



**GENERAL EMPLOYERS' INSTRUCTIONS:
WITHHOLDING & REMITTANCE OF INCOME TAXES UNDER ACT 32 OF 2008**
Prepared by the Lancaster County Tax Collection Bureau (LCTCB)

Act 32 of 2008 created many changes in the rules governing the procedures and requirements that affect how employers withhold and file local earned income taxes. Depending on the county, these changes will officially take effect with either the 2011 or 2012 tax year. The following pages provide more details on the changes and additional information on the highlights of Act 32 and its effect on employers. The Lancaster Tax Collection District has adopted **mandatory earned income tax withholding effective January 1, 2011.**

Highlights of the Effects on Employers

CERTIFICATE OF RESIDENCE – A new form each employee must complete to identify the political subdivision (PSD) where the employee lives **AND** the political subdivision (PSD) where the employee works. Existing employees must fill out a certificate of residence, new employees must complete the certificate of residence at the time they are hired and all employees shall file a new certificate of residence with their employer if they move to a new residence.

WITHHOLDING – All employers are **REQUIRED** to withhold local earned income tax from their employees and remit them to the correct tax collector. The tax is to be withheld at the higher of the employee's resident tax rate, the tax rate for the PSD in which they reside, or the non-resident tax rate for the municipality in which they work, if that municipality has a non-resident tax ordinance. Examples of what withholding rate to use are shown on the last page.

ADDITIONAL FILING DATA – With the monthly or quarterly and annual filing submitted to the tax collector, the data for each employee must now also include the PSD code for where the employee lives **AND** the PSD code for where the employee works. **Note:** - employers are responsible for determining the correct PSD codes.

Letter of Intent. A Multi-Site Employer or an Out of State Employer who elects to report and remit a consolidated return must send a Letter of Intent to file a combined return with all collectors to which they previously reported and remitted local earned income taxes. A sample Letter of Intent is available at the LCTCB website under tab "Employer Act 32."

PENALTIES – Act 32 has enumerated fines and penalties that may be enforced on employers for failure to withhold taxes from employees, failure to file or for noncompliance with other parts of the Act. The tax collector may also require noncompliant employers to file returns and pay the tax **MONTHLY** instead of quarterly. This requirement may be enforced in addition to any monetary penalties and interest that may be assessed.

Please take the time to read the information and details on the following pages. Also included are various websites that you can use to obtain additional information.

The transition to all of Act 32's requirements may be difficult for both employers and tax collectors. We hope that providing you with this information early and that by working together, we can minimize this difficulty and make the transition as smooth as possible for all of us.



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Revised January 2011

Act 32 of 2008 requires county-wide earned income tax collection, establishing a Tax Collection District (TCD) in each county, except Philadelphia to which Act 32 does not apply, and four TCDs in Allegheny County.

To assure the success of county-wide earned income tax collection under Act 32, which, in effect, requires employers to make significant changes to their payroll systems, LCTCB has prepared these instructions which outline the important information employers should know to properly withhold, remit and report income tax data to tax collectors.

EFFECTIVE DATE

Per Section 512 of Act 32, the full requirements are effective 01/01/2012. The requirements may be effective 01/01/2011 if specified by a tax collection district (TCD). The Lancaster Tax Collection District has adopted mandatory earned income tax withholding effective January 1, 2011.

EMPLOYERS SUBJECT TO REQUIREMENTS

"Employer." An employer having an office, factory, workshop, branch, warehouse or other place of business within a TCD who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation.

EMPLOYER REGISTRATION

If not previously registered, an employer shall, **within 15 days** after becoming an employer, register with the tax collector for the place of employment the name of the address of the employer and such other information as the Department of Community and Economic Development (DCED) may require.

EMPLOYER REQUIREMENTS OF EMPLOYEES

Each employee must complete a **Certificate of Residence** form as prescribed by the DCED. The certificate of residency form serves to identify the political subdivisions where an employee lives and works. The form shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4).

Any employee who changes their address or domicile must complete a new certificate of residency form.

Please note. It is extremely important that the designation of the municipality and school district of the employee domicile address be correctly stated. If an employee is uncertain of the correct municipality and school district, the employer has a duty to assist the employee in determining the correct municipality and school district. If the employer has difficulty determining the correct municipality and school district, the employer should consult with the tax collector for the place of employment.

It is also extremely important that the municipality and school district of the employment place address be correctly stated. If the employer has difficulty determining the correct municipality and school district, the employer should consult with the tax collector for the place of employment.

The employer should send a copy of the signed **Certificate of Residence** to the collector for the place of employment within **15 days** after the employee signs an initial or new Certificate of Residence. An additional option for employers reporting to LCTCB will be to complete and file the Certificate of Residence on the Employer Website.

DEDUCTING RESIDENT TAX OR NON-RESIDENT TAXES

At the time of payment, an employer shall deduct from an employee's compensation the greater of the employee's resident tax or the employee's nonresident tax as released in the official register maintained by the DCED.

DETERMINING THE AMOUNT OF TAX TO WITHHOLD

Every employer should take the following steps to determine the amount of tax to withhold from each employee:

1. Determine the municipality in which the person's place of employment is located.
2. Determine from the certificate of residency form the municipality and school district in which the employee resides.
3. Determine from the DCED tax register whether any income tax is levied on non-residents by the municipality in which the employee's place of employment is located—and if so, the tax rate. If levied on non-residents, this is the employee's non-resident tax rate.
4. Determine from the DCED tax register whether any income tax is levied by the municipality and school district in which the employee resides. If levied, the combined municipal and school district rate is the employee's resident tax rate.
5. Withhold tax at the greater of the resident tax rate or the non-resident tax rate.
6. If an employee moves, the employer must require the employee to file a new certificate of residency form, and the employer must repeat steps 1 through 5.

Please note. It is extremely important that the employer exercise utmost care in determining the correct resident and non-resident tax rate. See Additional Information for websites that may be helpful.

EMPLOYER USE OF DCED TAX REGISTER

Per Section 511 of Act 32, an employer shall not be required to deduct from compensation of an employee or make reports of compensation in connection with any withholding tax that is not released on DCED's Official Tax Register, unless the political subdivision imposing the tax has provided written notice to the employer of the tax or tax rate and the withholding requirement.

An employer may withhold at the most recently available rate on DCED's Real Time Tax Register even if such rate is different than the tax rate released on the official register.

EMPLOYER RETURNS/REPORTS

The following information must be reported:

1. The name, resident address and Social Security number of each employee
2. The compensation of the employee during the period covered by the return (preceding month or preceding three-months).
3. The total income tax deducted from the employee and paid with the return.
4. The PSD Code of the **political subdivision** imposing the **resident income tax** upon the employee.
5. The name of the municipality and school district of the political subdivision imposing the resident income tax on the employee.
6. The employment place location address of each employee
7. The PSD Code of the **political subdivision** imposing the **non-resident (employment place) income tax** upon the employee.
8. The name of the municipality imposing the non-resident (employment place) income tax on the employee.
9. The total compensation of all employees during the preceding calendar quarter
10. The total income tax deducted from the employees and paid with the return
11. Any other information prescribed by the DCED

“PSD Code.” The Political Subdivision Code as developed and published by the DCED.

“Employment Place.” This is the address of the location where an employee is normally based and conducts daily activities. For example, an employee working in the construction field will normally have a base location from which they begin each day’s work.

Please note. It is extremely important that all information included in the employer return be correctly stated. Inclusion of incorrect information might lead to payment of tax to the wrong school district or municipality, and might lead to liability of the employer for tax amounts.

Please note. *Appointed Tax Collectors will establish specific formats for reporting this information and may require additional information. The items outlined above are the minimum information requirements.*

General Rule/Single-Site Employers (an employer with a single place of employment in one TCD):

Within 30 days following the end of each calendar quarter, an employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax collector for the place of employment for each employee.

Single-site employers are encouraged to utilize the Online Employer Reporting and Payment option for electronic submittals.

Option for Multi-Site Employers (an employer with place of employment in more than one TCD):

Within 30 days following the last day of each month, the employer may file the tax return information and pay the total amount of income taxes deducted from employees in all Pennsylvania work locations other than Philadelphia during the preceding month to the tax collector for either the TCD in which the employer’s payroll operations are located or as determined by the DCED. Alternatively, an employer may report to each place of employment as described under “General Rule/Single-Site Employers.” ***The return and income taxes deducted must be filed and paid electronically.*** An employer must file a Letter of Intent to file combined returns and make combined payments with the tax collector for each place of employment at least one month before filing its first combined return or making its first combined payment.

Out-of-State Employers

Should an employer’s headquarters/payroll operations be located outside of Pennsylvania, the employer may file a consolidated return/payment with any tax collector where the employer has a work site, other than Philadelphia. An employer must file a Letter of Intent to file combined returns and make combined payments with the tax collector for each place of employment at least one month before filing its first combined return or making its first combined payment.

MONTHLY REMITTANCE REQUIRED OF DELINQUENT EMPLOYERS

An employer who for two of the preceding four quarterly periods has failed to deduct or pay over the proper amount of tax may be required by the tax collector to file returns and pay tax monthly. In such cases, payments of income tax shall be made to the tax collector on or before the last day of the month succeeding the month for which the income tax was withheld.

ANNUAL RETURN AND INDIVIDUAL WITHHOLDING STATEMENTS TO BE FILED WITH TAX COLLECTOR

On or before February 28 of the succeeding year, an employer must file with the tax collector where income taxes have been deducted and remitted:

1. An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the tax collector and any other information prescribed by the DCED.
2. An individual withholding statement, which may be integrated with Form W-2, for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and Social Security number, the amount of compensation paid to the

employee during the period, the amount of income tax deducted, the amount of income tax paid to the tax collector, the numerical code prescribed by the DCED representing the TCD where the quarterly or monthly payments were remitted and any other information prescribed by DCED. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.

DISCONTINUANCE OF BUSINESS

An employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under section 512 of Act 32 and pay the income tax due.

TAX COLLECTOR TRANSITION

In many cases, employers will be required to file tax returns with and remit payments to a new tax collector appointed as part of implementation of Act 32. This will occur in 2011 or 2012 depending whether school districts and municipalities elect use of the new tax collector in 2011 or 2012. In any event, the final quarterly tax return and final annual tax return for the year prior to the tax collector effective date should be filed with and related payments remitted to the new tax collector.

Please note. In some cases, the final quarterly return and final annual return for the year prior to the new tax collector effective date will be filed with the pre-Act 32 tax collector. Employers will be advised of the place to file the final returns.

EMPLOYER LIABILITY FOR PAYMENT OF INCOME TAXES

Except as provided for in section 511 of Act 32, an employer who willfully or negligently fails or omits to make the required deductions shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income taxes have not been recovered from the employee.

The failure or omission of any employer to make the deductions does not relieve any employee from the payment of the income tax or from complying with the requirements for filing of declarations and returns.

PENALTIES FOR NONCOMPLIANCE

If tax is not remitted when due, the employer is required to pay interest at a rate established by the Commonwealth of Pennsylvania on the unpaid income tax amount, and an additional penalty of 1% of the unpaid income tax amount for each month or fraction of a month during which the income tax remains unpaid.

Additional penalties may apply as stated in tax ordinances of municipalities or tax resolutions of school districts.

If tax is not remitted or paid when due, the employer is also liable for costs of collection.

An employer who fails, neglects, or refuses to register, keep, or supply records or returns required by applicable law or to pay the income tax deducted from employees, or fails, neglects, or refuses to deduct or withhold the income tax from employees, who refuses to permit the tax collector to examine books, records, and papers, or who knowingly makes any incomplete, false, or fraudulent return shall, upon conviction, be sentenced to pay a fine of not more than \$2,500 for each offense and reasonable costs, and in default of payment of said fine and costs, to imprisonment of not more than six months.

In addition, an employer who willfully fails to collect or truthfully account for and distribute income taxes commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$25,000 or to imprisonment not exceeding two years, or both.

Additional criminal penalties apply for supplying false information.

ADDITIONAL INFORMATION

www.lctcb.org – LCTCB website includes PSD Code listing and additional Employer Resources including coding examples.

munstatspa.dced.state.pa.us/Registers.aspx – Tax Register and assistance in determining correct PSD Code using resident and/or place of employment address.

<http://www.pasbo.org/act32resources.asp> - Political Subdivision Codes (PSD) listing for entire state.

Additional practical information designed to assist employers and tax preparers in implementing the changes under Act 32 is available on PASBO's website. Go to: <http://www.pasbo.org>; watch the training module titled "Guidance to Employers and Tax Preparers for Withholding, Remitting and Reporting Earned Income Taxes under Act 32."

Determining the Amount of Tax to Withhold

Tax rates shown in these examples are for illustration only and may not be the actual tax rate for the named municipality and school district.

Example 1: Nonresident Rate Withholding Required

Step 1 – Identify Employee’s Domicile and Work Location (Per New Form Certificate of Residence)	
Domicile (Permanent Residence)	State of Maryland
Work Location	Quarryville Borough / Solanco Area School District
Step 2 – Identify the EIT rates Imposed by the PSDs where Employee is Domiciled and Works Using the Tax Register located on DCED’s website	
Resident EIT rate	.00 (reason: out of state)
Nonresident EIT rate – work location	1.00 %
Step 3 – Withhold the Higher of the Two Rates	
EIT RATE TO WITHHOLD	1.00 %

Example 2: No Tax Withholding Required

Step 1 – Identify Employee’s Domicile and Work Location (Per New Form Certificate of Residence)	
Domicile (Permanent Residence)	State of Maryland
Work Location	Bart township / Solanco School District
Step 2 – Identify the EIT rates Imposed by the PSDs where Employee is Domiciled and Works Using the Tax Register located on DCED’s website	
Resident EIT rate	.00 (reason: out of state)
Nonresident EIT rate – work location	.00
Step 3 – Withhold the Higher of the Two Rates	
EIT RATE TO WITHHOLD	None

Example 3: Resident Rate Withholding Required

Step 1 – Identify Employee’s Domicile and Work Location (Per New Form Certificate of Residence)	
Domicile (Permanent Residence)	Quarryville Borough / Solanco School District
Work Location	Manor Township / Penn Manor School District
Step 2 – Identify the EIT rates Imposed by the PSDs where Employee is Domiciled and Works Using the Tax Register located on DCED’s website	
Resident EIT rate	1.65% (0.5% municipal plus 1.15% school district)
Nonresident EIT rate – work location	1.00 %
Step 3 – Withhold the Higher of the Two Rates	
EIT RATE TO WITHHOLD	1.65%

Tax rates shown in these examples are for illustration only and may not be the actual tax rate for the named municipality and school district.