



The Commonwealth of Massachusetts  
Office of the Comptroller  
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August 5, 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: Capital gains tax revenue, settlement and judgment revenue, interest revenue and cost to market transfer for FY2015

Dear Secretary Lepore, Chairwoman Spilka and Chairman Dempsey:

On July 2, 2015, the Commissioner of Revenue certified to the State Comptroller's Office that for the period February 1, 2015 to May 31, 2015, capital gains tax revenue totaled \$706,200,000.00, and for FY2015 to date capital gains tax revenue totaled \$1,483,400,000.00. On July 22, 2015, the Commissioner of Revenue certified to the State Comptroller's Office that for the period July 1, 2014 through June 30, 2015 (the full FY2015), capital gains tax revenue totaled \$1,669,400,000.00.

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.

On July 7, 2015, the Attorney General and Commissioner of Revenue jointly certified to the State Comptroller's Office that for the period July 1, 2014 through June 30, 2015 individual judgments and settlements in excess of \$10 million totaled \$226,091,486.00. 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 exceeds the 5 year average settlements and judgments received. For FY2015 this 5 year average totaled \$262,906,187.32. Since the total of settlements and judgments has not exceeded this threshold, no transfer will be made.

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 May 1, 2015 to June 30, 2015 totaled \$1,106,741.88. 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.

For FY2015, the Stabilization Fund had a smaller unrealized gain in the value of its assets than was recognized at the end of FY2014, resulting in a net adjustment of negative \$1,241,516.93 to the FY2015 Stabilization Fund balance. When this adjustment is netted against total FY2015 interest income of \$5,998,825.73, the FY2015 net interest and other investment income that will be transferred from the Stabilization Fund to the General Fund is \$4,757,308.80. Because interest income of \$5,998,825.73 is transferred separately from the Stabilization Fund to the General Fund, \$1,241,516.93 will be transferred back to the General Fund from the Stabilization Fund to align the transfers with the net investment income earned by the Stabilization Fund during FY2015.

Final FY2015 transfers, if any, to the Stabilization Fund will be made in conjunction with issuance of the Commonwealth's FY2015 Statutory Basis Financial Report, due by October 31, 2015.

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

Sincerely,

Thomas G. Shack III  
Comptroller of the Commonwealth

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

Cc: Catharine Hornby, Assistant Secretary for the Budget, ANF  
Aaron D'Elia, Finance Director, ANF  
Kathryn Kendall, Budget Director, HWM  
Adriana Campos, Budget Director, SWM  
Judy Zeprun Kalman, General Counsel, AGO  
Mark Nunnally, Commissioner, DOR  
Kazim Ozyurt, Director, Office of Tax Policy Analysis, DOR  
James MacDonald, First Deputy Treasurer, TRE  
Howard Merkowitz, Deputy Comptroller, CTR  
BJ Trivedi, FRAB Director, CTR  
Julia Burns, GAB Director, CTR

Attachment #1

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.

## 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 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.