Week of October 3, 2016

**HEADLINES**

**HB 245 Reported out of Senate Finance Committee**

HB 245 Dunbar, George - (PN 3167) Amends the Local Tax Enabling Act, in local taxes, further providing for definitions, for payroll tax and for payment of tax to other political subdivisions or states as credit or deduction and withholding tax; in consolidated collection of local income taxes, further providing for definitions, for declaration and payment of income taxes, for tax collection committees, for powers and duties of department, for powers and duties of tax officer and for withholding and remittance; and, in collection of delinquent taxes, further providing for penalties and for costs of collection of delinquent per capita, occupation, occupational privilege, emergency and municipal services, local services and income taxes. The stated intent of the bill is to provide clarification that taxpayers with no income will not be required to file a local return, to insert clear and concise safe harbor language for estimated taxes, provide oversight of the local Tax Collection Committee, clarify tax withholdings for temporary job assignments, provide W2 reporting requirements, define non-resident, and provide that audits of taxes received and disbursed shall be on a calendar year basis only. Effective in 60 days. (Prior Printer Number: 245) - The bill was reported as amended with Senators Ryan Aument (R-Lancaster) and Patricia Vance (R-Cumberland) voting in the negative.

Committee staff said the bill is intended to be an improvement to the Local Tax Collection Act passed in 2008 to unify and standardize local tax collection laws. He said the bill makes uniform things like forms and filing dates and involves the Department of Community and Economic Development (DCED) in the regulation of the tax committees and development or rules and regulations. Lastly, he said, language in the crediting provision has been raised as an issue. "Historically the municipality or residence is entitled to their maximum earned income tax whatever it may be… The municipality of employment only receives funds from a non-resident if those credits against the home municipality are used up." He said language adopted in 2008 caused confusion on the issue, and the legislation in question would reaffirm municipalities of residence are entitled first.

* A09816 by Blake, eliminates the requirement that DCED enforce fines and penalties. The amendment was unanimously adopted.
* A10133 by Eichelberger, clarifies differences between tax collector and tax officer and ensures the definition of earned income is correct. The amendment was unanimously adopted.

The PSTAP Legislative Committee met with various members of DCED and representatives of the Senate Finance Committee to discuss potential amendments to HB 245. Due to the impending expiration of the current legislative session, PSTAP will draft legislation aimed at improving efficiencies and providing standardization for local tax collection across the Commonwealth which will be introduced at the start of the next legislative session.

**At the quarter-pole of PA's 2016-17 fiscal year, state revenues are more than $200 million short of estimates**

The Department of Revenue on Monday announced the state came up $144.9 million, or 5.2 percent, short of revenue expectations in September, leaving the state $218.5 million, or 3.2 percent, below estimate for the year. You name the revenue source and it underperformed. Pennsylvania’s “big three” taxes – personal income, sales and corporate income – combined to produce a $101.8 million in September. PIT revenues again came in below-estimate, this time by more than double the sub-par performance of the tax in August: $36.6 million short, compared to $18.2 million short in August. That has revenue from that tax $54.8 million, or 2 percent, short of expectations for the year thus far. The sales tax, too, continued its poor revenue performance – although not nearly as bad as in August – by producing $20.5 million less than anticipated. Sales tax revenues are now $72.4 million, or 2.8 percent, below expectations year-to-date. The worst performance of September came from corporation taxes which delivered $49.9 million less than expected last month, pushing the year-to-date total $61.9 million, or 9.6 percent, below expectations. In a new monthly report, the Independent Fiscal Office indicates revenues last month were $106.5 million, or 3.9 percent, less than they were in September 2015, and are now $121.2 million, or 1.8 percent, less than they were three months into last year. And while many of the “smaller taxes” (based solely on revenue produced), like the inheritance and realty transfer levies, are likewise producing less than last year, the cigarette tax hike that was part of the FY2016-17 budget (and became effective on Aug. 1) has tax revenues from cigarette sales noticeably up a quarter of the way through the fiscal year: the revenues are $43.3 million, or 18.3 percent, ahead of last year’s total for July, August and September.

# Vape tax takes effect as shops close

Pennsylvania's new 40 percent tax on e-cigarettes takes effect Saturday as the Legislature moves to roll back as tax opponents have called the death knell of a new industry. The tax was part of this summer's revenue compromise between the four caucuses and Gov. Tom Wolf to fill a $1.3 billion hole in the state's $31.5 billion budget. It relies on $13.3 million from "vapers," who inhale vaporized nicotine instead of combusting tobacco in cigarettes. Vape shops, which tend to be smaller operations, balked at the lump-sum check they would have to write to cover the state's 40 percent "floor tax" on their inventories. Similarly, they said the 40 percent wholesale tax would drive their customers to online and out-of-state retailers. A number of such businesses have already closed in anticipation of the tax's Oct. 1 effective date. According to the state Department of Revenue, the floor tax revenue would be due no later than Dec. 29.

**Pa. House legislators urge Gov. Christie to keep interstate income-tax accord**

State Reps. Steve Santarsiero and Madeleine Dean today introduced a Pennsylvania House resolution urging New Jersey Gov. Chris Christie to reconsider ending a 39-year-old tax accord between New Jersey and Pennsylvania. House Resolution 1060, which has bipartisan support across the state, asks Christie to reverse course on his plan to dissolve the Reciprocal Personal Income Tax Agreement of 1977, which provides that residents of New Jersey and Pennsylvania who work across state lines pay personal income tax only to the state in which they reside. The withdrawal is set to take effect Jan. 1 if Christie finalizes it. The House resolution details that termination of the agreement would negatively affect 125,000 Pennsylvanians who work in New Jersey and could cost Pennsylvania $5 million annually, in addition to hurting mutual interests in creating jobs and opportunity.

**Cox Introduces Property Tax Independence Act in House**

Representative Jim Cox introduced the Property Tax Independence Act, House Bill 76, in the Pennsylvania state House. The legislation would completely replace school district property taxes. The Property Tax Independence Act would replace school district property taxes by funding education in Pennsylvania with statewide revenue sources. It would increase the state Personal Income Tax from 3.07 percent to 4.95 percent. It also would increase the state Sales and Use Tax (SUT) from 6 percent to 7 percent. Additional revenue would be generated by closing special interest loopholes in the SUT.  Cox recognizes the bill is unlikely to be considered in the state House before the two-year session ends in November. He said he is introducing it now at the request of 87 taxpayer groups across the Commonwealth and many of his colleagues. A similar proposal came up one vote short in the state Senate in November 2015. Cox said he is introducing the legislation so his colleagues in the House have an opportunity to show their support.

**legislation amending The Institutions of Purely Public Charities Act**

Representative Anthony DeLuca introduced co-sponsorship memoranda for legislation that would amend the Institutions of Purely Public Charities Act to require charities seeking to use the Sales and Use Tax exemption to expend at least 60 percent of their functional expenses on the charity’s program expenses.

**Opposition delays New Jersey gas-tax hike vote**

Opposition to a proposed Transportation Trust Fund deal that would raise New Jersey's gas tax 23 cents while also cutting some other state taxes has forced a delay in the vote, but legislative leaders said they still expect the package to be approved this week. Lawmakers in the Senate and Assembly were scheduled to vote Wednesday on legislation to implement the deal reached last week by Gov. Chris Christie and the leaders of the Democratic-controlled Legislature. However, a procedural hurdle forced them to wait until Friday for the final vote. If approved, it would likely raise the tax to 37.5 cents beginning Nov. 1. Regional neighbors Pennsylvania and New York would still have higher gas taxes at 51.6 cents and 45.9 cents, respectively.

**PENNSYLVANIA GENERAL ASSEMBLY SESSION SCHEDULE:**

**2016 SENATE SESSION SCHEDULE**

October17, 18, 19, 24, 25, 26

November16

**2016 HOUSE SESSION SCHEDULE**

October           17, 18, 19, 24, 25, 26

November       14, 15

**DEPARTMENT OF REVENUE UPDATE**

**Revenue Department Releases September 2016 Collections**

Pennsylvania collected $2.6 billion in General Fund revenue in September, which was $144.9 million, or 5.2 percent, less than anticipated, Secretary of Revenue Eileen McNulty reported Tuesday. Fiscal year-to-date General Fund collections total $6.6 billion, which is $218.5 million, or 3.2 percent, below estimate. Sales tax receipts totaled $811.5 million for September, $20.5 million below estimate. Year-to-date sales tax collections total $2.5 billion, which is $72.4 million, or 2.8 percent, less than anticipated. Personal income tax (PIT) revenue in September was $1.1 billion, $36.6 million below estimate. This brings year-to-date PIT collections to $2.7 billion, which is $54.8 million, or 2 percent, below estimate. September corporation tax revenue of $472.7 million was $49.9 million below estimate. Year-to-date corporation tax collections total $583.9 million, which is $61.9 million, or 9.6 percent, below estimate. Inheritance tax revenue for the month was $64.7 million, $15.3 million below estimate, bringing the year-to-date total to $223.6 million, which is $9.4 million, or 4.1 percent, below estimate. Realty transfer tax revenue was $41.9 million for September, $8.3 million below estimate, bringing the fiscal-year total to $119.7 million, which is $17.3 million, or 12.6 percent, less than anticipated. Other General Fund tax revenue, including cigarette, malt beverage, liquor and table games taxes, totaled $157.3 million for the month, $10.6 million below estimate and bringing the year-to-date total to $402.1 million, which is $10 million, or 2.5 percent, below estimate. Non-tax revenue totaled $1 million for the month, $3.7 million below estimate, bringing the year-to-date total to $59 million, which is $7.3 million, or 14.2 percent, above estimate. In addition to the General Fund collections, the Motor License Fund received $216.1 million for the month, $1.9 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 $663.6 million, which is $100,000 above estimate.

**Tax Case Results in Prison Term, Fine and Probation for Owner of Franklin County Business**

**​** A Cumberland County man who pled guilty to tax-related charges was sentenced last week to prison and ordered to pay $104,731.86 in restitution, Secretary of Revenue Eileen McNulty said today. William F. Scott, a resident of Cumberland County, is the owner and operator of Scott’s Tire Service, Inc., in Chambersburg, Franklin County. Scott pled guilty on May 4, 2016 to 43 counts of theft stemming from his failure to remit $161,451.23 in collected sales tax and $4,964.26 in withheld state income tax between April 2011 and February 2015. Franklin County Common Pleas Judge Jeremiah Zook sentenced Scott to 6 to 23 months in prison to be followed by 20 years of probation. Judge Zook ordered Scott to pay the costs of prosecution and restitution in the amount $104,731.86. Scott previously paid $61,683.63 after charges had been filed against him. The judge also ordered that, as a condition of probation, Scott must remain current with his tax filings and payments.

**IRRC UPDATES**

None