

LACKAWANNA COUNTY TAX COLLECTION COMMITTEE

TCC Tax Appeal Board Regulations

ARTICLE I – Board Organization

ARTICLE 1 – TAX APPEAL BOARD MEMBERS

The Tax Appeal Board shall be comprised of three (3) regular members and two (2) alternate members appointed by the TCC. A panel of three (3) members shall hear and decide each appeal. If a regular member is unavailable to participate in an appeal, one of the alternate members shall participate in place of the regular member. All Tax Appeal Board members shall be TCC delegates.

ARTICLE 2 – TAX APPEAL BOARD MEMBER QUALIFICATIONS

No member of the Tax Appeal Board may be an employee, agent, or attorney of the Tax Collector.

ARTICLE 3 – TERM OF SERVICE

The initial appointed Tax Appeal Board members shall serve until a successor has been appointed, or earlier death, resignation, or removal. Thereafter, each Tax Appeal Board member shall hold office for a term of two (2) years commencing January 1 and until a successor has been appointed, or earlier death, resignation, or removal.

ARTICLE 4 – CHAIRPERSON / VICE CHAIRPERSON

The Board shall annually elect a Chairperson who will guide the activities of the Board, and a Vice-Chairperson who will act as the Chairperson in the absence or unavailability of the Chairperson. The Chairperson may direct legal counsel or another designee to act on behalf of the Board. If a regular member is unavailable to participate in an appeal, the Chairperson shall designate an alternate member to participate in place of the regular member.

ARTICLE 5 – LEGAL COUNSEL

The Board shall be advised by legal counsel. The Board legal counsel will be the TCC solicitor unless the TCC solicitor has a conflict of interest with respect to an appeal, in which case the TCC will appoint other legal counsel to consult the Board regarding the appeal.

ARTICLE 6 – APPLICABILITY OF REGULATIONS / TCC TAXES

The school districts and municipalities are all of such located in Lackawanna County. Further the TCC is authorized by Act 32 to collect certain taxes imposed by the respective municipalities. These specific taxes are referred to in these Regulations as “TCC Tax.”

ARTICLE 7 – PETITIONS

7.1 Any taxpayer, employer, political subdivision, tax collector, or tax collection committee aggrieved by a Tax Collector determination relating to the assessment, collection, refund, withholding, remittance, or distribution of an TCC Tax may file a petition with the Board in accordance with these Regulations.

7.2 FILING DEADLINES

The following rules apply to petitions under these Regulations:

7.2.1 Refund Petitions. A tax refund petition must be filed within the later of: (1) Three (3) years after the due date for filing the return for the TCC Tax for which the refund is request; or if no return is required, the due date for payment. (2) One (1) year after actual payment of the TCC Tax for which the refund is requested. Taxpayers are required, to file a simple written request addressed to the Tax Collector for a refund prior to filing a formal tax refund petition.

7.2.2 Reassessment Petitions. Petitions for reassessment of an TCC Tax assessed by the Tax Collector must be filed within ninety (90) days of the date of the assessment notice.

7.2.3 Other Tax Collector Claim Petitions. A petition by another tax collector for a claim with the Tax Collector for distribution of an TCC Tax which the Tax Collector has not paid or responded within the time required under § 513 of the LTEA, 53 P.S. 6924.513, must be filed within the later of: (1) One (1) year after the claim was filed with the Tax Collector. (2) One (1) year after receipt of the Tax Collector response of the claim.

7.2.4 Other Petitions. All other petitions challenging Tax Collector determinations relating to TCC Tax must be filed within one (1) year after the petitioner discovers facts that a reasonable person would deem as giving rise to the grounds for challenge set forth in the petition. The Board may request the petitioner provide proof of when such facts were discovered.

7.2.5 Manner of Filing. Petitions can be filed by certified mail, at the address of the TCC or by email at the TCC email address.

7.3 **FORM OF PETITIONS**

7.3.1 All petitions filed with the Board shall contain the following information:

- a. Name, address, phone, SSN or EIN, and email address of petitioner.
- b. Specific tax year(s) and tax appeal from
- c. Municipality which imposes said tax
- d. Whether this matter is subject to mandatory DCED mediation and whether notice has been received that the matter is subject to DCED mediation.
- e. State the specific nature of the appeal, what is being complained of and the legal basis for such appeal.
- f. If petitioner is represented by an attorney or other representative, the name, address, phone number and email address of said attorney or another representative. If represented by an attorney, or other representative said person must file a notice of representation with this Board.
- g. Copies of any tax return or other document on which the petition is based.
- h. Legal basis for such appeal

i. All documents which support the petition

j. A petitioner who files a petition by mail (rather than by email) shall file 4 copies of the petition and all attachments with the Board.

k. Within three (3) days of filing with the Board, a petitioner will provide a copy of the petition and all attachments to the Tax Collector and Municipality.

j. The petitioner is responsible to ensure a complete and accurate petition is filed. The Board may deem a petition incomplete if either: (1) The Board determines the petition does not satisfy the requirements of these Regulations. (2) The Board determines that it needs additional information to make a decision. If the Board makes such a determination, the Board may ask the petitioner to submit the additional information.

ARTICLE 8 BOARD DECISION/PROCEDURE

8.1 – LACK OF JURISDICTION

The Board may dismiss a petition by giving written notice to the petitioner and any other party interested in the appeal if any of the following apply: (1) The petition challenges a determination relating to a tax that is not an TCC Tax. (2) The Board determines for some other reason it does not have jurisdiction.

8.2 PARTIES

The parties to any appeal shall be the petitioner, Tax Collector and Municipality.

8.3 BURDEN OF PROOF

The petitioner has the burden of proving that the petitioner is entitled to the relief sought.

8.4 DCED MEDIATION

8.4.1 If a challenge raised in a petition is subject to DCED mediation (whether by agreement of the parties, or mandatory because it is a claim by a Taxing Authority, tax collection committee, or another tax collector involving 10% or greater deviation from taxes received in the prior tax year), the Board will request that the petitioner sign a written waiver of the right to receive a decision within sixty (60) days after filing of the petition, and upon receipt of such written

waiver, the Board shall stay its review of the petition until the petitioner notifies the Board that DCED mediation has concluded and notifies the Board of the outcome of such mediation. If the Board receives notice that DCED mediation has resulted in a settlement agreement resolving the petition, the Board shall dismiss the petition. If the Board receives notice that DCED mediation did not result in a settlement agreement addressing all issues raised in the petition, the Board shall address any unresolved issues over which the Board has jurisdiction.

8.5 INFORMATION REQUESTS

1. **Party Requests.** If a party believes additional information is necessary for resolution of the petition, the party shall submit to the Board a written request that the Board require the other party to provide the information. The written request shall include an explanation of the relevance of the information. Board legal counsel will rule on the request. If the request is granted, the party from whom the information is requested shall provide the information by the date specified by the Board legal counsel, which shall be no less than 30 days after submission of the request.
2. **Board Requests.** If the Board or its legal counsel believes additional information is necessary for resolution of the petition, the Board legal counsel will make a written request for the information, and the party from whom the information is requested shall provide the information by the date specified by Board legal counsel.
3. **Time Extension.** A party may request an extension of time within which to respond to an information request. The Board through its legal counsel has sole discretion whether to grant such an extension. As a condition to granting an extension to the petitioner, the Board may require the petitioner to sign a written waiver of the right to receive a decision within sixty (60) days after filing of the petition.

8.6 EQUITABLE AND LEGAL PRINCIPLES APPLY

Per 53 Pa.C.S.A. § 8435, the Board may make decisions according to principles of law and equity.

8.7 BOARD VOTING

All decisions of the Board shall be made by a majority of the regular Board member; or if one or more alternates is serving with respect to an appeal, a majority of the regular members and alternates serving with respect to the appeal.

8.8 WRITTEN DECISION

The Board shall dispose of petitions over which it has jurisdiction by written decision dated and signed by a Board member. The written decision may, but is not required to, include an explanation.

8.9 DECISION TIMING/60-DAY RULE

1. **Taxpayer Petitions.** Decisions on petitions from taxpayers relating to the assessment, determination, or refund an TCC Tax shall be issued within sixty (60) days of the date a petition that complies with the requirements of these Regulations is filed, unless the petitioner has signed a written waiver of the sixty (60) day time. If the petitioner complied with all requirements of the Regulations, no waiver has been signed, and the Board fails to issue a decision within the (60) day time, the petition shall be deemed approved. Notwithstanding the foregoing, if the Board determines that it does not have sufficient information to make a decision on the merits of the petition within sixty (60) days and the petitioner has not signed a waiver, the petitioner will be deemed to have failed to meet the burden of proof, and the petition will be denied. Please note that a simple written request for a refund or a letter disputing a deficiency assessment is not considered a petition for purposes of the 60-day rule or any other part of these Regulations.
2. **Other Petitions.** Unless Board legal counsel determines that under applicable law the 60-day rule is not mandated for the petition, decisions on petitions filed by political subdivisions, other tax collectors, and other tax collection committees relating to an TCC Tax shall be issued within (60) days of the date a petition that complies with the requirements of these Regulations is filed.
3. If the political subdivision, tax collector, or tax collection committee petitioner complied with all requirements of these Regulations, no waiver has been signed. Board legal counsel has determined that under applicable law the petition must be decided within sixty (60) days, and the Board fails to issue a decision within sixty (60) day time period, the petition shall be deemed approved. Notwithstanding the foregoing, if the Board determines that it does not have sufficient information to make a decision on the merits of the petition within the applicable decision deadline and the petitioner has not signed a waiver, the petitioner will be deemed to have failed to meet the burden of proof, and the petition will be denied.

8.9 APPEAL BOARD

The Board will retain the appeals records for eight (8) years after the alter of its decision or the final decision on any court appeal. Act 32 § 514, 53 P.S. § 6924.514, that provides that all information gathered by the Board is confidential. Accordingly, an appeal record is not a “public record”, that is subject to disclosure.

8.10 RECUSAL

A Board member shall disqualify himself or herself from reviewing, hearing, considering, and deciding an appeal if any of the following apply: (1) The Board member’s participation would in any way violate the Pennsylvania Public Official and Employee Ethics Act, 65 Pa.C.S.A. § 1101, *et seq.*, or any other law. (2) The Board member believes that he or she has or might reasonably be perceived to have a conflict of interest.

8.11 HEARING

If the board can decide based on the information received the Board shall make such decision without a hearing. If the board determines a hearing is necessary, such will be scheduled. If a hearing cannot be scheduled within the sixty-day approval and no written waiver is filed, the Board will render a decision without a hearing.

8.12 HEARING NOTICE

If the Board determines a hearing is necessary or appropriate, the Chairperson or his or her designee will give notice specifying the date, time, and place of the hearing.

8.12 CONTINUANCES

If the Board schedules a hearing, it may, in its sole discretion, grant a requested continuance. Any continuance request must be in writing and specify reasonable grounds for the continuance. The Board may as a condition to granting a continuance require that the petitioner sign a written waiver of the right to receive a decision within sixty (60) days after filing of the petition.

8.13 PRIVACY

Board hearings are private and not open to the public.

8.14 EVIDENCE

The Board need not conduct hearings in strict conformity with the Pennsylvania Rules of Evidence. However, the Board will be guided by the evidentiary principles contained in the Pennsylvania Rules of Evidence, Pennsylvania statutory law, and Pennsylvania common law. Testimony before the Board will always be under oath or affirmation.

8.15 CONDUCT OF HEARING

The Chairperson or his or her designee shall conduct Board hearings and shall have authority to:

1. Regulate the conduct of the hearing, including scheduling, recessing, reconvening, and adjournment of hearings, and all acts proper for the efficient conduct of the hearing.
2. Decide whether to create a transcript or recording of a hearing.
3. Administer oaths and affirmations.
4. Require production of books, records, documents, and other pertinent information.
5. Determine whether testimony over telephone, web conferencing, or other technology will be received in lieu of live testimony.
6. Determine whether a deposition or affidavit will be received in lieu or oral testimony.
7. Make other rulings on admissibility of evidence.
8. Require the parties to file a concise legal brief or memorandum.
9. Resolve any issue involving interpretation of these Regulations.

ARTICLE 9 APPEALS FROM BOARD DECISIONS

Any person aggrieved by a written decision of the Board disposing of a petition who has a direct interest in the decision has the right to appeal to the Lackawanna County Court of Common Pleas within thirty (30) days after the date of the decision being appealed.

Adopted this 22nd Day of February 2018

BY: _____
WILLIAM LAZOR
CHAIRMAN TCC

ATTEST:

SECRETARY TCC

Lackawanna County Tax Collection Committee