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Income Tax and Withholding  
**DOR Directive 93-3**

Massachusetts  
Department of  
Revenue

University of Massachusetts  
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## Massachusetts Income Taxation and Withholding of Employer-Reimbursement for Moving Expenses

### Issue 1:

Are amounts reimbursed by an employer to an employee for the employee's moving expenses subject to Massachusetts income tax under G.L. c. 62?

### Directive 1:

Amounts reimbursed by an employer to an employee for the employee's moving expenses are subject to Massachusetts income tax under G.L. c. 62 if paid to 1) a Massachusetts resident, or 2) a nonresident when such amounts are allocable to the nonresident employee's new principal place of employment located in Massachusetts. Amounts reimbursed by an employer to an employee for the employee's moving expenses are not subject to Massachusetts income tax under G.L. c. 62 if received by a nonresident, when such amounts are allocable to the nonresident employee's new place of employment located outside of Massachusetts.

### Issue 2:

Are moving expenses deductible for Massachusetts income tax purposes under G.L. c. 62?

### Directive 2:

Although a deduction for certain moving expenses is available for federal income tax purposes under I.R.C. § 217, no such deduction for moving expenses is available for Massachusetts income tax purposes.

### Issue 3:

Are amounts reimbursed by an employer to an employee for the employee's moving expenses subject to Massachusetts withholding under G.L. c. 62B?

### Directive 3:

Amounts reimbursed by an employer to an employee for the employee's moving expenses are not subject to Massachusetts withholding under G.L. c. 62B if such amounts are excluded from the federal definition of "wages" in I.R.C. § 3401(a)(15). Employer-reimbursed moving expenses are excluded from the federal definition of wages under that provision if, at the time of payment, there is a reasonable belief that a corresponding deduction is or will be allowable to the employee under I.R.C. § 217. For purposes of this Directive, if an employer reasonably believes that an employee will be able to deduct moving expenses under I.R.C. § 217, no withholding on moving expenses is required. If the employer knows of specific facts at the time the moving expense reimbursement is paid that indicate that the employee would not be entitled to a deduction

under I.R.C. § 217, then such amounts are not excluded from the definition of "wages" and are therefore subject to federal and Massachusetts withholding. See Rev. Rul. 75-362

### Issue 4:

When must employees to whom moving expense reimbursements are paid file and pay estimated taxes on such amounts?

### Directive 4:

Employees who in any taxable year can reasonably expect to receive moving expense reimbursements that are taxable under G.L. c. 62 and that are not subject to withholding must pay over estimated taxes in accordance with G.L. c. 62B, § 14 if the amount of estimated taxes is greater than two hundred dollars. See G.L. c. 62B, § 13.

For purposes of this Directive, a Massachusetts *resident* must file Form 1-ES and pay estimated taxes on reimbursed moving expenses if each of the following conditions are met

1) such reimbursements are not subject to withholding under G.L. c. 62B and I.R.C. § 3401(a)(15); and

2) the estimated income tax due on the amount of such reimbursement exceeds \$200.

A *nonresident* must file Form 1-ES and pay estimated taxes on reimbursed moving expenses if all of the following conditions are met:

1) such reimbursements are allocable to the nonresident's new principal place of employment located in Massachusetts.

2) such reimbursements are not subject to withholding under G.L. c. 62B and I.R.C. § 3401(a)(15); and

3) the estimated income tax due on the amount of such reimbursement exceeds \$200.

## Discussion Of Law:

### Issue 1. Income Taxation of Employer Reimbursements for Moving Expenses

#### a. General

For federal income tax purposes, amounts paid by an employer to an employee as a payment or reimbursement of the expenses of moving from one residence to another for employment purposes are included in the employee's gross income as compensation for services under Internal Revenue Code

("I.R.C.") § 82. The Massachusetts income tax statute, G.L. c. 62, provides that Massachusetts gross income is federal gross income with certain modifications. G.L. c. 62, § 2. Therefore, if an item of income is included in federal gross income it must be included in Massachusetts gross income, unless a particular statutory modification requires otherwise. Reimbursements by an employer to an employee for moving expenses are included in federal gross income under I.R.C. § 82. Since no Massachusetts provision excludes such amounts of federal gross income in determining Massachusetts gross income, such amounts are included in Massachusetts gross income.

#### **b. Moving Expense Reimbursements Paid to Massachusetts Residents**

Massachusetts generally imposes an income tax on all income of a Massachusetts resident, whether or not such income is subject to withholding under G.L. c. 62B. See G.L. c. 62, § 4. Therefore, reimbursements for moving expenses paid to Massachusetts residents are subject to income tax, whether or not such amounts are subject to withholding.

#### **c. Moving Expense Reimbursements Paid to Nonresidents**

Income received by nonresidents is taxed only when derived from sources in Massachusetts. See G.L. c. 62 § 5A; 830 CMR 62.5A.1(1). Massachusetts source income includes income derived or effectively connected with any trade or business, including any employment carried on by a nonresident in Massachusetts. 830 CMR 62.5A.1(2). The Internal Revenue Service has ruled that moving expenses under I.R.C. § 217 are allocable to compensation for services at a *new* principal place of employment. See Rev. Rul. 76-162. Therefore, reimbursements for moving expenses are allocable to such a *new* principal place of employment. If a nonresident is reimbursed for moving expenses incurred in connection with the commencement of work at a new principal place of employment located in Massachusetts, such moving expense reimbursements constitute Massachusetts source income and are therefore subject to Massachusetts income tax. If a nonresident is reimbursed for moving expenses incurred in connection with the commencement of work at a new principal place of work located outside of Massachusetts, such moving expense reimbursements do not constitute Massachusetts source income, and are therefore not subject to Massachusetts income tax.

### **Issue 2. Deductibility of Moving Expenses**

For federal income tax purposes, I.R.C. Section 217 allows a deduction for certain moving expenses paid or incurred during the taxable year in connection with the commencement of work by a taxpayer as an employee or as a self-employed individual at a new principal place of work. For Massachusetts income tax purposes, effective for tax years beginning on or after January 1, 1988, no deduction for employment-related moving expenses is allowed, whether or not such expenses are reimbursed by

the employer, and irrespective of the potential availability of a federal tax deduction. See St. 1988, c. 106, s.8. See also, e.g., DOR Directive 86-4; Letter Ruling 84-40.

### **Issue 3. Withholding Tax for Employer-Reimbursed Moving Expenses**

#### **a. Federal Law**

Federal withholding of taxes on wages is governed by I.R.C. Section 3401(a). Withholding is required for wages paid by an employer to an employee. The term "wages," for federal withholding purposes, is defined as "all remuneration ... for services performed by an employee for his employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash, ..." except as otherwise provided. I.R.C. § 3401(a).

Section 3401(a)(1)-(20) provides for a number of items that are excluded from the federal definition of "wages". Section 3401(a)(15) provides that an employer's reimbursement of moving expenses is not considered to be wages for federal income tax withholding purposes if, at the time of payment, it is reasonable to believe that the employee will be entitled to a deduction for those expenses under I.R.C. § 217. Section 217, in turn, allows a deduction for certain moving expenses paid or incurred during the taxable year in connection with the commencement or work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, provided that certain requirements are met. Therefore, reimbursements paid specifically for moving expenses are not subject to federal withholding to the extent that it is reasonable to believe that the employee is or will be entitled to deduct such expenses under I.R.C. § 217. For purposes of this Directive, no Massachusetts withholding on moving expense reimbursements will be required if the employer reasonably believes that such amounts will be deductible by the employee under I.R.C. § 217. See Rev. Rul. 75-362. Conversely, if the employer does not reasonably believe that such amounts will be deductible by the employee under I.R.C. § 217, the employer must withhold on such amounts for Massachusetts withholding purposes.

#### **b. Massachusetts Law**

Massachusetts withholding of taxes on wages is governed by Chapter 62B of the Massachusetts General Laws. In general, Massachusetts withholding provisions follow the federal withholding provisions as amended and in effect for the applicable year. Under G.L. c. 62B, § 2, withholding is required from any "employer" paying "wages" to "employees." In determining whether amounts reimbursed by an employer to an employee for the employee's moving expenses are excluded from the definition of "wages," Massachusetts adopts the definition of wages found in I.R.C. § 3401(a), as amended and in effect for the applicable year. G.L. c. 62B, § 1.

If amounts paid by an employer to an employee as reimbursement for moving expenses are excluded from the definition of wages for federal purposes under I.R.C. § 3401(a)(15), and therefore are not subject to federal withholding, they likewise will be excluded from the definition of "wages" subject to Massachusetts withholding even though such amounts are includable in Massachusetts gross income. Consequently, no withholding will be required from these amounts under G.L. c. 62B. However, such amounts are not deductible under G.L. c. 62 and remain subject to Massachusetts income tax.

#### **Issue 4. Filing and Payment of Estimated Taxes**

Employees receiving employer reimbursements for moving expenses may be required to pay quarterly estimated taxes in accordance with G.L. c. 62B, §§ 13, 14. Under these provisions, every taxpayer who can reasonably expect to receive income taxable under G.L. c. 62 from sources other than wages upon which tax is required to be withheld and for whom the amount of estimated tax is more than \$200 is required to pay over estimated taxes using Form 1-ES. Failure to pay estimated taxes when due may result in the imposition of additions to tax under G.L. c. 62B, § 14. For further information regarding tax liability for those moving into or out of Massachusetts, taxpayers should refer to the Non-Resident Income Tax regulation 830 CMR 62.5A.1, DOR Directives 89-20 and 89-21, and Administrative Procedure 241.



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