



Massachusetts Department of Revenue Annual Report FY2007

Tax Administration  Led joint nine-state
Clearinghouse initiative  Enhanced WebFile
for Business  Analyzed refund fraud trends
 Introduced streaming videos to the website
 E-file growth  Assessments remained
strong  Created new forms for health care
reform  Distributed grants for fuel tank clean-
up  Created video production unit  Provided
analysis on tax revenue trends  Launched
new website  **Child Support Enforcement**
 Record \$521.1 million in collections 
Passed Federal Data Reliability Audit  **Local
Services**  Distributed \$5.2 billion in local aid
 Began DLS Gateway initiative



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**To the Honorable Deval Patrick, Governor of the Commonwealth,
and the Honorable Members of the General Court of Massachusetts:**

I am pleased to present you with the Department of Revenue's fiscal 2007 Annual Report. This was an exciting and innovative year for DOR on all fronts – tax administration, child support enforcement and local services. DOR was on the forefront of laying the groundwork for the enforcement of the individual mandate for health insurance. As always, DOR relied on its dedicated employees to utilize new technology and to improve customer service.

Revenue collections topped \$19 billion as the percentage collected through electronic filing topped 80 percent. Less obvious to the public was DOR's lead role in coordinating the groundbreaking nine-state Clearinghouse initiative utilizing state-of-the-art data warehouse technology. The Clearinghouse allows revenue agencies in its member states to efficiently discover nonfilers and discrepancies in tax credits claimed. This fraud-busting initiative won the 2007 award for Outstanding Compliance Program from the Federation of Tax Administrators.

There were other accomplishments in tax administration: enhancing WebFile for Business which processed 1.67 million electronic tax payments for \$5.2 billion in collections; analyzing refund fraud trends saving the state \$15 million through creation of a predictive model and noticing program; and more aggressive auditing and collections activity that brought in more revenue and identified even more receivables; and successfully negotiating numerous multi-million dollar settlements with major corporations in various tax avoidance strategies, or winning these cases outright at the Appellate Tax Board.

Child Support Enforcement had another record year, collecting more than \$521 million, a 4 percent increase over the previous year, including \$33.5 million in past-due support collected through the suspension of drivers' and professional licenses and vehicle registrations.

The Division of Local Services not only distributed \$5.2 billion in local aid, but also completed 22 financial reviews to assist cities and towns in improving the performance of local governments and made 20 on-site visits to help prevent recurring financial reporting problems. The development of the DLS Gateway program to provide local officials with easier filing of public finance information and access to historical information continued.

In sum, I hope you find this report informative. I look forward to working with you and the Commonwealth's taxpayers as we continue to improve our performance, and I want to acknowledge the fine work that former DOR Commissioner Alan LeBovidge directed in the 2007 fiscal year.

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

Navjeet K. Bal, Commissioner of Revenue

Year In Review

Tax Administration

Fiscal Year 2007 was a very successful year for the Department of Revenue. The following sections highlight DOR's achievements in its three primary areas of business: tax administration, child support enforcement and local services.

One of the Department's key objectives is to utilize the latest technology to make filing returns and making payments as easy as possible. DOR is continuously enhancing the capabilities of its WebFile for Business and Web Services for Income applications, which allow business and individual taxpayers to fulfill their tax obligations and manage their accounts with DOR via the Internet, 24 hours a day, 7 days a week, in a highly secure environment. DOR currently has more than 250,000 active users of these applications.

The WebFile for Business application processed over 1.95 million returns and 1.67 million electronic payments, resulting in more than \$5.2 billion in collections and a reduction in lockbox costs of more than \$100,000.

E-filed income tax returns remained steady in FY07 with approximately 2.8 million of the 3 million returns filed via commercial software, a professional tax preparer, or with a 2-D barcoded return. E-filed returns allow

DOR to process returns more quickly, efficiently and accurately by reducing the manual data entry operations required with normal paper returns.

Heading a nine-state Clearinghouse initiative, DOR used its data warehouse technology to combine resources with other revenue agencies in the Northeast to discover nonfilers and discrepancies in credits claimed in the respective states. The success of the program earned DOR the Federation of Tax Administrators' 2007 award for outstanding compliance program.

FY07 also saw a redesign of the Department's website and the introduction of streaming video to the website. DOR designed and launched a new website that, while a part of a state-wide Web portal, effectively integrates agency goals and objectives to ensure a user-friendly online experience. Streaming video is an innovative means for the Department to communicate, educate and engage the public on various DOR services, programs

and initiatives through multi-media productions. DOR's first streaming videos covered topics such as the 2006 filing season, the senior circuit breaker credit, the turnpike fuels excise refund and registering a business with DOR.

DOR also assisted other state agencies in developing video capability and producing videos.

Although the new health care reform law took effect in FY07, DOR began laying the groundwork in FY06 for developing the necessary forms to administer the individual mandate and support electronic filing of health care information by insurance carriers and employers. The Department also filmed a video for the Commonwealth Health Insurance Connector Authority.

The Department continued to provide support to underground storage tank (UST) owners and operators for clean-up costs associated with leaking UST systems and disbursed grants to communities for removing and replacing underground fuel storage

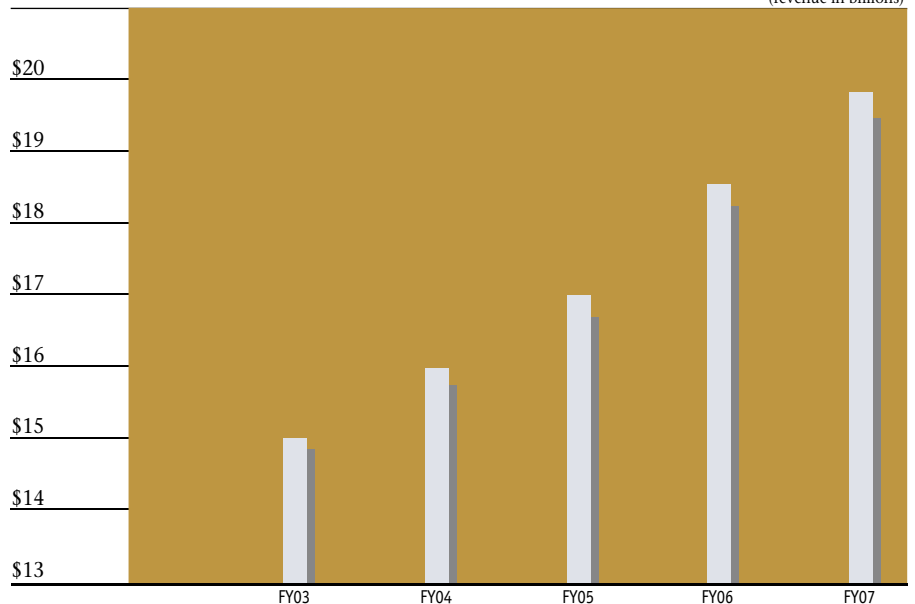
FY2007

Tax Administration

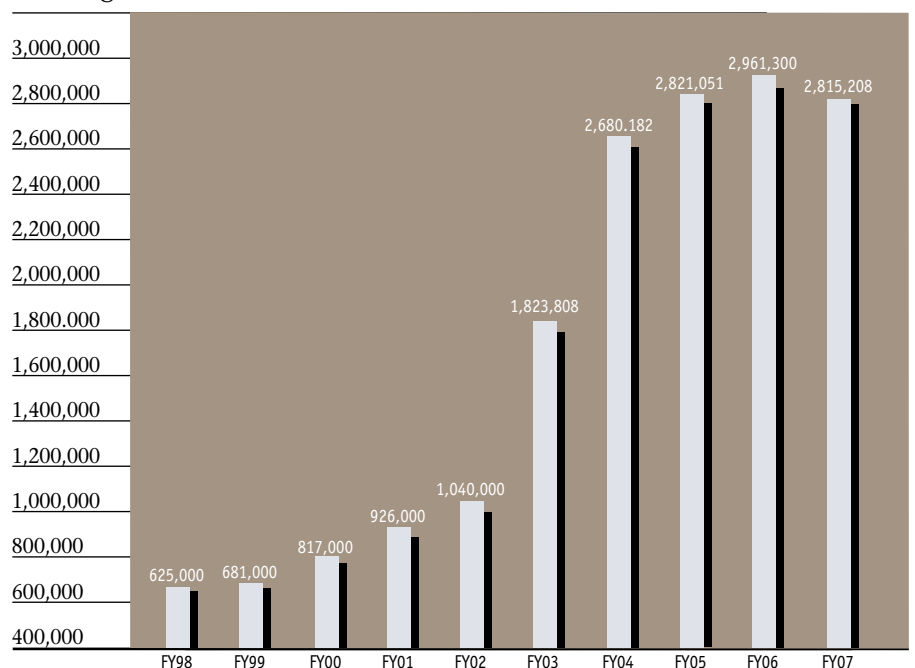
tanks. In FY07, \$80.6 million in revenues was collected from annual fees and 28 grants totaling \$329,000 were awarded to cities and towns. In addition, UST provided assistance to the Massachusetts Department of Environmental Protection in developing the regulations and procedures for implementing the Oil Spill Prevention and Response Trust Fund.

The sum of all technological enhancement and enforcement efforts for any revenue agency is the bottom line — revenue collections. DOR's FY07 collections remained strong, topping \$19.7 billion — an increase of 6.9 percent over FY06. These collections exceeded benchmark estimates by \$436 million. Fiscal year 2007 also was a strong year for audit assessments, with assessments totaling just shy of \$1 billion. DOR's new retained revenue hires far exceeded the \$71 million target set by the Legislature by assessing more than \$101 million. FY07 delinquent tax collections totaled \$597 million, a 22 percent increase over FY06. These collections were the result of the implementation of manual and automated programs, as well as the successful negotiation of several multi-million dollar settlements with businesses involved in tax avoidance strategies.

Total Revenue



E-Filing Tax Returns



Year In Review

Child Support Enforcement

The Department's Child Support Enforcement Division provides important services to families by assisting parents in establishing paternity and child support orders, collecting child support and asking courts to adjust support orders when circumstances change.

In FY07, CSE collected \$521.1 million in child support — a 4 percent increase over FY06. Since joining DOR in 1986, CSE has collected \$6.3 billion in child support: \$5.1 billion of the total went directly to families and \$1.2 billion went to the Commonwealth as reimbursement for public assistance. Nearly 96 percent of child support payments to custodial parents are made electronically through direct deposit or debit card.

CSE established paternity for nearly 22,000 children born out of wedlock in Massachusetts in FY07, either through court adjudication or voluntary acknowledgement in the hospitals. Since 1990, almost 300,000 of the 375,000 children born out of wedlock in Massachusetts have had their paternity established.

CSE's license suspension program has proven to be an effective method of collecting past-due child support. In FY07, CSE collected \$33.5 million by suspending the drivers' and profes-

sional licenses and vehicle registrations of delinquent noncustodial parents, an increase of 31 percent over FY06. Since its inception in 2002, the program has brought in approximately \$106 million.

CSE also worked with MassHealth to enroll children who receive Medicaid in private health insurance, which resulted in Medicaid cost savings of \$62.6 million. Since FY01, CSE's efforts have resulted in Medicaid cost savings of \$326.3 million.

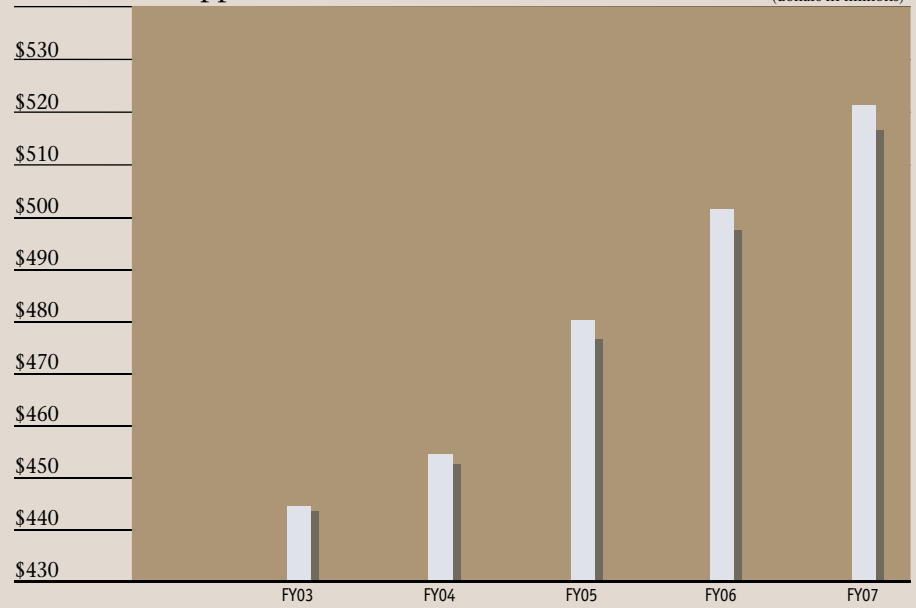
CSE customers can manage a number of aspects of their child support case through CSE's online self-help center, Case Manager. In FY07, the Case Manager handled 80,000 self-help transactions by customers, which otherwise would have required follow-up phone calls, office visits, faxes or e-mails from staff. The Case Manager has nearly 100,000 unique users, an increase of 20 percent over FY06.

FY2007

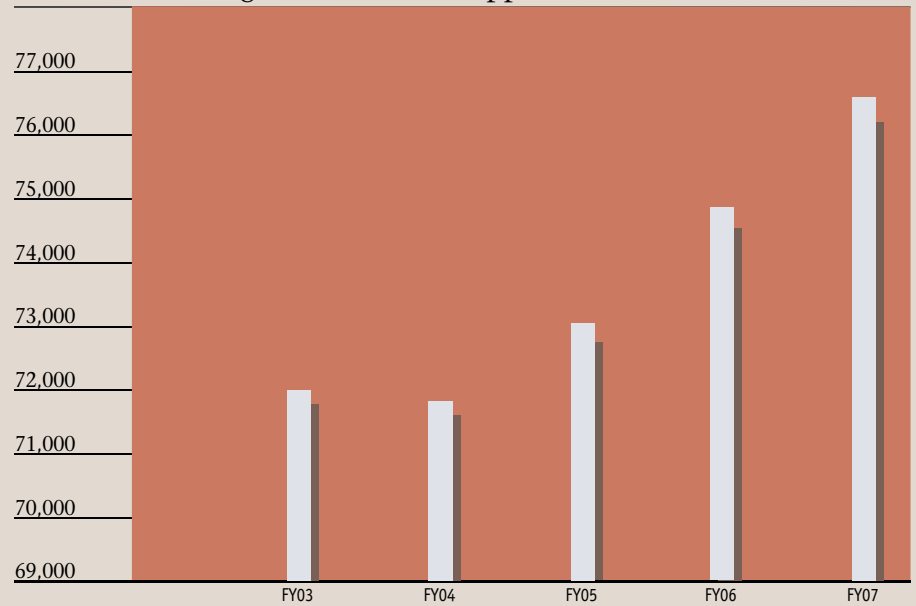
Child Support Enforcement

Total Child Support Enforcement Collections

(dollars in millions)



Families Receiving Current Child Support



FY2007

Local Services

The Department's Division of Local Services (DLS) has oversight of property taxation and municipal finance for the Commonwealth's 351 cities and towns. DLS exists to help the Commonwealth's municipalities achieve fair and equitable property taxation and efficient fiscal management.

In FY07 the role of the DLS deputy commissioner was expanded to coordinate activities throughout the executive branch in order to enhance state and local partnership. This has provided DLS regular access to the Governor's office and the Executive Office for Administration and Finance, facilitating the activities of DLS within communities across the commonwealth.

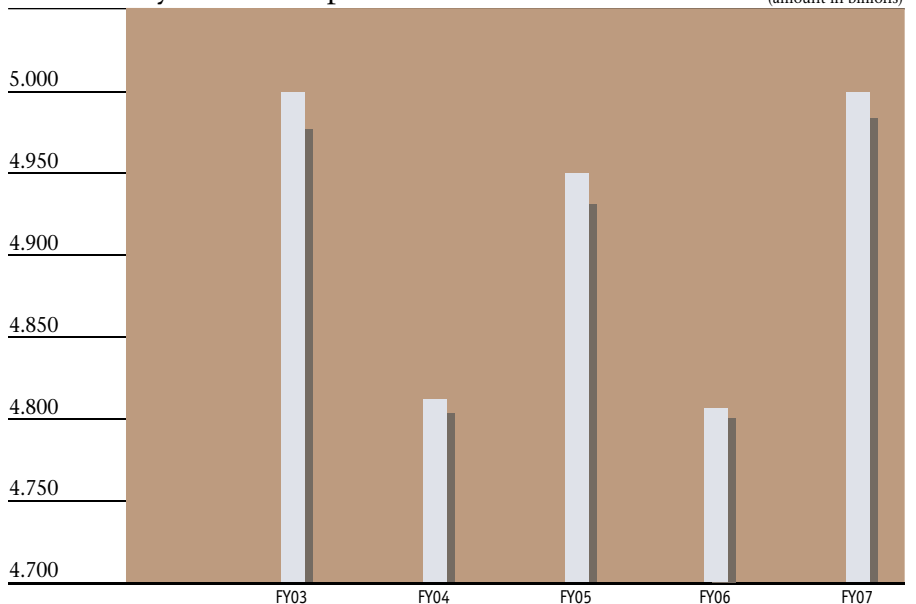
DLS certified property assessments of 136 communities for uniformity and market trends in order to certify tax rates. It also certified 215 interim year adjustments for those communities not on the full revaluation schedule. The division certified tax rates for 351 cities and towns and 60 special purpose districts. Free cash totaling \$620.9 million was certified for 345 cities and towns; free cash totaling \$21 million was certified for 57 special purpose districts; excess and deficiency funds totaling \$42.4 million were certified for 72 regional school districts.

In FY07 DLS focused on the completion of DLS Gateway, which will move all local government data submissions to a suite of Internet applications that will allow local officials to directly input and validate financial data in real time. The Gateway programs were readied for municipal pilot testing beginning in early FY08.

DLS tracked local aid throughout the state budget process and notified local officials of their estimated aid at each

juncture of the process. DLS timely distributed \$5.2 billion in local aid to cities, towns and regional school districts. DLS also completed 22 financial management reviews as requested by cities and towns, as well as several community specific consultations on charter adoption, government structure and financial forecasting.

Total Cherry Sheet Receipts



* Totals for FY2006 and beyond do not include School Building Authority ongoing payments, which have been removed from the Cherry Sheets

Legislative Review FY 2007

Personal Income Tax

Commuter Deduction

Effective for tax years beginning on or after January 1, 2006, the Legislature reenacted and codified a personal income tax deduction for certain commuter expenses. See G.L. c. 62, § 3(B)(a)(15), as added by St. 2006, c. 139, §§ 42, 131.

General Laws chapter 62, § 3(B)(a)(15) provides a deduction for individuals against Part B Income for amounts expended by an individual for tolls paid for through a Fast Lane account or for weekly or monthly transit commuter passes for Massachusetts Bay Transit Authority transit, bus, commuter rail or commuter boat, not including amounts reimbursed by an employer or otherwise. In the case of a single person or a married person filing a separate return or a head of household, this deduction applies only to the portion of the expended amount that exceeds \$150, and the total amount deducted shall not exceed \$750. In the case of a married couple filing a joint return, this deduction applies only to the portion of the amount expended by each individual that exceeds \$150, and the total amount deducted shall not exceed \$750 for each individual.

Any MBTA commuter pass or Charlie Ticket that is designated to be a monthly or weekly pass is eligible for the commuter deduction. The MBTA commuter rail "Twelve-Ride" pass

and the MBTA express bus or commuter boat "Ten-Ride" passes qualify as weekly passes eligible for the commuter deduction. However, a "Stored-Value" Charlie Ticket does not qualify for the commuter deduction.

Sales Tax

Sales Tax Holiday

The Legislature enacted a statute that provides for a Massachusetts "sales tax holiday weekend," *i.e.*, two consecutive days during which most purchases made by individuals for personal use will not be subject to Massachusetts sales or use taxes. St. 2006, c. 204, §§ 1–5 (the Act). The Act provided that the sales tax holiday would occur on August 12 and 13, 2006, and on those days, non-business sales at retail of single items of tangible personal property costing \$2,500 or less are exempt from sales and use taxes, subject to certain exclusions. The following did not qualify for the sales tax holiday exemption and remained subject to tax: all motor vehicles, motorboats, meals, telecommunications services, gas, steam, electricity, tobacco products and any single item whose price was in excess of \$2,500. The Act charged the Commissioner of Revenue with issuing instructions or forms and rules and regulations necessary to carry out the purposes of the Act.

Two changes from the sales tax holiday of 2005 were the *exclusion* of prior sales and layaway sales from the holi-

day. The Act creating the 2006 sales tax holiday provided, "Eligible sales at retail of tangible personal property ... are restricted to those transactions occurring on August 12, 2006 and August 13, 2006. Transfer of possession or payment in full for the property shall occur on one of those days, and prior sales or layaway sales are ineligible."

Sales Tax Exemption for Disabled Veterans

Recent legislation, St. 2006, c. 260, § 15 creates a new sales tax exemption for certain disabled veterans purchasing motor vehicles on or after November 1, 2006. As amended, G.L. c. 64H, § 6(u) will exempt the "(s)ale of a motor vehicle purchased by and for the use of a person who has suffered loss, or permanent loss of use of, both legs or both arms or one leg and one arm *or by and for the use of a veteran who has been determined to be permanently disabled by the medical advisory board established under section 8C of chapter 90 and has been issued a disabled veteran number plate under section 2 of chapter 90.* This exemption shall apply to one motor vehicle only owned and registered for the personal, noncommercial use of such person." (Newly added statutory language effective November 1, 2006 is italicized.)

Election to File and Pay Sales and Use Tax as a Materialman

The Legislature enacted St. 2006, c. 123, An Act Relative to Economic

Legislative Review continued

Investments in the Commonwealth to Promote Job Creation, Economic Stability, and Competitiveness in the Massachusetts Economy (the Act). Effective July 1, 2007, the Act amends c. 62C, § 16(h) to provide new filing requirements for a materialman who makes sales taxable under the sales or use tax. Under the new law, a taxpayer that has requested materialman status and has received approval from DOR must file a return on a monthly basis within 50 days after the expiration of the month covered by the return. Thus, a taxpayer that qualifies as a materialman must file a sales and use tax return and pay the tax due for each monthly period on or before the twentieth day of the second month following the tax period. St. 2006, c. 123, §§ 53, 54, and 55.

Tax Administration

Bonds for Public Infrastructure Improvements

St. 2006, c. 293, §§ 5–12, part of An Act Relative to the Economic Development of the Commonwealth (the Act), relates to financial assistance for public infrastructure improvements. Under the Act, the Massachusetts Development Finance Agency (MDFA) is authorized to issue bonds to finance infrastructure improvements that will support economic development projects. The funds from the bonds may be used to finance the construction of streets, sidewalks, water and sewer service, and similar improvements.

Private developers will construct the improvements, and once complete, the infrastructure improvements will generally be turned over to the local municipality. During the construction phase and prior to occupancy, the developer will pay local assessments to the municipality that will be used to finance the debt service on the bonds. After the project is complete and occupied and the infrastructure improvements have been turned over to the local municipality, the Commonwealth takes on the responsibility for paying the debt service on the bonds associated with the project.

Approval of a project to be funded by bonds issued pursuant to the Act is a multi-stepped process. First, a developer must apply to a municipality for project approval. Each proposal from a developer must include, among other things, a financial analysis estimating the new state tax revenues to be generated as a result of each commercial component of the development. The municipality must approve the project and agree to participate in its development by a two-thirds vote of the municipality's governing authority. Once the municipality approves a project, the municipality and the developer jointly submit the project to the MDFA and the Secretary of Administration and Finance (A&F). The Secretary of A&F is required to approve, disapprove, request additional information, or request an

amendment to the application within 60 days. As part of the approval process, DOR, to the extent practicable, must certify that the amount of new state tax revenues allocable to the project will be at least equal to the projected maximum annual debt service, as determined by A&F, on the bonds to be issued to fund the public infrastructure improvements related to the project. Subsequently, when a commercial component of a project approved by A&F is complete and occupied, DOR must annually determine and certify the new state tax revenues generated by each such component, after DOR has received the relevant data necessary to make the determination, and must determine the extent of any resulting surplus or shortfall after comparing new state tax revenues with the allocable annual debt service on the bonds that is apportioned to each component.

So long as the new state tax revenues for each component meet or exceed the allocable debt service, the Commonwealth will pay the debt service on the bonds. If the new state tax revenues generated by a component of a project are insufficient to pay the allocable debt service (after offsetting a shortfall with any surplus generated by other components), the municipality in which the project is located must pay the amount of the shortfall. If the municipality does not pay the shortfall amount, the Treasurer of the

Commonwealth is directed by the statute to reduce amounts of local aid to the municipality by the shortfall amount.

Jobs Incentive Payment

The Legislature enacted St. 2006, c. 123, An Act Relative to Economic Investments in the Commonwealth to Promote Job Creation, Economic Stability, and Competitiveness in the Massachusetts Economy (the Act). Under existing law, c. 62C, § 67D authorizes the Commissioner to make a jobs incentive payment to a qualifying biotechnology or medical device manufacturing company. Qualifying companies must, in one calendar year, increase their level of Massachusetts employment by at least 10 full-time equivalent biotechnology jobs over the previous calendar year in order to qualify for a jobs incentive payment. The jobs incentive payment equals 50 percent of the salary attributable to the increase of biotechnology jobs multiplied by the Massachusetts personal income tax rate. The payment is made in equal installments to qualifying companies over a three-year period.

Effective for tax years beginning on or after January 1, 2006, the Act expands the job incentive payment program to include marine science technology companies. The Act inserts the following definition into c. 62C, § 67D: "Marine science technology company," a business engaged in research,

exploration, operations, monitoring, or defense in marine settings. This term shall include contract manufacturers engaged in the production of these products for a marine science technology company.

Under existing law, a "biotechnology job" is defined as one in which an employee of a biotechnology or medical device manufacturing company performs "qualified services" as defined at c. 62C, § 67D. As amended by the Act, "qualified services" for purposes of § 67D now includes "direct manufacturing or professional services performed by an employee of a marine science technology company during a calendar year that consists of research, exploration, operations, monitoring, or defense in a marine setting." St. 2006, c. 123, §§ 56, 57 and 58, amending G.L. c. 62C, § 67D.

Income/Corporate Excise

Medical Device Tax Credit

The Legislature amended the medical device tax credit provisions contained in chapters 144 and 145 of the Acts of 2006. Chapter 144 amends G.L. c. 63, by adding § 31L. Chapter 145 amends G.L. c. 62, by adding § 6½. Both provisions were signed into law and became effective on July 8, 2006.

Pursuant to chapter 144 of the 2006 Act, a medical device company that has a usual place of business within Massachusetts where medical devices are developed or manufactured is al-

lowed a credit against its G.L. c. 63 excise. "Medical device company," as that phrase is used in chapter 144 means a domestic corporation organized under G.L. c. 156B or c. 156D, a limited liability company organized under G.L. c. 156C and subject to G.L. c. 63, or a foreign corporation subject to G.L. c. 63. Similarly, pursuant to chapter 145 of the 2006 Act, a medical device company that has a facility located in Massachusetts where medical devices are developed or manufactured is allowed a credit against its G.L. c. 62 tax liability. "Medical device company" as that phrase is used in chapter 145 means a sole proprietorship, partnership, limited liability company, corporate trust, corporation or other business the income of which is taxed directly to the business or its owners under G.L. c. 62.

"Medical device" as that term is used in both of the above chapters of the 2006 Act is defined as:

an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including a component part or accessory, which is recognized in the official National Formulary or the United States Pharmacopeia, or any supplement thereto, intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment

Legislative Review continued

or prevention of disease in humans or other animals and which does not achieve any of its primary intended purposes through chemical action within or on the body of a human or other animal and which is not dependent upon being metabolized for the achievement of its primary intended purposes. St. 2006, c. 144 and c. 145.

For taxable years beginning on or after January 1, 2006, the credit is equal to 100 percent of the user fees actually paid to the United States Food and Drug Administration (USFDA) by a medical device company during the taxable year for pre-market submissions (e.g., applications, supplements, reports, or 510(k) submissions) to market new medical devices or upgrades, changes or enhancements to existing medical devices, developed or manufactured in Massachusetts.

Brownfields Tax Credit

The Legislature enacted St. 2006, c. 123, An Act Relative to Economic Investments in the Commonwealth to Promote Job Creation, Economic Stability, and Competitiveness in the Massachusetts Economy (the Act). Prior to the Act, certain taxpayers subject to tax under General Laws chapters 62 and 63 were allowed a Brownfields credit for incurring eligible costs to remediate a hazardous waste site on property used for business purposes and located within an

economically distressed area. G.L. c. 62, § 6(j) and G.L. c. 63, § 38Q.

The Act amends c. 62, § 6(j) and c. 63, § 38Q to extend the availability of the Brownfields credit to a nonprofit organization. In addition, the time frame for eligibility for the credit has been lengthened. Prior to the Act, net response and removal costs that the taxpayer incurred between August 1, 1998 and August 5, 2005 were eligible for the credit provided that the taxpayer commenced and diligently pursued an environmental response action before August 5, 2005. The Act changes the environmental response action commencement cut-off date from August 5, 2005 to August 5, 2011, and extends the time for incurring eligible costs that qualify for the credit to January 1, 2012. St. 2006, c. 123, §§ 49 and 63.

In addition, the Act amends c. 62, § 6(j) and c. 63, § 38Q to insert new provisions that provide for the transfer, sale or assignment of a Brownfields credit to another taxpayer with a liability under chapter 62 or chapter 63 or to a nonprofit organization.

Historic Rehabilitation Tax Credit

The Legislature enacted St. 2006, c. 123, An Act Relative to Economic Investments in the Commonwealth to Promote Job Creation, Economic Stability, and Competitiveness in the Massachusetts Economy (the Act). Under the Massachusetts Historic

Rehabilitation Tax Credit program, a certified rehabilitation project of a qualified historic structure is eligible to receive up to 20 percent of qualified rehabilitation expenditures in state tax credits. G.L. c. 62, § 6J; G.L. c. 63, § 38R. Eligibility for the Massachusetts Historic Rehabilitation Tax Credit is explained in the Department's regulation at 830 CMR 63.38R.1. Under prior law, the Massachusetts Historic Rehabilitation Tax Credit was available for the five-year period from January 1, 2005, to December 31, 2009, and the credit was limited to \$15,000,000 per year.

The Act amends G.L. c. 63, § 38R(b)(1)(i) and G.L. c. 62, § 6J(b)(1)(i) to extend the availability of the credit for an additional two years, to December 31, 2011. St. 2006, c. 123, §§ 51 and 65. Under the amendments to G.L. c. 63, § 38R together with G.L. c. 62, § 6J, the Commissioner, in consultation with the Massachusetts Historical Commission, is authorized to allocate credits, for the six-year period beginning January 1, 2006, and ending December 31, 2011, in an amount not to exceed \$50,000,000 per year.

Corporate Excise

Modification of DOR's Role in Reviewing Certified Projects

Due to the recent amendment to G.L. c. 63, § 38N, set forth in section 62 of chapter 123 of the Acts of 2006, the Commissioner is no longer directed to certify applications for the eco-

economic opportunity area (EOA) credit before a corporation may take the credit or to periodically review certified projects to determine continued compliance with certain requirements. Corporations seeking to take the credit are no longer required to file the EOA credit application with the Commissioner for certification thereof. The amendment is effective June 24, 2006.

General Laws chapter 63, section 38N authorizes a credit against the tax imposed by chapter 63 for corporations that participate in a certified project in an economic opportunity area. The credit allowed is an amount equal to 5 percent of the cost of eligible property. The credit is a component of the Economic Development Incentive Program administered by the Economic Assistance Coordinating Council (EACC) within the Massachusetts Office of Business Development pursuant to G.L. c. 23A.

Pursuant to the statutory amendment to chapter 63, § 38N, with respect to tax returns timely filed on or after June 24, 2006, a corporation eligible to take the EOA credit is no longer required to file a separate EOA credit application with the Commissioner, and the Commissioner will not review any such application. In addition, effective June 24, 2006, the Commissioner will no longer conduct the periodic review of certified projects required under prior law, and will no longer

issue notices of intent to decertify or refer certified projects to the EACC for decertification. The Department of Revenue will consider a project to be decertified only upon receipt of notice of decertification from the EACC.

With respect to returns filed or required to be filed before June 24, 2006 (or amended returns with respect to periods for which returns were filed or required to be filed before June 24, 2006), the Commissioner will continue to review EOA credit applications required in connection with those returns. If the Commissioner does not certify a corporation's application filed in connection with its return or if a corporation does not file the EOA credit application as required, the Commissioner will not allow the amount of the EOA credit that the corporation attempted to take on its return to reduce its corporate excise liability. Consequently, the Commissioner will issue a Notice of Intention to Assess. The corporation will not be allowed future use of any amount of EOA credit disallowed because the Commissioner did not certify the corporation's EOA credit application. The corporation's EOA credit carryover, if any, will not be affected and will still be available for future use.

Although corporations are no longer required to file an application with the Commissioner after June 23, 2006, the Department is still respon-

sible for ensuring that the EOA credit for eligible property used in a certified project has been properly calculated and claimed on a taxpayer's tax return. See 830 CMR 63.38N.1.

Section 38 Manufacturing Corporations; Value-added Agricultural Products

The Legislature enacted St. 2006, c. 123, An Act Relative to Economic Investments in the Commonwealth to Promote Job Creation, Economic Stability, and Competitiveness in the Massachusetts Economy (the Act). A corporation classified as a manufacturing corporation may use certain tax benefits outlined in 830 CMR 58.2.1(4). In addition, a corporation engaged in manufacturing but not having been so classified may qualify for certain tax benefits described in 830 CMR 58.2.1(5). A corporation engaged in manufacturing activity that has income from business activity which is taxable both in Massachusetts and in another state may also be subject to single-sales-factor income apportionment as provided by c. 63, § 38(l).

In order to qualify for single-sales-factor-apportionment treatment under § 38(l), a corporation must be "engaged in manufacturing . . . in substantial part, in transforming raw or finished physical materials by hand or machinery, and through human skill and knowledge, into a new product possessing a new name, nature and adapted to a new use." G.L. c. 63, § 38(l)(1). The portion of the Depart-

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ment's apportionment regulation dealing with "Section 38 Manufacturers" defines "substantial manufacturing" and details the requirements that a manufacturing corporation must meet to utilize single-sales-factor apportionment. See 830 CMR 63.38.1(10).

The Act amends the apportionment statute at c. 63, § 38(l)(1) to clarify that the definition of "manufacturing corporation" includes "any operation manufacturing, in substantial part, value-added agricultural products." St. 2006, c. 123, §§ 60 and 61. The Act further amends c. 63, § 38(l)(1) by inserting the following:

"Value-added agricultural products" shall be defined as any products of "farming" or "agriculture", as defined in section 1A of chapter 128, which have increased in market value due to some process other than packaging. Value-added agricultural products shall include, but not be limited to, the following: cheese, butter, butter-milk, yogurt, cream, ice cream, fruit preserves, fruit juices, fruit sauces, fruit syrups, dried fruit, seeded fruits, peeled or chopped fruit and vegetables, processed fruit and vegetables, salads, maple syrup, maple candy, honey and all apicultural products, horticulture nursery and greenhouse products, topiary plants, bacon, sausage, lard, dried or smoked meat, and wool as well as fish, seafood, and other aquatic products.

As a result of the Act, a corporation that manufactures value-added agricultural products, and meets the requirements of "substantial manufacturing" at 830 CMR 63.38.1(10) is a section 38 manufacturer subject to a modified apportionment formula whereby its apportionment is based 100 percent on sales.

The amendment to c. 63, § 38(l) is a clarification of existing law. The Commissioner will apply the amendment to c. 63, § 38(l) going forward and to all open taxable years within the statute of limitations for assessment or abatement.

Promoting Redevelopment of Fort Devens

Under existing law, c. 63, § 38N authorizes a credit (EOA credit) against the tax imposed by chapter 63 for certain corporations that participate in a certified project in an economic opportunity area (EOA). The EOA credit is an amount equal to 5 percent of the cost of any property that is used exclusively in a certified project within an EOA and that would otherwise qualify for the 3 percent investment tax credit at c. 63, 31A. However, the EOA credit is not allowed if the investment tax credit is claimed.

The EOA credit may not exceed 50 percent of the taxpayer's tax liability for any one taxable year. The EOA credit may not be applied to reduce the minimum excise imposed under

any provision of c. 63. Unused, unexpired EOA credits that exceed the corporation's excise may be carried forward by the individual corporation that generated the credit for up to 10 years. No corporation may apply the EOA credit to its excise for any taxable year beginning more than five years after the certified project or the EOA ceases to qualify.

The Legislature recently enacted St. 2006, c. 173, An Act Making Appropriations for the Fiscal Year 2006 to Provide Funding to Promote the Redevelopment of Fort Devens (the Devens Redevelopment Act), and applicable to the EOA credits permitted under c. 63, § 38N. St. 2006, c. 173, § 3 (the Devens Redevelopment Act). In general, the Devens Redevelopment Act allows an eligible taxpayer located at the former Fort Devens military base to claim a refund for certain portions of its EOA credit.

Over a period not to exceed eight years, a taxpayer must commit to the cumulative investment of not less than \$650 million in the project, and the creation, cumulatively, of not fewer than 550 new jobs involving permanent full-time employees, both direct and contracted, and these jobs must be located at the Devens site. The Devens Redevelopment Act applies only to EOA credits generated by projects in the biotechnology industry, certified on or after June 1, 2006 and before June 1, 2008.

Personal Income Tax

Health Care Reform Act

A. Health Insurance Individual Mandate

The Massachusetts Health Care Reform Act (the Act), St. 2006, c. 58, as amended provides that residents age 18 and over who have access to affordable health insurance coverage but do not obtain and maintain the coverage may be subject to a penalty under G.L. c. 111M, § 2, which will be imposed through the resident personal income tax return. The penalty will be assessed and collected in the manner of a tax under G.L. c. 62C.

1. Penalty for Tax Year 2007

If a taxpayer does not indicate on his or her return whether he or she maintained health insurance, or if the taxpayer indicates that he or she did not have creditable coverage in force on December 31, 2007, then the taxpayer shall self-assess or be assessed the penalty of the loss of the personal exemption at G.L. c. 62, § 3B(b), or, in the case of a taxpayer who files jointly with a spouse who did maintain coverage, the loss of one-half of the personal exemption.

2. Penalty for Tax Year 2008

In 2008, individuals who are 18 years and older and are deemed able to afford health insurance but fail to comply are subject to a penalty for each month that they are uninsured in the tax year. The penalty, which will be imposed through the individual's

personal income tax return, shall not exceed 50 percent of the minimum monthly insurance premium for which an individual would have qualified through the Commonwealth Health Insurance Connector Authority (the Connector). On an annual basis, the Connector will establish separate standards that determine whether individuals, married couples and families can afford health insurance, based on their incomes and affordable health insurance premiums. The Commissioner will annually publish a penalty schedule. The penalty will apply only to adults who are deemed able to afford health insurance.

3. Appeals

All appeals of assessments or proposed assessments of a penalty on the basis of claimed hardship are within the jurisdiction of the Connector and are subject to procedures established by the Connector. To the extent of any inconsistency or overlap between the processes established by chapter 62C and those established by the Connector, the Connector's procedures will supersede those of chapter 62C.

B. Dependent Care Coverage

The Massachusetts Health Care Reform Act at chapter 58 of the Acts of 2006, as amended, changed chapters 32A, 175, 176A, 176B and 176G of the General Laws to require a broadening of dependent coverage offered by health insurance carriers. The Legislature made several technical corrections

to the health care reform law in the recent Act Further Regulating Health Care Access, St. 2007, c. 205, signed into law on November 29, 2007. Collectively, the amendments require that on or after January 1, 2008, carriers issuing or renewing insured health benefit plans with coverage for dependents make coverage available for persons "under 26 years of age or for 2 years after the end of the calendar year in which such persons last qualified as dependents under 26 U.S.C. 106, whichever occurs first."

A non-cash fringe benefit that is included in gross income is sometimes referred to as "imputed income."

Under federal income tax law, extending employer-provided health insurance coverage to an employee's child up until age 26 may create imputed income for the employee. The recent legislation provides an exemption for imputed income for Massachusetts personal income tax purposes where health care coverage is required by Massachusetts law. See G.L. c. 62, § 2(a)(2)(Q), as added by St. 2007, c. 205, § 6. As a result, Massachusetts will not follow federal law in the area of imputed income resulting from employer-provided health care fringe benefits.

The Taxes FY2007

TYPE OF TAX	MEASURE	RATE ¹	RETURN DUE
Personal income and fiduciary income	Net capital gains ²	5.3–12%	On or before April 15 for calendar year filings. The 15th day of the 4th month for fiscal year filings.
	Dividends, interest, wages, other income	5.3%	
Nonresident	Massachusetts source income	5.3%	
Estimated tax	Liability in excess of \$400		Due quarterly on or before the 15th day of April, June, September and January.
Withholding	Wages	5.3%	Varies depending on amount of tax withheld in calendar year. If annual withholding: up to \$100 — annual filing; \$101–1,200 — quarterly filings; \$1,201–25,000 — monthly filings; over \$25,000 — quarterly filings, weekly payments.
Estate	Federal taxable estate	0.8%–16% ³	Within 9 months after date of decedent's death.
Nonresident	Massachusetts real and tangible property ³		Within 9 months after date of decedent's death.
Alcoholic beverages	Malt (31-gal. bbl.)	\$3.30	Monthly, on or before the 20th day of the month.
	Cider 3%–6% (wine gal.)	\$.03	
	Still wine 3%–6% (wine gal.)	\$.55	
	Sparkling wine (wine gal.)	\$.70	
	Alcoholic beverages 15% or less (wine gal.)	\$1.10	
	Alcoholic beverages more than 15%–50% (wine gal.)	\$4.05	
	Alcoholic beverages more than 50% or alcohol (proof gal.)	\$4.05	
Cigarettes	20-count package	\$1.51	Monthly, on or before the 20th day of the month. Unclassified acquirers must file upon importation or acquisition.
	Smokeless tobacco (percentage of price paid by licensee)	90%	Same as 20-count package.
	Cigars and smoking tobacco (percentage of price paid by licensee)	30%	Quarterly, on or before the 20th day following the close of the tax period.
Marijuana and controlled substances tax	Weight of marijuana	\$3.50 per gram	Payment due immediately upon acquisition or possession in Massachusetts by dealer. Payment evidenced by stamps purchased from the Commissioner.
	Weight of controlled substance	\$200 per gram	
	Dosage unit of controlled substance	\$2,000 per 50 dosage units	
Deeds	Sales price (less mortgage assumed) of real estate	\$2.28 ⁴ per \$500	Monthly, on or before the 10th day of the month (filed by Registers of Deeds).
Motor fuels	Gasoline and diesel fuel per gallon	\$.21	Monthly, on or before the 20th day of the month.
	Propane, liquified gas, etc. (no minimum)	19.1%	
	Aviation (10¢ minimum)	7.5%	
	Jet fuel at local option (5¢ minimum)	5%	
Room occupancy	Transient room occupancy	5.7%	Monthly, on or before the 20th day following the close of the tax period.
	At local option, up to	4.0% ⁵	
	Convention Center Financing Fee	2.75%	
	(Boston, Cambridge, Springfield, Worcester, Chicopee and West Springfield)		

¹Tax rates as of August 1, 2006.

²Gains from the sale or exchange of capital assets (except collectibles) held for more than one year are taxed at 5.3%. Short-term capital gains, as well as long-term capital gains arising from the sale of collectibles (with a 50% deduction) are taxed at 12%.

³Resident rate is equal to federal credit for state death taxes based on December 31, 2000 IRC. Nonresident rate is equal to Massachusetts proportionate share of federal credit for state death taxes.

⁴In Barnstable County, the rate is \$5.70 per \$1,000.

⁵Boston is authorized to charge up to 4.5%.

TYPE OF TAX	MEASURE	RATE	RETURN DUE
Club alcoholic beverages	Gross receipts	0.57%	On or before April 15.
Sales and use tax	Sale, rental or use of tangible personal property, including cigarettes, telecommunication services and certain fuel.	5%	On or before the 20th day following the close of the tax period. If annual liability: up to \$100 — annual filing; \$101–1,200 — quarterly filings; over \$1,200 — monthly filings.
Sales tax on meals, prepared food and all beverages	All “restaurant” food and on-premises consumption of any beverages in any amount.	5%	Monthly, on or before the 20th day following the close of the tax period.
Business and manufacturing corporations	Net income Tangible property or net worth Minimum	9.5% ⁶ \$2.60 per \$1,000 \$456	On or before the 15th day of third month after close of taxable year.
Estimated tax	Liability in excess of \$1,000		Due quarterly as follows: 15th day of 3rd (40%), 6th (25%), 9th (25%) and 12th (10%) months of taxable year. ⁷
Security corporation			
Non-bank holding co.	Gross income	1.32%	Same as business corporations.
Bank holding company	Gross income	0.33%	
	Minimum	\$456	
Financial institutions	Net income Minimum	10.50% \$456	Same as business corporations.
Public utilities	Net income	6.5%	Same as business corporations.
Ship excise tax	Value (equity interest) of the corporation’s interest in a ship or vessel engaged in interstate or foreign trade.	0.379%	Same as business corporations.
Insurance company			
Domestic life	Premiums	2.0%	On or before March 15.
Foreign life	Premiums	2.0%	
Domestic casualty	Premiums	2.28%	On or before May 15.
Foreign casualty	Premiums	2.28%	
Ocean marine	Underwriting profit	5.7%	
Preferred provider arrangements	Premiums	2.28%	On or before March 15.
Motor vehicle garaged outside Massachusetts	90% to 10% of manufacturer’s list price	\$25 per \$1,000	On or before 30 days from issuance of tax bill.
Boston sightseeing tour	Ticket purchase price of any water- or land-based sightseeing tourist venue or entertainment cruise or trolley tour originating or located in Massachusetts and conducted partly or entirely in Boston.	5%	Quarterly, on or before the 20th day following the close of the tax period.
Boston vehicular rental transaction surcharge	Each vehicular rental transaction contract executed in Boston.	\$10	Quarterly, on or before the 20th day following the close of the tax period.
Parking facilities surcharge in Boston, Springfield and/or Worcester	Parking facilities built in conjunction with or as part of a project authorized by the Convention Center Financing Act in Boston, Springfield or Worcester.	\$2 per vehicle per day	Quarterly, on or before the 20th day following the close of the tax period.

⁶S corporations: 4.5% if total receipts \$9 million or more; 3% if total receipts are \$6 million or more but less than \$9 million.

⁷30%, 25%, 25% and 20% for corporations with fewer than 10 employees in their first full tax year.

Revenue Collection FY2007

In thousands	FY03	FY04	FY05	FY06	FY07	FY06-07 % change
STATE TAXES COLLECTED BY DOR						
Tax on personal income						
TOTAL	\$ 8,026,148	\$ 8,830,334	\$ 9,690,270	\$10,483,437	\$11,399,649	8.7
Taxes on business						
Corporations	\$ 799,450	\$ 997,602	\$ 1,062,722	\$ 1,390,684	\$ 1,587,636	14.2
Insurance companies	344,626	373,721	372,823	396,683	369,030	(7.0)
Public utilities	40,621	64,733	71,136	118,492	178,325	50.5
Commercial banks ¹	347,833	238,740	198,937	349,932	340,937	(2.6)
Savings institutions ¹	(3,293)	00	0	0	0	—
TOTAL	\$ 1,529,237	\$ 1,674,796	\$ 1,705,618	\$ 2,255,791	\$ 2,475,928	9.8
Taxes on commodities sold						
Motor fuels	\$ 676,426	\$ 684,912	\$ 685,537	\$ 671,844	\$ 676,119	0.6
Cigarettes	451,044	425,421	423,637	435,336	438,074	0.6
Alcoholic beverages	66,298	67,902	68,630	68,854	70,958	3.1
Sales and use ²	3,196,044	3,211,197	3,331,830	3,421,166	3,460,549	1.2
Sales on meals	512,025	532,014	559,115	588,205	615,000	4.6
TOTAL	\$ 4,901,837	\$ 4,921,446	\$ 5,068,749	\$ 5,185,405	\$ 5,260,700	1.5
Other taxes						
Estate & inheritance	\$ 181,295	\$ 194,706	\$ 255,127	\$ 196,260	\$ 249,597	27.2
Room occupancy excise	119,991	120,178	133,487	144,808	157,515	8.8
Deeds excise ³	105,091	132,625	156,501	149,283	140,825	(5.7)
Club alcoholic beverage excise	657	621	621	672	770	14.6
Motor vehicle excise	72	51	70	76	74	(2.6)
Controlled substances	0	0	0	0	0	—
Convention Center surcharge	9,934	9,804	10,390	11,039	11,911	7.9
Community preservation trust	53,503	50,520	37,406	36,088	31,914	(11.6)
TOTAL	\$ 470,543	\$ 508,505	\$ 593,602	\$ 538,226	\$ 592,606	10.1
Total state taxes collected by DOR	\$14,927,765	\$15,935,081	\$17,058,239	\$18,462,859	\$19,728,883	6.9

¹All bank tax transactions (both savings and commercial) appear in the Commercial Bank Excise category.

²Include sales and use tax on motor vehicles.

³Due to different accounting methods, amounts reported for the deeds excise differ from those amounts reported by the comptroller.

Because of rounding, detail may not add to Totals.

In thousands	FY03	FY04	FY05	FY06	FY07	FY06–07 % change
LOCAL TAXES COLLECTED BY DOR ON BEHALF OF COMMUNITIES						
Urban redevelopment	\$ 47,083	\$ 48,729	\$ 49,874	\$ 50,681	\$ 53,600	5.8
Local option airplane jet fuel	12,846	12,541	16,269	20,228	26,395	30.5
Local option room occupancy	69,617	68,484	75,490	81,590	88,345	8.3
Local rental vehicle (Convention Center 10%)	962	945	1,023	1,086	1,152	6.1
Embarkation fees	—	72	1,293	1,290	1,321	2.4
Total local taxes collected by DOR on behalf of communities	\$ 130,508	\$ 130,771	\$ 143,949	\$ 154,875	\$ 170,813	10.3
OTHER REVENUE						
Utility and insurance assessments	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	—
Department fees, licenses, etc.	7,166	8,043	10,924	20,021	19,142	(4.4)
County Correction Fund — deeds	6,605	8,343	9,902	9,413	9,689	2.9
County recording fees	17,954	60,384	45,662	43,103	37,109	(13.9)
Abandoned deposits — bottle	36,205	36,422	36,817	39,009	39,211	0.5
Total other revenue	\$ 67,930	\$ 113,192	\$ 103,305	\$ 111,546	\$ 105,151	(5.7)
STATE TAXES COLLECTED BY OTHER AGENCIES						
Horse and dog racing	\$ 6,547	\$ 5,697	\$ 4,677	\$ 4,181	\$ 3,859	(7.7)
Beano and boxing	2,793	2,591	2,146	1,964	1,687	(14.1)
Raffles/bazaars	889	965	1,038	1,121	967	(113.7)
Special insurance brokers	21,805	26,042	29,480	30,377	28,250	(7.0)
UI surcharge	21,394	20,451	21,135	21,400	21,449	0.2
Deeds, Secretary of State	42,704	54,418	63,831	60,860	53,253	(12.5)
Total state taxes collected by other agencies	\$ 96,132	\$ 110,164	\$ 122,307	\$ 119,903	\$ 109,465	(8.7)
TAXES ON PROPERTY COLLECTED BY LOCAL GOVERNMENT						
Real estate	\$ 8,126,933	\$ 8,608,389	\$ 9,105,150	\$ 9,602,983	\$ 10,113,661	5.3
Personal property	367,088	407,845	378,305	380,155	375,125	(1.3)
Motor vehicles	645,160	635,827	683,168	694,259	660,303	(4.9)
Total taxes on property collected by local government	\$ 9,139,181	\$ 9,652,061	\$ 10,166,623	\$ 10,677,397	\$ 11,149,089	4.4
TOTAL ALL TAXES	\$24,361,516	\$25,941,269	\$27,594,423	\$29,526,580	\$31,263,401	5.9

Because of rounding, detail may not add to Totals.

Offers in Final Settlement FY2007

Under M.G.L. c. 62C, sec. 37A, the Commissioner of Revenue has the authority, under specific conditions, to accept less than full payment as a final settlement for a state tax liability. The statutory condition for such settlement is "serious doubt" as to collectibility of the tax due or the taxpayer's liability for it. The Commissioner must also determine that the taxpayer or responsible person has acted without intent to defraud. The settlement must be recommended to the Commissioner by at least two deputy commissioners.

The written agreement, signed by all parties and including the reasons for settlement, is a public record. In cases where the liability is reduced by more than half, or by \$20,000 or more, the Attorney General of the Commonwealth must review the settlement and has the authority to object to it.

The law requires that a listing of all settlements entered into during the fiscal year be included in the Commissioner's annual report. In Fiscal Year 2007, 42 settlements were made. All 42 were reviewed by the Attorney General.

The cases approved were as follows:

NAME	TOTAL TAX, INTEREST & PENALTIES	AMOUNT PAID IN SETTLEMENT	AMOUNT ABATED
Reppucci, Larry	\$12,929.83	\$1,500.00	\$11,429.83
Bill's Alterations, Inc.	47,575.25	12,000.00	35,575.25
Bibeau, Dennis and Beverly G.	13,502.51	6,500.00	7,002.51
McGreevy, Shawn	10,420.31	4,200.00	6,220.31
Anastasi & Associates, Inc.	350,139.09	19,679.04	330,460.05
Lyons, Lorraine E.	25,202.81	10,023.00	15,179.81
Wade, Carol A.	6,262.81	625.00	5,637.81
Zona, Maria L.	49,839.93	10,680.00	39,159.93
Monico, Inc.	15,033.57	3,600.00	11,433.57
Lavallee, Maureen A.	6,626.49	4,300.00	2,326.49
Statue Company, Inc., The	81,593.07	16,500.00	65,093.07
Maloni, Geraldine P.	11,738.24	2,000.00	9,738.24
Gento, Jr., John J.	3,965.89	1,500.00	2,465.89
DiSangro, Heidi M.	14,668.27	4,000.00	10,668.27
Roman Pro, Inc.	166,708.40	16,381.00	150,327.40
Butler, Richard J.	10,739.11	2,080.00	8,659.11
G & J Food Stores, Inc.	63,181.24	12,500.00	50,681.24
Harvey, Robert T.	16,455.21	9,000.00	7,455.21
Boston Transformer Co., Inc.	52,238.28	42,000.00	10,238.28
Perry, David W.	25,190.55	6,043.00	19,147.55
Stowe, Gary L. and Barbara P.	20,786.92	17,000.00	3,786.92
Bananarama, Inc.	51,277.46	22,000.00	29,277.46
Teperow, Robert K. (RP)	63,828.87	25,000.00	38,828.87
Cole, Scott Edward d/b/a Caffé Pomo Doro	91,851.71	16,400.00	75,451.71
Whitcomb, Elaine C.	17,079.84	7,000.00	10,079.84
Hunt, Jr., Samuel P.	3,869.33	1,200.00	2,669.33
Venezia, Gerald M. d/b/a Venezia Interior Design	64,883.13	10,000.00	54,883.13
McGee, Barry R.	16,072.27	10,000.00	6,072.27
Dodd, Alan F. and Susan E.	19,483.07	12,000.00	7,483.07
Valle, Jr., John E.	10,433.95	1,950.00	8,483.95
Bostwick Engineering of Massachusetts, Inc.	110,409.66	27,000.00	83,409.66
Regent Cleaners, Inc.	13,463.71	5,500.00	7,963.71
Chooch's, Inc.	116,693.21	47,500.00	69,193.21
Rogers, Lawrence S.	80,138.40	10,000.00	70,138.40
Grady, Joshua A. (RP)	227,960.48	42,500.00	185,460.48
Langadousis, Nicholas G. d/b/a Nick's Homestyle Restaurant	113,997.26	55,000.00	58,997.26
JMJ Restaurant & Entertainment Corporation	30,974.97	15,309.54	15,665.43
Rinker, Gary	29,894.17	18,500.00	11,394.17
B.S.J., Inc.	26,646.81	11,000.00	15,646.81
Coates, Jaye K.	7,737.68	1,600.00	6,137.68
Johnston, Charles C. *	18,538,093.91	1,900,000.00	16,638,093.91
Hodges, David B.	15,035.92	3,000.00	12,035.92
TOTAL	\$20,654,623.59	\$2,444,570.58	\$18,210,053.01

Because of rounding, detail may not add to Totals.

**Settled under authority of G.L. c. 62C, sections 37A and 37C.*

Collection Agencies FY2007

Chapter 209 of the Acts of 1988 permits the Commissioner of Revenue to use private collection agencies to collect unpaid state taxes. The Commissioner is required to notify all taxpayers whose accounts are to be assigned to a collection agency at least 30 days beforehand.

The law requires that the Commissioner list all agencies with whom collection agreements exist, the amount of taxes collected and the amount of compensation paid in the Department's annual report. They are as follows:

CONTRACTOR	TOTAL COLLECTED	FEES PAID	NET TO DOR
GCS	\$4,077,961	\$632,136	\$3,445,825
Walker Associates	3,536,500	468,157	3,068,343
TOTAL	\$7,614,461	\$1,100,293	\$6,514,168

Because of rounding, detail may not add to Totals.