

Commentary

# The COVID-19 Challenge and How It Is Affecting Businesses, Individuals

This column will discuss what government is doing to help individuals and businesses. Additionally, the article will discuss the impact of the crisis upon government. The focus will be upon the city of Philadelphia and the commonwealth of Pennsylvania.

By Stewart M. Weintraub | April 21, 2020 at 01:51 PM

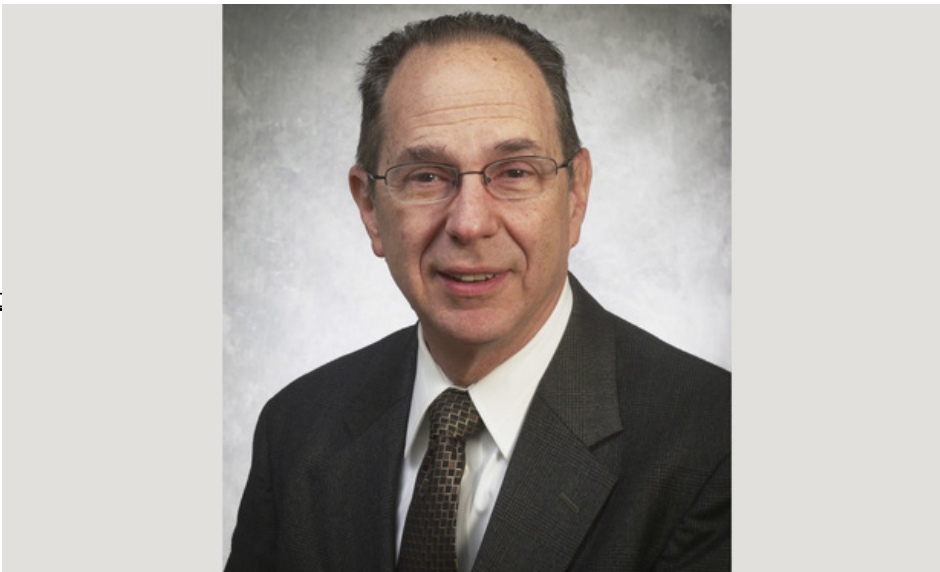
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Stewart M. Weintraub of Chamberlain Hrdlicka

*Editor's note: This column was written April 6. The issues discussed here are rapidly changing. Some of the issues changed while it was being written. Any issues that apply to you should be confirmed to make sure there were no further changes, amendments or revisions.*

COVID-19 is presenting challenges for every segment of our society. With everyone working together and following the advice of medical experts, we can and shall overcome it. However, once we overcome the health crisis, we still must face the

economic crisis it spawned for businesses and individuals. This column will discuss what government is doing to help individuals and businesses. Additionally, the article will discuss the impact of the crisis upon government. The focus will be upon the city of Philadelphia and the commonwealth of Pennsylvania.

## **Help for Individuals and Businesses**

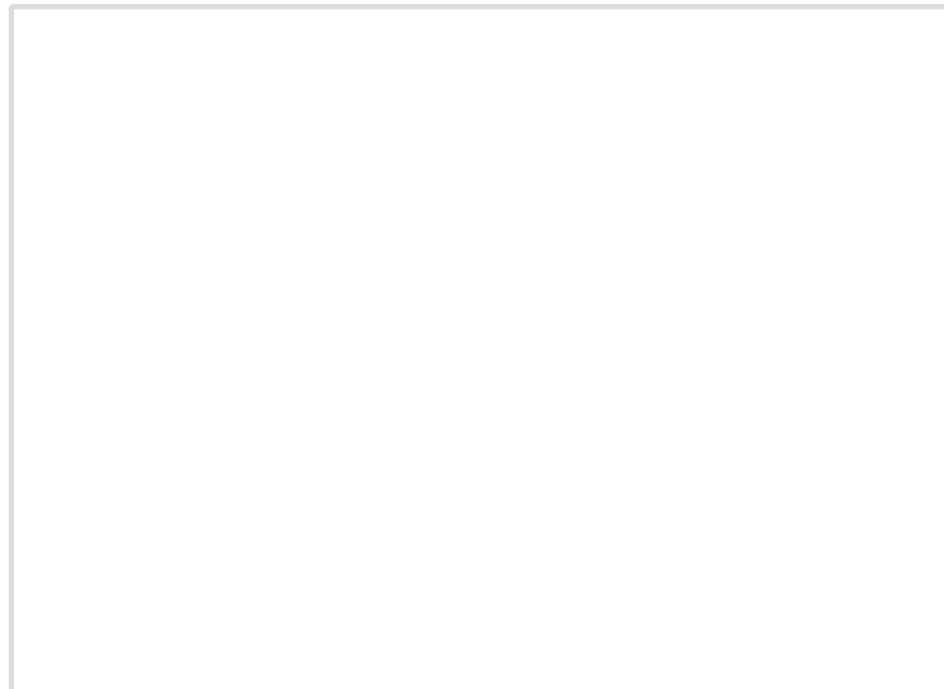
As tax deadlines approach (and pass), individuals and businesses are faced with the dilemma of how to appropriately assess their finances. Common questions include: Do I have the money to pay my taxes timely? If I do not, will I be assessed interest and penalty? Will my property be subject to foreclosure?

### **By the City**

- **Real Estate Tax (RET)**

Earlier in the month, the City Department of Revenue published a series of policy statements regarding the administration of its taxes. The city asked all taxpayers who could pay their 2020 real estate taxes (RET) timely to do so electronically. For everyone else, the RET due date was extended from March 31 to April 30. Payments made before April 30 will not accrue any additions, interest or penalties.

For 2020, senior citizens and low-income taxpayers may request a RET installment payment plan to April 30.



Because, by order of the Pennsylvania Supreme Court, the commonwealth's court system, with certain exceptions unrelated to tax issues, is closed until at least April 30. As a result, so long as the court's emergency order is in effect, RET sales may not be presented to or heard by the court.

- **Income and Business Tax Filings**

The department's guidance included 2019 individual and business tax filings. Again, the city asked all taxpayers who could pay their taxes timely to do so. However, all taxpayers may take advantage of payment and filing due date extensions.

The department agreed to honor the same extension from April 15 to July 15, which

the federal government is allowing for the filing of federal income tax returns and tax payments. This extension applies to the city's **Business Income and Receipts Tax** (<https://www.phila.gov/services/payments-assistance-taxes/business-taxes/business-income-receipts-tax-birt/>) (BIRT), **Net Profits Tax** (<https://www.phila.gov/services/payments-assistance-taxes/business-taxes/net-profits-tax/>) (NPT) and School Income Tax (SIT). This policy includes estimated payments. Tax returns filed and taxes paid between April 15 and July 15 will not accrue any interest and penalty. To take advantage of the BIRT and NPT extensions, no action is needed.

A word of caution for SIT taxpayers. The department also issued an emergency regulation that provides, that to qualify for interest and penalty forgiveness, taxpayers must pay 2019 SIT based on their 2018 SIT liability by April 15. When the 2019 SIT return is filed, the difference must be paid by the taxpayer or a refund will be paid by the city, emergency regulation says nothing about how to make the April 15 payment. If you have an extension form, it can be filed with the estimated payment. To make sure a payment is properly processed, clear instructions should accompany any payment that the payment is for the 2019 SIT. Taxpayers who do not make the payment will be assessed interest and penalty regardless of whether their SIT returns and payments are made by July 15. Moreover, any 2019 SIT payments made after July 15 will accrue interest and penalty retroactive to April 15.

- **Use and Occupancy Tax (U&O)**

The department's Use & Occupancy Tax (U&O) policy statement provides that any business mandated to close, pursuant to Mayor Jim Kenney's order to close non-essential businesses, as of March 17, is not subject to U&O. Conversely, any business remaining open, any business with employees on premises or any business with employees, who have access to the premises, remains subject to U&O. No extension to file U&O returns or pay U&O is offered.

- **Wage Tax (WT)**

The department's Wage Tax (WT) policy statement focuses on the liability of nonresident employees whose base of operations is in the city. Generally, a nonresident employee working outside the city is not subject to WT. The question is whether nonresident employees compelled to work from home, due to their employer's complying with Kenney's business closure order, are subject to WT. The city's policy has been that nonresident employees working from home as a "requirement of employment" are not subject to Wage Tax. The city concludes that nonresidents working from home due COVID-19 business closures are not subject to WT. While the city says employers should claim the exemption when filing the WT Reconciliation in 2021, the ordinance allows withholding to be adjusted for out-of-city work at the time payroll is paid. This will increase employees net take home pay currently when they need it.

### **By the Commonwealth**

- **Licenses and Certifications**

All business tax licenses and certifications during the commonwealth department's COVID-19 closure, are extended indefinitely. The affected licenses and certifications include:

- Sales, Use and Hotel Occupancy tax licenses.
- Public Transportation Assistance Fund taxes and fees.
- Small Games of Chance Manufacturer Certificates.
- Sales Tax Exemption Certificates.

- **Income Tax**

The deadline for the filing and payment of Personal Income Tax (PIT), and the filing of S Corporation, partnership and estate and trust income tax returns is extended from April 15 to July 15, including estimated payments, without accrual of interest and penalty. Economic Impact Payments by the IRS will not be subject to PIT.

- **Corporate Net Income Tax (CNI)**

Those corporations with a Corporate Net Income Tax (CNI) filing and payment due date of May 15, the due date is extended to Aug. 14. However, the June 15 estimated payment due date is not extended.

Applications pursuant to the 2019 property tax/rent rebate program normally due by June 30 may be filed any time before Dec. 31.

- **Sales Tax (ST)**

Businesses that collect Sales Tax (ST) from their customers are required to remit ST collected to the department by the 20th of the month following the month it was collected. However, if a business collected more than \$25,000 during the third quarter of the prior year, it is required to pre-pay the tax collected during the month it was collected. For March 2020, penalties are being abated for pre-payments due March 20. For April 2020, no pre-payment is being required.

- **Inheritance Tax**

The department instructed County Recorders of Deeds' to accept late filings and payments of Inheritance Tax, which were due while the department's offices were closed due to the COVID-19 crisis, as of March 12. For these returns and payments, the department is making system modifications not to apply penalties.

## **COVID-19 and Governmental Operations**

The COVID-19 crisis will likely cause significant revenue shortfalls for fiscal 2020 and will create significant budgetary issues for fiscal year 2021.

The business closures and employee job losses will significantly reduce the amount of WT, BIRT, NPT, PIT and CNI collected by the city and commonwealth. Additionally, individuals will not be buying products which will impact ST.

Are there any options? There are four.

- Cut spending.
- Increase taxes.
- Enact new taxes.
- Collect delinquent taxes.

Can spending be reduced? It is possible, but it will be difficult. COVID-19 will increase the demand for services, not decrease it.

Increasing taxes or enacting new taxes present political questions. Will constituents adversely affected by the economic crash be able to tolerate increased or new taxes? I leave this question to our elected officials to answer.

Finally, while foreclosures are halted during the COVID-19 crisis, once the city's and commonwealth's departments reopen, both can be expected to reassert themselves and more aggressively seek to collect delinquent taxes and audit existing taxes. When either occurs, taxpayers should consult their tax advisers.

How long will the COVID-19 crisis last, and how long will its effects linger? This is not yet determinable.

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