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## REVENUE DEPARTMENT ACHIEVES SALES TAX COMPLIANCE OF E-COMMERCE COMPANIES; TOUTS SUCCESS OF CORBETT ADMINISTRATION'S BUSINESS-FRIENDLY APPROACH

The Department of Revenue announced that it achieved substantial compliance from remote sellers that became licensed to begin collecting sales tax by its Sept. 1 deadline.

"We have taken steps to ensure that both e-commerce companies and brick-and mortar retailers in Pennsylvania are treated equally, and we're committed to having government work with businesses instead of against them," Governor Tom Corbett said.

"We are very pleased with the response we received from e-commerce companies," said Revenue Secretary Dan Meuser. "Our optimism, and their willingness to cooperate, is a direct result of Governor Corbett's directive for the department to be as responsive, fair and business-friendly as possible in dealing with this issue."

The department's goal is to treat all businesses the same under Pennsylvania's current tax laws.

The Department of Revenue issued a tax bulletin on Dec. 1, 2011, which explained existing sales tax nexus law for remote sellers, clarifying the law and the department's authority to require e-commerce and other out-of-state sellers with physical presence in Pennsylvania to collect sales tax.

*Continued on Page 2*

### FAST FACT:

*Under Act 85 of 2012, entities paying either nonemployee compensation for Pennsylvania-based work or Pennsylvania-source oil/gas lease payments are required to submit copies of federal forms 1099-MISC to the department.*

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In January, in response to concerns from e-commerce companies about their ability to meet the original Feb. 1 compliance deadline, the department extended the deadline to Sept. 1.

"We heard the concerns from e-commerce companies and worked with them to set a deadline they could meet," Meuser said. "As a result of this flexibility, we saw e-commerce companies both large and small comply with their responsibility to register and begin collecting sales tax."

**Sales and Use Tax Bulletin 2011-01** relies on in-state activity to establish nexus, as required by the U.S. Constitution, and provides examples of in-state activity sufficient to require sales tax registration and collection.

Businesses with Pennsylvania nexus that did not become registered and begin collecting Pennsylvania

sales tax by Sept. 1 face a variety of escalating enforcement options over time, including assessment, audit, lien or referral to a collection agency or the Office of Attorney General.

If companies with nexus blatantly disregarded the tax bulletin and their obligations to begin collecting sales tax, the department has the statutory authority to look back at least three years for audit and assessment purposes.

Companies with legal questions regarding establishment of nexus are encouraged to contact the department's Office of Chief Counsel at [RA-nexus@pa.gov](mailto:RA-nexus@pa.gov) or 717-787-1382.

Companies with questions regarding sales tax registration, collection and reporting requirements are encouraged to call the business tax Taxpayer Service and Information Center at 717-787-1064.

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## ADDITIONAL PREPAYMENT OPTION NOW AVAILABLE FOR ELIGIBLE SALES, USE AND HOTEL OCCUPANCY TAX TAXPAYERS

Effective in October, Act 85 of 2012 allows a business with a prepayment obligation for sales, use and hotel occupancy tax to use an alternate prepayment calculation method, if the company had a tax liability under \$100,000 for the third quarter (July, August and September) of 2011. Such a company may now make a prepayment equal to 50 percent of the actual tax liability for the same month of the previous year, or it may make a prepayment of at least 50 percent of the tax liability for the current period.

The additional prepayment option will allow businesses to adapt to monthly sales fluctuations while remaining compliant with the prepayment obligation.

Businesses with tax liabilities of \$100,000 or more for the third quarter of the previous year must remit 50 percent of the tax liability for the same month of the previous year.

The department will provide written notification of the change and prepayment calculation methods to businesses with liabilities of less than \$100,000 by way of mail and/or email. Any business that does not receive a notification should continue to calculate prepayment using the tax liability from the same month of the prior year.

All businesses making prepayments should register to file and remit online using e-TIDES. This free electronic filing method will reduce unnecessary filing errors and assessments. Businesses not currently registered to file using e-TIDES should visit [www.etides.state.pa.us](http://www.etides.state.pa.us) to register.

For more information about this change, or for a schedule of return and prepayment due dates (REV-819), please visit the department's Online Customer Service Center at [www.revenue.state.pa.us](http://www.revenue.state.pa.us).

## TWO NEW INHERITANCE TAX AGRICULTURAL EXEMPTIONS CLARIFIED

Act 85 of 2012 created two agricultural exemptions for Pennsylvania inheritance tax: the Farmland Commodities, Easements and Reserves exemption and the Business of Agriculture tax exemption for working family farms.

### *Farmland Commodities, Easements and Reserves Exemption*

The exemption relieves from inheritance tax transfers of the following items to lineal descendants or siblings:

- Agricultural commodities – Any and all plant and animal products, including Christmas trees, produced in Pennsylvania for commercial purposes.
- Agricultural conservation easements – An interest in land less than fee-simple (any ownership interest less than outright ownership) representing the right to prevent the development or improvement of a parcel for any purpose other than agricultural production.
- Agricultural reserves – Noncommercial open space lands used for outdoor recreation or the enjoyment of scenic or natural beauty and open to the public free of charge on a nondiscriminatory basis.
- Agricultural use property – Land used for producing an agricultural commodity or land in a federal soil conservation program.
- Forest reserves – Land of 10 acres or more stocked by forest trees and capable of producing timber or other wood products.

Exemptions under the Farmland Commodities, Easements and Reserves exemption do not have to be reported on the Pennsylvania Inheritance Tax Return, and there is no annual certification for such transfers.

Taxpayers should first consider if an estate is eligible for the broad Farmland Commodities, Easements and Reserves exemption and only consider the Business of Agriculture exemption if the first exemption is not available.

### *Business of Agriculture Exemption*

Real estate devoted to the business of agriculture that is transferred between family members or from one

generation to the next for estates of decedents dying after June 30, 2012 is now exempt from inheritance tax, so long as the working family farm:

- Is transferred to members of the same family;
- Is devoted to the business of agriculture at the time of the decedent's death;
- Is devoted to the business of agriculture for seven years after the owners' date of death; and
- Produces annual gross income of at least \$2,000 in the business of agriculture for seven years after the decedent's date of death.

The Business of Agriculture exemption includes real estate directly and principally used for agricultural purposes that is leased to members of the same family or a business owned by members of the same family. Real estate leased to unrelated third parties or leased for non-agricultural purposes is not exempt from inheritance tax.

Real estate used for the following activities is not exempt from inheritance tax under the Business of Agriculture exemption:

- Recreational activities like hunting, fishing, camping, skiing, show competition or racing;
- The raising, breeding or training of game animals, game birds, fish, cats, dogs, pets or animals intended for use in sporting or recreational activities;
- Fur farming;
- Stockyard and slaughterhouse operations; or
- Manufacturing or processing operations of any kind.

Every owner of a working family farm exempt from Pennsylvania inheritance tax under the Business of Agriculture exemption must certify the farm continues to qualify for the exemption each year for seven years following the decedent's date of death.

The department is developing a form for taxpayers to use for such annual certification. Each year the form will be sent in January to all owners of real estate

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exempt from inheritance tax under Act 85 of 2012, and the form must be returned to the department by Feb. 15 each year for seven years following the death of the decedent that transferred the family farm.

If at any point during the seven years following the decedent's death the real estate ceases to be used in the business of agriculture or fails to generate a minimum of \$2,000 of gross income in any year, the owner(s) will be liable for inheritance tax in the amount that would have been paid on the fair market value of the real estate as of the date of the decedent's death, plus interest.

Real estate exempt from inheritance tax under the Business of Agriculture exemption must be reported on an exemption information form to be submitted with the Pennsylvania Inheritance Tax Return. Property that does not qualify for the exemption must be reported on the appropriate schedule(s). The exemption information form and corresponding instructions are also currently in development.

For more information, review **Informational Notice - Inheritance Tax 2012-01** on the department's website or call the Inheritance and Realty Transfer Tax Division at 717-787-8327.

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## PA REVENUE DEPARTMENT NOW REQUIRES FEDERAL FORM 1099-MISC FOR OIL/GAS LEASE PAYMENTS AND PAYMENTS TO INDEPENDENT CONTRACTORS

Under Act 85 of 2012, entities paying either nonemployee compensation for Pennsylvania-based work or Pennsylvania-source oil/gas lease payments are required to submit copies of federal forms 1099-MISC to the department.

1099-MISC forms are required for payments to resident and nonresident individuals, entities treated as partnerships for tax purposes or single-member limited liability companies from any entity required to provide form 1099-MISC to the federal government with respect to the payments. The forms are due to the department the same time they are due to the Internal Revenue Service.

The amounts reported on form 1099-MISC should be the amounts paid for the entire calendar year.

Generally, a payment is considered nonemployee compensation if it is made to someone who is not an employee of the entity for services in the course of the entity's trade or business.

Rents, royalties, bonuses and other income paid pursuant to the terms of an oil and gas lease are generally considered payments under an oil and gas lease.

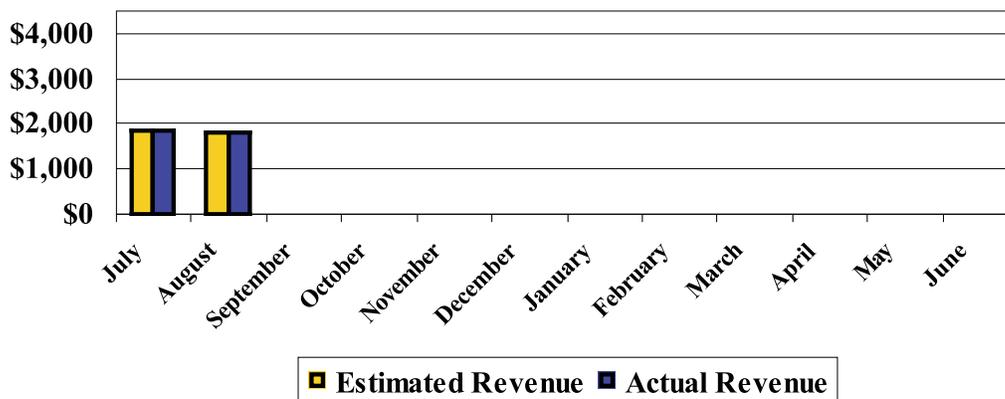
While the department requires all entities affected by this change to file forms 1099-MISC with the department, taxpayers required to file Pennsylvania employer withholding electronically must also file forms 1099-MISC electronically with the department. Forms may be filed electronically through **e-TIDES**. If a taxpayer is not required or registered to perform electronic filing for Pennsylvania withholding purposes, and does not wish to register, the forms may be submitted by mail to the PA Department of Revenue, P.O. Box 280412, Harrisburg, PA 17128-0412.

Additional filing information is also available in the **Informational Notice of Personal Income Tax 2012-02** issued on Sept. 6, 2012.

## 2012-2013 General Fund Revenues

*Estimated versus Actual Revenue Collections (in millions)*

*Fiscal year 2012-13 through August are \$3.6 billion, which is \$33.2 million or 0.9 percent below estimate.*

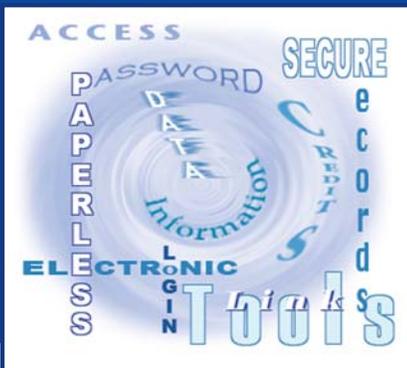


## REVISED POWER OF ATTORNEY FORMS NOW AVAILABLE

The Department of Revenue recently revised the **Power of Attorney/Declaration of Representative form (REV-677)** to clarify the form's limited purpose and provide more detailed instruction on how to submit the form in order to authorize department representatives to speak about confidential tax matters with designated third parties.

While tax practitioners are encouraged to maintain appropriate declarations of authority to handle clients' tax matters within their own records, tax practitioners should not submit unsolicited REV-677 forms to the department en masse or as a matter of routine. Such forms will be disregarded. For more information or to obtain a fill-in form online, please visit [www.revenue.state.pa.us](http://www.revenue.state.pa.us).

## TAX PROFESSIONAL E-SERVICES CENTER



Tax professionals are encouraged to use the department's Tax Professional e-Services Center for easy access to clients' tax information.

Visit the department's **Online Customer Service Center** or call 717-787-1392.