

Tax Expenditure Review Commission Public Meeting Minutes  
November 21, 2022  
Via Teleconference  
10:00AM

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue  
Professor Michelle Hanlon, Governor's Appointee  
Sue Perez, Designee, MA Treasurer  
Kerri-Ann Hanley, Designee, MA Auditor  
Chris Anderson, Designee, Senate Minority Leader  
Jacob Blanton, Designee, Senate Ways and Means Committee  
Representative Michael Soter, Designee, House Minority Leader  
Professor Matthew Weinzierl, Governor's Appointee

Commission Members Absent:

Chairman Aaron Michlewitz, House Ways and Means Committee  
Chairman Mark Cusack, Joint Revenue Committee, House Co-Chair

List of Documents:

1. Meeting Agenda
2. Draft Minutes – September 30, 2022 Meeting
3. Draft Reports of Tax Expenditures:

1.014	Exemption of Rental Value of Parsonages
1.021	Exemption of Capital Gains on Home Sale (formerly only for Persons 55 and Over)
3.603	Exemption for Certain Meals
3.605	Exemption for Certain Summer Camps from Sales Tax on Meals and Room Occupancy Excise
1.204 & 2.206	Abandoned Building Renovation Deduction
1.301 & 2.301	Modified Accelerated Depreciation on Rental Housing
1.604 & 2.606	Credit for Employing Former Full-Employment Program Participants

Chairperson Forter welcomed the Commission's new designees. Chris Anderson has been appointed as the designee for the Senate Minority Leader. Representative Michael Soter has been appointed as the designee for the House Minority Leader. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 10:05AM.

Chairperson Forter put the Commission and public on notice that the meeting is recorded for purposes of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter requested that Commission members provide any changes to the September 30, 2022 draft meeting minutes. Hearing none, members voted unanimously to approve the September 30, 2022 meeting minutes.

Professor Weinzierl led a discussion on the Exemption of Rental Value of Parsonages. This tax expenditure was adopted in 1973 and has an annual revenue impact of \$4 million per year during FY20-FY24 with no sunset date. This tax expenditure is based on Internal Revenue Code (the “Code”) § 107, which allows ministers to exclude from income a housing allowance or the rental value of housing provided to them as a part of their compensation. Massachusetts follows the federal exclusion because it adopts Code § 107. See M.G.L. c. 62, §§ 1(c), 1(d), and (2)(a). The revenue that Massachusetts foregoes as a result of the exclusion is a state tax expenditure. When enacted in 1921, the income exclusion was intended to place ministers on par with other employees that enjoyed an exclusion for employer-provided housing. States that have rolling conformity to the Code or static conformity to a 1954 or later version of the Code, and have not decoupled from § 107, provide the same income exclusion. States that allow the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state that has decoupled. Members agreed that absent this tax expenditure ministers would experience financial difficulty securing housing. Members voted to approve the Exemption of Rental Value of Parsonages evaluation template as presented.

Professor Hanlon led a discussion on the Exemption of Capital Gains on Home Sale. This tax expenditure was adopted in 1973 and has an annual revenue impact of \$350.6M-\$422.2M per year during FY20-FY24 with no sunset date. The tax expenditure is in effect due to Massachusetts’ conformity with Internal Revenue Code (“Code”) § 121, which Massachusetts adopts as it appears as of January 1, 2022. Code § 121 allows a taxpayer to exclude from gross income up to \$250,000 of capital gain on the sale or exchange of a principal residence. The exclusion limit is \$500,000 for married taxpayers filing jointly. To qualify for the exclusion, taxpayers must have owned the residence, and used it as their primary home, for an aggregate of at least 2 of the 5 years prior to the sale. Ownership and use need not span the same 2-year period, but both must occur within the 5-year period prior to the sale. Taxpayers may only have one principal residence at a time. The exclusion may be taken any number of times so long as at least 2 years pass between each sale for which the exclusion is claimed. Personal income tax foregone as a result of the exclusion constitutes a tax expenditure. The Commission assumes that the goal of the tax expenditure is to support homeownership and enhance mobility in the housing and labor markets by ameliorating the tax burden of selling a primary residence. All states that conform to a version of the Code as amended on or after 1997 provide the same or a similar income exclusion, unless the state specifically decouples from the federal exclusion. States that adopt the exclusion include California, Connecticut, Maine, New York, Rhode Island, and Vermont. The Commission is not aware of any state that has decoupled. Chris Anderson mentioned the context for this incentive may become more important in light of rising housing costs and Massachusetts’ new surtax on millionaires. Members agreed policy makers may want to consider the interplay between this expenditure and the new surtax. Members voted to approve the Exemption of Capital Gains on Home Sale evaluation template as presented.

Kerri-Ann Hanley led a discussion on the Exemption for Certain Meals. The tax expenditure was adopted in 1977 and has an annual revenue impact of \$93.7M-\$128M per year during FY20-FY24 with no sunset date. The tax expenditure provides an exemption from the sales and use tax for meals provided by (i) religious institutions, (ii) hospitals, (iii) facilities for senior citizens or individuals with disabilities, (iv) educational institutions that provide meals to students, and (v) other meal providers enumerated in M.G.L. c. 64H, § 6(cc). Absent the exemption afforded by this tax expenditure, charges for meals would be subject to sales and use tax. In addition, the exemption relieves institutions eligible for the exemption of the administrative burden of collecting and reporting sales and use tax. The revenue foregone as a result of the exemption constitutes a tax expenditure. The Commission assumes that the goal of the tax expenditure is to prevent the sales and use tax from increasing the cost of meals provided by eligible

institutions and reducing the cost of sales and use tax compliance for such institutions. Most states that tax meals allow an exemption for meals provided by religious institutions, hospitals, and residential facilities for senior citizens and individuals with disabilities. These states include California, Connecticut, Maine, New Hampshire, and Vermont. New York and Rhode Island do not appear to have such an exemption. Similarly, most states, including California, Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont, allow an exemption for meals provided by educational institutions to their students. The Commission's understanding is that airline meals are included in this tax expenditure as a constitutional consideration. States may not adopt taxes on interstate commerce. Members voted to approve the Exemption for Certain Meals evaluation template as presented.

Chairperson Forter led a discussion on the Exemption for Certain Summer Camps from Sales Tax on Meals. This tax expenditure was adopted in 1987 and has an annual revenue impact of \$0.7 million per year during FY20-FY24 with no sunset date. The tax expenditure provides a sales and use tax exemption for meals provided by summer camps for children aged 18 and under, and for summer camps for developmentally disabled individuals. The exemption is allowed regardless of whether the meals are provided to campers or other individuals (e.g., counselors, administrators, visiting parents, etc.). A camp may offer its facilities in the off-season to individuals 60 years of age or over for 30 days or less in any calendar year without losing its status as a summer camp for purposes of the exemption. Meals provided by summer camps to individuals sixty years of age or older during the off-season as described above are also exempt from tax. In addition, the exemption relieves summer camps of the administrative burden of collecting and reporting sales and use tax. The revenue foregone as result of the exemption constitutes a tax expenditure. The Commission assumes that the goal of the tax expenditure is to reduce the cost of meals provided by summer camps serving youths and disabled persons and to reduce the burden of collecting and reporting sales and use tax for such summer camps. A number of states, including California, Connecticut, Maine, and Rhode Island adopt specific exemptions for meals provided by summer camps. Members voted to approve the Exemption for Certain Summer Camps from Sales Tax on Meals with a change from Strongly agree to Somewhat agree for Easily Administered and an additional comment addressing estimation uncertainty due to the use of national data.

Jacob Blanton led a discussion on the Abandoned Building Renovation Deduction. This tax expenditure was adopted in 1993 and has a negligible revenue impact during FY20-FY24 with no sunset date. The deduction is part of the Massachusetts Economic Development Incentive Program (EDIP), administered by the Economic Assistance Coordinating Council (EACC). The EDIP generally employs local property tax incentives to spur economic development, often in blighted areas. These incentives are available for projects that will create new jobs. In addition to the local property tax incentives, the EACC administers the abandoned building renovation deduction. The deduction is allowed only for renovations that are part of projects approved by EACC. The revenue lost as a result of the deduction constitutes a tax expenditure. Every state with a corporate or personal income tax allows the recovery of business expenses incurred in renovating real property, either through immediate expensing or through depreciation allowances. No other state allows an additional deduction similar to the one allowed in Massachusetts. South Carolina has a tax credit for renovation expenses under its Abandoned Buildings Revitalization Act. Members discussed potential reasons as to why the amount claimed per year is negligible. Members agreed to reach out to EEAC for more data and to revisit the Abandoned Building Renovation Deduction evaluation template at the next Commission meeting.

Chairperson Forter led a discussion on the Modified Accelerated Depreciation on Rental Housing. This tax expenditure was adopted in 1986 and has an annual revenue impact of \$28M-\$33.7M during FY20-FY24

with no sunset date. The Internal Revenue Code (the “Code”) allows landlords and investors to determine their depreciation deduction for new and used rental housing using an accelerated method of depreciation. Rental housing placed in service after 1986 is depreciated on a straight-line basis over a 27.5-year period rather than the 40-year recovery period used under traditional financial accounting rules. Rental housing placed in service before 1986 was depreciable over shorter periods, generally 19 or 20 years, and, instead of straight-line depreciation, the 175% declining balance method was permitted. Massachusetts generally adopts the business expense deductions allowed under the Code, including the federal deduction for depreciation. As a result, Massachusetts conforms to the use of straight-line depreciation over a 27.5-year accelerated recovery period for residential rental property. This allows for a larger depreciation deduction in the earlier years of the useful life of residential rental property than would be available under traditional accounting concepts. However, the depreciation deduction is smaller in the later years. The net result is a temporary reduction, or deferral, or tax. The Commission assumes the policy goal of this expenditure is to increase the amount of available rental housing by encouraging investment in new and used rental housing. Conformity with federal depreciation rules also simplifies tax compliance and administration by allowing the same general depreciation rules to be used for Massachusetts and federal purposes. Most states conform to the current Code deduction allowing depreciation of buildings used for rental housing. States that do so include Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont. California requires the use of traditional financial accounting depreciation schedules for all buildings. Members voted to approve the Modified Accelerated Depreciation on Rental Housing evaluation template as presented.

Professor Weinzierl led a discussion on the Credit for Employing former Full-Employment Program Participants. This tax expenditure is no longer active. It previously provided a tax credit for employers who continued to employ former participants in the full employment program adopted by the Department of Transitional Assistance (DTA). The program subsidized the salaries of certain disadvantaged individuals. The credit was equal to \$100 per month for each month of non-subsidized employment, up to a maximum of \$1,200 per employee, per year, for each employee retained after DTA subsidies ceased. The credit was required to be authorized by the DTA. The credit was neither transferable nor refundable. The reduction of revenue resulting from the credit constituted a state tax expenditure. The full employment program was created by St. 1995, c. 5, § 110(m) but was never codified into the General Laws. The law authorizing the program was never repealed, but the DTA stopped authorizing the credit in 2016. It is not clear why DTA stopped authorizing the credit. However, the DTA implemented a new incentive program, Pathways to Work, at approximately the same time as the DTA stopped funding the credit. It is possible that the DTA decided to reallocate resources to the new program. Note that although the DTA stopped authorizing the credit in 2016, the credit continued to affect state finances until 2021. This was because unused credit could be carried forward for five years. As a result of these circumstances, this tax expenditure is not active for 2022 or later years. Members agreed to reach out to DTA to see if the department intends to maintain this credit. Members voted to approve the Credit for Employing former Full-Employment Program Participants evaluation template with a change to Strongly Disagree for Claimed by Intended Beneficiaries, Broad Group, and Amount Claimed is Meaningful.

Members discussed the next batch of tax expenditures to be reviewed at the next Commission meeting. Members agreed to schedule the next meeting for early January. Chairperson Forter concluded the meeting at 11:21 AM.



The Commonwealth of Massachusetts  
**SENATE MINORITY LEADER**  
**MASSACHUSETTS SENATE**

**SENATOR BRUCE E. TARR**  
*First Essex and Middlesex*

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October 17, 2022

His Excellency Charles Baker  
Governor of the Commonwealth  
The State House, Room 360  
Boston, MA 02133

Dear Governor Baker,

I am writing to inform you that, pursuant to my authority under chapter 207 of the acts of 2018, I hereby appoint Christopher Anderson, President of the Massachusetts High Technology Council to replace my former appointee Gregory Sullivan to serve as my appointee to the tax expenditure commission that shall examine, evaluate and report on the administration, effectiveness and fiscal impact of tax expenditures, as defined in section 1 of chapter 29, and as presented with the governor's proposed budget under paragraph 3 of section 5B of said chapter 29.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Tarr", written over a horizontal line.

Bruce Tarr  
State Senator

Cc: The Honorable Karen Spilka  
The Honorable Ronald Mariano  
The Honorable Bradley H. Jones, Jr.  
Mr. Michael Hurley, Senate Clerk  
Mr. Steven James, House Clerk  
Mr. Christopher Anderson, 339-222-2881 (cell), [chris@mhtc.org](mailto:chris@mhtc.org)



*The Commonwealth of Massachusetts*

HOUSE OF REPRESENTATIVES  
STATE HOUSE, BOSTON 02133-1054

**BRADLEY H. JONES, JR.**  
STATE REPRESENTATIVE  
MINORITY LEADER

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October 24, 2022

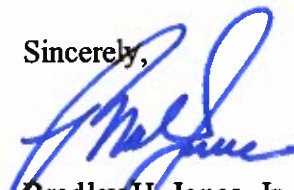
Mr. Steven T. James  
House Clerk  
State House, Room 145  
Boston, MA 02133

Dear Mr. Clerk:

I am writing to inform you that, pursuant to my authority granted under Section 14 of Chapter 14 of the Massachusetts General Laws, I hereby appoint Representative Michael Soter of Bellingham to serve as my designee on the Tax Expenditure Review Commission.

Thank you for your consideration in this important matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Bradley H. Jones, Jr.  
*Minority Leader*

BHJ/mes

cc: His Excellency Charles D. Baker, Governor of the Commonwealth  
The Honorable Ronald Mariano, House Speaker  
The Honorable Karen E. Spilka, Senate President  
The Honorable Bruce E. Tarr, Senate Minority Leader  
The Honorable Aaron Michlewitz, House Ways and Means Chair  
The Honorable Michael J. Rodrigues, Senate Ways and Means Chair  
The Honorable Mark J. Cusack, House Chair, Joint Committee on Revenue  
The Honorable Brendan P. Crighton, Senate Vice Chair, Joint Committee on Revenue  
The Honorable Michael Soter  
The Honorable Suzanne M. Bump, State Auditor  
The Honorable Deborah B. Goldberg, State Treasurer  
Commissioner Geoffrey E. Snyder, Massachusetts Department of Revenue  
Sean Pierce, Governor's Office of Boards and Commissions  
Michael D. Hurley, Clerk of the Senate  
John Walsh, Office of the Speaker of the House