

Tax Expenditure Review Commission Public Meeting Minutes
Thursday, October 1, 2020
Via Teleconference
1:00PM

Commission Members in Attendance:

Chairman Kevin Brown, MA Department of Revenue
Auditor Suzanne Bump, MA Auditor
Senator Adam Hinds, Joint Revenue Committee, Senate Co-Chair
Representative Mark Cusack, Joint Revenue Committee, House Co-Chair
Representative Randy Hunt, Designee, House Minority Leader
Sue Perez, Designee, MA Treasurer
Professor Matthew Weinzierl, Governor's Appointee
David Sullivan, Designee, Senate Ways and Means Committee
Greg Sullivan, Designee, Senate Minority Leader
Tim Sheridan, Designee, House Ways and Means Committee

Commission Members Absent:

Professor Michelle Hanlon, Governor's Appointee

List of Documents:

1. Meeting Agenda
2. Draft Minutes – May 1, 2020 Meeting
3. Draft Tax Expenditure Review Reports:
 - 1.020 - Exemption of Income from the Sale, Lease, or Transfer of Certain Patents
 - 1.201 - Capital Gains Deduction for Collectibles
 - 1.413 - Exemption of Interest on Savings in Massachusetts Banks
 - 1.421 - Deduction for Clean Fuel Vehicles and Certain Refueling Property
 - 1.601 - Renewable Energy Source Credit (tax credit)
 - 1.613 and 2.615 - Medical Device User Fee Credit
 - 2.602 - Investment Tax Credit
4. DOR Presentation: Recommended Next Steps

For the purposes of the second Commission meeting being held via video and teleconference due to the COVID-19 State of Emergency, members were asked to announce themselves. A quorum was recognized by Chairman Brown and the meeting was called to order at 9:10AM.

Chairman Brown advised that the meeting is public but due to the COVID-19 State of Emergency, public participation is limited to listening without posing questions during the meeting. Chairman Brown put the public on notice that the meeting was being recorded for purposes of minutes. Once the minutes are approved, the recording will be deleted.

Chairman Brown requested that Commission members provide any changes to the May 1, 2020 draft meeting minutes. Hearing none, Commission members voted unanimously to approve the May 1, 2020 meeting minutes.

During the May 1 meeting members agreed that DOR would begin reviewing the tax expenditures that had been selected for the March 2021 tax expenditure report. In advance of today's meeting, members were forwarded seven draft reports.

Chairman Brown stated that reviewing the first seven proved to be a significant undertaking given the learning curve of the process and unexpected change of circumstances due to the pandemic, which further strained DOR's resources. Given these factors, DOR staff believes that the reports reflect the highest level of detail possible but welcomes feedback on how to improve upon the drafts and those going forward. The seven draft reports do not yet include measures to "score" the tax expenditures.

Additional draft reports will be sent to Commission members before future meetings, which may need to be scheduled more frequently given the workload required to complete a March 2021 report.

David Sullivan shared his appreciation for DOR's efforts and the level of detail provided in the draft reports. Mr. Sullivan asked if there is a way to determine if a credit has spurred investment, for example, or whether investment would have been regardless of the credit being available to investors. Dr. Kazim Ozyurt, DOR Chief Economist, and Chairman Brown responded that while this information would be valuable, it is difficult to speculate on the impact of tax expenditures on taxpayer behavior.

Mr. Sullivan and Professor Weinzierl suggested that comparisons with what other states do and do not offer for tax expenditures could provide insight into the impact of those offered in Massachusetts. Gregory Sullivan stated that a state by state comparison would be difficult to conduct, but Pew Research and the Federal Reserve may have tax expenditure breakdowns by state.

Chairman Brown stated that DOR does not have the resources to provide a cross-state comparison, beyond which is already provided in the template. Perhaps a deeper analysis could be conducted on several of the largest tax expenditures once review of the first batch is complete.

Representative Randy Hunt stated there is difficulty with comparing Massachusetts with states with similar GDP's but different industry bases. Additionally, if states offer tax expenditures like those offered by the federal government, the overall state impact will be greater.

Auditor Bump suggested that use of industry codes (NAICS) in draft reports would be helpful in determining business size and type impacted by business tax expenditures. Chairman Brown and Dr. Ozyurt responded that going forward and to the extent possible, codes could be included.

Members discussed how best to make the Commission's findings publicly accessible, including underlying data. Chairman Brown and Dr. Ozyurt responded that there may be issues of confidentiality with certain data, and impacted taxpayers must not be easily identifiable, but encouraged members with additional tax expenditure data to share it with DOR. Additionally, DOR will have an internal conversation with its web team to determine how best to make information readily available and downloadable.

Senator Adam Hinds offered appreciation for the thoroughness of the draft reports, adding that perhaps the Commission should more clearly state the difficulty in identifying the objective of each reviewed tax expenditure. Chairman Brown responded that the 2012 Tax Expenditure Review Commission recommended requiring clearer legislative objectives at the bill filing stage. This was not implemented by the legislature so DOR must be as objective as possible in its analyses.

Professor Weinzierl suggested that members provide criteria to help objectively "grade" each tax expenditure, then develop an aggregate to help better reflect the Commission's findings. Chairman Brown requested that within two weeks each member submit a few criteria for business and personal income tax expenditures, for compilation by DOR and discussion at the next Commission meeting.

Members agreed to schedule the next meeting with four to five weeks.

Chairman Brown concluded the meeting at 10:12AM.