Question #1

There is a lot of discussion coming from the AICPA about states needing to conform to new federal partnership audit rules. Does PA need to do anything statutorily or through regulations to comply?

Answer #1

While the AICPA is encouraging states to work with legislators and state taxing authorities to adopt the MTC's Model Uniform Statute for IRS partnership audits, PA already has its own statutes and regulations to deal with IRS adjustments to partnership returns.

Per 61 Pa. Code §117.9a, the partnership should file an amended return, including amended PA K-1s, within 30 days of the IRS adjustment being final. Each partner receiving an amended PA K-1 then also needs to amend its return.

If the partnership does not file the required amended return, the Department can adjust the return. If the “normal” parameters for entity level assessments are met, (i.e. $1M adjustment, more than 10 individual owners or 1 entity owner), 72 P.S. §7306.2 requires the Department to assess the partnership for the adjustment. If those parameters are not met, the Department would adjust the partnership return and then flow that adjustment through accordingly.
Answer #2

The Department has issued bulletins on the Repatriation Transition Tax, effect on restricted tax credits, and the GILTI/FDII income and deductions. The Fall Tax Seminar covered some impacts on the personal income tax.

The Department is currently drafting a bulletin on the treatment of the net interest limitation and will be routing it for review as it did with the other bulletins.

Question #2

What is the status of additional TCJA guidance? Is there a possibility of the department preparing an applicability matrix?
Question #3

Can you tell us what legislative initiatives that the department will be seeking support of?

Answer #3

The department has requested legislation on the following subjects:

- Extending or eliminating the sunset date on ERCA funding;
- Fixes to the IRS Pub 1075 fingerprint authorization language requested by the FBI; and
- Reducing or eliminating the minimum Lottery profit margin currently set at 25%

The department is also recommending that Act 43 market place sales tax language be revised to repeal the election requirement and the notice and report option and replace it with a requirement to collect sales tax for sellers with PA total sales in excess of $100,000 annually.

The department would also recommend revisions to Representative Ryan’s bill regarding a statute of repose.
Question #4

What Tax Reform Code changes were proposed as part of the Governor’s Budget Address?

Answer #4

- The Governor proposed combined reporting with 40% NOL caps, and a rate decrease to 5.99% by tax year 2024.
- The Governor also proposed a severance tax effective March 1, 2020, due annually each June 15th. The tax will be assessed as a fixed amount per thousand cubic feet (MCF) of natural gas severed. The per MCF rate will be determined by the average annual price of gas for the preceding calendar year according to the following schedule:

<table>
<thead>
<tr>
<th>Price Range</th>
<th>Rate Per MCF</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00 - $2.99</td>
<td>9.1¢</td>
</tr>
<tr>
<td>$3.00 - $4.99</td>
<td>10.9¢</td>
</tr>
<tr>
<td>$5.00 - $5.99</td>
<td>13.1¢</td>
</tr>
</tbody>
</table>

- The REAP credit cap will be increased from $10M to $13M
Question #5

The IRS announced recently that it would waive penalty for many whose tax withholding and estimated tax payments fell short in 2018. Will PA follow the IRS's lead?

Answer #5

No, Pennsylvania will not follow the IRS's lead. At the federal level the tax rates were changed by legislation and may have led to some confusion for taxpayers. At the state level, the rate and wage base remained the same, so there is no waiver of penalty.

The Department will follow the IRS deadline extension for farmers. The taxpayer should provide to the Bureau of Individual Taxes the Form 2210-F the IRS references in their release; the Bureau will then manually abate the penalties.
Question #6

Except in instances where withholding is required, is the Department requiring persons making payments of PA source income for which a federal Form 1099-MISC is being issued to file a copy of the Form 1099-MISC with Boxes 16-18 completed?

Answer #6

The department is implementing the information return and withholding program consistent with the statute as enacted. In March when the information statements are due, we expect the 1099's to be filed with the department in the format delineated in the statute. Certainly, we will be flexible with the imposition of penalty, mindful of those making a good faith effort at compliance with the information return reporting and withholding requirements. This has been the case throughout the entire implementation of Act 43 of 2017.

With that being said, even though the department was not in support of HB 2413, as it was introduced, we remain open to collaboration with the PICPA to develop recommendations that will improve the Non-Resident Withholding requirements in general. Also we will work together on developing an alternative reporting requirement that is not as burdensome to PA businesses and individuals who bear the non-resident income tax withholding and information return reporting obligations.
Thank You!