

DAUPHIN COUNTY TAX COLLECTION COMMITTEE

RESOLUTION NO. 2021-01

**A RESOLUTION OF THE DAUPHIN COUNTY
TAX COLLECTION COMMITTEE
RATIFYING, TO THE EXTENT ALLOWED BY LAW,
THE EXTENSION OF THE DEADLINES FOR
FILING FINAL EIT RETURNS AND PAYING TAXES
RELATED THERETO UNTIL MAY 17, 2021, AND TAKING CERTAIN
OTHER ACTIONS INCIDENT THERETO**

WHEREAS, by Act of July 2, 2008, P.L. 197, No. 32, §23, 53 P.S. §6924.501 et seq. (hereafter, Act 32), the collection of local income taxes has been consolidated on a countywide basis throughout the Commonwealth of Pennsylvania; and

WHEREAS, §504 of Act 32 established the Dauphin County Tax Collection District “for purposes of collecting income taxes[.]” 53 P.S. §6924.504(a); and

WHEREAS, under §505 of Act 32, the Dauphin County Tax Collection District is “governed by a tax collection committee [hereafter, the Dauphin County TCC] * * * [.]” 53 P.S. §6924.505(a); and

WHEREAS, among other matters, the Dauphin County TCC has the statutory duty “[t]o appoint and oversee a tax officer for the tax collection district * * * [.]” 53 P.S. §6924.505(a.1)(2); and

WHEREAS, the Dauphin County TCC has appointed Keystone Collections Group (hereafter, Keystone) of Irwin, Pennsylvania as tax officer for the Dauphin County Tax Collection District; and

WHEREAS, under §509 of Act 32, Keystone, as the appointed tax officer for the Dauphin County Tax Collection District, has the specific duty “[t]o comply with all regulations adopted by the [D]epartment [of Community and Economic Development] under * * * [Act 32] and all resolutions, policies and procedures adopted by the [Dauphin County] tax collection committee[.]” 53 P.S. §6924.509(a)(5); and

WHEREAS, under §502 of Act 32, “[e]very taxpayer shall, **on or before April 15 of the succeeding year**, make and file with the resident tax officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld * * * and the balance of the tax due[.]” (emphasis added) 53 P.S. §6924.502(c)(1); and

WHEREAS, also under §502 of Act 32, “[a]t the time of filing the final return, **the taxpayer shall pay the resident tax officer the balance of the tax due** or shall make demand for refund or credit in the case of overpayment[.]” (emphasis added) 53 P.S. §6924.502(c)(1); and

WHEREAS, Act 32 authorizes the Department of Community and Economic Development to: (i) establish criteria under which the tax officer may, in certain limited circumstances, waive the “quarterly” return and payment of local earned income tax, and (ii) establish conditions under which a tax officer may abate interest or penalties otherwise imposed;¹ and

WHEREAS, Act 32, however, nowhere authorizes the tax collection committee or its appointed tax officer to change the April 15th deadline for filing final returns and paying “the balance of the tax due[.]” contrast 53 P.S. §6924.502(c)(1) with 53 P.S. §6924.502(c)(3) or 53 P.S. §6924.509(i)(2); and

WHEREAS, on March 6, 2020, Tom Wolf, Governor of the Commonwealth of Pennsylvania, proclaimed the existence of a disaster emergency throughout the Commonwealth; and

WHEREAS, the disaster emergency has been renewed and the attendant economic dislocation has disrupted, and threatens to continue to disrupt, the normal tax collection process in the Dauphin County Tax Collection District and throughout the Commonwealth of Pennsylvania; and

WHEREAS, on March 27, 2020, The Fiscal Code, Act of April 9, 1929, P.L. 343, No. 176 (hereafter, Fiscal Code), was amended to add thereto Article I-A which provided emergency finance and tax provisions in response to the disaster emergency; and

WHEREAS, Section 102-A(a) of Article I-A specifically amended the Fiscal Code to “provide [] temporary authority to the Department of Revenue to deal with State taxation during the state of disaster emergency announced by the Governor’s March 6, 2020 Proclamation * * * [;]” and

WHEREAS, under Section 102-A(b)(1) of Article I-A, “[t]he [D]epartment [of Revenue] shall extend filing and payment deadlines under * * * [the state income tax code;]” and

¹ With respect to quarterly returns, Act 32 states: “The department shall establish criteria under which the tax officer may waive the **quarterly return** and payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer’s **annual return** and pay the income tax due on or before April 15 of the succeeding year.” (Emphasis added.) 53 P.S. §6924.502(c)(3). With respect to interest and penalties, Act 32 states: “The department may establish conditions under which a tax officer, **with the concurrence of the tax collection committee**, may abate interest or penalties that would otherwise be imposed for the nonreporting or underreporting of income tax liabilities or for the nonpayment of income taxes previously imposed and due **if the taxpayer voluntarily files delinquent returns and pays the income taxes in full.**” (Emphasis added.) 53 P.S. §6924.509(i)(2).

WHEREAS, under section 102-A(b)(2) of Article I-A, “[t]he [D]epartment [of Revenue] shall disregard the period after April 14, 2020 and before July 16, 2020 in the calculation of interest, a penalty or an addition to tax for failure to meet the extended deadline [i.e., July 15th.]” and

WHEREAS, under Section 102-A(c) of Article I-A, the temporary authority provided to the Department of Revenue to “deal with state taxation during the state of disaster emergency” expressly and finally expired on July 31, 2020; and

WHEREAS, Section 103-A(a) of Article I-A specifically amended the Fiscal Code to “provide[] temporary authority to the Department of Community and Economic Development to deal with **local taxation** during the state of disaster emergency announced by the Governor’s March 6, 2020 Proclamation * * * [.]” (emphasis added) and

WHEREAS, under Section 103-A(b)(1) of Article I-A, “* * * the [D]epartment [of Community and Economic Development] **shall coordinate** with the **governing bodies and local agencies of political subdivisions** to * * * [e]xtend filing and payment deadlines for local taxes * * * so that the deadlines coincide with the filing deadline for a tax return and payment under [the state income tax code.]” (emphasis added); and

WHEREAS, under Section 103-A(b)(2) of Article I-A, “* * * the [D]epartment [of Community and Economic Development] **shall coordinate** with the **governing bodies and local agencies of political subdivisions** to * * * “[d]isregard the period after April 14, 2020, and before July 16, 2020, in the calculation of interest, a penalty or an addition to tax for failure to meet the extended deadline [i.e., July 15th.]” (emphasis added) and

WHEREAS, under Section 103-A(c) of Article I-A, the temporary authority provided to the Department of Community and Economic Development to “deal with **local taxation** during the state of disaster emergency” expressly and finally expired on July 31, 2020; and

WHEREAS, contrary to the clear mandate of Section 103-A(b) of Article I-A to the Fiscal Code, the Department of Community and Economic Development failed to communicate or “coordinate” with the Dauphin County TCC or its member taxing authorities concerning the extension of the filing and payment deadlines for 2019 local taxes and the calculation of interest and penalties thereon; and

WHEREAS, under §505 of Act 32, the Dauphin County TCC has the statutory power “[t]o adopt * * * resolutions to carry out its powers and duties * * * [.]” including its duty to “oversee” the appointed tax officer, 53 P.S. §6924.505(a.1)(2) and (a.2)(1); and

WHEREAS, on June 17, 2020, the Dauphin County TCC approved Resolution No. 2020-01, and thereby took official action on certain issues of local taxation for 2019 that arose from, (i) the disaster emergency, and (ii) the failure of the Department of Community and Economic Development to communicate or coordinate with the Dauphin County TCC; and

WHEREAS, among other matters, Resolution No. 2020-01 ratified the extension of the

filing and payment deadlines for local earned income taxes so that such deadlines coincided with the filing deadlines for a tax return payment for 2019 state taxation; and

WHEREAS, Resolution No. 2020-01 also ratified actions taken by Keystone, the appointed tax officer, to disregard the period after April 14, 2020 and before July 16, 2020 in the calculation of interest, penalties or additions to local earned income tax for failure to meet the extended deadline; and

WHEREAS, on March 17, 2021, the Dauphin County TCC held a regular meeting during which it received a report from Keystone, its appointed tax officer; and

WHEREAS, among other matters, Keystone reported to the Dauphin County TCC that the U.S. Treasury Department and the Internal Revenue Service had, earlier that day, announced that the due date for federal income tax filing for individuals for the 2020 tax year will be extended from April 15, 2021 to May 17, 2021; and

WHEREAS, upon hearing Keystone's report, discussion ensued amongst the delegates to the Dauphin County TCC as to whether the TCC should adopt a resolution, similar in purpose and effect to Resolution No 2020-01, so as to ratify any extensions to the filing and payment deadlines for 2020 local earned income taxes enforced by Keystone pursuant to state law; and

WHEREAS, after discussion, motion and vote, the Dauphin County TCC unanimously directed the Solicitor to draft a resolution providing for such ratification so that such resolution may be forthwith signed by the Chairman and attested by the Secretary; and

WHEREAS, a bill similar in purpose and effect to last year's amendment to the Fiscal Code has been introduced in the General Assembly of Pennsylvania, but such bill has not yet become law; and

WHEREAS, in an open letter to "PA Municipal Officials" dated April 7, 2021 (see **Exhibit A** hereto), Secretary Dennis M. Davin of the Department of Community & Economic Development has notified all such officials that "our department lacks the legal authority to extend the statutory filing and payment deadline[]" because the authority given in last year's amendment to the Fiscal Code expressly expired on July 31, 2020; and

WHEREAS, Secretary Davin specifically states that "local governments may wish to consult with their solicitors on whether and how they might explore alternatives to waive interest and/or penalties for local tax filings and payments * * *[" (see **Exhibit A**.)

NOW, THEREFORE, on this 12th day of April, 2021, be it resolved by the Dauphin County TCC as follows:

Section 1. Federal Income Tax. The TCC acknowledges that the due date for federal income tax filing for individuals for the 2020 tax year has been extended from April 15, 2021 to May 17, 2021. The TCC further acknowledges that a bill proposing a similar extension for state taxation is pending in the General Assembly of Pennsylvania.

Section 2. Ratification. The TCC acknowledges receipt of Secretary Davin’s notice (see **Exhibit A**) concerning the extension of the filing and payment deadlines for local earned income taxes. To the extent allowed by law, the TCC hereby ratifies the extension of the filing and payment deadlines for local earned income taxes so that such deadlines coincide with the filing deadlines for a tax return and payment for 2020 state taxation.

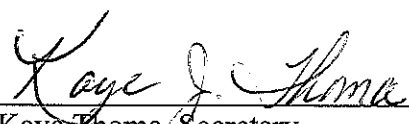
Section 3. Interest on Penalties. To the extent allowed by law, the TCC hereby ratifies actions taken (or to be taken) by Keystone, the appointed tax officer, to disregard the period after April 14, 2021 and before May 17, 2021 in the calculation of interest, penalties or additions to local earned income tax for failure to meet the extended deadline (i.e., May 17th).

Section 4. Notice to Taxing Authorities. Consistent with Secretary Davin’s open letter (see **Exhibit A**), a true and correct copy of this Resolution No. 2021-01 shall be forthwith provided to each taxing authority that is a member of the Dauphin County TCC, and such taxing authorities will be advised to consult with their solicitors. Also, a true and correct copy of this Resolution No. 2021-01 shall be posted forthwith on the Dauphin County TCC’s official website.


Section 5. Additional Authorization. The Executive Committee of the Dauphin County TCC is hereby authorized and directed to execute and deliver such other documents necessary to carry out the purposes of this Resolution, with the advice of the Dauphin County TCC’s solicitor. The Secretary is hereby authorized and directed to attest any such documents so executed and delivered.

ATTEST

DAUPHIN COUNTY
TAX COLLECTION COMMITTEE



Kaye Thoma, Secretary

By: 

August “Skip” Memmi, Chairperson

EXHIBIT A



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

April 7, 2021

Dear PA Municipal Officials:

The Department of Community and Economic Development appreciates and shares the concern of local governments regarding the unusual circumstances related to the COVID-19 pandemic on the annual April 15th deadline for the filing and payment of local taxes.

While DCED has the authority under the Local Tax Enabling Act to provide guidance and oversight with regard to certain local tax issues, our department lacks the legal authority to extend the statutory filing and payment deadline. You may recall that, last year, Act 10 of 2020 granted DCED the power to “coordinate” with local governments on an extension of the deadline without interest or penalties. However, that authority expired on July 31, 2020.

In the absence of DCED’s ability to assist local governments in a similar manner this year, local governments may wish to consult with their solicitors on whether and how they might explore alternatives to waive interest and/or penalties for local tax filings and payments that are made on or before May 17, 2021, which is the extension for filing federal and state taxes.

This letter is not intended to constitute legal advice or have the weight or effect of law, but we hope that it is helpful during this challenging time. If you wish to discuss this issue further, please do not hesitate to call our Center for Local Government Services at 888-223-6837.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis M. Davin".

Dennis M. Davin
Secretary

