

**LOCAL TAX ENABLING ACT RESTATEMENT
(INCLUDING COUNTY-WIDE INCOME TAX COLLECTION)**

KKAG Act 32 of 2008
Detailed Legal Analysis

4/27/09

Work in Process. This document is a work in process. It reflects KKAG's initial analysis and summary of Act 32. Act 32 is 67 pages long, with many detailed provisions and interrelationships with other statutes. KKAG will continue its review and analysis, and this document should be considered a preliminary analysis that will be modified.

Cautionary Note about Act 32. This document provides general information and analysis of Act 32. Tax issues and the TCC process are complicated, and may be influenced by facts specific to particular school districts, municipalities, or geographic areas. In addition, Act 32 contains some ambiguous and contradictory provisions. Our analysis of the appropriate interpretation might change as we continue our review and learn of interpretations by DCED and others responsible for implementing Act 32. We also stress that DCED will be issuing various implementation regulations, and legislative amendments might also be adopted. Accordingly, certainty on interpretation of some points will not be possible until there are further developments, and school districts, municipalities, and TCCs should not rely on this outline as legal advice. It is imperative that school districts, municipalities, and TCCs consult with and follow the advice of their legal counsel on Act 32 implementation issues.

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General Table of Contents

A.	Act 32 Organization, Effective Dates, and Overview	1
1.	LTEA recodified within Municipal Code/new chapter and section numbers.....	1
2.	Two overarching purposes: state-wide uniformity/county-wide tax collection	2
3.	Two major types of changes: tax law changes/new government entity to implement county-wide collection.....	2
B.	Income Tax Law Changes	6
1.	Change in “earned income” definition to preclude business loss offsets and tax some active military service compensation.....	6
2.	Individual taxpayer tax return changes	6
3.	New employer withholding rules.....	7
4.	New tax collector reporting and distribution rules	13
5.	New DCED dispute resolution procedures for taxing authorities and tax collectors	17
6.	New tax appeal board rules.....	18
7.	Comments on new tax return, employer withholding, tax collector distribution, interest payment, dispute resolution, and tax appeal board rules	19
8.	New tax collector financial audit rules	23
9.	New tax collector investment rules.....	24
10.	New tax collector bonding rules	25
11.	New tax collector tax record rules	26
12.	Delinquent tax collection rules – taxpayer/employer interest/penalties/fines	27
13.	EIT legal authority structure	29
14.	Steps required based on income tax law changes	31
C.	New Entity/County-Wide Tax Collection Steps	34
1.	Tax collection committee/new government entity.....	34
2.	TCC jurisdiction over income and possibly other taxes	34
3.	TCC leadership on real estate tax collection.....	34
4.	TCC process overview	35
5.	TCC process details	39
D.	Lancaster County Tax Collection Bureau Opt-Out Option	61
1.	Background.....	61
2.	LCTCB opt-out process summary	62
3.	What is the benefit of the opt-out? What rules apply to LCTCB after opt-out?....	63
E.	DCED Required Steps	66
1.	General DCED responsibilities.....	66
2.	Forms DCED is required to provide	66
3.	Regulations and guidelines DCED is required to promulgate	67
F.	TCC Required Regulations and Guidelines	69
G.	Corrective Legislation or Additional DCED Regulation Needs	70
H.	Key Dates/Timeline for Required Steps.....	73
	General Table of Contents of Act 32.....	77
	Detailed Table of Contents of Act 32.....	80
	Relocation of Prior LTEA Sections	85

Detailed Table of Contents

A.	Act 32 Organization, Effective Dates, and Overview	1
1.	LTEA recodified within Municipal Code/new chapter and section numbers.....	1
2.	Two overarching purposes: state-wide uniformity/county-wide tax collection	2
3.	Two major types of changes: tax law changes/new government entity.....	2
	Important New Terms and Steps.....	5
B.	Income Tax Law Changes	6
1.	Change in “earned income” definition to preclude business loss offsets and tax some active military service compensation.....	6
	Business losses.....	6
	Military service	6
2.	Individual taxpayer tax return changes	6
	Tax amounts rounded to nearest dollar	6
	Quarterly returns mandatory for individuals.....	7
	New state-wide individual quarterly and annual tax return forms.....	7
3.	New employer withholding rules.....	7
	a. New withholding rules effective 01/01/12, or possibly earlier.....	7
	b. Steps employers must take to determine withholding amount	8
	c. Employer remittance rules/universal non-resident withholding.....	9
	Tax collector identification	9
	Universal non-resident withholding.....	10
	New state-wide employer quarterly tax return form/more information and employer steps required	10
	Multi-site employer option to pay in only one county.....	11
	Delinquent employers remit monthly	11
	New state-wide employer annual tax return form/more information and employer steps required	12
	Discontinuation of business	13
4.	New tax collector reporting and distribution rules	13
	a. Accelerated reporting and distribution required	13
	b. Monthly reports required	13
	c. Prompt distribution required.....	13
	In-jurisdiction/out-of-jurisdiction distributions	13
	60-day general distribution rule starting 01/01/12.....	13
	30-day general distribution rule starting 04/10/13.....	14
	30-day rule starting 01/01/12 for multi-site employers filing combined tax return	14
	60-day rule for tax from individuals/other tax collectors	14
	Minimum distribution frequency is monthly	14
	d. Identification requirements for distribution/no estimated payments allowed.....	14
	e. Unidentified funds	15
	f. Claims between tax collectors/tax collector payment of interest/ civil penalties	15
	g. Other penalties for tax collector noncompliance	16

Detailed Table of Contents – Page 2

5.	New DCED dispute resolution procedures for taxing authorities and tax collectors	17
	a. Prior LTEA dispute resolution rules	17
	b. Act 32 mediation	17
6.	New tax appeal board rules	18
	a. Prior LTEA/TBR appeal rules	18
	b. Act 32 tax appeal board	18
	c. Tax appeal board expanded authority	19
	d. Tax appeal board expense/legal counsel	19
7.	Comments on new tax return, employer withholding, tax collector distribution, interest payment, dispute resolution, and tax appeal board rules	19
	a. State-wide uniform tax return forms	20
	b. Universal non-resident withholding effects	20
	c. Multi-site employer option effects	21
	d. Delinquent employer rules effect	21
	e. New tax collector distribution rules effects	21
	No distribution based on estimates	21
	Prompt distribution rules	22
	f. Tax collector interest payment rules effects	22
	g. DCED dispute resolution rules effects	23
	h. Tax appeal board rules effects	23
8.	New tax collector financial audit rules	23
9.	New tax collector investment rules	24
10.	New tax collector bonding rules	25
11.	New tax collector tax record rules	26
12.	Delinquent tax collection rules – taxpayer/employer interest/penalties/fines	27
13.	EIT legal authority structure	29
14.	Steps required based on income tax law changes	31
	a. Summary of required steps	31
	DCED steps	31
	Forms/regulations/guidelines	31
	Individual taxpayer steps	31
	Quarterly estimated returns	31
	Employer steps	31
	Employer technology	31
	Employer withholding procedures	31
	Tax return preparer and payroll service steps	31
	New tax return forms/rules	31
	Taxing authority steps	31
	New tax enactments	31
	TCC steps	32
	New tax regulations	32
	Investment policy	32
	Tax records policy	32
	Tax appeal board	32
	Tax collector oversight	32
	Other TCC steps	32

Detailed Table of Contents – Page 3

	Tax collector steps	32
	Significant new responsibilities	32
	New technology	32
	New tax return forms	32
	Taxpayer/employer education.....	32
	Enhanced employer compliance enforcement	33
	New distribution rules.....	33
	Interest payments to and collection from other tax collectors	33
	New investment rules.....	33
	New bonding rules	33
	New recordkeeping rules	33
	Tax collector accounting firm steps	33
	New financial statement formats and audit rules	33
	b. Timing for required steps.....	33
C.	New Entity/County-Wide Tax Collection Steps	34
	1. Tax collection committee/new government entity.....	34
	2. TCC jurisdiction over income and possibly other taxes	34
	3. TCC leadership on real estate tax collection.....	34
	4. TCC process overview	35
	TCC geographic jurisdiction/governance	35
	TCC first stage – 2 years – organization, tax collection	
	decision, and transition	38
	TCC second stage – future years – tax collection oversight	39
	TCC process different where county-wide collection already exists ...39	
	5. TCC process details	39
	a. TCC governance – many challenges/careful planning required	39
	b. Advance planning starting January 1, 2009 strongly recommended	41
	c. TCC first meeting	42
	d. TCC future meetings.....	42
	e. Meeting place.....	43
	f. Appoint legal counsel	43
	g. Legal counsel responsibilities	43
	h. Executive director/other employees.....	45
	i. Compensation	47
	j. Adopt bylaws	47
	k. Adopt Right-to-Know Records Policy.....	48
	l. Joint TCC option.....	48
	m. TCC jurisdiction over income and possibly other taxes	49
	n. Bureau versus third party collector	49
	o. TCC finances	49
	p. TCC insurance needs	50
	q. Tax collection cost allocation – options for differing collector	
	compensation percentage rates charged to different taxing authorities	51
	r. Adopt regulations, policies, and procedures for tax administration	55

Detailed Table of Contents – Page 4

s.	Adopt investment policy	55
t.	Adopt tax collector investment income distribution policy	55
u.	Adopt tax records policy	55
v.	Tax appeal board	55
w.	Tax collector appointment	55
x.	Tax Collection Agreement	56
y.	Act 32 tax collector appointment effective 2011 or 2012	58
z.	Accelerate new employer withholding rules	58
aa.	Transition plan – transition to new Act 32 tax collector	58
bb.	Department of Revenue information exchange agreement	59
cc.	Interest and penalty abatement rules	59
dd.	Unidentified funds rules	59
ee.	TCC second stage – future years – tax collection oversight	59
D.	Lancaster County Tax Collection Bureau Opt-Out Option	61
1.	Background	61
2.	LCTCB opt-out process summary	62
3.	What is the benefit of the opt-out? What rules apply to LCTCB after opt-out?	63
a.	Opt-out benefits	63
b.	New LCTCB rules	64
E.	DCED Required Steps	66
1.	General DCED responsibilities	66
2.	Forms DCED is required to provide	66
3.	Regulations and guidelines DCED is required to promulgate	67
F.	TCC Required Regulations and Guidelines	69
G.	Corrective Legislation or Additional DCED Regulation Needs	70
1.	Legislative corrections required	70
2.	TCC governance/bylaws	70
3.	Weighted voting	70
4.	Bylaw adoption procedure	70
5.	Employer penalties for incomplete returns	70
6.	Tax collector interest payments	70
7.	Lawsuits	70
8.	TCC borrowing	70
9.	TCC jurisdiction over LST and other taxes	71
10.	Tax records	71
11.	DCED mediation	71
12.	Payment of tax from one tax collector to another tax collector	72
H.	Key Dates/Timeline for Required Steps	73
	General Table of Contents of Act 32	77
	Detailed Table of Contents of Act 32	80
	Relocation of Prior LTEA Sections	85

A. Act 32 Organization, Effective Dates, and Overview

1. LTEA recodified within Municipal Code/new chapter and section numbers – reorganization effective immediately.

- a. The Local Tax Enabling Act (LTEA) has always been codified within the Municipal Code at 53 P.S. § 6901 *et seq.* Act 32 of 2008, signed by the Governor July 2, 2008, amends and completely restates LTEA. The restated LTEA is codified at 53 P.S. § 6924.101 *et seq.*

LTEA is the Pennsylvania law that authorizes school districts and municipalities to impose numerous different types of taxes, including earned income tax (EIT), local services tax (LST), per capita tax, realty transfer tax, and miscellaneous other taxes. Many of the prior LTEA provisions are merely restated in Act 32; however, Act 32 also makes major changes, particularly with respect to local income tax law and collection rules.

- b. Act 32 mandates county-wide earned income tax collection. D-Day for mandatory county-wide collection is January 1, 2012 – but Act 32 requires that school districts and municipalities take many different steps, starting immediately.

- c. In addition to new section numbers, LTEA has been organized into separate chapters as follows:

- **Chapter 1 – Preliminary Provisions** (§ 101) (stating name as “The Local Tax Enabling Act) (effective immediately – 7/02/08).
- **Chapter 3 – Local Taxes** (§§ 301 – 330) (restating prior LTEA provisions specifying various taxes authorized, establishing limits on specific tax rates, and specifying procedures for adopting taxes, required tax credits, and miscellaneous other provisions – for the most part a reenactment, with minimal change of the prior LTEA) (generally **effective immediately – 7/02/08**, except that repeal of the prior LTEA § 6910 provisions on joint collection of taxes and the prior LTEA § 6911 provisions on audit of taxes other than earned income taxes are not effective until 01/01/12).
- **Chapter 5 – Consolidated Collection of Local Income Taxes** (§§ 501 – 517) (requiring county-wide collection of income taxes, creation of a new government entity, called a **Tax Collection Committee (TCC)**, to implement the county-wide collection process, and imposing various income tax law and tax collector requirement changes that replace the prior LTEA § 6913 EIT provisions) (The provisions requiring creation of the new government entity are effective immediately, but mandatory use of the new county-wide process and change in § 6913 provisions are not effective until 01/01/12. However, per § 512 the TCC may accelerate the effective date for new employer withholding rules.)

- **Chapter 7 – Collection of Delinquent Taxes (§§ 701 – 708)** (restating prior LTEA provisions on collection of delinquent LTEA taxes) (**effective immediately – 7/02/08**).
- **Chapter 9 – Miscellaneous Provisions (§ 901 and uncodified §§ 37, 38)** (setting forth repeals and effective dates).
- For detailed section listing, see **Detailed Table of Contents of Act 32 attached at page 80**.

2. **Two overarching purposes: state-wide uniformity/county-wide collection.** Although much of Act 32 is merely reorganization of prior LTEA provisions, Act 32 has two overarching purposes. The first is to establish state-wide uniformity in tax rules, procedures, and forms. The second is to provide for greater tax collection efficiency by eliminating the current huge number of tax collectors and consolidating tax collection at the county level.
3. **Two major types of changes: tax law changes/new entity to implement county-wide collection.** To implement these purposes, Act 32 has two major categories of changes. Both of these major changes are made in Chapter 5 titled Consolidated Collection of Local Income Taxes (§§ 501 – 517).

The first category of changes impose income tax law changes – which restate with some differences the law applicable to EIT; broaden LTEA to encompass the now-permissible personal income tax (PIT) taxing investment income in addition to earned income; mandate new rules for individual and employer tax returns; mandate a new independent tax appeal board; provide DCED mediation as a new dispute resolution procedure for taxing authorities and tax collectors; make significant changes in requirements for audit of tax collector records and accounts; and make major changes in employer withholding and tax collector distribution rules.

Among the changes in employer withholding rules, the biggest change is the mandate for universal non-resident withholding – every Pennsylvania employer must withhold local income tax from every employee subject to tax, and pay the tax to the tax collector for the place of employment, even if the tax is owed elsewhere. As to tax collector distribution, monthly reports and distributions to taxing authorities and other tax collectors are required, and distribution of taxes based on estimates is prohibited.

The tax law changes will require new tax resolutions and ordinances to be adopted by school districts and municipalities.

The tax law changes will require new steps by individual taxpayers, tax return preparers, taxing authorities, TCCs, tax collector accounting firms, and most notably by employers and tax collectors.

The tax law changes are generally effective January 1, 2012. However, the TCC may accelerate the effective date of employer withholding rules.

The second category of changes mandate a new government entity, called the Tax Collection Committee, to implement county-wide collection – either through creation of a tax collection bureau, or by appointing an independent third party tax collection agency to collect tax for all school districts and municipalities. The TCC will have jurisdiction over a geographic area that approximates county lines, but deviates somewhat from county lines by following school district boundaries, and is called the Tax Collection District (TCD).

The second category provides a Lancaster County Tax Collection Bureau opt-out option.

The mandate for creation of the TCC and required steps for Lancaster County opt-out are effective immediately.

The TCC requires immediate school district and municipality attention.

The TCC process first stage is 2+ years, from 2009 through 2011, involving organization of the TCC and basic tax collection decisions, culminating in collection of local income tax through a new Act 32 county-wide tax collector starting January 1, 2012. The TCC process second stage extends through all future years, involving TCC oversight of the ongoing tax collection process. The following is a summary of the TCC process. **More detail is provided in the analysis below starting at page 34, and also in the Act 32 Key Dates and Timeline attached at page 73.**

TCC first stage. Decisions and steps required during the TCC first stage include: (1) officer, legal counsel, and auditor appointment; (2) decisions on employees needed; (3) decisions on governance structure and bylaw adoption; (4) financial matters, including annual budget and decision on financing mechanism; (5) decisions on TCC insurance; (6) decision on single-county or multi-county TCC; (7) decision on whether TCC will have jurisdiction over LST or other taxes in addition to income taxes; (8) adoption of various mandatory and other policies; (9) appointment of the new Act 32 county-wide tax collector; (10) development of an Act 32 transition plan; (11) appointment of a new tax appeal board; and (12) various other steps.

The most fundamental TCC decision is whether to create a tax bureau, or instead simply use an independent third party tax collector as the new Act 32 county-wide tax collector.

The TCC Chairperson is a very important individual. In order to ensure an efficient and effective TCC process, careful selection of the Chairperson will be important. TCC legal counsel selection is another important decision.

In addition to a Chairperson to conduct TCC meetings and generally guide the TCC, every TCC must have someone to lead and make sure all required steps occur and responsibilities are fulfilled. The TCC will need to decide who will be the leader/chief operating officer – to fulfill this function. Is the Chairperson willing and able to do so? Is an employee required? If not, how will this function be fulfilled?

Unless a modified structure is provided through TCC-adopted bylaws, the TCC will be controlled by a governing body comprised of different individual delegates appointed by each school district and municipality within the TCD.

Voting at the initial TCC meeting is weighted. Instead of one person/one vote, each delegate has a weighted vote, with weighting based 50% on income tax revenues and 50% based on population. The weighted voting methodology may be changed or eliminated by a TCC-adopted bylaw.

The TCC will be a large body in most TCDs. This fact alone will make conduct of meetings and decisionmaking difficult. With the statutory mandate for weighted voting rather than one person/one vote, the challenge will be even greater.

The challenges to conducting effective meetings presented by the large number of delegates and weighted voting strongly suggest the TCC should adopt bylaws and consider strategies to simplify the governance process. Possible strategies include adopting bylaws that provide for a smaller number of delegates, and for delegation of TCC functions to TCC committees. Whether or not the governance process is simplified, careful thought and advance planning will be required for each TCC meeting.

Although there will be many implementation challenges and possibly a few unexpected negative impacts in some geographic areas, the overall impact of Act 32 when viewed on a state-wide basis will be to provide significant improvement in Pennsylvania local income tax collection. To effectively address the challenges, including the complexity of the weighted voting process with many delegates and the complicated issues to be addressed, KKAG strongly recommends formation – starting January 1, 2009, or as soon thereafter, as possible – of an advance planning group within each TCD. The planning group charter should be to develop strategies and plans in advance of the first mandatory TCC meeting in October or November 2009. Of course, an advance planning group will need school district and municipal representatives. KKAG recommends that schools and municipalities appoint their TCC delegates in February or March of 2009 in order to facilitate the advance planning process. This advance planning will be helpful everywhere, but seems especially important where county-wide collection already exists.

TCC second stage. It is important to note that the TCC business does not stop after the initial 2+ year process. Act 32 places responsibility on the TCC to continue to operate in 2012 and future years in order to address ongoing items of business. This includes annual officer appointments, annual budget and related financial steps, tax appeal board operation, and most importantly ongoing oversight of the tax bureau or independent third party collector appointed to serve as the new Act 32 county-wide tax collector.

PASBO has formed an Earned Income Tax Consolidated Collection Task Force that began meeting in 2008. The PASBO Task Force has started developing a work plan that will supplement DCED and provide essential resources for all TCCs. The work plan incorporates many different aspects, including providing forms that will be needed by all TCCs and collaboration with DCED and municipal government organizations to coordinate implementation efforts. The PASBO task force is a major first step in the

TCC advance planning process essential for Pennsylvania school districts and municipalities. PASBO will play a central role in Act 32 implementation.

Important New Terms and Steps

- ***Tax collection district*** (TCD) – the county-wide region designated for consolidated local income tax collection.
- ***Tax collection committee*** (TCC) – new government entity, which controls and oversees tax collection within the TCD.
- ***Tax officer*** – the term used in Act 32 to refer to the person or entity appointed to collect taxes on a county-wide basis. In this outline, KKAG uses the more common term “tax collector.” It is important to note that the tax collector may be a tax bureau created and controlled by taxing authorities, a private company tax collector, a county, another taxing authority, or an individual.
- ***Tax distributions*** – monthly reports and tax distributions by tax collectors are required; distributions based on estimates are prohibited.
- ***Tax appeal board*** – a new, independent 3-person board to hear appeals from tax collector rulings, including appeals by taxpayers and also by taxing authorities or other tax collectors claiming that tax revenue has not been properly distributed.
- ***Universal non-resident withholding*** – every employer must withhold tax from every employee subject to tax and remit to the tax collector for the employment place.
- ***Multi-site employer option*** – multi-site employers may elect to file a combined return for all counties and remit tax in only one Pennsylvania county (the **Wal-Mart Amendment**).
- ***DCED mediation*** – an additional, new dispute resolution procedure for taxing authorities and tax collectors.
- ***New tax resolutions and ordinances*** – must be adopted by school districts and municipalities.
- ***January 1, 2012*** – D-Day for mandatory county-wide collection – but may accelerate to January 1, 2011 – and planning steps start now.

B. Income Tax Law Changes

1. Change in “earned income” definition to preclude business loss offsets and tax some active military service compensation – effective 01/01/12.

a. The new § 501 definition of “earned income” starts out the same as under the prior LTEA § 6913, namely defining earned income as compensation taxable as “compensation” under the Pennsylvania PIT law. However, the new definition makes two changes from the prior LTEA. Both are designed to conform the earned income tax to the Pennsylvania PIT law.

- Business losses. The first change is adding to the new definition of “earned income” a statement: “The term does not include offsets for business losses.” Although this is an odd way of doing so, it appears this provision is intended to reverse prior case law under LTEA § 6913 that allowed taxpayers to offset taxable compensation such as salary or wages with net loss incurred in a business. Presumably because this same sentence is not included in the new definition of “net profits,” individuals will be permitted as under prior law to offset net profits derived from one business with net losses incurred in another business.
- Military service. The second change is deletion of the provision that was in the prior LTEA § 6913 definition of “earned income” stating that “earned income” does not include “compensation paid to individuals on active military service.” As a result of this deletion, taxable compensation of individuals in active military service will be determined in the same manner as determined for purposes of the Pennsylvania PIT. The Pennsylvania PIT applies to compensation earned by a Pennsylvania resident for active duty military service within Pennsylvania, but not outside of Pennsylvania.
- Act 32 continues to include the same statement as included in prior LTEA § 6913 that: “The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.”
- These changes are effective 01/01/12.

Act 32 prohibits offsetting taxable compensation such as salary or wages by business losses, and imposes tax on active duty military service within Pennsylvania.

2. Individual taxpayer tax return changes – effective 01/01/12.

- a. Act 32 makes various changes in tax returns filed by individuals.
- Tax return amounts rounded to nearest dollar. The new § 502(c)(1) states that all amounts reported on tax returns shall be rounded to the nearest whole dollar. This provision was not in the prior LTEA.

- Quarterly returns mandatory for individuals. Under the prior LTEA, the taxing authority levying the EIT had discretion whether or not a taxpayer was required to file quarterly estimated tax returns for self-employed net profits. The new § 502(c)(2) changes this, and makes filing estimated quarterly tax returns mandatory. Similarly, Act 32, § 502(c)(3) makes filing quarterly estimated tax returns mandatory for other taxpayers who receive taxable income not subject to withholding.
- New state-wide individual quarterly and annual tax return forms. Section 502(c) prescribes content for individual quarterly and annual tax returns. Although this section does not expressly mandate DCED to create a standard state-wide form (as § 512 mandates for employer tax returns), presumably DCED will do so.
- These changes are effective 01/01/12.

Act 32 makes filing individual estimated quarterly tax returns mandatory.

3. **New employer withholding rules – effective 01/01/12, or possibly earlier.**

Act 32 requires major changes in employer withholding, including:

- Universal non-resident withholding.
- Certificate of Residency – must be signed by all employees.
- Employers must determine from DCED Tax Register the resident tax rate and non-resident tax rate applicable to every employee.
- More detailed employer quarterly or monthly and annual tax returns.
- Multi-site employers may elect to pay tax in only one Pennsylvania county (the Wal-Mart Amendment).

- a. New withholding rules effective 01/01/12, or possibly earlier. Tied in with the mandated consolidated county-wide tax collection, Act 32 makes major changes in the provisions applicable to employer withholding of local income taxes. Per § 512, the new rules are effective starting 01/01/12, or earlier if decided by the new county-wide tax collection district. (Section 512 is ambiguous on this last point. It states that the rules will be effective earlier “if specified by a tax collection district.” The statute does not state whether this decision will be made by the new government entity known as the Tax Collection Committee, by the new Act 32 tax collector appointed by the TCC, or the individual taxing authorities. However, this section must be read in conjunction with § 515(b)(1),

which mandates that each taxing authority take action by November 1, 2010, to determine whether the former LTEA tax collector or the new Act 32 tax collector will collect 2011 taxes. Viewing the two sections together, it appears that the decision on this point is to be made by the individual taxing authorities.) See also page 58.

b. Steps employers must take to determine withholding amount. Section 512 contains significant new requirements for employers to determine the amount of required withholding applicable to each employee:

- Section 512(2) mandates every Pennsylvania employer to have each new employee sign a **Certificate of Residency**, which is required to be attached as an addendum to the federal Employee Withholding Allowance Certificate (Form W-4 signed by employees). DCED is to provide the Certificate of Residency form. In addition, employers must require an employee who changes residence to complete a new Certificate of Residency. The Certificate of Residency is to establish the place where the employee works (the place where the tax is withheld, except for the multi-site employer option) and the place where the employee lives (generally, but not always, the place where the tax is owed).
- Section 512(3) mandates every Pennsylvania employer deduct from compensation of each person employed at a place of business in Pennsylvania the greater of the employee's **resident tax** or the employee's **non-resident tax**.
 - A non-resident tax is an income tax levied by a municipality on non-residents who work within the municipality.
 - A resident tax is an income tax levied by a municipality or a school district on residents of the municipality or school district.
 - As background, it is important to understand that municipalities may impose an income tax on residents or non-residents who work within the municipality. However, per § 301.1(f)(5), school districts may not levy an income tax on non-residents.
 - The end result is that many individuals are initially subject to the income tax imposed by both the municipality where the individual works and also a different school district and municipality where the individual resides. In this circumstance, § 317 provides that, except for the Philadelphia EIT imposed on non-residents who work in Philadelphia, the resident tax imposed by the school district or municipality where the individual lives takes precedence and is credited against the non-resident tax imposed by the municipality where the individuals works. If neither the school district nor the municipality where the individual resides imposes an income tax,

the non-resident income tax applies and the municipality where the individual works collects and retains the income tax.

- The employer is required to obtain information on the resident and non-resident tax rates from the DCED tax register. This means that every employer will need to take the following steps in order to determine the amount of tax to withhold from each employee:
 - As to each person employed within Pennsylvania, determine the municipality where the employment place is located.
 - Determine from the Certificate of Residency the municipality and school district where the employee resides.
 - Determine from the DCED tax register whether any income tax is levied on non-residents by the municipality where the employment place is located – and if so, the tax rate. If levied on non-residents, this is the employee's non-resident tax rate.
 - Determine from the DCED tax register whether any income tax is levied by the municipality and school district where the employee resides. If levied, the combined municipal and school district rate is the employee's resident tax rate.
 - Withhold tax at the greater of the resident tax rate or the non-resident tax rate.
 - If the employee moves, the employer must require the employee to file a new Certificate of Residency, and the employer must repeat the above process.
 - Concerning the DCED tax register, as under the prior LTEA, § 312 requires DCED to maintain a tax register providing information on Local Services Tax imposed by all Pennsylvania taxing authorities, and § 511 also requires DCED to maintain a tax register – for both the Local Services Tax and also for income taxes. Oddly, the DCED tax register mandates are now stated in 3 separate statutory provisions, namely LTEA §§ 312 and 511, and also in Act 1 § 351, 53 P.S. § 6926.351. However, Act 1 § 351 is repealed to the extent inconsistent with the LTEA provisions.

c. Employer remittance rules/universal non-resident withholding. Section 512 also contains significant new requirements concerning employer tax withholding remittance:

- Tax collector identification. As with the prior LTEA, new § 512(4) establishes the basic default rule that the employer must quarterly file a tax return and pay to the tax collector tax amounts deducted from employee

compensation. Of course, this requires the employer to determine from the DCED tax register the identity of the tax collector for the place of employment, which under the new law will in all cases be a county-wide tax collector.

- Universal non-resident withholding. Very different from the prior LTEA, Act 32 mandates universal non-resident withholding. Under § 512(4), every employer must file tax returns with and pay the tax to the tax collector for the employee's employment place. The employer may not pay the tax direct to the tax collector for the school district and municipality to which the tax is owed. (Philadelphia is not part of the consolidation and uniformity. Although not 100% clear, there does not appear to be a requirement for an employer outside Philadelphia to withhold tax owed to Philadelphia by a Philadelphia resident who works outside Philadelphia.)
- New state-wide employer quarterly tax return form/more information and employer steps required. Section 512(4) directs DCED to promulgate a new employer quarterly tax return form, which will be used state-wide and require substantially more information than in most cases previously required on employer quarterly tax returns. For some employers, this will be a monthly tax return as filed below. The quarterly or monthly tax return will require the following information:

Detailed individual employee information

- Each employee's name, address, and social security number.
- Each employee's compensation during prior 3 months.
- Tax amount deducted from each employee.
- All municipalities and school districts that impose resident or non-resident tax on the employee.
- As to other information, although not expressly stated in Act 32, in order to allow for distribution of the tax to the correct place, DCED will also need to require:
 - Amount of tax owed by each employee to each municipality and school district (based on the resident or non-resident tax determined applicable from the DCED tax register).
 - This information will need to reflect any employee address change during the preceding quarter.
 - Total tax amount owed to each municipality and school district.

Aggregate payroll information

- Total compensation of all employees during prior 3 months.
- Total tax amount deducted from all employees during prior 3 months.
- Other information mandated by DCED.
- Multi-site employer option to pay in only one county. For employers with employment sites in more than one Pennsylvania county, § 512(5) provides a multi-site employer options – an exception to the requirement to file the tax return with the tax collector for the employment place. Section 512(5) provides a special rule for an employer that has places of employment in more than one county (the Wal-Mart Amendment). Instead of filing multiple tax returns with multiple county tax collectors, § 512(5) allows such an employer to file a combined tax return with the tax collector in the county where the employer's payroll operations are located, or in another county determined according to regulations promulgated by DCED. However, as a condition of filing such a combined tax return, the following additional requirements apply:
 - Tax returns must be filed monthly within 30 days after the end of each month.
 - The return and tax must be filed and paid electronically.
 - At least one month before filing the first combined tax return, the employer must notify the tax collector for the county in which each employment place is located.
 - Once again, Philadelphia is not part of the consolidation. Although not entirely clear, it appears that a multi-site employer may not pay Philadelphia tax in a TCD outside Philadelphia. May a multi-site employer file one return in Philadelphia for Philadelphia tax plus tax owed in other counties, even though Philadelphia is not a TCD? If not, most likely multi-site Philadelphia employers must file in Philadelphia plus at least one other county, because Philadelphia is not a TCD. KKAG believes the law is unclear and the answer to this question will depend on DCED regulations.
- Delinquent employers remit monthly. Section 512(6) also provides a special rule for delinquent employers. This applies to an employer who for 2 of the preceding 4 quarterly periods has failed to deduct or pay over the proper amount of income tax. The tax collector may require any such employer to file returns and pay tax monthly.

- New state-wide employer annual tax return form/more information and employer steps required. Section 512(7) mandates employers to file an annual tax return by February 28, including additional information beyond that required under the prior LTEA and in accordance with a form promulgated by DCED. The annual tax return will require the following information:

Detailed individual employee information

- For each employee employed within the tax jurisdiction during the prior year an individual withholding statement, which may be integrated with the federal Form W-2. This form must also be delivered to each employee and must include:
 - Employee name, address, and social security number.
 - Compensation paid to the employee for the prior year.
 - Tax amount deducted from employee compensation for the prior year.
 - Tax paid to the tax collector for the prior year.
 - Numerical code prescribed by DCED representing the county collection district where payments were remitted.
 - Other information mandated by DCED.
- As to other information, although not expressly mandated by Act 32, as with quarterly tax returns, DCED will also need to require:
 - Amount of tax owed by each employee to each municipality and school district (based on the resident or non-resident tax determined applicable from the DCED tax register).
 - This information will need to reflect any employee address change during the preceding year.
 - Total tax amount owed to each municipality and school district.

Aggregate payroll information

- Total compensation paid within the tax jurisdiction for the prior year.
- Total tax deducted for the prior year.
- Total tax paid to tax collector for the prior year.
- Other information mandated by DCED.

- Discontinuation of business. Section 512(8) provides an exception applicable to an employer who discontinues business. Any such employer is required to file a return and pay tax within 30 days after discontinuing business within any county.

4. **New tax collector reporting and distribution rules – effective 01/01/12.**

Act 32 makes major changes in required tax collector distributions.

- Tax distributions – monthly reports and distributions by tax collectors are required; distributions based on estimates are prohibited.
- Interest payments by one tax collector to another tax collector are required under certain circumstances.

- a. Accelerated reporting and distribution required. Sections 509 and 513 make major changes in the provisions applicable to tax collector reporting and distribution of taxes to taxing authorities and other tax collectors. The new rules are effective starting 01/01/12.
- b. Monthly reports required. Section 509(b) requires that every tax collector, within 20 days after the end of each month, provide a written report on a DCED prescribed form of: (1) tax collected for each taxing authority; (2) investment income earned for each taxing authority; (3) penalties, costs and other funds collected for each taxing authority; (4) funds spent (although unclear, presumably this means expenses charged to a specific taxing authority in connection with collection activities); (5) funds distributed to each taxing authority served by the tax collector; and (6) funds distributed to tax collectors for other TCDs. This report must be delivered to each taxing authority for which taxes are collected, and also to the applicable TCC. Section 510(b) provides that a taxing authority may file suit against a tax collector to compel monthly reports, and a court may impose a civil penalty of \$20 for each day the report is overdue, not to exceed \$500. Additional penalties are authorized if the tax collector annual audit reveals noncompliance.
- c. Prompt distribution required. In addition to the § 509 rules on reporting, § 513 establishes specific rules on required deadlines for distributing funds.
 - In-jurisdiction/out-of-jurisdiction distributions. As to tax collected from employers, § 513(a)(1) requires the county-wide tax collector to distribute the tax to taxing authorities within the county if owed to such taxing authorities, and to the county-wide tax collector for other counties if owed to taxing authorities within other counties.
 - 60-day general distribution rule starting 01/01/12. Tax amounts remitted by employers must be distributed within 60 days of the later of: (1) receipt; or (2) the employer deadline for payment. This 60-day distribution rule is

similar to the prior LTEA requirement for distribution within 60 days of the employer deadline for payment.

- 30-day general distribution rule starting 04/01/13. Starting 15 months later, with tax received from employers on or after 04/01/13, the general rule is changed to 30 days. This 30-day rule will represent a significant acceleration of the prior LTEA 60-day distribution rule.
- 30-day rule starting 01/01/12 for multi-site employers filing combined tax return. For any employer who chooses a combined tax return under § 512(5), the tax collector must distribute the tax within 30 days of the last day of the month following receipt, starting 01/01/12.
- 60-day rule for tax from individuals/other tax collectors. Tax received direct from individual taxpayers or from other tax collectors before 04/01/13 must be distributed within 60 days of receipt. Starting 04/01/13, this becomes 30 days.
- Minimum distribution frequency is monthly. This means that tax collectors will need to distribute taxes at least monthly based on the following:
 - In most cases, the largest amount of tax will be received with quarterly tax returns, and distributed initially within 60 (and later 30) days after the return due date.
 - Taxes that are paid after the due date must be distributed initially within 60 (and later 30) days of receipt, which will require smaller but regular monthly or more frequent distributions.
 - Multi-site employer combined tax return payments must be distributed monthly.
 - Tax received direct from taxpayers and other tax collectors will require monthly or more frequent distribution.
 - Under the prior LTEA, many taxing authorities received distributions only quarterly. The monthly distributions will represent a significant new requirement for tax collectors and (assuming it does not increase tax collection cost) benefit for taxing authorities.

- d. Identification requirements for distribution/no estimated payments allowed. Section 513(a)(2) states that, as to taxes received directly from an employer or taxpayer, the tax funds may be distributed solely based on matching payments to tax returns filed by the employer or taxpayer. A very significant change is that § 513(a)(2) prohibits tax collectors from distributing tax to taxing authorities or other tax collectors based on estimates of amounts owed calculated from historic data. Similarly, as to funds received from another tax collector, the amount may be distributed to taxing authorities solely based on the information received by the

tax collector as to the taxing authority to which the money is owed – either information from an employer tax return filed with the first tax collector or information from an individual return filed with the second tax collector. Per § 513(a)(3), when a tax collector forwards funds owed to another tax collector, the first tax collector must transmit the same detailed information required in the Employer Quarterly/Monthly Tax Return filed by the employer with the first tax collector. These changes prohibiting estimated payments are a significant change. Many tax collectors currently make payments to taxing authorities and other tax collectors based on estimates derived from historic numbers. In many cases, employers have not provided adequate information to identify the taxing authority or tax collector to which the funds are owed, and the use of estimated payments has allowed distributions to taxing authorities pending obtaining information needed for final reconciliation of amounts owed.

- e. Unidentified funds. Section 513(a)(4) directs every county-wide TCC to prescribe steps the tax collector is required to take to identify the taxing authority to which tax is owed if the tax collector has received insufficient information. If the tax collector has followed such steps and still has not identified the correct taxing authority within 2 years after receiving funds, the tax collector is directed to pay the funds to the municipality in which the tax was collected. The prior LTEA § 6913(V)(h) required payment to such municipality if the correct taxing authority was not identified within one year after receiving funds.

- f. Claims between tax collectors/tax collector payment of interest/civil penalties. Per § 513(b)(1), if a tax collector finds (usually based on the taxpayer filing an annual tax return) that tax owed to the tax collector has been paid to another tax collector and not distributed as required, the tax collector may make a claim against the other tax collector. The other tax collector is required within 30 days to either pay the claim or respond in writing as to reasons why the claim cannot be paid. Per § 513(b)(2), if tax owed is not paid, suit may be filed in the county court, at any time within 7 years after the claim is made. The suit may include the amount of tax owed *plus interest* “from the date which the income taxes were received” by the other tax collector. The express requirement for a response from one tax collector to another is new. In addition, the requirement to pay interest is new.

Section 513 is ambiguous as to what triggers the requirement for paying interest. It could be argued that interest is owed on all fund transfers from one tax collector to another. However, since the interest obligation is only stated to apply in the context of filing a suit, we doubt this was intended. The more likely interpretation of § 513(b)(2) is that interest is owed whenever a payment is not made within 30 days of written claim from one tax collector to another. However, in this context, the obligation to pay interest would date from the time of receipt of funds, not the date of the written claim. Another possible interpretation is that interest is payable only if suit is filed. Section 513(b)(2) does not indicate whether interest is owed if the other tax collector had a legitimate reason for nonpayment, such as

having received insufficient information from an employer as to the taxing authority to which the funds are owed.

Interest payment by tax collectors is also addressed in § 510. Section 510(e) authorizes a TCD or taxing authority to file suit against a tax collector. Section 510(a) states that the TCD or taxing authority may seek recovery of tax owed *plus interest* “from the date that the income taxes should have been distributed.” This section implies that interest is owed even if suit is not filed. However, the language is far from clear, and it is also possible to argue that interest is payable only if suit is filed. Note also that § 510(a) is inconsistent with § 513(b)(2) on the date when interest starts to accrue. Section 510(b)(2) states that interests starts to accrue “from the date which the income taxes were received.” Section 510(a) states that interest accrues “from the date that the income taxes should have been distributed.”

In addition to the inconsistency between § 510(a) and § 513(b)(2) concerning when interest starts to accrue, there is another oddity. Section 510(e) specifically authorizes a suit by a TCD or taxing authority against a tax collector. However, it does not authorize the tax collector appointed by the TCD to file suit against another tax collector. In fact, the taxing authority and TCD would normally rely on the tax collector to enforce all tax collection obligations for the taxing authority and TCD. However, § 513(b)(2) does authorize one tax collector to file suit against another tax collector for tax owed.

Concerning the rate of interest that would be owed by one tax collector to another, § 513(b)(2) prescribes the “state interest rate” in accordance with 53 Pa. C.S. § 8426. Section 510 is silent on the applicable interest rate.

In addition to the provisions relating to payment of interest from one tax collector to another, § 510 prescribes potential civil penalties against a tax collector. Specifically, § 510(a) states that when a lawsuit is brought against a tax collector for failure to pay taxes owed to another tax collector, the court may impose a civil penalty up to \$2,500 for each quarter for which tax was not distributed – plus reasonable costs and attorney fees. The potential penalties are increased if a tax collector fails to distribute income taxes as required for 4 consecutive quarters.

- g. Other penalties for tax collector noncompliance. We have noted above various penalties prescribed for specific acts of tax collector noncompliance. In addition, § 510(c) provides a general authorization for legal action for any failure by a tax collector to comply with the requirements of Chapter 5, including the new distribution rules. Under § 510(c), the potential civil penalty is up to \$5,000.

5. **New DCED dispute resolution procedure for taxing authorities and tax collectors effective 01/01/12.**

Act 32 provides DCED mediation for certain tax collector disputes.

- a. Prior LTEA dispute resolution rules. The prior LTEA § 6913(V)(h) did not address the required time period for tax collectors to distribute taxes collected from individuals. As to taxes collected from employers, the prior LTEA § 6913(V)(h) required the tax collector to distribute tax, within 60 days of the employer deadline for payment, to the taxing authority to which owed, including taxing authorities served by the tax collector and also other taxing authorities not served by the tax collector. The prior LTEA then stated that if tax was not distributed to the taxing authority to which owed, within one year of receipt, the taxing authority could make a demand, and if not paid within 30 days from the demand could file suit. The past practice of many tax collectors has been to remit tax to the taxing authorities served by them at whatever interval is required by the taxing authorities, and to make periodic payments at least quarterly to other tax collectors for tax collected that is owed to taxing authorities not served by the by the tax collector. On an annual basis, tax collectors would reconcile tax received against tax returns filed by residents within the taxing authority served by the tax collector. Based on the reconciliation, the tax collector would make claims against other tax collectors based on taxpayer April 15 tax return information indicating tax was paid to a different tax collector, in most cases due to employer withholding and payment to the tax collector for the jurisdiction of the work site rather than the collector for the jurisdiction where the taxpayer resides. This system resulted in a long and cumbersome process, particularly with respect to claims among tax collectors. Frequently, disputes among tax collectors have taken several years to be resolved, and a substantial number of claims were often never resolved. Occasionally, one tax collector would file a lawsuit against another for failure to pay funds owed.
- b. Act 32 mediation. Section 505(k) seeks to expedite resolution of disputes concerning distribution of tax funds. In addition to the new tax appeal board discussed below, § 505(k) provides a procedure for DCED mediation of disputes with tax collectors, including the following:
- Initially, it is important to note that the Act 32 mediation provisions are highly ambiguous. DCED is directed to promulgate regulations concerning mediation. Presumably the regulations will clarify some of the ambiguity.
 - Per § 501(k)(1), mediation applies to disputes among “affected parties.” “Affected parties” is not defined, but presumably includes claims by a taxing authority against a tax collector, and claims by one tax collector against another tax collector.
 - Mediation is mandatory if a party claims 10% or greater deviation from taxes received in the prior calendar year – § 505(k)(1) defines this as “any dispute

among the affected parties involving a 10% or greater deviation from taxes received in the previous tax year....” Otherwise, mediation is voluntary.

- Although not expressly stated, § 505(k) implies that DCED will appoint a mediator.
- Section 505(k)(2) requires that notice be given to the TCC and DCED of submission of a request for mediation. Section 505(k)(2)(iii) requires that mediation be completed within 30 days following DCED determination whether the dispute is subject to mandatory mediation.
- Section 505(k) specifies other basic requirements for mediation, including that DCED costs incurred in mediation will be assessed equitably as determined by DCED.
- Section 505(k) includes a number of requirements that make no sense. For example, § 505(k)(2)(i) requires a statement of position to the mediator from the taxing authority, the tax collector, and the TCC. In fact, there seems little reason for involvement of the TCC in this process, and often the dispute will be solely between tax collectors.

6. **New tax appeal board rules – effective 01/01/12 (but appointment required by 01/01/10).**

Act 32 requires a new independent tax appeal board composed of 3 or more TCC delegates for appeals by taxpayers, taxing authorities, and other tax collectors.

- a. **Prior LTEA/TBR appeal rules.** The Pennsylvania Local Taxpayer Bill of Rights, 53 Pa. C.S. § 8431 *et seq.*, has for many years required that taxing authorities or tax collectors provide an appeal process by which taxpayers can appeal tax collector decisions made in the administration and collection of taxes. In most cases, the appeal process has been provided by a hearing procedure involving an employee, agent, or legal counsel for the tax collector, with the possibility of a final appeal to the local taxing authority.
- b. **Act 32 tax appeal board.** Act 32 establishes different requirements. Per § 505(j), the TCC must appoint by June 1, 2010, a tax appeal board made up of 3 or more TCC delegates, for the purpose of hearing appeals. Section 505(j) expressly precludes the “tax collector” or any tax collector employee, agent, or attorney serving as a member of the tax appeal board. The apparent purpose of the new tax appeal board is to provide an appeal mechanism for taxpayers, taxing authorities, and other tax collectors that involves a ruling by a group independent of the tax collector.

Future tax appeals by taxpayers will be determined by this new tax appeal board, rather than as currently handled through an existing regional tax collection bureau or other appointed tax collection agency. In any event, tax appeal board members

might expect compensation for this type of work. The TCC will need to decide on a process for selecting tax appeal board members and what compensation, if any, will be provided for this position. Legal counsel will need to advise on any Ethics Act considerations associated with compensation. The role of the tax appeal board includes hearing and deciding appeals by taxpayers, employers, taxing authorities, or other TCCs relating to assessment, collection, refund, withholding, remittance or distribution of tax. Appeals are to be conducted in accordance with the Pennsylvania Local Taxpayer Bill of Rights, 53 Pa. C.S. §§ 8431 *et seq.*

- c. Tax appeal board expanded authority. Tax appeals under the Local Taxpayer Bill of Rights were limited to taxpayer disputes. It is important to note that an Act 32 tax appeal board will have greater authority – it will also hear appeals by taxing authorities or other tax collectors claiming that tax revenues have not been properly distributed.
- d. Tax appeal board expense/legal counsel. The independent tax appeal board will likely entail extra legal expense. Historically, the tax collector legal counsel has generally served as counsel for tax appeals. Under Act 32, presumably this will be a function of the TCC legal counsel.

7. **Comments on new tax return, employer withholding, tax collector distribution, interest payment, dispute resolution, and tax appeal board rules.** The new employer withholding, tax collector distribution, interest payment, and dispute resolution rules will have significant impacts on employers, tax collectors, and taxing authorities. The following are initial comments on likely effects.

- Act 32 provides a substantial benefit through state-wide uniform tax return forms.
- Universal non-resident withholding will have some clear benefits for employers, but might have some surprising unintended consequences.
- Universal non-resident withholding imposes substantial new requirements on employers.
- Universal non-resident withholding will require a large amount of tax funds to travel a circuitous route.
- The multi-site employer option, prohibition against tax distribution based on estimates, and tax collector interest payment rules could have unintended consequences – these items require special attention by tax collectors and TCCs.
- The independent tax appeal board might have benefits for taxpayers and taxing authorities, but will require extra time of taxing authority representatives and impose added expense on taxing authorities.

a. State-wide uniform tax return forms. Employers, accountants, and other tax return preparers that currently file tax returns in multiple jurisdictions will have tax return preparation simplified by state-wide uniform tax return forms and rules. However, although tax return preparation and payment will be somewhat simplified by state-wide forms and procedures, some employers and tax return preparers will be surprised by the significant extra burden involved in the expanded requirements for tax return filings and information required to be included in filings.

b. Universal non-resident withholding effects.

- As to employers, the requirement of universal non-resident withholding expands the employer withholding obligation and makes clear that employers must withhold tax from compensation of every employee subject to tax, not just employees who reside within the jurisdiction of the taxing authority where the employment place is located. In addition, this withholding obligation imposes a duty on the employer to obtain substantial additional information concerning employees beyond that currently obtained by most employers, including residence information provided by the employee, and also information gained from the DCED tax register as to various tax rates applicable to each employee. Similarly, employers will be required to provide to tax collectors substantial additional information beyond that currently required in most jurisdictions for quarterly or monthly employer tax returns.
- As to tax collectors and taxing authorities, the universal non-resident withholding will require that a large amount of tax funds travel a circuitous route before reaching the taxing authority to which the funds are owed.

Non-resident withholding means that the employer always remits the tax to the tax collector for the employee's employment place. In cases where the employee lives in a different jurisdiction where local income tax is imposed, the tax is owed to the jurisdiction of the employee's residence, with some exceptions such as when Philadelphia is the employment place. Thus, under non-resident withholding, the tax collector is required to forward certain funds collected to other tax collectors having jurisdiction where employees reside, meaning that some tax funds follow a circuitous path from employer, to employment place tax collector, to employee residence tax collector. Historically, this transfer of funds has occurred to a certain extent. In many areas where EIT collection has been very fragmented, universal non-resident withholding will decrease the amount of funds subject to this circuitous transfer process. This will occur because one tax collector will have jurisdiction over a significantly larger geographic area. However, in some areas where regional tax collection has previously existed, universal non-resident withholding will increase the amount of funds subject to this transfer process. This will occur because employers in these and surrounding areas that previously forwarded tax payments directly to the tax collector where the

tax was owed will no longer be permitted to do so and will instead be required to remit tax to the workplace tax collector for redistribution.

- In areas where there is significant consolidation of tax collectors, universal non-resident withholding should significantly expedite the distribution of tax funds to taxing authorities. However, in some other areas, absent countervailing factors, the increased amount of funds following a circuitous path instead of payment directly to the tax collector where owed might slow down taxing authority receipt of tax funds, which in turn might diminish tax revenues when the new requirement first becomes effective in 2012, or possibly earlier if one or more TCCs accelerate the timeline as allowed by § 512. Of course, potentially significant countervailing factors include the accelerated distribution rules and the requirement for tax collector payment of interest in some cases.
- c. Multi-site employer option effects. The option for large employers to pay taxes in only one county will mean that tax collectors in certain jurisdictions will receive very large amounts of tax money for redistribution to other tax collectors. Once again, absent countervailing factors, this might have the effect of delaying receipt of tax funds by taxing authorities, which in turn might diminish tax revenues when the new rules first become effective in 2012, or possibly earlier if one or more TCCs accelerate the timeline as allowed by § 512. Two significant countervailing factors that should help mitigate this impact are the requirements that multi-site employers file monthly and electronically, and that tax collectors distribute funds received from multi-site employers within 30 days of the month following receipt.
- d. Delinquent employer rules effect. The § 512(6) provision allowing a tax collector to require monthly payments by delinquent employers should help accelerate delinquent collections.
- e. New tax collector distribution rule effects.
- No distribution based on estimates. The prohibition against distributing tax money based on estimates is very significant. This will require that tax collectors work closely with employers to ensure employer compliance with the detailed tax return reporting requirements. Historically, tax collectors have often had difficulty obtaining complete information from employers, requiring substantial back-and-forth with employers. Considering that as a practical matter, even with an intensive employer education and communications campaign, employer tax returns will still often have missing data, the rule precluding distribution based on estimates will almost certainly have the effect of requiring that tax collectors hold and not distribute substantial funds that historically have been distributed by tax collectors based on estimates. In other words, substantial funds will be frozen and prohibited from distribution – until the correct taxing authority is identified, either through dialogue with the employer or by reconciliation and response to

claims after individual taxpayers file annual returns. Once again, absent countervailing factors, this might have the effect of delaying receipt of tax funds by taxing authorities, which in turn might diminish tax revenue when the new requirement becomes effective in 2012, or possibly earlier if one or more TCCs accelerate the timeline as allowed by § 512. Whether in the long run the prohibition of distributions based on estimates will be a help or a hindrance remains to be seen – this will largely depend on the extent to which tax collectors are able to work with employers to improve tax reporting so as to ensure that tax collectors promptly receive all information needed for distribution. This will require a concentrated effort to improve historic compliance by employers. In many cases, this will also require new technology by tax collectors, employers, and payroll services. In addition, § 513(a)(4) requires each TCC to prescribe steps its tax collector is required to take to identify the taxing authority to which tax funds are owed.

Since tax collectors might be forced to hold substantial tax funds for a longer than normal time period, this also suggests that, in the Tax Collection Agreement between the TCC and a third party vendor, the TCC should require the tax collector to pay to the taxing authority interest earned on tax funds – either all tax funds or on those not distributed within a specified time frame.

- Prompt distribution rules. The new prompt distribution rules might constitute significant countervailing factors that accelerate distributions and counterbalance the impacts that would otherwise slow distributions, particularly when the 30-day distribution rule becomes effective in 2013.

f. Tax collector interest payment rules effects.

- This is an area where the effects and applicable rules remain to be determined. As explained above, both § 513(b)(2) and § 510(a) require payment of interest from one tax collector to another under various circumstances. However, it is unclear whether interest accrues only after demand or filing suit.
- Historically, some tax collectors have filed claims against other tax collectors only on an annual basis, based on annual tax returns filed by individual taxpayers. With various factors such as the prohibition against estimated payments by tax collectors creating possible reasons for nonpayment, tax collectors will need to consider developing systems to assert claims more frequently and prior to individuals filing annual tax returns.
- Particular attention will be required in cases where multi-site employers file combined tax returns for multiple locations. On the one hand, this might be viewed as an opportunity for tax collectors receiving such funds – through delay in distribution of funds, the tax collector receiving the funds might earn extra investment income. On the other hand, this offers the potential for significant abuse from the perspective of taxing authorities to which such funds are owed.

- Tax collectors will also need to decide under what circumstances they will pay and expect payment of interest on funds transmitted from one tax collector to another. Given the ambiguity in the law, corrective legislation would be helpful.
- g. DCED dispute resolution rules effects. Once again, it remains to be determined whether the DCED mediation process will have any meaningful effect on expediting resolution of claims by taxing authorities and tax collectors. However, it is clear that the limitation on mandatory mediation to cases where there is a 10% or greater deviation from taxes received in the previous year will substantially diminish the value of such mediation. Similarly, the fact that the law provides only for mediation, and does not allow a binding DCED or arbitration decision, substantially diminishes the value of the process.
- h. Tax appeal board rules effects. Once again, it remains to be seen how the new tax appeal board rules will play out. The independent tax appeal board requirement might have benefits for taxpayers or taxing authorities. However, one thing is clear, namely that appeals will be more cumbersome and expensive. Appeal hearings will require involvement of TCC delegates, who in many cases will be school district or municipality governing board members or citizens with little, if any, knowledge or experience on technical tax issues. The TCC will need to decide on a process for selecting tax appeal board members and what, if any, compensation will be paid to tax appeal board members.

8. **New tax collector financial audit rules – effective 01/01/12.**

Act 32 requires increased scrutiny of tax collector finances.

- a. Section § 505(h) establishes new requirements for audit of tax collector records and accounts relating to taxes collected within each particular TCD.
- b. Requirements include the following:
 - Per § 505(h)(1), the audit must be by a certified public accountant (or other public accountant) specifically approved by the TCC. Although the audit could be performed by an accountant selected by the TCC, in most cases the accountant will be the auditor selected by the tax collector as the regular auditor of the tax collector's financial statements. In any event, the TCC will have responsibility to review and approve the selected accountant. The TCC approval process and other requirements should be included in the tax collection agreement. See also pages 56-58.
 - The tax collector accounts must be audited at least once each calendar year.

- The audit, financial statements, and audit report must meet other specific requirements per § 505(h)(1). Among other things, the audit report is required to address:
 - Review of tax collector records relating to cash received and disbursed for all taxing authorities.
 - Reconciliation of monthly reports given to each taxing authority with cash received on behalf of the taxing authority.
 - Analysis of compliance with the required bond amount.
 - Analysis of correct calculation of collection fees charged by the tax collector.
 - Per § 505(h)(2), the accountant must issue financial statements and an audit report in DCED prescribed form. In addition to the previously stated requirements, the report must include an auditor opinion letter and a report on tax collector compliance with Act 32. If the auditor issues a management letter to the tax collector, it must be included with the audit report.
 - The financial statements and audit report must be filed with DCED and all taxing authorities within the TCD prior to September 1 of the following calendar year. If there are findings of noncompliance with Act 32, the report must also be filed with the Auditor General.
 - The tax collection agreement should specifically address the required content of financial statements and the auditor report, including Act 32 required and any additional requirements deemed appropriate by the TCC.
- c. As compared to historic practice between taxing authorities and tax collectors, § 505(h) contemplates that the tax collector will provide more detailed financial statements and that the TCC will have substantially greater involvement in approval of the tax collector's accounting firm and review of the tax collector's financial statements and audits.

9. **New tax collector investment rules – effective 01/01/12.**

Act 32 imposes new investment rules for tax collectors.

- a. The prior LTEA was silent on rules applicable to tax collector investment of tax funds, leaving this issue entirely to decision of tax collection bureaus or agreements between taxing authorities and tax collectors.
- b. Section 509(a)(6) establishes specific investment rules.

- c. To begin with, § 509(a)(6) requires the TCC to adopt a tax fund investment policy, or at minimum a list of specific permitted investments.
- d. Section 509(a)(6) further establishes statutory rules concerning permitted investments that are similar to the rules now applicable to school district and municipal investments.
- e. Section 509(a)(7) directs that investment income be distributed as the TCC determines, which should be set forth in a tax collector investment income distribution policy, and for independent third party tax collectors also would be set forth in the tax collection agreement. This section strongly implies that all investment income earned by a tax collector should be paid to taxing authorities in a manner directed by the TCC; however, this section does not expressly mandate that investment income be paid to taxing authorities. In any event, this issue should be addressed directly in the tax collection agreement.
- f. Section 509 does not address whether independent third party tax collectors may commingle tax funds collected for different TCCs where the tax collector represents multiple TCCs. This is an issue that should be addressed in the tax collection agreement.
- g. Section 509 will require new tax collector investment practices and TCC monitoring of tax collector investments (most likely through the annual audit review).

10. **New tax collector bonding rules – effective 01/01/12.**

Act 32 imposes new bonding requirements on tax collectors.

- a. Section 509(d) establishes new bonding rules effective 01/01/12.
- b. Per § 509(d)(1), the TCC must take annual action to fix the amount of the bond “in an amount equal to the maximum amount of taxes that may be in the possession of the tax officer at any given time or an amount sufficient, in combination with fiscal controls, insurance and other risk management and loss prevention measures used by the tax collection district, to secure the financial responsibility of the tax officer in accordance with guidelines adopted by the Department.”
- c. Section 509(d) prescribes specific requirements for the terms of bonds, and also requires that a copy of all bonds be filed with each taxing authority.
- d. Section 509 will require TCC annual involvement in establishing the required tax collector bond amount. In this regard, § 509 also requires that DCED promulgate guidelines to help TCCs in determining appropriate bond amounts.

11. New tax collector tax record rules – effective 01/01/12.

Act 32 imposes new tax record requirements on tax collectors.

- a. Section 509(e) establishes new rules for tax collector tax records effective 01/01/12.
- b. Among other things, § 509(e) establishes that all tax records belong to both the taxing authority and TCD in which the taxes were collected. (It seems odd that the tax records would belong to the TCD. Moreover, it is unclear what is meant by joint ownership of the tax records.)
- c. Tax records must be retained according to the rules set forth in the Municipal Records Act, 53 Pa. C.S.A. § 1381 *et seq.*
- d. In understanding the impact of this section, it is important to note the definition of “tax records” set forth in § 501 as follows:

“Tax records. Tax returns, supporting schedules, correspondence with auditors or taxpayers, account books and other documents, including electronic records, obtained or created by the tax officer to administer or collect a tax under this act. The term includes documents required by section 509(e). The term ‘electronic records’ includes data and information inscribed on a tangible medium or stored in an electronic or other medium and which is retrievable in perceivable form.”

Section 509(e) specifically states:

“(e) Records – It shall be the duty of the tax officer to keep a record showing the amount of income taxes received from each taxpayer or other tax officer, the date of receipt, the amount and date of all other moneys received or distributed and any other information required by the department. All tax records shall be the property of the political subdivision and the tax collection district in which the taxes were collected. The tax collection district and tax officer shall retain all tax records as directed by the tax collection committee and, when applicable, in accordance with retention and disposition schedules established by the Local Government Records Committee of the Pennsylvania Historical and Museum Commission under 53 Pa. C.S. Ch. 13 Subch. F (relating to records). Tax records under this subsection may be retained electronically as permitted by law.”

- e. The TCC will be required to adopt a tax records policy defining rules applicable to tax collector records, and the requirements applicable to tax records should be set forth in the tax collection agreement.

- f. It is important to note also that § 515(b) discussed below establishes rules relating to tax records in connection with the transition plan for transition from the former LTEA tax collector to the new Act 32 tax collector.

12. **Delinquent tax collection rules – taxpayer/employer interest/penalties/fines – Chapter 7 provisions effective immediately; Chapter 5 provisions effective 01/01/12.**

Act 32 imposes new taxpayer/employer interest/penalty/fine rules.

- a. Act 32 establishes a new Chapter 7 that includes the various rules on collection of delinquent taxes. (Note also § 509(h) on lawsuits, and §§ 509(i) and (j) on interest, penalties, and fines.)
- b. Section 701 adds new definitions. However, the remainder of Chapter 7 is essentially the same as the prior LTEA, with the exception of cross reference to § 509, which provides a small increase in penalties applicable to delinquent taxpayers.
- c. Act 32 includes numerous different provisions authorizing lawsuits for collection of delinquent taxes or claims against other tax collectors. Various sometimes inconsistent provisions are included in §§ 509(h), 510(e), 513(b)(2), and 705. TCCs or tax collectors contemplating legal actions will need to review the applicable sections carefully and make appropriate decisions on how to proceed. In addition, the legislature should consider corrective legislation to eliminate inconsistencies.
- d. Section 509 prescribes new rules for taxpayer interest, penalties and fines, including modest increases in applicable penalties and potential fines.

Section 509(i) states the general rules that an individual taxpayer or employer who fails to pay tax when due will owe interest at the applicable state rate plus an additional penalty of 1% per month on the unpaid amount. Under prior LTEA §§ 6913 and 6922, the general rule was that interest accrued at the rate of 6% per annum plus a penalty of .5% per month. Thus, Act 32 provides a slight increase in the penalty amount.

However, § 509(i)(1) also adds a new provision to the effect that the penalty amount shall not exceed 15% in the aggregate. (Note: It is unclear whether the 15% limit applies just to the monthly penalty or also to the accrued interest. This is an ambiguity that should be addressed by corrective legislation.)

- e. In addition to § 509(i), § 706 provides separate authority for assessing interest and penalties against taxpayers. Section 706 cross-references § 509(i) concerning interest owed on delinquent tax payments. It also states that when a suit is filed to collect tax, the taxpayer is liable for the costs of collection.

- Declaration and payment provisions, setting forth tax return requirements.
- Employer withholding requirements.
- Powers and duties of the tax collector.
- Tax collection lawsuit rules.
- Interest and penalties for nonpayment.
- Fines and penalties for failing to file returns or comply with tax enactments.

Effective 01/01/12, § 6913 is repealed completely. Act 32 picks up some of the § 6913 provisions in Chapter 5 on Consolidated Collection of Local Income Taxes, § 501 *et seq.* However, other provisions have been omitted and are not incorporated anywhere in Act 32.

- The new § 501 provides basic definitions, including definitions of “earned income,” “net profits,” “taxable income,” and “income tax.”
- Section 501 defines “income tax” as an earned income and net profits tax, personal income tax, or other tax assessed on the income of a taxpayer levied by a taxing authority. “Taxable income” is defined to include “earned income” and “net profits” and in the case of a personal income tax, “income” as defined in the Pennsylvania personal income tax law.
- Section 502(a) states that: “Income taxes shall be applicable to taxable income earned ... beginning January 1 ... and ending December 31....”
- Section 502(c) includes a provision titled “declaration and payment,” which specifies income tax return requirements. Specifically, § 502(c) says that “taxpayers shall declare and pay income taxes,” and “every taxpayer must file a tax return by April 15 showing the amount of taxable income” for the prior year.
- It is likely §§ 502(a) and (c) are intended to limit a political subdivision EIT to taxing “earned income” and “net profits” as defined in § 501. However, the limitation of taxing power to “earned income” and “net profits” as defined in § 501 is not explicitly stated. Act 32 nowhere contains a provision comparable to the prior LTEA § 6913 provisions, which expressly state that the § 6913 definitions of “earned income” and “net profits” are part of and limitations on any EIT levied by a taxing authority.
- Because of this omission and the § 301.1 general “tax anything” authority, someone could argue that taxing authorities are now free to define taxable “earned income” and “net profits” in a manner that is either broader or narrower than the Act 32 § 501 definitions. Most likely this was not the legislative intent. However, by changing the structure of the legal authorization and deleting the prior § 6913 provisions, the legislature created ambiguity.

14. **Steps required based on income tax law changes.**

Act 32 will require many different steps by DCED, individual taxpayers, tax return preparers, TCCs, and most notably by taxing authorities, employers, and tax collectors.

- a. **Summary of required steps.** The following is an initial summary of notable steps that will be required as a result of the various income tax law changes:

DCED steps

- **Forms/regulations/guidelines** – DCED is assigned a major role in Act 32 implementation, including development of many different required forms, regulations, and guidelines, and providing technical assistance to taxing authorities and TCCs.

Individual taxpayer steps

- **Quarterly estimated returns** – Individuals with earned income not subject to withholding will be required to file quarterly returns, which in many places previously has been optional.

Employer steps

- **Employer technology** – Most importantly, many employers will need to update technology to allow collection and reporting of required information. Similarly, payroll processing services serving employers will need to do the same. The significance of new technology of Act 32 compliance cannot be overstated.
- **Employer withholding procedures** – Employers will need to educate business office employees on new withholding rules and implement procedures to comply with the new withholding rules, including understanding and use of the DCED tax registers and various new DCED forms, such as the certificate of residency, quarterly and annual tax returns, and employee withholding statements.

Tax return preparer and payroll service steps

- **New tax return forms/rules** – Tax return preparers and payroll service companies will need to conform to new rules and forms.

Taxing authority steps

- **New tax enactments** – Because existing tax enactments likely do not conform to the Act 32 income tax law provisions, most taxing authorities will be

required to adopt a new income tax levy resolution or ordinance in 2011 effective 01/01/12. Of course, taxing authorities will also be integrally involved in governance of the TCC established to oversee tax collection for the region to which each taxing authority is assigned.

TCC steps

- New tax regulations – In addition to the many other steps related to the new county-wide process, all TCCs will be required to adopt new or modified tax regulations in order to reflect the applicable tax law set forth in Act 32, DCED regulations, and other applicable sources. As discussed below in the outline, this must include rules under which a tax collector may abate interest and penalties for delinquent taxpayers.
- Investment policy – TCCs will be required to adopt an investment policy applicable to tax collector investment of tax funds.
- Tax records policy – TCCs will be required to adopt a records policy defining rules applicable to tax collector tax records.
- Tax appeal board – TCCs will be required to appoint a tax appeal board made up of 3 or more TCC delegates.
- Tax collector oversight – As part of the TCC oversight function, TCCs will need to develop policies and procedures for tax collector financial audit, including compliance with investment, bonding, and other rules.
- Other TCC steps – As addressed below in this outline, TCCs will be required to take many other steps related to the new county-wide process.

Tax collector steps

- Significant new responsibilities – Act 32 imposes very significant new responsibilities on tax collectors with respect to income tax law changes.
- New technology – Most importantly, tax collectors will need to update technology to allow processing of the new tax returns and facilitate compliance with the new tax collector distribution rules. The significance of new technology to Act 32 compliance cannot be understated.
- New tax return forms – Tax collectors will be required in 2011 to distribute new individual and employer tax returns, related instructions, and related DCED prescribed forms.
- Taxpayer/employer education – Tax collectors will need to establish intensive taxpayer, employer, and payroll service education campaigns to ensure understanding of the new withholding rules and new responsibilities.

- Enhanced employer compliance enforcement – Tax collectors will need to establish systems to ensure employer compliance with the new withholding rules, and enforcement procedures to address noncompliance. Once again, the importance of enhanced and effective employer enforcement procedures cannot be understated.
- New distribution rules – Tax collectors will need to establish systems to ensure their compliance with the new tax collector distribution rules, and enforcement procedures to ensure prompt claims and receipt of funds collected by other tax collectors for redistribution.
- Interest payment to and collection from other tax collectors – Tax collectors will need to establish a policy on when interest will be paid to other tax collectors on late distributions of tax funds owed to other tax collectors, and similarly when interest will be paid to other tax collectors.
- New investment rules – Tax collectors will need to comply with the new investment rules set forth in Act 32 and in TCC investment policies.
- New bonding rules – Tax collectors will need to comply with new bonding rules.
- New recordkeeping rules – Tax collectors will be required to change recordkeeping systems to comply with new tax collector tax record rules.

Tax collector accounting firm steps

- New financial statement formats and audit rules – Tax collector accounting firms will need to change audit procedures and financial statement formats in order to comply with the new rules on audit of tax collector records and accounts.
- b. Timing for required steps. As indicated above, most of the required steps for compliance with income tax law changes will be implemented in 2012. However, the sooner work is commenced on implementation, the better. This is particularly true as to addressing new technology and new employer compliance enforcement policies.

C. New Entity/County-Wide Tax Collection Steps – Effective Immediately

- Tax collection district (TCD) – the county-wide region designated for consolidated local income tax collection.
- Tax collection committee (TCC) – new government entity, which controls and oversees tax collection within the TCD, with responsibility to appoint a tax collector and monitor tax collection.
- TCC jurisdiction – income and possibly other taxes.
- TCC first stage – year #1 (2009-10) – organization and decision on tax collector.
- TCC first stage – year #2 (2010-11) – transition to new collection system.
- TCC second stage – future years (2012 and after) – tax collection oversight.

1. **Tax collection committee/new government entity.** Section 505 mandates a new government entity, called a **Tax Collection Committee (TCC)**, in every Pennsylvania county. The general role of the TCC is initially to appoint a tax collector or create a bureau to collect income tax on a county-wide basis, and thereafter in the future to monitor and oversee tax collector performance.
2. **TCC jurisdiction over income and possibly other taxes.** It is important to note that the TCC has mandated responsibility only with respect to income tax (EIT and PIT), and not with respect to Local Services Tax (LST) or other taxes. However, § 509(k) states that an Act 32 county-wide tax collector may collect LTEA taxes other than EIT and PIT when designated by the TCC to do so. Although not entirely clear, this appears to give the TCC the right to decide whether collection of LST and other LTEA taxes will be collected on a county-wide basis under TCC oversight. See also pages 38, 44, 49, 71.
3. **TCC leadership on real estate tax collection.**
 - a. Concerning real estate taxes, real estate taxes are not LTEA taxes, and therefore Act 32 does not directly provide authority or rules with respect to enhancement or consolidation of real estate tax collection. Nevertheless, it is important to recognize that, similar to LTEA tax collection in many Pennsylvania jurisdictions, real estate tax collection is fragmented, inefficient and unnecessarily expensive. Although not part of Act 32 or mandated duties, TCC involvement with real estate tax collection would flow naturally from the TCC mandated duties with respect to income tax collection.
 - b. Many school districts and municipalities across Pennsylvania have moved in the direction of considering options to lower real estate tax collection cost, and to implement more efficient real estate tax collection through prompt deposit of tax funds into school accounts. This process includes review and, where appropriate, revision of elected tax collector compensation as a means of best serving school

district taxpayers. In many cases, the end result is collection of real estate tax through a bank lockbox tax collection system.

- c. The Pennsylvania Economy League has for many years urged school districts to take action in this direction. Recently, in the September 2008 *PEL News and Views*, PEL states:

“Prior to February 15, 2009, local governing bodies can change the methods and rates of compensation for elected tax collectors, and these methods and rates will become effective for those tax collectors elected to four year terms of office beginning in January 2010. It is time for local officials and taxpayers to begin to do their homework so that they can make the best use of this rare cost-saving opportunity.

Local officials can directly influence the cost of real estate tax collection only by modifying the method and/or rate of compensation of their tax collectors, and these officials must be prepared to act if savings are to be realized. Final action in setting the methods and rates of compensation must be taken prior to February 15, 2009.”

- d. PASBO has also for many years urged school districts to take action to streamline and lower the cost of real estate tax collection. In this regard, PASBO conducted a workshop of November 5, 2008 providing information on lowering the cost of tax collection and options to implement tax collection through a bank lockbox system. PEL and PASBO have for many years been providing information to school districts and urging school districts in this direction – *in all cases, as a means of having a more efficient business operation and better serving taxpayers.*
- e. Although not mandatory, the TCC might consider taking a leadership position on lowering the cost and improving the efficiency of real estate tax collection – through various means, including establishing lower elected tax collector compensation rates, requiring or facilitating the use of bank lockbox tax collection systems, and consolidating real estate tax collection similar to the Act 32 mandate for consolidation of income tax collection. Consolidation steps could result in substantial decrease in the cost of real estate tax collection for school districts and municipalities that have not previously moved in the direction of consolidated collection through a bank lockbox tax collection system or other means of benefiting from the efficiencies of scale and latest technology.

4. **TCC process overview.** The following is a brief overview of the TCC process. Subsequent sections of this outline provide more detail on required TCC steps, and a timeline overview.

TCC geographic jurisdiction/governance

- a. The new § 504(a) establishes a single county-wide **Tax Collection District** (TCD) in each county, except Philadelphia where there is no TCD and Allegheny County where there are 4 TCDs. For a school district that straddles county boundary lines, the school district is included in the TCD of the county with the greatest share of the school district population. A municipality is included in the TCD in which its school district is located. If a municipality is located in more than one school district, the municipality is divided so that the portion of the municipality in each school district is included in the TCD for that school district – so that all taxpayers will be within the same TCD for both school district and municipal taxes. Thus, TCDs will generally follow county boundary lines, but will follow school district boundary lines where school districts straddle county lines. Some municipalities will be split so that part of the municipality is in one TCD and part is in another TCD. Each taxpayer will have only one TCD. DCED is directed to publish in the *Pennsylvania Bulletin* by January 28, 2009, a list of all TCDs and the school districts and municipalities or parts of municipalities within each TCD.
- b. Section 505 prescribes the TCC duties, essentially making each TCC the entity responsible for decisions on and oversight of income tax collection within each TCD.
- c. Per § 505(b), the TCC is controlled by a governing body comprised of representatives of each school district and municipality within the TCD that imposes an income tax. Section 505(b) directs the governing body of each school district and municipality that imposed an income tax prior to July 1, 2009 to appoint one voting delegate and one or more alternate delegates to be its TCC representative. This action must be taken by September 15, 2009. However, KKAG recommends appointment in February or March in order to facilitate advance planning for the TCC process.

Municipalities that are partly within one TCD and partly within another TCD will need to appoint delegates to each TCC. School districts and municipalities that do not impose an income tax may appoint nonvoting representatives.

At least initially, each school district and municipality must follow the statutory mandate of appointing an individual to represent the particular appointing school district or municipality. However, as noted below, the same person may serve as delegate for one or more school districts and municipalities. In addition, for the purpose of streamlining TCC governance, KKAG believes that a TCC may adopt bylaws that alter the basic statutory mandate – for example, by mandating that all municipalities within each school district jointly elect one delegate to represent all municipalities. See also page 39.

Act 32 imposes no minimum delegate qualification requirements. The TCC delegate need not be a resident of the appointing school district or municipality.

The TCC delegate representing a particular school district or municipality may be any individual appointed by the school district or a municipality. The same person may serve as delegate for one or more school districts and municipalities. For example, one person may serve as delegate for various municipalities, various school districts, or various school districts and municipalities. A school district could appoint the Treasurer or Manager of one of the municipalities within the school district as the school district TCC delegate. Similarly, a municipality could appoint a school district Business Administrator as the municipality TCC delegate. Although the statute does not mandate any particular qualifications, in order to ensure an effective TCC, it will be important that TCC delegates have a basic understanding of the local income taxes imposed within the TCD and the basic rules applicable to the income tax, whether an EIT or a PIT, and also of the income tax collection process.

A voting delegate or alternate may be removed at any time by action of the appointing school district or a municipality.

Alternate delegates may vote on behalf of the school district or municipality if the primary delegate cannot be present for a TCC meeting.

- d. Per § 505(b.1), unless otherwise provided in TCC bylaws, in order to have a meeting quorum to convene and take action, a majority of the appointed delegates must be present. In this case, a majority is determined by head count, not by weighted vote.
- e. Per § 505(c), voting at the initial TCC meeting is weighted. Instead of one person/one vote, each delegate has a weighted vote, with weighting based 50% on income tax revenues and 50% based on population. Income tax revenues are to be measured based on the most recent annual financial statement submitted by municipalities to DCED and by school districts to the Pennsylvania Department of Education.

DCED is directed to calculate the weighted vote of each school district and municipality by September 1, 2009. DCED will have a number of challenges in calculating the weighted vote. A first question is what fiscal year financial statements will be used. Will school district June 30, 2008 fiscal year financial statements be compared to municipality December 31, 2008 financial statements? What numbers are used for municipalities that are slow in filing annual financial statements? Will adjustments be made based on the different time periods reflected in different financial statements? How will tax revenues be calculated for municipalities that have only one financial statement for the entire municipality but are split into two TCDs? It is important to note that the TCC may adopt bylaws that instead allow one person/one vote, or another method of vote weighting for future meetings after the first TCC meeting.

TCC first stage – 2 years – organization, tax collection decision, and transition

- f. The first stage of TCC duties is essentially a 2-year long process, with year #1 of the first stage spent on organization and making the basic tax collection methodology decision, and year #2 of the first stage spent on transition to the new Act 32 collection arrangements.
- g. Per § 505(d), by September 15, 2009, the chair of the county commissioners in each county must give notice of a first TCC meeting, which must be held no later than November 15, 2009. Per § 505(e), the chair of the county commissioners or his or her designee must convene and conduct the first meeting – until TCC officers are elected.
- h. Per § 505(e), at the first meeting, the TCC elects officers – a chairperson and vice chairperson who must be voting delegates, and a secretary who need not be a voting delegate. The TCC chairperson is responsible to schedule future meetings and establish agendas.
- i. Per § 505, the TCC then holds a series of meetings over a period of approximately one year in late 2009 and 2010. The initial steps during year #1 are to establish TCC governance rules, decide on forming a joint TCC with one or more other counties, decide whether the TCC will have jurisdiction only over income tax or also over other LTEA taxes, make decisions on funding TCC operations, and appoint necessary personnel, including legal counsel, auditor, and whatever employees are determined to be needed. The subsequent year #1 steps are to study income tax collection options and appoint a county-wide tax collector.
- j. A basic question for each TCC is whether it should proceed as a single-county TCC, or alternatively propose joining with one or more other counties to form a joint TCC that will serve multiple counties, as authorized by § 505(a.2)(7). See also pages 44, 48.
- k. Another basic question under § 509(k) is whether the TCC will have exclusive jurisdiction solely for income taxes, or alternatively will also assume exclusive jurisdiction for other LTEA taxes, such as LST. See also pages 34, 44, 49, 71.
- l. The most fundamental question each TCC must address is whether the TCC will establish a new tax collection bureau, or alternatively simply retain an independent third party tax collector. Per §§ 505(a.2) and 507, basic options available to the TCC for tax collection are:
 - Retain independent third party tax collector.
 - Establish new tax collection bureau controlled by the TCC or otherwise governed by taxing authorities.

See also pages 44, 49.

- m. Per § 507(a), by September 15, 2010 – one year after the deadline for notice of the first meeting – the TCC must appoint a tax collector to start collecting taxes under Act 32 on a county-wide basis effective a little more than a year later on January 1, 2012.
- n. Per § 515(b), year #2 of the first stage – late 2010 and 2011 – is spent on planning and implementing transition from the prior tax collection arrangements to the new county-wide tax collection arrangements.

TCC second stage – future years – tax collection oversight

- o. Per §§ 505 – 514 , the second stage of TCC responsibilities in 2012 and future years, involves oversight of the county-wide tax collection arrangements and periodic decisionmaking on continuing or changing arrangements.

TCC process different where county-wide collection already exists

- p. It is important to stress that the TCC process will likely take substantially different forms and directions in different areas. The issues to be addressed may differ substantially in geographic areas where county-wide collection already exists in comparison to areas where county-wide collection does not currently exist. In areas where county-wide collection already exists, strategies should be developed to simplify or abbreviate the TCC process.

5. **TCC process details.** The following provides additional explanation of various required steps:

- a. TCC governance – many challenges/careful planning required. The TCC will be a large body in most TCDs. In many cases, the TCC will have between 50 and 100 delegates. This fact alone will make the conduct of meetings and decisionmaking a difficult process. With the statutory mandate for weighted voting rather than one person/one vote, the challenge will be even greater. In the absence of clear consensus among delegates, it will be important to make advance preparation for meeting voting, including preparation of a voting sheet or possibly an Excel spreadsheet to be used for computer tabulation of votes.

The challenges to conducting effective meetings presented by the large number and weighted voting strongly suggest adoption of bylaws that simplify the governance process. Whether or not the governance process is simplified, careful thought and advance planning will be required for each meeting.

Strategies should be considered to simplify governance and decisionmaking. Among other things, possible strategies to simplify governance and decisionmaking might include:

- Adopt bylaws that provide for delegate election and voting on a basis other than the mandated statutory weighted voting. One person/one vote is unlikely, because this would give substantial extra voting power to municipalities in

comparison to school districts. However, it should be possible to reduce the total number of delegates and develop other weighted voting methodologies that are acceptable to everyone and that are more simple than the complex and cumbersome Act 32 prescribed methodology.

- One possible strategy is to provide that school districts as a group and municipalities as a group will have equal voting – by having each school district appoint one delegate, and all municipalities within each school district jointly elect one delegate – then follow a one person/one vote system. This would both simplify voting and reduce the number of voting delegates.
- Another possibility is to provide that each school district and all municipalities within the school district will jointly elect one delegate – then follow a one person/one vote system. This would again simplify voting and reduce the number of voting delegates to an even more manageable number.
- Another possibility is for multiple school districts to appoint the same delegate and for multiple municipalities within more than one school district to appoint the same delegate.
- Act 32 is unclear on whether bylaws may be adopted that mandate these types of alternative arrangements. A strong argument can be made that Act 32 authorizes such alternative arrangements. However, this is far from clear. In order to clearly authorize such steps that will streamline governance, corrective legislation or a DCED regulation expressly authorizing such steps would be helpful.

See also page 36.

- Another possibility is for the TCC bylaws to establish small committees to address specific issues and make recommendations for ratification by the entire TCC. In this regard, consideration should be given to an executive/finance committee to have primary responsibility for developing recommendations on budget, finances, tax collector selection, and all major issues. Of course, other committees with more specific purposes would also be possible.
- Of course, any simplification of the governance process will require a consensus and willingness to sacrifice individual school district and municipality involvement in details in order to provide for a more effective overall process.

Important note: KKAG strongly urges consideration of strategies to simplify TCC voting and governance.

- b. Advance planning starting January 1, 2009 strongly recommended. Chaos and bedlam may result at the TCC first meeting unless school and municipal representatives engage in advance planning. Because of the complexity of the weighted voting process with many delegates and the complicated issues to be addressed, KKAG strongly recommends formation of an advance planning group within each TCD to develop strategies and plans in advance of the first meeting. Of course, any such advance planning group will need school district and municipal representatives. This advance planning will be helpful everywhere, but seems especially important where existing county-wide collection exists.

It will be extraordinarily helpful if consensus can be reached in advance of the first meeting on who will be selected as the TCC chairperson, and perhaps also on legal counsel. These two positions will be critical to effective conduct of the TCC process. Other issues that should be addressed as part of advance planning include:

- Most importantly, simplification of the governance process and development of bylaws.
- Is a single-county or multi-county TCC desirable?
- Will the TCC assume jurisdiction over taxes other than the income tax?
- Should the TCC explore formation of a tax bureau, or simply plan to retain a third party tax collector?
- Financial and management issues, including what employees will be required, process for appointment of auditors, annual budget, and financing mechanism.
- Coordination of initial meeting with Chair of County Commissioners, and deciding on the appropriate meeting place.
- Basic tax facts and documents – what are the facts as to taxes currently imposed and related documents that are relevant to TCC decisionmaking?

PASBO has formed an Earned Income Tax Consolidated Collection Task Force that began meeting in 2008. The PASBO Task Force has started developing a work plan that will provide essential resources for all TCCs. The work plan incorporates many different aspects, including providing forms that will be needed by all TCCs and collaboration with DCED and municipal government organizations to coordinate implementation efforts. The PASBO task force is a major first step in the TCC advance planning process essential for Pennsylvania school districts and municipalities.

There are also opportunities through advance planning for TCC collaboration to save money by joint purchases of services or products needed by all TCCs, such as TCC insurance coverage. As discussed in more detail below, PASBO or other

groups representing school districts or municipalities should consider addressing such needs in advance of TCC meetings and sponsoring joint purchase programs to save expense for TCCs.

Important note: KKAG strongly advises formation of a leadership group and advance planning for the TCC process – starting January 1, 2009.

- c. TCC first meeting. As explained above, per 505(e) the primary purpose of the first meeting is to elect officers, particularly a chairperson who will be responsible to schedule future meetings and guide the TCC through required steps. The elected secretary has responsibility to maintain minutes and records and provide notice of each TCC meeting, including public notice and separate written notice to each delegate and alternate. As discussed below, the chairperson should also at the first meeting discuss legal counsel appointment and recommend action either to hire specific legal counsel, or to authorize an RFP and interview process with selection to occur at the second TCC meeting. The first meeting should also include discussion of the procedure for development of bylaws, and possibly the appointment of a bylaws committee. With advance planning it would be possible to conduct additional business at the first meeting, such as appointment of legal counsel, auditors, and any employees; adoption of bylaws; decision on whether the TCC will be a single or multi-county TCC; decision on whether the TCC will assume jurisdiction over taxes other than the income tax, and possibly other decisions. However, decisions on these additional items would be possible only with substantial pre-meeting planning, and communication and discussion with delegates. Of course, what decisions can be made at the first meeting will depend entirely on the wish of the delegates.

Per § 505(g), for the initial and any future elected officers, the TCC must notify DCED of the name and address of each officer within 30 days of election.

Important notes: (1) The chairperson is a very important individual in the TCC process. In order to ensure an efficient and effective process, careful selection of the chairperson will be very important. (2) TCC legal counsel is also a very important decision. Act 32 is long and complicated legislation. In order to ensure good guidance for effective decisionmaking, it will be important that the TCC select a law firm having a thorough understanding of tax collection processes and Act 32 requirements.

- d. TCC future meetings. Because of the many required steps for every TCC, it is obvious that multiple future meetings will be required in the first stage, even in areas where successful and effective regional tax collection arrangements already exist. Even in these geographic areas where the process might be considered superfluous, this initial process will likely be time consuming and expensive. However, in such areas, there are ways by which the first stage process can be greatly shortened and expedited. In addition, it is important to understand that the

new government entity remains in existence and operation forever – its existence does not end after the first stage initial year long process. The government entity is mandated to monitor and oversee county tax collection activities into the future.

- e. Meeting place. Before the second meeting, the chairperson will need to make arrangements for the TCC future meeting place, and make sure the basic tax facts and documents relating to the taxing authorities have been collected and summarized. With assistance from legal counsel, the chairperson will also need to begin development of a timeline for future steps and agendas for future meetings to address all required steps.
- f. Appoint legal counsel. Per § 505(a.2)(5), the TCC must retain legal counsel and auditors. The chairperson will need to arrange a selection process, presumably including an RFP and interview process. Legal counsel selection must be one of the very first TCC steps, since legal counsel will be needed to assist in the preparation and adoption of bylaws, and to explain to the officers and delegates the various required steps and other requirements applicable to the TCC. As noted above, it might be possible with advance discussion and consensus to appoint legal counsel at the first TCC meeting. However, in many cases this will occur at the second TCC meeting based on an RFP process authorized at the first TCC meeting.
- g. Legal counsel responsibilities. Minimum items legal counsel will need to address promptly include:
 - Explanation to all delegates of and ensuring of compliance with applicable laws, including:
 - Act 32 – Remember, this is a long and complicated law. Before making decisions, the delegates need to understand the basic Act 32 requirements, future steps, and options.
 - Ethics Act per § 505(i)(4).
 - State Adverse Interest Act per § 505(i)(2).
 - Sunshine Law per § 505(i)(3).
 - Right-to-Know Law per § 505(i)(1).
 - Concerning conflicts of interest, it is important to note § 507(e), which states that a TCC delegate or alternate who is an employee or member of the governing body of an existing tax bureau, or an employee or member of the governing body of a taxing authority participating in an existing tax bureau, may discuss and vote on appointment a tax collector, and such action will not be considered a conflict of interest under any applicable law.

- Bylaws – advise on options; draft bylaws; ensure future compliance with bylaw requirements.
- Right-to-Know Law – draft policy.
- Joint TCC option – option of joining with other counties per § 505(a.2)(7).
- Option to assume exclusive jurisdiction over LST or other LTEA taxes.
- Legal ramifications of collecting tax through a bureau, or alternatively by appointment of a third party tax collector.
- Finances – advise on TCC finance and other requirements, including insurance needs.

Other less time-sensitive items legal counsel will need to address include:

- Tax collection options – One of the primary responsibilities of legal counsel is to advise the TCC on the fundamental question of which tax collection methodology will be used. The two basic options are:
 - Create a tax collection bureau controlled by the TCC or taxing authorities. This is the more complicated option, but offers the potential for greater local control and more effective tax collection. Legal counsel should be prepared to discuss the pros and cons of a tax collection bureau as well as the steps and future effects of creating a bureau.
 - Collect tax through an independent third party tax collector – once again, legal counsel should be prepared to discuss the pros and cons and issues involved with selecting and appointing a third party tax collector.

See also pages 38, 49.

- RFP process for retaining independent third party tax collector – Although TCC legal counsel will be required to provide guidance, DCED is directed under § 508 to provide recommendations on the RFP process, including a sample tax collector RFP. KKAG believes the best process is for the TCC to develop a tax collection agreement form included with the RFP. This will both ensure the agreement includes adequate protections, and also that proposals from various third party tax collectors are comparable.
- Tax collection agreement form, if independent third party tax collector is appointed – Section 507(d) mandates a written agreement between the TCC and the tax collector. Legal counsel should advise on required provisions and either draft or otherwise negotiate with the third party tax collector the tax collection agreement form.

- Tax regulations, policies and procedures – Per § 505(a)(7), the TCC is required to adopt regulations, policies and procedures for tax administration.
 - Tax appeal board requirement – Legal counsel will be required to explain the tax appeal board process and required steps, and also in the future provide legal advice to the tax appeal board.
- h. Executive director/other employees. Per § 505(a.2)(4), the TCC may, but is not required to, appoint an executive director and other employees. However, based on the many required actions, it seems likely that most TCCs will need either to use the services of one or more school district or municipality employees, or to hire one or more full-time or part-time employees. Every TCC will need a strong leader to ensure all required TCC steps and TCC responsibilities are fulfilled. Unless assumed by the TCC officers, duties of such direct or borrowed employees would include:
- Collect and summarize tax facts and documents relevant to TCC decisions, including:
 - Tax type and rate imposed by each taxing authority.
 - Copies of tax enactment documents.
 - Information on any pending changes.
 - Most recent fiscal year tax revenue for each taxing authority.
 - Current tax collectors.
 - Copies of current Tax Collection Agreements (including compensation rate)
 - Some of the above information is readily available on the DCED Tax Register; other information will need to be collected from taxing authorities.
 - Ensure mandated Act 32 steps occur – see timeline and this Detailed Legal Analysis.
 - Oversee selection process for legal counsel, auditor, and of tax collector if TCC chooses the third party collector option.
 - Financial steps and oversight, including establishment and monitoring of bank accounts, preparation and implementation of annual budget, TCC expense allocation and collection, and interface with TCC auditor.
 - Right-to-Know Law compliance/serve as Open Records Officer.

- Ethics Act compliance, including obtaining and review of statements of financial interest.
- Sunshine Law compliance, including arranging required public notices.
- Obtaining and monitoring TCC insurance.
- Together with the new Act 32 tax collector, develop transition plan for change from former LTEA tax collector to new Act 32 tax collector.
- Maintain required TCC records.
- Oversee tax appeal board operation.
- Ongoing oversight of appointed tax collection agency.
- Coordinate TCC involvement in DCED mediation process to the extent appropriate.
- Calculate new weight for delegate votes each year (if TCC uses weighted voting).
- Except where a TCC establishes a tax collection bureau, the level of work required to lead the TCC will be substantially reduced during the TCC second stage/oversight of TCC operation.

Alternatives to perform required duties include:

- Full time Executive Director.
- Part time Executive Director.
- Executive Director shared with another TCC.
- Executive assistant or clerical employee perform some or all operations duties.
- School district, municipality, IU, county, or other employee serve as Executive Director, or by contract perform specified duties and report to TCC Chairperson.
- No employees – TCC officers perform some or all operations duties (with or without delegation or purchase of services from school district, municipality, IU, or county).
- If an Executive Director or other leader will be retained, it would be beneficial to retain and involve that individual in the advance planning prior to the first TCC meeting.

- If the TCC has an Executive Director or other employee, this raises additional complications and requirements in terms of personnel policies, payroll, and many other issues. If an employee is needed, the TCC should explore some type of joint employment relationship with a school district, municipality, IU, county, or other employer in order to allow human resource functions to be performed by an entity with a pre-existing employee base and human resources capability.
- i. Compensation. May the TCC compensate tax appeal board members or a TCC officer who performs employee operating duties? Section 505(a.2)(4) authorizes compensation for employees, but § 595(j) is silent as to tax appeal board members and officers, and Act 32 is silent as to whether officers may serve as employees. There is an open legal question whether compensation is prohibited if not expressly authorized, and whether an officer is precluded from serving as an employee. The TCC will need to decide if compensation is appropriate for a tax appeal board member or a TCC officer who performs employee operating duties. Legal counsel will need to advise on any Ethics Act considerations associated with compensation.

Important note: A very important decision is how the TCC will accomplish its many required duties, and whether this requires appointment of an executive director or other employees on a full-time or part-time basis. One possibility to consider is sharing an executive director or other employee with one or more other TCCs. Other possibilities include a TCC officer performing duties, or use the full or part-time services of a loaned employee from one of the TCC taxing authorities or of the county. If an executive director or other leader for the TCC will be retained, it would be highly beneficial to retain and involve that individual in the advance planning prior to the first TCC meeting.

- j. Adopt bylaws. Per § 505(f), by April 15, 2010, the TCC must adopt bylaws to govern the TCC operations. DCED is directed to provide sample bylaws. However, the bylaws will need to suit the particular TCC, and legal counsel input on appropriate bylaws will be very important. In addition, it is important to note that based on past history, DCED forms of this type are usually an excellent framework and starting point, but sometimes have omissions or require additions and therefore generally should be used only as a starting resource. Concerning the bylaws:
- Per § 508(d), DCED is directed to provide sample TCC bylaws by December 31, 2009. However, TCCs will need to adopt bylaws prior to that date. Hopefully, DCED will provide sample bylaws well in advance of the deadline. In fact, it would be most helpful if DCED provides the sample bylaws in early 2009 for use as part of advance planning.
 - Prior to the meeting at which bylaws will be voted on, written notice must be provided to each delegate and alternate delegate, including a copy of the

proposed bylaws and any proposed amendments. (The reference to providing advance notice of amendments is very odd. Presumably this means that if the officers know that alternate proposals will be presented at the meeting, the alternate proposals must be included with the written notice. It is unclear whether this provision prohibits the adoption at a meeting of amendments that were not included with the notice.)

- Section 505(f) prescribes basic matters the bylaws must address.
- The TCC must notify DCED within 30 days of adopting bylaws, presumably including a copy of the bylaws.

Important note: Although Act 32 establishes an April 15, 2010 deadline, adopting bylaws should be one of the first TCC steps. Plans for bylaws, meetings, and governance should be addressed as part of advance planning in early 2009 – well in advance of the first TCC meeting. With advance planning, the TCC could adopt the bylaws at the first TCC meeting.

- k. Adopt Right-to-Know Records Policy. Per § 505(i)(1), TCCs are subject to the Pennsylvania Right-to-Know Law, 65 P.S. § 67.101 *et seq.* The Right-to-Know Law requires that every covered entity have a Right-to-Know Records Policy and designate an Open Records Officer. Drafting and adoption of this policy and appointment of the Open Records Officer are items requiring early attention.
- l. Joint TCC option. Another item requiring early attention is the decision on whether to serve as a single county TCC, or alternatively join with one or more other counties to form a joint TCC pursuant to § 505(a.2)(7).
 - Advantages of a multi-county TCC would include:
 - Size and volume of revenue are critical to low cost tax collection. A multi-county TCC should provide lower cost and greater efficiency.
 - The amount of funds that will pass from one tax collector to another would be reduced.
 - If a third party tax collector is appointed, the larger population should provide greater bargaining power and presumably lead to a lower tax collector compensation rate.
 - Of course, the primary downside of a multi-county TCC will be the greater difficulty of governance with many more taxing authorities involved in governance. If a multi-county TCC is formed, steps to modify the statutory weighted voting and simplify governance will be of essence.

See also pages 38, 44.

- m. TCC jurisdiction over income and possibly other taxes. Act 32 states that an Act 32 county-wide tax collector may collect LTEA taxes other than EIT and PIT when designated by the TCC to do so. Per § 501(k):

“In addition to the power and duties enumerated in this section [mandating that TCC control collection of EIT within TCD], *when designated by the tax collection committee*, a tax officer may collect other taxes levied pursuant to [LTEA; Act 1], or other statutory law.”

Although the statute is not entirely clear, this appears to give the TCC the right to decide whether collection of LST and other taxes will be collected on a county-wide basis under TCC contract and oversight. At the current time, this is an open legal issue. KKAG believes § 501(k) means that the decision on collection of LST and other taxes is a decision made by the TCC. This would be the normal reading of the statutory language that says “when designated by the tax collection committee.” Moreover, this interpretation seems to be supported by the legislative history. Nevertheless, at the current time, DCED legal counsel has indicated verbally that DCED interprets § 501(k) to require not just TCC approval, but also approval by each taxing authority that imposes LST or another tax over which the TCC determines to take jurisdiction. This open issue will require further dialogue and possibly corrective legislation.

The PASBO Act 32 Task Force has suggested assuming that a TCC should generally assume jurisdiction over local services tax and other taxes collected or paid through employers, such as mercantile tax. Another consideration is whether the TCC should at some time take a leadership role on real estate tax collection consolidation. See also pages 34, 38, 44, 71.

- n. Bureau versus third party collector. The most fundamental decision – that must be made relatively soon – is whether the TCC wishes to form a tax bureau, or alternatively simply appoint a third party vendor to collect taxes. Creating a tax collection bureau offers many potential benefits, but also is a much greater undertaking. If the TCC chooses the tax collection bureau option, this will require a careful plan and detailed checklist with a timeline for all required steps. Forming a new tax bureau will require substantially more time than simply appointing a third party vendor as tax collector. See also pages 38, 44.4

Important note: The most fundamental TCC decision is whether to create a tax collection bureau or use a third party tax collector. ***This outline does not address the issues and steps associated with creating a tax collection bureau.***

- o. TCC finances. The TCC must address multiple financial requirements, including:
- Tax identification numbers – TCC legal counsel or accountant obtain federal tax identification number. In addition, if the TCC will be purchasing equipment or supplies, the TCC will need Pennsylvania sales tax identification/exemption number.

- TCC bank account – Plan and steps for TCC bank account; appoint TCC bank. In this regard, the Chairperson will need to coordinate a selection process, and the scope of banking needs will depend on the various decisions made concerning TCC operations and the annual budget.
- TCC annual budget – Per § 505(l), the TCC must adopt an annual budget that addresses TCC operating expenses and tax collector compensation. Of course, school districts and municipalities will need to incorporate in their budgets an amount to fund TCC operating expenses starting with the 2009-10 school year.
- TCC financing mechanism – Every TCC will have expenses. If for nothing else, every TCC will have expenses for legal counsel and auditors. Many TCCs will have expenses for multiple other needs. Per § 505(a)(5), the TCC must establish the manner of financing the TCC. Section 505(l) requires that expenses be shared in proportion to income tax revenue collected for each political subdivision. These expenses could be funded by up front cash payments, periodic contributions, or pursuant to Section 505(a.2)(9) the committee is authorized to borrow money to be repaid later by political subdivisions based on percent of revenue collected by each political subdivision. Since expenses will start when the TCC starts, decisions on the initial budget and financing mechanism and timing for payments are obviously priority items.
- TCC annual audit/auditor appointment – Section 505(a.2)(5) expressly authorizes the TCC to appoint a TCC auditor, and § 505(l) mandates a TCC annual budget. Section 505(h) requires audit of tax collector accounts by an accountant *approved by* the TCC. However, Act 32 nowhere expressly requires the TCC to appoint an auditor to audit TCC finances. Most likely this was an unintended omission. Every government body receiving and disbursing public funds should have an auditor. Accordingly, the TCC should appoint a TCC auditor, for the purpose of auditing TCC funds, and also providing financial and accounting advice as needed with respect to tax collector oversight. In this regard, the chairperson will need to coordinate a selection process, perhaps including an RFP and interview process. The scope of duties of the auditor will depend on the various decisions made concerning TCC operations. **See also page 23.**
- TCC borrowing – Per § 505(a.2)(9), a TCC may borrow money in an amount not to exceed 50% of “total revenues anticipated in the following fiscal year.” This is a very odd provision. It is unclear what is meant by “total revenues anticipated in the following fiscal year.” Does this mean the amount of revenue the TCC budgets to be assessed against taxing authorities for TCC operating expenses – the most logical interpretation? Or does this mean total tax revenues collected within the TCC – an illogical but more literal interpretation? In any event, what process is required to establish “total revenues anticipated in the following fiscal year”? KKAG’s understanding is

that the provision authorizing a TCC to borrow money was added primarily to provide for the substantial expense of creating a tax bureau. However, there is nothing to indicate that borrowing is allowed only if a tax bureau is created.

- TCC operating expense allocation – Per § 505(l), TCC operating expenses must be allocated based on the proportionate income tax revenues collected in each taxing authority in the prior year. Although the language is ambiguous, this appears to refer to the revenue collected in the prior calendar year for each taxing authority as set forth in the tax collector's audited financial statements per § 505(h). It is notable that this rule is different from weighted voting, which considers tax revenue and also population, and from rules applicable to tax collection cost allocation. See also page 52.

Important note: Every TCC will have expenses. A decision must be made on the manner of financing the TCC. Other important decisions include appointing a bank, appointing an auditor, and preparation and adoption of the annual budget.

- p. TCC insurance needs. Every TCC will have insurance needs. TCCs should consider and address as applicable the insurance needs:
- Public official and errors and omissions insurance (protecting governing body delegates, TCC officers, and TCC employees, if any). This basic insurance need is applicable to every TCC.
 - Property and casualty insurance (including general liability protection against claims of liability for bodily injury, property damage, or personal injury; property insurance, if applicable; and vehicle insurance, if applicable). General liability insurance is another basic insurance need that should be addressed by every TCC.
 - Crime coverage (for loss of TCC funds due to dishonesty). This particular requirement relates to TCC funds, not tax collector funds that will be covered by the tax collector bond.
 - Workers compensation insurance, if TCC has employees.
 - Other insurance as recommended by insurance agent.
 - As to each insurance coverage that is applicable, the TCC should address together with the insurance agent appropriate insurance limits.
 - There are be ways by which TCCs through collaboration or individually can develop strategies to reduce insurance needs and cost. Possible strategies for consideration include:

- Each delegate and delegate officer obtain errors and omissions insurance through the school district or municipality that appointed the delegate. This might be difficult to accomplish, but warrants further exploration.
- County, intermediate unit, designated school district or municipality, or other entity provide all administrative services to TCC and obtain policy endorsements to provide TCC insurance through the sponsoring entity insurance coverages.
- Considering repetition of the TCC process in virtually every Pennsylvania county, there are opportunities for expense saving through joint purchases. One possibility is to engage PASBO or another organization to take steps to develop an appropriate insurance package at a negotiated cost offered to all Pennsylvania TCCs. Since the same insurance package will be required in virtually every Pennsylvania county, with some variations from county to county, it should be possible to engage an insurance agent to negotiate with a major insurance company, preferably a company that specializes in public entity coverages, to develop one package with various options. This process should both ensure that all TCC required insurance needs are addressed, and should also provide substantial savings through a collective purchase program.

Important note: Every TCC will have insurance needs. The TCC must address insurance issues. Strategies should be considered to reduce insurance needs and cost.

- q. Tax collection cost allocation – options for differing collector compensation percentage rates charged to different taxing authorities.
- It is important to note that tax collection allocation is different from allocation of TCC operating expenses. As noted on page 51 above, § 505(l) mandates the manner in which operating expenses are allocated. However, § 507(c) leaves to TCC decision how tax collection cost will be allocated.
 - Whether applicable to a third party tax collector or a tax bureau, the most simple compensation arrangement for allocating the actual cost of tax collection would be a straight across-the-board percentage applicable to all taxing authorities within the TCC, and this will likely be appropriate in some TCDs. However, there are various reasons why this might be inequitable in some TCDs to some taxing authorities.
 - Currently, third party tax collector vendors charge different percentage collection commissions to different taxing authorities, based on actual tax collection costs.
 - Many taxing authorities have different income tax rates. The most common EIT rate for any particular geographic jurisdiction is 1%, comprised of .5% imposed by the school district and .5% imposed by the

municipality. However, many school districts and municipalities have higher EIT rates based on specific legislation that allowed increase of the EIT rate under various circumstances. For example, many school districts previously imposed an occupation assessment tax, and later swapped the occupation assessment tax for an increased EIT pursuant to Act 24. Similarly, a few school districts increased the EIT rate under Act 1 in connection with providing real estate tax reduction for homeowners. In some cases, municipalities also have higher EIT rates for various reasons. As a result, rates in many areas vary from the standard, and the combined rate applicable in some jurisdictions is 2% or more.

- Actual per-tax dollar cost incurred by a tax collector to collect EIT is decreased proportionate with increased tax rates because the collection cost is driven primarily by the number of returns processed, not by the amount of revenue processed. A tax collector generally incurs the same dollar cost to collect a 2% tax as is incurred to collect a 1% tax. Thus, everything else being equal, the per-tax dollar cost to collect a 2% tax is half the per-tax dollar cost to collect a 1% tax, and theoretically the percent of tax dollars charged by a tax collector to collect for a jurisdiction with a 2% tax rate should be half of the percent rate charged by the tax collector to a jurisdiction imposing a 1% tax.
- Other facts unique to particular jurisdictions might impact the cost of collection in a similar manner. For example, the cost of collection per-tax dollar is less in a wealthy jurisdiction where average income is very high in contrast to a less wealthy jurisdiction where the average income is very low. In this instance, higher earnings per return drive out higher revenue per return in the same manner as a higher tax rate. In the less wealthy jurisdiction, a much larger number of returns will be processed to produce the same amount of revenue. Accordingly, the cost incurred and percentage compensation rate offered by the tax collector will be lower in the wealthier jurisdiction.
- As an example, assume that a particular jurisdiction imposes a 2% EIT that produces \$10,000,000 revenue, and the collection rate currently charged by the tax collector is 1%, or \$100,000. Assume that the tax rate in another otherwise comparable jurisdiction is 1%, resulting in \$5,000,000 in revenue, and the tax collection rate charged by the tax collector is 2%, or \$100,000. If these two jurisdictions comprise the TCD, and the combined collection cost for both jurisdictions is \$200,000, a straight across-the-board percentage compensation rate for the TCD will 1.33%. This will result in a collection charge to the first jurisdiction of \$133,000, or a \$33,000 increase; and a collection charge to the second jurisdiction of \$67,000, or a \$33,000 decrease. Thus, a straight across-the-board percentage tax collector compensation rate could result in inappropriate extra expense to one jurisdiction and a windfall to another.

- TCCs will need to assess the factors applicable within the TCD and determine what approach is most equitable and appropriate. Should the compensation schedule provide a straight across-the-board percentage charge, or alternatively different percentages charges to different taxing jurisdictions?
- Tax collector collection costs are also influenced by tax collector internal cost such as facilities and technology. There are great economies of scale involved in collection for a large number of jurisdictions. For this reason the consolidation process should produce some collection cost savings for taxing jurisdictions in that a TCC can offer a larger book of business to a vendor than any one taxing jurisdiction. The cost saving through such economies of scale and leverage in bargaining with the vendor should benefit all taxing jurisdictions.
- Another possibility is to develop alternative compensation arrangements not based strictly on a percent of revenue collected.
- As to the legal framework, Act 32 appears to allow negotiation of rates that would vary for different taxing authorities within the same TCD in order to provide equitable tax collection cost sharing arrangements. Section 507(c) provides the following as to compensation:

“(c) Compensation. The tax officer shall receive reasonable compensation for services and expenses as determined by the tax collection committee. At the discretion of the tax collection committee, the tax officer may be permitted to withhold the amount of the tax officer’s compensation from income taxes collected, if the monthly reports required by section 509(b) submitted by the tax officer include an accounting for all compensation withheld.”

- Act 32 treats *tax collector compensation costs* differently from *direct TCC expenses*. Per § 505(1), TCC operating expenses must be shared in proportion to income tax revenues. Once again, this might be an inequitable sharing of expenses for various reasons. However, Act 32 does not provide flexibility for sharing direct TCC expenses in a different manner. Section 505(1)(2) specifically provides as follows:

“(2) The expenses of operating the tax collection district shall be shared among and paid by all political subdivisions within the tax collection district that are represented by voting delegates on the tax collection committee and shall be weighted in direct proportion to income tax revenues collected in each participating political subdivision based on the political subdivision’s most recent annual audit report required under this section.”

- r. Adopt regulations, policies, and procedures for tax administration. Section 505(a)(7) requires the TCC to adopt regulations, policies, and procedures for tax administration. It is important to note that this is a significant project. EIT and PIT rules are complicated and require careful consideration and drafting. Section 509(2) directs DCED by December 31, 2009 to provide sample regulations, policies, and procedures. This should be a help. However, it is also important to note that based on past history, DCED rules and forms of this type are usually an excellent framework and starting point, but sometimes have omissions or require additions and therefore generally should be used only as a starting resource.
- s. Adopt investment policy. Section 509(a)(6) requires the TCC to adopt a tax funds investment policy, or at minimum a list of specific permitted investments for tax funds held by an Act 32 tax collector. See also page 24.
- t. Adopt tax collector investment income distribution policy. Section 509(a)(7) directs that investment income be distributed as the TCC determines, which should be set forth in a tax collector investment income distribution policy, and for independent third party tax collectors also would be set forth in the tax collection agreement.
- u. Adopt tax records policy. As explained above, the TCC will be required to adopt a tax records policy defining rules applicable to tax collector records, and the requirements applicable to tax records should be set forth in the tax collection agreement. See also page 25.
- v. Tax appeal board. Per § 505(j), by June 1, 2010, the TCC must appoint a tax appeal board made up of 3 or more TCC delegates, and decide on what compensation, if any, will be provided for this position. As noted above, there is an open legal question whether compensation of tax appeal board members is permitted.

The TCC will need to decide on the process for selecting tax appeal board members, and legal counsel will need to advise on any Ethics Act considerations associated with compensation.

See also pages 18, 23, 47.

- w. Tax collector appointment. Per § 507(a), by September 15, 2010, the TCC must appoint a tax collection agency to collect tax on a county-wide basis. The appointment process will include:
- Selection of tax collection agency to serve as tax collector. If an independent third party collector is to be appointed, this will involve an RFP process as discussed in this outline above under "Legal counsel responsibilities."
 - Compensation arrangement for Act 32 tax collector.
 - Establishment of requirements for Act 32 tax collector bond.

- Drafting, negotiation and approval of written Tax Collection Agreement.
- x. Tax Collection Agreement. The Act 32 Tax Collection Agreement will be a very important document, requiring careful consideration and various provisions not incorporated in prior LTEA tax collector agreements. Important issues to be addressed in the agreement include:
- Term of appointment renewal/reappointment.
 - Termination rights of TCC and tax collector.
 - Procedures in event of termination.
 - Tax collector compensation rate and payment – including as a very important matters:
 - Whether different tax collector compensation percentage rates will apply to different taxing authorities based on the number of tax returns, income tax rate imposed, aggregate tax revenue collected within the taxing authority, and other relevant factors. See also pages 52-55.
 - Requirements for investment of tax funds pending distribution to the taxing authority, and whether the tax collector is required to pay interest earnings to the taxing authority.
 - Whether any different collection compensation rates apply to collection of delinquent taxes.
 - Possible alternative compensation arrangements not based strictly on a percent of revenue collected.
 - Provisions for handling of funds, including compliance with TCC investment policy, and any desired provisions requiring segregation of funds.
 - Tax collector bonding requirement. See also page 25.
 - Tax collector transition from former LTEA tax collector to new Act 32 tax collector.
 - Tax collector duties and responsibilities, including:
 - Tax distribution and reporting rules, including general distribution rules and also investment income distribution rules. Among other things, the agreement should require separate reports to the TCC, showing distributions to taxing authorities individually and in the aggregate.
 - Tax collector office locations.

- Tax collector personnel and staffing.
 - Legal compliance, including Act 32, Local Taxpayer Bill of Rights, and all applicable tax and other laws.
 - Tax collector financial practices, financial statements, and independent audits. **See also** pages 23, 50.
 - Unidentified fund rules.
 - Steps to be taken to maximize revenue through ensuring that no taxpayers are missed and all tax owed is collected.
 - Identifying and prosecuting non-filers.
 - Audit of questionable returns.
 - Delinquent tax collection steps, including responsibility for expense of delinquent tax collection and related legal proceedings.
 - Required consultation, if any, on initiation, prosecution and settlement of legal proceedings.
 - Tax collector right to charge costs and expenses of collection to taxpayer and permitted costs.
 - Taxpayer hardship application processing procedure.
 - Interest and penalty abatement rules.
 - Tax appeal board rules.
 - Tax record rules.
 - Permissibility of tax collector using subcontractors.
- Tax collector interest payments to other tax collectors – when will the required interest payment be charged to the taxing authority? When will the amount be paid from tax collector funds?
 - Taxing authority duties.
 - TCC duties.
 - Liability and indemnification.
 - Confidentiality.
 - Dispute resolution.

- Other appropriate provisions.
- It is important to note that § 507(d) requires a written agreement between the TCC and the appointed tax collection agency, even if the appointed tax collection agency is a long-standing regional tax collection bureau. The only exception to the written agreement requirement is where the TCC itself creates and operates a new tax collection bureau.

Important note: Since Act 32 requires TCC appointment of a new Act 32 tax collector effective January 1, 2012, it is important that taxing authorities make sure existing tax collection agreements expire on or before December 31, 2011.

- y. Act 32 tax collector appointment effective 2011 or 2012. Per § 515(b)(1), each taxing authority must take action by November 1, 2010, to determine whether the former LTEA tax collector or the new Act 32 tax collector will collect 2011 taxes – in other words, whether the new appointment will be effective January 1, 2011, or January 1, 2012. The taxing authority must notify DCED by December 1, 2010 of the decision. Of course, this decision must be coordinated with the decision under § 512 on accelerating the effective date for new employer withholding rules. See also page 7.
- z. Accelerate new employer withholding rules. Per § 512, the TCC has the option of making the new employer withholding rules applicable earlier than January 1, 2012. This action would require that the taxing authorities also take action per § 515(b)(1) to authorize collection of 2011 taxes by the new Act 32 tax collector. See also page 7.
- aa. Transition plan – transition to new Act 32 tax collector. Per § 515(b), by July 1, 2011 (or in 2010 if the new Act 32 tax collector will collect 2011 tax), each TCC must develop a transition plan for the change from the former LTEA tax collector to the new Act 32 tax collector.
- Obviously, public education concerning the change is a key component of the transition plan. The public education plan must address communication with individual taxpayers; employers; tax return preparers and payroll services; and taxing authorities.
 - Another key component is the transfer of tax records. Unless otherwise agreed between a taxing authority and the new Act 32 tax collector, per § 515(b)(3), by June 30, 2012, the former LTEA tax collector must deliver all **tax records** to the new Act 32 tax collector and the taxing authority. (This provision was not carefully considered: (1) There is little reason why a taxing authority would want the tax records; instead, they should go to the new tax collector. (2) In fact, before beginning tax collection activities, the new tax collector will need some tax records, particularly taxpayer and employer

identification information in order to mail tax forms and instructions in 2011 for use starting January 1, 2012. (3) This section allows variation by agreement between the new Act 32 tax collector and the taxing authority. However, the tax collection agreement will be between the new Act 32 tax collector and the TCC, not the taxing authority. (4) In considering the impact of this section, it is important to refer to the broad definition of "tax records" set forth in § 501 as set forth above in this outline.)

The new tax collector will obviously need prior tax returns and related information in order to deal with requests for refunds, delinquent tax collection, and out of jurisdiction claims. The new tax collector might resist receiving *all* tax records. However, § 515(b)(3) directs delivery of *all* tax records. In any event, the issue of transfer of tax records will be an important part of the transition plan.

- As to delinquent tax collection, per § 515(b)(4), unless a taxing authority has made other arrangements, the Act 32 tax collector must begin collecting delinquent 2011 and prior taxes by June 30, 2012.
 - Note the related discussion in the outline above on § 509(e) new tax collector tax record rules.
- bb. Department of Revenue information exchange agreement. Section 509(g)(1) mandates that each TCC enter an agreement with the Pennsylvania Department of Revenue for exchange of information as necessary for tax collection. Although not stated, presumably the deadline for this step is December 31, 2011.
- cc. Interest and penalty abatement rules. Section 509(i)(2) authorizes DCED to establish rules under which a tax collector may abate interest and penalties for delinquent taxpayers. This section also requires the TCC to approve the implementation of such rules by its tax collector. Act 32 provides no deadlines for these steps.
- dd. Unidentified funds rules. Per § 513(a)(4), the TCC must prescribe steps the tax collector is required to take to identify the taxing authority to which tax is owed if the tax collector has received insufficient information. Although not stated, presumably the deadline for this step is December 31, 2011. It might be helpful for the TCC to take this action prior to tax collector appointment and to incorporate this requirement in the tax collection agreement.
- ee. TCC second stage – future years – tax collection oversight. It is important to note that the TCC business does not stop after the initial approximate 2+ year process. Act 32 places responsibility on the TCC to continue to operate in the future and address various ongoing items of business, including:
- Annual Ethics Act statements of financial interests.

- Annual election of officers.
- Annual appointment of legal counsel and auditors.
- Annual budget adoption and related financial steps.
- Annual audit.
- Annual update of regulations, policies, and procedures and tax administration.
- Ongoing tax appeal board operations.
- Decisions with respect to any employees, consultants, or borrowed services.
- Ongoing oversight of appointed tax collection agency, including:
 - Review of tax collector audited financial statements.
 - Annual establishment of bond amount and obtaining copy of bond or other evidence of financial security.
 - Monitoring tax collection agency performance, including:
 - Revenues collected
 - Reporting and tax distribution performance
 - Non-filer identification effectiveness
 - Delinquent tax collection effectiveness
 - Taxpayer audit activities
 - Appropriate treatment of taxpayers and employers
 - Out-of-jurisdiction collections
 - Act 32 compliance
 - Future renewal of contract or RFP process

D. Lancaster County Tax Collection Bureau Opt-Out Option – Effective Immediately

1. **Background.** For more than 40 years, Lancaster County Tax Collection Bureau has conducted a highly successful and efficient regional tax collection operation. In fact, DCED and other organizations have frequently referred to LCTCB as a model that should be emulated state-wide. Because LCTCB already effectively provides the regional tax collection benefits intended to be implemented by Act 32, LCTCB requested and the legislature provided an opt-out provision allowing Lancaster County constituencies to avoid the unnecessary time and expense involved in creating a new and unnecessary government entity. The legislative agreement on the opt-out occurred after numerous lengthy meetings with legislators and DCED.

The opt-out provision will allow LCTCB to continue to collect taxes for taxing authorities in Lancaster County and Octorara Area School District.

Without the opt-out, Act 32 would require a new government entity in Lancaster County, as in other counties, called a Tax Collection Committee (TCC). It would also exclude Octorara from LCTCB. The Lancaster County Commissioners would be required in September 2009 to start the 2-year-long process involving the many steps explained in the **Detailed Legal Analysis**.

Among other things, this long process would involve each school district and municipality appointing delegates; periodic meetings of the 83 delegates of Lancaster County school districts and municipalities; the new entity electing officers; the new entity appointing legal counsel and auditors; the new entity adopting bylaws; the new entity establishing a financing mechanism and adopting a budget; and the new entity hiring one or more employees. The new entity would be required to study and consider the multiple possible EIT tax collection options, and finally make a decision on hiring LCTCB or an alternate collector, then enter a written contract with LCTCB or the alternate collector. At least initially, TCC voting would be weighted voting. Instead of one person/one vote, each delegate would have a weighted vote, with weighting based 50% on income tax revenues and 50% based on population. In addition, the new entity would be required to share expenses solely based on income tax revenues collected, to adopt new tax administration regulations, and to appoint and operate a tax appeal board according to new rules.

In addition, the new entity would continue to exist and operate perpetually in the future as an agency overseeing the tax collection work of LCTCB or an alternate collector.

Obviously, this initial and ongoing process would cause a significant waste of time and taxpayer money for Lancaster County and Octorara – where LCTCB is already in place as a regional tax collection agency.

The special opt-out allows taxing authorities in Lancaster County and Octorara to bypass this long process, and continue without interruption and without the expense and burden of the unnecessary new government entity.

The opt-out does not provide everything LCTCB requested. Most notably, the Dauphin County school districts and municipalities currently served by LCTCB will be required to collect EIT through whatever entity is created or selected to collect EIT in Dauphin County. This means that starting in 2012, LCTCB will no longer collect EIT for its Dauphin County constituents, unless the new Dauphin County TCC requests LCTCB to collect for all of Dauphin County.

In addition to the provisions requiring a new government entity in most counties, Act 32 enacts significant new income tax law changes. This includes various changes in tax rules, new employer withholding rules, new tax collector reporting and distribution rules, and requirements to adopt various new policies such as investment and tax record policies. It is important to note that LCTCB did not request exemption from the income tax law changes, and will be subject to the income tax law changes applicable uniformly across Pennsylvania.

2. **LCTCB opt-out process summary.** A snapshot of the opt-out process, TCC steps and changes that would be applicable to LCTCB is included in the attached **Timeline** (adapted from the **Detailed Legal Analysis**). A brief summary of the opt-out provision is as follows:

- a. Without regard to the opt-out provision, every Pennsylvania county will have, and every school district and municipality will be part of, a TCC that has responsibility to collect or appoint and oversee an entity to collect EIT on a county-wide basis. This is the new government entity that will be required in every county.
- b. Under the-opt out contained in Act 32 § 507(m), LCTCB may become the TCC instead of creating a new government entity. To implement this selection of LCTCB as the TCC, a majority of the school districts and municipalities within Lancaster County and Octorara by July 1, 2009, must adopt a uniform opt-out resolution expressing their desire to continue LCTCB as their EIT collector, and to appoint LCTCB as the official TCC for Lancaster County and Octorara. Since there are 83 school districts and municipalities within this geographic area, the resolution will require the affirmative vote of 42 of the LCTCB school district and municipal constituents. This action will make LCTCB the TCC for Lancaster County and Octorara, and eliminate the requirement for the new government entity otherwise required.
- c. KKAG has provided a suggested uniform resolution to implement the opt-out.
- d. The deadline for adoption of the opt-out resolution is July 1, 2009.
- e. Section 505(m) provides this opt-out option in very convoluted language that initially describes the geographic area served by LCTCB in Lancaster County and Octorara. Section 505(m) then states that the existing tax bureau serving this area will be the TCC for this area if the governing bodies of a majority of the political

subdivisions served by the tax bureau adopt a uniform resolution to this effect by the July 1 deadline.

- f. In addition, § 504(a) defines the general rule that a Tax Collection District (TCD) will be created for each Pennsylvania county and its constituent school districts and municipalities. Section 504(c) then establishes an exception by describing Octorara in very convoluted language, and then stating that Octorara will be part of a TCD established under § 505(m) if approved by the vote of school districts and municipalities currently served by LCTCB, including Octorara and the municipalities within Octorara.
- g. Although not stated in § 505(m), the process of obtaining a vote on the opt-out resolution should be coordinated by LCTCB, in consultation with DCED and the Lancaster County Commissioners, and the vote results reported to the Lancaster County Commissioners and to DCED.
- h. Per § 505(m), if sufficient school districts and municipalities do not pass the opt-out resolution, a new TCC will be required in Lancaster County as elsewhere in Pennsylvania, and Octorara school district and its constituent municipalities will be required to collect EIT through whatever entity is created or selected to collect EIT in Chester County.
- i. Per § 505(m)(3), every 4 years starting in 2013, the LCTCB constituents may by majority action of the school districts and municipalities remove LCTCB from its status as the TCC and require establishment of a new government entity to serve as TCC in Lancaster County. Although not entirely clear, presumably Octorara would then join the Chester County EIT collection system.

3. **What is the benefit of the opt-out? What rules apply to LCTCB after opt-out?**

- a. **Opt-out benefits.** Assuming LCTCB is appointed as TCC pursuant to the opt-out provision, LCTCB will become the TCC for Lancaster County and Octorara. In this capacity, LCTCB will be responsible to fulfill all of the duties of, and be subject to some of the requirements of a TCC as outlined in the **Detailed Legal Analysis**, Section C. However, as requested by LCTCB during the legislative process, in order to avoid unnecessary steps and redundancy of items already in place, LCTCB is exempted from a significant number of the requirements applicable to other TCCs. Per § 505(m)(1), the exemptions are summarized as follows:
 - Most importantly, LCTCB and Lancaster County and Octorara school districts and municipalities will not be required to have the 2+ year process of meetings to organize a new government entity, and study and make decisions on various tax collection issues per §§ 505(d) and (e). Instead, LCTCB will continue business as usual, focusing its time on providing the best possible service to its constituent school districts and municipalities.

- Lancaster County and Octorara school districts and municipalities will not be required to take action by July 1, 2009 to appoint new TCC voting delegates and alternates. Instead, per § 505(b), LCTCB as TCC will continue to have a more streamlined governance structure – with delegates and alternates appointed annually by school districts pursuant to the existing or future amended LCTCB Organization Agreement and Bylaws.
 - LCTCB will not be required to adopt new bylaws per § 505(f).
 - LCTCB will not be subject to the quorum rule of § 505(b.1). Instead, LCTCB meetings will be governed by the LCTCB Organization Agreement and Bylaws.
 - The § 505(c) weighted voting rules will not apply to LCTCB. Instead, LCTCB voting will be governed by the LCTCB Organization Agreement and Bylaws establishing a one-person, one-vote rule for school district representatives.
 - LCTCB will not be required to share expenses solely in proportion to income tax revenues collected. Instead, LCTCB will be permitted to continue its current method of allocating expenses partly based on revenue collected, and partly based on the number of tax returns processed.
 - LCTCB will not be required to adopt new tax administration regulations, policies, and procedures. Instead, existing LCTCB tax administration regulations, policies, and procedures will continue to apply, except to the extent changes are required by income tax law changes made by Act 32.
 - Per § 507(d), LCTCB will be exempt from the requirement for a formal written tax collection agreement between LCTCB and taxing authorities. However, written agreements currently exist with municipalities, and KKAG recommends development of an updated written agreement for use with municipalities and school districts.
- b. New LCTCB rules. Considering the above exemptions, the following is a summary of the requirements or new authority conferred or imposed on LCTCB as a TCC:
- Per § 505(a.2)(7), LCTCB could form a joint TCC with another county TCC.
 - As all other TCCs, LCTCB has been granted the power to borrow money, a power that did not exist under prior law.
 - LCTCB financial statements and audits will need to comply with the new requirements in § 505(h).

- By June 1, 2010, LCTCB will be required to appoint a tax appeal board. However, per § 505(j), there is one minor difference, namely that the committee may be made up of anyone residing in the LCTCB jurisdiction, meaning that committee members are not required to be members of the LCTCB governing body. However, the LCTCB tax appeal board members still may not be employees or attorneys employed by LCTCB.
- Per § 507(a), LCTCB will be required to appoint itself as tax collector for Lancaster County and Octorara.
- Aside from the provisions on the new government entity and the Lancaster opt-out, Act 32 will impose many new income tax law changes and new requirements on LCTCB, just as applicable to all other income tax collectors operating in Pennsylvania. This will include new employer withholding rules; new tax collector reporting and distribution rules; and requirements to adopt various new policies such as investment and tax record policies. These tax and collection provisions will apply uniformly across Pennsylvania, including LCTCB, and are outlined in detail in the **Detailed Legal Analysis**, Sections B and C.
- LCTCB may act as an appointed tax collector for other counties. LCTCB will need to make a strategic decision on whether it wishes to pursue alliances with other counties – either through forming a joint TCC, or alternatively simply by acting as the appointed tax collector. In this regard, it will be particularly important that LCTCB address whether it wishes to propose service for all of Dauphin County in order to allow LCTCB to continue to provide service to its current Dauphin County constituents.
- LCTCB and its board members, generally as before, will be subject to:
 - Sunshine Law per § 505(i)(3)
 - Right-to-Know Law per § 505(i)(1)
 - State Adverse Interest Act per § 505(i)(2)
 - Ethics Act per § 505(i)(4)

E. DCED Required Steps – Effective Immediately

1. General DCED responsibilities. Act 32 gives DCED substantial responsibility in implementing the Act 32 purposes. In addition to the many specific responsibilities outlined above, § 508 gives DCED the following responsibilities:

- a. Per § 508(d), DCED is directed to immediately commence a study of existing tax collection practices, with particular attention to practices of existing regional tax collection bureaus, such as Lancaster County Tax Collection Bureau, York-Adams Tax Collection Bureau, West Shore Area Tax Collection Bureau, and Berks County Tax Collection Bureau. DCED is specifically directed to study and address: (1) general tax collection practices; (2) tax regulations; (3) computer software and information systems; and (4) risk management strategies. Presumably, the purpose of this study is to provide assistance for TCCs that wish to establish tax collection bureaus rather than appointing independent third party tax collectors. However, some of the items will also be applicable to third party tax collectors. Per § 508(d), DCED is also directed to provide sample TCC bylaws and sample tax collector RFPs.
- b. DCED is specifically directed to investigate the feasibility of contracting on a state-wide basis for development of software systems that could be used by county-wide tax collection bureaus or their appointed tax collectors for the most efficient tax collection.
- c. DCED is to issue a report of its findings by December 31, 2009.
- d. In consultation with the Department of Revenue, DCED is to prescribe standard forms, reports, notices, returns and schedules, and promulgate necessary regulations.
- e. Per § 505(f), DCED is directed to promulgate regulations establishing minimum qualifications for tax collectors.
- f. Per § 508(a), all tax collection agencies will be subject to DCED prescribed mandatory continuing education requirements.

2. Forms DCED is required to provide. DCED is also directed to prescribe various specific forms, including the following:

- a. **TCC bylaws** – sample form – § 505(f); § 509(d).
- b. **Tax collector RFP** – sample form – § 509(d).
- c. **Certificate of Residency** – form to be signed by employee verifying residency – § 512(2).
- d. **Employer Quarterly/Monthly Tax Return** – § 512(4).

- e. **Employer Annual Tax Return** – § 512(7).
 - f. **Employee Withholding Statement** – form for employer delivery to employee evidencing compensation and tax withheld for prior year – § 512(7)(ii).
 - g. **Individual Taxpayer Quarterly Estimated Tax Return** – § 502(c)(2) mandates such returns and states minimum content – although this section does not expressly mandate DCED to create a uniform state-wide form, presumably DCED will do so.
 - h. **Individual Taxpayer Annual Tax Return** – § 502(c)(1) mandates such returns and states minimum content – although this section does not expressly mandate DCED to create a uniform state-wide form, presumably DCED will do so.
 - i. **Tax collector monthly tax report** – § 509(b) mandates monthly reports to taxing authorities, states minimum content, and requires DCED to create a uniform state-wide form).
 - j. **Tax collector monthly report to other tax collectors** – § 513(a)(3) directs DCED to specify information that tax collectors must transmit to other collectors when forwarding tax funds. Although Act 32 does not expressly require a uniform form for use in this process, presumably DCED will prescribe a uniform form for use by tax collectors in remitting funds to other tax collectors.
 - k. **Tax collector financial statement/audit opinion letter form** – § 505(h)(2).
 - l. **Tax levy resolution/ordinance** – Although not expressly required by Act, DCED should provide a recommended uniform form for EIT and PIT resolutions and ordinances levying the EIT and PIT. DCED has provided recommended forms for other LTEA taxes, and such uniformity would help with the state-wide standardization of EIT and PIT levy and collection. Moreover, a DCED model form seems particularly appropriate considering virtually all Pennsylvania school districts and municipalities will be adopting new tax enactments.
3. **Regulations and guidelines DCED is required to promulgate.** DCED is also directed to promulgate regulations or guidelines on the following:
- a. TCD boundaries and assignment of school districts and municipalities – by January 28, 2009 – § 504(a).
 - b. Taxing authority TCC delegates vote weight for each taxing authority – by September 1, 2009 – § 505(c)(3).
 - c. TCC and taxing authority numerical codes – § 512(7)(ii); § 504(a).
 - d. Quarterly estimated tax return rules – § 502(c)(2)(iv).

- e. Location where employer operating in more than one county may file combined tax return for tax withheld from employees – § 512(5).
- f. Specific information that tax collectors must transmit to other tax collectors when forwarding tax funds – § 513(a)(3).
- g. Rules for DCED mediation of disputes between TCCs, tax collectors, taxing authorities and TCCs – § 505(k).
- h. Tax collector bond and financial security guidelines – § 509(d).
- i. Tax penalty and interest abatement rules – § 509(i)(2).
- j. Solely for Lancaster County, rules for establishment of new TCC if LCTCB constituents initially approve LCTCB as the TCC and later withdraw the approval – § 507(m)(3)(iii).

- F. TCC Required Regulations and Guidelines.** The following are among regulations or guidelines that TCCs are required to promulgate.
- a. Unidentified tax funds rules – § 513(a)(4)
 - b. Tax funds investment policy – § 509(a)(6)
 - c. Tax collector investment income distribution rules – § 509(a)(7)
 - d. Tax collector delinquent taxpayer interest and penalty abatement rules – § 509(i)(2)
 - e. Regulations, policies, and procedures for tax administration – § 505(a)(7)
 - f. Tax records policy – § 509(e)
 - g. Right-to-Know records policy – § 505(i)(1) and 65 P.S. § 67.101 *et seq.*

G. Corrective Legislation or Additional DCED Regulation Needs

1. **Legislative corrections required.** Act 32 includes some ambiguous and inconsistent provisions and other drafting shortcomings. This section addresses some of the more significant problems that should be presented to the legislature or DCED for consideration. In the absence of legislative correction, DCED should consider promulgating regulations to address these issues.
2. **TCC governance/bylaws.** As noted above, Act 32 is unclear on the extent to which bylaws may be adopted to streamline cumbersome TCC governance – for example, by requiring that more than one taxing authority join together in appointing one delegate. In order to help with streamlining the TCC governance process, the right to include such provisions should be expressly authorized by corrective legislation or DCED regulation.
3. **Weighted voting.** As noted above, § 505(c) is unclear on what financial statements will be used to calculate weighted voting. This issue should be addressed by corrective legislation or DCED regulation.
4. **Bylaw adoption procedure.** As noted above, § 505(f) is unclear on whether bylaw proposals may be amended at the meeting where presented for adoption. Corrective legislation would be helpful on this point.
5. **Employer penalties for incomplete returns.** As noted above, Act 32 provides in § 509(i) strong criminal penalties for outright failure to file tax returns, failure to withhold tax or pay over tax withheld, and knowingly making incomplete, false or fraudulent returns. Unfortunately, this does not address the largest problem faced by tax collectors, namely employers who routinely submit incomplete or incorrect information concerning employee residence addresses or other employee information. There is no penalty for mere employer sloppiness, negligence, or repeated filing of returns with inaccurate or incomplete information. This problem will be even more serious under Act 32, because tax funds will be frozen with the tax collector until correct information is obtained. Corrective legislation should provide for progressive penalties based on repeated noncompliance resulting from sloppiness or negligence rather than intentional noncompliance.
6. **Tax collector interest payments.** As noted above, there are ambiguities and inconsistencies in the § 510(a) and § 513(b)(2) provisions concerning tax collector payment of interest. This is an important area that requires careful thought and corrective legislation.
7. **Lawsuits.** Act 32 includes numerous different provisions authorizing lawsuits for collection of delinquent taxes or claims against other tax collectors. Various sometimes inconsistent provisions are included in §§ 509(h), 510(e), 513(b)(2), and 705. The legislature should consider corrective legislation to eliminate inconsistencies.
8. **TCC borrowing.** Per § 505(a.2)(9), a TCC may borrow money in an amount not to exceed 50% of “total revenues anticipated in the following fiscal year.” This is a very odd provision. It is unclear what is meant by “total revenues anticipated in the following

fiscal year.” Does this mean the amount of revenue the TCC budgets to be assessed against taxing authorities for TCC operating expenses – the most logical interpretation? Or does this mean total tax revenues collected within the TCC – an illogical but more literal interpretation? In any event, what process is required to establish “total revenues anticipated in the following fiscal year”? KKAG’s understanding is that the provision authorizing a TCC to borrow money was added primarily to provide for the substantial expense of creating a tax bureau. However, there is nothing to indicate that borrowing is allowed only if a tax bureau is created. The rules applicable to borrowings require legislative attention.

9. **TCC jurisdiction over LST and other taxes.** As noted above, the TCC and Act 32 county-wide tax collector have mandated responsibility only with respect to EIT and PIT, and not with respect to LST or other taxes. Section 509(k) states that an Act 32 county-wide tax collector may collect LST and other LTEA taxes when designated by the TCC to do so. This section arguably allows the TCC to mandate county-wide collection of LST and other LTEA taxes, even if a particular school district or municipality prefers collection by another tax collector. However, Act 32 does not expressly state that the TCC has this power. This issue should be addressed by corrective legislation or DCED regulation.
10. **Tax records.** Unless otherwise agreed between a taxing authority and the new Act 32 tax collector, per § 515(b)(3), by June 30, 2012, the former LTEA tax collector must deliver *all tax records* to the new Act 32 tax collector and the taxing authority. This provision was not carefully considered: (1) In considering the impact of this section, it is important to refer to the broad definition of “tax records” set forth in § 501 as set forth above in this outline. (2) There is little reason why a taxing authority would want the tax records; instead, they should go to the new tax collector. (3) In fact, the new tax collector will need some tax records in 2011 before beginning tax collection activities, particularly taxpayer and employer identification information in order to mail tax forms and instructions for use starting January 1, 2012. (4) The new tax collector will obviously need prior tax returns and related information in order to deal with requests for refunds, delinquent tax returns, and out of jurisdiction claims. The new tax collector might resist receiving *all* tax records. (5) This section allows variation by agreement between the new Act 32 tax collector and the taxing authority. However, the tax collection agreement will be between the new Act 32 tax collector and the TCC, not the taxing authority.

Section 509(e) establishes that all records belong to both the taxing authority and the TCD in which the taxes were collected. It seems odd that the tax records would belong to the TCD. Moreover, it is unclear by what is meant by “joint ownership of the tax records.”

The whole area of tax records begs for further legislative consideration.

11. **DCED mediation.** As noted above, some of the DCED mediation provisions make no sense. For example, § 505(k)(2)(i) requires a statement of position to the mediator from the taxing authority, the tax collector, and the TCC; whereas in most cases disputes will

be between tax collectors, and the TCC will be involved in few cases, if any. Legislative corrections and DCED regulations are required to address some of the DCED mediation provisions.

12. **Payment of tax from one tax collector to another tax collector.** Under universal non-resident withholding, income tax must be withheld by employers and remitted to the tax collector for the place of employment, regardless of the employee's place of residence. If the employee does not live within the jurisdiction of the tax collector, the tax collector is required to redistribute the money to the tax collector of the employee's place of residence. Section 513(b)(1) authorizes the tax collector for the place of residence to make a claim against another tax collector if this does not occur. However, this section refers only to "non-resident taxes," which are defined as taxes levied by a municipality on a non-resident. This terminology is an error and § 513(b)(1) should refer to all "taxes," not just "non-resident taxes."

H. Key Dates/Timeline for Required Steps.

[Important notes: (1) This is merely a general timeline; a more detailed timeline of specific steps will also be required. (2) If the TCC decides to create a tax bureau, many additional steps will be required. This general timeline does not address the separate issues associated with creating a tax bureau. (3) This document is a work in process that will be modified from time to time. (4) The KKAG Detailed Legal Analysis explains the various law changes, steps, and other requirements in greater detail.]

Pre-TCC Stage – 2008/2009	Advance Planning for TCC Process
July 2, 2008	Chapter 3 general tax law provisions and Chapter 7 delinquent tax collection provisions effective (mostly a reenactment with minimal changes of prior LTEA)
<i>January 1, 2009</i>	<p><i>Taxing authorities should begin advance planning for TCC governance/first meeting/chairperson selection/other initial decisions</i> (Advance planning is necessary to simplify what will otherwise be a cumbersome TCC process. One or more individuals will need to form a planning group and assume a leadership role in each geographic area in order to facilitate advance planning. In addition, PASBO and other organizations representing school districts and municipalities should identify steps that can be taken to save TCC expense and facilitate the TCC process. In this regard, PASBO is already in the process of planning advance preparation of standard documents that will be needed by all TCCs. Consideration should also be given to sponsorship of joint purchase programs to satisfy common TCC needs such as insurance. Collaboration between school districts and municipalities will be important on all of these points.)</p> <p>Tax collectors should begin planning to update technology and take other steps to implement Act 32 requirements</p>
February/March 2009 or ASAP	Taxing authorities should appoint TCC voting delegates and alternates (Although the deadline is 9/15/09, earlier appointment is recommended to facilitate TCC advance planning.)
May 1, 2009	TCC delegates and alternates deadline to file Ethics Act Statement of Financial Interests with TCC for prior calendar year (if appointed before May 1)
July 1, 2009	Lancaster County taxing authorities deadline to adopt resolutions choosing whether to continue to collect EIT through the Lancaster County Tax Collection Bureau
September 1, 2009	DCED deadline to publish weighted vote for each taxing authority within each TCD (Hopefully, DCED will do so well in advance of September 1 to facilitate TCC advance planning.)

<p>TCC First Stage – Year #1 – 2009/2010</p>	<p>TCC Organization and Tax Collection Decision</p>
<p><i>September 15, 2009</i></p>	<p><i>Taxing authorities deadline to appoint TCC voting delegates and alternates</i> (Although the deadline is 9/15/09, earlier appointment is recommended to facilitate TCC advance planning.) County Commissioners Chair notifies taxing authorities of TCC first meeting</p>
<p>October 26 (21 days before TCC meeting)</p>	<p>County Commissioners Chair gives public notice of TCC first meeting</p>
<p><i>November 15, 2009</i></p>	<p><i>TCC first meeting deadline</i></p> <ul style="list-style-type: none"> ➤ <i>County Commissioner Chair or designee convene meeting</i> ➤ <i>Must elect chairperson, vice chairperson, secretary</i> (and possibly other officers) ➤ <i>Should elect legal counsel</i> ➤ <i>Should adopt bylaws</i> – if possible based on advance planning (In the absence of advance planning, bylaw adoption will need to be deferred to a later meeting, but should be done ASAP.)
<p>After officer election and bylaw adoption/ before tax collector appointment</p>	<p>TCC takes the following steps:</p> <ul style="list-style-type: none"> ➤ TCC management structure decisions <ul style="list-style-type: none"> ○ Who will be the leader/chief operating officer to lead and make sure all required TCC steps occur and all TCC responsibilities are fulfilled? ○ Is an employee required? ➤ TCC finance decisions <ul style="list-style-type: none"> ○ TCC budget – operating costs ○ TCC operating cost financing mechanism ○ TCC auditor ○ TCC bank ○ Tax collection cost allocation plan ➤ TCC insurance decisions ➤ Decision on TCC jurisdiction over LST and other taxes ➤ Decision on single-county or multi-county TCC ➤ Study income tax collection options ➤ Decision on tax bureau vs. third party collector ➤ Appoint new tax appeal board ➤ Adopt mandatory and other policies <ul style="list-style-type: none"> ○ Right-to-Know records policy/appoint Open Records Officer (priority – 2009) ○ Investment policy ○ Tax records policy ○ Tax collector investment income distribution policy ○ Tax collector unidentified funds rules ○ Regulations, policies, and procedures for tax administration

	<ul style="list-style-type: none"> ➤ If tax will be collected by independent third party tax collector, prepare tax collector RFP and conduct RFP process (As part of this process, the TCC must develop the formal written Act 32 Tax Collection Agreement and address the many important issues to be addressed therein, including bonding rules.) ➤ Decision on whether to accelerate universal non-resident withholding requirement to date earlier than January 1, 2012 ➤ Department of Revenue information exchange agreement
December 31, 2009	DCED deadline to provide a report to TCCs including sample bylaws, sample tax collector RFP, and also existing effective practices, methods, procedures and risk management strategies. (Hopefully, DCED will provide most of this information far in advance of September 1, since TCC bylaw adoption should be one of the very first TCC steps.) Section 509(d)(1) also mandates DCED to establish tax collector bond and security guidelines. (Although no deadline is established, hopefully DCED will provide these guidelines by December 31, 2009 for use in connection with the tax collector selection process.)
<i>April 15, 2010</i>	<i>TCC deadline to adopt bylaws</i> (In fact, it will be important to adopt bylaws far in advance of this date.)
<i>June 1, 2010</i>	<i>TCC deadline to establish new Tax Appeal Board</i>
<i>September 15, 2010</i>	<i>TCC deadline to appoint county-wide tax collector</i> (should also sign new, written Act 32 Tax Collection Agreement by this date) (effective 01/01/11 or 01/01/12)
September 25, 2010	TCC deadline to notify DCED of tax collector appointment and contact information
TCC First Stage – Year #2 – 2010/2011	Transition to New Act 32 Tax Collector
November 1, 2010	Taxing authority deadline to decide whether its current tax collector or the new Act 32 tax collector will collect 2011 tax
December 1, 2010	Taxing authority deadline to notify DCED of tax collector for 2011 tax
December 31, 2010	Although no statutory deadline, DCED should provide mandated tax return and other forms, regulations and guidelines by this date in order to facilitate effective transition mandated starting one year later.
<i>May/June 2011</i>	<i>School districts adopt new EIT or PIT resolutions effective January 1, 2012</i>
July 1, 2011	TCC deadline to adopt and begin implementing transition plan for transferring responsibilities to new Act 32 tax collector and implementing Act 32 tax law changes
<i>November/December 2011</i>	<i>Municipalities adopt new EIT or PIT ordinances effective January 1, 2012</i> (might want to accelerate to earlier date)

TCC Second Stage – 2012 and Future Years	New Tax Law/TCC Tax Collection Oversight
January 1, 2012	<p><i>Act 32 county-wide collection begins</i></p> <p><i>Act 32 income tax law changes effective</i>, including:</p> <ul style="list-style-type: none"> ➤ Change in law on business losses/military service ➤ Mandatory quarterly estimated returns for individuals ➤ New tax return and other forms ➤ Universal non-resident withholding ➤ Multi-site employer option to pay in one county ➤ Tax collector monthly distributions; prohibition on estimated distributions ➤ Tax collector claim/interest payment rules ➤ New tax appeal board ➤ Second stage of TCC responsibilities begins, involving oversight of county-wide tax collection arrangements and periodic decisionmaking on continuing or changing arrangements
June 30, 2012	Former LTEA tax collector deadline to turn over tax records to new Act 32 tax collector. Delinquent income tax from 2011 or prior years become responsibility of new tax collector, except to the extent a taxing authority has made other provisions for the collection of delinquent taxes.
Future Annual Requirements	
Within 30 days	TCC file with DCED notice of election of any new officers within 30 days of election
May 1	TCC delegates deadline to file Ethics Act Statement of Financial Interests with TCC
July 1	DCED deadline to annually recalculate taxing authority weighted vote
September 1	TCC deadline to file tax collector financial statement/ auditor report for prior calendar year with taxing authorities and DCED
By December 31	<ul style="list-style-type: none"> ➤ School district and municipality annual appointment of TCC delegates ➤ TCC annual election of officers ➤ TCC selection of TCC auditor for next calendar year ➤ TCC deadline for approval of auditor for tax collector records for next calendar year ➤ TCC deadline to establish tax collector bond amount for next calendar year (This step should be taken earlier in the year within a reasonable time after receipt and review of the tax collector audited financial statements reflecting prior year tax collections.)

**LOCAL TAX ENABLING ACT RESTATEMENT
(INCLUDING COUNTY-WIDE INCOME TAX COLLECTION)**

General Table of Contents of Act 32

[Signed July 2, 2008 – some provisions are effective immediately. However, the primary changes set forth in Chapter 5 are not effective until 01/01/12. Codified at 53 P.S. 6924.101 *et seq.*]

CHAPTER 1 – PRELIMINARY PROVISIONS

Section 101 – Short Title – **The Local Tax Enabling Act**

CHAPTER 3 – LOCAL TAXES

[Chapter 3 restates the various taxes authorized, limits on taxes, procedures for adopting taxes, required tax credits, and miscellaneous other provisions. It is generally effective immediately, 07/02/08, except that change of the prior LTEA § 6910 provisions on joint collection of taxes, amended and moved to § 313, is not effective until 01/01/12. Chapter 3 is for the most part a reenactment, with minimal changes, of prior LTEA provisions set forth in LTEA §§ 6902-6912, §§ 6914-6917, § 6922.2, and § 6922.6.]

Section 301 – Definitions

Section 301.1 – Delegation of Taxing Power and Restrictions Thereon

Section 302 – Recapture of Tax

Section 303 – Payroll Tax

Section 304 – Nonresident Sports Facility Usage Fee

Section 305 – Vacation of Tax Ordinances and Resolutions by State Tax Measures

Section 306 – Advertisement of intention to Adopt Tax Ordinance or Resolution

Section 307 – Rate, Amount, Court Approval; Revision of Budget

Section 308 – Second Class City Parking Tax Rates

Section 309 – Appeals by Taxpayers

Section 310 – Filing of Certified Copies

Section 311 – Limitations on Rates of Specific Taxes

Section 312 – Register for [Earned Income] and Withholding of Local Services Taxes

Section 312.1 – (Reserved)

Section 313 – Collection of Taxes

Section 314 – (Reserved)

Section 315 – Audits of Taxes Other Than Earned Income Taxes

- Section 316 – (Reserved)
- Section 317 – Payment of Tax to Other Political Subdivisions or States as Credit or Deduction; Withholding Tax
- Section 318 – Personal Property
- Section 319 – Limitation on Assessment
- Section 320 – Tax Limitations
- Section 329 – Legal Representation
- Section 330 – Restricted Use

CHAPTER 5 – CONSOLIDATED COLLECTION OF LOCAL INCOME TAXES

[Chapter 5 requires county-wide collection of income taxes, creates a new government entity to implement the county-wide collection process, called a Tax Collection Committee, and makes various income tax law and tax collector requirement changes. The provisions for creation of the new government entity and DCED tax registers are effective immediately; the provisions for county-wide collection of taxes generally are not effective until 01/01/12. The county-wide collection provisions are new. The income tax law and tax collector requirement changes replace the prior LTEA § 6911 and § 6913 earned income tax provisions, generally effective 01/01/12.]

- Section 501 – Definitions
- Section 502 – Declaration and Payment of Income Taxes
- Section 503 – (Reserved)
- Section 504 – Tax Collection District
- Section 505 – Tax Collection Committees
- Section 506 – Tax Officer
- Section 507 – Appointment of Tax Officer
- Section 508 – Powers and Duties of the Department
- Section 509 – Powers and Duties of Tax Officer
- Section 510 – Fines and Penalties Against Tax Officers
- Section 511 – Tax Registers
- Section 512 – Withholding and Remittance
- Section 513 – Distribution of Income Taxes
- Section 514 – Confidentiality
- Section 515 – Transition
- Section 516 – Regulatory Conflict
- Section 517 – Audit and Evaluation

CHAPTER 7 – COLLECTION OF DELINQUENT TAXES

[Chapter 7 consolidates prior LTEA rules on collection of delinquent LTEA taxes, and is effective immediately 07/02/08. Chapter 7 is a reenactment with minimal changes of prior LTEA §§ 6918, 6919, 6920, 6920.1, 6921, 6922, 6922.1, and 6922.2.]

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Section 703 – Collection of Delinquent Per Capita, Occupation, Occupational Privilege, Emergency and Municipal Services, Local Services and [Earned] Income Taxes from the Commonwealth

Section 704 – Notice

Section 705 – Collection of Taxes by Suit

Section 706 – Penalties

Section 707 – Costs of Collection of Delinquent Per Capita, Occupation, Occupational Privilege, Emergency and Municipal Services, Local Services and [Earned] Income Taxes

Section 708 – Clarification of Existing Law

CHAPTER 9 – MISCELLANEOUS PROVISIONS

Section 901 – Repeals

Sections 37 and 38 address the Local Services Tax. Section 39 states the effective dates of various parts of Act 32.

[Note: Concerning effective dates:

- **The broad general LTEA tax authorization provisions that are reenacted with minimal change are effective immediately 07/02/08.**
- **As a general rule, LTEA § 6913 EIT provisions remain in effect for the next 3+ years until 12/31/11.**
- **As to county-wide income tax collection and the new government entity, the procedures for establishment of the new government entity and related infrastructure are effective immediately 07/02/08, but use of the new county-wide process is not mandatory until 01/01/12.]**

**LOCAL TAX ENABLING ACT RESTATEMENT
(INCLUDING COUNTY-WIDE INCOME TAX COLLECTION)**

Detailed Table of Contents of Act 32

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Section 309 – Appeals by Taxpayers

Section 310 – Filing of Certified Copies

Section 311 – Limitations on Rates of Specific Taxes

Section 312 – Register for [Earned Income] and Withholding of Local Services Taxes

Section 312.1 – (Reserved)

Section 313 – Collection of Taxes

(a) Administrative Personnel; Joint Agreements

Section 314 – (Reserved)

Section 315 – Audits of Taxes Other Than Earned Income Taxes

Section 316 – (Reserved)

Section 317 – Payment of Tax to Other Political Subdivisions or States as Credit or Deduction; Withholding Tax

Section 318 – Personal Property

Section 319 – Limitation on Assessment

Section 320 – Tax Limitations

(a) Over-all Limit of Tax Revenues

(b) Reduction of Rates Where Taxes Exceed Limitations; Use of Excess Moneys

Section 329 – Legal Representation

Section 330 – Restricted Use

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Section 501 – Definitions

Section 502 – Declaration and Payment of Income Taxes

(a) Application

(b) Partial domicile

(c) Declaration and payment

Section 503 – (Reserved)

Section 504 – Tax Collection District

(a) General rule

(b) Counties of the second class

(c) Existing consolidated collection arrangements

Section 505 – Tax Collection Committees

(a) General rule

(a.1) Duties

(a.2) Powers

(b) Delegates

(b.1) Quorum

(b.2) Lack of quorum at first meeting

- (c) Voting rights
- (d) First meeting schedule
- (e) First meeting agenda
- (f) Bylaws
- (g) Officers
- (h) Audits of taxes received and disbursed
- (i) Applicability of statutes
- (j) Appeals board
- (k) Mediation and appeals of tax collector actions
- (l) Annual budget requirements
- (m) Committee establishment in counties with existing consolidated collection arrangements

Section 506 – Tax Officer

- (a) Collection and administration
- (b) Standards

Section 507 – Appointment of Tax Officer

- (a) Appointment
- (b) Court selection
- (c) Compensation
- (d) Written agreement
- (e) Eligibility of existing tax collection entities

Section 508 – Powers and Duties of the Department

- (a) Additional powers
- (b) Temporary regulations
- (c) Interim regulations
- (d) Departmental study
- (e) Mandatory education for tax officers
- (f) Establishment of qualifications and requirements

Section 509 – Powers and Duties of Tax Officer

- (a) Tax collection
- (b) Monthly reports
- (c) Overpayments
- (d) Bonds
- (e) Records

- (f) Employer and taxpayer audits
- (g) Exchange of information
- (h) Actions for collection of income taxes
- (i) Interest and penalties
- (j) Fines and penalties for violations
- (k) Collection

Section 510 – Fines and Penalties Against Tax Officers

- (a) Distribution of nonresident taxes
- (b) Monthly reports and audits of income taxes
- (c) Failure of duty
- (d) Other violations
- (e) Actions against a tax officer
- (f) Rescinded appointment
- (g) Interpretation
- (h) Withdrawal from tax collection district

Section 511 – Tax Registers

- (a) Requirement
- (b) Definition

Section 512 – Withholding and Remittance

Section 513 – Distribution of Income Taxes

- (a) General rule
- (b) Other tax collection districts
- (c) Codes
- (d) Fee prohibition

Section 514 – Confidentiality

- (a) General rule
- (b) Prohibited conduct
- (c) Penalties

Section 515 – Transition

- (a) Fines and penalties against tax officers
- (b) Transition
- (c) Definitions

Section 516 – Regulatory Conflict

Section 517 – Audit and Evaluation

- (a) General rule
- (b) Filing requirement

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Section 704 – Notice

Section 705 – Collection of Taxes by Suit

Section 706 – Penalties **[Note: There are some changes in penalties from prior LTEA rules.]**

Section 707 – Costs of Collection of Delinquent Per Capita, Occupation, Occupational Privilege, Emergency and Municipal Services, Local Services and [Earned] Income Taxes

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Relocation of Prior LTEA Sections

<u>Prior LTEA Section</u>	<u>New LTEA Section</u>
53 P.S. § 6901	§ 6924.101
53 P.S. § 6902	§ 6924.301.1
53 P.S. § 6902.1	§ 6924.302
53 P.S. § 6902.2	§ 6924.303
53 P.S. § 6902.3	§ 6924.304
53 P.S. § 6903	§ 6924.305
53 P.S. § 6904	§ 6924.306
53 P.S. § 6905	§ 6924.307
53 P.S. § 6905.1	§ 6924.308
53 P.S. § 6906	§ 6924.309
53 P.S. § 6907	§ 6924.310
53 P.S. § 6908	§ 6924.311
53 P.S. § 6909	§ 6924.312
53 P.S. § 6910	§ 6924.313
53 P.S. § 6911	(repealed)
53 P.S. § 6912	§ 6924.315
53 P.S. § 6913	(repealed and replaced by new Chapter 5, subject matter is now covered in §§ 6924.501 – 6924.517)
53 P.S. § 6914	§ 6924.317
53 P.S. § 6915	§ 6924.318
53 P.S. § 6916	§ 6924.319
53 P.S. § 6917	§ 6924.320
53 P.S. § 6918	§ 6924.701.1
53 P.S. § 6919	§ 6924.702
53 P.S. § 6920	§ 6924.703
53 P.S. § 6920.1	§ 6924.704
53 P.S. § 6921	§ 6924.705
53 P.S. § 6922	§ 6924.706
53 P.S. § 6922.1	§ 6924.707
53 P.S. § 6922.2	§ 6924.708
53 P.S. § 6922.3	(repealed)
53 P.S. § 6922.4	(previously repealed)
53 P.S. § 6922.5	(previously repealed)
53 P.S. § 6922.6	(repealed)
53 P.S. § 6923	§ 6924.901

