





EY Payroll NewsFlash

Workforce Tax Services

*Tax. Benefits. Human Resources.
Working together with you.*



 Contact us for more information

 Join us on LinkedIn

Vol.23, 064
June 27, 2022

City of Hazelton, Pennsylvania replaces business privilege and mercantile tax with Payroll Preparation Tax starting in 2022

On December 16, 2021, the City of Hazelton enacted [Ordinance 2020-33, which](#) effective January 1, 2022, replaces the city's business privilege and mercantile tax with a new Payroll Preparation Tax of 0.26% of payroll expense or profits generated as a result of the employer's conducting business within the city. The tax is paid by employers and cannot be deducted from employees' wages. ([Regulations implementing Ordinance 2020-33, April 12, 2022.](#))

The City of Hazelton's Payroll Preparation Tax is administered by [Berkheimer](#) and the tax forms can be found [here](#).

Registration

Every person having an office, factory, workshop, branch, warehouse, or other place of business, including banks, schools, hospitals, nonprofits and trade associations, located in the city or outside the city, who, during any tax year, performs work or renders services in whole or in part in the city and has not previously registered, is required to register with the city within 15 days by providing its name, address and any other information the city may require.

Tax payments and returns

Effective for tax year 2022 and thereafter, the first quarterly return, which is due May 31 of the current year, is filed and the tax shall be paid based on the amount of payroll expense during the months of January, February and March of the current year. Note that the [regulations](#) do not provide any extension on the due date for the 2022 first-quarter return, despite the late release of regulations on April 12, 2022.

The second quarterly return, which is due August 31 of the current year, is filed and the tax paid based on the amount of payroll expense during the months of April, May and June of the current year.

The third quarterly return, which is due November 30 of the current year, is filed and the tax paid based on the amount of payroll expense during the months of July, August and September of the current year.

The fourth quarterly return, which is due February 28 of the succeeding year, is filed and the tax paid based on the amount of payroll during the months of October, November and December of the current year.

Payroll expense and profits

Payroll expense is all compensation earned by an employee or a self-employed individual. Compensation is defined as salaries, wages, commissions, bonuses, net earnings and incentive payments, whether based on profit or otherwise, along with fees, tips and any other form of remuneration earned for services rendered, whether paid directly or through an agent, and whether in cash or in property or the right to receive property.

Profits are a share of net income earned for services rendered from a partnership, limited liability company, business trust or S corporation, after providing for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with accepted accounting principles and practices, and including any amount treated as net earnings from self-employment for services rendered.

See the [Local Tax Enabling Act, 53 P.S. Section 6924.501](#) (Earned Income) for the definition of the gross payroll of the employer.

Covered persons and entities

- **Business.** The tax applies to any activity, enterprise, profession, trade or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, for the purpose of gain, benefit or advantages, whether direct or indirect, to the taxpayer or to another or others.

A business includes subsidiary or independent entities that conduct operations for the benefit of others and at no profit to themselves, nonprofit businesses, and trade associations.

A person is conducting business within the City of Hazelton if they engage, hire, employ or contract with one (or more) individual as an employee or self-employed and does at least one of the following:

- Maintains a fixed place of business within the city
- Owns or leases real property within the city for purposes of such business
- Maintains a stock of tangible, personal property in the city for sale in the ordinary course of business
- Conducts continuous solicitation within the city related to such business
- Utilizes the streets of the city in connection with operating the business, other than for the mere transportation from a site outside the city, through the city, or to a destination outside of the city.

A person is engaged in business who, in return for rental income, rents, leases or hires real or personal property to others; however, a person is not engaged in business solely by reason of the receipt of income from passive investments for which no services were rendered.

- **Employer.** An employer is any person or entity conducting business activity within the city, except for a governmental entity.

- **Employee.** An employee is any individual in the service of an employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.

In addition, and irrespective of the common-law tests for determining the existence of an independent-contractor relationship, an individual performing work or service for compensation is an employee of the person for whom the work or service is performed unless one of the following applies:

- The individual has been and will continue to be free from control or direction over the performance of the work or service, both under his/her appointment or contract of hire or apprenticeship
- The work or service is either outside the usual course of the business of the person for which it is performed
- The individual is customarily engaged in an independently established trade, occupation, business or profession

Calculating the tax

- The tax is computed at the rate of 0.26% on the amount of payroll expense generated from business activity the employer conducts within the city.
- The payroll amount attributable to the city is determined by applying an apportionment factor to total payroll expense based on the portion of payroll that the total number of days an employee, partner, member, shareholder or other individual works within the city bears to the total number of days that person works both within and outside the city.
- Temporary, seasonal or itinerant businesses (i.e., an employer with presence in the city for 120 days or less) calculate the tax on the total compensation earned while in the city.
- A charitable organization calculates the tax that would otherwise be attributable to the city but pays tax only on the portion of its payroll expense attributable to business activity for which a tax may be imposed under IRC Section 511. If the charity has purchased or is operating branches, affiliates, subsidiaries or other business entities that do not independently meet the standards of the "Institutions of Purely Public Charity Act," the tax is paid on the payroll attributable to such for-profit branches, affiliates or subsidiaries, whether or not the employees are leased or placed under the auspices of the charity's umbrella or parent organization.

Other employer responsibilities

Employers are required to provide, upon request from the City of Hazleton or the tax administrator, a list of sub-contractors, including their names, addresses, Federal Employer Identification Numbers (EINs), contact persons and phone numbers.

Contact us for more information

Workforce Tax Services - Employment Tax Advisory Services

Kristie Lowery
kristie.lowery@ey.com

Ken Hausser
Kenneth.hausser@ey.com

Debera Salam
debera.salam@ey.com

The information contained herein is general in nature and is not intended, and should not be construed, as legal, accounting or tax advice or opinion provided by Ernst & Young LLP to the reader. The reader is also cautioned that this material may not be applicable to, or suitable for, the reader's specific circumstances or needs, and may require consideration of non-tax and other tax factors if any action is to be contemplated. The reader should contact his or her Ernst and Young LLP or other tax professional prior to taking any action based upon this information. Ernst & Young LLP assumes no obligation to inform the reader of any changes in tax laws or other factors that could affect the information contained herein. Copyright 2022. Ernst & Young LLP. All rights reserved. No part of this document may be reproduced, retransmitted or otherwise redistributed in any form or by any means, electronic or mechanical, including by photocopying, facsimile transmission, recording, rekeying, or using any information storage and retrieval system, without written permission from Ernst & Young LLP.