



# The Commonwealth of Massachusetts

## Department of Revenue Rulings and Regulations Bureau P.O. Box 9566

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August 21, 2017

Joseph Kriesberg, President  
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Dear Mr. Kriesberg,

I am writing in response to your email dated August 9, 2017 asking whether an organization exempt from taxation under Internal Revenue Code ("Code") § 501(c)(3) that makes a qualified investment is eligible to claim a community investment tax credit ("CITC").

A "Taxpayer" entitled to claim a CITC under M.G.L. c. 62, § 6M is defined under subsection (b) of that section as "a taxpayer subject to the personal income tax under [chapter 62]." Similarly, a "Taxpayer" entitled to claim a CITC under M.G.L. c. 63, § 38EE is defined under subsection (b) of that section as "a taxpayer subject to the excise under [chapter 63]."

An unincorporated organization exempt from taxation under Code § 501(c)(3) is subject to taxation under c. 62 (and thus eligible to claim a CITC) on any "Massachusetts unrelated business income," which "is the exempt unincorporated [organization's] federal gross income derived from any unrelated business activity with the modifications set forth in M.G.L. c. 62, § 2." 830 CMR 63.38T.1(5)(a) and (b); G.L. c. 62, § 2. Similarly, a corporate entity exempt from taxation under Code § 501(c)(3) is subject to taxation under c. 63 (and thus eligible to claim a CITC) on any "Massachusetts unrelated business income." G.L. c. 63, § 38Y. See *also*, LR 06-2, Ruling 3; 830 CMR 63.38T.1(3)(a)-(c).

In addition to claiming a CITC, an organization exempt from taxation under Code § 501(c)(3) that makes a qualified investment is also eligible to claim a refund of the credit. As stated in subsection (14) of the *Community Investment Tax Credit* Regulation, 830 CMR 62.6M.1, "[a]n organization exempt from taxation under Code § 501 that makes a qualified investment is eligible to claim a refund of the credit. The Commissioner shall apply the credit first against the organization's liability arising from its unrelated business taxable income, as defined in § 512 of the Code, if any, as reported on the organization's income tax return, whether or not the credit results from the unrelated business activity of the organization that gave rise to such liability, and then refund the balance of the credit to the organization."

For your convenience, all of the public written statements mentioned above are available on the Department's website at [www.mass.gov/dor](http://www.mass.gov/dor).

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This e-mail response is an "information letter" within the meaning of the Letter Ruling Regulation, 830 CMR 62C.3.2. It is intended to provide general information such as the potential applicability of Department of Revenue public written statements or well-established principles of tax law, but it is not intended to provide authoritative guidance on the application of the tax laws to a specific set of facts. This response is not a "ruling" or "letter ruling" that is legally binding on the Department.

Very truly yours,

*Pamela L. Swart*

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