830 CMR 62F.00: LIMITATION ON THE GROWTH OF STATE TAX REVENUE

Section

62F.6.1: Credit Allowed When Net State Tax Revenues Exceed Allowable State Tax Revenues

(1) General. 830 CMR 62F.6.1, explains how a Massachusetts taxpayer obtains a credit toward current personal income tax liability when the State Auditor has determined under M.G.L. c. 62F, § 5(b), that there exist excess state tax revenues for the previous fiscal year. Under M.G.L. c. 62F, § 6, a taxpayer may claim an excess revenue credit toward personal income tax liability for the current taxable year equal to the taxpayer's personal income tax liability for the previous taxable year multiplied by the excess revenue percentage. Definitions of "excess state tax revenues," "excess revenue credit," "current taxable year," "previous taxable year," "excess revenue percentage," and other pertinent terms are found in 830 CMR 62F.6.1(2). Taxpayers who qualify for the excess revenue credit are described in 830 CMR 62F.6.1(3). The steps for determining how much of a credit a qualifying taxpayer is entitled to are generally set out in 830 CMR 62F.6.1(4) and then are explained in more detail in the 830 CMR 62F.6.1(5) through (7). 830 CMR 62F.6.1(5) explains what a taxpayer's personal income tax liability for the previous taxable year is for purposes of the excess revenue credit and how to go about determining it. 830 CMR 62F.6.1(6) describes how the Department of Revenue will determine the excess revenue percentage in years in which taxpayers are entitled to the excess revenue credit. 830 CMR 62F.6.1(7) sets out guidelines for taxpayers whose filing status for the current taxable year is different from their filing status for the previous taxable year. Finally, the regulation explains how to apply the excess revenue credit in 830 CMR 62F.6.1(8): in what order the taxpayer takes the excess revenue credit and any other credits he is entitled to take; what happens when the excess revenue credit exceeds the taxpayer's personal income tax liability for the current fiscal year; and how the whole dollar method affects the excess revenue credit.

(2) Definitions. For the purposes of 830 CMR 62F.6.1, the following terms have the following meanings:

Commissioner, the Commissioner of the Department of Revenue of the Commonwealth of Massachusetts, or the Commissioner's designee.

Current calendar year, the calendar year in which the State Auditor makes a determination under M.G.L. c. 62F, § 5(b), that net state tax revenues for the previous fiscal year (i.e., the fiscal year ending on June 30 of the calendar year in which the State Auditor makes the determination) exceed allowable state tax revenues for that fiscal year.

Current taxable year, for taxpayers who report on a calendar year basis, the current calendar year; for taxpayers who report on a fiscal year basis, the taxable year that begins during the current calendar year unless the taxable year ends on or after September 30 of the current calendar year, in which case, the current taxable year shall be the taxable year ending during the current calendar year.

Department, the Department of Revenue of the Commonwealth of Massachusetts.

Excess revenue credit, the credit allowed under M.G.L. c. 62F, § 6, calculated by multiplying a taxpayer's personal income tax liability for the previous taxable year by the excess revenue percentage.

Excess revenue percentage, the percentage (to four decimal places) resulting when the Department divides excess state tax revenues determined by the State Auditor by the personal income tax liability incurred by all taxpayers in the previous taxable year.

Excess state tax revenues, the amount, as determined by the State Auditor under M.G.L. c. 62F, § 5(b), by which "net state tax revenues" for a fiscal year exceed "allowable state tax revenues" for that fiscal year, as those terms are defined in M.G.L. c. 62F, § 2.

He, him, or his, a person of either the male or female gender, a business entity that files a return under M.G.L. c. 62, or a couple who files jointly.

Personal income tax liability, a taxpayer's liability to the state for taxes under M.G.L. c. 62, after allowing for any credits, but before adjusting for any withholding, estimated payments, voluntary contributions, or other such amounts.

Previous taxable year, the taxable year, as determined under M.G.L. c. 62, §§ 1(h) and 62, immediately preceding the current taxable year.

State Auditor, the State Auditor for the Commonwealth of Massachusetts.

(3) Eligibility for the Credit.

(a) General rule. When the State Auditor determines that there exist excess state tax revenues to be credited to the taxpayers, any taxpayer with both a personal income tax liability for the current taxable year and a personal income tax liability for the previous taxable year may claim an excess revenue credit toward the taxpayer's current personal income tax liability.

(b) Taxpayers with liabilities under M.G.L. c. 62. A taxpayer has personal income tax liabilities for both the current and the previous taxable years for purposes of the excess revenue credit if:

1. The taxpayer files for the current taxable year a return showing a personal income tax liability on one of the following Massachusetts forms: Form 1 (Massachusetts Resident Income Tax Return), Form ABC (Massachusetts Resident Income Tax Return (Short Form)), Form l-NR (Non-Resident Individual Income Tax Return), Form 2 (Fiduciary Income Tax Return), Form 3F (Income Tax Return of a Corporate Trust), or Form 3M (Income Tax Return for Clubs and Other Organizations Not Engaged in Business for Profit); and

2. The taxpayer filed for the previous taxable year a return showing a personal income tax liability on one of the forms listed above in 830 CMR 62F.6.1(3)(b)(1).

(c) Examples. The following examples illustrate the application of 830 CMR 62F.6.1(3).

Example 1: Ms. Green filed a Massachusetts resident income tax return (Form 1) for tax year 1986 showing that she owed the state $1,000 in taxes for the year. For tax year 1987, she again files a Form 1, which shows that she has a tax liability of $1,100 for 1987. The State Auditor determined that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to the taxpayers on taxable year 1987 returns. Ms. Green is entitled to an excess revenue credit on her 1987 return.

Example 2: Mr. Baker filed a non-resident income tax return (Form l-NR) for tax year 1986, which showed that he owed Massachusetts $500 in taxes for the year. In 1987, he moved to Massachusetts. For tax year 1987, Mr. Baker files a resident income tax return (Form 1) and owes $2,000 in taxes for the year. The State Auditor determined that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to the taxpayers on taxable year 1987 returns. Mr. Baker is entitled to an excess revenue credit on his 1987 Form 1.

Example 3: Mr. and Mrs. Miller moved to Massachusetts from another state in 1987. They were not required to file a Massachusetts return for the 1986 tax year. They file a Form 1 return for 1987 and owe $2,000 for the year. The State Auditor determined that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to the taxpayers on taxable year 1987 returns. Mr. and Mrs. Miller are not entitled to claim an excess revenue credit on their 1987 Form 1.

Example 4: Mr. Howe moved out of Massachusetts at the end of 1986. For tax year 1986, he reported a tax liability on his Massachusetts return of $3,000. He is not required to file a 1987 Massachusetts return (and does not). Mr. Howe is not entitled to any excess revenue credit for tax year 1987 resulting from a determination by the State Auditor that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to the taxpayers on taxable year 1987 returns.

Example 5: Miss Nelson was employed in Massachusetts in 1986 and had a tax liability on her 1986 Massachusetts return of $500. She was unemployed in 1987 and claims "No Tax Status" on Line 42 of her 1987 return. Miss Nelson is not entitled to claim an excess revenue credit for taxable year 1987 resulting from a determination by the State Auditor that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to the taxpayers on taxable year 1987 returns.

(4) The Credit Calculation. Once a taxpayer has determined that he is entitled to an excess revenue credit, the taxpayer must calculate the amount of the credit. To do this, the taxpayer must:

(a) determine his personal income tax liability for the previous taxable year under 830 CMR 62F.6.1(5);

(b) multiply this amount by the excess revenue percentage determined by the Department under 830 CMR 62F.6.1(6); and

(c) adjust the credit under 830 CMR 62F.6.1(7) to reflect any changes in reporting status from the previous taxable year to the current taxable year.

(5) Determining the Taxpayer's Personal Income Tax Liability for the Previous Taxable Year.

(a) General rule. For the taxpayer to be entitled to the excess revenue credit, his return for the previous taxable year must show that the taxpayer incurred a personal income tax liability for that taxable year. The taxpayer must have filed the return showing this liability by the end of the current calendar year.

(b) Adjustments made to personal income tax liability for the previous taxable year after the taxpayer filed the return. The personal income tax liability for the previous taxable year of some taxpayers may have changed since they filed their returns for that year as a result of an amended return filed, an abatement sought and granted, or an addition to tax assessed. For purposes of calculating the excess revenue credit, taxpayers must adjust their personal income tax liability for the previous taxable year to reflect such changes if they occur by the end of the current taxable year. Taxpayers may not adjust their personal income tax liability for the previous taxable year for amended returns filed, abatements granted, or assessments made after the end of the current taxable year. If a taxpayer's personal income tax liability for the previous taxable year is zero or less after such adjustments, the taxpayer may not claim an excess revenue credit toward personal income tax liability for the current taxable year.

(c) Examples. The following examples illustrate the application of 830 CMR 62F.6.1(5)(a) and (b).

Example 1: Mr. Nolan filed a 1986 Massachusetts return showing that his total tax liability for the year was $1,200. Over the course of 1986, Mr. Nolan's employer had withheld $1,300 in state taxes from his salary. As a result, Mr. Nolan received a $100 refund for 1986. In 1987, the State Auditor determined that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to taxpayers on taxable year 1987 returns. Because Mr. Nolan's 1986 return showed a total tax liability of $1,200, he is entitled to an excess revenue credit on his 1987 return.

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Example 2: Mrs. Smith reported on Line 42 of her 1986 Massachusetts Form 1 return that the tax on her 5% income and her 10% income totaled $700. On Line 46 of the same return, she claimed $700 in energy credits and credits for income taxes paid to another state. As a result, her tax liability after credits, shown on Line 47 of her return, was $0. The State Auditor determined that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to taxpayers on taxable year 1987 returns. Mrs. Smith may not claim an excess revenue credit, however, because her 1986 return showed no tax liability after adjusting for her credits.

Example 3: Ms. Jones' 1986 Massachusetts return showed a tax liability of $1,500, which she paid when she filed her return. Four months later, she applied for a $400 abatement, which the Department approved in November 1987. The State Auditor determined that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to taxpayers on taxable year 1987 returns. Ms. Jones is entitled to a credit based on a tax liability of $1,100 for tax year 1986. If the Department did not approve her abatement application until January 1988, her excess revenue credit for tax year 1987 would be calculated based on a 1986 tax liability of $1,500.

(d) Where to find the liability. A taxpayer should be able to determine his personal income tax liability for the previous taxable year by referring to the taxpayer's own records for that taxable year. If the taxpayer does not have access to his records for the previous taxable year, he may request in person, by telephone, or by letter that the Department notify him of his personal income tax liability for the previous taxable year. When requesting this information in person, the taxpayer must furnish satisfactory identification to show that he is entitled to receive the information. A taxpayer making a request by telephone or in writing must furnish his name, address, and social security number (or state employer identification number). If the name, address, and social security number (or state employer identification number) are the same as those in the Department's records of the taxpayer's return for the previous taxable year, the Department will send the information requested to the taxpayer.

(e) No record of the liability. If a taxpayer does not have and does not obtain a copy of his tax return for the previous taxable year and does not have other reliable records of his personal income tax liability for the previous taxable year, the taxpayer is not eligible for the excess revenue credit in the current taxable year.

(6) Determining the Excess Revenue Percentage to be Used in Calculating the Excess Revenue Credit. Each year in which the State Auditor determines that excess state tax revenues exist to be credited to the taxpayers, the Department will announce the excess revenue percentage for taxpayers to use in calculating their excess revenue credits for the current taxable year. The Department will derive this percentage by dividing the excess state tax revenues determined by the State Auditor by the estimated total personal income tax revenues received by the state in the current calendar year in payment of personal income tax liabilities incurred for the previous taxable year.

(7) Changes in Filing Status from the Previous Taxable Year.

(a) Adjustments to reflect changes in filing status. Some taxpayers who qualify for the excess revenue credit may find that their filing status in the current taxable year, when they are entitled to take the credit, is different from their filing status in the previous taxable year, the year of the personal income tax liability on which the excess revenue credit is based. Taxpayers with such changes in status should make the following adjustments:

1. Taxpayers who file jointly for the current taxable year but who filed using either single filing status or married filing separately status for the previous taxable year may combine their personal income tax liabilities from the previous taxable year and apply the excess revenue percentage to the total in calculating the excess revenue credit for their joint return for the current taxable year.

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2. Taxpayers who file using either single filing status or married filing separately status for the current taxable year but who filed jointly for the previous taxable year may divide between them the excess revenue credit to which they would be entitled if filing jointly.

(b) Examples. The following examples illustrate the application of 830 CMR 62F.6.1(7)(a).

Example 1: Tom Williams and Joan Dudley were married in 1987 and file their first joint return together for tax year 1987. Each filed separate Massachusetts returns for tax year 1986, Tom's showing a liability of $800 and Joan's showing a liability of $900. The State Auditor determined that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to taxpayers on taxable year 1987 returns. Tom and Joan may claim an excess revenue credit on their 1987 joint return based on a total 1986 personal income tax liability of $1,700.

Example 2: Bill and Wendy Richards were divorced in 1987 and will file separate returns for the taxable year. They had filed a joint return for tax year 1986, on which they showed a tax liability of $1,800. The State Auditor determined that Massachusetts received excess state tax revenues in fiscal year 1987, to be credited to taxpayers on taxable year 1987 returns. Bill and Wendy agree to split the excess revenue credit so that both will calculate the credit on their separate returns based on a 1986 tax liability of $900. (If they had wanted to, they could have divided the credit on a 60-40 basis, with one reporting a 1986 liability of $1,080 and the other a 1986 liability of $720, or on any other reasonable basis as long as the total 1986 liability they were reporting did not exceed $1,800.)

(8) How to Claim the Credit.

(a) General rule. A taxpayer entitled to an excess revenue credit in the current taxable year may take it by subtracting the credit from the taxpayer's personal income tax liability for the current taxable year, after first adjusting for all other credits to which the taxpayer is entitled.

(b) Where the taxpayer uses the whole dollar method. If a taxpayer has elected or is required to use the whole dollar method *(see* 830 CMR 62C.4.1) on his Massachusetts return for the current taxable year, the taxpayer must also apply the whole dollar method in determining the excess revenue credit the taxpayer is claiming.

(c) Examples. The following examples illustrate the application of 830 CMR 62F.6.1(8)(b).

Example 1: Mr. Wilson is entitled to claim an excess revenue credit of $20.49 for tax year 1987. He files a Form ABC for tax year 1987 under which he is required to use the whole dollar method. The excess revenue credit he may claim on his Form ABC is $20.00.

Example 2: Ms. Dennis is entitled to claim an excess revenue credit of $15.50 for tax year 1987. She files a Massachusetts Form 1 for tax year 1987 and elects to use the whole dollar method on it. She may claim an excess revenue credit of $16.00 on her Form 1 for the year.

(d) Excess revenue credit left over. After adjusting for all other credits, a taxpayer may apply his excess revenue credit to reduce his personal income tax liability by the amount of the credit, but not so that his personal income tax liability is less than zero. If the taxpayer's excess revenue credit exceeds his personal income tax liability, any excess revenue credit left over after reducing the personal income tax liability to zero is extinguished. Such a taxpayer may not obtain a refund of any excess revenue credit for the current taxable year, nor may the taxpayer carry over any excess revenue credit left over into the next taxable year.

REGULATORY AUTHORITY

830 CMR 62F.00: M.G.L. c. 62F; c. 14, § 6(1); c. 62C, § 3.

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