

FAQs: County-Wide Consolidated Earned Income Tax Collection

1. How will Tax Collection Districts be structured under Act 32, the new earned income tax collection law?

Under Act 32, the current earned income tax collection process will be restructured to create county-wide Tax Collection Districts (TCD). These new districts will have boundaries that are congruent geographically with current county lines, unless there is a school district that overlaps county boundaries. If a school district crosses a county line, the school district and its component municipalities will be kept whole and be included in the county where the affected municipalities have the greatest population.

2. How many EIT collectors does Act 32 create?

The legislation amends the Local Tax Enabling Act (act 511 of 1965) and is applicable to municipalities and school districts in all counties except Philadelphia. Act 32 provides for one EIT tax officer (collector) for each county, other than Philadelphia and Allegheny Counties. It will result in a reduction of local EIT collectors from 560 to 69. Philadelphia City/County already has a consolidated tax system and falls under the Sterling Act of 1932. The Act further provides for (4) Tax Collection Districts (TCDs) in Allegheny County.

A listing and map of all TCDs will be provided to the Legislative Reference Bureau by January 16, 2009 for publication in the Pennsylvania Bulletin and will also be made available on the DCED website no later than January 28, 2009.

3. The Act provides employers with the option of remitting taxes for all employees to one taxing district regardless of where the employees might be employed or reside. Will this delay the remittance of taxes to municipalities and school districts?

No. In fact, the process will become more streamlined and timely. New countywide tax collectors will have stringent requirements to provide tax remittance faster and on a quarterly basis.

Businesses with multiple locations across the state will be permitted to remit to the county where they are headquartered rather than tens or even hundreds of collectors around the state, as is that case under current law. For the overall business community, this represents an important step in simplifying their withholding and remittance responsibilities. In exchange, the employers who exercise this option will be required to remit withholdings and employee wage tax

detail electronically on a monthly basis, thus accelerating the transfer of tax revenues.

4. How will funds be withheld and distributed under the Act?

Through greater use of technology, collections, distributions and cash flow will be enhanced.

Employers will now be required to withhold EIT from all non-residents and residents. They are also required to remit all withholdings to the Tax Collection District where they are located within 30 days of the end of each quarter, unless they have locations in multiple TCDs and exercise the option discussed in #3. Tax Officers are required to remit all withholdings to the taxing jurisdictions no later than 60 days after receipt for all taxes received prior to April 1, 2013. Taxes received from employers on or after April 1, 2013 must be remitted to the taxing jurisdictions no later than 30 days after receipt. Tax Officers will also be required to provide real time tax data and revenue (rather than estimates) to taxing jurisdictions. The Tax Collection Committee can require more frequent distributions.

5. How will Act 32 affect businesses in the state?

The new collection system will require all employers in the state to withhold the earned income tax for each one of their employees irrespective of where they reside. A streamlined tax collection system with uniform forms and procedures will simplify tax collection for companies that conduct business in Pennsylvania.

6. What impact will this legislation have on Elected Tax Collectors?

This legislation affects only appointed EIT collectors, *not elected real estate tax collectors*. However, if an elected tax collector also is appointed by the municipality and/or school district to collect the EIT, then this portion of the elected tax collector's job will be affected.

7. How will the Act improve accountability with the collection and distribution of income taxes?

There are a number of provisions in the Act that will strengthen accountability and enforcement.

- Tax Officers must keep records of every dollar received and distributed, and submit monthly reports accounting for each dollar.

- The annual audit includes a reconciliation of monthly reports and the receipt and disbursement of all tax monies as well as findings of noncompliance.
- Bond amounts for the Tax Officer will be tied to an annual audit.
- Fines and penalties are provided in cases where the Tax Officer fails to comply with the Act.
- Tax Collection Committees are required to appoint appeals boards to hear appeals of Tax Officer determinations.
- Tax Officers will continue to use existing enforcement tools, and be provided with new tools to pursue claims against non-filers.
- The Department of Revenue is required to enter into an agreement with each Tax Collection District for the exchange of tax information on a yearly basis.
- If the Tax Officer fails to comply with Acts 511 and 32, increased fines and penalties are provided for, up to and including jail time.

8. What is the role of County government under the Act?

Act 32 of 2008 will have little impact on county government in Pennsylvania. The EIT Tax Collection process will not be a function of county government though the Act does not preclude a county from serving as a Tax Officer if the Tax Collection Committee would select the County as such and the County agrees. The county will provide a facilitator role as the convener of the first meeting of the new Tax Collection Committee. The Chair of the County Commissioners or County Executive will schedule and convene the first meeting of the TCD no later than November 15, 2009. The county will have no other role in the operation of the TCD or the collection of the EIT.

9. How will Act 32 affect counties with existing consolidated collection arrangements such as Lancaster County?

Municipalities and school districts in some counties, such as Lancaster County, have already established a countywide collection program and have achieved the benefits of a consolidated system. Although these entities must still comply with the various conditions of the legislation, there is a provision in the Act that allows all municipalities and school districts in such counties to adopt a uniform resolution establishing the current entity as their Tax Collection Committee. Affirmative action by a majority of the taxing bodies must occur on or before July 1, 2009, otherwise the taxing bodies in subject county shall proceed with requirements provided for in the Act.

10. Does the new earned income tax law provide the county, municipalities or school districts with any new taxing authority?

No. The Act does not change, expand or diminish the tax authority provided under Act 511 or other statutes. Taxing authority for county government is likewise not changed by the Act. Municipalities and school districts, however, will see increased revenues under current rates because the Act now requires the withholding of the earned income tax from all employees at the place of employment. All entities will now impose the tax on non-residents as well as residents. The Act also requires greater accountability in the collection and distribution process that will close gaps in the existing system.

11. How will the new county-wide tax system be initially organized?

The new earned income tax collection system for each Tax Collection District (TCD) will be organized under a Tax Collection Committee (TCC), which will be the governing body for each TCD.

TCC membership will be composed of one voting delegate from the governing body of each municipality and school district within the county that levies the EIT. Each taxing jurisdiction that imposes an EIT shall appoint one voting delegate and one or more alternates prior to September 15, 2009. The delegates and alternates serve at the pleasure of the appointing body.

12. What will be the organizational structure of the TCC?

The county chief executive or the chair of the county commissioners (or designee) will convene the first meeting of the TCC on or before November 15, 2009. At the first meeting all TCC actions shall be determined by a majority vote of those delegates present. For the first meeting delegate votes will be weighted as follows: 50% will be allocated according to the proportional population of each municipality and school district and 50% will be weighted in direct proportion to income tax revenues collected in each municipality and school district. For subsequent meetings, the votes must be weighted as stated above or as provided in the TCC's bylaws. At the TCC's first meeting, the delegates shall elect a chairperson, vice chairperson and secretary. No later than April, 15, 2010, the TCC shall adopt bylaws. The TCC may use the initial bylaws that will be prepared by the Department of Community and Economic Development to facilitate its first meeting.

13. What are the primary powers of the Tax Collection Committee?

The Tax Collection Committee has the authority to:

- Create a tax bureau and provide for its operation and administration. x Enter into contracts.
- Retain counsel, auditors and consultants to provide professional services.

- Acquire, rent, lease or dispose of real or personal property.
- Enter into agreements with other tax collection committees to form a joint tax collection committee.
- Accept grants, borrow money, and incur indebtedness, for the purpose for which the TCC is organized. The indebtedness may not exceed 50% of total anticipated revenues in the next fiscal year.
- Sue and be used in all courts.
- Adopt, amend and repeal resolutions to carry out its powers and duties as provided for in the Act.

14. What are the duties of the Tax Collection Committee?

- Maintain a record of all votes and actions taken by the TCC.
- Appoint and oversee the Tax Officer.
- Set the compensation of the Tax Officer.
- Require, set, hold and review the tax officer's bond.
- Establish the method of financing for the TCC.
- Adopt, amend, and repeal bylaws for the management of its affairs.
- Adopt, amend, and repeal policies and procedures consistent with regulations under the Act.

15. How are costs for the new Tax Collection District determined and allocated?

Each Tax Collection District shall annually prepare and adopt a budget that provides for the compensation of the Tax Officer and other operational expenses of the TCD. The cost to operate the TCD are shared among all taxing jurisdictions imposing an income tax and paid proportional to the income tax revenues collected for that entity based on the most recent annual audit report.

16. What are the audit requirements for the Tax Collection Committee?

The Tax Collection Committee must provide for an annual audit by the end of each calendar year of the Tax Officer. The audit is to include 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 TCC. 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.

17. How will the Earned Income Tax Officer (Collector) be selected in the new system?

The Tax Collection Committee will make the appointment of the Tax Officer based either on the weighted voting formula described above or on a formula agreed to by the TCC and incorporated into their by-laws. A Tax Officer in the new system can be the collector in an intergovernmental arrangement, an existing tax collection bureau or a third party collector. The TCC must appoint the Tax Officer no later than September 15, 2010. The TCC must enter into a written agreement with the Tax Officer unless the TCC creates its own tax bureau.

18. Are there certain requirements the Tax Officer must meet?

A Tax Collection Committee cannot appoint a Tax Officer who:

- Has been convicted of a felony involving fraud, extortion or dishonesty.
- Has engaged in conduct that adversely reflects on the Tax Officer's credibility, honesty or integrity.
- Is unable to attain the bonding requirements.
- Has not met the mandatory education requirements established by DCED.
- Has not met any additional requirements established by either the TCC or DCED.

19. How will the Tax Officer be compensated?

The Tax Collection Committee will determine the compensation for the Tax Officer for their services and expenses. The TCC may permit the Tax Officer to withhold compensation from income taxes collected provided that monthly reports adequately detail and account for all withholdings. The compensation policy shall be set forth in a written agreement between the TCC and the Tax Officer.

20. How will the new earned income tax collection law affect the City of Pittsburgh?

The new law breaks Allegheny County into four separating taxing districts. One district will be comprised of the City of Pittsburgh and Mt Oliver Borough while the three other districts will be separated geographically by the three rivers.

21. How are losses treated in calculating earned income or net profits?

The Local Tax Enabling Act authorizes local governments to tax **earned income** and **net profits**. Earned income is compensation as defined under the PA Personal Income Tax Law, which includes salaries or other payments based on payroll or piecework, for services rendered as a part or full-time employee of an individual, partnership, business or nonprofit corporation, or government [agency](#). **Net profits** is the net income from the operation of a business or profession as a sole-proprietor or partner of a business.

Under the Act, net losses from operation of one business may be used by a taxpayer to offset net profits from another business, but cannot be used to offset earned income. For example, if a taxpayer has a \$40,000 net loss from a business selling garden supplies and \$20,000 of earned income from his job at the local grocery store, the business loss may not be used to offset his earnings and so taxes will be due on the full \$20,000 of earned income.

If a taxpayer has a net loss of \$30,000 from a business selling garden supplies and a net profit of \$50,000 from a business selling used cars, and earned income of \$60,000 from his job as an accountant, the taxpayer's local income tax liability will be based on \$20,000 of net profits and \$60,000 of earned income because the taxpayer can offset one business loss against the second business profit.

If a taxpayer has a net loss of \$50,000 from his garden supply business, a profit of \$30,000 from his used car business and income of \$60,000 from his job as an accountant, the taxpayer's local income tax liability will be based on \$60,000 of earned income. The loss from the first business may be used to offset the gain from the second but the net loss from the combined businesses cannot be used to offset earned income.

22. Who will provide the new tax collection districts with administrative documents, rules and regulations?

DCED will provide each Tax Collection Committee with sample by-laws. DCED will also develop and publish uniform tax forms for use by employers and TCCs. Additionally; DCED will promulgate rules and regulations.

23. What assistance will be available for implementation?

While there is no specific funding program enacted through Act 32, DCED is committed to assisting with startup costs through its Shared Municipal Services Program as well as providing a full range of technical assistance. The Governor's Center for will be fully engaged throughout the transition process.

Contact the Center for Local Government Services at 888-2CENTER for technical assistance. Please check our website www.newpa.com periodically for additional resources and updated information.

24. Can a political subdivision choose an employee of a for-profit tax collector as a delegate?

A political subdivision may choose an employee of a for-profit tax collector as a delegate, but the delegate will have to abstain from many important votes. As a person appointed by a governmental body, a delegate is a public official subject to the Public Official and Employee Ethics Law of 1978 (the “Ethics Act”). While section 507(e) of Act 32 lists exceptions for employees and members of existing tax bureaus and other public tax collection entities, it does not include an exception for employees or members of for-profit tax collectors. Therefore, an employee or member of a for-profit tax collector may not participate in the discussions and voting of the tax collection committee relating to appointment of a tax officer if the for-profit tax conduct that constitutes a conflict of interest. Engaging in activities restricted by the Ethics Act exposes the delegate, political subdivision and the tax collection committee to costly investigation, litigation and fines.