



MULTISTATE INCOME/FRANCHISE TAX

Massachusetts Life Sciences Center Tax Incentive Program expected to open in December 2023

Tax Alert

Overview

The Massachusetts Life Sciences Center (“MLSC”) is anticipated to officially announce the opening of the 2024 [MLSC Tax Incentive Program](#) (“MLSC Program”) in early December 2023. The MLSC is a quasi-governmental economic development agency dedicated to the support and growth of the life science industry in Massachusetts, including the administration of the MLSC Program. Traditionally, applications under this program have only been accepted during the specified application window, which opens annually in early to mid-December and closes in early February. Several of the incentives offered under the MLSC Program are refundable and may be claimed on the applicant’s 2023 Massachusetts Corporate Excise Tax return.

This Tax Alert summarizes the procedural requirements of the MLSC Program.

Program summary

Under the MLSC Program, Qualified Life Sciences Companies, as defined by NAICS code, committing to hire new employees in the state may apply for refundable tax benefits, as discussed below. Incentives may be awarded up to \$25,000 per new job created but have historically averaged approximately \$15,000 per new job created. However, it is important to note that the MLSC exercises significant discretion when allocating incentive awards, due in part, to annual statutory and funding limitations. For the current round of applications, the MLSC may not award more than [\\$30 million in tax incentives](#).

Application process

Applications must be submitted on or before 12:00 pm EST on the day of the application deadline via the MLSC’s web-based application portal. Applications submitted after the deadline will not be considered. Following the MLSC’s review of the application, the MLSC staff will recommend applicants to receive awards to the MLSC Board of Directors. Applicants receiving an award are then required to enter into an incentive agreement with the MLSC.

Key criteria

The MLSC staff will utilize the below criteria in evaluating complete applications:

1. [Threshold Criteria](#) reflects the statutory requirements of the program relating to an applicant's eligibility, for example:
 - a. Applicants must be registered to do business in Massachusetts;
 - b. Applicants must employ at least 10 permanent full-time employees as of Dec. 31, 2023;
 - c. Applicants must commit to hiring at least 10 new net jobs in calendar year 2024 in Massachusetts and commit to retaining those jobs through Dec. 31, 2028; and
 - d. Applicants must be certified under the Life Sciences Act.

2. [Programmatic Criteria](#) – Applications should be representative of a balanced and strong portfolio of tax beneficiaries, including but not limited to factors such as:
 - a. Applicant's ability to create and retain jobs for five (5) years;
 - b. Applicant's wide geographic distribution of life sciences operations in Massachusetts;
 - c. Applicant's wide distribution of life sciences technologies and industries supported by MLSC; and/or
 - d. Diversity among businesses at different stages of product development and commercialization.

3. [On-Site Requirements](#) – For purposes of the job creation and retention requirements, a company may consider:
 - a. All permanent full-time employees who are Massachusetts residents; and
 - b. All permanent full-time employees who are not Massachusetts residents but work on-site at the project location at least 50% of the time.

Incentives

The value of the award is calculated as a function of a discretionary credit amount multiplied by the number of new jobs created. To utilize the full value of the award, taxpayers may select one or a combination of nine incentives [available only to Certified Life Science Companies](#):

- Life Sciences investment tax credit (refundable)
- FDA user fees credit (refundable)
- Extension of net operating losses from 5 to 15 years
- 90% refund of already-available excess §38M research credits
- §38W life sciences research credit
- Deduction for qualified orphan drug expenses
- Designation as R&D company for sales tax purposes
- Sales tax exemption for certain property
- Life sciences jobs incentive credit (refundable) *

**Requires the creation of at least 50 net new jobs.*

Incentives compliance

Certified Life Sciences Companies under the MLSC Program are required to file an annual report with the MLSC for a five-year period. This annual report should include details demonstrating compliance with any hiring and employment targets set forth in any incentive agreement.

Considerations

Given the limited timeframe to apply, and the current aggregate credit limit, practitioners and businesses in the Life Sciences industry should consult with the Deloitte Multistate Tax Credits & Incentives team members listed below regarding these incentive programs.

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