-income housing projects that meet federal and state eligibility rules. The credit is part of a federal program that authorizes a federal credit for such investments and subsidizes state credits in states that opt into the program. The Massachusetts Department of Housing and Community Development (DHCD) determines	The purpose of the tax expenditure is not defined in the statute

eligibility for, and the amount of, the credit pursuant to federal guidelines.	
What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to increase the amount of low-income housing in the Commonwealth by subsidizing the construction, development, preservation, and improvement of low-income housing projects.	**Are there other states with a similar Tax Expenditure?** A number of states allow low-income housing tax credits. These states include California, Connecticut, Maine, New Hampshire, New York, Rhode Island and Vermont.

INTRODUCTION

The Low-Income Housing Tax Credit (LIHTC) is available to corporate excise and personal income taxpayers that invest in low-income housing projects that meet federal and state eligibility rules. The credit is part of a federal program that authorizes a federal credit for such investments and subsidizes state credits for eligible projects. The Massachusetts Department of Housing and Community Development (DHCD) determines eligibility for, and the amount of, the Massachusetts credit pursuant to federal guidelines.

The LIHTC has two components. First, the Standard LIHTC is allowed for the construction or development of new low-income housing or the preservation and improvement of existing federal or state subsidized housing. Second, the Donation LIHTC is allowed for the donation of real or personal property to non-profit entities for use in purchasing, constructing, or rehabilitating housing projects otherwise eligible for the LIHTC. The amount of credit that Massachusetts taxpayers may claim is determined by the DHCD, subject to the rules set out in Internal Revenue Code (Code) § 42. Under those rules the amount of the Standard LIHTC is based on a number of factors, including the cost of the project. The Donation LIHTC is generally equal to 50% of the value of the donation, but the DHCD can increase that amount to not more than 65% if necessary for the viability of a specific project. To qualify for the credit, a project must meet affordability standards set out in Code § 42.

For tax years 2021 through 2025, the Massachusetts LIHTC is subject to an annual statewide cap of $40 million, plus an additional $5 million to preserve and improve existing state or federally-assisted housing. For tax years 2026 and later, the statewide cap is $20 million, plus an additional $5 million to preserve and improve existing state or federally-assisted housing. DHCD allocates the credit to taxpayers in accordance with federal and state law. The LIHTC can be used to offset the entire Massachusetts tax liability of a personal income taxpayer and all the tax liability of a corporate taxpayer except for the $456 minimum excise. The authorized amount of the Standard LIHTC is claimed equally for five years. [1] Any unused Standard LIHTC claimed in a given year can be carried over for five years. The Donation LIHTC is claimed only in the taxable year that the donation is made, and any unused Donation LIHTC may be carried forward for five years. If the taxpayer disposes of the property generating the LIHTC, a portion of the credit may be subject to recapture.

[1] Notably, a Standard LIHTC claimed in a year other than the year in which it was authorized does not count toward that year's annual cap. For example, if the DHCD authorizes a $50,000 Standard LIHTC in 2023, the taxpayer will be able to claim a $50,000 tax credit in each of the next 5 years, but those credits claimed in 2024 and beyond will not count toward the respective year's annual cap. As a result, the annual revenue loss from the LIHTC far exceeds $40 million.

The Massachusetts LIHTC can be transferred by the recipient. This is an important feature of the state LIHTC program as developers may be nonprofit organizations that cannot use the credit themselves or developers that wish to use the credit to offset the cost of their investments. These recipients can sell the credit to taxpayers that wish to reduce their tax liability. Note that the federal LIHTC cannot be bought and sold in this manner. However, the benefit of both federal and state LIHTC can be shifted to investors through the use of pass-through entities (PTEs) that invest in low-income housing eligible for the credit and that are owned by such individuals.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to increase the amount of low-income housing in the Commonwealth by subsidizing the construction, development, preservation, and improvement of low-income housing projects.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $102.1 - $179.9 million per year during FY20 - FY24. See Table 1.[2] The estimates are made based on annual credit cap amounts and historical credit claims. By tax type, the estimates are $95.4 - $168.1 million for corporate excise and $6.7 - $11.7 million for personal income tax.

Table 1. Tax Revenue Loss Estimates for Low-Income Housing Credit ($Million)

Fiscal Year	2020	2021	2022	2023	2024
Corporate Excise Tax	$95.4	$100.0	$122.7	$145.4	$168.1
Personal Income Tax	$6.7	$7.0	$8.6	$10.2	$11.7
Total	$102.1	$107.0	$131.3	$155.6	$179.9

Table 2 below shows the amount and count of available and claimed or shared credits for corporate excise in recent years. “Available credit” is the maximum credit amount that a taxpayer can claim based on their tax liability, assuming no other restrictions apply. “Claimed credit” is the actual credit amount that a taxpayer claimed while “shared credit” is the credit amount utilized by other members of the taxpayer's combined group.

During the tax years 2016 through 2020, the annual number of claimed or shared credits varied from 282 to 333, and the annual amount of claimed or shared credits varied from $81.6 million to $101.3 million. During the same period, the annual amount of claimed or shared credits was 51.4% to 60.0% of the available credit amount, indicating that tax filers

[2] The estimates in Table 1 depend on how we interpret the award schedule of this credit. DOR is in the process of reviewing the current awarding schedule and would incorporate its finding into the report in the coming weeks.

were unable to take full advantage of the credit due to insufficient tax liabilities. The unused credits may have been carried forward or transferred.

Table 2. The Amount and Count of Low-Income Housing Credit by Tax Year for Corporate Excise

Tax Year	2016		2017		2018		2019		2020	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit - A	$136,037	291	$159,810	302	$171,411	348	$158,377	325	$166,270	294
Claimed plus shared credit - B	$81,586	286	$82,081	283	$101,332	333	$93,693	310	$97,159	282
B/A	60.0%	98.3%	51.4%	93.7%	59.1%	95.7%	59.2%	95.4%	58.4%	95.9%
Average Claimed or Shared Amount	$285		$290		$304		$302		$345	

Source: Massachusetts Department of Revenue. Data for 2020 are preliminary and subject to change.

Table 3 below shows the amount and count of available and claimed credits in past years for personal income tax. During the tax years 2016 through 2020, the annual number of claimed credits ranged from 29 to 89, while the annual dollar amount of claimed credits varied between $4.5 million and $7.4 million. The annual amount of claimed credits was 55.2% to 80.6% of the available credit amount.

Table 3. The Amount and Count of Low-Income Housing Credit by Tax Year for Personal Income Tax

Tax Year	2016		2017		2018		2019		2020	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit -A	$7,846	31	$8,757	111	$6,248	79	$11,356	87	$10,419	37
Claimed credit-B	$6,328	31	$4,833	89	$4,544	67	$5,966	75	$7,368	29
B/A	80.6%	100.0%	55.2%	80.2%	72.7%	84.8%	52.5%	86.2%	70.7%	78.4%
Average Claimed or Shared Amount	$204		$54		$68		$80		$254	

Source: Massachusetts Department of Revenue. Data for 2020 are preliminary and subject to change.

DIRECT BENEFITS

The direct beneficiaries consist of corporate excise taxpayers (282 - 333 taxpayers during tax year 2016 - 2020) and personal income taxpayers (29 - 89 taxpayers during tax year 2016 - 2020). Tables 4 - 9 below provide additional information on the direct beneficiaries.

Please note due to data limitations, the Commission relied on samples which may not represent all taxpayers who claimed this credit.

Corporate excise:
The tables below show the percent of claimed plus shared credit amounts, the percent of the number of claimants, and average tax saving by the income level (Table 4), by number of employees (Table 5), and by industry (Table 6), respectively, for the 2018 tax year.

Looking at Table 4, a majority of corporate claimants had taxable incomes of $10 million or more. They claimed 99.4% of the total credit amount with an average tax savings of $2.9 million. Please note, no corporate claimants had taxable incomes of less than $100,000.

Table 4. Low-Income Housing Credit Claims by Taxable Income Level

Taxable Income Range	Amount of claimed plus shared credits ($000)	Percent of claimed plus shared amounts	Percent of the number of claimants	Average tax saving per claimant ($000)
$100,000 to $999,999	*	*	*	*
$1,000,000 to $9,999,999	*	*	*	*
$10,000,000 or more	$54,538	99.4%	90.5%	$2,870
Total or average	$54,879	100.0%	100.0%	$2,613

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate excise returns)
Notes: 1. Numbers are estimates using available sample data. 2. For 355U filers (combined filers), we had to add up numbers by the principal reporting company (parent company) because schedule CMS for 355U filers doesn't have IDs for each member. 3. * Information withheld to maintain taxpayer confidentiality.

Looking at table 5, 42.9% of the impacted corporations have 500 or more employees. They claimed or shared 40% of the total credit amount, with an average tax saving of $2.4 million.

Table 5. Low-Income Housing Credit Claims by Number of Employees

Number of Employees	Amount of claimed plus shared credits ($000)	Percent of claimed plus shared amounts	Percent of the number of claimants	Average tax saving per claimant ($000)
0 to 4	*	*	*	*
5 to 19	*	*	*	*
20 to 49	*	*	*	*
200 to 499	$1,779	3.2%	14.3%	$592
500 or more	$21,944	40.0%	42.9%	$2,438
Unspecified	$5,460	9.9%	38.1%	$682
Total or average	$54,879	100.0%	100.0%	$2,613

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate excise returns)
Notes: 1. Numbers are estimates using available sample data. 2. For 355U filers (combined filers), we had to add up numbers by the principal reporting company (parent company) because schedule CMS for 355U filers doesn't have IDs for each member. 3. * Information withheld to maintain taxpayer confidentiality.

Looking at table 6, 57.1% of the impacted corporations were in the "Management of Companies and Enterprises" sector. They accounted for 80% of the total amount of credits claimed or shared, with an average tax savings of $3.7 million.

Table 6. Low-Income Housing Credit Claims by Industry

Industry	Amount of claimed plus shared credits ($000)	Percent of claimed plus shared amounts	Percent of the number of claimants	Average tax Saving per claimant ($000)
31-33 Manufacturing	*	*	*	*
42 Wholesale Trade	*	*	*	*
44-45 Retail Trade	$3,258	5.9%	9.5%	$1,629
51 Information	*	*	*	*
52 Finance	$4,728	8.6%	19.1%	$1,182
55 Management of Companies and Enterprises	$43,885	80.0%	57.1%	$3,657
56 Administrative and Support and Waste Management and Remediation Services	*	*	*	*
Total	$54,879	100.0%	100.0%	$2,613

Source: Massachusetts Department of Revenue (tax year 2018 data on state corporate excise returns)
Notes: 1. Numbers are estimates using available sample data. 2. For 355U filers (combined filers), we had to add up numbers by the principal reporting company (parent company) because schedule CMS for 355U filers doesn't have IDs for each member. 3. * Information withheld to maintain taxpayer confidentiality.

Personal Income Taxpayers:

Looking at table 7, 55.3% of the impacted personal income tax filers have taxable income of $10 million or more. They accounted for 95.6% of the total amount of credits claimed, with an average tax savings of $161,000. For comparison, the overall average tax saving for all claimants was $93,000. Please note, no claimant had a taxable income of less than $100,000.

Table 7. Impact on Personal Income Taxpayers by *Taxable Income Range*:

Taxable Income Range	Amount of claimed credits ($000)	Percent of claimed amounts	Percent of the number of claimants	Average tax Saving per claimant ($000)
$100,000 to $999,999	$40	1.1%	10.5%	$10
$1,000,000 to $9,999,999	$114	3.2%	34.2%	$9
$10,000,000 or more	$3,373	95.6%	55.3%	$161
Total or average	$3,527	100.0%	100.0%	$93

Source: Massachusetts Department of Revenue (tax year 2018 data on state personal income tax returns)
Note: Numbers are estimates using available sample data.

Looking at Table 8, all of the personal income tax claimants who reported a business filing Schedule C, or 31.6% of the impacted personal income tax filers, have less than five employees. They claimed 92.2% of total credit amount, with an average tax savings of $271,000. Approximately 68.4% of filers did not file a schedule C with their personal income tax return.

Table 8. Impact on Personal Income Taxpayers by *Range of Employees*:

Number of Employees	Amount of claimed credits ($000)	Percent of claimed amounts	Percent of the number of claimants	Average tax Saving per claimant ($000)
Less than 5	$3,254	92.2%	31.6%	$271
Not reported as business*	$273	7.8%	68.4%	$11
Total or average	$3,527	100.0%	100.0%	$93

Source: Massachusetts Department of Revenue (tax year 2018 data on state personal income tax returns)
Notes: 1. Numbers are estimates using available sample data. 2. * Those who did not file schedule C.

Looking at Table 9, 29% of the impacted personal income tax filers were in the "Professional, Scientific, and Technical Services" sector, accounting for 91.4% of claimed credit amount, with an average tax savings of $293,000.

Table 9. Impact on Personal Income Taxpayers by *Industry*:

Industry	Amount of claimed credits ($000)	Percent of claimed amounts	Percent of the number of claimants	Average tax Saving per claimant ($)
54 Professional, Scientific, and Technical Services	$3,226	91.4%	29.0%	$293
Not reported as business*	$273	7.8%	68.4%	$11
Unmatched or others	$28	0.8%	2.6%	$28
Total	$3,527	100.0%	100.0%	$93

Source: Massachusetts Department of Revenue (tax year 2018 data on state personal income tax returns)
Notes: 1. Numbers are estimates using available sample data. 2. * Those who did not file schedule C.

For more information about specific awards and issuance of this tax credit and other refundable and transferable tax credit programs, see the Department of Revenue's annual Tax Credit Transparency Report (https://www.mass.gov/lists/massachusetts-dor-tax-credit-transparency-reports). Besides DOR data, the U.S. Department of Housing and Urban Development (HUD) also released some data related to the low income housing tax credit. Interested readers could visit their website at the following link: https://www.huduser.gov/portal/datasets/lihtc.html

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 excise tax that would have been collected, are equal to the direct benefits afforded by the tax expenditure to the businesses that claim the credit.

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

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

In addition, according to Oakley (2008), the presence of a LIHTC project increases the likelihood of nearby LIHTC development by incentivizing developers to place LIHTC units in qualified census tracts. The LIHTC program has been successful not only in producing low-income housing, but also in promoting development in neighborhoods in both cities and suburbs.

LIHTC is a significant tax incentive in terms of both dollar amount and count. Its basic premise is to offer tax credits to private investors in exchange for their equity investment in the development of affordable rental housing (Cummings & DiPasquale, 1999).

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

A number of states allow low-income housing tax credits. These states include California, Connecticut, Maine, New Hampshire, New York, Rhode Island and Vermont.

REFERENCES

Cummings, J. L., & DiPasquale, D. (1999). The Low-Income Housing Tax Credit: An Analysis of the First Ten Years. *Housing Policy Debate, 10*(2).

Oakley, D. (2008, May). Locational Patterns of Low-Income Housing Tax Credit Developments. *Urban Affairs Review, 43*(5), 599-628.

[3] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

Template for Evaluating Expenditures

Name of Expenditure: 1.614 & 2.618 Dairy Farmer Tax Credit	**Annual cost:** $4.8 - $5 million personal; $1-1.1 million corp. and bus; capped at $6 million annually	**Year of adoption:** 2008	**Sunset date:** None

Tax Type (check all that apply): ☒ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☒ Job creation & maintenance
☒ Investment
☒ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☒ Other: Stability for producers and consumers

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: Stability during economic downturns

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).			X	
The TE's benefit justifies its fiscal cost.		X		
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.	X			
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				X
The TE is relevant today.			X	
The TE is easily administered.				X
Business only -The TE is primarily beneficial to smaller businesses.			X	
Individuals only -The TE is primarily beneficial to lower income taxpayers.		X		

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- *Annual Cost*: Governor just signed the new tax bill that increases the Dairy Farmer Tax Credit cap from $6 million to $8 million annually.
- *Claimed by Intended Beneficiaries*: There are roughly 100-200 fair farms in Massachusetts and the credit is claimed by 131-153 taxpayers annually.
- *Amount Claimed is Meaningful*: While the amount of claimants is relatively small (122-144 personal and 9-10 business claimants) the amount per claim ($23,000-$108,000) is critical for the stability of milk production and supply for both farmers and consumers.
- *Relevancy*: Taxpayers claimed nearly 100% of the available credit from FY27-FY21, signaling the credits continued use.
- The Commission noted that Massachusetts is not a leading state in dairy farming and that it may be worthwhile to observe other states programs more closely as there may be more efficient or effective ways to support dairy farmers. No other state has such a TE, suggesting that it is not broadly appealing.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Dairy Farmer Tax Credit
TAX EXPENDITURE NUMBER	1.614 & 2.618
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax/Corporate & Business Tax
LEGAL REFERENCE	M.G.L. c. 62, § 6 (o); M.G.L. c. 63, §38Z
YEAR ENACTED	2008
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $4.8 - $5.0 million per year for personal income tax, and $1.0 - $1.1 million per year for corporate and business tax during FY21 – FY25.
NUMBER OF TAXPAYERS	122 – 144 per year for personal income tax, 9 – 10 per year for corporate and business tax during tax years 2017 - 2021.
AVERAGE TAXPAYER BENEFIT	$23,000 - $39,000 per year for personal income tax, and $61,000 - $108,000 per year for corporate and business tax during tax years 2017 – 2021.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure:	**Is the purpose defined in the statute?**
Massachusetts provides dairy farmers a refundable personal income tax or corporate excise credit to offset cyclical downturns in milk prices. The credit is triggered when milk production costs exceed milk prices. The credit is determined by the Massachusetts Department of Agricultural Resources (MDAR), which notifies the Department of Revenue	The statute does not state the purpose of the tax expenditure.

(DOR) of the amount of the credit awarded to each taxpayer.	
What are the policy goals of the expenditure? The Commission assumes that the tax expenditure is intended to offset the effect of cyclical downturns in milk prices on Massachusetts dairy farmers, thereby helping to ensure a stable supply of local dairy products.	**Are there other states with a similar Tax Expenditure?** States offer a variety of tax incentives for taxpayers engaged in agriculture, including dairy farming. However, it appears that Louisiana is the only other state that offers dairy farmers a credit to offset downturns in milk prices.

INTRODUCTION

Massachusetts provides dairy farmers registered with the Massachusetts Department of Agricultural Resources (MDAR) a refundable personal income tax or corporate excise credit to offset cyclical downturns in milk prices. The credit is determined under regulations issued by the MDAR. See 330 CMR 29.00. The credit is triggered for any taxable year in which aggregate milk production costs (as determined by MDAR) exceed aggregate milk prices (also as determined by MDAR) in at least one month. The credit is based on the difference between production costs incurred by farmers (referred to as the farm price of the milk) and the price of milk established by the MDAR. The credit is determined on a statewide basis and is allocated to taxpayers based on the amount of the milk they produced and sold. The MDAR determines the credit and notifies the Department of Revenue (DOR) of the amount of credit awarded to each taxpayer. The total personal income tax and corporate excise credits that can be awarded across the state cannot exceed $6 million in any year. The credit is fully refundable but cannot be sold or transferred.

In the absence of the credit dairy farmers would be exposed to fluctuations in milk prices that might provide a disincentive for dairy farmers to start new dairy farms or to continue existing dairy businesses. The personal income tax and corporate excise foregone as a result of the credit constitutes a tax expenditure.

POLICY GOALS

The Commission assumes that the tax expenditure is intended to offset the effect of cyclical downturns in milk prices on Massachusetts dairy farmers thereby helping to ensure a stable supply of local dairy products.

ADMINISTRABILITY

The credit does not pose any significant administrative challenge to the DOR as it is primarily determined and audited by the MDAR.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be equal to or slightly less than the cap of $6.0 million per year during the period from FY21 - FY25. See Table 1 below. By tax type, revenue loss estimates range from $4.8 - $5.0 million per year for personal income tax and from $1.0 - $1.1 million per year for corporate and business tax.

The estimates are based on annual credit cap amounts and historical data on credits claimed on tax return.[1]

Table 1. Tax Revenue Loss Estimates for Dairy Farmer Credit ($Million)

Fiscal Year	FY2021	FY2022	FY2023	FY2024	FY2025
Personal Income Tax	$4.8	$5.0	$5.0	$5.0	$5.0
Corporate & Business Tax	$1.1	$1.0	$1.0	$1.0	$1.0
Total	$5.9	$6.0	$6.0	$6.0	$6.0

Table 2 below shows the amount and count of available and claimed credits, ratio of claimed credits to available credits, and average dollar amount of claimed credit by the dairy farmers who filed personal income tax returns in tax years 2017 - 2021. Here, "available credit" is the maximum amount of credit which a taxpayer can claim based on tax liability, provided that there are no other restrictions; "claimed credit" is the credit amount which a taxpayer actually claimed in a tax year. During these years, the number of credits claimed ranged from 122 - 144 annually, and the annual dollar amount of credits claimed ranged from $3.3 - $5.1 million. The average dollar amount of tax credit claimed per year ranged from $23,000 - $39,000.

Table 2. The Amount and Count of Dairy Farmer Credit by Tax Year for Personal Income Tax

Tax Year	2017		2018		2019		2020		2021	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit - A	$3,320	144	$5,062	143	$5,108	137	$4,833	131	4,878	124
Claimed credit-B	$3,320	144	$5,056	143	$5,107	137	$4,833	131	4,805	122
B/A	100.0%	100.0%	99.9%	100.0%	100.0%	100.0%	100.0%	100.0%	98.5%	98.4%
Average credit claim amount	$23		$35		$37		$37		$39	

Source: Massachusetts Department of Revenue. Data for 2021 are preliminary and subject to change.

Table 3 below shows the amount and count of available and claimed or shared credits, ratio of claimed or shared credits to available credits, and average dollar amount of claimed or shared credits by the dairy farmers who filed corporate and business tax returns in tax years 2017 - 2021. Here, "available credit" is the maximum amount of credit which a taxpayer can claim based on tax liability provided that there are no other restrictions; "claimed credit" is the credit amount which a taxpayer actually claimed; and "shared credit"

[1] Interested readers can also find data on credits awarded annually by the Massachusetts Department of Agricultural Resources (MDAR) in the tax credit transparency report: https://www.mass.gov/lists/massachusetts-dor-tax-credit-transparency-reports

is the amount of a taxpayer's credit that was used by other members of the taxpayer's combined group.

During tax years 2017 - 2021, the annual number of claimed or shared credits ranged from 9 - 10 and the annual amount of claimed or shared credits ranged from $0.5 - $1.1 million. The average dollar amount of tax credit claimed per year ranged from $61,000 - $108,000.

Table 3. The Amount and Count of Dairy Farmer Credit by Tax Year for Corporate & Business Tax

Tax Year	2017		2018		2019		2020		2021	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit - A	$548	9	$888	9	$888	9	$1,076	10	$1,071	10
Claimed or shared credit - B	$548	9	$888	9	$888	9	$1,076	10	$1,071	10
B/A	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Average Claimed or Shared Amount	$61		$99		$99		$108		$107	

Source: Massachusetts Department of Revenue. Data for 2021 are preliminary and subject to change.

DIRECT BENEFITS

The credit provides economic support to milk producers located in Massachusetts during any taxable year in which aggregate milk production costs (as determined by MDAR) exceed aggregate milk prices (also as determined by MDAR) in at least one month.

According to MDAR, there are 100 - 200 dairy farms in Massachusetts located in various counties including: Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Norfolk, Plymouth, and Worcester. These dairy farms produce 449,491 pounds of milk per day with 15,867 milking cows. Depending on the dairy farm, herd sizes ranges from 10 - 1,162 cows.

According to the 2017 USDA Census of Agriculture[2], dairy accounts for approximated 12% of goods sold in the agricultural sector of the economy. In Massachusetts, dairy farming accounts for 49,744 acres of farmland, which is about 10% of the total acres in agriculture. Dairy farms are the Commonwealth's largest farms on average; each dairy farm is nearly 355 acres in size.

2 https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_State_Level/Massachusetts/mav1.pdf, table 48 and table 75.

The direct beneficiaries consist of corporate and business taxpayers and personal income taxpayers. Due to data limitations, we relied on samples which may not represent all taxpayers who claimed this credit to produce table 4.

Personal Income Taxpayers:

Table 4 below shows the distribution of claimed credit by taxable income range for tax year 2020. Looking at Table 4, 56.3% of the claimants had taxable income ranging from $10,000 - $99,999. This group claimed 55.9% of the total credit amount with an average tax saving of $38,057 per claimant (see fifth column); please note, (i) this is very close to the average tax saving of $38,265 per claimant for all income ranges and (ii) that there were no claimants with a taxable income range of greater than $10 million. The table also indicates that the percentage distribution of claimed credit amounts by taxable income range (see third column) is very similar to the percentage distribution of number of claimants by taxable income range (see fourth column).

Table 4. Dairy Farmer Credits by Taxable Income Range for Personal Income Taxpayers

Taxable Income Range	Total Claimed Credit Amount ($000)	Percent of Claimed Amount	Percent of the Number of Claimants	Tax Saving per Claimant ($)
0 to $9,999	$479	13.0%	15.6%	$31,952
$10,000 to $99,999	$2,055	55.9%	56.3%	$38,057
$100,000 to $999,999	$1,086	29.6%	27.1%	$41,786
$1,000,000 to $9,999,999	$53	1.4%	1.0%	$52,644
Total or average	$3,673	100.0%	100.0%	$38,265

Source: Massachusetts Department of Revenue (tax year 2020 data on state personal income tax return)

Corporate & business taxpayers:

Due to data limitations, the Commission was not able to produce detailed tables for corporate and business taxpayers at the time of generating this report. From sample data that was available, the Commission assumes that the primary beneficiaries of this tax expenditure are personal income taxpayers. Corporate and business beneficiaries are small businesses in both the numbers of employees and 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 this tax expenditure) and the direct benefits. In this instance, the direct costs to the Commonwealth, namely the personal income tax or corporate 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. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the "Multiplier Effect".[3]

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States offer a variety of tax incentives for taxpayers engaged in agriculture, including dairy farming. However, it appears that Louisiana is the only other state that offers dairy farmers a credit to offset downturns in milk prices.

[3] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

Template for Evaluating Expenditures

Name of Expenditure: 1.617 & 2.621 Community Investment Tax Credit	**Annual cost:** $12M	**Year of adoption:** 2012	**Sunset date:** December 31, 2025

Tax Type (check all that apply): ☒ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☒ Job creation & maintenance
☐ Investment
☒ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☒ Progressivity/assistance to low earners
☒ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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).			x	
The TE's benefit justifies its fiscal cost.				X
The TE is claimed by its intended beneficiaries.				x
The TE is claimed by a broad group of taxpayers.		X		
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				x
The TE is relevant today.				x
The TE is easily administered.			X	
Business only -The TE is primarily beneficial to smaller businesses.			x	
Individuals only -The TE is primarily beneficial to lower income taxpayers.			x	

This tax expenditure is flagged for legislative review: ☒ Yes ☐ No

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

Comments:

- The Community Investment Tax Credit is a worthwhile expenditure that encourages investment in local communities through financial incentive. The credit also positively impacts some of the main pressure points the state faces now: housing, business development, job creation, with an emphasis on lower income communities. It should also be noted that a majority of the impacted businesses were small businesses with fewer than 50 employees. We talk of wanting a competitive edge in Massachusetts, being the only state in New England that offers it should serve as an advantage for further investment in local communities. This is a measurable expenditure and appears to be working as intended with the target audience as beneficiaries.
- DOR spoke with the Community Development Unit within EOHLC, the administering agency. They did not identify any particular concerns with administering the credit.
- Members agreed to flag this tax expenditure for legislative review in consideration of its expiration date and positive evaluation ratings.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Community Investment Tax Credit
TAX EXPENDITURE NUMBER	1.617 & 2.621
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax/Corporate and Business Tax
LEGAL REFERENCE	M.G.L. c. 62, § 6M; c. 63, § 38EE
YEAR ENACTED	2014
REPEAL/EXPIRATION DATE	December 31, 2025
ANNUAL REVENUE IMPACT	Tax loss of \$4.6 - \$6.8 million per year for personal income tax and \$3.2 - \$5.2 million per year for corporate and business tax during FY21 – FY25.
NUMBER OF TAXPAYERS	1,062 – 1,198 per year for personal income tax, 103 – 122 per year for corporate and business tax during tax years 2017 - 2021.
AVERAGE TAXPAYER BENEFIT	\$2,500 - \$4,400 per year for personal income tax and \$18,400 - \$31,000 per year for corporate &business tax during tax years 2017– 2021.
Federal Tax Expenditure	☐YES ☒ NO

Description of the Tax Expenditure:	**Is the purpose defined in the statute?**
A personal income tax and corporate excise credit is available for 50% of qualified investments in "community partners" selected by the Executive Office of Housing and Livable Communities through a competitive process. The community partner then uses the amount invested to fund approved programs designed to improve economic opportunities in Massachusetts communities. Such investments	G.L. c. 62 § 6M(a) and G.L. c. 63 § 38EE(a) state that the purpose of the credit is "to enable local residents and stakeholders to work with and through community development corporations to partner with nonprofit, public and private entities to improve economic opportunities for low- and moderate-income households and other residents in urban, rural and suburban communities across the commonwealth."

are in the nature of contributions, i.e., the investor does not receive any equity or other financial stake in the programs that are funded.	
What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is, as the statute states, to enable local residents and stakeholders to work with and through community development corporations to partner with nonprofit, public, and private entities to improve economic opportunities for low- and moderate-income households and other residents in urban, rural, and suburban communities across the Commonwealth.	**Are there other states with a similar Tax Expenditure?** Most states have economic development programs that allow for the participation of community organizations and private contributors. But only a few states, including Missouri and South Carolina, offer a tax credit for such activity. No such credit is available in California, Connecticut, Maine, Rhode Island, New Hampshire, New York, or Vermont.

INTRODUCTION

The expenditure provides a personal income tax and corporate excise credit equal to 50% of the total amount of qualified investments made by a taxpayer in a "community partner." A qualified investment is a cash contribution made to: (i) a specific community partner to support the implementation of the community partner's approved community investment plan, or (ii) a community partnership fund. Community partners include "community development corporations" and "community support organizations" selected by the Executive Office of Housing and Livable Communities (EOHLC) through a competitive process. A "community partnership fund" is a fund administered by a nonprofit organization selected by the EOHLC to receive qualified investments from taxpayers for the purpose of allocating the investments to community partners.

A "community development corporation'' is a non-profit corporation dedicated to improving the economic well-being of communities in the Commonwealth, as certified by the EOHLC.

A ''community support organization'' is any nonprofit organization which is not a community development corporation "but has a focus on and track record of providing capacity building services to community development corporations."

A qualified investment must be in the form of a cash contribution of at least $1,000. A taxpayer must claim the credit in the taxable year in which a qualified investment is made. The credit is refundable, or alternatively may be carried forward by the taxpayer for 5 years. The credit is not transferable.

The EOHLC has primary responsibility for administering the credit. The EOHLC determines whether an organization is a community partner and awards community investment tax credit allocations to community partners after a competitive process that is based upon the community partners' community investment plans. A community investment tax credit allocation enables a community partner to receive qualified investments to support the implementation of its community investment plan. Such allocations are valid for up to 3 years, subject to certain limitations.

The total cumulative value of all credits authorized may not exceed $12 million in any taxable year beginning in 2023 or later. Prior limits were $10 million for tax years 2021-2022, $8 million for tax years 2019 - 2020, $6 million for tax years 2015 - 2018, and $3 million for tax year 2014. The credit is set to expire for taxable years after December 31, 2025.[1]

The amount of revenue foregone as a result of the credit constitutes a tax expenditure.

POLICY GOALS

G.L. c. 62 § 6M(a) and G.L. c. 63 § 38EE(a) state that the purpose of the credit is "to enable local residents and stakeholders to work with and through community development corporations to partner with nonprofit, public and private entities to improve economic opportunities for low- and moderate-income households and other residents in urban, rural and suburban communities across the commonwealth."

ADMINISTRABILITY

The administration of the community investment tax credit does not pose any special challenges for the Department of Revenue (DOR). The EOHLC determines eligibility for the credit and the interim amount of credit awarded to each taxpayer. The DOR reviews this information and certifies the final credit amount and issues a numbered certificate to the taxpayer. The documentation provided by the EOHLC gives DOR the means to monitor the credit. To claim the credit taxpayers must apply to the EOHLC and be approved for the credit. Taxpayers claiming the credit must enter the amount of the credit and the DOR certificate number on the appropriate schedule (Schedule CMS).

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $7.8 - $12.0 million per year during FY21- FY25. See Table 1. The estimates are made based on annual credit cap amounts and historical data on credits claimed on tax returns.[2] By tax type, the revenue loss estimates are $4.6 - $6.8 million per year for personal income tax, and $3.2 - $5.2 million per year for corporate and business tax.

Table 1. Tax Revenue Loss Estimates for Community Investment Tax Credit ($Million)

Fiscal Year	FY2021	FY2022	FY2023	FY2024	FY2025
Personal Income Tax	$4.6	$5.6	$6.2	$6.8	$6.8
Corporate & Business Tax	$3.2	$4.4	$4.8	$5.2	$5.2
Total	$7.8	$10.0	$11.0	$12.0	$12.0

[1] The credit was previously set to expire for taxable years beginning on or after January 1, 2019, but was extended by St. 2018, c. 99, s. 25.

[2] Interested readers can also find data on credits issued annually by the Executive Office of Housing and Livable Communities (EOHLC) in the tax credit transparency report: https://www.mass.gov/lists/massachusetts-dor-tax-credit-transparency-reports

Table 2 below shows the amount and count of available and claimed credits, ratio of claimed credits to available credits, and average credit amount claimed by the qualified investors who filed personal income tax returns in tax years 2017- 2021. Here, "available credit" is the maximum amount of credit which a taxpayer can claim based on tax liability, provided that there are no other restrictions; "claimed credit" is the credit amount which a taxpayer actually claimed in a tax year. During this period, the annual number of claimed credits ranged from 1,062 -1,198 and the annual dollar amount of claimed credits ranged from $2.7- $5.1 million. The average claimed credit amount ranged from $25,000 - $44,000 per year. With respect to the dollar amount, 98.1% - 99.3% of available credits were claimed.

Table 2. The Amount and Count of Community Investment Tax Credits by Tax Year for Personal Income Tax

Tax Year	2017		2018		2019		2020		2021	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit - A	$3,044	1,204	$2,733	1,068	$2,783	1,091	$5,123	1,150	$4,292	1,129
Claimed credit- B	$3,023	1,198	$2,682	1,062	$2,743	1,088	$5,086	1,145	$4,209	1,123
B/A	99.3%	99.5%	98.1%	99.4%	98.5%	99.7%	99.3%	99.6%	98.1%	99.5%
Average credit claim amount	$2.5		$2.5		$2.5		$4.4		$3.7	

Source: Massachusetts Department of Revenue. Data for 2021 is preliminary and subject to change.

Table 3 below shows the amount and count of available and claimed or shared credits, ratio of claimed or shared credits to available credits, and average amount of claimed or shared credits by the qualified investors who filed corporate and business tax returns in tax years 2017 - 2021. Here, "available credit" is the maximum amount of credit which a taxpayer can claim based on tax liability, provided that there are no other restrictions; "claimed credit" is the credit amount which a taxpayer actually claimed; and "shared credit" is the amount of a taxpayer's credit that was used by other members of the taxpayer's combined group.

During tax years 2017 - 2021, the number of claimed or shared credits ranged from 103 - 122, and the dollar amount of claimed or shared credits ranged from $2.1 - $3.2 million. The average claimed tax credit ranged from $18,400 - $31,000 per year. With respect to the dollar amount, 92.7% - 97.4% of available credits were claimed.

Table 3. The Amount and Count of Community Investment Tax Credit by Tax Year for Corporate and Business Tax

Tax Year	2017		2018		2019		2020		2021	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit -A	$2,316	123	$2,639	126	$2,571	111	$3,317	106	$3,207	104
Claimed or shared credit - B	$2,147	117	$2,506	122	$2,433	109	$3,196	103	$3,123	104
B/A	92.7%	95.1%	95.0%	96.8%	94.6%	98.2%	96.4%	97.2%	97.4%	100.0%
Average Claimed or Shared Amount	$18.4		$20.5		$22.3		$31.0		$30.0	

Source: Massachusetts Department of Revenue. Data for 2021 is preliminary and subject to change.

DIRECT BENEFITS

As shown in Table 2 and Table 3, direct beneficiaries of the credit consist of corporate and business taxpayers (103 – 122 taxpayers during tax years 2017 - 2021) and personal income taxpayers (1,062 – 1,198 taxpayers during tax years 2017 - 2021). Tables 4 - 7 below provide additional information on the direct beneficiaries.[3]

Personal Income Taxpayers:

Table 4 shows the distribution of claimed credit by income range for tax year 2021. Looking at the table, 67.8% of the claimants had taxable income greater than $100,000 but less than or equal to $1 million. This group claimed 37.9% of the total credit amount with an average tax saving of $2,032 per taxpayer, the lowest of all of the groups. The average tax saving for all taxable income ranges was $3,639 per taxpayer. About 1.4% of the claimants had taxable income greater than $10 million. This group claimed 37.7% of the total credit amount with an average tax saving of $95,232 per taxpayer, the highest of all the groups.

Table 4. Community Investment Tax Credits by Taxable Income Range for Personal Income Taxpayers

Taxable Income Range	Percent of Claimed Amounts	Percent of Number of Claimants	Average Tax Saving per Claimant ($)
Greater than 0 and less than or equal to $10,000	1.6%	2.5%	$2,351
Greater than $10,000 less than or equal to $100,000	4.3%	13.9%	$1,118
Greater than $100,000 less than or equal to $ 1 million	37.9%	67.8%	$2,032
Greater than $1 million less than or equal to $10 million	18.5%	14.3%	$4,711
$10 million more	37.7%	1.4%	$95,232
Total or average	100.0%	100.0%	$3,639

Source: Massachusetts Department of Revenue (tax year 2021 data on state personal income tax returns)

[3] Due to data limitations for estimating this tax expenditure, the estimates reported in tables 4-7 should be used with caution. Tables were created using aggregate numbers of combined tax filers (355U filers). DOR's Credit Management Schedule (CMS) for 355U filers does not have a line for identification number for members of combined groups. As a result, the distribution percentages by income and by employee are concentrated in higher brackets.

Corporate and business taxpayers:

Tables 5 - 7 show the percentage of claimed or shared credit amounts, percentage of the number of claimants, and average tax saving by *taxable income range* (Table 5), by *number of employees* (Table 6), and by *industry* (Table 7) for tax year 2019, the most recent year for which such data is available. Here, "claimed credit" is the credit amount which a taxpayer actually claimed; and "shared credit" is the amount of a taxpayer's credit that was used by other members of the taxpayer's combined group.

Looking at Table 5, the average tax saving for all taxable income ranges was $9,392 per claimant. 2.9% of all impacted corporations had taxable income greater than $10 million. This group accounted for 28.5% of the total claimed or shared credit amounts and had an average tax savings of $92,500 per claimant, the highest of all the groups. 14.5% of all impacted corporations had taxable income greater than $1 million but less than or equal to $10 million. This group also accounted for 28.5% of the total claimed or shared credit amounts and had an average tax saving of $18,495 per claimant, the second highest of all the groups. Corporations with taxable income greater than zero but less than or equal to $10,0000 accounted for 39.1% of all impacted corporations but only 15.6% of total claimed or shared credit amounts. 11.6% of all impacted corporations had taxable income less than or equal to zero.

Table 5. Community Investment Tax Credits by Taxable Income for Corporate and Business Taxpayers

Taxable Income Range	Percent of Claimed or Shared Amounts	Percent of Number of Claimants	Average Tax Saving per Claimant ($)
Less than or equal to $0	2.8%	11.6%	$2,278
Greater than 0 and less than or equal to $10,000	15.6%	39.1%	$3,745
Greater than $10,000 less than or equal to $100,000	3.3%	10.1%	$3,025
Greater than $100,000 less than or equal to $ 1 million	21.2%	14.5%	$13,757
Greater than $1 million less than or equal to $10 million	28.5%	14.5%	$18,495
$10 million more	28.5%	2.9%	$92,500
Total or average	100.0%	100.0%	$9,392

Source: Massachusetts Department of Revenue (tax year 2019 data on state corporate and business tax returns)

Looking at Table 6, 39.1% of all impacted corporations had between 5– and 49 employees. This group claimed or shared 26.1% of the total credit amount with an average tax savings of $6,268 per claimant. 11.6% of all impacted corporations had between 100– and 199 employees. This group claimed or shared 44.2% of the total credit amount with an average tax savings of $35,789 per claimant, the highest of all the groups.

Table 6. Community Investment Tax Credits by Number of Employees for Corporate and Business Taxpayers

Employees Range	Percent of Claimed plus Shared amounts	Percent of Number of Claimants	Average Tax Saving per Claimant ($)
Less than 5	14.3%	23.2%	$5,811
5 to 49	26.1%	39.1%	$6,268
50 to 99	*	*	$750
100 to 199	44.2%	11.6%	$35,789
200 to 499	14.2%	13.0%	$10,253
500 or more	*	*	*
Total or average	100.0%	100.0%	$9,392

Source: Massachusetts Department of Revenue (tax year 2019 data on state corporate and business tax returns)

Looking at Table 7, the "Management of Companies and Enterprises " sector accounted for 4.3% of all impacted corporations but claimed 37.8% of the total claimed or shared credit amount. This sector had the highest average tax savings of $92,667 per claimant. The "Finance" sector accounted for 11.6% of all impacted corporations and claimed 11.8% of the total claimed or shared credit amount. This sector had an average tax saving of $10,840 per claimant, the second highest of all the groups.

Table 7. Community Investment Tax Credits by Industry for Corporate and Business Taxpayers

Industry	Percent of claimed plus shared amounts	Percent of the number of claimants	Average Tax Saving per Claimant ($000)
23 Construction	18.2%	21.7%	$8,955
52 Finance	11.8%	11.6%	$10,840
53 Real Estate and Rental and Leasing	4.0%	8.7%	$4,875
54 Professional, Scientific, and Technical Services	10.2%	21.7%	$4,983
55 Management of Companies and Enterprises	37.8%	4.3%	$92,667
Other sectors	18.1%	31.9%	$6,061
Total	100.0%	100.0%	$9,392

Source: Massachusetts Department of Revenue (tax year 2019 data on state corporate and business tax returns)

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.

Indirect beneficiaries include the individuals and communities benefiting from the work of community partners. The Massachusetts Association of Community Development Corporations (MACDC) prepares an annual report that provides data on the six main aspects of the work of Massachusetts community development corporations: homes created or preserved; jobs created or preserved; entrepreneurs provided technical or financial assistance; families served; funds invested; and community leaders engaged. Table 8 below summarizes such activities for 2019, 2020 and 2021. In 2021, 1,717 homes were created or preserved, 6,744 jobs were created or preserved, 3,416 entrepreneurs were provided technical or financial assistance, 86,124 families were served, and $1.45 billion was invested.[4] More data from community development corporations can be found at MACDC's website.[5]

Table 8. Activities of Community Development Corporations

Activities	2019	2020	2021
Homes created or preserved	1,543	1,043	1,717
Jobs created or preserved	4,162	4,054	6,744
Entrepreneurs provided technical or financial assistance	1,256	1,547	3,416
Families served	70,016	63,359	86,124
Funds invested ($billion)	0.92	0.84	1.45
Community leaders engaged	1,724	1,586	N.A.

Source: Massachusetts Association of Community Development Corporations.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states have economic development programs that allow for the participation of community organizations and private contributors. But only a few states, including Missouri and South Carolina, offer a tax credit for such activity. No such credit is available in California, Connecticut, Maine, Rhode Island, New Hampshire, New York, or Vermont.

[4] Visit for other details https://www.macdc.org/news/citc-program-impact-2021
[5] https://www.macdc.org/

Template for Evaluating Expenditures

Name of Expenditure: 1.618 Farming and Fisheries Tax Credit	**Annual cost:** $0.1 - $0.3 million	**Year of adoption:** 2015	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment in local food production
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: investment in local food production

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).			x	
The TE's benefit justifies its fiscal cost.			x	
The TE is claimed by its intended beneficiaries.			x	
The TE is claimed by a broad group of taxpayers.	x			
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			x	
The TE is relevant today.			x	
The TE is easily administered.			x	
Business only -The TE is primarily beneficial to smaller businesses.		x		
Individuals only -The TE is primarily beneficial to lower income taxpayers.		x		

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- Only New York offers a similar credit.
- Corporations engaged in agriculture or commercial fishing may also claim a 3% investment tax credit against the corporate excise.
- Members noted that on average only 80 taxpayers taking advantage of this tax credit while there are over 7,000 farms in Massachusetts.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Farming and Fisheries Tax Credit
TAX EXPENDITURE NUMBER	1.618
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax
LEGAL REFERENCE	M.G.L. c. 62, § 6(s)
YEAR ENACTED	2015 (Acts 2014, c. 287, § 50)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	$0.1 - 0.3 million per year during FY21 - FY25.
NUMBER OF TAXPAYERS	57 – 83 per year during tax years 2017 – 2021.
AVERAGE TAXPAYER BENEFIT	$900 - $1,900 per year during tax years 2017 – 2021.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Personal income taxpayers who are primarily engaged in agriculture, farming, or commercial fishing are allowed an investment tax credit equal to 3% of the cost of qualifying property used in such activities in Massachusetts.	**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 tax expenditure is intended to support investment in local food production by reducing costs related to equipment and facilities through the provision of a personal income tax credit.	**Are there other states with a similar Tax Expenditure?** States offer a variety of tax incentives for taxpayers engaged in agriculture, farming, and fishing. However, it appears that only New York offers an investment tax credit similar to the Massachusetts credit. In addition, several states offer credits for purchases of land and equipment by farmers that begin new farming businesses. These states include Iowa,

	Kentucky, Minnesota, Nebraska, and Pennsylvania.

INTRODUCTION

Personal income taxpayers who are primarily engaged in agriculture, farming, or commercial fishing are allowed an investment tax credit equal to 3% of the cost of qualifying tangible property used in such activities in Massachusetts. Qualifying property is defined as tangible personal property and other tangible property, including buildings and structural components thereof, that is (i) purchased by the taxpayer, (ii) located and used by the taxpayer in Massachusetts, (iii) not subject to the registered motor vehicle excise, (iv) used solely in agriculture, farming, or fishing, and (v) depreciable with a useful life of at least 4 years. The credit is not allowed if the taxpayer leases the property as a lessor.

The credit is also allowed for taxpayers that lease qualifying property that is situated in Massachusetts throughout the entire lease term. The credit for leased property is equal to 3% of a lessor's adjusted basis in the property at the beginning of the lease term, multiplied by a fraction, the numerator of which is the number of days of the tax year during which the lessee leases the property and the denominator of which is the number of days in the useful life of the property. The credit is not allowed if the lessor has previously received a credit with respect to the leased tangible personal property.

Credit recapture is required if property on which a credit is taken is disposed of or ceases to be used solely in agriculture, farming, or fishing prior to the end of its useful life. Credits in excess of the taxpayer's personal income tax liability may be carried forward for three years.

Note that corporations engaged in agriculture or commercial fishing may also claim a 3% investment tax credit against the corporate excise. The corporate excise credit is generally determined in the same way as the personal income tax credit described above, except the corporate credit cannot be used to offset more than 50% of a corporation's tax liability. See M.G.L. c. 63, §§ 31A, 32C. This evaluation only takes into account the personal income tax credit described above. The corporate excise credit is addressed in a separate evaluation for the Investment Tax Credit (tax expenditure number 2.602).[1]

In the absence of the tax expenditure personal income taxpayers engaged in agriculture, farming, or fishing would bear the full cost of all property used in their businesses. The reduction of revenue resulting from the credit constitutes a tax expenditure.

[1] https://www.mass.gov/doc/terc-march-2021-final-report/download

POLICY GOALS

The Commission assumes that the tax expenditure is intended to support capital investment in local food production by reducing costs related to equipment and facilities through the provision of a personal income tax credit.

ADMINISTRABILITY

The administration of the credit does not pose any special challenge to the DOR. DOR audits the credit as part of its personal income tax audit process. Taxpayers must apply the eligibility rules described above to determine the amount of their eligible purchases. Taxpayers report the amount of their eligible costs and the amount of the credit on the required Farming and Fisheries (FAF) schedule and attach the schedule to their personal income tax returns.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $0.1 - $0.3 million per year during the period from FY21 - FY25. The estimates are made based on historical data on credit claimed.

Table 1 below shows the amount and count of available and claimed credits in tax years 2017 - 2021, claimed credits to available credits ratio, and average dollar amount of claimed credits based on the personal income tax returns. During this period, the annual number of claimed credits varied from 57 - 83 and the annual dollar amount of claimed credits varied from $80,000 - $150,000. The annual dollar amount of claimed credits was 52.5% - 79.3% of the available credit amount. The average dollar amount of claimed credits ranged from $900 - $1,900.

Table 1. The Amount and Count of Farming and Fisheries Credit by Tax Year

Tax Year	2017		2018		2019		2020		2021	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credits - A	$143	60	$142	71	$124	77	$239	91	$255	87
Claimed credits-B	$80	57	$113	66	$65	70	$150	83	$145	75
B/A	56.1%	95.0%	79.3%	93.0%	52.5%	90.9%	62.9%	91.2%	57.0%	86.2%
Average credit claim amount	$1.4		$1.7		$0.9		$1.8		$1.9	

Source: Massachusetts Department of Revenue. Data for 2021 are preliminary and subject to change.

DIRECT BENEFITS

The beneficiaries of this credit are taxpayers who are primarily engaged in agriculture, farming or commercial fishing who invest in tangible personal property or tangible property for the purpose of being used solely for these industries. This credit is provided to the taxpayer in the form of an investment credit equal to 3% of the cost of said property.

Table 2 below shows credit claims by taxable income range. The table shows that 46.0% of the impacted personal income tax filers were in the $100,000 - $999,999 taxable income range. This group accounted for 73.9% of the total dollar amount of credits claimed, with the highest average tax saving per claimant of $2,821. For comparison, the overall average tax saving for all claimants was $1,755.

Table 2. Farming and Fisheries Credit Claims by Taxable Income Level

Taxable Income Range	Total claimed credits ($000)	Percent of claimed amounts	Percent of the number of claimants	Tax saving per claimant ($)
0 to $9,999	$2	1.3%	9.5%	$240
$10,000 to $99,999	$32	24.9%	44.6%	$978
$100,000 to $999,999	$96	73.9%	46.0%	$2,821
Total or average	$130	100.0%	100.0%	$1,755

Source: Massachusetts Department of Revenue (tax year 2020 data on state personal income tax returns).
Note: Numbers are estimates using samples.

As reflected in Table 1 above, the number of credits claimed annually by the personal income taxpayers who are primarily engaged in agriculture, farming, or commercial fishing industry during the period from 2017 - 2021 varied from 57 - 83. These numbers are small given that there are more than 7,000 farms (see Table 3 and Figure 1 in Appendix) and more than 9,000 commercial fisherman and dealers who are issued permits (see Table 6 in Appendix) in 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 this tax expenditure) and the direct benefits. In this instance, the direct costs to the Commonwealth, namely the personal income 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. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the "Multiplier Effect".[2]

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States offer a variety of tax incentives for taxpayers engaged in agriculture, farming and fishing. However, it appears that only New York offers an investment tax credit similar to the Massachusetts credit. In addition, several states offer credits for purchases of land and equipment by farmers that begin new farming businesses. These states include Iowa, Kentucky, Minnesota, Nebraska and Pennsylvania.

[2] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

APPENDIX

Tables 3 - 5 and Figure 1 provide an overview of Massachusetts farms based on data primarily from the 2017 Census of Agriculture conducted by the United States Department of Agriculture (USDA). The USDA website provides a summary of statistics and links to the data shown below (the website link is listed in the references).

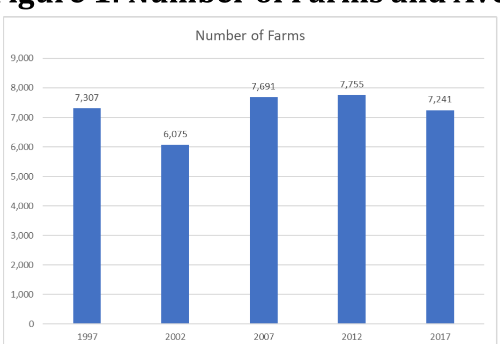
Looking at Table 3 and Figure 1 below, in 2017 there were 7,241 Massachusetts farms with a total acreage of 491,653 acres. Historically, the number of farms was 7,307 in 1997 6,075 in 2002, 7,691 in 2007, and 7,755 in 2012. As of 2017, the avereage market value of products sold per farm was $65,624, average net cash farm income per farm was $7,859, and average farm size has been relatively stable at around 68 acres since 2007.

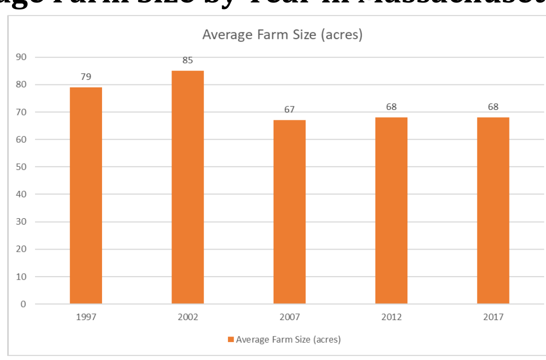
Table 3: Overview of Farms in Massachusetts

Total and Per Farm Overview	2017
Number of farms	7,241
Land in farms (acres)	491,653
Average size of farm (acres)	68
Average market value of products sold per farm	$65,624
Average government payment per farm receiving	$7,583
Average farm-related income per farm	$28,009
Average farm production expense per farm	$68,038
Average net cash farm income per farm	$7,859

Note: See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

Figure 1: Number of Farms and Average Farm Size by Year in Massachusetts





Note: See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

Table 4 below indicates that as of 2017, 3,258 or 45.0% of all Massachusetts farms had less than $2,500 in sales, while 759 or 10.5% of all Massachusetts farms had sales of more than

$100,000. Table 5 below indicates that, as of 2017, 6,577 or 90.8% of all Massachusetts farms had less than 179 acres in land.

Table 4: Farms by Value of Sales in Massachusetts (2017)

Farms by Value of Sales	Count	Distribution
Less than $2,500	3,258	45.0%
$2,500 to $4,999	752	10.4%
$5,000 to $9,999	767	10.6%
$10,000 to $24,999	774	10.7%
$25,000 to $49,999	526	7.3%
$50,000 to $99,999	405	5.6%
$100,000 or more	759	10.5%
Total	**7,241**	**100.0%**

Note: See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

Table 5: Farms by Size in Massachusetts (2017)

Farms by Size (acres)	Count	Distribution
1 to 9	2,373	32.8%
10 to 49	2,535	35.0%
50 to 179	1,669	23.0%
180 to 499	548	7.6%
500 to 999	92	1.3%
1,000+	24	0.3%
Total	**7,241**	**100.0%**

Note: See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

Table 6 below contains data on Massachusetts fisheries from the 2021 Annual Report by the Massachusetts Division of Marine Fisheries (DFM) of the Department of Fish and Game (DFG). In 2021, 6,857 Commercial fisherman permits and 1,687 dealer permits were issued to residents, while 752 commercial fisherman permits and 259 dealer permits were issued to non-residents.

Table 6: 2021 Commercial Fisherman and Dealer Permit Issuance

Permit Type	Residents	Non-residents
Commercial Fishermen	6,857	752
Dealers	1,687	259

REFERENCES

Massachusetts Department of Agricultural Resources. (n.d.). *Agricultural Resources Facts and Statistics.* Retrieved from https://www.mass.gov/info-details/agricultural-resources-facts-and-statistics

Department of Fish and Game. (2021), 2021 Annual Report. Massachusetts Division of Marine Fisheries. Retrieved from https://www.mass.gov/doc/division-of-marine-fisheries-2021-annual-report/download

United States Department of Agriculture. (2017). *State Profile: Massachusetts*. Retrieved from 2017 Census of Agriculture: https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Massachusetts/cp99025.pdf

Template for Evaluating Expenditures

Name of Expenditure: 1.619 & 2.622 Certified Housing Development Credit	**Annual cost:** $8.8 - $10.0 million	**Year of adoption:** 2010	**Sunset date:** None

Tax Type (check all that apply): ☒ Corporate ☒ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☒ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: Increasing housing stock

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)		X		
The TE's benefit justifies its fiscal cost.		X		
The TE is claimed by its intended beneficiaries.		X		
The TE is claimed by a broad group of taxpayers.	X			
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.			X	
The TE is relevant today.				X
The TE is easily administered.		X		
Business only -The TE is beneficial to smaller businesses.	X			
Individuals only -The TE benefits lower income taxpayers.	X			

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments

- The credit is relatively generous (25% of qualified costs), yet on average fewer than 20 credits are claimed each year. It may be worth reaching out to DHCD to see if they have a sense of why that is and to see how many applicants are denied the credit.
- The Commission noted that until January 1, 2024, the total amount of credits awarded in a calendar year cannot exceed $10 million, including any carryforwards of credits from prior years estimated to be claimed in the calendar year. For calendar years beginning January 1, 2024 or after, the total amount of credits awarded each year cannot exceed $5 million.

PROPOSED MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Certified Housing Development Credit
TAX EXPENDITURE NUMBER	1.619 & 2.622
TAX EXPENDITURE CATEGORY	Credits Against Tax
TAX TYPE	Personal Income Tax / Corporate Excise
LEGAL REFERENCE	St. 2010, c. 240; M.G.L. c. 40V; c. 62, § 6(q); c. 63, § 38BB
YEAR ENACTED	2010
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $7.4 - $8.0 million for corporate excise filers, and $1.4 -$2.0 million for personal income tax filers per year during FY20 - FY24.
NUMBER OF TAXPAYERS	6 - 11 for corporate excise and 4 - 17 for personal income tax during tax year 2016 - 2020
AVERAGE TAXPAYER BENEFIT	$0.3 - $1.2 million for corporate excise and $0.04 - $0.6 million for personal income tax during tax years 2016 - 2020
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure:	**Is the purpose defined in the statute?**
A personal income tax and corporate excise credit is allowed for up to 25% of costs incurred in constructing or rehabilitating housing in areas designated by the Department of Housing and Community Development (DHCD). Eighty percent of the housing must be available for rent or sale at market rate prices. Designated areas must be located in a city or town identified by statute as a gateway municipality. The DHCD determines eligibility for, and the amount of, the credit.	General Laws c. 40V, § 1, states that the housing development incentive program, of which the tax expenditure is a part, is intended to "promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development within gateway communities."

What are the policy goals of the expenditure? The goal of the tax expenditure is to promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development in gateway municipalities.	**Are there other states with a similar Tax Expenditure?** A number of states offer general investment tax credits. However, the commission is not aware of any other state that provides a specific credit for developing housing that is available for rent or sale at market rate prices.

INTRODUCTION

A personal income tax and corporate excise credit is allowed for up to 25% of qualified expenditures in certified housing development projects. The credit is administered by the Department of Housing and Community Development (DHCD). The DHCD determines the amount of the credit to which a taxpayer is entitled.

Qualified expenditures are those costs directly related to the construction or substantial rehabilitation of residential property located in designated areas of gateway municipalities. Qualified expenditures do not include the initial purchase price of the property. Gateway municipalities include only those cities and towns specified by statute, which are Attleboro, Barnstable, Brockton, Chelsea, Chicopee, Everett, Fall River, Fitchburg, Haverhill, Holyoke, Lawrence, Leominster, Lowell, Lynn, Malden, Methuen, New Bedford, Peabody, Pittsfield, Quincy, Revere, Salem, Springfield, Taunton, Westfield, and Worcester.

To be considered a certified housing development, a project must meet a number of requirements. Specifically, the project must contain two or more housing units. In addition, 80% of the units contained in the project must be priced consistently with prevailing rents or sale prices in the city or town where the property is located. Finally, the city or town must have adopted full or partial property tax exemptions for projects that are otherwise eligible for the credit. Notably, the credit is not restricted to low-income housing. Rather, as stated above, it is available to taxpayers that develop housing that will be offered at market rate prices.

A taxpayer can claim a credit equal to the amount awarded by the DHCD. Until January 1, 2024, the total amount of credits awarded in a calendar year cannot exceed $10 million, including any carryforwards of credits from prior years estimated to be claimed in the calendar year. For calendar years beginning January 1, 2024 or after, the total amount of credits awarded each year cannot exceed $5 million. The credit is available for the tax year in which the DHCD gives the Department of Revenue (DOR) written notification of completion of the certified housing development project. The credit may be claimed against the full amount of the recipient's tax liability, except that corporations may not use the credit to offset the $456 minimum excise. Unused credits may be carried forward for ten years. Taxpayers are allowed to sell their credits to third parties.

In the absence of the credit, developers would bear the entire cost of constructing market rate housing in gateway municipalities. The amount of revenue foregone as a result of the credit constitutes a tax expenditure.

POLICY GOALS

General Laws c. 40V, § 1, states that the housing development incentive program, of which the tax expenditure is a part, is intended to "promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development within gateway communities."

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $8.8 - $10.0 million per year during FY20 - FY24. See Table 1 below. The estimates are made based on annual credit cap amounts and historical credit claims. By tax type, the estimates are $7.4 - $8.0 million for corporate excise, and $1.4 - $2.0 million for personal income tax.

Table 1. Tax Revenue Loss Estimates for Certified Housing Development Credit

	FY2020	FY2021	FY2022	FY2023	FY2024
Corporate Excise	$7.4	$8.0	$8.0	$8.0	$8.0
Personal Income Tax	$1.4	$2.0	$2.0	$2.0	$2.0
Total	$8.8	$10.0	$10.0	$10.0	$10.0

Table 2 below shows the amount and count of available and claimed or shared credits in past years for corporate excise. Here, "available credit" is the maximum amount of credit which a taxpayer can claim based on tax liability, provided there are no other restrictions; "claimed credit" is the credit amount which a taxpayer actually claimed; and "shared credit" is the amount of a taxpayer's credit that was used by other members of the taxpayer's combined group.

During the tax years 2016 through 2020, the annual number of claimed or shared credits varied from 6 to 11, and the annual amount of claimed or shared credits varied from $1.7 million to $7.5 million. During the years 2017 through 2020, the annual amount of claimed or shared credits was 81.1% to 96.5% of the available credit amount. Note that in 2016, it was just 46.2%.

Table 2. The Amount and Count of Certified Housing Development Credit by Tax Year for Corporate Excise

Tax Year	2016		2017		2018		2019		2020	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit - A	$3,754	6	$8,375	9	$4,233	6	$7,596	6	$9,282	11
Claimed plus shared credit - B	$1,735	6	$7,397	9	$4,075	6	$7,334	6	$7,528	11

B/A	46.2%	100.0%	88.3%	100.0%	96.3%	100.0%	96.5%	100.0%	81.1%	100.0%
Average Claimed or Shared Amount	$289		$822		$679		$1,222		$684	

Source: Massachusetts Department of Revenue. Data for 2020 are preliminary and subject to change.

Table 3 below shows the amount and count of available and claimed credits in past years for personal income tax. During the tax years 2016 through 2019, the annual number of claimed credits varied from 4 to 17, and the annual dollar amount of claimed credits varied from $0.2 million to $2.6 million. The annual dollar amount of claimed credits was 37.7% - 87.8% of the available credit amount.

Table 3. The Amount and Count of Certified Housing Development Credit by Tax Year for Personal Income Tax

Tax Year	2016		2017		2018		2019		2020	
	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count	Amount ($000)	Count
Available credit - A	$1,102	17	$316	8	$2,039	8	$4,889	7	*	*
Claimed credit-B	$932	17	$277	7	$768	6	$2,587	4	*	*
B/A	84.5%	100.0%	87.8%	87.5%	37.7%	75.0%	52.9%	57.1%	26.3%	66.7%
Average claimed amount	$55		$40		$128		$647		*	

Source: Massachusetts Department of Revenue. Data for 2020 are preliminary and subject to change.
*Information withheld to maintain taxpayer confidentiality

DIRECT BENEFITS

The direct beneficiaries consist of corporate excise taxpayers (6 - 11 taxpayers during tax year 2016-2020) and personal income taxpayers (4 - 17 taxpayers during tax year 2016-2020).

Personal Income Taxpayers:

The tables below show the distribution of claimed credit by income level (Table 4) and by number of employees (Table 5) for tax year 2018. Looking at Table 4, half of all filers had taxable income of $1 million or more. They claimed 99.0% of the total credit amount with an average tax saving of $242,719. For all claimants, average tax saving was $122,582. There were no claimants with less than $10,000 taxable income. Looking at Table 5, most (99.1%) filers did not file schedule C (report business activity) with their personal income tax return. Because so few taxpayers claiming the credit reported business income, data for the credit by industry is not available.

Table 4. Impact on Personal Income Taxpayers by *Taxable Income Range*:

Taxable Income Range	Total claimed credits ($000)	Percent of claimed amounts	Percent of the number of claimants	Average tax saving per claimant ($)
$10,000 to $99,999	*	*	*	*
$100,000 to $999,999	*	*	*	*
$1,000,000 to $9,999,999	$728	99.0%	50.0%	$242,719
Total or average	$735	100.0%	100.0%	$122,582

Source: Massachusetts Department of Revenue (tax year 2018 data on state personal income tax return)
Note: *Information withheld to maintain taxpayer confidentiality.

Table 5. Impact on Personal Income Taxpayers by *Range of Employees*:

Employees Range	Total claimed credits ($000)	Percent of claimed amounts	Percent of the number of claimants	Average tax saving per claimant ($)
Less than 5	*	*	*	*
Not reported as business**	$729	99.1%	83.3%	$145,785
Total or average	$735	100.0%	100.0%	$122,582

Source: Massachusetts Department of Revenue (tax year 2018 data on state personal income tax return)
Notes: 1. * Information withheld to maintain taxpayer confidentiality. 2. ** Those who did not file schedule C.

Due to data limitations, the Commission relied on samples which may not represent all taxpayers who claimed this credit to produce tables 4 and 5.

Corporate excise taxpayers:

The Commission was not able to make detailed tables for corporate excise taxpayers, because there were not many return filers who provided information on the number of employees, and industry classification numbers (NAICS). For the ones providing such information. most data points in a table would have been withheld due to taxpayer confidentiality, and therefore such a table would be unreadable.

For more information about specific awards and issuance of this tax credit and other refundable and transferable tax credit programs, see the Department of Revenue's annual Tax Credit Transparency Report (https://www.mass.gov/lists/massachusetts-dor-tax-credit-transparency-reports).

EVALUATION: COMPARING COSTS AND BENEFITS

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

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

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

A number of states offer general investment tax credits. However, the commission is not aware of any other state that provides a specific credit for developing housing that is available for rent or sale at market rate prices.

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

Template for Evaluating Expenditures

Name of Expenditure: 2.702 Tax-Exempt Organizations	**Annual cost:** \$280.8 - \$404.1 million	**Year of adoption:** 1954 for exemption; 2006 for tax on unrelated business income	**Sunset date:** None

Tax Type (check all that apply): ☒ Corporate ☐ Personal Income ☐ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☒ Yes ☐ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☒ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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).			X	
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.				X
The TE is claimed by a broad group of taxpayers.				X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				X
The TE is relevant today.				X
The TE is easily administered.				X
Business only -The TE is beneficial to smaller businesses.			X	
Individuals only -The TE benefits lower income taxpayers.				

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- *Benefit justifies its fiscal cost*
  - The revenue impact of this exemption has increased greatly – growing over $102M between FY20 ($280.8M) and FY24 ($404.1M) which is about a 44% increase.
  - Impacts ~41,840 Organizations
- Note that in recent years certain institutions, such as those in higher education and large religious organizations, have come under scrutiny for their tax-exempt status and under-reporting of unrelated business taxable income. This critique mostly arises in the issue of property holdings.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Tax-Exempt Organizations
TAX EXPENDITURE NUMBER	2.702
TAX EXPENDITURE CATEGORY	Entity Exempt from Taxation
TAX TYPE	Corporate and Business Excise
LEGAL REFERENCE	IRC § 501; M.G.L. c. 63, § 30, M.G.L. c. 63, §38Y, M.G.L. c. 63, § 39.
YEAR ENACTED	1954 for exemption 2006 for tax on unrelated business income
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $280.8 - $404.1 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	About 41,840 organizations
AVERAGE TAXPAYER BENEFIT	About $6,700 - $9,700 in tax savings.
FEDERAL TAX EXPENDITURE	☒ YES ☐ NO

Description of the Tax Expenditure: Internal Revenue Code (Code) § 501 provides a general exemption from federal income tax for non-profit corporations. As provided in Code § 512, the exemption does not apply to unrelated business income that such corporations earn from activities outside the scope of their exempt purposes. Massachusetts provides a corporate excise exemption for corporations that qualify for the federal exemption, but subjects unrelated business income to the net income measure of the excise.	**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?	**Are there other states with a similar Tax Expenditure?**

The Commission assumes that the goal of the expenditure is to encourage the formation and operation of non-profit corporations by relieving them of the burden of the corporate excise, thereby increasing the resources such organizations have available to devote to their missions.	Most states conform to the general federal exemption for nonprofit corporations under IRC § 501 but subject such corporations to tax on their unrelated business income. States that do so include California, Connecticut, Maine, New Hampshire, New York, Rhode Island and Vermont.

INTRODUCTION

Internal Revenue Code (Code) § 501 provides a general exemption from federal income tax for non-profit corporations. The exemption is available for corporations that engage in a wide variety of activities. Code § 501(c)(3) entities, which provide religious, charitable, scientific, or educational services to the general public, are eligible for the exemption. But entities that provide services to a defined segment of the public, or to just their members, without seeking a profit, may also be eligible. Code § 501 enumerates the types of entities that are eligible, including, among many others, civic leagues, labor organizations, chambers of commerce, recreational clubs, veterans organizations, and cemetery companies.

Notwithstanding the general exemption from corporate income taxes afforded by Code § 501, non-profit corporations are subject to tax on income they earn from activities outside the scope of their exempt activities. Code § 512 imposes a tax on such unrelated business income. Unrelated business income results from selling goods or services beyond those that the organization generally provides as part of its mission. For example, a school may be exempt with regard to its tuition or fees for educational services, but income from the school's furnishing of its athletic facilities for the operation of an athletic club may be subject to tax as unrelated business income. See IRS Revenue Ruling 80-297.

Massachusetts adopts the federal exemption for non-profit corporations by exempting them from the non-income measure of the corporate excise and from the minimum excise and limiting the net income of a non-profit corporation to its unrelated business taxable income, as defined in Code § 512. As a result, while non-profit corporations generally are not subject to the income or non-income measure of the corporate excise or to the minimum excise, consistent with the federal rules Massachusetts imposes its net income tax on non-profit corporations' unrelated business income.

In the absence of the corporate excise exemption for non-profits, such corporations would be subject to the net income, non-income and minimum excise measures of the corporate excise on all of their income and property. The revenue that is lost as a result of the exemption is a Massachusetts tax expenditure.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to encourage the formation and operation of non-profit corporations by relieving them of the burden of the corporate excise, thereby increasing the resources such organizations have available to devote to their missions.

ADMINISTRABILITY

General conformity with the federal rules defining exempt non-profit corporations and for determining taxable unrelated business income simplifies tax administration with respect to non-profit corporations.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $280.8 - $404.1 million per year during FY20 - FY24. See the t able below.

Table: Tax Expenditure Estimates for Tax-Exempt Organizations

Fiscal Year	2020	2021	2022	2023	2024
Tax Revenue Loss ($Million)	$280.8	$330.5	$387.0	$400.7	$404.1

The Internal Revenue Service (IRS) provides data based on annual tax returns filed by tax-exempt organizations nationally (e.g., IRS form 990 and IRS form 990-EZ[1]). The data includes, but is not limited to, aggregated total revenue, expenses, assets and liability amounts for these organizations.

Estimation of income measure tax: To estimate revenue loss resulting from the *income measure* of the corporate excise, DOR estimated the Massachusetts taxable income, and potential tax from such income, of tax-exempt organizations. Massachusetts taxable income is determined by applying Massachusetts' share of the number of tax-exempt organizations from the national total[2] to the aggregate revenue reported by these organizations nationally. Potential tax (or income measure tax) is determined by applying the ratio of income measure tax paid by current corporate taxpayers to their taxable income reported on corporate excise returns.

Estimation of non-income measure: To estimate the revenue loss resulting from the *non-income measure* of the corporate excise, DOR applied Massachusetts' share of the number of tax-exempt organizations from the national total[2] to the aggregate net worth (assets

[1] IRS Form 990 is a tax form that certain tax-exempt organizations in the United States are required to file annually with the IRS. Smaller organizations with gross receipts below certain thresholds may be eligible to file a simplified version of the form, such as Form 990-EZ. Certain organizations such as religious organizations are exempt from filing Form 990. Refer to this site for more detailed information. https://www.irs.gov/charities-non-profits/churches-religious-organizations/filing-requirements-for-churches-and-religious-organizations

[2] https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf

minus liabilities)[3] reported by these organizations nationally, and multiplied the resulting apportioned net worth by the non-income measure rate of 0.26%. 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

The direct benefits of this tax expenditure are realized through the tax savings to organizations that offer a charitable, religious, scientific, or educational service to the public. This benefits the members of the public who use the services of these organizations, and benefits society as a whole by relieving governments of the burden of providing similar services.

According to the IRS, there are currently about 41,840 tax emempt organizations in Massachusetts.

EVALUATION: COMPARING COSTS AND BENEFITS

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

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

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

[3] Assuming that a) reported net worth amount is the only measure for non-income measure tax base of tax-exempt organizations in the absence of data on tangible proporty, and b) these organizations' tangible property would continue to be exempt from local taxation.

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

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states conform to the general federal exemption for nonprofit corporations under Code § 501 but subject such corporations to tax on their unrelated business income. States that do so include California, Connecticut, Maine, New Hampshire, New York, Rhode Island and Vermont.

References

IRS (Internal Revenue Service). (Current). SOI Tax Stats - Charities & Other Tax-Exempt Organizations Statistics. *Nonprofit Charitable Organization and Domestic Private Foundation Information Returns*. IRS (Internal Revenue Service). Retrieved from https://www.irs.gov/statistics/soi-tax-stats-charities-and-other-tax-exempt-organizations-statistics

IRS (Internal Revenue Service). (Current). *Exempt Organization Types*. Retrieved from IRS: https://www.irs.gov/charities-non-profits/exempt-organization-types

United States Census Bureau. (2017). *ECN Core Statistics Summary Statistics for the U.S., States, and Selected Geographies: 2017.* Retrieved from Economic Census: https://data.census.gov/table?g=0400000US25&tid=ECNBASIC2017.EC1700BASIC

Template for Evaluating Expenditures

Name of Expenditure: 3.103 Exemption for Clothing	**Annual cost:** $164.1 - $196.1 million	**Year of adoption:** 1967	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☒ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☒ Relief of poverty
☒ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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).	☐	☐	☐	X
The TE's benefit justifies its fiscal cost.	☐	☐	☐	x
The TE is claimed by its intended beneficiaries.	☐	☐	☐	X
The TE is claimed by a broad group of taxpayers.	☐	☐	☐	X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	☐	☐	X
The TE is relevant today.	☐	☐	☐	X
The TE is easily administered.	☐	☐	☐	X
Business only -The TE is beneficial to smaller businesses.	☐	X	☐	☐
Individuals only -The TE benefits lower income taxpayers.	☐	☐	☐	X

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- The exemption does not include special clothing or footwear designed for athletic or protective uses and not normally worn except for these uses. Small businesses that sell these items would receive a lower “after tax” price than those small businesses selling clothing covered by the exemption.
- In general, sales tax is more burdensome on lower income taxpayers than wealthier taxpayers since a larger percentage of wages on necessities. The Commission agrees that sales tax exemptions for necessities are progressive tax expenditures.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption for Clothing
TAX EXPENDITURE NUMBER	3.103
TAX EXPENDITURE CATEGORY	Exempt Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(k)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $164.1 - $196.1 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Sales of clothing or footwear up to $175 per item are exempt from sales and use tax. The exemption does not include special clothing or footwear designed for athletic or protective uses and not normally worn except for these uses.	**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 tax expenditure is to reduce the burden of tax on clothing, as clothing is viewed as a necessity.	**Are there other states with a similar Tax Expenditure?** Most states impose sales and use tax on sales of clothing. However, a number of states have exemptions for clothing. Connecticut, New York, Rhode Island, and Vermont have limited exemptions similar to the one in Massachusetts. California and Maine tax sales of clothing.

INTRODUCTION

All retail sales of tangible personal property are subject to sales and use tax unless an exemption applies. M.G.L. c. 64H, § 2. M.G.L. c. 64H, § 6(k) provides an exemption for sales of clothing or footwear up to $175 per item. An article of clothing counts as a separate item only if it is generally available for purchase as a separate item. If an item is sold for more than $175, only the excess is subject to tax. The exemption does not include special clothing or footwear designed for athletic or protective uses and not normally worn except for these uses. Thus, for example, sports team uniforms, helmets and cleats are fully taxable, as are protective clothing and headgear worn by factory workers. See Letter Ruling 84-68.

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 transfers of articles of clothing sold for $175 or less.

Absent the exemption afforded by this tax expenditure, all sales of clothing and footwear, which can be viewed as a necessity, would be subject to sales and use tax, regardless of the cost. This would increase the cost of living for all residents and would have a disproportionately adverse impact on lower income residents.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to reduce the burden of tax on clothing, as clothing is viewed as a necessity.

ADMINISTRABILITY

Administration of the exemption for sales of clothing 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 to sales of clothing eligible for the exemption. Exemption certificates are not required. The DOR reviews retailers' sales of clothing as part of its sales and use tax audit program.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $164.1 - $196.1 million per year during FY20 - FY24. See the table below.

Revenue Loss Estimates for Sales Tax Exemption for Clothing ($Million)

Fiscal Year	2020	2021	2022	2023	2024
A. Revenue loss assuming exemption of entire price of each item	$288.5	$249.8	$260.1	$276.4	$286.7
B. Tax collected on the part of the price in excess of $175	$92.4	$85.7	$93.0	$99.1	$101.0
C=A-B. Estimated revenue loss	$196.1	$164.1	$167.1	$177.3	$185.7

Part A of the table shows revenue loss estimates for the exemption of clothing if the entire price (including the portion of the price in excess of $175 per item) were exempt. These estimates are derived using data from the U.S. Bureau of Labor Statistics' Consumer Expenditure Surveys (CES)[1] and Moody's Analytics. Part B of the table shows tax collected on that portion of the price in excess of $175 per item[2]. Part C shows the estimated revenue loss on that portion of the price that is $175 or less. 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.

Please also see the TERC report 3.301[3] "sales tax exemption for items used in making clothing" reviewed previously by the TERC Commission, which is different from the sales tax exemption for clothing.

DIRECT BENEFITS

The Massachusetts residents and businesses that buy or sell clothing 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.

[1] https://www.bls.gov/cex/

[2] Since we were not able to find data on price distribution of clothing/footwear sales, we have indirectly estimated part b impact (tax from the price in excess of $175) and part c impact (estimated revenue loss) in the table above by using CES' data for average household spending on clothing/footwear by income brackets and simplified assumptions about household income characteristics.

[3] https://www.mass.gov/doc/terc-june-2022-final-report/download

The exemption applies to all sales of eligible clothing or footwear regardless of the person or entity purchasing the product.

- According to the U.S. Census Bureau, there are about 2.7 million households with a population of about 7 million in Massachusetts.[4]

As mentioned above, sellers who sell the exempt products in Massachusetts, including out-of-state sellers, also benefit from this sales tax exemption.

Various types of businesses participate in retailing of clothing/footwear. including clothing stores, shoe stores, and department stores. Other businesses that may sell clothing include bookstores, pharmacies and drug stores, amusement parks, etc. According to the 2017 Economic Census from the U.S. Census Bureau, there were about 864,000 establishments that participated in retailing of clothing/footwear in 2017, with about 16,000 locating in 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 sales tax exemption for clothing) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the sales tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to buyers and sellers of the exempt product, which is the sales tax the buyers would have had to pay to the Commonwealth.

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

[4] https://www.census.gov/quickfacts/fact/table/MA/PST045221

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

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

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states impose sales and use tax on sales of clothing. However, a number of states have exemptions for clothing. Connecticut, New York, Rhode Island, and Vermont have limited exemptions similar to the one in Massachusetts. California, and Maine tax sales of clothing.

Template for Evaluating Expenditures

Name of Expenditure: 3.104 & 3.113 Exemption for Medical and Dental Supplies and Devices including Breast Pumps	**Annual cost:** $638 - $818.5 million	**Year of adoption:** 1967 - Original 1973 - Expansion	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☒ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☒ Health/Environment/Social Justice
☐ 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).	X			
The TE's benefit justifies its fiscal cost.			X	
The TE is claimed by its intended beneficiaries.			X	
The TE is claimed by a broad group of taxpayers.				X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				X
The TE is relevant today.				X
The TE is easily administered.	X			
Business only -The TE is primarily beneficial to smaller businesses.				
Individuals only -The TE is primarily beneficial to lower income taxpayers.				

This tax expenditure is flagged for legislative review: ☒ Yes ☐ No

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

Comments:

- *Measurability* – Due to the use of external data (from the Centers for Medicare & Medicaid, the Massachusetts Cannabis Control Commission, and other external sources) for estimating the cost of the expenditure, the exact cost "should be used with caution".
- *Intended Beneficiaries* – Massachusetts residents, Massachusetts businesses, and healthcare providers benefit from the exemption; however, so do out of state businesses selling exempt products of Massachusetts residents and health insurance companies.
- *Flagged for Review* – The list of items exempted in the statute has been rarely updated (in 1979, 1984, and 2011) since its enactment. This burdens DOR with creating guidance on what items qualify for the exemption as medical advances are made. It could be worth periodically revisiting and updating the exemption.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption for Medical and Dental Supplies and Devices including Breast Pumps
TAX EXPENDITURE NUMBER	3.104 & 3.113
TAX EXPENDITURE CATEGORY	Exempt Products
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(l), (z)
YEAR ENACTED	M.G.L. c. 64H, § 6(l) was enacted in 1967, and amended in 1979, 1984, and 2011. M.G.L. c. 64H, § 6(z) was enacted in 1973.
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $638.0 - $818.5 million annually during FY21 - FY25.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Sales of certain medicines, medical supplies and devices, and dental supplies and devices are exempt from sales and use tax.	**Is the purpose defined in the statute?** The statutes do not explicitly state the purpose of this tax expenditure.
What are the policy goals of the expenditure? The Commission assumes the expenditure is intended to remove the sales and use tax burden on certain medicines, medical supplies and devices, and dental supplies and devices, which are considered necessary for the health and well-being of the public.	**Are there other states with a similar Tax Expenditure?** Most states provide a sales and use tax exemption for various health care products. All of the New England states that impose a sales tax, and California and New York, have sales tax exemptions for certain health care products. The scope of these exemptions varies from state-to-state. Certain products are generally exempt, such as prescription

	medications, blood products, oxygen products, and devices for persons with physical disabilities. Other products, such as breast pumps and glucose monitoring supplies and devices, are only exempt in some states. For example, sales of breast pumps are exempt in Connecticut, New York, and Rhode Island, but are taxable in California, Maine, and Vermont. Sales of glucose monitoring supplies and devices are exempt in Connecticut, Maine, New York, Rhode Island, and Vermont, but only partly exempt in California.

INTRODUCTION

Massachusetts provides a sales and use tax exemption for sales of certain medicines, medical supplies and devices, and dental supplies and devices, as set forth in M.G.L. c. 64H, §§ 6(l) and 6(z). Section 6(l) exempts a specified list of products related to health care.[1] Some listed items are described narrowly (*e.g.*, blood plasma and ultrasonic nebulizers), while others more broadly cover a category of products (*e.g.*, "equipment worn as a correction or substitute for any functioning portion of the body"). Some of the items listed require a prescription from a registered physician to qualify for the exemption (*e.g.*, medicine and medically-necessary breast pumps), whiles others do not (*e.g.*, oxygen and baby oil). In addition to the exemptions set out in § 6(l), § 6(z) exempts sales of medical supplies that are needed as the result of a colostomy or ileostomy operation.

In general, medical supplies and devices that are not expressly listed in §§ 6(l) or 6(z) are not exempt from the sales and use tax. However, in administering the exemption, the DOR has ruled that certain items not specifically designated as exempt under § 6(l) may nonetheless be exempt if their purpose and function is sufficiently connected to items that are specifically enumerated in the statute. See Letter Ruling 14-3. For example, in Letter Ruling 02-6, the DOR ruled that sales of water filtration system equipment and various supplies necessary for the process of kidney dialysis were exempt, even though they are not expressly listed in the statute, because the dialysis machines themselves were exempt.

Revenue that is lost as a result of the sales tax exemption constitutes a tax expenditure. Absent the exemption afforded by this tax expenditure, all sales of medicines, medical supplies and devices, and dental supplies and devices would be subject to sales and use tax.

[1] M.G.L. c. 64H, § 6(l) states, in its entirety: "Sales of medicine, insulin needles and insulin syringes on prescriptions of registered physicians and sales of insulin; sales of oxygen, blood or blood plasma; sales of artificial devices individually designed, constructed or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction or substitute for the bodily structure including the extremities of the individual; sales of artificial limbs, artificial eyes, hearing aids and other equipment worn as a correction or substitute for any functioning portion of the body; sales of artificial teeth by a dentist and the materials used by a dentist in dental treatment; sales of eyeglasses, when especially designed or prescribed by an ophthalmologist, oculist or optometrist for the personal use of the owner or purchaser; sales of crutches and wheel chairs for the use of invalids and crippled persons; and sales of baby oil; and the rental, sales and repairs of kidney dialysis machines, enteral and parenteral feedings, and feeding devices, suction machines, physician-prescribed, medically necessary breast pumps, oxygen concentrators, oxygen regulators, oxygen humidifiers, oxygen masks, oxygen cannulas, ultrasonic nebulizers, life sustaining resuscitators, incubators, heart pacemakers, canes, all types of hospital beds for home use, tripod quad canes, breast prosthesis, alternating pressure pad units and patient lifts, when prescribed by a physician."

POLICY GOALS

The Commission assumes the expenditure is intended to remove the sales and use tax burden on certain medicines, medical supplies and devices, and dental supplies and devices, which are considered necessary for the health and well-being of the public.

ADMINISTRABILITY

This tax expenditure poses some challenges for taxpayers and the DOR. Specifically, the list of exempt items in the statute was adopted in 1967 and has been updated only sporadically since then. As a result of medical advances, new products that do not appear on the list have been developed and marketed. The DOR must assess these items on a case-by-case basis to determine whether these devices have a purpose and function that is sufficiently connected to a product listed in § 6(l). For example, the DOR recently ruled that continuous glucose monitors were not exempt because they were not listed in the statute and did not have a purpose and function that was sufficiently connected to products listed in §6(l). See Letter Ruling 22-1.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $638.0 - $818.5 million per year during FY21 - FY25. See Table 1 below.

Table 1. Revenue Loss Estimates for Exemption for Medical and Dental Supplies and Devices including Breast Pumps

Fiscal Year	2021	2022	2023	2024	2025
Estimated Revenue Loss ($Million)	$638.0	$679.8	$721.2	$766.0	$818.5

The revenue loss estimates reported in Table 1 include annual revenue loss of about $0.6 million due to the sales tax exemption for breast pumps and of $13.0 - 19.2 million due to sales tax exemption for medical marijuana[2] during FY21 - FY25.

The revenue loss estimates are based mostly on the “health expenditures by state of residence” data for Massachusetts from the Centers for Medicare & Medicaid Services.[3] “Health expenditures by state of residence” data presents aggregate and per capita estimates of health care spending by type of establishment delivering care (hospitals, physicians and clinics, nursing homes, etc.) and for medical products (prescription drugs, over-the-counter medicines and sundries and durable medical products such as eyeglasses

[2] https://www.mass.gov/directive/directive-15-1-sales-tax-exemption-for-medical-marijuana
[3] https://www.cms.gov/data-research/statistics-trends-and-reports/national-health-expenditure-data/state-residence

and hearing aids) purchased in retail outlets. Source of funding aggregate and per enrollee estimates by state are also provided for Medicare, Medicaid, and Private Health Insurance. For estimation of this tax expenditure, the DOR used only the aggregate spending data on medical products purchased in retail outlets.[4]

For medical marijuana, estimates were derived based on the Massachusetts Cannabis Control Commission's medical marijuana sales data.[5] For breast pumps, estimates were derived using data from various sources.[6]

Due to the use of external data for estimation of this tax expenditure, and the challenges in determining the scope of this tax expenditure as discussed in the previous section, the estimates reported in Table 1 are quite uncertain and should be used with caution.

DIRECT BENEFITS

The Massachusetts residents or businesses who buy or 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 Massachusetts residents or businesses are also direct beneficiaries.

As mentioned above, sellers who sell the exempt products to Massachusetts residents or businesses benefit from this sales tax exemption. Businesses selling prescription drugs, medical and dental supplies, devices, and breast pumps at the retail level include pharmacies, drug stores and optical goods stores. Besides retail stores, hospitals, physician's office, dentist's office, nursing establishments and other medical providers may also provide exempt medical products to patients as a part of the medical care though such sales are not covered in Table 1. If sales by medical providers are taxable in absence of this

[4] Sales of medical products by hospitals, physicians, clinics, and other medical providers to patients directly are not covered in Table 1 due to lack of data. In addition, such sales may or may not be taxable in the absence of this tax expenditure. Sales by manufacturers or distributors of prescription medicines for human use, to pharmacies, registered physicians, nursing homes, hospitals or other health organizations, are also excluded from the estimation of this tax expenditure though these sales are also exempt from sales tax under G.L. c. 64H, § 6(l) according to Directive 91-5 (https://www.mass.gov/directive/directive-91-5-application-of-sales-and-use-tax-to-sales-and-distribution-of-prescription-and-over-the-counter-medicines). The exemption applies whether such prescription medicines are dispensed directly to ultimate users, or resold. These sales may also be exempt or taxable in the absence of this tax expenditure under other tax law provisions.
[5] https://masscannabiscontrol.com/open-data/sales-and-product-distribution/
[6] According to Fortune Business Insights, the North American Breast Pump market was valued at $0.64 billion in 2021 (https://www.fortunebusinessinsights.com/breast-pump-market-107054). The DOR shared down the estimate to Massachusetts using market share data from www.digitaljournal.com and birth data for Massachusetts and U.S. from the National Center for Health Statistics (NCHS) under the Centers for Disease Control and Prevention (CDC): https://www.cdc.gov/nchs/data/nvsr/nvsr72/nvsr72-01.pdf.

tax expenditure, medical providers are also direct beneficiaries of this tax expenditure.[7] Table 2 below lists all the sellers (by NAICS) who may be potential direct beneficiaries of this sales tax exemption and some statistics of these sellers, which will be helpful in gauging the relative size of the industries related to this sales tax exemption in Massachusetts economy.

Table 2. Key Facts about Massachusetts Industries that May be Sellers of Exempt Products

2017 NAICS Code	Meaning of NAICS Code	Number of Firms	Number of Establishments[8]	Sales, Value of Shipments, or Revenue ($millions)	Annual Payroll ($millions)	Number of Employees
446110	Pharmacies and drug stores	189	974	$7,701.5	$666.7	21,235
446130	Optical goods stores	138	311	$261.7	$58.7	1,941
622110	General medical and surgical hospitals	36	71	$27,054.4	$10,847.1	166,392
622210	Psychiatric and substance abuse hospitals	21	25	$970.2	$478.7	9,004
622310	Specialty (except psychiatric and substance abuse) hospitals	14	27	$2,720.3	$1,024.7	17,074
623110	Nursing care facilities (skilled nursing facilities)	286	489	$4,071.8	$1,928.7	54,527
621111	Offices of physicians (except mental health specialists)	2,527	3,144	$13,209.2	$6,341.6	59,015
621112	Offices of physicians, mental health specialists	221	234	$236.6	$114.9	2,356
621210	Offices of dentists	2,987	3,213	$3,597.3	$1,399.7	26,671
621310	Offices of chiropractors	694	706	$231.4	$80.3	2,273
621320	Offices of optometrists	350	388	$289.6	$98.9	2,133
621330	Offices of mental health practitioners (except physicians)	421	438	$259.4	$131.2	3,845
621340	Offices of physical, occupational and speech therapists, and audiologists	505	782	$613.3	$333.1	7,664
621391	Offices of podiatrists	168	175	$109.9	$41.9	777
621399	Offices of all other miscellaneous health practitioners	265	345	$179.8	$66.4	1,529
621410	Family planning centers	17	38	$56.3	$18.5	396
621420	Outpatient mental health and substance abuse centers	135	346	$732.8	$399.2	10,928
621492	Kidney dialysis centers*	6	57	$219.0	$59.1	1,260
621493	Freestanding ambulatory surgical and emergency centers*	52	93	$313.3	$106.1	1,755

[7] Under rare circumstances, manufacturers, distributors and wholesalers of exempt medical products may be also direct beneficiaries if their sales are considered as retail sales and taxable absent for this tax expenditure. In most cases, however, their sales are considered as sales for resale or sales to non-profit organizations and therefore exempt even in the absence of this tax expenditure. Data for these entities are not included in Table 2 but are available from the 2017 economic census.

[8] An establishment is a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments. A firm is a business organization consisting of one or more domestic establishments in the same geographic area and industry that were specified under common ownership or control.

621498	All other outpatient care centers	137	274	$1,660.9	$786.7	14,113
All NAICS	**Total**	**9,169**	**12,130**	**$64,488.7**	**$24,982.2**	**404,888**

Source: The U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.
* Establishments subject to federal income tax only, no data on establishments exempt from federal income tax.

According to the U.S. Census Bureau, in 2017, Massachusetts had 9,169 firms with 12,130 establishments that probably sold exempt medical and dental supplies and devices. These establishments jointly employed 404,888 people generating $25.0 billion in annual payroll and $64.5 billion in annual sales.[9]

On the buyer side, all Massachusetts patients and out-of-state patients who receive treatment in Massachusetts, as well as health insurance companies on behalf of these patients, benefit from this sales tax expenditure.

- All Massachusetts residents are potentially direct beneficiaries of this tax expenditure. According to the U.S. Census Bureau, Massachusetts has a population of about 7 million.[10]
- According to the 2017 Economic Census from the U.S. Census Bureau, there were 33 health insurance companies (with NAICS of 524114 Direct health and medical insurance carriers) with 97 establishments in Massachusetts. These companies employed 15,951 people generating $1.4 billion in annual payroll. See Table 3 below. Massachusetts Division of Insurance has a list of health insurance companies licensed or approved in Massachusetts with slightly different count.[11]

Table 3. Key Facts about Massachusetts Health Insurance Industries

2017 NAICS Code	Meaning of NAICS Code	Number of Firms	Number of Establishments	Sales, Value of Shipments, or Revenue ($millions)	Annual Payroll ($millions)	Number of Employees
524114	Direct health and medical insurance carriers	33	97	Q	$1,354.9	15,951

Source: The U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.
Q: Revenue not collected at this level of detail for multi-establishment firms.

[9] Annual sales data reported in Table 2 is for informational purpose only. It should not be confused with the annual sales of the exempt products, because the sellers listed in the table may sell both exempt and taxable products as well as nontaxable medical and other services.
[10] https://www.census.gov/quickfacts/fact/table/MA/PST045221
[11] See "Health Maintenance Organization"

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 sales 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. All Massachusetts medical products, supplies, and devices manufacturers, distributors, and wholesalers that provide exempt products to retailers, hospitals, nursing homes, and health centers benefit indirectly from this sales tax 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.

Massachusetts tops the 2023 State Scorecard rankings for health system performance based on 58 measures of health care access, quality, use of services, costs, health disparities, reproductive care and women's health, and health outcomes (commonwealthfund.org)[12]. This sales tax expenditure helps to improve the state's healthcare system by eliminating the sales tax burden on certain medicines, medical supplies and devices, and dental supplies and devices, which are considered necessary for the health and well-being of the public.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states provide a sales and use tax exemption for various health care products. All of the New England states that impose a sales tax, and California and New York, have sales tax exemptions for certain health care products. The scope of these exemptions varies from state-to-state. Certain products are generally exempt, such as prescription medications, blood products, oxygen products, and devices for persons with physical disabilities. Other products, such as breast pumps and glucose monitoring supplies and devices, are only exempt in some states. For example, sales of breast pumps are exempt in Connecticut, New York, and Rhode Island, but are taxable in California, Maine, and Vermont. Sales of glucose

[12]https://www.commonwealthfund.org/publications/scorecard/2023/jun/2023-scorecard-state-health-system-performance
https://www.commonwealthfund.org/sites/default/files/2023-06/Radley_2023_State_Scorecard_APPENDICES.pdf

monitoring supplies and devices are exempt in Connecticut, Maine, New York, Rhode Island, and Vermont, but only partly exempt in California.

Template for Evaluating Expenditures

Name of Expenditure: 3.105 Exemption for Water	**Annual cost:** $123.7 - $148.9 million	**Year of adoption:** 1967	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☒ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:
- ☐ Job creation & maintenance
- ☐ Investment
- ☐ Competitiveness/Strategic
- ☒ Health/Environment/Social Justice
- ☐ Other:

Individual:
- ☐ Relief of poverty
- ☒ Progressivity/assistance to low earners
- ☐ Access to opportunity
- ☒ Health/Environment/Social Justice
- ☐ 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).				X
The TE's benefit justifies its fiscal cost.				X
The TE is claimed by its intended beneficiaries.			X	
The TE is claimed by a broad group of taxpayers.				X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				X
The TE is relevant today.				X
The TE is easily administered.				X
Business only -The TE is beneficial to smaller businesses.			X	
Individuals only -The TE benefits lower income taxpayers.			X	

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- In general, sales tax is more burdensome on lower income taxpayers than wealthier taxpayers since lower income taxpayers spend a larger percentage of wages on necessities. The Commission agrees that sales tax exemptions for necessities are progressive tax expenditures.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption for Water
TAX EXPENDITURE NUMBER	3.105
TAX EXPENDITURE CATEGORY	Exempt Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(i)
YEAR ENACTED	1967 (Acts 1967, c. 757, § 1)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $123.7 - $148.9 million annually during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: Sales of water are exempt from sales and use tax whether the water is provided through utility services, in containers or otherwise, and regardless of how the water is used, except that charges for water provided as part of meals served by restaurants are taxable.	**Is the purpose defined in the statute?** The statute does not state the goal of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to shield the provision of water from sales and use tax, as water is a necessity for households and businesses. As it is used in industrial plants, the tax expenditure also helps to prevent pyramiding of sales and use tax on manufactured products.	**Are there other states with a similar Tax Expenditure?** Most states that impose a sales and use tax allow an exemption for the provision of water under certain circumstances. California exempts water provided through utility services and drinking water provided in containers, but taxes water used for industrial purposes. Connecticut generally exempts all sales of water. Maine allows an exemption for

	water provided to residences (not including hotels) through utility services and water used for industrial purposes. New York exempts water provided through utility services and water used for industrial purposes. Rhode Island exempts water provided to residences for domestic use and water used for industrial purposes. Vermont exempts water provided through utility services and water used for industrial purposes.

INTRODUCTION

Sales of water in Massachusetts are exempt from sales and use tax whether the water is provided through utility services, in containers, or by any other means. The exemption applies to water used for any purpose, including use in an industrial plant in the manufacture of products to be sold. One exception is that water served in a restaurant is considered a taxable meal and any charge for the water is subject to sales tax.

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 water described above.

Absent the exemption afforded by this tax expenditure, households and businesses would pay a higher cost for water, which is a necessity of daily living. In the case of water used in industrial plants, the absence of the exemption would potentially lead to pyramiding of the sales and use tax on manufactured products.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to shield the provision of water from sales and use tax, as water is a necessity for households and businesses. As it applies to industrial users, the tax expenditure also helps to prevent pyramiding of sales and use tax on manufactured products.

ADMINISTRABILITY

Administration of the exemption for sales of water does not present any special challenge to taxpayers or the DOR. Because of the broad scope of the exemption, exemption certificates are not necessary. No enforcement by the DOR is required except with respect to water sold as part of restaurant meals. Such sales are reviewed as part of the DOR's sales and use tax audit program.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $123.7 - $148.9 million per year during FY20 - FY24[1]. See Table 1 below.

Table 1. Revenue Loss Estimates for Sales Tax Exemption for Water

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$123.7	$128.7	$139.2	$145.8	$148.9

The revenue loss estimates reported in Table 1 include water used for any purpose, including residential, commercial, and industrial use. It includes water provided through utility services, in containers, or by any other means.

DIRECT BENEFITS

The Massachusetts residents and businesses that buy or sell exempt products (water) 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 in Massachusetts are also direct beneficiaries.

The exemption applies to all eligible sales of water regardless of the person or entity purchasing the product.:

- According to the Census Bureau, there are about 2.7 million households with a population of about 7 million in Massachusetts.[2]

- The same data source above indicates that Massachusetts has 180,088 employer establishments in 2021 and 576,528 non-employer establishments in 2019.

- According to the IRS Exempt Organizations Business Master File data[3], there are currently more than 41,800 tax exempt organizations in Massachusetts.

[1] The revenue loss estimates reported in Table 1 are based mostly on data from the U.S. Bureau of Labor Statistics' Consumer Expenditure Surveys (CES), the U.S. Census Bureau, Moody's Analytics, the Massachusetts Water Resources Authority, and other external sources. Due to the use of external data and the limitations of the data for estimating this tax expenditure, the estimates reported in Table 1 may have significant estimation uncertainty and should be used with caution.
[2] https://www.census.gov/quickfacts/fact/table/MA/PST045221
[3] https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf

- According to the U.S. Census Bureau, in 2017, Massachusetts had 6,143 manufacturing firms with 6,437 establishments. Please also see TERC report 3.302[4] for more facts about the manufacturing sector in Massachusetts.

As mentioned above, sellers who sell the exempt products in Massachusetts also benefit from this sales tax exemption.

Table 2 below shows annual payroll, sales, and employment statistics for the industry of "Water supply and irrigation system" in Massachusetts and in U. S. from the U.S. Census Bureau. Note that water supply and irrigation system businesses may be indirect rather direct beneficiaries (providing water to the end users) of this sales tax exemption.

Table 2. Annual Payroll, Sales, and Employment of the Industry of Water Supply and Irrigation System in the United States and in Massachusetts

2017 NAICS Code	Geographic Area Name	Meaning of NAICS Code	Number of Firms	Number of Establishments[5]	Sales, Value of Shipments, or Revenue ($millions)	Annual Payroll ($millions)	Number of Employees
221310	United States	Water supply and irrigation system	3,313	4,108	$11,759.3	$2,411.2	38,180
221310	Massachusetts	Water supply and irrigation system	26	47	Q	D	500 to 999

Source: The U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.

Q: Revenue not collected at this level of detail for multi-establishment firms

D: Withheld to avoid disclosing data for individual companies; data are included in higher level totals

According to the U.S. Census Bureau, in 2017, Massachusetts had 26 firms in the industry of "Water supply and irrigation system". These firms employed 500 to 999 people. The U.S. Census Bureau did not collect annual sales and payroll data for Massachusetts. According to the Massachusetts Department of Public Utilities (DPU), in 2023 there are 18 privately

[4] https://www.mass.gov/doc/terc-march-2021-final-report/download

[5] An establishment is a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments. A firm is a business organization consisting of one or more domestic establishments in the same geographic area and industry that were specified under common ownership or control.

owned water companies regulated by DPU.[6,7] The DPU does not regulate city and town-owned water systems, because they are municipal corporations per G.L. c. 165 § 1.[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 sales tax exemption for water) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the sales tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to buyers and sellers of the exempt product, which is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the "Multiplier Effect"[9].

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 data limitations present in this instance.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a sales and use tax allow an exemption for the provision of water under certain circumstances. California exempts water provided through utility services and drinking water provided in containers, but taxes water used for industrial purposes. Connecticut generally exempts all sales of water. Maine allows an exemption for water

[6] The number of firms reported by U.S. Census Bureau is slightly different from the DPU number. The reasons are a) the former is for 2017 and the latter is for 2023, and b) their scope may be different (i.e., while the U.S. Census definition of firm may include more entities in the industry ranging from water supply to irrigation system, DPU numbers are for the privately owned firms distributing water to various localities only.)

[7] https://www.mass.gov/info-details/water-distribution-companies

[8] Numbers from the 2017 economic census may not include the water systems owned by cities or towns.

[9] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

provided to residences (not including hotels) through utility services and water used for industrial purposes. New York exempts water provided through utility services and water used for industrial purposes. Rhode Island exempts water provided to residences for domestic use and water used for industrial purposes. Vermont exempts water provided through utility services and water used for industrial purposes.

Template for Evaluating Expenditures

Name of Expenditure: 3.401 Exemption for Electricity	**Annual cost:** $340.1 - $470.2 million	**Year of adoption:** 1990	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☒ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☒ Job creation & maintenance
☐ Investment
☒ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: offset the impact of the introduction of the electricity tax in 1990 for residential use

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).	☐	X	☐	☐
The TE's benefit justifies its fiscal cost.	☐	☐	☐	X
The TE is claimed by its intended beneficiaries.	☐	☐	☐	X
The TE is claimed by a broad group of taxpayers.	☐	☐	☐	X
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	☐	X	☐
The TE is relevant today.	☐	☐	X	☐
The TE is easily administered.	☐	☐	X	☐
Business only -The TE is beneficial to smaller businesses.	☐	☐	☐	X
Individuals only -The TE benefits lower income taxpayers.	☐	☐	X	☐

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments

- The number of beneficiaries of the exemption cannot be measured; however, it can be estimated that all residential households in Massachusetts, many small businesses, and ~6,000 manufacturers benefit.
- *Relevancy*: By encouraging the usage of electricity, this expenditure could have a negative environmental impact and may discourage the use of other energy sources.
- Most states that tax the sale of electricity exempt sales for residential use and industrial plants, but no other states offer the exemption for small businesses.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption for Electricity
TAX EXPENDITURE NUMBER	3.401
TAX EXPENDITURE CATEGORY	Exemptions for Specified Use of Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(i) and (qq)
YEAR ENACTED	1990: §6(i) (residential and industrial plant exemptions); §6(qq) (c. 150 § 360)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $340.1 - $470.2 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: The tax expenditure provides a sales and use tax exemption for sales of (i) electricity for residential use, (ii) electricity purchased by certain small businesses, and (iii) electricity purchased for use in an industrial plant.	**Is the purpose defined in the statute?** The statute does not define the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to shield residential users and small businesses from sales and use tax on electricity and to provide industrial plants powered by electricity an exemption similar to the exemption available to manufacturing facilities powered by other fuels. The	**Are there other states with a similar Tax Expenditure?** Most states that tax the sale of electricity exempt sales for residential use and use in industrial plants at least in part. Connecticut, Maine, and New York provide exemptions for residential and industrial users. Vermont exempts only residential use. California and Rhode Island do not tax sales of electricity. The

exemption may prevent pyramiding of the sales and use tax when the electricity is used by manufacturers to power, light, and heat industrial plants that produce items for sale.	Commission is not aware of any other state that provides an exemption for purchases of electricity by small businesses.

INTRODUCTION

Prior to 1990, sales of electricity were not subject to sales and use tax in Massachusetts. When the Legislature made sales of electricity taxable it also adopted exemptions for sales of: electricity (i) for residential use, (ii) for use by businesses with five or fewer employees that generate less than $1 million in gross income annually, and (iii) used in metered industrial plants, at least 75% of which is used in the manufacturing of tangible personal property for sale or to heat the industrial plant. The exemption for industrial plants is similar to the exemption that has historically been available for industrial plants powered by other fuels.

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 to 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 electricity described above.

Absent the exemption afforded by this tax expenditure, residents of the Commonwealth would be required to pay sales tax on electricity used for lighting and heating their primary residences, small businesses would face increased operating costs, and manufacturers that use electricity to power their industrial plants would be placed at a disadvantage with respect to competitors that use other types of fuel. In the case of electricity used by manufacturers, the imposition of tax on electricity used in industrial plants would potentially lead to pyramiding of the sales and use tax.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to shield residential users and small businesses from sales and use tax on electricity and to provide industrial plants powered by electricity an exemption similar to the exemption available to manufacturing facilities powered by other fuels.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $340.1 - $470.2 million per year during FY20 - FY24[1]. See Table 1 below.

Table 1. Revenue Loss Estimates for Sales Tax Exemption for Electricity

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$340.1	$353.2	$398.9	$455.7	$470.2

DIRECT BENEFITS

The Massachusetts residents and businesses that buy or sell electricity 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 businesses are also direct beneficiaries.

Eligible buyers include residential users and small businesses, as well as industrial plants. Although DOR has no way of knowing the number of purchasers taking advantage of the exemption, the data below gives some sense of the possible scope of beneficiaries.

- According to the U.S. Census Bureau, there are about 2.7 million households in Massachusetts, with a total population of about 7 million.[2]

- According to the U.S. Census Bureau, in 2017, Massachusetts had 6,143 manufacturing firms with 6,437 establishments[3]. These firms employed 231,593 people generating $15.7 billion in annual payroll and $82.3 billion in annual sales. See Table 2 below. Please also see TERC report 3.302[4] for more information about the manufacturing sector in Massachusetts.

[1] The revenue loss estimates reported in Table 1 are based mostly on historical energy price and use data and projections from the U.S. Energy Information Administration (EIA), as well as data from the U.S. Bureau of Labor Statistics (BLS) and the U.S. Census Bureau. Due to the limitations and use of external data, the estimates reported in Table 1 may have significant uncertainty and should be used with caution.
[2] https://www.census.gov/quickfacts/fact/table/MA/PST045221
[3] An establishment is a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments. A firm is a business organization consisting of one or more domestic establishments in the same geographic area and industry that were specified under common ownership or control.
[4] https://www.mass.gov/doc/terc-march-2021-final-report/download

Table 2. Key Facts about Massachusetts Manufacturing Sector

2017 NAICS Code	Number of Firms	Number of Establishments	Annual Payroll ($1,000)	Number of Employees	Sales, Value of Shipments, or Revenue ($1,000)	Value Added ($1,000)
31-33	6,143	6,437	$15,749,394	231,593	$82,308,451	$45,306,135

Source: U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.

- For purposes of this exemption, "small business" is defined in M.G.L. c. 64H, § (qq) as "any business that has 5 or fewer employees that had gross income of less than $1,000,000 for the preceding calendar year, and that reasonably expects gross income of less than $1,000,000 for the current calendar year." There is no data to match such definition exactly. However, based on the Business Employment Dynamics data from the U.S. Bureau of Labor Statistics (BLS), it is estimated that about 5.8% of the 129 million employees, or 7.5 million, in the U.S. are hired by private firms with 5 or less employees.[5]

As mentioned above, sellers who sell the exempt products to Massachusetts residents and businesses also benefit from this sales tax exemption.

Table 3 below shows annual payroll, sales, and employment statistics for the industry of "Electric power generation, transmission and distribution" in Massachusetts and in the U. S. Note that some businesses in this industry, such as electric power generation businesses, may be indirect rather direct beneficiaries (providing electric service to end users) of this sales tax exemption.

Table 3. Annual Payroll, Sales, and Employment of the Industry of Utilities in the United States and in Massachusetts

2017 NAICS Code	Geographic Area Name	Meaning of NAICS Code	Number of Firms	Number of Establishments	Sales, Value of Shipments, or Revenue ($millions)	Annual Payroll ($millions)	Number of Employees
2211	United States	Electric power generation, transmission and distribution	1,856	11,496	$461,919.2	$56,541.3	519,615
2211	Massachusetts	Electric power generation, transmission and distribution	60	170	Q	$961.2	9,266

Source: The U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.

[5] https://www.bls.gov/web/cewbd/table_f.txt

Q: Revenue not collected at this level of detail for multi-establishment firms

According to the U.S. Census Bureau, in 2017 Massachusetts had 60 firms in the industry of "Electric power generation, transmission, and distribution". These firms employed 9,266 people generating $961.2 million in annual payroll. The U.S. Census Bureau does not collect annual sales data for Massachusetts. According to the Massachusetts Department of Public Utilities (DPU), in 2023 there are 45 companies providing electric service to cities and towns in Massachusetts.[6,7]

EVALUATION: COMPARING COSTS AND BENEFITS

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

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the "Multiplier Effect"[8].

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 data limitations present in this instance.

[6] https://www.mass.gov/info-details/find-my-electric-gas-and-water-company#find-my-electric-company-

[7] The number of firms reported by the U.S. Census Bureau is slightly different from the DPU number. The reasons are a) the former is for 2017 and the latter is for 2023, and b) their scope may be different (i.e., while the U.S. Census definition of firm may include more entities in the industry ranging from generation, transmission of electricity to distribution of electricity, DPU numbers are for the firms providing electric services to various localities only.

[8] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

Besides the economic costs and benefits discussed so far, one may also want to consider the factor of negative externality when evaluating this tax expenditure. A negative externality occurs when the production and/or consumption of a good or service exerts a negative effect on a third party independent of the transaction. For example, 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.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that tax the sale of electricity exempt sales for residential use and use in industrial plants at least in part. Connecticut, Maine, and New York provide exemptions for residential and industrial users. Vermont exempts only residential use. California and Rhode Island do not tax sales of electricity. The Commission is not aware of any other state that provides an exemption for purchases of electricity by small businesses.

Template for Evaluating Expenditures

Name of Expenditure: 3.402 Exemption for Fuel Used for Heating Purposes	**Annual cost:** $70 - $84 million	**Year of adoption:** 1967	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☒ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☒ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☒ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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).	☐	x	☐	☐
The TE's benefit justifies its fiscal cost.	☐	☐	x	☐
The TE is claimed by its intended beneficiaries.	☐	☐	x	☐
The TE is claimed by a broad group of taxpayers.	☐	☐	x	☐
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	☐	x	☐
The TE is relevant today.	☐	☐	x	☐
The TE is easily administered.	☐	☐	x	☐
Business only -The TE is beneficial to smaller businesses.	☐	☐	x	☐
Individuals only -The TE benefits lower income taxpayers.	☐	☐	x	☐

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- While this TE seems appealing, in that it supports the ability of low-income households, small businesses, and manufacturers to afford a basic need, the environmental costs of encouraging heating fuels and the possibility of supporting these persons and businesses in other ways diminish this TE's appeal.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption for Fuel Used for Heating Purposes
TAX EXPENDITURE NUMBER	3.402
TAX EXPENDITURE CATEGORY	Exemptions for Specified Use of Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(j) and (qq)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $70.2 - $84.2 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: The tax expenditure provides a sales and use tax exemption for sales of (i) fuel used for residential heating purposes, (ii) fuel used for heating purposes by certain small businesses and (iii) fuel used for heating purposes in industrial plants.	**Is the purpose defined in the statute?** The statute does not define the purpose of the tax expenditure.
What are the policy goals of the expenditure? The Commission assumes that the goal of the expenditure is to shield households, small businesses, and manufacturers from sales and use tax on heating fuel, as adequate heating is viewed as a necessity for households and workers.	**Are there other states with a similar Tax Expenditure?** Most states that impose a sales and use tax exempt sales of fuel used to heat residences or industrial plants at least in part. California, Connecticut, Maine, and Rhode Island provide exemptions for residential and industrial users. New York and Vermont exempt only residential use. The Commission is not aware of any other

	state that provides an exemption for purchases of heating fuel by small businesses.

INTRODUCTION

The tax expenditure provides a sales and use tax exemption for sales of heating fuel when the fuel is used: (i) to heat a residence, (ii) to heat the premises of a business with 5 or fewer employees that generates less than $1 million in gross income annually, or (iii) to heat an industrial plant used to manufacture tangible personal property for sale. For purposes of the exemption, 75% of an industrial plant's buildings, location, or premises heated by the heating fuel must be used for manufacturing.

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 heating fuel described above.

Absent the exemption afforded by this tax expenditure, residents of the Commonwealth would be required to pay sales tax on fuel used for heating their residences, small businesses would face increased operating costs, and manufacturers would be required to pay tax on fuel used to heat their workplaces.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to shield households, small businesses, and manufacturers from sales and use tax on heating fuel, as adequate heating is viewed as a necessity for households and workers.

DIRECT COSTS

The total revenue loss resulting from this tax expenditure is estimated to be $70.2 - $84.2 million per year during FY20 - FY24[1]. See Table 1 below.

Table 1. Revenue Loss Estimates for Sales Tax Exemption For Fuel Used for Heating Purposes

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$84.2	$70.2	$74.1	$77.5	$81.0

[1] The revenue loss estimates reported in Table 1 are based mostly on historical energy price and use data and projections from the U.S. Energy Information Administration (EIA), as well as data from the U.S. Bureau of Labor Statistics (BLS) and the U.S. Census Bureau. Due to the limitations use of external data, the estimates reported in Table 1 may have significant uncertainty and should be used with caution.

DIRECT BENEFITS

The Massachusetts residents and businesses that buy or sell heating fuel 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 businesses are also direct beneficiaries.

Eligible buyers[2] include residential users and small businesses, as well as industrial plants. Although DOR has no way of knowing the number of purchasers taking advantage of the exemption, the data below gives some sense of the possible scope of beneficiaries.

- According to the U.S Census Bureau, there are about 2.7 million households in Massachusetts with a total population of about 7 million.[3] According to the U.S. Energy Information Administration, about 24% of Massachusetts households use heating fuel.[4]

- According to the U.S. Census Bureau, in 2017, Massachusetts had 6,143 manufacturing firms with 6,437 establishments[5]. These firms employed 231,593 people generating $15.7 billion in annual payroll and $82.3 billion in annual sales. See Table 2 below. Please also see TERC report 3.302[6] for more information about the manufacturing sector in Massachusetts.

Table 2. Key Facts about Massachusetts Manufacturing Sector

2017 NAICS Code	Number of Firms	Number of Establishments	Annual Payroll ($1,000)	Number of Employees	Sales, Value of Shipments, or Revenue ($1,000)	Value Added ($1,000)
31-33	6,143	6,437	$15,749,394	231,593	$82,308,451	$45,306,135

Source: U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.

[2] Eligible buyers are not necessarily actual buyers, the number of which is much lower. DOR does not have direct data on the number of actual buyers.

[3] https://www.census.gov/quickfacts/fact/table/MA/PST045221

[4] https://www.eia.gov/consumption/residential/data/2020/state/pdf/State%20Space%20Heating%20Fuels.pdf

[5] An establishment is a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments. A firm is a business organization consisting of one or more domestic establishments in the same geographic area and industry that were specified under common ownership or control.

[6] https://www.mass.gov/doc/terc-march-2021-final-report/download

- For purposes of this exemption, small business is defined in M.G.L. c. 64H, § (qq) as "any business that has 5 or fewer employees that had gross income of less than $1,000,000 for the preceding calendar year, and that reasonably expects gross income of less than $1,000,000 for the current calendar year". There is no data to match such definition exactly. However, based on the Business Employment Dynamics data from the U.S. Bureau of Labor Statistics (BLS), it is estimated that about 5.8% of the 129 million employees, or 7.5 million, in the U.S. are hired by private firms with 5 or less employees.[7]

As mentioned above, sellers who sell the exempt products to Massachusetts residents and businesses also benefit from this sales tax exemption.

Table 3 below shows annual payroll, sales, and employment statistics for the industry of "Fuel Dealers" in Massachusetts and in the U. S. This industry, with NAICS 454310, comprises establishments primarily engaged in retailing heating oil, liquefied petroleum (LP) gas, and other fuels via direct selling.

Table 3. Annual Payroll, Sales, and Employment of the Industry of Fuel Dealers in the United States and in Massachusetts

2017 NAICS Code	Geographic Area Name	Meaning of NAICS Code	Number of Firms	Number of Establishments	Sales, Value of Shipments, or Revenue ($millions)	Annual Payroll ($millions)	Number of Employees
454310	United States	Fuel dealers	4,639	8,031	$31,065.5	$3,474.0	75,481
454310	Massachusetts	Fuel dealers	397	450	$2,038.3	$273.5	5,084

Source: The U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.

According to the U.S. Census Bureau, in 2017, Massachusetts had 397 firms and 450 establishments in the industry of "Fuel dealers". These firms employed 5,084 people generating $2.038 billion in annual sales and $273.5 million in annual payroll.

EVALUATION: COMPARING COSTS AND BENEFITS

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

[7] https://www.bls.gov/web/cewbd/table_f.txt

expenditure to buyers and sellers of the exempt product, which is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the "Multiplier Effect"[8].

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 data limitations present in this instance.

Besides the economic costs and benefits discussed so far, one may also want to consider the factor of negative externality when evaluating this tax expenditure. A negative externality occurs when the production and/or consumption of a good or service exerts a negative effect on a third party independent of the transaction. For example, 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.

This tax expenditure also reduces the tax burden of low-income households with limited financial resources who still rely on heating fuel to heat their homes during cold weather.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a sales and use tax exempt sales of fuel used to heat residences or industrial plants at least in part. California, Connecticut, Maine, and Rhode Island provide exemptions for residential and industrial users. New York and Vermont exempt only residential use. The Commission is not aware of any other state that provides an exemption for purchases of heating fuel by small businesses.

[8] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

Template for Evaluating Expenditures

Name of Expenditure: 3.403 Exemption for Gas	**Annual cost:** $167.3 - $233.3 million	**Year of adoption:** 1967	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☒ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

- ☐ Job creation & maintenance
- ☐ Investment
- ☒ Competitiveness/Strategic
- ☐ Health/Environment/Social Justice
- ☐ Other:

Individual:

- ☐ Relief of poverty
- ☒ Progressivity/assistance to low earners
- ☒ Access to opportunity
- ☐ Health/Environment/Social Justice
- ☐ 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)	☐	X	☐	☐
The TE's benefit justifies its fiscal cost.	☐	☐	☐	☐
The TE is claimed by its intended beneficiaries.	☐	X	☐	☐
The TE is claimed by a broad group of taxpayers.	☐	☐	X	☐
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	X	☐	☐	☐
The TE is relevant today.	X	☐	☐	☐
The TE is easily administered.	☐	X	☐	☐
Business only -The TE is beneficial to smaller businesses.	☐	☐	X	☐
Individuals only -The TE benefits lower income taxpayers.	☐	☐	X	☐

This tax expenditure is flagged for legislative review: ☒ Yes ☐ No

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

Comments

- The Commission assumes that the goal of the expenditure is (i) to shield households from sales and use tax on gas used for residential heating, which can be viewed as a necessity (ii) to reduce the cost of doing business for small businesses and (iii) to prevent pyramiding when used by manufacturers to power, light and heat industrial plants that produce items for sale.
- The Commission observed that the term "small business" is defined differently for purposes of the Exemption for Gas than it is for other purposes in the General Laws.
- The Commission questioned the purpose of "encouraging" users to use gas as a utility in consideration of alternate "greener" climate options.
- Chris Carlozzi provided the following comments during the February 28, 2024 meeting. He noted that members voted to approve the evaluation template for this tax expenditure prior to his appointment to the Commission. Chris Carlozzi mentioned that this tax expenditure received a rating of "Strongly Disagree" on the question whether the tax expenditure is relevant today and provided the following comments, "This expenditure in question does indeed seem to benefit both small businesses and residents of the Commonwealth that utilize natural gas as an energy source. To tag this expenditure as "irrelevant" because some state lawmakers and regulators are pushing for full electrification of Massachusetts does not reflect the reality that many businesses and homes still use natural gas and benefit from the existing tax exemption. It seems that the report appendix comment stating: The Commission questioned the purpose of "encouraging" users to use gas as a utility in consideration of alternate "greener" climate options is editorializing and outside of what the commission is tasked to do, which is determine whether the existing exemption benefits Massachusetts taxpayers."

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption for Gas
TAX EXPENDITURE NUMBER	3.403
TAX EXPENDITURE CATEGORY	Exemptions for Specified Use of Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(i) and (qq)
YEAR ENACTED	1967
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$167.3 - \$233.3 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: The tax expenditure provides a sales and use tax exemption for sales of (i) gas used for residential purposes, (ii) gas purchased for use by certain small businesses and (iii) gas purchased for use in an industrial plant.	**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 expenditure is (i) to shield households from sales and use tax on gas used for residential heating, which can be viewed as a necessity (ii) to reduce the cost of doing business for small businesses and (iii) to prevent pyramiding of the sales and use tax when the gas is used by	**Are there other states with a similar Tax Expenditure?** Most states that impose a sales and use tax exempt sales of gas used in residences or industrial plants at least in part. California, Connecticut, Maine, and Rhode Island provide exemptions for residential and industrial users. New York and Vermont exempt only residential use. The Commission is not aware

manufacturers to power, light and heat industrial plants that produce items for sale.	of any other state that provides an exemption for purchases of gas by small businesses.

INTRODUCTION

The tax expenditure provides a sales and use tax exemption for sales of gas used (i) for residential purposes (e.g. heating and cooking), (ii) by a business with five or fewer employees that generates less than $1 million in gross income annually, or (iii) in metered industrial plants, at least 75% of which is used in the manufacturing of tangible personal property for sale or to heat the industrial plant.

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 gas described above.

Absent the exemption afforded by this tax expenditure, residents of the Commonwealth would be required to pay sales tax on gas used in their homes, small businesses would face increased operating costs, and manufacturers would be required to pay tax on gas used to power manufacturing equipment and to heat their workplaces. In the case of gas used by manufacturers, the imposition of tax on gas used in industrial plants would potentially lead to pyramiding of the sales and use tax.

POLICY GOALS

The Commission assumes that the goal of the expenditure is (i) to shield households from sales and use tax on gas used for residential heating, which can be viewed as a necessity (ii) to reduce the cost of doing business for small businesses and (iii) to prevent pyramiding when used by manufacturers to power, light and heat industrial plants that produce items for sale.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $167.3 - $233.3 million per year during FY20 - FY24[1]. See Table 1 below.

[1] The revenue loss estimates reported in Table 1 are based mostly on historical energy price and use data and projections from the U.S. Energy Information Administration (EIA), as well as data from the U.S. Bureau of Labor Statistics (BLS) and the U.S. Census Bureau. Due to the limitations and use of external data, the estimates reported in Table 1 may have significant uncertainty and should be used with caution.

Table 1. Revenue Loss Estimates for Sales Tax Exemption for Gas

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$172.4	$167.3	$193.0	$218.9	$233.3

DIRECT BENEFITS

The Massachusetts residents and businesses that buy or sell gas are the direct beneficiaries of the sales tax exemption. [2,3] 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 businesses are also direct beneficiaries.

Eligible buyers include residential users and small businesses, as well as industrial plants. Although DOR has no way of knowing the number of purchasers taking advantage of the exemption, the data below gives some sense of the possible scope of beneficiaries.

- According to the U.S. Census Bureau, there are about 2.7 million households in Massachusetts with a total population of about 7 million.[4]

- According to the U.S. Census Bureau, in 2017, Massachusetts had 6,143 manufacturing firms with 6,437 establishments[5]. These firms employed 231,593 people generating $15.7 billion in annual payroll and $82.3 billion in annual sales.

[2] https://www.eia.gov/state/analysis.php?sid=MA

[3] Massachusetts does not have any natural gas reserves or production. The state receives its natural gas supply from interstate pipelines and liquefied natural gas (LNG) import terminals. Massachusetts consumers typically account for nearly half of the natural gas used in New England. In 2021, 31% of Massachusetts natural gas deliveries went to the residential sector. Slightly more than half of households in the state rely on natural gas as their primary energy source for home heating. Although the electric power sector was the largest consumer of natural gas for almost two decades, it has used less than the residential sector since 2019. In 2021, the electric power sector accounted for about 30% of the natural gas delivered to consumers, nearly as much as to the residential sector. The commercial sector consumed 26%, and the industrial sector used about 13%. Please note that this sales tax exemption does not cover sales of gas to the electric power sector, which are covered by TERC report 3.304: https://www.mass.gov/doc/terc-june-2022-final-report/download

[4] https://www.census.gov/quickfacts/fact/table/MA/PST045221

[5] An establishment is a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments. A firm is a business organization consisting of one or more domestic establishments in the same geographic area and industry that were specified under common ownership or control.

See Table 2 below. Please also see TERC report 3.302[6] for more information about the manufacturing sector in Massachusetts.

Table 2. Key Facts about Massachusetts Manufacturing Sector

2017 NAICS Code	Number of Firms	Number of Establishments	Annual Payroll ($1,000)	Number of Employees	Sales, Value of Shipments, or Revenue ($1,000)	Value Added ($1,000)
31-33	6,143	6,437	$15,749,394	231,593	$82,308,451	$45,306,135

Source: U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.

- For purposes of this exemption, "small business" is defined in M.G.L. c. 64H, § (qq) as "any business that has 5 or fewer employees that had gross income of less than $1,000,000 for the preceding calendar year, and that reasonably expects gross income of less than $1,000,000 for the current calendar year." There is no data to match such definition exactly. However, based on the Business Employment Dynamics data from the U.S. Bureau of Labor Statistics (BLS), it is estimated that about 5.8% of the 129 million employees, or 7.5 million, in the U.S. are hired by private firms with 5 or less employees.[7]

As mentioned above, sellers who sell the exempt products to Massachusetts residents and businesses also benefit from this sales tax exemption.

Table 3 below shows annual payroll, sales, and employment statistics for the industry of "Natural gas distribution" in Massachusetts and in the U. S. from the U.S. This industry, with NAICS 221210, comprises: (i) establishments primarily engaged in operating gas distribution systems (e.g., mains, meters); (ii) establishments known as gas marketers that buy gas from the well and sell it to a distribution system; (iii) establishments known as gas brokers or agents that arrange the sale of gas over gas distribution systems operated by others; and (iv) establishments primarily engaged in transmitting and distributing gas to final consumers.

[6] https://www.mass.gov/doc/terc-march-2021-final-report/download
[7] https://www.bls.gov/web/cewbd/table_f.txt

Table 3. Annual Payroll, Sales, and Employment of the Industry of Natural Gas Distribution in the United States and in Massachusetts

2017 NAICS Code	Geographic Area Name	Meaning of NAICS Code	Number of Firms	Number of Establishments	Sales, Value of Shipments, or Revenue ($millions)	Annual Payroll ($millions)	Number of Employees
221210	United States	Natural gas distribution	421	2,550	$100,586.3	$8,155.4	91,747
221210	Massachusetts	Natural gas distribution	15	61	Q	$270.5	3,071

Source: The U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.
Q: Revenue not collected at this level of detail for multi-establishment firms

According to the U.S. Census Bureau, in 2017 Massachusetts had 15 firm and 61 establishments in the industry of "Natural Gas Distribution". These firms generated $270.5 million in annual payroll and employed 3,071 people. According to the Massachusetts Department of Public Utilities (DPU), in 2023 there are 10 companies providing natural gas service to cities and towns in Massachusetts.[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 sales tax exemption for the exempt products: gas) and direct benefits of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the sales tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to buyers and sellers of the exempt product, which is the sales tax the buyers would have had to pay to the Commonwealth.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the "Multiplier Effect"[9].

[8] https://www.mass.gov/info-details/find-my-electric-gas-and-water-company#find-my-electric-company-
[9] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

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

Besides the economic costs and benefits discussed so far, one may also want to consider the factor of negative externality when evaluating this tax expenditure. A negative externality occurs when the production and/or consumption of a good or service exerts a negative effect on a third party independent of the transaction. For example, 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.[10] 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.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a sales and use tax exempt sales of gas used in residences or industrial plants at least in part. California, Connecticut, Maine, and Rhode Island provide exemptions for residential and industrial users. New York and Vermont exempt only residential use. The Commission is not aware of any other state that provides an exemption for purchases of gas by small businesses.

[10] https://www.eia.gov/energyexplained/natural-gas/natural-gas-and-the-environment.php

Template for Evaluating Expenditures

Name of Expenditure: 3.404 Exemption for Steam	**Annual cost:** $0.6 - $0.7 million	**Year of adoption:** 1971 & 1990	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☒ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☒ Other: Not explicit but presumably to shield steam heat from sales taxes

Individual:

☐ Relief of poverty
☐ Progressivity/assistance to low earners
☐ Access to opportunity
☐ Health/Environment/Social Justice
☒ Other: Not explicit but presumably to shield steam heat from sales taxes

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).	X			
The TE's benefit justifies its fiscal cost.		X		
The TE is claimed by its intended beneficiaries.			X	
The TE is claimed by a broad group of taxpayers.	X			
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.				
The TE is relevant today.	X			
The TE is easily administered.			X	
Business only -The TE is beneficial to smaller businesses.				
Individuals only -The TE benefits lower income taxpayers.				

This tax expenditure is flagged for legislative review: ☒ Yes ☐ No

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

Comments:

- Steam is typically generated by a third party (either the seller or a vendor of the seller) at a generation facility using oil or natural gas and delivered via a piping system to the customer. By encouraging the usage of steam, this expenditure could have a negative environmental impact and may discourage the use of other “greener” energy sources.
- It is not known how many taxpayers in MA obtain this benefit.
- Steam is often purchased by customers in the health, government, and hospitality industries for myriad purposes, e.g., power generation, process needs, heating and cooling, sterilization, etc.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption for Steam
TAX EXPENDITURE NUMBER	3.404
TAX EXPENDITURE CATEGORY	Exemptions for Specified Use of Products/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(i) and (qq)
YEAR ENACTED	1971: §6(i) (residential exemption); 1990: §6(i) (industrial plant exemption) & §6(qq) (small business exemption)
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of $0.6 - $0.7 million per year for FY20 - FY24.
NUMBER OF TAXPAYERS	Not available
AVERAGE TAXPAYER BENEFIT	Not available
FEDERAL TAX EXPENDITURE	YES ☒ NO

Description of the Tax Expenditure: The tax expenditure provides a sales and use tax exemption for sales of (i) steam used for residential purposes, (ii) steam purchased for use by certain small businesses and (iii) steam purchased for use in an industrial plant subject.	**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 expenditure is to shield households, small businesses, and manufacturers from sales and use tax on steam, which is often used for residential, heating, or manufacturing purposes. The Commission further assumes	**Are there other states with a similar Tax Expenditure?** Most states that impose a sales and use tax exempt sales of steam used in residences or industrial plants at least in part. Connecticut, Maine, New York and Rhode Island provide exemptions for residential and industrial users. California and Vermont exempt only

that steam used in manufacturing is exempt in order to avoid pyramiding of the sales and use tax.	residential use. The Commission is not aware of any other state that provides an exemption for purchases of steam by small businesses.

INTRODUCTION

The tax expenditure provides a sales and use tax exemption for sales of steam used (i) for residential purposes, (ii) by a business with five or fewer employees that generates less than $1 million in gross income annually, or (iii) in metered industrial plants, at least 75% of which are used in the manufacturing of tangible personal property for sale or to heat the industrial plant.

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 steam described above.

Absent the exemption afforded by this tax expenditure, residents of the Commonwealth would be required to pay sales tax on steam used in their homes, small businesses would face increased operating costs, and manufacturers would be required to pay tax on steam used to power manufacturing equipment and to heat their workplaces. In the case of steam used by manufacturers, the imposition of tax on steam used in industrial plants would potentially lead to pyramiding of the sales and use tax.

POLICY GOALS

The Commission assumes that the goal of the expenditure is to shield households, small businesses, and manufacturers from sales and use tax on steam, which is often used for residential, heating, or manufacturing purposes. The Commission further assumes that steam used in manufacturing is exempt in order to avoid pyramiding of the sales and use tax.

ADMINISTRABILITY

The administration of sales and use tax exemptions for items used for specified purposes is based on the presentation of exemption certificates by buyers to sellers. The certificates create a record of sales for which such exemptions were claimed. The DOR reviews the record and other relevant information in audits of taxpayers to determine if the use of the certificate and the claims for the exemptions were appropriate. This method of sales and use tax compliance does not present any special administrative challenge to taxpayers or to the DOR.

DIRECT COSTS

The revenue loss resulting from this tax expenditure is estimated to be $0.6 - $0.7 million per year during FY20 - FY24. See Table 1below.

Table 1. Revenue Loss Estimates for Sales Tax Exemption for Steam

Fiscal Year	2020	2021	2022	2023	2024
Estimated Revenue Loss ($Million)	$0.6	$0.6	$0.6	$0.7	$0.7

The estimates are derived by estimating the Massachusetts share of U.S. sales by the industry of "steam and air-conditioning supply" (with NAICS 221330)[1] using Massachusetts' share of national nominal Gross Domestic Product (GDP), and then applying Massachusetts' sales tax rate to the estimated sales for Massachusetts. These estimates are roughly consistent with estimates based on the exempt sales claimed by taxpayers within the same industry (NAICS 221330) on their sales tax returns.[2] Because the "steam and air-conditioning supply" industry is broad (covering not only steam sales but also air-conditioning sales that are not within the scope of this tax expenditure) and the industry sales may include sales to non-profit entities, there is a significant over-estimation risk. Estimates have been adjusted downward to reduce this risk.

DIRECT BENEFITS

The Massachusetts residents and businesses that buy or sell exempt products (steam) 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.

As mentioned above, sellers who sell the exempt products to eligible Massachusetts residents and businesses benefit from this sales tax exemption.

Table 2 below shows annual payroll, sales, and employment statistics for the industry of "Steam and air-conditioning supply" in U. S. from the U.S. Census Bureau. The state level data on steam and air-condition supply is not available. Note that, some businesses of this industry, such as some steam and air-conditioning supply businesses may be indirect rather direct beneficiaries (providing steam to the end users) of this sales tax exemption.

[1] The 2017 economic census reports sales by the industry of "Steam and air-conditioning supply" (with NAICS 221330) for the United States but data for Massachusetts is not available. See Table 2.
[2] The number of taxpayers who have NAICS 221330 and who filed sales tax return is very small. So, no estimates based on sales return data can be released due to confidentiality rule.

Table 2. Annual Payroll, Sales, and Employment of the Industry of Steam and Air-Condition Supply in the United States and in Massachusetts

2017 NAICS Code	Geographic Area Name	Meaning of NAICS Code	Number of Firms	Number of Establishments[3]	Sales, Value of Shipments, or Revenue ($millions)	Annual Payroll ($millions)	Number of Employees
221330	United States	Steam and air-conditioning supply	44	125	$1,311.6	$221.8	2,439
221330	Massachusetts	Steam and air-conditioning supply	Not Available	Not Available	Not Available	Not Available	Not Available

Source: The U.S. Census Bureau, 2017 Economic Census, which is the most recent version of the Economic Census. The 2022 Economic Census has yet to be released.

According to the U.S. Census Bureau, in 2017, the United States had 44 firms in the industry of "Steam and air-condition supply". These firms generated $1.3 billion in sales, paid $221.8 million in annual payroll, and employed 2,439 workers. The U.S. Census Bureau did not report data for Massachusetts. It is likely that Massachusetts' share of these national numbers is quite small (e.g., applying 2.7%, Massachusetts' share of national nominal Gross Domestic Product (GDP), to the $1.3 billion U.S. sales would only result in $35 million Massachusetts sales which not only include steam sales (within the scope of this tax expenditure) but also air conditioning sales (not within the scope of this tax expenditure)). In fact, Massachusetts sales tax return data indicates that the number of eligible sellers within the steam and air-conditioning industry is less than five. [4]

By law, eligible buyers include residential users, certain small businesses, and certain industrial plants:

- According to the Census Bureau, there are about 2.7 million households with a population of about 7 million in Massachusetts.[5] However, after reviewing the industries served by a steam provider[6], residential beneficiaries of this tax expenditure is likely very limited.

[3] An establishment is a single physical location at which business is conducted or services or industrial operations are performed. It is not necessarily identical with a company or enterprise, which may consist of one or more establishments. A firm is a business organization consisting of one or more domestic establishments in the same geographic area and industry that were specified under common ownership or control.
[4] Exact count could not be provided due to taxpayer confidentiality.
[5] https://www.census.gov/quickfacts/fact/table/MA/PST045221
[6] https://www.vicinityenergy.us/#Also see https://www.mass.gov/doc/dpu-annual-report-2022/download, page 56. Please note that companies other than steam distribution companies may also benefit from this tax expenditure. See definition of "steam distribution company" in the Department of Public Utilities' regulation (https://www.mass.gov/doc/220-cmr-20-steam-distribution-companies/download).

- According to the U.S. Census Bureau, in 2017, Massachusetts had 6,143 manufacturing firms with 6,437 establishments. These firms employed 231,593 people generating $15.7 billion in annual payroll and $82.3 billion in annual sales. See Table 3 below. Please also see TERC report 3.302[7] for more facts about the manufacturing sector in Massachusetts. Massachusetts Department of Revenue has no data on the exact number of industrial plants that directly or indirectly benefit from this tax expenditure.

Table 3. Key Facts about Massachusetts Manufacturing Sector

2017 NAICS Code	Number of Firms	Number of Establishments	Annual Payroll ($1,000)	Number of Employees	Sales, Value of Shipments, or Revenue ($1,000)	Value Added ($1,000)
31-33	6,143	6,437	$15,749,394	231,593	$82,308,451	$45,306,135

Source: U.S. Census Bureau, 2017 Economic Census

- For this exemption, small business is defined in M.G.L. c. 64H, § (qq) as "any business that has 5 or fewer employees that had gross income of less than $1,000,000 for the preceding calendar year, and that reasonably expects gross income of less than $1,000,000 for the current calendar year." There is no data to match such definition exactly. However, based on the Business Employment Dynamics Data from the U.S. Bureau of Labor Statistics (BLS), it is estimated that about 5.8% of the 129 million employees (7.5 million) are hired by private firms with 5 or less employees.[8] Massachusetts Department of Revenue has no data on the exact number of small businesses that directly or indirectly benefit from this tax expenditure.

EVALUATION: COMPARING COSTS AND BENEFITS

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

[7] https://www.mass.gov/doc/terc-march-2021-final-report/download
[8] https://www.bls.gov/web/cewbd/table_f.txt

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the first impacted businesses. The induced impact (cost or benefit) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the "Multiplier Effect"[9].

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 data limitations present in this instance.

Besides the economic costs and benefits discussed so far, there may be negative externalities associated with this tax expenditure. A negative externality occurs when the production and/or consumption of a good or service exerts a negative effect on a third party independent of the transaction. For example, steam generation, transmission, and distribution operations may cause noise and air pollution during the process. 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.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

Most states that impose a sales and use tax exempt sales of steam used in residences or industrial plants at least in part. Connecticut, Maine, New York and Rhode Island provide exemptions for residential and industrial users. California and Vermont exempt only residential use. The Commission is not aware of any other state that provides an exemption for purchases of steam by small businesses.

[9] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

Template for Evaluating Expenditures

Name of Expenditure: 3.407 Exemption for Certain Motor Vehicles • For persons that have lost the use of two or more limbs • For permanently disabled veterans	**Annual cost:** $1.6 - $2.1 million	**Year of adoption:** 1967 (expanded in 2006)	**Sunset date:** None

Tax Type (check all that apply): ☐ Corporate ☐ Personal Income ☒ Sales ☐ Other

This tax expenditure is a result of state conformity to the Federal Code: ☐ Yes ☒ No

Goal of expenditure (check all that apply):

Business:

☐ Job creation & maintenance
☐ Investment
☐ Competitiveness/Strategic
☐ Health/Environment/Social Justice
☐ Other:

Individual:

☐ Relief of poverty
☒ Progressivity/assistance to low earners
☒ Access to opportunity
☐ Health/Environment/Social Justice
☐ 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).	☐	☐	☐	X
The TE's benefit justifies its fiscal cost.	☐	☐	☐	X
The TE is claimed by its intended beneficiaries.	☐	☐	☐	X
The TE is claimed by a broad group of taxpayers.	X	☐	☐	☐
The TE amount claimed per taxpayer is meaningful as an incentive/benefit.	☐	☐	☐	X
The TE is relevant today.	☐	☐	☐	X
The TE is easily administered.	☐	☐	☐	X
Business only -The TE is primarily beneficial to smaller businesses.	☐	☐	☐	☐
Individuals only -The TE is primarily beneficial to lower income taxpayers.	☐	☐	X	☐

This tax expenditure is flagged for legislative review: ☐ Yes ☒ No

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

Comments:

- *Purpose*: The exemption applies to the sales price and the price of adaptive modification; I would assume the tax credit is meant to offset the cost of adaptive modifications.
- *Broad Group of Taxpayers:* There were 765 vehicles registered to a person with an eligible disability in 2021 and 734 vehicles in 2020.

MASSACHUSETTS TAX EXPENDITURES
EVALUATION SUMMARY

EVALUATION YEAR: 2024

TAX EXPENDITURE TITLE	Exemption for Certain Motor Vehicles
TAX EXPENDITURE NUMBER	3.407
TAX EXPENDITURE CATEGORY	Exemptions for Specified Uses of Product/Services
TAX TYPE	Sales and Use Tax
LEGAL REFERENCE	M.G.L. c. 64H, § 6(u)
YEAR ENACTED	1967: for persons that have lost the use of two or more limbs. 2006: for permanently disabled veterans
REPEAL/EXPIRATION DATE	None
ANNUAL REVENUE IMPACT	Tax loss of \$1.6 - \$2.1 million per year during FY20 - FY24.
NUMBER OF TAXPAYERS	About 700 - 800 per year during FY20 - FY24.
AVERAGE TAXPAYER BENEFIT	About \$2,000 - \$3,000 during FY20 - FY24.
FEDERAL TAX EXPENDITURE	☐ YES ☒ NO

Description of the Tax Expenditure: The tax expenditure provides an exemption from the sales and use tax for the sale of a motor vehicle that is purchased by and for the use of: (i) a person that has permanently lost the use of two or more limbs or (ii) a permanently disabled veteran.	**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 tax expenditure is to reduce the cost of motor vehicles for certain persons with disabilities, allowing such persons improved access to motor vehicles and thus greater mobility.	**Are there other states with a similar Tax Expenditure?** States vary in their sales and use tax treatment of motor vehicles purchased for use by persons with disabilities. Some states, including New York, tax such purchases without any

	exemptions for purchasers who have a disability. Other states, including California, Connecticut, Maine, and Rhode Island, tax such purchases of motor vehicles but allow an exemption for amounts charged for adaptive modifications to the vehicles. Maine also allows a full exemption for motor vehicles purchased by veterans who are amputees. A few states, including Vermont, allow an exemption for motor vehicles, including adaptive modifications, purchased by persons with qualifying disabilities.

INTRODUCTION

The tax expenditure provides an exemption from the sales and use tax for the sale of a motor vehicle that is purchased by and for the use of: (i) a person that has permanently lost the use of two or more limbs or (ii) a permanently disabled veteran. The exemption applies to the sales price of the vehicle and any charge for adaptive modifications included in the sales price. See Letter Ruling 81-105. To qualify for the exemption, a motor vehicle must be owned and registered by the eligible person and be used for personal, noncommercial purposes. The exemption is limited to one motor vehicle per person. The exemption also applies to the purchase of a motor vehicle by a parent or legal guardian of an eligible person who is a minor child, or the legal guardian or legal conservator of an adult who is unable to enter into a legal contract, for use in transporting the child or adult, if the parent, legal guardian, or conservator is the registered owner. See Letter Ruling 03-11.

The Massachusetts sales tax and complementary use tax are transaction taxes that apply 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 the sale of motor vehicles described above.

Absent the exemption afforded by this tax expenditure, persons that have lost the use of multiple limbs and permanently disabled veterans would be required to pay sales tax and use tax on purchases of a motor vehicles, which may create a financial barrier to purchasing a motor vehicle and therefore limit the mobility options for such persons.

POLICY GOALS

The Commission assumes that the goal of the tax expenditure is to reduce the cost of motor vehicles for certain persons with disabilities, allowing such persons improved access to motor vehicles and thus greater mobility.

ADMINISTRABILITY

Administration of the exemption for sales of motor vehicles to persons that have permanently lost the use of two or more limbs and to permanently disabled veterans does not present any special administrative challenges. The sales and use tax on a motor vehicle is paid when the vehicle is registered. To claim the exemption, a purchaser must present to the Registry of Motor Vehicles (RMV) an affidavit certifying eligibility. The DOR may review claims for the exemption as part of its sales and use tax audit program.

DIRECT COSTS

DOR obtained data from various sources to assist with determining the revenue loss estimates for this expenditure. DOR obtained information from the RMV on the vehicles that are registered to a person with an eligible disability. DOR used "The Zebra", a car and home insurance comparison site, to determine the average prices of new cars and of used cars. Using the RMV information and the pricing data from The Zebra, DOR was able to estimate total sales eligible for the exemption for 2020 and 2021.[1] Then, applying the motor vehicle sales tax rate (6.25%) to the dollar amounts of the sales, DOR arrived at the revenue loss estimates for these two years. Estimates are grown out to future years using Moody's forecast of the number of vehicle sales and the price index for vehicles, and are further adjusted to reflect any charge for adaptive modifications included in the sales price.[2] The revenue loss estimates from this tax expenditure are $1.6 - $2.1 million per year during FY20 - FY24. Please see Table 1 below.

Table 1: Tax Revenue Loss Estimates for Motor Vehicles for a Person with an Eligible Disability

Fiscal Year	2020	2021	2022	2023	2024
Tax Revenue Loss ($Million)	$1.6	$1.8	$1.7	$1.9	$2.1

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

The Massachusetts residents and businesses that buy or sell exempt products (motor vehicles purchased by and for the use of: (i) a person that has permanently lost the use of two or more limbs or (ii) a permanently disabled veteran) 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 are also direct beneficiaries.

[1] RMV data sent to us are complete for only 2020 and 2021.
[2] Based on limited information on cost of adaptive modifications, such as https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/adapting_motor_vehicles_brochure_810733.pdf

According to RMV, there were 765 vehicles registered to a person with an eligible disability in 2021, and 734 vehicles in 2020. Assuming that one person purchases one vehicle, those numbers are also the count of beneficiaries of this tax incentive. In addition, according to the Massachusetts Rehabilitation Commission (MRC)), there are currently about 400,000 persons with an ambulatory disability, and many of them could be considered potential beneficiaries.

Table 2: Registered Motor Vehicles for a Person with an Eligible Disability by Year of Purchase

Year of Purchase	2020	2021
New vehicles	279	259
Used vehicles	455	506
Total	734	765

Source: Massachusetts Registry of Motor Vehicles.

EVALUATION: COMPARING COSTS AND BENEFITS

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

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

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

[3] For an illustration of "Multiplier Effect", see Slide 4 of: https://www.ilw.com/seminars/JohnNeillCitation.pdf

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

Besides the economic costs and benefits discussed so far, one may also want to consider the specific purpose of this tax expenditure: reduce the cost of motor vehicles for persons that have permanently lost the use of two or more limbs and to permanently disabled veterans, allowing such persons improved access to motor vehicles and thus greater mobility.

SIMILAR TAX EXPENDITURES OFFERED BY OTHER STATES

States vary in their sales and use tax treatment of motor vehicles purchased for use by persons with disabilities. Some states, including New York, tax such purchases without any exemptions for purchasers with disabilities. Other states, including California, Connecticut, Maine, and Rhode Island, tax such purchases of motor vehicles but allow an exemption for amounts charged for adaptive modifications to the vehicles. Maine also allows a full exemption for motor vehicles purchased by veterans who are amputees. A few states, including Vermont, allow an exemption for motor vehicles, including adaptive modifications, purchased by persons with qualifying disabilities.

References

Meyer, S. (n.d.). *Average car price is at an all-time high of $47,000 going into 2022*. Retrieved from The Zebra: https://www.thezebra.com/resources/driving/average-car-price/#infographic

Massachusetts Registry of Motor Vehicles, internal data regarding vehicles registered to a person with an eligible disability.

Appendix E

Tax Expenditure Review Commission Meeting Minutes

Tax Expenditure Review Commission Public Meeting Minutes
April 27, 2023
Via Teleconference
10:00AM

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair
Professor Matthew Weinzierl, Governor's Appointee
Kerri-Ann Hanley, Designee, MA Auditor
Hailey Jenkins, Designee, Senate Ways and Means Committee
Representative Michael Soter, Designee, House Minority Leader

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
Professor Michelle Hanlon, Governor's Appointee
Chris Anderson, Designee, Senate Minority Leader

List of Documents:

1. Meeting Agenda
2. Draft Minutes – March 9, 2023 Meeting
3. Draft Reports of Tax Expenditures

Chairperson Forter welcomed the Commission members. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 10:05AM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for purposes of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter requested that Commission members provide any changes to the March 9, 2023 draft meeting minutes. Hearing none, members voted unanimously to approve the March 9, 2023 meeting minutes.

Chairperson Forter opened the discussion to members to comment on the Commission's current review process. Members discussed tax expenditure administrability, policy proposals, and the evaluation template. DOR will include its perspective of tax expenditure administrability in future summary reports. Members agreed to add a new checkbox to the evaluation template identifying whether the tax expenditure is flagged for legislative review. Members agreed to further utilize the evaluation template comment section to reflect potential issues to be raised, including policy proposals and potential changes to tax expenditures.

Kerri-Ann Hanley led a discussion on the Septic System Credit. This tax expenditure was adopted in 1967 and has an annual revenue impact of $8.5 - $8.9 million during FY20 - FY24 with no sunset date. The tax expenditure allows a personal income tax credit for the cost incurred in repairing or replacing a failed septic system in a residential property as required under Massachusetts environmental laws, or in connecting to a municipal sewer system as required by a court order, administrative consent order, state court order, consent decree, or similar mandate. The credit is equal to 40% of the cost (less any interest subsidy or grant from the Commonwealth) or $6,000, whichever is less. Only $1,500 of the credit can be used per tax year, but unused credits may be carried forward for up to 5 years. The Commission is not aware of any other states that have similar tax expenditures. Hawaii had a temporary tax credit for upgrading septic systems that expired in 2022. The Massachusetts Department of Environmental Protection (DEP) states in its regulations that the purpose of the law requiring repair or replacement of failed septic systems is to provide for the protection of public health and the environment by requiring the proper siting, construction, and maintenance of septic systems. See 310 CMR 15.001. The Commission assumes that the purpose of the credit is to provide relief for taxpayers required by law to repair or replace their septic systems. Members voted to approve the Septic System Credit evaluation template with a change from "Somewhat Disagree" to "Somewhat Agree" on the question of whether the expenditure benefits lower income taxpayers, and add additional comments noting that (i) other states have similar programs but they are typically in the form of grants or loan programs, (ii) MA has a number of local programs; municipalities are talking it upon themselves to help residents, (iii) there is a pending proposal to double the cap on this credit, (iv) the cap on this credit has not increased since 1997, although associated costs have increased, and (v) this is an ongoing issue on the south shore, especially on the Cape.

Professor Weinzierl led a discussion on the Exemption for Fuel used for Heating Purposes. This tax expenditure was adopted in 1967 and has annual revenue impact of $70 - $84 million during FY20 - FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for sales of (i) fuel used for residential heating purposes, (ii) fuel used for heating purposes by certain small businesses and (iii) fuel used for heating purposes in industrial plants. Most states that impose a sales and use tax exempt sales of fuel used to heat residences or industrial plants at least in part. California, Connecticut, Maine, and Rhode Island provide exemptions for residential and industrial users. New York and Vermont exempt only residential use. The Commission is not aware of any other state that provides an exemption for purchases of heating fuel by small businesses. The Commission assumes that the goal of the expenditure is to shield households, small businesses, and manufacturers from sales and use tax on heating fuel, as adequate heating is viewed as a necessity for households and workers. Members voted to approve the Exemption for Fuel used for Heating Purposes evaluation template with a change from "Somewhat Disagree" to "Somewhat Agree" on the question of whether the benefit justifies the fiscal cost and whether the expenditure is claimed by a broad group of taxpayers.

Kerri-Ann Hanley led a discussion on the Exemption for Gas. This tax expenditure has annual impact of $167.3 - $233.3 million during FY20 to FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for sales of (i) gas used for residential purposes, (ii) gas purchased for use by certain small businesses and (iii) gas purchased for use in an industrial plant. Most states that impose a sales and use tax exempt sales of gas used in residences or industrial plants at least in part. California, Connecticut, Maine, and Rhode Island provide exemptions for residential and industrial users. New York and Vermont exempt only residential use. The Commission is not aware of any other state that provides an exemption for purchases of gas by small businesses. The Commission assumes that the goals of the expenditure are (i) to shield households from sales and use tax on gas used for residential heating, which can be viewed as a necessity, (ii) to reduce the cost of doing business for small businesses and (iii) to prevent pyramiding of the sales and use tax when the gas is used by manufacturers to power, light and heat industrial plants that produce items for sale. Members voted to approve the Exemption for Gas evaluation template with a change from "Somewhat Disagree" to "Somewhat Agree" on the question of whether the expenditure is claimed by a broad group of taxpayers, and to add an additional comment noting the environmental costs of incentivizing the purchase of heating fuels. Members also observed that the term “small business” is defined differently for purposes of the exemption than it is for other purposes in the General Laws.

Profession Weinzierl led a discussion on the Low-Income Housing Tax Credit. This tax expenditure was adopted in 1999 and has an annual revenue impact of $100 - $180 million during FY20 to FY24 with no sunset date. The Low-Income Housing Tax Credit (LIHTC) is available to corporate excise and personal income taxpayers that invest in low-income housing projects that meet federal and state eligibility rules. The credit is part of a federal program that authorizes a federal credit for such investments and subsidizes state credits in states that opt into the program. The Massachusetts Department of Housing and Community Development (DHCD) determines eligibility for, and the amount of, the credit pursuant to federal guidelines. A number of states allow low-income housing tax credits. These states include California, Connecticut, Maine, New Hampshire, New York, Rhode Island and Vermont. The Commission assumes that the goal of the expenditure is to increase the amount of low-income housing in the Commonwealth by subsidizing the construction, development, preservation, and improvement of low-income housing projects. Members voted to approve the Low-Income Housing Tax Credit evaluation template with additional comments noting that (i) for tax years 2021 through 2025, the Massachusetts LIHTC is subject to an annual statewide cap of $40 million, plus an additional $5 million to preserve and improve existing state or federally-assisted housing, (ii) for tax years 2026 and later, the statewide cap is $20 million, plus an additional $5 million to preserve and improve existing state or federally-assisted housing, and (iii) DHCD generally allocates to the full amount of the cap each year.

Chairperson Forter led a discussion on the Certified Housing Development Tax Credit. This tax expenditure was adopted in 2010 and has an annual revenue impact of $8.8 - $10.0 million during FY20 – FY24 with no sunset date. A personal income tax and corporate excise credit is allowed for up to 25% of costs incurred in constructing or rehabilitating housing in areas designated by the Department of Housing and Community Development (DHCD). Eighty percent of the housing must be available for rent or sale at market rate prices. Designated areas must be located in a city or town identified by statute as a gateway municipality. The DHCD determines eligibility for, and the amount of, the credit. A number of states offer general investment tax credits. However, the Commission is not aware of any other state that provides a specific credit for developing housing that is available for rent or sale at market rate prices. The goal of the tax expenditure is to promote increased residential growth, expanded diversity of housing supply, neighborhood stabilization, and economic development in gateway municipalities. Members voted to approve the Certified Housing Development Tax Credit evaluation template with changes from “Somewhat Disagree” to “Strongly Disagree” on the question of whether the expenditure benefits small businesses and low income taxpayers, a change in the goals of the expenditure from “health/environment” to “investment,” and additional comments noting that (i) until January 1, 2024, the total amount of credits awarded in a calendar year cannot exceed $10 million, including any carryforwards of credits from prior years estimated to be claimed in the calendar year, and (ii) for calendar years beginning January 1, 2024 or after, the total amount of credits awarded each year cannot exceed $5 million.

At 11:15 AM a Commission member disconnected from the teleconference due to internet connectivity issues. Remaining members continued to discuss tax expenditure evaluation ratings and proposed changes. Formal voting for the following tax expenditures will occur at the next Commission meeting.

Hailey Jenkins led a discussion on the Exclusion of Certain Foster Care Payments. This tax expenditure was adopted in 1983 and has an annual revenue impact of $3.7 - $4.4M during FY20 - FY24 with no sunset date. Massachusetts conforms to the federal income tax exclusion for payments by state and local social services agencies to taxpayers that provide foster care to children in need. States that conform to the Internal Revenue Code for personal income tax purposes adopt the exclusion unless they have specifically decoupled. The Commission is not aware of any state that has decoupled. The Commission assumes that the goal of the expenditure is to ease the financial burden of caring for foster children. Members proposed a change to the Exclusion of Certain Foster Care Payments evaluation template from "Somewhat Disagree" to "Somewhat Agree" on the question of whether the expenditure is easily administered. Members will vote on the evaluation template at the next Commission meeting.

Hailey Jenkins led a discussion on the Rent Deduction. This tax expenditure was adopted in 1980 and has an annual revenue impact of $145.7 - $159.9 million during FY20 - FY24 with no sunset date. Renters may deduct one-half of the rent paid for a principal residence located in Massachusetts up to a maximum deduction of $3,000 per year. The deduction is available to all renters, regardless of age or income. No other state provides a deduction to all taxpayers for rent paid, regardless of age, income level, or whether property taxes were paid through rent. Several other states have rent deductions or credits available to the elderly or to low-income taxpayers or for property taxes paid through rent. These states include California, Indiana, Maine, New Jersey, New York, and Vermont. The Commission assumes that the goal of the expenditure is to provide a subsidy to renters. Members proposed to include additional comments to the Rent Deduction evaluation template noting that (i) this tax expenditure benefits wealthier taxpayers; filers with a net adjusted gross income (AGI) above $100,000 claimed 14.3% of all deductions; filers with a net AGI below $50,000 account for slightly more than half of all deductions (53.6% in count and 52.2% in dollar amount); and the average deduction per claimant tends to increase as net AGI increases, and (ii) there is a pending proposal to raise the rent deduction from $3,000 to $4,000. Members will vote on the evaluation template at the next Commission meeting.

Hailey Jenkins led a discussion on the Exemption for Electricity. This tax expenditure was adopted in 1990 and has an annual revenue impact of $340.1 - $470.2 million during FY20 - FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for sales of (i) electricity for residential use, (ii) electricity purchased by certain small businesses, and (iii) electricity purchased for use in an industrial plant. Most states that tax the sale of electricity exempt sales for residential use and use in industrial plants at least in part. Connecticut, Maine, and New York provide exemptions for residential and industrial users. Vermont exempts only residential use. California and Rhode Island do not tax sales of electricity. The Commission is not aware of any other state that provides an exemption for purchases of electricity by small businesses. The Commission assumes that the goal of the expenditure is to shield residential users and small businesses from sales and use tax on electricity and to provide industrial plants powered by electricity an exemption similar to the exemption available to manufacturing facilities powered by other fuels. The exemption may prevent pyramiding of the sales and use tax when the electricity is used by manufacturers to power, light, and heat industrial plants that produce items for sale. Members proposed a change to the Exemption for Electricity evaluation template from "Somewhat Disagree" to "Somewhat Agree" on the question of whether the expenditure is easily administered, and a change from "Strongly Agree" to "Somewhat Agree" on the question of whether the amount claimed per taxpayer is meaningful. Members will vote on the evaluation template at the next Commission meeting.

Members discussed the next batch of tax expenditures to be reviewed at the next Commission meeting. Members agreed to schedule the next meeting for mid- to late-June. Chairperson Forter concluded the meeting at 11:45 AM.

Tax Expenditure Review Commission Public Meeting Minutes
June 29, 2023
Via Teleconference
10:00AM

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
Kerri-Ann Hanley, Designee, MA Auditor
Sue Perez, Designee, MA Treasurer
Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair
Hailey Jenkins, Designee, Senate Ways and Means Committee
Professor Michelle Hanlon, Governor's Appointee

Commission Members Absent:

Professor Matthew Weinzierl, Governor's Appointee
Representative Michael Soter, Designee, House Minority Leader
Tim Sheridan, Designee, House Ways and Means Committee
Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
Chris Anderson, Designee, Senate Minority Leader

List of Documents:

1. Meeting Agenda
2. Draft Minutes – April 27, 2023 Meeting
3. Revisit April Draft Reports of Tax Expenditures
4. June Draft Reports of Tax Expenditures

Chairperson Forter welcomed the Commission members. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 10:05AM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for purposes of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter provided an overview of the April 27, 2023 draft meeting minutes and requested that Commission members provide any changes. During the April meeting at 11:15 AM a Commission member disconnected from the teleconference due to internet connectivity issues, remaining members continued to discuss tax expenditure evaluation ratings and proposed changes. These tax expenditures included the Exclusion of Certain Foster Care Payments, Rent Deduction, and Exemption for Electricity. Proposed changes to evaluation templates are outlined in the April 27, 2023 Meeting Minutes. Members voted to approve the April meeting minutes and changes to evaluation templates. Members agreed to add an additional comment to the Rent Deduction evaluation template noting that "the average deduction per claimant tends to increase as net AGI increases" and that there is pending legislation to increase the deduction.

Chairperson Forter led a discussion on the Net Exemption of Employer Contributions and Earnings of Private Pension Plans. This tax expenditure was adopted in various years and has an annual revenue impact of $734.1- $1,082.3M during FY20 - FY24 with no sunset date. Employee contributions to employee stock bonus plans, pensions, and profit-sharing trusts are not subject to the Massachusetts personal income tax when made, if requirements under federal pension law are met. Distributions from such plans are generally taxable when received. Where employee contributions are not eligible for an exclusion, the distributions from those plans are excluded up to the amount of previously taxed contributions. Massachusetts conforms to these federal rules. This results in a deferral of tax on contributions to such plans, or an exclusion from tax on distributions, both of which constitute a state tax expenditure. States that impose a personal income tax generally follow federal tax law with regard to employee contributions to employee stock bonus plans, pension plans, and profit-sharing trusts unless they decouple from the Internal Revenue Code. The Commission is not aware of any states that have decoupled. A number of states allow full or partial exemptions for pension distributions. States that exempt all pension income include Georgia and Illinois. New York allows a partial exemption of up to $20,000 and Maine allows an exemption of up to $25,000. California, Connecticut, Rhode Island, and Vermont tax the full amount of pension income included in federal gross income. The Commission assumes that the policy goal of the tax expenditure is to encourage private employers to provide and make contributions to employee stock bonus plans, pension plans, and profit-sharing trusts and to encourage employees to participate in those plans. In addition, general conformity with the federal rules simplifies tax compliance and administration. Members voted to approve the Net Exemption of Employer Contributions and Earnings of Private Pension Plans evaluation template as presented.

Professor Hanlon led a discussion on the Exemption of Earnings on IRA and Keogh Plans. This tax expenditure was adopted in 1973 and has an annual revenue impact of $190.7M - $209.4M during FY20 – FY24 with no sunset date. Massachusetts exempts the earnings of IRAs and Keogh plans from the personal income tax until the earnings are distributed. Distributions of earnings from Roth IRAs may be exempt if the account is held for at least 5 years and certain additional requirements are satisfied. This is consistent with the federal tax treatment of such plans. The Commission is not aware of any state that taxes the income of IRAs or Keogh plans. The Commission assumes that the policy goal of the expenditure is to promote the growth of assets in IRAs and Keogh plans by allowing investment income to accumulate tax-free until distribution. Consistency with the federal treatment of such plans also simplifies tax compliance and administration by allowing the same general definitions to be used for Massachusetts and federal purposes. Members voted to approve the Exemption of Earnings on IRA and Keogh Plans evaluation template with a change to “Somewhat Agree” on the question of whether the expenditure benefits lower income taxpayers.

Hailey Jenkins led a discussion on the Tax-Exempt Organizations expenditure. The tax expenditure was adopted in various years (1954 for exemption; 2006 for tax on unrelated business income) and has an annual revenue impact of $280.8 - $404.1 during FY20 – FY24 with no sunset date. Internal Revenue Code (IRC) § 501 provides a general exemption from federal income tax for non-profit corporations. As provided in IRC § 512, the exemption does not apply to unrelated business income that such corporations earn from activities outside the scope of their exempt purposes. Massachusetts provides a corporate excise exemption for corporations that qualify for the federal exemption, but subjects unrelated business income to the net income measure of the excise. Most states conform to the general federal exemption for nonprofit corporations under IRC § 501 but subject such corporations to tax on their unrelated business income. States that do so include California, Connecticut, Maine, New Hampshire, New York, Rhode Island and Vermont. The Commission assumes that the goal of the expenditure is to encourage the formation and operation of non-profit corporations by relieving them of the burden of the corporate excise, thereby increasing the resources such organizations have available to devote to their missions. Members discussed direct costs in comparison to indirect costs. Members voted to approve the Tax-Exempt Organizations evaluation template with a change to the comment section; members agreed to remove the following comment, “the report states that the direct benefits are equal to direct cost. This assumes that the whole of tax savings are being passed on to other businesses and persons.”

Kerri-Ann Hanley led a discussion on the Exemption for Clothing. This tax expenditure was adopted in 1967 and has an annual revenue impact of $164.1M to $196.1M during FY20 – FY24 with no sunset date. Sales of clothing or footwear up to $175 per item are exempt from sales and use tax. The exemption does not include special clothing or footwear designed for athletic or protective uses and not normally worn except for these uses. Most states impose sales and use tax on sales of clothing. However, a number of states have exemptions for clothing. Connecticut, New York, Rhode Island, and Vermont have limited exemptions similar to the one in Massachusetts. California and Maine tax sales of clothing. The Commission assumes that the goal of the tax expenditure is to reduce the burden of tax on clothing, as clothing is viewed as a necessity. Members voted to approved the Exemption for Clothing evaluation template with the following changes: (i) a change from “Somewhat Agree” to “Strongly Agree” on the question whether the tax expenditure is easily administered (ii) a change to “Somewhat Disagree” on the question whether the tax expenditure is beneficial to smaller businesses and (iii) an additional comment noting that the exemption does not include special clothing or footwear designed for athletic or protective uses and not normally worn except for these uses. The change to the question of whether the expenditure is beneficial to small businesses was made because small businesses that sell these items would receive a lower “after tax” price relative to those small businesses selling clothing covered by the exemption.

Sue Perez led a discussion on the Exemption for Water. This tax expenditure was adopted in 1967 and has an annual revenue impact of $123.7M - $148.9M during FY20 – FY24 with no sunset date. Sales of water are exempt from sales and use tax whether the water is provided through utility services, in containers or otherwise, and regardless of how the water is used, except those charges for water provided as part of meals served by restaurants are taxable. Most states that impose a sales and use tax allow an exemption for the provision of water under certain circumstances. California exempts water provided through utility services and drinking water provided in containers, but taxes water used for industrial purposes. Connecticut generally exempts all sales of water. Maine allows an exemption for water provided to residences (not including hotels) through utility services and water used for industrial purposes. New York exempts water provided through utility services and water used for industrial purposes. Rhode Island exempts water provided to residences for domestic use and water used for industrial purposes. Vermont exempts water provided through utility services and water used for industrial purposes. The Commission assumes that the goal of the expenditure is to shield the provision of water from sales and use tax, as water is a necessity for households and businesses. As it is used in industrial plants, the tax expenditure also helps to prevent pyramiding of sales and use tax on manufactured products. Members voted to approve the Exemption for Water evaluation template with the following changes: (i) a change from “Strongly Agree” to “Somewhat Agree” on the question whether the tax expenditure is claimed by its intended beneficiaries, (ii) a change from “Somewhat Agree” to “Strongly Agree” on the question whether the tax expenditure benefits a broad group of taxpayers, (iii) a change from “Somewhat Agree” to “Strongly Agree” on the question whether the tax expenditure is easily administered, (iv) a change from “Somewhat Disagree” to “Somewhat Agree” on the question whether the tax expenditure benefits smaller businesses, (v) a change from “Somewhat Disagree” to “Somewhat Agree” on the question whether the tax expenditure benefits lower income taxpayers, and (vi) an additional comment noting that, in general, sales tax is more burdensome on lower income taxpayers than wealthier taxpayers since lower income taxpayers spend a larger percentage of wages on necessities.

Chairperson Forter briefly led a discussion on the language of the "Business only" and "Individuals only" sections of the tax expenditure evaluation template. Members agreed to update the language of these sections from "the TE is beneficial…" to "the TE is primarily beneficial…".

Professor Hanlon led a discussion on the Exemption for Steam. This tax expenditure was adopted in 1971 & 1990 and has an annual revenue impact of $0.6M to $0.7M during FY20 – FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for sales of (i) steam used for residential purposes, (ii) steam purchased for use by certain small businesses and (iii) steam purchased for use in an industrial plant subject. Most states that impose a sales and use tax exempt sales of steam used in residences or industrial plants at least in part. Connecticut, Maine, New York and Rhode Island provide exemptions for residential and industrial users. California and Vermont exempt only residential use. The Commission is not aware of any other state that provides an exemption for purchases of steam by small businesses. The Commission assumes that the goal of the expenditure is to shield households, small businesses, and manufacturers from sales and use tax on steam, which is often used for residential, heating, or manufacturing purposes. The Commission further assumes that steam used in manufacturing is exempt in order to avoid pyramiding of the sales and use tax. Members questioned how and why steam is purchased and whether steam is considered efficient or "green". Members discussed the narrow market for steam in Massachusetts and questioned whether the purchase of steam should be incentivized. Members agreed to table the Exemption for Steam evaluation template until the next Commission meeting; DOR agreed to conduct further research for available data.

Chairperson Forter noted that the Exemption for Certain Motor Vehicles will be reviewed during the next Commission meeting. The Commission did not have a completed evaluation template for this tax expenditure at the time of this meeting.

Members discussed the next batch of tax expenditures to be reviewed at the next Commission meeting. Members agreed to schedule the next meeting for mid-September. Chairperson Forter concluded the meeting at 11:05 AM.

Tax Expenditure Review Commission Public Meeting Minutes
October 12, 2023
Via Zoom
1:00PM

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
Sue Perez, Designee, MA Treasurer
Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair
Hailey Jenkins, Designee, Senate Ways and Means Committee
Representative Michael Soter, Designee, House Minority Leader
Stephen Lisauskas, Designee, MA Auditor

Commission Members Absent:

Professor Michelle Hanlon, Governor's Appointee
Professor Matthew Weinzierl, Governor's Appointee
Tim Sheridan, Designee, House Ways and Means Committee
Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
Senator Bruce Tarr, Senate Minority Leader

List of Documents:

1. Meeting Agenda
2. Draft Minutes – June 29, 2023 Meeting
3. Revisit June Draft Reports of Tax Expenditures
4. October Draft Reports of Tax Expenditures

Chairperson Forter welcomed Commission members. Chairperson Forter noted changes in membership; (i) Kerri-Ann Hanley and Chris Anderson have resigned from the Commission, (ii) Stephen Lisauskas has been appointed as the new designee for the State Auditor's Office, and (iii) the Senate Minority Leader's new designee is expected to be appointed soon. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 1:03PM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for purposes of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter provided an overview of the June 29, 2023 draft meeting minutes and requested that Commission members provide any changes. Members did not provide any comment. Members voted to approve the June meeting minutes as drafted.

Chairperson Forter noted that the Exemption for Steam was briefly discussed during the June meeting but the Commission had not voted to approve the evaluation template. During the June meeting, members questioned how and why steam is purchased and whether steam is considered efficient or "green". Members had also discussed the narrow market for steam in Massachusetts and questioned whether the purchase of steam should be incentivized. Those members that were previously assigned to evaluate this tax expenditure were absent from this Commission meeting. Members agreed to revisit the Exemption for Steam evaluation template during the next Commission meeting.

Chairperson Forter noted that the Exemption for Certain Motor Vehicles was not reviewed during the June Commission meeting as the Commission did not have a completed evaluation template at the time.

Hailey Jenkins proceeded to lead a discussion on this tax expenditure, which was adopted in various years including (i) in 1967 for persons that have lost the use of two or more limbs and (ii) in 2006 for permanently disabled veterans. This tax expenditure has an annual revenue impact of $1.6 - $2.1 million during FY20 - FY24 with no sunset date. The tax expenditure provides an exemption from the sales and use tax for the sale of a motor vehicle that is purchased by and for the use of: (i) a person that has permanently lost the use of two or more limbs or (ii) a permanently disabled veteran. The exemption applies to the sales price of the vehicle and any charge for adaptive modifications included in the sales price. See Letter Ruling 81-105. To qualify for the exemption, a motor vehicle must be owned and registered by the eligible person and be used for personal, noncommercial purposes. The exemption is limited to one motor vehicle per person. The exemption also applies to the purchase of a motor vehicle by a parent or legal guardian of an eligible person who is a minor child, or the legal guardian or legal conservator of an adult who is unable to enter into a legal contract, for use in transporting the child or adult, if the parent, legal guardian, or conservator is the registered owner. See Letter Ruling 03-11. Absent the exemption afforded by this tax expenditure, persons that have lost the use of multiple limbs and permanently disabled veterans would be required to pay sales tax and use tax on purchases of a motor vehicles, which may create a financial barrier to purchasing a motor vehicle and therefore limit the mobility options for such persons.

States vary in their sales and use tax treatment of motor vehicles purchased for use by persons with disabilities. Some states, including New York, tax such purchases without any exemptions for purchasers who have a disability. Other states, including California, Connecticut, Maine, and Rhode Island, tax such purchases of motor vehicles but allow an exemption for amounts charged for adaptive modifications to the vehicles. Maine also allows a full exemption for motor vehicles purchased by veterans who are amputees. A few states, including Vermont, allow an exemption for motor vehicles, including adaptive modifications, purchased by persons with qualifying disabilities.

The Commission assumes that the goal of the tax expenditure is to reduce the cost of motor vehicles for certain persons with disabilities, allowing such persons improved access to motor vehicles and thus greater mobility. Members agreed this tax expenditure should not be flagged for legislative review. Members voted to approve the evaluation template for the Exemption of Certain Motor Vehicles as presented.

Hailey Jenkins briefly discussed the Dairy Farmer Tax Credit. This tax expenditure was adopted in 2008 and has an annual revenue impact of $4.8 - $5.0 million for personal income tax, and $1.0 - $1.1 million for corporate and business tax during FY21 – FY25 with no sunset date. Massachusetts provides dairy farmers registered with the Massachusetts Department of Agricultural Resources (MDAR) a refundable personal income tax or corporate excise credit to offset cyclical downturns in milk prices. The credit is determined under regulations issued by the MDAR. See 330 CMR 29.00. The credit is triggered for any taxable year in which aggregate milk production costs (as determined by MDAR) exceed aggregate milk prices (also as determined by MDAR) in at least one month. The credit is based on the difference between production costs incurred by farmers (referred to as the farm price of the milk) and the price of milk established by the MDAR. The credit is determined on a statewide basis and is allocated to taxpayers based on the amount of the milk they produced and sold. The MDAR determines the credit and notifies the Department of Revenue of the amount of credit awarded to each taxpayer. The total personal income tax and corporate excise credits that can be awarded across the state cannot exceed $6 million in any year. The credit is fully refundable but cannot be sold or transferred. In the absence of the credit dairy farmers would be exposed to fluctuations in milk prices that might provide a disincentive for dairy farmers to start new dairy farms or to continue existing dairy businesses.

States offer a variety of tax incentives for taxpayers engaged in agriculture, including dairy farming. However, it appears that Louisiana is the only other state that offers dairy farmers a credit to offset downturns in milk prices. The Commission did not vote on the evaluation for this tax expenditure. Hailey Jenkins and Professor Weinzierl were assigned this tax expenditure; Professor Weinzierl was unable to attend this Commission meeting. Hailey Jenkins mentioned Professor Weinzierl did not agree with her draft evaluation template and that he would be providing his own ratings. Members agreed to revisit the Dairy Farmer Tax Credit evaluation template during the next Commission.

Sue Perez provided an overview of the Farming and Fisheries Tax Credit. This tax expenditure was adopted in 2015 and has an annual revenue impact of $0.1 - 0.3 million during FY21 - FY25 with no sunset date. Personal income taxpayers who are primarily engaged in agriculture, farming, or commercial fishing are allowed an investment tax credit equal to 3% of the cost of qualifying tangible property used in such activities in Massachusetts. Qualifying property is defined as tangible personal property and other tangible property, including buildings and structural components thereof, that is (i) purchased by the taxpayer, (ii) located and used by the taxpayer in Massachusetts, (iii) not subject to the registered motor vehicle excise, (iv) used solely in agriculture, farming, or fishing, and (v) depreciable with a useful life of at least 4 years. The credit is not allowed if the taxpayer leases the property as a lessor. The credit is also allowed for taxpayers that lease qualifying property that is situated in Massachusetts throughout the entire lease term. The credit for leased property is equal to 3% of a lessor's adjusted basis in the property at the beginning of the lease term, multiplied by a fraction, the numerator of which is the number of days of the tax year during which the lessee leases the property and the denominator of which is the number of days in the useful life of the property. The credit is not allowed if the lessor has previously received a credit with respect to the leased tangible personal property. Credit recapture is required if property on which a credit is taken is disposed of or ceases to be used solely in agriculture, farming, or fishing prior to the end of its useful life. Credits in excess of the taxpayer’s personal income tax liability may be carried forward for three years. Note that corporations engaged in agriculture or commercial fishing may also claim a 3% investment tax credit against the corporate excise. The corporate excise credit is addressed in a separate evaluation for the Investment Tax Credit. In the absence of the tax expenditure personal income taxpayers engaged in agriculture, farming, or fishing would bear the full cost of all property used in their businesses.

States offer a variety of tax incentives for taxpayers engaged in agriculture, farming, and fishing. However, it appears that only New York offers an investment tax credit similar to the Massachusetts credit. In addition, several states offer credits for purchases of land and equipment by farmers that begin new farming businesses. These states include Iowa, Kentucky, Minnesota, Nebraska, and Pennsylvania. The Commission assumes that the tax expenditure is intended to support investment in local food production by reducing costs related to equipment and facilities through the provision of a personal income tax credit. Members agreed that this tax expenditure should not be flagged for legislative review. Members noted that on average, there are only 80 taxpayers taking advantage of this tax credit while there are over 7,000 farms in Massachusetts. Members speculated that a number of factors may contribute to the small percentage of eligible taxpayers to claim the credit. Members also noted that perhaps not all taxpayers are purchasing qualifying property each year. The Commission concluded that the exact reason for the small percentage of claimants may be difficult to determine as it requires analyzing individual tax returns. Members voted to approve the evaluation template for the Farming and Fisheries Tax Credit with an additional comment noting various factors that may contribute to the small percentage of claimants.

Sue Perez provided an overview on the Exemption of Interest from Massachusetts Obligations. This tax expenditure was adopted in 1973 and has an annual revenue impact of $70.8 - $86.4 million during FY21 - FY25 with no sunset date. Under Internal Revenue Code ("Code") § 103, gross income generally excludes the interest earned on state and local bonds. Massachusetts does not conform to the federal exclusion, but provides a personal income tax exemption for interest income from obligations issued by the Commonwealth of Massachusetts, political subdivisions of the Commonwealth, or any agency or instrumentality thereof. See M.G.L. c. 62, § 2 (a)(1)(A). Interest from such obligations issued by other states, their political subdivisions, agencies, and instrumentalities is added back to federal gross income when determining Massachusetts gross income and is thus taxable in Massachusetts. The exemption for interest from Massachusetts state and local obligations results in a state tax expenditure. Note that gain from the sale of Massachusetts state and local obligations may be exempt if such an exemption is specifically allowed by the statute authorizing the issuance of the obligations. Such obligations are not typical and exempt gain is not considered in this analysis. In the absence of the personal income tax exemption, interest earned on Massachusetts state and local bonds would generally be taxable in Massachusetts. However, even in the absence of this tax exemption, income from such interest earned or derived by a non-resident is generally not subject to Massachusetts income tax. See 830 CMR 62.5A.1(4).

Most states that impose a personal income tax provide a general exemption for interest on their own state and local obligations. These states include California, Connecticut, Maine, New Hampshire (interest and dividends tax), New York, Rhode Island, and Vermont. A few states, including Illinois and Wisconsin, allow an exemption only for obligations specifically designated as tax exempt by statute. These states tax interest on at least some of their obligations.

Members discussed the scope of the state tax expenditure relative to the federal tax expenditure. Members questioned whether private purpose debt is covered by the state tax expenditure and agreed it would be beneficial to confirm whether the state tax expenditure includes private purpose debt, as it is covered by the federal tax expenditure. Members agreed not to flag this tax expenditure for legislative review. Members voted to approve the evaluation template for the Exemption of Interest from Massachusetts Obligations with change to "Strongly Agree" on the question whether the tax expenditure is relevant today and a change to "Somewhat Disagree" on the question whether the tax expenditure is primarily beneficial to lower-income taxpayers and an additional comment noting that the tax expenditure is intended to help finance state and local government projects by making state and local obligations more attractive to investors.

Chairperson Forter provided an overview on the Discharge of Indebtedness for Health Care Professionals. This tax expenditure was adopted in 2005 and has an annual revenue impact of $0.8 - $1.2 million during FY21 - FY25 with no sunset date. In general, amounts attributable to the discharge of indebtedness, such as from loan forgiveness, are deemed to be taxable income. Among the exceptions to this rule is the federal exclusion of the discharge of indebtedness for amounts attributable to certain costs for students entering health care professions. Massachusetts adopts this federal exclusion. The exclusion applies to student loan cancellation, amounts received as loan repayments, and amounts attributable to loan forgiveness under certain programs established to increase the availability of health care services in underserved areas. These programs include the National Health Service Corps (NHSC) Loan Repayment Program under section 338B(g) of the Public Health Service Act; state run programs that are eligible under section 338I of the Public Health Service Act; and any other state loan repayment program or loan forgiveness program that is intended to provide for increased availability of health care services in underserved or health professional shortage areas. Code § 108(f)(4). Although eligible state loan repayment or forgiveness programs may require a participant to work in Massachusetts, there is no such requirement in the tax rules. Absent the exclusion described above, amounts that students in the health care field receive in the form of loan repayment or forgiveness would be counted as taxable income to the student. Relief from such taxation removes a potential financial barrier to participating in programs that incentivize students to pursue health care careers in underserved areas.

Generally, states adopt the federal exclusion for discharges of indebtedness related to costs for students entering health care professions due to the states' reliance on the Code for purposes of defining income. States that do so include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state that does not adopt the federal exclusion. The Commission assumes that the goal of this expenditure is to encourage people to enter health care professions to address staff shortages and provide for increased availability of health care services in underserved areas. Members agreed not to flag this tax expenditure for legislative review. Members voted to approve the evaluation template for the Discharge of Indebtedness for Health Care Professionals as presented.

Chairperson Forter provided an overview of the Exemption of Premiums on Group-Term Life Insurance. This tax expenditure was adopted in 1964 and has an annual revenue impact of $21.3 - 31.5 million during FY21 - FY25 with no sunset date. Massachusetts conforms to Code § 79 for purposes of determining gross income under the personal income tax. Under that section, employer payments of employees' group-term life insurance premiums for coverage up to $50,000 per employee are excluded from the employees' income. Amounts paid for coverage in excess of $50,000 are included in the employees' income unless (i) the insurance is provided through a retirement plan, (ii) the employer is a beneficiary of the insurance policy or (iii) a government or non-profit agency is the sole beneficiary of the insurance policy. Note that premiums paid by the employer are deductible as employee compensation whether or not they are excluded from employee income. The tax expenditure summary report does not take the employer deduction into account. Without this exclusion, employer payments of employees' term life insurance premiums would be considered taxable income to employees. Personal income tax foregone as a result of the exclusion constitutes a tax expenditure.

All states that impose an income tax adopt the tax expenditure unless they decouple from Code § 79. The Commission is not aware of any state that that has decoupled. States that adopt the tax expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission assumes that the purpose of the expenditure is to cause more people to be covered by group-term life insurance by allowing employers to provide employees with coverage on a tax-free basis. Members agreed not to flag this tax expenditure for legislative review. Members voted to approve the evaluation template for the Exemption of Premiums on Group-Term Life Insurance as presented.

Stephen Maher provided an overview of the Exemption of Interest on Life Insurance Policy and Annuity Cash Value. This tax expenditure was adopted in 1954, but an exemption for life insurance proceeds paid on the death of the insured was allowed under predecessor statutes since 1913, and has an annual revenue impact of $326.8 - $419.4 million during FY21 - FY25 with no sunset date. This tax expenditure is in effect because of Massachusetts' conformity with Code § 101. Under that provision, increases in the cash value of life insurance policies and annuities are not included in the policy holder's income. Such increases in value are taxable when the policy is surrendered or when such amounts are paid as policy dividends, but only to the extent that they exceed total premiums paid and any cash consideration paid for the policy. If a life insurance policy or annuity is in force when the policy holder dies, the increases in cash value and the amount of any death benefit are excluded from the income of the beneficiaries of the insurance policy or annuity. Thus, taxation of income received by insurance policies or annuities is deferred until distributed to the policy holder. The deferral becomes permanent if the increase is distributed to policy beneficiaries when the policy holder dies. Death benefits paid in installments that include interest earned on the benefit after the policy holder's death are taxable. In the absence of the tax expenditure, increases in policy or annuity values would result in taxable income to the policy holder each year and death benefits would be taxable when received by insurance policy or annuity beneficiaries. This would make insurance policies and annuities less attractive to taxpayers.

All states that impose an income tax adopt the tax expenditure, unless they decouple from Code § 101. The Commission is not aware of any state that has decoupled. States that adopt the tax expenditure include California, Connecticut, Maine, New Hampshire (interest and dividends tax), New York, Rhode Island, and Vermont. The Commission assumes that the purpose of this expenditure is to encourage taxpayers to purchase cash value life insurance thereby providing themselves and their families a measure of financial security after the taxpayer's death. Members discussed the fact that this expenditure benefits individuals at all income levels. Stephen Lisauskas suggested that perhaps the exemption should be means-tested. Some members suggested that a means test may not be reasonable given the scale of this tax expenditure while other members questioned whether it was the role of the Commission to suggest such a change. Members voted not to flag this tax expenditure for legislative review, with Stephen Lisauskas dissenting. Members voted to approve the evaluation template as drafted, with Stephen Lisauskas dissenting.

Members discussed the next batch of tax expenditures to be reviewed at the next Commission meeting. Members agreed to schedule the next meeting for the week of November 13th or the week of November 27th. Chairperson Forter stated that Cole Doherty-Crestin will distribute a poll to members to determine the next meeting date. Chairperson Forter concluded the meeting at 2:29PM.

Tax Expenditure Review Commission Public Meeting Minutes
November 15, 2023
Via Zoom
1:30PM

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
Sue Perez, Designee, MA Treasurer
Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair
Hailey Jenkins, Designee, Senate Ways and Means Committee
Representative Michael Soter, Designee, House Minority Leader
Stephen Lisauskas, Designee, MA Auditor
Professor Michelle Hanlon, Governor's Appointee
Professor Matthew Weinzierl, Governor's Appointee

Commission Members Absent:

Tim Sheridan, Designee, House Ways and Means Committee
Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
Senator Bruce Tarr, Senate Minority Leader

List of Documents:

I. Meeting Agenda
II. Draft Minutes – October 12, 2023 Meeting
III. Revisit June and October Draft Reports of Tax Expenditures
    i. Exemption for Steam
    ii. Dairy Farmer Tax Credit
IV. November Draft Reports of Tax Expenditures
    i. Expensing of Certain Capital Outlays of Farmers
    ii. Exemption of Employer Contributions to Accident and Health Plans and Certain Benefits Received
    iii. Self-Employed Health Insurance Deduction
    iv. Exemption for Medical and Dental Supplies and Devices Including Breast Pumps
    v. Exemption of Public Assistance Benefits
    vi. Exemption of Workers' Compensation Benefits

Chairperson Forter welcomed Commission members. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via Zoom was called to order at 1:34PM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for the purpose of meeting minutes. The recording of the meeting will be kept for public record.

Chairperson Forter stated that the Exemption for Steam was briefly discussed during the June meeting, but the Commission had not voted to approve the evaluation template; Professor Hanlon continued the discussion on this tax expenditure. The exemption was adopted in 1971 & 1990 and has an annual revenue impact of \$0.6M-\$0.7M during FY20-FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for sales of (i) steam used for residential purposes, (ii) steam purchased for use by certain small businesses and (iii) steam purchased for use in an industrial plant subject.

Most states that impose a sales and use tax exempt sales of steam used in residences or industrial plants, at least in part. Connecticut, Maine, New York and Rhode Island provide exemptions for residential and industrial users. California and Vermont exempt only residential use. The Commission is not aware of any other state that provides an exemption for purchases of steam by small businesses. The Commission assumes that the goal of the expenditure is to shield households, small businesses, and manufacturers from sales and use tax on steam, which is often used for residential, heating, or manufacturing purposes. The Commission further assumes that steam used in manufacturing is exempt in order to avoid pyramiding of the sales and use tax.

Members noted that steam is typically generated by a third party (either the seller or a vendor of the seller) at a generation facility using oil or natural gas and delivered via a piping system to the customer. By encouraging the usage of steam, this expenditure could have a negative environmental impact and may discourage the use of other “greener” energy sources. Members had also discussed the narrow market for steam in Massachusetts and questioned whether the purchase of steam should be incentivized. It is not known how many MA taxpayers benefit from this tax expenditure. Steam is often purchased by customers in the health, government, and hospitality industries for myriad purposes, e.g., power generation, process needs, heating and cooling, sterilization, etc. Members voted to approve the Exemption for Steam evaluation template with a change to “Yes” on the question whether to flag this tax expenditure for legislative review.

Hailey Jenkins and Professor Weinzierl led a discussion on the Dairy Farmer Tax Credit. This tax expenditure was adopted in 2008 and has an annual revenue impact of \$4.8-\$5.0 million for personal income and \$1.0-\$1.1 million for corporate and business tax during FY21-FY25 with no sunset date. Massachusetts provides dairy farmers registered with the Massachusetts Department of Agricultural Resources (MDAR) a refundable personal income tax or corporate excise credit to offset cyclical downturns in milk prices. The credit is determined under regulations issued by the MDAR. The credit is triggered for any taxable year in which aggregate milk production costs (as determined by MDAR) exceed aggregate milk prices (also as determined by MDAR) in at least one month. The credit is based on the difference between production costs incurred by farmers (referred to as the farm price of the milk) and the price of milk established by the MDAR. The credit is determined on a statewide basis and is allocated to taxpayers based on the amount of milk they produced and sold. The MDAR determines the credit and notifies the Department of Revenue (DOR) of the amount of credit awarded to each taxpayer. At the time the summary report for this tax expenditure was drafted the total credits that could be awarded across the state could not exceed \$6 million in any year. Members noted that that tax credit annual cap recently increased from \$6 million to \$8 million. The credit is fully refundable but cannot be sold or transferred. In the absence of the credit dairy farmers would be exposed to fluctuations in milk prices that might provide a disincentive for them to start new dairy farms or continue existing dairy businesses.

States offer a variety of tax incentives for taxpayers engaged in agriculture, including dairy farming. However, it appears that Louisiana is the only other state that offers dairy farmers a credit to offset downturns in milk prices. The Commission assumes that the tax expenditure is intended to offset the effect of cyclical downturns in milk prices on Massachusetts dairy farmers, thereby helping to ensure a stable supply of local dairy products.

Members voted to approve the Dairy Farmer Tax Credit evaluation template with (i) a change to "Somewhat Agree" on the question whether we can measure the overall benefit toward achieving the goal, (ii) a change to "Somewhat Disagree" on the question whether the tax expenditure's benefit justifies its fiscal cost, (iii) a change to "Somewhat Agree" on the question whether the tax expenditure is relevant today, and (iv) additional comments noting that Massachusetts is not a leading state in dairy farming and that it may be worthwhile to observe other states' programs more closely as there may be more efficient or effective ways to support dairy farmers.

Chairperson Forter led a discussion on the Expensing of Certain Capital Outlays of Farmers. This tax expenditure was adopted in 1954 and has an annual revenue impact of $0.2-$0.3 million during FY21-FY25 with no sunset date. The expenditure results from Massachusetts' conformity to the Internal Revenue Code (Code) with regard to the immediate deduction allowed to farmers for soil and water conservation expenses, prevention of erosion, endangered species recovery, and fertilizer costs. Such items might otherwise have to be capitalized and depreciated or amortized over a number of years. Code §§ 175 and 180 provide exceptions to the capitalization requirement for expenses incurred by farmers for (i) soil and water conservation expenses and (ii) fertilizer costs, respectively.

Code § 175 allows a deduction for soil and water conservation expenses in the year they are incurred even if the conservation measures provide a benefit over a number of years. The deduction cannot exceed 25% of a taxpayer's gross income derived from farming. To qualify for an immediate deduction, expenses must be consistent with a plan approved by the federal Department of Agriculture or a similar state agency. Eligible expenses include amounts paid for (i) the treatment or movement of earth, including leveling, grading and terracing, (ii) contour furrowing, (ii) the construction, control, and protection of diversion channels, drainage ditches, earthen dams, watercourses, outlets, and ponds, (iv) the eradication of brush, (v) the planting of windbreaks, and (vi) expenses incurred in preserving endangered animal species under a recovery plan approved pursuant to the federal Endangered Species Act of 1973.

Code § 180 allows the immediate deduction of fertilizer costs even if the fertilizer's effect lasts for multiple years. There is no limit on the amount of the deduction and no requirement that the expenses be approved by any federal or state agency. Massachusetts generally adopts the business expense deductions allowed under the Code, including the federal deduction allowed to farmers for soil and water conservation expenses and fertilizer costs.

States that base their personal and corporate income taxes on the Code allow the immediate deduction of soil and water conservation expenses and fertilizer costs unless they decouple from the Code with respect to the deduction. The Commission is not aware of any state that has decoupled. States that adopt the deduction include California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. The Commission assumes the goal of the tax expenditure is to support farmers by allowing an immediate deduction for conservation and fertilizer expenses, thereby encouraging participation in the agricultural industry, decreasing farmers' production costs, and encouraging farmers to undertake certain conservation efforts.

Members noted that the benefit of this tax expenditure is difficult to quantify because DOR does not have data on the number of individuals claiming it, or the amount per claim. Members agreed that the federal deduction is a meaningful incentive, but it is less clear that the addition of the state deduction moves the needle at all. Furthermore, it's not entirely clear why investments in conservation and expenditure on fertilizer are both included in this tax expenditure, but perhaps this is best thought of as a rule that is offsetting the general distortion on investment in farming due to the excise tax. Members agreed to approve the Expensing of Certain Capital Outlays of Farmers evaluation template as presented.

Professor Weinzierl led a discussion on the Exemption of Employer Contributions to Accident and Health Plans and Certain Benefits Received. This tax expenditure was adopted in 1973 and has an annual revenue impact of $1,235-$1,489 million during FY21-FY25 with no sunset date. Massachusetts conforms to the federal individual income tax exclusions (i) for employer contributions to employees' accident and health plans and (ii) benefits received by employees from such plans.

The federal exclusion for employer contributions to accident and health plans results from Code § 106. The term "accident or health plans" includes not only health insurance but also accidental death and dismemberment insurance, short-term and long-term disability coverage, and coverage through reimbursement arrangements such as health care flexible spending accounts (FSAs) and health reimbursement accounts (HRAs). The exclusion is generally available up to a statutory limit specified for each type of plan. Note that Massachusetts law may require employer-provided accident or health plans to offer coverage beyond what is excludable under Code § 106.

Code § 105 provides exclusions for the value of benefits received by employees under an accident and health plan. The exclusion generally applies to health care services received under such a plan, so long as the services would be eligible for the federal medical expense deduction under Code § 213. Amounts received due to accidents are generally excludable if the accident results in the permanent loss or loss of use of a part of the body, or permanent disfigurement. Compensation for absence from work is generally not eligible for the exclusion. Note that Code §§ 105 and 106 contain technical rules preventing discrimination in favor of highly compensated employees and requiring minimum participation thresholds among employees.

All states that impose a personal income tax adopt the expenditure unless they decouple from Code §§ 105 and 106. California has decoupled from the federal exclusion for the limited purpose of including in employee income certain employer contributions to medical savings accounts. Rhode Island allows a slightly expanded exclusion, covering employer contributions to certain medical savings accounts beyond the exclusion allowed under the Code. Connecticut, Maine, New York, and Vermont conform to the federal exclusion. The Commission assumes the goal of the expenditure is to promote employees' participation in employer-sponsored accident and health plans by reducing employees' after-tax cost of participation.

Members agreed that given the enormous revenue impact of this tax expenditure, it is important for policymakers to understand its effects and whether it continues to be an efficient way to subsidize access to coverage. Members agreed to flag this tax expenditure for legislative review. Missing from the current DOR report is a discussion of this tax expenditure's distortion of the market for health insurance. The exemption lowers the cost of health insurance relative to wages, so employers and employees are incentivized to purchase more generous health insurance plans than they would in an undistorted market. Members voted to approve the Exemption of Employer Contributions to Accident and Health Plans and Certain Benefits Received evaluation template with a change to "Yes" on the question whether to flag this tax expenditure for legislative review.

Professor Hanlon led a discussion on the Self-Employed Health Insurance Deduction. This tax expenditure was adopted in 1986 and has an annual revenue impact of $44-$49 million during FY21-FY25 with no sunset date. Massachusetts adopts the trade or business expense deductions allowed under the Code for personal income tax purposes.

Code § 162(l) allows self-employed individuals to deduct the amount they pay for health insurance for themselves, their spouses, their dependents that are family members, and their children under the age of 27. The deduction cannot exceed the taxpayer's earned income derived from self-employment and must be reduced by any applicable federal credit that the taxpayer claims for health insurance. Because of the Commonwealth's reliance on the Code for purposes of determining deductible trade or business expenses, Massachusetts allows self-employed taxpayers a deduction for health insurance costs equal to the federal deduction. The revenue that is lost as a result of the deduction constitutes a tax expenditure.

All states that impose an income tax adopt the expenditure, unless they decouple from Code § 162(l). The Commission is not aware of any state that has decoupled. States that adopt the expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission assumes the goal of the expenditure is to encourage taxpayers to start or continue businesses by allowing self-employed taxpayers a deduction for health insurance similar to the exclusion for health insurance benefits that is available to employees.

Members voted to approve the Self-Employed Health Insurance Deduction evaluation template with an additional comment. The Commission agreed not to flag this tax expenditure for legislative review but agreed that it is important for policymakers to understand its effects and whether it continues to be an efficient way to subsidize access to coverage.

Hailey Jenkins led a discussion on the Exemption for Medical and Dental Supplies and Devices Including Breast Pumps. This tax expenditure was adopted in 1967 and has an annual revenue impact of $638.0-$818.5 million during FY21-FY25. Massachusetts provides a sales and use tax exemption for sales of certain medicines, medical supplies and devices, and dental supplies and devices, as set forth in M.G.L. c. 64H, §§ 6(l) and 6(z).

Section 6(l) exempts a specified list of products related to health care. Some listed items are described narrowly (e.g., blood plasma and ultrasonic nebulizers), while others more broadly cover a category of products (e.g., "equipment worn as a correction or substitute for any functioning portion of the body"). Some of the items listed require a prescription from a registered physician to qualify for the exemption (e.g., medicine and medically necessary breast pumps), whiles others do not (e.g., oxygen and baby oil). In addition to the exemptions set out in § 6(l), § 6(z) exempts sales of medical supplies that are needed as the result of a colostomy or ileostomy operation.

In general, medical supplies and devices that are not expressly listed in §§ 6(l) or 6(z) are not exempt from the sales and use tax. However, in administering the exemption, the DOR has ruled that certain items not specifically designated as exempt under § 6(l) may nonetheless be exempt if their purpose and function is sufficiently connected to items that are specifically enumerated in the statute. See Letter Ruling 14-3. For example, in Letter Ruling 02-6, the DOR ruled that sales of water filtration system equipment and various supplies necessary for the process of kidney dialysis were exempt, even though they are not expressly listed in the statute, because the dialysis machines themselves were exempt. Revenue that is lost as a result of the sales tax exemption constitutes a tax expenditure. Absent the exemption afforded by this tax expenditure, all sales of medicines, medical supplies and devices, and dental supplies and devices would be subject to sales and use tax.

Most states provide a sales and use tax exemption for various health care products. All of the New England states that impose a sales tax, and California and New York, have sales tax exemptions for certain health care products. The scope of these exemptions varies from state-to-state. Certain products are generally exempt, such as prescription medications, blood products, oxygen products, and devices for persons with physical disabilities. Other products, such as breast pumps and glucose monitoring supplies and devices, are only exempt in some states. For example, sales of breast pumps are exempt in Connecticut, New York, and Rhode Island, but are taxable in California, Maine, and Vermont. Sales of glucose monitoring supplies and devices are exempt in Connecticut, Maine, New York, Rhode Island, and Vermont, but only partly exempt in California. The Commission assumes the expenditure is intended to remove the sales and use tax burden on certain medicines, medical supplies and devices, and dental supplies and devices, which are considered necessary for the health and well-being of the public.

Members noted that DOR receives a high volume of inquiries about whether certain items are exempt. Members further discussed the broad scope of this tax expenditure and its high revenue impact and agreed to flag it for legislative review. Members agreed to approve the Exemption for Medical and Dental Supplies and Devices Including Breast Pumps evaluation template with additional comments noting that it may be worthwhile to periodically revisit and update the exemption.

Sue Perez led a discussion on the Exemption of Public Assistance Benefits. This tax expenditure was adopted in 1971 and has an annual revenue impact of $877.5-$1,293.1 million during FY21-FY25 with no sunset date. Due to Massachusetts' reliance on the Internal Revenue Code (Code) for purposes of determining income, public assistance benefits are excluded from gross income.

The exclusion applies to payments (i) made by a governmental welfare fund; (ii) for the promotion of the general welfare (i.e., based on individual or family need, including financial or employment status); and (iii) not made for services furnished by the recipient. Because of the Commonwealth's reliance on the Code for purposes of determining income, public assistance benefits are not included in gross income for Massachusetts tax purposes. The revenue lost by not taxing public assistance benefits constitutes a tax expenditure.

All states that impose an income tax adopt the expenditure, unless they decouple from Code § 61. The Commission is not aware of any state that has decoupled. States that adopt the expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission assumes the goal of the expenditure is to prevent the benefits of public assistance from being diminished by subjecting them to income tax.

Members voted to approve the Exemption of Public Assistance Benefits evaluation template with a change to "Strongly Agree" on the question whether the tax expenditure is primarily beneficial to lower income taxpayers.

Chairperson Forter led a discussion on the Exemption of Workers' Compensation Benefits. This tax expenditure was adopted in 1954 and has an annual revenue impact of $45.8-$53.0 million during FY21-FY25 with no sunset date. Due to Massachusetts' reliance on the Code for purposes of determining income, amounts received under workers' compensation acts as compensation for personal injuries or sickness are excluded from gross income.

Code § 104 provides that gross income does not include “amounts received under workmen’s compensation acts as compensation for personal injuries or sickness.” Because of the Commonwealth’s reliance on the Code for purposes of determining income, amounts received as workers’ compensation for personal injuries or sickness are not included in gross income for Massachusetts tax purposes. The revenue lost by not taxing workers’ compensation payments constitutes a tax expenditure.

All states that impose an income tax adopt the expenditure, unless they decouple from Code § 104. The Commission is not aware of any state that has decoupled. States that adopt the expenditure include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission assumes the goal of the expenditure is to prevent amounts received as workers’ compensation for personal injury or sickness from being diminished by subjecting them to income tax.

Members voted to approve the Exemption of Workers' Compensation Benefits evaluation template as presented.

Members discussed the next batch of tax expenditures to be reviewed at the next Commission meeting. Members agreed to schedule the next meeting for mid-January. Chairperson Forter mentioned the Commission is required by statue to submit a report to the legislature by March 1, 2024 and that DOR will distribute a draft report for review following the January meeting. Members agreed to schedule the following meeting in February to review the draft report. Cole Doherty-Crestin will distribute polls to members to determine the next meeting dates. Chairperson Forter concluded the meeting at 2:54PM.

Tax Expenditure Review Commission Meeting
Friday, January 19, 2024
11:00 AM
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
Professor Matthew Weinzierl, Governor's Appointee

Commission Members Absent:

Tim Sheridan, Designee, House Ways and Means Committee
Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
Stephen Lisauskas, Designee, MA Auditor
Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair

List of Documents:

I. Meeting Agenda
II. Draft Minutes
    i. October 12, 2023 Meeting
    ii. November 15, 2023 Meeting
III. January Draft Reports of Tax Expenditures
    i. 1.617 & 2.621 Community Investment Tax Credit
    ii. 1.426 Expenses of Human Organ Transplant
    iii. 1.602 Credit for Removal of Lead Paint
    iv. 1.006 Exemption of Distributions from Certain Contributory Pension and Annuity Plans
    v. 1.029 Exemption for Retirement Pay of the Uniformed Services

Chairperson Forter welcomed Commission members. Chairperson Forter noted changes in membership; (i) Hailey Jenkins has resigned from the Commission, (ii) Amar Patel has been appointed as the new designee for the Senate Ways and Means Committee, and (iii) Chris Carlozzi has been appointed as the new designee for the Senate Minority Leader. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 11:03AM. 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 October 12, 2023 draft meeting minutes and November 15, 2023 draft meeting minutes. Members did not provide any comment. Members voted to approve the October `23 and November `23 meeting minutes as drafted.

Chairperson Forter led a discussion on the Community Investment Tax Credit. This tax expenditure was adopted in 2014 and has an annual revenue impact of $4.6- $6.8 million for personal income tax and $3.2- $5.2 million for corporate and business tax during FY21 – FY25. This tax expenditure is set to expire December 31, 2025.

The expenditure provides a personal income tax and corporate excise credit equal to 50% of the total amount of qualified investments made by a taxpayer in a "community partner." A qualified investment is a cash contribution made to: (i) a specific community partner to support the implementation of the community partner's approved community investment plan, or (ii) a community partnership fund. Community partners include "community development corporations" and "community support organizations" selected by the Executive Office of Housing and Livable Communities (EOHLC) through a competitive process. DOR spoke with the Community Development Unit within EOHLC, the administering agency. They did not identify any particular concerns with administering the credit. The total cumulative value of all credits authorized may not exceed $12 million in any taxable year beginning in 2023 or later. Prior limits were $10 million for tax years 2021-2022, $8 million for tax years 2019- 2020, $6 million for tax years 2015- 2018, and $3 million for tax year 2014.

Most states have economic development programs that allow for the participation of community organizations and private contributors. But only a few states, including Missouri and South Carolina, offer a tax credit for such activity. No such credit is available in California, Connecticut, Maine, Rhode Island, New Hampshire, New York, or Vermont.

The purpose of the credit is "to enable local residents and stakeholders to work with and through community development corporations to partner with nonprofit, public and private entities to improve economic opportunities for low- and moderate-income households and other residents in urban, rural and suburban communities across the commonwealth."

The Commission concluded that the Community Investment Tax Credit is a worthwhile expenditure that encourages investment in local communities through financial incentive and that the credit also positively impacts some of the main pressure points the state faces now: housing, business development, job creation, with an emphasis on lower income communities. Members noted that a majority of the impacted businesses were small businesses with fewer than 50 employees and that Massachusetts is the only state in New England that offers this credit. Members agreed that this credit serves as an advantage for further investment in local communities and that this is a measurable expenditure which appears to be working as intended with the target audience as beneficiaries. The credit is set to expire December 31, 2025. Members agreed that while the Commission would not take a position as to whether the credit should be extended, it would make sense to flag this tax expenditure for legislative review in consideration of its expiration date and positive evaluation ratings. Members voted to approve the Community Investment Tax Credit evaluation template.

Professor Weinzierl led a discussion on the Expenses of Human Organ Transplant. This tax expenditure was adopted in 2011 and has an annual revenue impact of $0.02- $0.07 million during FY21-FY25 with no sunset date.

Massachusetts allows a deduction for certain expenses incurred by Massachusetts residents in the donation of specified human organs to other individuals. The deduction is allowed for travel expenses, lodging expenses, and up to $10,000 of lost wages.[1] For purposes of the deduction, a human organ is defined to include all or part of human bone marrow, liver, pancreas, kidney, intestine, or lung. The deduction applies only to donations by living persons to other living persons. Only taxpayers that are residents in Massachusetts for the entire tax year may claim the deduction. The deduction is allowed against Massachusetts adjusted gross income when determining Massachusetts taxable income.

A number of states allow income tax deductions for expenses relating to organ donation. Such states include Connecticut and New York. NY Tax Law Section 612(c)(38). CT GS Chapter 229, Title 12, sec 701(a)(20)(B)(xii). No deduction is available in California, Maine, Rhode Island, or Vermont.

The Commission assumes the goal of the expenditure is to offset the costs that Massachusetts residents incur when donating organs to other individuals, thereby reducing financial barriers to organ donation.

The Commission concluded that this tax expenditure is a relatively small cost for a socially beneficial act. Members noted these expenses are not deductible at the federal level which poses administrative challenges for DOR, because DOR has no federal data against which to verify deduction claims. Members voted to approve the Expenses of Human Organ Transplant evaluation template with a change to "Somewhat Disagree" on the question of whether the tax expenditure is easily administered.

Susan Perez led a discussion on the Credit for Removal of Lead Paint. This tax expenditure was adopted in 1987 and has an annual revenue impact of $1.8- $5.8 million during FY21- FY25 with no sunset date.

A personal income tax credit is provided to defray the cost that property owners incur when removing, containing, or replacing paint, plaster, or other accessible structural materials containing dangerous levels of lead in residential buildings constructed prior to 1978. The credit is equal to half the costs incurred for the removal, containment, or replacement of such materials, or the replacement of one or more window units, for the purpose of bringing a dwelling unit into compliance with the Commonwealth's health and safety laws. To qualify for the credit, the property owner must have the property inspected for lead paint by a person licensed to do so by the Department of Public Health (DPH). The de-leading work must be done by a contractor licensed to do so by the DPH. The property must then be re-inspected by a person approved by DPH, who certifies that the de-leading is complete. For 2023 tax years and thereafter, the maximum amount of the credit is $3,000 per dwelling unit.[2] For prior years, it was $1,500.

A smaller credit is available for costs associated with partial removal, containment, or replacement of materials containing dangerous levels of lead if such actions were incurred in pursuit of an emergency lead management plan and letter of interim control under DPH rules. The reduced credit is limited to $1,000 for 2023 tax years and thereafter. Prior to then it was $500 per dwelling unit.

[1]In the United States, the medical and surgical costs associated with living organ donations such as kidney donation are directly covered by the transplant recipient's health insurance. These include costs for the initial evaluation and testing, health professional fees, hospitalization, readmissions, outpatient follow-up visits, and surgical or medical complications that occur within the first several months of surgery (based on the recipient's insurer).
[2] Amended by St. 2023, c. 50, §§ 9, 10.

It appears that only a few states offer a credit for lead removal or containment. Rhode Island allows a credit similar to the Massachusetts credit. Vermont allows a credit for improvements to designated historical buildings, which can apply to de-leading costs, but does apply to residential property. No credit is available in California, Connecticut, Maine, New Hampshire, or New York.

The Commission assumes the goal of the expenditure is to promote public health by encouraging property owners to remove, contain, or replace materials in a dwelling containing lead, exposure to which can cause serious harm to children. Please note that, in addition to the lead paint tax credit program, there are also certain low-cost financing options available to Massachusetts residents under various programs with the same goal (https://www.mass.gov/info-details/learn-about-financial-assistance-for-deleading).

Professor Hanlon noted that it seemed odd that the credit was available under chapter 62 and not chapter 63. DOR employee Tom Chappell stated his understanding that most dwellings held by businesses would be held by passthrough entities owned by individuals. Members voted to approve the Credit for Removal of Lead Paint evaluation template with an additional comment noting this point.

Professor Hanlon led a discussion on the Exemption of Distributions from Certain Contributory Pension and Annuity Plans. This tax expenditure was adopted in 1973 and has an annual revenue impact of $488.0- $582.1 million during FY21- FY25 with no sunset date.

Income from contributory pensions of the U.S. and Massachusetts governments, including their agencies and political subdivisions, is excluded from Massachusetts gross income. Most federal and state pensions are contributory, meaning that the employees fund their pensions, at least in part, out of current compensation. In addition, income from contributory pensions of other states and their agencies and political subdivisions is excluded from Massachusetts gross income if the state does not tax comparable distributions from Massachusetts government pensions.

The treatment of federal and state pensions varies among states that have income taxes. A number of such states, including Pennsylvania, exempt all pension income. Other states, including Connecticut, Maine, Rhode Island, and Vermont, provide limited exemptions for pension income. New York provides a complete exemption for federal and New York state pensions. California does not provide an exemption for federal or state pension income or any other pension income.

The Commission assumes the goal of the tax expenditure is to provide an incentive for workers to pursue careers in federal, state, and local government.

Members discussed the high cost associated with this tax expenditure and considered whether that might be reason enough to flag it for legislative review. They also questioned whether government employees were aware of this tax benefit such that the expenditure creates a meaningful incentive. Members agreed to flag this tax expenditure for legislative review. Members voted to approve the Exemption of Distributions from Certain Contributory Pension and Annuity Plans evaluation template with an additional comment noting that in consideration of the expenditure's large revenue impact, the legislature may wish to review whether this is the optimal way to encourage government service.

Chairperson Forter led a discussion on the Exemption for Retirement Pay of the Uniformed Services. This tax expenditure was adopted in 1997 and has an annual revenue impact of $22.7 – $24.4 million during FY21- FY25 with no sunset date.

Effective for tax years beginning on or after January 1, 1997, income from U.S. military pensions is excluded from Massachusetts gross income. The exclusion applies to pension payments and survivorship benefits and is available whether or not the retiree contributed to any military retirement system. U.S. military pensions are defined as pensions derived from service in the Army, Navy, Air Force, Marine Corps, Coast Guard, Space Force, and the Commissioned Corps of the Public Health Service and National Oceanic and Atmospheric Administration. Note that income from such pensions is subject to the federal income tax.

Most states have full or partial exemptions for income from U.S. military pensions. Connecticut, Maine, Rhode Island, and New York have full exemptions. Vermont exempts $10,000 of military pension income for lower-income taxpayers. California taxes the full amount of U.S. military pension income.

The Commission assumes the goal of the expenditure is to acknowledge veterans' service to the country and to make Massachusetts a more attractive place for veterans to live.

Members voted to approve the Exemption for Retirement Pay of the Uniformed Services evaluation template with a change to "Somewhat Agree" on the question whether this tax expenditure justifies its fiscal cost.

Chairperson Forter mentioned that the draft annual report will be distributed to members for review in upcoming weeks. Members agreed to schedule the next meeting for mid-February. The purpose of the next meeting is to review the draft annual report, discuss any questions or concerns, and recommend any revisions. Chairperson Forter concluded the meeting at 11:53AM.

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 cost[1] 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.

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[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.

12. 3.402 Exemption for Fuel Used for Heating Purposes
    - 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 March 2021 the Tax Expenditure Review Commission released a report to the legislature. The report provided the Commission's review of certain tax expenditures pertaining to commerce, energy and research & development which the Commission had reviewed in the prior year.

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

In March 2023 the Tax Expenditure Review Commission released a report to the legislature. The report provided the Commission's review of certain tax expenditures pertaining to agriculture, transportation, housing, income security, employment and social services.

Appendix H

Legislative Changes to Tax Expenditures

In March 2021 the Tax Expenditure Review Commission released its first report to the legislature. The report provided the Commission's review of tax expenditures pertaining to commerce, energy and research & development. The final fiscal year 2022 state budget included the following tax expenditure changes[1]:

- 1.613 & 2.615 Medical Device User Fee Credit - Repealed
- 2.607 Harbor Maintenance Credit - Repealed
- 1.020 & 2.002 Exemption of Income from the Sale, Lease or Transfer of Certain Patents - Repealed
- 1.611 & 2.611 & 3.004 Film Incentives Credit - 2023 sunset repealed. For taxable years beginning on or after January 1, 2022, a taxpayer must incur at least 75% of its production expenses in Massachusetts for a film project to qualify for the credit. A 50% threshold applies to prior taxable years.
- 1.610 & 2.610 Historical Rehabilitation Credit - 2022 sunset extended to 2027.

In October 2023, Governor Maura T. Healey signed into law Massachusetts' first tax cuts in more than 20 years. Provisions of the tax cuts package included the following changes[2]:

- Child and Family Tax Credit – Eliminates two-dependent cap and increases credit from $180 per dependent child, disabled adult, or senior to $310 for 2023 and to $440 on a permanent basis, starting in 2024. An estimated 565,000 families will benefit, and this will be the most generous universal child and dependent tax credit in the county.
- Earned Income Tax Credit (EITC) – increases credit from 30% to 40% of the federal credit.
- Estate Tax – increases threshold from $1 million to $2 million with a credit that mitigates cliff effect.
- Short-Term Capital Gains – reduces rate from 12% to 8.5%
- Rental Deduction – increases cap from $3,000 to $4,000.
- Senior Circuit Breaker Tax Credit – doubles credit, indexed to inflation, which equates to an increase from $1,200 to $2,400.
- Single Sales Factor – shifts from three-factor apportionment system based on business's share of sales, payroll, and property to apportionment based solely on sales.
- Low-Income Housing Tax Credit (LIHTC) – increases annual program cap from $40 million to $60 million.

[1] https://malegislature.gov/Laws/SessionLaws/Acts/2021/Chapter68
[2] https://www.mass.gov/news/governor-healey-signs-first-tax-cuts-in-more-than-20-years

- Housing Development Incentive Program (HDIP) – increases annual program cap from $10 million to $57 million in 2023, and thereafter to $30 million annually.
- Student Loan Repayment Assistance – exempts employer assistance for student loan repayment from taxable income.
- Dairy Tax Credit – increases annual program cap from $6 million to $8 million.
- Cider Tax Rate – applies lower tax rates to a broadened class of beverages.
- Lead Paint Abatement Credit – doubles credit to $3,000 for full abatement and $1,000 for partial abatement.
- Title V (Septic) Tax Credit – triples maximum credit to $18,000, increases percentage of eligible expenses from 40% to 60%; and allows taxpayers to claim up to $4,000 in any year, versus $1,500 in current law.
- Deductible Commuter Transit Benefits – adds public transit fares, RTA fares and bicycle expenses to deductible commuter expenses.
- Apprenticeship Tax Credit – expands eligible occupations.
- Municipal Affordable Housing Property Tax Exemption – permits municipalities to adopt local property tax exemption for affordable real estate.
- Property Tax Liability Reduction for Senior Volunteer Services – permits municipalities to increase the maximum property tax abatement available to seniors who perform volunteer services from $1,500 to $2,000.
- Stabilization Fund Cap – increases the cap on Stabilization Fund deposit from 15% to 25.5% of budgeted revenues.

Appendix I

Cumulative Distribution of TERC's Ratings for All Tax Expenditures

Below is the cumulative distribution of TERC's ratings for all tax expenditures evaluated to date. The Commission has reviewed a total of 116 tax expenditures pertaining the following budget functions: Agriculture, Commerce, Community Development, Employment and Social Services, Energy, Health, Housing, Income Security, Research and Development, and Transportation.

ALL TAX EXPENDITURES EVALUATED BY TERC	*Strongly Disagree*	*Somewhat Disagree*	*Somewhat Agree*	*Strongly Agree*	*Not Applicable*	*Total*
We can measure the overall benefit toward achieving the goal(s)	18	48	35	14	1	116
The TE's benefit justifies its fiscal cost	9	23	56	27	1	116
The TE is claimed by its intended beneficiaries	6	9	36	65	0	116
The TE is claimed by a broad group of taxpayers	41	18	26	31	0	116
The TE amount claimed per taxpayer is meaningful as an incentive/benefit	15	19	60	21	1	116
The TE is relevant today	12	8	36	60	0	116
The TE is easily administered	5	17	50	44	0	116
The TE is beneficial to smaller businesses	10	10	42	19	35	116
The TE is benefits lower income taxpayers	24	17	32	5	38	116

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 116 tax expenditures pertaining to agriculture, commerce, regional development, employment & social services, health, housing, and income security.

2021

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

2022

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

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

2023

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

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

2024

- 1.012 Exclusion of Certain Foster Care Payments
- 1.411 Rent Deduction
- 1.606 Septic System Credit
- 3.401 Exemption for Electricity
- 3.402 Exemption for Fuel Used for Heating Purposes
- 3.403 Exemption for Gas
- 1.607 & 2.609 Low Income Housing Tax Credit
- 1.619 & 2.622 Certified Housing Development Tax Credit
- 1.101 Net Exemption of Employer Contributions and Earnings of Private Pension Plans
- 1.104 Exemption of Earnings on IRA and Keogh Plans
- 2.702 Tax-Exempt Organizations
- 3.103 Exemption for Clothing
- 3.105 Exemption for Water
- 3.404 Exemption for Steam
- 3.407 Exemption for Certain Motor Vehicles
- 1.614 & 2.618 Dairy Farmer Tax Credit
- 1.618 Farming and Fisheries Tax Credit
- 1.023 Exemption of Interest from Massachusetts Obligations
- 1.039 Discharge of Indebtedness for Health Care Professionals
- 1.002 Exemption of Premiums on Group-Term Life Insurance
- 1.003 Exemption of Interest on Life Insurance Policy and Annuity Cash Value
- 1.312 Expensing of Certain Capital Outlays of Farmers
- 1.004 Exemption of Employer Contributions to Accident and Health Plans and Certain Benefits Received
- 1.424 Self-Employed Health Insurance Deduction

- 3.104 & 3.113 Exemption for Medical and Dental Supplies and Devices Including Breast Pumps
- 1.008 Exemption of Public Assistance Benefits
- 1.010 Exemption of Workers' Compensation Benefits
- 1.617 & 2.621 Community Investment Tax Credit
- 1.426 Expenses of Human Organ Transplant
- 1.602 Credit for Removal of Lead Paint
- 1.006 Exemption of Distributions from Certain Contributory Pension and Annuity Plans
- 1.029 Exemption for Retirement Pay of the Uniformed Services