

2016 STATE TAX SUMMARY: ACT 84 OF 2016

Sales and Use Tax

- **Electronically or digitally delivered items (often called digital downloads):** Starting August 1, 2016, the sales and use tax specifically extends to items delivered to a customer electronically or digitally or by streaming unless the transfer is otherwise exempt. This includes music or any other audio, video such as movies and streaming services, e-books and any otherwise taxable printed matter, apps and in-app purchases, ringtones, online games, and canned software, as well as any updates, maintenance or support of these items.
- **Sales tax vendor discount:** For sales tax returns for periods ending after August 1, 2016, the sales tax vendor discount is capped at the lesser of one percent of the amount of sales tax collected or \$25 on a monthly return, \$75 on a quarterly return or \$150 on a semi-annual return.
- **Zappers and sales suppression devices and software:** Effective immediately, the possession, sale or distribution of zappers or sales suppression software with the intent to evade taxes is deemed an offense and individuals could be fined up to \$10,000 and one year in prison.
- **Snack Food Packaging:** Effective immediately, returnable corrugated boxes used to deliver snack food products when purchased by a manufacturer are exempt from the sales and use tax.
- **Convention Center Exemption:** Effective September 11, 2016, the sale at retail or use of services related to the setup, teardown, or maintenance of tangible personal property rented by an authority to exhibitors at the Pennsylvania Convention Center and the David L. Lawrence Convention Center is exempt from sales and use tax.
- **Timbering Exclusion:** Effective July 1, 2017, property and services directly and predominately used in timbering operations are exempt from sales and use tax when purchased by a company primarily engaged in the business of harvesting trees. Timbering does not include the harvesting of trees for clearing land for access roads.

Cigarette and Tobacco Products Taxes

- **Cigarette Tax:** Starting August 1, 2016, the state tax on cigarettes is \$2.60 per pack, a \$1.00 per pack increase. In Philadelphia the tax will be \$4.60 per pack.
- **Tobacco Products:** Effective October 1, 2016, pipe tobacco, chewing tobacco, snuff, and any other tobacco products for chewing, ingesting or smoking, except cigars, will be subject to a \$0.55 per ounce tax, with a minimum tax per package of \$0.66. Electronic cigarettes including both the liquid product and the delivery device will be subject to a 40 percent tax on the wholesale price.

- **Roll-Your-Own Tobacco:** The tax on roll-your-own tobacco at \$0.55 per ounce will be effective 60 days after the Attorney General publishes a notice in the Pennsylvania Bulletin that the tax is permitted under the Master Settlement Agreement with the tobacco companies.

Corporation Tax

- **Corporate report due dates:** For tax years beginning after December 31, 2015, corporate net income tax reports (RCT-101) are due 30 days after the federal report is due, or would be due if that corporation were required to file federally.
- **Amending corporate reports (RTC-101):** Beginning with amended reports filed after December 31, 2016, the Act provides procedures for corporations filing amended corporate tax reports. Taxpayers will have three years from the due date of the original report to file an amended report. The department will have one year from the date the amended report is filed to notify the taxpayer if the changes are accepted. If the taxpayer is not notified within one year, the report is deemed accepted.

Bank Shares Tax

- **Tax Rate:** Effective January 1, 2017, the bank shares tax rate changes from 0.89 percent to 0.95 percent.
- **Edge Act Exemption:** Effective January 1, 2018 a phased-in deduction is allowed for Edge Act corporation equity.
- **Receipts:** The source for income in the receipts definition is changed from the federal tax return to the Consolidated Reports of Condition.
- **Goodwill:** The deduction for goodwill generated from combination activity and for the apportionment of receipts from investment and trading assets and activities has been clarified.

Personal Income Tax

- **PA Lottery winnings:** Retroactive to January 1, 2016, the Pennsylvania personal income tax applies to cash prizes from the Pennsylvania Lottery.
- **TAP Contribution Checkoff:** Starting in the 2016 tax year, taxpayers receiving a personal income tax refund will have the option of designating all or a portion of the refund as a contribution to a Tuition Account Program directly from their personal income tax return.
- **Intangible Drilling Costs:** The Act clarifies the language specifying the treatment of intangible drilling costs in the personal income tax.

- **Involuntary Conversions:** Effective September 11, 2016, Section 1033 of the Internal Revenue Code shall be applicable to the personal income tax. This federal provision allows a taxpayer to acquire replacement property and make an election to defer recognition of gain following an involuntary conversion, for example when the original property is destroyed by fire or natural disaster.

Other Taxes

- **Realty Transfer Tax:** The following provisions take effect September 11, 2016.
 - **Conservation Easements:** Agricultural, conservation, or historic preservation easements transferred or sold to certain dedicated conservancies as well as government entities may be made without the seller paying the realty transfer tax.
 - **Veteran Service Organizations:** Transfers by not-for-profit veterans' organizations that are recognized by the Internal Revenue Service as 501(c)(19) tax-exempt organizations are exempt from realty transfer tax, though other parties to the transaction may still be liable.
 - **Land Banks:** Transfers to or from a land bank, which can be established by government entities in the commonwealth, are excluded from tax under the Realty Transfer Tax.
- **Table Games Taxes:** The 12 percent tax on casinos' gross table games revenue is increased to 14 percent effective August 1, 2016. This additional 2 percent tax is set to expire on June 30, 2019.
- **Inheritance Tax:** The exemption for family farms and family businesses are amended, allowing for farms and businesses that are transferred "to or for the benefit of" a member of the same family to be exempt from the taxable estate. This language extends the family farm and business exclusions to transfers of trusts for the benefit of members of the same family. This amendment also added relatives of a decedent's spouse to the definition of "members of the same family." The farm provision is effective retroactive to dates of death after December 31, 2012, while the business provision is retroactive to dates of death after June 30, 2013.
- **Tax amnesty:** The Act provides for a tax amnesty program to be implemented by the Department of Revenue. The Governor will establish the 60-day period that must end by June 30, 2017. During amnesty, the department will waive 100 percent of penalties and half of the interest due on taxes delinquent as of December 31, 2015. The department is required to publish guidelines for the program within 60 days of the effective date of Act 84, including an explanation of the program, the amnesty period dates, a sample tax return, and estimates for amnesty revenue.

Tax Credit and Economic Development Programs

- **Research and Development Tax Credit:** The sunset provision of December 31, 2015, has been removed from the law.
- **Entertainment Production Tax Credit:** The Film Production Tax Credit is renamed the Entertainment Production Tax Credit. There are three subsections: An expanded Film Production Tax Credit, and two new tax credits, the Concert Rehearsal and Tour Tax Credit and the Video Game Production Tax Credit.
 - **Film Production Tax Credit:** The scope for eligible production expenses used to quantify the tax credit and permitted uses of the credit against tax liability has been expanded. Additionally, the budget allocation has also been increased from \$60 million to \$65 million per year beginning in the 2017-18 fiscal year. Additionally, the Department of Community and Economic Development may now reissue unused Film Production Tax Credits from prior fiscal years, beginning in the 2017-18 fiscal year.
 - **Concert Rehearsal and Tour Tax Credit:** This new tax credit is designed to attract investment in the commonwealth by awarding tax credits to tour operators representing musicians for rehearsals and live musical performances within the state. Credits may be awarded for up to 40 percent of eligible expenses up to \$800,000 per taxpayer per fiscal year. The budget allocation is \$4 million a year beginning in the 2017-18 fiscal year.
 - **Video Game Production Tax Credit:** This new tax credit is designed to attract investment in the commonwealth by awarding tax credits for production expenses incurred by video game production companies. Credits may be awarded for up to 25 percent of qualified expenses in the first four years of production and 10 percent for each year thereafter per taxpayer per fiscal year. The budget allocation is \$1 million a year beginning in the 2017-18 fiscal year.
- **Educational Tax Credits:** Funding has increased from \$100 million to \$125 million for the aggregate amount of all tax credits approved for contributions from business firms to scholarship organizations, educational improvement organizations and pre-kindergarten scholarship organizations. Additionally, a new procedural change effective for the 2016-17 fiscal year requires the Department of Community and Economic Development to notify applicants of the status of the application in writing within 90 days of submitting the application to the Department.
- **Coal Refuse Energy and Reclamation Tax Credit:** This new tax credit is designed to incentivize eligible facilities that generate electricity in the commonwealth to use coal refuse for power generation, control acid gasses for emission control and use ash produced by the facility to reclaim mining-affected sites. Credits may be awarded at a rate of \$4 per 2,000 pounds of qualified refuse capped at 22.2 percent of the available budget allocation per fiscal year. The allocation is \$7.5 million for the 2016-17 fiscal year and \$10 million each fiscal year thereafter.

- **Waterfront Development Tax Credit:** This new tax credit is designed to generate funding for waterfront development projects that provide or improve public access to waterfront sites within the commonwealth. Contributions in the form of cash or personal property may be donated to an approved waterfront organization for up to a 75 percent equivalent tax credit per contributed dollar. The budget allocation is \$1.5 million a year beginning in the 2017-18 fiscal year.
- **Tax Credit for New Jobs:** Formerly referred to as the Job Creation Tax Credit program, this tax credit has been amended to include an incentive for businesses to hire veterans for a job tax credit equivalent to \$2,500 per veteran hired. The amendment is effective immediately.
- **City Revitalization and Improvement Zone (CRIZ) Program:** The program is amended to include broadened definitions regarding the scope and administration of the program. Amendments include: changes to program eligibility for qualifying cities and municipalities, new CRIZ eligible tax types, and expanded powers or duties of the contracting authority. Other notable changes include an amended formula for the calculation of the annual certification, a lowered cap on annual borrowing by zones, and permitted uses of CRIZ funds by the contracting authority. The amendment is effective immediately.
- **Manufacturing and Investment Tax Credit:** This new tax credit is designed to support job creation. Eligible taxpayers, capable of increasing annual taxable payroll by a minimum of \$1 million through the creation of new full-time jobs can earn a tax credit up to 5 percent of the taxpayer's increase in annual taxable payroll. Jobs must be maintained for at least five years. The budget allocation is \$4 million a year beginning in the 2017-18 fiscal year.
- **Rural Jobs and Investment Tax Credit:** This new tax credit is designed to stimulate growth and job creation in rural areas by providing access to capital to rural businesses from businesses supporting rural growth funds. Credit for eligible contributions made by a business firm may be approved for up to a 90 percent equivalent tax credit per contributed dollar. The budget allocation is \$1 million a year beginning in the 2017-18 fiscal year, and is not to exceed \$4 million for the duration of the program.
- **Neighborhood Assistance Tax Credit:** The Neighborhood Assistance tax credit program is amended with new definitions for affordable housing, domestic violence or veterans' housing assistance. By inclusion of these amendments, tax credits may be awarded equivalent to 75 percent of the total amount contributed by business firms participating in the program. The amendment is effective immediately.
- **Neighborhood Improvement Zone (NIZ) Program:** The NIZ program has been amended to include broadened definitions regarding the scope and administration of the program for the state and contracting authority. Amendments include new penalty provisions, acceptance of late reports within the program reconciliation and an annual program audit by an independent auditing firm. Other notable changes include the prohibition of assessing real estate taxes on any property owned by the contracting

authority in a zone, collection and distribution changes to local hotel taxes within the zone, and property valuation prohibitions for property within the zone for use by the county.

- **Keystone Special Development Zone Tax Credit:** The sunset date for the KSDZ tax credit program has been changed from 2026 to 2035. The amendment is effective immediately.
- **Keystone Opportunity Zone Program:** The KOZ program has been expanded to include the designation of 12 new Keystone Opportunity Expansion Zones consisting of 375 acres each for a period of up to 10 years effective January 1, 2017 to December 31, 2026. In addition, existing parcels can be extended up to 10 years for state tax benefits, if the applicant can meet the job creation and capital investment requirements in the enabling legislation.
- **Mixed Use Development Tax Credit:** This new tax credit is designed to help communities address affordable housing shortages and support business growth. The program allows developers to access funds for construction or rehabilitation projects that enable affordable housing and business in the same structure. Tax credit availability is based on the sale of the credits from the Pennsylvania Housing Finance Agency. The budget allocation is \$2 million a year beginning in the 2017-18 fiscal year.
- **Keystone Innovation Zone Tax Credit:** The budget allocation for KIZ tax credits is reduced to \$15 million per fiscal year from \$25 million per fiscal year.
- **Malt Beverage Tax Credit:** This tax credit will be reinstated in the 2017-18 fiscal year with a \$5 million a year budget allocation. The credit was formerly effective from January 1, 1974, to December 31, 2008.
- **Computer Data Center Equipment Incentive Program:** This new program is designed to attract new investment from businesses that operate within facilities containing equipment such as servers or data storage equipment necessary to operate a computer data center. Applicants must meet capital investment and annual compensation requirements for employees working within the data center. The budget allocation is \$5 million a year beginning in the 2017-18 fiscal year.
- **Promoting Employment Across Pennsylvania Tax Credit:** Effective December 1, 2016, the PEP tax credit is repealed.