

Attention Employers: Are you ready for PA Act 32

Act 32: A Guide for Employers

An introduction to the new Earned Income Tax collection process.

Information provided by PICPA

Note: Due to the complexity and volatility of tax law, the PICPA suggests you consult your CPA before acting on any of the information provided in this article.

Why Act 32

Act 32 of 2008 ushered in significant reforms to Pennsylvania's earned income tax collection system. Prior to passage of Act 32, the system was archaic, complex, and fragmented. These reforms will affect every business taxpayer. Act 32 streamlines tax collection through the standardization of forms and definitions and the consolidation of the number of tax collectors—from about 560 to no more than 69. **Act 32 goes into full effect Jan. 1, 2012.** This PICPA guide is designed specifically for business taxpayers to help them comply with new responsibilities in the law.

New Terms Under Act 32

Tax Collection Committee (TCC) – TCCs are committees established to govern each tax collection district for the purpose of income tax collection. Each TCC includes representatives of each taxing jurisdiction.

Tax Collection District (TCD) – Under Act 32, TCDs will be determined by county lines, and each county will have one designated earned income tax collector to be decided upon by the TCC. There are two exceptions to the general rule:

- Allegheny County will be divided into four TCDs, each with its own designated earned income tax collector.
- Philadelphia will not be required to alter its tax collection system, as it does not fall within the scope of Act 32.

Withholding

- Any employer with a place of business within the Commonwealth who employs one or more persons (other than household employees) for compensation is required to register with the appointed tax collector in their TCD within 15 days of becoming an employer. The registration form can be obtained from the tax collector.
- Each employer shall require each employee to complete a certificate of residency form, which an employer can obtain from the tax collector. This form will help identify the political subdivisions where an employee works and lives.
- At the time of payment to an employee, **an employer will be required to deduct the local earned income tax from the employee's paycheck.** The applicable tax rate is the greater of the tax rate where the employee is employed or the tax rate in effect where the employee lives. The certificate of residency completed by the employee should provide sufficient information for the employer to determine the jurisdictions in question. The tax rates for each jurisdiction are maintained by the Department of Community and Economic Development (DCED) and are published on its Web site. Instructions to access this Web site may be obtained from the tax collector. Should an employer have several places of business in more than one TCD, the employer may file its return and pay the total amount of income taxes deducted from employees in all work locations to the TCD in which the employer's payroll operations are located or as directed by the DCED. In this case, the employer must file electronically. Additionally, the employer must file a notice of intention to file combined returns and make combined payments with the tax officers of each TCD in which the employer is located.
- If an employee moves during the year, he or she must file an updated certificate of residency, with the employer, upon notification of a change in residency the employer must make the necessary change in the withholding records to ensure that the proper tax rate is applied and the remittance to the tax collector is coded to the proper taxing jurisdiction.

Filing

In General

- Employers will be required to file an individual withholding statement, integrated into Form W-2, for any person employed during the whole or any part of the prior tax year. For those employers who discontinue business operations before the close of the tax year, returns shall be filed within 30 days after the discontinuance of business.

- At the end of each calendar quarter, each employer will be required to file a quarterly return with the designated tax collector and remit the amount of income taxes deducted during the preceding calendar quarter.

Employers Located Within a Single TCD

- The payment shall be made to the tax officer of the TCD in which the employee is employed.

Employers Located Throughout Several TCDs

- Where there are several employees employed in several different TCDs, the payment shall be made to the TCD in which the employer's payroll operations are housed or in accordance with the DCED.
- The employer will be required to file electronically on a monthly basis. The employer will also be required to file a notice of intent to make a combined payment with each affected TCD.

Self-Employed Persons

Act 32 does not change the tax filings and requirements of self-employed individuals subject to earned income tax at their resident (where they live) rate. Persons subject to a tax on net profits include the following:

- Individuals (sole proprietors) engaged in a business, trade, or profession.
- Partnerships, associations, limited liability companies/partnerships, and other entities engaged in carrying on a business, trade, or profession
- Estates or trusts engaged in any business, trade, or other activity that would require a return for an individual or partnership carrying on that same venture.

Appeals & Mediation

- Act 32 adds more formal and accessible oversight and accountability to the local earned income process and implements appeals and mediation processes.
- The appeals process has been formalized so that an employer wishing to appeal to the TCC Appeals Board regarding a determination by the taxing officer relating

to assessment, collection, refund, withholding, remittance, or distribution may now do so.

- A mandatory mediation will be required for disputes involving a 10 percent or greater deviation from taxes received in the previous year.
- Consult your CPA or other professional tax advisor for specifics relative to situations and procedures necessitating either the appeals or mediation processes.

Violations

Employers who fail to account for and distribute income taxes, or who willfully fail to collect or truthfully account for and distribute income taxes, will be committing a misdemeanor. Upon conviction, they may be sentenced to pay a fine up to \$25,000 and/or be subject to imprisonment of up to 180 days.

Need help understanding PA Act 32: call any BookSmarts® office.