

# Pennsylvania Imposes New Withholding Requirements on Businesses



**Under PA House Bill 542 which was signed into law on October 30, 2017, there are two new requirements involving withholding on non-employee compensation and lease payments which will require operational changes for many organizations.**

## Withholding on Non-Employee Compensation

1

Beginning December 29, 2017, payments of Pennsylvania source non-employee compensation or business income to a nonresidential individual or disregarded entity that has a nonresident member **must withhold tax at the rate of 3.07% which should be reported on a Form 1099-MISC**. A payment is considered non-employee compensation if it is made to:

- Someone who is not your employee
- Services performed in the course of your trade or business

**Withholding is optional for payors paying less than \$5,000 annually.** However, if you are unsure of the total amount of payments that will be made during the year, the Pennsylvania Department of Revenue encourages withholding and remittance of income tax from all payments made.

As a practical matter, that means businesses will need to start to withhold below the \$5,000 threshold to ensure that when a vendor reaches the threshold, the amount of the payment that brings the total to \$5,000 is large enough to cover the tax on \$5,000. For example, if a vendor with a total of \$4,900 in payments submits an invoice for \$100, the amount due is less than the amount of tax due at the statutory rate of 3.07%.

## Withholding on Non-Employee Compensation

2

Beginning December 29, 2017, lease payments made in the course of a trade or business with regard to Pennsylvania property totaling \$5,000 or more during a calendar year to nonresident lessors or to an entity (including a disregarded entity owned by the nonresidential individual lessor) that collects lease payments on behalf of the nonresident individual is required to withhold Pennsylvania income tax which should be reported on Form 1099-MISC.

A lease payment includes, but is not limited to, rents, royalties, bonus payments, damage rents and other payments made pursuant to a lease. Under House Bill 542, a lessor includes only individuals, estates and trusts.

As with non-employee compensation, withholding is permissive for amounts below \$5,000 and mandatory at or above that level.

## Registration, Filing, and Payment for Payors and Lessees



Any payor or lessee required to withhold must apply for a 1099-MISC withholding account by completing a PA-100 registration form at [www.pa100.state.pa.us](http://www.pa100.state.pa.us). If you already have an employer withholding account and do not want to report 1099-MISC separately, you do not have to complete a new registration. However, if you want to report the 1099-MISC separately, you must register for a 1099-MISC withholding account.

If the payor or lessee is required to perform electronic filing for Pennsylvania employer withholding purposes, the Federal Form 1099-MISC shall be filed electronically with the PA Department of Revenue through its e-TIDES system.

If the payor or lessee is not required to perform electronic filing for Pennsylvania employer withholding purposes but is registered to do so, the Form 1099-MISC may and is strongly encouraged to be filed via the Department's e-TIDES system.

If the payor or lessee is neither required nor registered to perform electronic filing for Pennsylvania employer withholding purposes and does not wish to register via e-TIDES, the 1099-MISC must be submitted in paper format to the Pennsylvania Department of Revenue.

The annual withholding statement (REV-1667R), along with the individual 1099-MISC forms, must be filed electronically with the PA Department of Revenue by January 31 of the following year.