

Business Privilege Tax
Earned Income Tax
Mercantile Tax
Local Services Tax
Real Estate Tax



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Important Earned Income Tax Change for 2009

Dear Tax Preparers and Advisors:

We realize that local tax issues often take a back seat to federal and state issues, so you may not have been aware of an important change to the local earned income/net profits tax that could affect some of your clients. PA Act 32 of 2008, which amends Act 511 of 1965 (the "Local Tax Enabling Act"), changes the way business losses are treated. In the past, taxpayers filing a local earned income tax return were permitted to deduct a loss from an unincorporated business (for which services are rendered) against earned income (such as wages). This offset was allowed based on the PA Supreme Court decision in the O'Rielly vs. Fox Chapel School District case, decided March 16, 1989. Alternatively, a taxpayer could not offset losses from one business against profits from another, as decided in the Aronson vs. City of Pittsburgh case (Pa.Cmwth. 1985).

Effective with tax year 2009, pursuant to PA Act 32, business losses **cannot** be used to offset earned income. A loss from one business however, **can** be used to offset net profits from another business. This is an important change that should be taken into account when advising taxpayers about estimated payments, etc. The 2009 City of Scranton and the Scranton School District tax returns will be modified to reflect this change. Since most tax preparers use purchased software, you may want to check to be sure that this change is incorporated. This will eliminate the need for us to adjust incorrectly filed tax returns and send balance due notices to your clients.

Please see examples below, which are taken from the "Frequently Asked Questions" section of the PA Governor's Center for Local Government Services webpage on Act 32:

- *If a taxpayer has a \$40,000 net loss from a business selling garden supplies and \$20,000 of earned income from his job at the local grocery store, the business loss may not be used to offset his earnings and so taxes will be due on the full \$20,000 of earned income.*
- *If a taxpayer has a net loss of \$30,000 from a business selling garden supplies and a net profit of \$50,000 from a business selling used cars, and earned income of \$60,000 from his job as an accountant, the taxpayer's local income tax liability will be based on \$20,000 of net profits and \$60,000 of earned income because the taxpayer can offset one business loss against the second business profit.*
- *If a taxpayer has a net loss of \$50,000 from his garden supply business, a profit of \$30,000 from his used car business and income of \$60,000 from his job as an accountant, the taxpayer's local income tax liability will be based on \$60,000 of earned income. The loss from the first business may be used to offset the gain from the second but the net loss from the combined businesses cannot be used to offset earned income.*

In an effort to educate taxpayers, we have posted this information on the Single Tax Office website. Please feel free to contact our office if you have any questions on this, or any other earned income tax issue. We value your input and strive to maintain a good working relationship with tax preparers and advisors for the benefit of our taxpayers.

Sincerely,
William L. Courtright, Tax Collector