

Act 32 of 2008 - Senate Bill 1063

Earned Income Tax Collection Reform



EXECUTIVE SUMMARY: Provides for the countywide collection of the earned income tax and implements a uniform withholding, remittance, and distribution collection system.

EXISTING LAW: The Local Tax Enabling Act (Act 511 of 1965) authorizes the levying and collection of an earned income tax on the wages, salaries, commissions, and net profits of a taxpayer. The act further provides for the powers and duties of an appointed "Income Tax Officer." The Officer can be an individual, bureau, public employee, or private agency, whatever is designated by the governing body.

ANALYSIS: Act 32 will consolidate the collection of the earned income and net profits tax by providing for 69 tax collection districts. Each tax collection district will have one appointed tax officer.

I. Tax Collection Districts

The tax collection districts will have geographic boundaries *coterminous* with the boundaries of each county, except in Allegheny County where the county will be broken up into four tax collection districts (One district representing the city of Pittsburgh and the rest of the county divided up into three relatively equal districts - using the county line and the commercially navigable rivers as the boundaries of each district). Philadelphia County is *not included* in the Local Tax Enabling Act.

There are exceptions when the geographic boundaries will deviate from traditional county boundaries, such as a school district or municipality located in more than one county. When a school district is located in more than one county, the school district will be placed into the tax collection district of the county where the majority of their population is located. A municipality will be included in the tax collection district in which its school district is located. If a municipality is located in more than one school district, each of which is in a different tax collection district, the portion of the municipality in each school district will be included in the tax collection district for that school district.

The Department of Community & Economic Development (DCED) will create a comprehensive list containing all of the tax collection districts and the municipalities and school districts in each tax collection district. The Legislative Reference Bureau will publish the list and the tax collection districts of Allegheny County in the *Pennsylvania Bulletin*. DCED will place the list and the map on their website by **January 28, 2009**.

DCED Study of Current Collection System

DCED will immediately conduct a study of the existing local earned income tax collection methods and practices. The study will focus on, with particular attention to the practices and methods of existing cooperative collection bureaus, identifying, collecting, and comparing practices, methods, structures, procedures, regulations, software, information systems, governance alternatives, risk management strategies and other characteristics that promote an effective collection system with the greatest cost efficiency and loss prevention. By December 31, 2009, DCED must furnish a copy of the study and its findings to each tax collection committee. This will also include a copy of sample bylaws, procedures, regulations, forms, agreements, requests for proposals for the selection of a tax officer, requests for proposals for the procurement of software systems and other appropriate samples.

Lancaster County Exception

Since Lancaster County already has a totally consolidated earned income tax collection system, an exception was made for them to keep their current system. Thus, they will not have to go through the process of establishing a tax collection committee. *However, that is contingent on a majority of the municipalities and school districts in Lancaster County passing a uniform resolution on or before **July 1, 2009**, designating the existing collector as the tax collection committee for this act.* If a majority is not reached, Lancaster County would be required to organize a tax collection committee under the regular method in the act.

If a majority of the municipalities and school districts approve the current collector, the current collector must meet some of the same requirements for a tax collection committee. They must comply with the content requirements for bylaws, they must notify DCED within 30 days when any new officers are elected, they must comply with the yearly audit requirements, they must establish an appeals board comprised of at least three residents of the county, they must comply with the mediation of disputes provision of the act, and they must adopt an annual budget. They are exempt from several provisions in the act including: all of the start up provisions for a tax collection committee, the adoption of initial bylaws, and the sharing of expenses for the tax collection committee based on earned income tax revenue.

Assuming a majority elected to keep the current collector, every municipality and school district in Lancaster County would have the option to pass a resolution to withdraw from the system as of January 1 of the second succeeding year. These “no confidence” resolutions could be passed from **August 17, 2013** until **November 15, 2013 and every fourth year using the same time frames**. If a majority of municipalities and school districts pass a resolution to dissolve the current collector, DCED will develop regulations providing for the establishment of a new countywide tax collection committee. These regulations will include voting rights, quorum requirements, and time frames. If a majority of municipalities and school districts do not pass this resolution by November 15, 2013, the current collector would remain in force for all the taxing jurisdictions of the county.

This option does not preclude any political subdivision in Lancaster County from utilizing the withdrawal from the tax collection district provision in Section 510 (h) of the act.

II. Tax Collection Committee

A tax collection committee is formed in each tax collection district as the governing body of the tax collection district. The tax collection committee is responsible for the appointment of a tax collector to provide for the collection of the EIT in each tax collection district.

The tax collection committee will be made up of voting delegates from each municipality and school district located in the tax collection district. *The governing body of each municipality and school district within a tax collection district that imposes an earned income tax prior to July 1, 2009 must appoint one voting delegate and one or more alternates to serve on the tax collection committee by **September 15, 2009**.* If a municipality or school district imposes an earned income tax for the first time after June 30, 2009, they must appoint a voting delegate and one or more alternates. The appointed delegate and alternate are the only ones authorized to vote on committee actions. The voting delegate and all

alternates serve at the pleasure of the governing body of the municipality and school district they represent.

For those political subdivisions that did not levy an earned income tax prior to July 1, 2009, they may appoint one nonvoting delegate and one or more nonvoting alternates to represent them on the tax collection committee. If that political subdivision subsequently imposes an earned income tax after June 30, 2009, the nonvoting delegate will become a voting delegate for the political subdivision.

Tax collection committees will be subject to the Right-to-Know Law, Sunshine Act, Ethics Act, and the State Adverse Interest Act.

Tax Collection Committee's First Meeting

The first meeting of the tax collection committee must convene by **November 15, 2009** and will be chaired by the chair of the county commissioner or the chief executive of the county in which the tax collection district is located. By **September 15, 2009**, the county must notify all political subdivisions, by first class mail and public advertising, the date of the tax collection committee's first meeting. The chair will conduct the meeting and record all votes until the committee elects a chairperson.

A quorum of the tax collection committee will be established by a majority of delegates present at each meeting, unless otherwise stated in the committee's bylaws. If a quorum is not present at the first meeting of the tax collection committee, the chair of the governing body of the county will reschedule the meeting within three weeks. Committee delegates will be notified by first class mail of the rescheduled meeting date, time and location. All delegates attending the rescheduled meeting shall constitute a quorum for that meeting. The agenda of the first meeting shall include the election of a chairperson, vice chairperson, and secretary. (Chairperson & vice chairperson must be appointed voting delegates of the committee. The secretary need not be a voting delegate.)

Delegate Voting Rights

For the first meeting of the tax collection committee, any action of the committee will be determined by a majority vote of those delegates present. The votes of each governing body will be weighted as follows for the first meeting: 50% will be based on the proportional population of each political subdivision and 50% will be based on the proportion of income tax revenues collected in each political subdivision. ***After the first meeting, a tax collection committee may decide to change to a different voting system, (i.e. one person, one vote) or retain the weighted voting method in the act.*** By July 1st of the year following the first meeting, and for all future years, the DCED will recalculate the weighted vote, unless sooner required by a tax collection committee's bylaws. If another municipality or school district becomes a voting delegate, the tax collection committee will recalculate the weighted votes or other methods of voting consistent with the committee's bylaws.

Tax Collection Committee's Officers

The chairperson of the tax collection committee will be tasked with setting all committee meetings, setting the committee's agenda, conducting all meetings, recording all votes, and performing other duties as determined by the bylaws of the committee.

The secretary of the tax collection committee will be tasked with maintaining the committee's minutes and records. The secretary will also be responsible for providing public notices and all notices to each delegate and alternate delegate.

Tax Collection Committee's Bylaws

By **April 15, 2010**, the delegates must adopt bylaws to govern the tax collection committee. To assist tax collection committees with this task, DCED will be providing all tax collection committees with sample bylaws. Notice must be given to every voting delegate and alternate delegate of any proposed consideration of the adoption or amendment of the bylaws at any meeting. The notice must include copies of the proposed bylaws or amendments.

The bylaws must provide for the following:

- 1) Rules of procedure, quorum requirements, voting rights and provisions for managing the affairs of the tax collection committee.
- 2) A list of officers, their terms and powers and a process for their election.
- 3) Meetings, including special meetings.
- 4) The process for adopting and amending bylaws.
- 5) The procedure for the addition of new political subdivisions to the tax collection committee.

Tax Collection Committee's Duties

The tax collection committee has the duty to do the following:

- 1) Keep the record of all votes and actions taken by the tax collection committee.
- 2) Appoint and oversee the tax officer for their respective tax collection district.
- 3) Set the compensation level of the tax officer.
- 4) Hold, set, and review the tax officer's bond.
- 5) Establish the financing method of the tax collection committee.
- 6) To sue and be sued in all courts.
- 7) To adopt, amend, and repeal bylaws for the management of its affairs.
- 8) To adopt, amend, and repeal policies and procedure consistent with regulations outlined under the act.

Tax Collection Committee's Powers

The tax collection committee will have the power to:

- 1) Create a tax bureau and provide for its operation and administration.
- 2) Appoint a director and any additional employees and set their compensation.
- 3) Retain counsels and auditors.
- 4) Acquire, rent, lease, or dispose of real or personal property.

- 5) Enter into agreements with other tax collection committees to form a joint tax collection committee.
- 6) Accept grants, borrow money, and incur indebtedness, for the purpose for which they are organized. The amount may not exceed 50% of total anticipated revenues.

Tax Collection Committee Audit

The tax collection committee must provide for at least one audit by the end of each calendar year of the tax officer, which includes all the books, accounts, financial statements, compliance reports and records. The audit shall be conducted by a certified public accountant or public accountant approved by the tax collection committee.

The CPA or public accountant must issue their report in a standardized format developed by DCED. This report must include an auditor's opinion letter, a financial statement, a reconciliation of the monthly reports with the receipts and disbursements, a summary of collection fees charged, a report of the tax officer's compliance with the act, a management letter if one is issued by the auditor, and a list of any findings of noncompliance with the act. If there are any noncompliance findings, a copy of the report will be sent to DCED and the Pennsylvania Auditor General.

On or before September 1st of the following year, a copy of the report must be filed with every political subdivision in the tax collection district and DCED. DCED may also use the data from these reports on their Internet website.

Tax Collection Committee Appeals Board

By **June 1, 2010**, each tax collection committee must establish an appeals board comprised of a minimum of three delegates. In Lancaster County, the requirement is a minimum of three residents of the county. Additionally, a tax collection committee may form a joint appeals board with another tax collection committee.

A taxpayer, employer, political subdivision, or another tax collection committee may appeal to the appeals board a determination of the tax officer relating to the assessment, collection, refund, withholding, remittance, or distribution of taxes.

All appeals, except ones brought for collection of non earned income taxes, must be consistent with the Taxpayer's Bill of Rights, sections 8431 through 8435.

Disputes

Any dispute between the affected parties involving a 10% or greater difference from taxes received in the previous tax year shall be subject to mandatory mediation by DCED. Disputes under 10% may be subject to voluntary mediation through guidelines established by DCED.

The process of mediation includes the following:

- 1) Municipality or municipalities must give DCED & tax collection committee written notice of their intention to seek mediation.

- 2) Within 20 days following the written notice, the political subdivision(s), tax collection committee, and tax officer submit to the mediator a statement of no more than 5 pages outlining the issues in the case.
- 3) Within 30 days of the submission of written notice, DCED will make a determination if the dispute meets the criteria for mandatory mediation. DCED will inform the parties in writing. This decision is NOT appealable.
- 4) If the mediator finds the dispute meets the criteria, then the mediation will commence under the regulations and guidelines established by DCED. The mediation must be completed within 30 days of the written notice that the dispute meets the criteria. This deadline may be extended upon mutual agreement of the parties involved. The mediation may be held via telephone.
- 5) If a settlement is reached, DCED will have 30 days from the date of the agreement to prepare a written agreement and obtain the signatures. The settlement will be binding on all parties and considered an open record under the Right-to-Know law. Also, the agreement may be admissible as evidence in a subsequent legal action.
- 6) If no settlement can be reached using mediation within the 30-day deadline, the mediation will be deemed a failure. However, all parties can agree to extend the deadline. The mediator reserves the right to terminate the mediation after the extended deadline.

The mediation process shall be confidential and not subject to the Right-to-Know Law. Statements or offers made in the mediation process will NOT be admissible as evidence in any subsequent legal action. The mediation costs incurred by DCED will be distributed equitably across all parties involved in the mediation. This cost assessment is final and not appealable.

Annual Budget

Each tax collection committee must adopt a budget annually to provide for compensation of the tax officer and other expenses of operating the tax collection district. The operating costs of the tax collection district will be *prorated according to the political subdivision's share of earned income tax revenue*. The basis for the tax revenue will be the political subdivision's tax revenue reported in the most recent annual audit report.

III. Tax Officer

The collection of local income taxes may only be collected by one tax officer in each tax collection district. Tax collection districts may appoint the same tax officer. If two or more tax collection districts form a joint tax collection district, they must appoint a single tax officer.

Appointment of Tax Officer

By **September 15, 2010**, each tax collection committee must appoint a tax officer by resolution and notify DCED within 10 days. The name of the appointed tax officer will be added to the official tax register and will become the effective tax officer for the collection of the earned income tax for the fiscal year beginning January 1, 2012.

A tax collection committee may not appoint a tax officer that:

- 1) Has been convicted of a felony involving fraud, extortion, or dishonesty.
- 2) Has engaged in conduct that adversely reflects on a person's credibility, honesty, or integrity.
- 3) Is unable to attain the bond requirements.
- 4) Has not obtained the mandatory education requirements established by DCED.
- 5) Does not meet any additional qualifications or requirements as established by DCED or the tax collection committee*.

*The tax collection committee has the power to establish additional requirements or qualifications a tax officer must meet before being appointed and must meet for continuing appointment.

Court Appointed Tax Officer

If the tax collection committee does not appoint a tax officer by September 15, 2010 or if the position of tax officer is vacant and a successor has not been appointed within 30 days, the tax collection committee must notify DCED immediately. The committee must then submit the names of at least two nominees for the position of tax officer to the court of common pleas in the county where the tax collection district is located. The court will select the tax officer from the names submitted by the committee. The tax collection committee must then officially appoint the person selected by the court.

If the tax collection committee fails to submit nominees to the court, any political subdivision in the tax collection district may petition the court to select a tax officer. The political subdivision petitioning the court must first notify DCED of their intention to do so. The court may ask other persons to submit nominations for the position of tax officer; however, the court may or may not select from these nominations.

In a situation where the court of common pleas is to select the tax officer, DCED must inform the court on a time frame for the appointing of a tax officer. DCED will also provide the court with upcoming deadlines which the tax officer must meet in order to provide for the collection of taxes.

Tax Officer Compensation

The tax collection committee will determine the compensation of the tax officer for their services and expenses. The tax collection committee may allow the tax officer to withhold their compensation from income taxes collected, if the monthly reports by the tax officer detail all the compensation withheld.

Written Agreements

Except when a tax collection committee creates a tax bureau under this act, all appointments of a tax officer must be according to a written agreement between the tax collection committee and the tax officer. The tax collection committee must approve the written agreement by resolution.

Conflicts of Interest

Several types of public officials are exempt from conflicts of interests while participating in a tax collection committee's process of selecting a tax officer. The following delegates and alternates may participate, engage in discussions, and vote on the appointment of the tax officer without being regarded as a conflict of interest.

- Delegates who are employed or members of a governing body of an existing tax bureau or public tax collection entity under consideration for the appointment of tax officer or has submitted a proposal for appointment as tax officer.
- Delegates who are members of a governing body of a political subdivision participating in an existing tax bureau or public tax collection entity under consideration for the appointment of tax officer or has submitted a proposal for appointment as tax officer.

Mandatory Education for Tax Officer

To be eligible for appointment as the tax officer, a person or entity must complete mandatory education administered by DCED. The tax officer must then complete continuing education, not less than annually, in order to maintain their appointment.

Powers & Duties of Tax Officer

A. The tax officer has the power and duty to do the following:

- 1) To collect, reconcile, administer and enforce income taxes imposed on residents and non-residents of each political subdivision in the tax collection district.
- 2) To enforce withholding by employers located in the tax collection district.
- 3) To receive income taxes distributed by tax officers for other tax collection districts.
- 4) To distribute income taxes to political subdivisions.
- 5) To comply with all regulations adopted by the Department of Community and Economic Development (DCED) under this act and all resolutions, policies and procedures adopted by the tax collection committee.
- 6) To invest all income taxes in the custody of the tax officer in authorized investments, subject to the approval of the tax collection committee. The tax officer shall observe the "prudent person" standard of dealing with property of another. The act authorizes the tax officer to make several types of investments.
- 7) To distribute income generated from authorized investments as determined by the tax collection committee.

B. Monthly Reports - The tax officer must provide a written report to the secretary of each political subdivision for which the tax officer collected income taxes. The report must be made within 20 days of

the end of each month on uniform forms developed by DCED. The monthly report must include the following:

- 1) A breakdown of all income taxes collected.
- 2) Income generated from investments.
- 3) Penalties collected.
- 4) Costs and any other monies received, collected, expended and distributed for each political subdivision served by the tax officer.
- 5) Any money that is distributed to other tax officers from other tax collection districts.

C. Overpayments - The tax officer must make refunds of overpayments to taxpayers in accordance with the Taxpayer's Bill of Rights, Sections 106 & 108, upon petition and proof by a taxpayer.

D. Bonds – Before a tax officer can begin any official actions on behalf of the tax collection district they must give and acknowledge bond to the tax collection committee. The tax collection committee must fix the bond at the maximum amount of taxes that might be in the possession of the tax officer at any given time. The act also provides for an optional method of setting the bond lower if other fiscal controls are in place. The amount of the bond must be revised annually by the tax collection committee based on the yearly-required audit. The tax officer must file copies of all bonds in effect with each political subdivision in the tax collection district. Any tax collection district or any political subdivision who seeks payment or distribution of income taxes under the act may request a copy, at no cost, of all bonds in effect at any time.

E. Tax Officer's Record of Receipts - The tax officer must keep an accurate dollar-for-dollar account of all income tax revenue received. All records will be the property of the political subdivision and the tax collection district in which the taxes are collected. The retention and disposition of the records will be subject to the retention schedule set by the Local Government Records Committee of the Pennsylvania Historical and Museum Commission.

The records must include the following:

- 1) Amount of income taxes received from each taxpayer or other tax officers.
- 2) The date of receipt.
- 3) The amount and date of all other monies received or distributed.
- 4) Any other information required by DCED.

F. Exchange of Tax Information – Each tax officer must facilitate an agreement for the exchange of necessary information for the collection of income taxes between the tax collection district and the Pennsylvania Department of Revenue. The Department of Revenue must establish procedures to facilitate this exchange of information vital to the collection of local income taxes such as locality information of each taxpayer. This information will be shared with tax officers no later than one year after the filing deadlines for the tax year in question.

G. Suits to Recover Income Taxes – A tax officer may file an action in the name of the political subdivision for the recovery of unpaid income taxes. A political subdivision would still retain the right to

file its own action for the collection of unpaid incomes taxes. Actions for the collection of unpaid income taxes are subject to time limitations. Each deadline is specific for different situations. They range from a general three years up to six years. There are no time limits for the following actions:

- 1) When a taxpayer fails to file a return or a declaration.
- 2) When the tax officer determines the return or declaration filed was fraudulent.
- 3) When an employer withholds income taxes but fails to pay them to the tax officer.
- 4) When an employer fails to withhold incomes taxes.

H. Interest and Penalties – If income taxes are not paid when due, interest will be applied at a rate set by Section 806 of the Fiscal Code. (This rate is usually published in the PA Bulletin by the Secretary of Revenue.) The penalty shall be 1% on the unpaid taxes, which shall be calculated each month. The total aggregate penalty shall not exceed 15%. The taxpayer is also responsible for the costs of collection.

The DCED may issue conditions when a tax officer, with the approval of the tax collection committee, can abate interest or penalties for nonreporting or underreporting. The abatement would apply if the delinquent taxpayer voluntarily filed returns and pays any income taxes due in full.

I. Fines & Penalties for Taxpayers – The act provides a fine of up to \$2,500 for each offense and if default on the fine, up to six months imprisonment. Offenses are defined as a taxpayer who fails to make a return or declaration, an employer who fails to withhold income taxes, an employer who fails to pay the income taxes withheld, an employer or taxpayer who makes a fraudulent return, and an employer or taxpayer who attempts to evade the full disclosure of the amount of income.

An employer who fails to collect and distribute income taxes commits a misdemeanor and is subject to a fine of up to \$25,000 or two years of imprisonment, or both.

J. Collection of Other Taxes – *If authorized by the tax collection committee*, the tax officer may collect other taxes authorized by Act 511 (i.e., Local Services Tax, Amusement Tax, Business Privilege Tax), taxes authorized under Special Session Act 1 of 2006 (Taxpayer Relief Act), **or any other tax pursuant to any other law.**

Fines and Penalties Against Tax Officer

A tax collection district or *political subdivision that brings action for undistributed income taxes may seek relief from the tax officer.* This would include interest calculated from the date that the income taxes should have been distributed. In addition, the court may impose a civil penalty not to exceed \$2,500 for each quarter the taxes are not distributed, plus reasonable costs and attorney fees. If a tax officer is delinquent for more than four consecutive quarters, the court may impose a civil penalty of not more than \$5,000. Also, the court may impose a civil penalty not to exceed \$100 a day for each day past the due date.

If the tax officer fails to file the monthly reports and audits required by the act, a tax collection district or political subdivision may bring an action against the tax officer in the court of common pleas. The court is authorized to impose a civil penalty against the tax officer of \$20 a day for each day the report is overdue which may not exceed \$500. If the yearly audit contains noncompliance items with the act, the court may also impose an additional civil penalty of no less than \$500, but not more than \$2,500.

An action may be brought against the tax officer to compel the performance of duties required under the act or imposed by regulations. This includes compelling the tax officer to surrender all tax records and other items to the tax officer's successor. The court may impose a civil penalty for noncompliance not to exceed \$5,000. The tax officer may also be held liable for the cost of reproducing tax records if they are lost or cannot be delivered.

A tax officer who violates any other provision of the act will be subject to a civil penalty of up to \$2,500 for each violation.

Rescission of Tax Officer Appointment

There are several instances where a tax officer may be removed from office.

- 1) If a criminal complaint charging a violation of the standards of office (page 7) is filed against the tax officer, the tax collection committee *must* temporarily remove the tax officer. If the tax officer is convicted or pleads guilty or no contest, the tax collection committee *must* rescind the appointment and remove the tax officer permanently.
- 2) A tax collection committee may rescind the appointment of the tax officer if the tax officer, an employee or agent of the tax officer violates the confidentiality provisions in the act.
- 3) A tax officer may be removed or the appointment rescinded by the tax collection committee for "cause."
- 4) A tax collection committee may NOT retain a tax officer who has been cited or fined with the offenses stated under the section entitled, "Fines and Penalties Against the Tax Officer" more than three times or if the tax officer fails to satisfy the requirements under Section 506 of the act.

Withdrawal from the Tax Collection District

If after January 1, 2014, a political subdivision has been harmed or believes they meet the criteria established in the act, they may opt out of the tax collection district. However, the political subdivision must meet *ALL* of the following criteria when it petitions the court of common pleas.

- 1) The political subdivision has suffered loss in income taxes due to the willful and continued failure of the tax officer or tax collection committee to comply with the provisions of the act.
- 2) The tax collection committee has failed to take reasonable measures to correct the negligent actions of the tax officer.
- 3) The political subdivision and the tax collection committee have engaged in good faith mediation setup by the court, but cannot reach an agreement.
- 4) Any other remedial action that could be ordered by the court would not be adequate to provide a reasonable prospect of compliance by the tax officer and tax collection committee with the requirements of the act and that the withdrawal from the tax collection district is in the best interests of the political subdivision, the taxpayers and employers.

If the court grants the withdrawal petition, the political subdivision's governing body may adopt a resolution stating their withdrawal and appoint a new tax officer to collect their income taxes. The new

appointment would be effective for the next calendar year beginning at least six months after the adoption of the resolution.

The tax officer appointed under this section is still subject to all the requirements that a tax officer for a tax collection district must meet.

Tax Register

DCED will be still be responsible for maintaining an official register that is organized by municipality and lists the effective tax rate in each political subdivision. The register will also contain the effective tax rate for the Local Services Tax and the name, telephone number, and address of each tax officer. DCED will update the register twice a year.

The deadlines will remain the same to submit new tax information (enactments, repeals or change of rate) to DCED for the tax register. Information received by DCED prior to June 1st will be accepted and become effective for July 1st of that year. DCED will release the official register on June 15th for the effective July 1st date. DCED will also release the tax register on December 15th that shall become effective for the following January 1st. Information received by DCED prior to December 1st will be included in the December 15th register.

If any tax information is received by DCED after the June 1st or December 1st deadlines, the old information will remain in force until the next official register is released.

Withholding

All employers within a tax collection district will be required to withhold the entire tax (resident & non-resident) from each of their employees. Within 30 days of the close of a calendar quarter, the employer must then remit the taxes to the tax officer within the tax collection district in which the employer is located. If an employer has more than one place of employment in more than one tax collection district, the employer may electronically file and remit all taxes withheld from their employees to the tax officer for either the tax collection district in which the employer's payroll operation is located, or to another location determined by DCED.

Distribution

Distributions from a tax officer to the political subdivisions in the tax collection district and to other tax collection districts must be distributed initially within 60 days of receipt or within 60 days of the quarterly employer remittance deadline. ***After April 1, 2013, all taxes received by the tax officer must be remitted to the appropriate tax collection district or political subdivision within 30 days of receipt or within 30 days of the quarterly employer remittance deadline. However, a tax collection committee could require quicker deadlines for the distribution of taxes or use the timeframes in the act.***

The act also requires the *actual amount collected* to be distributed to the political subdivision. Explicit language is included in the act to prohibit the prior practice of "estimated payments" or any other distribution method not approved by the General Assembly.

If after two years from receiving a tax payment and following guidelines established by the tax collection committee the tax officer *cannot identify* the appropriate political subdivision to which the tax payment belongs, the tax officer must forward the tax payment to the municipality where it was originally collected. *No political subdivision, tax officer or tax collection committee shall be required to pay a fee or commission to another tax collection district for the distribution of income tax payments.*

Confidentiality

All information received by the tax officer/tax collection committee will remain confidential and the tax officer is prohibited from releasing the information that is not in accordance with the act. Any person in violation is subject to a fine and/or imprisonment.

Transition

By **November 1, 2010**, the governing body of each political subdivision that imposes an earned income tax will determine whether their current tax collector or the new tax officer will collect the 2011 income taxes. The political subdivision must then notify DCED by **December 1, 2010** of their decision for purposes of the official tax register. This only applies to calendar year 2011. By July 1, 2011, each tax collection committee must develop a plan for the transition from the former tax collector to the newly appointed tax collector.

Legislative Budget and Finance Committee Study

Sometime before 2017, the Legislative Budget & Finance Committee must conduct an audit and evaluation of the transition from the former tax collection system to the countywide collection system. The audit will be performed in conjunction with the Auditor General's office and the report will include such things as how the new system has reduced fragmentation, lessened the burden of withholding and remittance, and whether the new system is simpler and more efficient. A copy of the final report will be sent to all tax collection committees.

Implementation Timeframe

1/16/09- DCED provides the list of TCD (Tax Collection Districts) & their municipalities/school districts for *PA Bulletin* publication. **Also**, a map & list of Allegheny County TCD's and municipalities and school districts membership sent for publication in the *PA Bulletin*.

1/28/09- DCED lists all TCD's and their membership and will place on their website.

7/1/09- *Lancaster County only:* majority of governing bodies must pass a resolution designating the current tax collector.

9/1/09- DCED will calculate weighted vote for municipalities & school districts of the TCC (Tax Collection Committee)

9/15/09- Deadline for municipalities to appoint voting delegates/alternates (if levy EIT prior to 7/1/09) **Also**, Deadline for municipalities who do not levy an EIT prior to July 1, 2009 who may appoint a non-voting delegate and non-voting alternate. **Plus**, this is the deadline for counties to notify everyone of the 1st TCC meeting which can be held no later than 11/15/09.

11/15/09- 1st Meeting of Tax Collection Committee (TCC) in each Tax Collection District must occur by this date. [current date is a Sunday]

- 12/31/09-** No later than this date DCED provides TCC with reports & findings of sample standards and practices of TCC's.
- 4/15/10-** No later than this date TCC bylaws adopted. (Notify DCED)
- 6/1/10-** No later than this date appeals boards to be established by TCC.
- 7/1/10-** By this date and each subsequent July 1st, DCED must recalculate the weighted vote unless TCC bylaws call for a more frequent recalculation.
- 9/15/10-** No later than this date the TCC appoints Tax officer for EIT and notifies DCED within 10 days.
- 11/1/10-** Municipalities must determine whether the old tax collector or the new tax collector will collect the 2011 taxes.
- 12/1/10-** Municipalities must notify DCED which tax collector will be collecting their earned income taxes for the 2011 taxes. (For purposes of complying with the Tax Register.)
- 7/1/11-** TCC's develop plan to transition to new system
- 1/1/12-** By this date 1st Quarter withholding, remittance & reporting under Section 512 must be implemented by the TCC appointed Tax Officer.
- 6/30/12-** Former EIT collector must deliver all tax records to the new TCC Tax Officer.
- 11/15/13- *Lancaster County only:*** majority of governing bodies may pass another resolution to opt-out and create a new TCC.
- 1/1/14-** A municipality or school district may petition court of common pleas to opt-out.

The information contained in this document concerning Act 32 of 2008 is based on detailed analysis and interpretation and is deemed accurate and reliable. However, PSAB insists that prior to any formal action taken as a result of the information provided be discussed in detail with their solicitor and/or appropriate legal counsel.

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For details and any additional questions regarding the Earned Income Tax Collection reforms enacted in Act 32 of 2008 please contact PSAB Government Affairs at 1-800-232-7722 x21/x44