

The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

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AUDITOR

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NO. 2011-5555-16S

**INDEPENDENT STATE AUDITOR'S
DETERMINATION OF WHETHER
NET STATE TAX REVENUES EXCEEDED
ALLOWABLE STATE TAX REVENUES FOR THE
FISCAL YEAR ENDED JUNE 30, 2010**

**OFFICIAL AUDIT
REPORT
SEPTEMBER 21, 2010**



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH
STATE HOUSE, BOSTON 02133

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2011-5555-16S

September 21, 2010

His Excellency Deval Patrick, Governor of the Commonwealth
Honorable Therese Murray, President of the Senate
Honorable Robert A. DeLeo, Speaker of the House of Representatives
Senator Steven C. Panagiotakos, Chairman of the Senate Ways and Means Committee
Representative Charles A. Murphy, Chairman of the House Ways and Means Committee
Navjeet Bal, Commissioner of Revenue

In accordance with the provisions of the Massachusetts General Laws, Chapter 62F, we have reviewed the Report of the Net State Tax Revenues and Allowable State Tax Revenues for the Fiscal Year ended June 30, 2010, as prepared by the Commissioner of Revenue.

Our review was conducted for the purposes of ensuring the completeness and accuracy of the report and determining whether the net state tax revenues for the fiscal year ended June 30, 2010 exceeded allowable state tax revenues for the fiscal year then ended.

As a result of our review and as disclosed in the accompanying report, we have determined that the net state tax revenues for the fiscal year ended June 30, 2010 of \$18,792,776,938.03 were below allowable state tax revenues of \$24,948,702,948.67 by the amount of \$6,155,926,010.64 as defined in the Massachusetts General Laws, Chapter 62F.

Sincerely,

A handwritten signature in black ink that reads "A. Joseph DeNucci". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. JOSEPH DeNUCCI
Auditor of the Commonwealth

cc: Honorable William F. Galvin, Secretary of the Commonwealth
Honorable Timothy P. Cahill, State Treasurer and Receiver-General
Jay Gonzalez, Secretary for Administration and Finance
Martin J. Benison, Comptroller
Joseph G. Murphy, Commissioner, Division of Insurance
LaTeisha Adams, Chair, State Athletic Commission
Joseph VanDeventer, Chairman, State Racing Commission
Mark J. Cavanagh, Executive Director, State Lottery Commission
Judith Cicatiello, Director, Division of Unemployment Assistance
Paul F. Naves, Chief Fiscal Officer, Department of Revenue
George K. Weber, Director, Division of Professional Licensure

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INTRODUCTION

Chapter 555 of the Acts of 1986 inserted Chapter 62F into the General Laws of Massachusetts. This chapter provides that there be established, for each fiscal year beginning with the fiscal year ended June 30, 1987, a state tax revenue growth limit, calculated on the basis of the level of growth in total wages and salaries of the citizens of the Commonwealth. In addition, the law requires that the Commissioner of Revenue, annually on or before September first, prepare and submit to the State Auditor a report of the net state tax revenues and the allowable state tax revenues of the Commonwealth for the preceding fiscal year.

Chapter 555 provides oversight responsibilities for the State Auditor for each fiscal year. Specifically, the Auditor is responsible for reviewing the Commissioner's report for completeness and accuracy and, in doing so, may make or request the Commissioner to make any necessary adjustments or modifications to ensure its completeness and accuracy. Further, the Auditor, annually on or before the third Tuesday of September, shall independently determine whether net state tax revenues for the fiscal year exceeded allowable state tax revenues. If the State Auditor determines an excess of state tax revenues, he shall report that determination and the amount by which allowable state tax revenues were exceeded to the Governor, the President of the Senate, the Speaker of the House, the respective Chairmen of the Committees on Ways and Means of the Senate and House, and the Commissioner. The law further states that the determination of the State Auditor as to the existence and the amount of excess state tax revenues shall be conclusive. Thereafter, the Commissioner shall take all the necessary action to effectuate a tax credit equal to the total amount of such excess.

On July 30, 1987, the Commissioner of Revenue prepared his first annual report, as required by Chapter 62F of the Massachusetts General Laws, on net state tax revenues and allowable state tax revenues and submitted it to the State Auditor for review.

The State Auditor reviewed the report for completeness and accuracy and determined, on August 15, 1987, that state tax revenues for the fiscal year ended June 30, 1987 exceeded allowable state tax revenues by \$29,221,675.23 (Audit Report No. 88-5004-9). Accordingly, the State Auditor requested that the Commissioner effectuate a tax credit of \$29,221,675.23. The Commissioner responded by adding a line on the 1987 version of the Massachusetts Individual Income Tax Return, upon which

each individual taxpayer could insert his or her individually calculated share of the \$29,221,675.23 credit.

As of December 19, 1988, the Department of Revenue (DOR) had processed credits to individual taxpayers of approximately \$16,823,000 of the \$29,221,675.23 in fiscal year 1987 excess state tax revenues. At that time, the Department of Revenue ceased compiling data on the credit. The time limit for filing for refunds with the DOR has since expired, and any funds remaining unclaimed will remain within the General Fund. Section 37 of Chapter 62C of the Massachusetts General Laws, which sets the time limit for filing for refunds, states, in part:

Any person aggrieved by the assessment of a tax, other than a tax assessed under chapters sixty-five or sixty-five A, may apply in writing to the Commissioner, on a form approved by him, for an abatement thereof at any time within three years from the last day for filing the return for such tax, determined without regard to any extension of time, within two years from the date the tax was assessed or deemed to be assessed, or within one year from the date that the tax was paid, whichever is later. . . .

For the fiscal years ended June 30, 1988 through 2009, the State Auditor determined that net state tax revenues were less than allowable state tax revenues; therefore, no tax credit was required to be effectuated by the Commissioner of Revenue for those years.

For the fiscal year ended June 30, 2010, we have determined that the net state tax revenues of \$18,792,776,938.03 were below allowable state tax revenues of \$24,948,702,948.67 by \$6,155,926,010.64 resulting in no excess state tax revenues. (See Exhibit I.)

For fiscal years 1987 through 2010, net state tax revenues increased 132% from \$8,102,373,437.21 to \$18,792,776,938.03. Allowable state tax revenues increased 209% from \$8,073,151,761.98 to \$24,948,702,948.67 during the same time period.

For fiscal year 2010, \$14,736,282,508.80 or 78.4% of the net state tax revenue was derived from income and sales and use taxes. These are traditionally the largest sources of revenue received by the Commonwealth. (See Exhibit III.)

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

Pursuant to Chapter 62F of the Massachusetts General Laws (inserted by St. 1986, C, 555, S. 2), the State Auditor is required to (1) review and ensure the completeness and accuracy of the Commissioner of Revenue's Report of the Net State Tax Revenues and Allowable State Tax Revenues for the fiscal year ended June 30, 2010 and (2) independently determine whether net state tax revenues exceeded allowable state tax revenues and report the determination and amount of any excess state tax revenues for the fiscal year ended June 30, 2010.

Our audit was conducted in accordance with applicable generally accepted government auditing standards and, accordingly, included such tests and procedures as we considered necessary.

Our review methodology encompassed the following procedures: (1) observing and reviewing the Department of Revenue's compliance with the Official Year-End Closing Instructions issued by the Office of the Comptroller to ensure that state tax revenue on hand as of June 30, 2010 was deposited, recorded, and reported in fiscal year 2010; (2) reconciling of tax revenue sources among the Office of the State Comptroller, State Treasurer's Office, and such other state agencies identified as receiving tax revenues (See Exhibit II and Exhibit VI); (3) testing not only tax data to the extent practicable and feasible under the circumstances and in a manner consistent with privacy and confidentiality statutes, but also the related tax collecting, depositing, recording, and reporting systems within the state's accounting system in order to determine the degree of reliance we would place thereon to ultimately render conclusions on the Report of the Net State Tax Revenues and Allowable State Tax Revenues, including the related calculations and methodology (See Exhibit IV and Exhibit V); (4) obtaining the most recent Massachusetts wage and salary data of the citizens of the Commonwealth for calendar year 2009 from the United States Department of Commerce, Bureau of Economic Analysis; (5) reviewing and analyzing applicable state statutes to determine state tax revenue sources; and (6) performing other procedures we considered applicable and feasible under the circumstances.

We conducted field work at the Department of Revenue, the primary source of tax revenue for the Commonwealth, and at other agencies identified as sources of state tax revenue (i.e., the State Racing Commission, the Division of Professional Licensure, the State Lottery Commission, the State Athletic Commission, the Division of Insurance, the Office of the Secretary of State, and the

Division of Unemployment Assistance) as we considered practicable and feasible under the circumstances.

LEGISLATIVE HISTORY

In November 1986 “an act phasing out the surtax on the state personal income tax and limiting state tax revenue growth to the level of growth in state wages and salaries” was approved by the voters of the Commonwealth and on December 4, 1986 became law as Chapter 555 of the Acts of 1986, and it added Chapter 62F to the Massachusetts General Laws.

As shown below, the history of tax legislation related to Chapter 555 is complex.

On November 8, 1975, Chapter 684 of the Acts of 1975 became law and imposed, beginning in calendar year 1975, a 7.5% surtax.

In September 1985, the law that was proposed by initiative petition and that ultimately became Chapter 555 of the Acts of 1986 was drafted by the Citizens for Limited Taxation (CLT) and the Massachusetts High Technology Council, and on December 4, 1985 the signatures necessary for the initiative petition to become a legislative referendum were filed with the Secretary of the Commonwealth.

On December 18, 1985, Chapter 593 of the Acts of 1985 repealed the 7.5% surtax imposed by Chapter 684 of the Acts of 1975 and imposed a 3.75% surtax for calendar year 1986.

On January 3, 1986, the initiative petition was introduced as a legislative referendum (H4004).

On May 6, 1986, the initiative petition was rejected in the House of Representatives and was not acted upon in the Senate by the May 7, 1986 deadline.

On August 7, 1986, sufficient additional signatures were collected by CLT, and the initiative petition was submitted to the Secretary of the Commonwealth for placement on the November 4, 1986 state election ballot and became known as Question Number 3: “Limiting State Tax Revenue Increases.”

On October 25, 1986, Chapter 488 of the Acts of 1986 repealed the 3.75% surtax imposed by Chapter 593 of the Acts of 1985 for calendar year 1986 and imposed controls over the growth of state revenue. On November 4, 1986, the electorate voted in favor of limiting the growth of state tax revenues and repealed the 7.5% surtax of Chapter 684 of the Acts of 1975 and imposed a new 3.75% surtax for calendar year 1986.

On December 4, 1986 the Secretary of the Commonwealth certified the initiative petition as Chapter 555 of the Acts of 1986, “An act phasing out the surtax on the state personal income tax and limiting state tax revenue growth to the level of growth in state wages and salaries.”

On December 9, 1986, Chapter 577 of the Acts of 1986 became effective immediately as an emergency law and repealed all surtaxes retroactively, beginning January 1, 1986.

On July 16, 1988, Chapter 163 of the Acts of 1988 authorized Barnstable County to enact a county deeds excise not to exceed the excise tax imposed by the Commonwealth.

On June 30, 1989, Chapter 193 of the Acts of 1989 provided for a temporary increase to the rate of the deeds excise to expire on June 30, 1992. It stipulates that 85% of the increase in receipts shall be retained by the county in which it was accrued and that 15% of the increase in receipts shall be deposited in the Commonwealth’s County Correction Fund.

On October 27, 1989, Chapter 448 of the Acts of 1989 became effective immediately as an emergency law and extended the reporting date for the filing of certain financial statements for the Commissioner of Revenue (September first) and the State Auditor (third Tuesday of September).

On March 9, 1993, Chapter 19, Section 42, of the Acts of 1993 amended and extended Chapter 193 of the Acts of 1989 temporary increase to the rate of the deeds excise to take effect on July 1, 1992.

On July 1, 1993, Chapter 64K, Section 127, of the Acts of 1993 became effective and imposed a stamp tax on the possession of controlled substances.

On July 27, 1995, Chapter 81 of the Acts of 1995 was enacted, amending Chapter 63 of the General Laws, which provides for the taxation of financial institutions doing business in Massachusetts.

On June 30, 1996, Chapter 151 of the Acts of 1996 became effective and abolished Franklin County as of July 1, 1997. Deed excises previously collected by the county were thereafter collected by the Commonwealth.

On July 11, 1997, Chapter 48 of the Acts of 1997 became effective and abolished Middlesex County immediately and Hampden and Worcester counties as of July 1, 1998. Deed excises previously collected by the counties were collected thereafter by the Commonwealth.

On November 17, 1997, Chapter 152 of the Acts of 1997 became effective and imposed, in addition to the excises levied under Chapter 64G, a convention center financing fee at the rate of 2.75% upon the transfer or occupancy of any rooms in any hotel or motel in the cities of Boston, Cambridge, Springfield and Worcester, as well as a 5% surcharge on the purchase price of any ticket for a sightseeing tour and a \$10 surcharge on each vehicular rental transaction contract in the City of Boston, \$1 of which is to be paid to the City of Boston, and a \$2 per day surcharge for parking in a facility built in conjunction with an authorized convention project in the cities of Boston, Springfield and Worcester. Chapter 45 of the Acts of 2001 added the Convention Center Financing Fee to the cities of Chicopee and West Springfield. Except for the \$1 vehicular rental surcharge that is paid to the City of Boston, these revenues are includable as State Tax Revenues as defined in Chapter 555. For fiscal year 2010, net state tax revenue included \$49,840,636.74 in convention center financing fees for room occupancy transfer; \$9,596,059.86 in vehicular rental transaction fees; and \$1,964,473.53 in sightseeing tour surcharges. The \$2 per day charge for parking is not included because a parking facility has not been built in conjunction with an authorized convention project in the cities of Boston, Springfield or Worcester.

On July 21, 1998, Chapter 175 of the Acts of 1998 was enacted, amending Chapter 151A of the General Laws by inserting Section 14L and imposing a Workforce Training Contribution on wages of .075 percent. The Director of Workforce Development is required to adjust the rate of contribution (consistent with Federal law) so that the total amount of the contribution in a year substantially equals \$18 million. The contributions are to be deposited in the Workforce Training Fund, a separate fund on the books of the Commonwealth codified in Chapter 29, Section 2RR of the General Laws, and are to be used for workforce training. Contributions deposited in the Workforce Training Fund are subject to appropriation. Chapter 175 also repeals Section 14L as of December 31, 2001. Chapter 175 also increased the amount of all Personal Income Tax Exemptions. On December 30, 1999, Chapter 172 of the Acts of 1999 was enacted amending the repeal of Chapter 151A, Section 14L to December 31, 2002. Effective July 1, 2002, Chapter 184, Section 159 of the Acts of 2002 further amended Chapter 172 of the Acts of 1999 by extending the repeal to December 31, 2005. On June 30, 2005, Chapter 45, Section 8 of the Acts of 2005 further amended Chapter 172 of the Acts of 1999 by extending the repeal of Chapter 151A, Section 14L, to December 31, 2008. Effective June 24, 2006, Chapter 123, Section 78 of the Acts of 2006 further amended Chapter 45, Section 8 of the Acts of 2005 by extending the repeal to December 31, 2010.

On August 13, 1998, Chapter 300 of the Acts of 1998 became effective, transferring Hampshire County's functions, duties and responsibilities to the Commonwealth effective September 1, 1998; abolishing Hampshire County as of January 1, 1999, Essex County as of July 1, 1999, and Berkshire County as of July 1, 2000. On November 16, 1999, Chapter 127 of the Acts of 1999 transferred the Berkshire County and Suffolk County Registries of Deeds to the Commonwealth effective July 1, 1999. Deeds excises previously collected by Berkshire County were collected thereafter by the Commonwealth.

On December 13, 2000, Chapter 267 of the Acts of 2000 became effective (The Massachusetts Community Preservation Act) establishing Chapter 44B and authorizing a \$20 surcharge on certain fees of the registers of deeds and assistant recorders for instruments left for recording, filing, depositing, registering or entering, and a \$10 surcharge for recording, filing, depositing, registering or entering a municipal lien certificate.

On April 12, 2006, Chapter 58 of the Acts of 2006 became effective (An Act Providing Access to Affordable, Quality, Accountable Health Care) establishing Chapter 111M which required each resident of the Commonwealth who filed a Massachusetts Personal Income Tax Return, beginning with taxable year 2007, to designate on his or her return whether he or she had health insurance coverage. Accordingly, a resident who had access to affordable health insurance coverage but did not obtain and maintain the coverage, and to whom an exemption did not pertain, was subject to the penalties prescribed under Section 2 of Chapter 111M. All penalties assessed and collected under Section 2 were designated for deposit into the Commonwealth Care Trust Fund, established by Section 2000 of Chapter 29 of the General Laws.

On January 3, 2007, Chapter 422 of the Acts of 2006 became effective (An Act Relative to the Worcester DCU Arena and Convention Center) and designated receipts from excises levied under Chapters 64G and 64H (from establishments located in the DCU center finance district) for deposit into a separate fund entitled the City of Worcester DCU Capital Improvement Fund solely to pay or provide for the principal of and premium and interest on all bonds or notes issued by the city to finance DCU center improvement costs authorized under the act. In addition, the Act provides that, if in any fiscal year total revenues deposited in the DCU Capital Improvement Fund are insufficient to pay or provide for the principal of and the premium and interest payable on all bonds and notes, the city may impose an administrative parking surcharge in an amount not to exceed

\$3.00 per day upon any vehicle which parks during the 2-hour period before the starting time of any event at the DCU center, or a facility betterment fee of not more than \$3.00 on each ticket to each event held at the DCU center, or any combination as determined by the city council. During fiscal year 2010, excise tax receipts collected and deposited into the DCU Capital Improvement Fund totaled: \$45,021.81 from sales taxes; \$310,079.38 from meals taxes; \$397,994.89 from room occupancy taxes; and \$868.78 for service fees. Neither an administrative parking surcharge nor a facility betterment fee was imposed during fiscal year 2010.

On July 3, 2008, Chapter 173 of the Acts of 2008 was enacted (An Act Relative to Tax Fairness and Business Competitiveness) and put into effect various corporate excise rate cuts to be implemented over a period of years for business corporations (Chapter 63, Section 39), financial institutions (Chapter 63, Section 2), S corporations (Chapter 63, Section 32D), and financial institutions that operate as an S corporation (Chapter 63, Section 2B). The applicable rate reductions are effective for taxable years beginning on or after January 1, 2009. The Act, under Sections 48 and 101, also amended Chapter 63, Section 32B by allowing for combined reporting for multi-state corporate filers for the purpose of taxing corporations that operate both within and without the state. This change also became effective for tax years beginning on or after January 1, 2009.

On July 31, 2009, Chapter 523 of the Acts of 2008 became effective (An Act Relative to the Operation of Low-Speed Motor Vehicles) and directed the Massachusetts Registry of Motor Vehicles (RMV) to begin registering two classes of motor vehicles not previously required to be registered in Massachusetts. As of July 31, 2009, the RMV requires low speed vehicles (LSVs) and limited use vehicles (LUVs) to be registered as motor vehicles. In addition, since these vehicles are considered motor vehicles, casual and isolated sales of these vehicles are not exempt from the use tax (Chapter 64I, Section 7) and, therefore, must be paid on the transfer of these vehicles unless the purchaser is the spouse, mother, father, brother, sister, or child of the seller, or another exemption applies. As a result of this change, tax is now required and paid directly to the RMV for these sales.

On August 1, 2009, Chapter 27, Sections 53, 55-57, and 59 of the Acts of 2009, amended Chapter 64H (sales tax) and Chapter 64I (use tax) by changing the rate of tax for sales and use of tangible personal property and telecommunications services from 5% to 6.25%. The legislation also repealed the existing exemption for alcoholic beverages, including beer, wine, and liquor, sold at retail by amending Chapter 64H, Section 6(g).

On August 1, 2009, Chapter 27, Section 61, of the Acts of 2009 was enacted and amended the General Laws by inserting Chapter 64M (Taxation of Direct Broadcast Satellite Service), and imposing a 5% excise tax on the gross revenues of providers of direct broadcast satellite service to a subscriber or customer in Massachusetts. The tax applies to actual receipts on or after August 1, 2009 and was passed along to subscribers or customers as a separately stated item on their bills. During fiscal year 2010 the Commonwealth collected \$10,914,110.36 from direct broadcast satellite service providers.

On October 1, 2009, Chapter 27, Section 60, of the Acts of 2009 added a new chapter to the General Laws, Chapter 64L, "Local Option Meals Excise." Under this chapter, a city or town that accepted the provisions of this chapter imposed a local sales tax on the sale of restaurant meals originating within the city or town by a vendor at the rate of .75% of gross receipts of the vendor from the sale of restaurant meals. This new local option sale tax is in addition to the 6.25% state sales tax on meals and took effect on the first day of the calendar quarter following thirty days after acceptance by the city or town or on the first day of a later calendar quarter as designated by the city or town. During fiscal year 2010, the Commonwealth collected and returned \$27,152,322 to 72 cities and towns that had accepted and imposed this new local sales tax.

On October 1, 2009, Chapter 27, Sections 51 and 52, of the Acts of 2009 became effective and amended Chapter 64G, Section 3A of the General Laws by increasing the maximum rate of the local option room occupancy excise from 4% to up to 6% (from 4.5% to up to 6.5% in the City of Boston) provided that each city or town voted to accept the increased rate. This new rate could be imposed on the first day of the calendar quarter following 30 days after acceptance of the increase rate, or on the first day of a later calendar quarter as designated by the city or town. During fiscal year 2010, the Commonwealth collected and returned a total of \$102,405,849 in local option room occupancy excise taxes, which includes 71 cities and towns that also accepted the new increased rate.

EXHIBIT I**Calculation to Determine Whether Net State Tax
Revenues Exceeded Allowable State Tax
Revenues for the Fiscal Year Ended June 30, 2010**

Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2010 (See Exhibit IV)	\$24,948,702,948.67
Less:	
Net State Tax Revenues for the Fiscal Year Ended June 30, 2010 (See Exhibit II)	<u>\$18,792,776,938.03</u>
Net State Tax Revenues (under) Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2010	<u>\$(6,155,926,010.64)</u>

EXHIBIT II
Net State Tax Revenues
for the Fiscal Year Ended June 30, 2010

Type of State Tax Collected (by Agency)	Gross State Tax Revenues	Refunds and Abatements	Net State Tax Revenues
Department of Revenue:			
Alcoholic Beverages	\$ 71,046,399.16	\$ 65,204.41	\$ 70,981,194.75
Financial Institutions	434,345,333.82	199,475,232.69	234,870,101.13
Cigarettes	458,600,174.88	2,349,276.72	456,250,898.16
Corporations	2,305,648,725.94	705,344,201.53	1,600,304,524.41
Deeds	97,684,157.54	51,303.66	97,632,853.88
Estate and Inheritance	234,779,744.34	13,400,666.29	221,379,078.05
Commonwealth Care Trust Fund*	141,379,428.12	-	141,379,428.12
Income	12,101,380,164.51	1,991,120,846.05	10,110,259,318.46
Insurance	335,029,820.25	49,855,263.54	285,174,556.71
Motor Fuels and I.F.T.A**	658,648,018.87	3,999,121.30	654,648,897.57
Public Utilities	70,742,731.66	71,058,726.96	(315,995.30)
Room Occupancy***	152,842,657.55	609,546.89	152,233,110.66
Sales and Use***	4,659,886,691.73	33,863,501.39	4,626,023,190.34
Club Alcoholic Beverages	958,543.66	53,099.44	905,444.22
Motor Vehicle Excise	76,327.64	2,515.45	73,812.19
Deeds-County Corrections	2,726,734.87	-	2,726,734.87
Convention Center Surcharges	11,563,959.40	3,426.00	11,560,533.40
Community Preservation Trust	26,289,350.00	-	26,289,350.00
Controlled Substances	77.00	-	77.00
Satellite	10,914,110.36	-	10,914,110.36
Subtotals	<u>\$ 21,774,543,151.30</u>	<u>\$ 3,071,251,932.32</u>	<u>\$ 18,703,291,218.98</u>
Racing Commission:			
State Racing Receipts****	\$ 2,098,165.86	\$ -	\$ 2,098,165.86
Lottery Commission:			
Beano	1,318,824.62	-	1,318,824.62
Raffles and Bazaars	960,490.21	-	960,490.21
State Athletic Commission:			
Boxing Contests	10,343.05	-	10,343.05
Boxer's Fund	5,361.77	-	5,361.77
State Athletic Commission	21,597.92	-	21,597.92
Division of Insurance:			
Excess and Surplus Lines Insurance	25,413,713.49	-	25,413,713.49
Secretary of State:			
Deeds Excise Stamp Tax Fees	40,279,788.53	-	40,279,788.53
Division of Unemployment Assistance:			
Workforce Training Contribution	<u>19,377,433.60</u>	<u>-</u>	<u>19,377,433.60</u>
Totals	<u>\$ 21,864,028,870.35</u>	<u>\$ 3,071,251,932.32</u>	<u>\$ 18,792,776,938.03</u>

*Penalties assessed under Section 2 of Chapter 111M of the General Laws and cigarette excise revenues credited to the Commonwealth Care Trust Fund in accordance with Chapter 302, Sections 12 and 70 of the Acts of 2008 .

**International Fuel Tax Agreement

***Includes Sales, Meals, Room Occupancy excise taxes, and Service fees for City of Worcester DCU Capital Improvement Fund.

****Includes \$729,576.95 in State Racing Receipts collected by the Division of Professional Licensure.

EXHIBIT III

**Net State Tax Revenue Sources for the Fiscal Year Ended
June 30, 2010**

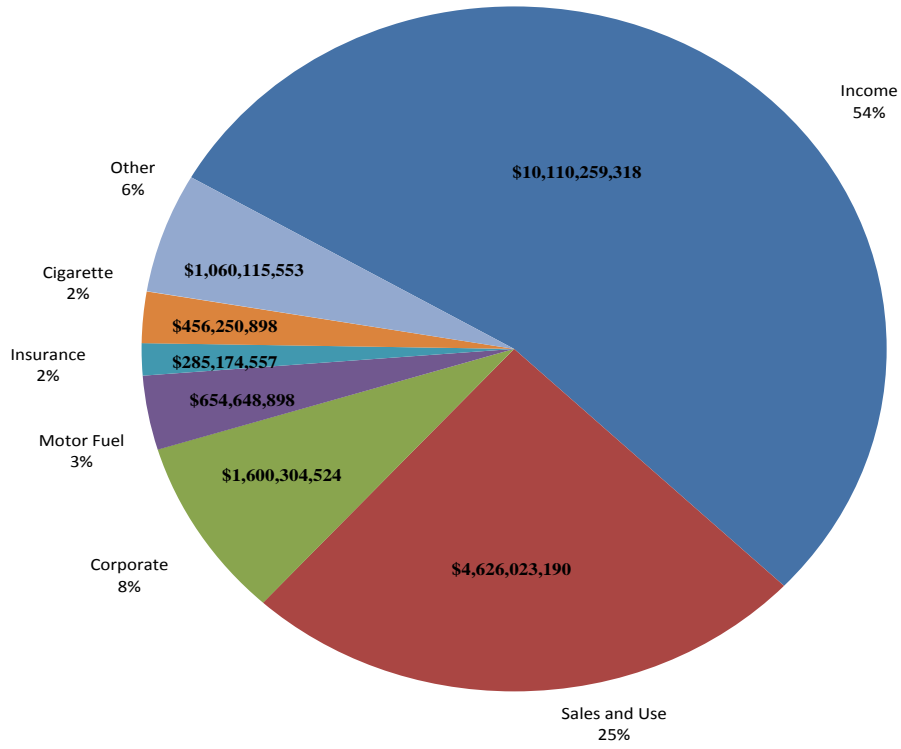


EXHIBIT IV

Calculation of Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2010

Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2009	\$24,591,415,515.00*
Allowable State Tax Growth Factor for the Fiscal Year Ended June 30, 2010 (See Exhibit V)	x <u>1.0152643</u>
Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2010 before Reduction for Excise Derived by Local Government Units by Enactment of the General Court	\$24,966,786,258.85
Less:	
Excise Derived and Retained by Local Governmental Units by Enactment of the General Court	\$ <u>18,083,310.18**</u>
Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2010	<u>\$24,948,702,948.67</u>

*As defined in Section 2 of Chapter 62F, "allowable state tax revenues" for a fiscal year means the following: beginning after June 30, 1986, an amount equal to the greater of the allowable state tax revenues for the immediately preceding fiscal year multiplied by the allowable state tax growth factor for the current year, or in any case no less than the allowable state tax revenues for the preceding fiscal year. Allowable state tax revenues as disclosed in our prior report, No. 2010-5555-16S, totaled \$24,591,415,515.00.

**According to Section 4 of Chapter 62F, allowable state tax revenues for a fiscal year shall be reduced if authority is granted by the Commonwealth to local governmental units to impose a new tax or to increase an existing tax. The amount by which allowable revenues shall be reduced shall be as nearly as possible equal to the additional amount of revenues derived by local units as determined by the Commissioner. This stipulation applies to local tax increases allowed after the effective date of Chapter 62F.

Chapter 193 of the Acts of 1989, which is extended by Chapter 19, Section 42 of the Acts of 1993, provides for an increase to the rate of the deeds excise. It stipulates that 85% of the increase in receipts shall be retained by the county in which it was accrued and that 15% of the increase in receipts shall be deposited in the Commonwealth's County Correction Fund. In addition, Chapter 163 of the Acts of 1988 authorized Barnstable County to enact a county deeds excise not to exceed the excise imposed by the Commonwealth. In FY10 the Commonwealth's counties retained \$18,083,310.18, in deeds excise receipts under these two provisions, and as a result, allowable revenues for FY10 must be reduced by this amount.

EXHIBIT V

**Calculation of Allowable State Tax Revenue
Growth Factor for the Fiscal Year
Ended June 30, 2010**

<u>Calendar Year</u>	<u>Massachusetts Wages and Salaries⁽¹⁾ (in Thousands)</u>	<u>Wages and Salaries Yearly Growth Rate⁽²⁾</u>
2006	\$175,346,590	
2007	\$186,212,180	1.0619664
2008	\$193,419,586	1.0387053
2009	\$182,804,972	<u>0.9451213</u>
Sum of 2007 – 2009 Calendar Year Growth Increase		<u>3.0457930</u>
Allowable State Tax Growth Factor for Fiscal Year 2010 (3.0457930/3)		<u>1.0152643</u>

⁽¹⁾Source: U.S. Department of Commerce, Bureau of Economic Analysis, Regional Economic Measurement Division, Washington, D.C. (Pursuant to Section 2 of Chapter 62F).

⁽²⁾Source: Wage and yearly growth ratio is calculated by dividing each calendar year's wages and salaries by those of the previous calendar year.

Note: Chapter 62F requires that, in calculating the allowable state tax growth factor for any fiscal year, the same total for Massachusetts's wages and salaries for a calendar year utilized in prior calculations involving that calendar year shall be utilized in subsequent calculations involving that calendar year, notwithstanding periodic adjustments by the Bureau of Economic Analysis.

The fiscal year 2010 allowable state tax growth factor decreased .0363327 from the prior year's factor (1.0515970 – 1.0152643).

EXHIBIT VI

**Comparison of Net State Tax Revenues for the Two Fiscal Years
Ended June 30, 2010**

Type of State Tax Collected (by Agency)	Net State Tax Revenues for the Fiscal Year Ended June 30, 2010	Net State Tax Revenues for the Fiscal Year Ended June 30, 2009	Increase/ (Decrease)	Percentage Increase/ (Decrease)
Department of Revenue:				
Alcoholic Beverages	\$ 70,981,194.75	\$ 71,849,619.32	\$ (868,424.57)	-1.21%
Financial Institutions	234,870,101.13	242,618,969.44	(7,748,868.31)	-3.19%
Cigarettes	456,250,898.16	456,847,370.86	(596,472.70)	-0.13%
Corporations	1,600,304,524.41	1,548,618,792.61	51,685,731.80	3.34%
Deeds	97,632,853.88	75,259,969.34	22,372,884.54	29.73%
Estate and Inheritance	221,379,078.05	259,734,006.48	(38,354,928.43)	-14.77%
Commonwealth Care Trust Fund*	141,379,428.12	145,849,404.40	(4,469,976.28)	-3.06%
Income	10,110,259,318.46	10,583,720,293.94	(473,460,975.48)	-4.47%
Insurance	285,174,556.71	309,448,369.41	(24,273,812.70)	-7.84%
Motor Fuels and I.F.T.A**	654,648,897.57	654,021,915.85	626,981.72	0.10%
Public Utilities	(315,995.30)	(1,684,738.64)	1,368,743.34	-81.24%
Room Occupancy***	152,233,110.66	160,932,973.62	(8,699,862.96)	-5.41%
Sales and Use***	4,626,023,190.34	3,880,415,712.77	745,607,477.57	19.21%
Club Alcoholic Beverages	905,444.22	747,699.49	157,744.73	21.10%
Motor Vehicle Excise	73,812.19	74,688.29	(876.10)	-1.17%
Deeds-County Corrections	2,726,734.87	4,807,454.45	(2,080,719.58)	-43.28%
Convention Center Surcharges	11,560,533.40	11,795,050.21	(234,516.81)	-1.99%
Community Preservation Trust	26,289,350.00	25,241,250.00	1,048,100.00	4.15%
Controlled Substances	77.00	70.00	7.00	10.00%
Satellite	10,914,110.36	-	10,914,110.36	-
Subtotals	<u>\$ 18,703,291,218.98</u>	<u>\$ 18,430,298,871.84</u>	<u>\$ 272,992,347.14</u>	<u>1.48%</u>

EXHIBIT VI (CONTINUED)

Comparison of Net State Tax Revenues for the Two Fiscal Years
Ended June 30, 2010

Type of State Tax Collected (by Agency)	Net State Tax Revenues for the Fiscal Year Ended <u>June 30, 2010</u>	Net State Tax Revenues for the Fiscal Year Ended <u>June 30, 2009</u>	Increase/ (Decrease)	Percentage Increase/ (Decrease)
Racing Commission:				
State Racing Receipts****	\$ 2,098,165.86	\$ 2,773,056.14	\$ (674,890.28)	-24.34%
Lottery Commission:				
Beano	1,318,824.62	1,376,190.41	(57,365.79)	-4.17%
Raffles and Bazaars	960,490.21	1,051,795.19	(91,304.98)	-8.68%
State Athletic Commission:				
Boxing Contests	10,343.05	20,620.11	(10,277.06)	-49.84%
Boxer's Fund	5361.77	-	5361.77	-
State Athletic Commission	21597.92	-	21597.92	-
Division of Insurance:				
Excess and Surplus Lines Insurance	25,413,713.49	26,197,677.67	(783,964.18)	-2.99%
Secretary of State:				
Deeds Excise Stamp Tax Fees	40,279,788.53	30,286,322.27	9,993,466.26	33.00%
Division of Unemployment Assistance:				
Workforce Training Contribution	19,377,433.60	21,031,859.77	(1,654,426.17)	-7.87%
Totals	<u>\$ 18,792,776,938.03</u>	<u>\$ 18,513,036,393.40</u>	<u>\$ 279,740,544.63</u>	<u>1.51%</u>

*Penalties assessed under Section 2 of Chapter 111M of the General Laws and cigarette excise revenues credited to the Commonwealth Care Trust Fund in accordance with Chapter 302, Sections 12 and 70 of the Acts of 2008.

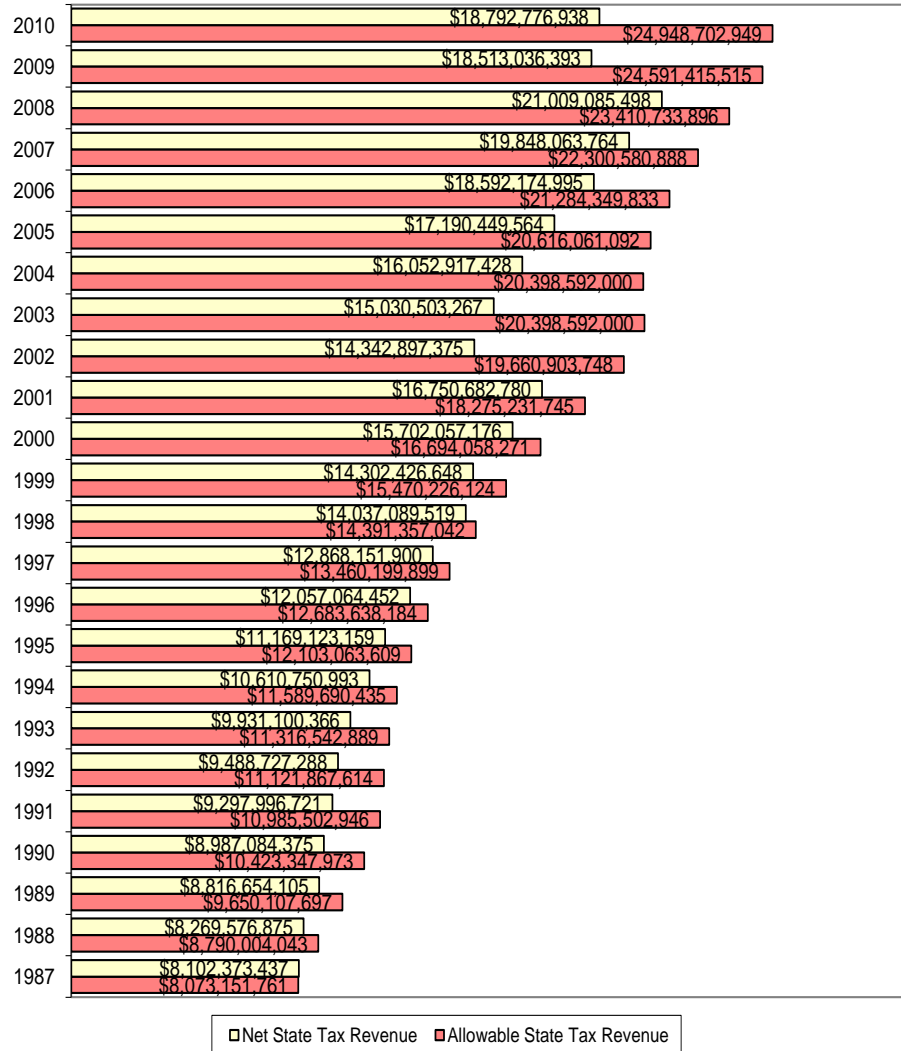
**International Fuel Tax Agreement

***Includes Sales, Meals, Room Occupancy excise taxes, and Service fees for City of Worcester DCU Capital Improvement Fund.

****Includes \$729,576.95 in State Racing Receipts collected by the Division of Professional Licensure.

EXHIBIT VII

History of Net State Tax Revenue Versus Allowable State Tax Revenue



STATUTORY AUTHORITY BY TAX SOURCE

- Alcoholic Beverages, excise tax imposed by Chapter 138, Section 21, of the General Laws of Massachusetts.
- Commercial Banks, excise tax and income taxes established by Chapter 63, Section 1, 2, and 7, and Chapter 63B of the General Laws of Massachusetts.
- Savings Banks, excise and income taxes imposed by Chapter 63, Sections 1, 2, and 7, and Chapter 63B of the General Laws of Massachusetts.
- Cigarettes, excise tax established by Chapter 64C of the General Laws of Massachusetts and amended by Chapter 302, Sections 12 and 70 of the Acts of 2008.
- Corporation, excise and income taxes imposed under Chapter 63, Sections 30-52 and 55-67, and Chapter 63B of the General Laws of Massachusetts and amended by Chapter 173 of the Acts of 2008.
- Deeds, excise tax established by Chapter 64D of the General Laws of Massachusetts and amended by Chapter 61, Section 2, of the Acts of 2009.
- Estate and Inheritance, legacies, successions, and transfer tax imposed by Chapters 65, 65A, 65B, and 65C of the General Laws of Massachusetts.
- Income, income taxes on individuals, fiduciaries, and corporate trusts established under Chapters 62 and 62B of the General Laws of Massachusetts.
- Insurance, excise tax established by Chapters 63, Sections 20-29E, and Chapter 15, Section 168, of the General Laws of Massachusetts.
- Motor Fuels, excise tax established by Chapters 64A, 64E, and 64F of the General Laws of Massachusetts.
- Public Utilities, corporate franchise tax imposed by Chapter 63, Section 52A, and Chapter 63B of the General Laws of Massachusetts.
- Room Occupancy, excise tax established by Chapter 64G of the General Laws of Massachusetts and amended by Chapter 27, Sections 51 and 52, of the Acts of 2009.
- Sales and Use, personal property, transfer, storage, and use tax imposed by Chapters 64H and 64I of the General Laws of Massachusetts and amended by Chapter 27, Sections 53, 55-57, and 59 of the Acts of 2009.
- Club Alcoholic Beverages, excise tax established by Chapter 63A of the General Laws of Massachusetts.

- Motor Vehicle, excise tax imposed by Chapter 60A of the General Laws of Massachusetts.
- Deeds County Correction Fund, excise tax established by Chapter 64D, Section 1 of the General Laws of Massachusetts. Proceeds are to be deposited in the County Correction Fund established by Chapter 64D, Section 13 of the General Laws of Massachusetts.
- Controlled Substances, stamp tax on the possession of controlled substances imposed by Chapter 64K, Section 127, of the Acts of 1993.
- Deeds Excise, a Barnstable County excise authorized by Chapter 163 of the Acts of 1988 not to exceed the excise imposed by the Commonwealth.
- Deeds Excise, temporary increase established by Chapter 193 of the Acts of 1989 and extended by Chapter 19, Section 42 of the Acts of 1993, 85% of which is to be retained by the county in which it accrues and 15% of which is to be deposited into the Commonwealth's County Correction Fund.
- Racing, tax on gross receipts imposed by Chapter 128A, Section 5, of the General Laws of Massachusetts. On November 17, 2001, Chapter 139, Section 9 of the Acts of 2001 became effective (An Act for Improvements to the Horse and Greyhound Racing Industry in the Commonwealth and the Regulation Thereof) authorizing the transfer of all pari-mutuel taxes paid to the State Racing Commission to a separate account under the control and supervision of the commission to be expended in order of priority for specified purposes.
- Beano, tax on gross receipts established by Chapter 10, Section 39, of the General Laws of Massachusetts.
- Raffles and Bazaars, tax on gross receipts imposed by Chapter 271, Section 7A, of the General Laws of Massachusetts.
- Boxing, tax on gross receipts established by Chapter 147, Section 40, of the General Laws of Massachusetts.
- Convention Center Financing Surcharges established by Chapter 152, Sections 9 and 22 of the Acts of 1997, amended by the Acts of 1999, Chapter 68, Section 13 and codified in Chapter 62C, Section 86 of the General Laws of Massachusetts and amended by Chapter 45 of the Acts of 2001.
- Unemployment Insurance Workforce Training Contribution imposed by Chapter 175 of the Acts of 1998. Proceeds are to be deposited in the Workforce Training Fund codified in Chapter 29, Section 2RR of the General Laws of Massachusetts. Chapter 172 of the Acts of 1999 amended the repeal of Chapter 151A, Section 14L to December 31, 2002. Chapter 184, Section 159 of the Acts of 2002 further amended Chapter 172 of the Acts of 1999 to December 31, 2005. Chapter 45, Section 8 of the Acts of 2005 further amended Chapter 172 of the Acts of 1999 to December 31, 2008. Chapter 123, Section 78 of the Acts of 2006 amended Chapter 45, Section 8 of the Acts of 2005 by striking out the figure "2008" and inserting in place "2010."

- Excess and Surplus Lines Insurance Premium Tax established by Chapter 175, Section 168, of the General Laws of Massachusetts.
- Deeds Excise Stamps Tax, Secretary of State, established by Chapter 300 of the Acts of 1998; Chapter 48, Section 1 of the Acts of 1997; and Chapter 151, Section 567(a) of the Acts of 1996.
- Deeds surcharge on fees established by Chapter 267 of the Acts of 2000. Proceeds are to be deposited in the Massachusetts Community Preservation Trust Fund as established by Chapter 44B, Section 9, of the General Laws of Massachusetts.
- DCU Center Financing Surcharges established by Chapter 422, Sections 3 of the Acts of 2006.
- Commonwealth Care Trust Fund, established by Section 2000 of Chapter 29, revenue deposited from penalties assessed and collected under Section 2 of Chapter 111M of the General Laws.
- Local Option Sales Tax on Meals was established by Chapter 27, Sections 60, of the Acts of 2009 which added Chapter 64L to the General Laws.
- Direct Broadcast Satellite Service excise, Chapter 27, Section 61, of the Acts of 2009 added Chapter 64M and imposed a 5% excise tax on gross revenues of providers of direct broadcast satellite service to a subscriber or customer in Massachusetts.