FAQs: Frequently Asked Questions
Act 32, Earned Income Tax Collection Reform

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

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

2. **How many EIT collectors does Act 32 create?**

   The legislation amends the Local Tax Enabling Act (act 511 of 1965) and is applicable to municipalities and school districts in all counties except Philadelphia. Act 32 provides for one earned income Tax Officer (collector) for each county, other than Philadelphia and Allegheny Counties. It has resulted in a reduction of local earned income tax collectors from approximately 560 to 21 when the legislation becomes effective statewide in 2012. Philadelphia City/County already has a consolidated tax system and falls under the Sterling Act of 1932. The Act further provides for (4) tax collection districts in Allegheny County.

   A complete listing and several versions of maps showing the TCD boundaries are available on this website.

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

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

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

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

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

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

5. How is an employer to determine the correct rate of earned income tax to be withheld from an employee?

Under Act 32, employers are required to withhold the higher of the employee's resident earned income tax amount (rate of total resident EIT where they *reside*) vs. the employee's municipal non-resident earned income tax amount (rate of non-resident EIT where they are *employed*).

Example #1: If an individual resides in a municipality/school district that impose a total resident EIT rate of 0.5% and they work in a municipality that imposes a municipal non-resident EIT rate of 1.0%...a total EIT of 1.0% would be withheld from the employee.

Example #2: If an individual resides in a municipality/school district that impose a total resident EIT rate of 1.6% and they work in a municipality that imposes a municipal non-resident rate of 1.3%...a total EIT of 1.6% would be withheld from the employee.

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

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

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

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

8. How does the Act improve accountability with the collection and distribution of income taxes?

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

- Tax Officers must keep records of every dollar received and distributed and submit monthly reports accounting for each dollar.
- The required annual audit includes a reconciliation of monthly reports and the receipt and disbursement of all tax monies, as well as, findings of noncompliance if applicable.
- Bonding for the Tax Officer is required in compliance with the Regulations established by the Department.
- Fines and penalties are provided in cases where the Tax Officer fails to comply with the Act.
- Tax collection committees are required to appoint an appeals board to hear appeals of Tax Officer determinations.
- Tax Officers will continue to use existing enforcement provisions and be provided with new tools to pursue claims against those that fail to comply.

- The Department of Revenue is required to enter into an agreement with each tax collection district for the exchange of tax information on a yearly basis.
- If the Tax Officer fails to comply with Acts 511 and 32, increased fines and penalties are provided for, including possible jail time.

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

Act 32 of 2008 has minimal impact on county government in Pennsylvania. The earned income tax collection process is not a function of county government, though the Act does not preclude a county from serving as a Tax Officer if the tax collection committee selects the County as such and the County agrees. The county initially served as a facilitator in convening the first meeting of the tax collection committee. The county has no other role in the operation of the tax collection district or collection and distribution of the local earned income tax.

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

No. The Act does not change, expand or diminish the tax authority provided under Act 511 or other statutes. Likewise, taxing authority for county government is not changed by the Act. Municipalities and school districts should see increased revenues under the revised system since the Act now requires withholding of the earned income tax from all employees at the place of employment. The Act also requires greater accountability in the collection and distribution process that will close gaps that exist in the current system.

11. How is the county-wide earned income tax collection system structured?

The earned income tax collection system for each tax collection district (TCD) is organized under a tax collection committee (TCC) which serves as the governing body for each TCD.

Tax collection committee membership is comprised of one voting delegate from the governing body of each municipality and school district within the county that levies an earned income tax. Each taxing jurisdiction that imposes an EIT shall appoint and maintain one voting delegate and one or more alternates to serve on the tax collection committee. The delegates and alternates serve at the pleasure of the appointing body.

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

At the formation meeting of the tax collection committee, initial actions were determined by a majority vote of those delegates present. In accordance with the Act, delegate votes at the first meeting were to be weighted as follows: 50% allocated according to the proportional population of each municipality and school district and 50% weighted in direct proportion to income tax revenues collected in each municipality and school district. For subsequent meetings, the votes must be weighted as stated above or as otherwise provided in the tax collection committee's bylaws.

At the TCC's first meeting, the delegates were required to elect a chairperson, vice chairperson and secretary. No later than April, 15, 2010, the TCC was required to adopt bylaws.

13. What are the primary powers of the tax collection committee?

The tax collection committee has the authority to:

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

14. What are the duties and responsibilities of the tax collection committee?

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

15. How are costs for the new tax collection district determined and allocated?

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

16. What are the audit requirements for the tax collection committee?

The Tax Collection Committee must provide for an annual audit of the Tax Officer by the end of each calendar year. The audit is to include all the books, accounts, financial statements, compliance reports and records. The audit shall be conducted by a certified public accountant or public accountant approved by the TCC. The CPA or public accountant must issue their report in a standardized format developed by DCED. This report must include an auditor's opinion letter, financial statement, reconciliation of the monthly reports with the receipts and disbursements, summary of collection fees charged, report of the Tax Officer's compliance with the act, a management letter if one is issued by the auditor, and a list of any findings of noncompliance with the act. If there are any noncompliance findings, a copy of the report will be sent to DCED and the Pennsylvania Auditor General. A copy of the report must be filed with every political subdivision within the tax collection district that imposes and earned income tax and DCED on or before September 1st of the following year.

17. How will the Tax Officer be selected and retained?

The tax collection committee is required to appoint the Tax Officer based either on the weighted vote formula described above or on a procedure agreed to by the TCC and incorporated into their by-laws. Under Act 32, a Tax Officer may be the collector through an intergovernmental arrangement, an existing tax collection bureau or a third party collector. The TCC must initially appoint the Tax Officer no later than September 15, 2010. The TCC is required to enter into a formal agreement with the Tax Officer unless the TCC creates its own tax bureau.

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

A Tax Collection Committee *cannot* appoint a Tax Officer who:

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

19. How will the Tax Officer be compensated?

The tax collection committee will determine the compensation for the Tax Officer for services and expenses. The TCC may establish criteria for the Tax Officer to withhold compensation from income taxes collected, provided that monthly reports adequately detail and account for all such withholdings.
The compensation policy shall be set forth in a written agreement between the TCC and the Tax Officer.

20. How does the earned income tax collection reform legislation affect the City of Pittsburgh and Allegheny County?

The statute divides Allegheny County into four separate tax collection districts. One district will be comprised of the City of Pittsburgh and Mt Oliver Borough while the three remaining districts will be separated geographically by the three rivers.

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

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

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

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

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

21. How will administrative documents, statewide forms, rules and regulations be made available.

DCED in conjunction with stakeholders and current tax professionals has made available, and will be developing, uniform tax forms for use by employers, employees and tax collection committees. Additionally; DCED is responsible for promulgating rules and regulations.

22. What are PSD codes and how are they utilized in the implementation of the local earned income tax process?

PSD (political subdivision) codes are six-digit numbers that identify a taxpayer's residence location and work site locations. Employees are required to complete a Residency Certification Form upon hire or to provide notification of a name or address change. PSD codes are a necessary component of information required to be provided on this form. PSD codes will play an integral role in assisting employers and Tax Officers remit and distribute the correct amount of earned income tax to the appropriate taxing jurisdictions.

Assistance in locating and identifying the appropriate PSD codes can be found on the Department's website, www.newPA.com select Get Local Gov Support, >Municipal Statistics.

23. What assistance will be available for implementation?

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

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