



March 11, 2011

Honorable Darrell Steinberg  
President pro Tempore

Honorable John A. Pérez  
Speaker of the Assembly

Honorable Bob Dutton  
Senate Republican Leader

Honorable Connie Conway  
Assembly Republican Leader

Honorable Mark Leno, Chair  
Senate Budget and Fiscal Review Committee

Honorable Bob Blumenfield, Chair  
Assembly Budget Committee

Honorable Christine Kehoe, Chair  
Senate Appropriations Committee

Honorable Felipe Fuentes, Chair  
Assembly Appropriations Committee

Honorable John Chiang  
State Controller

#### **TRANSFER TO MENTAL HEALTH SERVICES FUND**

In November 2004, the voters passed Proposition 63, the Mental Health Services Act, which imposed a 1-percent surcharge, effective January 1, 2005, on taxpayers' taxable income above \$1 million to fund mental health service programs.

Section 19602.5 (c) of the Revenue and Taxation Code requires that no later than March 1, 2006, and each March 1 thereafter, the Department of Finance (Finance), in consultation with the Franchise Tax Board (FTB), is to determine the annual adjustment amount for the Mental Health Services Fund (MHS Fund) for the following fiscal year. Section 19602.5 (d) requires Finance to notify the Legislature and the Controller of the annual adjustment amount no later than 10 business days after the determination is final.

The annual adjustment amount for fiscal year 2009-10, based on the 2009 tax year liability, has been determined by Finance in consultation with the FTB to be -\$64,464,661.03. Pursuant to Section 19602.5 (f) the monthly transfers to the MHS Fund as otherwise required by Section 19602.5 (1) (b) are to be suspended beginning with the payment for the net personal income tax receipts received in July 2011 until the total amount of suspended deposits equals the amount of the negative annual adjustment amount. The final determination of the annual adjustment amount is \$4,464,661.03 less than the -\$60,000,000 that was estimated in the Governor's Budget. The gain to the General Fund will be accrued back to the 2009-10 fiscal year as a prior-year adjustment.

#### **Statutory Requirements**

Section 19602.5 (b) requires the Controller to deposit on a monthly basis a specified percentage of net personal income tax receipts (i.e., gross receipts less refunds) in the MHS Fund. The specified percentage for each month beginning with fiscal year 2006-07 is 1.76 percent.

There are two calculations in determining the annual adjustment amount:

1. The first calculation is the "revenue adjustment amount," which compares the monthly deposits made by the Controller to the MHS Fund and the "estimated revenue from the additional tax" for the applicable fiscal year, pursuant to Section 19602.5 (c) (3) (A) and (B).
2. The second calculation is the "tax liability adjustment amount," which compares the amount of the actual tax liability increase from the 1-percent surcharge and the "estimated tax liability increase from the additional tax," pursuant to Section 19602.5 (c) (2) (A) and (B).

The net of these two calculations yields the annual adjustment amount for the following fiscal year.

Pursuant to subdivisions (e) and (f), if the annual adjustment amount as determined on March 1 is a positive number, the Controller is required to transfer that amount from the General Fund to the MHS Fund on July 1 of the following fiscal year. If the annual adjustment amount is a negative number, the Controller is required to suspend monthly transfers to the MHS Fund for that fiscal year until the total amount of suspended deposits equals the amount of the negative annual adjustment amount.

The attachment provides a detailed description of the calculation of the annual adjustment amount.

**Annual adjustment amount for 2009-10 to be suspended in 2011-12:**

The annual adjustment amount for 2009-10 as determined by Finance in consultation with the FTB is -\$64,464,661.03. Pursuant to Section 19602.5 (f), since the March 1, 2011 determination of the annual adjustment amount as required under subdivision (c) is negative, the Controller is required to suspend monthly transfers to the MHS Fund from the General Fund beginning with the payment for the net personal income tax receipts received in July 2011 until the total amount of suspended deposits equal the negative annual adjustment amount.

Sincerely,



MICHAEL COHEN  
Chief Deputy Director

Attachment

cc: On following page

**Attachment to Report on Annual Adjustment Amount  
For Mental Health Fund**

The following describes the calculation of the annual adjustment amount for the Mental Health Services Fund for the 2011/12 Fiscal Year.

As required by paragraph (1) of subdivision (c) of Section 19602.5 of the Revenue and Taxation Code:

The "annual adjustment amount" for any fiscal year shall be ...  
determined by subtracting the "revenue adjustment amount" for the  
applicable revenue adjustment fiscal year ... from the "tax liability  
adjustment amount" for applicable tax liability adjustment year.

For the 2011/12 Fiscal Year, the applicable revenue adjustment fiscal year is 2009/10 (per clause (iii) of subparagraph (A) of paragraph (3) of subdivision (c) of Section 19602.5 of the Revenue and Taxation Code), and the applicable tax liability adjustment year is 2009 (per clause (iii) of subparagraph (A) of paragraph (2) of subdivision (c) of Section 19602.5 of the Revenue and Taxation Code).

The revenue adjustment amount is "determined by subtracting the "estimated revenue from the additional tax ... from the actual amount transferred." (Per subparagraph (A) of paragraph (3) of subdivision (c) of Section 19602.5 of the Revenue and Taxation Code).

|  |                     |
|--|---------------------|
| For FY 09/10, the actual amount transferred was                  | + \$ 798,570,330.03 |
| For FY 09/10, the estimated revenue from the additional tax was  | + \$ 839,211,700.00 |
| For FY 09/10, the revenue adjustment amount is the difference or | - \$ 40,641,369.97  |

The tax liability adjustment amount is "determined by subtracting the "estimated tax liability increase revenue ... from the amount of actual tax liability increase." (Per clause (i) of subparagraph (A) of paragraph (2) of subdivision (c) of Section 19602.5 of the Revenue and Taxation Code.)

|  |                     |
|--|---------------------|
| For 2009, the actual tax liability increase was                    | + \$ 705,953,969.00 |
| For 2009, the estimated tax liability increase was                 | + \$ 811,060,000.00 |
| For 2009, the tax liability adjustment amount is the difference or | - \$ 105,106,031.00 |

The annual adjustment amount is calculated as:

|   |                           |
|---|---------------------------|
| The tax liability adjustment amount                   | - \$ 105,106,031.00       |
| Minus the revenue adjustment amount                   | - \$ <u>40,641,369.97</u> |
| The annual adjustment amount for Fiscal Year 11/12 is | - \$ 64,464,661.03        |