

[DOR Home](#)
[For Individuals and Families](#)
[For Businesses](#)
[For Local Officials](#)
[For Tax Professionals](#)

[Home](#) > [Businesses](#) > [Help & Resources](#) > [Legal Library](#) > [Directives](#) > [Directives - By Decade](#) > [\(2000-2009\) Directives](#) >

Directive 07-3: Notice to Corporate UBIT Filers

This Directive supplements TIR 06-7 as to certain filing requirements for corporations exempt from taxation under IRC § 501.

Background

Pursuant to amendments to G.L. c. 63, corporations exempt from taxation under IRC § 501 are subject to Massachusetts unrelated business income tax (UBIT) on their unrelated business taxable income. For this purpose, their net income under G.L. c. 63, § 30(4) is their unrelated business taxable income as defined under IRC § 512, with the Massachusetts adjustments required under section 30(4). The amendments are effective for tax years beginning on or after January 1, 2006. The Department intends to issue a UBIT regulation that explains the rules that govern the taxation of unrelated business taxable income in greater detail.

Issue I

What is the filing deadline for corporations exempt from taxation under IRC § 501 to file Form M-990T?

Directive I

The filing deadline for a corporation exempt from taxation under IRC § 501 is the fifteenth day of the third month following the close of each taxable year. This filing deadline does not run concurrently with the federal filing deadline for organizations exempt from taxation under IRC § 501.

Issue II

What time period is allowed for automatic extensions?

Directive II

In lieu of the six-month automatic extension, the Department will allow an eight-month automatic extension to exempt corporations filing Form M-990T. The eight-month extension will make a Form M-990T and a 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 an extension. The revised rule pertaining to automatic extensions set forth in TIR 06-21 do not apply to exempt corporations.

Issue III

Is there a safe harbor that a corporation exempt from taxation under IRC § 501 can rely on in determining its required estimated payments for the first year that such corporation is subject to tax on its unrelated business taxable income?

Directive III

For the first taxable year in which an exempt corporation is required to file a Form M-990T, it may avoid the penalty for underpayment of estimated taxes by using its federal unrelated business taxable income for the preceding taxable year as the basis for determining its Massachusetts estimated payments. This safe harbor will be applicable if the exempt corporation makes estimated tax payments equal to or in excess of an amount equal to 100 percent of its federal unrelated business taxable income (line 34 of the federal Form 990-T) plus any federal NOL deduction (line 31 of the federal Form 990-T) for the preceding taxable year as apportioned to Massachusetts and

SEARCH

Select an area to search

Search

multiplied by the Massachusetts corporate excise rate imposed on taxable income.

Discussion

For purposes of the corporate excise imposed under G.L. chapter 63, an exempt corporation required to file Form M-990T must meet the estimated tax requirements under chapter 63B. Under chapter 63B, § 3, an exempt corporation's required annual payments for the first taxable year for which it is subject to taxation on its unrelated business taxable income is ninety percent of the tax shown on the exempt organization's return for the taxable year. Although chapter 63B, § 3 provides a safe harbor applicable to corporations that pay estimated taxes equal to or in excess of 100 percent of the tax shown on the prior year's tax return, this safe harbor is available only if the corporation filed a Massachusetts return for the preceding taxable year and such taxable year was a taxable year of twelve months. In circumstances where exempt corporations newly become subject to Massachusetts UBIT, the Department will permit such corporations to use the administrative safe harbor provided for in this Directive III that is derived from the prior year's federally-reported income.

Issue IV

For purposes of computing Massachusetts unrelated business taxable income, are exempt corporations allowed the deduction for the federal NOL?

Directive IV

In computing Massachusetts unrelated business taxable income, exempt corporations must add back any federal net operating loss carryover or carryback deductions.[\[1\]](#)

Discussion

Pursuant to G.L. c. 63, § 30(4), for a corporation exempt from taxation under IRC § 501, "net income" means unrelated business taxable income as defined in IRC § 512. General Laws c. 63, § 30(4)(ii) further provides that the deduction for federal net operating loss is not allowed. The Department intends to issue a UBIT regulation that will explain, among other things, the rules by which an exempt corporation that reports a loss on its Form M-990T for Massachusetts UBIT purposes may claim a Massachusetts NOL carryover to a subsequent year.

[/s/Alan LeBovidge](#)

Alan LeBovidge

Commissioner of Revenue

AL:MTF:lbr

February 6, 2007

DD 07-3

[\[1\]](#) Form M-990T, available on the Department's website, was recently edited to ensure that the federal net operating loss (NOL) deduction is added back to compute Massachusetts unrelated business taxable income.