

# **PAYROLL TAX FREQUENTLY ASKED QUESTIONS**

Pursuant to the City Code, Title II, Article VII, Chapter 258, the City has enacted a tax at the rate of fifty-five hundredths of a percent (.55% or .0055) on the amount of payroll expense generated as a result of an employer conducting business activity within the City.

The Payroll Tax is a tax that is levied on employers. This tax is separate and distinct from the Employer Wage Tax. Under no circumstance should the Payroll Tax be deducted from the employees' wages.

For purposes of computation of the tax, the payroll amount attributable to the City shall be determined by applying an apportionment factor to total payroll expense based on that portion of payroll which the total number of days an employee, partner, member, shareholder or other individual works within the City bears to the total number of days such employee or person works both within and outside the City. The tax shall be computed on the payroll expense of the previous quarter attributable to the City.

An employer which conducts business in the City on a temporary, seasonal or itinerant basis shall calculate the tax on the total compensation earned while in the City.

## **EXAMPLES**

### **EXAMPLE 1**

Business has an office in City of Pittsburgh and work is performed in the City of Pittsburgh. Total of all employee salaries are taxable.

It is easier to explain the tax liability by using one employee as an example – John Smith.

	<b><u>DEBIT</u></b>	<b><u>CREDIT</u></b>
Salary Expense; John Smith	\$1,000.00	
Federal Income Tax- Payable		\$100.00
State Income Tax –Payable		28.00
City of Pittsburgh & School Wage Tax- Payable		30.00
FICA Tax- employee's share		67.00
Medicare Tax –employee's share		10.00
Healthcare Deduction		2.00
John Smith Payable		763.00

\$1,000 is the salary that is taxable for the City of Pittsburgh Payroll Tax. All compensation earned,  $\$1,000.00 \times .0055 = \$5.50$  City of Pittsburgh Payroll Tax.

This example would apply whether the business has 1 employee or 1,000 employees.

**NOTE 1:** Payroll expense means all compensation earned by an employee. This would include commissions, bonuses, stock options, and incentive payments. Section 125 plans for medical or other cafeteria plan items are not allowable deductions. Deferred compensation plans such as the 401K plan are not deductible.

**The Payroll Tax is levied on gross payroll.**

**NOTE 2:** The employer's portion of payroll taxes that do not appear on the employee's W-2, are not taxable for the City of Pittsburgh's Payroll Tax. These include the employer's share of FICA, Medicare, Unemployment and City of Pittsburgh Payroll Expense Taxes.

**EXAMPLE 2**

Business A is located in the City of Pittsburgh. Construction work is performed in and out of the City. How is the Payroll Tax calculated?

**Answer:** Determine the total payroll expense attributable to work done in the City of Pittsburgh and that amount would be taxable. The payroll expense attributable to work performed outside the City of Pittsburgh would not be taxable to the City of Pittsburgh.

PAYROLL EXPENSE		PAYROLL EXPENSE
For Oct – Nov – Dec	General Office Staff	\$90,000.00 – taxable
	Construction workers	
	expense for work in Pgh	\$1,000,000.00 – taxable
	Construction workers	
	expense for work out of Pgh	\$500,000.00 – not taxable
	Total Payroll Expense	\$1,090,000.00
	Tax Rate	.0055
	Tax Due	\$5,995.00
	Due date 2-28-05	

**EXAMPLE 3**

Corporation A has two offices, one in and one outside the City of Pittsburgh. How is the Payroll Tax calculated?

**Answer:** Use the total gross payroll of the employees who work in the City of Pittsburgh (same as in example 2) and multiply it by .0055. If the employees who work in the office located outside the City of Pittsburgh do no work in the City of Pittsburgh, their gross compensation should not be included in the gross taxable receipts.

**EXAMPLE 4**

Is a general contractor that has an office located outside the City of Pittsburgh and comes into the City of Pittsburgh for a one (1) day job subject to the Payroll Tax?

**Answer: Yes.** Per City Code, Chapter 258, Section 258.01 (k) of the Payroll Tax, "Temporary, seasonal or itinerant business" shall mean an employer whose presence in the City of Pittsburgh is of a duration of one hundred twenty (120) days or less. (See also Section 258.03, Computation of Tax). An employer which conducts business in the City of Pittsburgh on a temporary, seasonal or itinerant basis shall calculate the tax on the total compensation earned while in the City of Pittsburgh and pay the tax due within ten (10) days.

**EXAMPLE 5**

A non-resident general contractor is located in Ohio. The contractor renovates a downtown office building. Is the contractor subject to the Payroll Tax?

**Answer: Yes.** The company is conducting business within the City of Pittsburgh. Determine the total payroll expense attributable to work done in the City of Pittsburgh and that amount would be taxable.

### EXAMPLE 6

Are businesses located in the City of Pittsburgh that are regulated such as banks, beer distributors, taverns, stock brokers, insurance companies or manufacturers, subject to the Payroll Tax?

**Answer: Yes.** Pursuant to Act 222 only Government entities are excluded from the requirements of filing the Payroll Tax return.

### EXAMPLE 7

A business started May 15. When is the first return due? How is the Payroll Tax calculated?

**Answer:** The first return is due August 31 based on the previous quarter's payroll from May 15 thru June 30. Subsequent returns will be based on the previous quarter's total payroll expense.

### EXAMPLE 8

A corporation goes out of business on November 1. The Payroll Expense for July, August and September was \$30,000.00. How is the payroll tax calculated?

**Answer:** Apportion the tax by multiplying the payroll expense from the previous quarter by a fraction. The numerator will be 32 days because the business pays only up to the amount of days that the taxpayer was in business in the current quarter or 32 days/92 days, rather than pay for the whole quarter (October, November and December or 92 days).

### EXAMPLE 8 (continued)

32 days/92 days x payroll for the previous quarter (July, August and September) is the correct payroll tax for the last quarter. This final quarter would be due November 11, 10 days after the discontinuation of business.

**Step 1** – 32 days/92 days x \$30,000.00 previous quarter (July, August and September)  
= \$10,434.90.

**Step 2** - \$10,434.90 x .0055 = \$57.39 tax due November 11.

This is the last return due since the business closed on November 1.

For examples 9, 10, 11, 12 & 13, all the work is performed in the City of Pittsburgh.

### EXAMPLE 9

Is a partner taxable?

**Answer: Yes.** The partner's drawing account acts as a quasi-salary account, until the actual income of the partnership is determined for the individual partners. Taxable **draws** are limited by the amount of **draws** or net income for that partner, which ever is less.

### EXAMPLE 10

A pizza shop sole proprietor takes out \$5,000.00 in the first quarter, \$5,000.00 in the second quarter, \$5,000.00 in the third quarter and \$15,000.00 in the fourth quarter. The sole proprietor's net profit for the year is \$30,000.00. What are the taxable distributions?

**Answer:** All of the \$30,000.00 in **distributions** is taxable.

#### **EXAMPLE 11**

A sole proprietor takes \$25,000.00 out of the business and the net profit was \$30,000.00. What are the taxable distributions?

**Answer:** \$25,000.00 is taxable.

#### **EXAMPLE 12**

A sole proprietor takes \$50,000.00 out of the business and the net profit was \$30,000.00. What are the taxable distributions?

**Answer:** \$30,000.00 is taxable.

#### **EXAMPLE 13**

A cardiac surgery business has its office outside the City of Pittsburgh. Work is performed in City of Pittsburgh hospitals. Is the business subject to the Payroll Expense Tax?

**Answer:** Yes. The business is subject to the Payroll Expense Tax for the time that work is performed in City of Pittsburgh hospitals and/or locations. The payroll amount attributable to the City of Pittsburgh shall be determined by applying an apportionment factor to total payroll expense based on that portion of payroll which the total amount of time an employee, partner, member, shareholder or other individual works within the City of Pittsburgh bears to the total amount of time such employee or person works both within and outside the City of Pittsburgh.

#### **EXAMPLE 14**

An individual owns 5 rental properties located in the City of Pittsburgh but has no employees, would the individual be subject to the Payroll Tax?

**Answer:** No. A person shall not be deemed to be engaged in business solely by reason of the receipts of income from passive investments for which no services are rendered. If the person hires an employee, said person would be subject to the Payroll Tax.

#### **EXAMPLE 15**

A non-profit hospital (Purely Public Charity) has a gift shop. In this gift shop, shirts and other sports items are sold. The hospital pays federal taxes under section 511 of the Internal Revenue Code by filing form 990T. Is this hospital subject to the Payroll Tax?

**Answer: Yes.** The payroll expense to operate the gift shop would be taxable. 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", then the tax shall be 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. If the hospital meets the requirements of the "Institutions of Purely Public Charity Act", the Payroll Expense to run the hospital would not be taxable. A charitable organization, as defined above, shall calculate the tax that would otherwise be attributable to the City of Pittsburgh, but shall only pay the tax on that portion of its payroll expense attributable to business activity for which a tax may be imposed pursuant to Section 511 of the Internal Revenue Code. The institution may be required to document its non-profit purely public charity status at any time. Act 55 of 1997 or the Institutions of Purely Public Charity Act can be downloaded at <http://members.aol.com/StatutesP8/10PA373.html> and the Pennsylvania Department of State Purely Public Charity requirements can be downloaded at <http://www.dos.state.pa.us/char>