



2022 Instructions for Massachusetts Corporate Combined Report **Form 355U**

This form has an electronic filing requirement.
See instructions. Separate instructions for Form 355U
supporting schedules are available on DOR's website at
mass.gov/dor.

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 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.

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:

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

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 2022 Tax Law Changes

For more up-to-date and detailed information and to view all of the public written statements referenced in these instructions, visit <http://www.mass.gov/dor>.

Filing Due Dates

Massachusetts General Laws (MGL) 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. The filing due date for S corporation tax returns is the 15th day of the third month following the close of each taxable year. For more information, see Technical Information Release (TIR) 17-5.

For calendar year filers, April 15, 2023, when 2022 returns and payments would normally be due, is a Saturday, which extends the filing due date to the next business day. However, in Massachusetts, Monday, April 17, 2023, is Patriot's Day, a legal holiday in the Commonwealth. As a result, returns, payments made with returns, and estimated payments otherwise due on April 15, 2023, will be treated as timely if they are filed and/or paid on or before April 18, 2023.

Expansion of Mandatory Electronic Filing for Corporate Excise Returns

Effective for tax periods ending on or after December 31, 2021, electronic filing and payment of tax will be required of all business corporations and financial institutions subject to tax under MGL ch 63, with no income threshold. For more information, see TIR 21-9.

New-Ordinary and Necessary Business Expense Deductions Available for Licensed Massachusetts Marijuana Businesses

Internal Revenue Code (IRC) § 280E prohibits trades or businesses that traffic in controlled substances from claiming any ordinary and necessary business expense deductions provided by the IRC, other than for the cost of goods sold. As a result, because marijuana remains federally classified as a Schedule I controlled substance and is illegal to sell under federal law, licensed marijuana businesses are unable to claim ordinary and necessary business expense deductions for federal income tax purposes, other than for the cost of goods sold. Effective for taxable years beginning on or after January 1, 2022, Massachusetts decoupled from IRC § 280E with respect to licensed marijuana businesses only. As a result, a licensed

Massachusetts marijuana business can deduct ordinary and necessary business expenses that would otherwise be disallowed under IRC § 280E. See MGL ch 63, § 30.4 for more information.

Changes to the Film Incentive Credits

Motion picture companies subject to tax under MGL ch 63 may claim credits with respect to certain payroll and production expenses. For taxable years beginning on or after January 1, 2022, in addition to meeting other requirements, a taxpayer must now either incur at least 75% of the motion picture's production expenses in Massachusetts or at least 75% of the motion picture's total principal photography days must take place in Massachusetts for the project to qualify for a credit for certain production expenses. A 50% threshold applies to prior taxable years. See TIR 22-5 for additional information.

Repeal of Deduction for Energy Patents

For taxable years beginning on or after January 1, 2022, corporations may no longer deduct income from certain patents that are useful for energy conservation or alternative energy development. See TIR 22-5 for more information.

Repeal of Medical Device User Fee Credit

For taxable years beginning on or after January 1, 2022, corporations that develop or manufacture medical devices in Massachusetts may no longer claim a credit for user fees they pay when submitting certain medical device applications and supplements to the Food and Drug Administration, as had been allowed in previous tax years. However, taxpayers will still be able to transfer previously awarded credits, and transferees will be able to apply unused amounts of the credit within five years of the credit's issuance. See TIR 22-5 for additional information.

Repeal of Harbor Maintenance Credit

For taxable years beginning on or after January 1, 2022, corporations may no longer claim a credit equal to certain harbor maintenance taxes paid to the federal government to the extent the taxes are attributable to the shipment of break-bulk or containerized cargo by sea and ocean-going vessels through one of three designated Massachusetts ports. Unused portions of the credit claimed in taxable years beginning before January 1, 2022, may be carried forward from the year claimed and used in any of the succeeding five taxable years. See TIR 22-5 for more information.

Federal Conformity

In recent years there have been a few federal acts that have had significant impact on the Massachusetts corporate and financial institution excise. Massachusetts generally conforms to the IRC as currently in effect for Massachusetts corporate and financial institution excise purposes. For more up-to-date and detailed information on tax changes and federal conformity, visit our website at www.mass.gov/dor.

When must a combined report be filed?

Massachusetts requires certain corporations engaged in a unitary business to calculate their income on a combined basis by preparing and filing a combined report on Form 355U along with all required supporting schedules. A corporation is subject to this requirement if it is subject to a tax on its income under Massachusetts General Law (MGL) ch 63, § 2, 2B, 32D, or 39 and is engaged in a unitary business with one or more other corporations under common control, whether or not the other corporations are taxable in Massachusetts. The requirement to file on a combined basis is not dependent upon an evidentiary showing that there is a distortion of income between corporations that are related by common ownership or that there is a lack of arm's length pricing in transactions between such corporations.

The requirement to file a combined report applies regardless of whether or not 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 the non-income calculation is made on schedules attached to the Form 355U. A separate return (Form 355 or Form 355S, as appropriate) is only required if the corporation's federal taxable year ends on a different date than the taxable year of the combined report. See **Special Situations** below.

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 re-order 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.

Common Ownership

Common ownership for the purposes of MGL ch 63, § 32B means that more than 50% of the voting control of each member of the group is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, whether or not the owner or owners are members of the combined group. A unitary business exists for the purposes of § 32B when the activities of a group of two or more corporations under common ownership are sufficiently interdependent, integrated or interrelated through their activities so as to provide mutual benefit and produce a significant sharing or exchange of value among them or a significant flow of value between the separate parts. Massachusetts construes the term unitary business to the broadest extent permitted under the United States Constitution.

Combined Group Elections

A combined group may, at the option of the group, include all non-U.S. corporations by making a worldwide election that is binding for a ten year period. Alternately, taxpayers may elect to treat as their combined group all eligible members of their Massachusetts affiliated group, as determined under Massachusetts law, without regard to whether or not the activities of each member are unitary; such an election is also binding for a ten-year period. No group may make both a worldwide election and an affiliated group election for the same tax period and no group may make either election during the ten year period for which the other is in effect.

Combined Group Elections – Renewal after Expiration of 10-year Election Period

As of tax year 2009, a corporation is required to file a combined report when it is subject to tax under MGL ch 63 and engaged in a unitary business with one or more other corporations. When filing a combined report, members of the combined group may make an affiliated group or a worldwide election. If a combined group makes either election, it may not revoke the election for ten years. Once the ten year period has expired the members of the combined group need to renew the election going forward or the election will terminate. Therefore, starting with taxable years beginning on or after January 1, 2019, most combined groups that made the election in tax year 2009 or later will need to affirmatively renew the affiliated group or worldwide election after ten taxable years have passed or the election will terminate. Combined groups that have previously made

these elections should consider whether they will act to renew them.

If a combined group does not affirmatively renew a prior worldwide election after ten taxable years, the election will terminate for the subsequent taxable year, but a new worldwide election may be made for any ten-year period thereafter by election on the terms set forth in 830 CMR 63.32B.2(5)(c). If a combined group does not affirmatively renew a prior affiliated group election after ten taxable years, the election will terminate for the subsequent taxable year and no affiliated group election shall apply for that year and the subsequent two taxable years. In such cases, the Massachusetts affiliated group may make a new election for a ten taxable year period commencing with the fourth taxable year after the termination on the terms set forth in 830 CMR 63.32B.2(10).

Corporations Subject to Combined Reporting

Taxpayers subject to combination under MGL ch 63, § 32B include any corporation taxable in Massachusetts under MGL ch 63, § 2 (financial institutions), § 2B (S corporation financial institutions), § 32D (S corporations), § 39 (general business corporations) and entities described in MGL ch 63, §§ 20 to 29E (if they do not qualify as insurance companies under IRC § 816 or as life insurance companies under of IRC § 831).

Corporations Excluded from Combined Group

Corporations are excluded from the combined group if they are entities classified and taxed under MGL ch 63, § 38B (Massachusetts Security Corporations, which pay a tax under MGL ch 63 on gross income). A corporation is also excluded from a combined group if (1) it is an entity described in MGL ch 63, §§ 20 to 29E, inclusive, except as provided in 830 CMR 63.32B.2 (4) (b) (certain insurance companies) or (2) it is an entity described in MGL ch 63, § 38Y (corporations exempt from taxation under IRC § 501 with respect to most activities but subject to a tax on unrelated business income).

Combined Group Taxable Income

Members of the combined group, whether or not taxable in Massachusetts, combine their income from the unitary business. A "taxable member" is a corporation included in a combined group which is taxable on its income in Massachusetts; all other corporations which are part of such a group are "non-taxable members." Each taxable member of a combined group takes its apportioned share of the combined group's income based on its own property, payroll and sales in the Commonwealth in relation to the total property, payroll and sales of the entire combined group. If the

taxable member has other income, either from non-unitary business activities, from participation in a second unitary business carried on by another combined group or from income or loss which is allocable to Massachusetts, all such amounts are added together to determine the taxable member's income subject to Massachusetts tax. Each taxable member of the group then determines its separate income measure of excise and may take credits against this excise to the extent allowed by Massachusetts law.

Filing Form 355U Principal Reporting Corporation

The combined report required by MGL ch 63, § 32B is filed on behalf of all members of the group by a principal reporting corporation, which must be a taxable member of the combined group unless otherwise approved by the Commissioner (see DD 15-2). If the combined group has a common parent corporation that is a taxable member of the combined group that parent corporation is required to be the principal reporting corporation. If the combined group does not have a common parent or that corporation is not a taxable member of the group, the principal reporting corporation shall be the taxable member of the group that reasonably expects to have the largest amount of Massachusetts taxable net income on a recurring basis.

As provided in MGL ch 62C, § 11A, the Commissioner may treat the principal reporting corporation as the agent for all corporations that participate or are required to participate in the group with respect to all notices and actions authorized or required by chapter 62 or chapter 63. Such notices and actions include, without limitation: (i) notices and actions associated with processes such as assessment of tax; (ii) execution of consents to extend the time for assessment of tax; (iii) abatements; (iv) hearing requests; (v) refunds; and (vi) collection activity. The principal reporting corporation reports the following information on behalf of all members of the combined group when filing Form 355U: the designation of the principal reporting corporation, the elections allowed or required to be made by MGL ch 63, the calculation of the group's combined income, the determination of the apportioned shares of the taxable members, and the calculation of the income tax liabilities of the various members and the payments made by the group.

Form 355U Electronic Filing

Form 355U, and all pertinent schedules, must be filed electronically. Submissions other than by electronic filing will not be considered a timely filed return. Detailed regulatory guidance with respect to the Massachusetts combined reporting

law is set forth at 830 CMR 63.32B.2. For more information, see TIR 21-9: Expansion of Certain Electronic Filing and Payment Requirements.

When Are Returns Due?

Form 355U 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. If the due date for filing tax returns or the due date for making tax payments falls on a Saturday or legal holiday the filing or payment may be made on the next succeeding business day. See TIR 84-3.

Taxpayers filing a 355U that meet certain payment requirements will be given an automatic seven month extension of time to file Form 355U. 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, which ever is greater, through estimated payments or with an extension worksheet on or before the due date of the return.

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

S corporations that are participating in a combined report of their net income to Massachusetts must file Form 355U. For more information see 830 CMR 62C.11.1: Return Due Dates for S Corporations Included in a Combined Group.

In addition, an S corporation that pays both the income and non-income measure of excise with Form 355U must also submit Form 355S or 63-FI as an informational return, enclosing Schedules S, SK-1, and an exact copy of U.S. Form 1120S although no additional tax is due with that filing. Such informational filing is due on or before the 15th day of the third month after the close of the taxable year, calendar or fiscal.

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, and all required schedules, forms and other attachments have been submitted. 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.

S corporations that are participating in a combined report must submit an exact copy of U.S. Form 1120S, including all applicable schedules and any other documentation required to substantiate entries made on this return.

Organization and Structure of Form 355U

Form 355U shows the aggregate tax liability of the combined group, declares whether the combined group is making or filing pursuant to either a worldwide or affiliated group election and shall provide other general information on behalf of the combined group. Massachusetts requires all corporations that are part of the combined group to use DOR schedules to report their income as determined for federal income tax purposes and certain adjustments. This information must be provided separately for each member of the combined group on the specific DOR schedules described below.

The basic principles that underlie the Form 355U are as follows. The combined net income of the group and the combined apportionment denominators are used by each taxable member of the group to calculate its income subject to tax for the taxable year. Each taxable member of the group must separately calculate its excise using its Massachusetts apportioned share of the group's income. Any other excise or tax due under MGL ch 63 (e.g., the non-income measure of excise due from business corporations, any recapture taxes, etc.) and credits taken are also reported as part of the taxable member's calculation of its excise. DOR schedules showing these calculations must be completed separately by each taxable member.

Supporting schedules to be submitted with the Form 355U

A brief description of some schedules that, depending on the circumstances, may be required with Form 355U is shown below. Instructions for all of these schedules are published separately. See instructions for Form 355U Supporting Schedules on DOR's website at mass.gov/dor for further details.

Schedule U-M

Each member of the combined group, whether taxable or not, reports its own income and expenses for federal income tax purposes together with certain adjustments. An additional Schedule U-M is also filed to show the Massachusetts inter-company eliminations, if any. 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.

Schedule U-CI

The amounts on all Schedules U-M are totaled to show the combined income of the group before certain Massachusetts adjustments. A single Schedule U-CI is filed with each Form 355U.

Schedule U-E

► In Part 1 of this schedule, the combined income from a single unitary business is modified to reflect differences between Massachusetts and federal income calculations.

► In Part 2 of this schedule, the group calculates the denominators of the combined group's property, payroll and sales factors for the purpose of apportioning this combined income to taxable members.

► Schedule U-E, line 24 is to be used for eligible taxpayers to claim the FAS 109 deduction per TIR 09-8 and TIR 15-12. Eligible taxpayers must complete and submit a Schedule TDS with their return and must provide a detailed calculation of the reported FAS 109 deduction amount. The FAS 109 deduction cannot reduce taxable income below zero. Any amount in excess of net income cannot be used as a deduction and cannot be carried forward. However, the deduction should be applied before any other deduction allowable in determining taxable net income, including the net operating loss and dividends received deductions. Schedule TDS is a Massachusetts taxpayer disclosure statement for purposes of MA Form 355U, line 15. See Schedule U-E, line 24 instructions for further detail.

Note: Taxpayers eligible for the FAS 109 deduction cannot use any amount of the deduction to generate a net operating loss. Therefore, the taxpayer must maintain records to verify that no portion of the FAS 109 deduction is counted in generating an NOL in the current tax year. Where a taxpayer incorrectly takes the FAS 109 deduction into account in determining NOL, any amount of reported NOL attributable to the FAS 109 deduction that is included in the NOL carryforward will be disallowed.

New – Ordinary and Necessary Business Expense Deductions Available for Licensed Massachusetts Marijuana Businesses

Internal Revenue Code (IRC) § 280E prohibits marijuana businesses from deducting expenses and claiming tax credits for federal tax purposes. Effective for taxable years beginning on or after January 1, 2022, Massachusetts decoupled from the IRC § 280E deduction disallowance with respect to licensed marijuana businesses only. As a result, for Massachusetts tax purposes, a licensed Massachusetts marijuana business can deduct ordinary and necessary business expenses that would otherwise be disallowed under IRC § 280E. These ordinary and necessary trade or business expenses should be reported on Schedule U-E Line 29 "Other adjustments to income or expenses."

Schedule U-ST

Each taxable member of the group separately determines and reports its tax liability as a schedule submitted with Form 355U. Each Schedule U-ST will include its own set of subsidiary schedules showing the calculation of tax or claim of certain deductions or credits by the taxable member.

Schedule U-TM

The separately determined tax liability of each taxable member as shown on all the Schedules U-ST is reported on Schedule U-TM. A single Schedule U-TM is filed with each Form 355U.

Schedule CIR

Corporations participating in the filing of a consolidated U.S. tax return are required to submit a Schedule CIR with their Massachusetts corporate excise tax return, reconciling the net income of each member to the consolidated return income as reported federally.

Schedule FE

Corporations required to file U.S. Form 5471 with respect to certain foreign corporations must file Schedule FE with their Massachusetts return for each such foreign corporation. If any member of the combined group files U.S. Form 5471, the principal reporting corporation files Schedule FE on behalf of that member.

Where the U.S. Form 1120 is submitted as an attachment to the Massachusetts Form 355U and includes the US Form 5471 filed with respect to a foreign corporation, the member is not required to also submit Schedule FE for that foreign corporation. See Schedule FE instructions for more information.

Schedule TTP

A member that takes a treaty-based return position must disclose that position when filing its Massachusetts Form 355U. A taxpayer takes a treaty based return position by maintaining that a treaty of the U.S. overrules or modifies a provision of the IRC and thereby causes (or potentially causes) a reduction of income required to be shown on the return. A member (including a non-taxable member) of the Massachusetts combined group calculating income under a treaty position indicates this on Schedule U-M and provides further information about the treaty and its effect on income by attaching Schedule TTP.

Schedule U-INS

A member claiming a deduction for insurance premiums or other amounts paid directly or indirectly to an affiliate that is not a member of the Massachusetts combined group and that qualifies as a life insurance company as defined in IRC § 816 of the code or an insurance company subject to tax imposed by IRC § 831 must disclose the deduction.

Schedule ABI

A member claiming a deduction for interest paid or accrued to a related party (in cases where such expense is not eliminated in the combined reporting that determines the taxable income of the group for Massachusetts purposes) must complete this schedule explaining the basis for the deduction.

Schedule ABIE

A member claiming a deduction for intangible expense paid or accrued to a related party (in cases where such expense is not eliminated in the combined reporting that determines the taxable income of the group for Massachusetts purposes) must complete this schedule explaining the basis for the deduction.

Schedule DRE

An entity that is disregarded as a separate entity from its owner for federal income tax purposes shall similarly be disregarded for purposes of MGL ch 63. A taxable member that is the owner of such an entity must identify each such disregarded entity by filing Schedule DRE. An S corporation must similarly identify its QSUB(s) by filing Schedule DRE. Note that disregarded entities owned by corporations that are non-taxable members are not reported.

Schedule U-MSI

Each taxable member of the group separately calculates its Massachusetts numerator for the purpose of apportioning the combined income. These figures, together with the group denominators calculated in Part 2 of the Schedule U-E are used to calculate the property, payroll and sales factors used to calculate the taxable member's apportionment percentage for determining its Massachusetts apportioned share of the income reported on Schedule U-E. The apportionment factors are weighted for each corporation based on the provisions of MGL ch 63 under which that member is taxable.

Effect of Federal Tax Reform on Apportionment Factors of Combined Group Members

In the case of one or more business corporations or financial institutions filing as members of a combined group, each taxable member separately determines its apportionment percentage pursuant to the provisions of MGL ch 63, § 2A or § 38 (as applicable) subject to the rules in MGL ch 63, § 32B and 830 CMR 63.32B.2(7). Thus the apportionment calculation for the combined group will follow in the same manner as for a business corporation or financial institution filing a separate tax return. For more information on differences related to the impact of the TCJA in Massachu-

setts see 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.

Schedule U-MTI

A taxable member may have income from non-unitary sources; if such income is taxable in Massachusetts, the amount of such income or apportioned to Massachusetts is reported on this schedule.

Schedule NOL

A taxable member that is eligible for a net operating loss deduction calculates the amount of the available NOL and the amount taken using this schedule. The NOL deduction taken is reported on Schedule U-ST.

Schedule U-NOLS

A taxable member of a combined group which has an available NOL deduction which it cannot use may share an NOL generated by the unitary business with other members of the combined group provided such other members (a) are eligible to take a NOL deduction and (b) filed a combined report under 830 CMR 63.32B.2 with the corporation that has the NOL for the tax year to which the NOL relates. Any losses from such tax years have either been used or expired. The total amount of all such shared losses is reported by the corporation taking the deduction on Schedule U-ST.

Schedules A, B, C, D, RNW and F

These schedules are used to calculate the non-income measure of excise under the provisions of MGL ch 63, § 39 (a) (1) and are not completed by financial institutions. For years beginning in 2011, corporations with federal taxable years ending at the same time as the common taxable year used by the group to determine and pay the income measure of excise must include in the combined report the calculation of the non-income measure. Such members must include Schedules A, B and either Schedule C, D or RNW showing the calculation of the non-income measure of excise with the return. Schedule F must be enclosed if the corporation, based on its own activities, is taxable in another state on its income. The non-income measure is reported on Schedule U-ST.

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 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.

Schedule U-CS

A taxable member of a combined group which has available credits which it cannot use may share credits generated by the unitary business with other members of the combined group provided such other members (a) are eligible to take the credit and (b) filed a combined report under 830 CMR 63.32B.2 with the corporation that has the credit for the year to which the credit relates (note that this precludes corporations sharing credits from years beginning before January 1, 2009, but corporations may also continue to share certain credits that were eligible to be shared under

prior law (see 830 CMR 63.32B.2 (9)(c)(2)). The total amount of such shared credits is reported on Schedule U-ST.

Schedule U-IC

Summarizes the credits taken (including shared credits) by type of credit for purposes of applying the various limitations on the amount of each credit that may be taken.

Schedule CG

The payments made by group members are reported here. This schedule reconciles all payments made by all members of the group towards the excise shown on the combined report.

Schedule TDS

Taxpayers whose Massachusetts returns take positions inconsistent with the positions taken in another state where the governing law is the same in all material respects are required to disclose those positions. Taxpayers who fail to disclose such a position are subject to a penalty of 100% of any understatement of tax due to the inconsistent position and such penalty is in addition to any other penalty that may be due.

In addition, taxpayers who underpay their tax liability due to (a) either negligence or disregard of the tax laws of the commonwealth or (b) where there is a substantial understatement (the greater of 10% of the tax required to be shown on the return or \$1,000) are liable for a penalty of 20% of the amount of the underpayment. For purposes of determining the amount of the penalty, the amount of the deficiency subject to the substantial understatement provision will be reduced by any portion of the understatement attributable to a position supported by substantial authority or if the relevant facts are adequately disclosed in the return and there is a reasonable basis for the return position.

Enclosing Schedule TDS with the return understating the tax liability is one of the methods available to a taxpayer to make disclosure of such positions taken on the return. See TIR 06-05 for more information on applicable penalties and disclosure requirements.

Special Situations Non-income measure

Form 355U is used by the combined group to calculate and pay the income excise due from the taxable members of a combined group. Members of the group also pay their non-income measure of excise with the Form 355U if their taxable year ends at the same time as the year used for the combined report. If the taxable member has the same tax year as the combined group, it should not file a separate Form 355.

Fiscalization

For purposes of paying its non-income measure, a taxable member of the combined group with a fiscal year ending at a different time (i.e., a member subject to “Fiscalization” as described in 830 CMR 63.32B.2(12)(c)) must still file a separate return (Form 355 or Form 355S as appropriate) to report its non-income measure based on its own taxable year as determined as a separate taxpayer. The separate non-income measure return, if required, must include Schedules A, B, and Schedule C, D or RNW 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 would be taxable on its income in another state under Massachusetts law without regard to the activities of the other combined group members) must also complete Schedule F as if it were not subject to combined reporting in order to determine its non-income measure.

Where a corporation that is subject to combined reporting files a separate return to report its non-income measure, it is not to report any income on that form. Schedule E is not required with the separate return unless the taxpayer has income from a source other than a unitary business that is to be reported on a separate company basis. In the latter such cases, the corporation is to report on Form 355 or 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.

A member required to file a separate return to report its non-income measure may claim one or more credits against its excise as reported on that return, entering the credits claimed on Schedule CMS of Form 355, 63-FI or 355S. In the case of such members, the supporting schedules for credits calculated on an aggregated basis (e.g., the research credit that can be claimed under MGL ch 63, § 38M) are to be determined based on the combined group’s tax year and the schedules claiming these credits are to be submitted with Form 355U (i.e., duplicates of these schedules should not be enclosed to the separate non-income measure return).

Note: Financial institutions with a different tax year than the combined group, although not subject to a non-income measure of excise, must file a pro forma Form 63-FI for the purpose of calculating distributive income based on its own taxable year. It also must submit Schedules S and SK-1 at that time.

S corporations

A Massachusetts S corporation that is included in a Form 355U must continue to file Form 355S (including Schedules S, SK-1, and an exact copy of U.S. Form 1120S), but that return will be informational only. An S corporation must determine the distributive income for all of its shareholders (and, also, for non-resident shareholders, the apportionment of the shareholders’ distributive share income) without regard to the combined reporting provisions.

Unless the S corporation has a different taxable year than the taxable year for the combined report (and Form 355S is therefore also being filed to determine and pay the non-income measure of excise), the taxpayer should not complete Schedules A, B, C, D, E and RNW with Form 355S. In these cases, no excise is due with Form 355S. Schedule F may be required on the part of an S corporation if the income of the corporation is subject to apportionment and there are non-resident shareholders. Note that financial institutions that are S corporations, although not subject to a non-income measure of excise, must file Form 63-FI for the purpose of calculating distributive income and also must submit Schedules S, SK-1, and an exact copy of U.S. Form 1120S.

Line Instructions

Line 1

Check one box only. A financial group is a combined group all of whose members, including members not taxable on their income in Massachusetts, are entities that are financial institutions within the meaning of MGL ch 63, § 1. A non-financial group is a combined group none of whose members, including non-taxable members, are financial institutions. A mixed group is any combined group that includes at least one member that is a financial institution and at least one member that is not a financial institution.

Line 2

Check one box only. If the combined group is making no affirmative election, and has not previously made an election that is still binding (i.e., the default method of filing) and chooses “neither,” the combined group that is under common control and engaged in a unitary business will be determined on a “water’s edge” basis (i.e., with only certain non-U.S. corporations included in the combined group). See 830 CMR 63.32B.2 (5).

Note: Once made, a combined group affirmative election is binding for ten years and thereafter must be renewed by the taxpayer or the election expires. See **Combined Group Elections – Re-**

newal after Expiration of 10-year Election Period above for more information.

Affiliated Group Election

If the combined group is entitled to make an affiliated group election and affirmatively makes this election, the combined group is determined on a water’s edge basis but is expanded to include affiliated corporations that constitute the “Massachusetts affiliated group,” as defined in 830 CMR 63.32B.2(2) and (10). The composition of the combined group as a “Massachusetts affiliated group” is not dependent upon whether the group is engaged in a unitary business but can have the effect of converting income that is otherwise allocable income into apportionable income as well as other specific significant tax consequences. A combined group is not entitled to make an affiliated group election unless the composition of such combined group includes a federal affiliated group filing a consolidated return for federal income tax purposes, even though the “Massachusetts affiliated group” that is subject to the election is not necessarily co-extensive with such a federal affiliated group. For example, the Massachusetts affiliated group can include (1) S corporations, certain insurance companies, REITs, RICs and non-U.S. corporations; (2) corporations that are under indirect or direct common ownership of greater than 50% (instead of the 80% vote-and-value standard used for purposes of filing a federal consolidated income tax return); and (3) the members of two or more affiliated groups where each group files a consolidated return for federal income tax purposes. A combined group is not entitled to make an affiliated group election if it is making or is subject to a previously made worldwide election. See 830 CMR 63.32B.2(10) for the rules that apply in the context of a Massachusetts affiliated group election.

Worldwide Group Election

If the combined group is entitled to make the worldwide election and affirmatively makes this election, the combined group that is under common control and engaged in a unitary business will be determined on a worldwide basis (i.e., with no limitations on the non-U.S. corporations included in the combined group). When a combined group makes a worldwide election the income of the non-U.S. corporations that are included in the combined group are determined on a worldwide basis, and other specific rules apply. A combined group cannot make a worldwide election if it is making or is subject to a previously made affiliated group election. See 830 CMR 63.32B.2(5),(6)(c)2.b for the rules that apply in the context of a worldwide election.

Effect of Election

Both the affiliated group election and the worldwide election can only be made on this Form 355U, when timely filed, by the combined group's principal reporting corporation. Both elections are irrevocable and binding on all members of the combined group, including the non-taxable members and any corporations that subsequently enter the combined group, for the taxable year in which the election is made and the next nine tax-able years. See 63.32B.2(5)(c), (10)(d)(f).

Where a combined group makes either an affiliated group or a worldwide election, the principal reporting corporation and all members of the group consent to the production of documents or other information that the Commissioner reasonably requires, e.g., information required to verify that the appropriate members of the combined group are included, that the requirements of the election have been met, that the tax computation and tax reporting are proper, etc. In the case of the worldwide election, the documents shall be provided in language and form acceptable to the Commissioner.

Line 3

Check "Yes" if either the affiliated group election or the worldwide election is indicated on line 2 and this is the first year the election is in effect.

If the combined group is making the affiliated group election or a worldwide election, the principal reporting corporation must at the time of the election prepare for itself and collect on behalf of each group member a letter of consent, to be made available to the Commissioner upon request, stating that the group member has agreed to the election and, also, further agrees (1) that such election applies to any member that subsequently enters the group and (2) that each member continues to be bound by the election in the event that such member is subsequently the subject of a reverse acquisition as described in U.S. Treas. Reg. §. 1.1502-75(d) (3). After making the election, the principal reporting corporation shall collect an identical consent from any member that subsequently enters the group during the period in which the election is in effect.

Line 4

If any member of the group is requesting alternative apportionment under MGL ch 63, § 42, check "Yes" and, under separate cover, submit Form AA-1, with a statement of reasons that (1) demonstrates by clear and cogent evidence that the statutory apportionment formula under MGL ch 63, § 38 does not fairly represent the extent of its business activity in Massachusetts; and (2) contains a detailed description of the corporation's proposed alternative apportionment method. Failing to at-

tach the required statement to the Form AA-1 that meets this criteria may result in the denial of the corporation's request for alternative apportionment. The corporation's application for alternative apportionment must include a computation of tax using the statutory apportionment formula and a second computation of tax using the corporation's proposed alternative apportionment method. For further information on alternative apportionment, see MGL ch 63, § 42 and 830 CMR 63.42.1.

In general, each taxable member of a combined group is to determine its apportionment formula on Schedule U-MSI. If any member of the combined group is seeking alternative apportionment, it must nonetheless complete Schedule U-MSI by applying the statutory rules that apply to such taxpayer, and not by applying the taxpayer's proposed alternative apportionment approach. If the taxpayer's proposed alternate method is later accepted, a refund of any overpayment will be made.

Line 5

If this is an amended filing (including, for purposes of this question, a filing that is to supersede a prior filing when both filings are made on or before the due date for the return), check "Yes." Amended returns must be submitted electronically unless the requirements of DD 13-6 apply.

Amended Return

New-Supporting Statement. If you are filing an amended return for any reason you **must** attach a statement to the amended return with an explanation of why you are filing the amended return, including the basis for submitting it.

If you need to change a line item on your return, complete a new return with the corrected information and fill in the **Amended return** oval. Generally, an amended return must be filed within three years of the date that your original return was filed.

Federal Change

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 the **Amended return** and **Federal amendment** ovals. 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.

If your amended return is being submitted due to an IRS BBA Partnership Audit then check the **due to IRS BBA Partnership Audit** box.

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. If you are not required to file electronically or you cannot file online, use Form ABT.

Visit mass.gov/dor/amend for additional information about filing an amended return, or filing an application for abatement.

Line 6

If the group or any member is deducting an interest expense paid or accrued to a related entity and that expense is not eliminated in the combined report when determining the combined group's taxable income, check "Yes." Enclose one or more Schedules ABI supporting the claim of 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 7

If the group or any member is deducting an intangible expense paid or accrued to a related entity (including but not limited to an embedded royalty), and that expense is not eliminated in the combined report when determining the combined group's taxable income, check "Yes." Enclose one or more Schedules ABIE supporting the claim of deduction.

Line 8

If there is an entity or corporation that owns more than 50% of the voting stock of any member of

the combined group that is not being included in the combined group, irrespective of that parent's place of incorporation or formation, check "Yes."

Line 9

In general, when a corporation that was not previously a Massachusetts taxpayer enters or otherwise is first included in a combined group the basis of the various assets of such member will be the basis of such assets for federal income tax purposes.

However, the principal reporting corporation of a combined group may elect to determine and apply a Massachusetts-adjusted basis for all assets of every member of the combined group that was not previously a Massachusetts taxpayer, including any non-taxpayer corporation that enters or otherwise is included in the combined group, provided that the corporation must possess and maintain adequate records to demonstrate the appropriate Massachusetts adjusted basis for all such assets. This election, which is irrevocable, may be made on this line. If a taxpayer is unable to reasonably document basis adjustments pursuant to this election for any member of the group, this election will be treated as void. See 830 CMR 63.32B.2 (6) (d).

Line 10

Answer Yes if any member is under audit by the IRS.

Line 11

If any member of the group is reducing its excise by utilizing a Massachusetts film credit under MGL ch 63, § 38X, a Massachusetts life sciences credit under MGL ch 63, §§ 31M, 38U, 38W or 38CC, check "Yes."

Line 12

Enter the number of Schedule FCI statements being submitted with the combined report in Line 12.

Line 13

If one or more members of the group have undergone a federal audit that has resulted in a final determination, including any settlement or compromise, of a change to taxable income of any person subject to tax under MGL ch 63, the changes must be reported to the commissioner within two months. This requirement also extends to changes in federal credits, but only if the change in the credit has an effect on the calculation of the tax imposed under MGL ch 63. Enter the year (YYYY) of the most recent tax period for which such a change was received from the IRS.

Line 14

If any member of the group has filed U.S. Form 8275, U.S. Form 8275-R or U.S. Form 8886 with its federal tax return, enter the number of disclo-

tures made by all members of the group. Note that U.S. Form 8275 and U.S. Form 8275-R allow for the disclosure of multiple issues on the same form. A taxpayer seeking to make adequate disclosure of an item for purposes of avoiding the Massachusetts penalty imposed under MGL ch 63, § 35A must disclose the relevant facts directly to DOR. See TIR 06-5.

Line 15

If any member of the group is submitting a Massachusetts Schedule TDS with this return, enter the number of disclosures made by all members of the group. A taxpayer seeking to make adequate disclosure of an item for purposes of avoiding the Massachusetts penalty imposed under MGL ch 63, § 35A must disclose the relevant facts directly to DOR. See TIR 06-5.

Line 16

A "taxable member" is a corporation included in the combined group that is taxable on its Massachusetts apportioned share of the combined group's taxable income; each taxable member must file a Schedule U-ST with this return. Enter the total number of such taxable members on line 16.

Line 17

Enter the number of members subject to the non-income measure only.

Line 18

Enter the number of non-taxable members in the combined group.

Line 19

Certain large corporations are required to file federal Schedule M-3 with their U.S. tax return. Enter the number of Schedules M-3 filed by members, including non-taxable members, of the Massachusetts combined group. Treat the Schedule M-3 filing made with a federal consolidated tax return as a single Schedule M-3 for the purpose of answering this question (e.g., in the instance where more than one member of the Massachusetts combined group is included in a single federal Schedule M-3).

Line 17

Enter the total number of all US Forms 5471 filed by the members of the combined group on Line 20.

Excise Tax Calculation

In order to complete the excise tax calculation section, all applicable schedules must be completed first. The amounts in lines 21 through 27 reflect the totals of the separately determined amounts for the combined group's taxable members. The amounts in lines 30 through 36 reflect the total of all payments to be applied to the income excise, and also certain refundable credits,

of such individual members. Any refund due will be issued to the principal reporting corporation on behalf of the group.

Line 21

Enter the total income excise, before credits, due from members that are taxed as financial institutions as defined in MGL ch 63, § 2 or as financial institution S corporations under MGL ch 63, § 2B.

This total must match the total reported on line 37 of all Schedules U-ST filed for members classified as financial institutions or financial institution S corporations.

Line 22

Reserved. Do not make an entry in this line.

Line 23

Enter the total income excise, before credits, due from members that are taxed as business corporations (including members classified as manufacturing corporations and research and development corporations) under MGL ch 63, § 39 or as S Corporations under MGL ch 63, § 32D.

This total must match the total reported on line 37 of all Schedules U-ST filed for members classified as business corporations.

Line 25

Enter the total of individual members' credits used to reduce the income excise of the member that generated the credit. This total must match the total reported on line 38 of all Schedules U-ST filed for all members.

Line 26

Enter the total of individual members' credits used to reduce the income excise of any member other than the member that generated the credit. This total must match the total reported on line 39 of all Schedules U-ST filed for all members.

Line 27

Subtract the amounts on line 25 and line 26 from the total on line 24. This total must match the total reported on line 41 of all Schedules U-ST filed for all members. This should also match the total of column g amounts on Schedule U-TM.

Line 30

Enter the total of all members' 2019 overpayments applied to 2020 estimated taxes as shown on Schedule CG, Part 1, line 2.

Line 31

Enter the total of all members' estimated tax payments for all installments as shown on Schedule CG, Part 1, lines 3 through 6.

Line 32

Enter the total of all members' payments made with extension as shown on Schedule CG, Part 1, line 7.

Line 33

Enter the total of the pass-through entity withholding shown on Schedule U-ST, line 42 for all members.

Line 34

Enter the total of the refundable credits shown on Schedule U-ST, line 43 for all members.

Line 35

Enter the total amount of any tax payment(s) made with respect to the excise due from the combined group not included above. If this is an amended return, this includes but is not limited to a payment made with a previous return. If this is an amended return and a refund was previously issued in connection with a prior return or an over-payment was applied to estimated taxes for a subsequent year in lieu of a refund on such prior return, enter the amount as a negative number.

Line 41

M-2220 penalty. 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.

Other penalties. Enter any other penalty due separately from the M-2220 penalty. Common penalties that may apply include (a) penalties for failure to file a tax return by the due date and failure to pay the tax shown on the return by the due date (each penalty is 1% of the tax due per month up to a maximum of 25%) and (b) The penalty for failure to file an amended return and pay the additional tax due within 90 days of a federal change (including settlements) is 10% of the additional tax.

Line 42

Any taxpayer that fails to pay its tax when due will be subject to interest charges on the unpaid balance. The interest rate is redetermined on a quarterly basis and Massachusetts announces the rate applicable by issuing a Technical Information Release for each quarter.

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 62 and that must be claimed on a Schedule CMS.

List of Credit Names and Credit Codes

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

*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 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% 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.

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 pro-

ject 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 CM-MINV 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.

Cranberry Bog Renovation Tax Credit

Taxpayers subject to tax under MGL ch 62 that are primarily engaged in cranberry production may be

eligible for a Cranberry Bog Renovation Tax Credit (CBRTC). The CBRTC is equal to 25% of the taxpayer's total qualified renovation expenditures directly incurred in the taxable year for the qualified renovation of a cranberry bog for the cultivation, harvesting or production of cranberries, but the amount of the credit may not exceed \$100,000. Expenditures incurred in the construction of facilities or structures for the processing of cranberries are ineligible for the CBRTC. To claim the CBRTC, a taxpayer must file a summary of its qualified renovation expenditures with respect to a qualified renovation with the Executive Office of Energy and Environmental Affairs, which determines the amount of the credit for which the taxpayer is eligible. The CBRTC is refundable, but is not transferrable. However, in lieu of claiming the CBRTC as a refundable tax credit, the taxpayer may carry-over unused CBRTC for the next 5 years.

To claim the CBRTC, enter the CBRTC certificate number and the amount of the CBRTC using credit code CRBCRD 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 EO-ACCR 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 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 2022 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 \$50,000 or more of production costs in Massachusetts with respect to a particular motion picture are eligible for a credit equal to 25% of the total Massachusetts payroll for the production, ex-

cluding salaries of \$1 million and higher. In addition, when a production company incurs \$50,000 or more of production costs in Massachusetts with respect to a particular motion picture and (i) Massachusetts production costs exceed 75% of that motion picture's total production costs or (ii) at least 75% of that motion picture's total principal photography days take place in Massachusetts, the company may receive a credit equal to 25% of the total Massachusetts production costs for that motion picture, excluding payroll costs used to claim the above payroll credit. The FIC may be applied against the taxpayer's liability, reduced by any other available credits, and then 90% of any remaining credits may be refunded. Subject to certain conditions, unused credits may be carried forward or transferred by the taxpayer in the following 5 tax years. Transferees may carry forward unused FIC for the 5 tax years after the first tax year the FIC was allowed to the initial transferor. The FIC is not refundable to the transferee. See TIRs 07-15 and 22-5 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. Certification application forms and additional information are available at mass.gov/dor.

Harbor Maintenance Tax Credit

Note: The Harbor Maintenance Tax Credit (HMTc) has been repealed and no new HMTc amounts are being awarded.

Unused portions of the credit claimed in taxable years beginning before January 1, 2022, may be carried forward from the year claimed and used in any of the succeeding 5 taxable years. These unused portions of the credit are 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. 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.

Note: The taxpayer should enclose a statement with the tax return if any ITC credits have been converted from expiring to non-expiring. The statement should provide details of what specific credits have been converted from expiring to non-expiring.

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 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 man-

ner 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 \$40,000,000. 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 (LIHDTDC). This credit operates in a similar manner to the Low Income Housing Tax Credit (LIHTC), but the LIHDTDC 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 LIHDTDC may only be claimed in the year that the "qualified donation" is made. However, any unused LIHDTDC may be carried forward for the next 5 years. DHCD determines eligibility and ultimately allocates the LIHDTDC a taxpayer may claim based on a total pool of \$40,000,000 shared with the LIHTC. Only one-fifth of awarded LIHDTDC will count towards this pool. The LIHDTDC 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 LIHDTDC may also be subject to recapture. For taxpayers subject to a minimum excise under MGL ch 63, the LIHDTDC may not reduce the excise due below the minimum amount.

To claim the LIHDTDC, enter the LIHDTDC certificate number and the amount of LIHDTDC using credit code LIHDON on Schedule CMS. Supporting documentation must be enclosed with the return or the LIHDTDC 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

Note: The Medical Device Tax Credit (MDTC) has been repealed and no new MDTC amounts are being awarded.

Unused MDTC may not be carried forward by the taxpayer that original claimed them. However, unused, transferred credits may be carried forward by the transferee and must be used within 5 years

of the credit's issuance. Only the transferee may use the credits. The MDTC may not reduce the transferee's corporate excise due below the minimum excise.

To use a transferred MDTC, enter the MDTC certificate number and the amount of MDTC using credit code MEDDVC on Schedule CMS. Additional information is available at 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 stu-

dents 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 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.