

Pennsylvania Tax Update

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DEPARTMENT

OF REVENUE

GREGORY C. FAJT

SECRETARY OF REVENUE

EDWARD G. RENDELL
GOVERNOR



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FAST FACT:

Businesses will receive \$297 million in business tax cuts as a part of the 2006-07 budget.

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www.revenue.state.pa.us

GOVERNOR RENDELL'S 2006-07 BUDGET CUTS BUSINESS TAXES BY \$297 MILLION

BUSINESS TAX CUTS UNDER GOVERNOR RENDELL TOTAL MORE THAN \$1.1 BILLION



*Governor Rendell presenting 2006-07 budget before General Assembly.
(Photo Credit: Commonwealth Media Services)*

Governor Edward G. Rendell signed a \$26.1 billion **2006-07 budget** that includes \$297 million in business tax cuts that will enhance Pennsylvania's competitiveness, as the state continues efforts to attract private-sector investment and new jobs while rebuilding the economy.

In addition to the package of tax cuts, the budget includes a trade initiative that will help Pennsylvania companies bridge borders and expand in global markets.

Business Tax Cuts: Improving PA's Ability to Compete for Jobs and Investments

Governor Rendell's ongoing commitment to cutting business taxes is reflected in Pennsylvania's 2006-07 budget, which lowers the tax burden on businesses by \$297 million. Cumulative business tax cuts under Governor Rendell now total more than \$1.1 billion.

The Governor included business tax cuts of about \$221 million in his 2006-07 budget proposal in February. He proposed additional tax cuts in May, thanks to a growing state economy that generated higher-than-expected revenue collections.

As Pennsylvania's economy continued to grow, and the state's year-end budget surplus continued to climb, Governor Rendell worked with the business community and the legislature to develop an expanded package of business tax cuts that includes:

- \$249.4 million for an accelerated phase-out of and other changes to the Capital Stock and Franchise Tax. The new rate is 4.89 mills for tax year 2006; 3.89 mills for tax year 2007; 2.89 mills for tax year 2008; 1.89 mills for tax year 2009; and 0.89 mills for tax year 2010.
- \$21 million to increase the cap on Net Operating Loss Deductions from \$2 million to \$3 million, or 12.5 percent of a company's income, whichever is greater.
- \$14.1 million to increase the sales factor for Corporate Net Income Tax apportionment to 70 percent.
- \$10 million to increase the Research and Development Tax Credit from \$30 million to \$40 million.
- \$1.7 million for tax credits for businesses that grant leave of absences for employees who donate organ or bone marrow. The amount of the credit is equal to the employee compensation paid during the leave of absence, cost of temporary replacement help and other miscellaneous expenses.
- \$1.1 million for changes to the election of S Corporation status. If a small corporation elects to be an S Corporation for federal purposes, it will be recognized as a Pennsylvania S Corporation unless it opts out of Pennsylvania status. The requirements to become an S Corporation will also now be consistent with federal requirements enacted as part of the American Jobs Creation Act of 2004 that permit 100 shareholders and members of the same family to be counted as one shareholder.

To view a summary of the state tax changes, please click here:

2006-07 STATE TAX SUMMARY

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Governor Rendell said the business tax cuts will further spur growth in the state's economy, which has had a statewide unemployment rate equal to or below the national average rate for the past year, with 125,000 jobs added since 2003.

World Trade PA: Expanding PA Exports and Encouraging Greater Foreign Investment in PA

Pennsylvania is the world's 17th largest economy and its exports now total \$18 billion annually. Governor Rendell has been steadfast in his focus on investing in business growth, job creation and increasing the commonwealth's global competitiveness. The 2006-07 budget includes \$15 million in new funding to accelerate and expand the commonwealth's current trade and investment activities.

"I am committed to breathing new life into our communities and helping our businesses grow," the Governor said. "Our investments and aggressive initiatives have already helped Pennsylvania climb in a national ranking for short-term job growth from 46th in 2003 to 15th in 2004.

To continue to advance the commonwealth's competitiveness abroad, the World Trade PA initiative will:

- Increase Pennsylvania's share of trade in foreign markets;
- Attract new foreign direct investment to secure jobs and capital; and
- Leverage Pennsylvania's extensive network of overseas university graduates to promote new business opportunities for the state.

World Trade PA will make key investments that are designed to help Pennsylvania companies expand their export potential. These investments include:

- Developing a Virtual World Trade PA Operations Center with the goal of doubling the number of companies

that take advantage of export-assistance services by 2007-08. The Web-based Operations Center will provide a one-stop shop for businesses to assess their export capacity to enter foreign markets, develop successful business plans and tap into an extensive sales/resource-referral network. This virtual center will assist, guide and inform exporters about Pennsylvania's programs and resources.

- Expanding the commonwealth's network of overseas trade representatives and increasing operations in China, India and other emerging markets.
- Launching an outreach and education campaign aimed at small and medium-sized businesses to increase awareness of Pennsylvania's innovative trade-promotion-assistance programs, including an expansion of the commonwealth's Market Access Grant (MAG) and Export Trade Finance programs.
- Establishing an International Business Advisory Council to directly advise the Department of Community and Economic Development on methods to ensure that Pennsylvania businesses compete successfully in global markets.

World Trade PA will invest new resources in international marketing and business attraction activities by intensifying efforts in booming areas like Japan, India, the Republic of Korea and China, while maintaining the state's efforts in Europe and Canada.

World Trade PA will also leverage Pennsylvania's extensive network of foreign-born university graduates to promote new business opportunities for the state. The initiative will create the Pennsylvania Global Business Alumni Program and will fund universities and Keystone Innovation Zones to hire coordinators who will be charged with connecting potential business leads with Pennsylvania firms.

QUALIFIED TUITION PROGRAMS – TAP 529

Contributions to any qualified tuition program as defined in section 529 of the Internal Revenue Code, including those offered by other states, will be deductible from taxable income. The amount deducted for each designated beneficiary cannot exceed the annual limitation on gifts permitted by the Internal Revenue Code for purposes of federal estate and gift tax, which is currently \$12,000. The deduction cannot result in taxable income being less than zero.

Distributions used for qualified higher education expenses, as well as undistributed earnings in the accounts, will not be taxable. Federally qualified rollovers between accounts and beneficiary changes will also not be taxable events for Pennsylvania purposes. Distributions that are not used for qualified higher education expenses are subject to tax. These changes will apply to tax years beginning after Dec. 31, 2005.



Governor Rendell signs SS HB 39 into law at the home of Nellie Hughes, June 27.
(Photo Credit: Commonwealth Media Services)

GOVERNOR RENDELL SIGNS BILL TO DELIVER LARGEST PROPERTY TAX CUT IN PENNSYLVANIA HISTORY

\$1 BILLION CUT WILL BE DELIVERED TO PENNSYLVANIA HOMEOWNERS; SENIORS WIN BIG WITH EXPANSION OF PROPERTY TAX/RENT REBATE PROGRAM

On Tuesday, June 27, Governor Edward G. Rendell signed Special Session House Bill 39 (SS HB 39) into law – SS Act 1 of 2006. SS HB 39 delivers the largest property tax cut in Pennsylvania history – \$1 billion annually to all Pennsylvania homeowners.

“After 30 years of debate and failed plans, Pennsylvanians will finally get the tax relief they deserve,” said Governor Rendell. “Today is a great day for Pennsylvania homeowners, especially seniors who have been driven from their homes as they attempt to escape the burden of skyrocketing property taxes.

“This day is a major victory for Pennsylvanians who have fought for decades to have their property taxes cut. Every homeowner in Pennsylvania will not only get significant reduction, but they will finally get a say in future tax increases. This bill represents a victory of the possible over politics-as-usual.”

In addition to guaranteed property tax relief for every homeowner from gaming revenue, SS HB 39 guarantees Pennsylvania voters will have the option of reducing their property taxes by at least another \$1.4 billion in the spring of 2007 by voting to shift a portion of their property taxes to local income taxes.

SS HB 39 also ensures that more than \$250 million of the \$1 billion from gaming will go to seniors with incomes under \$35,000. Nearly 420,000 more Pennsylvanians will be added to the state’s Property Tax/Rent Rebate program next year. The Property Tax/Rent Rebate program benefits eligible Pennsylvanians age 65 and older; widows and widowers age 50 and older; and people with disabilities age 18 and older. The new law, SS Act 1 of 2006, increases the income limit

from \$15,000 to \$35,000 for homeowners and boosts the maximum rebate for both homeowners and renters from \$500 to \$650 beginning next year. Homeowners can exclude one-half of their Social Security, Supplemental Security Income and Railroad Retirement Tier 1 benefits, so claimants can make substantially more than \$35,000 and still qualify for a rebate.

Highlights of SS HB 39

- **Fast property tax relief.** Pennsylvania’s senior citizens – who are on fixed incomes and need the most immediate tax relief – will not have to wait for the revenue from gaming to start coming in before they receive tax relief. Relief for all taxpayers will come sooner because of the requirement that \$150 million be held in reserve. (The initial reserve was \$400 million.) This more reasonable reserve level will expedite the delivery of broad-based property tax relief.
- **No State imposed income tax shift.** A previous requirement to raise the earned income tax (EIT) by one-tenth-of-one percent in order to qualify for state-funded tax relief is eliminated. Now, every school district will be able to receive tax relief from the state – without any mandate to raise local taxes. SS HB 39 leaves the decision to shift to income taxes up to local voters, with no strings attached.
- **Greater taxpayer control over future school tax increases in every school district.** Beginning this year, taxpayers in every school district will have a greater voice in tax increases. School boards will still be able to raise property taxes each

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year to keep up with inflation – and even more in many communities where circumstances dictate – but sensible and fair voter controls mean that taxpayers will now have a direct say in the most extreme tax increases.

- **More flexible referendum exceptions.** The new law wisely expands the exceptions for special education, health care costs and pension obligations. The 10 exceptions that school boards could seek in order to raise taxes faster than inflation because of emergencies or educational necessities are maintained – and they add greater flexibility where school districts need it the most.

- **New ability to combat high wage taxes.** SS HB 39 gives Scranton the power to use up to half of its state allocation from gaming to reduce its wage tax – which is the second highest in the state. The law also maintains Philadelphia's historic wage tax relief, which, when combined with the city's own mandated tax reductions will bring the wage tax below 4 percent for city residents starting in 2009. Because cities with high wage taxes will be unlikely to ever make a shift to increase their earned income taxes to fund property tax relief, senior citizens in Pittsburgh, Philadelphia and Scranton who earn up to \$30,000 a year will have their property tax rebate increase by an additional 50 percent once revenues from gaming are available.

Under the old system, eligible residents could receive a property tax or rent rebate if they earned up to \$15,000 a year (excluding 1/2 of Social Security). The maximum rebate was \$500.

Homeowners will now receive:

Income	Rebate
\$0 to \$8,000	\$650
\$8,001 to \$15,000	\$500
\$15,001 to \$18,000	\$300
\$18,001 to \$35,000	\$250

Renters will now receive:

Income	Rebate
\$0 to \$8,000	\$650
\$8,001 to \$15,000	\$500

Applications for the newly expanded Property Tax/Rent Rebate program will be available next February, but eligible Pennsylvanians can sign up now to get on the mailing list by visiting www.papropertytaxrelief.com or by calling toll-free 1-888-222-9190. People who qualified for a rebate this year will automatically receive a form for next year's program and therefore do NOT need to sign up for the mailing.

USE TAX VOLUNTARY COMPLIANCE PROGRAM CONTINUES

The Use Tax Voluntary Compliance Program is continuing with its outreach and education initiative. The department continues to meet with associations and agencies in an effort to stimulate voluntary compliance by informing business taxpayers and their representatives of their obligation to report and pay Use Tax.

On June 8, the Department of Revenue met with employment and other professional business associations to discuss the department's plans for Use Tax enforcement. This meeting was the second of many to be held for Use Tax Compliance. The "kick off" meeting for the program was held in August 2005 with the professional services associations.

While phase one of the initiative is just beginning for the employment and other professional business services industry segment, the department is in the final phase of the program for the professional services industry segment. In June, the department began conducting a series of limited, focused examinations and field audits to reinforce the necessity of voluntary compliance.

The department has added Use Tax information, specific to businesses, to its Web site, including a new brochure, **Use Tax for Businesses (REV-935)**.

Additional information about the **Use Tax Compliance Program** can be found on the Department's Web site at www.revenue.state.pa.us.

More Tax Delinquents Added To Pennsylvania's Internet List *REVENUE DEPARTMENT HAS COLLECTED \$9.9 MILLION IN UNPAID TAXES SINCE LAUNCH OF WEB SITE*

Fifty new names have been added to the state Revenue Department's tax delinquent list.

Thirty-five of the 75 businesses that were on the initial tax delinquent list published in April have been removed from the site because they either paid their taxes in full or committed to a deferred payment plan. The list now includes a total of 90 businesses that owe sales and/or employer withholding taxes that were collected from customers and employees, but were never remitted to the state.

"The businesses that were removed fulfilled their responsibilities and either paid the delinquent taxes in full or entered into a payment plan agreement with the state," Fajt said. "The other tax delinquents will remain on the list until they do the same."

In a new effort to collect unpaid state taxes, this year, the Department of Revenue began publicizing the names of people and businesses that owe delinquent taxes. In total, the prospect of appearing on the list has helped convince delinquent taxpayers to pay \$9.9 million and enter into deferred payment plans for an additional \$10.9 million in previously unpaid taxes. At least 17 other states, including Maryland, New Jersey and the District of Columbia use Internet tax delinquent lists to help collect unpaid taxes.

Businesses and individuals listed on the Web site are contacted by the department and given one final chance to make payment arrangements before appearing on the list. "Everyone on the list has been given many opportunities to resolve their tax debt prior to appearing on the Web site," said Fajt.

All of the information on the Web site is public as a result of a lien filed by the Revenue Department. The liens are recorded in a county prothonotary's office where the person resides or does business. The amounts listed on the Web site are the amounts of the original liens. The current amount of tax due may differ from the amount listed on the site because of partial payments and/or the accrual of additional interest since the tax lien was filed.

The Revenue Department is starting with recently liened accounts and is working to add more tax types and more delinquent taxpayers to the list. Delinquent taxpayers who appear on the list should contact the Revenue Department at the telephone number listed on the letter they received or call the nearest Revenue district office to make payment arrangements. The Web site will be updated monthly. Delinquent taxpayers who resolve their tax liabilities will be removed from the site at that time.

The complete **PA Tax Delinquent List** is available on the PA Department of Revenue's Web site.

REVENUE DEPARTMENT CAN CHARGE FEE ON DELINQUENT ACCOUNTS SENT TO COLLECTION AGENCIES

Act 40 of 2005, allows the PA Department of Revenue to add the cost of collection to delinquent tax liabilities. The Department can charge delinquent taxpayers a fee if their account has to be referred to a private collection agency to collect outstanding tax liabilities. These add-on fees are 19 percent for first placement agencies and 29 percent for referral to second placement agencies. Under certain circumstances, legal fees incurred by the Revenue Department and/or the collection agency may also be charged to the delinquent taxpayer.

This change is intended to provide the Revenue Department with the ability to recoup the cost of retaining private agencies for the collection of delinquent taxes so that the Commonwealth will receive 100 percent of the delinquent tax liability.

The Department implemented Act 40 on April 1 and it is now in effect.

Commonwealth taxes that are currently impacted by the delinquent collection add-on fees are: Sales, Employer Withholding, Corporation, Personal Income and Inheritance/Estate Taxes.

If you have any questions regarding Act 40, please contact the Revenue Office of Chief Counsel at (717) 783-1382.

CHANGE IN CALCULATION OF FOREIGN FRANCHISE TAX

In an opinion issued April 20, the PA Supreme Court upheld the decision of Commonwealth Court in the case of *Wilmington Trust Corporation v. Commonwealth*. In this case, the Commonwealth Court ruled that the Foreign Franchise Tax of a corporation electing to use single factor apportionment in the calculation of the Foreign Franchise Tax, ceasing business activity in Pennsylvania during the course of the year, and continuing activity outside of Pennsylvania is to be prorated for the number of days from the beginning of the tax period to the date the entity withdraws from the commonwealth.

As a result of this decision, the PA Department of Revenue is announcing the following change in the calculation of the Foreign Franchise Tax:

When a non-Pennsylvania entity meets the following requirements, the Foreign Franchise Tax shall be prorated for the number of days the corporation was present in Pennsylvania:

1. The taxpayer ceases Pennsylvania activity during the tax period.
2. The taxpayer continues activity outside of Pennsylvania after the date Pennsylvania activity ceased.
3. The taxpayer completed all requirements to be removed from the active records of the Bureau of Corporation Taxes.

4. The taxpayer elected to use the single factor when calculating the Foreign Franchise Tax when filing their final report.

When this occurs, the taxpayer will still file an RCT-101 for the same period used for filing the federal income tax return. When filing this report, the Foreign Franchise Tax for this period will be calculated as follows:

1. The capital stock value is calculated for the full period.
2. When calculating the single factor, the book value of assets held for the full period is not prorated for the number of days the taxpayer was active in Pennsylvania.
3. The tax is calculated for the full period and then prorated for the number of days the taxpayer was active in Pennsylvania (the later of the date Pennsylvania activity ceased or the date the taxpayer no longer held assets in Pennsylvania). The denominator used in prorating the tax is 365 days (leap year 366), regardless of the number of days included in the federal and Pennsylvania filing period.

This change only affects those taxpayers who elect to use single factor apportionment in the calculation of the Foreign Franchise Tax for the tax period in which they withdraw from Pennsylvania. Taxpayers electing the three-factor apportionment will continue to calculate the tax for the full year and prorate the property factor in accordance with 61 Pa Code § 155.28.

SALES AND USE TAX ON AIRCRAFT

The sale, purchase, lease or rental of an aircraft, if delivery occurs in the Commonwealth, is subject to 6 percent (7 percent in Philadelphia and Allegheny Counties) Sales Tax. If the seller or lessor does not collect and remit the tax, the purchaser, lessee or renter must remit the Use Tax.

Registering an aircraft with the Federal Aviation Administration using a Delaware corporate registry office address does NOT absolve the owner of the obligation to pay sales tax if the aircraft is kept in Pennsylvania. Failure to pay sales tax in a timely manner as prescribed by law will subject the owner to penalty and interest charges.

An **Aircraft Sales and Use Tax Return (REV-832 CM)** must be completed and sent to the Revenue Department with the tax payment.

An owner who claims an exemption from tax because the aircraft will be leased or rented to others or will be used for flight instruction, must have a valid Pennsylvania sales tax license. If the owner also uses the aircraft for his personal flying, he must pay Use Tax based upon the Fair Rental Value of the aircraft (61 Pa. Code § 58.8(a)).

GENERAL INSTRUCTIONS FOR ELECTION NOT TO BE TAXED AS A PENNSYLVANIA "S" CORPORATION

Federal Subchapter S Corporations are no longer required to file the Pennsylvania S Corporation Election and Shareholders' Consent (REV-1640) in order to be granted Pennsylvania S Corporation status. Effective for tax years beginning on or after Dec. 31, 2005, any corporation with a valid Federal Subchapter S Corporation election is automatically a Pennsylvania S Corporation. Any Federal Subchapter S Corporation that does not desire to be a Pennsylvania S Corporation must file an Election Not to be Taxed as a Pennsylvania S Corporation form (REV-976) on or before the due date, or extended due date, of the report for the first tax period in which the election is to be in effect (e.g. a taxpayer without an approved extension for the tax period ending Dec. 31, 2006 is required to file the election on or before April 15, 2007, for the election to be effective for that period). This election must be signed by 100 percent of the shareholders of the S Corporation on the date of the election and sent via **certified mail** to:

PA Department Of Revenue
Bureau Of Corporation Taxes
PA "S" Unit
PO Box 280705
Harrisburg, PA 17128-0705

Once the election is made, it cannot be revoked for five years. Do NOT send as an attachment to the PA Corporate Tax Report.

About 90 days from the receipt of this election, the PA Department of Revenue will issue a confirmation of approval of the election. The confirmation will be mailed to the taxpayer at the address shown on the election. If the confirmation is not received within this time, the taxpayer should call the Bureau of Corporation Taxes at (717) 787-8353 to verify that the election was received. **It is the sole responsibility of the taxpayer to provide timely proof of mailing, e.g. Certified Mail Receipt.**

Any Federal Subchapter S Corporation that does not make this election will be taxed as a Pennsylvania S Corporation and will be required to file both RCT-101, PA Corporate Tax Report, and PA 20S/PA 65, PA S Corporation/Partnership Information Return. In addition, each shareholder is subject to Pennsylvania Personal Income Tax on each shareholder's pro rata share of the S Corporation income, whether distributed or not.

A Pennsylvania S Corporation with taxable income from sources within Pennsylvania is jointly liable with its nonresident shareholders for Personal Income Tax on such income and is authorized and required to collect such tax from its nonresident shareholders and remit the tax to the PA Department of Revenue. To register for estimated Personal Income Tax Withholding, contact the PA Department of Revenue, Bureau of Individual Taxes, Document Control Division, PO BOX 280510, Harrisburg, PA 17128-0510.

Under current law, a Qualified Subchapter S Subsidiary may not be a Pennsylvania S Corporation, or elect not to be a Pennsylvania S Corporation, separate from the parent corporation. If a Qualified Subchapter S Subsidiary and/or parent of a Qualified Subchapter S Subsidiary, does not desire to be taxed as a Pennsylvania S Corporation, the parent must file an Election Not to be Taxed as a Pennsylvania S Corporation for itself and all Qualified Subchapter S Subsidiaries. The corporation shall attach a schedule to the election, identifying the name, address, Pennsylvania Corporation Tax box number and federal employer identification number of each Qualified Subchapter S Subsidiary owned by the corporation and doing business in Pennsylvania.

PA Resident Shareholders of Subchapter S Corporations in Another State

Any Federal Subchapter S Corporation that does not make this election, and which is a Subchapter S Corporation in another state that has a Pennsylvania resident shareholder, will be taxed as a Pennsylvania S Corporation and will be required to file both RCT-101, PA Corporate Tax Report and PA 20S/PA 65, PA S Corporation/Partnership Information Return. In addition, each shareholder will be subject to Pennsylvania Personal Income Tax on each shareholder's pro rata share of the S Corporation income, whether distributed or not.

S corporations with no presence in Pennsylvania may not be aware of this change in the law, so any Pennsylvania resident shareholders of such a corporation may wish to inform the corporation of the opportunity to file an election prior to April 15, 2007 in order to retain their current tax situation.

2006 FALL TAX SEMINARS SCHEDULE

SPONSOR	DAY	DATE	CONTACT	SEMINAR LOCATION
CPE Forum of Central PA 1321 11th Ave., Suite 1 P.O. Box 2210 Altoona, PA 16603	Tuesday	09-26-2006	Kelly Park (814) 941-2486	The Casino 300 Lakemont Park Blvd. Altoona, PA 16602
Alvernia College Reading, PA 19603	Wednesday	10-11-2006	Alan D. Ross, CPA (610) 372-9911	Alvernia College Reading, PA 19603
Duquesne University School of Bus. and Admin. 701 Rockwell Hall Pittsburgh, PA 15282-0104	Thursday	10-26-2006	Pat Police (412) 396-1643	Duquesne Union Hall Duquesne University Campus Pittsburgh, PA 15282-0104
Wilkes University Continuing Education Dept. 215 South Franklin Street Wilkes-Barre, PA 18766	Thursday	11-02-2006	Margaret Steele (570) 408-4462	The Woodlands Inn and Resort Highway 315 Wilkes-Barre, PA 18766
Harrisburg Area Community College 3300 Cameron Street Road Harrisburg, PA 17110	Wednesday	11-08-2006	David Root (717) 780-2561	Rose Lehrman Arts Center Harrisburg Area Community College 1 HACC Drive Harrisburg, PA 17110-2999
Neumann College Continuing Education Dept. 1 Neumann Drive Aston, PA 19014-1298	Thursday	11-16-2006	Lois Ritacco (610) 558-5629	Neumann College Life Conference Center Aston, PA 19014-1297
Penn State University Ogontz Campus 1600 Wood Land Road Abington, PA 19001	Wednesday	12-06-2006	Theresa Bloom (215) 881-7402	Holiday Inn, Select 4700 Street Road Trevose, PA 19053