



The Commonwealth of Massachusetts  
Office of the Comptroller  
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March 4, 2015

Secretary Kristen Lepore  
Executive Office of Administration and Finance

The Honorable Karen Spilka, Chairwoman  
Senate Committee on Ways and Means

The Honorable Brian S. Dempsey, Chairman  
House Committee on Ways and Means

RE: Settlement and judgment revenue, capital gains certification and interest revenue transfer for FY2015

Dear Secretary Lepore, Chairwoman Spilka and Chairman Dempsey:

On March 4, 2015, the Attorney General and Commissioner of Revenue jointly certified to the State Comptroller's Office that for the period July 1, 2014 through February 28, 2015 individual judgments and settlements in excess of \$10 million totaled \$159,466,279.00. Section 2H of Chapter 29 of the Massachusetts General Laws, as amended by Section 4 of Chapter 237 of the Acts of 2014, requires individual judgments and settlements in excess of \$10 million be transferred to the Stabilization Fund, but only to the extent that the total of such settlements and judgments exceed the 5 year average settlements and judgments received. For FY2015 this 5 year average totaled \$262,906,187.32. Since the total settlements and judgments have not exceeded this threshold, no transfer will be made.

On February 20, 2015, the Commissioner of Revenue certified to the State Comptroller's Office that for the period October 1, 2014 to January 31, 2015, capital gains tax revenue totaled \$481,800,000.00, and for FY2015 to date capital gains tax revenue totaled \$680,800,000.00. Section 5G of Chapter 29 of the Massachusetts General Laws, as amended, requires that capital gains in excess of the fiscal year threshold be transferred to the Stabilization Fund, which for FY2015 is \$1,048,034,212. However, this requirement was suspended for FY2015 by Section 11 of Chapter 2 of the Acts of 2015 and therefore no capital gains tax revenue will be transferred.

Section 259(b) of Chapter 165 of the Acts of 2014 (the FY2015 General Appropriation Act) authorizes the transfer of interest and other investment income earned by the Commonwealth Stabilization Fund during FY2015 to the General Fund. Interest earned by the Stabilization Fund during FY2015 for the period of November 1, 2014 to February 23, 2015 totaled \$1,767,687.14. Therefore, a transfer of that amount from the Stabilization Fund to the General Fund will be processed in conjunction with the Office of the State Treasurer and Receiver General.

If you have any questions regarding this letter, please contact Howard Merkowitz, Deputy Comptroller at (617) 973-2602.

Sincerely,

Martin J. Benison  
Comptroller

Enc. Attachment #1: Section 259(b) of Chapter 165 of the Acts of 2014  
Attachment #2: Section 4 of Chapter 237 of the Acts of 2014  
Attachment #3: Section 11 of Chapter 2 of the Acts of 2015  
Attachment #4: Stabilization Fund Balance Spreadsheet

Cc: Eric Rebello, Assistant Secretary for the Budget  
Kathryn Kendall, Budget Director, House Ways and Means  
Adriana Campos, Budget Director, Senate Ways and Means  
Judy Zeprun Kalman, General Counsel, Office of the Attorney General  
Amy Pitter, Commissioner, Department of Revenue  
Kazim Ozyurt, Director, Office of Tax Policy Analysis, Department of Revenue  
James MacDonald, First Deputy Treasurer, Treasurer's Office  
Howard Merkowitz, Deputy Comptroller, Office of the Comptroller  
BJ Trivedi, FRAB Director, Office of the Comptroller  
Julia Burns, GAB Director, Office of the Comptroller

Attachment #1

Chapter 165 of the Acts of 2014

**SECTION 259(b)** Notwithstanding any general or special law to the contrary, the comptroller, by June 30, 2015, shall transfer to the General Fund the interest earned from the Commonwealth Stabilization Fund during fiscal year 2015.

## Attachment #2

### Chapter 237 of the Acts of 2014

**SECTION 4.** Section 2H of chapter 29 of the General Laws is hereby amended by striking out the last paragraph, as amended by section 47 of chapter 165 of the acts of 2014, and inserting in place thereof the following paragraph:-

Upon receiving a written joint certification from the commissioner of revenue and the attorney general that a state agency is in receipt of a 1-time settlement or judgment for the commonwealth, of which the net value to the commonwealth of the proceeds of that settlement or judgment, after all restitution or other remedial payments are made pursuant to the settlement or judgment, exceeds \$10,000,000 in any 1 fiscal year, the comptroller shall transfer said proceeds from the General Fund to the Stabilization Fund established under this section, but only to the extent that the total of all such 1-time settlements and judgments exceeds the average of such total for the 5 fiscal years preceding the immediately preceding fiscal year, as determined by the secretary of administration and finance. A constitutional office in receipt of such a non-tax 1-time settlement or judgment shall notify the attorney general not later than 10 days after receipt of such settlement or judgment.

Attachment #3

Chapter 2 of the Acts of 2015

**SECTION 11.** Notwithstanding any general or special law to the contrary, the comptroller shall not make any transfers required under section 5G of chapter 29 of the General Laws that, but for this section, would be attributable to capital gains tax collections during fiscal year 2015.