Form 63-23P Instructions

Who Must File Form 63-23P?

All domestic insurance companies subject to Massachusetts General Laws (M.G.L.) Ch. 63, secs. 22 and 22A must file Form 63-23P. Life insurance companies and ocean marine business companies are not required to file this form.

A domestic company is a company incorporated or formed in the Commonwealth.

All classes of foreign insurance companies subject to M.G.L. Ch. 63, Secs. 23 and 24A must file Form 63-23P. Life insurance companies that are taxable under M.G.L., Ch. 63, Sec. 20, 21 or 23 and marine business companies taxable under M.G.L. Ch. 63, Sec. 29A are not required to file this form.

A foreign company is any company organized or formed in any state or country other than Massachusetts.

All domestic or foreign organizations that offer preferred provider arrangements under Ch. 176I are required to file this form.

When Must Form 63-23P Be Filed?

Form 63-23P, together with payment in full of any tax due, must be filed on or before the 15th day of the third month after the close of the company's taxable year.

May an Insurance Company Obtain an Extension of Time to File?

Yes. Form 63-23P filers may request a six-month extension of time to file by submitting Massachusetts Form 355-7004 Misc. on or before the original due date. Any tax due at the time of filing Form 355-7004 Misc. must be paid in full.

Note: An extension of time to file is not valid if the company fails to pay at least 50% of the total tax liability through estimated payments or using Form 355-7004 Misc.

What Are the Penalties for Late Returns?

Insurance excise returns that are not filed on or before the due date are subject to interest and penalty charges. The penalty for failure to pay the total amount due with this form is ½% of the balance due per month (or fraction thereof), up to a maximum of 25%. A late payment penalty does not apply to amended returns when the amount shown on the original return was paid.

The penalty for failure to file a return by the due date is 1% of the balance due per month (or fraction thereof), up to a maximum of 25%.

Any tax not paid on or before the due date — without regard to the extension — is subject to interest.

What Is a Valid Return?

A valid return is one upon which all required amounts have been entered for all of the appropriate items on the form. Applicable forms and documents may be enclosed to explain these amounts. Referencing enclosed items instead of properly entering all amounts onto the return is not sufficient. The return **must** be signed by either the treasurer or assistant treasurer of the company.

To be valid, Form 63-23P must also include:

- a copy of Schedule T, Exhibit of Premiums Written from the NAIC Annual Statement; and
- a copy of the Underwriting and Investment Exhibit, Form 2, Part I — Interest, Dividends and Real Estate Income, from the NAIC Annual Statement; and
- a Certificate of Contribution from the Property and Casualty Initiative from those companies claiming a lower tax rate and those companies claiming a retaliatory surtax credit; and
- a statement from those companies who are members of the Massachusetts Property Insurance Underwriting Association (Fair Plan) and/or Crime Insurance Program — the statements must indicate the amounts disbursed, the percentage of participation, the policy year and whether the premiums associated with the disbursement were included on Schedule T of the NAIC Annual Statement.

Reproduction of returns must be approved by DOR prior to filing and meet the criteria provided in Technical Information Release 95-8.

Failure to meet any of the requirements detailed in this section may result in a penalty for filing an insufficient return. Such a penalty may be assessed at double the amount of the tax due.

Please visit our website, www.mass.gov/dor, for additional copies of this return.

When Are Estimated Tax Payments Required?

Any insurance company which reasonably estimates its excise to be in excess of $1,000 for the taxable year is required to make estimated tax payments to the Commonwealth. Estimated payments must be made in quarterly installments of 40%, 25%, 25% and 10% of the estimated annual tax liability.

Note: New corporations in their first full taxable year with less than 10 employees have different estimated payment percentages — 30%, 25%, 25% and 20% respectively.

Insurance companies that underpay, or fail to pay, their estimated taxes may incur an additional penalty on the amount of the underpayment for the period of the underpayment. Form M-2220, Underpayment of Massachusetts Estimated Tax by Corporations, is used to compute the additional charge.

Any corporation having $1 million or more of federal taxable income in any of its three preceding taxable years (as defined in Section 6655 (g) of the IRC) may only use its prior year's tax liability to calculate its first quarterly estimated tax payment. Any reduction in the first installment payment that results from using this method must be added to the second installment payment.

A company that claims the exception to the underpayment penalty of equaling the prior year's tax liability **must provide federal tax returns** (front page only) for the three preceding taxable years to verify that federal taxable income is less than $1 million.

Note: Any insurance company required to file more than one type of excise return must also file separate estimated payments since each type of tax is governed by a different section of the Massachusetts General Laws.

For more information on corporate estimated taxes, refer to M.G.L., Chapter 63B.

How Is the Excise Determined?

Domestic insurance companies are taxed both on premiums written and finance charges imposed on those premiums in Massachusetts. These companies are also taxed on premiums in other jurisdictions where no tax is paid. A tax is also imposed on gross investment income.

Foreign insurance companies are taxed on gross premiums written or renewed, and finance charges imposed on those premiums in Massachusetts.

Organizations conducting preferred provider business are taxed on gross premiums received for persons residing in Massachusetts.

Line Instructions

Federal Audit

If your corporation has undergone a federal audit for some prior year, you must report any changes on Massachusetts Form CA-6, Application for Abatement/Amended Return, within three months after the final determination of the correct taxable income by the IRS. Otherwise, you will be subject to a penalty. If the federal change results in less tax due to Massachusetts than was assessed or paid, you may apply for abatement under the federal change rules within one year of the final federal determination. Answering "yes" to this question does not relieve the company of this filing obligation.

Should the Whole Dollar Method Be Used?

Yes. All amounts entered must be rounded off to the nearest dollar.

Note: Ocean marine premiums reported on your 2006 Ocean Marine Profits Tax Return are deductible from net direct premiums.

Computation of Excise

Line 1. Multiply the amount from Part 1, line 5 by .0228 and enter in line 1. If amount is negative, enter "0."

Taxable premiums are derived from net direct premiums subject to tax in Massachusetts from Schedule T of the NAIC Annual Statement, and net direct premiums from other states or countries where no tax has been paid. Include in this amount any finance and service charges from Schedule T.

Form 63-23P filers are allowed a dividend deduction for premiums returned or credited to policyholders in Massachusetts as dividends on direct business from Schedule T of the NAIC Annual Statement.

Net direct premiums are gross premiums, exclusive of reinsurance assumed as written in:

• all policies issued or renewed (including dividends applied to payment of renewals, and policy and membership fees whether or not actually received by the company);

• all additional premiums charged on policies issued in this or in previous years; and

• all assessments made upon policyholders, for insurance of property or interests in Massachusetts or which are subjects of insurance issued through companies or agents in this state;

Less

• premiums on direct policies written but not taken or canceled through default of payment; and

• premiums returned to policyholders on canceled policies of direct insurance, but without deduction or exclusion in any manner of reinsurance ceded, dividends, commissions, expenses or losses.

Line 2: Income. Enter in the subtotal section of line 2 the amount from Part 2, line 10. Multiply this amount by the applicable tax rate checked in the registration section. Property and casualty insurers may reduce their tax rate on gross investment income from the 1% tax rate if they contribute the required amount to the initiative over a five-year period. The reduced rate schedule is as follows: 0.8% for the first year on or after January 1, 1999, in which it makes the required contribution and 0.6% for the second year it makes the required contribution or 0.4% for the third year it makes the required contribution. The tax rate is 0.2% in the fourth year it makes the required contribution. No gross investment income tax shall be due for the tax years beginning on or after the fifth year in which said company contributes its full proportionate share. A Certificate of Contribution issued by the Property and Casualty Insurance Company Initiative must accompany the return if claiming the lower rate. A company that does not make the required contribution in any year will continue to be taxed at the rate for the last year in which it did make the required contribution.

Line 3. If applicable, and not previously reported on Schedule T, include the disbursement received from the Massachusetts Property Insurance Underwriting Association and/or Crime Insurance Program.

Lines 4, 13 and 19: Credit Recapture. If the corporation is required to recapture any amount of previously claimed EOAC, Low-Income Housing Credit Brownfields Credit or Historic Rehabilitation Credit, complete Schedule H-2 and enter the result. Current year credits can then be used to offset the total excise due which will include the recapture amount.

Line 6: Premiums. Enter the amount of total net direct premiums subject to tax in Massachusetts from Schedule T of the NAIC Annual Statement. Include in this amount any finance and service charges from Schedule T. If amount is negative, enter "0."

Net Direct Premiums are gross premiums, exclusive of reinsurance assumed, as written in:

• all policies issued or renewed (including dividends applied to payment of renewals, and policy and membership fees whether or not actually received by the company);

• all additional premiums charged on policies issued in this or in previous years; and

• all assessments made upon policyholders, for insurance of property or interests in Massachusetts or which are subjects of insurance issued through companies or agents in this State;

Less:

• premiums on direct policies written but not taken or canceled through default of payment; and

• premiums returned to policyholders on canceled policies of direct insurance, but without deduction or exclusion in any manner of reinsurance ceded, dividends, commissions, expenses or losses.

Line 7. If applicable and not previously reported on Schedule T, include the policy year amount of "Fair Plan" participation premiums incurred with the Massachusetts Property Tax Insurance Underwriting Association and/or Crime Insurance Program.

Line 9: Deduction. Enter the total of dividend deductions for premiums returned or credited to policyholders in Mass. as dividends on direct business from Schedule T of the NAIC Annual Statement.

Line 12: Retaliatory tax. Use the back of Form 63-23P to calculate your excise using the same method and rate used by the state in which you are incorporated and would be imposed on a like Massachusetts insurance company, or its agents, if doing business to the same extent. If the computation in the state of your incorporation is in every respect the same as your Massachusetts computation, a statement to that effect should be made. Enter this amount in line 12. Retaliatory tax provisions are provided under M.G.L. Ch. 63, secs. 23 and 24A.

Line 21: Retaliatory surtax credit. A company that contributes its full and proportionate share to the Property and Casualty Initiative may receive a credit against the premium tax equal to increasing percentages of the retaliatory taxes paid during the preceding taxable year attributable to the surtax. If the aggregate cumulative investment by domestic property and casualty companies in the Property and Casualty Initiative reaches $100,000,000, the credit shall equal 100% of the retaliatory taxes attributable to the surcharge. The amount of the credit is 20% for the tax year beginning on or after January 1, 1999 or the first

year in which a participating property and casualty company contributes its full proportionate share. The amount of the credit is 40% for the tax year beginning on or after January 1, 2000 or the second year in which a participating property and casualty company contributes its full proportionate share. The amount of credit is 60% for the tax year beginning on or after January 1, 2001 or the third year in which the participating property and casualty company contributes its full proportionate share. The amount of credit is 80% for the tax year beginning on or after January 1, 2002 or the fourth year in which the participating property and casualty company contributes its full proportionate share. The amount of the credit is 100% for the year beginning on or after January 1, 2003 or the fifth year in which a participating property and casualty company contributes its full proportionate share.

The total amount of the credit shall not exceed $8,000,000 for all domestic property and casualty companies. The amount of each property and casualty company's credit shall be limited to that company's credit share. A company seeking the credit must provide the Commissioner of Revenue with the amount of its retaliatory taxes attributable to the surtax and payable for the preceding taxable year, before application for the credit, by December 31 of the current taxable year. The commissioner of revenue shall be responsible for reporting to each company its credit share amount by February fifteenth of the current taxable year. A certificate of contribution issued by the Property and Casualty Initiative must accompany the return.

Line 22: Initiative credit. A company shall be allowed a credit against the premium tax equal to 1½% (.015) of such company's total capital contribution in excess of their full proportionate share which shall mean an investment in the Massachusetts Property and Casualty Insurance Company Community and Economic Development Initiative.

This credit is effective for tax years in which the aggregate cumulative investment in the Property and Casualty Initiative reaches 100 million or the tax year 2004, whichever is later.

Line 24: Credit for member insurers of the Massachusetts Life and Health Insurance Guaranty Association. Enter 10% of the assessment for each of five years following the year in which the assessment was paid. If the sum of offsets exceeds $3,000,000, the excess may be carried forward and may be used in a year in which the $3,000,000 is **not** exceeded. If the total offsets exceed $3,000,000 in a year, the Department of Revenue will assess each member with an additional tax equal to the amount of the offset which exceeds $3,000,000 of such members pro rata share. If the total offsets do not exceed $3,000,000 in a year, the Department of Revenue will calculate each members' pro rata share to determine the amount of refund due each member and issue a refund to each member.

Line 25: Economic Opportunity Area Credit. Enter the amount of Economic Opportunity Area credit claimed this year from Schedule EOAC, line 9. Enclose a completed Schedule EOAC with this return. For more information, contact the Massachusetts Office of Business Development at One Ashburton Place, Room 2101, Boston, MA 02108.

Line 26: Full Employment Program Credit. A qualified employer participarting in the Full Employment Program may claim a credit of $100 per month of eligible employment per employee. The maximum amount of credit that may be applied in all taxable years with respect to each employee is $1,200. Enclose Schedule FEC with this return. For more information, contact the Department of Transitional Assistance, 600 Washington Street, Boston, MA 02111.

Line 27: Low-Income Housing Credit. To claim the Low-Income Housing Credit, documentation must be enclosed with the return. For further information on this credit, contact the DHCD, Division of Private Housing, at (617) 727-7824.

Line 28: Historic Rehabilitation Credit. Effective for tax years beginning on January 1, 2005 and ending on or before December 31, 2011, taxpayers may be eligible for the Historic Rehabilitation Credit (HRC). To claim this credit, a historic rehabilitation project must be complete and have been certified by the Massachusetts Historical Commission. Unused portions of the credit may be carried forward for a maximum of 5 years. This credit may be transferred or sold to another taxpayer. The HRC is not subject to the 50% limitation rule for corporate taxpayers. If the taxpayer disposes of the property generating the HRC, a portion of the credit may be subject to recapture. For further information, see Regulation 630 CMR63.38.1, Massachusetts Historic Rehabilitation Tax Credit.

Line 29: Home Energy Efficiency Credit. The owner of residential property located in Massachusetts is allowed a credit for certain energy efficient items purchased between November 1, 2005 and March 31, 2006 for installation in residential property. Qualifying purchases include home insulation, new window insulation, advanced programmable thermostats, solar hot water systems, fuel-efficient furnaces, boilers, oil, gas, propane or electric heating systems, certain weather sealing and other approved purchases.

The credit allowed for the installation of qualifying purchases for any one residential building is 30% of the cost. The credit cannot exceed $600 for a single residential unit or $1000 for a multi-dwelling unit. Joint owners of a residential property may share any credit available to the property in the same proportion as their ownership interest. The credit allowed under this section may be taken in 2005 or 2006, regardless of the exact date on which the qualifying purchase was made. The amount of credit that exceeds the tax due for 2005 may be carried over, as reduced, and applied to the tax liability for 2006. For further information, see TIR 05-18.

Line 30: Solar Heat Credit. Massachusetts allows a credit of up to $300 for the installation of a solar hot water heating system in a commercial building between November 1, 2005 and March 31, 2006. For further information, see TIR 05-18.

Line 31: Film Incentive Credit. For tax years beginning on or after January 1, 2006 and before January 1, 2013, motion picture companies may claim a credit equal to 20% of the total qualifying aggregate payroll for employing persons within the Commonwealth in connection with the filming and production of a motion picture, and a credit equal to 25% of their Massachusetts productions expenses. The credits are transferable. For further information, see TIR 06-1.

Line 32: Medical Device Credit. For tax years beginning on or after January 1, 2006, medical device companies that develop or manufacture medical devices in Massachusetts can claim a credit equal to 100% of the user fees paid to the U. S. Food and Drug Administration. The credit is transferable. For more information, see TIR 06-22.

Line 33: Brownfields Credit. Recent legislation extends the Brownsfield credit to nonprofit organizations, extends the time frame for eligibility for the credit, and permits the credit to be bought, sold or assigned. Under prior law, net response and removal costs incurred by a taxpayer between August 1, 1998 and August 5, 2005, were eligible for the credit provided that the taxpayer commenced and diligently pursued an environmental response action before August 5, 2005. As a result of the recent legislation, the environmental response action commencement cut-off date is changed from August 5, 2005 to August 5, 2011, and the time for incurring eligible costs that qualify for the credit is extended to January 1, 2012. For further information, see TIR 06-16.

Line 36: Voluntary contribution for endangered wildlife conservation. Any corporation that wishes to contribute any amount to the Natural Heritage and Endangered Species Fund may do so on this form. This amount is added to the excise due. It increases the amount of the corporation's payment or reduces the amount of its refund.

The Natural Heritage and Endangered Species Fund is administered by the Department of Fisheries, Wildlife and Environmental Law Enforcement to provide for conservation programs for rare, endangered and nongame wildlife and plants in the Commonwealth.

Lines 38 through 41: Payments. Enter in line 38 any overpayment credited from 2005 to 2006. Enter estimated tax payments made in 2006 in line 39. Any extension payment should be entered in line 40. Line 41 should reflect the total payments made for the entire year.

Lines 42 through 44: Overpayment and refund. If the amount in line 41 is larger than the amount in line 37, enter the amount overpaid in line 42.

The overpayment may be applied in part or in full to 2007 estimated taxes by entering in line 43 the amount to be credited to 2007 estimated tax payments. Enter the amount to be refunded in line 44.

An overpayment of excise cannot be applied as a credit to the tax of another account of this company or to the tax of another company.

Line 45: Balance due. If line 37 is larger than line 41, enter the balance due in line 45. Payment in full is due on or before March 15, 2007.

Line 46: Penalties. Any company that has an underpayment of estimated tax will incur a penalty on the underpayment for the period of the underpayment. Enclose a copy of Form M-2220. For more information, refer to the section, "When Are Estimated Tax Payments Required?"

Any company that fails to file a timely return will be subject to a late filing penalty of 1% per month, or fraction thereof, and a late payment penalty of ½% per month, or fraction thereof, on the amount required to be shown as the tax due on the return. For more information, refer to the section, "What Are the Penalties for Late Returns?"

Line 47: Interest. Any company that fails to pay its tax when due will be subject to interest on the unpaid balance. For more information, refer to the section "What Are the Penalties for late Returns?"

Line 48: Payment due. Enter the total payment due. Checks for this amount should be made payable to the **Commonwealth of Massachusetts**. Checks should have the company's federal identification number written in the lower left corner.

Signature

When the form is complete, it must be signed by the treasurer or assistant treasurer. If you are signing as an authorized delegate of the appropriate corporate officer, check the box in the signature section and attach a Massachusetts Form M-2848, Power of Attorney. Mail forms to: **Massachusetts Department of Revenue, PO Box 7052, Boston, MA 02204.**