

Week of April 11, 2016

**LEGISLATIVE UPDATE – HARRISBURG HEADLINES**

**HOUSE FINANCE COMMITTEE ADVANCES HB245**

The House Finance Committee unanimously voted HB245, with a technical amendment, to amend the Local Tax Enabling Act (Act 511 of 1965) to clarify certain provisions related to the consolidated collection of local income taxes and delinquent taxes. Specifically, HB245 amends Section 502(c) of Act 511 to allow a taxpayer earning net profits to meet the requirements for declaration and minimum payment if one of the following safe harbor exceptions is met: 1) Make four equal, timely estimated payments equal to 100% of the prior year's tax less any earned income tax withheld for the current year; or 2) Make four equal, timely estimated payments equal to 90% of the current year's tax less any earned income tax withheld for the current year. The bill also amends Section 505(h) to provide that audits of taxes received and disbursed shall be conducted on a calendar year basis. An examination conducted on any other basis would not be accepted by the Department of Community and Economic Development (DCED), and failure to comply with the requirement will be considered noncompliance and result in the imposition of penalties. Finally, HB245 amends Section 508 to add a section that gives DCED oversight authority of all tax collection committees, tax collectors and tax collection offices. The bill awaits consideration by the full House.

**HOUSE FINANCE COMMITTEE ADVANCES SB356**

The House Finance Committee unanimously voted SB356, which amends the Local Tax Enabling Act (Act 511 of 1965) to clarify certain provisions related to the consolidated collection of local income taxes. Specifically, SB356 changes the due date for taxpayers earning net profits to file quarterly estimated payments and declarations from April 15, June 15, September 15, and December 15 of each year, to April 15, July 15, October 15, and January 15 of the succeeding year. The bill also establishes a safe harbor where a taxpayer will be considered to have met the requirements for declaration and minimum payment for any year in which the taxpayer timely declares and makes quarterly payments of estimated tax in amounts that equal at least one-fourth of the total income tax due and not withheld in the previous year, provided that the taxpayer can show that tax liability was incurred via the taxpayer's annual income tax return filed for the previous year. In addition, SB356 restricts a political subdivision, tax collection committee, or tax officer from prohibiting a taxpayer from filing a return in person or by first-class mail, prohibiting a taxpayer from filing any local income tax return form, estimated tax return form, or other related forms posted on DCED's website, or impose a penalty for failing to file a timely quarterly estimated tax return where no tax was due as shown in the taxpayer's annual income tax return. Finally, the bill changes the employer due date of filing and paying local withholding tax from 30 days following the end of each quarter to the last day of the month following the end of each calendar quarter. If the due date falls on a weekend or legal holiday, the filing or payment may be performed on the next business day. The bill now awaits consideration by the full House.

**HOTEL TAX LEGISLATION AWAITS GOVERNOR WOLF’S SIGNATURE**

HB 794 increases the maximum allowable hotel tax rate from 3% to 5% in 3rd through 8th class counties and institutes reforms to the remittance process and tourist promotion agency certification and decertification process. The bill was amended on the Senate floor by authorizing counties of the 2nd class and 2nd class A to impose a hotel tax at a rate not to exceed 5%. This is an increase for Bucks, Montgomery and Delaware counties. Allegheny County's rate would stay the same. The House concurred in the Senate amendments by a vote of 138-57. HB 794 now awaits the signature of Governor Wolf.

**HOUSE APPROVES LEGISLATION TO ESTABLISH “ABLE” PROGRAM**

SB 879, which unanimously passed the House, authorizes the PA Treasury to establish and maintain a savings account program otherwise referred to as an ABLE program, that allows family members and other persons to make contributions during a taxable year for a designated beneficiary and which meets the requirements established in §529A of the Internal Revenue Code (IRC). Under the bill, the savings account would be utilized by the designated beneficiary for disability expenses for education, housing, transportation, employment support, health prevention and wellness, assistive technology, financial management, legal fees and other miscellaneous expenses. These funds would supplement, not supplant, the costs of qualified disability expenses without losing other sources of income. Contributions to the savings account from all contributors for the taxable year would not exceed, in the aggregate, the limits set forth in the IRC. The Senate unanimously approved the House amendments and the bill now awaits the signature of Governor Wolf.

**SENIOR TAX REDUCTION INCENTIVE VOLUNTEER EXCHANGE PROGRAM ACT**

HB 791, which authorizes school districts to establish a program to allow older residents to volunteer in the school district and receive a real property tax credit in exchange for their volunteer service, passed the full House by a vote of 194-1. Under the bill, school districts could establish a program, and promulgate specific guidelines regarding the program that would include a criminal background check for seniors seeking participation. The rate of real property tax credit for senior volunteers would be established by the school district and could not exceed the total amount of real property taxes that are owed. The services that participants provide must enhance the academic program of the school district and may not replace or supplant existing job positions.

**MEDICAL MARIJUANA AWAITS GOVERN WOLF’S SIGNATURE**

SB 3 establishes a state medical marijuana program that permit patients to obtain medical cannabis products from dispensaries if certified by a doctor to be suffering from cancer, HIV/AIDS, Lou Gehrig's disease, Parkinson's disease, multiple sclerosis, spinal cord damage, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, Crohn's disease, post-traumatic stress disorder, intractable seizures, glaucoma, sickle cell anemia, autism and severe, chronic or intractable pain. Authorized patients would be able to use cannabis in pill, oil or liquid form but smoking the plant would remain illegal. The Senate amended SB 3 with what was deemed “technical” language and the House accepted the bill as amended by a vote of 149-46. Governor Wolf has stated that he will sign the bill into law making PA the 24th to legalize medical marijuana in the nation, on April 17th.

**NEW FISCAL CODE BILL TO ADDRESS 2015-16 SPENDING SENT TO GOVERNOR WOLF**

Last month, Governor Wolf vetoed the fiscal code legislation (HB 1327) that accompanied the supplemental budget appropriation that became law absent the Governor’s signature. He concluded that the fiscal code contained what he believed were unconstitutional provisions that further expose the innate flaws with the basic education funding formula. The Governor has publicly stated that his office will, absent having a formal fiscal code, spend the dollars appropriated. As a result, the House and Senate advanced a fiscal code (HB 1589), which passed the House by a vote of 149-45 and the Senate earlier in the week by a vote of 37-11. The bill will be transmitted to the Governor for his signature, veto or to become law without his signature like the General Appropriations bill. It is unclear what the Governor’s intentions are with respect to actions taken, if any on the new fiscal code.

**REFORMING STATUTE OF LIMITATIONS**

House Bill 1947**,** whichwould reform both the criminal and civil statute of limitations for sexual abuse claims, advanced from the House Judiciary Committee. The legislation would completely eliminate the criminal statute of limitations for serious sexual offenses committed when a victim is a minor and increases the civil statute of limitations to when a person attains the age of 50. Currently the statute of limitations for criminal liability runs when a person reaches 50 and the civil statute of limitations runs when a person reaches 30. The House approved HB1947 by a vote of 180-15.

**JOINT HEARING ADDRESSES AUTOMOBILE INSURANCE MINIMUMS**

The House Transportation Committee and the House Insurance Committee held a joint hearing to discuss legislation that would increase Pennsylvania’s automobile insurance minimums. SB 928 would change the minimum amount of financial responsibility required to operate a motor vehicle for bodily injury for one person from $15,000 to $20,000; for two or more persons in any one accident from $30,000 to $40,000; and for property damage from $5,000 to $15,000. The bill would apply to all policies issued or renewed on or after 180 days following the effective date of the act. Any change in coverage of an automobile insurance policy resulting from this bill would not impact the validity of a waiver, selection of benefits, or amount of benefits in that policy, beyond the coverage change resulting from this bill. Any revised forms or rates filed by an insurer with the Insurance Department as a result of this bill shall be deemed approved by the Department upon filing. The House companion bill (HB1258) changes the minimum amount of financial responsibility required to operate a motor vehicle for bodily injury for one person from $15,000 to $30,000; for two or more persons in any one accident from $30,000 to $60,000; and for property damage from $5,000 to $10,000.

**PENNSYLVANIA GENERAL ASSEMBLY SESSION SCHEDULE:**

**2016 SENATE SESSION SCHEDULE**

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| **May** | 9, 10, 11, 16, 17, 18 |
| **June** | 6, 7, 8, 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 |

**2016 HOUSE SESSION SCHEDULE**

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| **May** | 2, 3, 4, 16, 17, 18, 23, 24, 25 |
| **June** | 6, 7, 8, 13, 14, 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 |

**DEPARTMENT OF REVENUE UPDATES**

**DOR March 2016 TAX COLLECTIONS**

Pennsylvania collected $4.5 billion in General Fund revenue in March, which was $86.7 million (2% more than anticipated). Fiscal year-to-date General Fund collections total $22.2 billion, which is $147.4 million, or 0.7 percent, above estimate. The breakdown is as follows:

* Sales tax receipts totaled $745.3 million for March, $24.6 million above estimate. Year-to-date sales tax collections total $7.2 billion, which is $27.8 million, or 0.4 percent, more than anticipated
* Personal income tax (PIT) revenue in March was $1.1 billion, $1.6 million below estimate. This brings year-to-date PIT collections to $8.6 billion, which is $21.5 million, or 0.2 percent, below estimate.
* March corporation tax revenue of $2.4 billion was $29.2 million above estimate. Year-to-date corporation tax collections total $4 billion, which is $72.4 million, or 1.8 percent, above estimate.
* Inheritance tax revenue for the month was $97.5 million, $11.6 million above estimate, bringing the year-to-date total to $702.4 million, which is $31.3 million, or 4.7 percent, above estimate.
* Realty transfer tax revenue was $31.4 million for March, $3.3 million below estimate, bringing the fiscal-year total to $356.5 million, which is $5.4 million, or 1.5 percent, more than anticipated.
* Other General Fund tax revenue, including cigarette, malt beverage, liquor and table games taxes, totaled $52.6 million for the month, $700,000 above estimate and bringing the year-to-date total to $989 million, which is $3.9 million, or 0.4 percent, below estimate.
* Non-tax revenue totaled $93.7 million for the month, $25.5 million above estimate, bringing the year-to-date total to $339.7 million, which is $35.9 million, or 11.8 percent, above estimate.
* The Motor License Fund received $268.6 million for the month, $22.6 million above estimate. Fiscal year-to-date collections for the fund – which include the commonly known gas and diesel taxes, as well as other license, fine and fee revenues – total $1.9 billion, which is $10.8 million, or 0.6 percent, below estimate.

**DOR EXTENTION OF HOURS**

The Department issued a press release announcing it is extending service hours for taxpayers to get help by phone in light of the April 18, 2-16 filing deadline. To review the press release in its entirety, visit <http://www.media.pa.gov/Pages/Revenue-Details.aspx?newsid=159>

**DOR’S OFFICE OF CHIEF COUNSEL ISSUED 2ND QUARTER REGULATION PRONOUNCEMENT STATUS REPORT**

**General Provisions**

**61 Pa. Code, Chapter 5a (Proposed Rulemaking)**

**Application of Payments**

STATUS: The Department is promulgating this regulation to clarify the provisions of the

Taxpayers’ Bill of Rights and provide a procedure for the application of a payment received from a taxpayer to tax liability owed the Department. In August 2011, the Department conducted Public Outreach. During the 2nd Quarter 2016, the Department will continue the regulatory approval process.

**Inheritance Tax**

**61 Pa. Code § 93.101 (Final-omit Rulemaking)**

**Amendment to Chapter 93**

STATUS: The Department is promulgating this amendment to remove an obsolete regulation § 93.101 Medical expenses and insurance, superseded by statute (72 P.S. § 92129(k)). During the 2ndQuarter 2016, the Department will draft the rulemaking approval package.

**Statements of Policy (SOP)**

61 Pa. Code § 9.19 – Election to not be treated as Pa. S Corporation; Repeal of SOP § 9.16

Effect of Federal Small Business Job Protection Act; Repeal of § 9.13 SOP Pennsylvania S

Corporation

**Amendments to Chapter 9. Revenue Pronouncements-Statements of Policy**

STATUS: The Department is repealing two SOPs at 61 Pa. Code §§ 9.13 and 9.16 to remove obsolete material from the Pennsylvania Code, as a result of Act 67 of 2006. Drafting of a new SOP § 9.19 is being promulgated by the Department, as also set forth in Act 67 of 2006. During the 2nd Quarter 2016, the Department will conduct public outreach.