

## **Local Services Tax Frequently Asked Questions**

### **When will Act 7 of 2007 take effect?**

January 1, 2008. Municipalities should be planning and budgeting for the changes in the tax now to be ready in time.

### **Why was the name of the tax changed from the emergency and municipal services tax to the local services tax?**

Because some people assumed the tax would be used to fund emergency medical services providers, voluntary donations to these providers declined after the tax was first enacted. The name change is intended to address this problem.

### **Does Act 7 define ‘income from all sources’ for purposes of the low-income exemption?**

Yes. The act defines “income from all sources” as the total earnings and net profits from all sources within the municipality for the calendar year in which the local services tax is levied.

### **Do we need to amend our emergency and municipal services tax ordinance? If so, by when?**

Even though the rate will not be changed, all municipalities that have enacted a new or increased emergency and municipal services tax since December 1, 2004, and where the combined rate exceeds \$10, should re-enact their existing ordinance to reflect the new local services tax provisions by December 31, 2007.

Municipalities that adopted the former occupational privilege tax of \$10 or less before December 1, 2004, and have not changed the tax rate and do not plan to change it now do not need to take any action.

### **What if a municipality wants to enact a new local services tax or increase its existing tax?**

If a municipality wants to levy a new local services tax, it must enact an ordinance by November 30, 2007, to be effective by January 1, 2008. If a municipality wants to change the rate, it should also adopt a new ordinance by November 30, 2007, and notify DCED of the change by December 1, 2007.

### **Is it necessary to notify any state agency if a municipality plans to adopt the local services tax?**

Yes. The municipality must notify DCED of any new increased local services tax by December 1, 2007, for this change to be recorded in DCED’s Official Register. The Official Register will be released on December 15 for taxes which must be withheld on and after January 1 of each year and on June 15 for taxes which must be withheld on and after July 1.

**If a municipality does not notify DCED that it has adopted the tax, can an employer be penalized for not withholding this tax?**

No. Municipalities can only require employers to withhold the local services tax if they have notified the department that they are levying the tax so that DCED can list the information in the Register for Earned Income and Local Services Taxes (Official Register). However, employers may voluntarily withhold an unlisted local services tax.

**Are there any restrictions on the use of the revenue from the local services tax?**

Yes. Act 7 requires municipalities to use at least 25 percent of the tax revenue for emergency services, including police, fire and ambulance protection. The remainder may be use for road construction or maintenance, property tax reduction, or property tax relief through the implementation of a homestead or farmstead exemption.

**Must a municipality do anything else to comply with Act 7?**

Yes. Municipalities levying a local services tax must adopt regulations consistent with the Local Taxpayer Bill of Rights and Act 7 for the processing of refund claims for anyone who overpaid the tax. A municipality is only required to refund an overpayment of \$1 or more, and refunds are not subject to interest if made within 75 days of either a refund request or January 30 of the year the tax is paid, whichever is later.

## **Employer Local Withholding Tax Frequently Asked Questions**

### **Where do we register for local income tax withholdings?**

As an employer, for earned income taxes, you register with the earned income tax officer of the municipality/school district where your Pennsylvania business site is located. Examples of business sites include but are not limited to factories, warehouses, offices and residences of home based employees.

For Local Services taxes you register with the Local Services tax officer of the municipality/school district where your Pennsylvania business site is located. Examples of business sites include but are not limited to factories, warehouses, offices, businesses and residences of home based employees

### **Are we required to withhold local income taxes from all of our employees?**

All employers with work sites within the taxing jurisdiction are required by law to deduct the earned income and Local Services taxes from their employees at that site if the tax is listed in the Earned Income Tax Register or Local Services Tax Register of the Department of Community and Economic Development.

### **Must we withhold from employees who reside in Pennsylvania but work at our facility in another state?**

The Local Tax Enabling Act does not require you to withhold earned income taxes from an employee who resides in Pennsylvania working for you in a facility in another state. Some employers do withhold and remit earned income taxes as a benefit to their Pennsylvanian residents who work out of state. The Act does not require employers to withhold Local Services taxes from an employee since this is a tax levied at the actual work location.

### **Who is a non-resident?**

A non-resident is anyone who resides outside the taxing district.

### **Are we required to remit local tax withholdings to each non-resident's taxing jurisdiction?**

Responsibility for transmitting withheld taxes of nonresidents to the employees' place of residence rests with the tax officer, not with the employer.

### **Must we also register and remit local tax withholdings to the school district?**

The Act requires employers to register only with school districts who have a different collector than the municipality.

### **Are there any exceptions for withholding local taxes for the municipality/school district?**

Yes, Philadelphia and Pittsburgh have exceptions. Philadelphia falls under the Sterling Act and requires employers to withhold and remit earned income taxes for all their employees who reside in Philadelphia even if they are employed at a site outside of Philadelphia. Pittsburgh City School District has a similar requirement.

**We have heard that Act 7 requires employers to deduct the tax weekly. Is this true?**

If a municipality and school district's combined local services tax rate is more than \$10, employers must withhold the tax based on their number of annual payroll periods and are prohibited from withholding the tax in a lump-sum payment. Therefore, if an employer pays its employees weekly, the tax must be withheld weekly.

**How often are employers required to submit tax revenue to the municipal tax collector?**

For municipalities and school districts with a combined tax rate of more than \$10, employers must submit tax revenue within 30 days of the end of each quarter.

**What happens if an employee resigns? Must the employer try to collect the tax from the former employee for the remainder of the year?**

No. The employee is now liable for the tax. If an employee quits, his previous employer only needs to withhold the tax for the payroll periods in which he was employed. The new employer will be responsible for withholding the tax from future paychecks.

**If a municipality and school district's combined local services tax rate is \$10 or Less, may the municipality continue to require that the full \$10 be withheld in a lump sum from the first paycheck of the year?**

Yes

**Is the new \$12,000 low-income exemption for the tax mandatory?**

Yes, if the combined municipal and school district rate is more than \$10.

**Does Act 7 define "income from all sources" for purposes of the low income exemption?**

Yes. The Act defines "income from all sources" as the total earnings and net profits from all sources within the municipality for the calendar year in which the local services tax is levied.

**Should employers withhold the tax from employees who earn less than \$12,000 low-income exemption?**

Not if the employee files an upfront exemption certificate with both the employer and the municipality affirming that he reasonably expects to receive less than \$12,000 during the calendar year for which the exemption certificate is filed.

**What happens if the income of an individual who filed an upfront exemption certificate exceeds \$12,000 during the calendar year?**

If that person's earned income from the primary employer exceeds \$12,000 or the municipality's tax collector informs the employer that the employee's income has reached \$12,000.

**If an employee works in more than one municipality and each levies the local service tax, which one has the priority for the collection of the tax?**

The primary place of employment is determined the day the taxpayer first becomes subject to the tax during the payroll period if the tax is levied at more than \$10. If the tax is levied at \$10 or less, it is the first place of employment during the calendar year based on the following priorities (listed in order):

1. the municipality where the employee maintains his or her principal office or is principally employed;
2. the municipality where the employee lives and works if the municipality levies the local services tax; and
3. the municipality where the employee works and is nearest to his residence if that municipality imposes the tax.

Useful Links

[American Payroll Association](#) – provides links to state agencies throughout the United States (including Pennsylvania) that require withholding taxes.

[Pennsylvania's Department of Revenue](#)

[PEITOAC](#) – provides a link to the Pennsylvania Earned Income Tax Officers, Administrators And Collectors Association, Inc.

[Philadelphia's Department of Revenue](#) – provides information on Philadelphia's wage taxes.

[Pittsburgh's Department of Revenue](#) – provides a wealth of information including a Zip Code guide, wage tax rates, and FAQs.

[Pennsylvania Institute of Certified Public Accountants](#) (PICPA) – provides useful information and legislative updates on local taxes.