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SALES & USE TAX: 12 COMMON QUESTIONS & FILING ERRORS

The increasing popularity of electronic filing has dramatically decreased the number of filing errors in sales and use tax. However, some common questions and filing errors remain for some small businesses.

Below, we've identified the most common sales and use tax questions and filing errors for businesses and provided information to help your business file and remit taxes accurately and on time.

Q: How do I register my business with the Department of Revenue for sales and use tax?

Any business in Pennsylvania that sells, rents or leases taxable products or services must register with the department to collect and remit sales tax. To register, the business must complete an Enterprise Registration Form (PA-100) to obtain a free Sales, Use and Hotel Occupancy Tax License. A business may register online at www.paopenforbusiness.com or obtain a paper form at www.revenue.state.pa.us or by calling 1-800-362-2050.

Q: How often do I have to file and pay my business sales tax?

Businesses are required to report and remit sales tax quarterly for the first year they are licensed with the department. Following a business' first year licensed with the department, filing frequency will be determined annually by the amount of sales tax collected. The department will notify a business of any change in filing frequency. Note that a common filing error results when a business fails to change filing practices when the department changes filing frequency for the business. For example, if a business' filing frequency changes from quarterly to monthly, but the taxpayer continues to file every three months, the business becomes noncompliant. To avoid this filing error, be sure your filing period is consistent with the filing frequency and period for which you intend to report.

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FAST FACT:

Coming this fall, Revenue will make available to sales and use tax filers a schedule for reporting sales by product via e-TIDES. This schedule should help businesses when filing for a smoking ban exemption under the Clean Indoor Air Act.

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The easiest way to file and pay taxes is electronically. Register your business on the department's Web site, and file and remit payments conveniently and securely. Or you may file electronically using the toll-free TeleFile phone service at 1-800-748-8299. For more information on electronic filing and payment options, call the e-Business center at 717-783-6277.

Q: How do I report local sales tax?

Businesses in Allegheny and Philadelphia counties must collect, remit and report 1 percent local sales tax in addition to the 6 percent state sales tax. Local and state sales tax must be reported separately. A business filing with e-TIDES must select Allegheny and/or Philadelphia on the "Filing Options" screen to get the appropriate column to file local taxes, and TeleFile filers must select the appropriate local tax when prompted.

Q: I kept detailed sales tax records and reported sales tax accurately on my timely-filed return, so why did I receive a tax assessment reflecting double the tax, plus penalty and interest?

Some taxpayers erroneously enter the sales tax amount on Line 3 and Line 6 (use tax) of the return, thereby doubling tax liability for the business. So while you may have paid the total amount of sales tax collected, your return indicates you should have paid double that amount. To resolve such a matter, simply call the department at 717-787-1064 and ask to speak to a tax examiner regarding your account.

Q: I know I tracked and paid my use tax liability correctly, so why did I receive an assessment?

Some taxpayers erroneously list the purchase prices of items subject to use tax instead of the use tax amount on returns, resulting in an overstatement (i.e., underpayment) of use tax. List only use tax due on Line 6 of the return.

Q: I'm trying to satisfy my business tax liability, but I received another assessment. What's going on?

Taxpayers who are assessed penalty and interest for a late return often file amended returns including penalty and interest fees in the tax amounts. Doing so does not resolve your liability, but rather causes a new tax assessment to be issued because the total tax due is over-reported on the amended return. When paying penalty and interest, remit payment along with the voucher attached to the assessment. Taxpayers who file

electronically may use the "Make a Sales Payment" option in e-TIDES to pay interest and penalty for a single period.

Q: My business was closed for the season. Do I still have to file sales tax returns?

Yes, you must file a "zero" return. Businesses are required to file returns for all periods, including those where no sales or use tax is due.

Q: I electronically filed my business return, but I got a non-filer notice from the department. Why?

If you began filing online or by telephone, but exited the system before completing the entire filing process, the return was not accepted. When filing with e-TIDES, taxpayers should check the status of returns before exiting by clicking "View Filing History" to be sure a return is classified as "submitted," "processed" or "complete." TeleFile provides a confirmation number once a return is filed, assuring the process has been completed successfully.

Q: How do I calculate sales tax on an item a customer purchased with a coupon?

If you have the capability to link coupons to specific items on receipts, you may charge sales tax on the lower, after-coupon price. However, if your system does not link a coupon to a specific item, state law requires you to charge sales tax on the full purchase price of the item. For more information, review [Chapter 33](#) of the Pennsylvania Code.

Q: How do tax-exempt certificates work, and can I be held accountable for accepting a misrepresented exemption certificate?

Qualifying entities can use exemption certificates, available online or from Revenue's Forms Ordering Service. By presenting these certificates at retail locations, the entities can have sales and use tax waived. A seller or lessor who accepts in good faith an exemption certificate disclosing a proper basis for exemption is relieved of liability for collection/payment of tax on transactions covered by the certificate. However, the seller or lessor must be reasonably sure the exemption does not contain information that is knowingly false, is consistent with the activity of the purchaser, is properly completed and is on file at the retailer. For example, a retailer that accepted a certificate provided by an oil company claiming a resale

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exemption for a television purchase would likely be liable for the sales tax on the television, as the exemption does not provide a valid basis for exemption.

Q: When is sales tax due for items purchased from my store with credit: at the time of purchase, or when I am paid?

Sales tax must be reported on an accrual basis, when an item is invoiced. Just as sales tax is required to be collected on the entire purchase price at the time the purchase is made, the sales tax should be reported and paid in the same filing period.

Q: Where can I find more information on sales and use tax?

The three primary resources for sales and use tax are the [Sales and Use Tax Brochure \(REV-585\)](#), the [Retailer's Information Guide \(REV-717-AS\)](#) and the [Starting a Business in Pennsylvania Guide \(REV-588\)](#). All are available on the [Revenue Web site](#) or by calling 1-800-362-2050. Another good source of sales and use tax information are legal letter rulings from the department, found on the Revenue Web site under the "Legal/Legislative Information" link.

OIL AND GAS LEASE COMMONLY ASKED QUESTIONS

In light of the recent increase in the number of oil and gas leases in the commonwealth, landowners may wonder what income tax implications are involved. The following questions and answers address these concerns and are available in the department's [Online Customer Service Center](#).

Q: Do I need to make estimated payments on the income received from my gas lease?

To avoid penalties and interest, you must make quarterly estimated tax payments if you have taxable income – not subject to employer withholding – over \$8,000 annually. To determine the amount of estimated payments you should make, see the [Individuals Worksheet, REV-414\(I\)](#).

Q: Can I deduct any expenses from my gas lease?

You may deduct expenses you paid or incurred during the taxable year that are ordinary and necessary for the production or collection of rents and royalties or the management, conservation or maintenance of rents, royalties, patents, copyrights and similar property.

Normally the only expenses that can be taken as deductions against rents or royalties for gas leases are property taxes and mortgage interest; however, these will need to be apportioned for the percentage of the land leased. See the PA-40 Schedule E instructions for other allowable expenses.

You may not deduct expenses for your own labor, capital investment or capital improvements. You recover costs associated with capital improvements through depreciation deductions. You may not deduct personal

expenses or the part of any expense that is personal.

See also the PA Personal Income Tax Guide, [Chapter 13](#).

Q: What if I didn't receive gas lease money until the end of the year -- do I still need to make estimated payments?

When income is earned unevenly throughout the year, complete REV-1630. You should make your first estimated payment at the end of the quarter in which you determine you will receive in the year more than \$8,000 of taxable income not subject to withholding. The date the income is received during the taxable year is irrelevant to the payment of estimated tax.

Q: Is the money I receive from a gas lease taxable?

Yes, the income is taxable and should be reported on Line 6, Rents, Royalties, Patents or Copyrights of PA-40 Schedule E. Income paid under a gas lease is normally reported by the payer on Form 1099 MISC.

Q: I have a five-year gas lease and received one lump-sum payment for all five years. Can I carry income over to future years?

No, you must report rental/royalty income in full, in the year in which it is received.

Q: Once drilling begins on my land and I start receiving royalties, the land is no longer developable. May I depreciate the value of my land from the earnings?

As a general matter, land itself does not depreciate. Therefore, someone who leases land under an oil and gas lease may not claim a depreciation deduction for

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the land. If the landowner had existing equipment on the land for the production or extraction of oil or gas, which is included as part of the gas and oil lease, then he may be able to claim some depreciation for that equipment against his rental income.

There is no depreciation deduction for the removal of oil or gas, since that is covered by the depletion deduction.

In the case of an oil and gas lease, the depletion deduction is apportioned between the lessor and lessee in accordance with federal income tax requirements.

See 61 Pa. Code § 125.51(c)(1) and Chapter 23, *Natural Resources*, of the PA Personal Income Tax Guide for more information.



OCT. 6 VOTER REGISTRATION DEADLINE FAST APPROACHING

Secretary of the Commonwealth and Pennsylvania's Chief Election Official Pedro A. Cortés urged all eligible Pennsylvanians to ensure they are registered and prepared to vote in the general election on Tuesday, Nov. 4.

To be eligible to register to vote in Pennsylvania, you must be: a U.S. citizen for at least one month before the next primary, special, municipal or general election; a resident of Pennsylvania, and the election district in which you want to register and vote, for at least 30 days before the next primary, special, municipal or general election; and at least 18 years of age on or before the day of the next primary, special, municipal or general election.

September is National Voter Registration Month, in advance of Pennsylvania's Oct. 6 voter registration deadline.

Applications to register or change address or party affiliation must be postmarked or personally delivered to a registrant's county board of elections by Oct. 6. Any applicant who does not receive confirmation within 14 days of submitting a completed registration form should contact his/her county board of elections.

For more voter registration information, including a polling place locator, voting systems demonstration videos, absentee ballot information and a sign-up for election-related text-message reminders visit VotesPA.com.

PHILADELPHIA REVENUE DEPARTMENT INTRODUCES REVENUES

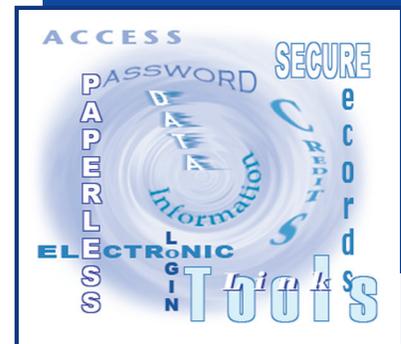
A New Tax Newsletter

This month, Philadelphia Revenue Commissioner Keith Richardson introduced a new quarterly tax newsletter to feature information about tax policy and administration in the city of Philadelphia.

The inaugural edition of ReveNews includes a welcome from Commissioner Richardson, information on tax rate changes, an update on tax collections, details of recently introduced incentives for growth, helpful links and more.

To subscribe to this e-newsletter, please e-mail ReveNews@phila.gov with "Subscribe" in the subject line.

TAX PROFESSIONAL E-SERVICES CENTER





There's a new Air about Pennsylvania

Smoke-Free is now the Law!

CLEAN INDOOR AIR ACT

On Sept. 11, the Clean Indoor Air Act went into effect, prohibiting smoking in most public places, including restaurants, workplaces and a portion of casino floors. Governor Edward G. Rendell signed the law in an effort to protect Pennsylvanians from the deadly health effects of secondhand smoke.

"All Pennsylvanians will benefit from the persistence of advocates and legislators who refused to quit working until we had joined dozens of other states in banning smoking in most public places," Governor Rendell said as he signed the law.

The act prohibits smoking in public places and workplaces. The bill allows for some exceptions, including private clubs, drinking establishments, tobacco shops and private residences (except those licensed as a child-care facilities).

The act also established and imposes penalties on establishments that violate the law by allowing smoking in prohibited areas, as well as individuals smoking in prohibited areas.

Prior to Sept. 11, establishments had 90 days to make changes to become compliant with the new law. During this time, the Pennsylvania Department of Health provided technical assistance to businesses with regard to implementation of no-smoking policies.

Exception application

Cigar bars, tobacco shops and drinking establishments may apply for exceptions from the Pennsylvania Clean Indoor Air Act if they meet the following criteria:

Cigar Bar – A location for which total annual sales of tobacco products – including tobacco, accessories, cigar storage lockers and humidors – totaled at least 15 percent of gross annual sales the prior year.

Drinking Establishment – A location for which food sales for on-premise consumption totaled 20 percent or less of gross annual sales the prior year.

Tobacco Shop – A location for which sales of tobacco and tobacco related products – including cigars, pipe tobacco and smoking accessories – totaled at least 50 percent of gross annual sales the prior year.

The Clean Indoor Air Act does not apply to private clubs, and therefore private clubs do not need to apply for exemptions to allow smoking inside. However, certain rules for smoking pertain specifically to private clubs, and these can be found at the Department of Health's [Clean Indoor Air Act Web site](#).

An establishment seeking exemption from the smoking ban must submit a completed [Application for Exception](#) to the Department of Health to obtain written approval.



There's a New Air about Pennsylvania
Smoke-Free Compliance Toolkit



All businesses are affected by the Clean Indoor Air Act and should refer to the [Compliance Toolkit](#) for helpful information regarding signage requirements, policy development and enforcement.

This fall, the Department of Revenue is developing a new schedule for drinking, cigar and tobacco establishments to report sales by product category. This form will be available in [e-TIDES](#) for sales and use tax filers, for the convenience of business owners who wish to apply to the Department of Health for exemptions from the smoking ban.

Individuals who believe establishments may be allowing smoking in violation of the Clean Indoor Air Act may report suspected violations to the Department of Health by submitting a [Violation Report Form](#).

To learn more about Pennsylvania's Clean Indoor Air Act, visit www.health.state.pa.us.

THREE SOFTWARE VENDORS NOW APPROVED TO PREPARE AND FILE ELECTRONIC CORPORATE TAX REPORTS

The 320,000 Pennsylvania businesses that file corporate net income and capital stock and franchise tax reports now have another option for electronic filing. A third software vendor was recently approved by the department to electronically prepare and file corporate tax reports (RCT-101), forms and schedules.

Pennsylvania partners with the IRS and software vendors to provide a single-point electronic filing method that allows federal and state corporate tax returns to be filed simultaneously.

Electronic filing is the most cost-effective method of

filing tax returns, and electronically-filed returns are processed faster and more accurately compared to the traditional paper tax returns.

To view contact information for these three software vendors, please visit the department's [Web site](#).

Developers and products are added to the list as vendors are approved. Contact the PA Department of Revenue at corptaxefile@state.pa.us if you have questions about the status of a specific software developer.

2008 FALL TAX SEMINARS SCHEDULE

SPONSOR	DAY	DATE	CONTACT PERSON	SEMINAR LOCATION
Duquesne University School of Bus. And Admin. 701 Rockwell Hall Pittsburgh, PA 15282-0104	Thursday	10-9-2008	Pat Police (412) 396-1643 police@duq.edu	Duquesne Union Hall Duquesne University Campus Pittsburgh, PA 15282-0104
Alvernia College 400 St. Bernadine St. Reading, PA 19607	Wednesday	10-22-2008	Alan D. Ross, C.P.A. (610) 372-9911 Aross@RossCpa.com	Alvernia College 400 St. Bernadine St. Reading, PA 19607
Wilkes University Continuing Education Dept. 215 S. Franklin St. Wilkes-Barre, PA 18766	Thursday	11-06-2008	Margaret Petty (570) 408-4460 Margaret.Petty@wilkes.edu	The Woodlands Inn and Resort Highway 315 Wilkes-Barre, PA 18766
Harrisburg Area Community College 1 HACC Dr. Harrisburg, PA 17110	Tuesday	11-18-2008	Non-Credit Registration Dept. (717) 780-2414 mjlampre@hacc.edu	C. Ted Lick Wildwood Conference Center Harrisburg Area Community College 1 HACC Dr. Harrisburg, PA 17110-2999
Neumann College Continuing Education Dept. 1 Neumann Dr. Aston, PA 19014-1298	Thursday	11-20-2008	Allison Jones (610) 358-4580 jonesa@neumann.edu	Neumann College Life Conference Center Aston, PA 19014-1297
Penn State University Abington Campus 1600 Woodland Rd. Abington, PA 19001	Tuesday	12-02-2008	Theresa Bloom (215) 881-7402 tmb17@psu.edu	Holiday Inn, Select 4700 Street Rd. Trevose, PA 19053

2008 FALL TAX SEMINAR AGENDA

See Page 6 for Seminar Schedule Dates

TIME	TOPIC	PRESENTER
8:30 - 9:45 AM	INTRODUCTION & PERSONAL INCOME TAX UPDATES <ul style="list-style-type: none"> ➤ PA income tax law changes ➤ Federal tax law/policy changes ➤ Forms and instructions changes ➤ Restricted tax credits ➤ Miscellaneous Issues 	David A. Braden, CPA or Sylvia Olimpi <i>Revenue, Bureau of Individual Taxes</i>
9:45 - 10:45 AM	PASS THROUGH BUSINESS UPDATES <ul style="list-style-type: none"> ➤ PA Uniformity Clause ➤ Disposition of a partnership ➤ Transition election rule ➤ Problem areas ➤ Changes/updates 	Mary Hubler <i>Revenue, Bureau of Compliance</i>
10:45 - 11:00 AM	Break	
11:00 - NOON	AN UPDATE OF USE TAX VOLUNTARY COMPLIANCE PROGRAMS <ul style="list-style-type: none"> ➤ Information needed to comply with PA taxes 	Kevin Milligan or William Hartman, CPA <i>Revenue, Enforcement, Planning, Analysis and Discovery</i>
Noon - 1:00 PM	Lunch	
1:00 - 1:30 PM	STATE TREASURY DEPARTMENT <ul style="list-style-type: none"> ➤ Bureau of Unclaimed Property ➤ General holder reporting obligations ➤ Who, what, when and how businesses should report 	Calvin Gilchrist <i>State Treasury Department</i>
1:30 - 2:30 PM	UNEMPLOYMENT COMPENSATION TAX UPDATES (LABOR AND INDUSTRY) <ul style="list-style-type: none"> ➤ Rates and appeal deadlines 2008 vs 2009 ➤ Dispelling the rumors--Three burning UC tax issues ➤ UC modernization project update 	Timothy McGarvey, Paul Bowes Mike Neely or Ken Kuklar <i>Labor and Industry</i>
2:30- 2:45 PM	Break	
2:45 - 3:45 PM	CORPORATION TAXES UPDATES <ul style="list-style-type: none"> ➤ Act-119 of 2006 ➤ Brief review of legislative changes for 2007 ➤ Legislative changes for 2008 ➤ Forms changes ➤ Fed/state e-file 	Greg Skotnicki, John Naccarato, Jeffrey A. Creveling, Joseph Clover or Michael Answine, CPA <i>Revenue, Bureau of Corporation Taxes</i>
3:45 - 4:30 PM	BOARD OF APPEALS <ul style="list-style-type: none"> ➤ Overview of the appeal process ➤ Impact of Act 119 of 2006 on the appeal process ➤ Miscellaneous tax bulletin 2008-01 	Board Member <i>Board of Appeals</i>

In compliance with the Americans with Disabilities Act, the department will make every effort to provide content in an alternative format to persons with disabilities.