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Act 32 of 2008
Policy and Procedure Manual

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Commonwealth of Pennsylvania

Department of Community & Economic Development

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DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

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Table of Contents

Introduction 1

ACT 32 of 2008

Section 501. Definitions 5

Section 502. Declaration and Payment of Tax 18

Section 503. Reserved 29

Section 504. Tax Collection Districts 30

Section 505. Tax Collection Committees 32

Section 506. Tax Officer 50

Section 507. Appointment of Tax Officer 51

Section 508. Powers & Duties of the Department 53

Section 509. Powers & Duties of Tax Officer 56

Section 510. Fines & Penalties Against Tax Officers 69

Section 511. Tax Register 74

Section 512. Withholding & Remittance 79

Section 513. Distribution of Income Taxes 88

Section 514. Confidentiality 98

Section 515. Transition 100

Section 516. Regulatory Conflict 104

Section 517. Audit & Evaluation 105

Appendix..... 108

a. Residency Certification Form
b. Employer Registration for Local Earned Income Tax Withholding
c. Employer's Quarterly Earned Income Tax Return
d. W2-R Annual Reconciliation of Earned Income Tax Withheld From Wages
e. Taxpayer's Annual Local Earned Income Tax Return
f. Taxpayer's Quarterly Estimated Earned Income Tax
g. Mediation Guidelines

Introduction and History of Local Earned Income Tax in Pennsylvania

Local income taxes in Pennsylvania are variously termed payroll taxes, wage taxes, net profits taxes or a combination of these terms. No matter which term is used, they are authorized for use by municipalities and school districts and are their principal source of non-property taxation revenue.

Statutory Authorization

Passed in 1932, the Sterling Act was the first local income tax enabling legislation in the Commonwealth's history. On December 13, 1939, Philadelphia became the first city in the United States to impose an income tax.

The framework for Pennsylvania local earned income tax (outside of Philadelphia) began in 1955 with the passage of The Local Tax Enabling Act (hereinafter "LTEA"). The LTEA authorized municipalities and school districts throughout Pennsylvania to levy local earned income taxes (hereinafter "EIT"). The EIT is levied on the wages, salaries, commissions, net profits or other compensation of persons subject to the jurisdiction of the municipality or school district.

An earned income and net profits tax for the Pittsburgh School District is authorized by the Public School Code. This authorization also gives the School District access to certain tax subjects authorized by the Local Tax Enabling Act, but the District may not use this authority to increase its EIT above the limit established in the School Code.

Act 50 of 1998 authorized school districts to impose EIT at rates of up to 1.5% following approval by the voters in a referendum, beginning in the November, 1999 election. School districts were required to offset increased EIT revenues by repealing occupation, occupational privilege and per capita taxes and by reducing real estate taxes by implementing a homestead exclusion.

Act 24 of 2001 permitted school districts to replace the occupation tax, millage or flat rate, with an increase in the rate of the EIT, if approved by referendum. After approval of the referendum, the school district was required to eliminate the occupation tax.

When the state personal income tax was enacted in 1971, a saving clause was included to protect local income taxes from preemption by the state tax.

Tax Rates

There is no statutory limit on the Philadelphia wage and net profits tax. In 1977, a restriction was placed on Philadelphia's power to tax nonresidents. The tax rate applied to nonresidents was restricted to 4 and 5/16 percent until such time as the tax rate for residents exceeded 5 and 3/4 percent. If that happens, the rate for nonresidents may be increased at a rate of 75 percent of that for residents. The Pittsburgh School District tax is limited to 2 percent. A special provision of the LTEA allows the Scranton School District to levy the tax at 1 percent without the sharing requirement mandated for other school districts under the Act.

In general, all other municipalities and school districts adopting income taxes under the Local Tax Enabling Act are limited to a combined rate of one percent. Where both a school district and a municipality located within that school district both levy an EIT, the one percent limit must be shared on a 50/50 basis, unless otherwise agreed to by the taxing bodies. The sharing requirements, plus the crediting provisions of the Act, were intended by the legislature to limit the cumulative effect of EIT where a taxpayer might be subject to more than one tax. The sharing provisions automatically halve the taxes of overlapping jurisdictions as they apply to residents. However, school districts may not levy EIT on nonresidents. Therefore, the sharing provisions will not affect the municipal tax rate applied against nonresidents working within a municipality. Of course, if the nonresidents are liable for an EIT at their place of residence, this will provide a credit against any nonresident levy in their place of employment.

Earned income taxes are also subject to the overall limits on taxes enacted under the LTEA found in Section 17. Courts have been reluctant to question the actions of governing bodies enacting earned income taxes for the first time and producing large revenues without evidence to "suggest arbitrary and capricious action indicative of a wanton disregard of public duty."

State law allows the LTEA limit for earned income taxes to be exceeded under six circumstances:

1. Home rule municipalities.
2. Municipalities declared financially distressed.
3. Municipalities with financially distressed municipal pension systems.
4. Municipalities where voters approve an additional tax for open space purposes.
5. School districts where voters approve increased earned income taxes under Act 50.
6. School districts and municipalities where voters approve increased earned income taxes under Act 24.

Municipalities which have adopted home rule charters under the Home Rule Charter and Optional Plans Law are no longer confined to statutory limits for personal taxes levied on residents, including the EIT. EIT rate limits are often placed in the charters themselves. Some home rule municipalities have opted to increase their rates. Nonresidents employed in a home rule municipality are liable for only one percent EIT, since home rule municipalities may not exceed the statutory limit for nonresidents.

Municipalities which have been declared distressed under the Municipalities Financial Recovery Act may be able to increase their EIT rate above the limit set in the Local Tax Enabling Act. The increase must be part of the recovery plan adopted for the municipality. The municipality must petition the Court of Common Pleas for approval to increase tax rates above the limit for a period of one year. Subsequent increases may be granted by the same Court of Common Pleas upon annual petition of the municipality until the termination date of the recovery plan. Unlike the Home Rule Law, Act 47 does not prohibit extension of the EIT increase to nonresidents.

Similarly, municipalities which are certified as having financially distressed municipal pension systems under Act 205 of 1984 have access to EIT power above the limit set in the LTEA as one of the remedies of their pension recovery program. Determination of municipal pension system financial distress must be made by the Public Employee Retirement Study Commission. After determination is made, the municipal governing body may elect to use any of the available remedies in the Act. To use the special taxing powers of Act 205, the municipality must already be at the maximum rate of EIT allowed by law. The proceeds from the tax levied above the limit must be used solely to defray additional pension

funding costs. Previous levels of pension funding must be maintained. Act 205 allows extension of the EIT increase to nonresidents as well as residents.

Act 153 of 1996 authorizes levy of an EIT in addition to the tax levied under Act 511 for the purposes of financing purchases of open space lands. The tax rate is set by the voters in the referendum. Any increase is limited to residents only. In the first referendum under this act, the voters of East Bradford Township, Chester County approved an additional .125% open space tax in November, 1998. A similar open space tax was approved by East Rockhill Township, Bucks County voters in May, 1999.

Act 50 of 1998

Act 50 of 1998 authorized school districts to levy EIT at rates up to 1.5%. However, the voters had to approve the increased tax rate via a referendum. The increase in EIT revenues was required to be offset by repealing occupation, occupational privilege and per capita taxes and reducing real estate taxes. School boards began initiating proposals in 1999 and voters could initiate the process by petition beginning in 2001.

Act 50 also established a Taxpayers Bill of Rights which governed taxpayer appeals, defined the procedures for a tax officer's requests for information, examinations of taxpayer records, and the handling of overpayments of tax. Many of the Taxpayer Bill of Rights procedures are reiterated or referenced by Act 32.

Act 24 of 2001

Act 24 of 2001 permitted school districts to replace the occupation tax with an increase in the rate of the EIT, if approved by referendum. The increased rate was calculated by adding the EIT that would equal the amount of revenue brought in by the occupation tax in the prior fiscal year to the current EIT rate. After approval of the referendum, the school district was required to eliminate the occupation tax. In the November, 2001 election, 36 school districts approved Act 24 referendum. In June, 2002, Act 24 was amended to allow municipalities to replace the occupation tax with an increase in the rate of the EIT. This legislation also restricted the rate of the increased EIT to what was necessary to replace occupation tax returns collected in 2001.

ACT 32 of 2008

Act 32 of 2008 was signed into law on July 7, 2008 bringing sweeping changes to the EIT collection and distribution process in Pennsylvania. Act 32 focuses on three areas to improve the local income tax system: consolidation of the Commonwealth into county-wide tax collection districts, the creation of tax collection committees to provide oversight of the income tax collections and distributions within the tax collection district, and requiring uniform regulations, forms and procedures to ensure consistent collections throughout the Commonwealth.

The consolidation of the tax collection process into county-wide tax collection districts will reduce the number of collectors in the Commonwealth from 560 to no more than 69. This consolidation component is expected to increase tax officer cooperation and efficiency, which should result in an increase in tax revenues for all municipalities and school districts. By creating tax collection committees to oversee the local income tax system within the tax collection district, Act 32 provides an administration and oversight process complete with fines and penalties for tax officers who fail to perform their required duties.

Along with consolidation, Act 32 will bring uniformity to the local income tax system by having the Department of Community and Economic Development promulgate uniform regulations, forms and procedures throughout the Commonwealth. The goal Act 32 is to improve the efficiency of the income tax collection and distribution system.

Section 501 - Definitions

The definitions provided by Section 501 have the meanings given to them by this section unless the context of Act 32 clearly indicates otherwise. *Tax Collection Committees and Tax Officers cannot prescribe or promulgate changes to these definitions that would in any way alter or expand the meanings beyond what was intended under Chapter 5 of Act 32.*

> "Article XIII tax officer." The tax officer authorized by a political subdivision to collect income taxes levied prior to January 1, 2012.

Refers to: All tax officers, collectors and administrators appointed to collect the earned income and net profits tax prior to January 1, 2012. This new definition is intended to identify and differentiate the collector of taxes prior to January 1, 2012 from the "Tax Officer" appointed by the Tax Collection Committee to administer the tax under Act 32, beginning January 1, 2012.

> "Business." An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association or any other entity.

Refers to: What constitutes doing "business" by various entities for purposes of this chapter. This is meant to be an encompassing definition for any endeavor that is conducted for profit or ordinarily conducted for profit. *Whether or not the activity actually produces a profit for the person, partnership, association or any other entity is immaterial.* The deciding factor would be if the undertaking can be considered "ordinarily conducted for profit."

> "Business entity." A sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, association, business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.

Refers to: The various entities that can be considered, by their activities, endeavors and undertakings, to be doing "business" as previously defined in this section.

> "Certified public accountant" or "public accountant." A certified public accountant, public accountant or firm, as provided for in the act of May 26, 1947 (P.L.318, No.140), known as the CPA Law.

Refers to: The qualifications necessary for a certified public accountant, a public accountant, or a firm, to fulfill the audit requirements of the tax officer and tax collection committee mandated by Act 32 in Section 505(h).

> "Claim." A written demand for payment made by a tax officer or tax collection district for income taxes collected by another tax officer or tax collection district.

Refers to: The written demand by which the tax officer of a tax collection district makes a request for the un-received income tax withheld from a resident of that tax collection district by an employer located in and remitting the withheld tax to the tax officer for another tax collection district.

The claim is prepared by the resident tax officer if, it is indicated on an individual taxpayer's Final Annual Return, that the tax was withheld from the individual resident taxpayer and has not been received by the resident tax officer.

The un-received, withheld income tax is requested from the tax collection district that is indicated by the two-digit tax collection district code on the resident's individual withholding statement or in the "locality" box (Box 20) on the Federal Wage and Tax Statement (Form W-2).

The claim process is more fully described under Section 513(b) of Act 32.

> "Corporation." A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency. The term shall include an entity which is classified as a corporation for Federal income tax purposes.

Refers to: Incorporated entities.

> "Current year." The calendar year for which the tax is levied.

Refers to: The current calendar year; the months of January through December.

> "Department." The Department of Community and Economic Development of the Commonwealth.

Refers to: The various references to "Department" throughout Act 32 unless specifically stated otherwise. Section 508 of Chapter 5 further establishes the powers and responsibilities of the "Department" in addition to the powers and responsibilities directly granted throughout various chapters and sections of Act 32.

> "Domicile." The place where a person lives and has a permanent home and to which the person has the intention of returning whenever absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce the person to adopt some other permanent home. In the case of a business, domicile is that place considered as the center of business affairs and the place where its functions are discharged.

A "resident" is an individual who is domiciled in Political Subdivision's taxing jurisdiction, as evidenced, among other things, by one or more of the following:

a. By customarily being physically present, sleeping, and eating there.

b. By holding him or herself out as residing there, i.e. giving address in registration for licenses, voting, and payment of personal or property taxes.

c. By his or her spouse and minor children living there.

d. By maintaining religious, civic, and club affiliations there.

e. By the center of his or her affairs appearing to be there.

Normally it is not difficult to determine the domicile of a person because most of the determining factors point to one conclusion. Obviously, if a person has all of the foregoing factors occurring in one district, he or she is a resident of that district. Of more difficulty is the situation concerning persons for whom some of the factors occur in one district and others take place elsewhere. In such cases, the residence or domicile of an individual shall be determined by the Tax Officer based on all of the legally relevant factors which affect the issue. Each case shall be determined solely on its own facts.

For a business, domicile shall be determined by the consideration of the relevant factors. In the case of the single location business, where all business activity occurs at that location, domicile is the physical location of that business. As an example, a convenience store with a single location within a single political subdivision would be determined to be domicile in that specific political subdivision.

In the case of a single location business, with its permanent physical location where the payroll and other financial responsibilities are performed a single political subdivision, but the business's primary services are performed in one or more political subdivisions on a temporary basis, domicile would be the permanent physical location of that business. The fact that this business may establish temporary offices within the political subdivision where the services are performed does not establish domicile as these temporary locations are established for the special, limited purpose of directing the performance of services being provided. Such a business would not be required to remit the local income tax withheld from the employees performing the service to the tax officer of the political subdivision where the services are being performed. This does not relieve the employer from the requirement to withhold the income tax from those employees performing the services in the other political subdivision. Nor does this relieve the employer from the requirement to remit the income tax withheld from the employees performing the services in the other political subdivision to the tax officer for the political subdivision where the business maintains it permanent physical location.

"Earned income." The compensation as required to be reported to or as determined by the Department of Revenue under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be table as earned income.

Pennsylvania Act 166 of 2002 amended the definitions of "earned income" to more closely follow the Pennsylvania Department of Revenue's definition for the income classification "compensation", with the exception of active military duty and housing allowances received by the clergy. Act 32 more closely follows the Department of Revenue's definition of compensation by including active duty military compensation received for service in Pennsylvania; therefore, active duty military compensation is now taxable.

Act 32 further defines "Earned Income" in two areas:

1. Employee business expenses are an allowable deduction in determining earned income
2. Business losses cannot offset earned income

Examples of earned income (without intending in any way to limit the provisions of the Ordinances or Resolutions to these examples) always considered taxable are:

a. Salaries.
b. Wages.
c. Tips received directly by the employee or through his or her employer.
d. Gratuities.
e. Commissions.
f. Bonuses.
g. Incentive payments. Incentive payments are payments received from employers or on behalf of employers, other than the usual compensation, for the purpose of inducing the employee to act. Examples of incentive payments are: buying out an agreement or contract, moving to another location, or accepting an early retirement (Golden Parachute) Settlement payment. Such payments/settlements constitute taxable income. Incentive payments are not to be considered "retirement" payments. Lump sum payments shall be taxed in the year received by the employee or former employee. If the payment/settlement of such sums is to be made in the future, such sums shall be taxed in the year they are received. Incentive payments include Stock Appreciation Rights (SAR) and/or a phantom stock plan payment, where these payments are attributable to remuneration for services rendered. The following are examples of incentive payments:

    1. Employer offers to give employee F an incentive payment of $20,000 if employee F agrees to depart or retire before his scheduled date. The $20,000 is to be paid at the rate of $5,000 per year over a four-year period after the retirement become effective. The $20,000 is taxable income. It will be taxed in the years it is received by employee F. That is to say that employee F shall have to include as earned income/compensation the extra $5,000 received for/in each of the four years following his retirement.

    2. The employee has been a product manager with an art supply business for 12 years. He and his wife have purchased a home in the suburbs of Houston for $80,000, $55,000 of which they financed through a loan from their bank. The lending rate for the home mortgage was 6% and their mortgage payments were $520 per month. Twelve years after purchasing the house, he was offered a transfer to Harrisburg, Pa. to open a sales office and showroom in Harrisburg,

Pa. His employer agreed to reimburse him for his moving expenses if he took the assignment. When he and his wife traveled here to look for a new residence, they were told that a comparable home in Harrisburg, Pa. would be $130,000 and that the mortgage rate would be 8.5%. The mortgage on their new home would be $952. His employer was willing to pay the $432 difference between his old and new mortgage for two years. This form of reimbursement is wages to the employee, subject to the earned income/compensation and payroll tax withholding.

3. In a SAR plan, the employee-participant is allowed to share in the appreciation in value of the company stock plan. The employee shares in the appreciation in value of the company stock plan over the period selected.

4. In a phantom stock plan, the employee shares in the appreciation and is also given the value of the stock at the starting point.

In each of these plans, the employee is not the owner of any shares. By agreement the employee participates in the growth of the business's value through a formula that measures the growth in value of the company's stock. The employee is credited on paper with a percentage of the growth in value, which value is convertible to cash at a future date. The employee will be taxed on the date in the future that he or she receives the cash benefit.

An employer offers and pays an employee 15% on a house purchased in another location in lieu of the employer acquiring the employee's house and becoming responsible for selling the house. This type of circumstance shall be considered as an incentive for the employee to move to another location. If the payment is restricted or imperfect with a qualified right to enter (confined, temporary, modified, conditioned, limited provisional, guarded, ambiguous, reserved, dependent, defined) it shall not be taxable as earned income/compensation.

The employee is responsible for providing proper documentation to the tax officer so as to establish whether this payment is or is not restricted.

Moving expenses which are permitted on Pa. Schedule UE, and not reimbursed, will be deducted.

Auto manufacturers' incentive payments paid by or on behalf of any automobile manufacturer, whether directly to individual salespersons or through a dealership are taxable for local earned income/compensation tax purposes.

h. Vacation/holiday pay.
i. Termination/severance pay.
j. Payment incentives for early retirement.
k. Reimbursements and allowances in excess of allowable business expenses.
l. Directors' fees (will constitute Pennsylvania Schedule C income if one's profession is being an outside board director). Such fees include: Administrator fee, Director fee, Executor fee, Expert Witness fee, Fiduciary fee, Honoraria fee (if one's profession is

being a professional speaker), Trustee fee, any fee received for service performed by the taxpayer, and fees received for decisions made by the taxpayer. The fees referenced herein involve activity and participation on the part of the taxpayer.

m. Jury fees.
n. Witness fees (will constitute Pennsylvania Schedule C income if testifying as an expert in a field which is considered one's line of business).
o. Eligible reimbursed moving expenses in excess of allowable expenses on Pennsylvania Schedule UE, UE-1.
p. Honoraria (will constitute Pennsylvania Schedule C income if one's profession is being a professional speaker).
q. Executor's or administrator's fees (will constitute Pennsylvania Schedule C income if one's profession is being an executor or administrator).
r. Covenant not-to-compete or payments received as consideration for refraining from the performance of services.
s. Proceeds from an employee stock ownership plan to extent of excess computed under cost-recovery method. Earnings component of stock option plans when the option is exercised. The "earnings component" is considered to be the difference between the stock option price and the fair market value of the stock at the time the option is exercised. The Pennsylvania Supreme Court in its February 22, 2000 decision in the Marchlen case makes no distinction between qualified and non-qualified stock option plans. Marchlen vs. Mt. Lebanon, 707 A.2d 631. "At the time that the stock options in this case were granted to Appellee, they could not be exercised. This does not imply that the stock options have no value at the time they are granted. Stock options are valuable inducements to attract and retain employees and to compensate them for their services. The holder of a stock option can reap the benefits of stock price increases without bearing the risks of stock price declines."
t. Reimbursements made by an employer for dependent care, legal services, or other personal services.
u. National Service Education Awards.
v. Income from Peace Corps, VISTA Job Corps and AmeriCorps.
w. Income earned by household employees not acting as independent contractors.
x. Employee contributions to an eligible Pennsylvania retirement plan and/or employee contributions to a nonqualified deferred compensation plan.

Examples of items that **are never** considered earned income (without intending in any way to limit the provisions of the Ordinances or Resolutions to these examples) are:

a. Federal active-duty military pay outside of PA.
b. GI Bill benefits including tuition and living expenses.
c. Alimony.
d. Child support.
e. Income in respect of a decedent.
f. Inheritance.
g. Social Security.
h. Railroad retirement benefits.
i. Public assistance.
j. Unemployment compensation.
k. Occupational Disease Act benefits (if included on W–2, attach explanation).

l. Meals and lodging provided to an employee by the employer.
m. Personal use of employer-owned or leased property and/or services, at no cost or at a reduced cost.
n. Personal use of company automobile, airplane or other employer-owned or leased property. These amounts are not taxable fringe benefits for Pennsylvania Local Income Tax.
o. Employer-provided parking facilities. These amounts are nontaxable fringe benefits.
p. Employer-provided professional services paid for directly by the employer. These are nontaxable fringe benefits.
q. Premiums paid by an employer for group term life insurance (no limit).
r. Housing allowance paid to members of the clergy.
s. Foster care.
t. Amounts received for permanent loss of body function, disfigurement, or reimbursed medical expense.
u. Disability payments paid by employer arising under occupational disease acts or other legislation.
v. Strike benefits.
w. Life insurance proceeds or settlements.
x. Distributions from eligible Pennsylvania retirement plans after retirement age.

Regarding what plans qualify as "eligible Pennsylvania retirement plans," the fact that a plan is a qualified plan for Federal Income Tax is **not** controlling for Pennsylvania Local Income Tax.

The Pennsylvania Department of Revenue provides a Personal Income Tax (PIT) Guide on its website, www.revenue.state.pa.us, which outlines taxable compensation in Chapter 7.

> "Earned income and net profits tax." The tax levied by a political subdivision on earned income and net profits.

Refers to: The local earned income tax that can be levied by taxing authorities under the Local Tax Enabling Act, Act 511 of 1965, and its amendments.

> "Effective local services tax rate." The actual local services tax rate levied by a political subdivision on taxpayers based on the total of all local services taxes imposed under this act and all other acts, adjusted under section 311.

Refers to: The actual local services tax (LST) rate which is levied by a municipality or school district for its share of the LST which may be less than the municipality's or school district's stated LST rate. Section 301.1(f)(9)(ii) establishes the maximum rate at which a school district may levy the local services tax.

> "Effective income tax rate." The actual tax rate levied by a political subdivision on a taxpayer based on the total of all income taxes imposed under this act and all other acts, adjusted under section 311.

Refers to: The actual income tax rate which is levied by a municipality or school district for its share of the income tax, which may be less than the municipality's or school district's stated income tax rate.

Section 311 establishes that when coterminous political subdivisions levy the same tax at the maximum allowed tax rate, that rate is automatically halved.

> "Employer." A person, business entity or other entity, employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision and an instrumentality or public authority of either. For purposes of penalties under this chapter, the term includes a corporate officer.

Refers to: Entities that employ one or more persons for compensation. Such entities include the Commonwealth, political subdivisions and other public authorities and instruments. The term "Employer" clearly includes a Corporate Officer for purposes of levying penalties under Act 32.

> "Income tax." Except as set forth in section 511(b), an earned income and net profits tax, personal income tax or other tax that is assessed on the income of a taxpayer levied by a political subdivision under the authority of this act or any other act.

Refers to: Any and all taxes levied on the income of a taxpayer by any political subdivision within the Commonwealth.

> "Joint tax collection committee." An entity formed by two or more tax collection committees for the purpose of income tax collection in more than one tax collection district.

Refers to: The entity that is formed when two or more tax collection committees join together for the purposes of combined tax collections.

> "Local services tax." A tax on individuals for the privilege of engaging in an occupation that is levied, assessed and collected only by the political subdivision of the taxpayer's place of employment under the authority of this act or any other act.

Refers to: The Local Services Tax is the latest incarnation of the Local Tax Enabling Act's original Occupational Privilege Tax and later the Emergency and Municipal Services Tax. The LST is based on where an employee works and not on where they reside.

> "Municipality." A city of the second class, city of the second class A, city of the third class, borough, town, township of the first class or township of the second class.

Refers to: All municipal entities, not including school districts. The definition is important for the distribution of unidentified tax collections according to Section 513(a)(4).

> "Net profits." The net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and rules and

regulations promulgated under that section. The term does not include income under any of the following paragraphs:

(1) Income which:
(I) is not paid for services provided; and
(II) is in the nature of earnings from an investment.
(2) Income which represents:
(I) any gain on the sale of farm machinery;
(II) any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; or
(III) any gain on the sale of other capital assets of a farm.

Refers to: The net income from a business operation, profession or other activity without deduction of taxes based on income for all costs and expenses incurred in the conduct thereof. They shall be determined either on a cash or accrual basis in accordance with accepted accounting principles.

To constitute net profits, all of the following must apply:

1. The gross profits shall be derived from one of the following:

   a. The marketing of a product or service to customers on a commercial basis or from securities employed as working capital in the business operations.
   b. Accounts and notes receivable from sales of products or services sold in the ordinary course of the business operations.
   c. Assets which serve an operational function in the ordinary course of business operations.

2. The marketing activity shall be conducted with the manifest objective of achieving profitable operations.

3. The marketing activity shall be conducted with regularity and continuity and may not be limited or exclusive.

The following are includable in net profits:

1. Interest received on credit sales.
2. Discounts received from Pennsylvania for timely remitting of sales tax.
3. Damages/awards settlements received, except for personal injuries cases. Both punitive and compensatory damages received in personal injury actions are excluded when physical sickness or injury has occurred. Punitive damages awarded on a personal injury claim where no physical sickness or injury has occurred, such as awards made in defamation actions, are taxable income for determining correct net profits.
4. Net Profits include rental income received or produced by a licensed real estate agent who is actively involved in the business of renting properties and by an individual, not a licensed realtor, who is required to report profit and loss on a Schedule C.

"Nonresident." A person or business domiciled outside the political subdivision levying the tax.

Refers to: Any person who is not a resident of the political subdivision where he or she is employed. In the case of a business, the term refers to a business physically located outside the Commonwealth or in Philadelphia.

"Nonresident tax." An income tax levied by a municipality on a nonresident.

Refers to: The income tax levied on persons who are non-residents of the political subdivision where they are employed.

"Official register." The part of the tax register that includes withholding tax rates as provided in Section 511(a)(3).

Refers to: The tax register required to be maintained and made publicly available by the Department.

"Person." A natural person.

Refers to: An individual of male or female gender.

"Political subdivision." A city of the second class, city of the second class A, city of the third class, borough, town, township of the first class, township of the second class, school district of the first class A, school district of the second class, school district of the third class, school district of the fourth class or municipal authority.

Refers to: All Municipal and school political entities except Cities of the First Class (Philadelphia).

"Preceding year." The calendar year before the current year.

Refers to: The prior calendar year, January through December, immediately before the current calendar year.

"Private agency." A business entity or person appointed as a tax officer by a tax collection committee.

Refers to: Any privately owned business contracting with the tax collection committee to perform tax collection services for a tax collection district.

"Public Agency." Any and all public bodies, authorities, agencies, instrumentalities, political subdivisions, intermediate units, councils, boards, commissions or similar governmental entities.

Refers to: Governmental bodies, agencies and similar entities.

"Resident." A person or business domiciled in the political subdivision levying the tax.

Refers to: An individual or business that is domiciled in a particular political subdivision.

"Resident tax." An income tax levied by:
(1) a municipality on a resident of that municipality; or
(2) a school district on a resident of that school district.

Refers to: The income tax levied on individual residents of a municipality and/or school district.

"Resident tax officer." The tax officer administering and collecting income taxes for the tax collection district in which a taxpayer is domiciled.

Refers to: The tax officer appointed by the tax collection committee to administer and enforce the collection and distribution of local income taxes within the tax collection district.

"Succeeding year." The calendar year following the current year.

Refers to: The calendar year, January through December, immediately following the current year.

"Tax bureau." A public nonprofit entity established for the administration and collection of taxes.

Refers to: An agency, established in a cooperative effort of political subdivisions, for the collection of the local income tax under Act 32 and any other local tax.

Two or more tax collection committees may agree to establish a tax collection bureau. Tax collection committee(s) can form their own tax bureau or may contract with an existing tax bureau to be the tax officer for their tax collection district.

A tax collection bureau is usually governed by a board of directors composed of one delegate from each political subdivision.

It shall not be considered a conflict of interest for the delegate to the board of directors to also be a delegate to the tax collection committee as the purpose for both positions is to ensure efficient and effective local income tax collection and distributions.

"Tax collection committee." The committee established to govern each tax collection district for the purpose of income tax collection. The term shall include a joint tax collection committee.

Refers to: A committee composed of one delegate and one or more alternates from each political subdivision within a tax collection district. The committee's purpose is to ensure the effective and efficient collection of the local income tax under the provisions Act 32.

The tax collection committee is assigned its duties and responsibilities for accomplishing the effective and efficient collection of local income taxes in Section 505.

> "Tax collection district." A tax collection district established under section 504.

Refers to: The general rule of Act 32 which consolidates the income tax collection process into county wide tax collection districts, except in counties of the first or second class. Sixty nine (69) tax collection districts were created by Act 32. The determinations of geographic size and composition are detailed in Section 504.

> "Tax officer." A political subdivision, public employee, tax bureau, county, except a county of the first class, or private agency which administers and collects income taxes for one or more tax collection districts. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the tax officer for the tax collection district within which the employer is located, or, if an employer maintains workplaces in more than one district, the tax officer for each such district with respect to employees principally employed therein.

Refers to: The tax officer who is the appointed collector of the local income taxes for a tax collection district. The standards and qualifications for the tax officer are established by Section 506 and the appointment process is described in Section 507.

In reference to an employer's obligations, the tax officer for the tax collection district in which the employer maintains a location, shall be the tax officer to whom the employer performs his obligations in regard to Act 32.

When an employer maintains locations with employees in more than one tax collection district, the employer shall be responsible to perform his obligations to the tax officer for each tax collection district for those individuals employed there. Under Section 512(5), an employer with multiple locations within multiple tax collection districts may elect to report all local income tax withheld from employees to one tax officer.

> "Tax records." Tax returns, supporting schedules, correspondence with auditors or taxpayers, account books and other documents, including electronic records, obtained or created by the tax officer to administer or collect a tax under this act. The term includes documents required by section 509(e). The term "electronic records" includes data and information inscribed on a tangible medium or stored in an electronic or other medium and which is retrievable in perceivable form.

Refers to: The tax returns and supporting documents filed by individuals, businesses, and other tax collection districts along with correspondences obtained or created by the tax officer, including electronic records. Section 509(e) further describes records to be retained by the tax officer.

"Tax register." A database of all county, municipal and school tax rates available on the Internet as provided in section 511(a)(1).

Refers to: The database of all county, municipal and school tax rates maintained by the Department on its website. Section 511 establishes the tax register and provides for its content and updates of the information contained therein.

"Taxable income." Includes:

(1) In the case of an earned income and net profits tax, earned income and net profits.

(2) In the case of a personal income tax, income enumerated in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, as reported to and determined by the Department of Revenue, subject to correction for fraud, evasion or error, as finally determined by the Commonwealth.

Refers to: Both the earned income and net profits as well as the personal income defined in this Section or provided for under Act 32.

"Taxpayer." A person or business required under this act to file a return of an income tax or to pay an income tax.

Refers to: An individual or business entity required to make and file an income tax return or returns and pay an income tax to a tax officer.

"Withholding tax." An income tax or a local services tax levied by a political subdivision under the authority of this act or any other act, or any other tax levied by a municipality or school district for which employer withholding may be required under this act or any other act.

Refers to: Any tax levied under Act 32 or any other act, by a political subdivision, which an employer is required to withhold from the compensation of employees.

Definitions Prescribed by the Department:

Other definitions, not provided in Act 32, but prescribed by the Department in order to clarify and explain the policies and procedures set forth in this manual:

"Stated income Tax Rate." The income tax rate as established by the municipal ordinance or school district resolution prior to the application of the automatic sharing requirements of Section 311.

Section 502 – Declaration and Payment of Tax

Section 502 of Act 32 establishes uniform requirements for individual taxpayers to report their annual income and pay the local income taxes assessed thereon. It establishes a uniform method for prorating income and tax liability for taxpayers who move from one political subdivision to another during a calendar year. For individual taxpayers who are self-employed or who are employed by an employer who is not required to withhold the local income tax, this section sets forth the requirement for estimating annual income and paying estimated installments on a quarterly basis.

Subsection (a) establishes the application of income taxes to tax income earned or received on an annual basis depending on the method of accounting used by the individual taxpayer.

> (a) Application.

Paragraph (1) establishes the calendar year as the standard method for calculating income taxes.

> (1) Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year; except that taxes imposed for the first time and changes to existing tax rates shall become effective on January 1 or July 1, as specified in the ordinance or resolution, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed.

The majority of individual taxpayers will report their income earned or received during the calendar year and calculate the income tax due on their annual income based on the method of accounting, cash or accrual, used by the individual taxpayer for reporting their income to the Pennsylvania Department of Revenue.

The only exceptions to this requirement would be when the tax is imposed for the first time or when the existing tax rate is changed by a political subdivision. In this situation, the taxes imposed would be effective on either January 1 or July 1 as specified in the ordinance or resolution of the political subdivision.

The local income tax, once enacted, will continue in force on the calendar or individual taxpayer's fiscal year basis without the need for the political subdivision to annually reenact the tax.

Paragraph (2) establishes the tax officer's requirement to establish deadlines for filing, reporting and paying the local income tax for individual taxpayers whose fiscal year is not the calendar year.

> (2) For a taxpayer whose fiscal year is not a calendar year, the tax officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

The tax officer is required to establish filing deadlines for individual taxpayers who use a fiscal year not equal to the calendar year. The deadline should allow taxpayers the same time period to file returns after the close of the fiscal year that the taxpayer would receive if they used the calendar year. *This time period should be 105 days from the close of the individual taxpayer's fiscal year. (April 15 is 105 days after the end of the calendar year.)*

Example: Taxpayer A's fiscal year ends on June 30, 2013. Taxpayer A would have until October 13, 2013 to file the annual tax return required under Subsection (c)(1).

If the individual taxpayer, who uses a fiscal year not equal to the calendar year, is required to make a declaration of estimate tax and make estimated tax payments, the tax officer is required to establish equivalent deadlines and due dates for the filing of the declaration and payment of the estimated tax.

Subsection (b) of Section 502 provides the calculation for determining an individual's taxable income, when that individual is a part year resident in one or more political subdivision(s) during a tax year.

> (b) Partial domicile.--The taxable income subject to tax of a taxpayer who is domiciled in a political subdivision for only a portion of the tax year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the number of calendar months during the tax year that the individual is domiciled in the political subdivision, and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles is equal, the calendar month shall be included in calculating the number of months in the new domicile.

Example: Taxpayer moves into Political Subdivision A on June 10, 2012 and resides there the rest of the calendar year. Taxpayer is domiciled in Political Subdivision A for more than half of the month of June 2012 through the end of 2012 or seven (7) months. The formula for calculating Taxpayer A's taxable income for Political Subdivision A would be as follows:

Taxpayer A's 2012 taxable income x (7/12) = Taxable Income for Political Subdivision A

Example: Taxpayer moves into Political Subdivision A on June 20, 2012 and resides there the rest of the calendar year. Taxpayer is domiciled in Political Subdivision A for less than half the month of June 2012 through the end of 2012 or six (6) months. The formula for calculating Taxpayer A's taxable income for Political Subdivision A would be as follows:

Taxpayer A's 2012 taxable income x (6/12) = Taxable Income for Political Subdivision A

Example: Taxpayer moves into Political Subdivision A on June 16, 2012 and resides there the rest of the calendar year. Taxpayer is domiciled in Political Subdivision A and the former Political Subdivision for an equal number of days during the month of June 2012. The month of June is to be included in calculating the number of months in Political Subdivision A. The formula for calculating Taxpayer A's income for Political Subdivision A would be as follows:

Taxpayer A's 2012 taxable income x (7/12) = Taxable Income for Political Subdivision A

Subsection (c) establishes the requirement for individual taxpayers to file annual returns, declarations of estimated tax and estimated tax payments for individuals making net profits and payment of quarterly installments when the local income tax is not withheld by the taxpayer's employer.

> (c) Declaration and payment.--Except as provided in subsection (a)(2), taxpayers shall declare and pay income taxes as follows:

Paragraph (1) establishes the individual taxpayer requirement to make and file an annual final return with the resident tax officer. The individual taxpayer annual final return form and line by line instructions will be prescribed by the Department to be used in every tax collection district.

> (1) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under section 512 and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the resident tax officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

On or before April 15 of each year, every individual taxpayer who was a resident, for all or any portion of the preceding calendar year, of one or more political subdivision(s) shall file an annual final return with the resident tax officer(s) for each political subdivision in which that individual resided. The final return shall show all earned income/compensation and net profits received and/or earned for the previous year, the total amount of tax due on the total taxable income, the amount of income tax paid, the amount of income tax withheld by employers and any balance of tax due.

All amounts reported on the annual final return shall be rounded to the nearest whole dollar. When rounding, amounts from 1 cent to 49 cents are dropped from the dollar amount without changing the whole dollar amount; amounts from 50 cents to 99 cents are dropped from the dollar amount, adding 1 dollar to the whole dollar amount. Errors in rounding will be summarily corrected by tax officers without notification to the individual taxpayer, except in cases where the correction results in a balance of tax due or refund of overpaid tax in the amount of more than 1 dollar ($1.00).

When filing their annual final return, the individual taxpayer shall make payment of the balance of tax due shown on the annual final return to the resident tax officer. Any income tax due in the amount of more than one dollar ($1.00) shall be collected by the tax officer.

In the case where the annual final return shows an overpayment of income tax in the amount of more than one dollar ($1.00), the individual taxpayer's filing of the annual final return shall be deemed a demand for refund or credit of the overpayment.

A husband and wife may not file a "joint return", combining the annual income and expenses of both husband and wife. A husband and wife may file separately on the same annual final return, keeping both the annual income and expenses of each individual separate from the other.

If either the husband or the wife has an overpayment of tax on the annual final return, the individual taxpayer with the overpayment may apply some or all of the overpayment against the spouse's balance of tax due (if any), eliminating or reducing the balance due of the spouse. If, after eliminating the spouse's balance of income tax due, there is a remaining overpayment in the amount of one dollar ($1.00) or more, the individual taxpayer may request that the remaining overpayment be refunded or credited to the next year or may request a combination of both a refund and credit.

Any individual taxpayer residing in more than one tax collection district as a result of moving from one political subdivision to another during the calendar year, must file an annual final return with the tax officer for each tax collection district in which they resided during the year. The compensation, unreimbursed business expenses, net profits and/or net losses shall be pro-rated to each tax collection district based on the proration formula given in Subsection (b) of this Section.

At the time of filing the annual final return, the individual taxpayer shall attach copies of all supporting documents to the annual final return. Such supporting documents include, but are not limited to: individual withholding statement(s), Federal Wage and Tax Statements (Form W-2), Pennsylvania Department of Revenue Schedule UE with attachments or a detailed listing of the unreimbursed business expenses being claimed, PA Schedule C or F with supporting attachments, PA Form RK-1 and/or NRK-1 with supporting attachments, PA schedule G along with the other state or political subdivision non-resident tax return, and any papers, worksheets and relevant Federal or State tax returns and accompanying schedules, or supporting documentation for any income taxable under Act 32.

In the event that the resident tax officer receives an annual final return without substantiating documentation for the taxable income reported on the final return, the resident individual taxpayer shall be deemed to have made an incomplete filing of the annual final return. The tax officer shall send the resident individual taxpayer a "Request for Information" notifying the taxpayer of the incomplete filing and the substantiating information necessary for the annual final return to be considered a complete filing. The individual taxpayer shall have thirty (30) days from the date of the notification to provide the resident tax officer with the requested substantiating documentation to complete the filing of the taxpayer's final return before the imposition of any penalties or initiation of further compliance action by the tax officer.

In the event that the resident tax officer receives an annual final return without substantiating documentation for income tax withheld, unreimbursed business expenses, net losses, out of state or other locality tax credit, the annual final return shall be corrected by the tax officer by omitting the unsubstantiated amount or amounts from the calculations for the corrected annual final return. Such correction will normally produce the following results:

Tax Refund/Credit/Transfer Denied – No Balance Due: The tax officer shall notify the taxpayer that the requested refund, credit or transfer has been denied with a detailed explanation for the denial. Taxpayer may file an amended return, substantiating the previously unsubstantiated amounts with the necessary documentation, re-requesting the refund, credit or transfer of the overpayment. For determining interest on overpayments of tax, the date the amended annual final return was filed shall be deemed to be the date of the request for refund, credit or transfer of the income tax overpaid.

Tax Refund/Credit/Transfer Denied – Tax Balance Due: The tax officer shall notify the taxpayer that the requested refund, credit or transfer has been denied which results in a balance of tax due. The notification shall have a detailed explanation for the denial and correction to the taxpayer's annual final return, including the substantiating documentation necessary to reverse the tax officer's correction and eliminate the tax balance due. The taxpayer shall have thirty (30) days from the date of the tax officer's notification to either provide the substantiating documentation or pay the total amount due, including penalties and interest. If the taxpayer fails to respond within thirty (30) days the tax officer may initiate further action to collect the outstanding amount.

Taxpayer may file an amended return, substantiating the previously unsubstantiated amounts with the necessary documentation, re-requesting the refund, credit or transfer of the overpayment. For determining interest on overpayments of tax, the date the amended annual final return was filed shall be deemed to be the date of the request for refund, credit of transfer of the income tax overpaid.

Tax Liability Adjustment – Tax Balance Due: The tax officer shall notify the taxpayer that the annual final return has been corrected, increasing the tax liability which results in a balance of tax due. The notification shall have a detailed explanation for the correction to the taxpayer's annual final return, including the substantiating documentation necessary to reverse the tax officer's correction and eliminate the tax balance due. The taxpayer shall have thirty (30) days from the date of the tax officer's notification to either provide the substantiating documentation or pay the total amount due, including penalties and interest. If the taxpayer fails to respond within thirty (30) days the tax officer may initiate further action to collect the outstanding amount.

The tax officer shall handle any other result by notifying the taxpayer of the correction to the annual final return with a detailed explanation and allowing thirty (30) days for a taxpayer response before initiating further compliance action.

If a resident taxpayer who has received an annual final return from the tax officer, but has no earned income, compensation or net profit to report, the word "none" shall be entered on the annual final return, and the return shall be signed, dated, and returned to the tax officer with an explanation such as, "Military Service", "Retired", "Disability Income Only" or "Unemployed".

Every taxpayer subject to the income tax shall file an annual final return regardless of the fact that his or her earned income may have been subject to withholding of the income tax by his or her employer and regardless of whether or not any income tax is due.

At the time of filing the annual final return, the taxpayer is required to pay any income tax due. Remittance shall be made to the resident tax officer. Total balances of less than $1.00 need not be paid.

The annual final return must be signed and dated by the taxpayer in the space provided.

Taxpayers with S Corporation income are encouraged to report their total S Corporation income in the appropriate space on the back of the annual final return. This information is used by the tax officer to eliminate differences between income reported on the PA 40 and the annual final return required by this Paragraph (1) when performing the reported income comparison allowed under Section 509(g). S Corporation income is not taxable for local income tax purposes. S Corporation losses do not offset earned income/compensation or net profits.

The failure of any taxpayer to receive an annual final return from the resident tax officer does not relieve that taxpayer from the requirement to make and file an annual final return required by this Paragraph (1), with the resident tax officer.

When an annual final return is made for a fiscal year, the taxpayer is required to make and file the annual final return within one hundred and five (105) days from the end of said fiscal year.

Paragraph (2) Subparagraph (i) requires the resident individual taxpayer making net profits to make and file a Declaration of Estimated Net Profits and make estimated tax installment payments on a quarterly basis.

> (2) (i) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the resident tax officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the resident tax officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

Every resident individual taxpayer who can reasonably expect, after subtracting expenses, at least $12,001 in net profits not subject to income tax withholding or tax credits is required to make and file a declaration of estimated net profits with the resident tax officer on or before April 15th of the current year. The taxpayer is required to pay the estimated tax to the resident tax officer in four (4) equal installments. The first installment is due with the declaration of estimated net profits on or before April 15th. The remaining installments are due or before June 15th and September 15th of the current year and on or before January 15th of the succeeding year.

The failure of a resident individual taxpayer, whose net profits are greater than $12,000, to file the declaration of net profits and pay the estimated tax installments may result in the imposition of penalties and interest. The tax officer, may divide the tax liability on the taxpayer's net profits greater than $12,000 by four (4) and apply penalties and interest from the date the estimated installments were originally due.

A husband and wife shall not file a joint declaration using one social security number. If one payment is made for multiple persons, the amount of tax to be applied to each person must be listed on a separate declaration of estimated net profits, identified by the correct social security number of the resident individual taxpayer.

Subparagraph (ii) requires the resident individual taxpayer making net profits after April 15th to make and file a Declaration of Estimated Net Profits and make estimated tax installment payments on or

before the quarterly due dates remaining after the resident individual taxpayer first anticipates the net profit.

> (ii) Any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the resident tax officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.

Every resident individual taxpayer who, after April 15th of the current year, can reasonably expect, after subtracting expenses, at least $ 12,001 in net profits not subject to income tax withholding or tax credits, is required to make and file a declaration of estimated net profits with the resident tax officer on or before June 15th of the current year, September 15th of the current year or December 15th of the current year, whichever date follows the date which the taxpayer first anticipated net profit in excess of $12,000. The taxpayer is required to pay the estimated tax to the resident tax officer in equal installments. The first installment is due with the declaration of estimated net profits and the remaining installments are due on or before the estimated installment due dates that remain after the filing of the declaration.

Subparagraph (iii) reiterates the requirement for the resident individual taxpayer, making net profits, to make and file an annual final return with the resident tax officer as required under Paragraph (1) of this section. This subparagraph allows any taxpayer, in lieu of making the fourth quarterly installment of estimated tax, to make and file the annual final return and pay the balance of tax due on or before January 31st of the succeeding year. The individual taxpayer annual final return form and line by line instructions will be prescribed by the Department to be used in every tax collection district.

> (iii) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the resident tax officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the resident tax officer on or before January 31 of the succeeding year, the final return.

Subparagraph (iv) The Department, in Section 151.2 of its regulations has provided for the filing of adjusted declarations of estimated net profits and payments of estimated tax.

> (iv) The department, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.

Every taxpayer who has filed the declaration of estimated net profits required under subsection 502(c) and who anticipates additional net profits not previously declared or has overestimated anticipated net profits shall file, on or before April 15 of the current year, June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such change in anticipated net profits, an adjusted declaration of estimated net profits. At the time of filing the adjusted declaration, the taxpayer shall pay to the resident tax officer, on or before the quarterly payment dates that remain after the filing of the adjusted declaration, beginning with the quarterly payment date in which the adjusted declaration is filed, equal installments of the tax due as reported on the adjusted declaration of estimated net profits.

Subparagraph (v) requires every taxpayer to file an annual final return as required under this Section within 30 days of their discontinuance of business.

> (v) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return as required under this paragraph and pay the tax due.

Paragraph (3) requires the resident individual taxpayer who receives any other taxable income not subject to withholding to make and file a quarterly return and make quarterly tax payments of the amount of tax due.

> (3) Every taxpayer who receives any other taxable income not subject to withholding under section 512(3) shall make and file with the resident tax officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with such other information as the department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the resident tax officer the amount of income tax due. The department shall establish criteria under which the tax officer may waive the quarterly return and payment of the income tax and permit a taxpayer to file

the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.

Every resident individual taxpayer who receives earned income not subject to income tax withholding or tax credits is required to make and file a quarterly return with the resident tax officer. The quarterly returns must be filed on or before April 15th of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year. The quarterly returns must set forth the total amount of actual or estimated earned income not subject to tax withholding during the preceding three month period ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively, and the income subject to the tax, together with the source, nature, anticipated frequency and location of the taxable income. At the time of filing the quarterly return, the taxpayer shall pay to the resident tax officer the amount of income tax due or estimated to be due.

The tax officer may waive the requirement to file a quarterly return and payment of the income tax where taxable income is received on less than a quarterly frequency or is anticipated to be a total amount less than $12,000 annually.

The failure of a resident individual taxpayer, whose total other earned income not subject to withholding is greater than $12,000, to file the quarterly return and make quarterly payments of the income tax due thereon, may result in the imposition of penalties and interest. The tax officer, may divide the taxpayer's tax liability on the other earned income not subject to withholding, greater than $12,000, by four (4) and apply penalties and interest from the date the quarterly returns and payment of the tax were originally due.

A husband and wife shall not file a joint quarterly return using one social security number. If one payment is made for multiple persons, the amount of tax to be applied to each person must be listed on a separate quarterly return, identified by the correct social security number of the resident individual taxpayer.

Military Spouses Residency Relief Act (MSRRA) (Public Law 111-97)

1. **Background.** The MSRRA changes the basic rules of taxation with respect to military spouses who earn income from services performed in a State in which the spouse is present with the Service member (SM) in compliance with military orders when that State is not the spouse's domicile (legal residence). Under these conditions, the spouse generally will not have to pay income taxes to the current State where income is earned. The spouse, however, would be required to pay income tax to the domiciliary State (assuming that State taxes wages).

2. **GET HELP!** The law is complicated and fact specific, and because its effect will depend on the interpretations of each State, SMs and their spouses are encouraged to seek free, confidential advice from a military legal assistance office. Legal assistance offices can be found at http://legalassistance.law.af.mil/content/locator.php.

3. **Effective dates.** The law is effective for tax year 2009 and may entitle eligible spouses to a refund of their tax year 2009 withholdings. It may, however, also require some spouses to file tax returns in their State of domicile for tax year 2009, when they might otherwise not have been required to do so. For tax years after 2009, spouses should file new withholding forms with

their employer indentifying their domiciliary State. If taxes must be withheld for payment to the domiciliary State and the employer cannot withhold them, then the spouse would have to make estimated quarterly tax payments to the domiciliary State.

4. **What is domicile (legal residence)?** It is the place that one considers "home," where one has been physically present (generally this means lived) and formed the intent to remain for the indefinite future and return when temporarily absent. Examples of contacts with a particular State that help prove domicile include: where one votes, owns property, holds professional licenses, registers vehicles, holds a driver's license, accepts tax breaks for a declaration of homestead, or indicates where his or her last will and testament should be probated. A determination of domicile will be fact specific. No particular combination of these or other similar contacts will necessarily guarantee proof of domicile. SMs and spouses must look to the appropriate State law. One may abandon an old domicile by being physically present in another State, forming the intent to create a new domicile there, and establishing new contacts with the new domiciliary State.

5. **Example:** Spouse and SM are domiciled in Texas. SM is reassigned from Texas to Virginia and spouse accompanies SM to Virginia. Prior to the MSRRA, the spouse would have to pay State taxes on income earned from services performed in Virginia, but under the MSRRA, the spouse would not have to pay income tax to Virginia. The spouse, would, however, have to comply with the tax laws of the State of domicile, in this example, Texas. Because Texas has no State income tax, the spouse would pay no State income tax. Had the spouse's domicile been a State with an income tax, then the spouse would have to pay State income tax to that State, even though the income was earned in Virginia. Should the spouse voluntarily remain in Virginia after the SM subsequently transferred outside of Virginia under orders authorizing the spouse to accompany the SM, then the spouse would lose the protections of the MSRRA and would be required to pay income tax to Virginia.

6. **How is this different from the current rules for Service members?** The rules for spouses and SMs are now very similar. A SM does not pay State taxes on military pay and allowances earned in the State where the SM is assigned (assuming the SM's State of assignment and domicile are not the same). This now applies to accompanying spouses, for all income from services performed. Both SMs and spouses are also responsible for complying with the tax laws of their domiciliary State, although such laws may not apply to both. For example, some States, like New Jersey and Pennsylvania, exempt from taxation the income of their domiciliary SMs that is earned in other States. However, those exemptions do not apply to the spouse. Thus a spouse who was domiciled in New Jersey, but who was living and earning income in Virginia because of the SM's orders would owe taxes to New Jersey.

7. **Common misunderstandings and uncertainties.**

    a. The MSRRA does not allow a spouse to pick or chose a domicile in any State. Domicile is established, not arbitrarily chosen. The spouse must have actually been present in the State, established it as his or her domicile, and maintained it as such by forming and maintaining the necessary contacts. Similarly, the MSRRA does not allow a spouse to "inherit" or assume the military member's domicile upon marriage.
    b. The MSRRA does not allow a spouse to recapture an abandoned domicile without physically returning to the abandoned State of domicile and reforming the appropriate

intent and demonstrating it by forming new contacts. In other words, having once lived in a State (even if the spouse once established domicile through registering to vote, obtaining a driver's license, or other actions) will not allow a spouse to now claim the State as his/her domicile unless the spouse has continued to maintain sufficient contacts with the State. Again, this issue can often be complicated and seeking legal advice is encouraged.

c. The MSRRA does not relieve the spouse from paying State income taxes on income other than for services performed in the non-domiciliary State. For example, income from the sale of real property or from rental property would be taxable in the State where the property was located, MSRRA notwithstanding. The spouse must also comply with the tax laws of the domiciliary State.

d. It is not clear what the effect of the MSRRA will be: when the spouse lives in the State where the SM is assigned, but works in another State; when the spouse and SM live in a State other than the one to which the SM is assigned; or when the spouse and SM do not hold the same domicile.

e. The MSRRA does not affect whether a spouse must get a driver's license in the non-domiciliary State. That is entirely a function of State law.

8. **Other effects of the MSRRA.**

   a. The MSRRA also exempts non-business personal property (most often automobiles) from taxation in the non-domiciliary State when the property is titled in the spouse's name or jointly with the spouse and SM. As in the case of income tax, the spouse must be in the non-domiciliary State to accompany the military member on military orders.

   b. The MSRRA should make it easier for the spouse to vote in the domiciliary State by absentee ballot. Voting is a very important contact to help prove and maintain domicile.

9. **More information**. The Federation of Tax Administrators, which works closely with tax officials from all the States, has posted a helpful and more in-depth analysis of the MSRRA on its website: http://www.taxadmin.org/fta/rate/s_475.pdf.

Section 503 – Reserved

This section is reserved for future use by the legislature.

Section 504 – Tax Collection Districts

Section 504 sets forth the consolidation of the earned income tax collection system by establishing county-wide Tax Collection Districts.

Subsection (a) establishes the general rule for the consolidation of the local income tax collection at the county level and sets for the Department's requirement to maintain the list of tax collection districts and the political subdivisions within each tax collection district on the Department's internet website. Philadelphia is not subject to Act 32 and Philadelphia County does not have a Tax Collection District. As of January 1, 2012, the establishment of tax collection districts is well settled.

> (a) General rule.--A tax collection district is established in each county, except a county of the first class or second class, for purposes of collecting income taxes. The geographic boundaries of a tax collection district shall be coterminous with the county in which it is created, except as provided in this section. A school district located in more than one county shall be included in the tax collection district with the greatest share of the school district's population based on the 2000 Federal Decennial Census. A municipality shall 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 shall be included in the tax collection district for that school district. The department shall establish a list of all tax collection districts and the political subdivisions in each tax collection district. By January 16, 2009, the list shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin; and by January 28, 2009, the list shall be made available on the department's Internet website.

Subsection (b) establishes the rule that divides counties of the second class with a population greater than 1,000,000 and containing a second class city (Allegheny County) shall be divided into four tax collection districts.

> (b) Counties of the second class.--Each county of the second class with a population of over 1,000,000 persons, and which also contains a city of the second class, shall be divided into four tax collection districts, each to be as consistent as practicable with the general rules pertaining to municipalities and school districts contained in subsection (a), and to be further established as follows:

Paragraph (1) establishes one of the tax districts to include the City and School District of Pittsburgh and any other municipality and school district within its boundary.

> (1) One district shall be comprised of a city of the second class and any municipality and school district geographically located within the boundaries of such city.

Paragraph (2) establishes the other three tax collection districts within Allegheny County.

(2) The remainder of the county shall be divided into three tax collection districts of relatively equal population which contain coterminous municipalities and school districts that are bordered by the county boundaries and by commercially navigable rivers which are at least 100 miles in length.

Paragraph (3) requires the department to develop a map and list of all tax collection districts. The map is to contain all of the political subdivisions within the tax collection district and is made available on the department's website. As of January 1, 2012, the map of tax collection districts is on the department's website.

(3) The department shall develop a map and a list of all tax collection districts in each county of the second class and the political subdivisions in each tax collection district. By January 16, 2009, the list shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin and by January 28, 2009, the list shall be made available on the department's Internet website.

Subsection (c) allows an existing county-wide consolidated tax collection arrangement being served by one tax bureau to continue as a tax collection district. Section 504(c) applies only to Lancaster County.

(c) Existing consolidated collection arrangements. — Notwithstanding the provisions of subsection (a), in any county in which, on the effective date of this section, all political subdivisions levying an income tax, including a county school district located partially outside of but contiguous to the county, are served by one existing tax bureau, the county tax collection district shall also include such a school district and all of its component municipalities in the event a tax collection committee is established for that county pursuant to section 505(m).

Section 505 – Tax Collection Committees

Section 505 establishes tax collection committees and assigns them powers and duties to govern the efficient and effective local income tax collection within the tax collection districts. Act 32 establishes one tax collection committee per tax collection district. This section also sets forth the composition of the tax collection committees, implements weighted voting and schedules dates for the completion of certain functions. Tax collection committees should consult with an attorney before taking any action under Section 505.

Subsection (a) sets forth the general rule that the meetings of the tax collection committee are open meetings subject to the Right-to-Know-Law and the Sunshine law.

> (a) General rule.—Subject to the provisions of subsection (m), each tax collection district shall be governed by a tax collection committee constituted and operated as set forth in this section. Meetings of the tax collection committee shall be conducted under 65 Pa.C.S. Ch. 7 (relating to open meetings) and the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

Subsection (a.1.) assigns the tax collection committee's duties. Tax collection committees are required to do everything in subsection (a.1).

> (a.1) Duties.--A tax collection committee has the following duties:

Paragraph (1) requires the tax collection committee to keep a record of its votes and actions.

> (1) To keep records of all votes and other actions taken by the tax collection committee.

Paragraph (2) requires the tax collection committee to appoint a tax officer for the tax collection district.

> (2) To appoint and oversee a tax officer for the tax collection district as provided in section 507(a).

Paragraph (3) requires the tax collection committee to establish the tax officer's compensation.

> (3) To set the compensation of the tax officer under section 507(c).

Paragraph (4) requires the tax collection committee to require the tax officer obtain a bond, in an amount set by the tax collection committee. The tax collection committee is allowed to review the tax

officer's bond to determine if it is adequate to protect the local income tax being collected within the tax collection district.

> (4) To require, hold, set and review the tax officer's bond required by section 509(d).

Paragraph (5) requires the tax collection committee to establish how it will be financed. There are two common practices. The first is for the tax collection committee to either submit an invoice to each taxing authority to pay their share of operating costs. This is generally done annually or semi-annually. The second method is for the tax collection committee to require the tax officer to deduct the taxing authority's share of operating costs from its distribution and forward the operating costs directly to the tax collection committee.

> (5) To establish the manner and extent of financing of the tax collection committee.

Paragraph (6) requires the tax collection committee to adopt, amend and repeal bylaws to govern its operations.

> (6) To adopt, amend and repeal bylaws for the management of its affairs consistent with subsection (f) and regulations under section 508.

Paragraph (7) requires the tax collection committee to adopt, amend and repeal policies and procedures consistent with the regulations promulgated by the Department. Any such procedures adopted or amended by the tax collection committee shall supersede any contrary procedures or regulations previously adopted by a political subdivision, but shall not be able to change the rate or subject of any tax. This is to promote uniformity throughout a tax collection district.

> (7) To adopt, amend and repeal policies and procedures consistent with the regulations under section 508 for the administration of income taxes within the tax collection district. The procedures shall supersede any contrary resolutions or ordinances adopted by a political subdivision. This authority shall not be construed to permit a tax collection committee to change the rate or subject of any tax.

The regulations and procedures set forth by the Department shall supersede any contrary regulations and procedures adopted by a tax collection committee.

Subsection (a.2.) assigns the tax collection committee a specific range of powers to carry out its purpose of governing an efficient and effective local income tax collection system. Tax collection committees may, but are not required, to do everything in subsection (a.2).

> (a.2) Powers.--A tax collection committee has the following powers:

Paragraph (1) allows the tax collection committee to adopt, amend and repeal resolutions in order to carry out its responsibilities within the scope of the powers established by this section.

> (1) To adopt, amend and repeal resolutions to carry out its powers and duties under this section.

Paragraph (2) allows the tax collection committee to create and provide for the administration of a tax bureau. It further requires the Department, upon request, to provide technical assistance to any tax collection committee seeking to create a tax bureau. As of January 1, 2012, only one tax collection committee, Blair County, opted to create its own tax bureau.

> (2) To create a tax bureau and to provide for its operation and administration. The department shall, upon request of a tax collection committee, provide technical assistance to the tax collection committee in the creation of a tax bureau.

Paragraph (3) allows the tax collection committees to enter into contracts.

> (3) To enter into contracts as necessary.

Paragraph (4) allows the tax collection committees to hire a director and other employees, as may be necessary, to administer the business affairs of the tax collection committee.

> (4) To appoint a director for the tax collection committee and other employees as necessary and to fix their compensation.

The compensation of the tax collection committee's director and other employees shall be set by the tax collection committee.

Paragraph (5) allows the tax collection committees to contract for various professional services. These professional services may include a solicitor, an auditor and other consultants.

> (5) To retain counsel, auditors and other consultants or advisors to render professional services as necessary.

Paragraph (6) allows the tax collection committees to acquire ownership rights to real and personal property.

> (6) To acquire, lease, rent or dispose of real or personal property.

Paragraph (7) allows two or more tax collection committees to agree to form a joint tax collection committee with some or all of the powers and duties listed in subsection (a.1.) and this subsection. As of January 1, 2012, no joint tax collection committees have been formed.

> (7) To enter into agreements with one or more other tax collection committees to form a joint tax collection committee. Such agreements may assign to a joint tax collection committee some or all of the powers and duties enumerated in subsection (a.1) and this subsection with respect to all tax collection districts from which the joint tax collection committee is formed.

Paragraph (8) allows the tax collection committees to sue and be sued.

> (8) To sue and be sued, and complain and defend in all courts.

Paragraph (9) allows the tax collection committee, in connection with its responsibilities under this section and other parts of the Act 32, to borrow money and accept grants.

> (9) To borrow money, accept grants, incur indebtedness and issue notes, debentures and other obligations to evidence borrowing for the purposes for which it is organized in an amount not to exceed 50% of the total revenues anticipated in the following fiscal year.

This paragraph also establishes a limit for the tax collection committee's maximum indebtedness as 50% of the following fiscal year's anticipated total revenues.

Subsection (b) establishes the requirement for each political subdivision within a tax collection district to appoint a delegate or delegates to the tax collection committee.

> (b) Delegates.

Paragraph (1) requires each political subdivision within a tax collection district, currently levying the local income tax, to appoint one voting delegate and one or more alternates as its representatives to the tax collection committee. The taxing authorities can replace their voting delegates at any time.

> (1) The governing body of each political subdivision within a tax collection district that imposed an income tax prior to July 1, 2009, shall appoint one voting delegate and one or more alternates to represent the political subdivision on the tax collection committee by September 15, 2009. The governing body of each political subdivision that after June 30, 2009, imposes an income tax for the first time shall appoint one voting delegate and one or more alternates to represent the political subdivision on the tax collection committee. A voting delegate or alternate shall serve at the pleasure of the governing body of the political subdivision.

Paragraph (2) allows, but does not require, each political subdivision within a tax collection district that does not currently levy the local income tax, to appoint one non-voting delegate and one or more alternates as its representatives to the tax collection committee.

> (2) The governing body of each political subdivision within a tax collection district that prior to July 1, 2009, does not impose an income tax may appoint one nonvoting delegate and one or more alternates to represent the political subdivision on the tax collection committee. If, after June 30, 2009, the political subdivision imposes an income tax, the nonvoting delegate shall become a voting delegate to represent the political subdivision on the tax collection committee.

If the political subdivision levies a local income tax after the formation of the tax collection committee, the non-voting member shall become a voting member. The weighted vote calculations for the tax collection committee shall be recalculated based on the political subdivision's estimated initial year revenue as advertised prior to the passage of the enabling ordinance or resolution.

After the political subdivision's first year of levying the tax, the weighted vote calculations for the tax collection committee shall be recalculated based on the actual initial year total revenues for the political subdivision.

Subsection (b.1) defines the requirement for a quorum at the tax collection committee meetings, which may be amended through the bylaws of the tax collection committee.

> (b.1) Quorum.--Unless otherwise provided for in the bylaws of a tax collection committee, a majority of the delegates of a tax collection committee appointed under subsection (b)(1) constitutes a quorum. A quorum must be present in order to take official action.

In order to take any official action the tax collection committees must have a quorum present. The tax collection committee may establish the attendance that constitutes a quorum.

Subsection (b.2) requires the tax collection committee to reschedule the initial meeting if a quorum is not present.

> (b.2) Lack of quorum at first meeting.--If a quorum is not present at the first meeting, the chair of the governing body of the county in which the tax collection district is located or the chair's designee shall reschedule the meeting within three weeks. The chair or the chair's designee shall provide, by first class mail, notice of the rescheduled meeting to the department and to the governing bodies of all political subdivisions in the tax collection district on a form prescribed by the department. The form shall include the date, time and location of the rescheduled meeting and a notice that the delegates present at the rescheduled meeting shall constitute a quorum. The rescheduled meeting shall be deemed to be the first meeting for purposes of this chapter.

Subsection (c) establishes the voting rights of the tax collection committee delegates and defines the calculation of the weighted vote.

(c) Voting rights.

Paragraph (1) mandates that only a delegate appointed by the political subdivision, may be its voting representative to the tax collection committee. In the delegate's absence, the appointed alternate becomes the voting member of the tax collection committee. *It is suggested that a tax collection committee require some sort of evidence (either a resolution or notice on taxing authority letterhead) that the delegate or alternate was actually appointed by the political subdivision.*

(1) Only a delegate appointed by the governing body of a political subdivision may represent a political subdivision at a tax collection committee meeting. If a delegate cannot be present for a tax collection committee meeting, the alternate appointed under this section may represent the political subdivision. Each delegate or alternate shall be entitled to vote upon any action authorized or required of the tax collection committee under this chapter.

Paragraph (2) describes the weighted vote calculations and enables the tax collection committee to take action by a weighted vote majority.

(2) For the first meeting of the tax collection committee, actions of the tax collection committee shall be determined by a majority vote of those delegates present. Votes shall be weighted among the governing bodies of the member political subdivisions according to the following formula: 50% shall be allocated according to the proportional population of each political subdivision in proportion to the population of each tax collection district as determined by the most recent Federal decennial census data and 50% shall be weighted in direct proportion to income tax revenues collected in each political subdivision, based on each political subdivision's most recent annual financial report submitted to the department or the Department of Education. For subsequent meetings, votes shall be taken in accordance with this paragraph unless the bylaws provide otherwise.

Paragraph (3) requires the department to calculate the initial weighted vote for all political subdivisions within the tax collection districts.

(3) No later than September 1, 2009, the department shall calculate the weighted vote for each political subdivision within each tax collection district based on the formula specified in paragraph (2). By July 1 of the year following the first meeting, and of each year thereafter, each tax collection committee shall recalculate the weighted vote unless the bylaws provide for a more frequent recalculation.

Paragraph (4) requires a recalculation of the tax collection district's weighted vote when a political subdivision levies the local income tax for the first time. Subsection (b), paragraph (2) defines the recalculation of the weighted vote.

> (4) If a political subdivision within the tax collection district imposes an income tax for the first time, the tax collection committee shall recalculate the weighted vote or other method of voting under the bylaws.

Subsection (d) sets the latest date the tax collection committee is required to hold its initial meeting.

> (d) First meeting schedule.--The first meeting of the tax collection committee in each tax collection district shall be on or before November 15, 2009. The chair of the county commissioners or the chief executive of the county in which the tax collection district is primarily located or the chair's designee shall schedule the first meeting of the tax collection committee and shall provide, at least 21 days before the meeting, public notice, as required by 65 Pa.C.S. § 703 (relating to definitions), and notice by first class mail by September 15, 2009, to the department and to the governing body of each political subdivision located in the tax collection district.

Subsection (e) establishes the chair of the county commissioners as the person responsible to convene the initial meeting of the tax collection committee. The role of the county government ended when the chairperson was selected to run the meeting.

> (e) First meeting agenda.--The chair of the county commissioners or the chair's designee or the chief executive of the county or his designee shall convene the first meeting of the tax collection committee, conduct the meeting and record all votes until a chairperson, vice chairperson and secretary are elected by the tax collection committee. The voting delegates of the tax collection committee shall elect a chairperson and a vice chairperson, each of whom must be duly appointed voting delegates, and a secretary who need not be a duly appointed voting delegate. The chairperson shall schedule meetings, set the agenda, conduct meetings, record votes and perform other duties as determined by the tax collection committee. The secretary shall maintain the minutes and records of the tax collection committee and provide public notices and all notices to each delegate and alternate appointed to the tax collection committee.

Subsection (f) sets the latest date the tax collection committee is required to adopt bylaws. It further provides for the required provisions of the bylaws. *The tax collection committee should consult with its solicitor before adopting or amending its bylaws.*

> (f) Bylaws.--No later than April 15, 2010, the delegates of each tax collection committee shall adopt bylaws to govern the tax collection committee and notify the department within 30 days of adoption. The department shall provide sample bylaws to the tax collection committee. Written notice shall be provided to each delegate and alternate delegate that the adoption or amendment of bylaws will be considered at a meeting. Notice shall include copies of the proposed bylaws or amendments. The bylaws for each tax collection committee shall 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.

Subsection (g) requires the tax collection committee to provide the names and contact information of the newly elected tax collection committee officers to the Department within 30 days of any such election. If new officers are elected at any point in time, the tax collection committee must provide the names of the newly elected officers to the Department.

(g) Officers.--Upon the election of any new officers, the tax collection committee shall notify the department within 30 days and shall provide the department with the name and address of each officer.

Subsection (h) establishes the tax collection committee's requirement to provide for an annual examination of the tax officer's records under generally accepted governmental auditing standards and further defines the examination of specific responsibilities of the tax officer.

(h) Audits of taxes received and disbursed

Paragraph (1) requires the tax collection committee to provide for at least one annual examination of the tax officer's records by a certified public accountant or public accountant approved by the tax collection committee.

(1) By the end of each calendar year, the tax collection committee shall provide for at least one examination for each calendar year of the books, accounts, financial statements, compliance reports and records of the tax officer by a certified public accountant or public accountant approved by the tax collection committee. The examination shall include an audit of all records relating to the cash basis receipt and disbursement of all public money by the tax officer, a reconciliation of the monthly reports required by section 509(b), an analysis of the bond amount under section 509(d) and an analysis of the collection fees charged to the tax collection committee. In the case of a private agency, the examination shall not include payroll and other proprietary information. The examination shall be conducted according to generally accepted governmental auditing standards.

The examination of the tax officer shall include the following:

1. An audit of all records relating to the cash basis receipt and disbursement of all public monies required to be kept by the tax officer.

2. A reconciliation of the monthly reports required under section 509(b).

3. An analysis of the bond amount under section 509(d).

4. Analysis of the collection fee charges to the tax collection committee.

The examination of a private agency shall not include the payroll and other proprietary information. In the case of a tax bureau, the examination required under this subsection shall not include the payroll and other proprietary information. The tax collection committee shall ensure that the tax bureau's operating accounts do not comingle with the local income tax accounts and that the tax bureaus operating accounts are audited annually, but separately from the local income tax accounts.

Paragraph (2) defines the certified public accountant or public accountant's report.

> (2) The certified public accountant or public accountant shall issue a report, in a format prescribed by the department, to the tax collection committee, which shall include an auditor's opinion letter, a financial statement, a reconciliation of the monthly reports required by section 509(b) with the receipts and disbursements, a summary of collection fees charged to the tax collection committee, a report on the tax officer's compliance with this act, a list of any findings of noncompliance with this act and a copy of a management letter if one is issued by the auditor. If there are findings of noncompliance, a copy of the report shall be filed with the Department of the Auditor General and the department. A copy of the report shall be filed with all political subdivisions within the tax collection district and the department on or before September 1 of the succeeding year. The department may make available on its Internet website summary data from the reports filed under this subsection.

The certified public accountant or public accountant's audit report shall include the following components:

1. An auditor's opinion letter.

2. A financial statement.

3. A reconciliation of the monthly reports required by section 509(b) with the tax officer's receipts and disbursements.

4. A summary of the total collection fees charged to the political subdivisions within the tax collection committee and/or charged to the tax collection committee.

5. A report on the tax officer's compliance with the Act 32.

6. A list of any findings of noncompliance with the Act 32. If there is any noncompliance, a copy of the audit report is to be filed with the department and with the Auditor General.

7. A copy of the management letter, if one is provided.

Act 32 Auditing Format Reporting Requirements

Section 505 (h)(1)(2) reads, in part:

> Audits of taxes received and disbursed.--
> (1) By the end of each calendar year, the tax collection committee shall provide for at least one examination for each calendar year of the books, accounts, financial statements, compliance reports and records of the tax officer by a certified public accountant or public accountant approved by the tax collection committee. The examination shall include an audit of all records relating to the cash basis receipt and disbursement of all public money by the tax officer, a reconciliation of the monthly reports required by section 509(b), an analysis of the bond amount under section 509(d) and an analysis of the collection fees charged to the tax collection committee. In the case of a private agency, the examination shall not include payroll and other proprietary information. The examination shall be conducted according to generally accepted governmental auditing standards.
>
> (2) The certified public accountant or public accountant shall issue a report, in a format prescribed by the department, to the tax collection committee, which shall include an auditor's opinion letter, a financial statement, a reconciliation of the monthly reports required by section 509(b) with the receipts and disbursements, a summary of collection fees charged to the tax collection committee, a report on the tax officer's compliance with this act, a list of any findings of noncompliance with this act and a copy of a management letter if one is issued by the auditor. If there are findings of noncompliance, a copy of the report shall be filed with the Department of the Auditor General and the department. A copy of the report shall be filed with all political subdivisions within the tax collection district and the department on or before September 1 of the succeeding year. The department may make available on its Internet website summary data from the reports filed under this subsection.

According to Certified Public Accountant (CPA) professional standards, the annual audits provided to TCCs by CPAs will include an auditor's opinion letter, a financial statement, a reconciliation of the monthly reports required by section 509(b) with the receipts and disbursements, a summary of collection fees charged to the tax collection committee, a report on the tax officer's compliance with this act, a list of any findings of noncompliance with this act and a copy of a management letter if one is issued by the auditor. At all times, CPAs shall adhere to generally accepted governmental auditing standards.

According to Public Accountant (PA) professional standards, the annual audits provided to TCCs by PAs will include an auditor's opinion letter, a financial statement, a reconciliation of the monthly reports

required by section 509(b) with the receipts and disbursements, a summary of collection fees charged to the tax collection committee, a report on the tax officer's compliance with this act, a list of any findings of noncompliance with this act and a copy of a management letter if one is issued by the auditor. At all times, PAs shall adhere to generally accepted governmental auditing standards.

Each tax officer shall file the report with DCED as a PDF document and shall send it to: RA-MuniStats@pa.gov.

Subsection (i) establishes the tax collection committee's obligation to adhere to the provisions of other applicable statutes. *A tax collection committee should consult with an attorney if it has any questions about any of the statutes in this subsection.*

> (i) Applicability of statutes.--Each tax collection committee shall be subject to the provisions of the following:
>
> (1) The Right-to-Know Law.
>
> (2) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.
>
> (3) 65 Pa.C.S. Ch. 7 (relating to open meetings).
>
> (4) 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

Subsection (j), Paragraph (1) sets the latest date by which the tax collection committee must establish a tax appeals board. This subsection also defines the composition of the appeals board.

> (j) Appeals board.

Paragraph (1) requires the tax collection committee to establish an appeals board with a minimum of three delegates. In the case of a tax collection committee established under subsection (m), the appeals board shall be comprised of a minimum of three residents of the county. The tax collection committees must further decide if any compensation will be paid to the appeals board members.

> (1) By June 1, 2010, each tax collection committee shall establish an appeals board comprised of a minimum of three delegates or, in the case of a tax collection committee established pursuant to subsection (m), a minimum of three residents of the county.

Paragraph (2) indicates the subject matter that may be appealed to the appeals board. An appeal may be made by taxpayers, employers, political subdivisions or another tax collection district.

> (2) A determination of the tax officer relating to the assessment, collection, refund, withholding, remittance or distribution of income taxes may be appealed to the appeals board by a taxpayer, employer, political subdivision or another tax collection district.

Paragraph (3) establishes the methods by which all appeals, except those under subsection (k), shall be conducted.

> (3) All appeals, other than those brought under subsection (k), shall be conducted in a manner consistent with 53 Pa.C.S. §§ 8431 (relating to petitions), 8432 (relating to practice and procedure), 8433 (relating to decisions), 8434 (relating to appeals) and 8435 relating to equitable and legal principles to apply).

The appeals process is to be consistent with the process established by the Local Taxpayers Bill of Rights in the sections listed.

Paragraph (4) allows two or more tax collection committees to agree to form a joint appeals board.

> (4) A tax collection committee may enter into agreement with another tax collection committee to establish a joint appeals board.

Paragraph (5) restricts any employee, including the tax officer and the attorney for the tax officer, from being a member of the appeals board. This is to avoid a conflict of interest.

> (5) No member of an appeals board or joint appeals board may be a tax officer or an employee, agent or attorney for a tax officer.

Paragraph (6) establishes that the appeals board created by the tax collection committee shall constitute a joint local tax appeals board as defined under the Local Taxpayer's Bill of Rights (53 Pa.C.S. § 8430).

> (6) An appeals board appointed pursuant to this section shall constitute a joint local tax appeals board as provided for in 53 Pa.C.S. § 8430 (relating to administrative appeals) for purposes of taxes collected under the supervision of the appointing tax collection committee.

Subsection (k) establishes a mediation process by which affected parties may appeal the actions of a tax officer. Under Act 32, the department shall appoint the mediator.

> (k) Mediation and appeals of tax collector actions.

Paragraph (1) establishes a 10% deviation in the taxes received between the current and prior year as the threshold for mandatory mediation. Any deviation less than 10% may be the subject of a voluntary mediation in accordance with the department's guidelines.

> (1) Any dispute among the affected parties involving a 10% or greater deviation from taxes received in the previous

tax year shall be subject to mandatory mediation under this section, in accordance with regulations and guidelines to be adopted by the department. A dispute involving less than the 10% threshold may be the subject of voluntary mediation in accordance with regulations and guidelines to be adopted by the department.

The department recommends that any affected political subdivision or tax officer first discuss its concerns about the revenue deviation with the resident tax officer. If the deviation is greater than 10% and the political subdivision does not receive a response, or the response is unsatisfactory, the political subdivision may proceed with the submission of a written notice to the tax collection committee and the department for mandatory mediation.

Paragraph (2) describes the initiation of mediation process by submission of a written notice to the department.

(2) One or more affected political subdivisions shall give written notice to the tax collection committee and the department of its desire to submit the disputed matter to mediation by the department. Thereafter, the affected political subdivisions, tax collection committee and tax officer shall submit to mediation to which the following provisions shall apply:

To initiate the mediation process, the affected political subdivision must provide a written notice of its desire to mediate the disputed matter to the tax collection committee and the department. The department further mandates that the written notice must also be provided to the tax officer at the same time as the other parties, so that the tax officer has the same opportunity to prepare its written response.

Subparagraph (i) states that within 20 days of the submission of the written notice, all parties shall be required to submit a written statement to the mediator and each other. The statement shall not be more than five pages and must state the position of each party, the disputed and undisputed facts and issues. The statement shall also state whether or not prior settlement negotiations have occurred.

(i) Within 20 days of submission of the written notice, the affected political subdivisions, tax collection committee and tax officer shall each submit to the mediator and each other party to the mediation a statement of no more than five pages, stating the position of such party as to the disputed and undisputed facts and issues in the case and whether prior settlement negotiations have occurred.

Subparagraph (ii) states that within 30 days of the submission of the written notice, the department must decide if the dispute meets the threshold for mandatory mediation. The department's decision is final and not appealable and will be made in writing to all parties.

(ii) Within 30 days of submission of the written notice, the department shall determine whether the dispute meets the threshold conditions for mandatory mediation under paragraph (1), which decision shall be final and not appealable. Notice of such determination shall be given in writing to all affected parties.

Subparagraph (iii) requires that the department establish guidelines for the mediation process and further provides that the mediation process must be completed within thirty days after the determination notice is given unless there is mutual agreement on an extension of time. Settlement may occur *and is encouraged* during the mediation.

(iii) If the mediator determines that the dispute meets the threshold conditions of paragraph (1), a mediation shall be commenced in accordance with procedures established under guidelines adopted by the department. The mediation efforts shall be completed no later than 30 days following the notice that the dispute has met the threshold requirement of paragraph (1), unless the time period is extended by mutual agreement of the parties to the mediation. The parties shall have any official authorized to settle the matter on their behalf available at the mediation. At the discretion of the mediator, the mediation may be held via telephonic communication or in person.

Subparagraph (iv) requires that the mediation shall be closed to the public.

(iv) The mediation sessions shall be closed to the public and shall not be subject to the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

Subparagraph (v) establishes that only the final written settlement agreement, if one is produced, shall be admissible in any subsequent judicial or administrative proceedings.

(v) No offers or statements made in a mediation session, excluding the final written settlement agreement, if any, shall be admissible as evidence in any subsequent judicial or administrative proceedings in accordance with the provisions of 42 Pa.C.S. § 5949 (relating to confidential mediation communications and documents).

Subparagraph (vi) requires the department to prepare the settlement agreement, if settlement is reached, and obtain the required signatures within 30 days of the conclusion of the mediation. This

subparagraph also establishes the settlement agreement as subject to Right-To-Know Law and admissible as evidence is any subsequent judicial or administrative decisions.

> (vi) If a settlement is reached during the mediation, the department shall prepare a written settlement agreement and obtain all necessary signatures of the parties within 30 days of the agreement of the parties to settle the issue. The settlement agreement shall be binding upon the parties to the agreement. Such settlement agreement shall be subject to the provisions of the Right-to-Know Law. Such agreements shall be admissible as evidence in any subsequent judicial or administrative proceedings in accordance with the provisions of the Pennsylvania Rules of Court, the Pennsylvania Rules of Evidence and 42 Pa.C.S. § 5949.

Subparagraph (vii) requires that after thirty days, if the mediation has not produced a settlement agreement, the mediation will be determined to be unsuccessful. The time to reach a settlement agreement may be extended if all parties express the intention to extend the mediation in writing.

> (vii) If the mediation has not resulted in a written agreement signed by the parties as provided in subparagraph (vi), the mediation shall be deemed to have been unsuccessful unless all parties and the department agree in writing to extend the mediation. The mediator shall have the right to determine that the mediation has been unsuccessful and to terminate the mediation if the parties have not executed a settlement agreement by the ending date of the extension, or any further extension agreeable to the affected parties and the mediator.

Subparagraph (viii) requires the department to equitably assess against all parties, the costs incurred by the department for the mandatory mediation.

> (viii) Costs incurred by the department for a mandatory mediation under this section shall be equitably assessed by the department against the parties to the mediation. The assessment of costs shall be final and not appealable.

The department shall equitably assess against all parties, the costs incurred by the department for any voluntary mediations.

In the event a party is repeatedly brought before the department for mandatory mediation because of deviations of 10% or more, and that party is found to have failed to correct actions, procedures or policies that have been identified as the cause of the deviations in previous mediations, the department may assess all costs of the mandatory mediation against the repeating party.

Paragraph (3) requires the department to adopt guidelines further provide for the mandatory and voluntary mediation processes as it becomes aware of disputes over distributions, claims or any other process established by Act 32.

> (3) The department shall adopt guidelines to further provide for the mandatory and voluntary mediation processes in this subsection.

Find the Mediation Guidelines in the Appendix.

Subsection (l) establishes the tax collection committee's requirement to adopt an annual budget for its operation.

> (1) Annual budget required.

Paragraph (1) requires the tax collection committee to adopt an annual budget for the performance of its duties under Act 32.

> (1) Each tax collection committee shall adopt an annual budget providing for compensation of the tax officer and other expenses of operating the tax collection district.

Paragraph (2) requires that the expenses of the tax collection district shall be shared by the political subdivisions based on the proportion of their latest annual total revenues against the total revenues within the tax collection district. Note that unlike the calculation to determine the weighted vote, the calculation of determining the share of expenses does not take population into consideration.

> (2) The expenses of operating the tax collection district shall be shared among and paid by all political subdivisions within the tax collection district that are represented by voting delegates on the tax collection committee and shall be weighted in direct proportion to income tax revenues collected in each participating political subdivision based on the political subdivision's most recent annual audit report required under this section.

Paragraph (m) creates a special exception for counties that were already served by a single tax bureau, governed by a single governing body and considered to be consolidated prior to July, 7, 2008. Subsection (m) only applies to Lancaster County.

> (m) Committee establishment in counties with existing consolidated collection arrangements.--In any county in which, on the effective date of this section, all political subdivisions levying an income tax, including a county school district located partially outside of but contiguous to the county, are served by one existing tax bureau and that tax bureau is governed by a single governing entity created solely by the action of the school districts located wholly within and one or more partially outside of but contiguous to that county, such existing governing entity shall constitute the tax collection committee for that county and school district provided a majority of the governing bodies of

the political subdivisions served by such tax bureau and within the tax collection district as defined in section 504(c) adopt uniform resolutions on or before July 1, 2009, designating said governing entity as the county tax collection committee for purposes of this act. In the event such a majority is not achieved, the establishment of a tax collection committee for that county and such school district shall proceed as otherwise provided for in this section. The following apply:

(1) A tax collection committee established pursuant to this subsection shall not be subject to any of the following:

(i) Subsection (b).

(ii) Subsection (b.1).

(iii) Subsection (b.2).

(iv) subsection (c).

(v) Subsection (d).

(vi) Subsection (e).

(vii) Subsection (f), except that the substance of bylaws utilized by such a tax collection committee shall address the subjects enumerated therein.

(viii) Subsection (l)(2).

(2) All of the following requirements shall be deemed to have been met without the necessity of further action by a tax collection committee established pursuant to this subsection:

(i) The initial adoption of bylaws otherwise required of a tax collection committee under subsection (a.1)(6).

(ii) The initial adoption of policies and procedures otherwise required of a tax collection committee under subsection (a.1)(7).

(3) In addition to the withdrawal options for political subdivisions under section 510(h), each political subdivision governed by a tax collection committee established pursuant to this subsection may, within the 90-day period ending November 15, 2013, and November 15 every fourth year thereafter, adopt and file with the department and the tax collection committee a resolution evidencing its desire to withdraw from governance by such tax collection committee as of January 1 of the second succeeding calendar year. The following apply:

(i) If a majority of the governing bodies of such political subdivisions adopt resolutions evidencing a desire to withdraw, a new tax collection committee shall be established in accordance with subparagraph (iii).

(ii) If a majority of the governing bodies of such political subdivisions fail to adopt

resolutions evidencing a desire to withdraw from governance by the tax collection committee established pursuant to this subsection, such governance shall continue as before for all political subdivisions.

(iii) The department shall promulgate appropriate regulations governing the establishment of a new county tax collection committee necessitated by the action of political subdivisions under this paragraph in withdrawing from a tax collection committee established pursuant to this subsection. Among other things, such regulations shall provide for voting rights, quorum Requirements, meeting requirements, meeting agendas, bylaw requirements and other items as provided for in this section and other parts of this act dealing with the initial establishment of tax collection committees, to the extent warranted, and shall establish the time frame and schedule within which any and all actions necessary to establish such a new tax collection committee are to be effectuated to ensure a timely and efficient transfer of tax collection and governance responsibilities.

Section 506 – Tax Officer

Section 506 establishes the standards of the tax collection officer and further provides that a tax collection district may only be served by one tax officer.

Subsection (a) sets the limit of one tax officer for each tax collection district or each joint tax collection district and allows a tax officer to serve more than one tax collection district.

> (a) Collection and administration.--Notwithstanding any other provision of law to the contrary, income taxes shall be collected and administered by one tax officer in each tax collection district appointed under section 507(a). Two or more tax collection districts may appoint the same tax officer. If two or more tax collection districts form a joint tax collection committee, the joint tax collection committee shall appoint a single tax officer.

Subsection (b) sets the minimum standards the tax officer must meet in order to be appointed by a tax collection committee.

> (b) Standards. A tax collection committee may not appoint a tax officer that:
>
> (1) has been convicted of a felony involving fraud, extortion or dishonesty in any jurisdiction;
>
> (2) has engaged in conduct which significantly adversely reflects on the applicant's credibility, honesty or integrity;
>
> (3) is unable to obtain the bond required by section 509(d);
>
> (4) has not satisfied the mandatory education requirements under section 508(e); or
>
> (5) does not meet the qualifications and requirements established by the department under section 508(f).

Section 507 – Appointment of Tax Officer

Section 507 establishes the procedures a tax collection committee shall use to appoint a tax officer. It also sets forth the process for court selection of a tax officer. It allows the tax collection committee to determine the tax officer's compensation and when to enter into written agreements for tax collection services. The tax collection committee must appoint the tax officer by resolution.

Subsection (a) sets the latest date by which the tax collection committee must appoint a tax officer.

> (a) Appointment.--By September 15, 2010, each tax collection committee shall appoint a tax officer by resolution and shall notify the department of the appointment, including the tax officer's name, address and telephone number and any other information required by the department within ten days of the appointment. The name, telephone number and address of the tax officer appointed shall be added to the official register and shall be effective for the assessment, collection and administration of income taxes levied, imposed and collected in fiscal years beginning on and after January 1, 2012. If the position of tax officer becomes vacant, the tax collection committee shall appoint a new tax officer by resolution.

This subsection also establishes the tax collection committee's requirement to provide the tax officer's contact information to the Department (within 10 days of appointment) and the Department's requirement to maintain the information on its internet website.

Subsection (b) outlines the procedure for the courts to appoint a tax officer if the tax collection committee cannot agree upon an appointment.

> (b) Court selection.
>
> > (1) If a tax collection committee has not appointed a tax officer under subsection (a) or if a tax officer ceases to hold office and a successor has not been appointed within 30 days of the vacancy, the tax collection committee shall immediately notify the department and shall submit the names of at least two nominees for the position of tax officer to the court of common pleas in the county in which the tax collection district is located. The court shall select a tax officer from among the nominees submitted by the tax collection committee.
> >
> > (2) If the tax collection committee fails to submit nominees in accordance with this subsection, any political subdivision within the tax collection district may, after notifying the department, petition the court to select a tax officer. The court may provide for other persons to submit nominations for the position of tax officer. The court may select a tax officer from among the nominees.
> >
> > (3) In the event that a tax officer is to be selected by the court under this subsection, the department shall inform the court of the time frame by which an appointment of a tax officer is needed and of upcoming deadlines which the tax officer must meet in order to timely fulfill the duties of appointment.

(4) Upon the selection of a tax officer by the court, the tax collection committee shall appoint the person selected.

Although Section (b)(4) does not say so, the department suggests that the tax collection committee appoint the court selected tax officer by resolution and enter into a written tax collection agreement with the tax officer.

Subsection (c) provides for the tax officer to receive reasonable compensation for services and expenses. The compensation should be indicated in the tax collection agreement.

(c) Compensation.--The tax officer shall receive reasonable compensation for services and expenses as determined by the tax collection committee. At the discretion of the tax collection committee, the tax officer may be permitted to withhold the amount of the tax officer's compensation from income taxes collected, if the monthly reports required by section 509(b) submitted by the tax officer include an accounting for all compensation withheld.

Subsection (d) requires the tax collection committee to enter into a written agreement with the tax officer, except where the tax collection committee is creating a tax bureau.

(d) Written agreement.--Except when a tax collection committee establishes a tax bureau under section 505(a.2)(2), all appointments of a tax officer shall be made pursuant to a written agreement between the tax officer and the tax collection committee. The agreement shall be approved by the committee by resolution.

Subsection (e) establishes that there is no conflict of interest for a tax collection committee delegate or representative to participate in the discussions and voting for an existing tax collection entity, when that delegate or representative is also a member of the governing body or political subdivision participating in the existing tax collection entity.

(e) Eligibility of existing tax collection entities.--Notwithstanding any provision of law to the contrary, it shall not be regarded as a conflict of interest for a delegate or alternate to participate in discussions and voting of the tax collection committee relating to the appointment of a tax officer, solely on the basis that the delegate or alternate also is an employee or member of the governing body of an existing tax bureau or other public tax collection entity which is under consideration for appointment as the tax officer or which has submitted a proposal for appointment as tax officer, or is an employee or member of the governing body of a political subdivision participating in such an existing tax bureau or other public tax collection entity.

Section 508 – Powers and Duties of the Department

Section 508 establishes specific powers and duties of the Department, in addition to other powers and duties established in Act 32.

Subsection (a) empowers the department, in consultation with the Department of Revenue, to promulgate forms, reports, notices, returns, schedules and regulations necessary for administration of the income tax under the Act 32.

> (a) Additional powers.--In addition to the powers and duties provided for in this act, the department, in consultation with the Department of Revenue, shall prescribe standardized forms, reports, notices, returns and schedules and shall promulgate regulations as necessary to carry out the provisions of this act.

Subsection (b) allows the Department to promulgate temporary regulations for a period of up to two years. *The Department will place the temporary regulations on its website.*

> (b) Temporary regulations.--The department may promulgate temporary regulations, for a period of two years, as necessary, which shall be published in the Pennsylvania Bulletin. The temporary regulations promulgated by the department shall expire no later than three years following the effective date of this part or upon promulgation of regulations as generally provided by law. The temporary regulations shall not be subject to any of the following:
>
> > (1) Sections 201, 202, 203 and 204 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.
> >
> > (2) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

Subsection (c) provides that the current regulations in effect for each tax officer shall be the interim regulations until the Department promulgates its temporary or permanent regulations.

> (c) Interim regulations.--Until promulgation of the temporary or permanent regulations under this section, rules and regulations in use by tax officers under the former Division V(c) of section 13 shall remain valid.

Subsection (d) assigns to the Department the responsibility to perform a study of local tax collection methods and procedures with emphasis on existing cooperative tax collection bureaus to determine best practices. The report from this study was available to tax collection committees on or before December 31, 2009.

> (d) Departmental study.
>
> > (1) Immediately upon the earliest effective date of this section, the department shall commence a study of existing local earned income tax collection methods and practices

within this Commonwealth, with particular attention to the practices and methods of previously existing cooperative collection bureaus established by one or more political subdivisions, for the purpose of identifying, collecting and comparing those practices, methods, structures, procedures, regulations, software, information systems, governance alternatives, risk management strategies and other characteristics that appear to promote the greatest likelihood of effectiveness, cost efficiency, loss prevention and willing intergovernmental cooperation.

(2) No later than December 31, 2009, the department shall furnish each tax collection committee a report of the findings and recommendations resulting from the study, including sample bylaws, procedures, regulations, forms, agreements, requests for proposals for the selection of tax officers, requests for proposals for the procurement of software systems and other critical systems and other appropriate samples.

(3) As a part of the study, the department shall also investigate and report upon the feasibility of contracting on a Statewide basis for the development and/or procurement of appropriate software systems that may be adopted and purchased by county tax collection districts or their appointed tax officers through the Commonwealth's cooperative purchasing programs.

(4) Nothing in this subsection shall be construed to authorize the department to compel the disclosure of information that is confidential, proprietary or a trade secret.

Subsection (e) establishes the mandatory education requirement as a prerequisite for tax officer appointment and continuing appointment. The regulations, guidelines and procedures for the mandatory tax officer education shall be promulgated by the Department.

(e) Mandatory education for tax officers.--Persons and entities seeking or maintaining appointment as tax officers shall complete mandatory education as a prerequisite for their appointment and, for continuing appointment, not less than annually. The department shall provide the mandatory education and shall adopt regulations, guidelines and procedures for the mandatory education sufficient to meet the requirements of this act.

Subsection (f) assigns the responsibility to establish tax officer qualifications for pre-appointment and continuing appointment. It also allows the tax collection committees to establish additional qualifications and requirements the tax officer must meet for appointment and continuing appointment.

(f) Establishment of qualifications and requirements.

(1) The department shall, by regulation, establish the qualifications and requirements a tax officer must meet prior to being appointed and must meet for continuing appointment.

(2) A tax collection committee may establish additional qualifications and requirements a tax officer must meet prior to being appointed and must meet for continuing appointment.

Section 509 – Power and Duties of Tax Officers

Subsection (a) outlines specific duties and powers that Act 32 assigns to the tax officer. The duties and powers outlined in this section are in addition to any other duties and powers that may be assigned to the tax officer by other sections of Act 32. *A tax officer must adhere to the requirements in Subsection (a).*

> (a) Tax collection.--In addition to any other power and duty conferred upon a tax officer in this act, it shall be the duty of the tax officer:

Paragraph (1) assigns the tax officer the general duty to govern over the administration of income taxes levied within the tax collection district for which the tax officer has been appointed.

> (1) To collect, reconcile, administer and enforce income taxes imposed on residents and nonresidents of each political subdivision included in the tax collection district.

Paragraph (2) assigns the tax officer the specific duty to oversee and enforce the withholding and remittance requirements of employers and the distribution of such taxes, as mandated by Sections 512 and 513 of Act 32, within the tax collection district for which the tax officer has been appointed.

> (2) To receive and distribute income taxes and to enforce withholding by employers located in the tax collection district.

Paragraph (3) assigns the tax officer the specific duty to accept the distribution of resident taxes from other tax collection districts as mandated by Section 513 of Act 32.

> (3) To receive income taxes distributed by tax officers for other tax collection districts.

Paragraph (4) assigns the tax officer the specific duty to distribute resident and non-resident income taxes collected or received within the tax collection district for which the tax officer has been appointed.

> (4) To distribute income taxes to political subdivisions as required by section 513.

Paragraph (5) assigns the tax officer the specific duty to act in accordance with all regulations, policies and procedures adopted by the Department under Act 32, in addition to all of the resolutions, procedures and policies adopted by the tax collection committee of the tax collection district for which the tax officer has been appointed.

> (5) To comply with all regulations adopted by the department under this act and all resolutions, policies and procedures adopted by the tax collection committee.

Paragraph (6) assigns the tax officer the specific duty to invest all income taxes in authorized investments with the standard of care that would be observed by a prudent person dealing with the property of another. The tax collection committee must approve all investments.

> (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 standard of care that would be observed by a prudent person dealing with property of another. For the purposes of this paragraph, the term "authorized investment" shall include all of the following:
>
> > (i) Short-term obligations of the United States Government or its agencies or instrumentalities which are backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.
> >
> > (ii) Deposits in savings accounts, time deposits, share accounts or certificates of deposit of institutions, insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, or their successor agencies, to the extent that the accounts are insured and, for the amount above the insured maximum, that collateral, free from other liens, for the amount is pledged by the depository institution.
> >
> > (iii) Deposits in investment pools established by the State Treasurer or established by local governments pursuant to 53Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) and related statutes, provided that the investment pools are rated in the highest category by a nationally recognized statistical rating organization.
> >
> > (iv) Repurchase agreements which are fully collateralized by obligations of the United States Government or its agencies or instrumentalities, which are free from other liens and backed by the full faith and credit of the United States or are rated in the highest category by a nationally recognized statistical rating organization.

Paragraph (7) requires the tax officer to distribute the income generated from investments as directed by the tax collection committee. *The investment income should be addressed in the written tax collection agreement.*

> (7) To distribute income generated from investments authorized under paragraph (6) as determined by the tax collection committee.

Subsection (b) assigns the tax officer the specific duty to make a written monthly report, on forms prescribed by the Department, and file that report, within 20 days after the end of each month, with specific individuals within the tax collection district and its political subdivisions.

> (b) Monthly reports.--The tax officer shall, within 20 days after the end of each month, provide a written report, on forms prescribed by the department, to the secretary of the tax collection committee and to the secretary of each political subdivision in the tax collection district for which taxes were collected during the previous month. The report shall include a breakdown of all income taxes, income generated from investments under subsection (a)(6), penalties, costs and other money received, collected, expended and distributed for each political subdivision served by the tax officer and of all money distributed to tax officers for other tax collection districts.

Subsection (c) requires the tax officer to refund income taxes paid in excess of income taxes rightfully due, following the requirements of the Local Taxpayer's Bill Of Rights.

> (c) Overpayments.--A tax officer shall refund, under 53Pa.C.S. §§ 8425 (relating to refunds of overpayments) and 8426 (relating to interest on overpayment), on petition of and proof by the taxpayer, income taxes paid in excess of income taxes rightfully due.

The Local Taxpayer's Bill of Rights requires the tax officer to refund, upon written request from the taxpayer, any local income tax overpaid. The filing of an annual final return shall be deemed to be a written request from a taxpayer and the annual employer's reconciliation shall be deemed to be a written request for a refund.

The request for the refund must be made within three years of the due date for the tax return or within one year of the actual payment of the tax, whichever is later. For amounts paid by taxpayers and employers as a result of a notice of underpayment from the tax officer, the request must be made within one year of the actual payment of the tax.

All overpayments of local income tax shall bear interest from the date of overpayment until the date of resolution, except if the refund is paid within 75 days after the due date for the tax return or 75 days after the report or return is actually filed, whichever is later. Interest is to be paid at the same rate the Commonwealth is required to pay pursuant to section 806.1 of the Fiscal Code. Overpayments of interest and penalty shall not bear interest.

The request for a refund shall not be considered a petition under the Local Taxpayer's Bill of Rights nor shall the request prevent the taxpayer from filing a petition at a later date.

Subsection (d) requires the tax officer to acknowledge and provide a bond to the tax collection committee. The bonding requirements are established under this subsection.

> (d) Bonds.--Prior to initiating any official duties, each tax officer shall give and acknowledge a bond to the appointing tax collection committee as follows:

Paragraph (1) allows the tax collection committee to fix the amount of the tax officer's bond. The bond should be addressed in the written tax collection agreement.

> (1) The tax collection committee shall fix the amount of the bond in an amount equal to the maximum amount of taxes that may be in the possession of the tax officer at any given time or an amount sufficient, in combination with fiscal controls, insurance and other risk management and loss prevention measures used by the tax collection district, to secure the financial responsibility of the tax officer in accordance with guidelines adopted by the department. The amount of the bond shall be revised annually by the tax collection committee based upon the annual examination required under section 505(h).

Paragraph (2) requires the bond to be joint and several, with one or more surety companies. It also sets the requirement for the Surety companies to be licensed by the Pennsylvania Insurance Department.

> (2) Each bond shall be joint and several, with one or more corporate Sureties, which shall be surety companies authorized to do business in this Commonwealth and licensed by the Insurance Department.

Paragraph (3) outlines the duties and responsibilities that the tax office, tax officer's employees and appointees upon which the bond is conditioned.

> (3) Each bond shall be conditioned upon the completion of all of the following by the tax officer's employees and appointees:
>
> > (i) The faithful execution of all duties required of the tax Officer.
> >
> > (ii) The just and faithful accounting or payment over of all moneys and balances paid to, received or held by the tax officer by virtue of the office in accordance with law.
> >
> > (iii) The delivery of all tax records or other official items held in right as the tax officer to the tax officer's successor in Office.

Paragraph (4) requires that the bond is taken in the name of the tax collection district and outlines the entities that may use the bond.

> (4) Each bond shall be taken in the name of the tax collection district and shall be for the use of the tax collection district appointing the tax officer, and for the use of any other political subdivision or tax collection district for which income taxes shall be collected or distributed in case of a breach of any conditions of the bond by the acts or neglect of the principal on the bond.

Paragraph (5) allows the tax collection committee or any political subdivision to sue upon the bond for the distribution of earned income taxes.

> (5) A tax collection committee or any political subdivision may sue upon the bond for the payment or distribution of income taxes.

Paragraph (6) requires that the name of the surety company be on the bond.

> (6) Each bond shall contain the name of the surety company bound on the bond.

Paragraph (7) allows the tax collection committee to require, allow the substitution or the addition of a surety company in order to make the bond sufficient.

> (7) The tax collection committee may, upon cause shown and due notice to the tax officer and the tax officer's sureties, require or allow the substitution or the addition of a surety company acceptable to the tax collection committee for the purpose of making the bond sufficient in amount, without releasing the sureties first approved from any accrued liability or previous action on the bond.

The tax collection committee must make due notice and show cause to the tax officer and the tax officer's sureties in order to require, allow the substitution or the addition of another surety company for the purpose of making the bond sufficient in amount. The tax collection committee is not required to release the sureties first approved from any accrued liability or previous action on the bond.

Paragraph (8) requires the tax collection committee to designate the custodian of the tax officer's bond.

> (8) The tax collection committee shall designate the custodian of the bond.

The department recommends that the tax collection committee designates a custodian who will be able to supply copies of the bond when requested.

Paragraph (9) requires the tax officer to file copies of the bond or bonds currently in effect with each political subdivision within the tax collection district which appointed the tax officer.

> (9) The tax officer shall file copies of all bonds in effect with each political subdivision in the tax collection district.

Photocopies of the bond or bonds currently in effect will be acceptable for paragraph (9).

Paragraph (10) requires that a copy of all bonds must be made available upon the request by the department, another tax collection district or political subdivision seeking payment or distribution of the taxes enabled by Act 32 at no cost.

> (10) A copy of all bonds in effect shall be made available upon request and at no cost to the department or to a tax collection district or political subdivision seeking payment or distribution of income taxes authorized by this act.

The department recommends the tax collection committee set procedures for requesting copies of the bond or bonds of the tax officer. *Photocopies of the bond or bonds currently in effect will be acceptable for paragraph (10).*

Subsection (e) defines the records required to be retained by the tax officer, establishes the political subdivision and the tax collection committee as the owners of the records and sets forth the record retention requirements for the tax collection districts and tax officers.

> (e) Records.--It shall be the duty of the tax officer to keep a record showing the amount of income taxes received from each taxpayer or other tax officer, the date of receipt, the amount and date of all other moneys received or distributed and any other information required by the department. All tax records shall be the property of the political subdivision and the tax collection district in which the taxes were collected. The tax collection district and tax officer shall retain all tax records as directed by the tax collection committee and, when applicable, in accordance with retention and disposition schedules established by the Local Government Records Committee of the Pennsylvania Historical and Museum Commission under 53Pa.C.S. Ch. 13 Subch. F (relating to records). Tax records under this subsection may be retained electronically as permitted by law.

Subsection (f) establishes the tax officer's powers and responsibilities in regard to the audit of employers and taxpayers.

> (f) Employer and taxpayer audits.

Paragraph (1) establishes the tax officer's power to compel an employer, an individual or any person the tax officer reasonably believes to be an employer or taxpayer to produce records to verify the accuracy of a declaration or tax return. In the event no declaration or tax return was filed, the tax officer, through the audit process, may compel the production of records to order to create and file a tax return.

> (1) In order to verify the accuracy of any income tax declaration or return or, if no declaration or return was filed, to ascertain the income tax due, the tax officer and the tax officer's designated employees may examine or audit the records pertaining to income taxes due of any of the following:
>
> (i) An employer.
>
> (ii) A taxpayer.

(iii) A person whom the tax officer reasonably believes to be an employer or taxpayer.

Paragraph (2) requires the tax officer to follow the tax examination or audit requirements set forth by the Local Taxpayer's Bill of Rights

(2) The examination or audit conducted by the tax officer and the tax officer's designated employees shall conform to the requirements set forth in 53 Pa.C.S. Ch. 84, Subch. C (relating to local taxpayers bill of rights).

The Local Taxpayer's Bill of Rights requires the tax officer to allow the taxpayer or employer at least 30 days to respond to requests for information. The tax officer must establish the procedure by which a taxpayer or employer may request a reasonable extension of time to produce the requested records or tax returns.

The initial request for prior year tax returns is limited to tax returns required to be filed within three years prior to the mailing date of the notice. This initial limitation shall not exclude the tax officer from filing an additional request for prior year tax returns if the tax officer finds the taxpayer or employer has not filed a required return, has underreported the income or failed to pay the tax for one or more of the tax periods covered under the initial request.

If the tax officer has sufficient information to indicate the taxpayer or employer has failed to file a required return or pay a required tax prior to three years before the mailing of the notice, the tax officer may request prior year tax returns for those years in the initial notice.

Paragraph (3) compels every employer, taxpayer or other person whom the tax officer reasonably believes to be an employer or taxpayer to cooperate with the tax officer.

(3) Every employer and taxpayer or other person whom the tax officer reasonably believes to be an employer or taxpayer shall provide to the tax officer and the tax officer's designated employees the means, facilities and opportunity for the examination and investigation authorized under paragraph (1).

An individual's or employer's failure to allow the tax officer to examine the books, records, papers and tax returns for the tax years requested is considered a violation punishable under this section, subsection (j)(1).

Paragraph (4) defines records of the employer, taxpayer or any person who the tax officer reasonably believes to be an employer or taxpayer which the tax officer may examine or audit.

(4) For purposes of this subsection, the term "records" shall include any books, papers, and relevant Federal or State tax returns and accompanying schedules, or supporting documentation for any income taxable under this act.

The tax officer may request copies of the taxpayer's or employer's Federal and/or State tax returns and supporting documents in order to verify the income reported or if no return was filed, in order to create a tax return and determine local income tax liability.

Subsection (g) establishes the exchange of tax information between the Pennsylvania Department of Revenue and the tax officer.

> (g) Exchange of information.

Paragraph (1) mandates that the tax officer shall ensure that the tax collection district enters into an agreement with the Department of Revenue for the exchange of information as necessary for the collection of income taxes.

> (1) The tax officer of each tax collection district shall ensure that the tax collection district enters into an agreement with the Department of Revenue for the exchange of information as necessary for the collection of income taxes.

Paragraph (2) allows the Department of Revenue to enter into agreements with each tax collection district that allow the sharing of tax collection, filing and other taxpayer or locality information with the tax officer. The Department of Revenue is required to establish procedures to make this information available no later than one year after the filing deadline for the tax year in question.

> (2) The Department of Revenue may enter into agreements with each tax collection district and shall establish procedures under which tax collection, filing and other taxpayer and locality information in its custody will be made available to tax officers for purposes of collection, reconciliation and enforcement no later than one year after the deadline for filing returns for the tax year in question.

Subsection (h) establishes the tax officer's power to initiate actions for the collection of unpaid income taxes without affecting the ability of political subdivision to initiate an action in its own name for the collection of unpaid income taxes.

> (h) Actions for collection of income taxes.--The tax officer may file an action in the name of a political subdivision within the tax collection district for the recovery of income taxes due to the political subdivision and unpaid. Nothing in this subsection shall affect the authority of a political subdivision to file an action in its own name for collection of income taxes under this chapter. This subsection shall not be construed to limit a tax officer, a tax collection district or political subdivision from recovering delinquent income taxes by any other means provided by this act. Actions for collection of income taxes shall be subject to the following:

Paragraph (1) states that an action to recover local income taxes must be commenced within three years of the later of the date the taxes are due, the date the declaration and return have been filed or the date that a redetermination of compensation or net profits has been made by the Department of Revenue.

> (1) Except as set forth in paragraph (2) or (4), an action brought to recover income taxes must be commenced within three years of the later of the date:
>
> (i) the income taxes are due;
>
> (ii) the declaration or return has been filed; or
>
> (iii) of a redetermination of compensation or net profits by the Department of Revenue.

Paragraph (2) establishes that when there is a substantial understatement of the tax liability of 25% or more, with no fraud, the tax officer must initiate the action to collect the tax due within six years.

> (2) If there is substantial understatement of income tax liability of 25% or more and there is no fraud, an action must be commenced within six years.

Paragraph (3) establishes the timeframe for a tax officer to initiate an action to recover an erroneously paid refund. Such action must be initiated with two years of making the refund unless it appears that any part of the refund was induced by fraud or misrepresentation of the fact. In the latter case the tax officer must initiate the action to recover the erroneous refund within five years.

> (3) Except as set forth in paragraph (4)(ii), (iii) or (iv), an action by a tax officer for recovery of an erroneous refund must be commenced as follows:
>
> (i) Except as set forth in subparagraph (ii), within two years after making the refund.
>
> (ii) If it appears that any part of the refund was induced by fraud or misrepresentation of material fact, within five years after making the refund.

Paragraph (4) and its subsections set the conditions where there is no statute of limitations for the initiation of legal action by the tax officer to collect delinquent tax.

> (4) There is no limitation of action if any of the following apply:
>
> (i) A taxpayer fails to file a declaration or return required under this act.
>
> (ii) An examination of a declaration or return or of other evidence in the possession of the tax officer relating to the declaration or

return reveals a fraudulent evasion of income taxes.

(iii) An employer has deducted income taxes under section 512 and has failed to pay the amount deducted to the tax officer.

(iv) An employer has intentionally failed to make deductions required by this act.

Subsection (i) establishes the interest and penalty to be calculated on delinquent tax, sets the maximum assessment of penalty and interest and makes the taxpayer liable for costs of collection.

(i) Interest and penalties.

Paragraph (1) sets the rate of interest to be assessed on the delinquent tax as the same a taxpayer would pay to the Commonwealth under section 806 of the Fiscal Code. An additional penalty of 1% of the amount of delinquent tax shall be assessed for each month or fraction of month the income tax remains unpaid.

(1) Except as provided in paragraph (2), if the income tax is not paid when due, interest at the rate the taxpayer is required to pay to the Commonwealth under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, on the amount of the income tax, and an additional penalty of 1% of the amount of the unpaid income tax for each month or fraction of a month during which the income tax remains unpaid shall be added and collected but the amount shall not exceed 15% in the aggregate. Where an action is brought for the recovery of the income tax, the taxpayer liable for the income tax shall, in addition, be liable for the costs of collection, interest and penalties.

When a tax officer must initiate a legal action to collect the tax due, the taxpayer or employer shall be held liable for the costs of collection as well as the interest and penalty.

Paragraph (2) allows the department to establish conditions where the tax officer may abate penalties or interest if the taxpayer or employer voluntarily files the delinquent returns and pays the delinquent tax in full. The tax officer must have the approval of the tax collection committee in order to abate penalties or interest.

(2) The department may establish conditions under which a tax officer, with the concurrence of the tax collection committee, may abate interest or penalties that would otherwise be imposed for the nonreporting or underreporting of income tax liabilities or for the nonpayment of income taxes previously imposed and due if the taxpayer voluntarily files delinquent returns and pays the income taxes in full.

The department recommends that the tax collection committees establish a standard operating procedure that would allow the abatement of penalties, but not interest or costs of collection, on delinquent tax when the taxpayer or employer responds to the initial notice of underpayment, within 30 days of its mailing date, by paying the full amount of delinquent tax, interest and costs of collection to the tax officer.

The department further recommends that the tax collection committee establish a standard operating procedure that would allow the abatement of penalties, interests and costs of collection on any taxpayer or employer who voluntarily files delinquent returns and pays the full amount of delinquent tax to the tax officer.

The department allows the tax collection committee to establish, by resolution, an "amnesty period" where penalties, interest and costs of collection that would otherwise be imposed for the nonreporting or underreporting of earned income tax liabilities or for the nonpayment of earned income taxes previously imposed and due shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pays the taxes in full during the period. The amnesty period shall be established for a period of six months. A tax collection committee shall not establish an amnesty period more than once every five years.

Paragraph (3) establishes that the tax officer shall continue actions initiated prior to the amnesty period and may initiate additional legal actions against delinquent taxpayers and employers.

> (3) The provisions of paragraph (2) shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under of this chapter, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this act. No proceedings shall, however, be commenced on the basis of delinquent returns filed pursuant to subsection (h) if the returns are determined to be substantially true and correct and the income taxes are paid in full within the prescribed time.

The tax officer shall not initiate any action or prosecution based on delinquent returns filed during the amnesty period as long as such returns are determined to be substantially true and correct and any delinquent income tax is paid in full during the amnesty period.

Subsection (j) establishes fines and penalties for violations of Act 32.

> (j) Fines and penalties for violations.

Paragraph (1) establishes a fine up to $2,500 for violations of Act 32.

> (1) Any taxpayer who fails, neglects or refuses to make any declaration or return required by this chapter, any employer who fails, neglects or refuses to register, keep or supply records or returns required by section 512 or to pay the income tax deducted from employees, or fails, neglects or refuses to deduct or withhold the income tax from employees, any taxpayer or employer who refuses to

> permit the tax officer appointed by a tax collection committee or an employee or agent of the tax officer to examine books, records and papers, and any taxpayer or employer who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of income in order to avoid the payment of income taxes shall, upon conviction thereof, be sentenced to pay a fine of not more than $2,500 for each offense and reasonable costs, and in default of payment of said fine and costs, to imprisonment for not more than six months.

Taxpayers who fail, neglect or refuse to make any declaration or return required by Act 32; or refuse to allow the tax officer to examine their books, records and papers; or make a false or fraudulent return; or attempts to do anything to avoid the full disclosure of income to avoid payment of the taxes; and

Employers who fail, neglect or refuse to register with the tax officer, keep or supply records or returns required under section 512; or to remit the tax withheld from employees; or refuse to allow the tax officer to examine their books, records and papers; or make a false or fraudulent return; or attempts to do anything to avoid the full disclosure of income to avoid payment of the taxes;

Shall upon conviction, be sentenced to pay a fine of not more than $2,500 for each offense, along with costs of collection. In default of payment of the fine and costs, the taxpayer or employer may be imprisoned for not more than six months.

Paragraph (2) establishes a maximum fine of $25,000 or imprisonment not exceeding two years, or both, on employers who willfully violate the requirements to collect, truthfully account for and distribute the taxes collected to the tax officer.

> (2) Any employer required under this chapter to collect, account for and distribute income taxes who willfully fails to collect or truthfully account for and distribute income taxes, commits a misdemeanor and Shall, upon conviction, be sentenced to pay a fine not exceeding $25,000 or to imprisonment not exceeding two years, or both.

The department defines "willfully fails" for the purposes of this paragraph (2) as the violation continuing for two consecutive tax reporting periods after the date of being notified, via Certified Mail from the tax officer to correct the violation.

Paragraph (3) defines that the penalties imposed by this subsection are in addition to other penalties, interests and costs of collection imposed under Act 32.

> (3) The penalties imposed under this subsection shall be in addition to any other costs and penalties imposed by this act.

Paragraph (4) establishes the taxpayer's and employer's responsibility to obtain and file tax forms and returns required by this act.

(4) The failure of any person to obtain forms required for making the declaration or returns required by this act shall not excuse the person from making the declaration or return.

Subsection (k) allows the tax collection committee to designate the tax officer as the collector of other taxes levied under Act 32, the Taxpayer Relief Act or other statutory law. *For taxes other than earned income tax, individual taxing authorities are not required to use the collector selected by the tax collection committee and are free to choose another collector.*

(k) Collection.--In addition to the powers and duties enumerated in this section, when designated by the tax collection committee a tax officer may collect other taxes levied pursuant to this act, the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, or other statutory law.

Section 510 – Fines and Penalties against Tax Officers

Section 510 establishes fines and penalties that may be levied against a tax officer who fails to perform specific duties outlined in the following paragraphs as well as other duties required under Act 32. Such penalties can include the rescinding of a tax officer's appointment to collect taxes for a tax collection district. This section also provides for political subdivisions to be permitted to withdraw from a tax collection district for good cause.

Subsection (a) defines the violations and the resulting penalties that a tax officer may face for failing to fulfill the duties and responsibilities to distribute non-resident taxes.

> (a) Distribution of nonresident taxes.--The Attorney General, a tax collection district or a political subdivision that brings an action under subsection (e) with respect to distribution of income taxes under section 513 may seek equitable relief from a tax officer, including an accounting of all undistributed income taxes and monetary damages, in the form of recovery of the income taxes not previously distributed plus 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 for which income taxes were not distributed in accordance with section 513, plus reasonable costs and attorney fees. If a tax officer fails to distribute income taxes to the appropriate political subdivision as required under section 513 for four consecutive tax quarters, the court may impose a civil penalty not to exceed $5,000. In addition, the court may impose a fine not to exceed $100 per day for every day past the deadline that a tax officer does not respond to a claim under section 513(b).

Actions against a tax officer for failure to properly distribute non-resident taxes, as required by Section 513, may be initiated in the court of common pleas by the Attorney General, a tax collection district or a political subdivision. The initiating party may request equitable relief in the form of an accounting of all undistributed income taxes and recovery of any taxes found to be undistributed to the political subdivision or tax collection district.

The courts may impose a civil penalty on the tax officer of $2,500 per quarter the income taxes were not distributed as required under Act 32. If the income tax is not distributed for four consecutive quarters, the fine cannot exceed $5,000. A tax officer can be fine up to $100 per day for every day past the deadline the tax officer does not respond to a claim.

Subsection (b) defines the action that can be taken against a tax officer who fails to submit the monthly report, promulgated by the Department, to any tax collection district or political subdivision entitled to the report. This paragraph also sets forth the fines that can be levied against a tax officer for such violations and for findings of non-compliance in the annual audit of the tax officer.

> (b) Monthly reports and audits of income taxes.--If a tax officer fails to submit the report required under section 509(b), a tax collection district or a political subdivision entitled to receive the report may bring an action in the court of common pleas of the county in which the tax collection district is primarily located. The court may impose a civil penalty of $20 a day for each day that the report is overdue, not

to exceed $500. If an examination submitted under section 505(h) includes any findings of noncompliance, the court may impose an additional civil penalty of not less than $500 but not more than $2,500.

Actions against a tax officer for failure to submit the monthly reports, as required by Section 509(b), may be initiated in the court of common pleas by a tax collection district or a political subdivision. The court may impose a civil penalty of $20 per day for each day the report is overdue. The total fine for failing to submit the monthly reports cannot exceed $500.

If the examination required under section 505(h) reports findings of noncompliance with Act 32, the court may impose a fine of not less than $500 but not more than $2,500.

Subsection (c) states that actions may be initiated to compel the tax officer to properly perform the duties defined under this chapter or required by the regulations promulgated by the Department. This paragraph also establishes a penalty against a tax officer who fails to provide the tax records to a successor tax officer.

(c) Failure of duty.--An action may be brought against the tax officer to compel the performance of duties required by this chapter or imposed by regulations adopted pursuant to this chapter, including the duty to deliver all tax records and other official items held in right as tax officer to the tax officer's successor. Upon a finding of failure to perform a duty, the court may impose a penalty not to exceed $5,000; and the tax officer may be held liable for the cost of reproducing tax records if they are lost or cannot be delivered.

Actions against a tax officer to compel the performance of the duties, as required by this chapter or imposed by the regulations promulgated by the department, may be initiated in the court of common pleas by the Attorney General, a tax collection district, a political subdivision or another tax officer. This includes the tax officer's failure to deliver all tax records and other official items to the tax officer's successor.

If the court finds that the tax officer failed to perform a required duty it may impose a penalty not to exceed $5,000. If the tax officer failed to deliver records to a successor tax officer, that tax officer may be held liable for the cost of reproducing tax records if they are lost or cannot be delivered.

The department understands that many tax officers batch file individual and employer paper returns and that the reopening of batches to pull paper documents would be a time consuming and expensive undertaking. In cases where the tax officer uses batch filing, the delivery of paper records will not be required if the predecessor tax officer can supply the successor tax officer electronic copies of returns and/or the data reported on the form.

Subsection (d) establishes a penalty against a tax officer for any other violation of Act 32 not specified in this section.

(d) Other violations.--A tax officer who violates any other provision of this act shall be subject to a civil penalty of up to $2,500 for each violation.

For any other violation of Act 32, not specified in this section, the courts may impose a civil penalty against the tax officer not to exceed $2,500 for each violation.

Subsection (e) further defines who may bring an action against a tax officer.

> (e) Actions against a tax officer.--An action against a tax officer for a violation of this chapter may be brought by a tax collection district or a political subdivision for which the tax officer collects income taxes, a political subdivision or tax collection committee owed income taxes by the tax officer or by a surety.

Subsection (f) establishes the conditions for rescinding the tax officer's appointment.

> (f) Rescinded appointment.

Paragraph (1) requires a tax officer to be temporarily removed from the collection of income taxes by the tax collection committee if a criminal action in the nature of a felony involving fraud, extortion or dishonesty is initiated against the tax officer.

> (1) A tax collection committee shall temporarily remove a tax officer if a criminal action is commenced against the tax officer for an offense which would constitute a violation of the standards of office under section 506(b). If the tax officer is convicted or pleads guilty or nolo contendere in the action, the tax collection committee shall rescind the appointment and remove the tax officer permanently.

If the tax officer is convicted of or pleads guilty or nolo contendere to a felony involving fraud, extortion or dishonesty, the tax collection committee shall rescind the appointment and remove the tax officer from any further collection of income tax.

Paragraph (2) allows a tax collection committee to remove or rescind the appointment of a tax officer who violates the confidentiality of records.

> (2) A tax collection committee may remove or rescind the appointment of a tax officer where the tax officer or an employee or agent of the tax officer violates the provisions under section 514(b).

Paragraph (3) allows the tax collection committee to remove or rescind the appointment of a tax officer for cause. The allowable causes should be enumerated in the written tax collection agreement.

> (3) A tax collection committee may remove or rescind the appointment of a tax officer for cause.

Paragraph (4) allows a tax collection committee to not retain any tax officer who has been penalized under subsection (a), (b), (c) or (d) more than three times or who fails to meet the requirements under this Act 32.

> (4) A tax collection committee may not retain a tax officer who has been penalized under subsection (a), (b), (c) or (d) more than three times or who fails to satisfy the requirements under section 506.

Subsection (g) establishes that the tax officer shall not be considered a debt collector under the Fair Credit Extension Uniformity Act.

> (g) Interpretation.--A tax officer shall not be considered a debt collector for purposes of the act of March 28, 2000 (P.L.23, No.7), known as the Fair Credit Extension Uniformity Act. Except as otherwise authorized in this act, a tax officer shall be subject to the restrictions and prohibitions imposed on creditors. Notwithstanding the provisions of the Fair Credit Extension Uniformity Act, this act shall supersede any restrictions and prohibitions on creditors otherwise applicable under the Fair Credit Extension Uniformity Act.

Except as authorized in Act 32, no tax officer shall be subject to the restrictions and prohibitions imposed on creditors.

Subsection (h) establishes conditions for withdrawal from a tax collection district.

> (h) Withdrawal from tax collection district.

Paragraph (1) provides for a political subdivision bringing an action under this section, to make a request for withdrawal from the tax collection district.

> (1) In an action brought by a political subdivision under this section after January 1, 2014, the court may, in addition to other available remedies, grant a request by the political subdivision to withdraw from the tax collection district for good cause, provided the court determines, after hearing, that all of the following conditions exist:
>
> > (i) The political subdivision has suffered loss in income tax revenues that is directly and primarily attributable to the willful and continued failure of the tax officer or tax collection committee to comply with the provisions of this act.
> >
> > (ii) The tax collection committee has failed to take reasonable measures to correct the deficiencies in the performance of the tax officer and otherwise assure compliance with the requirements of this act.

(iii) The political subdivision and the tax collection committee have engaged in good faith mediation before a special master appointed by the court, but nonetheless have failed to reach agreement about alternative corrective measures in lieu of withdrawal of the political subdivision from the tax collection district.

(iv) Other relief available 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 this act and that withdrawal of the political subdivision from the tax collection district is otherwise in the best interests of the political subdivision, taxpayers and employers.

If the court finds that all four (4) of the above conditions exist, it may grant the political subdivision's request to withdraw from the tax collection district.

Paragraph (2) provides that the political subdivision which has been granted a request to withdraw from a tax collection district, to adopt a resolution (to formally withdraw and to appoint a new tax officer) at least six months before the start of the tax year in which the political subdivision wishes to appoint a new collector.

(2) (i) In the event the court grants a request by a political subdivision under this section to withdraw from the tax collection district in which it is located, the governing body of the political subdivision may withdraw by adopting a resolution to that effect and appointing a tax officer to collect the income tax levied by that political subdivision, effective for the next calendar year beginning at least six months after the adoption of such resolution.

(ii) With respect to the income tax levied by that political subdivision, a tax officer appointed pursuant to this paragraph shall have the same powers and duties as a tax officer appointed by a tax collection district and all other requirements of this act pertaining to the functions and qualifications of tax collection districts and tax officers, and the related obligations of employers and taxpayers shall apply equally to the political subdivision, its governing body and a tax officer appointed by that political subdivision.

Section 511 – Tax Register

Subsection (a) establishes the Department's requirement to maintain the official tax register.

> (a) Requirement.--The department shall maintain a tax register and an official register. All of the following shall apply:

Paragraph (1) directs the Department to maintain and continuously update the tax registers on their website and mandates the political subdivisions to provide the Department with required information.

> (1) The department shall maintain a tax register on the department's Internet website. Information for the tax register shall be furnished by each county and each political subdivision to the department as prescribed by the department. The department shall continuously update the tax register.

The Official and Real Time Tax Registers will continue to be maintained by the Department and can be accessed on the website at http://munstatspa.dced.state.pa.us/Registers.aspx .

Paragraph (2) directs the Department to create and maintain an "Official Register".

> (2) As part of the tax register under paragraph (1), the department shall maintain an official register. The requirement to maintain an official register in accordance with this section shall supersede the requirements for an official register in any act.

Paragraph (3) sets forth the content required to be maintained in the official register by the Department.

> (3) The official register shall be organized by municipality and shall list:
>
> > (i) Each municipality and coterminous school district.
> >
> > (ii) The effective income tax rate on taxpayers who reside in the municipality.
> >
> > (iii) The effective income tax rate on taxpayers who reside in the school district.
> >
> > (iv) The combined municipal and school district income tax rate on taxpayers residing in each municipality.
> >
> > (v) The income tax rate on taxpayers working within the municipality.
> >
> > (vi) Whether an income tax is a personal income tax levied under the act of June 27, 2006 (1st Sp.Sess.,7 P.L.1873, No.1), known as

the Taxpayer Relief Act, or any other act.

(vii) The effective emergency and municipal services tax rate on taxpayers working within the municipality.

(viii) The effective emergency and municipal services tax rate on taxpayers working within the school district.

(ix) The combined municipal and school district emergency and municipal services tax rate.

(x) The amount of any other withholding tax.

(xi) The name, telephone number, address, e-mail and Internet address, where available, of the tax officer responsible for administering the collection of the tax.

(xii) Any other information deemed necessary by the department.

Paragraph (4) establishes the Department's responsibility to update and officially release the withholding rates on the official register every June 15 and December 15. Tax rates released on June 15 shall become effective July 1. Tax rates released on December 15 shall become effective January 1 of the following year.

(4) Each year the department shall update and officially release withholding tax rates on the official register on June 15 and December 15. Tax rates released on June 15 shall become effective July 1. Tax rates released on December 15 shall become effective January 1 of the following year. The department may revise the notification, official release and effective dates of the register for good cause. Six months prior to the revision, the department shall notify each affected political subdivision of the revision and shall publish notice of the revision in the Pennsylvania Bulletin.

Paragraph (5) establishes the political subdivision's requirement to furnish local tax information prescribed by the department to the department. This paragraph also sets forth the procedures for notifying the department of changes to the official register.

(5) Information for the official register shall be furnished by each political subdivision to the department as prescribed by the department and shall include a copy of the ordinance or resolution enacting, repealing or changing the tax. The department shall be notified of changes to the official register as follows:

Subparagraph (i) sets forth the time limits for new information to be received by the department in order to be included in the June 15th annual release of the tax register and effective as of July 1st.

(i) New withholding tax enactments, repeals and changes shall be received by the department no later than June 1 to require withholding of a new tax, withholding at a new rate or to suspend withholding of such tax effective July 1 of that year. All new withholding tax enactments, repeals and changes received by the department by June 1 shall be officially released by the department June 15 and become effective July 1. Failure of the department to receive information by June 1 from political subdivisions regarding current withholding tax rates, new withholding tax enactments, repeals and changes shall be construed by the department to mean that the information contained in the previous December 15 release of the official register is still in force. Information received by the department after June 1 but before December 1 shall be officially released on December 15.

Subparagraph (ii) sets forth the time limits for new information to be received by the department in order to be included in the December 15th annual release of the tax register and effective as of January 1st of the following year.

(ii) New withholding tax enactments, repeals and changes shall be received by the department no later than December 1 to require withholding of a new tax, withholding at a new rate or to suspend withholding of such tax effective January 1 of the following year. All new withholding tax enactments, repeals and changes received by the department by December 1 shall be officially released by the department on December 15 and become effective January 1 of the following year. Failure of the department to receive information by December 1 from political subdivisions regarding current withholding tax rates, new withholding tax enactments, repeals and changes shall be construed by the department to mean that the information contained in the previous June 15 release of the official register is still in force. Information received by the department after December 1 but before June 1 shall be officially released on June 15.

Paragraph (6), Subparagraph (i) establishes that employers shall not be required to withhold or make reports for any tax that is not listed in the official register, unless the political subdivision levying the tax notifies the employer in writing of the tax, the tax rate and the withholding requirement.

(6) (i) Employers shall not be required to deduct from compensation of their employees or make reports of compensation in connection with any withholding tax that is not released on the

official register as of June 15 and December 15 of each year as provided in paragraphs (4) and (5), unless the political subdivision imposing the tax has provided written notice to the employer of the tax or tax rate and the withholding requirement.

(ii) Notwithstanding any law to the contrary, no political subdivision or tax officer may require any employer to deduct a withholding tax at a rate or amount that is not released on the official register, unless the political subdivision imposing the tax has provided written notice to the employer of the tax or tax rate and the withholding requirement.

(iii) The provisions of this paragraph shall not affect the liability of any taxpayer for withholding taxes lawfully imposed under this act.

Paragraph (7) establishes that employers may withhold at the most recently available rate on the tax register as long as the political subdivision levying the tax notifies the employer in writing of the current tax rate. The most recently available tax rate, in this instance, may differ from the tax rate released on the official register.

(7) An employer may withhold at the most recently available rate on the tax register even if such rate is different than the tax rate released on the official register as provided in paragraphs (4) and (5), provided that an employer shall not be required to withhold at a tax rate that is not released on the official register, unless the political subdivision imposing the tax has provided written notice to the employer of the current tax rate.

Paragraph (8) establishes that an employer shall not be held liable for failure to withhold the correct amount of tax from an employee if the failure is a result of incorrect residence information provided by the employee.

(8) No employer shall be held liable for failure to withhold an income tax from an employee if the failure to withhold the income tax arises from incorrect information submitted by the employee as to the employee's place of residence.

If an employee fails to provide correct residence information, including the failure to provide a new street address on a Residency Certification Form when the employee changes residence, the employer shall not be held liable for any unpaid taxes as a result of the employee's failure to provide correct residency information.

For purposes of this paragraph, the employee's submission of a post office box instead of a street address on the Residency Certification Form shall be considered as incorrect information.

Paragraph (9) establishes that an employer shall not be held liable for the withholding of the emergency and municipal services tax or any other withheld tax if the failure to withhold is a result of incorrect information submitted by the employee to the employer.

> (9) No employer shall be held liable for failure to withhold the emergency and municipal services tax or for the payment of tax money withheld to a tax officer if the failure to withhold the taxes arises from incorrect information submitted by the employee as to the employee's place of employment, the employee's principal office or where the employee is principally employed.

Subsection (b) includes taxes levied under the Sterling Act in the definitions of income tax and withholding tax.

> (b) Definition.--As used in this section, notwithstanding section 501, the terms "income tax" and "withholding tax" include a tax assessed on the income of a taxpayer and levied by a municipality under the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act.

Section 512 – Withholding and Remittance

For taxable years commencing on or after January 1, 2012, all employers who have a worksite address within the Commonwealth of Pennsylvania, are required to implement and follow the local tax withholding and remittance requirements as stated in Act 32.

Paragraph 1 of Section 512 sets forth the employer's requirement to register with the tax officer for each Tax Collection District in which the employer has a worksite address. The employer has 15 days to register after becoming an employer. A uniform Employer Registration Form has been developed by the Department for use throughout the Commonwealth.

> (1) Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the tax officer the name and address of the employer and such other information as the department may require.

This Employer Registration Form is to be used by tax officers exclusively for the collection of employer information necessary to properly administer and enforce the employer withholding and remittance of the Earned Income Tax.

Paragraph 2 of Section 512 establishes a new employer requirement: the issuance, collection, processing and maintenance of a Residency Certification Form to each new employee as an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4).

> (2) An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. Upon request, certificate of residency forms shall be provided by the department. The certificate of residency form shall provide information to help identify the political subdivisions where an employee lives and works.

The Residency Certification Form has been developed by the Department and can be found at the Department's website (www.newPA.com) and on many of the tax officer websites. The Residency Certification Form should be physically attached to Form W-4 and distributed to every new employee. It is to be completed, dated and signed by the new employee and returned to the employer. Employers are also to require employees to complete a Residency Certification Form when they change their address or domicile.

The Department strongly suggests that employers issue a Residency Certification Form to every employee at the beginning of each tax year, starting with 2012, in order to ensure that the earned income tax is being withheld as required by Paragraph 3 of Section 512. The Department strongly recommends that employers should also consider retaining the Residency Certification Form with employee personnel records as a safeguard against charges of failing to withhold at the proper tax rate.

From the information provided on the Residency Certification Form, the employer is required to ascertain the employee's Resident Tax Rate and resident 6 digit Political Subdivision (PSD) Code. The employee name, address, social security number, resident tax rate and PSD Code are then used by the employer to complete the Employer's Quarterly Return. Using the information provided by the Residency Certification Form, the employer must withhold the earned income tax as required by Paragraph 3 of Section 512.

Paragraph 3 of Section 512 establishes a new employer requirement; the withholding from the compensation of each employee the greater of the employee's resident tax or the employee's nonresident tax.

> (3) Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register under section 511.

Non-Resident Tax Rates: Employers must ascertain the nonresident tax rate of the Political Subdivision where the employee works. For situations where the employee works in multiple PSDs, the employer shall establish the employee's nonresident rate based on the PSD assigned to the employee's liability for the Local Services Tax or from which the employee claims exemption from the Local Services Tax. The nonresident tax rate can then be obtained from the Pennsylvania Official Tax Register. The Official Tax Register is maintained by the DCED.[1]

In many cases, the nonresident tax rate will be one percent (1%). School Districts are not allowed to levy a nonresident earned income tax. Municipalities are generally allowed to levy a nonresident tax not to exceed 1%. Municipalities are only allowed to exceed the nonresident 1% tax rate in very specific, limited situations. For example, municipalities which have been declared distressed under the Municipalities Financial Recovery Act (ACT 47) or have been certified as having financially distressed municipal pension systems under Act 205 of 1984 are allowed to have a nonresident tax higher than 1%.

As reported in the Official Tax Register at www.newPA.com, some municipalities in Pennsylvania levy a nonresident earned income tax greater than 1%.

There are numerous municipalities that levy the nonresident tax at a rate less than one percent (1%), usually one half of one percent (0.5%) and there are municipalities who do not levy a non-resident tax.

Employees who are not residents of the Commonwealth of Pennsylvania are considered nonresidents and should have the earned income tax withheld from their compensation at the nonresident tax rate that has been determined for that location where the employee works.

Resident Tax Rates: The employer should then determine the employee's resident tax rate based on the information received on the Residency Certification Form. Once the employee's resident municipality is determined, that employee's resident tax rate can be found in the Official Tax Register that is maintained by the Department. The employee's resident and nonresident tax rates are then compared; and the employer is required to withhold the greater of the two from the employee's compensation.

Philadelphia Resident Tax Withholding: Employers who employee Philadelphia residents at a location outside of Philadelphia's tax jurisdiction are required to withhold the local income tax at the Philadelphia resident rate and remit it directly to Philadelphia.

Paragraph 4 of Section 512 standardizes the employer's requirements to file an Employer's Quarterly Return on a standardized form and make quarterly remittances of the earned income tax withheld from employees.

> (4) Except as set forth in paragraph (5), within 30 days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding three-month period, the income tax deducted from the employee, the political subdivisions imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the return and any other information prescribed by the department.

Employers are required to make and file a quarterly return on a form prescribed and promulgated by the Department. The Employer's Quarterly Return must contain the following information for each employee who receives earned income within the Tax Collection District:

1. Employee's Social Security Number
2. Employee's Name
3. Employee's Actual Street Address (PO Boxes are not acceptable)
4. Employee's Compensation during the preceding calendar quarter
5. Employee's Earned Income Tax withheld during the preceding calendar quarter
6. Employee's Resident Political Subdivision (PSD) Code
7. And any other information required by the Department

Employers are not required, and are encouraged by the Department not to report the resident municipal and school district tax rates or the nonresident tax rates and the corresponding tax withholdings separately on the employer returns required by Paragraphs 4, 5 or 6 of Section 512.

Employers who have worksites in one Tax Collection District shall only file the Employer's Quarterly Return with and make one quarterly remittance to the Tax Officer for the Tax Collection District where those worksites are located. *Employers with worksites in one Tax Collection District are not to file quarterly returns and make tax remittances to multiple tax officers.*

Although Act 32 does not explicitly require employers and payroll companies to file quarterly returns electronically, Act 32 grants Tax Collection Committees the authority to adopt policies and procedures. Certain Tax Collection Committees have adopted policies and procedures requiring employers and payroll companies to file quarterly returns electronically. Each employer and payroll company should check with its tax collector to determine whether or not the Tax Collection Committee requires electronic filing. Even if not required by the Tax Collection Committee, electronic filing of the employer's quarterly return and payment of the withheld tax is encouraged by the Department.

Paragraph 5 of Section 512 establishes a combined filing and remittance option for employers with worksites in multiple Tax Collection Districts to file with one Tax Officer. Employers opting to file

combine returns and make combined remittances of the earned income tax are required to report and remit monthly and electronically.

> (5) Notwithstanding paragraph (4), the provisions of this paragraph shall apply if an employer has more than one place of employment in more than one tax collection district. Within 30 days following the last day of each month, the employer may file the return required by paragraph (4) and pay the total amount of income taxes deducted from employees in all work locations during the preceding month to the tax officer for either the tax collection district in which the employer's payroll operations are located or as determined by the department. The return and income taxes deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the tax officer for each place of employment at least one month before filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

This paragraph is intended to simplify the earned income tax filing and remittance requirements of employers who have locations in multiple Tax Collection Districts. Paragraph (5) allows such employers to opt for a single filing and remittance process. Employers who choose this option must adhere to three requirements:

1. File a "Notice of Intention to File Combined Returns and Make Combined Payments" with the tax officer for each place of employment at least one month before filing the first combined return and making the first combined payment. This form is available on the Department's website.

2. The combined return must be filed and the combined payment must be made within thirty (30) days of the end of the month.

3. The combined return and combined payment must be made electronically.

Employers who choose the combined filing option must determine which Tax Collection District is to receive the combined filings and payments. Act 32 states, as a first requirement, that the combined filing and payments must be made to the tax officer of the Tax Collection District where the employer's *headquarters* are located.

If the employer's *headquarters* are located outside the Commonwealth or in Philadelphia, Paragraph (5) states that the Department shall determine which Tax Collection District shall receive the combined filings and payments. *It is the position of the Department that when an employer's headquarters are located out of state or in Philadelphia, the employer may choose to file in any TCD where it has a worksite as long as the tax officer for that county agrees to do so. The Department suggests that any employer, whose payroll operations are located outside the Commonwealth or in Philadelphia, should contact the tax officer with whom they intend to make the combined filings and payments in order to confirm that tax officer's ability and willingness to accept and process the combined filings and payments. Additionally, if the tax officer for where an employer is headquartered cannot or will not handle the combined payment, the employer may pick any county in which it has a worksite to file its combined return.*

Multiple location employers who opt to make the combined returns and payments with one tax officer shall be required to opt into the combined filing and payment process with that tax officer for the remainder of the full tax year in which the option was made. Employers shall not be permitted to opt out of the combined filing and payment process once the first combined filing and payment is made.

Notice Of Intent to File Combined Returns and Make Combined Payments: Once the employer has determined which Tax Collection District will receive the combined filings and payments, the "Notice of Intention to File Combined Returns and Make Combined Payments" must be sent to each tax officer to whom the employer had previously been filing returns and making payments. This Notice of Intent must include the following information: the employer's local identification number or Federal Employer Identification Number, the employer's name and location(s) within the Tax Collection District that will no longer receive the employer's filings and payments, the Tax Collection District and Tax Officer who will receive the employer's combined filings and payments, and the tax year for which the combined filings and payments will be made.

This Notice of Intent to file Combined Returns is important to the prior tax officer for two reasons. *First, the prior tax officer should amend its employer tax rolls to reflect that the employer will no longer be filing returns with that tax officer. This is to ensure that delinquent actions are not initiated against the employer for failing to file returns or remit tax withheld. Second, the prior tax officer needs to know which tax officer will be making the monthly distributions of the tax withheld and reported under the combined filing process in the event that claims for tax withheld from resident employees who were previously reported to the prior tax officer have to be issued.*

Combined Returns and Combined Payments of the Tax Withheld: The employer who opts into the combined filing and payments process must make and file the combined employer's return and make payment of the combined tax withheld within thirty (30) days of the end of each month. Under no circumstances can an employer file combined returns and make combined payments on a quarterly basis.

The monthly combined employer's return shall contain the following information:

1. Employee's Social Security Number
2. Employee's Name
3. Employee's Actual Street Address (PO Boxes are not acceptable)
4. Employee's Compensation during the preceding calendar month
5. Employee's Earned Income Tax withheld during the preceding calendar month
6. Employee's Resident Political Subdivision (PSD) Code
7. Employee's Work Location Political Subdivision (PSD) Code
8. And any other information required by the Department

Employers are not required, and are encouraged by the Department not to report the resident municipal and school district tax rates or the nonresident tax rates and the corresponding tax withholdings separately on the employer returns required by Paragraphs 4, 5 or 6 of Section 512.

Paragraph 6 of Section 512 reestablishes the Tax Officer's power to require an employer, who for two (2) or more of the preceding four (4) quarters has failed to deduct the proper earned income tax or pay over the proper amount of income tax withheld, to file the returns and make remittance of the tax withheld on a monthly basis.

(6) Any employer who for two of the preceding four quarterly periods has failed to deduct the proper income tax, or any part of the income tax, or has failed to pay over the proper amount of income tax as required by paragraph (3) to the tax collection district, may be required by the tax officer to file returns and pay the income tax monthly. In such cases, payments of income tax shall be made to the tax officer on or before the last day of the month succeeding the month for which the income tax was withheld.

Before the Tax Officer can require an employer to file monthly, the tax officer must provide notification to the employer no less than 30 days prior to the due date of the first monthly return and monthly payment of the income tax. *The notice to the employer must be sent via Certified Mail and must contain the following information:*

1. *The name and address of the employer. If the place of employment differs from the employer's mailing address, the address of the place of employment must be listed on the notice.*
2. *The two (or more) quarterly periods of the preceding four quarterly periods for which the required deductions or the required payments have not been made.*
3. *The month for which the tax has been withheld that will be the first month's withholdings required to reported and remitted monthly.*
4. *The due date for the first monthly employer's return and remittance of the tax withheld.*

How long can a Tax Officer require monthly reporting from an employer under Paragraph 6?

If an employer, who is required to file the monthly returns and make monthly payments of the income tax withheld under this Paragraph 6, shall make six (6) consecutive monthly returns and payments of the income tax on or before the due dates of each of the 6 consecutive months then that employer shall be released from the requirement to file monthly returns and make monthly payments of the tax with the beginning of the next quarterly period.

Paragraph 7 of Section 512 standardizes the employer's annual reconciliation of earned income tax withheld and remitted process and *establishes a standard format and coding system for the "Local Box" (Box 20) of the employee's annual Federal Wage and Tax Statement (Form W2).*

(7) On or before February 28 of the succeeding year, every employer shall file with the tax officer where income taxes have been deducted and remitted pursuant to paragraph (3):

Annually, every employer who has withheld the tax from employees during the previous tax year must file the documents required by subparagraphs (i) and (ii) on or before the last day of February following the tax year.

(i) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the tax officer and any other information prescribed by the department.

The "W2-R ANNUAL RECONCILIATION" form is to be completed by the employer and filed with the Tax Officer to whom the employer has filed returns and remitted the earned income tax withheld from the

employees during the previous tax year. The employer must include the municipal location of business in Pennsylvania, assigned account number and Federal EIN along with the employer's full business name and street address.

The "W2-R ANNUAL RECONCILIATION" has been standardized and can be found on the Department's website. It is required and accepted by all Act 32 Tax Collectors.

Subparagraph (ii) re-establishes the employer's requirement to attach an individual withholding statement for each employee employed during all or any part of the tax year.

This subparagraph also mandates the use of a uniform two digit numerical code on the individual withholding statement to represent the tax collection district where the filing of returns and remittances of the income tax have been made during the tax year being reported. The Department has prescribed this numerical code to be the first two digits of the PSD Code, which represents the Tax Collection District where the tax was remitted.

> (ii) An individual withholding statement, which may be integrated with the Federal Wage and Tax Statement (Form W-2), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and Social Security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the tax officer, the numerical code prescribed by the department representing the tax collection district where the payments required by paragraphs (4) and (5) were remitted and any other information required by the department. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.

In lieu of creating an individual withholding statement, most employers attach a copy of the Federal Wage and Tax Statement (Form W-2) to the W2-R ANNUAL RECONCILIATION. *The mandated use of a uniform two digit numerical code, representing the tax collection district where the tax was remitted, extends to the "Locality" box of the Federal Wage and Tax Statement (Form W-2) if used in place of the individual withholding statement.*

Every employer is also required by this subparagraph to give one copy of the individual withholding statement to each employee for whom it is filed. *Most employers furnish multiple copies of Federal Wage and Tax Statements to each employee for whom it is filed.*

The individual withholding statement and the Federal Wage and Tax Statement (Form W-2) must contain the following information:

1. Name, address and social security number of the employee.
2. Total compensation received for the tax year.
3. Total income tax withheld during the tax year.
4. The amount of income tax paid to the tax officer.
5. The two digit numerical code representing the tax collection district where the tax was paid.

Paragraph 8 of Section 512 reestablishes the employer's requirement to file the final returns, distribute employee withholding statements and remit any tax due within thirty (30) days after the discontinuance of business within the Tax Collection District.

> (8) Any employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under this section and pay the income tax due.

Any employer who discontinues business before the end of the tax year is required, within 30 days of the discontinuance of business, to do the following:

1. Make and file a "final" employer's quarterly return or, in the case of a multi-location employer, make and file a "final" employer's monthly return.
2. Remit the tax withheld from employees which has not already been remitted to the Tax Officer.
3. Make and file a "W2-R Annual Reconciliation" attaching copies of the individual withholding statement or Federal Wage and Tax Statements (W-2).

Paragraph 9 of Section 512 reestablishes the employee's liability for tax not withheld as well as the requirement for filing declarations and returns. This paragraph also establishes an employer's liability for payment of the tax if that employer willfully or negligently fails or omits to make the deduction or omits to make deduction of the earned income tax from his or her employees.

> (9) Except as otherwise provided in section 511, an employer who willfully or negligently fails or omits to make the deductions required by this subsection shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the income tax or from complying with the requirements for filing of declarations and returns.

The individual employee is ultimately responsible for paying the income tax or complying with the requirements set out by Section 502 for the filing of declarations and payment of estimated tax and the filing of an annual return. When the Tax Officer cannot recover the income taxes from the individual employee using the powers delegated by Section 509, or as otherwise specified in the Act 32, the employer may be liable for payment of the income tax.

When an employer negligently fails or omits to make the deduction of the tax as required by this section, that employer shall be liable to pay the income taxes which the employer was required to withhold. *The Department strongly encourages employers to retain copies of the Residency Certification Forms after they are completed by the employee as defense to negligent failure to withhold the tax.* Please note that Section 511 outlines the Official Tax Register's provisions for employer withholding of resident and non-resident tax.

Work Rules by Location

How should employers withhold local EIT from employees who travel from site to site on a regular basis and do not maintain a place of employment in the areas where they work?

1. If an employee is working temporarily at a PA facility for a period of time that encompasses a "reporting quarter", then the facility site would be the **work location address** used to determine the EIT rate and corresponding PSD code in the Address Search.

2. If an individual works for an employer who has a central business location in PA, but the employee "floats" or is transferred daily, weekly or monthly between other business sites, then the **central or main employer business location** would be the work location address to determine the EIT rate and corresponding PSD code in the Address Search.

3. If an employee is hired by an employer and receives work orders or instructions at home in PA but physically reports to other business sites on a daily, weekly or monthly basis, then the **employee's home address** should be used as both the home and work location address used to determine the EIT rates and corresponding PSD codes in the Address Search.

Section 513 – Distribution of Income Taxes

Section 513 describes the local income tax distribution and claims process and provides for actions against tax officers who fail to follow the requirements set forth in this section.

Subsection (a) outlines the tax collector's distribution requirements under Act 32. This subsection sets the general rules for tax distributions within the tax collection district for which the tax collector was appointed to collect the tax, as well as the general rules for distributions to other tax collection districts. Beginning January 1, 2012 all tax collectors are required to adhere these distribution requirements.

> (a) General rule.--Subject to subsection (b), all of the following apply:

Paragraph (1) sets the minimum requirements for the time a tax collector may take to process and distribute the tax collected within the tax collection district. It further states that the tax collection committee may require a tax collector to make more frequent distributions of the tax than what is established by the general rule of subsection (a).

> (1) Unless otherwise agreed to or required by the tax collection committee, distribution of income taxes from a tax officer to political subdivisions within the tax collection district or to other tax collection districts shall be as follows:

Subparagraph (i) establishes Act 32's transition period for tax collector distributions of tax received from employers as January 1, 2012 through March 31, 2013. Essentially, this transition period spans the 2012 tax year filings and remittances of employers. During this period, all taxes received from employer's, who have also filed the quarterly tax return required by Section 512 (4), must be processed and distributed within 60 days of the later of receipt or the deadline for payment under Section 512 (4).

> (i) Income taxes received from employers prior to April 1, 2013, under section 512(4) shall be distributed within 60 days of the later of:
>
> (A) receipt; or
> (B) the deadline for payment under section 512(4).

In order to comply with this requirement the tax collector, tax collection committee, the political subdivision within the tax collection district and other tax collection districts must understand what is meant by "receipt" or "the deadline for payment under section 512 (4)".

"Receipt" shall mean the date the tax is actually received by the tax collector.

As an example, an employer files the quarterly return and remittance of the tax on the deadline or due date for payment of the tax. The employer's return and remittance are postmarked by the USPS on the deadline or due date for payment of the tax, however the employer's return and remittance is not received by the tax collector until three days after the deadline or due date for the payment of the tax.

The "Receipt" date shall be the date the tax is actually received by the tax collector or, in the example given, three days after the deadline or due date for the payment of the tax.

Continuing this example, using the 1st Quarter 2012 (January 1 through March 31, 2012) as the tax period for which the employer is filing the quarterly return and remittance of the tax withheld, the deadline or due date for payment of the tax would be April 30, 2012. The employer's quarterly return and remittance of the tax is postmarked by the USPS on April 30, 2012 and the tax collector receives the employer's quarterly return on May 3, 2012. The following determinations would apply:

The Employer's Quarterly Return and Remittance of the tax is considered as filed on or before the deadline or due date for payment of the tax as evidenced by the USPS postmark of April 30, 2012.

The tax collector's "Receipt" of the Employer's Quarterly Return and Remittance of the tax is May 3, 2012, the actual date the Employer's Quarterly Return and Remittance is delivered to the collector.

The tax collector has 60 days from the date of "Receipt" of the tax, or until July 2, 2012 to distribute the tax received from that employer.

"The deadline for payment of the tax under section 512 (4)", when used in this section, shall be applied when the Employer's Quarterly Return and remittance of the tax is received or before the deadline or due date specified under section 512 (4): "...within 30 days following the end of each calendar quarter..."

As an example, an employer files the quarterly return and remittance of the tax seven days prior to the deadline or due date for payment of the tax. The employer's return and remittance are postmarked by the USPS seven days prior to the deadline or due date for payment of the tax, and the employer's return and remittance is received by the tax collector three days before the deadline or due date for the payment of the tax. The "Receipt" date shall be the date the tax is actually received by the tax collector or, in the example given, three days before the deadline or due date for the payment of the tax.

Continuing this example, using the 1st Quarter 2012 (January 1 through March 31, 2012) as the tax period for which the employer is filing the quarterly return and remittance of the tax withheld, the deadline or due date for payment of the tax would be April 30, 2012. The employer's quarterly return and remittance of the tax is postmarked by the USPS on April 23, 2012 and the tax collector receives the employer's quarterly return on April 27, 2012. The following determinations would apply

The Employer's Quarterly Return and Remittance of the tax is considered as filed on the deadline or due date for payment of the tax since the deadline or due date for payment of the tax, April 30, 2012, is later than the date of the tax collector's "Receipt" of the employer's quarterly return and remittance of the tax, April 27, 2012.

The tax collector has 60 days from "the deadline for payment of the tax under section 512 (4)", or until June 29, 2012 to distribute the tax received from that employer.

Subparagraph (ii) establishes Act 32's requirement that a tax collector must process and distribute all taxes received from employer's, who have also filed the quarterly tax return required by Section 512 (4)

on or after April 1, 2013, must be processed and distributed within 30 days of the later of receipt or the deadline for payment under Section 512 (4).

> (ii) Income taxes received from employers on or after April 1, 2013, under section 512(4) shall be distributed within 30 days of the later of:
>
> (A) receipt; or
> (B) the deadline for payment under section 512(4).

For this example, using the 1st Quarter 2013 (January 1 through March 31, 2013) as the tax period for which the employer is filing the quarterly return and remittance of the tax withheld, the deadline or due date for payment of the tax would be April 30, 2013. The employer's quarterly return and remittance of the tax is postmarked by the USPS on April 30, 2013 and the tax collector receives the employer's quarterly return on May 3, 2013. The following determinations would apply:

The Employer's Quarterly Return and Remittance of the tax is considered as filed on or before the deadline or due date for payment of the tax as evidenced by the USPS postmark of April 30, 2013.

The tax collector's "Receipt" of the Employer's Quarterly Return and Remittance of the tax is May 3, 2013, the actual date the Employer's Quarterly Return and Remittance is delivered to the collector.
The tax collector has 30 days from the date of "Receipt" of the tax, or until June 2, 2013 to distribute the tax received from that employer. Note: because June 2, 2013, the actual 30 days from receipt, falls on a Sunday, the collector's actual required date of distribution would be on or before the next business day, which is Monday, June 3, 2013.

Continuing this example, using the 1st Quarter 2013 (January 1 through March 31, 2013) as the tax period for which the employer is filing the quarterly return and remittance of the tax withheld, the deadline or due date for payment of the tax would be April 30, 2013. The employer's quarterly return and remittance of the tax is postmarked by the USPS on April 23, 2013 and the tax collector receives the employer's quarterly return on April 26, 2013. The following determinations would apply:

The Employer's Quarterly Return and Remittance of the tax is considered as filed on the deadline or due date for payment of the tax since the deadline or due date for payment of the tax, April 30, 2013, is later that the date of the tax collector's "Receipt" of the employer's quarterly return and remittance of the tax, April 26, 2013.

The tax collector has 30 days from "the deadline for payment of the tax under section 512 (4)", or until May 30, 2013 to distribute the tax received from that employer.

Subparagraph (iii) establishes monthly distribution requirements for tax collectors who receive consolidated returns and consolidated payments of the tax.

> (iii) Income taxes received from employers under section 512(5) shall be distributed within 30 days of the last day of the month following receipt.

Act 32 permits, under Section 512 (5), the consolidated filing and consolidated remittance of the local income tax to a single tax collector by employers who have multiple work locations throughout the Commonwealth. These consolidated filings and consolidated remittances must be made monthly and must be made electronically. The receiving collector is required by subparagraph (iii) to distribute these funds within 30 days of the last day of the month following receipt.

As an example, a multi-location employer opts to become a consolidated filer of the local income tax beginning January 1, 2012. The tax that this employer withholds from his employees for the month of January 2012 would be due on or before March 1, 2012.

If the employer files the combined return and makes the combined payment on March 1, 2012 the tax collector would have 30 days from the end of March 2012, or April 30, 2012 to make the required distribution of the January 2012 tax.

Continuing this example, if the employer files the combined return and makes the combined payment of the tax on February 28, 2012 the tax collector would have 30 days from the end of February 2012, or March 30, 2012 to make the required distribution of the January 2012 tax.

Subparagraph (iv) and **subparagraph (v)** establish the distribution requirements for taxes received from individual taxpayers and other tax collection districts. Similar to the transition mentioned under subparagraphs (i) and (ii), taxes received from individual taxpayers and other tax collection districts will be accelerated in a two part process.

> (iv) Income taxes received from taxpayers and other tax collection districts prior to April 1, 2013, shall be distributed within 60 days of receipt.
>
> (v) Income taxes received from taxpayers and other tax collection districts on or after April 1, 2013, shall be distributed within 30 days of receipt.

If a tax collector receives a tax payment from and individual or a tax distribution from another tax collection district on or before March 31, 2013, that tax must be distributed to the resident political subdivision within 60 days of its receipt.

As an example, if a tax collector receives a tax payment from an individual taxpayer or a tax distribution from another tax collection district on March 15, 2012, that tax must be processed and distributed to the resident political subdivision within 60 days, on or before May 14, 2012.

Tax payments received from an individual taxpayer or tax distributions received from another tax collection district on or after April 1, 2013 must be processed by the tax collector and distributed to the resident political subdivision within 30 days of its receipt.

For this example, if a tax collector receives a tax payment from an individual taxpayer or a tax distribution from another tax collection district on April 15, 2013, that tax must be processed and distributed to the resident political subdivision within 30 days, on or before May 15, 2013.

It must be noted that a Tax Collection Committee may require a tax officer to make more frequent distributions of taxes received than those listed in the aforementioned subparagraphs (i), (ii), (iii), (iv) and (v). Under no circumstances can a Tax Collection Committee require, nor can a tax collector decide, to make distributions of the taxes received in longer periods than those set forth under Paragraph (1).

Paragraph (2) eliminates the estimated distribution process that was originally allowed under the Local Tax Enabling Act, Act 511 of 1965.

> (2) Income taxes received from employers, taxpayers or other tax collection districts shall be distributed based on the information submitted by the employers, taxpayers or tax collection districts. It shall not be permissible to base the distribution of income taxes on any method not expressly authorized by act of the General Assembly.

All taxes received under Act 32 must be distributed to the individual taxpayer's resident municipality and school district based on the actual individual taxpayer detail received from the individual, employer or other tax collection district. Distributions based on estimates or any other method, other than described in paragraph (4) under this subsection, are not allowed under Act 32.

Paragraph (3) establishes the Tax Officer's responsibility to maintain a record of all taxes distributed under this section, listing the information required to be maintained within each individual record.

> (3) A tax officer shall maintain a record of all income taxes distributed under this section, which shall include all of the information required in the reports under section 512(4) and (5), the date of distribution, the political subdivision or tax officer to which the income taxes are distributed and any other information required by the department. The record shall be provided to another tax collection district at the time of distribution.

At the time of distribution the tax officer making such distribution shall provide a detailed record of taxes being distributed to the tax officer receiving the distribution. In addition to a header listing the date of distribution, this record shall include all of the following information:

1. Taxpayer's Social Security Number
2. Taxpayer's Name
3. Taxpayer's Actual Street Address (PO Boxes are not acceptable)
4. Taxpayer's Employer's Federal ID Number
5. Taxpayer's Employer's Name
6. Taxpayer's Actual Compensation reported by Employer
7. Taxpayer's Actual Tax received from Employer
8. Tax Period for which Tax was received
9. Tax Year for which Tax was received
10. Date Tax was received
11. Taxpayer's Resident PSD Code
12. Taxpayer's Work Location PSD Code

This information must be provided for each taxpayer listed on the distribution record.

Tax Officers shall not combine multiple tax payments made for a single taxpayer, each transaction must be listed individually.

Electronic or Magnetic Media Required for Tax Officer to Tax Officer Distribution Data Exchange
Because of the voluminous amount of detailed information contained in the distribution record the Department mandates that tax officers must exchange this information via electronic or magnetic media. The Department recognizes that tax officers utilize many different computer systems and encourages the use of three files types for the exchange of electronic or magnetic media. These three file types are: csv, txt and MS Excel files. Each file type shall contain the twelve fields of information as listed above for each taxpayer listed in the distribution.

Remittance of the tax distribution may be made via check or electronically.

Paragraph (4) outlines a tax officer's minimum requirement and procedure for the distribution of unidentified tax receipts.

> (4) A tax officer who, within two years after receiving an income tax payment after reasonable efforts meeting conditions established by the tax collection committee, cannot identify the political subdivision entitled to the income tax payment shall make payment to the municipality in which the income tax was collected.

Upon receiving an income tax payment, a tax officer is to make reasonable efforts to identify the political subdivision entitled to receive the tax. The tax officer is to use all of the means available to determine the name and resident address of the taxpayer for whom the tax was remitted. *Reasonable efforts would include the initiation of a compliance action against the employer who failed to provide the quarterly or monthly returns required under Section 512. The compliance action may be initiated with a notice of delinquent filing of the employer's return, a request for information or a notice of scheduled tax examination as outlined in Section 509 (f) Employer and Taxpayer Audits.*

Other reasonable efforts would include identifying the taxpayer for whom the income tax payment was received based on the receipt of a claim from another tax officer, as established in Subsection (b) of this Section 513. A tax collection committee may establish additional conditions that must be satisfied by the tax officer in order to fulfill the reasonable efforts standard set forth by this paragraph.

Philadelphia Resident Tax Distribution: Act 48 of 1994 indicates that every employer, who has a place of business within the Commonwealth but outside of Philadelphia, shall withhold the Philadelphia resident earned income tax from their employees (who are Philadelphia residents) and remit the withholdings directly to Philadelphia.

Subsection (b) provides additional distribution guidelines for tax officers, formalizing the claims process developed by "Article XIII tax officers" as a way to correct erroneous distributions of tax.

> (b) Other tax collection districts.--In addition to subsection (a), for distribution of income taxes to other tax collection districts, the following shall apply:

Paragraph (1), establishes through its subparagraphs, the process by which one tax officer makes a claim for taxes withheld from a resident taxpayer which have not been received from the collecting tax officer, including a specific time period in which a response to the claim must be made.

> (1) If nonresident taxes are not distributed to the appropriate tax officer as required under subsection (a)(1), a tax officer may make a claim for income taxes attributable to residents of the tax collection district served by that tax officer. The tax officer for the tax collection district against which a claim is made shall, within 30 days:
>
> (i) pay the claim if it is undisputed; or
>
> (ii) respond in writing stating the reasons why the claim cannot be paid.

If after reconciling the resident taxpayer's Final Return, the resident tax officer finds that there has been tax withheld, evidenced by the amount listed on the individual withholding statement or Federal Wage and Tax Statement (W-2) accompanying the resident's Final Return, which has not been distributed to the resident tax officer, a claim for the tax not received shall be filed with the tax officer for tax collection district listed on the individual withholding statement or on the Federal Wage and Tax Statement (Form W-2) as receiving the income tax from the employer.

If the income tax being claimed is from the 2012 tax year or later, the tax officer for the tax collection district receiving the claim for income tax not received is mandated by this paragraph to respond within 30 days of receipt of the claim by paying the claim if it is undisputed.

If the income tax being claimed is from the 2011 tax year or earlier, the tax officer for the tax collection district receiving the claim for income tax not received is required by the Department to respond within 60 days of receipt of the claim by paying the claim if it is undisputed.

Each individual claim shall include the following taxpayer information:

1. Unique Claim Identification Number
2. Taxpayer's Social Security Number
3. Taxpayer's Name
4. Taxpayer's Actual Street Address (PO Boxes are not acceptable)
5. Taxpayer's Employer's Federal ID Number
6. Taxpayer's Employer's Name
7. Taxpayer's Employer's Address
8. Taxpayer's Actual Compensation reported by Employer
9. Taxpayer's Actual Tax listed as withheld by Employer; or in the case of a claim for tax erroneously distributed to another tax collection district the claim shall be made for the actual amount of tax reported as erroneously distributed to the other tax collection district
10. Tax Period for which Tax was withheld
11. Tax Year for which Tax was withheld
12. Taxpayer's Resident PSD Code
13. Taxpayer's Work Location PSD Code

In the situation where a taxpayer has lived in more than one tax collection district during the tax year and a claim for tax not received is generated by one or more tax officers, the following guidelines shall apply to the thirteen (13) fields of information listed above:

- The Taxpayer's Actual Street Address shall be the address used by the taxpayer while a resident of the tax collection district making the claim.

- The Taxpayer's Actual Compensation shall be the prorated compensation, for a specific employer as listed on the Final Return filed by the taxpayer with the tax officer of the tax collection district making the claim.

- The Taxpayer's Actual Tax listed as withheld by the employer, shall be the prorated tax, for a specific employer as listed on the Final Return filed by the taxpayer with the tax office of the tax collection district making the claim; or in the case of a claim for tax erroneously distributed to another tax collection district, the claim shall be made for the prorated amount of tax due reported as erroneously distributed to the other tax collection district.

- The Tax Period for which the tax was withheld shall be the listed on the claim as the beginning of the tax year or the date the taxpayer moved into the tax collection district making the claim and the end of the year or the date the taxpayer moved out of the tax collection district making the claim.

When a tax officer receives a claim the following procedures shall be employed to determine if the claim is valid and should be paid in full, or if the claim cannot be honored for any reason, or if the claim is to be disputed:

1. The tax officer receiving the claim shall search all available records for the taxpayer's name and/or social security number. Because of possible social security number entry errors, the tax officer receiving the claim shall also perform a search by the taxpayer name if there is no result to the social security number search.

2. The tax officer receiving the claim shall verify that the employer is domiciled within the tax collection district and remitting tax to the tax officer. Once verified the tax officer receiving the claims shall search the employer records to ascertain that the tax being claimed was received in the same amount as is being claimed. As a final step the tax officer receiving the claim shall determine if the tax has been distributed or not distributed.

3. If the tax has not been distributed, the tax collector receiving the claim shall respond to the tax officer making the claim within 30 days by making payment of the claim.

In the case where the claim is disputed or cannot be honored and paid for any reason, the tax officer for the tax collection district receiving the claims is required to respond within 30 days with a written explanation as to why the claim is being disputed or cannot be honored.

The most common reason that a claim cannot be honored is because of erroneous distribution. In this example, the tax officer receiving the claim finds that the tax was previously distributed to the incorrect

tax collection district and cannot be honored. The tax officer receiving the claim shall respond to the tax officer making the claim within 30 days with the following response:

> "Distributed to PSD Code - _____ on __/__/____" attached to the taxpayer information.

Another common reason a claim cannot be honored is because the employer remittance has not been received by the tax officer. In this example, the tax officer receiving the claim finds that the income tax withheld from employees has not been remitted by the employer and therefore cannot be distributed.

The tax officer receiving the claim shall respond to the tax officer making the claim within 30 days with the following response:

> "Employer Delinquent – Compliance Action Started – tax will be distributed upon receipt" attached to the taxpayer information.

It should be noted that the middle component of this response, "Compliance Action Started" can and should be replaced with any of the following when appropriate:

- Bankruptcy Claim Filed -
- Civil Judgment Entered –
- Restitution Ordered –
- Moved, Location Unknown –

The tax officer receiving the claim has the responsibility to distribute the delinquent tax to the tax officer making the claim, without another claim being made, upon receipt of the delinquent tax and its corresponding employee detail.

Paragraph (2) provides for actions against tax officers who do not honor claims in a timely manner along with a statute of limitations for any such action.

> (2) If the tax officer for the tax collection district against which the claim is made does not act under paragraph (1)(i) or (ii), the tax officer making the claim may bring an action in the court of common pleas in the county in which the tax collection district with the claim is primarily located for both the amount of the claim and interest at the rate provided for in 53 Pa.C.S. § 8426 (relating to interest on overpayment) from the date which the income taxes were received from the taxpayer, employer or other tax officer. Notwithstanding any other law to the contrary, an action under this paragraph must be brought within seven years after the claim is made.

Pertaining to Act 32 income tax collections, under paragraph (1), subparagraphs (i) and (ii) the tax officer receiving a claim is required to honor the claim by remitting the tax claimed or provide a response why the claim cannot be honored within 30 days of the receipt of the claim. If the tax officer receiving the claims fails to meet one of these requirements, the tax officer making the claim can bring an action for the amount of the claim and interest from the date the tax was originally received from the employer.

This paragraph also ties the statute of limitations for actions brought under paragraph (1) to the Municipal Records Act requirement for the tax officer's retention of the tax records.

Paragraph (c) mandates the use of the Department's prescribed Political Subdivision Codes.

> (c) Codes.--Employers and tax officers shall use political subdivision and tax collection district codes prescribed by the department.

The Department has created a uniform, 6 digit Political Subdivision (PSD) Code for use by employers, individuals and tax officers in the administration of Act 32. The PSD code breaks down as follows:

First two digits = County or Tax Collection District code;
Second two digits = School District code, within that Tax Collection District;
Third two digits = Municipality code, within that School District.

Paragraph (d) prohibits the imposition of a fee or commission on the distribution of income taxes from one tax collection district to another.

> (d) Fee prohibition.--No tax officer, political subdivision or tax collection district shall be required to pay a fee or commission to another tax collection district on account of income taxes distributed under this section.

In the past, some Article XIII Tax Officers would unilaterally charge a fee or commission on the distribution of taxes collected within their taxing jurisdiction and distributed to another tax officer despite court decisions against the practice. Paragraph (d) specifically prohibits the imposition of fees on the regular distribution of income taxes or the payment of claims.

The courts have ruled against the unilateral imposition of collection fees against other tax collectors in the past.

Section 514 – Confidentiality

Section 514 restates and further defines the confidentiality of tax information found in the Local Tax Enabling Act and the Local Taxpayer's Bill of Rights.

Paragraph (a) sets forth the definition of the confidential tax information.

> (a) General rule.--Any information gained by a tax officer or any employee or agent of a tax officer or of the tax collection committee as a result of any declarations, returns, investigations, hearings or verifications shall be confidential tax information.

Paragraph (b) establishes the specific acts that are prohibited in regards to confidential information.

> (b) Prohibited conduct.--It shall be unlawful, except for official purposes or as provided by law, for the Commonwealth, any political subdivision, tax collection committee member, tax officer, or employee or agent of a tax officer or tax collection committee to do any of the following:

Official purposes has always meant the dissemination of confidential information between tax officers for the purpose of reconciling, claiming or otherwise ensuring that individual or employer tax has been paid, received or properly distributed. Under Act 32, tax officers may now be required to provide reports containing confidential tax information to various public officials. In these cases, the public officials of the political subdivision or the tax collection committee are bound by the same rules of confidentiality as the tax officer, employees and agents of the tax officer. Anyone who receives the confidential information must not:

> (1) Divulge or make known confidential tax information.
>
> (2) Permit confidential tax information or a book containing an abstract or particulars of the abstract to be seen or examined by any person.
>
> (3) Print, publish or otherwise make known any confidential tax information.

In the past, the courts have upheld the confidentiality of tax information collected by a tax officer, refusing to allow public access to such records.

It should be noted, however, that if a tax officer files a civil or criminal complaint against an individual or employer, the information on the civil or criminal complaint becomes public information. Any trial scheduled because of the filing of a civil or criminal complaint is also open to the public. *Despite becoming "public knowledge", the Department strongly recommends that tax officers and representatives of political subdivisions and tax collection committees do not engage in public discussions about the specifics of any civil or criminal action brought against an individual or employer.*

Paragraph (c) establishes that the unauthorized release of confidential information is a misdemeanor of the third degree. The penalties for conviction of such a violation are removal from employment, a fine of not more than $2,500 or imprisonment for not more than one year or both, and the offender shall pay the costs of prosecution.

> (c) Penalties.--A person that violates subsection (b) commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than $2,500 or to imprisonment for not more than one year, or both. If the offender is a member of the tax collection committee, the member shall be removed from the tax collection committee. If the offender is an employee of a tax collection committee or a political subdivision, the employee shall be discharged from employment. The offender shall pay the costs of prosecution.

Section 515 – Transition

Subsection (a) establishes fines and penalties against tax officers for failing to meet the various requirements of Act 32, defining the violations and setting maximum penalties.

> (a) Fines and penalties against tax officers.

Paragraph (1) allows a political subdivision to bring an action against the tax officer under Section 13 of the LTEA, referring to pre-ACT 32 tax collections.

> (1) A political subdivision which brings an action under former Division V(h) of section 13 may seek equitable relief from a tax officer, including an accounting of all undistributed income taxes and monetary damages, in the form of recovery of the income taxes not previously distributed. In addition, the court may impose a civil penalty not to exceed $2,500 for each quarter for which income taxes were not distributed in accordance with former Division V(h) of section 13, plus reasonable costs and attorney fees.

Political subdivisions are allowed to seek an accounting of all undistributed income taxes as well a recovery of the income taxes not previously distributed. Such recovery would be based on the amount of undistributed tax collected within the political subdivision that remains unidentified after the tax officer's accounting.

This paragraph also allows the courts to impose a civil fine up to $2,500 per quarter against the tax officer for failing to distribute taxes under the former Section 13 of the LTEA, plus reasonable costs and attorney fees.

NOTE: If, within seven years of the original collection date, the tax officer finds the unidentified tax is due to another political subdivision through the claims process or compliance actions, the tax officer shall distribute the now identified tax to the correct political subdivision and charge such distribution against the current collections of the political subdivision who received the monetary recovery. The tax officer making such distribution and charge against the current revenues of the recovering political subdivision must provide a copy of the transaction detail at the time the tax is charged against current revenues.

Paragraph (2) limits the fine that the court can assess against the tax officer who fails to distribute income taxes collected under the former Section 13 of the LTEA for four consecutive quarters to $5,000.

> (2) If a tax officer fails to distribute income taxes to the appropriate political subdivision as required under former Division V(h) of section 13 for four consecutive quarters, the court may impose a civil penalty not to exceed $5,000.

Paragraph (3) allows an action to be brought against a tax officer to compel the performance of the duties required under the former Section 13 or under Chapter 3 of Act 32 or the regulations under promulgated Chapter 5.

> (3) An action may be brought against the tax officer to compel the performance of duties required by Chapter 3 or former section 13 or imposed by regulations adopted pursuant to Chapter 5, including the duty to deliver all tax records and other official items held in right as tax officer to the tax officer's successor. Upon a finding of failure to perform a duty, the court may impose a penalty not to exceed $5,000; and the tax officer may be held liable for the cost or reproducing tax records if they are lost or cannot be delivered.

Under this paragraph, a tax officer is required to transfer all tax records and other official items held to the tax officer's successor. The court may impose a fine up to $5,000 against the tax officer who is found to have failed to perform his or her required duties. The tax officer may also be required to reproduce or be held liable for the cost of reproduction of the tax records that he or she failed to deliver.

Paragraph (4) establishes that the tax officer appointed under Article XIII of the LTEA may also be subject to penalties for violations of the former section 13 or Act 32.

> (4) An Article XIII tax officer who violates any other provision of this section or former section 13 shall be subject to a civil penalty of up to $2,500 for each violation.

Paragraph (5) specifies who may bring an action against the tax officer.

> (5) An action against an Article XIII tax officer for a violation of this act may be brought by the Attorney General, a political subdivision for which the Article XIII tax officer collects income taxes, a political subdivision owed income taxes by the Article XIII tax officer or by a surety that is liable because of the violation.

Paragraph (6) mandates the removal or rescinding of the tax officer's appointment to collect taxes after being penalized three or more times under the above paragraphs.

> (6) A political subdivision shall remove or rescind the appointment of an Article XIII tax officer who has been penalized more than three times under paragraph (1), (2), (3) or (4).

Subsection (b) establishes the timetable for the transition from the former Article XIII collection system to the Act 32 tax collection system.

> (b) Transition.

Paragraph (1) subparagraph (i) set forth two requirements for each political subdivision, who collected an income tax prior to January 1, 2011, must accomplish.

> (1) (i) The governing body of each political subdivision which imposed an income tax prior to January 1, 2011, shall do all of the following:
>
> > (A) Determine by November 1, 2010, whether the Article XIII tax officer or the newly appointed tax officer shall collect 2011 income taxes.
> >
> > (B) Notify the department by December 1, 2010, of the determination under clause (A) in accordance with section 511(a)(5).

Paragraph (1) Subsection (ii) mandates that all employers shall file the required reports to the tax officer appointed by the appropriate political subdivision and listed on the official register maintained by the Department.

> (ii) Every employer shall remit 2011 income taxes and file the quarterly and annual reports required by former Division IV(b) and (c) of section 13 to either the Article XIII tax officer or the newly appointed tax officer, as determined by the appropriate political subdivision and released on the official register in accordance with section 511.

Paragraph (2) requires the tax collection committee to develop a transition plan from the former section 13 collection and distribution procedures to the collection and distribution procedures mandated by Sections 512 and 513 of Act 32.

> (2) By July 1, 2011, each tax collection committee shall develop a plan to transition from the provisions of former section 13 to the provisions of sections 512 and 513, and from the Article XIII tax officer to the newly appointed tax officer for 2012 income taxes.

Paragraph (3) sets the date by which the Article XIII tax officer shall deliver all tax records to the Act 32 tax officer.

> (3) The Article XIII tax officer shall deliver all tax records to the political subdivision and the newly appointed tax officer by June 30, 2012, unless otherwise agreed to by the political subdivision and the newly appointed tax officer.

Paragraph (4) mandates that any delinquent taxes or reports for 2011 and prior tax years shall become the responsibility of the newly appointed, Act 32 tax officer on July 1, 2012, unless a political subdivision notifies the Act 32 tax officer that it has made other provisions for the collection of 2011 and prior years delinquent tax.

> (4) Any delinquent income taxes or reports from 2011, or previous years which have not been remitted or provided to the Article XIII tax officer by June 30, 2012, shall become the responsibility of the newly appointed tax officer. A political subdivision which has made other provisions for the collection of delinquent income taxes or reports for 2011 or previous years shall notify the newly appointed tax officer.

Paragraph (5) establishes the first quarter 2012 as the effective date for employers to remit tax and make reports to the Act 32 tax officer.

> (5) Beginning with the first quarter of 2012, employers shall remit income taxes withheld and make reports as required by section 512 to the newly appointed tax officer.

Subsection (c) sets forth the definition of the Act32 tax officer.

> (c) Definitions. The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:
>
> "Newly appointed tax officer." A tax officer appointed under section 507(a) responsible for the collection of 2012 income taxes.

Section 516 – Regulatory Conflict

Section 516 provides that the regulations under Chapter 5 of Act 32 shall prevail if found to be in conflict with any regulation regarding collection under the Taxpayer Relief Act.

> In the event of a conflict between a regulation under this chapter and a regulation under the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, in the area of tax collection, the regulation under this chapter shall prevail.

Section 517 – Audit and Evaluation

Subsection (a) establishes the responsibility of the Legislative Budget and Finance Committee, in consultation with the Auditor General, to audit and evaluate the effects of Act 32 and defines the specific areas of the tax collection system to be evaluated.

> (a) General rule.--Before 2017, the Legislative Budget and Finance Committee shall conduct an audit and evaluation of the impact of this chapter and consolidated collection of local income taxes. The committee shall consult with the Auditor General in the course of its audit and evaluation. The audit and evaluation shall:

Paragraph (1) requires a comparison study be performed to determine if consolidated and uniform collections have minimized or eliminated the loss of revenue reported by the Department in the initial "Earned Income Tax System" report.

> (1) Determine the extent to which income tax revenue losses have been minimized or eliminated by the implementation of uniform collection standards and a countywide income tax collection system.

Paragraph (2) requires the study to determine if the consolidation of the local income tax system, with the mandated withholding and remittance requirements, has simplified the local income tax process for employers.

> (2) Determine whether consolidated collection and standardized withholding and remittance of local income taxes as required in section 512 has simplified the system, reduced fragmentation and reduced the burden of withholding, remitting and distributing the local income tax for employers.

Paragraph (3) requires the study to determine if the consolidation of the local income tax system, with the mandated individual taxpayer filing and payment requirements, has simplified local income tax compliance for individual taxpayers.

> (3) Determine if tax compliance is simpler, easier, fairer and less time consuming for taxpayers.

Paragraph (4) requires the study to determine if the Act 32 local income tax system is more efficient than the Act 511 local income tax system.

> (4) Determine whether the tax collection system under this chapter is more efficient than the prior system.

Paragraph (5) requires the study to determine if the tax collection committees are effective in governing the administration of local income tax collection.

(5) Determine if tax collection committees are exercising their powers and duties under section 505 effectively.

Paragraph (6) requires the study to determine if the consolidated local income tax collection system has fostered greater cooperation among and between the tax officers and the tax collection districts they represent.

(6) Determine the extent to which cooperation and coordination exists among tax officers and tax collection districts.

Paragraph (7) requires the study to determine if adequate financial protection of the local income tax collections is provided by the bonding requirements and investment restrictions requirements under Act 32.

(7) Determine whether authorized investments under section 509(a)(6) and the bonding requirements under section 509(d) provide sufficient protection to income tax collections.

Paragraph (8) requires the study to determine if the local income taxes are being properly and accurately distributed under the provisions of Act 32.

(8) Determine whether nonresident and resident taxes are being properly distributed among tax collection districts within this Commonwealth and to political subdivisions within each tax collection district.

Paragraph (9) requires the study to determine if the administrative responsibilities and requirements of all parties involved in the local income tax collection and distribution process are being met.

(9) Determine whether the reporting, audit, accountability, transparency and oversight requirements for taxes collected, distributed and administered in this chapter are adequate and being met within and among tax collection districts.

In performing this part of the study, the department will make a determination on the adequacy of the requirements set forth by Act 32.

Paragraph (10) requires the study to determine the impartiality, fairness and effectiveness of the appeals board within its tax collection district.

(10) Determine if the appeals boards created under section 505(j) are impartial, fair and effective.

Paragraph (11) requires the study to determine the extent of the tax officers' compliance with the rules and regulations. The department is further required to identify any tax officers who are in substantial noncompliance with the requirements of Act 32 and determine if the penalties authorized by Act 32 are effective.

> (11) Determine whether the penalties against tax officers under section 510 are effective and the extent to which tax officers are in compliance with the rules and regulations required by this chapter, and identify any tax officers that are in substantial noncompliance with these rules and regulations.

Paragraph (12) requires the study to determine if agreements for the exchange of information have been made between the Department of Revenue and the tax collection districts. The study is further required to determine if the exchange of information is reciprocal, timely and useful.

> (12) Determine whether the agreements under section 509(g) have been approved by the Department of Revenue and each tax collection district, and that the exchange of information is reciprocal, timely and useful.

Paragraph (13) requires the study to determine if penalties, interest and fines authorized by Act 32 are adequate and appropriate.

> (13) Determine whether the interest, penalties and fines under section 509(i) and (j) are appropriate and adequate.

Paragraph (14) requires the department to conclude the report with recommended improvements to the consolidated local income tax system.

> (14) Recommend needed improvements to the system.

Subsection (b) requires the Legislative Budget and Finance Committee to file a copy of its report to the Chairs of the House and Senate Finance Committees, the Department, the Auditor General and with each tax collection committee.

> (b) Filing requirement.--Copies of the audit findings of the Legislative Budget and Finance Committee under subsection (a) shall be filed with the chair of the Finance Committee of the Senate, the chair of the Finance Committee of the House of Representatives, the department, the Auditor General and with each tax collection committee.

Appendix

The following forms may be found at: www.newPA.com/act32.

Residency Certification Form *(Both PSD Codes MUST be reported to the Tax Collector)*

Employer Registration for Local Earned Income Tax Withholding

Employer's Quarterly Earned Income Tax Return

W2-R Annual Reconciliation of Earned Income Tax Withheld From Wages

Taxpayer's Annual Local Earned Income Tax Return

Taxpayer's Quarterly Estimated Earned Income Tax

Monthly Report (For Tax Officers Only)

Mediation Guidelines

Liberty Mutual™

Interchange Corporate Center
450 Plymouth Road, Suite 400
Plymouth Meeting, PA. 19462-1644
Ph. (610) 832-8240

TAX COLLECTOR BOND

Bond Number: 601011772

Know all men by these presents: That we, Kratzenberg & Associates, Inc.d/b/a Keystone Collections Group as Principal and West American Insurance Company, a corporation organized and existing under the laws of the State of Indiana and authorized to transact surety business in the Commonwealth of Pennsylvania as Surety, are held and firmly bound unto Allegheny County Southeast Tax Collection Committee, as Obligee, in the penal sum of Nine Houndred Sixty Five Thousand Dollars ($965,000), lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, legal representatives, successor and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bounden Principal has entered into a Tax Collection Agreement with the Obligee beginning 01/01/12 and ending on 12/31/2014 (the "Term") to collect taxes (the "Agreement").

Now, Therefore, the condition of this Obligation is such, that, if the Principal shall well, truly and faithfully execute all of the duties required of the tax officer pursuant to: a) 53 P.S. § 6924 (d)(3) and b) the Agreement, both during the Term of the Agreement, then this obligation shall be void; otherwise it shall remain in full force and effect.

Provided and subject to the following conditions precedent:

1. This Bond is for the Term set forth above.
2. In no event shall the liability of the Surety exceed the penal sum of this Bond stated herein regardless of the number of years the Bond shall continue in effect or the number of claims that are made under the Bond.
3. Neither non-renewal by the Surety, nor failure, nor inability of the Principal to file a replacement bond shall constitute a loss recoverable hereunder.
4. Any modification of this Bond, including but not limited to a change in the penal sum, the Term or any other condition of this Bond shall be accomplished through a rider issued by the Surety; such modification shall only become effective thirty (30) days after such rider is received by Obligee.
5. This Bond may be cancelled by the Surety effective thirty (30) days from the date of written notice of such cancellation to the Principal and Obligee named herein at their last known address, provided no such cancellation shall affect or abridge the liability of the Principal or the Surety to the Obligee for losses occurring prior to the effective date of cancellation or termination of this Bond.
6. This Bond shall not cover and the Surety shall not be liable hereunder for loss of any public moneys or funds occurring through or resulting from the failure of, or default in payment by, any banks or depositories in which any public moneys or funds have been deposited, or may be deposited, or

placed to the credit, or under the control of the Principal, whether or not such banks or depositories were or may be selected or designated by the Principal or by other persons; or by reason of the allowance to, or acceptance by the Principal of any interest on said public moneys or funds any law, decision, ordinance or statute to the contrary notwithstanding.

7. This Bond shall be for the benefit of the named Obligee and for any other political subdivision or tax collection district for which income taxes shall be collected or distributed pursuant to the Agreement.

8. Any claim under this Bond must be made within one (1) year following the date of termination or cancellation of this Bond, whichever is sooner and should be sent to Liberty Mutual Surety, 450 Plymouth Road, Suite 400, Plymouth Meeting, PA 19462.

Dated this 15th day of September, 2011.

Kratzenberg & Associates, Inc.
(Principal)

By: _____

West American Insurance Company
(Surety)

By: _____
Attorney-in-Fact
Robert S. Faye

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

CERTIFIED COPY OF POWER OF ATTORNEY
THE OHIO CASUALTY INSURANCE COMPANY
WEST AMERICAN INSURANCE COMPANY

No. 43-873

Know All Men by These Presents: That THE OHIO CASUALTY INSURANCE COMPANY, an Ohio Corporation, and WEST AMERICAN INSURANCE COMPANY, an Indiana Corporation, pursuant to the authority granted by Article III, Section 9 of the Code of Regulations and By-Laws of The Ohio Casualty Insurance Company and West American Insurance Company, do hereby nominate, constitute and appoint: Gary E. Faye, Robert S. Faye or Stacey L. Knupp of Ligonier, Pennsylvania its true and lawful agent (s) and attorney (s)-in-fact, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all BONDS, UNDERTAKINGS, and RECOGNIZANCES, not exceeding in any single instance TWENTY MILLION ($20,000,000.00) DOLLARS, excluding, however, any bond(s) or undertaking(s) guaranteeing the payment of notes and interest thereon

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Companies at their administrative offices in Fairfield, Ohio, in their own proper persons.
The authority granted hereunder supersedes any previous authority heretofore granted the above named attorney(s)-in-fact.

In WITNESS WHEREOF, the undersigned officer of the said The Ohio Casualty Insurance Company and West American Insurance Company has hereunto subscribed his name and affixed the Corporate Seal of each Company this 25th day of October, 2010.

SEAL SEAL

J. Timothy D'Errico, Assistant Secretary

STATE OF OHIO,
COUNTY OF BUTLER

On this 25th day of October, 2010 before the subscriber, a Notary Public of the State of Ohio, in and for the County of Butler, duly commissioned and qualified, came J. Timothy D'Errico, Assistant Secretary of THE OHIO CASUALTY INSURANCE COMPANY and WEST AMERICAN INSURANCE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn deposes and says that he is the officer of the Companies aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and the said Corporate Seals and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at the City of Hamilton, State of Ohio, the day and year first above written.

Notary Public in and for County of Butler, State of Ohio
My Commission expires August 17, 2013.

This power of attorney is granted under and by authority of Article III, Section 9 of the Code of Regulations and By-Laws of The Ohio Casualty Insurance Company and West American Insurance Company, extracts from which read:

Article III, Section 9. Appointment of Attorneys-in-Fact. The Chairman of the Board, the President, any Vice-President, the Secretary or any Assistant Secretary of the corporation shall be and is hereby vested with full power and authority to appoint attorneys-in-fact for the purpose of signing the name of the corporation as surety to, and to execute, attach the seal of the corporation to, acknowledge and deliver any and all bonds, recognizances, stipulations, undertakings or other instruments of suretyship and policies of insurance to be given in favor of any individual, firm, corporation, partnership, limited liability company or other entity, or the official representative thereof, or to any county or state, or any official board or boards of any county or state, or the United States of America or any agency thereof, or to any other political subdivision thereof

This instrument is signed and sealed as authorized by the following resolution adopted by the Boards of Directors of the Companies on October 21, 2004:

RESOLVED, That the signature of any officer of the Company authorized under Article III, Section 9 of its Code of Regulations and By-laws and the Company seal may be affixed by facsimile to any power of attorney or copy thereof issued on behalf of the Company to make, execute, seal and deliver for and on its behalf as surety any and all bonds, undertakings or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment. Such signatures and seal are hereby adopted by the Company as original signatures and seal and shall, with respect to any bond, undertaking or other written obligations in the nature thereof to which it is attached, be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATE

I, the undersigned Assistant Secretary of The Ohio Casualty Insurance Company and West American Insurance Company, do hereby certify that the foregoing power of attorney, the referenced By-Laws of the Companies and the above resolution of their Boards of Directors are true and correct copies and are in full force and effect on this date.
IN WITNESS WHEREOF, I have hereunto set my hand and the seals of the Companies this 15th day of September, 2011.

SEAL SEAL

Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-513-867-3671 between 9:00 am and 4:30 pm EST on any business day.

275 Grandview Ave. Suite 102
Camp Hill, PA 17011

Liberty Mutual.
SURETY

CONTINUATION CERTIFICATE

To be attached to and form a part of surety bond number 601011772 (the "Bond"), cross reference bond number _____, for Tax Collector

dated the 1st day of January, 2012, in the penal sum of $ 965,000.00 issued by West American Insurance Company as surety (the "Surety"), on behalf of Kratzenberg & Associates, Inc. d/b/a Keystone Collections Group as principal (the "Principal"), in favor of Allegheny Southeast Tax Collection Committee, as obligee (the "Obligee").

The Surety hereby certifies that this Bond is continued in full force and effect until the 1st day of January, 2016, subject to all covenants and conditions of said Bond.

Said Bond has been continued in force upon the express condition that the full extent of the Surety's liability under said Bond, and this and all continuations thereof, for any loss or series of losses occurring during the entire time the Surety remains on said Bond, shall in no event, either individually or in the aggregate, exceed the penal sum of the Bond.

IN WITNESS WHEREOF, the Surety has set its hand and seal this 6th day of October, 2014

West American Insurance Company
(Surety)

By: _____
Attorney In Fact
Robert S Faye

WEST AMERICAN INSURANCE COMPANY INCORPORATED 1991 INDIANA

LMIC - 3300

CLGS-32-6 (6-13)

RESIDENCY CERTIFICATION FORM
Local Earned Income Tax Withholding

TO EMPLOYERS/TAXPAYERS:

This form is to be used by employers and/or taxpayers to report essential information for the collection and distribution of Local Earned Income Taxes to the local EIT collector. This form must be utilized by employers when a new employee is hired or when a current employee notifies employer of a name and/or address change. Use the Address Search Application at www.newPA.com/Act32 to determine PSD codes, EIT rates and tax collector contact information.

EMPLOYEE INFORMATION – RESIDENCE LOCATION

NAME (Last Name, First Name, Middle Initial)			SOCIAL SECURITY NUMBER
STREET ADDRESS (No PO Box, RD or RR)			
ADDRESS LINE 2			
CITY	STATE	ZIP CODE	DAYTIME PHONE NUMBER
MUNICIPALITY (City, Borough or Township)			
COUNTY	RESIDENT PSD CODE		TOTAL RESIDENT EIT RATE

EMPLOYER INFORMATION – EMPLOYMENT LOCATION

EMPLOYER BUSINESS NAME (Use Federal ID Name)			EMPLOYER FEIN
STREET ADDRESS WHERE ABOVE EMPLOYEE REPORTS TO WORK (No PO Box, RD or RR)			
ADDRESS LINE 2			
CITY	STATE	ZIP CODE	PHONE NUMBER
MUNICIPALITY (City, Borough or Township)			
COUNTY	WORK LOCATION PSD CODE		WORK LOCATION NON-RESIDENT EIT RATE

CERTIFICATION

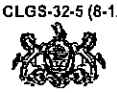
Under penalties of perjury, I (we) declare that I (we) have examined this information, including all accompanying schedules and statements and to the best of my (our) belief, they are true, correct and complete.

SIGNATURE OF EMPLOYEE		DATE (MM/DD/YYYY)
PHONE NUMBER	EMAIL ADDRESS	

For information on obtaining the appropriate MUNICIPALITY (City, Borough, Township), PSD CODES and EIT (Earned Income Tax) RATES, please refer to the Pennsylvania Department of Community & Economic Development website:

www.newPA.com/Act32

CLGS-32-5 (8-12)



EMPLOYER QUARTERLY RETURN
Local Earned Income Tax Withholding

Keystone Collections Group
PO Box 559
Irwin, PA 15642-0559

You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by contacting your Tax Officer.

☐ *Check if making any corrections to EMPLOYER'S Name & Address*

File ONLINE at www.KeystoneCollects.com

MUNICIPAL TAXING AUTHORITY (City, Borough, Township) IN WHICH FACILITY OR BUSINESS IS LOCATED			
COUNTY	BUSINESS PHONE NUMBER	BUSINESS FAX NUMBER	
EMPLOYER PSD CODE	FEDERAL EIN OR SOCIAL SECURITY #	ACCOUNT NUMBER	YEAR AND QUARTER

1. Total Earned Income Tax Withheld	$
2. Credit or Adjustment *(attach detail)*	$
3. Total of Earned Income Tax Due *(line 1 minus line 2)*	$
4. Total Payments Made this Quarter	$
5. Adjusted Total of EIT Due *(line 3 minus line 4)*	$
6. Penalty & Interest (___% *per month after due date x line 5*)	$
7. **Balance Due with Return** *(Add lines 5 and 6)*	$

8. Date Period Ended *(MMDDYYYY)*	
9. Total Pages of This Return	
10. Total Number of Employees Listed	

If there has been a change of ownership or other transfer of business during the quarter, attach explanation and give name of present owner and date the change took place. ☐ CHANGE ☐ NO CHANGE

Do you expect to pay taxable wages next quarter? ☐ Yes ☐ No

Under penalties of perjury, I (we) declare that I (we) have examined this information, including all accompanying schedules and statements and to the best of my (our) belief, they are true, correct and complete.

PRIMARY CONTACT INDIVIDUAL (First Name, Last Name)	
TITLE	
PRIMARY CONTACT PHONE NUMBER	PRIMARY CONTACT EMAIL ADDRESS
SIGNATURE OF PRIMARY CONTACT INDIVIDUAL	DATE (MM/DD/YYYY)

(11) EMPLOYEE'S SOCIAL SECURITY NUMBER	(12) EMPLOYEE'S NAME/ADDRESS *Check box if making any corrections to EMPLOYEE'S Name/Address, SSN, or Resident PSD*	(13) GROSS COMPENSATION PAID THIS QUARTER	(14) AMOUNT OF EIT WITHHELD THIS QUARTER	(15) RESIDENT PSD CODE
	☐	$	$	
	☐	$	$	
	☐	$	$	
	☐	$	$	
(16) FIRST PAGE TOTAL		$	$	

Make check payable to: **KEYSTONE COLLECTIONS GROUP**
There will be a $29 bank fee for returned payments and checks.

TOTAL Amount Enclosed $

CLGS-32-5 (8-12)

EMPLOYER QUARTERLY RETURN for Local Earned Income Tax Withholding

Employer Federal EIN: _____ Year and Quarter: _____

(11) EMPLOYEE'S SOCIAL SECURITY NUMBER	(12) EMPLOYEE'S NAME/ADDRESS *Check box if making any corrections to EMPLOYEE'S Name/Address, SSN, or Resident PSD*	(13) GROSS COMPENSATION PAID THIS QUARTER	(14) AMOUNT OF EIT WITHHELD THIS QUARTER	(15) RESIDENT PSD CODE
	☐	$	$	
	☐	$	$	
	☐	$	$	
	☐	$	$	
	☐	$	$	
	☐	$	$	
	☐	$	$	
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	☐	$	$	
	☐	$	$	
	☐	$	$	
	☐	$	$	
	☐	$	$	
(16) THIS PAGE TOTAL		$	$	

When reporting more than **20 employees,** please follow accompanying electronic filing instructions.

CLGS-32-2 (8-12)

W2-R ANNUAL RECONCILIATION
Earned Income Tax Withheld from Wages

Keystone Collections Group
PO Box 559
Irwin, PA 15642-0559

As reported on Employer's Quarterly Return, with income tax withheld as shown on Withholding Statements (W-2)

You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by contacting your Tax Officer.

Year _____ *Due by the Last Day of February*

MUNICIPAL LOCATION OF BUSINESS		
EMPLOYER PSD CODE	EMPLOYER ACCOUNT NUMBER	FEDERAL ID NUMBER

1. Total number of withholding statements (W-2s) accompanying this report		
2. Total income tax withheld from all wages during the year as shown on (W-2s) (A)		$
	EARNED INCOME TAX	**Tax Paid**
	Quarter ended March 31	$
	Quarter ended June 30	$
	Quarter ended September 30	$
	Quarter ended December 31	$
3. Total quarterly income tax from wages during the year as reported on Quarterly Reports (B)		$
	TOTAL	$
Make check payable to *Keystone Collections Group*	***TOTAL AMOUNT OF ENCLOSED CHECK***	$
4. *Any difference between A and B must be explained in attached statement. Where A and B do not agree, please remit or request refund.*		

Under penalties of perjury, I (we) declare that I (we) have examined this information, including all accompanying schedules and statements and to the best of my (our) belief, they are true, correct and complete.

PRIMARY CONTACT INDIVIDUAL (First Name, Last Name)	
TITLE	
PRIMARY CONTACT PHONE NUMBER	PRIMARY CONTACT EMAIL ADDRESS
SIGNATURE OF PRIMARY CONTACT INDIVIDUAL	DATE (MM/DD/YYYY)

Instructions for W2-R Annual Reconcillation Form

1. Include municipal location of business in PA, assigned account number and Federal ID number. Include employer's full business name and street address.
2. On or before the last day of February following the close of the calendar year, file online or return the reconciliation form to appropriate Tax Officer. This form must be accompanied by CITY INCOME TAX copy of the Form W-2 for each employee from whom income tax has been withheld during tax year.
3. The total of all income tax withheld as reflected on W-2s should be entered on line 2. Total earned income tax as reported on a quarterly basis should be entered on line 3.
4. Please remit any additional monies owed when filing the reconciliation. Attach statement of explanation and include the employee name, SSN, street address, resident PSD code and amount being paid with the reconciliation.

USE ONLY BLACK OR BLUE INK TO COMPLETE THIS FORM. USE ORIGINAL FORM - DO NOT PHOTOCOPY.

FILE ONLINE AT www.KeystoneCollects.com

CLGS-32-1 (8-14)

TAXPAYER ANNUAL LOCAL EARNED INCOME TAX RETURN

Keystone Collections Group
www.KeystoneCollects.com

You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes. Contact your Tax Officer.

Tax Year

DATES LIVING AT EACH ADDRESS	STREET ADDRESS (No PO Box, RD or RR)	CITY OR POST OFFICE	STATE	ZIP
/ / TO / /				
/ / TO / /				

If you moved during the tax year, file one return for each address (including PSD Code jurisdictions). Use Part-Year Resident Schedule on back to calculate income and taxes for each address.

DAYTIME PHONE NUMBER ___ - ___ - ___

RESIDENT PSD CODE

EXTENSION ☐ AMENDED RETURN ☐ NON-RESIDENT ☐

The calculations reported in the first column MUST pertain to the name printed in the column, regardless of whether the husband or wife appears first. **Combining income is NOT permitted.**

ONLY USE BLACK OR BLUE INK TO COMPLETE THIS FORM

☐ Single ☐ Married, Filing Jointly ☐ Married, Filing Separately ☐ Deceased

	Social Security #	Spouse's Social Security #
	If you had NO EARNED INCOME, check the reason why: ☐ disabled ☐ student ☐ deceased ☐ military ☐ homemaker ☐ retired ☐ unemployed	If you had NO EARNED INCOME, check the reason why: ☐ disabled ☐ student ☐ deceased ☐ military ☐ homemaker ☐ retired ☐ unemployed
1. Gross Compensation as Reported on W-2(s) (enclose W-2s)	.00	.00
2. Unreimbursed Employee Business Expenses (enclose PA Schedule UE)	.00	.00
3. Other Taxable Earned Income (see instructions; enclose supporting documentation)	.00	.00
4. Total Taxable Earned Income (subtract Line 2 from Line 1 and add Line 3)	.00	.00
5. Net Profit (enclose PA Schedules) NON-TAXABLE S-Corp earnings check this box: ☐ (enclose S-Corp schedule)	.00	.00
6. Net Loss (enclose PA Schedules)	.00	.00
7. Total Taxable Net Profit (subtract Line 6 from Line 5, if less than zero, enter zero)	.00	.00
8. Total Taxable Earned Income and Net Profit (add Line 4 and Line 7)	.00	.00
9. Total Tax Liability (Line 8 multiplied by)	.00	.00
10. Total Local Income Tax Withheld as Reported on W-2(s)	.00	.00
11. Quarterly Estimated Payments/Credit From Previous Tax Year	.00	.00
12. Out-of-State or Philadelphia Credits (enclose supporting documentation)	.00	.00
13. TOTAL PAYMENTS and CREDITS (add Lines 10, 11 and 12)	.00	.00
14. Refund: IF MORE THAN $1.00, enter amount (or select option in Line 15)	.00	.00
15. Credit Taxpayer/Spouse (amount of Line 13 to credit to your account) ☐ Credit to next year ☐ Credit to spouse	.00	.00
16. EARNED INCOME TAX BALANCE DUE (Line 9 minus Line 13)	.00	.00
17. Penalty after April 15 (multiply Line 16 by 0.01 x number of months late)	.00	.00
18. Interest after April 15 (multiply Line 16 by 0.0025 x number of months late)	.00	.00
19. **TOTAL PAYMENT DUE** (add Lines 16, 17 and 18)	.00	.00

Do not submit more than one W-2 or Form 1099 on the same page.

Under penalties of perjury, I (we) declare that I (we) have examined this information, including all accompanying schedules and statements and to the best of my (our) belief, they are true, correct and complete.

YOUR SIGNATURE	SPOUSE'S SIGNATURE (If Filing Jointly)	DATE (MM/DD/YYYY)
PREPARER'S PRINTED NAME & SIGNATURE		PHONE NUMBER

S-CORPORATION PROFIT/LOSS REPORT

To avoid future correspondence, please report any S Corporation Pass-Through profits (losses) that were reported on your PA-40 Return

TAXPAYER A: $ _____ .0 0

TAXPAYER B: $ _____ .0 0

PART-YEAR RESIDENT SCHEDULE

If you moved into a new taxing jurisdiction during the tax year, complete this schedule and use the income and withholding information to complete your separate Local Earned Income Tax Returns. You must file a Local Earned Income Tax Return for each jurisdiction you lived in during the tax year.

Current Residence _____ (street address)

_____ (municipality, State, ZIP)

 # months at this address ___ ___

PSD Code - Current Residence

Employer _____

Local Income $ _____ divided by 12 months X _____ (months at this address) = $ _____

Withholding $ _____ divided by 12 months X _____ (months at this address) = $ _____

Employer _____

Local Income $ _____ divided by 12 months X _____ (months at this address) = $ _____

Withholding $ _____ divided by 12 months X _____ (months at this address) = $ _____

Current Residence Total Income $ _____ Total Local Tax Withheld $ _____

Put the Total Income on Line 1 and the Tax Withheld on Line 10 of the Local Earned Income Tax Return for your current residence taxing jurisdiction.

Previous Residence _____ (street address)

_____ (municipality, State, ZIP)

 # months at this address ___ ___

PSD Code - Previous Residence

Employer _____

Local Income $ _____ divided by 12 months X _____ (months at this address) = $ _____

Withholding $ _____ divided by 12 months X _____ (months at this address) = $ _____

Employer _____

Local Income $ _____ divided by 12 months X _____ (months at this address) = $ _____

Withholding $ _____ divided by 12 months X _____ (months at this address) = $ _____

Current Residence Total Income $ _____ Total Local Tax Withheld $ _____

Put the Total Income on Line 1 and the Tax Withheld on Line 10 of the Local Earned Income Tax Return for your previous residence taxing jurisdiction.

LINE 10: LOCAL EARNED INCOME TAX WITHHELD WORKSHEET

(Complete worksheet if you work in an area where the non-resident tax rate exceeds your home resident rate)

	(1) Local Wages (W-2 Box 16 or 18)	(2) Tax Withheld (W-2 Box 19)	(3) Resident EIT Rate (Line 9)	(4) Work Location EIT Rate	(5) Col 4 Minus Col 3 (If less than 0 enter 0)	(6) Disallowed Withholding Credit (Col 1 x Col 5)	(7) Credit Allowed For tax Withheld (Col 2 - Col 6)
Example:	$10,000.00	$130.00	1.25%	1.30%	0.05%	$5.00	$125.00
1.							
2.							
3.							
						TOTAL - Enter this amount on Line 10	

NON-RECIPROCAL STATE WORKSHEET

(See Instructions for Line 12)

Earned Income taxed in other state as shown on state tax return. ***(Enclose a copy of state return** or credit will be denied)*..... (1) _____

Local tax rate as specified on the front of this form ..... x _____

(2) _____

Tax Liability Paid to other state(s) ..... (3) _____

PA Income Tax (Line 1 x PA Income Tax Rate for year being reported) ..... (4) _____ (5) _____

Line (3) minus Line (4)

Non-Reciprocal State Credit to be used against local tax: On Line 12 of the front of this form, enter the amount shown on worksheet line (2) above or the amount shown on worksheet line (5) above, whichever is less (if less than zero, enter "0").

A NOTE FOR RETIRED AND/OR SENIOR CITIZENS

If you are retired and are no longer receiving a salary, wages or income from a business, you may not owe an earned income tax. Social Security payments, payments from qualified pension plans, interest and/or dividends accrued from bank accounts and/or investments are not subject to local earned income tax. If you received an Annual Local Earned Income Tax Return, please check the "retired" box on the front of the form and return it to your tax collector. If you still receive wages from a part-time employer or income from a business, you will need to file a return and pay the local earned income tax.

TAXPAYER ANNUAL LOCAL EARNED INCOME TAX RETURN

KEYSTONE collections group™
www.KeystoneCollects.com

INSTRUCTIONS

A. General Instructions

1. **When To File:** This return must be filed online or by mail on or before April 15. If filing a Federal or State Application for Extension, check the extension box on the front of the form and submit along with estimated payment. If using a professional tax preparer, confirm that the tax preparer timely submits your final return.
2. **Where To File:** File with the local earned income tax collector for each tax collection district in which you lived during the year. If you moved during the year, use the Part-Year Resident Schedule (*on reverse of tax return form*) to calculate income and taxes owed for each taxing jurisdiction in which you lived during the year. File a local earned income tax return for each taxing jurisdiction.
3. **Effective Dates:** January 1 through December 31, unless otherwise noted on the local earned income tax return. (*For example, if you are filing part-year resident tax returns.*)
4. **Amended Return:** When amending a PA Income Tax Return (PA-40), accordingly amend and re-file a local earned income tax return.
5. **Receipt / Copy:** An online confirmation or cancelled check is sufficient proof of payment.
6. **Penalty and Interest:** If the tax is not paid when due, penalty and interest will be charged. Penalty and interest accrues on late-filed final returns and any late-filed quarterly estimates, if applicable. Late or incorrect filing/payment may result in additional collection costs. Use Line 17 and Line 18 to calculate penalty and interest.
7. **Round Off Cents** to the nearest whole dollar. Do not include amounts under 50 cents. Increase amounts from 50 to 99 cents to the next dollar amount.
8. **Use Black or Blue Ink Only:** Do not use pencil or red ink when completing form.
9. **Resident PSD Code:** Taxpayers are required to provide a Resident PSD (political subdivision) Code. Keystone's *e-file* will automatically include the proper PSD Code when filing online The PA Department of Community and Economic Development (DCED) provides a web page for taxpayers to locate their PSD codes and other tax rate information. For taxpayer convenience, Keystone provides a link to the DCED tax information website. To locate your Resident PSD go to www.KeystoneCollects.com and follow the steps below:

   1) Click on the "Taxpayer Resources" tab
   2) Select "Helpful Links" and
   3) Choose "Tax Rate Lookup by Address" (*clicking this link will connect you to the DCED website*).

B. Regulations/Line-by-Line Instructions (*Include all supporting schedules and documentation with tax return.*)

LINE 1: Gross Compensation as Reported on W-2: Use the following guidelines to determine earnings and compensation. If you moved during the tax year, complete the Part-Year Resident Schedule on back of tax return form to calculate income and taxes owed for each jurisdiction in which you lived. File a separate local earned income tax return for each taxing jurisdiction. Use the appropriate PSD Code for each.

Documentation Required: Enclose Forms W-2 and any other form indicating compensation received. Do not submit more than one W-2 on the same page. If claiming out-of-state credits (*see Line 12*), complete the Non-Reciprocal State Worksheet on back of return form; use Medicare wages (*W-2 Box 5*). Subtract taxable cost of group life insurance over $50,000, if applicable (*see item C in W-2 Box 12*).

Taxable Income Includes: Salaries, wages, commissions, bonuses, tips, stipends, fees, incentive payments, employee contributions to retirement accounts, compensation drawing accounts (*if amount received as a drawing account exceeds the salary or commission, the tax is payable on the amount received. If the employee subsequently repays to the employer any amount not in fact earned, adjust the tax accordingly*). Benefits accruing from employment (*such as: annual leave, vacation, holiday, separation, sabbatical leave and compensation received in the form of property*), shall be taxed at fair market value at the time of receipt. Jury duty pay, payments received from unit training assembly for National Guard or Reserve Units, sick pay (*if employee received a regular salary during period of sickness or disability by virtue of agreement of employment*), and taxes assumed by the employer. Refer to the PA Department of Revenue regulations regarding taxable compensation. This list is not exhaustive. Contact your professional tax preparer if you have any questions.

Non-Taxable Income Includes: Social Security Benefits, Unemployment Compensation, pensions, public assistance, death benefits, gifts, interest, dividends, boarding and lodging for convenience of employer, lottery winnings, Supplementary Unemployment Benefits (*sub pay*), capital gains (*capital losses may not be used as a deduction against other taxable income*), disability benefits (*periodical payments received by an individual under a disability insurance plan*), active military service outside of PA including annual training (*provide orders; include leave and earnings statement*), personal use of company cars, cafeteria plans, and clergy housing allowance. Some forms of payments from individual retirement programs (*such as Keogh, Tax Shelter Annuity, IRA and 401K*) are not taxable. Refer to the PA Department of Revenue regulations regarding taxable compensation. This list is not exhaustive. Contact your professional tax preparer if you have any questions.

LINE 2: Allowable Employee Business Expenses

Documentation Required: PA Schedule UE must be enclosed (*legible photocopies accepted*). Include a copy of taxpayer's PA Income Tax Return (PA-40) to verify business expenses.

LINE 3: Other Taxable Earned Income: Include income from work or services performed, which has not been included on Line 1 or line 5. Do not include interest, dividends or capital gains. Include supporting documentation, such as Form 1099 (*legible photocopies accepted*). Do not submit more than one Form 1099 on the same page.

LINE 4: Total Taxable Earned Income: Subtract Line 2 from Line 1 and add Line 3.

LINES 5 and 6: Net Profit/Net Loss From Business: Use Line 5 for profit and Line 6 for loss.

Documentation Required: Form 1099(s), Schedules C, E, F, K-1 or RK-1, whichever is appropriate, must be enclosed (*legible photocopies accepted*).

A taxpayer may not offset a business loss against Gross Compensation as Reported on W-2 (Line 1). Passive or unearned income from an S-Corporation is not taxable and loss is not deductible (*any earned income is taxable*). A taxpayer may offset a loss from one business entity against a net profit from another business entity.

LINE 7: Total Taxable Net Profit: Subtract Line 6 from Line 5; if less than zero, enter "0".

LINE 8: Total Taxable Earned Income and Net Profit: Add Line 4 and Line 7.

LINE 9: Tax Liability: Multiply Line 8 by local earned income tax rate. Visit www.newPA.com and follow instructions to find the applicable rate for your taxing jurisdiction.

LINE 10: Earned Income Tax Withheld: A taxpayer may claim credit for local tax withheld as shown on the W-2 form (Box 19), but only up to the amount of local tax liability on Line 9 of the return. Do not claim entire amount of tax withheld if it is greater than the tax liability for your resident taxing jurisdiction, unless the tax withheld also exceeds the non-resident tax liability where you work (*by law your employer must withhold the highest rate between the PA jurisdiction where you reside and the PA jurisdiction where you work*). If the amount of local taxes withheld listed in Box 19 of the W-2 is higher than the local tax liability on Line 9 of this return, use the "Local Earned Income Tax Withheld Worksheet" on the reverse of the return to calculate total tax liability, which may include the non-resident tax withheld based on where you work. Do not include withholdings to Philadelphia (*see Line 12*).

LINE 11: Quarterly Estimated Payments/Credit From Previous Tax Year: Self-employed taxpayers, and taxpayers having taxable earnings not subject to withholding (*for example, U.S. government employees and those who work for out-of-state employers*) must report and pay taxes quarterly. List any quarterly estimate payments made for the appropriate filing year. Do not include any penalty and interest that may have been applied to late-filed quarterly estimate payments. Include any tax overpayment credit from the previous year's filing.

LINE 12: Out-of-State and Philadelphia Credits:

Reciprocity Rule: No credit is given for state income taxes paid to Maryland, New Jersey, Ohio, Virginia, West Virginia or Indiana.

Documentation Required: W-2(s) showing out-of state withholding, copy of out-of-state or Philadelphia non-resident return.

(1) Credit for income tax paid to other states must first be applied to Pennsylvania state income tax liability. Any credit remaining may be used to offset local earned income tax liability, limited to the local tax rate multiplied by the out-of-state wages. To adjust Gross Compensation (Line 1), complete the Non-Reciprocal State Worksheet on back of return form. Wage earners must use Medicare wages (*W-2 Box 5*). Subtract taxable cost of group life insurance over $50,000, if applicable (*see item C in W-2 Box 12*).

(2) Wage taxes paid to Philadelphia may be applied to local earned income tax liability. Include W2(s) showing taxes withheld to Philadelphia (*W-2 Box 19*).

(3) Only income that is taxable at the local level in Pa may be used to calculate any out-of-state credit (*see taxable and non-taxable income included in these instructions for Line 1*).

(4) Credit for income taxes paid to another state or political subdivision, including Philadelphia, may not exceed total local earned income tax liability.

Credit for Taxes Paid to Other States: Taxpayer may take a local earned income tax credit for gross earnings taxed in both another state and in PA when the credit exceeds taxpayer's PA state personal income tax liability. *This credit will be denied if taxpayer fails to provide supporting documentation, including the other state's completed tax return and W-2 form showing other state's income tax withheld.*

No credit is given for state income taxes paid to: Maryland, New Jersey, Ohio, Virginia, West Virginia or Indiana.

Example: Taxpayer earned $10,000 in Delaware and paid $317 in income taxes to Delaware. At a 3.07% Pennsylvania state tax rate, the $317 Delaware tax exceeds the $307 PA tax by $10. The excess $10 may be available to use as a credit against the local income tax.

Delaware Income	(1)	$10,000.00
Local tax rate at 1%		x.01
Local tax	(2)	100.00
Tax paid to Delaware	(3)	317.00
PA Income Tax (3.07% x $10,000.00)	(4)	307.00
Subtract Pa Income Tax (4) above from out-of-state tax (3) above		
Credit to be used against Local Tax	(5)	10.00
*Enter credit amount (5) on **Line 12** of the tax return*		

Credit for Taxes Paid to Political Subdivisions Outside of PA: Credit is allowed based upon the gross earnings taxed by both the political subdivision where the taxpayer works outside of PA and the municipality where the taxpayer lives in PA. *This credit will be denied if taxpayer fails to provide supporting documentation, including the out-of-state municipal return and W-2 form showing out-of-state municipal tax withheld.*

Credit for Taxes to Philadelphia: Wage tax paid to Philadelphia may be applied as a credit toward local earned income tax liability. To claim this credit, complete the Local Earned Income Tax return. *This credit will be denied if taxpayer fails to provide supporting documentation, including a W-2 and/or other verification of taxes paid.* No refunds or credits will be allowed for any overpayment made to Philadelphia. Credit cannot exceed local tax liability and is not transferrable to the tax liability of a spouse. Taxpayer may not claim a refund in excess of the local tax liability under PA Act 32 of 2008, which amended the *Pennsylvania Local Tax Enabling Act*. As such, adjust Line 14 as necessary.

LINE 13: Total Payments and Credits: Enter the sum of Line 10, Line 11 and Line 12.

LINE 14: Refund: If tax (Line 9) is less than credit (Line 13), and more than $1 enter amount of refund. Taxpayer may elect to apply refund as a credit against the next year's local earned income tax liability (Line 15). Form 1099 will be issued to the Federal Government for any credit or refund exceeding $10. *Do not enter an amount in Line 14 if crediting entire tax overpayment to spouse or next year's tax liability* (Line 15).

LINE 15: Credit: If tax (Lline 9) is less than credit (Line 13) enter amount of credit and check the applicable box for credit to next year's local earned income tax liability or credit to spouse. Form 1099 will be issued to the Federal Government for any credit or refund exceeding $10.

LINE 16: Amount of Tax Due: If tax (Line 9) is greater than credits (Line 13), enter amount of tax due. If less than $1 enter "0".

LINE 17 and 18: Penalty and Interest: If the tax is not paid when due, penally and interest will be charged. Penally and interest accrues on late-filed final returns and any late-filed quarterly estimates, if applicable. Late or incorrect filing/payment may result in additional collection costs.

LINE 19: Total Amount Due: Add Line 16, Line 17 and Line 18. If less than $1 enter "0".

Note: All tax returns are subject to audit and review. Local or city copy of W-2 and/or supporting schedules must be enclosed with tax return. **Submit each W-2 and 1099 on a separate sheet.**

Payment: Follow online instructions when paying on e-file. When filing by mail, use the preprinted Payment Voucher. Send to

Refund or Credit	***Payment Enclosed***	***No Payment or Refund***
Keystone Collections Group	Keystone Collections Group	Keystone Collections Group
PO Box 509	**PO Box 529**	**PO Box 549**
Irwin, PA 15642-0509	Irwin, PA 15642-0529	Irwin, PA 15642-0549

When paying by mail, make check payable to "Keystone Collections Group"

Save Time – File Your Taxes Online. It's Easy ... Fast ... Secure

e-file

Follow the easy instructions on the next page.
For additional help, see "Frequently Asked Questions" on Keystone's website
www.KeystoneCollects.com