Massachusetts Department of Revenue

Annual Report FY2009

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A Word
from the Commissioner

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

I am pleased to present the Department of Revenue's fiscal 2009 Annual Report. FY09 was a challenging and difficult year. In a time of economic turbulence not seen since the Great Depression, total tax collections of $18.259 billion were $2.6 billion less than the previous fiscal year collections of $20.9 billion.

The drop in collections resulted in cutbacks and budget reversions across state government, and DOR felt the impact. More than 123 DOR positions were eliminated either through attrition or retirement; and the agency sustained a budget reduction of $9.5 million, yet DOR was able to:

- roll out the new WebFile for Income e-filing program;
- implement a quickly-scheduled limited tax amnesty;
- assess and collect record amounts of unpaid tax;
- work on drafting a new set of regulations to implement the corporate tax reform legislation for combined reporting;
- collect record amounts of child support;
- and provide cash-strapped cities and towns with timely advice and certification of property values and tax rates.

DOR also continued its successful implementation of the individual mandate for health insurance, with more than 98 percent of taxpayers complying with the requirement to file Schedule HC.

The Taxpayer Services Division administered a limited amnesty program and collected $32 million, well in excess of the $10 million to $20 million goal. The program required the kind of cross-department cooperation that is a hallmark of DOR. A new program allowing DOR to suspend the licenses of drivers who owe back taxes collected $9.1 million — surpassing the goal of $7 million. TSD manual and automated collections took in $553.7 million, an increase of 4 percent from the previous fiscal year.

The Audit Division assessed a record $1.271 billion, completed 31,273 audits for an increase of 31.77 percent, and exceeded Retained Revenue goals for both assessment ($99.8 million versus goal of $71 million) and collection ($71.5 million versus goal of $40 million). The Multistate Audit Bureau coordinated with the Legal Division to generate corporate tax settlements of $150 million.

Child Support Enforcement collected a record $579.6 million in support, an increase of $13.8 million; increased the number of paying cases by 2 percent from 79,065 to 80,357; and collected $7.20 for every dollar expended in the 2008 Federal Fiscal Year, besting the previous year's rate of $6.81. The 15th Ten Most Wanted poster was released in February 2009, highlighting CSE's ongoing efforts to promote child support payment.

The Division of Local Services provided staff support and leadership for the Municipal Affairs Coordinating Cabinet, which held 11 meetings statewide designed to bring state resources and assistance to local elected officials in their home communities. DLS distributed approximately $5.5 billion in quarterly local aid and other distributions to cities, towns and regional and charter schools. DLS continued to provide technical assistance to communities from Fall River and Lynn to Hamilton and Wenham, the latter two of which asked DLS to conduct an enhanced regionalization and merger analysis to review combined delivery of services. DLS also implemented Gateway, a new system that allows local officials to submit forms relating to tax rate setting electronically.

In May of 2009, DOR launched its OpenDOR blog, offering news, commentary and updates on a wide variety of DOR-related issues. DOR also began posting breaking news on Twitter and continued to produce a series of outstanding videos available for viewing on the DOR website. Furthering DOR's commitment to accessibility, the website's video player was retooled to accommodate multi-lingual closed captioning, a voice response feature for the visually-impaired, and a ratings feedback feature to better gauge viewer response. FY2009 saw over 27,500 video views while the number of unique visitors to our website increased from 2.52 million in FY08 to 2.67 million in FY09.

While confronting the challenges raised by the budget cuts in FY09, the Department was able to focus on "governing for the long term" by continuing its commitment to better serving its varied constituents, including taxpayers, families and cities and towns.

Navjeet K. Bal
Commissioner of Revenue

FY09 Highlights
Introduction

As the Commonwealth weathered the stormy economic climate that marked Fiscal Year 2009, the Department of Revenue focused on fulfilling its threefold mission of enforcing the Commonwealth's tax laws; collecting and distributing child support; and providing assistance to municipal leaders. Although the Department was faced with more than $9.5 million in budget reductions and the possibility of layoffs and furloughs, DOR's employees rose above the challenges to roll-out a new income tax filing application, run a limited tax amnesty program, launch a new 10 Most Wanted delinquent parent poster campaign, and expand its Gateway program for municipal officials. The following sections highlight DOR's achievements in tax administration, child support enforcement and local services.

FY09 Highlights

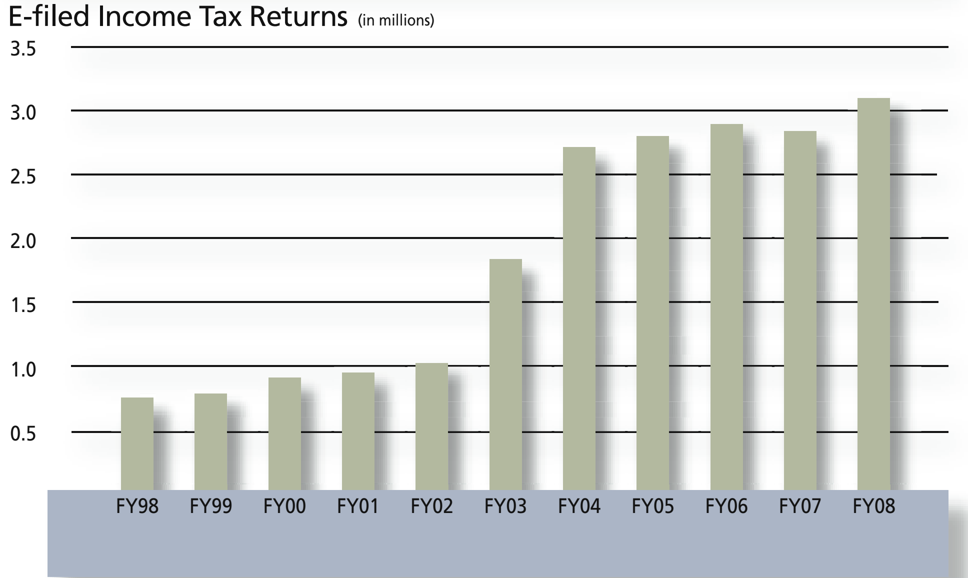
Tax Administration

As projected, the Department saw a marked decline in revenue collections due to the global economic crisis. DOR's FY09 tax collections totaled $18.3 billion — a decrease of 11.9 percent from FY08. The drivers of FY08's record revenue collections — income tax paid on capital gains, dividends and interest, settlement of a number of large tax cases, and strong withholding tax collections — all fell dramatically in FY09.

In an effort to bring in much needed revenue, the Governor signed a bill authorizing a limited two-month tax amnesty period from March 1 to April 30, 2009. The amnesty had not been a part of DOR's business plan for the year, and coming in the midst of the filing season, DOR employees worked quickly and collaboratively to ensure the program's success. The amnesty program brought in $32 million, well in excess of its projected receipts of $10 to $20 million. DOR's audit tools, including the DTAX warehouse, also helped maximize collections: DOR's audit assessments for FY09 topped $1.2 billion; and the retained revenue assessments of $99.8 million and collections of $71.5 million far exceeded the $71 million assessment and $40 million collection goals set by the Legislature. In addition, the Department implemented a drivers' license suspension program for delinquent taxpayers. In its first year, the program generated $9.1 million in delinquent tax payments.

E-filing numbers remained steady in FY09: approximately 3.1 million of the 3.4 million income tax returns were filed via commercial software, a professional tax preparer, or with a 2-D barcoded return; and WebFile for Business processed over 2.46 million returns, an increase of 4.95 percent over FY08. DOR rolled-out its newest online filing application, WebFile for Income, during the 2009 filing season. WFI, which replaced the outmoded TeleFile technology, allowed nearly

E-filed Income Tax Returns (in millions)



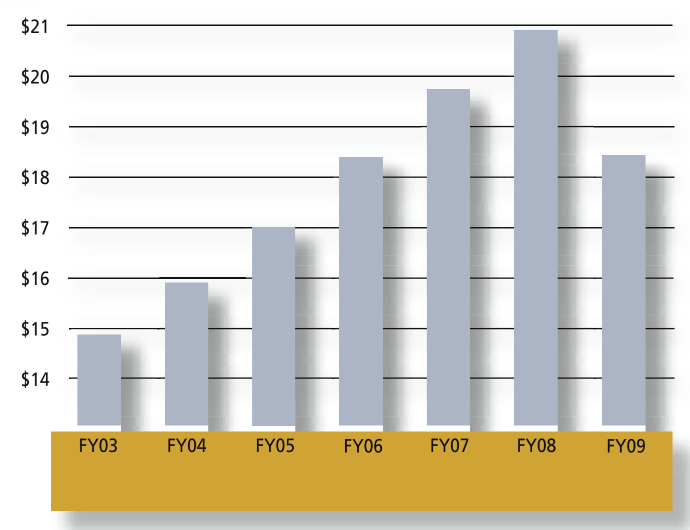
Tax Administration - continued

95,000 taxpayers to file their income tax returns online directly with DOR at no cost. The user assessments of this new filing option were overwhelmingly positive. Not content to rest on its laurels, DOR was hard at work at the close of the filing season planning to upgrade the application to include all schedules and worksheets so as to be available to nearly all Form 1 taxpayers next year.

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 tanks. In FY09, $22.3 million was paid to 284 claimants, and 15 grants totaling $264,000 were awarded to cities and towns.

To better educate, engage and communicate with the public, DOR again turned to its website's streaming video capabilities. In FY09 DOR enhanced its video player to include multi-lingual closed captioning and voice response features. The annual filing season update video was filmed in a new interview format featuring question and answer sessions with key representatives from the Department. The new format was well-received by the practitioner community, the primary audience for the update video. Following the success of the tax video series for college students, DOR also released the first video in a series called "Teens 'n' Taxes," which aims to introduce high-school-aged students to the basics of taxes.

Total State Taxes Collected by DOR
(revenue in billions)



Child Support Enforcement

CSE 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.

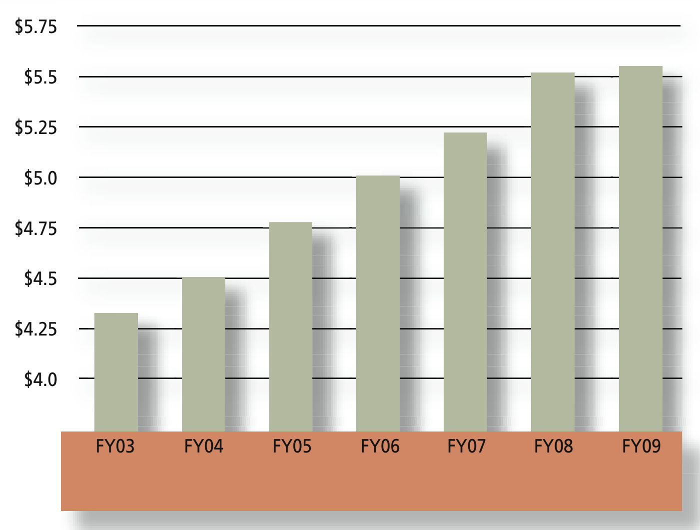
In FY09, CSE collected a record $567.9 million in child support — a $13.5 million increase over FY08. In addition, CSE reached the 80 percent threshold for cases with orders. In comparison to state child support agencies across the country, CSE ranked 8th in the percent of current support paid, and 10th in cost effectiveness.

The successful license suspension program brought in $37.5 million, an increase of $1.7 million over FY08. Since its inception, the program has collected more than $183 million in past-due support and suspended 54,848 drivers' licenses and 1,483 professional licenses of delinquent noncustodial parents.

In February 2009, CSE issued it fifteenth Ten Most Wanted poster, which spotlights some of the state's worst child support offenders. The 10 individuals highlighted on the poster collectively owed more than $733,000 in past due child support. Over the past 17 years, the 14 previous posters have displayed the faces of 122 non-custodial parents whose whereabouts were unknown and who were far behind on their support payments. Of those 122 non-custodial parents, 104 have been located and about $4.5 million collected in back child support.

Critical to the collection of child support is paternity establishment, which establishes the father's legal responsibility. In FY09, CSE established paternity for nearly 4,371 children through voluntary acknowledgement or court action.

Total Child Support Enforcement Collections
(revenue in millions)

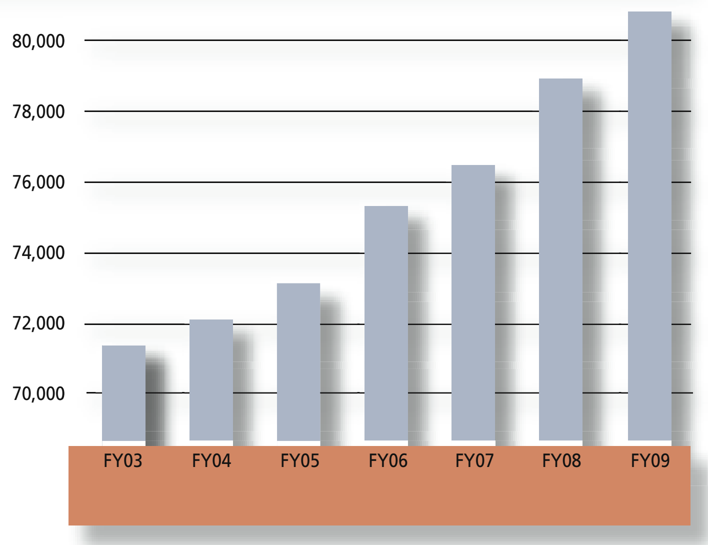


Child Support Enforcement - continued

CSE continued its partnership with MassHealth to enroll children who receive state-funded Medicaid in private health insurance, resulting in Medicaid cost savings of $75 million. Since FY2001, CSE's efforts have reaped Medicaid cost savings of $476 million.

CSE's role in enforcing the financial responsibilities of parenthood goes far beyond collecting child support and establishing paternity. The division also is dedicated to helping parents meet their financial obligations to their children through community outreach efforts and keeping businesses apprised of child support regulations. CSE's customer service bureau staff recently implemented an outreach program for small and medium–sized businesses. In collaboration with career centers in Lowell and Brockton, two sessions were held covering employer responsibilities in complying with child support orders.

Number of Families Receiving Child Support Services from DOR



FY09 Highlights

Local Services

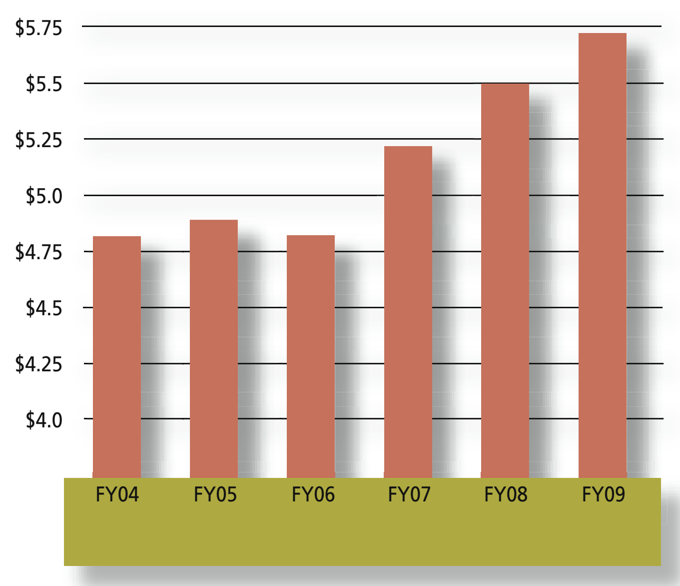
The Division of Local Services accomplished its core mission of regulatory and technical assistance to the 351 cities and towns in the Commonwealth.

The DLS Gateway gained widespread acceptance among local officials as the preferred method for submitting required forms and financial data to the Division of Local Services. In FY09, 301 communities (86 percent) and 39 special purpose districts (70 percent) used Gateway to set tax rates; and 212 of 346 communities (61 percent) filed their Schedule A revenue and expenditure data online though Gateway. DLS staff provided on-site training to 137 communities in how to securely access and use the application's various features.

DLS holds a lead role in partnering with the Governor's office and other state agencies in strengthening the ties between local and state governments through the Municipal Affairs Coordinating Cabinet. In FY09 MACC held 11 meetings, led by the Lieutenant Governor, which focused on technology, civil service, health insurance, purchasing, capital asset management and human resources, but also allowed citizens to communicate directly with the Lieutenant Governor and state agency heads in an open forum.

In FY09, DLS certified tax rates for 350 cities and towns and 56 special purpose districts; certified free cash totaling $730.7 million for 348 municipalities and $13.4 million for 63 special purpose districts; and certified excess and deficiency funds totaling $59.6 million for 80 regional school districts. In addition, the Division centrally valued 19 landline telephone companies and 4 pipeline companies.

Total Cherry Sheet Receipts
(revenue in billions)



Note: FY06 and beyond does not include SBA ongoing payments which have been removed from the Cherry Sheets.

Local Services - continued

Each fiscal year, DLS tracks local aid throughout the state budget process and notifies local officials of their estimated aid at each juncture of the process. In FY09, DLS issued approximately $5.5 billion in quarterly local aid and other distributions to cities, towns, and regional and charter schools.

Particularly valuable in these uncertain economic times, DLS also helped Massachusetts cities and towns achieve sound and efficient fiscal management through technical assistance, training and oversight in FY09. DLS staff spoke at a number of outside engagements at the request of various municipalities and associations, and completed financial management reviews on behalf of cities and towns across the Commonwealth. Training seminars were also well-attended, with more than 360 local officials attending the Municipal Law Seminars. In addition, DLS staff members provided instruction to hundreds of local officials who attended courses offered by the various professional organizations for municipal finance officials.

Sales/Use Tax

Sales/Use Tax Rate Increase

Newly enacted legislation changed the rate of sales/use tax from 5 percent to 6.25 percent on sales at retail of tangible personal property, including alcoholic beverages, and telecommunications services effective August 1, 2009. *See* TIR 09-11. As a result of this change, and of certain transition rules applicable to it, a vendor who reports on a quarterly or annual return will be required to file a sales/use tax return for a period that will include both sales before and sales after the change in sales/use tax rates.

Sales Tax Holiday

The Legislature enacted a statute that provided for a Massachusetts "sales tax holiday weekend," i.e., two consecutive days during which most purchases made by individuals for personal use were not subject to Massachusetts sales or use taxes. St. 2008, c. 211 ("the Act"). The Act provided that the sales tax holiday would occur on August 16 and 17, 2008, and on those days, non-business sales at retail of single items of tangible personal property costing $2,500 or less were 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 is in excess of $2,500. The exemption applied to sales of tangible personal property bought for personal use *only*. Purchases by corporations or other businesses and purchases by individuals for business use remained taxable. Purchases exempt from the sales tax under G. L. c. 64H were also exempt from use tax under G.L. c. 64I. Therefore, eligible items of tangible personal property purchased on the Massachusetts sales tax holiday from out-of-state retailers for use in Massachusetts were exempt from the Massachusetts use tax. *See* TIR 08-10.

New Limitations on Exemption for Pesticides

Section 41 of chapter 182 of the Acts of 2008 amended General Laws c. 64H, § 6(p) by removing the broad exemption for sales of pesticides and limiting the exemption only to sales to persons licensed or certified under G.L. c. 132B, or for uses otherwise exempt under G.L. c, 64H, § 6(r). Thus, the exemption has been changed from a product-based exemption to a use-based exemption that should be claimed by giving an exemption certificate to the vendor at the time of purchase. For purposes of administering G.L. c. 64H, § 6(p), as amended, the Commissioner will treat products containing both fertilizer and pesticides, insecticides, herbicides, fungicides, or miticides as taxable, unless the purchaser is eligible for one of the use-based exemptions described above.

Excise Increase on Cigarettes

The Massachusetts Legislature amended G.L. c. 64C, § 6 of the General Laws to increase the excise on cigarettes effective July 1, 2008. *See* St. 2008, c. 168. The excise imposed on cigarettes was increased by 50 mills per cigarette ($1.00 per pack of 20 cigarettes and $1.25 per pack of 25 cigarettes). The excise rates have consequently increased from $1.51 per pack of 20 cigarettes to $2.51 per pack and from $1.8875 per pack of 25 cigarettes to $3.1375 per pack. *See* TIR 08-7.

Tobacco Products Defined

Section 35 of chapter 182 of the Acts of 2008 expanded the definition of "cigarette" in G.L. c. 64C, § 1 to include "little cigars," which are defined as "rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco and as to which 1,000 units weigh not more than 3 pounds." The amended definition is effective as of July 1, 2008. As of that date, "little cigars," as defined, are taxed as cigarettes. The tax rate is $2.51 per pack of twenty. All packs of little cigars sold in Massachusetts must be stamped with the current Massachusetts cigarette stamp. Sales of unstamped little cigars to retailers are illegal. Sales of unstamped little cigars by retailers are illegal, except to the extent provided in the transition rules discussed below. *See* TIR 08-9.

Prepaid Sales Tax on Tobacco Products

Section 40 of chapter 182 of the Acts of 2008 created a new statutory provision in G.L. c. 64H that requires prepayment of sales tax on tobacco products at the time of a wholesale sale in Massachusetts. This change applies to wholesale sales of tobacco products on and after September 1, 2008.

New Chapter 64H, § 3A requires that every person selling tobacco products (cigarettes, cigars, smoking tobacco, and smokeless tobacco) to others for resale in Massachusetts must prepay the sales tax on such products. The sales tax will be calculated on each sale by multiplying the sales tax rate set by G.L. c. 64H, § 2 (currently 6.25 percent) by the price at which such person sells the tobacco products at wholesale. The amount of the sales tax must be separately stated on the customer invoice or other record. Section 3A does not apply to manufacturers and unclassified acquirers to the extent they distribute tobacco products through a licensed wholesaler or unclassified acquirer. Section 3A allows a retailer of tobacco products a credit in the amount of the prepayment against the total amount of sales tax that would normally be due by the retailer for that period. Sections 41 and 42 of chapter 182 of the Acts of 2008 amend G.L. c. 64H, § 33 and G.L. c. 64I, § 34 to provide that a taxpayer that has prepaid the tax under G.L. c. 64H, § 3A may avail itself of the bad debt reimbursement provisions applicable to the sales and use taxes.

Beginning September 1, 2008, a tobacco wholesaler must include the amount of any excise it has paid on a tobacco product in the wholesale price of that product when the wholesaler calculates the 6.25 percent sales tax on its tobacco sales. Wholesalers must include the 30 percent cigar and smoking tobacco excise in the wholesale price when calculating the sales tax on sales of those products occurring on or after October 1, 2008. *See* TIR 08-13 and TIR 08-16.

Two New Classes of Vehicles Subject to Sales/Use Tax

Legislation found in the Acts of 2008, c. 523, effective July 31, 2009, directs the Massachusetts Registry of Motor Vehicles [RMV] to begin registering two classes of motor conveyances not previously required to be registered in Massachusetts. Therefore, as of July 31, 2009, the RMV requires "Low Speed Vehicles" and "Limited Use Vehicles" to be registered as motor vehicles.

Under Massachusetts law, sales of tangible personal property (and certain services), including motor vehicles, are generally subject to the sales or use tax under G.L. c. 64H, § 2, or G.L. 64I, § 3. Tax on most sales of tangible personal property and taxable services is paid by the purchaser to the vendor, who then pays the tax collected to the Department of Revenue. G.L. c. 64H, § 3. In the case of sales of motor vehicles, however, tax is collected directly from, or on behalf of, the purchaser by the Registry of Motor Vehicles. *Id.* § 3(c). The tax on sales of LSVs and LUVs was formerly collected by the vendor except in the case of casual and isolated sales of these conveyances, which were exempt from tax. As these conveyances are now considered motor vehicles, tax on these vehicles is now directly paid to RMV either by the customer, or by an authorized dealer or other party on behalf of the customer. In addition, since casual and isolated sales of motor vehicles are *not* exempt from use tax, G.L. c. 64I, § 7, use tax must be paid on transfers of these vehicles unless the purchaser is the spouse, mother, father, brother, sister, or child of the seller, or another exemption applies.

Local Option Sales Tax on Meals

Pursuant to St. 2009, c. 27, § 60, the Legislature added a new chapter to the General Laws, chapter 64L: "Local Option Meals Excise." Under this chapter, a city or town that accepts the provisions of this chapter in the manner provided by G.L. c. 4, § 4 may impose a local sales tax on the sale of restaurant meals originating within the city or town by a vendor at the rate of .75 percent of the gross receipts of the vendor from the sale of restaurant meals. G.L. c. 64L, §

2(a). This local excise, which is imposed in addition to the 6.25 percent state sales tax on meals, takes effect on the first day of the calendar quarter following 30 days after acceptance by the city or town, or on the first day of a later calendar quarter that the city or town may designate. G.L. c. 64L, § 2(c). Each vendor in the Commonwealth must add the tax to the sales price of the meal and collect from the purchaser the full amount of the tax imposed under G.L. c. 64L, as well as the 6.25 percent state tax on meals. G.L. c. 64L, § 4; *See also* TIR 09-13. A city or town must vote to adopt this increase not later than August 31, 2009, in order to impose the additional excise starting on October 1, 2009.

Personal Income Tax

Withholding Requirements

Section 19 of chapter 182 of the Acts of 2008 amends the withholding provisions in chapter 62B concerning the Commissioner's authority to require persons other than employers to withhold. This legislation makes two changes: first, it clarifies that in the case of S corporations and entities treated as partnerships, the Commissioner may require withholding with respect to the distributive shares of income attributable to shareholders or members; second, it applies sections 5 through 12 of chapter 62B to persons other than employers. Sections 5 through 12 relate to the withholder's obligation to make withholding statements, liability and applicable penalties for failure to withhold, assessments for failure to withhold, and tax credits allowed to those persons withheld upon. *See* TIR 08-8.

Earned Income Credit

Chapter 173 of the Acts of 2008, signed into law on July 3, 2009, clarifies that the refundable earned income credit that is available to certain low-income individuals that meet the requirements for the federal earned income credit under Internal Revenue Code § 32 applies only with respect to that portion of earned income of nonresidents that is derived from Massachusetts sources. Under the Act, where a taxpayer is a nonresident for all or part of the taxable year, the credit is limited to 15 percent of the federal credit multiplied by a fraction the numerator of which is the earned income of the nonresident from Massachusetts sources and the denominator of which is the earned income of the nonresident from all sources.

Administrative Provisions

Demand Fee

Section 15 of chapter 182 of the Acts of 2008 increases the one-time "demand" fee established by G.L. c. 60, § 15, from $5 to an amount "not more than $30."

The demand fee is applicable to taxes collected under G.L. c. 62C by G.L. c. 62C, § 46 and is added to and collected as part of the tax. A written demand for payment is issued when all or part of a balance due on a Notice of Assessment remains unpaid after the due date.

Accrual of Late Pay Penalties

Section 21 of chapter 182 of the Acts of 2008 increases the rate at which late pay penalties under G.L. c. 62C, §§ 33(b) and (c) accrue from one-half of one percent a month to one percent a month. The maximum amounts of these penalties are unchanged at 25 percent.

Driver's License Revocation for Nonpayment of Tax

Sections 22, 23 and 24 of chapter 182 of the Acts of 2008 expand the Commissioner's authority to revoke or suspend licenses issued by Massachusetts agencies and clarify the licensee's appeal rights. Sections 23 and 24 provide that the Registry of Motor Vehicles shall revoke or suspend a driver's license, learner's permit, right to operate a motor vehicle, or certificate of motor vehicle registration for nonpayment of taxes upon notification from DOR. Section 22 provides that where a license is being revoked, suspended or non-renewed due to the nonpayment of taxes administered under G.L . c. 62C, the licensee's appeal rights are those provided under G.L. c. 62C to dispute tax assessments and that the licensee is not entitled to an additional hearing conducted by the agency issuing the license. *See* TIR 08-8.

Licensing of Cigar Retailers and Distributors

The Massachusetts Legislature recently amended sections 16 and 67 of G.L. c. 62C, effective October 1, 2008, to require that cigar distributors and retailers be licensed by the Department of Revenue and that licensees file cigar excise returns. Section 38 of chapter 182 of the Acts of 2008 rewrote section 7B of G.L. c. 64C to impose the excise at the wholesale level, beginning with sales on October 1, 2008. Penalties apply for a failure to be licensed. *See* TIR 08-17.

Extension of Limitations for Collection of Tax

Sections 25 and 26 of chapter 182 of the Acts of 2008 amend G.L. c. 62C, §§ 50, 65 to extend the statute of limitations for collection of taxes from 6 to 10 years, to coincide with previously extended lien provisions in G.L. c. 62C, § 50. This change is effective January 1, 2009.

Corporate Excise

An Act Relative to Tax Fairness and Business Competitiveness (the Act), signed into law by the Governor on July 3, 2008, St. 2008, c. 173, made the following changes to the corporate excise.

Combined Reporting For Multi-State Corporate Filers

Effective for tax years beginning on or after January 1, 2009, a corporation subject to chapter 63 that is engaged in a unitary business with one or more corporations subject to combination must calculate its taxable net income derived from this unitary business as its share of the apportionable income or loss of the combined group engaged in the unitary business, determined in accordance with a combined report. *See* G.L. c. 63, § 32B. In combined reporting, already in use in over 20 other states, each taxpayer member is responsible for tax based on its apportioned share of the business income of the combined group, together with that member's own allocated (non-business) income and its apportioned share of other business income, including business income from any other combined group of which the taxpayer is a member.

Transactions between the member corporations are generally disregarded. An apportionment formula for each member that has nexus in Massachusetts is determined, and will vary depending on whether such member is a business corporation, a manufacturing corporation, a financial institution, a mutual fund service corporation or a utility. *See* TIR 08-11. The old so-called "combined return" under the version of G.L. c. 63, § 32B prior to the Act is repealed.

Accounting for Tax-Free Earnings and Profits of Entities Formerly Taxed as Corporate Trusts

Under the Act, entities that were formerly taxed as corporate trusts under the now-repealed G.L. c. 62, § 8 are now classified for Massachusetts tax purposes in the same manner they are classified for federal income tax purposes. The Act provides that any tax-free earnings and profits accumulated by an entity that was in existence and treated as a corporate trust on or after July 3, 2008 shall be subject to tax under chapter 62 or 63 of the General Laws. St. 2008, c. 173, § 96. *See* 830 CMR 63.30.3(3)(d)1. To assist in achieving this legislative directive, the Commissioner will require all such former corporate trusts or their successors to file an accounting of all tax-free earnings and profits that have been earned, accumulated, or distributed by the corporate trust. 830 CMR 63.30.3(3)(d)1. TIR 09-22; *See also* DD 09-6.

Elimination of Distinction between Domestic and Foreign Business Corporation

On July 3, 2008, G.L. c. 62C, § 51 was amended by striking out, in lines 3 and 4, the words "domestic or foreign business corporation" and by inserting in place thereof the following words: "business corporation as defined in G.L. c. 63, § 30." St. 2008, c. 173, § 27.

Corporate Basis Adjustments

Section 31M was added to chapter 63 which provides that in determining gross income, if the federal gross income includes any item of gain or has been reduced by any item of loss, with respect to property, then the federal gross income shall be increased by the excess of the federal adjusted basis of the property over the Massachusetts adjusted basis of the property, and shall be decreased by the excess of the Massachusetts adjusted basis of the property over the federal adjusted basis of the property, so that the gain or loss realized for Massachusetts purposes takes into account all applicable differences in the Massachusetts and federal tax rules over the life of an asset that should, in principle, give rise to differences in basis. The Massachusetts adjusted basis of property shall be the federal adjusted basis, except that (i) any federal adjustment resulting from provisions of the Code that were not applicable in determining Massachusetts gross income at the time the federal adjustments were made shall be disregarded; and (ii) adjustments shall be made for any item that was applicable in determining Massachusetts gross income but that was not so applicable in determining federal gross income and for which a federal adjustment would be allowed under the Code if the item had been applicable in determining federal gross income.

Massachusetts Adopts Federal Business Entity Classification (Check-the-Box) Rules

Businesses can be legally organized in different ways, *e.g.*, as corporations, limited liability companies (LLCs), partnerships, business trusts, *etc.* While state and federal treatment of many business entities is the same, the treatments of Massachusetts business trusts ("corporate trusts") and certain partnerships have long differed. In the mid-1990s, the differences increased when new federal "check-the-box" rules allowed many unincorporated businesses to elect whether for federal tax purposes they would be taxed as corporations, treated as partnerships, or in some cases, disregarded altogether as entities separate from a sole owner.

The Act generally eliminates the differences between Massachusetts and federal entity classification rules. For tax years beginning on or after January 1, 2009, the filing status for business entities in Massachusetts must conform to their filing status for federal tax purposes. Under federal regulations implementing the so-called "check-the-box" rules, entities that are not required to be treated as corporations are allowed to elect their filing status. U.S. Treas. Reg. § 301.7701-3. An unincorporated entity with two or more members (such as partners or other owners) may elect to file as a corporation or a partnership. An unincorporated entity that has a single member may elect to file as a corporation, or to be disregarded as an entity separate from its owner, thus being treated as a branch or division of its owner. For Massachusetts purposes, these federal rules will apply to partnerships, LLCs, corporate trusts, and other unincorporated associations.

Corporate Excise Rate Reductions

The Act includes various corporate excise rate cuts to be implemented over a period of years: reductions for business corporations, reductions for financial institutions, reductions for S corporations, and reductions for financial institutions that are S corporations. These provisions are described in greater detail below.

- **Business Corporations (other than S Corporations); G.L. c. 63, § 39**
  For tax years beginning on or after January 1, 2009, subject to the rate reduction schedule set out below, the corporate excise tax imposed on a business corporation is the greater of the amounts described in G.L. c. 63, § 39(a) or (b). The current net income measure of the corporate excise of 9.5 percent applicable to business corporations is reduced over three years.

- **Financial Institutions (other than S Corporations); G.L. c. 63, § 2**
  For tax years beginning on or after January 1, 1995, but before January 1, 2010, the financial institution excise rate is 10.5 percent of net income. A minimum excise of $456 applies. The current financial institution excise rate of 10.5 percent of net income is reduced over three years.

- **Subchapter S Corporations; G.L. c. 63, § 32D**
  Effective for taxable years beginning on or after January 1, 2009, an S corporation having $9 million or more in total receipts is subject to tax on its net income at a rate equal to the regular business corporation (*i.e.*, non-S corporation) rate on net income for the year minus the Part B personal income tax rate at G.L. c. 62, § 4(b) for the year. The net income tax rate for S corporations with at least $6 million but less than $9 million in total receipts will equal two-thirds of the tax rate applicable to larger S corporations. For tax years beginning on or after January 1, 2009 but before January 1, 2010, application of the statutory formula yields the following different rates, either 2.8 percent or 4.2 percent, on net income of an S corporation.

- **Financial Institution that is a Subchapter S Corporation; G.L. c. 63, § 2B**
  Effective for taxable years beginning on or after January 1, 2009, a financial institution that is an S corporation will be taxed similarly to other S corporations, but at financial institution S corporation rates under new G.L. c. 63, § 2B and without a non-income measure tax. A minimum excise of $456 applies. A financial institution that is an S corporation having $9 million or more in total receipts is subject to tax on its net income at a rate equal to the regular financial institution (non-S corporation) tax

rate for the year minus the Part B personal income tax rate at G.L. c. 62, § 4(b) for the year. The net income tax rate for a financial institution that is an S corporation with at least $6 million but less than $9 million in total receipts will equal two-thirds of the tax rate applicable to larger financial institution S corporations. For tax years beginning on or after January 1, 2009 but before January 1, 2010, application of the statutory formula yields the following rates, either 3.5 percent or 5.2 percent on net income of a financial institution that is an S corporation.

Streamlining and Clarification of Chapter 63 and Certain Related Provisions – Revised Terminology and Restatement of Rates (Eliminating Separate Statutory Surtax)

Chapter 173 of the Acts of 2008 contains numerous provisions that eliminate the distinction between "foreign corporations" and "domestic corporations." Effective for tax years beginning on or after January 1, 2009, both foreign and domestic corporations will be treated as "business corporations" and taxed under G.L. c. 63, § 39. See, *in particular,* G.L. c. 63, § 30, as amended by the Act.

Prior to the Act, the tax rate for certain taxpayers subject to chapter 63 (including certain insurance companies) and chapter 63A (certain entities engaged in the sale of alcoholic beverages) was calculated by applying an uncodified 14 percent surtax to the codified rates. Under the Act, effective for taxable years beginning on or after January 1, 2009, the rates and the 14 percent surtax have been combined into single codified rates; the actual combined rates are codified in chapters 63 and 63A and the 14 percent surtax has been repealed. Although the tax rates in chapters 63 and 63A have been modified to compensate for repeal of the 14 percent surtax, there is no tax increase as a result of repealing the surtax and restating the rates.

Sales Factor Modification

Effective for taxable years beginning on or after January 1, 2009, the Act amends the definition of "sales" for purposes of determining the sales factor of the corporate apportionment formula in G.L. c. 63, § 38. In general, the sales factor is a fraction, the numerator of which is the total sales of the corporation in Massachusetts during the taxable year, and the denominator of which is the total sales of the corporation everywhere during the taxable year. Certain items are excluded from "sales" in making this determination. Under the Act, in the case of a sale or deemed sale of a business, the term "sales" will not include receipts from the sale of the business "goodwill" or similar intangible value, including, without limitation, "going concern value" and "workforce in place."

Discharge of Indebtedness Income

For personal income tax purposes, Massachusetts follows the Code as amended on January 1, 2005. Massachusetts generally follows the current Code with respect to the corporate excise under chapter 63. On June 29, 2009, the Governor signed an Act that amends the corporate excise to decouple from IRC § 108(i). The American Recovery and Reinvestment Act of 2009 ("ARRA") added new IRC § 108(i) under which certain taxpayers can elect to defer recognition of COD income over 10 years (deferring tax on COD income for the first four or five years and then recognizing the income ratably over the following five taxable years). In general, § 108(i) provides that, at the election of a taxpayer, COD income realized in connection with a reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument is includible in gross income ratably over a 5-taxable-year inclusion period, beginning with the taxpayer's fourth or fifth taxable year following the taxable year of the reacquisition. The Act applies to discharges of indebtedness in taxable years ending after December 31, 2008. St. 2009, c. 27, § 41 amending G.L. c. 63, § 1; § 43 amending G.L. c. 63, § 30(3); and § 48 amending G.L. c. 63, § 52A.

Miscellaneous

Temporary Suspension of Original Issue Discount Rules for Certain High-Yield Obligations

Generally, an issuer of a debt instrument with original issue discount (OID) may deduct OID as it accrues over time. However, under IRC § 163(e)(5), if a debt instrument is an applicable high yield discount obligation (AHYDO) issued by a corporation, no deduction is allowed for the "disqualified portion" of the OID on such debt instrument, and the remainder of the OID is not deductible until paid.

ARRA suspended the special rules for OID in IRC § 163(e)(5) for an AHYDO issued during the period beginning September 1, 2008 and ending on December 31, 2009. This temporary suspension applies only if (1) the obligation is issued in exchange for an obligation that is not an AHYDO and (2) the issuer of the old and new obligations is the same. ARRA also permitted the Secretary of the Treasury to temporarily prescribe, in light of distressed conditions in the debt capital markets, a higher interest rate in determining high yield obligations. For federal income tax purposes, certain corporations will now be able to deduct from their gross income more OID than they would have been able to previously.

For purposes of the corporate excise and the personal income tax, Massachusetts decouples from these ARRA modifications of the AHYDO rules pursuant to the amendments included in Section 1232 of the ARRA to IRC § 163(a)(5)(F) suspending the rules for high-yield OID obligations and to IRC § 163(i)(1) regarding the application of a higher rate. These decoupling provisions of the Act are applicable to obligations issued after August 31, 2008 in taxable years ending after that date. St. 2009, c. 27, § 27 amending G.L. c. 62, § 2(d)(1) by adding new paragraph (P); § 42 amending the definition of “net income” in G.L. c. 63, § (1); § 44 amending G.L. c. 63, § 30(4) by adding new clause (vii); and § 49 amending G.L. c. 63, § 52A.

Effect of Internal Revenue Service Notice 2008-83 and § 382(n) of the Code

The Legislature enacted an Act to decouple from new IRC § 382(n). Under the following sections of the Act, for purposes of chapter 62 and chapter 63 of the General Laws, Massachusetts decouples from (i) the federal relief from limitations on the use of losses after a change of ownership under IRS Notice 2008-83 for periods prior to its effective repeal by ARRA, and (ii) the provisions of IRC § 382(n) as added by ARRA.

For purposes of chapter 62 and chapter 63, these sections of the Act restore IRC § 382’s limitation (as it existed before the special treatment for banks in IRS Notice 2008-83) on the use of built-in losses following the change in ownership of a bank or other corporation. For Massachusetts corporate and personal income tax purposes, IRC § 382(n) inserted by the ARRA has no force or effect in any taxable year. Also, for Massachusetts corporate and personal income tax purposes in any taxable year, IRC § 382 must be applied without regard to the treatment of a change in ownership of a bank or other corporation provided in IRS Notice 2008-83 or in any federal statutory or administrative codification, supplement or implementation of such Notice.

Change to the Dairy Farmer Tax Credit

The Massachusetts dairy farmer tax credit was established to offset the cyclical downturns in milk prices paid to dairy farmers and is based on the U.S. Federal Milk Marketing Order for the applicable market, such that when the U.S. Federal Milk Marketing Order price drops below a trigger price anytime during the taxable year the taxpayer will be entitled to the tax credit. The total amount of credits granted cannot exceed $4 million in any year.

A taxpayer who holds a certificate of registration as a dairy farmer pursuant to G.L. c. 94, § 16A is allowed a refundable tax credit based on the amount of milk produced and sold. The credit may be claimed against the taxes due under G.L. c. 62 or G.L. c. 63. The dairy farmer tax credit as originally enacted pursuant to St. 2008, c. 310 was ninety percent refundable. Pursuant to an Act approved on June 29, 2009, the dairy farmer tax credit is now one hundred percent refundable. The

Commissioner will apply the credit against the taxpayer's liability as reported on its tax return, first reduced by any other available credits, and then refund the balance of the credit to the taxpayer. The credit remains non-transferable. The effective date of this provision is July 1, 2009.

Tax Amnesty Program

Chapter 461 of the Acts of 2008 provided that the Commissioner of revenue establish a tax amnesty program during which all penalties that could be assessed by the Commissioner for the failure of the taxpayer to: (i) timely file any proper return for any tax type and for any tax period; (ii) file proper returns which report the full amount of the taxpayer's liability for any tax type and for any tax period; (iii) timely pay any tax liability; or (iv) pay the proper amount of any required estimated payment toward a tax liability shall be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect. The waiver of a taxpayer's liability under this section applies if the taxpayer files returns, makes payments as required by the Commissioner or otherwise comes into compliance with the tax laws of the Commonwealth as required by the Commissioner pursuant to the tax amnesty. The amnesty program was required to be established for a period of two consecutive months within fiscal year 2009, but not later than June 30, 2009, and all required payments were to be made on or before June 30, 2009, in order for the amnesty to apply.

Taxation of Direct Broadcast Satellite Service

Legislation enacted on June 29, 2009 establishes a 5 percent excise on the gross revenues of a provider from the sale of direct broadcast satellite service to a subscriber or customer in Massachusetts. The excise applies to actual receipts on or after August 1, 2009. See G.L. c. 64M as added by St. 2009, c. 27, §§ 61, 150. The excise will be passed along to those subscribers or customers as a separately stated item on their bills.

"Direct broadcast satellite service" is defined as "the distribution or broadcasting by satellite of video programming or services directly to receiving equipment located at an end user subscriber's or an end user customer's premises, including, but not limited to, the provision of premium channels, the provision of music or other audio services or channels, and any other service received in connection with the provision of direct broadcast satellite service." The excise applies to satellite video programming services, including subscription fees for related services such as on-screen programming features and enhanced recording and playback abilities. The excise does not apply to satellite radio sold without video programming. The entire revenues of a provider from satellite video programming services are subject to chapter 64M tax, regardless of whether the provider separately states a charge for one or more audio components of that service. "Direct broadcast satellite service provider" is defined as "a person who transmits, broadcasts or otherwise provides direct broadcast satellite service to subscribers or customers in the Commonwealth." "Subscriber or customer" is defined as "a member of the general public who receives direct broadcast satellite service from a direct broadcast satellite service provider and does not further distribute such service in the ordinary course of business." *See* G.L. c. 64M, § 1, as added by St. 2009, c. 27, §§ 61; TIR 09-14.

The Taxes
FY 2009

TYPE OF TAX	MEASURE	RATE[1]	RETURN DUE
Personal income and fiduciary income	Net capital gains[2] Dividends, interest, wages, other income	5.3–12% 5.3%	On or before April 15 for calendar year filings. The 15th day of the 4th month for fiscal year filings.
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.) Cider 3%–6% (wine gal.) Still wine 3%–6% (wine gal.) Sparkling wine (wine gal.) Alcoholic beverages 15% or less (wine gal.) Alcoholic beverages more than 15%–50% (wine gal.) Alcoholic beverages more than 50% or alcohol (proof gal.)	$3.30 $ .03 $ .55 $ .70 $1.10 $4.05 $4.05	Monthly, on or before the 20th day of the month.
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.
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 Propane, liquified gas, etc. (no minimum) Aviation (10¢ minimum) Jet fuel at local option (5¢ minimum)	$ .21 19.1% 7.5% 5%	Monthly, on or before the 20th day of the month.
Room occupancy	Transient room occupancy At local option, up to Convention Center Financing Fee (Boston, Cambridge, Springfield, Worcester, Chicopee and West Springfield)	5.7% 4.0%[5] 2.75%	Monthly, on or before the 20th day following the close of the tax period.

[1] Tax rates as of August 1, 2008.
[2] Gains 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%.
[3] Resident 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.
[4] In Barnstable County, the rate is $5.70 per $1,000.
[5] Boston is authorized to charge up to 4.5%.

FY 2009

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%	
Foreign casualty	Premiums	2.28%	
Ocean marine	Underwriting profit	5.7%	On or before May 15.
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.

[6]S corporations: 4.5% if total receipts $9 million or more; 3% if total receipts are $6 million or more but less than $9 million.
[7]30%, 25%, 25% and 20% for corporations with fewer than 10 employees in their first full tax year.

Revenue Collection
FY 2009

In thousands	FY05	FY06	FY07	FY08	FY09	% change
STATE TAXES COLLECTED BY DOR						
Tax on personal income						
TOTAL	**$ 9,690,270**	**$10,483,437**	**$11,399,649**	**$12,496,141[1]**	**$ 10,599,086**	**(15.2)**
Taxes on business						
Corporations	$ 1,062,722	$ 1,390,684	$ 1,587,636	$ 1,511,973	$ 1,548,619	2.4
Insurance companies	372,823	396,683	369,030	368,605	309,448	(16.0)
Public utilities	71,136	118,492	178,325	120,173	(1,685)	(101.4)
Financial institutions	198,937	349,932	340,937	547,809	242,619	(55.7)
TOTAL	**$ 1,705,618**	**$ 2,255,791**	**$ 2,475,928**	**$ 2,548,560**	**$ 2,099,001**	**(17.6)**
Taxes on commodities sold						
Motor fuels	$ 685,537	$ 671,844	$ 676,119	$ 672,654	$ 654,022	(2.8)
Cigarettes	423,637	435,336	438,074	436,942	587,331	34.4
Alcoholic beverages	68,630	68,854	70,958	71,169	71,850	1.0
Sales and use[2]	3,331,830	3,421,166	3,460,549	3,456,662	3,241,720	(6.2)
Sales on meals	559,115	588,205	615,000	641,699	638,696	(0.5)
TOTAL	**$ 5,068,749**	**$ 5,185,405**	**$ 5,260,700**	**$ 5,279,126**	**$ 5,193,619**	**(1.6)**
Other taxes						
Estate & inheritance	$ 255,127	$ 196,260	$ 249,597	$ 253,966	$ 259,734	2.3
Room occupancy excise	133,487	144,808	157,515	174,157	160,933	(7.6)
Deeds excise[3]	156,501	149,283	140,825	110,444	75,260	(31.9)
Club alcoholic beverage excise	621	672	770	766	748	(2.3)
Motor vehicle excise	70	76	74	96	75	(21.9)
Controlled substances	0	0	0	0	0	—
Convention Center surcharge	10,390	11,039	11,911	13,018	11,795	(9.4)
Community preservation trust	37,406	36,088	31,914	27,031	25,241	(6.6)
TOTAL	**$ 593,602**	**$ 538,226**	**$ 592,606**	**$ 579,478**	**$ 533,786**	**(7.9)**
Total state taxes collected by DOR	**$17,058,239**	**$18,462,859**	**$19,728,883**	**$20,903,305**	**$ 18,425,492**	**(11.9)**

[1]FY08 Personal Income includes $12,364K from penalties assessed under Section 2 of Chapter 111M of the General Laws and Deposited into the Commonwealth Care Trust Fund.
[2]Include sales and use tax on motor vehicles.
[3]Due 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.

Revenue Collection continued
FY 2009

In thousands	FY05	FY06	FY07	FY08	FY09	FY08–09 % change
LOCAL TAXES COLLECTED BY DOR ON BEHALF OF COMMUNITIES						
Urban redevelopment	$ 49,874	$ 50,681	$ 53,600	$ 54,965	$ 55,060	0.2
Local option airplane jet fuel	16,269	20,228	26,395	27,978	36,504	30.5
Local option room occupancy	75,490	81,590	88,345	96,854	89,815	(7.3)
Local rental vehicle (Convention Center 10%)	1,023	1,086	1,152	1,207	1,107	(8.3)
Vehicle rental surcharge	0	267	646	642	701	9.2
Embarkation fees	1,293	1,290	1,321	1,284	1,233	(4.0)
Total local taxes collected by DOR on behalf of communities	**$ 143,949**	**$ 155,142**	**$ 171,459**	**$ 182,930**	**$ 184,420**	**0.8**
OTHER REVENUE						
Utility and insurance assessments	$ 0	$ 0	$ 0	$ 0	$ 0	—
Department fees, licenses, etc.	10,924	20,021	19,142	23,183	17,945	(22.6)
County Correction Fund — deeds	9,902	9,413	9,689	7,226	4,807	(33.5)
County recording fees	45,662	43,103	37,109	30,079	26,063	(13.4)
Abandoned deposits — bottle	36,817	39,009	39,211	38,774	32,026	(17.4)
Total other revenue	**$ 103,305**	**$ 111,546**	**$ 105,151**	**$ 99,262**	**$ 80,841**	**(18.6)**
STATE TAXES COLLECTED BY OTHER AGENCIES						
Horse and dog racing	$ 4,677	$ 4,181	$ 3,859	$ 3,496	$ 2,773	(20.7)
Beano and boxing	2,146	1,964	1,714	1,559	1,397	(10.4)
Raffles/bazaars	1,038	1,121	967	930	1,052	13.1
Special insurance brokers	29,480	30,377	28,250	27,591	26,198	(5.0)
UI surcharge	21,135	21,400	21,449	21,509	21,032	(2.2)
Deeds, Secretary of State	63,831	60,860	53,253	43,470	30,286	(30.3)
Total state taxes collected by other agencies	**$ 122,307**	**$ 119,903**	**$ 109,492**	**$ 98,555**	**$ 82,738**	**(16.0)**
TAXES ON PROPERTY COLLECTED BY LOCAL GOVERNMENT						
Real estate	$ 9,105,150	$ 9,602,983	$ 10,113,661	$ 10,600,077	$ 11,097,468	4.7
Personal property	378,305	380,155	375,125	392,041	455,326	16.1
Motor vehicles	683,168	694,259	636,886	686,792	612,742	(10.8)
Total taxes on property collected by local government	**$10,166,623**	**$10,677,397**	**$11,125,672**	**$11,678,910**	**$ 12,165,536**	**4.2**
TOTAL ALL TAXES	**$27,594,423**	**$29,526,847**	**$31,240,657**	**$32,962,962**	**$ 30,939,027**	**(6.1)**

Because of rounding, detail may not add to Totals.

Offers in Settlement

FY 2009

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 2009, 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
Joseph Alongi	$ 8,662.59	$ 1,200.00	$ 7,462.59
Franzy J. Augustin	11,855.05	3,300.00	8,555.05
Herbert Beigel	195,176.68	9,600.00	185,576.68
Brandon's Family Restaurant, Inc. & John V. Bruinsma, Jr. as Responsible Person	55,054.87	5,000.00	50,054.87
Olimpia E. Caceres-Brown	60,187.33	5,000.00	55,187.33
Deborah M. Cantrell	8,871.62	4,500.00	4,371.62
Estate of Peter N. Capistron & Sheila A. Capistron	8,309.12	1,000.00	7,309.12
Cervejaria Portugalia, Inc. & Luis M. Lima as Responsible Person	39,795.64	10,000.00	29,795.64
Dean W. Charron	5,824.95	1,100.00	4,724.95
John P. Clark d/b/a Clark Enterprises & John P. Clark, Individually	50,751.49	9,962.76	40,788.73
Clarksburg Bakery, Inc. & Heather Ann Morris as Responsible Person	35,622.36	2,000.00	33,622.36
Thomas A. Craddock	8,838.48	1,000.00	7,838.48
Cynthia J. Day d/b/a Sniffles & Hugs Day Care	46,416.22	15,000.00	31,416.22
Elite Graphix, Inc. & Robert C. Faulker as Responsible Person	44,037.74	13,000.00	31,037.74
Paul E. Erickson	17,274.34	5,000.00	12,274.34
Karen Folino	41,040.85	21,000.00	20,040.85
Larry D. Fowler	8,448.13	1,500.00	6,948.13
GCS Restaurant Group, Inc. & Gordon L. Milne as Responsible Person	19,345.10	10,000.00	9,345.10
Peter W. Granville	5,792.51	1,000.00	4,792.51
James Gravel, Sr.	11,557.76	6,560.00	4,997.76
Brian M. Harrington, Sr.	13,170.48	2,365.00	10,805.48
Herb Country Gifts & Collectibles, Inc. & Liliane S. Chaglassian as Responsible Person	84,678.03	12,000.00	72,678.03
David J. Hickey	10,420.58	1,850.00	8,570.58
Christine A. Holyoak	2,501.78	1,000.00	1,501.78
Liberty Court Reporting, Inc. & Sheila M. Powis as Responsible Person and Sheila M. Powis, Individually	52,125.59	5,000.00	47,125.59
Joel K. Logan & Mary Ellen Logan, Individually & Joel K. Logan as Responsible Person for Logan Healthcare Management Group; Logan Healthcare Facility, Inc.; Crestview Healthcare Facility, Inc.; Pond Meadow Healthcare Facility, Inc.; and Elihu White Nursing Home, Inc.	1,340,213.09	150,000.00	1,190,213.09
Antoinette J. Lopes	6,523.82	1,176.00	5,347.82
Michael P. Maguire	9,934.04	5,000.00	4,934.04
Joseph E. Miner	30,287.81	12,000.00	18,287.81
Mario F. & Gordana K. Moretti, Individually & Mario F. Moretti d/b/a Mario F. Moretti, MD	16,887.18	6,403.60	10,483.58
Patricia A. Morgan	3,206.71	2,400.00	806.71
Frank E. Pressey	28,263.95	7,500.00	20,763.95
Barry E. Schwarzel	30,929.38	5,200.00	25,729.38

Offers in Settlement continued
FY 2009

NAME	TOTAL TAX, INTEREST & PENALTIES	AMOUNT PAID IN SETTLEMENT	AMOUNT ABATED
Action Bindery, Inc. & Paul S. Segal as Responsible Person & Premier Graphics, Inc. & Paul S. Segal as Responsible Person	183,076.84	30,000.00	153,076.84
Joan M. Shea	6,008.40	1,000.00	5,008.40
Michael L. Shea, Jr.	13,525.75	3,000.00	10,525.75
Hyannis 0B-GYN Associates, PC & Kenneth E. & Carol A. Smith, Individually	197,702.75	10,000.00	187,702.75
Donald B. Turner	22,840.73	5,000.00	17,840.73
Lola J. Tyndall as Responsible Person for The Data Center on Park Avenue, Inc.	77,522.39	7,500.00	70,022.39
Joseph E. Vallier, Jr.	14,054.97	3,600.00	10,454.97
Kevin A. Willey	6,055.49	2,500.00	3,555.49
Virginia L. Wilson	18,450.16	3,300.00	15,150.16
TOTAL	**$ 2,851,242.75**	**$ 404,517.36**	**$ 2,446,725.39**

Because of rounding, detail may not add to Totals.

Collection Agencies
FY 2009

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
Walker Associates, Inc.	$3,451,101	$475,033	$2,976,068
CCA	4,656,211	654,769	4,001,451
TOTAL	**$8,107,312**	**$1,129,802**	**$6,977,520**

Because of rounding, detail may not add to Totals.