



# Commonwealth of Massachusetts

## OFFICE OF THE COMPTROLLER

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 MACOMPTROLLER.ORG



WILLIAM McNAMARA  
 COMPTROLLER

August 23, 2023

Secretary Matthew Gorzkowicz  
 Executive Office for Administration and Finance  
 State House, Room 373  
 Boston, MA 02133

The Honorable Aaron Michlewitz, Chair  
 House Committee on Ways and Means  
 State House, Room 243  
 Boston, MA 02133

The Honorable Michael J. Rodrigues, Chair  
 Senate Committee on Ways and Means  
 State House, Room 212  
 Boston, MA 02133

RE: Fiscal Year 2023 Capital Gains Tax Revenue Transfers to the Stabilization Fund,  
 the State Retiree Benefits Trust Fund, and the Pension Liability Fund

Dear Secretary Gorzkowicz, Chair Michlewitz, and Chair Rodrigues:

On August 11, 2023, the Department of Revenue certified to the Office of the Comptroller that through June 2023, Fiscal Year 2023 capital gains tax revenue totaled \$2,237,272,366.00.

[Section 5G of Chapter 29](#) of the Massachusetts General Laws, requires that capital gains tax revenue in excess of the fiscal year capital gains tax threshold be transferred as follows:

(i) 90% to the Commonwealth Stabilization Fund; (ii) 5% to the State Retiree Benefits Trust Fund (SRBTF); and (iii) 5% to the Commonwealth's Pension Liability Fund (PRIT). The Fiscal Year 2023 capital gains tax threshold is \$1,403,646,774.00. Therefore, in addition to previous capital gains tax transfers made in July 2023, I have processed the following incremental transfers totaling \$172,294,958.94, as shown below:

From the General Fund to:	Amount	% of total
i. Commonwealth Stabilization Fund	\$155,065,463.05	90%
ii. State Retiree Benefits Trust Fund (SRBTF)	\$8,614,747.95	5%
iii. Commonwealth's Pension Liability Fund (PRIT)	\$8,614,747.95	5%
Total	\$172,294,958.94	100%

## Fiscal Year 2023 Capital Gains Tax Revenue Transfer to Stabilization Fund and Pension Funds

August 23, 2023

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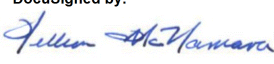
This is the second such transfer under Section 5G of Chapter 29 for Fiscal Year 2023. The total amounts transferred in Fiscal Year 2023 pursuant to [Section 5G of Chapter 29](#) are as follows:

From the General Fund to:	Amount	% of total
i. Commonwealth Stabilization Fund	\$750,263,032.80	90%
ii. State Retiree Benefits Trust Fund (SRBTF)	\$41,681,279.60	5%
iii. Commonwealth's Pension Liability Fund (PRIT)	\$41,681,279.60	5%
<b>Total</b>	<b>\$833,625,592.00</b>	<b>100%</b>

As you know, the Fiscal Year 2024 General Appropriations Act included a section which addressed the treatment of capital gains tax revenue from the 4% surtax. The change was made effective as of January 1, 2023 and therefore has an impact on the Fiscal Year 2023 transfers shown here. Attachment #3 has been provided as a recap of relevant information on this topic.

If you have any questions regarding this letter, please contact Kristin Lacroix, Chief Accounting Officer, at [kristinm.lacroix@mass.gov](mailto:kristinm.lacroix@mass.gov) or me at [william.mcnamara@mass.gov](mailto:william.mcnamara@mass.gov).

Sincerely,

DocuSigned by:  
  
 408AB804EF29450...

William McNamara

Comptroller of the Commonwealth

## Attachments:

- Attachment #1: Capital Gains Tax Certification Letter from Commissioner of Revenue
- Attachment #2: FY23 Capital Gains Threshold Certification from Department of Revenue
- Attachment #3: Recap of capital gains surtax revenue treatment

Cc: Dana Sullivan, Chief of Strategy and Operations, Executive Office for Administration and Finance  
 Martha Kwasnik, General Counsel, Executive Office for Administration and Finance  
 Brian Melanson, Director of Operations, Executive Office for Administration and Finance  
 Katherine O'Reilly, Budget Director, House Committee on Ways and Means  
 Christopher Marino, Budget Director, Senate Committee on Ways and Means  
 Brian Donahue, Budget Director, House Committee on Ways and Means  
 Geoffrey E. Snyder, Commissioner, Department of Revenue  
 Kazim Ozyurt, Director, Office of Tax Policy Analysis, Department of Revenue  
 James MacDonald, First Deputy Treasurer, Office of the Treasurer and Receiver General  
 Thomas Smith-Vaughan, Chief Operating Officer, Office of the Comptroller  
 Amy Nable, General Counsel/Assistant Comptroller, Office of the Comptroller



GEOFFREY E. SNYDER  
COMMISSIONER

*The Commonwealth of Massachusetts*  
*Department of Revenue*  
*Office of the Commissioner*  
*PO Box 7091*  
*Boston, MA 02204-7091*

August 11, 2023

William J. McNamara, Comptroller  
Office of the Comptroller  
Commonwealth of Massachusetts  
One Ashburton Place, Room 901  
Boston, MA 02108

Dear Comptroller McNamara:

Pursuant to Section 5G of Chapter 29 of the General Laws, the Department of Revenue (DOR) is required to certify to the State Comptroller, after each quarter during the fiscal year, the amount of tax revenues estimated to have been collected during the preceding quarter from capital gains income.

Because capital gains tax payments are remitted unevenly throughout the fiscal year according to tax filing deadlines, to ensure accurate reporting DOR certifies capital gains tax collections on the following schedule:

Period 1 (July 1 through September 30)

Period 2 (October 1 through January 31)

Period 3 (February 1 through May 31)

Period 4 (June 1 through June 30)

The table below shows estimates of capital gains tax revenue for each of the certification periods, and for the full fiscal year 2023. The estimates for Period 3 and Period 4 exclude estimates of the capital gains tax revenue collected from the 4% income surtax.

**Capital Gains Tax Collections**

Period	Period \$ millions	Fiscal year-to-date \$ millions
Period 1 (July 1, 2022 to September 30, 2022)	\$330.6	\$330.6
Period 2 (October 1, 2022 to January 31, 2023)	\$661.6	\$992.2
Period 3 (February 1, 2023 to May 31, 2023)	\$1,039.1	\$2,031.3
Period 4 (June 1, 2023 to June 30, 2023)	\$205.9	\$2,237.3

Based on currently available data, DOR hereby certifies that tax revenues estimated to have been collected from capital gains income were \$205.9 million during the fiscal year 2023 Period 4 (June 1, 2023 through June 30, 2023). The fiscal year 2023 full year tax revenues estimated to have been collected from capital gains income were \$2,237.3 million. The fiscal year 2023 full year tax estimate of \$2,237.3 million does not include an estimated \$103.6 million in capital gains tax revenue collected from the 4% income surtax<sup>1</sup>. These figures are subject to revision as DOR receives more data. Those changes will be reflected in the November 2023 final report of fiscal year 2023 tax revenue from capital gain income.

Under Section 5G of Chapter 29 of the General Laws, the amount of certified capital gains tax revenue collections over a defined threshold, which was previously set at \$1,403.6 million for FY23, is transferred to various funds as follows: 90% to the Commonwealth Stabilization Fund; 5% to the State Retiree Benefits Trust Fund; and 5% to the Commonwealth's Pension Liability Fund.

This capital gains tax certification letter shall generate a transfer of approximately \$833.6 million to the aforementioned funds as follows under Section 5G of Chapter 29 of the General Laws:

- 90% (~\$750.3 million) shall be transferred into the Commonwealth Stabilization Fund;
- 5% (~\$41.7 million) shall be transferred into the State Retiree Benefits Trust Fund; and
- 5% (~\$41.7 million) shall be transferred into the Commonwealth's Pension Liability Fund.

If you have any questions concerning this letter, please contact Kazim P. Ozyurt, Director of the Office of Tax Analysis ([ozyurk@dor.state.ma.us](mailto:ozyurk@dor.state.ma.us)).

Sincerely,

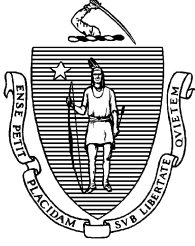


Geoffrey E. Snyder  
Commissioner

cc: Secretary Matthew J. Gorzkowicz, Executive Office for Administration and Finance  
The Honorable Michael J. Rodrigues, Chair, Senate Committee on Ways and Means  
The Honorable Aaron Michlewitz, Chair, House Committee on Ways and Means

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<sup>1</sup> Pursuant to [the FY2024 budget signed by the Governor on August 9, 2023](#) “income surtax revenues collected and deposited into the Education and Transportation Fund shall not be considered tax revenues collected from capital gains income for the purposes of section 5G [of Chapter 29 of the General Laws]. The commissioner of revenue shall estimate, in the capital gains tax certification in the fourth quarter of the fiscal year, the amount of revenue to exclude from the section 5G calculation; provided, however, that this estimate shall be final.”



Geoffrey E. Snyder  
Commissioner

*The Commonwealth of Massachusetts*  
*Department of Revenue*  
*Office of the Commissioner*  
*P.O. Box 9550*  
*Boston, MA 02114-9550*

January 13, 2022

Mr. William J. McNamara  
Comptroller  
Commonwealth of Massachusetts  
1 Ashburton Place, 9th Floor  
Boston, MA 02108

Dear Mr. McNamara:

Pursuant to Section 5G of Chapter 29 of the Massachusetts General Laws<sup>1</sup>, and based on the procedure agreed upon by the Secretary of Administration and Finance and the Chairs of the House and Senate Committees on Ways and Means the Department of Revenue (DOR) hereby certifies that for the purpose of determining the amount of capital gains that will be transferred to the Commonwealth Stabilization Fund, the fiscal year 2023 capital gains tax collections threshold is \$1,403,646,774. Any fiscal year 2023 capital gains tax collections above that threshold, as certified by the Commissioner of Revenue, will be transferred to the Commonwealth Stabilization Fund. Please see attached table for our calculations.

If you have any questions concerning this letter, please contact me (snyderge@dor.state.ma.us), or Kazim P. Ozyurt, Director of the Office of Tax Analysis (ozyurk@dor.state.ma.us).

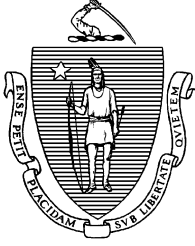
Sincerely,

A handwritten signature in cursive script, appearing to read "G. Snyder".

Geoffrey E. Snyder  
Commissioner

cc: Secretary Michael J. Heffernan, Executive Office for Administration and Finance  
The Honorable Michael J. Rodrigues, Chair, Senate Committee on Ways and Means  
The Honorable Aaron Michlewitz, Chair, House Committee on Ways and Means

<sup>1</sup> <http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter29/Section5G>



Geoffrey E. Snyder  
Commissioner

*The Commonwealth of Massachusetts*  
*Department of Revenue*  
*Office of the Commissioner*  
*P.O. Box 9550*  
*Boston, MA 02114-9550*

**Calculation of Fiscal Year 2023 Capital Gains Tax Threshold:**

**Nominal U.S. GDP - Five Years Ago:** U.S. **Gross Domestic Product (\*)** figures for the four quarters ending in third quarter of 2016 (\*\*)

2015: Quarter 4	18,332
2016: Quarter 1	18,425
2016: Quarter 2	18,612
2016: Quarter 3	18,776

*Average GDP five years ago:* **18,536** A

**Nominal U.S. GDP - Current:** Most recently available U.S. **Gross Domestic Product (\*)** figures for the four quarters ending in third quarter of 2021 (\*\*)

2020: Quarter 4	21,478
2021: Quarter 1	22,038
2021: Quarter 2	22,741
2021: Quarter 3	23,202

*Average current GDP:* **22,365** B

*Compound annual growth rate (CAGR)(\*\*\*):* 3.8267158% C =  $[(B / A)^{(1/5)}] - 1$

**Fiscal Year 2022 Capital Gains Tax Threshold:** \$1,351,912,909 D

*1+ Compound annual growth rate (CAGR):* 103.8267158% E=(1+C)

**Fiscal Year 2023 Capital Gains Tax Threshold:** \$1,403,646,774 F=D\*E

(\*) U.S. Gross Domestic Product figures are seasonally adjusted at annual rates and in billions of current dollars.

[www.bea.gov/newsreleases/national/gdp/gdpnewsrelease.htm](http://www.bea.gov/newsreleases/national/gdp/gdpnewsrelease.htm)

(\*\*) The 4th quarter of 2021 GDP figure is not available at the time when these calculations are conducted. The 3rd quarter of 2021 U.S. GDP figure ("third" estimate) was released by the Bureau of Economic Analysis on December 22, 2021.

(\*\*\*) *Compound annual growth rate (CAGR)* =  $[(\text{Average current GDP} / \text{Average GDP five years ago}) \text{ to the power } (1/5)] - 1$

### Attachment 3

#### Provided with the final Excess Capital Gains Revenue Transfer letter for Fiscal Year 2023 by the Office of the Comptroller

Purpose: to recap the calculation of excess capital gains tax revenue for Fiscal Year 2023 in light of statutory changes.

#### Sequence of relevant events:

- 1) The 4% surtax on income over \$1 million went into effect as of January 1, 2023. The surtax applied to capital gains income, among other income types.
- 2) The Department of Revenue (DOR) provides four periodic estimates of capital gains revenue in each fiscal year. For Fiscal Year 2023, the Period 3 and Period 4 letters reflect the post-January months in which the surtax was in place.
- 3) In keeping with law, DOR's Period 3 letter included 4% surtax revenue on Capital Gains, and the Office of the Comptroller made the transfer on that basis.
- 4) In August 2023, Section 19 of Chapter 28 of the Acts of 2023 excluded the 4% surtax revenue from the calculation of capital gains revenue for purposes of the transfer, with an effective date of January 1, 2023.
- 5) The timing of the final transfer allowed the Office of the Comptroller to "net out" the impact of the change. As a result, the total transfer for Fiscal Year 2023 excludes all revenue from the 4% surtax, without requiring a reversal transaction.

Below are the actual figures:

	DOR's Period 3 Letter: Includes 4% Surtax (Estimated \$28.4M in Period 3)			DOR's Period 4 Letter Excludes 4% Surtax from all Periods			Adjustments* to Periods 1-2-3 in Period 4 Letter	
	Period	Fiscal year- to-date	Cumulative amount over threshold of \$1,403.6	Period	Fiscal year-to- date	Cumulative amount over threshold of \$1,403.6	Period	Fiscal year- to-date
<b><u>All estimates are from DOR</u></b>								
Period 1 (July 1, 2022 to September 30, 2022)	\$331.7	\$331.7	-	\$330.6	\$330.6	-	(\$1.1)	(\$1.1)
Period 2 (October 1, 2022 to January 31, 2023)	\$663.8	\$995.4	-	\$661.6	\$992.2	-	(\$2.2)	(\$3.2)
Period 3 (February 1, 2023 to May 31, 2023)	\$1,069.6	\$2,065.0	\$661.4	\$1,039.1	\$2,031.3	\$627.7	(\$30.5)	(\$33.7)
Period 4 (June 1, 2023 to June 30, 2023)	n/a	n/a	n/a	\$205.9	\$2,237.3	\$833.6	n/a	n/a

#### **Notes on transfers made by the Office of the Comptroller**

- (a) Amount transferred to the three funds based on the Period 3 Letter: \$661.4
- (b) Total full-year amount to be transferred based on Period 4 Letter: \$833.6
- (c=b-a) Final transfer to achieve full-year requirement \$172.2 *In effect, we are "netting out" the impact of the statutory change in the final transfer*

\* Modest adjustments to estimates in prior periods (as shown above for Periods 1 and 2) are normal, as improved information becomes available to DOR. The substantial \$30.5 million adjustment to the Period 3 figure is largely the result of removing the 4% surtax revenue on capital gains. The full-year transfer of \$833.6 million is correct based on DOR's full Fiscal Year 2023 estimate of capital gains revenue excluding the surtax.