

## PROPOSED MASSACHUSETTS TAX EXPENDITURES EVALUATION SUMMARY

### EVALUATION YEAR: 2021

<b>TAX EXPENDITURE TITLE</b>	Exemption for Honor Snack Trays
<b>TAX EXPENDITURE NUMBER</b>	3.611
<b>TAX EXPENDITURE CATEGORY</b>	Miscellaneous Sales and Use Tax Exemptions
<b>TAX TYPE</b>	Sales and Use Tax
<b>LEGAL REFERENCE</b>	M.G.L. c. 64H, § 6(h)
<b>YEAR ENACTED</b>	1993 (see St. 1993, c. 110, §§ 125, 126)
<b>REPEAL/EXPIRATION DATE</b>	None
<b>ANNUAL REVENUE IMPACT</b>	Average Annual Tax loss of \$0.21 million during FY19-FY23
<b>NUMBER OF TAXPAYERS</b>	Buyers and Sellers who buy or sell exempt items through honor snack trays
<b>AVERAGE TAXPAYER BENEFIT</b>	\$0.11 per Massachusetts Household in FY19

<b>Description of the Tax Expenditure:</b> Snacks and candy purchased from honor trays are exempt from the sales tax on meals, provided all items in the tray are sold for less than \$3.50.	<b>Is the purpose defined in the statute?</b> The statute does not explicitly state the purpose of this tax expenditure.
<b>What are the policy goals of the expenditure?</b> DOR assumes the goal to be the removal of sales tax compliance burden on employers making certain de minimis sales of snacks and candy from honor snack trays.	<b>Are there other states with a similar Tax Expenditure?</b> Yes, Connecticut exempts sales of meals from unattended honor boxes, regardless of the sales price of such meals.

## INTRODUCTION

The tax expenditure provides for an exemption of snacks and candy purchased from honor trays from the sales tax on meals, provided all items in the tray are sold for less than \$3.50.

The Massachusetts sales tax (and complementary use tax) is a transaction tax that applies to retail sales of tangible personal property (including prewritten computer software regardless of mode of transfer) and enumerated services (currently including only telecommunication services). A retail sale is any sale other than a sale for resale. A sale for resale occurs when a business purchases an item and sells it to a third party in substantially the same form in which it was purchased. All retail sales are taxable unless an exemption applies. These exemptions are tax expenditures because they prevent the imposition of tax on transactions that would otherwise be taxable.

While the sales tax is imposed on retail sales, it is not necessarily a tax on final consumption by households, as is the case with the value added taxes (VATs) imposed in most other countries. A retail sale to a business may also be subject to sales tax. For example, paper, desks, computers, and similar items purchased for office use would generally be taxable. The exclusion of sales for resale and the application of certain exemptions prevent the imposition of the tax on many business inputs, but other business inputs remain taxable. Aside from specific statutory exclusions and exemptions, there is no general prohibition in the sales and use tax statutes on the application of the tax to retail sales at multiple stages of the production and sales process.

Sales of food products, including certain snacks and candy, are exempt from the sales tax. M.G.L. c. 64H, § 6(h). While sales of food are generally exempt from sales tax, 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 generally would include honor snack trays. However, an honor snack tray is not considered an eating establishment to the extent that it sells only snacks or candy with a sales price of less than \$3.50. As a result, sales from an honor snack tray only selling snacks or candy below this threshold are not subject to tax. See 830 CMR 64H.6.5(6)(a)8.

For purposes of the sales tax on meals, an honor snack tray is any arrangement where candy or snacks are available in an open tray for the benefit of employees in an establishment that normally does not sell food products and for which payment is made on the honor system. For example, a workspace may have a box filled with prepackaged

snacks and candy, with a bin next to it where employees may voluntarily deposit payment. This tax expenditure provides that this honor snack tray arrangement will not be considered an eating establishment selling meals so long as such snacks and candy are sold for less than \$3.50, and therefore sales of such items will not be subject to tax.

The amount of the sales and use tax exemption for sales of snacks and candy from an honor snack tray was raised from \$1.00 to the current \$3.50 figure in 2000 (St. 2000, c. 209).

Absent the exemption afforded by this tax expenditure, sales of snacks and candy from honor trays would be considered meals sold by a restaurant and subject to tax.

## **POLICY GOALS**

DOR assumes that this tax expenditure is generally intended to ease the compliance burden for employers with respect to sales of certain snacks and candy, where it may be difficult for tax to be reliably collected, particularly where payments are made on the honor system.

## **DIRECT COSTS**

The annual revenue loss from this tax expenditure from FY19 through FY23 is estimated to range from \$0.15 million to \$0.32 million with an average annual revenue loss of \$0.21 million.

**Table 1. Tax Revenue Loss Estimates for Sales Tax Exemption for Honor Snack Trays (\$Million)**

Fiscal Year	2019	2020	2021	2022	2023
Estimated Revenue Loss	\$0.30	\$0.15	\$0.23	\$0.32	\$0.32

## **DIRECT BENEFITS**

The Massachusetts consumers and businesses that buy or sell exempt items through honor snack trays are the direct beneficiaries of the tax expenditure. Buyers benefit from the tax expenditure in the form of paying a lower “after tax price” while sellers benefit from the tax expenditure in the form of receiving a higher “before tax price”. The degree to which the buyer or the seller receives more of the direct benefits depends on the interaction between supply and demand and is often difficult to quantify. In addition, honor tray operators benefit from the tax expenditure by not incurring administrative costs associated with

collecting tax for honor snack tray sales, where accurately collecting tax may present unique challenges.

For simplicity, we assume that the entire tax savings due to the tax expenditure is passed on to buyers. Based on this assumption, Table 2 reports the distribution of estimated tax savings in FY19 among households in different income ranges. The table is based primarily on the 2019 Consumer Expenditure Survey data published by the U.S. Bureau of Labor Statistics and data from other sources (e.g., Moody's Analytics). Please note that this table is created based on the assumption that the distribution of honor snack tray sales among households follows the distribution of consumption of "cereals and bakery products" and "sugar and other sweets" among households. Given that we have limited information on honor snack tray sales, the usage of "cereals and bakery products" and "sugar and other sweets" may be misrepresentative and therefore Table 2 figures below should be used with caution.

According to Table 2, the average tax saving from the exemption is estimated to be \$0.11 per Massachusetts household in FY19, varying from \$0.05 for households with annual income of less than \$15,000, to \$0.26 for households with annual income of at least \$200,000. 18.2% of all tax savings went to households with annual income of \$100,000 to \$149,999, while 5.1% went to households with annual income of less than \$15,000. The tax savings reduced Massachusetts households' effective tax rate (the ratio of tax to income) by 0.0001 percentage points on average. This reduction varied from 0.0001 percentage points for the households with annual income of at least \$70,000 to 0.006 percentage points for households with annual income of less than \$15,000.

**Table 2. Estimated Distribution of Tax Savings to MA Households  
by Income Level in FY19**

Annual Income Range	Number of MA Households (Millions)	Tax Savings (Millions)	Average Tax Savings (\$)	Tax Savings Distribution	Change in Household's Effective Tax Rate
Less than \$15,000	0.323	\$0.02	\$0.05	5.1%	-0.0006%
\$15,000 to \$29,999	0.405	\$0.03	\$0.07	9.2%	-0.0003%
\$30,000 to \$39,999	0.265	\$0.02	\$0.08	6.6%	-0.0002%
\$40,000 to \$49,999	0.229	\$0.02	\$0.08	6.5%	-0.0002%
\$50,000 to \$69,999	0.356	\$0.04	\$0.10	11.8%	-0.0002%
\$70,000 to \$99,999	0.390	\$0.05	\$0.12	15.3%	-0.0001%
\$100,000 to \$149,999	0.372	\$0.05	\$0.15	18.2%	-0.0001%
\$150,000 to \$199,999	0.169	\$0.03	\$0.19	10.7%	-0.0001%
\$200,000 to more	0.189	\$0.05	\$0.26	16.5%	-0.0001%
Total	2.696	\$0.30	\$0.11	100.0%	-0.0001%

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 honor snack tray sales) and direct benefits (to buyers and sellers of exempt items) of this tax expenditure. In this instance, the direct costs to the Commonwealth, namely the sales tax that would have been collected from these transactions, are equal to the direct benefits afforded by the tax expenditure to purchasers and honor snack tray operators, which is the sales tax they would have had to pay, collect, and remit to the Commonwealth.

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) occurs when a directly or indirectly impacted business passes on the costs or benefits to households, such as those of its employees, in the form of lower or higher income, such as wages and salaries, who then in turn reduce or increase purchases of goods and services from other businesses. The total costs or benefits to the whole economy are larger than the initial direct impacts. This phenomenon is called the “Multiplier Effect”.<sup>1</sup>

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, much less than \$1 million per year, DOR did not attempt to quantify such costs and benefits.

## **Similar Tax Expenditures Offered by Other States**

In Connecticut, sales of meals from an unattended “honor box” are exempt from tax. Conn. Gen. Stat. § 12-412(27)(B). Unlike its Massachusetts counterpart, the Connecticut exemption is broader, as it applies to all sales of meals and is not capped at a particular sales price. DOR is not aware of any other state that provides a similar tax expenditure.

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<sup>1</sup> For an illustration of “Multiplier Effect”, see Slide 4 of: <https://www.ilw.com/seminars/JohnNeillCitation.pdf>