

## Income/Franchise:

### Massachusetts Appellate Tax Board Says Financial Institutions are Eligible for Research Tax Credits

*Case No. C344139*, Mass. App. Tax Bd. (8/15/24). Granting summary judgment for a taxpayer (a bank) filing combined Massachusetts financial institution excise tax returns and claiming Massachusetts research credits for its research credit tax years (*i.e.*, tax years ending December 31, 2016, December 31, 2017, and December 31, 2018), including the tax year at issue (*i.e.*, tax year ending December 31, 2018), the Massachusetts Appellate Tax Board (ATB) concluded that G.L. c. 63, § 38M does *not* limit eligibility for the Massachusetts research credit to business corporations taxed under G.L. c. 63, § 39 (*i.e.*, the corporate excise tax), and that the provisions of G.L. c. 63, § 38M(a)(1) permit “business corporations” to claim the Massachusetts research credit “with no specified distinctions for eligibility based on the type of business corporation.” Accordingly, given that the ATB found there were no material facts in dispute in the appeal, it held that the bank, as a business corporation, properly claimed Massachusetts research credits on its combined Massachusetts financial institution excise tax returns for the research credit tax years, including the tax year at issue.

**URL:** <https://www.mass.gov/doc/state-street-corporation-v-commissioner-of-revenue-august-15-2024/download>

While acknowledging that the bank and its subsidiaries constituted “business corporations” under G.L. c. 63, §30(1), the Massachusetts Department of Revenue (Department) unsuccessfully claimed that G.L. c. 63, § 38M – along with the corresponding regulation at 830 CMR 63.38M.1(3)(b) – must be interpreted to mean that only business corporations subject to the excise imposed under G.L. c. 63, § 39 may claim the Massachusetts research credit, and that because a financial institution is taxed under G.L. c. 63, § 2, rather than G.L. c. 63, § 39, it is ineligible. Contrary to the Department’s assertions, the ATB noted that there was “nothing patently absurd or illogical about a financial institution claiming a research credit” under applicable state law, and that in failing to be updated to address 2008 statutory amendments, the regulation at 830 CMR 63.38M.1 “cabined its applicability” to the statutory regime in place prior to the 2008 statutory amendments. Under the facts, for each of the research credit tax years, the bank reported Massachusetts research credits pursuant to G.L. c. 63 on its Massachusetts combined returns, as well as federal research credits pursuant to Internal Revenue Code section 41 on its federal income tax returns. Please contact us with any questions.

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