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Commonwealth of Massachusetts

Department of Revenue

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# 2019 Massachusetts Corporation Excise Return **Form 355**

Massachusetts has an electronic filing requirement for this form. See TIR 16-9 for further information.

## What kind of help is available

The instructions in the Department of Revenue's tax forms should provide answers to most taxpayer questions. If you have questions about completing your Massachusetts tax form, you can call us at (617) 887-6367 or toll-free in Massachusetts at 1-800-392-6089 Monday through Friday. DOR's website at [mass.gov/dor](http://mass.gov/dor) is also a valuable resource for tax information 24 hours a day. Thousands of taxpayers use DOR's website to e-mail and receive prompt answers to their general tax inquiries. Interactive applications that allow taxpayers to check the status of their refunds and review their quarterly estimated tax payment histories are available through our website or by calling our main information lines listed above.

## Where to get forms and publications

Many Massachusetts tax forms and publications are available via the DOR website. The address for the Department's website is [mass.gov/dor](http://mass.gov/dor).

**For general tax information. Please call (617) 887-6367 or toll-free in Massachusetts 1-800-392-6089. These main information lines can provide assistance with the following:**

- ▶ abatements
- ▶ bills and payments
- ▶ business registration
- ▶ business taxes
- ▶ corporate excise
- ▶ estate taxes
- ▶ estimated taxes
- ▶ certificate of good standing
- ▶ fiduciary taxes
- ▶ nonresident information
- ▶ partnerships
- ▶ personal income taxes
- ▶ refunds
- ▶ withholding

**For help in one of the following specific areas. Please call the number listed below.**

- ▶ Installment sales (617) 887-6950
- ▶ Teletype (TTY) (617) 887-6140
- ▶ Small Business Workshop (617) 887-5660
- ▶ Vision-impaired taxpayers can contact any DOR office to receive assistance.
- ▶ Upon request, this publication is available in an alternative format. Please send your request to: Office of Diversity and Equal Opportunity, PO Box 9557, Boston, MA 02114-9557.

To report allegations of suspected misconduct or impropriety involving Department of Revenue employees, please call the Office of Ethics and Employee Responsibility Hot Line at 1-800-565-0085 or write to PO Box 9567, Boston, MA 02114.

# Major 2019 Tax Law Changes

## Changes Related to Federal Tax Reform

On December 22, 2017, Public Law 115-97, the Tax Cuts and Jobs Act (TCJA), was signed into law. The TCJA provides for federal changes to a variety of provisions of the Internal Revenue Code (IRC) that affect business entities subject to the corporate and financial institution excise. In response to the TCJA, the Department of Revenue (DOR) issued written guidance addressing the impact of the TCJA in Massachusetts. This guidance is available on DOR's website. See e.g., TIR 19-11: Legislation Impacting the Massachusetts Tax Treatment of Selected International Provisions of the Federal Tax Cuts and Jobs Act, TIR 19-9: Extension of Time to File Short-Year Returns Resulting from Partnership Technical Termination, TIR 19-7: Massachusetts Treatment of Investments in Qualified Opportunity Zones, TIR 19-6: Impact of the Federal Tax Cuts and Jobs Act on a Taxpayer's Overall Method of Accounting for Massachusetts Purposes, and TIR 19-17: Application of IRC § 163(j) Interest Expense Limitation to Corporate Taxpayers.

## Massachusetts Schedule FCI (Foreign Corporation Income)

Certain eligible businesses and individuals will be required to complete and file a Massachusetts Schedule FCI, Foreign Corporation Income, with their tax return to reflect their pro rata share of foreign corporation income that is reported federally under the TCJA. Specific instructions for completing Schedule FCI are available on DOR's website. See 2019 Schedule FCI and instructions.

**Note:** in addition to completing and submitting Schedule FCI a taxpayer must also refer to the specific tax return instructions herein to ensure amounts reflected on Schedule FCI are correctly reported on the tax return.

## Filing Due Dates

Beginning with tax returns due on or after January 1, 2018, Massachusetts General Laws (MGL) ch 62C, §§ 11 and 12 require C corporations to file their tax returns on or before the 15th day of the fourth month following the close of each taxable year (April 15 in the case of corporations filing on a calendar year basis). The law did not change the filing due date for S corporation tax returns, which remains the 15th day of the third month following the close of each taxable year. See TIR 17-5.

For calendar year filers, returns are due Wednesday, April 15, 2020.

## Who Must File and Pay Corporate Excise?

The purpose of the corporate excise is to require payment for the right granted by the laws of the Commonwealth to exist as a corporation and for the enjoyment under the protection of the Commonwealth's laws of the powers, rights, privileges and immunities derived by reason of the corporate form of existence and operation. The corporate excise is due and payable when any of the following conditions are met:

- ▶ The corporation actually does business within the Commonwealth;
- ▶ The corporation exercises its charter within the Commonwealth;
- ▶ The corporation owns or uses any part of its capital, plant or other property in the Commonwealth;
- ▶ The corporation owns and/or rents real or tangible personal property as a lessor in Massachusetts even without having a usual place of business here; or
- ▶ The corporation has no other contacts with the state but has more than \$500,000 in Massachusetts sales.

Corporations which must file and pay corporate excise include any corporation which:

- ▶ Is organized under, or subject to, MGL chs 156, 156A, 156B or 180; or
- ▶ Has privileges, powers, rights or immunities not possessed by individuals or partnerships.

The following corporations are not obligated to file:

- ▶ Corporations organized under the provision of MGL ch 157, § 10.

## Which Form Should Be Filed?

Businesses which are incorporated under the laws of the Commonwealth or businesses doing business in Massachusetts but incorporated elsewhere should file Form 355.

The Department of Revenue also has the following tax forms to meet the unique filing needs of combined filers, security corporations and S corporations.

Corporations which are participating in a combined report of their net income to Massachusetts must file Form 355U. Beginning in 2011, most combined report filers will also pay the non-income measure of excise when filing the 355. Combined report filers are not required to also file a Form 355 unless their taxable year ends on a different date than the taxable year of the com-

bined report. See the instructions for the Registration Section, line 7 for further information.

Corporations engaged exclusively in buying, selling, dealing in or holding securities on their own behalf and not as brokers must file Form 355SC.

S corporations which are incorporated under the laws of the Commonwealth or S corporations doing business in Massachusetts but incorporated elsewhere should file Form 355S.

If a corporation files Form 355, 355U, 355S or 355SC, the return must be submitted electronically provided that gross revenues from all sources are \$100,000 or greater. Failure to submit the return electronically may result in a penalty of \$100. For further information on electronic filing requirements, see TIR 16-9.

Many corporate filers will now qualify to file electronically using Form 355SBC beginning with 2015 corporate returns. The criteria for filing Form 355SBC online includes:

- ▶ Gross receipts or sales under \$1,000,000;
- ▶ Total income under \$1,000,000;
- ▶ 100% of net income must be taxable in Massachusetts;
- ▶ Taxpayer not subject to corporate tax in another state;
- ▶ Corporation is not a DISC, an S corporation or a Massachusetts security corporation. These small businesses now can file their corporate excise returns online for free through DOR's MassTaxConnect system at [mass.gov/masstaxconnect](http://mass.gov/masstaxconnect). Taxpayers who do not wish to file online can file the longer Form 355.

**Note:** Under Massachusetts law, all corporations registered in the Commonwealth are required to file an annual report form with the Secretary of State within a limited time after the close of their fiscal year. Annual report forms and instructions can be obtained by calling (617) 727-9440 or online at [www.sec.state.ma.us/cor/coridx.htm](http://www.sec.state.ma.us/cor/coridx.htm). For further information, call the Secretary of State's Corporations Division at (617) 727-9640.

## What Is Nexus for Massachusetts Corporate Excise Purposes?

A corporation that owns or uses any part of its capital or other property, exercises or continues its charter or is qualified to, or is actually doing business in Massachusetts has nexus with the Commonwealth and must pay a corporate excise. Doing business in the state as referenced in MGL ch 63, § 39 includes:

- ▶ The maintenance of a place of business;
- ▶ The employment of labor;

- ▶ The buying, selling or procuring of services or property;
- ▶ The execution of contracts;
- ▶ The exercise or enforcement of contract rights;
- ▶ The consummation of greater than \$500,000 in sales (where the corporation has no other state contacts); and
- ▶ Each and every act, power, right, privilege, or immunity exercised or enjoyed in the Commonwealth, as an incident to or by virtue of the powers and privileges acquired by the nature of such organizations, as well as, the buying, selling or procuring of services or property.

The federal statute, PL 86-272, exempts from state net income-based taxation an out-of-state corporation whose sole interstate activities consist of the mere solicitation of orders for sales of tangible personal property filled by shipment or delivery from a point outside Massachusetts after such orders are sent outside the state for approval or rejection. PL 86-272 does not apply to a corporation that sells services or licenses intangible property in Massachusetts. Also, PL 86-272 does not apply where the in-state business activity by or on behalf of a corporation, however conducted, includes activity that is not entirely ancillary to the solicitation of orders of tangible personal property. Activities that take place after a sale will ordinarily not be considered entirely ancillary to the solicitation of such sale. A corporation that has nexus with the Commonwealth and is excluded from income-based taxation by PL 86-272 remains liable for the non-income measure of excise.

The following are activities that ordinarily fall within the scope of "solicitation" under PL 86-272:

- ▶ Activities including advertising related to generating retail demand for the products of a manufacturer or distributor by promoting the products to retailers who order the products from a wholesaler or other middleman;
- ▶ Carrying samples only for display or for distribution without charge or other consideration;
- ▶ Owning or furnishing automobiles to sales representatives, provided that the vehicles are used exclusively for solicitation purposes;
- ▶ Passing inquiries and complaints on to the home office;
- ▶ Incidental and minor advertising;
- ▶ Checking customers' inventories for reorder only;
- ▶ Maintaining a sample or display area for an aggregate of 14 calendar days or less during the tax year, provided that no sales or other activities inconsistent with solicitation take place;

- ▶ Soliciting of sales by an in-state resident representative who maintains no in-state sales office or place of business; and
- ▶ Training or holding periodic meetings of sales representatives.

For further information on corporate nexus, refer to 830 CMR 63.39.1.

## What Are the Differences Between the Massachusetts Corporate Excise and the IRC?

Gross income for corporate excise purposes is the same as that defined under the Internal Revenue Code (IRC), as amended and in effect for the taxable year, with the following additions:

- ▶ Interest from the bonds, notes and evidences of indebtedness of any state, including Massachusetts.

Net income is gross income less the deductions, but not the credits, allowable under the IRC. The following deductions, however, are not allowed:

- ▶ Dividends received, except as permitted under Massachusetts law (See Schedule E-1 instructions); and

- ▶ Taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes imposed by any state or U.S. territory.

The deduction for losses sustained in other taxable years is allowed subject to certain restrictions. See Schedule NOL for further information.

DOR and the IRS maintain an extensive exchange program, routinely sharing computer tapes and audit results. Discrepancies between income and deductions reported federally and on this return, except those allowed under state law, will be identified and may result in a state audit or further investigation.

If the corporation is the parent of a wholly-owned domestic international sales corporation (DISC), the U.S. net income of the parent shall be reported to Massachusetts with no allocation of income, deductions, assets or liabilities made to the DISC. The DISC income, which must be included in the parent's return, must be for the same taxable year or the taxable year immediately following the close of the parent's taxable year. DISCs which are not wholly-owned, either directly or indirectly, are taxable as regular business corporations.

Massachusetts generally adopts the IRC treatment of transactions between foreign sales corporations (FSC) and shareholder corporations.

For more information on differences related to the impact of the TCJA in Massachusetts see TIR 19-17: Application of IRC § 163(j) Interest Ex-

pense Limitation to Corporate Taxpayers; TIR 19-11: Legislation Impacting the Massachusetts Tax Treatment of Selected International Provisions of the Federal Tax Cuts and Jobs Act, TIR 19-9: Extension of Time to File Short-Year Returns Resulting from Partnership Technical Termination, TIR 19-7: Massachusetts Treatment of Investments in Qualified Opportunity Zones, and TIR 19-6: Impact of the Federal Tax Cuts and Jobs Act on a Taxpayer's Overall Method of Accounting for Massachusetts Purposes.

## Are Combined Reports Sometimes Required?

Yes. If two or more corporations under common control are engaged in a unitary business, any such corporations that are taxed on their income in Massachusetts must determine their income measure of excise by filing a combined report, Form 355U. This requirement applies regardless of whether the corporations file a consolidated federal return. See 830 CMR 63.32B.2.

The non-income measure of excise for members of a combined group is still determined on a separate company basis but for tax years beginning on or after January 1, 2011, this is calculated on schedules attached to the Form 355U. A separate return for the non-income measure (Form 355 or Form 355S, as appropriate) is required if the corporation's federal taxable year ends at a different time than the taxable year of the combined report.

## What If a Corporation's Taxable Year Is Less Than Twelve Months?

Corporations whose taxable year is less than twelve calendar months may determine their excise by pro rating calendar months for the non-income measure of the excise only. Schedules should be available to explain any prorating computations.

A corporation may never pay less than the \$456 minimum excise on a return, and this amount can never be prorated as Massachusetts law makes no provision for the prorating of the minimum excise.

## What If a Corporation's Taxable Year Is Less Than Twelve Months?

File the 2019 return for calendar year 2019 and fiscal years that began in 2019 and ended in 2020. 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 using 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.

## When Are Returns Due?

Form 355 corporate excise returns, together with payment in full of any tax due, must be filed on or before the 15th day of the fourth month after the close of the taxable year, calendar or fiscal. See TIR 17-5.

Taxpayers meeting certain payment requirements will be given an automatic seven-month extension in the case of corporate excise taxpayers filing combined reports and a six-month extension for other corporate excise taxpayers. Taxpayers filing unrelated business income tax returns will be given an eight-month extension. For further information, see TIR 15-15.

**Note:** An extension of time to file is not valid if the corporation fails to pay at least 50% of the total tax liability or the minimum tax of \$456, whichever is greater, through estimated payments or with an extension payment.

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

## What is a Proper Return?

A proper 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 must be available to explain amounts entered on the forms. Referencing lines to enclosures in lieu of entering amounts onto the return is not sufficient.

An exact copy of U.S. Form 1120, including all applicable schedules and any other documentation required to substantiate entries made on this return, must be made available to the Department of Revenue upon request.

## Should the Corporation Be Making Estimated Tax Payments?

All corporations which reasonably estimate their corporate excise to be in excess of \$1,000 for the taxable year are required to make estimated tax payments to the Commonwealth. Estimated taxes may be paid in full on or before the 15th day of the third month of the corporation's taxable year or in four installment payments according to the schedule below.

**Note:** The due dates for estimated tax payments are not affected by the change in corporate excise return due dates. An overpayment from the prior year Form 355 applied to the following year's estimated tax will be credited on the 15th day of the fourth month; one month after the due date for the first installment.

▶ 40% of the estimated tax due for the year is due on the 15th day of the 3rd month of the taxable year.

▶ 25% of the estimated tax due for the year is due on the 15th day of the 6th month of the taxable year.

▶ 25% of the estimated tax due for the year is due on the 15th day of the 9th month of the taxable year.

▶ 10% of the estimated tax due for the year is due on the 15th day of the 12th month of the taxable year.

Corporations with \$100,000 or more in receipts or sales must submit their estimated payments electronically. See TIR 16-9 for further information.

**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.

To avoid a possible underpayment penalty on its taxes, a corporation should, when making its first payment, estimate its tax to be at least equal to the prior year's tax. If the prior year's tax was the minimum tax, the corporation should make a payment or payments equal to the minimum tax to safeguard against a possible underpayment penalty.

**Note:** Any corporation having \$1 million or more of U.S. taxable income in any of its three preceding taxable years (as defined in IRC § 6655(g)) may only use its prior year 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 its second installment payment.

For more information on corporate estimated taxes, refer to 830 CMR 63B.2.2, and MGL ch 63B.

## Filing an Amended Return

If you need to change a line item on your return, complete a return with the corrected information and fill in the **Amended return** oval. An amended return can be filed to either increase or decrease your tax. Generally, an amended return must be filed within three years of the date that your original return was filed. Electronic filing requirements apply to amended returns and disputes. See TIR 16-9 for further information.

## Federal Changes

If this is an amended Massachusetts return and it does not report changes that result from the filing of a federal amended return or from a federal audit (for example, if the amended Massachusetts return is reporting only a change in the apportionment calculation or an additional tax credit),

fill in only the **Amended return** oval. If this is an amended return that includes changes you have reported on an amended federal return filed with the IRS for the same tax year, fill in both the **Amended return** box and the **Federal amendment** oval. If the amended Massachusetts return incorporates changes that are the result of an IRS audit, check both the **Amended return** and **Federal audit** ovals; enclose a complete copy of the federal audit report and supporting schedules.

## Consent to Extend the Time to Act on an Amended Return Treated as Abatement Application

In certain instances, an amended return showing a reduction of tax may be treated by DOR as an abatement application. Under such circumstances, by filing an amended return, you are giving your consent for the Commissioner of Revenue to act upon the abatement application after six months from the date of filing. See TIR 16-11. You may withdraw such consent at any time by contacting the DOR in writing. If consent is withdrawn, any requested reduction in tax will be deemed denied either at the expiration of six months from the date of filing or the date consent is withdrawn, whichever is later.

## Filing an Application for Abatement

File an Application for Abatement, Form ABT, only to dispute one of the following:

- ▶ Penalties.
- ▶ Audit assessments.
- ▶ Responsible person determinations.

For the fastest response time, file your dispute online at [mass.gov/masstaxconnect](http://mass.gov/masstaxconnect). If you are not required to file electronically or you cannot file online, use Form ABT.

Visit [mass.gov/dor/amend](http://mass.gov/dor/amend) for additional information about filing an amended return, or filing an application for abatement.

## Schedule TDS

If the corporation must explain any inconsistent filing positions made on the return, fill in the oval and enclose Schedule TDS. See TIR 06-5 for further information.

# Line by Line Instructions

## Line 3

A corporation is a section 38 manufacturer for any taxable year if it is engaged in manufacturing during the taxable year and its manufacturing activity during the taxable year is substantial. This



applies regardless of whether the corporation is classified as a manufacturing corporation under MGL ch 58, § 2 and 830 CMR 58.2.1.

The apportionment factor for corporations engaged in substantial manufacturing (section 38 manufacturers) is 100% of sales.

A corporation's manufacturing activity is substantial for any taxable year if the corporation meets any of the following tests:

- ▶ The corporation derives 25% or more of its receipts for the taxable year from the sale of manufactured goods that the corporation manufactures; or
- ▶ The corporation pays 25% or more of its payroll for the taxable year to employees working in manufacturing operations and derives 15% or more of its receipts for the taxable year from the sale of manufactured goods that the corporation manufactures; or
- ▶ The corporation uses 25% or more of its tangible property in manufacturing during the taxable year and derives 15% or more of its receipts for the taxable year from the sale of manufactured goods that the corporation manufactures; or
- ▶ The corporation uses 35% or more of its tangible property in manufacturing during the taxable year.

Effective January 1, 1997, mutual fund service corporations are required to attribute their mutual fund sales to Massachusetts based on the domicile of the shareholders in the fund. Effective July 1, 1997 mutual fund service corporations are allowed to apportion their net income from mutual fund sales based solely on their sales factor. However, in order to use the single sales factor apportionment method a mutual fund service corporation must increase its workforce in Massachusetts by 5% a year for five years based on the 1996 employment level unless adverse economic conditions exist. Taxable net income not derived from mutual fund sales is apportioned according to the statutory three factor method.

A corporation is a mutual fund service corporation if it derives more than 50% of its gross income from providing, directly or indirectly, management, distribution or administration services to or on behalf of a regulated investment company, and from trustees, sponsors and participants of employee benefit plans which have accounts in a regulated investment company.

The Department has issued further guidance on apportionment for mutual fund service corporations; see 830 CMR 63.38.7.

If a corporation is qualified as a section 38 manufacturer or is a mutual fund service corporation, check the applicable box and complete Schedule F, Income Apportionment, accordingly.

The Department has issued further guidance on apportionment; see 830 CMR 63.38.1.

#### Line 4

An R&D corporation is a business corporation whose principal business activity in Massachusetts is research and development and which (a) derives more than two thirds of its gross receipts attributable to Massachusetts from that activity or (b) incurs more than two thirds of its expenditures in that activity. Research and Development corporations may be eligible for certain tax benefits. See 830 CMR 64H.6.4.

A classified manufacturing corporation is a business corporation engaged in manufacturing in Massachusetts, whose manufacturing activities in Massachusetts are substantial and which has filed Form 355Q and had its manufacturing status approved by the Commissioner. A corporation may be a section 38 manufacturer based on its worldwide manufacturing activities but not be a classified manufacturer if those manufacturing activities occur outside of Massachusetts. Classified manufacturing corporations may be eligible for certain tax benefits. See 830 CMR 58.2.1.

A Regulated Investment Company ("RIC") must file a Form 355 informational return that must be submitted electronically (paper returns will not be accepted) by checking the "RIC" box on line 4 of the return. The excise, balance due and refund lines should be left blank.

If the corporation is a public Real Estate Investment Corporation (REIT), which is an intangible property corporation, it is required to file Schedule RNW, REIT Net Worth Calculation in place of Schedule D. See TIR 06-6 for further information.

#### Lines 5 and 6

Fill in the oval on line 5 if the taxpayer is included in a Form 355U filing. If line 5 is filled in the taxpayer must also complete line 6 by providing the Federal Identification number (FID) of the principal reporting corporation of the Form 355U combined report in which the taxpayer is included.

#### Line 7

If line 7 is filled in you are still required to file Form 355 if this corporation has a taxable year that ends on a different date than the taxable year end date for which the combined report is being filed. The taxpayer must fill in the oval on line 7 and file a separate Form 355 if this situation applies. The taxpayer may not be required to file a separate Form 355 if it is participating in a combined report and the above situation does not apply.

### Fiscalization

When two or more corporations are required to file a combined report, the taxable members'

apportioned shares of the combined income are based on the combined group's taxable year. If not all the members have the same taxable year, the combined group's taxable year is determined under 830 CMR 63.32B.2(12)(b).

If a member's non-income measure of excise is due on the same day as the combined report (if the member's taxable year ends at the same time as the combined group's taxable year), the member will pay such non-income measure with the combined report and should not also submit form 355 for the same taxable year.

If a member has a separate taxable year that ends on a different date than the combined group's taxable year, that member must file a separate return to pay the non-income portion of the excise. These members will file Form 355 or Form 355S (as appropriate) indicating on the face of such return that they are subject to combined reporting for their income measure of excise and exclude from that separate return the income that is reported on the group's Form 355U.

The separate non-income measure return, if required, must include Schedules A, B, C and D along with any supporting schedules required for some entries as referenced on Schedule A. A corporation that would be eligible to apportion its income based on its own separate activities (i.e., the corporation is taxable on its income in another state without regard to the activities of its other combined group members) must also complete Schedule F without regard to the combined reporting provisions in order to determine its non-income measure. If a corporation would not be allowed to apportion its income based on its own separate activities, no Schedule F is required and the corporation will use an apportionment percentage of 100% in determining the non-income measure. Such corporations include all of their property, payroll and sales, including those attributes used to apportion income for purposes of a combined report, in completing their stand-alone Schedule F for this purpose.

Schedule E is not required unless:

- ▶ The taxpayer has income from a source other than a unitary business that is to be reported on a separate company basis; and
- ▶ The taxpayer has a tax year that is different than the combined group's tax year.

In such cases, the corporation is to report on Form 355 or Form 355S, Schedule E only the income that is not included in the combined report and is to allocate or apportion such income without regard to the combined reporting provisions.

The total of credits taken by such corporations against the non-income measure of excise is entered directly on line 7 of the excise calculation. The amount of credit allowable to the tax-

payer and the allocation of credits between the income and non-income measures is calculated on schedules attached to the combined report. Schedules that are required to calculate individual credits should be submitted with the combined report if the credit is calculated on an aggregated basis.

#### Line 8

Insurance mutual holding companies are subject to the corporate excise as business corporations but are not required to pay the portion of tax based on the value of their tangible property or net worth (i.e., the non-income measure of the excise). The corporate excise tax for an insurance mutual holding company is the greater of 8.00% of its net Massachusetts income in Massachusetts or the minimum excise tax of \$456.

#### Line 9

If the corporation is requesting alternative apportionment under MGL ch 63, § 42, is filled in in line 9 and enclose Form AA-1. The return and Schedule F must be completed and the tax must be paid according to the statutory three-factor formula. However, alternative treatment may be requested and a refund will be issued if such treatment is granted by the Commissioner of Revenue. For further information on alternative apportionment, see MGL ch 63, § 42 or 830 CMR 63.42.1.

#### Line 15

If your corporation has undergone a federal audit for some prior year, you must fill in the Federal audit oval on page 1. You must report any federal audit changes 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 line 14 does not relieve the corporation from this filing obligation. Fill in line 15 if you reported the IRS audit results related to the year reported in line 14.

#### Line 16

If the corporation is deducting intangible or interest expenses, fill in line 16. Complete Schedule ABI, Exceptions to the Add Back of Interest Expense, and/or Schedule ABIE, Exceptions to the Add Back of Intangible Expenses, to claim the deduction.

Please see TIR 19-17: Application of IRC § 163(j) Interest Expense Limitation to Corporate Taxpayers, for more information on how to calculate the interest expense deduction.

#### Line 17

Corporations that are doing business in Massachusetts but are exempt from the income measure of excise pursuant to federal PL 86-272 claim the exemption here by filling in the oval. These corporations remain subject to the non-income measure of excise or the minimum excise, whichever is greater. Such corporations are not required to submit Schedule E but must complete Schedule F for the purpose of determining their non-income measure of excise.

If the taxpayer is only taxable with respect to partnership activity then fill in the second oval.

## Schedule Instructions

**Note:** Instructions for the Excise Calculation section of the Form 355 starts on page 17.

### Schedule A

Enter the closing amounts for the taxable year covered by this return. Once the corporation's balance sheet is completed, it will be easier to complete subsequent schedules.

#### Line 1a

Enter here the book value of all buildings. A portion of the cost attributable to buildings under construction and reported on the corporation's books as construction in progress (CIP) is considered real estate for purposes of the property measure of the corporate excise and must be reported in line 1a. Enter 100% of the corporation's real estate CIP costs, less 15% of the current year's accumulation.

#### Line 1j

The value of any certified solar/wind units for which a deduction is claimed this year should be entered here. Amounts of certified industrial waste and/or air pollution treatment facilities and certified solar/wind deductions claimed in any prior year should be included. In order to be eligible for this deduction, property must be certified by the appropriate state agencies and copies of such certificates must be available upon request. See instructions for Schedule E, line 24.

#### Line 1k

Enter here the value of all tangible property reported on the corporation's books as CIP. In addition, enter here 15% of the current year's real estate CIP accumulation. For further information, see DD 02-11.

#### Line 2b

Enter here the value of inventory that is exempt from the tangible property measure of the excise. An example of exempt inventory is merchandise of foreign origin imported and immediately placed in a federally bonded warehouse. Merchandise of domestic origin is not exempt from the tangible property measure of the excise. A schedule listing the components of any entry in line 2b must be available upon request.

#### Line 12

In order to be a subsidiary, the parent must own at least 80% or more of the voting stock of a corporation in accordance with IRC § 1504 or, in the case of a subsidiary business corporation that does not have voting stock, the book value of its investment in such business corporation must represent an 80% or more ownership interest. Advances should include payments in the nature of capital contributions. Do not include loans or other receivables.

#### Line 12a

Enter in line 12a the total of capital stock and equity contributions of subsidiary corporations 80% or more owned.

An amendment to MGL ch 63 § 30(8) allows a deduction of an ownership interest in a passthrough entity (such as an LLC or a partnership) that is treated for tax purposes as a business corporation under MGL ch 63, § 30. See TIR 14-11.

#### Line 12b

Enter in line 12b the value of capital stock investments with less than 80% ownership and also any other investment entities that are not treated for tax purposes as a business corporation under MGL ch 63, § 30.

#### Line 14

If the reserve for bad debt exceeds 2% of accounts receivable, a complete explanation to enable a review and determination of the proper amount allowable must be available upon request.

#### Line 17

Enter here the value of any assets not included in lines 1 through 16. Examples include, but are not limited to, goodwill and company patents.

#### Line 19a

Enter the value of mortgages on Massachusetts real estate, motor vehicles, machinery owned by a corporation which is not classified as a manufacturing corporation, and other tangible personal property located in Massachusetts and subject to local taxation. Mortgages do not include conditional sales, pledges or other types of security interest.

## Schedules B, C and D

### Tangible or Intangible Classification and Calculation of Non-Income Measure

Schedules B, C and D are used to calculate the non-income measure of the Massachusetts corporate excise. Schedule B is used to determine whether a corporation is a tangible or intangible property corporation. Once determined, tangible property corporations must complete Schedule C (and omit Schedule D) and intangible property corporations must complete Schedule D (and omit Schedule C). Net book values should be used in completing all schedules.

### Schedule B

Schedule B is used to calculate whether a corporation is a tangible or intangible property corporation. If line 15 is 10% or greater, complete Schedule C. If line 15 is less than 10%, complete Schedule D. The maximum entry allowed on line 15 is 9.999999.

### Schedule C

If Schedule B, line 15 is 10% or greater, the corporation must complete Schedule C using net book values to determine the non-income measure of the excise. Omit Schedule D.

### Schedule D

Schedule D is used by a corporation to calculate its non-income measure excise on the basis of net worth. If line 15 of Schedule B is less than 10%, complete this schedule. Corporations are allowed to deduct the value of investments in, and advances to, qualified subsidiaries. To be a subsidiary, the parent must own 80% or more of the voting stock of the corporation in accordance with IRC § 1504, or if the subsidiary business corporation does not have voting stock, the parent must have 80% or more ownership interest in the subsidiary. An amendment to MGL ch 63 § 30(8) allows a deduction of an ownership interest in a passthrough entity (such as an LLC or a partnership) that is treated for tax purposes as a business corporation under MGL ch 63, § 30. See TIR 14-11.

### Schedule E-1

Massachusetts corporate excise law does not allow the dividends received deduction allowed under the IRC. However, a deduction is generally allowed for 95% of the value of dividends received except:

- ▶ Dividends from ownership of shares in a corporate trust engaged in business in the Commonwealth;
- ▶ Dividends resulting from deemed or actual distributions (except actual distributions of pre-

viously taxed income) from a DISC which is not wholly owned; or

- ▶ Dividends from any class of stock if the corporation owns less than 15% of the voting stock of the payer corporation.

Dividends received from a RIC or REIT are not eligible for the dividends received deduction, whether the dividend is paid directly by the RIC or REIT, or indirectly, as through a subsidiary or affiliate of the taxpayer.

The total dividends amount on line 1 of Schedule E-1 is derived from the amount shown on U.S. Form 1120, Schedule C, line 23, less any dividends received directly or indirectly from RICs or REITs as well as any other dividends for which deduction is not allowed under Massachusetts law. The amounts excluded from line 1 are also excluded from line 8. The dividends shown on lines 2 through 6 should not be excluded from line 1, as they will be separately subtracted from line 1 in determining the amount of line 8. For further information, see TIR 04-10.

A schedule showing payers, amounts and percent of voting stock owned by class of stock must be available upon request.

### Impact of TCJA on Schedule E-1 Reporting

Certain eligible business taxpayers must report foreign corporation income for federal tax purposes under TCJA. This includes, among other things, reporting of Subpart F income and Global Intangible Low-Taxed Income (GILTI) under IRC § 951A.

For corporate excise purposes, subpart F income and GILTI must be reflected as part of the total dividends reported on Schedule E-1. See TIR 19-11: Legislation Impacting the Massachusetts Tax Treatment of Selected International Provisions of the Federal Tax Cuts and Jobs Act.

Thus, a business corporation that is not part of a combined group must report subpart F income and GILTI as dividends on line 1 of Schedule E-1. For more information on combined group filers see Instructions to 2019 Form 355U.

Subpart F income and GILTI are also eligible for the Massachusetts 95% dividends received deduction (MA DRD) (subject to the applicable 15% voting stock ownership requirement). Therefore, a business corporation that is not part of a combined group should also report eligible MA DRD amounts for subpart F income and GILTI on Schedule E-1.

### Schedule E

Mutual fund service corporations eligible to apportion their income under MGL ch 63, § 38 (m)

must complete two separate copies of Schedule E:

- ▶ For income derived from mutual fund sales; and
- ▶ For non-mutual fund sales income, if any.

Taxable net income from mutual fund sales is gross income from mutual fund sales less:

- ▶ Any deductions directly traceable to its mutual fund sales; and
- ▶ A portion of other allowable deductions. Other allowable deductions consist of deductions not directly traceable to mutual fund sales or non-mutual fund sales. To determine the deductible amount of its other allowable deductions a mutual fund service corporation must multiply the total amount of its other allowable deductions by a fraction, the numerator of which is the mutual fund service corporation's gross income derived from mutual fund sales for the taxable year and the denominator of which is the mutual fund service corporation's total gross income for the taxable year. Taxable net income from non-mutual fund sales consists of any taxable net income not derived from mutual fund sales.

If a corporation is not a mutual fund service corporation, 100% of sales, profits, and income should be entered in lines 1 through 13. If the corporation has income from business activities which is taxable both in Massachusetts and any other state, Schedule F should be completed and the apportionment percentage entered in line 20.

#### Line 4

Enter U.S. taxable income before deducting net operating loss or other special deductions. If the corporation is the parent of a DISC, income should be reported with no allocation to the DISC.

#### Line 5

Enter any allowable U.S. Wage Credit used in calculating U.S. Form 1120, line 13.

#### Line 7

Enter all interest received on state and municipal obligations not reported in U.S. net income.

#### Line 8

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 U.S. net income should be entered in line 8 and added back into income.

#### Line 9

For Massachusetts 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, using the method used for U.S. income tax purposes prior to the enact-



ment of § 168(k). For more information, see TIR 02-11 and TIR 03-25.

#### Line 10

A taxpayer must add back to net income any related member intangible expenses and costs, including losses incurred in connection with factoring or discounting transactions. If you qualify for an exception to the add back requirement, complete Schedule ABIE. For further information, see TIR 03-19.

#### Line 11

A taxpayer must add back to net income any related member interest expenses and costs, including losses incurred in connection with factoring or discounting transactions. If you qualify for an exception to the add back requirement, complete Schedule ABI. For further information, see TIR 03-19. Please see TIR 19-17: Application of IRC § 163(j) Interest Expense Limitation to Corporate Taxpayers, for more information on how to calculate the interest expense deduction.

#### Line 13

Enter any adjustments to income not previously reported. For example, enter in this line the amount of depreciation or amortization taken this year in computing U.S. net income for the following:

- ▶ Certified industrial waste and/or pollution treatment facilities of prior years; or
- ▶ Certified solar/wind units of current or prior years, if said facilities were sold during the year. (See MGL ch 63, § 38D(d) and § 38H(e) for further explanation.)

Capital gains on installment sales of intangible property made prior to 1963 may also be deducted from income. These gains fall under the provisions of prior Massachusetts law when such income was not taxable (see MGL ch 63, § 38(a)(2)). This adjustment should be made in line 8.

Deduct the full U.S. research credit generated provided that the full U.S. research credit was taken. If a reduced U.S. research credit was taken, no adjustments are necessary.

From Massachusetts Schedule RC, Part 1, line 21, add back the full Massachusetts research credit generated.

The deduction allowed to a corporation for any expense which qualifies for the Massachusetts Research Credit must be reduced by the Massachusetts Research Credit determined in the current taxable year. In addition, subsection (c) of IRC § 280C, which requires a similar reduction of the deduction, shall not apply in determining Massachusetts net income.

Capital loss carryovers are not allowed under Massachusetts law. Any loss claimed on the U.S. return must be added back here.

If the corporation has income not subject to apportionment, the amount should be deducted here and entered on Schedule E, line 22.

#### Line 15

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

#### Line 16

Refer to Schedule E-1 for the allowable deductions for dividends. Dividends from a Massachusetts corporate trust, a non-wholly-owned DISC or a corporation of which less than 15% of the voting stock is owned are not deductible. Also, direct or indirect dividends received from a RIC or REIT are not deductible.

#### Line 24

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. A copy of such certification must be available along with a schedule itemizing the:

- ▶ Cost;
- ▶ Allowable U.S. depreciation;
- ▶ Date of installation; and
- ▶ Place of installation.

If these amounts are prorated, the computation should be explained.

If eligible units do not continue in qualified use for ten years, the deductions previously allowed must be added back to taxable income. The amount should be entered in Schedule E, line 13.

**Note:** The special deduction for the construction of certified industrial waste and/or air pollution treatment facilities does not apply to expenditures paid or incurred on or after January 1, 1980.

#### Line 26

Enter the amount of the corporation's loss carryover deduction from Schedule NOL, line 5.

#### Line 27

Subtract the amount on line 26 from the amount on line 25. Enter this amount in the excise calculation section, line 3.

#### Line 28

Enter the amount of the total net operating loss available for carryover to future years. This figure is taken from Schedule NOL, line 8.

If Schedule NOL is not filed and Schedule E, line 23 is a loss, enter the amount from line 23 in line 28 as a positive number. If lines 23 and 27 show a loss the taxpayer must complete and enclose Schedule NOL.

## Schedule F

Schedule F should be completed by all corporations which have income from business activities taxable both in Massachusetts and in any other state. For purposes of this requirement, "taxable" has the meaning set forth in 830 CMR 63.38.1(5)(b). This standard is not satisfied merely because the taxpayer is incorporated in such a state or files a return in another state that relates to capital stock tax or franchise tax for the privilege of doing business.

If the corporation is requesting alternate apportionment under MGL ch 63, § 42, fill in line 9 of Form 355 and enclose Form AA-1. You must still complete and file Schedule F. A refund will be issued if alternative apportionment is granted by the Commissioner. For further information on alternative apportionment see 830 CMR 63.42.1.

For further information about corporations that hold partnership interests and the appropriate method to use to apportion partnership income, see 830 CMR 63.38.1(4)(d) and 12.

Corporations engaged in substantial manufacturing (section 38 manufacturers) are required to apportion their net income based on sales factor only.

Corporations other than section 38 manufacturers or mutual fund service corporations are required to apportion their net income as follows: sales factor equals 50%, property factor equals 25%, payroll factor equals 25%.

To determine if a corporation qualifies as a section 38 manufacturer or mutual fund service corporation, see instructions for the registration section: line 3 of Forms 355 and 355S.

If a corporation is a section 38 manufacturer or mutual fund service corporation, fill in the applicable oval. If a corporation is not a section 38 manufacturer or a mutual fund service corporation, fill in the **Other** oval.

Mutual fund service corporations must complete a Schedule F based on mutual fund sales and a separate Schedule F based on non-mutual fund sales, if any. For further information on apportionment for mutual fund service corporations, see 830 CMR 63.38.7.

Corporations must complete all lines, regardless of apportionment method used. Make certain that complete information is entered for all apportionment factors. A return which is incomplete will be considered insufficient.

Certain amounts are excluded from the calculation of the apportionment factors used to determine taxable income (both the worldwide and Massachusetts figures), among them any factors attributable to items of gross income that are excluded from the federal gross income of a taxpayer, in accordance with 830 CMR 63.38.1(9 e),

(see also TIR 10-16), and any factors attributable to income derived from unrelated business activities, in accordance with 830 CMR 63.38.1(3)(d). In addition, certain amounts are subject to the rules of exclusion from the sales factor, as set forth in 830 CMR 63.38.1(9)(d)(1)(f).

## Property Factor

### Line 1a

For tax purposes, average value is based on original cost and is determined by averaging the property values at the beginning and end of the taxable year. If substantial changes occur during the taxable year, the Commissioner may require monthly averaging to properly reflect the average value of the property. For purposes of the property factor, a taxpayer may elect to use any reasonable method for attributing its mobile property to Massachusetts. The election is made by filing a return that employs the chosen method for the first tax year ending on or after August 11, 1995, in which the taxpayer owns or rents mobile property and apportions income to Massachusetts. The taxpayer must make available a statement describing the method chosen and must use the same method consistently from year to year. For further information, including safe harbor methods, see 830 CMR 63.38.1(7)(d).

Construction in progress is generally excluded from the property factor; see 830 CMR 63.38.1(7)(a) and (b). For the property factor, inventory in transit is deemed to be at its destination; see 830 CMR 63.38.1(7)(c).

### Line 1b

Property rented by the corporation is valued at eight times the annual net rental rate paid less any sub-rentals received.

## Payroll Factor

### Line 2a

Enter the total amount of wages, salaries, commissions, or any other compensation paid to employees. An employee's compensation is allocated to Massachusetts, if any of the following apply:

- ▶ The employee's service is performed within Massachusetts;
- ▶ The employee's service is performed both in Massachusetts and in one or more states, but the non-Massachusetts service is secondary to the Massachusetts service;
- ▶ Part of the employee's service is performed in Massachusetts, and the service is controlled from a location in Massachusetts; or
- ▶ Part of the employee's service is performed in Massachusetts, and the location of the service is

not in a state in which some part of the service is performed, but the employee lives in Massachusetts.

The total amount paid for compensation is computed on the cash basis, as reported for unemployment purposes. A taxpayer that uses the accrual method of accounting in computing its taxable net income may elect to use the accrual method in determining the total amount of compensation paid in Massachusetts during the taxable year. For further information on how to elect the accrual method see 830 CMR 63.38.1(8)(a).

## Sales Factor

For sales factors, enter the gross receipts of the corporation with the exception of those receipts from interest, dividends and the sale or other disposition of securities or the sale of business "good will" or similar intangible value. Any receipts resulting in allocable income must be excluded. For further information, see 830 CMR 63.38.1(8)(a).

Also, in the case of the sale, exchange or other disposition of a capital asset used in the taxpayer's trade or business, enter the gain from the transaction and not the gross receipts. For further information, see 830 CMR 63.38.1(9)(b).

### Line 3a

Sales of tangible personal property are assignable to Massachusetts if the property is delivered or shipped to any buyer, including the U.S. government, in Massachusetts.

### Line 3b

Sales of tangible personal property are assignable to Massachusetts if the selling corporation is not taxable in the state of the buyer and the property is not sold by an agent or agencies chiefly situated at, connected with, or sent out from premises for the transaction of business owned or rented by the corporation outside Massachusetts. A buyer for this item includes the U.S. government.

Sales of tangible personal property are not assignable to Massachusetts if:

- ▶ The property is shipped or delivered to a buyer in a foreign country; or
- ▶ The property is sold to any branch or instrumentality of the U.S. government for resale to a foreign government.

### Line 3c

Sales of services are assigned to Massachusetts if and to the extent the service is delivered to a location in Massachusetts. See MGL ch 63, § 38(f) and 830 CMR 63.38.1(9)(d).

Any amounts required to be excluded from the sales factor calculation should be accounted for by making the necessary exclusion from the

Massachusetts and worldwide figures in line 3c. For example, in the case of a service or license of intangible property where the taxpayer is not taxable in the state to which the sale is to be assigned, the sale amount should be excluded from these figures. See 830 CMR 63.38.1(9)(d) 1.

**Note:** Mutual fund sales are assigned to Massachusetts as follows:

- ▶ Mutual fund sales are determined separately for each RIC from which the mutual fund service corporation receives fees for mutual fund services;

- ▶ Mutual fund sales for each RIC are multiplied by a fraction, the numerator of which is the average number of shares owned by the RIC's shareholders domiciled in Massachusetts at the beginning and end of the RIC's taxable year that ends within the mutual fund service corporation's taxable year, and the denominator of which is the average number of shares owned by all of the RIC's shareholders for the same period; and

- ▶ The resulting amounts are totaled for all RICs. For taxable years beginning on or after January 1, 2014 any corporation that has mutual fund sales, including those that do not qualify as mutual fund service corporations under MGL ch 63, § 38(m), is required to assign those sales according to the rules that apply to mutual fund service corporations. The term "mutual fund sales" is defined in MGL ch 63, § 38(m)(1) and refers to certain services provided to a RIC, including management, distribution, and administrative services.

## Line 3d

Rents from property located or used in Massachusetts are assigned to Massachusetts. Income derived from license or lease of intangible property is assigned to the state in accordance with the rules at 830 CMR 63.38.1(9)(d) 5.

If using a three factor apportionment formula and one or more factors are inapplicable, the following shall apply:

- ▶ In cases where only two of the three apportionment factors (property, payroll, sales) are applicable, the taxable net income is apportioned by a fraction, the numerator of which is the remaining two factors with their respective weights and the denominator of which is the number of times that such factors are used in the numerator.

- ▶ In cases where only one of the three apportionment factors (property, payroll, sales) is applicable, the taxable net income is apportioned solely by that factor with its respective weight, and the denominator is the number of times the factor is used in the numerator.

**Note:** An apportionment factor should not necessarily be considered inapplicable if its Massachusetts total (lines 1c, 2a or 3f) is 0.

If you are claiming an exception on Schedule ABI or ABIE, do the following to see if a factor applies. Complete Schedule E through line 19 without reference to the add back exception but less the amount of deductible and intangible expense stated in line 1 of the respective Schedule ABI or ABIE.

If any of the apportionment totals for “Worldwide” (lines 1c, 2a or 3f) are less than 3.33% of Schedule E, line 19, do not include that factor in your Massachusetts apportionment percentage.

### Schedule CMS: Tax Credits

Financial institutions, insurance companies, business corporations, and other taxpayers subject to tax under MGL ch 63 may be eligible for certain tax credits in Massachusetts. Credits may be used to offset a tax due, may be passed or shared with another person or entity, or, in some cases credits may be fully or partially refundable. MGL ch 63 taxpayers with credits available for use in the current taxable year must file a Schedule CMS to claim most credits.

For each credit claimed on a Schedule CMS, report the amount of the credit available for use and the amount of credit claimed to reduce tax for the current taxable year. For pass-through entities, report the amount of credit distributed to partners/shareholders/beneficiaries in the credit shared column. Taxpayers also report the amount of a refundable credit they are using to request a refund of tax. See the 2019 Credit Manager Schedule Instructions for more information on how to complete the Schedule CMS and claim the credits.

Credits reported on the Schedule CMS are generally identified either by a certificate number assigned by the issuing agency (which may be the Department of Revenue) or by the tax period end date in which the credit originated. If a credit has been assigned a certificate number, the certificate number must be included on the Schedule CMS. A taxpayer that does not include an assigned certificate number on the Schedule CMS will not be allowed the credit on the tax return and will have their tax liability adjusted by the Department of Revenue. Be sure to omit hyphens, spaces, decimals and other special symbols when entering the certificate number. Also, enter the number from left to right.

Likewise, a taxpayer that is required to complete a separate schedule to claim a credit must include the separate schedule with the taxpayer’s return filing. Failure to do so may result in the credit being disallowed.

If, by operation of MGL ch 63, § 32C or another provision of law, a credit normally identified by tax period end date is eligible for indefinite carryover, the credit should be reported as “non-expir-

ing” and identification of the tax period of origin is not necessary.

### Overview of Schedule CMS

The following is a brief overview of the Schedule CMS sections and where certain credits should be reported. If a taxpayer is using a credit to reduce a taxpayer’s current year tax liability, whether it is a non-refundable credit or a refundable credit, the credit should be reported in Section 1 or 3 of the Schedule CMS. Only a refundable credit that the taxpayer is seeking a refund for should be reported in either Section 2 or 4 of the Schedule CMS. Generally, a credit should only be reported in one section on the Schedule CMS unless a portion of it is being used to offset a tax and a portion is being refunded.

#### Section 1. Non-Refundable Credits

Section 1 is for reporting credits the taxpayer is using (i) to offset or reduce the taxpayer’s total tax due (ii) to pass to any partner, shareholder or beneficiary of the taxpayer or (iii) to share with taxpayer affiliates. The Brownfields Credit, Film Incentive Credit, or Medical Device Credit should always be included in Section 1, unless the taxpayer is requesting a refund of the Film Incentive Credit. However, a taxpayer that received a credit on a Massachusetts K-1 schedule from a passthrough entity or a credit transfer should report such credit in Section 3 or 4, as applicable.

#### Section 2. Refundable Credits

Section 2 is for reporting refundable credits the taxpayer is using to request a refund. The Film Incentive Credit should always be included in Section 2 to the extent that the taxpayer is requesting a refund. However, a taxpayer that received a refundable credit on a Massachusetts K-1 from a pass-through entity or a credit transfer should report such credit in Section 4, to the extent that the taxpayer is requesting a refund. For each refundable credit, report the amount of the credit available after taking into consideration any amount of the credits that may have been taken to offset a tax or shared as reported in Section 1 of this schedule. Enter the amount by which the available credit balance is being reduced and the amount to be treated as a refundable credit, which may be either 90% or 100% of the reduction. See TIR 13-6, Example 3, for an illustration.

#### Section 3. Non-Refundable Credits Received from Massachusetts K-1 Schedules

Section 3 is for reporting credits the taxpayer received on a Massachusetts K-1 schedule (SK-1, 2K-1 or 3K-1) that the taxpayer is using (i) to offset or reduce the taxpayer’s total tax due (ii) to pass to any partner, shareholder or beneficia-

ry of the taxpayer or (iii) to share with taxpayer affiliates. The Brownfields Credit, Film Incentive Credit, or Medical Device Credit should never be included in Section 3.

**Note:** Do not report the Brownfields Credit, Film Incentive Credit, and Medical Device Credit in this section because these credits are issued new certificate numbers from the DOR when they are received from a pass-through entity or a credit transfer. These credits should always be reported in Section 1, unless the taxpayer is requesting a refund of the Film Incentive Credit.

#### Section 4. Refundable Credits Received from Massachusetts K-1 Schedules

Section 4 is for reporting credits the taxpayer received on a Massachusetts K-1 schedule (SK-1, 2K-1 or 3K-1) and that the taxpayer is using to request a refund. The Film Incentive Credit should never be included in Section 4. For each refundable credit, report the amount of the credit available after taking into consideration any amount of the credits that may have been used to offset a tax or shared as reported in Section 3 of this schedule. Enter the amount by which the available credit balance is being reduced and the amount to be treated as a refundable credit, which may be either 90% or 100% of the reduction. See TIR 13-6, Example 3, for an illustration.

**Note:** Do not report the refundable Film Incentive Credit in this section because these credits are issued new certificate numbers from the DOR when they are received from a pass-through entity or a credit transfer. If the taxpayer is requesting a refund of the Film Incentive Credit, it should be reported in Section 2.



**List of Credit Names and Credit Codes**

The following table identifies various credits that may be available to a taxpayer subject to tax under MGL ch 63 and that must be claimed on a Schedule CMS.

**List of Credit names and Credit code**

Apprenticeship Tax Credit . . . . .	APPCRD*
Brownfields . . . . .	BRWFLD
Certified Housing . . . . .	CRTHOU
Community Investment . . . . .	CMMINV*
Conservation Land . . . . .	CNSLND*
Dairy Farm . . . . .	DAIFRM*
EDIP . . . . .	EDIPCR*
EDIP-Vacant Storefront Credit . . . . .	VACSTR*
Employer Wellness . . . . .	EMPWLL
EOAC . . . . .	EOACCR
Film Incentive . . . . .	FLMCRD*
Harbor Maintenance . . . . .	HRBMNT
Historic Rehabilitation . . . . .	HISRHB
Investment Tax . . . . .	INVTAX
Life Science (FDA) . . . . .	LFSFDA*
Life Science (ITC) . . . . .	LFSITC*
Life Science (Jobs) . . . . .	LFSJOB*
Life Science (RD) . . . . .	LFSRDC
Low-Income Housing . . . . .	LOWINC
Low-Income Housing Donation . . . . .	LIHDON
Medical Device . . . . .	MEDDVC
Research . . . . .	REARCH*
Vanpool . . . . .	VANPOL
Veteran's Hire . . . . .	VETHIR

\* These credits may be partially or fully refundable. See Schedule CMS instructions for further information.

\*\* Certified life sciences companies with a Research Credit exceeding the amount of credit that may be claimed under section 38M for a taxable year may, to the extent authorized under the Life Sciences Tax Incentive Program, elect to make 90% of the balance of remaining credits refundable. See MGL ch 63, § 38M(j).

**Credit Recapture Schedule**

The Credit Recapture Schedule (CRS), which eliminates Schedule RF, lists each credit for which a recapture calculation must be made.

Certain Massachusetts tax credits are subject to recapture as specified in the statute authorizing

the credit (e.g. the investment tax credit is subject to recapture under MGL ch 63, § 31A(e) if an asset for which the credit was taken is disposed of before the end of its useful life). Recapture may also be triggered if the corporation no longer qualifies for the credit (as when a manufacturing corporation ceases to qualify as such or a corporation's status as a Life Sciences Company is terminated as discussed in TIR 13-6.)

If a recapture calculation is required, the amount of the credit allowed is redetermined and the reduction in the amount of credit allowable is recaptured to the extent the credit was taken or used in a prior year. See DD 89-7. Taxpayers who have a recapture calculation must complete this schedule whether or not a recapture tax is determined to be due.

For credits tracked by certificate numbers, enter each certificate number and the associated credits separately. For credits not tracked by certificate number, enter credits separately by type and the year to which they relate. List only those credits and certificate numbers or tax years for which a reduction in the credit is being calculated.

For more information and examples, see the Credit Recapture Schedule instructions.

Business corporations, financial institutions, insurance companies and other taxpayers subject to tax under MGL ch 63 may be eligible for certain tax credits in Massachusetts. Credits may be used to offset a tax due, may be passed or shared with another person or entity or (in some cases) may be fully or partially refundable. All MGL ch 63 taxpayers with credits available for use in the current taxable year must complete and file a Schedule CMS in order to report and claim most tax credits.

For each credit reported and claimed on Schedule CMS, report the amount of the credit available for use and the amount of credit claimed to reduce tax for the current taxable year or to be passed or shared with another person or entity. For passthrough entities, report the amount of credit distributed to partners, shareholders, or beneficiaries in the credit shared column. Taxpayers must also report the amount of a refundable credit they are using to request a refund.

**Note:** Taxpayers should refer to the 2019 Schedule for more information on how to complete and file Schedule CMS and report claimed credits.

Credits reported on Schedule CMS are generally identified either by a certificate number assigned by the issuing agency (which may be DOR) or by the tax period end date in which the credit originated. If a credit has been assigned a certificate number, the certificate number must be included on Schedule CMS. A taxpayer that does not in-

clude an assigned certificate number on Schedule CMS will not be allowed the credit on the tax return and will have their tax liability adjusted by DOR. Be sure to omit hyphens, spaces, decimals and other special symbols when entering the certificate number. Enter the number from left to right.

**Note:** In a tax year when a credit is generated and a separate credit schedule is required to claim such credit, the taxpayer must complete the separate credit schedule, report the credit claimed on Schedule CMS, and enclose both with the tax return. Failure to do so may result in the claimed credit being disallowed.

**Brief Summary of Available Credits on Schedule CMS**

The following are brief summaries describing the specific credits that may be available to a taxpayer subject to tax under MGL ch 63 and that must be claimed on a Schedule CMS.

**Apprenticeship Tax Credit**

Businesses corporations subject to tax under MGL ch 63 that employ qualified apprentices may be eligible for an Apprenticeship Tax Credit (ATC). The credit is equal to the lesser of \$4,800 or 50% of the wages paid by the business to each qualified apprentice it hires. Business corporations are eligible for up to \$100,000 in credits each calendar year. To claim the credit, the primary place of employment of the apprentice must be in Massachusetts, the business corporation employing the apprentice must register with the Division of Apprentice Standards as an apprenticeship program sponsor and enter into apprenticeship agreements with each apprentice for whom the credit is claimed, and the apprentice must be employed for at least 180 calendar days in the taxable year in which the credit is claimed. A business corporation claiming the credit in a taxable year may also be eligible for a credit in the subsequent taxable year, provided that the Division of Apprentice Standards again certifies that the apprentice remains employed as an apprentice during the subsequent taxable year.

The ATC is not transferrable but is refundable. The ATC is available for tax years beginning on or after January 1, 2019. See TIR 18-13 for further information.

To claim the ATC, enter the ATC certificate number and the amount of ATC using credit code APPCRD on Schedule CMS.

**Brownfields Tax Credit**

Taxpayers subject to tax under MGL ch 63 and nonprofit organizations may be eligible to claim a Brownfields Tax Credit (BTC) for amounts expended to clean up contaminated property in



Massachusetts in an amount equal to either 25% or 50% of the cost. The cleanup must begin on or before August 5, 2023, and costs must be incurred before January 1, 2024, and equal or exceed 15% of the assessed value of the property before the beginning of the cleanup. Contaminated properties must be owned or leased for business purposes, reported to the Massachusetts Department of Environmental Protection (DEP), cleaned up in compliance with DEP's standards, and located in an economically distressed area identified by DEP. Unused portions of BTC may be carried forward for the next 5 years. If a BTC recipient does not maintain the property in compliance with standards set out by DEP, the credit may be recaptured. The BTC is not refundable. For taxpayers subject to a minimum excise under MGL ch 63, the BTC cannot reduce the excise due below the minimum amount. The BTC is also subject to the 50% limitations for taxpayers subject to tax under MGL ch 63, § 39.

The BTC may be transferred, sold or assigned to another taxpayer with a liability under MGL ch 62 or 63, or to a nonprofit organization. A taxpayer must complete a Form BCA, Brownfields Credit Application, and submit it to DOR. If approved, DOR will issue a certificate reflecting the amount of the BTC awarded. The party receiving the BTC must include the certificate number with each tax return in which the credits are being applied. BTC application forms, including Form BCA, and additional information are available at [mass.gov/dor](http://mass.gov/dor).

To claim the BTC, enter the BTC certificate number and the amount of BTC using credit code BRWFLD on Schedule CMS.

#### **Certified Housing Development Tax Credit**

Taxpayers subject to tax under MGL ch 63 that invest in housing development projects in Massachusetts may be eligible to claim the Certified Housing Development Credit (CHDC) in an amount up to 25% of the costs of qualified project expenditures as defined in MGL ch 40V, § 1. Eligibility for and the amount of CHDC awarded are determined and administered by the Department of Housing and Community Development (DHCD). The CHDC is not refundable, but unused amounts may be transferred or carried forward for 10 years. See TIRs 16-15, 10-15, and 10-14 for further information.

To claim the CHDC, enter the CHDC certificate number and the amount of CHDC using credit code CRTHOU on Schedule CMS.

#### **Community Investment Tax Credit**

Taxpayers subject to tax under MGL ch 63 may be able to claim a Community Investment Tax Credit (CITC) for cash contributions made to a

community partner to support implementation of its community investment plan, or to a community partnership fund. The CITC is equal to 50% of the total contribution made by the taxpayer and cannot be claimed for contributions of less than \$1,000. The Department of Housing and Community Development (DHCD) is responsible for determining which contributions qualify for the CITC and the actual amount of the CITC awarded. The CITC is not transferrable. However, the CITC is refundable, or, alternatively, may be carried forward for 5 years. For further information, see 760 CMR 68.00, 830 CMR 62.6M.1, and TIRs 16-15, 13-15, and 12-10.

To claim the CITC, enter the CITC certificate number and the amount of CITC using credit code CMMINV on Schedule CMS.

#### **Conservation Land Tax Credit**

Taxpayers subject to tax under MGL ch 63 that make qualified donations of certified land to a public or private conservation agency in Massachusetts may be eligible for a Conservation Land Tax Credit (CLTC). The Executive Office of Energy and Environmental Affairs (EEA) ultimately determines which donations qualify for CLTC and the actual amount of CLTC attributable to the donation. The CLTC is equal to 50% of the fair market value of the donated certified land but may not exceed \$75,000. The CLTC is refundable but is not transferable. Taxpayers who claim CLTC may not claim any other credit or deduction in the same tax year for the costs related to the same donated, certified land. For further information, see 301 CMR 14.00, and 830 CMR 62.6.4.

To claim the CLTC, enter the CLTC certificate number and the amount of CLTC using credit code CNSLND on Schedule CMS.

#### **Dairy Farm Tax Credit**

Massachusetts dairy farmers taxable under MGL ch 63 may be eligible for a Dairy Farm Tax Credit (DFTC) based on the amount of milk produced and sold during the taxable year when the cost of milk drops below a price based on federal standards. The dairy farmer must have a certificate of registration as a Massachusetts dairy farm from the Massachusetts Department of Agricultural Resources (MDAR). The total amount of DFTC granted through the program cannot exceed \$6,000,000 in any year. The DFTC is refundable but is not transferrable.

To claim the DFTC, enter the MDAR-issued certificate number and the amount of DFTC from the MDAR's Dairy Farmer Certified Tax Credit Statement using credit code DAIFRM on Schedule CMS.

### **Economic Opportunity Area/Economic Development Incentive Program Credits**

#### **Economic Opportunity Area Credit**

Taxpayers subject to tax under MGL ch 63 that participated in projects certified by the Economic Assistance Coordinating Council (EACC) before January 1, 2010 and in effect through December 31, 2016, may be eligible to claim an Economic Opportunity Area Credit (EOAC) equal to 5% of the cost of qualifying property purchased for business use within a certified project within an Economic Opportunity Area (EOA). A certified project is a project approved by the EACC. To qualify for the EOAC, the property must be used exclusively by the certified project in an EOA and must meet the same tests imposed for the 3% Investment Tax Credit (ITC) (see ITC summary below). The EOAC cannot offset more than 50% of the tax due. Any unused EOAC may be carried forward for 10 years, while credits not used because of the 50% limitation may be carried over indefinitely. The EOAC may be subject to recapture if a taxpayer's business is decertified by the EACC, or a taxpayer stops using the qualifying property in a certified project before the end of the property's useful life. The EOAC is neither refundable nor transferrable. For taxpayers subject to a minimum excise under MGL ch 63, the EOAC may not reduce the excise due below the minimum amount. The EOAC is not available to certified projects that were certified by the EACC on or after January 1, 2010. See TIRs 16-15 and 10-01 for further information.

To claim the EOAC, complete Schedule EOAC and enter the amount of EOAC using credit code EOACCR on the Schedule CMS. Include both the completed Schedule EOAC and Schedule CMS with the return.

#### **Economic Development Incentive Program Credit for Projects Certified on or After January 1, 2010 and Before January 1, 2017**

For projects certified by the EACC on or after January 1, 2010 and before January 1, 2017, the Economic Development Incentive Program Credit (EDIPC) is available to taxpayers subject to tax under MGL ch 63 with respect to certified projects as defined under MGL ch 23A. The EDIPC is equal to a percentage of the cost of qualifying property purchased by a certified project for business use within Massachusetts. As part of the project certification, the EACC may (but is not required to) award a credit under the program and determine the percentage of the cost of the property to be used to determine the credit. In addition, the EACC may award an EDIPC that is refundable. To qualify for the EDIPC, the qualifying property must be used exclusively in the certified

project in Massachusetts and must meet the same tests imposed for the 3% ITC.

Unless the EDIPC awarded is refundable, the credit may not offset more than 50% of the tax due. Carryover of unused EDIPC is available only to the extent authorized by the EACC. The EACC may, in consultation with DOR, limit (but not expand) the EDIPC to a specific dollar amount or time duration or in any other manner deemed appropriate by the EACC. St. 2009, c. 166, § 18. For example, the EACC may limit the EDIPC available with respect to a particular project to a specific dollar maximum, even if the actual dollar amount of the qualifying purchases would otherwise generate a higher credit amount. Similarly, the EACC may limit the otherwise applicable credit carry forward period provided by MGL ch 63, § 38N(d). The EDIPC may be subject to recapture if a taxpayer's business is decertified by the EACC, or a taxpayer stops using the qualifying property in a certified project before the end of the property's useful life. The EDIPC is not transferable. For taxpayers subject to a minimum excise under MGL ch 63, the EDIPC may not reduce the excise due below the minimum amount. See TIRs 16-15, 14-13, 10-15, and 10-1 for further information.

To claim the EDIPC, complete Schedule EDIP and enter the amount of EDIPC using credit code EDIPCR on Schedule CMS. Also, enter the EACC-issued certificate number on Schedule CMS. Include both the completed Schedule EDIP and Schedule CMS with the return.

### **EDIP Credit for Projects Certified on or after January 1, 2017**

The EDIPC provisions were significantly changed for projects certified on or after January 1, 2017. For projects certified by the EACC on or after January 1, 2017, the EDIPC for taxpayers subject to tax under MGL ch 63 is determined by the EACC based on numerous factors set forth in MGL ch 23A § 3D. The EACC may award a refundable EDIPC to any certified project. Unless the EDIPC awarded is refundable, the EDIPC may not offset more than 50% of the excise due. Carryover of unused EDIPC is available only to the extent authorized by the EACC. Recapture is required only if the EACC revokes the certification of a project. The EDIPC is not transferable. For taxpayers subject to a minimum excise under MGL ch 63, the EDIPC may not reduce the excise due below the minimum amount. See TIRs 16-15 and 10-01 for further information.

To claim the EDIPC, complete Schedule EDIP and enter the amount of EDIPC using credit code EDIPCR on Schedule CMS. Also, enter the EACC issued certificate number on Schedule CMS. Include both the completed Schedule EDIP and Schedule CMS with the return.

### **EDIP Credit for Vacant Storefronts**

Effective January 1, 2019, awards of EDIPC are also available as a Vacant Storefront Credit (VSC) to taxpayers subject to tax under MGL ch 63 that occupy vacant storefronts in downtown areas that have been designated as Certified Vacant Storefront Districts. To claim the VSC a taxpayer must apply for and obtain certification from the EACC and must commit to occupy the vacant storefront for not less than 1 year. The taxpayer does not need to invest in improvements or create new jobs to claim the VSC. The EACC awards such VSC on a competitive basis, taking into account the factors set forth in MGL ch 23A § 3C. The amount of VSC available to taxpayers occupying vacant storefronts is limited to \$500,000 in a calendar year.

The VSC is not transferrable but is refundable. For additional information about the credit, contact the Massachusetts Office of Business Development at 617-973-8600.

To claim the VSC, enter the amount of the VSC using credit code VACSTR on Schedule CMS. Also, enter the EACC-issued certificate number on Schedule CMS.

### **Employer Wellness Credit**

**Note:** Application for the Employer Wellness Credit expired on December 31, 2017. However, remaining credits awarded in 2016 and carried over by a taxpayer may be applied in the 2019 tax year (which is the last tax year in which these credits may be utilized).

Effective for tax years beginning on or after January 1, 2013, a Massachusetts business that employed 200 or fewer workers qualified for the Employer Wellness Credit (EWC), a tax credit for up to 25% of the cost of implementing a "certified wellness program" for its employees. The time to apply for the credit expired December 31, 2017. A taxpayer that sought to claim the EWC was required apply to the Department of Public Health (DPH) for certification of its wellness program for DPH approval and issuance of a certificate number to be provided in connection with filing a tax return to claim the EWC. The amount of the credit available to be claimed could not exceed \$10,000 in any tax year. DPH promulgated a regulation (Massachusetts Wellness Tax Credit Incentive (105 CMR 16.000)) that set forth the criteria for authorizing and certifying the credit. Since application for the EWC expired on December 31, 2017, a taxpayer may only claim a previously awarded EWC that was carried over to subsequent tax years. Tax year 2019 is the last tax year any carryover EWC may be claimed, since the carryover period for unused credits was three years. Enter the certificate number and the credit amount using credit code EMPWLL on Schedule CMS to claim Employer Wellness Credit.

### **Film Incentive Credit**

Motion picture production companies subject to tax under MGL ch 63 may be eligible to claim the Film Incentive Credit (FIC) for certain payroll and production expenses. Production companies that incur at least \$50,000 of production costs in Massachusetts are eligible for a credit equal to 25% of the total Massachusetts payroll for the production, excluding salaries of \$1 million and higher. In addition, production companies whose Massachusetts production expenses exceed 50% of the total production cost may receive a credit equal to 25% of the total Massachusetts production expense. The FIC may be applied to reduce a taxpayer's liability (including the minimum excise), reduced by any other available credits, after which 90% of any remaining credits may be refunded to the taxpayer. Subject to certain conditions, unused FIC may be carried over, refunded, or transferred by the taxpayer for the following 5 tax years. FIC transferees may carry forward unused FIC for the 5 tax years subsequent to the first tax year the FIC was allowed to the initial FIC transferor. The FIC is not refundable to the transferee. See TIR 07-15 for further information.

To claim the FIC, enter the FIC certificate number and the amount of FIC using credit code FLMCRD on Schedule CMS. Supporting documentation must be available to DOR upon request. Certificate application forms and additional information are available at [mass.gov/dor](http://mass.gov/dor).

### **Harbor Maintenance Tax Credit**

Business corporations subject to tax under MGL ch 63 that have paid certain federal harbor maintenance taxes under IRC § 4461 may be eligible to claim the Harbor Maintenance Tax Credit (HMTTC). A corporation is eligible for the HMTTC only for federal harbor maintenance taxes paid that are attributable to the shipment of break-bulk or containerized cargo by sea and ocean-going vessels through a Massachusetts harbor facility. The HMTTC is neither refundable nor transferrable. The HMTTC may not reduce the corporate excise due below the minimum amount but is not subject to the 50% limitation imposed by MGL ch 63, § 32C. Any unused portion of the HMTTC may be carried forward for the next 5 tax years. See TIR 97-4 and Schedule HM instructions for further information.

To claim the HMTTC, complete Schedule HM and enter the amount of HMTTC using credit code HRBMNT on Schedule CMS. Include both the completed Schedule HM and Schedule CMS with the return.

### **Historical Rehabilitation Credit**

Taxpayers subject to tax under MGL ch 63 that have made qualified expenditures in the rehabilitation of a qualified historic structure may be eligible to claim a Historic Rehabilitation Tax Credit

(HRTC). The HRTC may be claimed for up to 20% of the taxpayer's rehabilitation expenditures made in substantially rehabilitating a historic structure that has received final certification from the Massachusetts Historical Commission and placed into service (where occupancy of the entire structure or some identifiable portion of it is permitted). Unused portions of HRTC may be carried forward for the following 5 tax years. The HRTC may be transferred or sold to another taxpayer but is not refundable. HRTC awards also may be transferred to other qualifying taxpayers that acquire a historic structure, as long as certain criteria are met. Any HRTC claimed by the taxpayer may be subject to recapture if the taxpayer disposes of its interest in the structure within 5 years of its placement into service. HRTC awards however are not subject to recapture. For taxpayers subject to the corporate excise, the HRTC is not subject to the 50% limitation under MGL ch 63, § 32C but may not reduce the excise below the minimum amount. For further information, see 830 CMR 63.38R.1 and TIRs 16-15 and 10-11.

To claim the HRTC, enter the HRTC certificate number and the amount of HRTC using credit code HISRHB on Schedule CMS. Supporting documentation must be enclosed with the return or the HRTC may be disallowed. For further information on documentation see the Transfer/Sale HRC: Historic Rehabilitation Credit Certificate Form and Allotment Schedule HRC: Historic Rehabilitation Credit Summary Form.

### Investment Credit

Taxpayers subject to tax under MGL ch 63, § 39 may be eligible to claim the Investment Tax Credit (ITC). To claim the ITC, a corporation must qualify as a manufacturing or research development corporation under MGL ch 63, § 42B, or be principally engaged in agriculture or commercial fishing. Such corporations may earn a credit equal to 3% of the cost of "qualifying tangible property" acquired, constructed, reconstructed, or erected during the taxable year. "Qualifying tangible property" includes tangible property, buildings, and structural components acquired by purchase (as defined in IRC § 179(d)) that is used and located in Massachusetts on the last day of the taxable year, and is depreciable under IRC § 167 with a useful life of four years or more. Any unused portion of the credit may be carried forward for 3 tax years after the credit was earned, while credits not used because of the 50% limitation may be carried over indefinitely. The ITC may be recaptured if the eligible property for which the ITC is claimed is disposed of or ceases to be in qualified use prior to the end of its useful life (as determined by the property's depreciation period for federal tax purposes). The ITC is neither refundable nor transferrable. The ITC may not reduce

the corporate excise due below the minimum amount, nor may the amount of the credit exceed 50% of the taxpayer's liability.

To claim the ITC, complete Schedule H and enter the amount of ITC using credit code INVTAX on Schedule CMS. Include both the completed Schedule H and Schedule CMS with the return.

### Life Sciences Refundable FDA User Fees Tax Credit

Certified life sciences companies subject to tax under MGL ch 63, to the extent authorized by the Life Sciences Tax Incentive Program, may be eligible to claim a Life Sciences Refundable FDA User Fees Tax Credit. The credit is equal to 100% of the user fees paid on or after June 16, 2008, to the US Food and Drug Administration (FDA) upon submission of an application to manufacture a human drug in Massachusetts. The credit may be claimed in the tax year in which the application for licensure of an establishment to manufacture the drug is approved by the FDA. To be eligible for the credit, more than 50% of the research and development costs for the drug must have been incurred in Massachusetts. Certified life sciences companies may use the FDA user fees credit to reduce their tax to zero. At the option of the taxpayer and to the extent authorized pursuant to the Life Sciences Tax Incentive Program, where the credit exceeds the tax due, 90% of the balance of the excess credit is refundable. A life sciences company claiming the credit may not also deduct FDA user fees for which the credit is claimed on its return. In the event a company's certification as a life sciences company is revoked, the recapture of credit may be required. The credit is not transferrable. For further information, see TIRs 13-6 and 08-23.

To claim the credit, complete a Schedule RLSC and enter the amount of the credit using credit code LFSFDA on the Schedule CMS.

### Life Sciences Refundable Investment Tax Credit

Certified life sciences companies subject to tax under MGL ch 63, to the extent authorized by the Life Sciences Tax Incentive Program, may claim a Life Sciences Refundable Investment Tax Credit (LSRITC) equal to 10% of the cost of qualifying property acquired, constructed, reconstructed, or erected and used exclusively in Massachusetts. If the LSRITC exceeds the tax due, 90% of the balance of the LSRITC 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 the LSRITC is placed in service. If the taxpayer elects to make the LSRITC refundable, then the carryover provisions for this credit that would otherwise apply shall not be available. Certified life sciences com-

panies qualifying for the Economic Development Incentive Program Credit (EDIPC) may only take the EDIPC to the extent of an additional 2% of the cost of the qualifying property. In the event a company's certification as a life sciences company is revoked, the recapture of the LSRITC may be required. The LSRITC is not transferrable. For certified life sciences companies subject to a minimum excise, the LSRITC cannot reduce the amount of the excise due to less than the minimum amount. For further information, see TIRs 13-6 and 08-23.

To claim the LSRITC, complete a Schedule RLSC and enter the amount of LSRITC using credit code LFSITC on Schedule CMS.

### Life Sciences Refundable Jobs Tax Credit

Certified life sciences companies subject to tax under MGL ch 63, to the extent authorized by the Life Sciences Tax Incentive Program, may receive a Life Sciences Refundable Jobs Tax Credit (LSRJTC) in an amount determined by the Massachusetts Life Sciences Center in consultation with the DOR. A taxpayer claiming the LSRJTC must commit to the creation of a minimum of 50 net new permanent full-time positions in Massachusetts. If the LSRJTC claimed by a taxpayer exceeds the tax otherwise due, 90% of the balance of such LSRJTC may, at the option of the taxpayer and to the extent authorized by the Life Sciences Tax Incentive Program, be refundable. Excess LSRJTC amounts cannot be carried forward to subsequent taxable years. The LSRJTC is not transferrable. The LSRJTC is subject to all of the requirements of the Life Sciences Tax Incentive Program under MGL ch 23I. In the event of the revocation of a company's certification as a life sciences company or other disqualifying events, the LSRJTC may be subject to recapture. For more information, see TIRs 13-6, 11-6, and 08-23.

To claim the LSRJTC, complete a Schedule RLSC and enter the amount of LSRJTC using credit code LFSJOB on Schedule CMS.

### Life Sciences Research Tax Credit

Certified life sciences companies subject to tax under MGL ch 63, to the extent authorized by the Life Sciences Tax Incentive Program, may claim a Life Sciences Research Tax Credit (LSRTC) for certain expenditures that do not qualify for the MGL ch 63, § 38M Research Tax Credit (RC). The LSRTC generally is calculated in the same manner as the RC, but may also include expenditures for research related to legally mandated clinical trial activities performed both inside and outside of Massachusetts. Unlike the RC, the LSRTC is not refundable for certified life sciences companies. See the Research Credit summary below. The LSRTC is not transferrable. However, unused portions of the LSRTC may be carried forward for 15 years. In the event of the revocation of a



company's certification as a life sciences company or other disqualifying events, the LSRTC may be subject to recapture. For certified life sciences companies subject to a minimum excise, the LSRTC cannot reduce the amount of the excise due to less than the minimum amount. For further information, see TIRs 13-6 and 08-23.

To claim the LSRTC, complete a Schedule RLSC and enter the amount of LSRTC using credit code LFSRDC on Schedule CMS.

### Low Income Housing Tax Credit

Taxpayers subject to tax under MGL ch 63 who invest in a qualified low-income housing project located in Massachusetts may be eligible for the Low Income Housing Tax Credit (LIHTC). The Department of Housing and Community Development (DHCD) determines which low-income housing projects will qualify for the LIHTC, which properties may generate an LIHTC for investors, and ultimately allocates the amount of credit a taxpayer may claim based on a total pool of \$20,000,000. The LIHTC may be claimed in the year that a "qualified Massachusetts project" is placed in service and for each of the four subsequent taxable years. The properties must also meet the requirements established by Massachusetts and federal laws, and be owned by a taxpayer who enters into a regulatory agreement with DHCD.

Any unused LIHTC may be carried forward for the next 5 tax years. Alternatively, unused credits may be transferred. If an event or circumstance occurs that results, or would have resulted, in the recapture of any portion of a federal Low Income Housing Credit, then the Massachusetts LIHTC may also be subject to recapture. The LIHTC is not refundable.

For taxpayers subject to a minimum excise under MGL ch 63, the LIHTC may not reduce the excise due below the minimum amount.

To claim the LIHTC, enter the LIHTC certificate number and the amount of LIHTC using credit code LOWINC on Schedule CMS. Supporting documentation must be enclosed with the return or the LIHTC may be disallowed. For further information on documentation see the Transfer LIHC: Low-Income Housing Credit Statement Form and Allotment Schedule LIHC: Low-Income Housing Credit Summary Form. For further information regarding this credit, contact DHCD, Division of Private Housing, at (617) 727-7824.

### Low Income Housing Donation Tax Credit

Taxpayers subject to tax under MGL ch 63 that make a "qualified donation" of real or personal property to certain non-profit entities for use in purchasing, constructing or rehabilitating a "qualified Massachusetts project" may be eligible to claim a Low Income Housing Donation Tax Credit (LIHDTTC). This credit operates in a similar

manner to the Low Income Housing Tax Credit (LIHTC), but the LIHDTTC is limited to 50% of the amount of the "qualified donation," which may be increased to 65% by the Department of Housing and Community Development (DHCD). In addition, the LIHDTTC may only be claimed in the year that the "qualified donation" is made. However, any unused LIHDTTC may be carried forward for the next 5 years. DHCD determines eligibility and ultimately allocates the LIHDTTC a taxpayer may claim based on a total pool of \$20,000,000 shared with the LIHTC. Only one-fifth of awarded LIHDTTC will count towards this pool. The LIHDTTC is not refundable but is transferrable in the same manner as the LIHTC.

The property must also meet the requirements established by Massachusetts and federal laws and be owned by an owner who enters into a regulatory agreement with DHCD. If an event or circumstance occurs that results, or would have resulted, in the recapture of any portion of a federal Low Income Housing Credit, then the Massachusetts LIHDTTC may also be subject to recapture. For taxpayers subject to a minimum excise under MGL ch 63, the LIHDTTC may not reduce the excise due below the minimum amount.

To claim the LIHDTTC, enter the LIHDTTC certificate number and the amount of LIHDTTC using credit code LIHDON on Schedule CMS. Supporting documentation must be enclosed with the return or the LIHDTTC may be disallowed. For further information on documentation see the Transfer LIHC: Low-Income Housing Credit Statement Form and Allotment Schedule LIHC: Low-Income Housing Credit Summary Form. For further information regarding this credit, contact DHCD, Division of Private Housing, at (617) 727-7824.

### Medical Device Tax Credit

Medical Device Companies taxable under MGL ch 63 may be eligible to claim a Medical Device Tax Credit (MDTC). The MDTC is equal to 100% of the user fees actually paid by the medical device company to the United States Food and Drug Administration (FDA). To qualify for the MDTC, the user fees must be paid during the tax year for which the tax is due for pre-market submissions (e.g., applications, supplements, or 510(k) submissions) to market new technologies developed or manufactured in Massachusetts. The MDTC may not be carried forward to subsequent tax years. The MDTC is not refundable. However, unused portions of the MDTC may be transferred to a purchasing company, who may carry over the MDTC but must use it within 5 years of the issuance of the certificate. The purchasing company may not transfer the MDTC. The MDTC may not reduce the purchasing company's corporate excise due below the minimum excise.

To claim the MDTC, enter the MDTC certificate

number and the amount of MDTC using credit code MEDDVC on Schedule CMS. Certificate application forms and additional information are available at [mass.gov/dor](http://mass.gov/dor).

### Research Credit

Business corporations subject to an excise under MGL ch 63 that incur "qualified research expenses" and "basic research payments" may be able to claim a Research Tax Credit (RC). The RC closely parallels the federal research credit. Generally, "qualified research expenses" include wages paid to employees, a portion of wages paid to contractors, and amounts paid for supplies, but only if the services were performed for research purposes or the supplies were used to conduct research in Massachusetts. The RC amount is limited to the first \$25,000 of excise due, plus 75% of any excise due in excess of \$25,000. The RC is neither refundable nor transferrable. Business corporations subject to a minimum excise under MGL ch 63 cannot use the RC to reduce their tax due to below the minimum amount. However, credits in excess of the taxpayer's liability may be carried over for 15 years, while credits not used because of the 75% rule may be carried over indefinitely. The deduction allowed to a corporation for any research expenses generating an RC must be reduced by the amount of RC generated. This amount is added back to income on Schedule E, line 13.

Certified life sciences companies that have an RC that exceeds the amount of the credit that may be claimed under section 38M for a taxable year may, to the extent authorized under the Life Sciences Tax Incentive Program, elect to make 90% of the balance of the remaining credits refundable. See TIR 08-23, section 5.

To claim the RC, complete Schedule RC and enter the amount of RC using credit code REARCH on Schedule CMS. Include both the completed Schedule RC and Schedule CMS with the return.

### Vanpool Credit

Business corporations subject to tax under MGL ch 63 may be eligible for a Vanpool Credit (VPC) equal to 30% of the cost incurred during the taxable year for the purchase or lease of company shuttle vans used by the corporation in an employer-sponsored ride sharing program in Massachusetts. The company shuttle vans must be situated in Massachusetts on the last day of the corporation's taxable year and used to bring employees from their homes to their jobs or students from a public transportation facility to a school campus in Massachusetts. The amount of VPC will be prorated for property disposed of or no longer having a qualified use prior to the end of the tax year. Additionally, the VPC will be recaptured if the property on which the VPC has been taken is disposed of or the property ceases



to be in qualified use prior to the end of its useful life. No recapture is necessary if the property has been in qualified use for more than 4 consecutive years. The VPC is neither refundable nor transferable. For corporations subject to the corporate excise, the VPC may not reduce the corporate excise due below the minimum amount, nor may the amount of VPC allowable in any one tax year exceed 50% of the corporation's corporate excise liability.

To claim the VPC, complete Schedule VP and enter the amount of VPC using credit code VANPOL on Schedule CMS. Include both the completed Schedule VP and Schedule CMS with the return.

### **Veteran's Hire Tax Credit**

Businesses subject to tax under MGL ch 63 that hire veterans who live and work in Massachusetts may be eligible for a Veteran's Hire Tax Credit (VHTC). The credit is equal to \$2,000 for each qualified veteran hired. The business must employ fewer than 100 employees; be certified by the Commissioner of Veteran's Services; and qualify for and claim the federal Work Opportunity Credit allowed under IRC § 51. A business may be eligible for a second VHTC for the next taxable year if the veteran continues to work for the business. In order to claim the VHTC, the primary place of employment and the primary residence of the qualified veteran must be in Massachusetts, and the business corporation must obtain certification that the veteran is a qualified veteran, as defined in IRC § 51(d)(3), from the Department of Career Services, no later than the employee's first day of work.

The VHTC is neither refundable nor transferrable. Any amount of VHTC that exceeds the tax due in the current taxable year may be carried forward to any of the 3 subsequent taxable years. The VHTC is available for qualified veterans hired after July 1, 2017. A business subject to a minimum excise under MGL ch 63 cannot use the credit to reduce its tax due to below the minimum amount. See TIR 17-10 for further information.

To claim the VHTC, enter the VHTC certificate number and the amount of VHTC using credit code VETHIR on Schedule CMS.

### **Schedule H Investment Tax Credit**

Corporations claiming an Investment Tax Credit (ITC) must file Schedule H. The amount of the ITC credit is then entered on the Credit Manager Schedule.

## **Part 1. Calculation of Current-Year Investment Tax Credit Generated**

### **Lines 1a through 1d**

Only R&D corporations should complete these lines. All others leave blank. R&D corporations

are eligible for the credit only if 66% of their Massachusetts receipts are derived from the provision of research and development services or from royalties or fees from licensing patents, knowhow or other technology developed from research and development. See 830 CMR 64H.6.4 for further information.

### **Lines 2a through 2h**

Enter the total cost basis of all qualified depreciable property placed in service during the tax year by Schedule A category. Qualifying property must be tangible property, including buildings but excluding motor vehicles and other property taxable under MGL ch 60A, used by the corporation in Massachusetts, situated in the Commonwealth on the last day of the taxable year and depreciable under IRC § 167 with a useful life of four years or more. A corporation may not claim the credit for property it leases to others as a lessor.

### **Line 4**

If any of the property included in lines 2a through 2h is eligible for a federal tax credit, the total amount of the U.S. credit taken with respect to the qualifying property must be entered here and applied as a reduction to the basis in calculating the Massachusetts credit.

### **Line 6**

Enter the tentative tax credit. This is 3% of the cost after any basis reduction.

### **Line 7**

If qualifying property is placed in service and disposed of or otherwise ceases to be in qualified service before the end of the same tax year, the amount of credits available is reduced. Multiply the credit otherwise available (cost as reduced by U.S. tax credits times 3%) by a fraction, the numerator of which is the number of months remaining in the useful life of the asset when it is disposed of or otherwise ceases to qualify and denominator of which is the total number of months in the assets' useful life. For example, an item that is depreciated over a seven-year period for U.S. tax purposes has a useful life of 84 months.

### **Line 8**

Subtract the amount of the credit reduction in line 7 from the tentative credit in line 6.

## **Excise Calculation**

In order to complete the excise calculation, all appropriate schedules must be filled out first. Therefore, schedule instructions precede the instructions for the excise calculation section. Use the whole dollar method.

The excise calculation schedule is used to calculate the various measures of the Massachusetts corporation excise. These are:

▶ A tax of \$2.60 per \$1,000 on taxable Massachusetts tangible property or taxable net worth, whichever applies. If the return is for a short taxable year, the tangible property or taxable net worth should be prorated; and

▶ A tax of 8.00% on income attributable to Massachusetts.

The law also provides for a minimum excise of \$456.

### **Line 3**

Enter the amount from Schedule E, line 27, if you had taxable income (a positive number). If the amount in Schedule E, line 27 is a loss, enter 0.

### **Line 5**

An addition to tax applies for taxpayers who have deferred the gain, and the tax associated with that gain, on certain installment sales. This addition to tax is measured by an interest charge on the tax that has been deferred.

Include in line 5 an additional tax amount representing an interest charge on the deferred tax on gain from certain installment sales with a sales price over \$150,000 if you are not a dealer and the aggregate face amount of installment obligations arising during the tax year and outstanding as of the close of the tax year exceeds \$5 million. For more information see MGL ch 62C, § 32A (a) and IRC § 453A (a)–(c).

Also include in line 5 an additional tax amount representing an interest charge on the deferred gain from the installment sale of time shares and residential lots, if the sale meets one of the following criteria:

▶ The sale is of a timeshare right for six weeks or less;

▶ The sale is for the recreational use of specified campgrounds; or

▶ The sale is for a residential lot and neither the dealer nor someone related to the dealer is obligated to make any improvements on the lot. For more information see MGL ch 62C, § 32A (b) and IRC § 453(l)(2)(B).

If you are a partner in a partnership or a shareholder in an S corporation, the entity is required to send you the information you need to calculate the addition to tax under this provision.

To the extent practicable, Massachusetts follows federal income tax rules in determining the deferred gain from installment sales subject to the interest-charge addition to tax. For more information, visit DOR's website at [mass.gov/dor](http://mass.gov/dor) and Internal Revenue Service Publication 537.

### **Line 7**

The taxpayer must enter on line 7 the credit amount reported on Schedule CMS that is being used to reduce current year corporate excise tax

liability. The total credit amount claimed may be subject to limitations. See Schedule CMS for additional information.

### Line 9

If the corporation is a member of a combined group filing a combined report but it is required to file a Form 355 because its taxable year ends on a date which differs from the taxable year end date of the combined group, its income measure of excise is paid with Form 355U. As a result, the taxpayer must enter the amount from Schedule UST, line 41 as it reported in such combined report. Corporations which are not members of a combined group enter 0.

### Line 10

Corporations taxable under MGL ch 63, §§ 32D and 39 are subject to a minimum excise of \$456. If the corporation is a member of a combined group, it must file a combined report and its income measure of excise is determined on Schedule U-ST, line 41 and not on Form 355 or 355S, however, the taxpayer is also required to file a Form 355 (because its taxable year ends on a date which differs from the taxable year end date of the combined group), and its income measure of excise from Schedule U-ST, line 41 (as referenced on line 9 above) is greater than or equal to \$456 the taxpayer should then, enter 0 on line 10. Otherwise, subtract the amount on line 9 from \$456 and enter the result on line 10.

If the corporation is not part of a combined group, enter \$456 in line 10.

### Line 12

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.

### Line 17

Use this line only if you are amending the original return. Enter in line 17 the amount of tax you paid with the original return from line 27, "Payment due at time of filing." If estimated tax payments were made on the original return, they should be reflected on line 15, as on the original return. Select the appropriate **Amended return** oval on page 1. Complete the entire return, correct the appropriate lines with the new information and recompute the tax liability. On an enclosed sheet, explain the reasons for the amendments and identify the lines and amounts being changed on the amended return. If you are not required to file electronically or you cannot file online, mail the amended Form 355 to **Massachusetts Department of Revenue, PO Box 7005, Boston, MA 02204**. For faster processing, it is recommended that the taxpayer file and pay its amended return and pay any tax due electronically. Electronic filing requirements apply to amended returns. See TIR 16-9 for further information.

Enter the amount of any withholding tax from pass-through entities. This is the amount of withholding from all Schedules 3K-1, lines 36 and 38 that the corporation has received.

### Line 19

If the corporation is claiming a refundable credit, enter the amount(s) from the Credit Manager Schedule and enclose the completed Credit Manager Schedule with the return.

### Line 25

The following penalties may apply:

**Penalty for underpayment of estimated tax.** An additional charge may be imposed on corporations which underpay their estimated taxes or fail to pay estimated taxes. Form M-2220, Underpayment of Massachusetts Estimated Tax by Corporations, should be used to compute any underpayment penalty.

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

**Penalty for late payment.** The penalty for failure to pay the total payment due with this form is 1% of the tax due per month (or fraction thereof), up to a maximum of 25%.

### Line 26

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

### Line 27

Enter the total payment due. Checks for this amount should be made payable to the Commonwealth of Massachusetts. Checks should have the corporation's Federal Identification number written in the lower left corner.

### Privacy Act Notice

The Privacy Act Notice is available upon request or at [mass.gov/dor](http://mass.gov/dor).

### Sign Here

The completed form must be signed by the treasurer or assistant treasurer or, in their absence or incapacity, by any other principal corporate officer. The Social Security number of the signing officer should be entered next to the date the return was signed. If you are filing as an authorized delegate of the appropriate corporate officer, check the box in the signature section and enclose a copy of Massachusetts Form M-2848, Power of Attorney. The form must also be signed by any paid preparer of the form. Form M-2848 should be uploaded through MassTaxConnect or mailed to: **Massachusetts Department of Revenue, PO Box 7005, Boston, MA 02204**.