

Martin A. Darocha, CPA

*Tax and accounting services for individuals and
their businesses, estates and trusts.*

December 2011

To my Clients and Friends:

Act 32 changes how Local Earned Income Taxes are withheld, paid and filed throughout the state of Pennsylvania. As with many new laws, it has its good points and bad points. **As it goes into full implementation effective January 1, 2012 you should prepare NOW!**

Under Act 32, employers are required to withhold the higher of the employee's resident earned income tax amount (**resident** EIT rate where they *reside*) vs. the employee's municipal non-resident earned income tax amount (**non-resident** rate EIT where they are *employed*). Employers are **required** to obtain information in the new Residency Certification Form for every employee.

Emphasis added - Employers are required to obtain this information – failure to do so can result in penalties, fines and collection costs in addition to the employer being responsible for the correct amount that should have been withheld from employees!

Conditions and responsibilities for compliance are extensive, and the repercussions for noncompliance can be steep. The Collector may assess a number of penalties, fines and collection costs for non-compliance with all aspects of the Act. The Act's maximum fine may not exceed \$25,000 and up to two years of imprisonment!

Philadelphia is not regulated by Act 32, so the present system as administered by the Philadelphia Department of Revenue will remain in effect.

Attached you will find more detailed information along with instructions and check lists to help you comply with the act. If we can be of further assistance, please do not hesitate to contact us.

Disclaimer: Any tax advice contained in the body of this letter is not intended or written to be used, and cannot be used, by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

Sincerely,



Martin A Darocha, CPA

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Visit my website: www.mdarochacpa.com to use my 2005 payroll tax toolkit.

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ACT 32 - SUMMARY & FREQUENTLY ASKED QUESTIONS

SUMMARY

Act 32 - For Employers/Payroll Service Providers

Employers who maintain worksites in PA or employ individuals who may work from their homes are required to withhold applicable earned income tax from those employees.

Under Act 32, employers are required to withhold the higher of the employee's resident earned income tax amount (rate of total **resident** EIT where they **reside**) vs. the employee's municipal non-resident earned income tax amount (rate of **non-resident** EIT where they are **employed**). Employers are required to obtain information in the attached **Residency Certification Form** for every employee.

FREQUENTLY ASKED QUESTIONS

What are the steps required by the Employer under Act 32?

Step 1.

Register businesses with the tax collection district. See attached list

Step 2.

Fill out the Residency Certification Form. This form must be filled out by the Employer and signed by the Employee. The Employer will retain this form for their records. See attached sample.

Step 3.

Send withheld taxes for all employees to the appropriate tax collector(s)/officer(s). This can be done in two ways:

Quarterly - Within 30 days after the end of each quarter, the employer must remit withheld taxes and employee information to the tax collector/officer of each worksite-location. See attached sample of the Quarterly Remittance Form.

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Monthly - Within 30 days after the end of each month, the employer must electronically remit withheld taxes and employee information to a single tax collector/officer where the PA corporate headquarters are located. However if the corporate headquarters are located outside the state, the company may remit withheld taxes from all employees statewide to a tax collection district of their choice upon agreement with that tax collector/officer. The electronic format for transfer of funds and information must be obtained from the applicable single tax collector/officer.

Step 4. Within 30 days of the close of each calendar year, employers complete and submit the Annual Withholding Reconciliation Form to the appropriate tax collector(s)/officer(s). See attached sample of the Annual Withholding Reconciliation Form.

Does Act 32 apply to me as an Employer?

Do you have employees who live and work in PA? - As an employer, you must compare the total resident vs. non-resident EIT rates for each employee, withhold the higher of the two and send it to the tax collector of the work address (standard Act 32 rules; the Residency Certification Form applies).

Do you have employees who live in PA but work outside of PA? - As an employer you are not obligated to withhold the employees' home EIT rates, but would be obligated to withhold any local taxes at the work location, if any. The Residency Certification Form does not apply.

Do you have employees who work in PA but live outside PA? - As an employer, you are obligated to withhold local taxes at the work address and send them to the local tax collector. The Residency Certification Form applies.

I have employees that live and/or work in Philadelphia. Does Act 32 apply to them?

Do you have employees that live and work in Philadelphia? - Current Philadelphia withholding rules apply.

Do you have employees that work in Philadelphia, but live outside of Philadelphia? - Current Philadelphia withholding rules apply.

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Do you have employees that live in Philadelphia, but work in PA outside of Philadelphia? - Act 32 (and the Residency Certification Form) applies.

What are PSD Codes?

Political SubDivision Codes are used to identify the municipalities and school districts for each tax collection district.

How do I find EIT rates and PSD Codes?

To determine EIT rates, PSD Codes, and tax collector/officer contact information, use the address search on this link

<http://munstatspa.dced.state.pa.us/FindLocalTax.aspx>

NOTE: to use the **Address Search**, you must use Internet Explorer and allow pop-ups. The **Address Search** will not work if you use PO Boxes or Rural Route addresses. If you use Internet Explorer and allow pop-ups but the **Address Search** does not provide an answer, you must contact the **Tax Collector/Officer** to determine local tax rates and PSD Codes

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RESIDENCY CERTIFICATION FORM – LOCAL EARNED INCOME TAX

It is very important that you have each employee complete this form and return it to you prior to the first pay in January 2012. You should use that information to determine the correct PSD code and local earned income tax withholding rate, then enter that information into your payroll system or provide it to your payroll company.

It is the employee's representation that they are providing you the correct PSD code. The PSD* code allows the local earned income tax collector to properly distribute the tax withheld to the correct taxing authority – e.g. school district or town/township etc.

If your employee does not return this to you and you withhold at a rate lower than required, you – the employer may be responsible for the difference, plus possible penalties, fines and collection costs.

You may make copies of this form. It should be distributed to current and any new employees AND RETURNED TO YOU prior to their first payroll after December 31, 2011.

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RESIDENCY CERTIFICATION FORM Local Earned Income Tax Withholding

TO EMPLOYERS/TAXPAYERS:

This form is to be used by employers and/or taxpayers to report essential information for the collection and distribution of Local Earned Income Taxes. This form must be utilized by employers when a new employee is hired or when a current employee notifies employer of a name and/or address change.

EMPLOYEE INFORMATION - RESIDENCE LOCATION													
NAME (Last Name, First Name, Middle Initial)		SOCIAL SECURITY NUMBER											
STREET ADDRESS (No PO Box, RD or RR)		<table border="1" style="width: 100%; height: 15px; border-collapse: collapse;"> <tr> <td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td> </tr> </table>											
SECOND LINE OF ADDRESS													
CITY	STATE	ZIP CODE	DAYTIME PHONE NUMBER										
MUNICIPALITY (City, Borough or Township)													
COUNTY	RESIDENT PSD CODE	TOTAL RESIDENT EIT RATE											
	<table border="1" style="width: 100%; height: 15px; border-collapse: collapse;"> <tr> <td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td> </tr> </table>												

EMPLOYER INFORMATION - EMPLOYMENT LOCATION													
EMPLOYER BUSINESS NAME (Use Federal ID Name)		EMPLOYER FEIN											
STREET ADDRESS WHERE ABOVE EMPLOYEE REPORTS TO WORK (No PO Box, RD or RR)		<table border="1" style="width: 100%; height: 15px; border-collapse: collapse;"> <tr> <td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td> </tr> </table>											
SECOND LINE OF ADDRESS													
CITY	STATE	ZIP CODE	PHONE NUMBER										
MUNICIPALITY (City, Borough or Township)													
COUNTY	WORK LOCATION PSD CODE	WORK LOCATION NON-RESIDENT EIT RATE											
	<table border="1" style="width: 100%; height: 15px; border-collapse: collapse;"> <tr> <td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td><td style="width: 25px;"> </td> </tr> </table>												

CERTIFICATION	
Under penalties of perjury, I (we) declare that I (we) have examined this information, including all accompanying schedules and statements and to the best of my (our) belief, they are true, correct and complete.	
SIGNATURE OF EMPLOYEE	DATE (MM/DD/YYYY)
PHONE NUMBER	EMAIL ADDRESS

For information on obtaining the appropriate MUNICIPALITY (City, Borough, Township), PSD CODES and EIT (Earned Income Tax) RATES, please refer to the Pennsylvania Department of Community & Economic Development website:

www.newPA.com