2017 Massachusetts Tax Law Changes

Below you will find brief descriptions of major tax law changes for 2017 pertaining to personal income tax in Massachusetts.

Filing Due Dates

Form 1 is due on or before Tuesday, April 17, 2018. Because April 15, 2018 is a Sunday and the observance of Patriot's Day, a legal holiday in Massachusetts is on Monday, April 16, 2018, Massachusetts returns and payments otherwise due on April 15, 2018 will be treated as timely filed if they are filed on or before Tuesday April 17, 2018.

2017 Personal Income Tax Rates

Effective for tax years beginning on or after January 1, 2017, the tax rate on most classes of taxable income remains unchanged at 5.1%. The tax rate on short-term gains from the sale or exchange of capital assets and on long-term gains from the sale of collectibles (after a 50% deduction) remains at 12%.

Penalty for Failure to Obtain Health Insurance

Massachusetts requires most adults 18 and over with access to affordable health insurance to obtain it. In 2017, individuals must be enrolled in health insurance policies that meet minimum creditable coverage standards defined in regulations adopted by the Commonwealth Health Insurance Connector Authority ("Health Connector"). Individuals who are deemed able to afford health insurance but fail to obtain it are subject to penalties for each month of non-compliance in the tax year (provided that there is no penalty in the case of a lapse in coverage of 63 consecutive days or less). The monthly penalties, which will be imposed through the individual's personal income tax return, are set out in TIR 17-1 and are based on half of the minimum monthly insurance premium for which an individual would have qualified through the Health Connector.

Schedule HC, Health Care Information, must be completed by all full-year and certain part-year residents age 18 and over to notify the Department of Revenue whether or not they had health insurance for each month of 2017. Taxpayers who did not have coverage for all of 2017, or had a gap in coverage of four or more consecutive months will need to determine if they had access to affordable health insurance (through an employer, the government, or on their own) using worksheets and tables available for this purpose. If it is determined that a taxpayer could've afforded health insurance, the taxpayer has the right to appeal the application of the penalty due to hardship by requesting an appeal to the Connector on the Schedule HC.

For more information about the health care reform law, including the Department's regulation at 830 CMR 111M.2.1, Health Insurance Individual Mandate; Personal Income Tax Return

Requirements, or the Health Connector's regulation at 956 CMR 6.00, Determining Affordability for the Individual Mandate, see the Health Connector's website at mahealthconnector.org or the Department's website at mass.gov/dor.

Annual Update of Circuit Breaker Tax Credit

Taxpayers age 65 or older who own or rent residential property located in Massachusetts are allowed a credit equal to the amount by which their real estate payments, or 25% of the rent constituting a real estate tax payment, exceeds 10% of the taxpayer's total income, not to exceed $1,080. The amount of the credit is subject to limitations based on the taxpayer's total income and the assessed value of the real estate, which for tax year 2017 must not exceed $747,000.

Employer Provided Parking, Transit Pass, and Commuter Highway Vehicle Benefits Exclusion Amounts

Massachusetts adopts Internal Revenue Code ("Code" or "IRC") § 132(f) as amended and in effect on January 1, 2005, which excludes from an employee's gross income (subject to a monthly maximum) employer-provided parking, transit pass, and commuter highway vehicle transportation benefits. For tax year 2017, the Internal Revenue Service has calculated, based on inflation adjustments contained in IRC §132(f) as set forth in the January 1, 2005 Code, the 2017 monthly exclusion amounts of $255 for employer-provided parking and $135 for combined transit pass and commuter highway vehicle transportation benefits. Massachusetts adopts these 2017 monthly exclusion amounts as they are based on the January 1, 2005 Code. See TIR 16-16.

Changes to the Massachusetts Earned Income Tax Credit

A Massachusetts refundable earned income tax credit is available to certain low-income individuals who have earned income. To claim the Massachusetts credit, taxpayers must qualify for and claim the federal earned income tax credit allowed under I.R.C. § 32, as amended and in effect for the taxable year. Taxpayers may claim the Massachusetts credit even if they do not have a filing requirement. To receive the credit, taxpayers must file a tax return and claim the credit. For 2017, the Massachusetts refundable credit remains at 23% of the computed federal credit. A person who is a non-resident for the entire year is not eligible for the credit.

For federal purposes, an individual who is married can qualify for the federal earned income tax credit only if the individual files a joint return. However, for purposes of claiming the Massachusetts earned income tax credit, a married taxpayer will satisfy the federal joint filing requirement if the taxpayer files a Massachusetts personal income tax return using a filing status of married filing separately and the taxpayer: (i) is living apart from the taxpayer's spouse at the time the taxpayer files the return, and (ii) is unable to file a joint return because the taxpayer is a victim of domestic abuse; and (iii) indicates on the taxpayer's income tax return that the taxpayer meets the criteria of clauses (i) and (ii). A taxpayer this is eligible for this filing exception should keep records that demonstrate they meet this criteria. See TIR 17-10 and additional form instructions on page 16.

Veteran's Hire Tax Credit

A new credit is available to businesses that hire veterans who live and work in Massachusetts. The credit is equal to $2,000 for each qualified veteran hired. The business must employ fewer than 100 employees; be certified by the Commissioner of Veteran's Services; and qualify for and claim the federal Work Opportunity Credit allowed under I.R.C. § 51. A business may be eligible for a second credit for the next taxable year if the veteran continues to work for the business. The credit cannot be transferred or refunded. Any amount of credit that exceeds the tax due in the current taxable year may be carried forward to any of the three subsequent taxable years. The credit is available for qualified veterans hired after July 1, 2017. See TIR 17-10.

Low-Income Housing Donation Tax Credit

A new credit is available to individuals and businesses if they donate real or personal property to certain non-profit entities for use in purchasing, constructing or rehabilitating a Qualified Massachusetts Project. The credit is generally limited to 50% of the amount of the donation, but it may be increased to 65% by the Department of Housing and Community Development. The credit is a one year credit that must be claimed in the year that the donation is made and is not refundable. Any credit amounts that exceed the tax due may be carried forward for five years. See TIR 16-15.

Economic Development Incentive Program Tax Credit

For economic development projects certified after January 1, 2017, the credit is no longer tied to the cost of property that would qualify for the investment tax credit allowed under G.L. c. 63, § 31A. Instead, the amount of credit allowed in each case is determined by the Economic Assistance Coordinating Council (EACC) based on numerous factors set forth in G.L. c. 23A § 3D. In addition to determining the amount of credit, the EACC will designate whether the credit is refundable. Recapture is required only if the EACC revokes the certification of a project and is no longer subject to the recapture provision of G.L. c. 63, § 31A(e). The amount of credit subject to recapture will be proportionate to the business' compliance with the job creation requirements applicable to a certified project. If a certified project is sold or otherwise disposed of, the credit allowed may be transferred to the purchaser of the certified project only if approved by the EACC. See TIR 16-15.

Certified Housing Development Tax Credit

The amount of credit available and the types of costs eligible for the credit have changed. The credit is available for 25% of "qualified project expenditures." Formerly, the credit was available for 10% of "qualified substantial rehabilitation expenditures." Additionally, the carry forward period for which the credit can be used has increased from five to ten years. See TIR 16-15.

Prepaid Tuition or College Savings Plan Deduction

A new deduction is available for purchases of or contributions made to an account in a pre-paid tuition program or a college savings program established by the Commonwealth. The deduction is capped at $1,000 for a single person or head of household and $2,000 for a married couple filing a joint return. The deduction is subject to recapture in the taxable year or years in which distributions or refunds are made from the tuition or college savings account for any reason other than (i) to pay qualified higher education expenses, as defined by Internal Revenue Code (IRC) § 529(e)(3); or (ii) the beneficiary's death, disability or receipt of a scholarship. See TIR 16-15.

Tuition Payment Deduction

Non-residents and part year residents are no longer eligible for this deduction. See TIR 16-15.

1099-K Reporting

Every individual, business or other entity doing business in Massachusetts is required to annually report to the Department the names and addresses of all residents of Massachusetts to which it pays income subject to taxation. Effective for all Forms 1099-K filed beginning with the 2017 tax year, the Department is requiring third party settlement organizations (TPSOs) to report the gross amount paid in settlement to a payee when the gross amount paid in settlement is $600 or greater and is subject to taxation under G.L. c. 62, irrespective of the number of transactions between the TPSO and the payee. A TPSO must report these amounts to the Department and provide a copy to the payee, even if it does not have a federal reporting obligation. If you receive either a federal Form 1099-K or a Massachusetts Form M-1099-K that shows amounts paid to you, you must report taxable amounts on Schedule X, as other income, or if such amounts are derived from a trade or business, on Schedule C. See TIR 17-XX.

<u>Current Code Provisions Massachusetts Adopts</u>

As a general rule, Massachusetts does not adopt any federal personal income tax law changes incorporated into the Code after January 1, 2005. However, certain specific Massachusetts personal income tax provisions, as set forth in G.L. c. 62 § 1(c), automatically conform to the current Code. Provisions of the Code Massachusetts adopts on a current Code basis are (i) Roth IRAs, (ii) IRAs, (iii) the exclusion for gain on the sale of a principle residence, (iv) trade or business expenses, (v) travel expenses, (vi) meals and entertainment expenses, (vii) the maximum deferral amount of government employees' deferred compensation plans, (viii) the deduction for health insurance costs of self-employed taxpayers, (ix) medical and dental expenses, (x) annuities, (xi) health savings accounts, (xii) employer-provided health insurance coverage, and (xiii) amounts received by an employee under a health and accident plan. See TIRs 98-8, 02-11, 07-4, and 09-21 for further details.

Qualified Charitable Distribution from an IRA — IRC § 408(d)(8)

Under IRC § 408(d)(8), taxpayers age 70½ or greater are allowed to make tax-free distributions from traditional and Roth IRAs to qualified charities not to exceed $100,000 per tax year. Massachusetts adopts this federal exclusion, as IRC § 408(d)(8) is adopted by Massachusetts on a current Code basis.

IRC § 179 Election to Expense Certain Depreciable Business Assets

Under § 179, a taxpayer may elect to treat the cost of certain types of depreciable business property (i.e., tangible depreciable business assets acquired by purchase for use in the active conduct of a trade or business and certain qualified real property) as an expense rather than a capital expenditure, and deduct it in the year the property is placed in service, instead of depreciating it over several years. The maximum IRC § 179 expensing limitation is $500,000, subject to an overall investment phase-out threshold of $2,000,000. As a trade or business deduction under G.L. c. 62, § 1(c), IRC § 179 is adopted by Massachusetts on a current Code basis.

Code Provisions Not Adopted by Massachusetts:

Federal Bonus Depreciation Deduction — IRC § 168(k)

Under G.L. c. 62 § 2(d)(1)(N), Massachusetts specifically disallows the bonus depreciation allowed under IRC § 168(k), as amended and in effect for the current taxable year. Therefore, Massachusetts does not adopt the five-year extension through tax year 2019 of the federal bonus depreciation deduction pursuant to the Consolidated Appropriations Act of 2016 (P.L. 114-113). See TIRs 02-11 and 03-25 for further details.

Domestic Production Activity Deduction — IRC § 199

For federal income tax purposes, under IRC § 199, a business entity that pays wages to employees and conducts qualified production activities is al- lowed a deduction for domestic production activities. Generally, in the case of a non-corporate taxpayer, the deduction allows a business with qualified production activities to deduct 9% of its U.S adjusted gross income. Under G.L. c. 62 § 2(d)(1)(O), Massachusetts specifically disallows the domestic production activity deduction allowed under IRC § 199, as amended and in effect for the current taxable year. Therefore, Massachusetts does not adopt thetwo-year extension through tax year 2016 of the deduction allowable for income attributable to domestic production activities in Puerto Rico pursuant to the Consolidated Appropriations Act of 2016 (P.L. 114-113). See TIR 05-5.

Qualified Principal Residence Indebtedness Exclusion — IRC § 108(a)

Massachusetts does not adopt the federal exclusion for qualified principle residence indebtedness under IRC § 108(a) set to expire at the end of 2016, nor will Massachusetts adopt any federal extension of the exclusion enacted after the publication of these form instructions, as IRC § 108(a) was enacted after January 1, 2005.