MLSC Life Sciences Tax Incentive Program
Annual Report and Multiple Awards Policy

(Effective for agreements and amendments executed after March 1, 2022)

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About the Life Sciences Tax Incentive Program

The Life Sciences Tax Incentive Program, established as part of the Massachusetts Life Sciences Center's ("MLSC" or "Center") enabling legislation authorizes the Center to commit up to $30 million in tax incentives each year to companies engaged in life sciences research and development, commercialization and manufacturing. The MLSC takes its obligation to be good stewards of the Commonwealth's tax dollars very seriously.

The primary goal of the Life Sciences Tax Incentive Program is to incentivize life sciences companies to create new long-term jobs in Massachusetts. The chief criterion that the MLSC uses to make tax incentive awards to companies is the applicant's ability to create and retain jobs in, or to transfer out-of-state jobs into Massachusetts. It therefore is imperative that companies provide accurate information regarding actual number of full-time permanent Massachusetts employees (over 35 hours per week) and meet the projected employment targets in their applications for tax incentives.

Key Terms

The following key terms are used in this policy:

- **Application** means the Program application available online
- **Applicant** means the organization submitting the Application.
- **Awardee** means an eligible applicant that receives a notice from MLSC that it has been awarded a tax incentive.

- **Agreement** means the tax incentive agreement to be executed between the MLSC and Awardees under the Program, a copy of which is posted on the MLSC's website.
- **Certified Life Sciences Company** means a company that has been certified by MLSC for participation in the Program, as set forth in chapter 23I of the Massachusetts General Law ("MGL").
- **Life Sciences** means advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenerics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science, as defined in chapter 23I, section 2 of the MGL.
- **Life Sciences Company** means a business corporation, partnership, firm, unincorporated association or other entity engaged in life sciences research, development, manufacturing or commercialization in the Commonwealth of Massachusetts, and any affiliate thereof, which is, or the members of which are, subject to taxation under MGL chapters 62, 63, 64H or 64I, as defined in the MGL, chapter 23I, section 2.
- **Life Sciences Statute** means Chapter 23I of the MGL.
- **Program** means the tax incentives offered by MLSC.

Compliance with Tax Incentives

The MLSC monitors tax incentive awardees for compliance purposes based on a company's "baseline" employee headcount at the time of the award, and the company's projected net increase in headcount in the tax year following award. Baseline and projected headcounts are summed to create a "total projected headcount" metric that is used for MLSC agreement and compliance purposes.

Within 30 days of the end of each calendar year following the year of award, awardees are required to provide an annual report to the Center that permits the Center to determine whether their job targets have been met. The statute provides for "clawback" provisions for companies that are found not to be fulfilling their net new job creation commitment to the state.

Companies that fail to achieve at least 70% of their job targets at the end of any annual reporting period ***and***, in the case of companies awarded the Life Sciences Job Incentive Refundable Credit, failing to create at least 50 net new jobs, are subject to an investigation to determine the cause of this "material variance" (term used in the Life Sciences Statute). The following scenarios are possible:

1. For those companies that fail to achieve at least 40% of their job target, the Center, together with its Board of Directors, has determined that no investigation is necessary and the Center will de-certify the company and notify the Department of Revenue (DOR), which could initiate "claw-back" procedures to recover the tax value of any award provided.

2. For those companies that achieve less than 70% and at least 40% of their job target, ***and***, in the case of companies awarded the Life Sciences Job Incentive Refundable Credit, failing to create at least 50 net new jobs, the Center will conduct an investigation. The Center may determine that it is unlikely that the company will achieve its job target based on a review of the company's financials, hiring plans, and other information provided. In this event, the Center will de-certify the company and notify the Department of Revenue (DOR), which could initiate "claw-back" procedures to recover the tax value of any award provided.

3. In the event that the Center determines that the company has the potential to achieve its job target by the end of the year following the initial failure to achieve at least 70% of its job target, ***and***, in the case of companies awarded the Life Sciences Job Incentive Refundable Credit, failing to create at least 50 net new jobs, the Center may permit the company this second year to meet its job targets. In this case, the Center is required to provide its reasons, in writing, for allowing the company this second year to meet its job target to the Secretary of Administration and Finance, the Commissioner of DOR, the clerks of the House and Senate, the Joint Committee on Revenue, the Joint Committee on Economic Development and Emerging Technologies, and to post these reasons on its website.

The Center is required by statute to de-certify any company that fails to achieve at least 70% of its job target for two (2) consecutive years. To ensure that tax incentives benefit companies that are creating significant job growth for the Commonwealth, the Center has decided, together with its Board of Directors, that any company failing to achieve at least 80% of its job target by the end of any extension period ***and***, in the case of the Life Sciences Job Incentive Refundable Credit, failing to create at least 50 net new jobs will be de-certified. The Center would notify DOR at that time and DOR could initiate "claw-back" procedures to recover the tax value of any award. Companies also may voluntarily terminate their award at any time and return to the Commonwealth any incentives received. A copy of the MLSC's Tax Incentive Program Termination Policy can be located at www.masslifesciences.com/programs/tax

Annual Report Outcomes and Multiple Awards

The Center evaluates the annual reports filed by each tax incentive recipient by comparing the company's reported new permanent full-time Massachusetts employees plus the company's baseline employee headcount at the time of award to the company's total projected headcount as set forth in its tax incentive agreement. Depending on how successful the company has been in achieving its job targets, the Center will begin to apply the metrics contained in the table below to determine outcomes for the companies and the eligibility of companies to receive additional awards under the program.

The Center's Board has the authority under the Life Sciences Statute to direct Center staff as to the administration of this policy and to make any modifications necessary to effectuate the Tax Incentive Program.

Tax Incentive Annual Reports		
Compliance Outcomes		**Eligibility for Multiple Awards**
% of Net New Hires Achieved by Tax Incentive Recipient	**MLSC Action**	
Tax Incentive Recipients <u>not</u> operating under a one-year extension		
≥ 70%	No further action required	Eligible **only IF** achieve at least **90%** net new hires for all existing awards ***and***, if applicable, achieve at least 50 net new jobs for the Life Sciences Job Incentive Refundable Credit award
40% - < 70%	MLSC conducts investigation: (1) <u>Outcome #1</u>: Company granted one-year extension to achieve compliance.	Eligible **only IF** achieve at least **90%** net new hires for all existing awards ***and***, if applicable, achieve at least 50 net new jobs for the Life Sciences Job Incentive Refundable Credit award
	(2) <u>Outcome #2</u>: No extension granted, company is de-certified and DOR notified to recover any benefit	Only eligible to apply after one year **IF** company voluntarily terminates its award and returns any benefit without DOR initiating “claw-back” procedures
< 40%	• Annual report results constitute sufficient investigation and therefore no further investigation required • Company is de-certified • DOR is notified to recover any benefit	Only eligible to apply after one year **IF** company voluntarily terminates its award and returns any benefit without DOR initiating “claw-back” procedures
Tax Incentive Recipients operating under one-year extension		
≥ 80%	No further action required	Eligible **only IF** achieve at least **90%** net new hires for all existing awards ***and***, if applicable, achieve at least 50 net new jobs for the Life Sciences Job Incentive Refundable Credit award
< 80%	• Annual report results constitute sufficient investigation and therefore no further investigation required • Company is de-certified • DOR is notified to recover any benefit	Only eligible to apply after one year **IF** company voluntarily terminates its award and returns any benefit without DOR initiating “claw-back” procedures

How to Calculate Baseline Headcount and Annual Headcount Reporting

Baseline headcount is calculated as the number of permanent full-time employees (35 hours or more per week) in the Tax Incentive Recipient's Massachusetts facilities, including:

(1) Any operations in Massachusetts;
(2) Any divisions or subsidiaries with Massachusetts operations, if any, wholly owned by Recipient;
(3) If Recipient is wholly or majority owned by a parent company, where the parent company has at least 75% of their total global consolidated annual revenues derived from "life sciences" as defined below, the Recipient also have to include for headcount reporting:
    (a) Parent company's Massachusetts operations
    (b) Parent company's Massachusetts subsidiaries and divisions

On-Site requirements in calculating number of permanent full-time employees

The following shall be applicable in determining whether an employee who does not work on-site at a company full-time may be counted as a permanent full-time employee for the purpose of complying with job creation or retention requirements of the program.

1. A company may count as a permanent full-time employee any Massachusetts resident employee that works on-site at the company's facility at least 2 days per week ("Remote Worker") for purposes of compliance with job creation or retention requirements of the program.

2. All nonresident employees must work on-site at the company's facility full-time in order to count toward the job creation or retention requirements of the program.

3. A company may not count any Massachusetts resident employee that works off-site more than 3 days per week, nor any nonresident employee that works off-site for any period of time, for purposes of job creation or retention compliance unless such off-site work is incidental (e.g., temporary, transitory in nature or an isolated transaction).

If the company claims any employees for job compliance purposes in violation of this policy, or the number of Remote Workers materially change from the company's application or agreement, MLSC reserves to the right to review and amend, rescind, or terminate the application or agreement. The company shall be offered a hearing to explain such violation or material changes prior to any adverse action taken by MLSC.

The MLSC may request information related to a company's Remote Workers at any time.

This On-Site Work requirement shall be applicable to all new or amended agreements after the policy's effective date- March 1st 2022.

Multiple Awards: How to Calculate Baseline Headcount in Event of Job Target Shortfall

If a company is eligible to pursue multiple awards from the Center, any shortfall in achieving 100% of a company's job target in a previous award will be added to the company's "baseline headcount", as defined in the Tax Incentive Agreement, for the next subsequent award.

NOTE: The Center reserves the right to modify any portion of this Policy at its sole discretion. It is the responsibility of companies to check the Center's website for any modifications to this Policy. The Center, the Commonwealth, and its subdivisions accept no liability and will have no obligation to accommodate companies who rely on an out-of-date policy.