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Pennsylvania and Philadelphia Tax Responses to COVID-19

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The COVID-19 pandemic has raised unprecedented state and local tax issues. States and localities have been working hard to grapple with the new tax landscape. Pennsylvania and Philadelphia, in particular, have implemented a number of responses. This article discusses a few of the changes of which CPAs and their clients should be aware.

Pennsylvania: Filing Deadlines for Refunds and Appeals

Certain Pennsylvania tax appeal deadlines have been extended because of COVID-19. The Board of Appeals (BOA) announced that the deadline for filing petitions for refunds or reassessments has been extended. Petitions will be accepted as timely filed if filed by the later of 30 days after the reopening of BOA's offices or the original appeal deadline. Notably, to be eligible for the extended deadline, the appeal deadline must fall on or after March 16. Additionally, the BOA will accept the submission of requested documentation if it is received within 30 days after its offices reopen. There is some debate as to whether the BOA's extension of the filing deadline is within its statutory authority. Thus, although the BOA issued an extension, taxpayers should still attempt to file as quickly as possible to avoid any potential jurisdictional issues.

Unlike the BOA, the Board of Finance and Revenue (BFR) did not extend its deadline for filing appeals. However, it did indicate that requests to accept appeals filed late because of COVID-19 disruptions would be liberally granted. Because the BFR did not issue an actual extension, taxpayers should endeavor to file their appeals in as timely a manner as circumstances permit.

While state and local taxes may not be a priority in many clients' pension and the liberal granting of appeals at the BFR attempt to help those who are having difficulty with timely

requests for refunds. These extensions and policies are important reviewing mail, assessments, or files and preparing and filing appeals steps to try to preserve taxpayers' rights amid the pandemic when time and access to records and personnel may be limited.



Philadelphia: Responses for Local Taxes

The Philadelphia Department of Revenue issued several pieces of guidance addressing COVID-19 and various city-level taxes. First, Philadelphia announced that it is conforming to the federal government's extension of July 15 for filing and payment for purposes of its business income and receipts tax (BIRT) and the net profits tax.

Notwithstanding, taxpayers should be mindful that if they are late on a payment after July 15, they will accrue interest and penalties back to the original April 15 deadline. Understanding that many taxpayers do not expect their 2020 liability to be as high as it was in 2019, the city is permitting taxpayers to make an estimated 2020 payment that is lower than their 2019 BIRT liability. However, when filing the 2020 return, if the estimate results in an underpayment then interest and penalty will accrue back to the April 15 deadline. Therefore, taxpayers who choose to use a lower estimated payment than 2019 would dictate should be conservative to avoid accruing unnecessary interest and penalty.

While the BIRT filing deadline changed, the city's school income tax filing and payment deadline did not (school income tax payments were due on April 15). Taxpayers who were unable to meet the deadline were instructed to file for an extension and submit a payment equal to last year's liability. Taxpayers who requested an extension have until July 15 to file a return and pay any difference in tax owed, without interest and penalty. However, similar to the BIRT, if a payment is received after July 15, taxpayers will accrue interest and penalty dating back to April 15.

Regarding the wage tax, Philadelphia did not make any changes, but instead reiterated its standard policy related to remote workers. Typically, the question of whether an employee is subject to the wage tax comes down to whether the employee is required to work outside the city or whether the employee is working remotely for the convenience of the employer. Since COVID-19 presents a situation where employees are required to work remotely, nonresident employees are not subject to the tax. Whether or not to continue withholding the wage tax for nonresidents during the remainder of the closure is at the discretion of the employer. However, employees who had wage tax withheld will be entitled to file refund claims during 2021 for the times that they were required to work remotely due to COVID-19.

Under some circumstances, businesses that were ordered to close because of COVID-19 are not subject to the city's use and occupancy tax while access to their place of business is prohibited. However, businesses deemed essential, those with continuing operations, those that have employees on-site, and those that maintain employee access to their place of business through the duration of the mayor's order should continue to file and pay the use and occupancy tax as normal, subject to the same due dates.

Key Points to Remember

(1) Businesses should attempt to file refund and reassessment petitions with the BOA and BFR as close to timely as possible. For those who cannot file by the statutory deadline, in filing petitions to the BOA, it is important to keep apprised of its reopening to ensure timely filing within 30 days of that reopening. Additionally, taxpayers affected by the pandemic should take advantage of the extended deadline to file returns and make payment of any tax due. Additionally, for Philadelphia taxes with extensions, be sure to pay by July 15 to avoid unnecessary interest and penalty.

Although both Pennsylvania and Philadelphia have stated that nexus is not created due solely to the remote workers now forced to work from home because of the pandemic, do not assume that all states and localities are taking a similar position. Review what position each state or local government has taken on nexus. Additionally, the stated policies of both Pennsylvania and Philadelphia only apply during the pandemic. To avoid unwanted nexus, remote employees need to return to the office instead of remaining in a remote workplace post-pandemic.

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For more information on Pennsylvania taxation and COVID-19, make sure to check out PICPA's **June 17 webinar** (<https://www.picpa.org/courses/course?id=43082>) on lost Pennsylvania sales tax during the pandemic. In addition, remember to sign up for weekly professional and technical updates in PICPA's blogs, podcasts, and discussion board topics by **completing this form** (<https://www.picpa.org/keep-informed/cpa-now>).