2007 Massachusetts Financial Institution Excise Tax Return Form **63 FI**

Schedules and Instructions

General Information

This booklet contains Form 63 FI and schedules needed to complete the Massachusetts Financial Institution Excise Return.

Forms and instructions pertaining to the repealed bank excise imposed under former Ch. 63, secs. 1 & 2, have no force and effect for tax years beginning on or after January 1, 1995.

Who Must File and Pay the Financial Institution Excise?

The Massachusetts financial institution excise applies to banks, trust companies and federal or state savings and loan associations existing by authority of the United States, or any state or a foreign country. It also applies to bank holding companies and subsidiaries of bank holding companies, savings and loan holding companies, corporations subject to supervision by the Massachusetts Division of Banks or other corporations in substantial competition with financial institutions in Massachusetts which derive more than 50% of gross income from loan origination, lending activities or credit card activities. Credit unions are not subject to the excise. See Technical Information Release (TIR) 95-6.

Corporations included in the new definition of financial institution which were taxed under Massachusetts General Laws (MGL) Ch. 62 (income tax on individuals, trusts, corporate trusts, partnerships and S corporations) or MGL Ch. 63, secs. 30 to 42, inclusive (corporate excise), are now taxed under MGL Ch. 63, sections 1 through 2A inclusive and must now file a Form 63FI, Financial Institution Excise Return for tax years beginning on or after January 1, 1999.

The minimum excise for a financial institution is $456. The minimum excise cannot be prorated.

What is Nexus for Purposes of the Massachusetts Financial Institution Excise?

The financial institution excise applies to any financial institution engaged in business in Massachusetts. The term "engaged in business" as defined in MGL Ch. 63, sec. 1 includes:

a. having a business location in Massachusetts;

b. having employees, representatives or independent contractors conducting business activities on its behalf in Massachusetts;

c. maintaining, renting or owning any tangible or real property in Massachusetts;

d. regularly performing services in Massachusetts;

e. regularly engaging in transactions with customers in Massachusetts that involve intangible property and result in income flowing to the taxpayer from residents of Massachusetts;

f. regularly receiving interest income from loans secured by tangible personal property or real property located in Massachusetts; or

g. regularly soliciting and receiving deposits from customers in Massachusetts.

With respect to the activities described in (d) through (g) inclusive, activities are presumed, subject to rebuttal, to be conducted on a regular basis within Massachusetts if any of such activities are conducted with 100 or more residents of Massachusetts during any taxable year or if the taxpayer has $10,000,000 or more of assets attributable to sources within Massachusetts or if the taxpayer has in excess of $500,000 in receipts attributable to sources within Massachusetts.

Apportionment

For tax years beginning on or after January 1, 1995, Massachusetts has adopted a three-factor apportionment formula based on receipts, property and payroll. Apportionment applies to financial institutions with income from business activity which is taxable both in Massachusetts and in any other state. See MGL Ch. 63, sec. 2A. The apportionment calculations are reported in Schedule E. It may be necessary to refer to the detailed provisions of MGL Ch. 63, sec. 2A in order to complete Schedule E.

Elections Relating to Apportionment

Financial institutions subject to the excise under MGL Ch. 63, secs. 1, 2 and 2A and filing Form 63 FI may make certain elections. Two elections may be made by the taxpayer without prior approval from the Department and two elections require prior approval from the Department. Once making an election to use an alternative method of valuation, the taxpayer will generally be required to use the alternative method on subsequent returns. However, a request for an alternative method of apportionment of income must be made for each taxable period.

Elections Not Requiring Prior Approval from the Department

Receipts Factor. Valuation of Investment and/or Trading Assets and Activities by Average Value or Gross Income Method, Schedule E, line 1. Interest, dividends, net gains (but not less than zero) and other income from investment and/or trading assets and activities are generally included in the numerator of the receipts factor by multiplying all income from such assets and activities by a fraction, the numerator of which is the average value of such assets which are properly assigned to a regular place of business of the taxpayer in Massachusetts and the denominator of which is the average value of all such assets. In lieu of using this method, the taxpayer may elect to determine the income from investment and/or trading assets and activities that is included in the numerator of the receipts factor by multiplying all such income by a fraction, the numerator of which is the gross income from such assets which are properly assigned to a regular place of business of the taxpayer in Massachusetts and the denominator of which is the gross income from all such assets and activities.

If the taxpayer elects or is required by the Department to use the gross income method, the taxpayer must use this method on subsequent returns unless the taxpayer receives permission or the Department requires a different method.

Property Factor. Valuation of All Property Owned, Schedule E, line 2e. The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value of the property on the last day of the taxable year and dividing the sum by two. If averaging on this basis does not properly reflect average value, the taxpayer may elect or the Department may require averaging on a more frequent basis.

A taxpayer electing to average on a more frequent basis must use the same method of valuation consistently with respect to property inside and outside of Massachusetts and on all subsequent returns unless the taxpayer receives permission or the Department requires a different method of determining average value.

Elections Requiring Prior Approval from the Department

Property Factor. The average value of rented property (real or tangible) is generally determined annually by multiplying the gross rents payable during the taxable year by eight. A financial institution which believes that this general method results in inaccurate valuations of rented property may apply to use any other method which properly reflects the value. The taxpayer should make this request by submitting Form AA-1. A taxpayer that has been unable to obtain prior approval of an alternative method of valuation of rental property should use the statutory method of valuing rental property on its return and submit Form AA-1 describing the proposed alternative method. If the alternative method is approved by the Department, a refund of any overpayment, with interest, if due, will be made.

If an alternative method of valuing rented property is approved, that method must be used on all subsequent returns unless the taxpayer receives prior approval or the Department requires a different method.

Alternative Apportionment. A financial institution which believes that the statutory provisions contained in MGL Ch. 63, sec. 2A are not reasonably adapted to approximate its net income derived from business carried on within Massachusetts may apply to the Department to use an alternative method by filing Form AA-1 with its duly filed return. (The Department may also require use of an alternative method of apportionment without the taxpayer's application.) The taxpayer should use the statutory method of apportionment in calculating the excise due on Form 63 FI. If an alternative method of apportionment of net income is approved by the Department, a refund of any overpayment, with interest, if due, will be made. In processing taxpayer requests for alternative apportionment, the Department will generally follow the procedures in Regulation 830 CMR 63.42.1 to the extent that they are not inconsistent with other provisions of MGL Ch. 63, as amended, pertaining to financial institutions. **Note:** Be sure to check the box in line 4 of the registration section if requesting alternative apportionment. A request for an alternative method of apportionment must be made for each taxable period.

When Are Returns Due?

Financial institution excise returns, 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 taxable year, calendar or fiscal.

An extension of time for filing returns will be granted for reasonable cause upon request. To request an extension, file Form 355-7004 Misc., on or before the normal due date of the return and pay in full the estimated tax due.

Note: An extension of time to file is not valid if the financial institution fails to pay at least the minimum tax of $456, or 50% of the total tax liability, whichever is greater, through estimated payments or with Form 355-7004 Misc.

Any tax not paid on or before the due date, without regard to the extension, will be subject to an interest charge.

Should the Financial Institution Be Making Estimated Tax Payments?

All financial institutions which reasonably estimate their excise to be in excess of $1,000 for the taxable year are required to make estimated tax payments to the Commonwealth. 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.

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.

Financial institutions which underpay or fail to pay their estimated taxes may incur an additional charge on the amount of the underpayment for the period of the underpayment at the rate established under MGL Ch. 62C, sec. 32 (which is the rate the Department uses to calculate interest on underpayments and overpayments). Form M-2220, Underpayment of Massachusetts Estimated Tax by Corporations, is used to compute the additional charge.

See Regulation 830 CMR 63B.2.2 for additional information about estimated payments.

Credit Recapture

If the corporation is required to recapture any amount of previously claimed EOA Credit, Historic Rehabilitation Credit, Brownfields Credit or Low-Income Housing Credit, complete Schedule(s) H and/or H-2 and enter the result in line 3 of the return. Current year credits can then be used to offset the total excise due which will include the recapture amount.

Economic Opportunity Area Credit and Abandoned Building Renovation Deduction

Financial institutions may qualify for the Economic Opportunity Area Credit or the Abandoned Building Renovation Deduction. For further information, see Schedule EOAC or contact the Massachusetts Office of Business Development, One Ashburton Place, Room 2101, Boston, MA 02108.

Full Employment Program Credit

A qualified employer participarting in the Full Employment Credit 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.

Low-Income Housing Credit

This credit is administered through the Massachusetts Department of Housing and Community Development (DHCD). The low-income housing credit is available to taxpayers that claim a federal credit for the construction or development of low-income housing. The state credit is taken over five years, and the amount of credit a taxpayer may claim for a qualified Massachusetts project is allocated by the DHCD and is based on a total pool of money awarded to the Commonwealth. In order to claim the credit, documentation must be enclosed with the return.

For further information regarding this credit, contact the Department of Housing and Community Development, Division of Private Housing, at (617) 727-7824.

Historic Rehabilitation Credit

Effective for tax years beginning on or after 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 830 CMR 63.38R.1: Massachusetts Historic Rehabilitation Tax Credit.

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 2006 may be carried over, as reduced, and applied to the tax liability for 2007. For further information, see TIR 05-18.

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.

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.

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.

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.

What is a Proper Return?

A proper return is a return upon which all required amounts have been entered in all appropriate items on all forms. Data sheets, account forms or other schedules may be attached to explain amounts entered on the forms. A subchapter S corporation should include Schedule S and Schedule SK-1. Referencing items to enclosures in lieu of entering amounts onto the return is not sufficient.

A properly filed return must also include exact and complete copies of the financial institution's U.S. Form 1120, 1120S, 1120-REIT or other federal return as filed. Copies of all accompanying schedules and supplemental statements to the federal return must be enclosed.

Disclosure Schedule

Form 63 FI requires the taxpayer to enter certain information from its federal return. The Department has been mandated by statute to collect and annually report aggregate information about financial institution filers to the legislature.