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Lancaster County Tax Collection Bureau

1845 William Penn Way, Lancaster, PA 17601
Phone (717) 569-4521

Terry L. Hackman, PRSBA
Executive Director
Certified Tax Officer

Stephen K. Book
Assistant Executive Director
Certified Tax Officer

Lancaster County Tax Collection Bureau

Act 32 of 2008, Senate Bill 356 of 2015, and House Bill 245 of 2015

Testimony of Terry Hackman, Executive Director

Before the Pennsylvania House Finance Committee – October 6, 2015

Introduction. Mr. Chairman, and members of the House Finance Committee, on behalf of the Lancaster County Tax Collection Bureau (the "**Bureau**"), thank you for the opportunity to present the Bureau's perspective on Act 32 of 2008 and two measures that have recently been introduced to amend the Act – Senate Bill 356 and House Bill 245.

Bureau Overview. The Bureau was established in 1959 under the Local Tax Enabling Act and the Pennsylvania Intergovernmental Cooperation Act by 16 Lancaster County school districts and the Octorara Area School District in Chester County. The Bureau has always been and still is a local government agency, and has always operated on a "non-profit" basis.

From 1959 through 2010, the Bureau collected local earned income tax for all school districts and municipalities in Lancaster County, the Octorara Area School District, and all municipalities within the Octorara Area School District.

Since 1959, the Bureau has been governed and financed by the school districts and municipalities that it serves. The Bureau funds its operations by withholding a percentage of tax collections and using the withholdings to cover operational expenses.

When Act 32 of 2008 was passed, the General Assembly reconstituted the Bureau for legal purposes as a tax collection committee – but did nothing to change the basic structure of the Bureau. Prior to Act 32, the Bureau was the only county-wide earned income tax collector in Pennsylvania. We understand the county-wide earned income tax consolidation that occurred under Act 32 was modeled off the structure we have had in place in Lancaster since 1959.

Today, the Bureau is the fourth largest earned income tax collector in Pennsylvania and the largest single-county tax bureau in Pennsylvania. Annually, the Bureau handles tax returns filed by approximately 16,000 employers and 285,000 individual taxpayers. Last year, the Bureau collected and processed $169 million in earned income tax – with $129 million being distributed to local school districts and municipalities, and the remainder being distributed outside our jurisdiction.

Act 32 – A Huge Success. For the Bureau, local implementation of Act 32 has been a huge success. A few highlights –

- In 2010, the Bureau distributed $97 million in earned income tax to its school districts and municipalities. In 2011, the Bureau implemented Act 32. In 2014, the Bureau distributed $129 million in earned income tax to its school districts and municipalities. For 2015, we are projecting distributions of $134 million.

  Using 2010 as the baseline, the Bureau's earned income tax distributions to its school districts and municipalities have grown *over 25%* since Act 32 was implemented. Not one penny of that dramatic increase was caused by increased tax rates or an expanded tax base.

  Rather, local administration of Act 32 is the cause of these increases.

  We understand that tax collection committees throughout Pennsylvania have also seen significant earned income tax revenue increases as a result of Act 32.

- Since implementation of Act 32, Bureau operating expenses have remained flat.

- The Bureau has had 4 consecutive annual audits with no adverse findings of any kind.

- The Bureau has had 3 consecutive SSAE 16 SOC I, Type II internal controls audits with no exceptions.

- Consistent with the practice of the Pennsylvania Department of Revenue, the Bureau mandated an employer electronic tax return filing program. As a consequence of the program, the Bureau is able to process employer returns within 48 hours – virtually error free.

Senate Bill 356

Bureau Employer E-Filing Program – Background

The Bureau has long been a leader in earned income tax collection and continues to employ innovative and visionary solutions which result in efficient and cost effective tax distributions to school districts and municipalities.

In that regard, the most critical action taken by the Bureau was to exercise its authority under Act 32 to mandate that employers electronically file tax returns and remittances. 53 P.S. § 6924.505(a.1)(7). The Bureau's employer electronic filing program has allowed the Bureau to meet the 30 day tax processing and distribution requirement under Act 32, to cut processing costs, and to virtually eliminate processing errors.

The success of the Bureau's program was built on the following steps –

- In 2010, we developed an employer electronic reporting EFW2 format based on the Internal Revenue Service and the Pennsylvania Department of Revenue electronic reporting formats.

- After developing the format, we shared it with all major payroll companies for review and comment.

- In 2011, we worked with major payroll companies, local payroll companies, accounting firms, and employers to help them understand our electronic filing system. We held at least 10 training sessions.

- We developed a special paper reporting format for Anabaptist employers that have religious objections to technology. That was a common sense accommodation. We have the largest Anabaptist population in the Commonwealth – approximately 10 times larger than the next largest Anabaptist population in the Commonwealth.

- We also implemented a hardship exemption. To date, however, no employer has asked for an exemption.

Our understanding is we were the first tax collection committee in Pennsylvania to mandate an employer electronic filing program. By combining education with common-sense accommodations for employers in unique circumstances, we have achieved near 100% employer compliance.

The results have been dramatic. During the first quarter of 2015, over 15,500 employers filed electronically with the Bureau and 476 of our Anabaptist employers filed on paper. As noted above, annual earned income tax distributions to our local school districts and municipalities has increased from $97 million during the year immediately prior to Act 32 implementation to a projected $134 million this year.

Last year, the Bureau processed approximately $180.5 million in total earned income tax and local service tax. The Bureau's budget was approximately $2.5 million – a 1.39% cost of collection. The Bureau's staff is lean and cost-effective. The Bureau has 20 full-time employees, 1 part-time employee, and 3 seasonal employees.

Section 2 of SB 356/Proposed Change to 53 P.S. § 6924.512 –
A Costly, Regressive, and Unnecessary Measure

By letter dated August 21, 2015, a broad coalition of organizations and tax collectors representing hundreds of school districts, thousands of municipalities, and millions of taxpayers outlined their objections to Section 2 of Senate Bill 356. A copy of the August 21 letter is attached at **Exhibit A**.

Read literally, Section 2 would amend 53 P.S. § 6924.512 by adding a new subsection "(c)" that would eliminate the Bureau's employer electronic filing program. Indeed, in conversations with the primary Bill sponsor's office – Senator Folmer of *Lebanon* County – we understand that Section 2 is specifically targeted at the *Lancaster* Bureau's employer electronic filing program.

If Section 2 is adopted in its current form, it will have the following adverse consequences:

- It will require the Bureau to hire extra staff, will increase tax processing error rates, and will result in slower tax distributions because manual processing is highly inefficient. Increased enforcement mechanisms under Act 32 have compelled employers to abide by the requirement to file quarterly tax returns and an annual return. Prior to Act 32, many employers simply ignored that requirement given the lack of enforcement tools at the disposal of tax collectors. As a consequence of Act 32 and heightened employer compliance, the Bureau is now handling far more employer detail than it ever did pre-Act 32. In short, Section 2 will increase tax collection costs at the expense of our school districts and municipalities. By automating the tax collection process, fewer processors are needed

and fewer processing errors are made. By cutting down on manpower and mistakes, tax collection costs go down – and tax revenues to school districts and municipalities go up.

- It will change settled and proven law. Currently, the Pennsylvania Department of Revenue requires employers to electronically file income tax returns – so, employers are already electronically filing. Similarly, DCED – in its Act 32 Policy and Procedure Manual – acknowledges the authority of local tax collection committees to require employers to file electronically and openly encourages the practice.

Despite the success of the Bureau's employer electronic filing program, the practices and guidance of the Department of Revenue and DCED, and the trend toward automated, error-free, and cost-efficient tax collection throughout the United States, there appears to be some opposition in Harrisburg to employer electronic filing programs. We understand the objections are:

1. There are employers located in geographical locations where there is no internet service.

2. There are employers that do not have computer technology and cannot afford to acquire it.

3. There are employers owned and operated by individuals who have religious objections to computer usage.

4. It is not fair for employers with work locations in different tax collection districts to have to file using different local tax collector's electronic filing formats.

As previously explained, the Bureau has had an employer hardship exemption in place from its electronic filing program for years. To date, no employer has requested an exemption – let alone an exemption for lack of internet service or lack of financial wherewithal. As we suspect is the case throughout the vast majority of the Commonwealth, internet service is universal and the use of computer technology is prevalent in Lancaster County.

However, as alluded to previously, we have the largest Anabaptist population in the Commonwealth – so we understand and have accommodated religious objections. We have had no difficulty whatsoever developing a special paper form for our Anabaptist employers, which constitute 476 of the 16,000 employers who filed in our jurisdiction during the first quarter of this year.

As for the fourth and final objection, we are confused by it. Any employer that has work sites in different tax collection districts has the right under Act 32 to file a combined return for all districts with one tax collector. 53 P.S. § 6924.512(5). For example, the Pennsylvania State System of Higher Education – which withholds earned income tax from employees throughout the Commonwealth – files one, combined electronic monthly return with the Bureau for all PSSHE employees.

Therefore, if a multi-site employer so chooses, it will have 2 electronic reporting formats to deal with – the Department of Revenue's format and the local tax collector's format. Given the similarities between the state personal income tax and the local earned income tax, those two formats will be similar. For example, as previously mentioned, the Bureau's format is based on the Department's.

Concerns about employers in remote geographical jurisdictions, employers with no technology, and employers with religious objections are easily addressed. The amendment we are proposing to Senate Bill

356 resolves the issue by codifying DCED's guidance on employer electronic filing programs – while also guaranteeing that employers without internet service, employers without technology, and employers with religious objections cannot be forced to participate in such a program.

Our proposed amendment is a "win-win" based on real life results in Lancaster County.

In sum, the Bureau's employer electronic filing program allows us to process tax remitted by employers within 48 hours, virtually error free. The program has been a key factor in increasing tax revenues from $97 million in 2010 to a projected $134 million this year.

If the program is eliminated via Senate Bill 356, the Bureau will (1) be forced to revert back to manual processing which is slower and more susceptible to errors, (2) will suffer a significant increase in tax collection costs, (3) will be unable to distribute taxes within the 30 day deadline under Act 32 due to the delays associated with manually processing thousands of employer tax returns per quarter, and (4) will not be able to continue the revenue growth achieved to date under Act 32. We recognize concerns have been raised with employer electronic filing programs. However, in Lancaster, we have easily accommodated those concerns – without destroying the substantial progress we have made.

Section 2/Proposed Change to 53 P.S. § 6924.512(5) –
An Unnecessary Measure that will Slow Down Processing

Section 2 of Senate Bill 356 would also change 53 P.S. § 6924.512(5) so that "multi-site" employers – which we previously discussed – would be able to file quarterly tax returns, as opposed to the monthly returns currently required.

That proposed change fails to account for the fact that multi-site, combined employer returns are more complicated to process than single-location employer returns. By allowing multi-site employers to file 3 months' worth of combined returns at once, it will greatly add to the complexity of processing those returns. It may even lead to tax collectors refusing to process multi-site returns altogether, which would be a blow to the business community.

Also, the proposed change does not account for the fact that tax collectors are currently able to distribute tax funds remitted by multi-site employers to school districts and municipalities on a monthly basis due to monthly filings by multi-site employers. If multi-site employers begin filing quarterly, distribution of funds remitted by those employers will also take place quarterly. In short, by allowing multi-site employers to file quarterly returns, that will slow down revenue distributions to school districts and municipalities.

Our understanding of the legislative history is that 53 P.S. § 6924.512(5) was carefully negotiated with the Pennsylvania business community to the satisfaction of all stakeholders. We see no reason to upset that compromise or change current practice for multi-site employers. Indeed, we have no reason to believe the business community at large is even seeking a change.

House Bill 245

This Bill offers some small improvements to the earned income tax collection system, albeit many of which have already been implemented through policies and procedures adopted by local tax collection committees. For example, the proposed "safe harbor" in Section 4 of the Bill for self-employed taxpayers who file

quarterly returns is no different than the "safe harbor" the Bureau adopted years ago under local policy 404. **Exhibit B.**

Incremental improvements aside, the net effect of House Bill 245 would be to **(1)** dramatically decrease tax revenues for Pennsylvania school districts and municipalities, and **(2)** destroy a successful state-local government partnership.

Section 2/Proposed Change to 53 P.S. § 6924.317 –
Knee-Jerk Changes to Tax Credit Rules that Could Prove Costly to School Districts and Municipalities

Although the drafting is not precise enough to guarantee the intended effect, Section 2 of the Bill is aimed at changing the earned income tax crediting rules. Any such change needs to be carefully evaluated and thought out prior to passage.

It is impossible to concisely explain all of the negative impacts the changes proposed in the Bill to the earned income tax crediting rules could have on school districts and municipalities.

However, to be clear, all of the proposed changes to the crediting rules purport to expand the tax base against which credits can be taken – meaning all of the changes could decrease tax revenues for school districts and municipalities if enacted.

Given these austere financial times for school districts and municipalities, we fail to see the compelling need to change crediting rules that have been in place for years.

Sections 3 & 7/Proposed Changes to 53 P.S. § 6924.501 and 53 P.S. § 6924.512(3) –
An Invitation for Abuse and Confusion

Per Section 3 of House Bill 245, any person who has not worked for "90 consecutive days" in his employer's jurisdiction is exempt from "commuter" – or, what we call, "nonresident" – earned income tax.

That type of scheme will invite substantial abuse – again at the expense of Pennsylvania school districts and municipalities.

For example, assume Accountant Smith works in a location with a 1% "commuter" rate – but lives in one of the many Pennsylvania jurisdictions that does not impose any earned income tax. Under Act 32, Accountant Smith would be required to pay the 1% commuter tax. 53 P.S. § 6924.512(3). But, under Section 3 of House Bill 245, Accountant Smith could easily avoid the commuter tax by working from home, working at another office location, taking a vacation day, or taking a sick day, 1 out of every 90 days. Thus, because he is not subject to earned income tax where he resides and because he is able to so easily avoid the commuter tax, Accountant Smith avoids paying earned income tax altogether. That makes no sense.

When Section 3 is read together with Section 7, things become very confusing. Contrary to Section 3, Section 7 requires employers to withhold commuter tax from an employee who lives in another jurisdiction – even if the employee has <u>not</u> rendered services in the employer jurisdiction for "90 consecutive days." Therefore, Section 3 and Section 7 conflict.

Assuming Section 3 is corrected and the poor drafting in the Bill is cleaned up, Section 7 may very well be useful in giving employers guidance on how to withhold tax from employees that frequently move from

jobsite to jobsite. However, before any change to employer withholding rules is made, it would be wise to obtain input on those changes from the business community at large – which is not represented here today.

One of the biggest changes brought by Act 32 was that it required employers to learn new tax withholding rules. The key to the success achieved under Act 32 is that the employer withholding rules are simple to learn and implement. Any changes made to those rules should be made with input from the business community at large. Otherwise, new rules could require substantial investments in employer outreach education and could increase employer reporting errors which, in turn, would increase tax collection costs and would slow distribution time.

Sections 3/Proposed Changes to 53 P.S. § 6924.501 –
Exempting Taxpayers with No Income From Filing Returns Creates More Work for Collectors *and* Taxpayers

When a taxpayer who previously filed a tax return with us stops filing, our data system flags the taxpayer and generates a delinquency notice. Given our limited resources, the Bureau does not have the manpower to track down each person that is flagged to figure out why that person has stopped filing and to verify the person has no income.

In Lancaster, our practice is to ask taxpayers that have retired, are disabled, or that no longer have income for whatever reason to notify us. The easiest way for a taxpayer to provide that notification is to file a "no income" tax return. The return is filed under threat of criminal penalty if the return is false.

Section 3 of House Bill 245 would exempt any person or business that has no taxable income from filing an earned income tax return. We do not believe that is a best practice.

It takes perhaps 2 or 3 minutes to complete and file a "no income" tax return, and it costs nothing to make the filing. By filing a "no income" tax return, a person not only helps the Bureau save enforcement and verification costs, but also saves the time and energy needed to respond to a delinquency notice.

Sections 5 & 6/Proposed Changes to 53 P.S. § 6924.505 and 53 P.S. § 6924.508 –
Destruction of a Dynamic and Successful State and Local Government Partnership

Per Sections 5 and 6 of House Bill 245, DCED would become an "enforcement agency," with authority to fine local government agencies and dictate local practices.

We fail to see the compelling need to create a layer of state bureaucracy over a system that has proven so successful.

In achieving that success, DCED has been a valued partner of local tax collection committees, school districts, and municipalities. Under Sections 5 and 6 of the Bill, DCED would be recast in an "enforcer" role that is adversarial to its local partners. Although the Bill is unclear, we are assuming DCED would keep the fines it collects from local jurisdictions to fund its enforcement activities. That adversarial dynamic would have the potential to destroy a rare phenomenon – a state/local government partnership that has achieved extraordinary success for the Commonwealth.

Casting DCED as an "enforcement agency" is also unnecessary. Act 32 already requires each county to have a tax appeal board to address and decide taxpayer complaints. 53 P.S. § 6924.505(j)(1). If a taxpayer is

dissatisfied with a board decision, he has the right to appeal to the courts. 53 P.S. § 6924.505(j)(3), *citing* 53 Pa.C.S.A. § 8434.

In Lancaster, we have yet to see a taxpayer appeal a board decision to the courts. In fact, complaints to the board itself are quite rare.

Moreover, the Lancaster Bureau – and all tax collection committees throughout the Commonwealth – are government agencies funded by school districts and municipalities. *E.g.*, 53 P.S. §§ 6924.505(i),(l). It is rare for one government agency to have the right to "fine" another. However, that is exactly what would occur if House Bill 245 is passed in its current form – DCED would have the right to fine the Bureau and all other tax collection committees. Thus, a taxpayer's complaint may be "vindicated" – but, only at the expense of fellow taxpayers who are ultimately the ones who fund tax collection committee operations.

We question the need for and fairness of having taxpayers subsidize other taxpayer's grievances.

As for the idea that DCED should dictate local practice, we question the wisdom of that as well. In lieu of a "top-down" approach, DCED has worked side-by-side with local tax collection committees and collectors using a "grass roots approach" to gather tax collection expertise and data that the Department has then used to develop the forms and policies that DCED has published to date. Again, there is simply no reason to disrupt a productive partnership that has worked.

Moreover, there appears to be no check on DCED's regulatory authority under the Bill. Although we are confident DCED would not intentionally impose expensive regulatory mandates, the possibility of expensive mandates exists – which would simply increase tax collection costs for school districts and municipalities.

Conclusion

In Lancaster County, local implementation of Act 32 has been a huge success. Indeed, earned income tax revenues for our school districts and municipalities have increased from $97 million in 2010 to a projected $134 million this year without any increase in tax rates or any expansion of the tax base.

We believe our experience is similar to that of tax collection committees throughout the Commonwealth.

For the reasons explained here today, Senate Bill 356 and House Bill 245 have the potential to **(1)** dramatically increase tax collection costs for Pennsylvania school districts and municipalities, **(2)** dramatically decrease tax revenues for Pennsylvania school districts and municipalities, and **(3)** destroy a successful state-local government partnership.

Quite frankly, we do not understand why Senate Bill 356 and House Bill 245 are at the forefront of the legislative agenda right now.

Under Act 32, the Legislative Budget and Finance Committee is required to audit the system prior to 2017. 53 P.S. § 6924.517(a). Presumably, that audit will be based on data collection and input from and dialogue with all stakeholders.

To our knowledge, no stakeholder group – school districts and municipalities, the business community at large, or taxpayer advocates – is actually promoting either Senate Bill 356 or House Bill 245. In fact, neither the business community at large nor taxpayer advocacy groups are represented here today.

To the best of our knowledge, no entity that actually collects local taxes was even so much as consulted prior to the drafting of either Bill.

If something as successful and vital as the Act 32 system is going to be changed, the change should occur as a result of a data-driven, inclusive approach that results in a common-sense, well-informed, and carefully-drafted piece of legislation that all stakeholders have had input on and are comfortable with – not through piecemeal legislation developed without proper data, without input from key stakeholder groups, and without a true understanding of the tax collection process.

Indeed, the Lancaster Bureau would be pleased and proud to be part of a data-driven, inclusive, and informed approach that results in the maximization of the Act 32 system.

I want to thank you again for the opportunity to present the Bureau's perspective here today.

Exhibit A

August 21, 2015 Coalition Letter

KEGEL KELIN ALMY & LORD LLP
24 North Lime Street Lancaster, PA 17602 TEL 717-392-1100 FAX 717-392-4385 www.kkallaw.com

JASON T. CONFAIR E-MAIL: confair@kkallaw.com

August 21, 2015

The Honorable Representative Bernie O'Neill
Chairman, House Finance Committee
47 East Wing
PO Box 202029
Harrisburg, PA 17120-2029

Re: **Employer Electronic Tax Return Filing/Coalition Opposing Senate Bill 356**

Dear Honorable Representative O'Neill:

Recently, Pennsylvania Senate Bill 356 was passed through the Senate. The Bill proposes changes to the Local Tax Enabling Act, 53 P.S. § 6924.101 *et seq.* (or the "**LTEA**"). While most of the changes will be beneficial, there is one section of the Bill that is highly problematic.

The language in proposed Section 512(c) ("Withholding and remittance – Forms") of the Bill causes significant concern. Section 512(c) eliminates the authority that Tax Collection Committees currently have to mandate that employers electronically file local earned income tax (or "**EIT**") returns pursuant to 53 P.S. § 6924.505(a.1)(7).

During the 2014 legislative session, similar language was introduced in Senate Bill 491. After negotiation between the primary sponsor of Senate Bill 491 and other stakeholders, it was agreed that proposed Section 512(c) would be dropped from Senate Bill 491.

Unfortunately, proposed Section 512(c) was reintroduced during the current legislative session in Senate Bill 356.

After a year of discussion, we believe we understand what the advocates of proposed Section 512(c) are concerned about. As outlined below, our purpose in sending this communication is to resolve the employer electronic filing issue once and for all by proposing a new Section 512 that addresses all parties' concerns.

No consideration of the issue can be complete without an understanding of how EIT collection works and the significant benefit that employer electronic filing confers on school districts, municipalities, and taxpayers.

Electronic filing greatly increases the speed and accuracy of processing tax returns, while simultaneously reducing processing costs. That is precisely why the Pennsylvania Department of Revenue requires all employers to file electronically. Indeed, the Department no longer even publishes paper tax return forms for employers. It is also why the Pennsylvania Department of Community and Economic Development – the agency charged with implementing the LTEA – encourages employers to electronically file. As DCED explains in the Act 32 Policy and Procedure Manual:

> Although Act 32 does not explicitly require employers and payroll companies to file quarterly returns electronically, Act 32 grants Tax Collection Committees the authority to

adopt policies and procedures. Certain Tax Collection Committees have adopted policies and procedures requiring employers and payroll companies to file quarterly returns electronically. Each employer and payroll company should check with its tax collector to determine whether or not the Tax Collection Committee requires electronic filing. Even if not required by the Tax Collection Committee, electronic filing of the employer's quarterly return and payment of the withheld tax is encouraged by the Department.

Since Act 32 became effective, Tax Collection Committees have used the authority granted under 53 P.S. § 6924.505(a.1)(7) to mandate employer electronic filing. If Senate Bill 356 is adopted in its current form, those mandates will be overruled and Committees will no longer be permitted to mandate employer electronic filing. Such a result would not only be contrary to the practices of the Pennsylvania Department of Revenue and the stated policy of the Pennsylvania Department of Community and Economic Development, it would also be directly contrary to Act 32 of 2008 – which overhauled the LTEA to modernize an archaic and notoriously inefficient EIT collection system.

More specifically, if Tax Collection Committees were no longer able to require employers to electronically file, the adverse consequences to school districts, municipalities, and taxpayers would include:

1. Added Cost: Paper filing requires human processors, which increases personnel costs for tax collectors. Those costs will be passed through to school districts and municipalities – either in the form of increased operating expenses deducted from EIT receipts in the case of non-profit collectors or in the form of increased EIT commission rates in the case of for-profit collectors. Inevitably, every dollar of increased cost for school districts and municipalities is a dollar that cannot be spent on essential programs and services for taxpayers.

2. Increased Error Rate: When paper returns are filed, processors must manually enter the data provided by employers. Naturally, manual entry significantly increases the error rate. Tax data entry errors result in taxes being distributed to the wrong school districts and municipalities. When tax funds are distributed to the wrong jurisdiction, the school district and municipality entitled to the funds lose interest earnings. Again, every dollar of lost revenue for school districts and municipalities is a dollar that cannot be spent on essential programs and services for taxpayers.

3. Slower Distribution Time: Given the extra effort necessary to review, enter, and verify the information contained in paper returns, processing paper returns takes much longer than processing electronically-filed returns. The longer it takes to process tax returns, the longer it takes to distribute tax funds to school districts and municipalities. Slower distribution disrupts school district and municipal cash flows and decreases interest earnings for school districts and municipalities.

Moreover, experience has shown that employer electronic filing mandates work. For example, the Lancaster County Tax Collection Committee has had such a mandate since 2012. **Over the past few years, the Committee's EIT revenues have increased by approximately 25% and the mandate has been a primary factor in that dramatic increase.** The Committee has received virtually no opposition from employers to the mandate. Employers are already electronically filing with the Pennsylvania

Department of Revenue. Thus, electronic filing on the local level is no different than what employers are already doing on the state level.

Although mandated employer electronic filing is a proven way to increase revenues and save money for school districts, municipalities, and taxpayers without a corresponding increase in tax rates, we do acknowledge the concerns that have been raised. Over the course of the past year, concerns have been expressed about employers with religious objections to the use of computers and the internet, employers located in very rural locations without internet service, and employers that do not have the financial means with which to obtain computer equipment and internet service.

While we acknowledge those concerns, Pennsylvania Senate Bill 356 in its current form fails to strike an appropriate balance between the significant benefit to the majority and the unique circumstances of the few. It would not be wise to impede the progress that has been and will be achieved under Act 32 to accommodate the small and dwindling segment of the employer population that does not use computer technology. Instead, we believe the appropriate approach is to adopt a new Section 512 that: (1) gives Tax Collection Committees express statutory authority to mandate employer electronic filing; *but* (2) creates statutory exceptions for employers with certain religious beliefs and technological restrictions. Such a compromise would resolve this issue once and for all, and would accommodate all stakeholders' wants and concerns.

Accordingly, we are proposing an amendment to Senate Bill 356 that we believe will resolve the electronic filing issue once and for all by promoting progress, while also deferring to the unique circumstances of certain employers. A copy of the proposed amendment is enclosed. We appreciate your thoughtful consideration of this amendment and look forward to working with you to resolve this important public policy matter.

As you can see, myself and others are signing this letter on behalf of 54 different Pennsylvania Tax Collection Committees. Those Committees – not one of which was consulted by the primary sponsor of Senate Bill 356 prior to introduction of the Bill – are the foremost experts on Pennsylvania EIT collection and processing. More importantly, those Committees are advocating for the financial interests of thousands of school districts and municipalities and millions of Pennsylvania taxpayers.

If you have any questions or would like to discuss this issue further, please do not hesitate to reach out to us at (717) 392-1100 or confair@kkallaw.com.

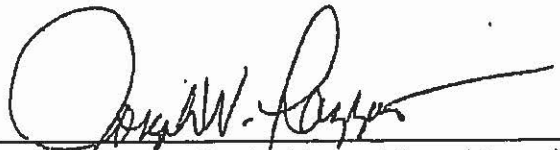
Very Truly Yours,

Jason Confair, Esq., Kegel Kelin Almy & Lord LLP
as Solicitor to:
The Pennsylvania Association of School Business Officials, the Berks County, Chester County, Huntingdon County, Lancaster County, Lebanon County, and Susquehanna County Tax Collection Committees; and also on behalf of all other Signatories hereto.

JTC:jsb: 153498/Enclosure

By: Patti McNamara

Patti McNamara, President of H.A. Berkheimer, Inc., on behalf of the following Tax Collection Committees: Armstrong, Beaver, Bradford, Butler, Cambria, Carbon, Columbia, Crawford, Elk, Erie, Indiana, Jefferson, Lackawanna, Lawrence, Lehigh, Luzerne, McKean, Mercer, Monroe, Montgomery, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Union, Venango, Wayne, Westmoreland, and Wyoming.

By: 

Joseph W. Lazzaro, Vice-President and General Counsel to Keystone Collections Group, Tax Officer for the following Tax Collection Committees: Allegheny North, Allegheny Southeast, Bedford, Bucks, Chester, Clarion, Clearfield, Delaware, Greene, Lebanon, Northampton, Northumberland, Tioga, and Washington.

By: James A. Buffington Jr.

James Buffington, Jr., Executive Director of Capital Tax Collection Bureau, on behalf of the following Tax Collection Committees: Fulton, Huntingdon, Juniata, Perry, and Somerset.

By: Susan P. S. Pinti

Susan Pinti, Executive Director of the Cumberland County Tax Bureau, on behalf of the Cumberland County Tax Collection Committee.

Proposed Amendment to Section 512 of Senate Bill No. 356, Session of 2015

(c) Electronic Filing. Subject to the limitations set forth herein, a tax collection committee may adopt a policy or procedure requiring employers to file income tax returns electronically pursuant to the authority granted to the tax collection committee under section 505(a.1)(7). If a tax collection committee adopts such a requirement, neither the tax collection committee nor the tax officer appointed by the tax collection committee shall be permitted to charge employers a fee for using the required electronic tax return filing system. Moreover, a tax collection committee that has adopted a requirement that employers must file tax returns electronically shall excuse compliance by any employer that can demonstrate complying with the requirement would cause the employer significant undue hardship. For purposes of this subsection, an employer can prove significant undue hardship by demonstrating: (1) The employer is an individual who is a practicing member of a religion that prohibits or does not allow internet usage and therefore the internet is not used for or in connection with the operations or business of the employer. (2) The employer is a closely-held business owned by principals who are practicing members of a religion that prohibits or does not allow internet usage and therefore the internet is not used for or in connection with the operations or business of the employer. (3) The employer has ten or fewer employees, does not have the technological means with which to access the internet, and is either insolvent or does not have the financial resources to obtain such technological means. (4) The employer's payroll operations are located in a geographical location at which there is no available internet service. If an employer qualifies for exemption (3) or exemption (4) above, the exemption for the employer shall expire after three (3) tax years but the employer shall have the right to apply for another exemption after expiration of the initial exemption period.

To verify an employer qualifies for an exemption under this subsection, a tax collection committee or tax officer may require that the employer produce reasonable proof including, but not limited to, a sworn statement subject to the penalties of 18 Pa.C.S. § 4904 attesting to the facts that support the request for the exemption.

(d) Forms. Any employer that is not required to file electronically may use and file any applicable tax return form that is published by the department on paper or posted on the department's publicly accessible internet website, and no political subdivision, tax collection committee or tax officer may prohibit any such employer from doing so.

Exhibit B

Lancaster County Tax Collection Bureau Local Policy #404

SECTION 403 – REQUIREMENT TO AMEND RETURNS

If the amount of "net compensation," "net income from the operation of a business, profession or farm," or "net income from rents, royalties, patents, or copyrights" is changed (whether as a result of an amended return, assessment, audit, or otherwise) in a manner resulting in an increase in income for purposes of Pennsylvania income tax for any period, the Resident or Nonresident shall, within 30 days after such change, file an amended annual return with the Collector reflecting additional Tax owed for the corresponding period.

SECTION 404 – INDIVIDUAL QUARTERLY RETURNS

Every Taxpayer with earned income or net profits not subject to Employer withholding shall file by **April 30** a declaration of estimated income not subject to withholding during the year. Consistent with guidance promulgated by DCED, the Taxpayer shall file quarterly returns on **April 30**, **July 30**, and **October 30** of the current year, and **January 30** of the succeeding year, and pay to the Collector in four equal quarterly installments the Tax due on the estimated income. A Taxpayer who first anticipates any such income after April 15 shall file the declaration on or before the first quarterly return due date that follows the date on which the Taxpayer first anticipates such income. Quarterly returns are not required if the individual's total income subject to Tax for a year is less than **$25,000**.

As provided in Section 503, a Taxpayer who fails to file quarterly returns and make required quarterly payments is subject to interest, penalties, and fines as set forth in the Enabling Act, 53 P.S. § 6924.509(i). The interest and penalty amount shall be applied based on the requirement to pay in four equal quarterly installments Tax owed for the year. However, an individual shall not be subject to interest, penalties, or fines if: (1) the individual has paid in each quarterly installment an amount equal to 90% of the Tax owed for the year, divided by 4, minus any Tax payments for the year made by Employer withholding; (2) the individual has paid in each quarterly installment an amount equal to 100% of the Tax owed for the prior year, divided by 4, minus any Tax payments for the year made by Employer withholding; or (3) quarterly installments represent Tax owed on the actual amount of income earned during each calendar quarter.

Safe Harbor

SECTION 405 – MULTIPLE TAX RATES

Multiple tax rates might apply to a Taxpayer during a calendar year due to a tax rate change by a Taxing Authority, or a Taxpayer moving between areas with different rates or working in different municipalities with different rates.