

MANAGEMENT DIRECTIVE

Commonwealth of Pennsylvania Governor's Office

Subject:

Commonwealth Licensee Tax
Responsibility Program

Number:

305.22 Amended

Date:

November 14, 2011

By Direction of:

Dan Meuser, Secretary of Revenue

Contact Agency:

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This directive establishes policy, responsibilities, and procedures for the exchange and delivery of information to the Department of Revenue by agencies responsible for the issuance of or renewal of licenses, permits, and registrations for the purpose of ensuring licensees are compliant with state tax obligations. This amended version includes updates based on *Executive Order 2011-06, Licensee Tax Responsibility Program*. Changes are indicated by marginal dots.

- ◆ **1. PURPOSE.** To establish policy, responsibilities, and procedures for the Commonwealth Licensee Tax Responsibility Program (hereinafter referred to as "Program").
- 2. SCOPE.** Applies to all departments, boards, commissions, and councils (hereinafter referred to as "agencies") under the Governor's jurisdiction that issue licenses, permits, and registrations.
- 3. OBJECTIVES.**
 - a.** Mandates interagency cooperation in identifying delinquent taxpayers who have requested or received privileges or benefits from the commonwealth. For the purposes of this Program a delinquent taxpayer must have:
 - (1)** failed to timely avail itself of its administrative remedy in challenging a tax assessment or settlement, or
 - (2)** failed to file a required tax report. Tax assessments or settlements that are subject to timely appeal will not be included in the Program.

- b. Provides for the exchange of information between agencies under the Governor's jurisdiction and independent agencies that voluntarily elect to participate in the Program.
 - c. Provides standards and procedures for agency determinations of tax non-compliance.
 - d. Provides for the centralized collection and dissemination of information concerning non-compliant licensees.
 - e. Provides for the collection of commonwealth tax liabilities.
 - f. Provides for the confidentiality of the information contained in the Program and sanctions for the unauthorized use or disclosure of that information.
 - g. Provides authority for agencies to determine and impose appropriate sanctions for their licensees and applicants who are non-compliant taxpayers.
4. **DEFINITIONS.** When used in this directive, the following words and phrases shall have the meanings given to them in this section, unless the context clearly indicates otherwise:
- a. **Applicant.** A person or entity that applies to a licensing agency for a license or applies for renewal. In the case of the transfer of an existing license, the term shall refer to the transferor or the transferee. The term includes a management company utilized by such person, entity, transferor, or transferee.
 - b. **Committee.** The Commonwealth Licensee Tax Responsibility Committee established by *Executive Order 2011-06, Licensee Tax Responsibility Program*.
 - c. **Deferred Payment Plan.** A contractual agreement for the repayment of delinquent tax obligations.
 - d. **Department.** The Pennsylvania Department of Revenue.
 - e. **Department of State.** The Pennsylvania Department of State, and any licensing board, division, or commission under the Bureau of Professional and Occupational Affairs, and the Bureau of Commissions and Legislation with respect to notaries public.
 - f. **Entity.** An association, business trust, corporation, estate, general partnership, government, joint venture partnership, limited liability company, limited liability partnership, restricted professional company, sole proprietorship, or trust.
 - g. **License.** A state license, permit, certificate, commission or registration granted or issued by a licensing agency that confers benefits, privileges or rights to the licensee, permit holder, or registrant to practice a trade, profession or occupation, or to conduct a business activity within the commonwealth.

- h. **Licensee.** A person or entity to whom a license was granted.
- i. **Licensing Agency.** All agencies under the Governor's jurisdiction that issue licenses, permits, certificates, commissions, or registrations necessary to perform business activity within the commonwealth. The term shall also include independent agencies that voluntarily elect to participate in the Program.
- j. **Program.** The Program authorized by *Executive Order 2011–06, Licensee Tax Responsibility Program*.
- k. **State Tax.** A tax liability, including interest, penalty and additions of a taxpayer, licensee, employer, or other person imposed under the *Act of March 4, 1971, (P.L. 6, No. 2) known as the "Tax Reform Code of 1971", the Act of December 5, 1936 (2nd Sp.Sess., 1937 P.L. 2897, No. 1)*, known as the *Unemployment Compensation Law*, or *75 Pa.C.S. § 9014* (relating to collection of unpaid taxes).
- l. **Tax Delinquency.** The condition by which a state tax, when delinquent, is subject to collection action by the taxing agency and is not subject to a timely administrative or judicial appeal, a duly authorized deferred payment plan, or subject to the jurisdiction of a bankruptcy court. The term shall include any tax report or return required by law that has not been timely filed.
- m. **Tax Identification Number.** Including but not limited to a federal employer identification number or unemployment compensation (UC) account number, state personal income tax identification number, state sales tax number, corporation tax number, or state employer withholding number.
- n. **Taxing Agency.** The Department of Revenue or the Department of Labor and Industry.

5. POLICY.

- a. Pursuant to *Executive Order 2011–06, Licensee Tax Responsibility Program*, the Department of Revenue is responsible for ensuring that all applicants for the issuance or renewal of licenses, permits, and registrations are compliant with their state tax obligations and that agencies under the Governor's jurisdiction that issue licenses, permits, and registrations have information regarding their tax compliant status.
- b. Pursuant to *Executive Order 2011–06, Licensee Tax Responsibility Program*, all state agencies, boards, commissions, and councils under the Governor's jurisdiction that issue licenses are required to provide the Secretary of Revenue with the necessary information regarding their licensees to perform tax compliance investigations.

6. RESPONSIBILITIES.

• **a. Commonwealth Licensee Tax Responsibility Committee.** The committee shall be comprised of one member from each of the following agencies: the Office of General Counsel; the Pennsylvania Department of Revenue; the Pennsylvania Department of Labor and Industry and other agencies as may be directed by the Governor. The committee shall be responsible for:

- (1) Monitoring, maintaining, and evaluating the Program for efficiency, effectiveness, and use.
- (2) Responding to concerns raised by licensing agencies regarding the Program.
- (3) Providing guidance to ensure that the underlying purpose of this directive is being carried out and proposing any necessary revisions.
- (4) Creating and disseminating guidelines for the release of confidential tax information for official purposes.
- (5) Determining the schedule, which shall be no less than annual, under which licensing agencies shall provide information for inclusion in the Program.
- (6) Issuing an annual report to the Governor on the Program.

b. Information to be Furnished.

- (1) Unless prohibited by law, a licensing agency shall, upon request of the Department, furnish the following information with respect to each licensee or applicant:
 - (a) business name or name under which the applicant or licensee will be licensed or is licensed;
 - (b) business address or whatever type of address the agency requires from the applicant or licensee to furnish to the agency, including an Internet and email address;
 - (c) federal social security number or federal taxpayer identification number, or both numbers, when the applicant or licensee has both numbers or the reason or reasons furnished by the person, as to why the person does not have a number;
 - (d) as to holders of licenses, but not pending applicants for licenses, the information if any, upon which the state agency has identified that a licensee is an entity.

- (2) In addition to the information specified under subsection (1), the licensing agency shall obtain from the licensee or applicant a statement signed under penalty of perjury indicating all state tax reports have been filed and paid or in the alternative that a deferred payment plan is currently in effect. The statement shall also acknowledge a waiver of confidentiality with respect to state tax information disseminated to licensing agencies in performance of official tax administration. This statement shall be retained by the licensing agency.
- (3) The information required in subsection (1) shall be submitted on the media and in the format prescribed by the Department. Information regarding current licensees shall be submitted to the Department within the time prescribed by schedule of the Licensee Tax Responsibility Committee.

c. Preliminary Notice to Entity.

- (1) If the Department does not already possess the information set forth in Section (b), the Department may send a preliminary notice to each licensee or applicant requesting verification in a manner to be prescribed by the Department, of the business name, business address, and federal social security number or federal taxpayer identification number.
- (2) If no social security number or federal taxpayer identification number was provided to the licensing agency, a preliminary notice issued by the Department may require the licensee or applicant to provide such information to the Department, pursuant to its authority to collect such information under *42 U.S.C. § 405(c) (2)(C)(I)*, which provides an exception for mandating disclosure of social security number for the purpose of state tax administration. The preliminary notice shall advise the person that the information is required for purposes of reviewing the licensee's or applicant's compliance with appropriate state tax laws.

d. Review and Verification of Tax Compliance Status by the Department.

- (1) The Department shall review the tax compliance status of each licensee or applicant and verify compliance with the business registration, filing, and payment requirements of any state tax administered by the taxing agencies.
- (2) The Department, through the licensing agency, shall notify a licensee or applicant of its tax delinquency, if applicable.
- (3) The Department may exercise its authority to institute appropriate collection activity against non compliant taxpayers in addition to whatever penalties or sanctions the licensing agency may impose.

e. Licensing Agency Enforcement. To the extent permitted by law governing the issuance and renewal of a license, the licensing agencies shall request tax compliance status of each licensee or applicant from the Department and shall impose appropriate enforcement action for failure to comply with state tax laws, including mandating the filing of returns or reports.

(1) If during the effective period of a license, the licensee fails to file any required state tax report, fails to pay any collectible state tax due, or defaults on a deferred payment plan, the Department may refer the matter to the licensing agency.

(2) Where the licensing statute permits, the licensing agency will not grant the next license. The current license may be granted at the discretion of the licensing agency.

f. Confidentiality.

(1) The provision of information and reports, which are to be furnished by the Department to a state licensing agency under this Management Directive, shall not alter the non-public nature of the information communicated.

(2) All agencies, officers, and employees shall treat all records and files disclosed by the Department as confidential and privileged to the extent provided by law and may disclose tax information only as authorized by law. Failure for any agency employee to implement standards safeguarding confidential state tax information will render the employee subject to sanctions as described in those statutes dealing with the confidentiality of state tax information.

g. Independent Agencies. Independent licensing agencies are invited to voluntarily participate in this Program.

7. PROCEDURES. The Revenue Department's Deputy Secretary for Compliance and Collections, the Department's Bureau of Compliance and staff counsel from the Department's Office of Chief Counsel will be available to assist commonwealth executive agencies and independent agencies, as well as their staff counsel, in implementing the various aspects of the state tax clearance process called for in this Management Directive.

This directive replaces, in its entirety, *Management Directive 305.22*, dated April 13, 2006.