

Form 63-23 Instructions

Who Must File Form 63-23?

All classes of foreign insurance companies subject to MGL Ch. 63, Secs. 23 and 24A must file Form 63-23. Life insurance companies that are taxable under MGL, Ch. 63, Sec. 20, 21 or 23 and marine business companies taxable under MGL Ch. 63, Sec. 29A are not required to file this form.

A foreign company is any company organized or formed in any state or country other than Massachusetts.

When Must Form 63-23 Be Filed?

Form 63-23, together with payment in full of any tax due, must be filed on or before the 15th day of the third month after the close of the company's taxable year.

May an Insurance Company Obtain an Extension of Time to File?

Yes. Form 63-23 filers may request a six-month extension of time to file by submitting Massachusetts Form 355-7004 Misc. on or before the original due date. Any tax due at the time of filing Form 355-7004 Misc. must be paid in full.

Note: An extension of time to file is not valid if the company fails to pay at least 50% of the total tax liability through estimated payments or using Form 355-7004 Misc.

What Are the Penalties for Late Returns?

Insurance excise returns that are not filed on or before the due date are subject to interest and penalty charges. The penalty for failure to pay the total amount due with this form is $\frac{1}{2}\%$ of the balance due per month (or fraction thereof), up to a maximum of 25%. A late payment penalty does not apply to amended returns when the amount shown on the original return was paid.

The penalty for failure to file a return by the due date is 1% of the balance due per month (or fraction thereof), up to a maximum of 25%.

Any tax not paid on or before the due date — without regard to the extension — is subject to interest.

What Is a Valid Return?

A valid return is one upon which all required amounts have been entered for all of the appropriate items on the form. Applicable forms and documents may be attached to explain these amounts. Referencing items to attachments instead of properly entering all amounts onto the return is not sufficient. The return **must** be signed by either the treasurer or assistant treasurer of the company.

To be valid, a Form 63-23 must also include the following:

- a copy of Schedule T, Exhibit of Premiums Written from the NAIC Annual Statement; and
- a statement from those companies who are members of the Massachusetts Property Insurance Underwriting Association (Fair Plan) and/or Crime Insurance Program — the statements must indicate the amounts disbursed, the percentage of participation, the policy year and whether the premiums associated with the disbursement were included on Schedule T of the NAIC Annual Statement.

Reproduction of returns must be approved by DOR prior to filing and meet the criteria provided in Technical Information Release 95-8.

Failure to meet any of the requirements detailed in this section may result in a penalty for filing an insufficient return. Such a penalty may be assessed at double the amount of the tax due.

When Are Estimated Tax Payments Required?

Any insurance company which reasonably estimates its excise to be in excess of \$1,000 for the taxable year is required to make estimated tax payments to the Commonwealth. Estimated taxes may be paid in full on or before the 15th day of the third month of the company's taxable year or in four installment payments according to the schedule below. Insurance companies making estimated payments must use Form 355-ES to make their payments.

For taxable years ending on or after December 31, 1989, estimated tax installments are paid as follows:

Installment no.	Pct. of estimated tax due	Due date from start of taxable year
1	40%	15th day of 3rd month
2	25%	15th day of 6th month
3	25%	15th day of 9th month
4	10%	15th day of 12th month

Note: New corporations in their first full taxable year with less than 10 employees have different estimated payment percentages — 30%, 25%, 25% and 20% respectively.

Special Optical Character Readable payment vouchers are mailed to all companies that have made estimated payments or should be making estimated payments. These special forms are easier to fill out and facilitate processing.

Insurance companies that underpay, or fail to pay, their estimated taxes may incur an additional penalty on the amount of the underpayment for the period of the underpayment. Form M-2220, Underpayment of Massachusetts Estimated Tax by Corporations, is used to compute the additional charge.

Any corporation having \$1 million or more of federal taxable income in any of its three preceding taxable years (as defined in Section 6655 (g) of the IRC) may only use its prior year's tax liability to calculate its first quarterly estimated tax payment. Any reduction in the first installment payment that results from using this method must be added to the second installment payment.

A company that claims the exception to the underpayment penalty of equaling the prior year's tax liability **must provide federal tax returns** (one page only) for the three preceding taxable years to verify that federal taxable income is less than \$1 million.

Note: Any insurance company required to file more than one type of excise return must also file separate estimated tax payment vouchers since each type of tax is governed by a different section of the Massachusetts General Laws.

For more information on corporate estimated taxes, refer to MGL, Chapter 63B.

How Is the Excise Determined?

Foreign insurance companies are taxed on gross premiums written or renewed, and finance charges imposed on those premiums in Massachusetts.

Are Combined Returns Allowed?

No. Foreign Insurance companies are **not** allowed to participate in filing combined returns.

Line Instructions

Federal Audit

If your corporation has undergone a federal audit for some prior year, you must report any changes on Massachusetts Form CA-6, Application for Abatement/Amended Return, within three months after the final determination of the correct taxable income by the IRS. Otherwise, you will be subject to a penalty. Answering "yes" to this question does not relieve the company of this filing obligation.

Should the Whole Dollar Method Be Used?

Yes. All amounts entered must be rounded off to the nearest dollar.

Computation of Excise

Line 1: Income. Enter the amount of total net direct premiums subject to tax in Massachusetts from Schedule T of the NAIC Annual Statement. Include in this amount any finance and service charges from Schedule T. If amount is negative, enter "0."

Please note that ocean marine premiums reported on your 2003 Ocean Marine Profits Tax Return are deductible from net direct premiums.

Net Direct Premiums are gross premiums, exclusive of reinsurance assumed, as written in:

- all policies issued or renewed (including dividends applied to payment of renewals, and policy and membership fees whether or not actually received by the company);
- all additional premiums charged on policies issued in this or in previous years; and
- all assessments made upon policyholders, for insurance of property or interests in Massachusetts or which are subjects of insurance issued through companies or agents in this State;

Less:

- premiums on direct policies written but not taken or canceled through default of payment; and
- premiums returned to policyholders on canceled policies of direct insurance, but without deduction or exclusion in any manner of reinsurance ceded, dividends, commissions, expenses or losses.

Line 2. If applicable and not previously reported on Schedule T, include the policy year amount of "Fair Plan" participation premiums incurred with the Massachusetts Property Tax Insurance Underwriting Association and/or Crime Insurance Program.

Line 4: Deduction. Enter the total of dividend deductions for premiums returned or credited to policyholders in Mass. as dividends on direct business from Schedule T of the NAIC Annual Statement.

Line 7: Retaliatory tax. Use the back of Form 63-23 to calculate your excise using the same method and rate used by the state in which you are incorporated and would be imposed on a like Massachusetts insurance company, or its agents, if doing business to the same extent. If the computation in the state of your incorporation is in every respect the same as your Massachusetts computation, a statement to that effect should be made. Enter this amount in line 7. Retaliatory tax provisions are provided under MGL Ch. 63, secs. 23 and 24A.

Line 8: Credit Recapture. If the corporation is required to recapture any amount of previously claimed EOAC or Low-Income Housing Credit, complete Schedule H-2 and enter the result in line 8 of the return. Current year credits can then be used to offset the total excise due which will include the recapture amount.

Line 10: Initiative credit. A company shall be allowed a credit against the premium tax equal to 1.5 percent of such company's total capital contribution in excess of their full proportionate share which shall mean an investment in the Massachusetts Property and Casualty Insurance Company Community and Economic Development Initiative.

This credit is effective for tax years in which the aggregate cumulative investment in the Property and Casualty Initiative reaches 100 million or the tax year 2004, whichever is later.

Line 11: Credit for member insurers of the Massachusetts Life and Health Insurance Guaranty Association. Enter 10% of the assessment for each of five years following the year in which the assessment was paid. If the sum of offsets exceeds \$3,000,000, the excess may be carried forward and may be used in a year in which the \$3,000,000 is **not** exceeded. If the total offsets exceed \$3,000,000 in a year, the Department of Revenue will assess each member with an additional tax equal to the amount of the offset which exceeds \$3,000,000 of such members pro rata share. If the total offsets do not exceed \$3,000,000 in a year, the Department of Revenue will calculate each members' pro rata share to determine the amount of refund due each member and issue a refund to each member.

Line 12: Economic Opportunity Area Credit. Enter the amount of Economic Opportunity Area credit claimed this year from Schedule EOAC, line 10. Attach a completed Schedule EOAC to this return. For more information, contact the Massachusetts Office of Business Development at One Ashburton Place, Room 2101, Boston, MA 02108.

Line 13: Full Employment Program Credit. A qualified employer participating in the Full Employment Program may claim a credit of \$100 per month of eligible employment per employee. The maximum amount of credit that may be applied in all taxable years with respect to each employee is \$1,200. Attach Schedule FEC to this return. For more information, contact the Department of Transitional Assistance, 600 Washington Street, Boston, MA 02111.

Line 14: Low-Income Housing Credit. To claim the Low-Income Housing Credit, documentation must be enclosed with the return. For further information on this credit, contact the DHCD, Division of Private Housing, at (617) 727-7824.

Line 16: Voluntary contribution for endangered wildlife conservation. Any corporation that wishes to contribute any amount to the Natural Heritage and Endangered Species Fund may do so on this form. This amount is added to the excise due. It increases the amount of the corporation's payment or reduces the amount of its refund.

The Natural Heritage and Endangered Species Fund is administered by the Department of Fisheries, Wildlife and Environmental Law Enforcement to provide for conservation programs for rare, endangered and nongame wildlife and plants in the Commonwealth.

Lines 18 through 20: Payments. Enter in line 18 any overpayment credited from 2002 to 2003. Enter estimated tax payments made in 2003 in line 19. Any extension payment should be entered in line 20. Line 21 should reflect the total payments made for the entire year.

Lines 22 through 24: Overpayment and refund. If the amount in line 21 is larger than the amount in line 17, enter the amount overpaid in line 22.

The overpayment may be applied in part or in full to 2004 estimated taxes by entering in line 23 the amount to be credited to 2004 estimated tax payments. Enter the amount to be refunded in line 24.

An overpayment of excise cannot be applied as a credit to the tax of another account of this company or to the tax of another company.

Line 25: Balance due. If line 17 is larger than line 21, enter the balance due in line 25. Payment in full is due on or before March 15, 2004.

Line 26: Penalties. Any company that has an underpayment of estimated tax will incur a penalty on the underpayment for the period of the underpayment. Attach a copy of Form M-2220. For more information, refer to the section, "When Are Estimated Tax Payments Required?"

Any company that fails to file a timely return will be subject to a late filing penalty of 1% per month, or fraction thereof, and a late payment penalty of ½% per month, or fraction thereof, on the amount required to be shown as the tax due on the return. For more information, refer to the section, "What Are the Penalties for Late Returns?"

Line 27: Interest. Any company that fails to pay its tax when due will be subject to interest on the unpaid balance. For more information, refer to the section "What Are the Penalties for late Returns?"

Line 28: Payment due. Enter the total payment due. Checks for this amount should be made payable to the **Commonwealth of Massachusetts**. Checks should have the company's federal identification number written in the lower left corner.

Signature

When the form is complete, it must be signed by the treasurer or assistant treasurer. If you are signing as an authorized delegate of the appropriate corporate officer, check the box in the signature section and attach a Massachusetts Form M-2848, Power of Attorney. Mail forms to: **Massachusetts Department of Revenue, PO Box 7052, Boston, MA 02204.**