

Tax Expenditure Review Commission Public Meeting Minutes  
Friday, December 13, 2019  
Saltonstall Building  
100 Cambridge Street, Second Floor  
Boston, MA 02114  
9:00AM

Commission Members in Attendance:

Philippe Mauldin, Designee, MA Department of Revenue  
Auditor Suzanne Bump, MA Auditor  
Danielle Allard, Designee, Senate Chair, Revenue Committee  
Conor O'Shaughnessy, Designee, House Minority Leader  
Sue Perez, Designee, MA Treasurer  
David Sullivan, Designee, Senate Ways and Means Committee  
KC Russell, Designee, Senate Minority Leader  
Greg Sullivan, Designee, House Minority Leader  
Professor Michelle Hanlon, Governor's Appointee  
Professor Matt Weinzierl, Governor's Appointee

Commission Members Absent:

Representative Aaron Michlewitz, House Ways and Means Committee  
Representative Mark Cusack, House Revenue Committee Chair

List of Documents:

Meeting Agenda  
Draft Minutes, October 31, 2019 Commission Meeting  
Department of Revenue Presentation – Expenditure Categories and Measures  
Department of Revenue Attachment – Tax Expenditure Type  
Office of the State Auditor Memo – Expenditure Categories and Measures  
Office of the State Auditor Attachment – NAICS Codes List

Chairman Mauldin recognized a quorum and called the meeting to order at 9:04AM. Hearing no members of the press identify themselves, Chairman Mauldin put the public on notice that the meeting will be recorded for purposes of minutes. Once the minutes are completed, the recording will be deleted.

Chairman Mauldin requested that Commission members provide any changes to the October 31, 2019 draft meeting minutes. Hearing none, Commission members voted unanimously to approve the October 31, 2019 meeting minutes.

Chairman Mauldin gave an overview of meeting goals in accordance with the agenda: identify and agree upon tax expenditure review categories as well as evaluation measures and determine the feasibility and content of a proposed March 2020 report. Chairman Mauldin emphasized the need for simplicity and efficiency, as well as a reporting structure that is understandable for external audiences.

Auditor Bump stated that the analysis of each tax expenditure has multiple dimensions, referencing the memo on Expenditure Categories and Measures and a NAICS Codes\* list provided to Commission members by the Auditor in advance of this meeting. Chairman Mauldin noted that the NAICS codes are an expansion of how tax expenditures are reported in House 1 and House 2, but are more aligned with business rather than personal exemptions.

Sue Perez suggested reviewing by tax type and budget function. Ms. Perez stressed the need for a relatable approach that everyday taxpayers can understand when reviewing Commission reports.

David Sullivan suggested reporting electronically as much as possible, as well as making the data sortable. Professor Weinzierl stated that knowing what other states offer for tax expenditures would be helpful but time-consuming. Kevin Brown, Department of Revenue General Counsel, expressed concern for researching other states since they do not mirror Massachusetts law. Auditor Bump stated that major accounting firms that practice in multiple states may have an index available that reflects out of state tax expenditures. Ms. Perez stated that knowledge of other states would be helpful, but not necessarily as a review category.

Greg Sullivan stated that it is the mission of the Commission to take a deep look at how tax expenditures are administered, their effectiveness, and their fiscal impact. Legislators may believe that knowledge of tax expenditures that other states are and are not offering would add value to the Commission's reporting, but the amount of work may be overwhelming. Law firms may have resources available for the Commission to draw upon. Chairman Mauldin requested that members identify external resources.

Chairman Mauldin referred to the DOR handout listing tax expenditures by type and asked members to discuss reviewing them by the following categories: 1) personal income; 2) transferable/refundable; 3) business; and 4) corporate. Members expressed concern that some tax expenditures fall into several of the four categories (ie: capital gains).

Kazim Ozyurt, Chief Economist and Director of the DOR Office of Tax Policy Analysis, stated that the five year review of each expenditure (required by the enabling legislation) may be most simply organized in a series of five groupings. The Commission would need to determine where to place each expenditure then additional evaluation measures (ie: NAICS codes) could be incorporated within the review process.

Chairman Mauldin requested a vote to review tax expenditures by 1) tax type and 2) tax category. A favorable vote was unanimous.

Members discussed reviewing federal tax expenditures that Massachusetts follows where it is not decoupled from the federal code. David Sullivan and Greg Sullivan recommended that federal tax expenditures not be entirely excluded by the Commission given how closely tied they are to current legislative deliberations (ie: the House and Senate recently debated decoupling from section 163j of the federal code). Kevin Brown suggested that if federal tax expenditures are reviewed, those with the greatest revenue impact be prioritized.

Chairman Mauldin requested a vote that the primary focus of the Commission's reporting be on Massachusetts tax expenditures, with a secondary focus on federal tax expenditures that have a revenue impact on the Commonwealth. A favorable vote was unanimous.

Greg Sullivan asked that the Commission be cognizant of what it asks of DOR and utilize readily available information (ie: the annual Tax Expenditure Budget that DOR produces). David Sullivan stated that the enabling legislation for the Commission is clear that existing tax expenditures be reviewed, rather than those being proposed.

Professor Michelle Hanlon stated that the Commission can improve transparency by adding a level of rigor to the tax expenditure adoption process. However, some measures included in the enabling legislation will be difficult to expand upon (ie: job creation while Massachusetts is nearly at full employment).

Professor Wienzierl stated that part of the Commission's mission is to help legislators identify and solve problems with direct spending on numerous tax expenditures. Professor Hanlon suggested working groups form within the Commission to further focus on certain matters (ie: effectiveness measures).

David Sullivan stated that the 2012 Tax Expenditure Review Commission recommended that the legislature identify the following for newly proposed expenditures: 1) purposes; 2) goals; 3) metrics; and 4) sunset clauses. However, the recommendations have proven difficult to implement when tax expenditures continue to be proposed as budget amendments. Mr. Sullivan suggested the four 2012 recommendations be restated in the current Commission's reports.

Members discussed how best to explain the purpose and intent of each existing tax expenditure, as required by the enabling legislation. Researching the video and print histories of each expenditure discussion is not feasible. Ms. Perez recommended that when applicable, the Commission acknowledge when no clear purpose is identifiable.

Members discussed the possible issuance of a March 2020 report and a "test run" on several tax expenditures. Auditor Bump asked if doing so presupposes a review model has already been built and suggested a report describing the Commission's approach.

Chairman Mauldin requested a vote on whether the Commission will issue a report in March 2020 to reflect a review template. David Sullivan asked if this is feasible. Dr. Ozyurt replied that he would like the opportunity to discuss this with his staff and agreed to report back at the next Commission meeting.

Chairman Mauldin requested a vote that the Commission will not impose unreachable deadlines but will move forward with building a review template using certain tax expenditures, such as the Motion Picture Credit, the Life Sciences Credit and the Charitable Deduction anticipated to be effective January 1, 2021. A favorable vote was unanimous.

Commission members discussed next steps, including groupings of tax expenditures for a five-year review rotation, a potential “test run” review of certain expenditures, and workload assistance from Commission members and external resources.

Commissioner Mauldin opened the meeting up for questions from Commission members and members of the public. Hearing none, Commissioner Mauldin concluded the meeting of the Tax Expenditure Review Commission at 11:05AM.

\*North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.