May 28, 2020

Via Electronic Mail

C. Kim Bracey, Executive Director
Governor’s Center for Local Government Services
Department of Community and Economic Development
Harrisburg, PA 17120

Re: Local Earned Income Tax Issues

Dear Ms. Bracey:

We are writing on behalf of the more than 20,000 members of the Pennsylvania Institute of Certified Public Accountants (PICPA) concerning issues related to local tax collections and their administration under the Local Tax Enabling Act of 1965 (Act 511). PICPA member tax practitioners are responsible for preparing federal, state, and local tax returns for taxpayers across the Commonwealth and are intimately knowledgeable about Act 511 and its impact.

Act 32 of 2008 provided the Department of Community and Economic Development (DCED) with certain responsibilities under Act 511, including promulgating forms and collection regulations as well as receiving annual tax collector audits and compliance reports. Act 18 of 2018 provides DCED with the power to enforce the provisions for which they are responsible and to provide the public with a method for reporting tax collection issues. More recently, Act 10 of 2020 authorizes DCED to coordinate with the governing bodies and local agencies of political subdivisions to extend filing and payment deadlines under Chapter 5 of Act 511. While Acts 32 and 18 have significantly improved the administration and collection process for local earned income tax and reduced the number of collectors of the tax, there are still some inconsistencies that negatively impact taxpayers and create compliance challenges. One of the areas of concern is the uneven application of the law that deals with out-of-state tax credits.

It has come to our attention that certain local tax collectors are not following the DCED promulgated forms and collection regulations by calculating gross wages independent of your guidance, consequently harming taxpayers by reducing credits properly allowed by the law. To avoid double taxation on the citizens of Pennsylvania, Act 18 provided a level of clarity and consistency to the crediting provisions for all taxpayers. When Act 511 was created, the crediting language was carefully crafted to ensure that taxpayers would not be subject to double taxation at the local level on their earned income. The intent of Act 32 was to retain these crediting provisions, but an inadvertent change in wording resulted in taxpayers being subjected to double taxation.
According to the instructions on the DCED promulgated Form CLGS-32-1, Line 12, the credit for taxes paid to other states is as follows:

Credit for Taxes Paid to Other States: You may take a credit based upon the gross earnings taxed both in another state and in Pennsylvania that is in excess of the Pennsylvania state personal income tax rate.

To properly determine gross earnings, most local tax collectors request PA Schedule G-L, Resident Credit for Taxes Paid to Other States, to properly determine gross Pennsylvania wages (which, with few exceptions, must be the same for local tax purposes based on PA Act 166 of 2002).

The PICPA is a strong advocate for fair, reasonable, and predictable tax rules that minimize the complexities and burdens to taxpayers and governmental tax authorities alike. Without clear guidance from DCED many Pennsylvania taxpayers will be unfairly subject to double taxation at the local level. We would be happy to discuss this issue with you at your convenience.

Please contact Peter Calcura, PICPA vice president, government relations, at pcalcara@picpa.org or 717-329-5230 to schedule a mutually convenient time to discuss these issues. Thank you.

Sincerely,

Michael D. Colgan, CAE
CEO & Executive Director

Martin C. Levin, CPA
President

cc: Honorable Dennis Davin, Secretary
Department of Community and Economic Development