

Tax Expenditure Review Commission Meeting
Wednesday, February 28, 2024
11:30 AM
Via Zoom

Commission Members in Attendance:

Chairperson Rebecca Forter, MA Department of Revenue
Sue Perez, Designee, MA Treasurer
Amar Patel, Designee, Senate Ways and Means Committee
Eli Roerden, Designee, House Minority Leader
Chris Carlozzi, Designee, Senate Minority Leader
Professor Michelle Hanlon, Governor's Appointee
Lindsay Janeczek, Designee, MA Auditor

Commission Members Absent:

Tim Sheridan, Designee, House Ways and Means Committee
Ryan Sterling, Designee, Joint Revenue Committee, House Co-Chair
Stephen Maher, Designee, Joint Revenue Committee, Senate Co-Chair
Professor Matthew Weinzierl, Governor's Appointee

List of Documents:

- I. Meeting Agenda
- II. Draft Minutes
 - i. January 11, 2024 Meeting
- III. TERC 2024 Draft Report

Chairperson Forter welcomed Commission members. Chairperson Forter noted changes in membership; (i) Stephen Lisauskas has resigned from the Commission, and (ii) Lindsay Janeczek has been appointed as the new designee for the State Auditor. Members were asked to announce themselves and a quorum was recognized by Chairperson Forter. The meeting via teleconference was called to order at 11:33AM. Chairperson Forter put the Commission and public on notice that the meeting is recorded for the purpose of minutes. The recording of the meeting will be kept for public record.

Chairperson Forter asked for any comments or changes on the January 11, 2024 draft meeting minutes. Members did not provide any comment. Members voted to approve the January `24 meeting minutes as drafted.

Cole Doherty-Crestin emailed a copy of the 2024 Report of the Tax Expenditure Review Commission to members prior to this meeting. This report addresses 32 tax expenditures reviewed by the Commission during the April `23, June `23, October `23, November `23, and January `24 meetings.

Chairperson Forter led a discussion on the draft report. A copy of the draft report was visible during the meeting to those connected via Zoom. Chairperson Forter noted that the Commission did not receive any comment from members prior to this meeting. Chairperson Forter noted updates made to

this year's report and suggested briefly walking through the draft to make sure members are comfortable with the structure and language as is in the report prior to moving to voting. For this report, the tax expenditure evaluation template was updated to include a checkbox that allows the Commission to flag a particular tax expenditure for legislative review. This update gave the Commission more flexibility to highlight specific issues for the Legislature and Governor. Those tax expenditures flagged for legislative review, and the Commissions' reasoning, are discussed in the introduction of the report. Similar to previous reports, this year's report also includes a section that discusses tax expenditures that received "strongly disagree" or "somewhat disagree" ratings for any of the following evaluative statements in the template; (i) the tax expenditure's benefit justifies its fiscal cost, (ii) the tax expenditure is claimed by its intended beneficiaries, (iii) the tax expenditure amount claimed by each beneficiary is meaningful as an incentive/benefit, and (iv) the tax expenditure is relevant today. The Commission finds that in reviewing the evaluations with an eye toward considering the effectiveness of each tax expenditure, it may be useful for the Legislature to also focus on these tax expenditures.

Chairperson Forter asked members whether they had any particular comment on the draft report. Chris Carlozzi provided comments for the Exemption of Gas. Chris Carlozzi noted that members voted to approve the evaluation template for this tax expenditure prior to his appointment to the Commission. Chris Carlozzi mentioned that this tax expenditure received a rating of "Strongly Disagree" on the question whether the tax expenditure is relevant today and provided the following comments, "This expenditure in question does indeed seem to benefit both small businesses and residents of the Commonwealth that utilize natural gas as an energy source. To tag this expenditure as "irrelevant" because some state lawmakers and regulators are pushing for full electrification of Massachusetts does not reflect the reality that many businesses and homes still use natural gas and benefit from the existing tax exemption. It seems that the report appendix comment stating: The Commission questioned the purpose of "encouraging" users to use gas as a utility in consideration of alternate "greener" climate options is editorializing and outside of what the commission is tasked to do, which is determine whether the existing exemption benefits Massachusetts taxpayers."

At the time the Exemption for Gas was reviewed by the Commission, members observed that the term "small business" is defined differently for purposes of the exemption than it is for other purposes in the General Laws. Members also questioned the purpose of "encouraging" users to use gas as a utility in consideration of alternate "greener" climate options. The Exemption for Gas provides a sales and use tax exemption for sales of (i) gas used for residential purposes, (ii) gas purchased for use by certain small businesses and (iii) gas purchased for use in an industrial plant and has annual impact of \$167.3- \$233.3 million during FY20 to FY24 with no sunset date. Most states that impose a sales and use tax exempt sales of gas used in residences or industrial plants at least in part. California, Connecticut, Maine, and Rhode Island provide exemptions for residential and industrial users. New York and Vermont exempt only residential use. The Commission is not aware of any other state that provides an exemption for purchases of gas by small businesses. The Commission assumes that the goals of the expenditure are (i) to shield households from sales and use tax on gas used for residential heating, which can be viewed as a necessity, (ii) to reduce the cost of doing business for small businesses and (iii) to prevent pyramiding of the sales and use tax when the gas is used by manufacturers to power, light and heat industrial plants that produce items for sale.

Members agreed to add Chris Carlozzi's comments to the evaluation template for this tax expenditure, which is to be included in the appendix of the final report. Additionally, members agreed to revise the Observations Applying to Multiple Tax Expenditures section of the introduction of the report to include a general statement that during this evaluation year, the Commission reviewed a number of tax expenditures related to fuel sources and that the Commission observed that the legislature may wish to consider how, and what types of, fuel is incentivized, given the rapidly changing technology in this area. These tax expenditures provide sales and use tax exemptions for specified uses of products/services including gas, steam, and fuel used for heating purposes.

Chairperson Forter stated that the changes agreed upon by members today will be made and a copy of the revised draft of the 2024 Report of the Tax Expenditure Review Commission will be distributed for review prior to the next meeting. Members agreed to schedule the next meeting for April. The purpose of the next meeting is to hold a formal vote on the final draft of the 2024 Report of the Tax Expenditure Review Commission and to discuss the next batch tax expenditures. Chairperson Forter concluded the meeting at 11:54AM.



DIANA DIZOGLIO
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The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

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January 31, 2024

The Honorable William F. Galvin
Secretary of the Commonwealth
Public Records Division
McCormack Building, Room 1719
One Ashburton Place
Boston, MA 02108

Dear Secretary Galvin:

Please be advised that, effective immediately, I have designated Lindsay Janeczek to serve in my place on the Tax Expenditure Review Commission.

Thank you for your attention to this matter.

Best regards,

A handwritten signature in cursive script that reads "Diana DiZoglio".

Diana DiZoglio
Auditor of the Commonwealth

cc: The Honorable Maura T. Healey, Governor of the Commonwealth
Commissioner Geoffrey E. Snyder, Department of Revenue