



Tax Insights
from State and Local Tax
Services

Massachusetts requires Sections 174A, 168(n), and 163(j) modifications, extends PTET benefits to “Millionaire’s Tax”

June 23, 2026

In brief

What happened?

Massachusetts’ supplemental budget enacted on June 12 requires an addback for certain amounts deducted under P.L. 119-21 (the “OBBA”), including for domestic R&E in 2025, the enhanced interest deduction in 2025 and 2026 and the qualified production property deduction in 2025 and 2026. Further, the legislation will allow each of these deductions for future years unless a proposed November 2026 ballot initiative to lower the personal income tax rate passes. However, on June 18, the Massachusetts Supreme Judicial Court issued an opinion enjoining the Secretary of the Commonwealth from placing the initiative on the ballot. As a result, these modifications will not apply to future years.

The legislation also expands the pass-through entity tax (PTET) to account for the state’s “Millionaire’s Tax,” effective for tax years beginning in 2026, in addition to other changes.

[[H. 5470](#) (FY 26 supplemental budget), enacted 6/12/2026; *Finfer v. Attorney General et al.*, Mass., No. SJC-13885, opinion 6/18/2026]

Why is it relevant?

With this legislation and the court’s decision, Massachusetts is allowing future conformity to some of the OBBA’s business tax benefits. The state also is significantly expanding the PTET

benefit (thereby enhancing federal deductibility) to lessen the impact of the “Millionaire’s Tax” on high earners.

Actions to consider

Taxpayers should evaluate the potential impact of these conformity changes on their 2025 return preparation, remaining 2025 and 2026 estimated payments, and financial statement tax provision calculations. Businesses also should model the impact of Massachusetts’ future conformity to these OBBBA provisions in light of the court decision, while monitoring for any further legislative or legal developments that could affect the state’s conformity posture.

In detail

Modifications for certain OBBBA provisions

The legislation requires modifications for certain OBBBA provisions with which the state would have otherwise automatically conformed but will conform with these provisions in future years.

Section 174A domestic research and experimental (R&E) expenditures

For both Massachusetts personal income tax and the general corporate excise, the legislation disallows the federal deductions under Section 174A for domestic R&E expenditures and under OBBBA Sec. 70302(f), which contains the “catch-up” elections to accelerate the deductibility of domestic R&E expenses in 2022-2024. The legislation provides that taxpayers instead are to deduct R&E expenditures as they were permitted to do under Section 174 prior to amendment by the OBBBA. These provisions apply to tax years beginning on or after January 1, 2022.

The legislation further strikes the above provisions (thereby providing Section 174A conformity) effective for tax years beginning on or after January 1, 2026. The legislation also provided that this Section 174A conformity would not take effect if the “25-18 Initiative Petition” to decrease the personal income tax rate were approved by voters in November 2026. However, that initiative will no longer appear on the ballot.

Observation: These provisions have the effect of requiring a Section 174A modification for 2025 but not for 2026 forward.

Section 163(j) interest expense limitation and Section 168(n) qualified production property

For both Massachusetts personal income tax and the general corporate excise, the legislation disallows the following federal deductions for tax years beginning in 2025 and in 2026:

- The federal deduction for interest expense allowed under Section 163(j) to the extent that the definition of ATI is modified by the OBBBA (which restored depreciation, amortization, and depletion for calculating the interest expense limit).
- The federal deduction for immediate expensing of qualified production property under Section 168(n).

While the legislation provides for an addition modification to taxable income for these two OBBBA provisions, the legislation did not specifically provide for a subtraction modification for any disallowed amount relating to these two Massachusetts modifications.

The legislation also would have disallowed the above deductions for all future tax years (i.e., from 2027 onward) if the 2026 ballot initiative described above had passed. However, as discussed above, the initiative will not appear on the ballot in November.

Observation: These provisions have the effect of requiring Section 163(j) and Section 168(n) modifications for 2025 and 2026. Massachusetts' rolling conformity results in conformity with these federal provisions for 2027 and future years.

Interest and penalty relief

The legislation provides some relief to taxpayers that have already filed their 2025 tax returns without taking the retroactive addition modifications from the above OBBBA provisions into account. Specifically, under the legislation, "interest and penalties shall not be imposed on an underpayment or late payment of tax for taxable years beginning in 2025 where a taxpayer filed a return ... prior to the enactment of this act that did not [take de-conformity into account], and the taxpayer files a subsequent return ... to adjust the previous return [to take these changes into account] within 90 days of enactment of this act."

Observation: It should be noted that the legislation does not specify relief for those taxpayers that have chosen to extend their return and made estimated payments without taking the changes of the bill into account. It remains to be seen whether the Department will provide any special administrative relief for taxpayers under these circumstances or will require taxpayers to apply for penalty waivers through normal course.

Automatic non-conformity with recent federal changes

Under current law, Massachusetts generally conforms to the IRC as amended and in effect for corporate excise purposes (unless there is a provision that specifically adjusts conformity with federal law). For personal income tax purposes, Massachusetts generally conforms to the IRC as amended on January 1, 2024, although Massachusetts will currently conform to a number of IRC code sections as amended and in effect.

The legislation includes a measure to safeguard against future "mid-year" revenue shocks due to changes in federal law, effective for tax years beginning on or after January 1, 2026. The legislation automatically delays conformity to future federal tax policy changes by up to one year, where those changes impact revenue projections by \$20 million or more in lost or gained revenue based on a rolling three-year average (adjusted for inflation). Unless the Massachusetts Commissioner of Revenue determines that the revenue impact is below this threshold, then such changes will not apply to the tax year that begins in (or precedes) the calendar year in which the amendment to the IRC is enacted. The Commissioner has 90 days after the federal amendment is enacted to make this determination. In addition, the legislation also requires the Commissioner to submit to the Legislature the estimated impact of any IRC changes on individual and corporate tax revenue within 60 days of their enactment.

Expansion of PTET to account for "Millionaires Tax"

In 2021, Massachusetts enacted a PTET, an elective entity-level excise tax created to lessen the impact on some taxpayers of the individual limitation on the federal SALT deduction imposed by the TCJA. Currently, the tax is imposed on 5% of an eligible pass-through entity's "qualified income taxable

in Massachusetts" (i.e., the income of an eligible pass-through entity that is allocable to a "qualified member" and included in a qualified member's Massachusetts income tax base). A qualifying member of an electing eligible pass-through entity is permitted to claim a refundable credit against such member's Massachusetts personal income tax liability. This credit is equal to 90% of each qualified member's share of tax due and paid by the eligible pass-through entity.

Subsequent to the enactment of the PTET, Massachusetts voters approved a constitutional amendment to impose an additional 4% surtax on incomes over \$1 million (adjusted for inflation) for tax years beginning on or after January 1, 2023. Thus, high earners have been effectively paying 9% on their Massachusetts income over this threshold. Unfortunately, those that are qualified members of an electing pass-through entity only get the federal benefit up to the current 5% PTET rate.

The legislation adds a separate PTET election on income exceeding the \$1 million surtax threshold. The legislation creates new "Chapter 63E", which essentially mirrors the original PTET statute found in Chapter 63D. However, under this "second" PTET: (1) the tax rate is 4%; (2) the definition of a "qualified member" does not include a shareholder, partner, or member whose allocable share of income included in their Massachusetts taxable income does not exceed the \$1 million surtax threshold; and (3) the definition of "qualified income taxable in Massachusetts" is limited to the sum of the amounts by which the amount allocated to each qualified member exceeds the \$1 million surtax threshold. The credit is still 90% of each qualified member's share of this "second" PTET paid by the pass-through entity.

The effective date of this new PTET would be for tax years beginning on or after January 1, 2026.

Observation: We anticipate that the Department will be issuing guidance shortly, including on the process of making "catch-up" payments for those intending to make this second election for the 2026 tax year.

Let's talk

To discuss the potential impact of this legislation on your business, please contact:

State and Local Tax Services

Jon Muroff
(617) 823-6979
jon.muroff@pwc.com

Jill Libby
(857) 636-2096
jill.a.libby@pwc.com

David Sheehan
(339) 223-2651
david.sheehan@pwc.com