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2017 STATE TAX SUMMARY: ACT 43 OF 2017

Sales and Use Tax

- **Help Desk or Call Center Support:** Effective October 30, 2017. Help desk or call center support for canned software is exempted from sales and use tax when separately invoiced.
- **Beer Keg Exemption:** Effective October 30, 2017. Kegs used to contain malt or brewed beverages are exempt from sales and use tax as part of wrapping and packaging supplies.
- **Marketplace Sales:** Sellers of products on the internet not maintaining a place of business in the Commonwealth and not collecting Pennsylvania sales tax, making sales of at least \$10,000 into Pennsylvania in the previous calendar year, must file an election by March 1, 2018 opting either to begin to collect sales and use tax by April 1, or commit to sending use tax notices with each sale. Additionally, sellers sending notices must also send an annual summary of purchases both to the customer and to the Department.

Affected entities are: marketplace facilitators, persons who list or advertise property for sale in any forum and who either directly or indirectly collect the payment from the purchaser and transmit the payment to the person selling the property; remote sellers, persons that do not maintain a place of business in the Commonwealth and sell at retail into the Commonwealth; and referrers, persons who provide a forum for interaction between buyers and sellers but do not directly participate in the sale. Marketplace facilitators and referrers are required to file an election on behalf of all the sellers participating in their system. If the election is made to collect sales tax, then the marketplace facilitator or referrer is required to collect and remit sales tax on all of its taxable marketplace sales from sellers that do not maintain a place of business in the Commonwealth.

For those opting to collect sales tax, the new provisions require collection to begin by April 1, 2018 for tangible personal property. The effective date is delayed until April 1, 2019 for digital goods such as electronic copies of books, canned software, music and similar items.

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Personal Income Tax

- **ABLE Savings Accounts:** Effective October 30, 2017, Act 43 provides taxing provisions related to ABLE accounts. ABLE accounts themselves are exempt from all Commonwealth taxation. Further, undistributed account earnings are not subject to tax. Distributions from accounts are taxable unless used for qualified disability expenses of the designated beneficiary. A contributor to an account may deduct up to \$14,000 (the current dollar amount under Section 2503(b) of the Internal Revenue Code) for Pennsylvania personal income tax purposes, but such deduction cannot reduce the contributor's taxable income to less than zero.

Note: The Internal Revenue Code limits the total yearly contributions from all contributors to an account to \$14,000.

- **Checkoffs:** The expired Korea/Vietnam Memorial National Education Center checkoff is repealed. The Wild Resource Conservation Fund, Organ and Tissue Donation Awareness Trust Fund, Military Family Relief Assistance Program, Pennsylvania Children's Trust Fund and American Red Cross checkoffs are made permanent. These administrative changes are effective October 30, 2017.
- **Non-resident withholding:** Effective January 1, 2018, Act 43 requires payors of non-employee compensation and business income to non-resident individuals (or disregarded entities with a non-resident owner) to withhold income tax from such payments. The United States government, the commonwealth of Pennsylvania, their agencies, instrumentalities, and any political subdivisions of Pennsylvania are excluded from this withholding requirement.

Further, lessees of Pennsylvania real estate making "lease payments" to non-resident lessors are also required to withhold personal income tax on such payments. Residential

rental payments are exempt from the withholding requirement. Withholding of tax is required for payments of \$5,000 or more annually. Withholding is optional on payments less than \$5,000.

Corporation Tax

- **Net Operating Losses:** If any part of the net operating loss deduction is declared to be unconstitutional by the Pennsylvania Supreme Court, the Department is required to publish a notice of the decision in the Pennsylvania Bulletin. The following provision is effective upon publication of the notice.
- Removes the \$5 million cap on NOL deductions and increases the cap of 30% of taxable income as follows:
 - o 35% of taxable income for tax year 2018, and;
 - o 40% of taxable income for tax year 2019 and thereafter.
- **Qualified Manufacturing Innovation & Reinvestment Deduction:** A newly created deduction allowing a qualified business to deduct five percent of its capital investment from their corporate net income tax liability if it invests at least \$100 million in the creation of new or refurbished manufacturing capacity within 3 years of a designated start date. The deduction would be available to each qualifying business for five years and cannot exceed 50 percent of the corporation's tax liability. Interested businesses can contact the Department of Community and Economic Development after the effective date of December 29, 2017.

Other Taxes

- **Realty Transfer Tax: Veterans' Service Organizations:** Broadens the category of veterans' service organizations defined as tax-exempt for the purposes of transfers under the realty transfer tax, effective October 30, 2017.

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- **Inheritance Tax:** Clarifies existing requirements regarding the filing of returns for the inheritance tax exemption on transfers of certain family owned farms and family owned businesses. Any inheritance tax return filed after July 1, 2012 under Section 2136 (returns) that reports transfers of property which are exempt from inheritance tax under Section 2111 (transfers not subject to tax) will be considered timely if filed within one year of the tax return due date, including an extended due date.
- **Public Transportation Assistance Fund:** Effective October 30, 2017, provides for a prorated fee for partial day car sharing services as a clarification to the current vehicle rental fee.

Fee Schedule:

Rental Interval	Fee
Less than 2 hours	\$0.25
2 to 3 hours	\$0.50
More than 3, but less than 4 hours	\$1.25
4 hours or more	\$2.00

- **Fireworks Tax:** Incorporates the existing Fireworks Law into the Tax Reform Code and modernizes and expands the definition of legal consumer fireworks. Further imposes a tax at the rate of 12% on the sale price of consumer fireworks suitable for use by the public. The 12% tax will be in addition to the sales and use tax already imposed on such sales. The Department of Agriculture will continue to administer the Fireworks Law. The fireworks tax is effective October 30, 2017.

Tax Credit and Economic Development Programs

- **Tax Credit Eligibility:** Provides that before a tax credit can be awarded, the Department may make a finding that the taxpayer has filed all required state tax reports and returns and

paid any balance due, unless the tax due is currently under appeal.

- **Film Tax Credit Districts:** Amends the existing Film Production Tax Credit to authorize the creation of not more than two film production tax credit districts. Film production tax credit districts must be located on deteriorated property which is at least 55 acres and contains at least one qualified production facility and six soundstages. The deteriorated property must be occupied by two or more qualified businesses that make a total capital investment of at least \$400 million on the property within five years after the designation of the district. The district designation will expire after 15 years. Tax credits, which are in addition to existing film production tax credits, may be approved for fiscal years 2019-2020 and thereafter. These provisions are effective within 60 days.
- **Entertainment Production Tax Credit:** Effective October 30, 2017, Act 43 moves the authorizing language for this credit from Title 12, Chapter 33 to the Tax Reform Code as Subarticle E of the Entertainment Production Tax Credits. The credit remains available to up to five tours per year at a maximum of \$800,000 per tour.
- **City Revitalization and Improvement Zone (CRIZ) Program:** Effective October 30, 2017, the CRIZ program is amended to include a provision, which allows an inactive parcel to be transferred out of the zone and replaced with a parcel of equal or lesser acreage. Such transfer of parcels in and out of the zone does not need to occur simultaneously.

As amended, pilot zones are exempt from returning excess funds to the commonwealth annually as long as the excess funds are used in accordance with the current utilization provisions in this article.

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- **Neighborhood Improvement Zone (NIZ) Program:** The NIZ program has been amended to include a provision to allow the contracting authority to transfer parcels out of the zone and replace with parcels not to exceed the acreage transferred out. The Department and municipality must certify that there is no activity in the zone being transferred that generates tax receipts or other revenue. The program changes are effective in one year.
- **Keystone Opportunity Zone Program:** The application date for additional Keystone Opportunity Zones is extended from October 2016 to October 2018 and extends the date for DCED action on applications for additional KOZs from December 2016 to December 2018.

Petition for Reassessment

- The period of time a taxpayer has to file a petition for reassessment, review or adjustment with the Board of Appeals (BOA) is reduced from 90 days to 60 days after the mailing date of the notice of assessment. In addition, the time period for appeal to the Board of Finance and Revenue by a taxpayer

is reduced from 90 days to 60. This change applies to petitions for refunds, petitions for reassessments, and petitions for redeterminations filed with the Department on or after December 29, 2017.

Tobacco Master Settlement

- Authorizes the Commonwealth Financing Authority (CFA) to enter into a sales agreement or issue bonds utilizing a portion of the annual payments from the Tobacco Master Settlement Agreement. Any agreement or issuance of bonds shall raise net proceeds of \$1,500,000,000 to be deposited into the General Fund. The term of the sales agreement shall not exceed 10 years and the term of the bonds shall not exceed 30 years.

DEPARTMENT OF REVENUE ISSUES WARNING ON NEW PHISHING EMAIL ATTACK

The Pennsylvania Department of Revenue reminds the public and tax practitioners to beware of phishing scams that involve fraudulent email messages designed to steal sensitive information, such as passwords, usernames or personal financial information.

The Internal Revenue Service (IRS) recently issued a warning about a phishing scam that tried to trick tax professionals into "signing" a new e-Services user agreement. "We want everyone to be extremely cautious. Don't click on any email sent by someone you don't recognize," Secretary of Revenue Dan Hassell said. "It's always a good idea

to be especially careful so that sensitive information doesn't fall into the wrong hands."

According to the IRS, the scam email claimed to be from "e-Services Registration" and used "Important Update about Your e-Services Account" in the subject line. The email stated, in part, "We are rolling out a new user agreement and all registered users must accept its revised terms to have access to e-Services and its products."

The email asked the individual to review and accept the agreement but took them to a fake site instead. The IRS encouraged anyone who clicked on the link

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to perform a deep scan of their computer with security software, or contact the IRS e-Help Desk.

According to the Federal Trade Commission (FTC), phishing scams target recipients through fraudulent emails, texts or copycat websites. The goal of scam artists is to get you to share valuable personal information, such as account numbers, Social Security numbers, or login identifications and passwords. Scammers use your information to steal your money, your identity or both.

The following are safety tips from the FTC to help keep your resources safe from computer threats that can spread through email:

- **Be cautious about opening attachments or clicking on links in emails.** Even your friends' or family members' accounts could be hacked. Files and links can contain malware that can weaken your computer's security.
- **Do your own typing.** If a company or organization you know sends you a link or phone number, don't click. Use your favorite search engine to look up the website or phone number yourself. Even though a link or phone number in an email may look like the real deal, scammers can hide the true destination.
- **Make the call if you're not sure.** Do not respond to any emails that request personal or financial information. Phishers use pressure tactics and prey on fear. If you think a company, friend or family member really does need personal information from you, pick up the phone and call them yourself using the number on their website or in your address book, not the one in the email.

- **Turn on two-factor authentication.** For accounts that support it, two-factor authentication requires both your password and an additional piece of information to log in to your account. The second piece could be a code sent to your phone, or a random number generated by an app or a token. This protects your account even if your password is compromised. As an extra precaution, you may want to choose more than one type of second authentication (e.g. a PIN) in case your primary method (such as a phone) is unavailable.
- **Back up your files to an external hard drive or cloud storage.** Back up your files regularly to protect yourself against viruses or a ransomware attack.
- **Keep your security up to date.** Use security software you trust, and make sure you set it to update automatically.

In addition to issuing reminders to taxpayers and tax professionals to protect themselves from phishing schemes, the Department of Revenue also has a Fraud Investigation Unit dedicated to assisting victims of identity theft and combating tax refund fraud.

To combat these crimes, the department is working with the IRS, tax administrators in other states and tax professionals to share information about identity theft cases and scams.

If you are a victim of identity theft or discover a fraudulent Pennsylvania Personal Income Tax Return was filed using your identity, please contact the Fraud Investigation Unit at 717-772-9297 or RA-RVPITFRAUD@pa.gov.

TAX PROFESSIONAL E-SERVICES CENTER

Tax professionals are encouraged to use the department's Tax Professional e-Services Center for easy access to clients' tax information.

Visit the department's [Online Customer Service Center](#) or call 717-787-1392.



PITTSBURGH TAX EDUCATION SEMINAR FOR NEW BUSINESS OWNERS

On November 8, 2017, the Pennsylvania Department of Revenue hosted a tax education seminar in Pittsburgh for new business owners.

The free seminar was a pilot program the department developed to provide entrepreneurs with information on state tax obligations and help them achieve success in managing their new businesses.

"We know from our experience that the vast majority of new business owners benefit when we reach them early on and provide them with useful tax information that will help them maintain sound business practices," Revenue Secretary Dan Hassell said. "This seminar is a great opportunity for new business owners in Allegheny County to start off on the right foot and acquire the information that will help their companies thrive."



PENNSYLVANIA INSTITUTE OF CPAS: REVENUE WEBINAR

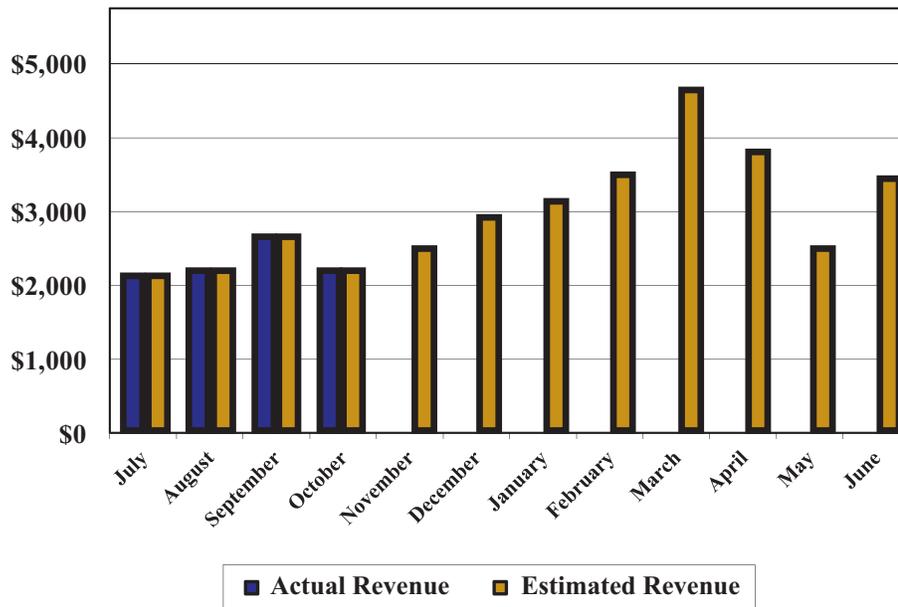


On November 7, 2017, the Pennsylvania Department of Revenue took part in a webinar with members of the Pennsylvania Institute of Certified Public Accountants. The webinar focused on the department's ongoing reviews of personal income tax returns that include Schedules C and UE.

John Kaschak, center, the department's Deputy Secretary for Taxation, and Meggan Swisher, left, the director of the department's Bureau of Individual Taxes, gave a brief presentation and took questions from PICPA members. Jason Skrinak, chairman of the PICPA Committee on State Taxation, served as moderator for the webinar.

2017-2018 General Fund Revenues
Revenue Collections (in millions)

Fiscal year-to-date General Fund collections totaled \$4.2 billion.



HAVE YOU LIKED US ON FACEBOOK?



Pennsylvania Department of Revenue



As part of the Department of Revenue’s 2016-2020 Strategic Plan, the department proposed to increase its engagement with taxpayers and tax practitioners through social media. Currently, the department has robust website-based platforms for individuals, businesses, and tax professionals to primarily submit returns, reports, and other information. As of October 2017, the department now maintains a social media presence on Facebook with more than 1,820 followers.

The department’s Facebook page will be used to share the following and much, much more:

- New projects that are going on within the department
- Advertise various ongoing initiatives
- Reminders of various due dates
- Demonstrate the importance of revenue collection to fund schools, protect the environment, build safe roads and create a stronger commonwealth
- Provide fun facts