

## **PENNSYLVANIA ENACTS LEGISLATION WHICH LIMITS THE AUTHORITY OF LOCALITIES TO IMPOSE BUSINESS PRIVILEGE TAXES AND PREVENTS DOUBLE TAXATION OF RECEIPTS**

On May 6, 2014, Pennsylvania Governor Tom Corbett signed into law H.B. 1513, Regular Session 2013-2014 (“H.B. 1513”), which limits the authority of Pennsylvania localities to impose privilege taxes and reduces the potential for double taxation of receipts. The provisions of H.B. 1513 are effective for taxable years beginning on or after January 1, 2014

### **Background**

Under its Local Tax Enabling Act (the “LTEA”), Pennsylvania has historically authorized each city (other than Philadelphia), borough, town, township, and school district to levy a tax on transactions and privileges within its territorial limits.<sup>1</sup> The LTEA does not, however, define what qualifies as a taxable transaction or privilege. Instead, each locality has defined by ordinance and/or regulation what qualifies as a taxable transaction or privilege. Generally, Pennsylvania localities have historically exercised the statutory authority given to them by the LTEA by imposing a tax on one or both of the following: (1) receipts arising from business transacted within the territorial limits of the locality; and (2) receipts attributed to a base of operations or place of business located within the territorial limits of the locality. However, confusion among localities and taxpayers often arises as to when a taxpayer may be subject to tax because the LTEA merely grants each locality the authority to impose a tax on transactions and privileges without providing a definition of base of operations or place of business (or what receipts may be attributed thereto) and frequently ordinances and regulations of localities are not clear. In addition, because of the broad taxing authority granted each locality and the lack of consistency/coordination among taxing jurisdictions relative to the subjects of tax, the same receipt may, for example, be attributed to a base of operations or place of business in a city and arise from business transacted in another city and, thus, taxed more than once.

### **Impact of H.B. 1513**

On a prospective basis, at least, H.B. 1513 provides some clarity as to when a locality may impose a privilege tax on receipts by: (1) limiting a locality’s jurisdiction to impose a privilege tax to a taxpayer conducting transactions for more than 15 days within its territorial limits or with a “base of operations” within its territorial limits; and (2) defining “base of operations” to mean “an actual, physical and permanent place of business from which a taxpayer manages, directs and controls its business activities.” Further, H.B. 1513 reduces the potential for double taxation by prohibiting a locality from imposing a privilege tax on receipts that were subject to tax because the taxpayer conducted transactions in another locality for 15 or more days.