

2011 Form M-990T Instructions

Who Must File an Unrelated Business Income Tax Return?

Exempt corporations that have gross income from an unrelated trade or business and are required to file IRS Form 990-T, Exempt Organization Business Income Tax Return, will be required to file a new Massachusetts form specifically designed for exempt corporations, modeled on Form 990-T.

For additional information, see Regulation 830 CMR 63.38T.1, Taxation of Unrelated Business Income of Exempt Organizations and TIR 06-7.

When Must Form M-990T Be Filed?

Form M-990T must be filed on or before the 15th day of the 3rd month after the close of the corporation's taxable year. A late return incurs a penalty of 1% per month (or fraction thereof), up to a maximum of 25% of the tax due. The penalty for late payment of the tax is 1% per month (or fraction thereof) of the balance due, up to a maximum of 25%.

Can a Corporation Get an Extension of Time to File?

In lieu of the six-month automatic extension, the taxpayer is allowed an eight-month automatic extension to file Form M-990T. The eight-month extension makes Form M-990T and the federal Form 990-T filed under automatic extensions due on the same date. An exempt corporation may use Form M-990T-7004, Application for UBIT Extension, to request the extension.

What Is a Valid Return?

A valid return is a return upon which all required amounts have been entered in all appropriate lines on all forms. Data sheets, account forms or other schedules may be enclosed to explain amounts entered on the forms. However, referencing items to enclosures in lieu of properly entering all amounts onto the return is not sufficient.

When Must a Corporation Pay Estimated Taxes?

Any exempt corporation which reasonably estimates its excise tax to be more than \$1,000 must pay estimated taxes. 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.

Exempt 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.

Are Combined Returns Allowed?

No. Exempt corporations are **not** allowed to participate in the filing of combined returns.

What if the Taxpayer Is a Fiscal or Short Year Filer?

File the 2011 return for calendar year 2011 and fiscal years that began in 2011 and ended in 2012. For a fiscal year return, fill in the tax year space at the top of page 1. Short year filers should file using the tax form for the calendar year within which the short year falls. If the short

year spans more than one calendar year, the filer should file use the tax form for the calendar year in which the short year began. If the current form is not available at the time the short year filer must file, the filer should follow the rules explained in TIR 11-12.

Line Instructions

If your return is not for the calendar year, enter at the top of the form the dates of your taxable year.

Should the Whole Dollar Method be Used?

Yes. All amounts entered on Form M-990T must be rounded off to the nearest dollar.

Excise Tax Calculation

Line 1. Enter the exempt corporation's federal taxable income before net operating loss deduction and special deductions, from U.S. Form 990T, line 34.

Line 2. Massachusetts does not allow a deduction for state, local and foreign income, franchise, excise or capital stock taxes. Any such taxes which have been deducted from federal net income should be entered in line 2 and added back into income.

Line 3. Enter the amount of any section 168(k) "bonus" depreciation. Massachusetts law was recently amended to decouple it from the adoption of Internal Revenue Code section 168(k). This section provides for a special depreciation allowance for certain property placed in service during the three-year period beginning on September 11, 2001. Under the Massachusetts law change, the new federal depreciation is not allowed. For Massachusetts tax purposes, for taxable years ending after September 10, 2001, depreciation is to be claimed on all assets, regardless of when they are placed in service. Use the method used for federal income tax purposes prior to the enactment of section 168(k). For more information, see TIR 02-11 and TIR 03-25.

Lines 4 and 7. Massachusetts law requires that a taxpayer add back to net income certain interest or intangible expenses and costs, including losses incurred in connection with factoring or discounting transactions. This add back is mandatory, with certain exceptions based generally upon showing by clear and convincing evidence that a particular add back would be unreasonable. To claim an exception for this new requirement, file Schedule ABI, Exceptions to the Add Back of Interest Expenses and/or Schedule ABIE, Exceptions to the Add Back of Intangible Expenses. For more information, see TIR 03-19.

Line 6. Massachusetts law allows for a loss carryover deduction. Enclose Schedule E-2 to claim this deduction.

Line 8. Effective January 1, 2005, Massachusetts has decoupled from the American Jobs Creation Act of 2004, Public Law 108-357. For corporate excise purposes, the definition of net income does not include the new federal production activity deduction. See TIR 05-5 for further information.

Line 9. Enter the total cost of renovating an abandoned building in an Economic Opportunity Area. Multiply this amount by 10% and enter the result.

Line 10. Enter all gross income from all other sources not included in lines 1 or 2 above. Do not include partnership income from an unrelated business on this line. See 830 CMR 63.39.1(4)(d).

Line 11. Add lines 1 through 5 and 7 through 10 and then subtract line 6.

Line 12. If the corporation conducts business activities in another state sufficient to give that state the jurisdiction to tax the corporation, Schedule F should be completed in order to determine the apportionment percentage. If all income is derived from business conducted in Massachusetts, enter 100% in line 12.

In completing Schedule F, if any of the apportionment totals for worldwide factors (lines 1c, 2a or 3f) are less than 3.33 % of the income subject to apportionment (the amount in line 11), do not include that factor in calculating the apportionment percentage. The apportionment factors should be determined only with respect to the unrelated business activity of the exempt corporation. See Regulation 830 CMR 63.38.1 (11)(a)4b.

Line 14. Enter any income that is not subject to apportionment.

Line 16. A deduction is allowed for expenditures paid or incurred during the taxable year for the installation of any solar or wind powered climate control or water heating unit. Ancillary units do not qualify. In order to be eligible for this deduction, the property must be certified by the Office of Facilities Management.

Line 19. If the corporation is required to recapture any amount of previously claimed EOA Credit, Low-Income Housing Credit, Brownfields Credit or Historic Rehabilitation Credit, complete Schedule(s) H and/or H-2 and enter the result in line 19 of the return. Current year credits can then be used to offset the total excise due which will include the recapture amount. Also enter any installment sale tax due.

Line 21: Economic Opportunity Area Credit. Enter the amount of Economic Opportunity Area Credit claimed this year from Schedule EOAC, line 16. Enclose a completed Schedule EOAC to this return. For more information, contact the Massachusetts Office of Business Development at One Ashburton Place, Room 2101, Boston, MA 02108.

Line 22: Economic Development Incentive Program Credit. Under the provisions of the Economic Development Incentive Program (EDIP) established pursuant to M.G.L. Ch. 23A, the Economic Assistance Coordination Council (EACC) may authorize taxpayers participating in certified projects to claim tax credits under M.G.L. Ch. 62 sec. 6(g) and M.G.L. Ch. 63 sec. 38N. Taxpayers authorized by the EACC to claim tax credits for projects certified on or after January 1, 2010 must use Form EDIP, Refundable Economic Development Incentive Program Credit, to claim such credits. Taxpayers seeking to claim credits for projects certified prior to January 1, 2010 must use Schedule EOAC. See TIR 10-01 for further information.

Line 23: Investment Tax Credit. Manufacturing corporations and corporations engaged primarily in research and development, agriculture or commercial fishing are allowed a credit of 3% of the cost of depreciable real and tangible property. Such property must have a useful life of four years or more. The property must be used and located in Massachusetts on the last day of the taxable year. A corporation cannot take the credit on property which it leases to another. A corporation can take the credit on property which it leases from another (for property leased and placed in service on or after July 1, 1994). Generally, eligible corporate lessees making qualifying leasehold improvements may claim the credit.

A corporation may carry over to the next succeeding three years any unused portion of its Investment Tax Credit (ITC). To claim the ITC, Schedule H must be completed where the credit is calculated.

Line 24: Vanpool Credit. Foreign and domestic corporations are allowed a credit of 30% of the cost incurred during the taxable year for the purchase or lease of company shuttle vans used in the Commonwealth as part of an employer-sponsored ridesharing program. The shuttle vans must be used for transporting employees and students from their homes, or public transportation facilities, to their places of employment or study.

To claim the Vanpool Credit, Schedule VP must be completed.

Line 25: Research Credit. A credit is allowed for corporations which made basic research payments and/or incurred qualified research expenses conducted in Massachusetts during the taxable year. A corporation taking the research credit is limited in the amount that can be taken against the excise in any year.

See Schedule RC instructions for further information. To claim the Research Credit, Schedule RC must be completed.

Line 26: Harbor Maintenance Credit. Corporations are allowed a credit against the excise for certain harbor maintenance taxes paid to the U.S. Customs Service pursuant to IRC sec. 4461. A corporation is eligible for the credit if the tax paid is attributable to the shipment of break-bulk or containerized cargo by sea and ocean-going vessels through a Massachusetts harbor facility.

A taxpayer may carryover any excess credit to any of the next succeeding five taxable years. See Schedule HM instructions for further information.

Line 27: Brownfields Credit. Recent legislation extends the Brownfield 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, 2013, and the time for incurring eligible costs that qualify for the credit is extended to January 1, 2014. For further information, see TIR 06-16.

Line 28: Low-Income Housing Credit. To claim the Low-Income Housing credit, enclose documentation with the return. For further information on this credit, contact the DHCD, Division of Private Housing, at (617) 727-7824.

Line 29: Historic Rehabilitation Credit. Effective for tax years beginning on or after January 1, 2005 and ending on or before December 31, 2017, 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 five 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 830 CMR 63.38R.1, Massachusetts Historic Rehabilitation Tax Credit.

Line 30: Film Incentive Credit. For tax years beginning on or after January 1, 2006 and before January 1, 2023, motion picture companies may claim a credit equal to 25% 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 31: 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 32: Life Science Company Investment Tax Credit. For taxable years beginning on or after January 1, 2009, a new Investment Tax Credit (ITC) may be available to taxpayers.

This credit, which is available to certified life sciences companies only to the extent authorized pursuant to the Life Sciences Tax Incentive Program, is equal to 10% of the cost of qualifying property acquired, constructed or erected during the taxable year and used exclusively in the Commonwealth.

The refundable ITC can apply to purchases made on or after January 1, 2009 even if a construction project started before that date. The scope of qualifying property for purposes of the new credit is the same as that provided by the existing ITC under M.G.L. Ch. 63, sec. 31A.

Life sciences companies or persons also qualifying for the Economic Opportunity Area Credit (EOAC) for the same property may only take such EOAC to the extent of an additional 2% of the cost of the qualifying property. Corporations taking these credits are not allowed to take the ITC under M.G.L. Ch. 63, sec. 31A or the Low-Income Housing Credit under M.G.L. Ch. 63, sec. 31H for the same qualifying property.

If a life sciences ITC exceeds the tax otherwise due as applicable, 90% of the balance of such credit may, at the option of the taxpayer and to the extent authorized pursuant to the Life Sciences Tax Incentive Program, be refundable to the taxpayer for the tax year in which the qualified property giving rise to such credit is placed in service. If such refund is elected by the taxpayer, then the carryover provisions for this credit that would otherwise apply shall not be available. For further information, see TIR 08-23.

Line 33: Life Science Company FDA User Fees Credit. For taxable years beginning on or after January 1, 2009, a new credit may be available to taxpayers for user fees paid on or after June 16, 2008 to the U. S. Food and Drug Administration (U.S.F.D.A.) upon submission of an application to manufacture a human drug in the Commonwealth.

This credit, which is available to certified life sciences companies only to the extent authorized pursuant to the Life Sciences Tax Incentive Program, is equal to 100% of the user fees actually paid by the taxpayer, as specified in the certification, and may be claimed in the taxable year in which the application for licensure of an establishment to manufacture the drug is approved by the U.S.F.D.A.

To be eligible for the credit, more than 50% of the research and development costs for the drug must have been incurred in Massachusetts. Taxpayers may use the FDA user fees credit to reduce their tax to zero. To the extent authorized pursuant to the Life Sciences Tax Incentive Program, 90% of the balance of credit remaining is refundable. The deduction otherwise allowable for user fees qualifying for the credit is disallowed. For further information, see TIR 08-23.

Line 34: Life Sciences Company Research Credit. For taxable years beginning on or after January 1, 2009, a new credit may be available for certified life sciences companies pursuant to the Life Sciences Tax Incentive Program, to provide qualifying companies with a means to obtain a research credit for certain expenditures not qualifying for the existing research credit under c. 63, § 38M. St. 2008, c. 130, §§ 30 and 53, codified at G.L. c. 63, § 38W. Under this new provision, the credit is generally calculated in the same manner as the research credit under section 38M. However, the qualified research expenditures which form the basis for the calculation in new section 38W differ from those of section 38M in that they can qualify when the activities are performed both inside and outside of the Commonwealth, to the extent they relate to legally mandated clinical trial activities. The new life sciences research credit is not refundable. For further information, see TIR 08-23.

Line 37: 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 Law Enforcement to provide for conservation programs for rare, endangered and nongame wildlife and plants in the Commonwealth.

Line 42: Pass-Through Entity Withholding. Enter the amount of any withholding tax from pass-through entities. Be sure to include the taxpayer identification number of the person or entity submitting the withholding payment on behalf of the taxpayer.

Line 43: Refundable Film Credit. Motion picture production companies qualify to elect a refundable film credit if they have not transferred or carried forward a portion of the film credit for the production/certificate number to be refunded. Transferees of the film credit do not qualify for the refundable film credit. If an election to refund the film credit for a production/certificate number is made, the entire film credit remaining after reducing tax liability and other credits will be refunded at 90%. A motion picture production company that elects to claim a refund of the film credit is not permitted to seek a partial refund and a partial transfer or carryover of the credit. However, the refund can be applied as an estimated payment for the subsequent tax year.

Line 44: Refundable Dairy Credit. A taxpayer who holds a certificate of registration as a dairy farmer pursuant to M.G.L. Ch. 94, sec. 16A is allowed a refundable tax credit based on the amount of milk produced and sold. The dairy farmer tax credit as originally enacted was 90% refundable. Under recent legislation, the dairy farmer tax credit is now 100% refundable.

Line 45: Refundable Life Science Credit There are two different credits which the Massachusetts Life Sciences Center, with the approval of the Secretary of Administration and Finance, may authorize a taxpayer to have refunded in lieu of carrying forward such credit to a future year.

A taxpayer may apply for a refund of 90% of the unused Investment Tax Credit granted under M.G.L. Ch. 63, sec. 38U or the additional credit on the same property that may be granted under M.G.L. Ch. 63, sec. 38N if property for which the 38U credit is granted is used in a certified project.

A taxpayer may apply for a refund of 90% of the unused FDA User Fee Credit granted under M.G.L. Ch. 63, sec. 38M, including credits carried over from prior years. Schedule RLC, Refundable Life Science credit, is used by taxpayers to claim the refund.

Line 46: Refundable Economic Development Incentive Credit.

Under the provisions of the Economic Development Incentive Program (EDIP) established pursuant to M.G.L. Ch. 23A, the Economic Assistance Coordination Council (EACC) may authorize taxpayers participating in certified projects to claim tax credits under M.G.L. Ch. 62 sec. 6(g) and M.G.L. Ch. 63 sec. 38N. Taxpayers authorized by the EACC to claim tax credits for projects certified on or after January 1, 2010 must also submit Form EDIP, Refundable Economic Development Incentive Program Credit, to support the claim for this credit.

Line 47: Refundable Conservation Land Credit. Effective for tax years beginning on or after January 1, 2011, a credit is allowed for qualified donations of certified land to a public or private conservation agency. The credit is equal to 50% of the fair market value of the qualified donation. The amount of the credit that may be claimed by a taxpayer for each qualified donation cannot exceed \$50,000. The credit is refundable but not transferable. The certification process is conducted by the Executive Office of Energy and Environmental Affairs (EEA). EEA has promulgated a regulation, 301 CMR 14.00, entitled Conservation Land Tax Credit, which sets forth criteria for authorizing and certifying the credit. See also, 830 CMR 62.6.4, entitled Conservation Land Tax Credit, promulgated by DOR to explain the calculation of the allowable credit.

Lines 49 through 51: Overpayments and refunds. If line 38 is larger than line 48, enter the amount overpaid in line 49.

The overpayment may be applied in part or in full to 2012 estimated taxes by entering in line 50 the amount to be credited to 2012 estimated tax payments. Enter in line 51 the amount to be refunded.

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

Line 52: Balance due. If line 38 is larger than line 48, enter the balance due in line 52. Payment in full is due on or before March 15, 2012.

Lines 53 and 54: Penalties and interest. 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 1% 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?"

Any company which fails to pay its tax when due will be subject to interest on the unpaid balance.

Line 55: 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.

Where to File

All returns should be mailed to: **Massachusetts Department of Revenue, PO Box 7067, Boston, MA 02204.**