

3156

RECEIVED



KEYSTONE
collections group™

2017 APR 20 AM 9:18

546 Wendel Road • Irwin, PA 15642 • keystonecollects.com • Phone: 724.978.0300 • Fax: 724.978.0339

April 17, 2017

VIA EMAIL: lirwin@pa.gov

Lori Irwin, Esquire
Governor's Office of General Counsel
PA Department of Community & Economic Development
Office of Chief Counsel
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Dear Ms. Irwin:

Thank you for the opportunity to speak with you regarding the draft regulation proposed under and pursuant to the *Local Tax Enabling Act*, Regulation §151.23 (5). This particular proposed regulation involves earned income tax officer contracting under Act 32, and would require that such contracts include a provision authorizing "termination for convenience." Under the proposal, one side of the contract is allowed to cease honoring the contract for any reason or "for no reason."

Beyond the fact that the proposed language appears to contravene Pennsylvania contract law generally, there are several specific matters that could upset the ability of the current consolidated tax collection system to continue operating as it now exists. For instance, the effect of the provision could nullify the terms of fair negotiation, particularly because many of the tax collection service costs, rates and commission points are calculated upon a guaranteed term of years. General contracting practices would normally provide that an agreement can terminate early for non-performance, for poor performance or for breach. Nonetheless, the proposed provision would allow a contract to terminate early during good performance or at the whim of one party, and would thus mean that no real term actually exists.

In practice under Act 32, the tax officer is responsible for negotiating terms for bonding, which is often priced on tax officer capabilities, Yellow Book and controls audit performance,



KEYSTONE

Ms. Lori Irwin

April 17, 2017

Page Two

safety record and the *length of the term of the bond*. The term length of the bond is directly tied to the terms of the contract. Similarly, insurance policies are very often priced in accordance with the length (in years) of the insurance policy term, which is tied directly to the term length of the tax collection committee service contract. Indeed, many other professional services that spring from or are directly connected to the length of the tax collection service contract are likewise based upon a multi-year guaranteed term.

Finally, the commission rate offered by the tax collector and accepted by the tax collection committee is usually closely tied to the length of the contract agreement. Thus, any provision based upon "termination for convenience" would dramatically alter the existing commission structure in existence under Act 32 today.

I hope this information is helpful to you. As an interested third party, I appreciate the opportunity to discuss the matter with you and bring it to your attention. Thank you.

Very truly yours,

KEYSTONE COLLECTIONS GROUP

By:

Joseph W. Lazzaro

Vice President / General Counsel

JWL/ymm

c: Sean Sanderson
Local Government Policy Manager - DCED