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## Transferring Capital Gains Tax Revenues to the Commonwealth Stabilization Fund, The State Retiree Benefits Trust Fund and the Commonwealth's Pension Liability Fund

### Executive Summary

Pursuant to Section 5G of Chapter 29 of the Massachusetts General Laws, as most recently amended by Section 112 of Chapter 165 of the Acts of 2012 and Section 8 of Chapter 239 of the Acts of 2012, the Department of Revenue (DOR) and the State Comptroller will follow the steps outlined below with respect to certifying and transferring to the Commonwealth Stabilization Fund, the State Retiree Benefits Trust Fund and the State Pension Liability Fund capital gains revenues from the personal income tax that exceed an annual threshold.

### Policy

#### Certifying the Statutory Capital Gains Threshold Prior to the Start of A Fiscal Year

The statutory capital gains threshold shall be certified annually by the Commissioner of Revenue to the Comptroller pursuant to Section 5G of Chapter 29, according to a procedure that has been agreed upon jointly by the Secretary of Administration and Finance and the Chairs of the House and Senate Committees on Ways and Means. This method sets the fiscal year capital gains threshold, using the previous fiscal year's threshold (initially set at \$1,000,000,000 for FY13) and increasing it by "allowable growth" as defined in Section 5G of Chapter 29, using the "compound annual growth rate (GAGR)" method. Allowable growth is equal to the average annual growth rate of nominal U.S. Gross Domestic Product (GDP) over the preceding five years, based on the most recent data from the U.S. Department of Commerce's Bureau of Economic Analysis. Allowable growth is calculated by taking the four-quarter average (arithmetic mean) of U.S. nominal Gross Domestic Product (GDP), ending in the third quarter (the third estimate) of the current calendar year, dividing it by the four-quarter average (arithmetic mean) of U.S. nominal GDP for the same four quarters five years prior, raising that quotient to the 1/5<sup>th</sup> power, and subtracting one. In mathematical terminology, allowable growth equals:

$$\left( \frac{\text{Average U.S. GDP for Current Year (average of most recent 4 quarters)}}{\text{Average U.S. GDP Five Years Prior (average of same 4 quarters as in current year)}} \right)^{1/5} - 1$$

The new threshold for the upcoming fiscal year will then be equal to (1+ the compound annual growth rate) times the prior year's threshold. The thresholds for subsequent fiscal years will be determined in the same way.

The Department of Revenue will prepare the certification letter for the capital gains tax threshold for the upcoming fiscal year every December and send that letter to the Comptroller, Secretary of Administration and Finance and the Chairs of the House and Senate Ways and Means Committees. After being set, the threshold shall not change during a fiscal year. For FY14, the statutory capital gains threshold was set by the Commissioner of Revenue on December 28, 2012 at \$1,023,242,988.

### **Certifying and Transferring Capital Gains Tax Collections During a Fiscal Year**

DOR will certify to the Comptroller personal income tax revenues estimated to have been collected from capital gains during each quarter and fiscal year-to-date. Since the statute does not specify the quarterly date for each certification, for the purposes of accurate reporting DOR will interpret “quarters” as “periods” corresponding to the periods during which capital gains taxes are remitted by taxpayers. DOR will adhere to the following certification schedule:

- Period 1 (July 1 through September 30), with a certification date on or about October 15<sup>th</sup>;
- Period 2 (October 1 through January 31), with a certification date on or about February 15<sup>th</sup>;
- Period 3 (February 1 through May 31), with a certification date on or about June 15<sup>th</sup>; and
- Period 4 (June 1 through June 30), with a certification date on or about July 15<sup>th</sup>.

Within fifteen days of each DOR certification, the Comptroller shall transfer any capital gains tax revenue in excess of the statutory threshold to the Commonwealth Stabilization Fund. Immediately following this transfer, 5 per cent of any amount transferred to the Commonwealth Stabilization Fund under this section shall then be transferred from the Commonwealth Stabilization Fund to the State Retiree Benefits Trust Fund established in Section 24 of Chapter 32A and 5 per cent of any amount transferred to the Commonwealth Stabilization Fund under this section shall then be transferred from the Commonwealth Stabilization Fund to the Commonwealth’s Pension Liability Fund established in Section 22 of Chapter 32.

### **Certifying Actual Capital Gains Tax Revenues After the End of a Fiscal Year**

By November 30<sup>th</sup> of each year, DOR will issue to the State Comptroller, the Secretary of Administration and Finance and the Chairs of the House and Senate Committees on Ways and Means an annual certification of personal income tax revenues estimated to have been collected during the preceding fiscal year from capital gains income

The Comptroller shall not make adjustments to amounts previously transferred if the capital gains revenue reported on November 30 differs from the amounts estimated during the preceding fiscal year. The final transfer of capital gains tax revenues to the Commonwealth Stabilization Fund, State Retiree Benefits Trust Fund and the Commonwealth’s Pension Liability Fund shall be made based on the July 15<sup>th</sup> certification.

### **Information Sources**

Related Procedure -

- Legal Authority
  - [M.G.L. c.29, § 5G](#) (State Finance Law)
  - [M.G.L. c.32A, § 24](#) (State Retiree Benefits Trust Fund)
  - [M.G.L. c.32, § 22](#) (Retirement Systems and Pensions)
- Contacts – CTR Help Desk 617-973-2468
- Comptroller Web Portal Homepage

### **Revisions**