

Local Elected Tax Collectors ... An Overview¹

In General

The various municipal codes² provide for the election of the local tax collector. The local tax collector is charged with the responsibility of collecting municipal and school real estate taxes as well as personal taxes levied pursuant to the municipal codes. In most instances, the municipal tax collector also collects county real estate and personal taxes as well.³ The Local Tax Collection Law (LCTL)⁴ governs the powers, duties and responsibilities of the local elected tax collector.

A municipality or school district may also designate the elected tax collector to collect most taxes levied under the Local Tax Enabling Act.⁵ The elected tax collector may not collect the local earned income tax or net profits tax.⁶

Tax Payment Accounts

Act 38 of 2017 prohibits the deposit of tax payments into an account bearing only the tax collector's name. The tax collector is required to open an account that includes the name of the office, title or position and may include the name of the municipality for which the tax collector was elected or appointed. Further, the account may not be opened using the tax collector's social security number. In addition to LTCL tax payments, any taxes collected pursuant to the Local Tax Enabling Act (Act 511 of 1965) must be deposited into the account. A tax collector for a joint taxing district or a county treasurer collecting taxes under an agreement pursuant to the LTCL may open one account for the deposit of tax payments if the account does not bear the name of an individual and includes the name of the joint tax collection district or, in the case of a county treasurer, includes the name of the office, title or position.

¹ The Governor's Center for Local Government Services in the Pennsylvania Department of Community and Economic Development authors a comprehensive publication, *Tax Collector's Manual*, which delineates the powers, duties, responsibilities and compensation of local elected tax collectors. Available at <https://dced.pa.gov/download/Tax%20Collectors%20Manual/?wpdmdl=56412> (accessed April 6, 2020).

² To view or download the municipal codes, visit the Local Government Commission's website at <http://www.lgc.state.pa.us/paMunicipalCodes.cfm>. (accessed April 6, 2020).

³ Third Class City Code, 11 Pa.C.S. § 11402.1; Borough Code, 8 Pa.C.S. § 101 et seq. § 1086; The First Class Township Code, Act 331 of 1931 (53 P.S. § 55101 et seq.) § 801-B; The Second Class Township Code, Act 69 of 1933 (53 P.S. § 65101 et seq.) § 1001.

⁴ Act 394 of 1945 (72 P.S. § 5511.1).

⁵ Act 511 of 1965 (53 P.S. § 6924.101) § 313.

⁶ Income taxes are collected and administered by one tax officer in each tax collection district as per § 506 of Act 511. See *Deskbook* article, "Earned Income Taxes."

Basic and Continuing Education Programs

The LTCL was amended several times from 2000 to 2015⁷ to establish, and modify, basic training and education, examination and qualification guidelines for elected tax collectors. Among other things, Act 164 of 2014 amended the LTCL to require tax collectors to complete the basic training program developed by the Department of Community and Economic Development (DCED) and pass a basic qualification exam pursuant to conditions set forth in the act. Act 48 of 2015 modifies the requirements set forth by Act 164 with regard to basic and continuing education for tax collectors. Act 48 extended the effective date for mandatory participation in permanent basic and continuing education from October 22, 2015, to January 1, 2017.⁸ Voluntary interim basic and continuing education programs were in effect until December 31, 2016.

Under Act 48, a person passing the basic qualification examination will be designated a “qualified tax collector.” Once certified, an individual will not be required to retake the basic education qualification exam. Act 48 provides that if an individual is not a qualified tax collector on the date he/she is scheduled to take the oath, then the office of tax collector will be deemed vacant.⁹

DCED, in consultation with specified participants, is required to adopt and implement programs of basic training, examination and qualification for a qualified tax collector, as well as programs for continuing education and renewal of qualification requirements.¹⁰ Each qualified tax collector is required to obtain two hours of mandatory continuing education during their four-year term of office. If a tax collector fails to successfully complete the continuing education requirements, he/she is deemed ineligible to be placed on the ballot for the office of tax collector at the end of his/her current term of office.

Criminal Background Checks

Act 164 of 2014 requires any individual who files a nomination petition or papers for the office of tax collector to submit delineated criminal history record information to the county board of elections. Once elected, an individual will not be required to submit criminal background information with his/her nomination petition or papers for a subsequent term in the office of tax collector. An individual who fails to meet the requirements relating to the criminal history record information will not be not be qualified to hold the office of tax collector.

Act 48 of 2015 requires an individual elected to the office of tax collector for the term beginning January 1, 2016, to submit to a criminal background check to the municipality for which the tax

⁷ Act 104 of 2000, Act 25 of 2001, Act 80 of 2006, 164 of 2014 and Act 48 of 2015.

⁸ Certain tax collectors are grandfathered from varying provisions of the act.

⁹ If an individual is appointed to fill a vacancy in the office of tax collector, the individual shall have 60 days to become a qualified tax collector. If the appointee fails to become a qualified tax collector within the time specified, the office shall be deemed vacant. A county treasurer collecting taxes in the case of a vacancy in the office of local tax collector is not required to complete the basic training and continuing education programs.

¹⁰ Fees charged for the training, testing and qualification of a tax collector may not exceed \$250.

collector was elected before the individual is scheduled to take the oath of office as prescribed by law. If the tax collector does not submit the required information before the date the individual is scheduled to take the oath, the office of tax collector will be deemed vacant.¹¹

Auditing and Settling of Accounts

Act 169 of 1998 amended the LTCL for the primary purpose of preventing the opportunity for embezzlement by segregating funds and by providing for improved auditing of a tax collector's accounts, records, returns and payments. Among other things, Act 169 requires a tax collector to file with the taxing district a reconciled report and a verified statement of all taxes collected for the previous month on a standardized form provided by DCED, at least on a monthly basis. Act 169 permits a taxing district to require the tax collector to file this statement more frequently if directed to do so by ordinance or resolution. Act 169 also provides for the complete and final settlement of the duplicate for the previous year by January 15. The settlement on January 15 is to show the status of all accounts as of December 31 of the prior calendar year.

The duplicate constitutes the tax collector's authority or warrant to collect taxes. It is used by the tax collector to notify the persons whose names appear thereon of the valuations and identification of the properties or persons taxed, the rates of taxes and the amount of tax due.

After receiving the duplicate, the tax collector generally sends out tax notices within 30 days. Taxpayers are given a two-month period during which time they can pay taxes at a discount of at least 2 percent, followed by another two-month period during which time they may pay taxes at face value. After this four-month period, a penalty period ensues during which a penalty of up to 10 percent may be imposed. In many cases, the penalty period throughout which the tax collector continued to collect real estate taxes extended to the date that unpaid taxes were "returned" to the county tax claim bureau (under the Real Estate Tax Sale Law). The date selected for the return to the tax claim bureau, depending on the county, might be any time from January 15 to April 30. Evidently, the date the tax collectors "settled" with the taxing districts (under the Local Tax Collection Law) often coincided with the selected "return" date under the Real Estate Tax Sale Law.

Thus, historically, for example, in a county where taxes were not returned to the tax claim bureau until April 30, taxpayers had until April 30 of the year after the year in which the tax notice was sent to pay the tax collector. Also, if the taxing district had authorized installment payments, such payment could extend to the April 30 or other established return/settlement date as determined by ordinance of the taxing district. Due to the establishment of the January 15 settlement date by Act 169, and the interplay generally between the Local Tax Collection Law and the Real Estate Tax Sale Law, there was some opinion that the tax collector had no authority to accept any tax payments (installment or otherwise) after January 15 (or even December 31, the date to which the settlement refers). This concern was addressed by Act 104 of 2000.

¹¹ Act 48 also requires criminal history record information for a person appointed to fill a vacancy in the office of tax collector. This provision does not apply to a joint tax collection district or to a county treasurer who is collecting municipal taxes due to a vacancy the office of tax collector.

Act 104 of 2000, among other things, retained the January 15 settlement date. However, the act affords taxing districts the option of permitting installments after the settlement date and up to the date that taxes are returned to the tax claim bureau. This is done by reissuing to the tax collector the duplicates for those properties whose owners have chosen to pay by installments, where permitted. Municipalities that allow for installment payments are to follow provisions contained in the Local Tax Collection Law.

Taxing districts, however, remain free not to have any payments by installments, or to have installments but require that they be made prior to the December 31 or the January 15 settlement date.

Delinquent Tax Collectors and Tax Collection Districts

Act 14 of 2002 mandates that the elected tax collector will automatically serve as a delinquent tax collector, without the necessity of appointment, but only until the date established by Section 306 of the Real Estate Tax Sale Law for the return to the county tax claim bureau.

In addition, Act 14 provides for the creation of joint tax collection districts. When a vacancy exists in the office of the tax collector in a taxing district, the governing body of a taxing district may enter into an agreement with the governing body of an adjoining or conveniently located taxing district for the joint collection of taxes. The tax collector must agree to serve as the tax collector for the joint tax collection district for the remainder of the individual's term. Thereafter, a person shall be elected as tax collector by the electors of the joint tax collection district.

Deputies

While Section 22 of the act under prior law made the appointment of a deputy discretionary, Act 164 of 2014 requires tax collectors to appoint a deputy to collect and settle taxes in the event of the tax collector's incapacitation. Section 22 was further amended by Act 48 of 2015 to specify that the tax collector's bond covered taxes collected by the deputy.