

Income/Franchise:

Massachusetts DOR's Release on FY 2023 Budget Addresses State Treatment of IRC §§461(I) and 1400Z

Technical Information Release, TIR No. 23-5: Chapter 62 Conformity to Select Provisions of the 2022 Internal Revenue Code, Mass. Dept. of Rev. (3/1/23). The Massachusetts Department of Revenue issued a technical information release ("TIR 23-5") explaining certain provisions in the enacted Massachusetts Fiscal Year 2023 Budget, including the Massachusetts personal income tax implications of various federal tax law changes such as Internal Revenue Code (IRC) section 461(I) involving excess loss limitations for taxpayers other than corporations pursuant to the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (*i.e.*, P.L. 116-136), and investments in qualified opportunity zones as prescribed by IRC sections 1400Z-1 and 1400Z-2 under the federal Tax Cuts and Jobs Act of 2017 (*i.e.*, P.L. 115-97).

URL: <https://www.mass.gov/technical-information-release/tir-23-5-chapter-62-conformity-to-select-provisions-of-the-2022-internal-revenue-code>

Regarding certain losses allowed for noncorporate taxpayers, TIR 23-5 states that Massachusetts now conforms to the limitations under IRC section 461(I) for tax years beginning on or after January 1, 2022; however, "losses disallowed because of the limitation may not be carried forward for Massachusetts purposes because Massachusetts does not allow a chapter 62 tax deduction for net operating losses." Because Massachusetts now adopts the IRC as of January 1, 2022, TIR 23-5 explains that Massachusetts does not conform to the extension of the IRC section 461(I) limitation through the 2028 taxable year, as this federal extension was adopted in August of 2022. Accordingly, at least as of now, noncorporate taxpayers will be prevented from deducting excess business losses from their Massachusetts gross income only through the 2026 taxable year. Please contact us with any questions.

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