



2019 PSTAP ANNUAL MEETING

Questions and Answers

1. Can you provide an updated list of key contacts for the Department of Revenue?

- Please see the attachment titled Commonly Used Phone Number List.

2a. How can a corporation update the names of the corporate officers online/electronically through e-tides?

- If the business has registered corporate officers with the Department of Revenue then updates to officer information can be made thru e-TIDES by using the Enterprise Maintenance Link. If the business does not have registered officer information with the department, they can establish the officer(s) by completing the REV-1605. In addition, updates are made automatically from the receipt of a tax return containing officer information.

2b. How long does it take for the change to be reflected within the Department of State records once an officer is updated?

- Department of Revenue provides this information to the Department of State once a week.

2c. What is the process through which this information is communicated?

- We send this information through an outbound Corporate Officer Extract.

The information is sent by electronic file transfer on Saturday and includes all updates from the previous week.

3. Since the capital stock tax became irrelevant to all entities other than C Corporations as of 1/1/16, why does PA issue a “welcome letter” to an entity, such as a single member LLC, informing the entity that they are subject to this tax?

- Business Partners are created from information received from Department of State. In addition, some entities request a Revenue ID even though there are no tax accounts needed. In these cases, the department provides a check list, “Do you need a Revenue ID” to assist them in determining if a Revenue ID is needed. If the taxpayer determines they need a Revenue ID number, a Revenue ID Request form is completed by the taxpayer. A Welcome Letter is automatically issued when the entity is created.

4. How can an individual change a refund request after filing the current year return for an amount applied towards next year’s estimate?

- If nothing else is changing on the return:** The taxpayer must submit a written request to the department requesting the change in the amount of the overpayment to be carried forward and/or refunded. The letter should be faxed to the Bureau of Individual Taxes at 717-787-2391 along with form DEX-93.

If any income, expense or credit lines are changing on the return: The taxpayer must file an amended return.

5. Are there any plans to have an autofill feature for W-2’s?

- At this time, there are no plans to have returns deemed to be filed on behalf of taxpayers which result from the automatic filling in of the W-2 and tax withheld information for taxpayers. If the department did pursue this, as was done in California, an initial filing would need to be made and subsequent years’ returns would require authorization of no changes by the taxpayer to multiple issues (address, other income, unreimbursed business expenses, etc.) to be viable in Pennsylvania. The no change in address issue alone would probably make this not viable for PA since that often determines the school district code for a taxpayer and the income from taxpayers within a school district is used to determine school district funding.

6. When figuring the amount of penalty and interest for the underpayment of estimated taxes, does PA allow a taxpayer to count any G-L resident credit as taxes paid in?

- Yes. It is already included. When calculating the amount for Part 1, Line 2 of the REV-1630 or REV-1630A, the line instructions say to include the amounts from PA-40 Lines 13 (Total PA Tax Withheld), 17 (Nonresident Tax Withheld from your PA Schedule(s) NRK-1), 21 (Tax Forgiveness Credit), 22 (Resident Credit) or 23 (Total Other Credits). A resident credit is calculated on PA Schedule G-L, Resident Credit for Taxes Paid to Other States. By including the amount from PA-40, Line 22 in Line 2, the amount from Schedule G-L is in effect counted as an amount



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of taxes paid in for determining the amount of the estimated payment amounts required to be made as well as whether or not the taxpayer meets the exceptions to the penalty determined by both of these forms.

The Resident Credit is also used in determining the amount of taxes paid in on the REV-1630F.

7a. What are the safe-harbor requirements to avoid an individual estimated tax underpayment penalty?

- The safe harbor rules for an individual taxpayer are as follows:
 - For each installment period, the timely estimated tax payments and credits are at least 90 percent of the actual tax due on the income earned or received for each installment period.
 - The total timely estimated tax payments and credits are at least equal to an amount calculated using the current year's tax rate times the net taxable income on the prior year's PA-40, Personal Income Tax Return, (NOTE: This exception does not apply if no return was filed in the prior year or the taxpayer was not a full-year resident of Pennsylvania.); or
 - The amount of the tax liability on the prior year's income at the current year's tax rate minus the amount of your prior year's Tax Forgiveness credit was less than \$246. (i.e. If a taxpayer qualifies for 100% Tax Forgiveness in a prior tax year and the tax rate is the same, no estimated underpayment penalty would be assessed.)
 - In addition, if the taxpayer meets the qualifications for the special exception as described in the REV-1630 form's instructions.

7b. Does a taxpayer have to file a "\$0" return the prior year if there was no tax due?

Yes. Otherwise, a taxpayer must make estimated payments equal to 90% of the tax due for the tax year. Although a taxpayer may not have a tax liability for a previous tax year due to qualifying for tax forgiveness, a tax return would still be required to be filed if there was over \$33 of income from the tax year. A taxpayer expecting a large amount of income and the corresponding tax liability in a particular estimated payment period during a tax year may also revise the declaration of estimated tax and make payment of the tax due for income received up to that point to reduce or eliminate any estimated underpayment penalty resulting from the large amount of income.

8a. Practitioners continue to express frustration when it comes to providing information to the department but not having it "received" by the department.

In regards to communication methods: Is it better to attach a pdf to an e-filed PA-40 return or transmit using a DEX-93 (i.e. 1099-R or RK-1s)?

The most efficient/preferred method for providing information to the department is via pdf file attachment of the information. The next method most preferred by the department is email or fax using the DEX-93, Personal Income Tax Correspondence Sheet. This could potentially be a software issue or an employee error. If you are able to identify the taxpayers where this occurred, the department can research this information further to determine if it was a training issue with our staff.

8b. Please provide the department's expected processing time as it relates to the communication method used by a practitioner when responding to a notice:

- Regular U.S. mail
- Certified mail
- DEX-93
- Any other method

Providing information via U.S. mail can take several weeks or even several months to process correspondence. The time frame is dependent upon the time of year the information is received, the volume already on file, what information is included (copy of PA-40 Pages 1 and 2 or either page of the PA-40 should NOT be included) and if the information is sent via certified mail. Sending the information via certified mail does not get correspondence processed any faster.



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Providing the information via email or fax is the most efficient method. The information is posted to an account within a few days of receipt in most cases if the email rules are used as provided on the DEX-93 and the information is sent to the proper fax machine.

9a. How is the sale of an easement on an investment property reported?

The sale of the easement is reported on PA Schedule D. The square footage or acreage of the easement and the entire property are needed to determine any gain or loss on the transaction. The ratio of the square footage of the easement to the total square footage of the entire property multiplied by the adjusted basis of the entire property would provide the adjusted basis of the easement. The sales price of the easement less the adjusted basis of the easement determines the gain or loss on the sale of the easement.

9b. Do certain areas of your property have a higher value than other areas for determining the value of an easement (Ex. Frontage or the front of your property)?

To allocate basis to the easement portion you would take the square footage of the easement divided by the square footage of the entire property. Multiply that ratio by the adjusted basis of the entire property to get the adjusted basis of the easement. NOTE: The valuation of the property before and after the easement may affect the final adjusted basis of the easement itself, however; the valuation of the property is outside the scope of the Department of Revenue and therefore we can only address how the allocation of basis should occur.

10. If a Federal Form 3115 is being filed due to depreciation not being taken in the past, does PA recognize the catch-up on that return?

No. PA personal income tax has no provisions to permit an additional expense related to an accounting method change for an adjustment to the asset life or depreciation method after the property is placed in service. Once the depreciation method and asset life has been selected and the depreciation expense is included on a PA personal income tax or information return(s), that method must be used for the remaining useful life of the asset or until disposition of the asset occurs.

11. If taxpayers are deceased and receive a taxpayer identity theft verification, how can their identities be confirmed?

If an ID Validation letter is received on a jointly filed PA-40 return where the spouse is listed as deceased, then only the primary taxpayer would need to log onto our website and take the Knowledge Based quiz. If for some reason documents are required to be submitted to the department for the primary taxpayer and the deceased spouse, then a copy of the death certificate is all that would be required for the deceased spouse. All other identity documents would still be needed for the primary taxpayer.

If an ID validation letter is received on a single return where the primary taxpayer is deceased, then the surviving spouse, executor or executrix can call into the Fraud Detection and Analysis Unit and provide them

12. Does PA require an inheritance tax return, REV-1500 be filed when the only beneficiary is the surviving spouse?

Assets passing to the surviving spouse are subject to inheritance tax at a zero percent tax rate. Assets held jointly between husband and wife only, are not reportable for inheritance tax purposes.

The following depends on whether a return should be filed:

- If all assets are held jointly with rights of survivorship between spouses then an inheritance tax return would not be filed until the death of the surviving spouse.
- If the decedent owned assets solely in their name or any asset with a beneficiary designation then an inheritance tax return would need to be filed reporting these assets. If they pass to the spouse, they would be taxed at a zero percent tax rate.



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13. How can practitioners be granted access to file IFTA reports for clients who are truck drivers through the new myPATH system?

Practitioners will enter <https://mypath.pa.gov/>

- Choose Sign Up for myPaTH
 - When signing up for myPaTH enter your firm's information in the ID Type, ID Number, and Last/Business name fields. Do not enter your client's information in these fields.
- To complete the customer access request you will create your profile and click the "Add 3rd Party Account Access" hyperlink.
- Use the "Add Access to An Account" hyperlink to add the tax accounts for your accounting firm.
- Review and complete agreement.
- Complete the information on the New User screen, but answer NO to the following question:
 - "Are you filing returns for your own company or a company for which you are employed (yes or no)"
- Answer YES to the question regarding Third Party
- "If you will file returns or make payments for another business or individual other than yourself, click yes"
- "Are you a third party preparer (yes or no)"
- The taxpayer must approve the practitioner's request.

14. When should a Bulk Sales Certificate be filed and by whom?

A bulk sales transfer occurs when 51 percent or more of any stock of goods, wares or merchandise of any kind; fixtures; machinery; equipment; buildings; or real estate is transferred or sold from a seller/transferor to a purchaser/transferee. The seller is responsible for applying for a bulk sale clearance certificate. This is done by filing REV-181, Application for Tax Clearance. The seller should file the application once the sale takes place, along with the corporate tax report up to and including the date of the transfer/sale.

15. Does the department have a position on House Bill 17, which would establish a 10-year statute of limitations on assessments in Pennsylvania?

HB 17 was signed into law by the Governor. In addition to a statute of repose, the bill contains language providing that a financial institution shall provide a report containing identifying information and asset information for any obligor as identified by the department and language extending the time for criminal tax offenses. It is expected that the financial institution data matching will be a valuable tool for tax collections. The increased threat of prosecution will encourage greater compliance by taxpayers.

In addition to these compliance tools, the bill provides tax relief for financial institutions.

16a. Is notification sent and/or under what circumstances is notification sent to the taxpayer when a lien is filed by the department?

In every case, a copy of the lien containing the docket information is mailed to the taxpayer's address on file with the Department of Revenue.

16b. When contacting the department regarding a lien, it is not always clear (to either the department or the practitioner/taxpayer) why a lien was filed and it is often difficult to obtain information about why a lien was filed.

What is the proper course of action for obtaining this information?

General questions can be directed to the Bureau of Compliance, Lien Section at 717-787-3911. If the issue is of a complex nature, the referral may be forwarded to the area that created the original assessment.

16c. How can a PA state tax lien for back taxes be removed?



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A lien can be removed by paying the liability in full. PA Tax Liens do not have to be refiled to retain their validity.

17. Are multi-year statistics available regarding offers in compromise/settlements for either the Board of Appeals and/or the Board of Finance & Revenue?

BFR (As of October 31)

2016	4417 orders	486 compromises
2017	4076 orders	372 compromises
2018	5353 orders	399 compromises
2019	3970 orders	445 compromises

BOA

2011	16 compromise requests	0 compromises approved	0 compromises declined
2012	243 compromise requests	148 compromises approved	64 compromises declined
2013	308 compromise requests	137 compromises approved	110 compromises declined
2014	494 compromise requests	352 compromises approved	157 compromises declined
2015	174 compromise requests	168 compromises approved	73 compromises declined
2016	246 compromise requests	170 compromises approved	58 compromises declined
2017	216 compromise requests	159 compromises approved	61 compromises declined
2018	341 compromise requests	240 compromises approved	93 compromises declined
	2038	1374	616

18. We have recently learned that the Board of Appeals will no longer accept petitions via fax (effective January 1, 2020).

Will individuals be contacted if/when the Board of Appeals receives a faxed petition after that date?

Fax Petitions will no longer be accepted after December 31, 2019. For the first quarter of 2020, if a taxpayer faxes a petition, it will be assigned to a reviewer to call the taxpayer (or representative) to indicate that BOA is no longer accepting faxed petitions and advise they should file the petition online or mail the petition. During this time, BOA will make every effort to accept the fax date for purposes of determining jurisdiction. After March 31, 2020, BOA will return the faxed petition to the taxpayer or representative and advise them of the appropriate filing methods.

As of January 1, 2020, all mentions of the fax number will be removed from the website.

19. Does the department periodically send emails to confirm e-Signature accounts for business and personal income tax applications?

No; we do not send out an e-mail on a regular basis to confirm e-Signature accounts. In November of 2017 we implemented a change to e-Signature to make people verify their account when registering, it does send an e-mail. When we did implement the change, all the existing e-Signatures also had to verify their account. So now only new registrations and users that have not logged on since the change was made will have to verify their account. There is currently no plan to make everybody do it again.

20. How soon after the original due date does the department issue notices to employers for unfiled W-2 forms?

The department does not issue a notice solely based on the non-filing of the Annual Withholding Reconciliation Statement (REV-1667) and accompanying wage and tax statements. However, the non-filed period will appear on any subsequent notice of delinquency, consolidated non-filer, or statement of account issued by the department.



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21a. What feedback has the department received on the new 'Schedule a Call' service?

We have received positive feedback on the concept during the seminars where we have advertised it. However, since the "Schedule a Call" service is so new we have not had a high volume of usage to date and only very limited feedback at this time.

21b. Are these calls assigned to department personnel based on tax type?

Yes, the tax practitioner will select the tax type for the call and then select the date and time they want the call to be returned. The phone system will then assign that call to a CEC customer service rep who is skilled in that tax. This is why there may be times when a call doesn't occur at the exact time of the call request.

21c. Are practitioners able to resolve multiple issues on the same call?

Yes

What are the limitations regarding multiple issue resolution for the same client? Multiple clients?

At this time practitioners will be able to resolve multiple issues at one time. However, if the multiple issues cross multiple tax types. The customer service rep taking the call may not be skilled in all of them. In cases where a rep can't handle all the items, they will have the practitioner called back by someone properly skilled in that tax.

If there are situations where a practitioner has a lot of clients or information being requested. The customer service rep may have the tax practitioner submit the information via email and get back to them with all the information at once.

21d. Are there time limits set for the scheduled calls?

At this time we have not set any time limits for these calls. However, we will be monitoring this new communication channel closely to see if any changes are needed.

22. When is tuition reimbursement taxable in Pennsylvania?

The question is too broad to give a complete response. In order to answer the question, the inquirer would have to disclose who is making the payment and to whom is the payment made and for what purpose. Generally, if an employer reimburses an employee for the employee's education expenses, the reimbursement is taxable compensation unless it would qualify as a reimbursement of an actual business expense, see 72 P.S. § 7301(d) (v). Information regarding education expenses that are considered allowable business expenses can be found in the PA-40 instruction booklet, under PA Schedule UE, Part F. Similar information can be found in the PIT Guide under the Compensation Chapter in the Section regarding business expenses. The inquirer should also consider reviewing the Department's regulation regarding scholarships, stipends, grants and fellowships. See 61 Pa. Code § 101.6(b). Additional guidance can be found in the Department's regulation related to fringe benefits, which states that "A tuition reduction provided to an employee or his dependents or to a teaching and research assistant can qualify as an employer provided service that is a non-taxable fringe benefit. See 61 Pa. Code § 101.6a(d)(9).

23. What is the tax treatment for cryptocurrency?

Cryptocurrency is property. Cryptocurrency must be measured in US dollars for income tax purposes. Any gain on disposition must be reported as net gain from the disposition of property

24. I have a client that I believe may have had economic presence in Pennsylvania for the past year. Please provide guidance about how the Voluntary Disclosure Program works regarding sales tax compliance.

If your client has a **physical presence** in Pennsylvania and learns that they have a sales tax filing obligation you can contact the Voluntary Disclosure Program at 717-787-9832 to resolve the matter.

For **economic presence** questions we you will need to contact the Discovery Section of the Bureau of Registration and Taxpayer Management at 717-772-2960. They will be able to answer any questions you might have, confirm with you whether your client has economic presence (\$100,000 or more gross annual sales in PA in calendar year



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2018), and that your client does NOT have physical presence in Pennsylvania. Your client then will be asked to begin collecting PA sales tax on January 1, 2020.

If your client's PA sales in 2018 did not exceed \$100,000 but your client's PA sales did exceed that threshold in calendar year 2019, your client should be prepared to collect and remit PA Sales Tax beginning April 1, 2020. The PA sales tax obligation for the current reporting period (April 1 through March 31st of the succeeding year) is determined by PA sales exceeding the \$100,000 threshold in the prior calendar year.

25. Some businesses, particularly service based businesses, struggle with determining sales tax applicability.

What is the best way for a business owner or a practitioner to obtain guidance regarding whether or not specific items/services are or are not subject to sales tax if it is not clear?

- The department offers a variety of resources to help determine taxability.
 - Online resources include REV 717, Retailers Information booklet, online letter rulings, and the online customer service center. If, after using these resources, a taxability question remains unanswered, the taxpayer may use the "Submit a Question" function through the Online Customer Service page to submit their question directly to the department. Turnaround time for getting an answer this way is about 72 hours.
 - Agents in our Customer Experience Center are also trained to answer taxability related questions. Please contact the department at 717-787-1064.

26. If an employer receives a Pennsylvania Use Tax letter marketplace notice for items which were ultimately resold and where sales tax was collected and remitted from the customer, what action should be taken in response to the letter received?

Under Act 43 of 2017, certain out of state online retailers who elected to comply with Pennsylvania's Use Tax Notice and Reporting requirements were required to send written notification to their Pennsylvania customers listing all purchases made by the customer during 2018. These reports were first due in January of this year. These notices were not bills but rather a list of purchases made by the customer that could be subject use tax because the retailer did not charge PA sales tax. Use Tax Notices received from Online Retailers require no action if, upon review by the taxpayer, none of the listed items on the notice were subject to use tax. For instance, if a Use Tax Notice from an online retailer lists items that were purchased for resale by the taxpayer, the taxpayer should retain documentation in their books and records to show that the items were resold and the proper sales tax collected and remitted. No additional action is necessary if no taxable items were not purchased. If the taxpayer finds taxable purchases listed on the notice, the taxpayer may use line 25 of the PA40 to remit the appropriate use tax.

27. If a charitable organization has a sales tax exemption and has a claim which is paid by an insurance company (i.e. vehicle is damaged and repairs are paid by insurance company), would the sales tax exemption apply to the funds paid by the insurance company on behalf of the charitable organization?

No. This is because the *insurance* company is the ultimate consumer of the taxable purchase and the charitable organization's exemption is not transferable to the insurance company.