



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued September 20, 2021

Determination of Whether Net State Tax Revenues Exceeded Allowable State Tax Revenues

For the period July 1, 2020 through June 30, 2021





Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

His Excellency Charles D. Baker Jr., Governor of the Commonwealth
Honorable Karen E. Spilka, President of the Senate
Honorable Ronald Mariano, Speaker of the House of Representatives
Honorable Aaron Michlewitz, Chair of the House Ways and Means Committee
Honorable Michael Rodrigues, Chair of the Senate Ways and Means Committee
Geoffrey E. Snyder, Commissioner of Revenue

In accordance with the provisions of Chapter 62F of the Massachusetts General Laws, we have reviewed the Report of the Net State Tax Revenues and Allowable State Tax Revenues for the fiscal year ended June 30, 2021, 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, 2021 exceeded allowable state tax revenues for that fiscal year.

As a result of our review and as disclosed in the accompanying report, we have determined that the net state tax revenues of \$34,655,837,068 for the fiscal year ended June 30, 2021 were below the allowable state tax revenues of \$36,789,926,416 (as defined in Chapter 62F of the General Laws) by the amount of \$2,134,089,348.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue background.

Suzanne M. Bump
Auditor of the Commonwealth

cc: Honorable William F. Galvin, Secretary of the Commonwealth
Honorable Deborah B. Goldberg, State Treasurer and Receiver General
Michael J. Heffernan, Secretary of Administration and Finance
William McNamara, Comptroller of the Commonwealth
Gary D. Anderson, Commissioner, Division of Insurance
Layla D'Emilia, Commissioner, Division of Occupational Licensure
Kevin Scanlon, Deputy Director and General Counsel, State Athletic Commission
Karen Wells, Executive Director, Massachusetts Gaming Commission
Michael R. Sweeney, Executive Director, State Lottery Commission
Rosalin Acosta, Secretary, Executive Office of Labor and Workforce Development
Richard Jeffers, Director, Department of Unemployment Assistance
Timothy Rooney, Chief Financial Officer, Department of Revenue
Kevin Brown, General Counsel, Department of Revenue
Shawn Collins, Executive Director, Cannabis Control Commission

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INTRODUCTION

Chapter 555 of the Acts of 1986 inserted Chapter 62F into the Massachusetts General Laws. This chapter provides for the establishment, for each fiscal year beginning with the fiscal year ended June 30, 1987, of 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 gives oversight responsibilities to 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 that the Commissioner 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, she 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 Chairs 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 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 (Audit Report No. 88-5004-9).¹ Accordingly, the State Auditor requested that the Commissioner effectuate a tax credit of \$29,221,675. The Commissioner responded by adding a line

1. All figures disclosed in this report have been rounded for presentation purposes.

on the 1987 version of the Massachusetts Individual Income Tax Return, upon which each individual taxpayer could insert their individually calculated share of the \$29,221,675 credit.

For fiscal years 1987 through 2021, net state tax revenues increased approximately 328%, from \$8,102,373,437 to \$34,655,837,068. Allowable state tax revenues increased approximately 356%, from \$8,073,151,762 to \$36,789,926,416 during the same time period. For fiscal years 1988 through 2020, 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.

CONCLUSION

For the fiscal year ended June 30, 2021, we have determined that the net state tax revenues of \$34,655,837,068 were below the allowable state tax revenues of \$36,789,926,416 (as defined in Chapter 62F of the Massachusetts General Laws) by \$2,134,089,348, resulting in no excess state tax revenues (see Exhibit I). During this fiscal year, \$27,511,972,343, or approximately 79% (see Exhibit III), of the net state tax revenues were derived from income and sales and use taxes, which are traditionally the largest sources of revenue received by the Commonwealth.

AUDIT OBJECTIVES, SCOPE, 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, 2021 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, 2021, which were the objectives of this audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We gained an understanding of the internal control environment related to the audit objectives at the Department of Revenue (DOR) and the other six state agencies that the Office of the Comptroller of the Commonwealth (CTR) identified as receiving Chapter 555 state tax revenues: the Massachusetts Gaming Commission, the Massachusetts State Lottery Commission, the Massachusetts State Athletic Commission, the Division of Insurance, the Office of the Secretary of the Commonwealth, and the Department of Unemployment Assistance. We accomplished this by reviewing policies and procedures, inspecting documents, and performing inquiries with staff members and management at DOR and the other six state agencies.

We performed the following procedures to obtain sufficient, appropriate audit evidence to address our audit objectives.

- We reconciled Chapter 555 state tax revenues received by DOR and the other six agencies to the information in the state's accounting system, the Massachusetts Management Accounting and Reporting System (MMARS). To this end, we reviewed DOR's GeniSys accounting and reporting system and determined that GeniSys transactions were accurately reported in MMARS (see Exhibits II and VI).
- We obtained the most recent Massachusetts wage and salary data paid to the citizens of the Commonwealth for calendar year 2020 from the United States Department of Commerce's Bureau of Economic Analysis and recalculated the allowable state tax growth factor. We used the recalculated growth factor to determine the allowable net state tax revenue for fiscal year

2021 (see Exhibits IV and V). We then compared the net state tax revenue to the allowable state tax revenue for fiscal year 2021 (see Exhibit I).

Data Reliability

To achieve our audit objectives, we reviewed and reconciled all recorded Chapter 555 state tax revenues in MMARS to DOR's revenue recorded in GeniSys, the revenue recorded by the other six state agencies, and CTR's tax revenue records. The financial data obtained from MMARS and used for the analysis constitute the official accounting records of the Commonwealth, are widely accepted as accurate, and form the basis for the Commonwealth's audited annual financial statements. In addition, in 2018, the Office of the State Auditor performed a data reliability assessment of MMARS that focused on testing selected system controls (access controls, application controls, configuration management, contingency planning, and segregation of duties) for the period April 1, 2017 through March 31, 2018. As part of our current audit, we compared and reconciled the Chapter 555 state tax revenue summary totals for 4 of the 12 months of the audit period (August 2020, October 2020, February 2021, and May 2021) to various records. Specifically, for these 4 months, we traced the revenue summary totals from GeniSys to CTR's tax revenue records to confirm their accuracy. We also selected 2 months of bank reconciliations performed by DOR during the audit period and verified that the deposits DOR recorded in its financial records reconciled to the information in its bank statements as well as to the deposit information maintained by the Office of the State Treasurer and Receiver General.

For GeniSys, we reviewed general information technology controls, including process approvals for system change orders, accessibility of programs and data, system data changes, and system change management policies and procedures. We also reviewed policies and procedures of DOR and the Executive Office of Technology Services and Security for access controls and security awareness training, and we reviewed DOR's supporting documentation for unsuccessful login attempts, session locks, auditable events, audit monitoring, analysis, and reporting.

Additionally, we performed variance analyses on the Chapter 555 revenues reported over the past five years to determine whether significant changes were within reasonable ranges and whether all sources of Chapter 555 state tax revenues were reported.

Based on the above procedures, we concluded that the data obtained from MMARS and GeniSys were sufficiently reliable for the purposes of our audit.

EXHIBIT I

Calculation to Determine Whether Net State Tax Revenues Exceeded Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2021

Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2021 (see Exhibit IV)	\$ 36,789,926,416
Less:	
Net State Tax Revenues for the Fiscal Year Ended June 30, 2021 (see Exhibit II)	34,655,837,068
Net State Tax Revenues (under) Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2021	<u>\$ (2,134,089,348)</u>

EXHIBIT II

Net State Tax Revenues for the Fiscal Year Ended June 30, 2021

Type of State Tax Collected (by Agency)	Gross State Tax Revenues	Refunds and Abatements	Net State Tax Revenues
Department of Revenue:			
Alcoholic Beverages	\$ 92,757,181	\$ 97,348	\$ 92,659,833
Financial Institutions	46,432,912	1,507,359	44,925,553
Cigarettes*	400,497,522	2,283,282	398,214,240
Corporations	3,918,908,146	292,311,423	3,626,596,723
Deeds	278,635,266	87,792	278,547,474
Estate and Inheritance	820,656,562	32,892,916	787,763,646
Income*	21,412,708,459	1,750,585,790	19,662,122,669
Insurance	495,594,381	15,111,833	480,482,548
Motor Fuels and I.F.T.A.†	665,979,200	3,046,940	662,932,260
Public Utilities	1,471,656	0	1,471,656
Room Occupancy‡	126,471,931	2,252,079	124,219,852
Sales and Use‡	7,906,977,777	57,128,103	7,849,849,674
Club Alcoholic Beverages	646,990	101,290	545,700
Motor Vehicle Excise	790,861	7,849	783,012
Convention Center Surcharges	4,234,331	1,027	4,233,304
Community Preservation Trust	82,211,889	(1)	82,211,890
Controlled Substances and Marijuana Excise	112,370,476	0	112,370,476
Satellite	6,716,926	9,240	6,707,686
Statewide Car Rental	3,241,725	130	3,241,595
Electronic Nicotine Delivery System	13,529,724	225,552	13,304,172
Subtotal (Department of Revenue)	\$36,390,833,915	\$ 2,157,649,952	\$ 34,233,183,963
Massachusetts Gaming Commission:			
Pari-Mutuel Taxes	1,117,166	0	1,117,166
Gaming Revenue Tax	224,006,645	0	224,006,645
Lottery Commission:			
Beano	29,543	0	29,543
Raffles and Bazaars	584,569	0	584,569
State Athletic Commission:			
Boxing Contests	0	0	0
Boxer's Fund	0	0	0
Division of Insurance:			
Excess and Surplus Lines Insurance	56,922,088	0	56,922,088
Secretary of State:			
Deeds Excise Stamp Tax Fees	118,629,776	0	118,629,776
Department of Unemployment Assistance:			
Workforce Training Contribution	21,363,318	0	21,363,318
Subtotal (Other Agencies)	\$ 422,653,105	\$ 0	\$ 422,653,105
Total (Department of Revenue and Other Agencies)	\$36,813,487,020	\$ 2,157,649,952	\$ 34,655,837,068

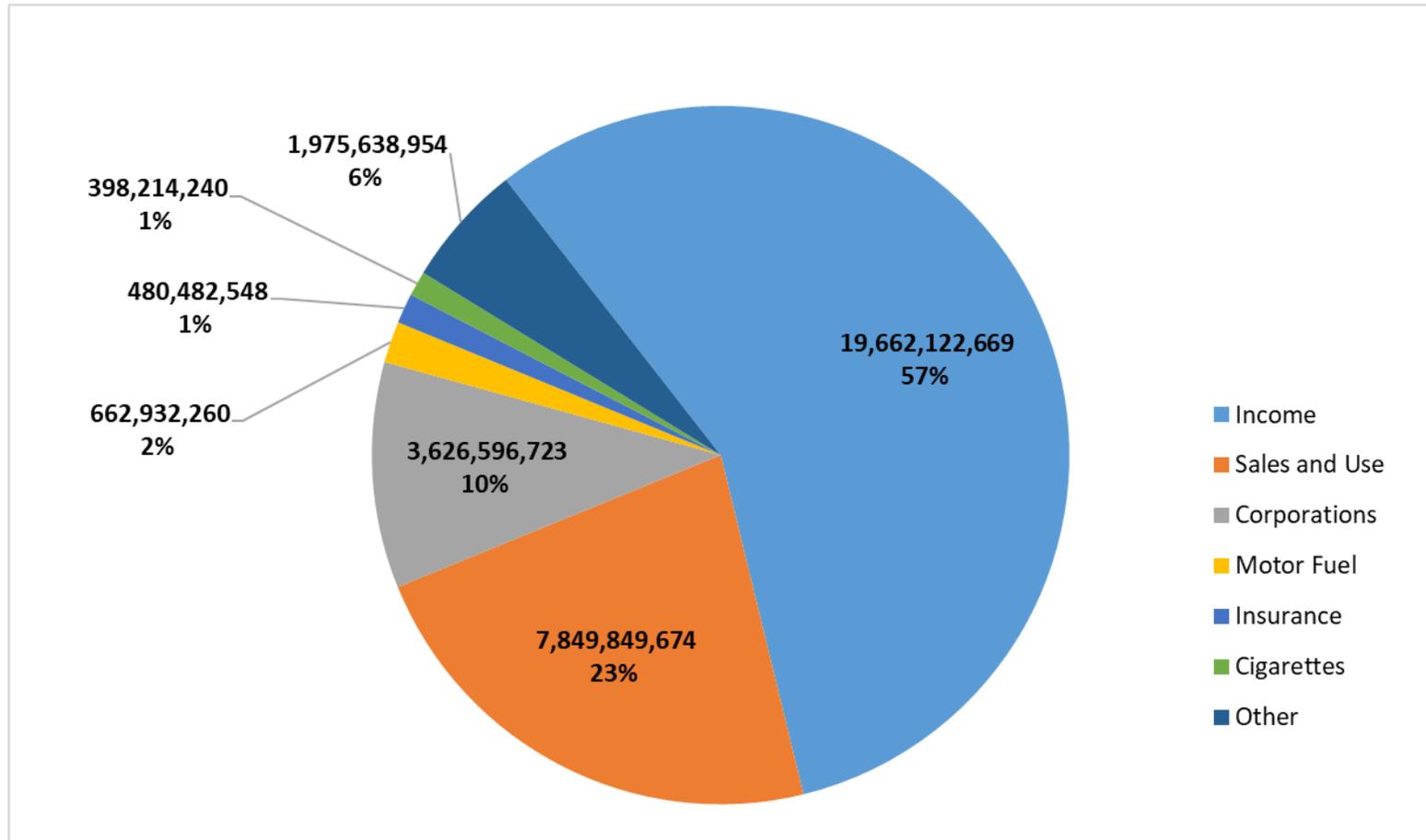
* Includes income tax penalties assessed under Section 2 of Chapter 111M of the Massachusetts General Laws (totaling \$43,662,416) and cigarette excise revenue assessed in accordance with Sections 12 and 70 of Chapter 302 of the Acts of 2008 (totaling \$82,140,670) credited to the Commonwealth Care Trust Fund (CCTF). Fiscal year 2021 tax revenues credited to the CCTF totaled \$125,803,086.

† International Fuel Tax Agreement.

‡ Includes sales, meals, and room occupancy taxes, as well as service fees for the City of Worcester Digital Federal Credit Union Arena and Convention Center Capital Improvement Fund.

EXHIBIT III

Net State Tax Revenue Sources for the Fiscal Year Ended June 30, 2021



Note: Percentages are rounded to the nearest whole number.

EXHIBIT IV

Calculation of Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2021

Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2020*		\$ 35,514,892,070
Allowable State Tax Growth Factor for the Fiscal Year Ended June 30, 2021	X	1.0359014
Allowable State Tax Revenues for the Fiscal Year Ended June 30, 2021		<u>\$ 36,789,926,416</u>

* As defined in Section 2 of Chapter 62F of the Massachusetts General Laws, "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 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. 2021-5555-3S) totaled \$35,514,892,070.

EXHIBIT V

Calculation of Allowable State Tax Growth Factor for the Fiscal Year Ended June 30, 2021

Calendar Year	Massachusetts Wages and Salaries* (in Thousands)	Wages and Salaries Yearly Growth Rate†
2017	\$251,844,339	
2018	\$265,849,684	1.0556111
2019	\$281,583,345	1.0591825
2020	\$279,587,061	0.9929105
Sum of 2018–2020 Calendar Year Growth Increase		3.1077041
Allowable State Tax Growth Factor for Fiscal Year 2021 (3.1077041/3)		1.0359014

* Source: US Department of Commerce, Bureau of Economic Analysis, Regional Income Division, Washington, D.C. (pursuant to Section 2 of Chapter 62F).

† Wage and salary yearly growth rate 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 2021 allowable state tax growth factor decreased 0.0093539 from the prior year's factor of 1.0452553.

EXHIBIT VI

Comparison of Net State Tax Revenues for the Two Fiscal Years Ended June 30, 2021

Type of State Tax Collected (by Agency)	Net State Tax Revenues for the Fiscal Year Ended June 30, 2021	Net State Tax Revenues for the Fiscal Year Ended June 30, 2020	Increase/ (Decrease)	Percentage Increase/ (Decrease)
Department of Revenue:				
Alcoholic Beverages	\$ 92,659,833	\$ 87,621,263	\$ 5,038,570	5.75%
Financial Institutions	44,925,553	9,310,585	35,614,968	382.52%
Cigarettes*	398,214,240	523,962,823	(125,748,583)	(24.00%)
Corporations	3,626,596,723	2,523,446,423	1,103,150,300	43.72%
Deeds	278,547,474	215,811,775	62,735,699	29.07%
Estate and Inheritance	787,763,646	699,555,302	88,208,344	12.61%
Income*	19,662,122,669	17,388,968,699	2,273,153,970	13.07%
Insurance	480,482,548	415,459,364	65,023,184	15.65%
Motor Fuels and I.F.T.A.†	662,932,260	707,877,049	(44,944,789)	(6.35%)
Public Utilities	1,471,656	(345,771)	1,817,427	525.62%
Room Occupancy‡	124,219,852	252,268,286	(128,048,434)	(50.76%)
Sales and Use‡	7,849,849,674	6,846,337,751	1,003,511,923	14.66%
Club Alcoholic Beverages	545,700	749,500	(203,800)	(27.19%)
Motor Vehicle Excise	783,012	194,705	588,307	302.15%
Convention Center Surcharges	4,233,304	16,681,990	(12,448,686)	(74.62%)
Community Preservation Trust	82,211,890	42,133,787	40,078,103	95.12%
Controlled Substances and Marijuana Excise	112,370,476	51,684,669	60,685,807	117.42%
Satellite	6,707,686	7,633,593	(925,907)	(12.13%)
Statewide Car Rental	3,241,595	6,174,160	(2,932,565)	(47.50%)
Electronic Nicotine Delivery System	13,304,172	0	13,304,172	N/A
Subtotal (Department of Revenue)	\$34,233,183,963	\$ 29,795,525,953	\$ 4,437,658,010	14.89%
Massachusetts Gaming Commission:				
Pari-Mutuel Taxes	1,117,166	740,900	376,266	50.78%
Gaming Revenue Taxes	224,006,645	187,870,030	36,136,615	19.23%
Lottery Commission:				
Beano	29,543	480,623	(451,080)	(93.85%)
Raffles and Bazaars	584,569	857,327	(272,758)	(31.81%)
State Athletic Commission:				
Boxing Contests	0	149,890	(149,890)	(100.00%)
Boxer's Fund	0	22,563	(22,563)	(100.00%)
Division of Insurance:				
Excess and Surplus Lines Insurance	56,922,088	54,660,063	2,262,025	4.14%
Secretary of State:				
Deeds Excise Stamp Tax Fees	118,629,776	98,338,234	20,291,542	20.63%
Department of Unemployment Assistance:				
Workforce Training Contribution	21,363,318	25,743,325	(4,380,007)	(17.01%)
Subtotal (Other Agencies)	\$ 422,653,105	\$ 368,862,955	\$ 53,790,150	14.58%
Total (Department of Revenue and Other Agencies)	\$34,655,837,068	\$ 30,164,388,908	\$ 4,491,448,160	14.89%

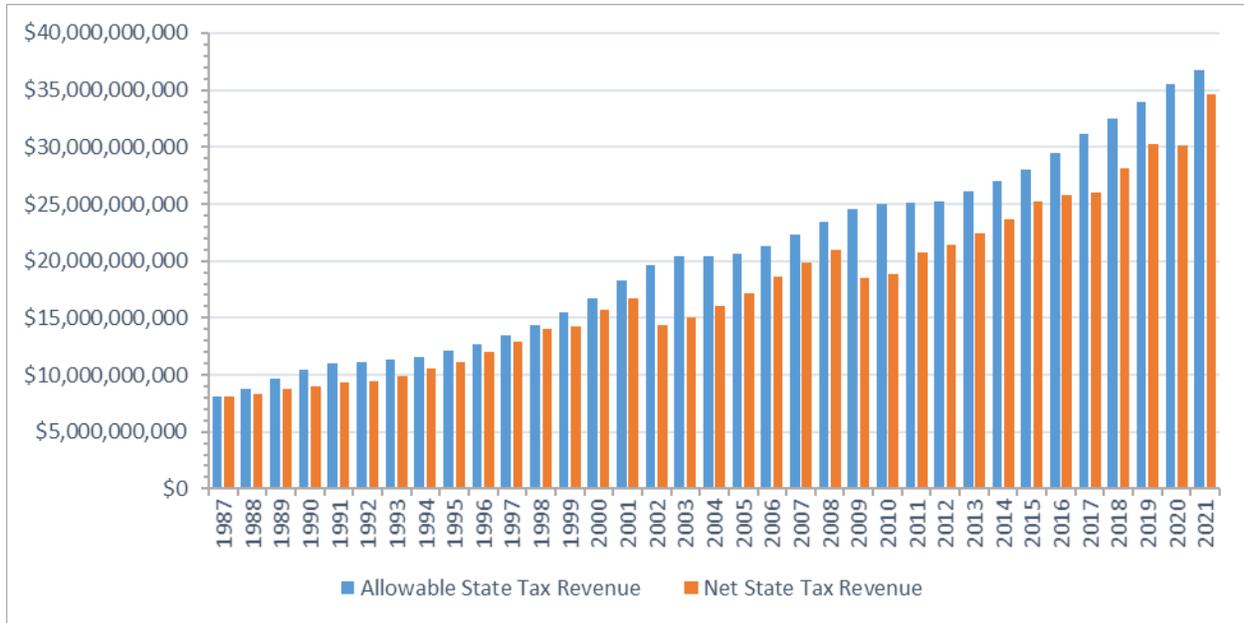
* Includes income tax penalties assessed under Section 2 of Chapter 111M of the Massachusetts General Laws and cigarette excise revenues credited to the Commonwealth Care Trust Fund in accordance with Sections 12 and 70 of Chapter 302 of the Acts of 2008.

† International Fuel Tax Agreement.

‡ Includes sales, meals, and room occupancy taxes, as well as service fees for the City of Worcester Digital Federal Credit Union Arena and Convention Center Capital Improvement Fund.

EXHIBIT VII

History of Net State Tax Versus Allowable State Tax Revenue



AUTHORITY BY TAX SOURCE

- Alcoholic Beverages, excise imposed by Section 21 of Chapter 138 of the Massachusetts General Laws.
- Financial Institutions, excise and income taxes established by Sections 1, 2, 2A, and 7 of Chapter 63 of the General Laws.
- Cigarettes, excise pursuant to Chapter 64C of the General Laws.
- Corporations, excise and income taxes imposed under Chapters 63 and 63B of the General Laws.
- Deeds, excise established by Chapter 64D of the General Laws.
- Estate and Inheritance, legacies, successions, and transfer tax imposed by Chapters 65, 65A, 65B, and 65C of the General Laws.
- Income, income taxes on individuals, fiduciaries, and certain associations established under Chapters 62 and 62B of the General Laws.
- Insurance, premium tax established by Sections 20 through 29E of Chapter 63 of the General Laws.
- Motor Fuels, excise established by Chapters 64A, 64E, and 64F of the General Laws.
- Public Utilities, corporate franchise tax imposed by Chapter 63 of the General Laws.
- Room Occupancy, excise established by Chapter 64G of the General Laws.
- Sales and Use, personal property, transfer, storage, and use tax imposed by Chapters 64H and 64I of the General Laws.
- Club Alcoholic Beverages, excise established by Chapter 63A of the General Laws.
- Motor Vehicle, excise imposed by Chapter 60A of the General Laws.
- Controlled Substances, stamp tax on the possession of controlled substances imposed by Chapter 64K of the General Laws.
- Racing, tax on gross receipts imposed by Section 5 of Chapter 128A of the General Laws. Pursuant to Section 110 of Chapter 194 of the Acts of 2011 (the "Gaming Act"), effective May 20, 2012, the Massachusetts Gaming Commission assumed all the duties and responsibilities formerly carried out by the State Racing Commission.
- Beano, tax on gross receipts established by Section 39 of Chapter 10 of the General Laws.
- Raffles and Bazaars, tax on gross receipts imposed by Section 7A of Chapter 271 of the General Laws.

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- Boxing, tax on gross receipts established by Sections 40 and 40A of Chapter 147 of the General Laws.
 - Convention Center Financing Surcharges, established by Sections 9 and 22 of Chapter 152 of the Acts of 1997, amended by Section 13 of Chapter 68 of the Acts of 1999 and amended by Chapter 45 of the Acts of 2001. The administration of this surcharge is vested in the Commissioner of Revenue by Section 86 of Chapter 62C of the General Laws.
 - Unemployment Insurance Workforce Training Contribution, imposed by Chapter 175 of the Acts of 1998. Proceeds are to be deposited in the Workforce Training Fund established by Section 2RR of Chapter 29 of the General Laws. Section 5 of Chapter 142 of the Acts of 2011 amended Section 2RR of Chapter 29 by changing the designation of the Workforce Training Fund to the Workforce Training Trust Fund.
 - Excess and Surplus Lines Insurance, premium tax established by Section 168 of Chapter 175 of the General Laws.
 - Deeds Excise Stamps Tax, Secretary of the Commonwealth, established by Chapter 300 of the Acts of 1998, Section 1 of Chapter 48 of the Acts of 1997, and Section 567(a) of Chapter 151 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 Section 9 of Chapter 44B of the General Laws.
 - Digital Federal Credit Union Center Financing Surcharges, established by Section 3 of Chapter 422 of the Acts of 2006.
 - Commonwealth Care Trust Fund, established by Section 2000 of Chapter 29 of the General Laws; revenue deposited from penalties assessed and collected under Section 2 of Chapter 111M of the General Laws and Sections 12 and 70 of Chapter 302 of the Acts of 2008.
 - Local Option Sales Tax on Meals, established by Chapter 64L of the General Laws.
 - Direct Broadcast Satellite Service, excise established by Chapter 64M of the General Laws, which imposed a 5% excise on gross revenues of providers of direct broadcast satellite service to a subscriber or customer in Massachusetts.
 - Expanded Gaming Daily Taxes and Assessment: Chapter 194 of the Acts of 2011 expanded gaming in the Commonwealth; Section 16 of the act added Chapter 23K to the General Laws, establishing the Massachusetts Gaming Commission as well as daily taxes and an assessment payable by Category 1 and Category 2 licensees.
 - Marijuana Taxes, consisting of the marijuana state excise and marijuana local sales tax option, Massachusetts sales tax imposed on the sale of marijuana not medically prescribed pursuant to Chapter 64N of the General Laws.
 - Police Training Surcharge on Vehicular Rental Contracts, established by Section 3 of Chapter 153 of the Acts of 2018.

- Electronic Nicotine Delivery System (Cigarette Excise Tax), established by Section 7E of Chapter 64C of the General Laws.