

FREQUENTLY ASKED QUESTIONS

1. WHAT IS THE EARNED INCOME TAX AND WHY DO WE HAVE TO PAY IT?

The local earned income tax was enacted in 1965 by the Pennsylvania General Assembly under Act 511, the state law that gives municipalities and school districts the legal authority to levy a tax on individual gross earned income/compensation and net profits. The tax is based on the taxpayer's place of residence (domicile) and NOT their place of employment. Both full- and part-year residents are required to file with this Bureau on any earned income and/or net profits garnered while residing in our taxing jurisdiction. Part-year residents would also have to file a local tax return with the tax bureau that collects the local tax in the area they moved to or from. Any income and tax withheld would be prorated according to the number of months the taxpayer resided in each Bureau's jurisdiction.

This tax is separate from the Pennsylvania personal income tax (your state income tax). This Bureau collects the local earned income/net profits tax for 127 municipalities and school districts in York and Adams counties and distributes the revenue to them on a monthly basis. The disposition of these tax monies is at the sole discretion of the school district or municipality that levies the tax; the Bureau is merely the tax collector. When a taxpayer files a return and indicates in what taxing district he or she resided during the calendar year, the tax is distributed according to the local tax rate. The minimum tax rate is one percent (1%), of which half goes to the municipality and half to the school district. School districts have the ability to levy a higher tax rate, so in some cases the combined rate will be higher than 1%. If you have a question about your tax rate, call the Bureau office.

2. I JUST MOVED INTO THE AREA. WHAT LOCAL TAXES AM I REQUIRED TO PAY?

The answer to this question depends on where you reside, since different school districts and municipalities have enacted various local taxes. The following is a partial list of taxes an individual may be required to pay (the Bureau does not collect all of these taxes for every municipality):

- Earned Income Tax
- Per Capita Tax
- Local Services Tax (LST)
- Mercantile and Business Privilege Tax (for business owners)
- Real Estate Tax

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3. WHAT IS A "NON-RESIDENT" TAX?

York Adams Tax Bureau member municipalities have enacted a provision in their tax ordinances stating that the entire earned income and net profits

received while working within the municipality by a person who is not a resident of that municipality is/are taxable at the rate of one percent (1%) if the person is not required to pay a similar tax elsewhere. School districts may not tax non-residents.

4. **WHAT IS A RECIPROCAL AGREEMENT?**

Pennsylvania has signed a mutual agreement with the states of Maryland, Indiana, New Jersey, Ohio, Virginia and West Virginia that provides that participating states will not tax residents of neighboring states whose place of employment is in their state. This agreement involves state tax and does not include local tax. However, this Bureau's policy, established by its Board of Directors, is to exempt Maryland residents who work in York or Adams counties from paying the local earned income tax. Employers are not required to withhold the local tax from Maryland residents. In the event local tax is withheld and remitted to this Bureau, Maryland residents may apply for a full refund. Click on this link for a letter to Maryland employers:
<http://www.yatb.com/forms/paemployersmdresidents.pdf>

5. **IF I LIVE IN THE YATB TAXING AREA BUT WORK IN ANOTHER TAXING AREA IN PENNSYLVANIA AND MY EMPLOYER WITHHELD THE TAX AND REMITTED IT TO THE TAX BUREAU WHERE I WORK, HOW SHOULD I FILE?**

File your tax return with our office and include a W-2 form stating where the tax was sent. We will request the tax from the other tax office.

6. **IF I LIVE IN THE YATB TAXING AREA BUT WORK IN ANOTHER STATE, HOW DO I CLAIM OUT-OF-STATE CREDIT?**

Out-of-state credit may be applied to the local tax liability on the wages earned while working in the other state or states. Taxpayers working in any other state must first apply the taxes paid to the other state against their PA state personal income tax. Any unused tax credit remaining may then be applied to the local tax due on wages earned while working in the other state. Out-of-state credit may NOT be applied to wages earned locally. For the out-of-state credit to be approved, you MUST include copies of your PA-40 and out-of-state tax return along with a PA Schedule G when filing your local tax return.

If local tax was withheld in any other state and the taxpayer cannot apply for a refund of that local tax, we will allow this amount as a credit to be applied on the tax due here on those wages earned in that state ONLY – up to the rate of tax for the taxpayer's district of residence.

7. **I LIVE IN THIS AREA BUT WORKED IN ANOTHER COUNTRY AND PAID TAXES THERE. DO I HAVE TO FILE AND PAY TAXES HERE?**

YES. PA case law has held (per the opinion of Justice McDermott in the O'Reilly case) that taxes paid in foreign countries shall NOT be eligible for credits against earned income/net profits tax. O'Reilly v. Fox Chapel Area School District, A.2d 1288, 521 Pa. 471, 1989.

8. **I AM A RESIDENT OF MARYLAND BUT WORKED IN THE YATB TAXING AREA AND HAD LOCAL TAX WITHHELD. CAN I GET A REFUND?**

YES. Complete one of our local tax forms and include a copy of the applicable W-2. It does not matter if you worked in a municipality that taxes non-residents. Forms may be obtained by clicking on this link:
<http://www.yatb.com/taxforms.htm>

9. **I AM A RESIDENT OF ANOTHER STATE (NOT MARYLAND) AND WORKED IN THE YATB TAXING AREA AND HAD LOCAL TAX WITHHELD. CAN I GET A REFUND?**

If you worked in a municipality that has a non-resident tax, NO. The taxpayer should file a return and pay any tax due here.

10. **I AM A RESIDENT OF PENNSYLVANIA (OTHER THAN THE YATB TAXING AREA) BUT WORKED IN THE YATB AREA AND HAD LOCAL TAXES WITHHELD. THEY DO NOT HAVE LOCAL EARNED INCOME TAX WHERE I LIVE. DO I GET A REFUND?**

If you worked in a municipality within our jurisdiction that has a non-resident tax, tax would be due here.

11. **I WORKED ALL OR A PORTION OF THE YEAR IN PHILADELPHIA AND TAX AT THE PHILADELPHIA RATE WAS WITHHELD AND REMITTED TO PHILADELPHIA. CAN I CLAIM THE FULL AMOUNT OF TAX WITHHELD AS CREDIT ON MY LOCAL TAX RETURN?**

No. You may only take credit up to your applicable tax rate multiplied by the earnings subject to Philadelphia Wage Tax, provided you send evidence of payment. You may not apply the excess Philadelphia tax payment against tax liability for earnings not subject to the Philadelphia Wage Tax.

12. **I AM A RESIDENT OF THE YORK ADAMS TAXING AREA AND WORKED IN PITTSBURGH FOR ALL OR PART OF THE YEAR AND HAD LOCAL TAX WITHHELD. CAN I GET A REFUND?**

Tax is due here on those earnings as Pittsburgh will not refund the tax back to other tax offices. You must apply directly to Pittsburgh for a refund of this tax (412-255-2511).

13. **IS A SECTION 125 CAFETERIA PLAN TAXABLE?**

GENERALLY NO. Elective contributions made by an employer and an employee to a Section 125 plan covering **hospitalization, sickness, disability or death benefits** are not considered taxable at the state or local levels, and therefore are not subject to local tax withholding. If local tax was withheld by your employer on the amount contributed to the cafeteria plan, a refund may be due.

However, amounts paid in to a Section 125 plan for **adoption benefits, dependent care, educational assistance or no job-related legal, accounting or other professional services** ARE TAXABLE at the state and local levels unless the employer offers them as a working condition, no-additional-cost, qualified transportation or *de minimis* fringe benefit.

14. **IS DEFERRED COMPENSATION (401k, 457b, etc.) TAXABLE?**

YES. Employee contributions to an employer-sponsored deferred compensation plan are taxable in the year in which they are made, unlike the tax break offered at the federal level. The IRS taxes deferred compensation when it is withdrawn from your account, whereas normal retirement or rollover distributions are not taxed at the local level. **NON-QUALIFIED** deferred compensation is also taxable. **IS THE STATE PICKUP AMOUNT TAXABLE?** YES. This is the employee's contribution before tax to the Maryland Retirement System. It is treated like any other deferred compensation plan.

15. **IS EARLY DISTRIBUTION OF DEFERRED COMPENSATION TAXABLE?**

YES. If the Form 1099R received by the taxpayer indicates that the amount was an early distribution, it would be taxable at the local level. If, however, the 1099 indicates that the distribution was a ROLLOVER to another qualified plan, that distribution would not be taxable. If the taxpayer receives all or part of the distribution, the amount the taxpayer originally contributed is NOT taxable (having already been taxed at the local level), but any amount contributed to the plan by your employer WOULD BE taxable for earned income tax purposes. The taxpayer may need to find out the taxable portion as it may not be stated separately on the 1099.

16. **IS MILITARY PAY TAXABLE?**

ACTIVE DUTY military pay is NOT taxable. RESERVE pay is taxable. If the employer's ID number on the W-2 has three consecutive 9's (ex.: 84-9990000), this indicates active duty pay. If the ID number contains 991-998, this indicates reserve pay but the W-2 may also contain active duty pay which would be entered separately on the W-2. Amounts listed next to codes "Q" and "W" are to be deducted from the gross taxable amount, but the result cannot be less than zero.

17. **IS S-CORPORATION INCOME TAXABLE?**

NO. S-Corporation pass-through income reported on a PA Schedule RK-1 is not taxable at the local level, though it does need to be reported on the back of your return.

18. **ARE NON-QUALIFIED STOCK OPTION PLANS TAXABLE?**

YES. The earnings component of all stock option plans is taxable WHEN EXERCISED. The "earnings component" is defined as the difference between the option price and the fair market value of the stock at the time the option is exercised. Employers have an obligation to withhold the local earned income/compensation tax on the earnings component. This amount should be reported as part of the local wages total on the employee's W-2. **ESOP PLANS** are also taxable.

19. **IS THE COST OF GROUP TERM LIFE INSURANCE OVER \$50,000.00 TAXABLE?**

NO, not at the local level.

20. **ARE PRIZES, GIFTS AND AWARDS TAXABLE?**

YES, if as a condition of receiving it the employee rendered substantial service in order to receive the prize or award. If someone receives a gift at the time of retirement this would not normally be taxable.

21. **ARE INCENTIVE PAYMENTS TAXABLE?**

YES. This includes "Golden Parachute" settlements, incentives for early retirement, etc.

22. **ARE PARSONAGE/HOUSING ALLOWANCE PAYMENTS RECEIVED BY CLERGY TAXABLE?**

NO.

23. **ARE SCHOLARSHIPS AND FELLOWSHIP GRANTS TAXABLE?**

Scholarships and fellowships are generally NOT taxable if the amount is for furthering education only and is not a payment for teaching or research services rendered as a requirement for completing a particular degree. **Are stipends taxable? YES. Is work study compensation taxable?** A W-2 is normally issued. It is taxable if it is received by an individual even though it might be signed and turned directly back to the educational institution. If the amount is paid directly to the college or university and does not pass through the taxpayer's hands it is NOT taxable.

24. **IS TUITION REIMBURSEMENT PAID TO AN EMPLOYEE BY THE EMPLOYER TAXABLE?**

Tuition assistance or educational benefits are taxable unless the education is either 1) required by law or regulation, or 2) required of the employee by the employer in order for the employee to retain the skill or certification necessary for his or her present position. If the employer reimburses the employee for the education cost, then the reimbursement is fully taxable and the employee may deduct only those expenses directly related to business expenses allowed on a PA Schedule UE form. If payment is made directly by the employer to the educational institution, it is NOT taxable.

25. **IS PERSONAL USE OF A COMPANY CAR TAXABLE?**

NO.

26. **I FILED MY TAXES BY APRIL 15 AND EXPECTED A REFUND. WHY HAVE I NOT RECEIVED IT YET?**

There could be several reasons for this. Here are a few possibilities:

- a. We may not have processed your return yet. We mail refunds weekly.
- b. Your envelope may not have been clearly marked "Refund Due." When our mail is separated, it is segregated based on whether it is a payment, a refund or no payment/no refund due. If your envelope is not marked properly, it could be processed at a later date.
- c. If the tax return is incorrect due to a math error or the use of an incorrect figure from a W-2, we will deny the refund.
- d. You may have changed your address and not notified us of the change. If the post office does not have a forwarding address for you, the correspondence will be returned to us, but may be delayed by some weeks. When we receive a postal return, we will not mail it out again until we find an updated address.

- e. If the employer is unknown to us or the W-2 indicates that the money was sent to another tax bureau, we will sometimes delay issuing a refund

until we are sure that we will receive the tax withheld. We cannot refund tax that we do not receive. In addition, sometimes the local tax amount that is shown on the W-2 is different than the amount the employer remits to us, or else the local tax withheld figure may include Local Services Tax (formerly known as OPT or EMST). LST is not related to earned income tax. This can delay or reduce a refund.