

## **Determining of Commonwealth's share for transfer of interest- 205 CMR 129.02(10)**

### **Option A (share payment required and determined based upon CPI calculation)**

(10) Pursuant to M.G.L. c. 23K, § 21(b)(ii), if the interest being transferred results in a change in control of the gaming license, the commission shall require the transferor, proposed transferee or both collectively, depending on the nature of the transfer, to pay to the commission a share of the increased value of the gaming license. In determining the amount of the share, the commission shall assume that the initial value of the category 1 license is equal to \$85 million and the initial value of a category 2 license is \$25 million ("Initial Value") and that the value of the category 1 or category 2 license has increased during the period between the date the license was acquired, i.e.- the date of the award of the license, and the date of the proposed transfer by an amount equal to the Initial Value times the Consumer Price Index ("CPI") for the Greater Boston region (Boston-Brockton-Nashua, MA-NH-ME-CT (1982-84 = 100) (CPI-U)) (or such other comparable index if the CPI index is no longer published) for the period minus the Initial Value. For purposes of 205 CMR 129.02(10), the Initial Value does not include the value of real or personal property or goodwill associated with the gaming establishment. The commission shall receive a payment representing the commonwealth's share equal to 25% of the increase in the value of the category 1 license or 49% of the increase in value of the category 2 license.

**Provided, however, such payment shall not exceed \$5 million.** The gaming licensee may submit evidence to the commission as to the calculation of the CPI and the value of the gaming license and the commission shall consider such evidence as part of its determination of the payment. The amount of the fee for renewal of the gaming license shall be reduced by the amount of the payment paid in accordance with 205 CMR 129.02(10).

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### **Option B (presumption of no payment, but if there is it's based on CPI calculation)**

(10) Pursuant to M.G.L. c. 23K, § 21(b)(ii), if the interest being transferred results in a change in control of the gaming license, the commission may require the transferor, proposed transferee or both collectively, depending on the nature of the transfer, to pay to the commission a share of the increased value of the gaming license. The commission shall only require payment of the share if it determines that the transaction reflects an overall increase to the enterprise taking into account the costs (including the licensing fee and capital investment calculated in accordance with 205 CMR 122.00) and current liabilities incurred by the gaming licensee to date. In determining the amount of the share, if it is determined that a payment will be required, the commission shall assume that the initial value of the category 1 license is equal to \$85 million and the initial value of a category 2 license is \$25 million ("Initial Value") and that the value of the category 1 or category 2 license has increased during the period between the date the license was acquired, i.e.- the date of the award of the license, and the date of the proposed transfer by an amount equal to the Initial Value times the Consumer Price Index ("CPI") for the Greater Boston region (Boston-Brockton-Nashua, MA-NH-ME-CT (1982-84 = 100) (CPI-U)) (or such other comparable index if the CPI index is no longer published) for the period minus the Initial Value. For purposes of 205 CMR 129.02(10), Initial Value does not include the value of real or

personal property or good will associated with the gaming establishment. The commission shall receive a payment representing the commonwealth's share equal to 25% percent of the increase in the value of the category 1 license or 49% of the increase in value of the category 2 license. **Provided, however, such payment shall not exceed \$5 million.** The gaming licensee may submit evidence to the commission as to the calculation of the CPI and the value of the gaming license and the commission shall consider such evidence as part of its determination of the payment. If a payment is assessed in accordance with 205 CMR 129.02(10), the amount of the fee for renewal of the gaming license shall be reduced by the amount of the payment paid.

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Option C (payment required and calculated based on market value but capped at \$5 million)

(10) Pursuant to M.G.L. c. 23K, § 21(b)(ii), if the interest being transferred results in a change in control of the gaming license, the commission shall require the transferor, proposed transferee or both collectively, depending on the nature of the transfer, to pay to the commission a share of the increased value of the license. In determining the amount of the payment the commission shall consider the market value of the gaming license, property or interest when it was acquired and at the time of the transfer. Provided, however, such payment shall not to exceed \$5 million. The amount of the fee for renewal of the gaming license shall be reduced by the amount of the payment paid in accordance with 205 CMR 129.02(10).

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Option D (presumption of no payment, but if there is it's capped at \$5 million)

(10) Pursuant to M.G.L. c. 23K, § 21(b)(ii), if the interest being transferred results in a change in control of the gaming license, the commission may require the transferor, proposed transferee or both collectively, depending on the nature of the transfer, to pay to the commission a share of the increased value of the license. The commission shall only require payment of the share if it determines that the transaction reflects an overall increase to the enterprise taking into account the costs (including the licensing fee and capital investment calculated in accordance with 205 CMR 122.00) and current liabilities incurred by the gaming licensee to date. In determining the amount of the payment the commission shall consider the market value of the gaming license, property or interest when it was acquired and at the time of the transfer. Provided, however, such payment shall not exceed \$5 million. If a payment is assessed in accordance with 205 CMR 129.02(10), the amount of the fee for renewal of the gaming license shall be reduced by the amount of the payment paid.