



EMPLOYER INSTRUCTIONS:

WITHHOLDING & REMITTANCE OF INCOME TAXES UNDER ACT 32 OF 2008

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Act 32 of 2008 requires county-wide earned income tax collection, establishing a Tax Collection District (TCD) in each county, except Philadelphia to which Act 32 does not apply, and four TCDs in Allegheny County.

To assure the success of county-wide earned income tax collection under Act 32, which, in effect, requires employers to make significant changes to their payroll systems, PASBO has prepared instructions which outline the important information employers should know to properly withhold, remit and report income tax data to tax collectors.

Additional practical information designed to assist employers and tax preparers in implementing the changes under Act 32 is available on PASBO's website. Go to: <http://www.pasbo.org>; watch the training module titled "Guidance to Employers and Tax Preparers for Withholding, Remitting and Reporting Earned Income Taxes under Act 32."

EFFECTIVE DATE

Per Section 512 of Act 32, the requirements are effective 01/01/2012. The requirements are effective 01/01/2011 if specified by a tax collection district (TCD).

EMPLOYERS SUBJECT TO REQUIREMENTS

"Employer." An employer having an office, factory, workshop, branch, warehouse or other place of business within a TCD who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation.

EMPLOYER REGISTRATION

If not previously registered, an employer shall, within 15 days after becoming an employer, register with the tax collector for the place of employment the name of the address of the employer and such other information as the tax collector or Pennsylvania Department of Community and Economic Development (DCED) may require.

EMPLOYER REQUIREMENTS OF EMPLOYEES

Each employee must complete a Certificate of Residence, which may be obtained from the tax collector. The Certificate of Residence form serves to identify the political subdivisions where an employee lives and works. The certificate shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4).

Any employee who changes their address or domicile must complete a new Certificate of Residence.

Please note. Some TCDs might require a Certificate of Residence only from new employees and employees who change their address or domicile.

Please note. It is extremely important that the designation of the municipality and school district of the employee domicile address be correctly stated. If an employee is uncertain of the correct municipality, the employer has a duty to assist the employee in determining the correct municipality and school district. If the employer has difficulty determining the correct municipality and school district, the employer should consult with the tax collector for the place of employment.

It is also extremely important that the municipality and school district of the employment place address be correctly stated. If the employer has difficulty determining the correct municipality and school district, the employer should consult with the tax collector for the place of employment.

Please note. Some TCDs require that the employer send a copy to the tax collector only upon request from the tax collector.

The employer should send a copy of the signed Certificate of Residence to the collector for the place of employment within 15 days after the employee signs an initial or new Certificate of Residence.

DEDUCTING RESIDENT TAX OR NON-RESIDENT TAXES

At the time of payment, an employer shall deduct from an employee's compensation the greater of the employee's resident tax or the employee's nonresident tax as released in the official register maintained by the DCED.

DETERMINING THE AMOUNT OF TAX TO WITHHOLD

Every employer should take the following steps to determine the amount of tax to withhold from each employee:

1. Determine the municipality in which the person's place of employment is located, and the six (6) digit PSD code for the employment location address.
2. Determine from the Certificate of Residence the municipality and school district in which the employee resides and the six (6) digit PSD code for the employee's residence address.
3. Determine from the DCED tax register whether any income tax is levied on non-residents by the municipality in which the employee's place of employment is located—and if so, the tax rate. If levied on non-residents, this is the employee's non-resident tax rate.
4. Determine from the DCED tax register whether any income tax is levied by the municipality and school district in which the employee resides. If levied, the combined municipal and school district rate is the employee's resident tax rate.
5. Withhold tax at the greater of the resident tax rate or the non-resident tax rate.
6. If an employee moves, the employer must require the employee to file a new Certificate of Residence, and the employer must repeat steps 1 through 5.

Please note. It is extremely important that the employer exercise utmost care in determining the correct resident and non-resident tax rate, and the correct six (6) PSD code.

EMPLOYER USE OF DCED TAX REGISTER

Per Section 511 of Act 32, an employer shall not be required to deduct from compensation of an employee or make reports of compensation in connection with any withholding tax that is not released on DCED's Official Tax 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.

An employer may withhold at the most recently available rate on DCED's Real Time Tax Register even if such rate is different than the tax rate released on the official register.

EMPLOYER RETURNS

The following information must be reported:

1. The name, resident address and Social Security number of each employee
2. The compensation of the employee during the period covered by the return (preceding month or preceding 3 months)
3. The total income tax deducted from the employee and paid with the return.
4. If income tax is imposed by the municipality or school district where the employee resides, the six (6) digit PSD code of the municipality/school district imposing the tax.
5. The name of the municipality and school district imposing the resident income tax upon the employee.
6. The employment place location address of each employee
7. The PSD Code of the political subdivision imposing the non-resident (employment place) income tax upon the employee
8. The name of the municipality imposing the non-resident (employment place) income tax upon the employee
9. The total compensation of all employees during the period covered by the return
10. The total income tax deducted from the employees and paid with the return
11. Any other information prescribed by the tax collector or DCED

“PSD Code.” The Political Subdivision Code as developed and published by the DCED.

“Employment Place.” This is the address of the location where an employee is normally based and conducts daily activities. For example, an employee working in the construction field will normally have a base location from which they begin each day’s work.

Please note. Employers should consult regulations, policies, or instructions of the TCD or tax collector for more detail on the definition of the “Employment Place.”

Please note. It is extremely important that all information included in the employer return be correctly stated. Inclusion of incorrect information might lead to payment of tax to the wrong school district or municipality, and might lead to liability of the employer for tax amounts.

Please note. Appointed tax collectors will establish specific formats for reporting this information and may require additional information. The items outlined above are the minimum information requirements.

General Rule/Single-Site Employers (an employer with a single place of employment in one TCD):

Within 30 days following the end of each calendar quarter, an employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax collector for the place of employment for each employee.

Option for Multi-Site Employers (an employer with place of employment in more than one TCD):

Within 30 days following the last day of each month, the employer may file the tax return information and pay the total amount of income taxes deducted from employees in all Pennsylvania work locations other than Philadelphia during the preceding month to the tax collector for either the TCD in which the employer’s payroll operations are located or as determined by the DCED. The return and income taxes deducted must be filed and paid electronically. An employer must file a notice of intention to file combined returns and make combined payments with the tax collector for each place of employment at least one month before filing its first combined return or making its first combined payment. Alternatively, an employer may report to each place of employment as described under “General Rule/Single-Site Employers.”

See attachment concerning Draft of DCED Proposed Regulation as of 8/23/11.

Out-of-State Employers

Multi-site employers have the option of filing where they have payroll operations located. If they wish to file in an alternate location, they should consult with the tax collector of that alternate location until further action by DCED occurs.

MONTHLY REMITTANCE REQUIRED OF DELINQUENT EMPLOYERS

An employer who for two of the preceding four quarterly periods has failed to deduct or pay over the proper amount of tax may be required by the tax collector to file returns and pay tax monthly. In such cases, payments of income tax shall be made to the tax collector on or before the last day of the month succeeding the month for which the income tax was withheld.

ANNUAL RETURN AND INDIVIDUAL WITHHOLDING STATEMENTS TO BE FILED WITH TAX COLLECTOR

On or before February 28 of the succeeding year, an employer must file with the tax collector where income taxes have been deducted and remitted:

1. 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 collector and any other information prescribed by the tax collector or DCED.
2. An individual withholding statement, which may be integrated with 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 collector, the numerical code prescribed by the DCED representing the TCD where the quarterly or monthly payments were remitted and any other information prescribed by the tax collector or DCED. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.

DISCONTINUANCE OF BUSINESS

An 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 section 512 of Act 32 and pay the income tax due.

TAX COLLECTOR TRANSITION

In many cases, employers will be required to file tax returns and remit payments to a new tax collector appointed as part of the implementation of Act 32. This will occur in 2011 or 2012 depending on the decision of school districts and municipalities. The two basic transition options will be:

1. The final quarterly tax return and final annual tax return for the prior year will be filed and tax amounts withheld will be remitted to the new collector; or
2. The final quarterly tax return and final annual return for the prior year will be filed and tax amounts withheld will be remitted to the pre-Act 32 tax collector.

Please note. This will be communicated to employers by the new tax collector.

EMPLOYER LIABILITY FOR PAYMENT OF INCOME TAXES

An employer who willfully or negligently fails or omits to make the required deductions 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 does not relieve any employee from the payment of the income tax or from complying with the requirements for filing of declarations and returns.

PENALTIES FOR NONCOMPLIANCE

If tax is not remitted when due, the employer is required to pay interest at a rate established by the Commonwealth of Pennsylvania on the unpaid income tax amount, and an additional penalty of 1% of the unpaid income tax amount for each month or fraction of a month during which the income tax remains unpaid. Additional penalties may apply as stated in tax ordinances of municipalities or tax resolutions of school districts. If tax is not remitted or paid when due, the employer is also liable for costs of collection.

An employer who fails, neglects, or refuses to register, keep, or supply records or returns required by applicable law or to pay the income tax deducted from employees, or fails, neglects, or refuses to deduct or withhold the income tax from employees, who refuses to permit the tax collector to examine books, records, and papers, or who knowingly makes any incomplete, false, or fraudulent return shall, upon conviction, 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 of not more than six months.

In addition, an employer 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.

Additional criminal penalties apply for supplying false information.

Other Resources to Assist Employers

DCED's Municipal Statistics

For EIT rates and PSD codes, go to:

<http://newpa.com/get-local-gov-support/municipal-statistics>

DCED's Act 32 EIT Collection System

For forms and updates, go to:

<http://www.newpa.com/get-local-gov-support/tax-information/dceds-act-32-eit-collection-system>

§ 125.15. Elective Filing And Remittance By Multi-Work Location Employers.

Under subsection 512(5) of the Act, an employer with more than one place of business in more than one Tax Collection District may elect to remit the tax withheld from all of its employees in all of its work locations within the Commonwealth for the preceding month and file within 30 days following the end of each month one single combined monthly return as follows:

- (1) In order to be eligible to file combined returns and make combined payments, the employer must:
 - (a) File a notice of its intention to file combined returns and make combined payments with the Tax Officer for each place of employment at least one month prior to filing its first combined return or making its first combined payment; and
 - (b) File its combined return and remit its combined payment electronically on a monthly, rather than quarterly, basis.
 - (c) Obtain written approval from the Tax Officer in the tax collection district in which the employer desires to file a combined return.

(2) An employer with payroll operations located within one tax collection district shall file the combined return and remittance of earned income taxes withheld to the tax officer in that tax collection district; provided however, if the Tax Officer should decline in writing to receive the combined filing, then the employer may choose to file a combined return with any tax officer in a Tax Collection District where the employer maintains a place of business employing one or more employees; so long as the chosen Tax Officer has consented.

(3) An employer with payroll operations located in more than one tax collection district or outside the Commonwealth, may file a combined return with the Tax Officer of a Tax Collection District within which the employer has a place of business employing one or more employees, so long as the chosen Tax Officer has consented.

(4) The election by an eligible employer to file combined returns and make combined payments shall in no way alter an employee's workplace for purposes of nonresident tax liability.

(5) Philadelphia Rule.

- (a) An employer with employees working solely in Philadelphia must file returns and make remittances monthly to the City of Philadelphia.
- (b) Entities with employees working in Philadelphia and other counties in Pennsylvania must file returns and remittances to Philadelphia for employees who work in Philadelphia. Returns and remittances for those employees working outside Philadelphia are made to the Tax Officers in the counties in which such employees work; provided however that employers may also file combined returns and remittances for employees outside of Philadelphia in accordance with this section.

(6) Selection of a Tax Officer to receive combined tax returns and remittances may be made on a calendar year basis.

(7) If an employer outsources payroll functions to a payroll processing company, the employer's place of business that forwards payroll data to the company will be deemed the employer's payroll operations location. The location of the payroll processing company will not be considered to be the employer's payroll operations location.