



# PSTAP ANNUAL MEETING

December 2023: Questions and Answers

We provide here a summary of answers provided by the Department of Revenue (DOR) from December 14, 2023. This presentation is classified as revenue information issued for informational purposes only for the convenience of PSTAP's members. Pursuant to 61 PA. Code Section 3.4, this presentation should not be relied upon for any purpose or used in tax appeals. Taxpayers requiring a binding opinion on a specific situation may request a written letter ruling under 61 PA. Code Section 3.3.

1. **The ability to communicate with the Department and obtain resolution on issues in an efficient and effective manner is an ongoing and increasing concern of our membership. More complex issues are often unable to be resolved using the Department's previously prescribed communication processes.**

a) **At last year's meeting it was mentioned that the Department was looking for ways to improve the communication channels. Please outline/reiterate the Department's recommended communication process so that the most up to date process(es) can be communicated to our membership.**

The best communications channels depend on the situation:

- If you are responding to a request for information notice or a billing notice. You should be using the Respond to a Letter feature on myPATH.
- If you are responding to an assessment notice, you need to petition the Board of Appeals within the appeal period.
- If you received any other type of notice from the department, you should follow the instruction outlined on the notice.
- If you are looking for myPATH technical assistance you should call 717-425-2495 Ext 72841 or email [myPATH@pa.gov](mailto:myPATH@pa.gov).
- If you have a question prior to filing a return you should call CEC at then number listed on the contact sheet or email us through the "submit a question" feature on our online customer service center. Make sure you select Tax Practitioner from the drop down under Tax Category.
- For other specific inquiries, please reference the contact sheet to see if there is a number listed for your situation, otherwise contact CEC for assistance.
- If there are issues with the customer service being provided, please contact us at [RA-RV-OUTREACHED@pa.gov](mailto:RA-RV-OUTREACHED@pa.gov) with the date/time of the call, agent#/name, and as many details as possible and we will look into the issue.

b) **What guidance can be provided to practitioners who have tried but are unable to resolve an issue using one of the prescribed methods?**

If the channels outlined above do not work, the practitioner should contact CEC via the tax practitioner email service. Please outline the issue, providing as much detail as possible.

c) **Please address the department's staffing situation, as well as the ratio of in-office vs. remote workers and your forecast for the upcoming tax season as it relates to staffing levels. Will the recent budget cuts affect staffing levels at the department or were cuts made to positions that would not have been able to be filled?**

We have slightly below 200 vacancies, which is the lowest that we've been at since the summer of 2021. The budget cuts will impact our ability to fill all of those vacancies. Our hope is to restore funding to FY 2022 levels for FY 2024. The ration of in office to remote workers remains the same as it has been since 2020.



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- d) **How does the department measure productivity of remote workers and how is the training for remote workers facilitated? We ask this because there appears to be vast differences in knowledge among call center employees.**

CEC and BIT employees are currently trained in office. There is a mandatory period of time that the employees stay in the office for shadowing and support before they are released to telework. If there is a significant issue that has come up, please provide specifics and we will look into this further.

2. **Practitioners have reported a noticeable and significant shift from what used to be routine, common-sense adjustments that could be made by Department personnel now being assessed and forced into appeals. The appeals process is costly and is a disservice to taxpayers especially if there is only a small dollar amount due.**

- a) **What is the rationale for the push to appeals?**

The department issues assessments to taxpayers whenever an adjustment to a tax liability is made to afford them with their due process, regardless of if the taxpayer is expecting a refund or has a balance due. Most taxpayers receive either a billing notice or a request for information notice prior to the issuance of an assessment notice so they can respond directly back to the Bureau of Individual Taxes.

- b) **What is the current backlog for appeals?**

Average BOA turnaround time (for 2023): 78 days

BOA is adding new staff and shifting/retraining existing resources to address the backlogs in these areas.

- c) **When a practitioner responds to a billing notice as a non-logged in function of myPATH, no confirmation or follow up communication is being received from the Department; the next communication is often the assessment notice. Is this the intended process or should there be a response coming from the Department when a practitioner or taxpayer responds to a billing notice? Are there circumstances where the Department will respond before sending an assessment notice?**

The processing of correspondence is the same regardless of how the correspondence is submitted to the department; mail, fax, email or via myPATH.

- d) **What is the time between when the original billing notice is issued and when an assessment notice is issued?**

45 days

- e) **What course of action can a practitioner/taxpayer take to resolve an issue AFTER they have responded to a billing notice to prevent an assessment notice and the need to file an appeal? It appears that the assessment notice is being sent without regard for the response. If additional information is needed by the Department, it is often not requested, it is just being assessed.**

The department encourages taxpayers to submit their correspondence for billing notices through myPATH because the correspondence posts immediately to the taxpayer's return and a systemic hold is placed on the account to prevent the return from moving into an assessment status until the correspondence is reviewed by an employee.

Correspondence submitted through mail, email or fax must be manually attached to the taxpayer's returns, which may take time to post depending on the volume backlogged.



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**f) Should an appeal be filed when an amended return is filed or what is the best practice in this situation?**

An amended return should not be filed requesting a refund in the nine-month period prior to the close of the statute of limitations for a tax period. A Petition for Refund should be filed for amendments requesting refunds during that time to protect appeal rights in the event the request for refund is denied. A Petition for Refund may not be acted upon by the Board of Appeals if an amended return refund is denied and the petition for refund is filed after the three-year period has ended.

Also, you cannot file an amended return after the department issues the assessment if the amendment relates to the same taxable year and item of income, gain, deduction, or loss that the department assessed. The taxpayer must file a timely petition for a reassessment or pay the assessment and file a timely refund petition.

This information is listed on page 42 of the PA-40 Instruction Booklet.

**3. What is the recommended method for a taxpayer to check the status of their Property Tax & Rent Rebate?**

We recommend that customers use the Where's My Rebate feature available on the myPATH homepage. Simply visit [myPATH.pa.gov](https://myPATH.pa.gov) and locate the Rebates panel. From there, click the link that says Where's My Rebate. You will need the claim year, date of birth, and SSN.

**4. Refund checks should be programmed to include the FILING YEAR to which the check applies. Taxpayers and tax professionals do not always know which tax year the refund is for especially when there are multiple delinquent or open years awaiting refunds.**

The information provided on refund checks issued has a character limitation. If we add a tax year or period, we would be required to remove other fields. We can research the request.

**5. Current Backlogs & Processing Times**

**a) Can you address the current status of the backlog for 2022 refunds?**

94% of all refund requested returns are processed. Out of the 6% remaining refunds, half were sent notices to either request additional documentation needed to approve the refund request, or to verify their identity. The other half still require review by an examiner. This is consistent with where we were last year at this time; however, in tax year 2021 we received 1.7 million refund requested returns and this year we received 1.8 million.

**b) Even prior to COVID, there was a delay in the processing of refund checks. Ideally, how long should a return where a refund is due take to process?**

Out of the 1.8 million refund requested returns received, the department only suspended approximately 15% of those returns for review, so most refund requested returns are posted and processed within days. For those returns that suspend there are various factors that determine how long it will take to process the return, such as time of year, if a special credit is claimed on Line 23, the complexity of the return, and if additional documentation is required to approve the refund.

**c) What is the current processing time for an amended PA-40?**

The current tax year and the prior tax year amended returns are processed at the same time as original returns. Returns that suspend are processed based on the date received.



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- d) **Is this processing time the same despite whether the amended return is paper filed or e-filed?**

Electronically filed original and amended returns are typically processed quicker because they post to our system faster than a paper filed return.

- e) **Is the processing time different for returns where there is a balance due vs. refund due?**

Returns post to our system daily and run through the same business rules regardless of being a refund, equal or balance due. Suspended refund requested returns are processed first.

6. **Please address how the Department will handle the following scenario: Taxpayer files amended return and sends payment with the return. The payment is processed by the Department and returned to the taxpayer because the return has not yet been processed and the Department does not know where to apply the payment. Will penalties and interest be applied for nonpayment once the amended return is finally processed?**

If the taxpayer receives a refund in error, they should return the refund check to the department, along with a letter stating the amount should be redeposited back onto the taxpayer's account. The department will initiate a stop payment request with Treasury and once the check is stopped, the payment will be redeposited back on the taxpayer's account and the taxpayer would receive credit for their original payment date.

PA Department of Revenue  
Bureau of Individual Taxes  
Return Check Section  
P.O. Box 280602  
Harrisburg, PA 17128-0602

7. **Example Scenario: A client purchased a house from his brother at below market value. Ten months after the sale, the brother died, and the client had to pay inheritance tax on the difference between the purchase price of the house and the fair market value. The client fixed the house up and is going to sell the house. Can the inheritance tax that was paid be added to the cost basis of the house?**

- **Can inheritance tax paid on a house that was purchased below market value (as a gift within one year of death) be added to the cost basis of the house when it is sold?**
- **Does a spouse get the stepped-up basis on inherited property even though no Federal or Pennsylvania inheritance tax has been paid?**
- **Does PA DOR allow a stepped-up basis for inherited investment property?**

The answer to Questions #1-3 can be found in 61 Pa. Code § 103.13(c), which reads as follows:  
§ 103.13. Net gains or income from disposition of property.

(c) Basis. If property is acquired by a taxpayer by inheritance, the basis shall be the fair market value at the date of death. If property is acquired by a taxpayer by gift, the basis shall be the same as it would be if the property had remained in the hands of the donor. Otherwise, the basis shall be the cost.

The brother bought the house from his sibling. So, the default rule is that his basis is his cost (i.e., the sale price). For PIT purposes, it doesn't matter whether he paid full FMV for the house. His basis is whatever he paid for it and if he didn't pay enough then he got a good deal, but his basis is only his cost. Further, he doesn't



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get a step-up in basis because he did not inherit the property. He bought it. It really doesn't matter if he gets "dinged" for INH based upon the 1-year look-back rule.

**8. What circumstances would require inheritance tax to be withheld when selling a property?**

In order to buy property with clear title, inheritance taxes must be paid. There are times the Title company holds funds in escrow at settlement until it is proven to the Title company that the inheritance tax was paid on the property. They usually have to show the assessment listing the real estate and a balance \$0 due. The Title Company will then release the funds held in escrow back to the seller.

**9. It appears that only non-residents can file inheritance tax through myPATH, is this correct?**

Non-resident returns are filed with DOR but only by paper. They can only make a payment for Non-Resident returns through myPATH.

All returns and payments for Resident Inheritance tax returns must be filed with the county ROW office.

**10. When responding to a notice as a non-logged in function via myPATH, is it possible to add the ability to print a copy of the response that was sent in addition to the confirmation (which can currently be printed)?**

If this is asking if someone can print a copy of the document they uploaded, that cannot be done from myPATH.

**11. Legal business name vs. DBA. Is it possible to display a DBA name in lieu of a legal name within myPATH? It appears that the DBA name can be added, but there are no search capabilities for that field. Could this search feature be added?**

The name that is displayed is based on the legal name of the taxpayer because all tax accounts are consolidated under one profile. For example, the Smith Corporation has a CNI account and a Sales Tax account. The Sales Tax account is for a store, and they have a DBA name of Smith Sales, we will display the name of Smith Corporation and not the individual tax account DBA name that is on file.

**12. PA-100 Questions**

**a) How can changes be made to the PA-100 application within myPATH?**

It depends at what point in the application process the change is needed. While filing an application, there is an option to save a draft and the user then can go into the saved draft at any point to make updates prior to submitting the application. If it is after the application is submitted, the process to make a change depends on what type of change needs to be made.

**b) Can the application be updated by a third party?**

If a draft is saved and an application need updated, you need the email and submission number of the application that needs changed and anybody can update the application. If you are adding a tax account, a third party can update the PA-100 on behalf of taxpayers if they have the appropriate access. However, for logged-in applications, a Primary Admin and Secondary admin can see applications submitted by one-another, while an account manager can only see what they, personally, submitted.



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**13. How can a listing of estimated payments made during the year be obtained within myPATH? How do you get the current year estimates if the prior year return is not yet filed?**

To verify estimated payments from the myPATH homepage, visit [myPATH.pa.gov](https://myPATH.pa.gov) and find the Payments panel. From there, click the Track My Payments and Credits hyperlink. myPATH provides the following options to obtain estimated payment amounts:

- Search by a payment submitted for the tax year selected;
- Search using a line return value from a return for the current or prior filing period;
- Using credit carry forward credit amount requested from the prior year.

**14. myPATH currently lists the date filed as the default payment date. Consequently, if the date is not manually modified, payment is processed despite the fact that the due date may not be until weeks later. Would the Department consider changing this default date to the date the payment is due?**

myPATH shares common payment screens across all tax types when filing returns. The default date being the current date is set because of the various due dates supported in myPATH.

**15. When an electronically filed return containing W-2 information is uploaded to myPATH, can the individual W-2 records be viewed once the upload is complete? Etides allowed this information to be viewed after upload. In some cases, practitioners may want to check the file and/or view the detail of this information.**

The feature that was available in e-TIDES was not replicated in myPATH. We can research the feasibility of providing this service.

**16. How can an amended W-2 be filed within myPATH?**

If changes need to be made to a W-2, it cannot be amended, you must submit a corrected W-2. A corrected W-2 can be submitted by selecting the Corrected box when entering the W-2 in myPATH.

**17. Why does the sales tax discount reflect as a balance due within myPATH?**

The information being displayed on myPATH is data from our internal system. The discount will not display until we have processed the return and payment, then determining that the taxpayer is entitled to a discount. If the taxpayer submits a return on 12/1/23 for period ending 11/30/23 and submit a payment for the same period with an effective date of the due date, the discount will show as due until we process the payment around 12/20/23.

**18. Will carryover credits within myPATH be automatically applied to the next period?**

It depends on the tax account that is being filed whether a carry forward credit will automatically be applied to the next period. For Sales and Employer Tax the credit will be automatically carried forward if there are no other qualifying offsets. If there are qualifying offsets, the credit will be applied to the older liabilities before being carried forward.

**19. We should be able to request a refund via myPATH via a message no matter what the period the credit is related to. I used messaging in myPATH and was told I could not request a refund via myPATH because too much time has passed, and I would have to write a letter to make the request. I asked this question at the Fall Tax Seminar and was told I should be able to request it via messaging. All PA DOR CEC employees need to be aware of this.**

If a CEC employee provided misinformation I apologize. A business taxpayer can request a refund up to 15 days after the tax due date by logging into their myPATH account and using the request a refund link. Any time





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after this 15-day period the business taxpayer can request a refund by sending a logged in web-message from their myPATH account. Just make sure that the message is indexed to the correct tax account.

- 20. Members have reported that some clients have received random notices for back tax years (i.e., 2017 and prior) even though no prior notices were sent by the Department/received by the taxpayer. Is the Department aware of specific circumstances for which this is occurring?**

Please provide the department with specific examples of this occurring so that it can be researched further.

- 21. Various practitioners have reported sales tax licenses being revoked without prior communication or notice being given by the Department. The company or their practitioner learned of the revocation when logged into myPATH. None of the cases reported had any balance due but were regarding W-2 filings and/or Rev-1667 from a prior year. In one case, the prior year was 2009.**

- a) What is the Department's communication process with the entity when it is determined that a sales tax license will be revoked?**

Prior to revoking or denying a license, the department will issue a License Decision Notice – Under Review informing the business of the current delinquencies holding up issuance of the license.

- b) Please provide a list of circumstances for which the Department revokes a sales tax license. Why are W-2 filings associated with a sales tax license being revoked?**

A license is issued upon application provided all state tax reports are filed and has paid any state taxes not subject to a timely appeal. Further the applicant or holder of a license that has not filed all required reports and paid any state taxes not subject to a timely appeal or payment plan the department may refuse to issue or revoke the license. Refer to TRC Section 208

- c) When a sales tax license is revoked due to alleged non-filing of W-2's, what is the best way to have it reinstated? Will the sales tax license automatically be reinstated upon filing the wage statements in question?**

If the delinquencies are resolved prior to the license being Revoked, the license will automatically be issued. If the delinquencies are not resolved, a License Decision Notice – License Revoked will be issued. If the license has been Revoked or Denied, the business must request to reinstate the license. If the license has been revoked for more than 1 year, a registration will be required.

- d) How long will it take to have the sales tax license reinstated?**

If the delinquencies are resolved prior to revocation, the license will be issued upon posting of the delinquencies. The license status in PATH will change to Issued and the license will be mailed. Allow 15 business days to receive. If the license is revoked, the requestor of the reinstate license request will receive a response via myPATH. If the request is approved, the license status in myPATH will change to Issued and the license will be mailed. If the request is denied, the requestor will receive additional information to resolve the license issue.

- 22. What number should be listed as the Account ID on corporation and pass-through filings, specifically the RCT101 and PA20S/65? Under what circumstances should the old "Revenue ID" be used if any?**

For the PA-20S/PA-65, the Account ID field is no longer on the form starting with the 2023 tax year. The field has never been required by the Department since not all pass-through entities would have a Revenue



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ID/Account ID, especially since the expiration of the Capital Stock/Foreign Franchise tax in 2015. For the RCT101, the Account ID is not required to be entered as long as a FEIN is provided on the form.

**23. How can a copy of a filed PA-100 application be obtained?**

Submitted registrations can be viewed on myPATH. Non logged in registrations can be found by using the “Find a Submission” link located on myPATH’s home page in the Additional Services section. Logged in registrations can be found by using the “Search Submissions” link located on the More screen in the Submissions section.

**24. Will Pennsylvania allow a Child Tax Credit in 2023? Dependent care credit?**

Yes. The PA Schedule DC, Pennsylvania Child and Dependent Care Enhancement Tax Credit is used to claim a credit for child and dependent care expenses paid a taxpayer throughout the year. This is a refundable personal income tax credit which is calculated based on 100% of the federal child and dependent care tax credit amount. A completed copy of the federal Form 2441 and the 1040 Schedule 3 must be included with the PA-40 return and the Schedule DC. Failure to include these forms will result in the credit being removed or denied.

**25. Would a Pennsylvania resident working remotely from home for an employer headquartered in New York owe state income tax to New York or Pennsylvania? Has the Department issued or planning to issue additional guidance regarding remote work?**

We have published telework guidance on our website, [Telework Guidance \(pa.gov\)](#). That’s all that DOR has published, and no further guidance is planned for the future.

**26. If a Pennsylvania business hires a Pennsylvania subcontractor to perform a service in another state, is the subcontractor’s income considered PA sourced? Under what circumstances is a Pennsylvania business required to withhold personal income tax for a subcontractor?**

It is probably not PA source income if the work isn’t being performed in PA, but it depends on if the work is being performed for someone in another state or just being performed in another state for the contractor. It’s hard to say without more facts. Withholding is going to depend upon a lot of issues. We would have to know if the subcontractor is considered an employee or not (probably not) and whether the subcontractor is PIT taxpayer (individual, estate, or trust) or a pass-through entity. Withholding would not be required for an independent contractor or a pass-through entity.

**27. a) Why are out of state returns electronically attached to the PA 40, for Schedule GL purposes, overlooked by those who review the tax returns? REV-1630, Education Credits, REV-459B in particular.**

Employees are trained to check for MeF attachments, so please pass along examples so training issues can be addressed.

**Members have reported that the Department seems to be ignoring REV-1630’s that are electronically filed with a tax return. At the 2023 PA Fall Tax Seminar it was mentioned that there is an indicator box that must be checked to indicate there is a REV-1630 attached. Due to the volume of complaints, it appears this could be a software issue that may need to be communicated to them. Are Revenue employees trained to look for a checked box? Some have reported that the 1630s are being ignored when a paper return is filed, and the box is checked.**

The Bureau of Individual Taxes has not heard any complaints about the REV-1630 this tax season so examples would be helpful to research this issue further.





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## 28. Foreign Pensions

- a) A client has been receiving a foreign pension and there was no issue with PA before tax year 2022. No 1099R is received from the foreign country so it is reported as “other income” on the federal return. Even after sending PA the “Other Income” statement from the Federal return and explaining what it was, it was denied and went straight to assessment. After communicating through the tax practitioner portal after the assessment, they wanted a letter from the person’s previous employer in the FOREIGN country and statements. This seemed extreme since it had been accepted in prior years. I got a letter from the pension administrator and statements from the foreign country, which was in Spanish, I had to translate it and appealed. They told me that in previous years, her return was “fast tracked” and that is why they didn’t question it. Why was the information not requested and/or why was the federal explanation on the “other income” statement not accepted?

These questions appear to relate to a specific case that has already been assessed. DOR does not comment on specific cases.

- b) What is the best way to handle foreign pensions (which are not taxable) on the PA tax return to avoid matching problems? We cannot electronically file a foreign pension on the pension line since there is no EIN, which is why we report as other income on the federal return.

Foreign pensions are not taxable for Inheritance tax- they should not be listed on the inheritance tax return.

- c) Is there any requirement that the letter from the employer be in English?

There is no requirement to submit correspondence in English; however, if submitted in another language, the department may not be able to process it due to an inability to translate it.