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Commonwealth of Massachusetts

Department of Revenue

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# 2020 Instructions for Massachusetts Premium Excise Return for Insurance Companies Form **63-23P**

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

# Major 2020 Tax Law Changes

## Federal Conformity

Massachusetts generally follows the Internal Revenue Code (IRC) as currently in effect for Massachusetts corporate excise tax purposes. For more up-to-date and detailed information on tax changes and federal conformity please see the dedicated 2020 Tax Changes page on our website at <https://www.mass.gov/orgs/massachusetts-department-of-revenue>.

## Coronavirus Aid, Relief, and Economic Security Act

On March 27, 2020, Public Law 116-136, the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), was signed into law. The CARES Act 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 CARES Act, the Department of Revenue (DOR) issued TIR 20-9: Massachusetts Tax Implications of Selected Provisions of the Federal CARES Act, which addresses various provisions that are specific to corporations and small businesses including (1) small business loan forgiveness, (2) modifications to the federal limitations on net operating losses, (3) modifications to limitation on business interest deduction, (4) technical amendments regarding qualified improvement property, and (5) modification of limitation on charitable contributions during 2020. TIR 20-9 is available on DOR's website.

## Tax Cuts and Jobs Act

The Tax Cuts and Jobs Act (TCJA) also changed a variety of provisions of the IRC that affect business entities subject to the corporate and financial institution excise. In response to the TCJA, DOR issued written guidance addressing the impact of the TCJA in Massachusetts. See e.g., TIR 19-17: Application of IRC § 163(j) Interest Expense 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. All of these TIRs are available on DOR's website.

## Employees Working Remotely due to COVID-19: Massachusetts Tax Implications

Massachusetts declared a state of emergency and issued several health and safety related restrictions in response to the 2019 novel Coronavirus ("COVID-19") pandemic. As a result, many businesses implemented work-from-home requirements for their employees. DOR has provided Massachusetts tax relief in situations in which employees work remotely due solely to the COVID-19 pandemic to minimize disruption for corporations doing business in Massachusetts. See 830 CMR 62.5A.3: Massachusetts Source Income of Non Residents Telecommuting due to the COVID-19 Pandemic, and TIR 20-15: Revised Guidance on the Massachusetts Tax Implications of an Employee Working Remotely due to the COVID-19 Pandemic. These rules are effective until 90 days after the state of emergency in Massachusetts is lifted.

DOR will not consider the presence of one or more employees working remotely from Massachusetts solely due to a Pandemic-Related Circumstance, including the presence of business property reasonably needed for such persons' use while working remotely, to be sufficient in and of itself to establish corporate nexus and a corporate excise filing requirement. In addition, such presence will not, of itself, cause a corporation to lose the protections of Public Law 86-272. Relatedly, for corporate apportionment purposes, (i) services performed by such persons in Massachusetts will not increase the numerator of the employer's payroll factor, and (ii) the presence in Massachusetts of business property reasonably needed for such persons' use while working remotely will not increase the numerator of the employer's property factor.

## Filing Due Dates

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 filing due date for S corporation tax returns is the 15th day of the third month following the close of each taxable year. See TIR 17-5.

For most calendar year filers, returns are due April 15, 2021.

# General Instructions

## Extension Due Dates

C corporations are allowed an automatic extension to file their tax returns if they satisfy the payment requirements stated in TIR 15-15. Tax returns filed on extension are due 6 months from the due date (October 15 in the case of corporations filing on a calendar year basis). See TIR 17-5.

Form 63-23P filers will receive an automatic six-month extension of time to file Form 63-23P provided they meet certain payment requirements.

DOR has adopted an automated process for extensions of time to file tax returns for corporate excise taxpayers, as part of the MassTaxConnect system. Consistent with current rules, insurance companies meeting certain payment requirements will be given an automatic six-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 an extension payment, by or before the due date of the original return.

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

## Electronic Filing and Payment Requirements

Insurance companies are required to file and pay their taxes electronically. For further information, see TIR 16-9.

## Who Must File Form 63-23P?

All domestic insurance companies subject to MGL ch 63, §§ 22 and 22A must file Form 63-23P. Life insurance companies and ocean marine business companies do not file this form. See instructions for Form 63-23P and Form 63-29A.

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

All classes of foreign insurance companies subject to MGL ch 63, §§ 23 and 24A must file Form 63-23P. Life insurance companies that are taxable under MGL ch 63, § 20, 21 or 23 and marine business companies taxable under MGL ch 63, § 29A do not file this form. See instructions for Form 63-23P and Form 63-29A.

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

All domestic or foreign organizations that offer preferred provider arrangements under MGL ch 176I are required to file this form. The due date

for returns filed pursuant to MGL ch 176I, § 11, is March 15.

If you are a domestic property and casualty insurer, complete lines 1 through 5 on page 1. Also complete any applicable lines on page 2 and 3 of Form 63-23P. In addition, complete the sections Part 1, Premium Excise and Part 2, Gross Investment income.

If you are a foreign property and casualty insurer, complete lines 6 through 14 on page 1. Also complete any applicable lines on page 2 and 3 of Form 63-23P. In addition, complete the section Part 3, Computation of Retaliatory Tax.

If you are an insured preferred provider and casualty insurer subject to MGL ch 176I, complete lines 15 through 20 on page 1 and all applicable lines on pages 2 and 3 of Form 63-23P. You are not required to complete Parts 1, 2 or 3.

Only in rare circumstances should you fill out more than one section on page 1.

### What Are the Penalties for Late Returns?

Insurance excise returns that are not filed and/or paid on or before the due date are subject to interest and penalty charges. The penalty for failure to pay the total amount due with this form is 1% of the balance due per month (or fraction thereof), up to a maximum of 25%. A late payment penalty does not apply to amended returns when the amount shown on the original return was paid.

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

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

### What Is a Valid Return?

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

### Documentation of Premiums

Domestic property and casualty insurers should include the following schedules:

- ▶ Exhibit of Premiums and Losses (Statutory page 14) for Business in the State of Massachusetts; and
- ▶ Schedule T, Exhibit of Premiums Written from the NAIC Annual Statement; and

- ▶ Exhibit of Net Investment Income.

Foreign property and casualty insurers should include the following schedules:

- ▶ Exhibit of Premiums and Losses (Statutory page 14) for Business in the State of Massachusetts; and
- ▶ Schedule T, Exhibit of Premiums Written from the NAIC Annual Statement.

Preferred provider arrangements should include:

- ▶ Any schedule, spreadsheet and/or correspondence with the Massachusetts Division of Insurance verifying the premiums declared.

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

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

### When Are Estimated Tax Payments Required?

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

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

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

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

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

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

For more information on corporate estimated taxes, refer to MGL ch 63B.

### How Is the Excise Determined?

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

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

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

### 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.

### 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

Insurance companies are required to file a dispute online at [mass.gov/masstaxconnect](https://www.mass.gov/masstaxconnect).

Visit <https://www.mass.gov/info-details/amend-your-tax-return-or-request-an-abatement-of-tax> for additional information about filing an amended return, or filing an application for abatement.

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

File the 2020 return for calendar year 2020 and fiscal years that began in 2020 and ended in 2021. For a fiscal year return, fill in the tax year space at the top of page 1. Short year filers should file using the tax form for the calendar year within which the short year falls. If the short year spans more than one calendar year, the filer should file use the tax form for the calendar year in which the short year began. If the current form is not available at the time the short year filer must file, the filer should follow the rules explained in TIR 11-12.

### Are There Special Tax Credits Available In Massachusetts?

Yes. Massachusetts offers several special credits to corporations. See instructions for Schedule CMS, Credit Manager Schedule, beginning on page 5.

## Line Instructions

### Should the Whole Dollar Method Be Used?

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

**Note:** Ocean marine premiums reported on your 2020 Ocean Marine Profits Tax Return are deductible from net direct premiums.

### Computation of Excise

#### Line 1

Multiply the amount from Part 1, line 5 by 0.0228 and enter in line 1. If amount is negative, enter 0.

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

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

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

- All policies issued or renewed (including dividends applied to payment of renewals, and policy

and membership fees whether or not actually received by the company);

- All additional premiums charged on policies issued in this or in previous years; and

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

Less

- Premiums on direct policies written but not taken or canceled through default of payment; and

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

#### Line 2

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

#### Line 3

Domestic companies should report the amount of FAIR Plan disbursement check received from the Massachusetts Property Insurance Underwriting Association and/or Crime Insurance Program.

#### Lines 4, 13 and 19

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

Include in the total on lines 4, 13 and 19 the 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 \$5,000,000. For more information see MGL ch 62C, § 32A(a) and IRC § 453A(a)-(c).

Also include in the total the tax amount representing interest on the deferred gain from the installment sale of timeshares and residential lots, if the sale meets one of the following criteria: 1) the sale is of a timeshare right for 6 weeks or less; 2) the sale is for the recreational use of specified campgrounds; or 3) 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 will be sending you the information you need to calculate the addition to tax under this provision. For more information see TIR 10-11.

#### Line 7

Taxpayers receiving disbursement checks from the Massachusetts Property Insurance Underwriters Association in January 2020 must place the premiums associated with the check on line 7. For example, if the taxpayer receives a disbursement check for \$100, DOR would expect the taxpayer to report premiums of \$4,386 on line 7. If the taxpayer has included FAIR Plan premiums on their Schedule T, they must include a letter stating (1) the amount of the disbursement check and (2) the amount of allocated premiums that were included on Schedule T.

#### Line 9

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

#### Line 12

Use Part 3 of Form 63-23P to calculate your excise using the same method and rate used by the state in which you are incorporated and would be imposed on a like Massachusetts insurance company, or its agents, if doing business to the same extent. If the computation in the state of your incorporation is in every respect the same as your Massachusetts computation, a statement to that effect should be made. Enter this amount in line 12. Retaliatory tax provisions are provided under MGL ch 63, §§ 23 and 24A.

**Line 21**

A company that contributes its full and proportionate share to the Property and Casualty Initiative may receive a credit against the premium tax equal to increasing percentages of the retaliatory taxes paid during the preceding taxable year attributable to the surtax. If the aggregate cumulative investment by domestic property and casualty companies in the Property and Casualty Initiative reaches \$100,000,000, the credit shall equal 100% of the retaliatory taxes attributable to the surcharge. The amount of the credit is 20% for the tax year beginning on or after January 1, 1999, or the first year in which a participating property and casualty company contributes its full proportionate share. The amount of the credit is 40% for the tax year beginning on or after January 1, 2000, or the second year in which a participating property and casualty company contributes its full proportionate share. The amount of credit is 60% for the tax year beginning on or after January 1, 2001, or the third year in which the participating property and casualty company contributes its full proportionate share. The amount of credit is 80% for the tax year beginning on or after January 1, 2002, or the fourth year in which the participating property and casualty company contributes its full proportionate share. The amount of credit is 100% for the year beginning on or after January 1, 2003, or the fifth year in which a participating property and casualty company contributes its full proportionate share.

The total amount of the credit shall not exceed \$8,000,000 for all domestic property and casualty companies. The amount of each property and casualty company's credit shall be limited to that company's credit share. A company seeking the credit must provide the Commissioner of Revenue with the amount of its retaliatory taxes attributable to the surtax and payable for the preceding taxable year, before application for the credit, by December 31 of the current taxable year. The commissioner of revenue shall be responsible for reporting to each company its credit share amount by February 15 of the current taxable year. A certificate of contribution issued by the Property and Casualty Initiative must accompany the return.

**Line 22**

A company shall be allowed a credit against the premium tax equal to 1.5% (0.015) of such company's total capital contribution in excess of their full proportionate share which shall mean an investment in the Massachusetts Property and Casualty Insurance Company Community and Economic Development Initiative.

This credit is effective for tax years in which the aggregate cumulative investment in the Property and Casualty Initiative reaches \$100,000,000 or the tax year 2004, whichever is later.

**Line 24**

Enter 10% of the assessment for each of five years following the year in which the assessment was paid. If the sum of offsets exceeds \$3,000,000, the excess may be carried forward and may be used in a year in which the \$3,000,000 is not exceeded. If the total offsets exceed \$3,000,000 in a year, DOR will assess each member with an additional tax equal to the amount of the offset which exceeds \$3,000,000 of such members pro rata share. If the total offsets do not exceed \$3,000,000 in a year, DOR will calculate each members' pro rata share to determine the amount of refund due each member and issue a refund to each member.

**Line 25**

Enter the total amount of other credits claimed from the Schedule CMS. Do not include refundable credits that you will be reporting below on line 35 in the total reported on this line.

**Line 28**

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

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

**Line 34**

Enter the amount of any withholding tax from pass-through entities. Be sure to include the taxpayer identification number of the person or entity submitting the withholding payment on behalf of the taxpayer.

**Lines 30 through 36**

Enter in line 30 any overpayment credited from 2019 to 2020. Enter estimated tax payments made in 2020 in line 31. Any extension payment should be entered in line 32. Enter refundable credits from the Schedule CMS on line 35. Line 36 should reflect the total payments made for the entire year.

**Lines 37 through 39**

If the amount in line 36 is larger than the amount in line 29, enter the amount overpaid in line 37.

The overpayment may be applied in part or in full to 2021 estimated taxes by entering in line 38 the amount to be credited to 2021 estimated tax payments. Enter the amount to be refunded in line 39.

**Note:** The due dates for estimated tax payments are not the same as the return due dates for corporations. An overpayment from the prior year return 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.

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

**Line 40**

If line 29 is larger than line 36, enter the balance due in line 40.

**Lines 41a through 42**

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

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

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

**Line 43**

Enter the total payment due. Insurance companies are required to submit any payment due electronically. See TIR 16-9.

**Signature**

When the form is complete, it must be signed by the treasurer or assistant treasurer. If you are signing as an authorized delegate of the appropriate corporate officer, check the box in the signature section and attach a Massachusetts Form M-2848, Power of Attorney.

**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 2020 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 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 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 DOR. 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 carry-over, the credit should be reported as "non-expiring" 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 pass-through 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 beneficiary 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.

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.

**Note:** Certified life sciences companies with a Research Credit exceeding the amount of credit that may be claimed under MGL ch 63, § 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.

### **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 AP-PCRD 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% limitation 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 BR-WFLD 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 transferrable. 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 the 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**

The Employer Wellness Credit (EWC) program expired on December 31, 2017 and no new EWC amounts are being awarded. However, remaining credits awarded for the 2015 through 2017 tax



years and carried over by a taxpayer may be applied in the 2020 tax year.

Effective for tax years beginning on or after January 1, 2013, a taxpayer subject to tax under MGL ch 63 that employed 200 or fewer workers was eligible for the EWC for up to 25% of its costs associated with implementing a “certified wellness program” for its employees. Prior to the EWC program’s expiration on December 31, 2017, a taxpayer could claim the EWC by applying to the Department of Public Health (DPH) to certify its wellness program. The amount of the credit available to be claimed could not exceed \$10,000 in any tax year and the credit was not refundable. A taxpayer may carry forward any unused portion of the EWC for up to 5 taxable years. For taxpayers subject to a minimum excise under MGL ch 63, the EWC may not reduce the excise due below the minimum amount.

Since the EWC program expired on December 31, 2017, a taxpayer may only claim a previously awarded EWC that was carried over to subsequent tax years. Information about the criteria DPH utilized for authorizing and certifying the EWC may be found in DPH’s “Massachusetts Wellness Tax Credit Incentive” regulation, 105 CMR 216.000.

To claim the EWC, enter the amount of EWC using credit code EMPWLL on Schedule CMS. Also, enter the DPH issued certificate number on Schedule CMS.

### **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 (HMTC). A corporation is eligible for the HMTC 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 HMTC is neither refundable nor transferrable. The HMTC 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 HMTC may be carried forward for the next 5 tax years. See TIR 97-4 and Schedule HM instructions for further information.

To claim the HMTC, complete Schedule HM and enter the amount of HMTC 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 does not opt to make the LSRITC refundable, then the LSRITC may be carried forward for up to 10 years. Certified life sciences companies 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 Massachu-

setts 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 (LIHDTIC). This credit operates in a similar manner to the Low Income Housing Tax Credit (LIHTC), but the LIHDTIC 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 LIHDTIC may only be claimed in the year that the "qualified donation" is made. However, any unused LIHDTIC may be carried forward for the next 5 years. DHCD determines eligibility and ultimately allocates the LIHDTIC a taxpayer may claim based on a total pool of \$20,000,000 shared with the LIHTC. Only one-fifth of awarded LIHDTIC will count towards this pool. The LIHDTIC 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 LIHDC may also be subject to recapture. For taxpayers subject to a minimum excise under MGL ch 63, the LIHDC may not reduce the excise due below the minimum amount.

To claim the LIHDC, enter the LIHDC certificate number and the amount of LIHDC using credit code LIHDON on Schedule CMS. Supporting documentation must be enclosed with the return or the LIHDC 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 MGL ch 63, § 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 transferrable. 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 VAN-

POL 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.