

Financial Services - Insurance Tax Bulletin

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Certified HMO is included in a unitary group's Massachusetts combined excise tax return

In Brief

A certified HMO does not qualify as an insurance company and, as a result, must be included in a combined return with its unitary, non-insurance company affiliates.

[[Massachusetts Letter Ruling 12-9](#) (7/27/12)]

In Detail

Taxpayer was certified by the Massachusetts Division of Insurance as a Health Maintenance Organization (HMO). Taxpayer was a member of a federal consolidated group consisting of non-insurance company members. Taxpayer was in a unitary relationship with members of its federal consolidated group.

Insurance companies are excluded from combined reports

Massachusetts generally requires corporations engaged in a unitary business to file a combined corporate excise tax return. Therefore, Taxpayer is required to join in the Massachusetts combined return with its unitary members, unless an exclusion provides otherwise.

For example, a company is excluded from a combined report when: (1) it is an entity described as engaged in insurance activities under Mass. Gen. Laws (MGL) c. 63, Secs. 20-29E; and (2) is further treated as either a life insurance company under IRC Sec. 816 or an insurance company under IRC Sec. 831.

The HMO Taxpayer is not engaged in insurance activities

The letter ruling viewed MGL c. 63 Secs. 22 and 23 as the most pertinent to describing Taxpayer. Sections 22 and 23 impose an excise tax on domestic and

foreign insurance companies that come within the definition of a domestic or foreign company as defined in MGL c. 175. HMOs, like Taxpayer, are defined by reference to MGL Sec. 176G, which specifically provides that MGL c. 175 does not apply to HMOs.

As a result, the letter ruling provides that "none of the sections included in MGL c. 63 Secs. 20-29E pertaining to insurance companies . . . describe or apply to Taxpayer." Because Taxpayer is not excluded from the combined group, it must be included in the Massachusetts group return of unitary affiliates.

Actions to Consider

States are divided regarding whether to treat HMOs as insurance companies. Massachusetts can be included among the states that do not treat HMOs as insurance companies. HMOs are simply defined under a different statutory structure (chapter 176G) than what is required to qualify as an insurance company (chapter 175). Taxpayers with HMOs in their corporate structure should ensure that their filings are consistent with the guidance provide in letter ruling 12-9.

Let's Talk

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