

Form M-990T Instructions

Who Must File an Unrelated Business Income Tax Return?

Exempt corporations that have gross income from an unrelated trade or business and are required to file IRS Form 990-T, Exempt Organization Business Income Tax Return, will be required to file a new Massachusetts form specifically designed for exempt corporations, modeled on Form 990-T.

For additional information, see Regulation 830 CMR 63.38T.1, Taxation of Unrelated Business Income of Exempt Organizations and TIR 06-7.

When Must Form M-990T Be Filed?

Form M-990T must be filed on or before the 15th day of the 3rd month after the close of the utility corporation's taxable year. A late return incurs a penalty of 1% per month (or fraction thereof), up to a maximum of 25% of the tax due. The penalty for late payment of the tax is 1% per month (or fraction thereof) of the balance due, up to a maximum of 25%.

Can a Corporation Get an Extension of Time to File?

In lieu of the six-month automatic extension, the taxpayer is allowed an eight-month automatic extension to file Form M-990T. The eight-month extension makes Form M-990T and the federal Form 990-T filed under automatic extensions due on the same date. An exempt corporation may use Form M-990T-7004, Application for UBIT Extension, to request the extension.

What Is a Valid Return?

A valid return is a return upon which all required amounts have been entered in all appropriate lines on all forms. Data sheets, account forms or other schedules may be enclosed to explain amounts entered on the forms. However, referencing items to enclosures in lieu of properly entering all amounts onto the return is not sufficient.

When Must a Corporation Pay Estimated Taxes?

Any exempt corporation which reasonably estimates its excise tax to be more than \$1,000 must pay estimated taxes. Payments must be made in quarterly installments of 40%, 25%, 25% and 10% of the estimated annual tax liability.

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

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

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

Are Combined Returns Allowed?

No. Exempt corporations are **not** allowed to participate in the filing of combined returns.

Line Instructions

If your return is not for the calendar year, enter at the top of the form the dates of your taxable year. If the return covers less than a full fiscal year, the taxable year is the twelve month period ending with the close of the period covered by the return.

Should the Whole Dollar Method be Used?

Yes. All amounts entered on Form M-990T must be rounded off to the nearest dollar.

Excise Tax Calculation

Line 1. Enter the exempt corporation's federal taxable income before net operating loss deduction and special deductions, from U.S. Form 990T, line 34.

Line 2. Massachusetts does not allow a deduction for state, local and foreign income, franchise, excise or capital stock taxes. Any such taxes which have been deducted from federal net income should be entered in line 2 and added back into income.

Line 3. Enter the amount of any section 168(k) "bonus" depreciation. Massachusetts law was recently amended to decouple it from the adoption of Internal Revenue Code section 168(k). This section provides for a special depreciation allowance for certain property placed in service during the three-year period beginning on September 11, 2001. Under the Massachusetts law change, the new federal depreciation is not allowed. For Massachusetts tax purposes, for taxable years ending after September 10, 2001, depreciation is to be claimed on all assets, regardless of when they are placed in service. Use the method used for federal income tax purposes prior to the enactment of section 168(k). For more information, see TIR 02-11 and TIR 03-25.

Lines 4 and 7. Massachusetts law requires that a taxpayer add back to net income certain interest or intangible expenses and costs, including losses incurred in connection with factoring or discounting transactions. This add back is mandatory, with certain exceptions based generally upon showing by clear and convincing evidence that a particular add back would be unreasonable. To claim an exception for this new requirement, file Schedule ABI, Exceptions to the Add Back of Interest Expenses and/or Schedule ABIE, Exceptions to the Add Back of Intangible Expenses. For more information, see TIR 03-19.

Line 8. Effective January 1, 2005, Massachusetts has decoupled from the American Jobs Creation Act of 2004, Public Law 108-357. For corporate excise purposes, the definition of net income does not include the new federal production activity deduction. See TIR 05-5 for further information.

Line 9. Enter the total cost of renovating an abandoned building in an Economic Opportunity Area. Multiply this amount by 10% and enter the result.

Line 10. Enter all gross income from all other sources not included in lines 1 or 2 above. Do not include partnership income from an unrelated business on this line. See 830 CMR 63.39.1(4)(d).

Line 12. If the corporation conducts business activities in another state sufficient to give that state the jurisdiction to tax the corporation, Schedule F should be completed in order to determine the apportionment percentage. If all income is derived from business conducted in Massachusetts, enter 100% in line 12.

In completing Schedule F, if any of the apportionment totals for world-wide factors (lines 1c, 2a or 3f) are less than 3.33 % of the income subject to apportionment (the amount in line 11), do not include that factor in calculating the apportionment percentage. The apportionment factors should be determined only with respect to the unrelated business activity of the exempt corporation. See Regulation 830 CMR 63.38.1 (11)(a)4b.

Line 14. Enter any income that is not subject to apportionment.

Line 16: A deduction is allowed for expenditures paid or incurred during the taxable year for the installation of any solar or wind powered climate control or water heating unit. Ancillary units do not qualify. In order to be eligible for this deduction, the property must be certified by the Office of Facilities Management.

Line 19: If the corporation is required to recapture any amount of previously claimed EOA Credit, Low-Income Housing Credit, Brownfields Credit or Historic Rehabilitation Credit, complete Schedule(s) H and/or H-2 and enter the result in line 19 of the return. Current year credits can then be used to offset the total excise due which will include the recapture amount.

Line 21: Economic Opportunity Area Credit. Enter the amount of Economic Opportunity Area Credit claimed this year from Schedule EOAC, line 9. Enclose a completed Schedule EOAC to this return. For more information, contact the Massachusetts Office of Business Development at One Ashburton Place, Room 2101, Boston, MA 02108.

Line 22: Investment Tax Credit. Manufacturing corporations and corporations engaged primarily in research and development, agriculture or commercial fishing are allowed a credit of 3% of the cost of depreciable real and tangible property. Such property must have a useful life of four years or more. The property must be used and located in Massachusetts on the last day of the taxable year. A corporation cannot take the credit on property which it leases to another. A corporation can take the credit on property which it leases from another (for property leased and placed in service on or after July 1, 1994). Generally, eligible corporate lessees making qualifying leasehold improvements may claim the credit.

A corporation may carry over to the next succeeding three years any unused portion of its Investment Tax Credit (ITC). To claim the ITC, Schedule H must be completed where the credit is calculated and also reconciled with your other credits.

Line 23: Vanpool Credit. Foreign and domestic corporations are allowed a credit of 30% of the cost incurred during the taxable year for the purchase or lease of company shuttle vans used in the Commonwealth as part of an employer-sponsored ridesharing program. The shuttle vans must be used for transporting employees and students from their homes, or public transportation facilities, to their places of employment or study.

To claim the Vanpool Credit, Schedule VP must be completed. This credit is reconciled with your other credits on Schedule H.

Line 24: Research Credit. A credit is allowed for corporations which made basic research payments and/or incurred qualified research expenses conducted in Massachusetts during the taxable year. A corporation taking the research credit is limited in the amount that can be taken against the excise in any year.

See Schedule RC instructions for further information. To claim the Research Credit, Schedule RC must be completed.

Line 25: Harbor Maintenance Credit. Corporations are allowed a credit against the excise for certain harbor maintenance taxes paid to the U.S. Customs Service pursuant to IRC sec. 4461. A corporation is eligible for the credit if the tax paid is attributable to the shipment of break-bulk or containerized cargo by sea and ocean-going vessels through a Massachusetts harbor facility.

A taxpayer may carryover any excess credit to any of the next succeeding five taxable years. See Schedule HM instructions for further information.

Line 26: Full Employment Program Credit. A qualified employer participating in the Full Employment Program may claim a credit of \$100 per month of eligible employment per employee. The maximum amount of credit that may be applied in all taxable years with respect to each employee is \$1,200. Enclose Schedule FEC to this return. For more information, contact the Department of Transitional Assistance, 600 Washington Street, Boston, MA 02111.

Line 27: Brownfields Credit. Recent legislation extends the Brownfield credit to nonprofit organizations, extends the time frame for eligibility for the credit, and permits the credit to be bought, sold or assigned. Under prior law, net response and removal costs incurred by a taxpayer between August 1, 1998 and August 5, 2005, were eligible for the credit provided that the taxpayer commenced and diligently pursued an environmental response action before August 5, 2005. As a result of the recent legislation, the environmental response action commencement cut-off date is changed from August 5, 2005 to August 5, 2011, and the time for incurring eligible costs that qualify for the credit is extended to January 1, 2012. For further information, see TIR 06-16.

Line 28: Low-Income Housing Credit. To claim the Low-Income Housing credit, enclose documentation with the return. For further information on this credit, contact the DHCD, Division of Private Housing, at (617) 727-7824.

Line 29: Historic Rehabilitation Credit. Effective for tax years beginning on or after January 1, 2005 and ending on or before December 31, 2011, taxpayers may be eligible for the Historic Rehabilitation Credit (HRC). To claim this credit, a historic rehabilitation project must be complete and have been certified by the Massachusetts Historical Commission. Unused portions of the credit may be carried forward for a maximum of five years. This credit may be transferred or sold to another taxpayer. The HRC is not subject to the 50% limitation rule for corporate taxpayers. If the taxpayer disposes of the property generating the HRC, a portion of the credit may be subject to recapture. For further information, see 830 CMR 63.38R.1, Massachusetts Historic Rehabilitation Tax Credit.

Line 30: Film Incentive Credit. For tax years beginning on or after January 1, 2006 and before January 1, 2013, motion picture companies may claim a credit equal to 20% of the total qualifying aggregate payroll for employing persons within the Commonwealth in connection with the filming and production of a motion picture, and a credit equal to 25% of their Massachusetts productions expenses. The credits are transferable. For further information, see TIR 06-1.

Line 31: Medical Device Credit. For tax years beginning on or after January 1, 2006, medical device companies that develop or manufacture medical devices in Massachusetts can claim a credit equal to 100% of the user fees paid to the U. S. Food and Drug Administration. The credit is transferable. For more information, see TIR 06-22.

Line 34: Voluntary Contribution for Endangered Wildlife Conservation. Any corporation that wishes to contribute any amount to the Natural Heritage and Endangered Species Fund may do so on this form. This amount is added to the excise due. It increases the amount of the corporation's payment or reduces the amount of its refund.

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

Line 39: Refundable Film Credit. Motion picture production companies qualify to elect a refundable film credit if they have not transferred or carried forward a portion of the film credit for the production/certificate number to be refunded. Transferees of the film credit do not qualify for the refundable film credit. If an election to refund the film credit for a production/certificate number is made, the entire film credit remaining after reducing tax liability and other credits will be refunded at 90%. A motion picture production company that elects to claim a refund of the film credit is not permitted to seek a partial refund and a partial transfer or carryover of the credit. However, the refund can be applied as an estimated payment for the subsequent tax year.

Lines 41 through 43: Overpayments and refunds. If line 35 is larger than line 40, enter the amount overpaid in line 41.

The overpayment may be applied in part or in full to 2009 estimated taxes by entering in line 42 the amount to be credited to 2009 estimated tax payments. Enter in line 43 the amount to be refunded.

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

Line 44: Balance due. If line 35 is larger than line 40, enter the balance due in line 44. Payment in full is due on or before March 16, 2009.

Lines 45 and 46: Penalties and interest. Any company that has an underpayment of estimated tax will incur a penalty on the underpayment for the period of the underpayment. Enclose a copy of Form M-2220. For more information, refer to the section, "When Are Estimated Tax Payments Required?"

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

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

Line 47: Payment due. Enter the total payment due. Checks for this amount should be made payable to the **Commonwealth of Massachusetts**. Checks should have the company's federal identification number written in the lower left corner.

Where to File

All returns should be mailed to: **Massachusetts Department of Revenue, PO Box 7067, Boston, MA 02204.**