



PSTAP ANNUAL MEETING

December 2024: Questions and Answers

We provide here a summary of answers provided by the Department of Revenue (DOR) from December 12, 2024. 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. How can we ensure that PA withholding on a 1099-R is accepted by the Department as a withholding credit on a PA return? Why does a 1099-R with PA withholding need to be attached?

Providing a physical copy of the 1099-R can expedite the processing of a return that is claiming withholding reported on a 1099-R. Per the PA-40 instruction booklet:

When to Submit Forms W-2, 1099-MISC, 1099-NEC, and 1099-R:

For Paper Filed Returns:

If you file your PA-40 return in paper format, you must include actual copies or photocopies of all Forms W-2. You must submit actual copies or photocopies of all Forms 1099-R for all types of distributions regardless of whether the distribution is taxable and/or non-taxable for PA personal income tax purposes. If the amounts on Forms 1099-MISC and/or 1099-NEC are reported as compensation or include PA tax withheld, you are required to submit actual copies or photocopies of the forms.

For E-Filed Returns:

If you file your PA-40 electronically, you are not required to submit an actual copy of your W-2, 1099-R, 1099-MISC, or 1099-NEC forms unless certain conditions exist with respect to those forms. For Forms 1099-MISC, 1099-NEC, and 1099-R, you are only required to submit actual copies of these forms if there is PA tax withholding reported on the forms.

2. If there is no withholding on the nonemployee compensation paid and the client does not have an employer withholding account because they do not have payroll, how can 1099's be e-filed through myPATH?

1099s can be e-filed on myPATH using an Other Income Withholding account even if there is no withholding remitted. Taxpayers can register for an Other Income Withholding account via the Online Business Tax Registration that is available on myPATH.

3. Why if a taxpayer elects to have extra PA withholding from their paycheck in lieu of making PA-40ES tax estimates, is a problem created?

Per our instructions on page 10, the department requires a physical copy of the W-2 form in certain circumstances when the return is filed electronically and is required when filing via paper. Number four on the list states the physical W-2 form is required if the employer withheld PA income tax at a rate that is more than the tax rate of 3.07 percent. There are times where the department may even request a letter from the employer to verify the wages and withholding reported on the W-2 form. If an employer agrees to withhold taxes at a rate other than the tax rate, that agreement should be in writing per the **PA Code §113.3 Computing withholding of Pennsylvania Personal Income Tax**.

(b) In addition to the tax required to be withheld, an employer and employee may agree that an additional amount be withheld from the employee's compensation. The agreement shall be in writing, and the amount deducted and withheld under the agreement between the employer and employee shall be considered as tax required to be deducted and withheld, and statutes and regulations applicable to the tax are applicable with respect to an amount deducted and withheld under the agreement.



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4. What is the process to have an uncashed income tax refund reissued to a taxpayer?

A taxpayer will be required to contact our Customer Experience Center to initiate the request for a replacement check.

Refunds issued on 6/30/2023 or prior, that were not previously cashed or cancelled would be escheated and the taxpayer would be required to contact Treasury's Unclaimed Property at 1-800-222-2046

5. Considering recent legislative changes, will Federal Grantor Trusts, historically filed as Irrevocable Grantor Trusts continue to be required to file estimates in Pennsylvania or will they become a part of the PA-40 filing? When will guidance be issued by the Department of Revenue regarding the new rules?

The department is still evaluating how this legislative change will affect filing requirements for grantor trusts. We anticipate issuing guidance by 1st quarter 2025.

6. Does PA require a pass-through entity to pay the non-resident tax for irrevocable grantors trust who are partners/members?

Yes. 72 P.S. § 7324, the rule requiring nonresident withholding on pass through income has not been changed.

7. What is the current backlog for processing trusts; the processing time is far too long.

The Bureau of Individual Taxes currently has limited resources available to process the PA-41 returns. If you want to check on the status of a PA-41, please contact the Customer Experience Center and an agent can initiate a request to have the PA-41 return reviewed.

8. Are there plans to make myPATH accounts available for trusts? It would be particularly helpful to be able to review received estimated payments and/or the process status of returns.

At this time there are no plans to add estates/trusts to myPATH; however, it is something we can evaluate for the future.

9. Is there a policy on what is allowed or disallowed regarding partnership unreimbursed expenses?

In order for unreimbursed partnership expenses to be deductible, they must meet the definition of an allowable business deduction (ordinary, necessary, reasonable) and the partnership agreement must specifically state that the partners are required to incur such expenses and not be reimbursed by the partnership for them.

10. Would an estate receive a step-up in basis for the deceased member's closely held S or C Corp stock?

Yes. 61 Pa. Code § 103.13(c) states that if property is acquired by a taxpayer by inheritance, the basis shall be the fair market value at the date of death.

11. Communication of adjustments, assessments, and the appeals process

a. Does PA send an adjustment summary and/or a confirmation of credit carryovers separate from a billing notice?

A Credit Summary Notice is issued when an overpayment is processed, and a credit is carried forward to the subsequent filing period. The notice will provide a summary of the application of the credit. If there is an overpayment, a billing notice is not issued. Billing notices are issued to taxpayers with a balance due to the department.



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b. Under what circumstances does PA DOR send a billing notice?

Scenario: PA DOR made an adjustment to an account in which the taxpayer was due a refund both before and after the adjustment was made. Taxpayer did not receive a billing notice or any correspondence explaining the adjustment that was made. This practice eliminates the taxpayers right to due process because the matter can no longer be resolved at the DOR level. The first notice received is an "Assessment Notice" which can only be dealt with by filing an appeal. Isn't it easier for both the Department as well as the taxpayer to resolve these issues outside of the appeals process when possible?

Billing notices are only issued when taxpayers have a liability owed to the department. If a taxpayer has an overpayment, a request for information notice should be sent to the taxpayer asking for information to verify amounts reported on the return. If a response is not received to the request for information, the department will adjust the return and issue an assessment to the taxpayer providing a basis for the assessment.

c. When a response to a letter is submitted through myPATH as a non-logged-in function, how can the progress/resolution status be tracked? It would be helpful to see a status such as "in-review" or an "estimated date to be processed." The standard response seems to be to allow 6-8 weeks for processing. Once 6-8 weeks has passed, the response is still the same, "allow 6-8 weeks for processing." The ability to know the status eliminates the need for telephone and/or further written correspondence which saves time for all parties.

While we can provide a status that a response has been received, unfortunately we cannot provide a timeframe of when the correspondence will be reviewed as this is not an exact timeframe and is based on the backlog of items at the time.

d. While a confirmation number is given when responding to a letter as non-logged in function, which "stops the timeclock" it is only good if Revenue agrees with the information that was provided. In some cases, additional information would have resolved the issue and kept it from going to appeals but there is no request for more information. Worse, the taxpayer/practitioner are unaware there is an issue until the assessment notice is received. Is there a way to handle this more efficiently, which will result in saving time for the taxpayer, practitioners as well as the Department of Revenue and Board of Appeals?

The submission of correspondence in response to a request for information letter will prevent an assessment notice from being issued while the correspondence is being reviewed. If the department does not accept the correspondence, an assessment notice with an adjustment summary is issued.

e. Is it possible to add the option to print the page that contains the confirmation number and the taxpayer/practitioner response that is posted when responding to a letter as a non-logged in function? Practitioners have had to resort to taking a screenshot of the page because the confirmation number and response cannot be referenced together once submitted.

We can research the feasibility of providing a print version of confirmation screens.

f. Will the overpayment automatically be refunded or credited to the subsequent tax year?

Scenario: Pennsylvania recalculated the underpayment penalty on a filed return which resulted in a negative balance due – a higher balance was submitted with the return.



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If the taxpayer did not request a carry forward credit on the return filed, a refund will be automatically issued.

- g. The employees that PA DOR sent to the Tax Seminars this year to handle specific issues for practitioners were invaluable. They were busy throughout each of the seminars, and it is likely that cases were kept out of appeals by being able to resolve simple issues on the spot. Giving practitioners direct access to the people who are seasoned and able to resolve issues is key. PSTAP once again, as we have done in past years requests a practitioner hotline to help bring issues to resolution.**

At this time the department does not have the staffing available to have a dedicated practitioner line, but we do offer the tax practitioner email portal which we give priority to.

12. Are tuition reimbursement fringe benefits taxable to employers in PA?

If the employer reimburses an employee for education costs, then the reimbursement is fully taxable as compensation and the employee may deduct only those directly related business expenses allowed on PA-40 Schedule UE, Allowable Employee Business Expenses. In this situation, the tuition reimbursement is deductible for the non-corporate employer as a business expense.

For employers subject to the Corporation Net Income Tax, the deductibility of the tuition reimbursement will be determined by the Internal Revenue Code and that result should be followed by Pennsylvania as there is no state specific adjustment for the federal treatment of this item.

13. Considering recent changes to the law, can you explain how PA will allow percentage depletion for Gas/Royalties? Does it include quarries and/or other minerals?

Act 56-2024 aligned state law and federal law permitting PA taxpayers to use percentage depletion. PA will allow percentage depletion for the same property/assets as provided for in IRC 611-617. This includes oil and gas wells, other natural deposits, and mines including ores and minerals.

14. Please provide clarification on PA DOR's treatment of a reduced exclusion on the sale of primary residence if the 2-year ownership and use test are not met, but at the Federal level there is qualification for a reduced exclusion due to a health-related move. Is this qualification recognized by Pennsylvania?

Pennsylvania does not follow federal treatment of the sale of primary residence. The form PA-19 outlines the criteria to exclude the gain. Generally, if the taxpayer lived in the primary residence and only used it as a primary residence, the gain is not taxable. More information can be found on our website:

[Brochure: Sale of Your Principal Residence and PA Personal Income Tax Implications \(REV-625\)](#)

15. Has PA DOR issued any updates or recent guidance on the taxation of digital services?

The Department recently published content on the website. Rev411 videos are in production. Below is link to site that was updated.

[Taxability of Canned Computer Software, Digital Goods, and Related Services | Department of Revenue | Commonwealth of Pennsylvania](#)



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16. Many business owners are looking for specific sales tax guidance on various services. Often the regulations do not address the nuances of how services are provided. How can these businesses, who are trying to operate in accordance with the law, get the guidance they need?

Most services are not taxable in PA. The services that can be taxable (building maintenance, help supply, pest control, etc) are addressed in Statements of Policy. A taxpayer may also contact the Customer Experience Center and search the Customer Service (Q&A) on DOR's website. In addition, taxpayers may request a letter ruling.

<https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/061/chapter60/chap60toc.html&d=>

17. Are strike benefits issued on a 1099 taxable in PA?

Strike benefits are not taxable for Pennsylvania purposes.

18. Is it possible to add additional detail to the email notifications when PA DOR posts something in myPATH that would tell you WHAT was posted such as a 'notice of assessment' or '1099 INT'? Is it possible to allow opt in/out of receiving particular communications in myPATH? Practitioners fear these nondescript notifications could open them up to potential legal liability.

The email messages sent from myPATH is meant to be a notification that correspondence is available for review. If a taxpayer elects to receive correspondence electronically, the notification will be emailed to them and a third party that has access to their account. Certain notices, including assessments will always be printed regardless of a taxpayer selecting to receive the letter electronically. Both an electronic and printed version are generated. You can remove the ability to receive correspondence electronically by removing the paperless selection in myPATH.

Letters are published to myPATH each morning and related emails notifying the account holder that a letter is available for viewing on myPATH are generated in the evening. If letter is viewable on myPATH and no email notification was received yet, it may be due to a delay with the user's email system.

19. Payments

a. What is the most effective way of submitting a REV-459B (Consent to transfer estimated tax payments) to ensure it is received, reviewed, and processed accordingly by the PA DOR reviewer?

The oval must be filled in on Line 15 of the PA-40 return and the REV-459B should be attached at the time of filing.



b. An overpayment (from a 2022 final joint return) was applied to the following year and subsequently disallowed on the surviving spouse's 2023 single return because the deceased spouse was no longer listed as the primary SSN. How can this overpayment be reclaimed by the taxpayer?

The REV-459B should be submitted at time of filing to help prevent the issuance of a notice on the matter. There is an oval to transfer from a deceased taxpayer to the surviving spouse.

If a billing notice is received, a response can be provided along with the REV-459B to move the estimated credits.



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20. First time penalty abatement

- a. **There is confusion among practitioners regarding the department's process for issuing first time penalty abatement. Are they once in a lifetime? Once every three years? Does a taxpayer have a choice of when to apply/use the abatement or is it applied by the Department of Revenue without prior informed consent of the taxpayer?**

First-time penalty waivers are granted once every 1-3 years dependent upon the tax type. The penalty waivers are applied automatically by the Department based upon established criteria and business rules.

- b. **How does the abatement process work when PA DOR abates a penalty that was inappropriately assessed by the Department of Revenue in the first place? For example, a credit that was not carried over and applied appropriately by the Department that results in a penalty? In this circumstance would a taxpayer forfeit the one-time penalty abatement, or would it be reinstated?**

If a penalty was found to be inappropriately assessed and subsequently reversed, the first-time waiver availability would be reestablished, and the taxpayer would be eligible for the first-time waiver again.

21. Please clarify the Department's policy on small dollar billing notices of \$10 or less and the need for taxpayers to respond to them. It is difficult to advise a client to ignore a notice from the PA Department of Revenue.

Taxpayers should not be receiving any billing or assessment notices with an amount due of less than \$10 with an attached voucher for payment. Taxpayers should not disregard any notice issued by the Department. The department will issue assessment notices related to lesser amounts, however, if the resulting amount due is less than \$10, the balance due on the notice will be zero. The department must issue notices related to all assessed amounts to ensure taxpayers have their due process.

22. What are the steps to obtain a sales tax license for a new client through myPATH? We are asking this based on feedback received from a practitioner that three different clients attempting to file for a SALES TAX license have erroneously filed for a USE TAX license without their knowledge.

Upon review, it appears in myPATH, they chose 'SALES & USE TAX' (which is USE TAX only) which is the first option on the page when they should have scrolled further down the page and chosen "SALES, HOTEL & USE TAX." Can this be changed /reworded to eliminate the confusion? We suspect that there are businesses who think they have a sales tax license who do not. In one of these cases the company had been paying quarterly sales tax payments to PA via myPATH without a sales tax license. After corresponding for months via myPATH, and receiving incorrect information, they were finally told that they did not have a sales tax license, they in fact had a use tax license.

The drop-down menu for registration has been reordered so that Sales, Use and Hotel Occupancy tax is the now the first option to select from

23. What is PA DOR's position of a 529 plan conversion to a Roth IRA? Is it a tax-free rollover?

Any distribution already excludable from federal income tax under Internal Revenue Code Section 529 is also excluded from PA personal income tax.



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24. Calculations

- a. **Why does the myPATH system reflect individual overpayments using pennies instead of whole dollars? Where do the pennies come from?**

Without looking at specific example, we cannot definitively say what would add cents to overpayment amounts. Typically, this is seen when there is a estimated underpayment penalty on the account or the department has calculated interest due on the overpayment.

- b. **What is the process for penalty calculation?**

The process is dependent on the penalty and account type. Is there a particular penalty calculation this is in reference too?

25. When will the Department issue guidance on the new requirements to utilize a PA student loan interest deduction? When is it effective?

The deduction is first available for tax year 2025. The instructions and forms will be updated to permit the taxpayer to utilize the deduction.

26. When does myPATH update the employer withholding filing periods to reflect a new quarter? For example, a payment for 10/4/24 (the 4th Quarter filing period ending 12/31/24) was not an available option to submit the payment on 10/2/24.

We are aware of the issue with the availability to make payments for the 4th quarter and we are currently reviewing our logic to ensure the options are available on the first day of the quarter regardless of it falling on a holiday or weekend.

27. When will payments processed through myPATH through third parties appear in the estimate payment history?

Payments submitted by third parties should be reflected in myPATH when the payment has been posted to the taxpayer's account.

28. Does PA DOR require a driver's license as a part of filing? If it is attached, does the information get looked at to verify identity?

PA DOR does not require a taxpayer to submit their driver's license information when filing their return; however, that information may help reduce the probability that the taxpayer may need to verify their identity with the department. Please keep in mind though that a taxpayer may still be selected for the ID Validation process even if the driver's license information is submitted due to other factors found in the review process.

29. PSTAP members have recently reported revocations of sales tax licenses. Below are various accounts of recent revocations.

- **In one case the client received a letter regarding the revocation citing that they were delinquent on their CNIT returns, RCT101s for 2022 and 2023. However, they are an S Corp and do not have an RCT 101 requirement.**

If there is an active CNI account on record, non filed periods for CNI will be considered as a delinquency and show the customer as non compliant until the issue is resolved. Contact information is provided on the revocation.



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- **In another report the client is getting letters/statements of account that the sales tax license was revoked. The practitioner reviewed the sales tax filing history and all of the returns have been filed.**

A sales tax license will be revoked if there are any outstanding delinquencies with DOR or with DLI for Unemployment Compensation. If they provide the client information we can provide them with the reason for the revoked license.

- **Another member called to inquire why his client's sales tax license was revoked and was told that they had not received payment for the client's personal tax liability from their 2023 return. The client was on extension, and it was before the end of the extension period. Under what circumstances does the PA DOR revoke a sales tax license?**

Addressed above. If they provide the client information we can look into this one specifically.

- **Can you file sales tax returns on a revoked sales tax license?**

Yes, while the license is revoked the Sale & Use tax account will remain open.

We are aware of an issue with how accounts came over from the BTS where pass through entities will also have a CNI account which is causing issues with license clearances. We are currently working on a systematic fix for this but will review and correct accounts on a case-by-case basis.