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| PROPOSED MASSACHUSETTS TAX EXPENDITURES  EVALUATION SUMMARY |
| EVALUATION YEAR: 2020 |

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| **TAX EXPENDITURE TITLE** | | Exemption for Vending Machines Sales |
| **TAX EXPENDITURE NUMBER** | | 3.602 |
| **TAX EXPENDITURE CATEGORY** | | Sales and use tax exemptions |
| **TAX TYPE** | | Sales and use tax |
| **LEGAL REFERENCE** | | M.G.L. c. 64H § 6(h) and (t) |
| **YEAR ENACTED** | | Exemption for snacks and candy sold by a vending machine was enacted in 1977, (St. 1977, c. 363A § 45); the exemption for items sold for 10 cents or less was enacted in 1967 (St. 1967, c. 757 § 1). |
| **REPEAL/EXPIRATION DATE** | | None. |
| **ANNUAL REVENUE IMPACT** | | Tax loss of $1.3 - $1.4 million per year during FY18-FY22 |
| **NUMBER OF TAXPAYERS** | | Buyers and Sellers who buy and sell exempt items through vending machines |
| **AVERAGE TAXPAYER BENEFIT** | | $0.5 per Massachusetts Household in FY18. |
| **Description of the Tax Expenditure:**  Vending machine sales of items costing ten cents or less are exempt from sales tax. In addition, sales through vending machines which exclusively sell snacks and candy with a sales price of less than three dollars and fifty cents are exempt from the sales tax on meals. | **Is the purpose defined in the statute?**  The statute does not explicitly state the purpose of this tax expenditure. | |
| **What are the policy goals of the expenditure?**  The goal of the tax expenditure is to facilitate sales of snacks and candy when sold by a vending machine that exclusively sells such items, as well as sales of other low cost items when sold by a vending machine more generally, thereby easing the compliance burden on such de minimis sales. | **Are there other states with a similar Tax Expenditure?**  Yes, Connecticut and New York provide similar tax expenditures, while Maine, New Hampshire, and Vermont provide limited versions of this tax expenditure in certain circumstances. | |

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| Conclusion/Recommendations: [To be Entered by TERC] |

**INTRODUCTION**

All retail sales of tangible personal property in Massachusetts are subject to a 6.25% sales tax, unless otherwise exempt. M.G.L. c. 64H, § 2. Massachusetts currently exempts tangible personal property when sold by a coin operated vending machine at ten cents or less, provided the retailer is primarily engaged in making such sales and keeps records satisfactory to the commissioner. M.G.L. c. 64H, § 6(t).

Massachusetts also exempts sales of food products, including certain snacks and candy, from tax. However, sales of “meals,” defined as food or beverage “prepared for human consumption and provided by a restaurant,” are taxable. M.G.L. c. 64H, § 6(h).A “restaurant” is defined as “any eating establishment where food, food products, or beverages are provided and for which a charge is made” and includes vending machines. Nevertheless, a vending machine that sells only snacks or candy with a sales price of less than $3.50 is excluded from the definition of a restaurant, and thus the sale of such items from such vending machines is exempt from tax.

The current amount of the sales and use tax exemption for sales of snacks and candy from a vending machine was raised to the current $3.50 figure in 2000 (St. 2000, c. 209).

**POLICY GOALS**

The tax expenditure is intended to exempt certain items purchased from vending machines from tax. When the Massachusetts sales and use tax was first codified and made permanent in 1967, purchases of certain low-cost goods from vending machines were intended to be exempt when sold for ten cents or less. In the 53 years since the enactment of this tax expenditure, the amount of the exemption has not changed.

The tax expenditure is generally intended to ease the compliance burden for vending machine operators with respect to sales of certain items from vending machines, where it may be difficult for tax to be reliably collected. Moreover, the exemption facilitates sales of snacks and candy when sold by vending machines that exclusively sell such items, as well as sales of certain low-cost items when sold by a vending machine more generally.

**DIRECT COSTS**

The revenue loss resulting from this tax expenditure is estimated to be $1.3 - $1.4 million per year during FY18-FY22. See Table 1.

**Table 1. Tax Revenue Loss Estimates for Sales Tax Exemption**

**for Certain Vending Machine Sales**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Fiscal Year | 2018 | 2019 | 2020 | 2021 | 2022 |
| Estimated Revenue Loss ($Million) | $1.3 | $1.3 | $1.3 | $1.3 | $1.4 |

**DIRECT BENEFITS**

The Massachusetts consumers and businesses that buy and sell exempt items through vending machines are the direct beneficiaries of the sales tax exemption. Buyers benefit from the sales tax exemption in the form of paying a lower “after tax price” while sellers benefit from the sales tax exemption in the form of receiving a higher “before tax price”. The exact split of the direct benefits depends on the interaction of demand and supply and is often difficult to quantify. In addition, vending machine operators benefit from the tax expenditure by not incurring administrative costs associated with collecting tax for certain vending machine sales, where accurately collecting tax may face unique challenges.

According to the U.S. Census Bureau, in 2017, Massachusetts had 66 “Vending machine operators.”

For simplicity, we assume that the entire tax savings due to the sales tax exemption are passed on to buyers. Based on this assumption, Table 2 reports the distribution of estimated tax savings in FY18 among households in different income ranges. The table is based primarily on the 2018 Consumer Expenditure Survey data published by the U.S. Bureau of Labor Statistics and data from other sources such as Moody’s Analytics and the Massachusetts Department of Revenue.

According to Table 2, the average tax saving from the exemption is estimated to be $0.48 per Massachusetts household in FY18, varying from $0.29 for households with annual income of less than $15,000, to $0.83 for households with annual income of at least $200,000. 16.95% of all tax savings went to the households with annual income of $100,000 to $149,999, while 6.35% went to households with annual income of $40,000 to $49,999. The tax savings reduced Massachusetts households’ effective tax rate (the ratio of tax to income) by 0.0006 percentage points on average. This reduction varied from 0.0003 percentage points for the households with annual income of at least $200,000 to 0.0038 percentage points for households with annual income of less than $15,000. On average, households with annual income of less than $15,000 spent a much higher percentage of their income on exempt items sold through vending machines.

**Table 2. Estimated Distribution of Tax Savings to MA Households**

**by Income Level in FY18**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Annual Income Range | Number of MA Households (Millions) | Tax Savings  (Millions) | Average Tax Savings  ($) | Tax Savings Distribution | Change in Households’ Effective Tax Rate |
| Less than $15,000 | 0.349 | $0.100 | $0.29 | 7.89% | -0.0038% |
| $15,000 to $29,999 | 0.419 | $0.139 | $0.33 | 10.95% | -0.0015% |
| $30,000 to $39,999 | 0.265 | $0.110 | $0.41 | 8.62% | -0.0012% |
| $40,000 to $49,999 | 0.217 | $0.081 | $0.37 | 6.35% | -0.0008% |
| $50,000 to $69,999 | 0.346 | $0.156 | $0.45 | 12.29% | -0.0008% |
| $70,000 to $99,999 | 0.388 | $0.204 | $0.53 | 16.05% | -0.0006% |
| $100,000 to $149,999 | 0.351 | $0.216 | $0.61 | 16.95% | -0.0005% |
| $150,000 to $199,999 | 0.165 | $0.121 | $0.73 | 9.54% | -0.0004% |
| $200,000 to more | 0.174 | $0.144 | $0.83 | 11.35% | -0.0003% |
| Total | 2.676 | $1.272 | $0.48 | 100.00% | -0.0006% |

Note: Numbers in the table are estimated by Massachusetts Department of Revenue.

**EVALUATION: COMPARING COSTS AND BENEFITS**

In the previous sections, we report the direct costs (to the Commonwealth, or to the residents and businesses who ultimately bear the costs when the Commonwealth cuts government spending or increases taxes to finance the sales tax exemption for Certain Vending Machine Sales) and direct benefits (to buyers and sellers of exempt items) of this tax expenditure. Since the direct costs to the Commonwealth are the direct benefits to taxpayers, they are equal.

Besides the direct costs and benefits, there are indirect and induced costs and benefits associated with this tax expenditure. The indirect impact (cost or benefit) is felt by the chain of businesses that provide intermediate products and services to the directly impacted businesses. The induced impact (cost or benefit) results from any overall change in the economy derived from the tax expenditure, such as where a chain of businesses benefits when the employees working for the directly impacted businesses spend their additional wages and salaries attributable to the tax expenditure to buy goods and services. As a result, the total benefits or costs to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect.”[[1]](#footnote-1)

To measure these indirect and induced costs and benefits, economists often need to utilize complicated models, such as REMI (Regional Economic Models, Inc.) or IMPLAN (Impact Analysis for Planning) models. Given that the amount of direct costs and benefits are small for this tax expenditure, less than $2 million per year, DOR did not attempt to quantify such costs and benefits.

**Similar Tax Expenditures Offered by Other States**

Massachusetts is not alone in providing sales and use tax exemption for certain items sold by a vending machine. Connecticut provides a more generous exemption, exempting items sold for fifty cents or less from a vending machine. Conn. Gen. Stat. § 12-412(27)(a). Meals sold through vending machines, regardless of price, and meals sold through “honor boxes” are exempt as well. Conn. Gen. Stat. § 12-412(27)(b).

New York also provides a similar expenditure. Until May 31, 2021, sales of candy, fruit drinks, and soft drinks when sold from a vending machine for $1.50 or less are exempt from tax. See NY CLS Tax § 1115(a)(1). Tangible personal property sold in a vending machine for $.50 or less is also exempt from tax if the retailer is primarily engaged in making such sales and keeps sufficient records. NY CLS Tax § 1115(a)(13-a).

Other states provide lesser exemptions. In Maine, sales of products for internal human consumption when sold through coin-operated vending machines by a person earning more than 50% of that person's retail gross receipts from the sale of tangible personal property at vending machines are exempt from tax. 36 M.R.S.A. § 1752(5-A). In New Hampshire, sales of single serving beverages by a vending machine are exempt as long they are not sold in conjunction with other food vending machines or in conjunction with a meal sold by a restaurant. RSA 78-A:6 - C. IX.

Rhode Island generally does not exempt items sold from a vending machine. However, vending machine sales are exempt from the local meals and beverage tax. R.I. Gen. Laws § 44-18-18.1(c)(2). In Vermont, food or beverage sold from a vending machine are taxable when the vending machine is located within a restaurant. Vermont, Reg. 1.9202(15)-2. Sales of bottled or canned drinks from a vending machine in a grocery store, for example, are not subject to tax.

**IS THE INCENTIVE AS DESIGNED ACCOMPLISHING ITS PURPOSE?**

[FOR TERC TO COMPLETE]

1. For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf> [↑](#footnote-ref-1)