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FACTS AT A GLANCE October 13, 2009

Facts At a Glance: Corporate Tax Update

In 2008 Massachusetts adopted significant reforms of its tax laws to reduce corporate tax avoidance while also reducing the overall corporate tax rate. During the debate on this legislation, a number of proposals were put forth that created new tax breaks or weakened the state's ability to enforce the tax laws effectively. Many of these proposals were ultimately rejected. One proposal that was included in the law related to the interaction of Federal Accounting Standard 109 and the tax reforms being implemented.

At the time *MassBudget* noted:

> "The House bill includes a provision for a new tax break that was not in the proposed legislation of the Governor, the Joint Committee on Revenue, or the House Ways and Means Committee. This provision would give a new tax break to companies 'if book-tax differences for the fiscal period ending during the year of enactment of this section result in an increase to a net deferred tax liability or decrease to a net deferred tax asset for any taxpayer affected by this section.' There is no publicly available explanation of what this provision could cost or what policy goals might justify the cost."[1]

A provision providing this tax break was included in the final legislation. As part of that legislation, corporations seeking to claim the FAS 109 deduction were required to file a statement with the Department of Revenue reporting the effects of the legislation on their deferred tax liabilities and the deduction and tax benefit that these companies would be claiming. On Sept. 23 of this year the state Department of Revenue issued a report, based on this information, which estimates a seven-year cost of at least $535 million.

> "… the 128 public corporations for which data are complete indicate that they intend to claim FAS 109 deductions of $178.1 billion, which would result in corporate tax savings of $535.0 million at the applicable tax rates in the years in which the deductions will be claimed. Of the $535 million in corporate tax savings, approximately $472 million (or 88 percent of the total) is attributable to 14 corporations, with $441 million (or 83 percent) accounted for by 9 corporations, and $281 million (or 52 percent) accounted for by three corporations."[2]

It is important in analyzing proposed changes to the tax laws to identify clearly the costs and the policy rationale for the Commonwealth—as well as for the companies that would benefit—before enacting potentially costly changes. As with direct expenditures, policymakers should ask what the public purpose is and whether the proposal is a cost-effective way to achieve an important goal.

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[1] See *MassBudget Brief: Corporate Tax Reform, Comparing House and Senate Proposals*, available at http://massbudget.org/598#newtaxbreak, June 5, 2008.

[2] See *Massachusetts Department of Revenue Report on FAS 109 Tax Deductions*, available at http://www.massbudget.org/doc/692, Sept. 23, 2009.