



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

June 27, 1984

Your corporation elects a federal tax credit for its contributions to a tax credit employee stock ownership plan (ESOP). You inquire as to the Massachusetts corporate excise treatment of this business expense.

The Massachusetts corporate excise is measured in part by net income. "Net income" is defined as gross income less the deductions, but not credits, allowable under the provisions of the Internal Revenue Code. Certain federal deductions, not here relevant, are not allowed. (G.L. c. 63, § 30(5)(b)).

For federal purposes a corporation may elect an income tax credit for contributions to a tax credit ESOP. (I.R.C. § 44G(a)(1)). No deduction is allowed for amounts the corporation is required to transfer to a tax credit ESOP to qualify for the tax credit. (I.R.C. § 44G(c)(5)). A deduction is allowed in an amount equal to the credit remaining unused at the end of the fifteenth carryover year. (I.R.C. §§ 44G(c)(5), 404(i)).

Based on the foregoing, it is ruled that in determining its Massachusetts corporate excise, a corporation may deduct only that amount of business expense related to a tax credit ESOP which is deducted federally pursuant to I.R.C. §§ 44(G)(c)(5) and 404(i).

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ira A. Jackson", written over a light-colored background.

Commissioner of Revenue

IAJ:SFR:mF

LR 84-46