

ISSUE BRIEF

SENATE POLICY DEVELOPMENT AND RESEARCH OFFICE

PREPARED IN CONJUNCTION WITH THE SENATE REPUBLICAN POLICY COMMITTEE

Local Tax Changes - 2008

Introduction

According to the Governor's Center for Local Government Services, local government in Pennsylvania is a mosaic of 4,678 individual units. All were established by the state or provincial government and operate under the laws of the Commonwealth. Each unit is distinct and independent of other local units, although they may overlap geographically and may act together to serve the public. In January 2006, there were 67 counties, 56 cities, 961 boroughs, one incorporated town, 1,547 townships (91 first class; 1,456 second class), 501 school districts and 1,546 active authorities.

Counties, cities, boroughs, townships and school districts of Pennsylvania levy taxes on people and property within their jurisdictions. Municipal authorities cannot levy taxes and are required to finance their operations, services and facilities through the revenues they produce from service charges or lease rentals. The tax on real estate is the most productive of all local taxes followed by the earned income tax. In 1947, the General Assembly passed Act 481, enabling all local units except counties to raise additional revenues from such taxes as those on earned income, mercantile transactions, real estate transfers, amusement, mechanical devices and persons. This law was superseded by Act 511 of 1965, the Local Tax Enabling Act. A similar broad grant of local taxing authority was first made to Philadelphia in the Sterling Act of 1932. In recent years, with the widespread use of the earned income tax, taxes levied under Act 511 have become increasingly important in the local government revenue structure; but real estate remains, as it always has been, the chief local tax source accounting for approximately 70 percent of the total local (city, borough, township, county, school district) taxes collected. It is the only tax all types and classes of local government in Pennsylvania are authorized to levy.

A number of bills affecting the imposition and collection of local taxes were passed by the General Assembly during 2008. A description of these measures follows.

Local Tax Changes

Philadelphia Hospitality Promotion Tax

[House Bill 2167](#) (Williams) — signed into law as Act 80 of 2008 — amends the Community and Economic Improvement Act (Act 174 of 1998), relating to cities of the first class. The legislation provides for a Philadelphia hospitality promotion tax imposed on the consideration received from each transaction of renting a hotel room. The Philadelphia City Council is authorized to impose a tax at a rate not to exceed 1.5 percent.

The revenues derived from the tax would be deposited into a special fund and would be used as follows:

- Distributed to the regional attractions marketing agency and used for direct advertising efforts promoting tourist attractions in the area served by the agency;
- Distributed to the tourist promotion agency and used to promote the use of the Pennsylvania Convention Center and to promote the area served by the agency; and,
- To further support the expanded Pennsylvania Convention Center.

Act 174 of 1998 authorized the imposition of a 1 percent hotel room tax in Philadelphia, and the Pennsylvania Convention Center Authority Act allows Philadelphia to impose a hotel room tax of 6 percent. These taxes are in addition to the 6 percent state sales tax and the 1 percent local sales tax. Therefore, the new tax of up to 1.5 percent, combined with the pre-existing taxes, will result in a total authorized tax rate of 15.5 percent on hotel

rooms in the city. It is estimated that imposition of the entire 1.5 percent could generate approximately \$8.2 million in revenue to be deposited in the Philadelphia hospitality promotion tax fund.

Countywide Collection of Earned Income Tax

[Senate Bill 1063](#) (Earl) — signed into law as Act 32 of 2008 — amends The Local Tax Enabling Act (Act 511 of 1965) to provide for the countywide collection of the earned income tax and implements a uniform withholding, remittance, and distribution collection system.

A tax collection district will be established in each county, except in a county of the first or second class, for purposes of collecting income taxes. The geographic boundary of the tax collection district will be coterminous with the county in which it is created. A school district located in more than one county would be included in the tax collection district with the greatest share of the school district's population. A municipality would be included in the tax collection district in which its school district is located. Second class counties with a population of over 1 million containing a second class city (Allegheny) will be divided into four tax collection districts.

Each tax collection district will be governed by a tax collection committee composed of representatives of the municipalities in the district. Representatives of the municipalities that levy an income tax will be voting delegates, while delegates representing municipalities that do not levy an income tax would be nonvoting. Votes will be weighted among the governing bodies of the member political subdivisions based on population and income tax revenue collections. The tax collection committee will not have the power to change the rate or subject of any tax. The first meeting of the tax collection committee in each district will have to be on or before November 15, 2009. Meetings of the tax collection committee will be conducted under the Open Meetings and Right to Know Laws. No later than April 15, 2010, the delegates of each tax collection committee will be required to adopt bylaws to govern the committee.

By September 15, 2010, each tax collection committee will be required to appoint a tax officer to collect and administer the taxes in the tax collection district. Two or more tax collection districts could appoint the same tax officer. If two or more tax collection districts form a joint tax collection committee, the joint tax collection committee would appoint a single tax officer. A tax collection committee could not appoint a tax officer that has been convicted of a felony involving fraud, extortion or dishonesty; has engaged in conduct which significantly adversely reflects on the applicant's credibility, honesty or integrity; is unable to obtain the required bonds; has not satisfied the mandatory education requirements; or does not meet the qualifications and requirements established by the Department of Community and Economic Development (DCED). The tax officer would receive reasonable compensation for services and expenses as determined by the tax collection committee.

DCED will be required to conduct a study of existing local earned income tax collection methods and practices to identify characteristics that appear to promote the greatest likelihood of cost efficiency and loss prevention. The Department will furnish each tax collection committee with a report of the findings and recommendations from the study, including sample bylaws, regulations, forms, etc. As part of the study, DCED will investigate and report on the feasibility of contracting on a statewide basis for the development and/or procurement of appropriate software systems that could be adopted and purchased by county tax collection districts or their tax officers through the Commonwealth's cooperative purchasing program. Before 2017, the Legislative Budget and Finance Committee (LB&FC) will also conduct an audit and evaluation of the impact of the new system to determine the extent to which income tax revenue losses have been minimized or eliminated, whether consolidation and standardized withholding and remittance has simplified the system, and whether it has reduced the burden of withholding for employers. Copies of the LB&FC audit findings will be filed with the chairs of the Senate and House Finance Committees, DCED, the Auditor General, and with each tax collection committee.

Among other provisions, the legislation would also establish a system for appeals, provide for mediation of taxation disputes, establish fines and penalties for violations of the Act, strengthen reporting requirements and institute a comprehensive tax register. Additionally, Lancaster County is permitted to continue to operate under its current countywide collection system. Counties are permitted to begin their countywide systems before the mandated January 1, 2012 date.

Mercantile Tax in Merging Municipalities/Optional Occupation Tax Elimination Act

[Senate Bill 763](#) (Browne) – signed into law as Act 130 of 2008 – amends the Local Tax Enabling Act to:

- provide that leases and lease transactions are not subject to taxation under the act;
- clarify the applicability of a mercantile or business privilege tax on gross receipts in merging political subdivisions; and
- incorporate and update the Optional Occupation Tax Elimination Act (Act 24 of 2001) by:
 - providing a new schedule by which a local government must calculate a local income tax rate to determine a revenue-neutral shift from the occupational assessment tax to a local income tax;
 - modifying the definition of an “earned income tax” to capture earned income taxes levied under the authority of the Taxpayer Relief Act (Act 1 of Special Session 1 of 2006), in addition to those levied under the authority of the Local Tax Enabling Act;
 - providing for the definition of a “personal income tax” that a school district may levy (pending voter approval) under the authority of the Taxpayer Relief Act;
 - clarifying that nothing in the act shall be construed to allow a municipality to levy a personal income tax; and
 - specifying the authority to levy a personal income tax shall only apply to a school district that sought to impose a personal income tax under the authority of the Taxpayer Relief Act, with such imposition approved by the electorate of the school district pursuant to the Taxpayer Relief Act.

Assessment Appeals

[Senate Bill 1247](#) (Rhoades) — was vetoed by Governor Rendell on July 14, 2008. This legislation would have amended the Fourth to Eighth Class and Selective County Assessment Law (Act 254 of 1943) to allow the corporate authority of a borough, town, township, or school district in counties of the fourth to eighth class to appeal a property tax assessment of a taxable property in the following situations:

- During a countywide assessment;
- When land was divided into smaller parcels and sold;
- When improvements were made to the property; and
- When existing improvements were removed or destroyed.

[Senate Bill 1258](#) (Rhoades) was also vetoed by Governor Rendell. As amended in the House, the bill would have amended the Fourth to Eighth Class and Selective County Assessment Law to outline the conditions under which an assessment could be changed as a result of an appeal by a local government. An assessment could only have been changed if one of the following applied:

- The appeal was from an assessment established during a countywide assessment and the appeal was filed no later than the first day of September of the taxable year following the year for which the newly established values from the countywide reassessment would take affect;
- The property or parcel had been divided and conveyed away in smaller parcels;
- Improvements had been made to the real property;
- Existing improvements had been removed from the real property or had been destroyed; or
- A change had occurred in the productive use of the property or parcel by material alteration in the nature of the use or through alteration or additions which modified its use.

The changes included in the act would have applied to counties of the second class A and third through eighth class counties and to appeals filed on or after July 1, 2008.