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Employers Beware! New State Law Mandates Withholding of Employees' Local Earned Income Taxes

Attention Pennsylvania employers! There are less than 12 months before a significant change takes place that will dramatically affect the manner in which local earned income taxes are collected in Pennsylvania. In accordance with Act 32 of 2008, effective January 1, 2012, local earned income taxes in Pennsylvania must be withheld and reported in a completely different way for most employees and employers. This article contains important information about consolidation of local earned income tax collection within the Commonwealth.

Prior to Act 32, Pennsylvania had approximately 560 local earned income tax collectors serving more than 2,900 local taxing jurisdictions. Rules and forms varied from jurisdiction to jurisdiction. This inefficient system resulted in the estimated loss of hundreds of millions of dollars for school districts and municipalities throughout Pennsylvania. Act 32 reduces the number of earned income tax collectors state-wide to 69 and mandates uniform procedures.

A single Tax Collection District has been established in each Pennsylvania county with the exception of Allegheny County, which has four tax collection districts, and Philadelphia County, which is exempt from Act 32. Each Tax Collection District is governed by a Tax Collection Committee. Act 32 mandated that each Tax Collection Committee select a Tax Officer to administer the collection of earned income taxes for the political subdivisions of each Tax Collection District.

In Allegheny County, Jordan Tax Service, Inc. has been selected as Tax Officer of the Allegheny County Central Tax Collection District (comprised of the City and School District of Pittsburgh and the Borough of Mt. Oliver) and the Southwest Allegheny County Tax Collection District (comprised of 66 political subdivisions). Keystone Collections Group has been selected as the Tax Officer for the Allegheny North and Allegheny County Southeast Tax Collection Districts (comprised of 60 and 45 political subdivisions, respectively).

Act 32 mandates employer withholding. Beginning January 1, 2012, employers employing one or more employees must withhold their employees' local earned income taxes and pay them, on a quarterly basis, to the appointed Tax Officer. In addition, Act 32 requires that within 30 days following the end of each calendar quarter, employers must file a quarterly return and pay the amount of earned income taxes withheld during a preceding calendar quarter to the Tax Officer for the place of employment of each employee. Self-employed individuals are exempt from withholding, but must file returns and pay taxes due quarterly.

Those employers which are located in multiple counties may file a return in a single Tax Collection District or they may choose to file in multiple Tax Collection Districts. Multi-County employers choosing to file in a single Tax Collection District must comply with specific requirements set forth in Act 32.

In addition to the efficiencies resulting in mandatory employer withholding and consolidation, Act 32 is intended to bring more accountability, transparency and enforcement to the local earned income tax collection

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process. The State Department of Community and Economic Development will maintain an up-to-date register of Tax Officers who have new levels of statutory accountability requiring bonding, stringent reporting and an annual audit. It is anticipated that this greater level of accountability will result in the recovery of local earned income tax revenues previously uncollected prior to Act 32. Uniform forms and online reporting and payment options will be offered by most, if not all, Tax Collection Districts to make it easier for employers, their payroll companies as well as individual taxpayers to comply with the provisions of Act 32. While individual taxpayers subject to employer withholding will no longer be required to file quarterly local earned income tax returns, all taxpayers will be required to file a final local earned income tax return annually.

Since its enactment on July 2, 2008, Act 32 has been an issue almost exclusively for the newly-formed Tax Collection Districts and their member political subdivisions. While local government has been gearing up for this transition for more than two years, many employers and taxpayers in Pennsylvania are wholly unaware of Act 32 and the changes which will take place on and after January 1, 2012. For employers who utilize third-party payroll services, it is advisable that you begin a dialog to determine what changes must occur for you to become compliant with Act 32. It is the employer's responsibility to comply with the law. There are significant penalties for noncompliance. Thus, employers should not assume that their third-party payroll vendors are aware and in compliance with Act 32. All employers should anticipate communications from the Tax Officers within the jurisdictions in which the employer does business. These notices will provide important information to assist employers and taxpayers to meet the requirements of Act 32. Tax Officers will respond to employer and taxpayer questions and will also have information available on their websites concerning compliance with Act 32 and how to file returns and make payments. Additional information is also available at www.newpa.com.

Goehring, Rutter & Boehm has been actively involved in the implementation of the provisions of Act 32 since its enactment.

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