

EMERGENCY ALERTS

## Coronavirus Update

For the latest information on COVID-19: Guidance, regulations, case data, vaccine information *Mar. 29th, 2021, 5:00 pm*

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HIDE ALERTS

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NOTICE

### Updated information on PPP and Unemployment Income

(/info-details/tax-filing-season-frequently-asked-questions)



NOTICE

### Individual income tax returns and payments now due May 17, 2021.

(/technical-information-release/tir-21-2-extension-of-time-for-individuals-to-file-and-pay-2020-returns-and-taxes)



– WORKING DRAFT –

TECHNICAL INFORMATION RELEASE

# Working Draft TIR: Tax Provisions in An Act financing a program for improvements to the Unemployment Insurance Trust Fund and providing relief to employers and workers in the Commonwealth

DATE:

04/05/2021

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REFERENCED SOURCES:

[Massachusetts General Laws \(https://malegislature.gov/Laws/GeneralLaws\)](https://malegislature.gov/Laws/GeneralLaws)

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# **I. Introduction**

On April 1, 2021, “An Act financing a program for improvements to the Unemployment Insurance Trust Fund and providing relief to employers and workers in the Commonwealth” (the “Act”) was signed into law.[\[1\]](#) ([#\\_ftn1](#)) The Act contains a number of provisions relating to the Massachusetts personal income tax. This Technical Information Release (TIR) explains the impact of the following provisions of the Act:

- the taxation of certain amounts of unemployment compensation received in 2020 and 2021;
- the waiver of certain penalties related to unpaid taxes on unemployment compensation received in 2020 and 2021;
- the taxation of forgiven Paycheck Protection Plan (“PPP”) loans made pursuant to § 1102(a) of the federal Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”)[\[2\]](#) ([#\\_ftn2](#));
- the taxation of certain other federal COVID-related relief payments; and
- the due date for 2020 individual income tax returns and payments.

# **II. Taxation of Unemployment Compensation Received in 2020 and 2021**

Generally, unemployment compensation is taxable under G.L. c. 62. However, Section 26 of the Act provides that, for the taxable year beginning on January 1, 2020 and the taxable year beginning on January 1, 2021, up to \$10,200 of unemployment compensation that is included in a taxpayer’s federal gross income shall be deducted from federal gross income for purposes of determining Massachusetts gross income under G.L. c. 62, § 2, provided that the taxpayer’s household income is not more than 200% of the federal poverty level.[\[3\]](#) ([#\\_ftn3](#)) A deduction of up to \$10,200 may be claimed by each eligible individual for unemployment compensation received by that individual; the deduction is not limited to \$10,200 per return.

Taxpayers who have already filed their 2020 personal income tax returns and reported unemployment compensation as income should not file amended returns at this time. In the coming weeks, the Department of Revenue (“Department”) expects to send notices to taxpayers who reported unemployment to explain whether those persons may be eligible for relief. If a taxpayer is eligible for a refund, the Department will issue a refund payment to the taxpayer and the taxpayer need not take any action. However, if a taxpayer has unpaid tax or other specific governmental liability, the Department will first apply any overpayment toward these liabilities.<sup>[4]</sup> (#\_ftn4) For taxpayers who have not yet filed their 2020 personal income tax returns, the Department will make available a worksheet for determining the amount of the deduction and publish instructions as to how to report the deduction on a return.

### **III. Waiver of Penalties on Unpaid Taxes on Unemployment Compensation Received in 2020 and 2021**

Except as described in Part II above, unemployment compensation is generally taxable under G.L. c. 62. However, Section 8 of the Act provides for relief from certain penalties with respect to unemployment compensation included in Massachusetts gross income. Section 8 states that, until January 1, 2022, no penalty shall be assessed against a taxpayer solely for failure to remit taxes imposed on unemployment compensation received during the 2020 tax year.<sup>[5]</sup> (#\_ftn1)

Accordingly, while Section 8 is in effect the Department will not assess penalties pursuant to G.L. c. 62C, § 33(b) or G.L. c. 62B, § 14 on a taxpayer’s failure to pay any amount of tax solely attributable to unemployment compensation. If such penalties are assessed by the Department on a taxpayer’s failure to pay tax on unemployment compensation during this time, the taxpayer should file an appeal through MassTaxConnect ([https://mtc.dor.state.ma.us/mtc/\\_/](https://mtc.dor.state.ma.us/mtc/_/) ([https://mtc.dor.state.ma.us/mtc/\\_/](https://mtc.dor.state.ma.us/mtc/_/))), and the Department will abate the penalties. If an amount of tax on unemployment compensation received in 2020 or 2021 remains unpaid on January 1, 2022, the Department will begin assessing penalties on the failure to remit such taxes.

The Act does not provide for a waiver of penalties imposed with respect to any other type of income, nor does it provide for a waiver of other types of penalties that relate to taxes on unemployment compensation. Thus, the Department will continue to assess applicable penalties pursuant to G.L. c. 62C, § 33(b) and G.L. c. 62B, § 14 upon a taxpayer’s failure to remit taxes on any income other than unemployment compensation. Similarly, the Department will continue to assess all other penalties applicable under General Laws Chapter 62C, regardless of whether they relate to unemployment compensation.

### **IV. Taxation of Forgiven Paycheck Protection Program Loans**

Section 12 of the Act provides a deduction for cancellation of debt (“COD”) income related to forgiven PPP loans made under § 1102(a) of the CARES Act.<sup>[6]</sup> (#\_ftn1) The deduction applies to the taxable year beginning January 1, 2020. PPP loan borrowers subject to the Massachusetts personal income tax, including Schedule C filers, certain partners in a partnership, and S corporation shareholders should not include in Massachusetts gross income the amount of a PPP loan forgiven under § 1106(b) of the CARES Act during the 2020 tax year.

The deduction parallels the federal exclusion for such income provided in the CARES Act. The Department previously stated, in TIR 20-9, that the amounts of COD income from such forgiven loans would be taxable under G.L. c. 62 because, for personal income tax purposes, Massachusetts generally follows the Internal Revenue Code as amended and in effect on January 1, 2005. The Act alters the outstanding law and brings Massachusetts into conformity with the federal rule contained in the CARES Act. Consequently, this TIR supersedes TIR 20-9 with respect to the prior analysis as it relates to borrowers subject to the Massachusetts personal income tax.<sup>[7] (#\_ftn2)</sup> Taxpayers who have already filed their 2020 personal income tax returns and included forgiven PPP loans in Massachusetts gross income should file an amended return on MassTaxConnect to exclude these amounts.

## V. Taxation of Other Federal COVID-Related Relief Payments

Section 12 of the Act also provides that certain other federal COVID-related relief amounts should be deducted from federal gross income for purposes of determining Massachusetts gross income under G.L. c. 62, § 2 for the taxable year beginning January 1, 2020.<sup>[8] (#\_ftn1)</sup> These amounts include (i) the amount of any advance received as an Economic Injury Disaster Loan pursuant to § 1110(e) of the CARES Act; (ii) the amount of any Small Business Administration payment described in § 1112(c) of the CARES Act; and (iii) the amount of any funding received as an Economic Injury Disaster Loan pursuant to § 331 of the federal Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act.<sup>[9] (#\_ftn2)</sup> Accordingly, taxpayers who received such federal payments in 2020 should exclude these amounts from their Massachusetts gross income. Taxpayers who have already filed their 2020 personal income tax returns and included such federal payments in taxable income should file an amended return on MassTaxConnect to exclude these amounts.

## VI. Due Date Change for 2020 Individual Income Tax Returns and Payments

Pursuant to Section 9 of the Act and as previously announced in TIR 21-2, all individual income tax returns and payments for the 2020 calendar year otherwise due on April 15, 2021 under G.L. c. 62C, § 6(a) are now due May 17, 2021.<sup>[10] (#\_ftn1)</sup> This extension of time to file and pay is consistent with the extension of the federal income tax return filing and payment deadline for individuals announced on March 17, 2021.<sup>[11] (#\_ftn2)</sup>

Individual taxpayers will be eligible for an automatic extension of time to file their personal income tax returns as long as the amount required to be paid for a valid personal income tax extension is paid by May 17, 2021.

<sup>[12] (#\_ftn3)</sup> The duration of the automatic extension will date from the original due date of the return, April 15, 2021, and not May 17, 2021. The extension described in this TIR does not apply to estimated tax payments.

The Department will automatically extend the due date for filings and payments for taxpayers. An eligible taxpayer who files and pays by May 17, 2021 and is assessed interest, late-file or late-pay penalties, or other charges inconsistent with this TIR should electronically file a dispute to request an abatement of such charges through the Department's website at <https://www.mass.gov/dor> (/dor), using MassTaxConnect. TIR 21-2 is superseded by Section V of this TIR.

[1] (#\_ftnref1) St. 2021, c. 9.

[2] (#\_ftnref2) P.L. 116-136.

[3] (#\_ftnref3) St. 2021, c. 9, § 26. While the federal government included a similar provision in the American Rescue Plan Act of 2021 (“ARPA”), a taxpayer’s eligibility for the Massachusetts deduction may be different than for the federal deduction. ARPA provides for the exclusion from federal gross income of up to \$10,200 of unemployment compensation received by a taxpayer in 2020 only if the taxpayer’s federal adjusted gross income is less than \$150,000. H.R. 1319.

[4] (#\_ftnref4) Such other liabilities include past due Massachusetts child support payments.

[5] (#\_ftnref1) St. 2021, c. 9, § 8.

[6] (#\_ftnref1) St. 2021, c. 9, § 12.

[7] (#\_ftnref2) The analysis of TIR 20-9 as it relates to corporate taxpayers remains unchanged.

[8] (#\_ftnref1) St. 2021, c. 9, § 12.

[9] (#\_ftnref2) P.L. 116-260, Division N, Title III.

[10] (#\_ftnref1) St. 2021, c. 9, § 9. Taxpayers that have already filed their 2020 returns without making associated payments have until May 17, 2021 to make such payments.

[11] (#\_ftnref2) See <https://www.irs.gov/newsroom/tax-day-for-individuals-extended-to-may-17-treasury-irs-extend-filing-and-payment-deadline>

(<https://www.irs.gov/newsroom/tax-day-for-individuals-extended-to-may-17-treasury-irs-extend-filing-and-payment-deadline>).

[12] (#\_ftnref3) See TIR 16-10: Simplified Extension Process for Individuals, Fiduciaries, Partnerships, and Estates.