

PART 5

LOCAL TAXPAYERS BILL OF RIGHTS

§24-501. Short Title.

This Part shall be known and may be cited as the "Local Taxpayers Bill of Rights."

(A.O.)

§24-502. Definitions.

The following words and phrases when used in this Part shall have the meanings given to them in this Section unless the context clearly indicates otherwise:

ASSESSMENT — the determination by the Borough of the amount of underpayment by a taxpayer.

BOARD — a board of local tax appeals established under 53 Pa. C.S. A. §8430 (relating to administrative appeals).

ELIGIBLE TAX — any of the following, including interest and penalty provided by law, when levied by a political subdivision:

- A. Any tax authorized or permitted under the Act of December 31, 1965 (P.L. 1257, No. 511, known as the "Local Tax Enabling Act."
- B. Any per capita tax levied under any act.
- C. Any occupation, occupation assessment or emergency and municipal services tax levied under any act.
- D. Any tax on income levied under any act.
- E. Any tax measured by gross receipts levied under any act.
- F. Any tax on a privilege levied under any act.
- G. Any tax on amusements or admissions levied under any act.
- H. Any tax on earned income and net profits.

GOVERNING BODY — the Borough Council of the Borough of Philipsburg, Centre County, Pennsylvania.

TAXATION, SPECIAL

OVERPAYMENT — any payment of tax which is determined in the manner provided by law not to be legally due.

TAXPAYER — an individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any eligible tax or under a duty to perform an act for itself or for another or pursuant to the authority of an act providing for an eligible tax.

UNDERPAYMENT — the amount or portion of any tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.

VOLUNTARY PAYMENT — a payment of an eligible tax made pursuant to the free will of the taxpayer. The term does not include a payment made as a result of distraint or levy or pursuant to a legal proceeding in which the Borough is seeking to collect its delinquent taxes or file a claim therefor.

(A.O.)

§24-503. Disclosure Statement.

1. Contents. The Borough shall prepare a statement which sets forth the following in simple and nontechnical terms:
 - A. The rights of a taxpayer and the obligation of the Borough during an audit or an administrative review of the taxpayer's books or records.
 - B. The administration and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the Borough.
 - C. The procedure for filing and processing refund claim and taxpayer complaints.
 - D. The enforcement procedures.
2. Distribution. The Borough shall notify any taxpayer contacted regarding the assessment, audit, determination, review or collection of an eligible tax of the availability of the statement under subsection (1). The Borough shall make copies of the statement available to taxpayers upon request at no charge to the taxpayer, including mailing costs. The notification shall be stated as follows:

"You are entitled to receive a written explanation of your rights with regard to the audit, appeal, enforcement, refund and collection of local taxes by calling the Borough of Philipsburg at 814-342-3440 during normal business hours."

(A.O.)

§24-504. Requirements for Requests.

1. Minimum Time Period for Taxpayer Response.
 - A. The taxpayer shall have at least 30 calendar days from the mailing date to respond to request for information by the Borough. The Borough shall grant additional reasonable extensions upon application for good cause.
 - B. The Borough shall notify the taxpayer of the procedures to obtain an extension in its initial request.
 - C. The Borough shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period, including extensions.
2. Requests for Prior Year Returns.
 - A. Except as provided in subsection (B), an initial inquiry by the Borough regarding a taxpayer's compliance with any eligible tax may include taxes required to be paid or tax returns required to be filed no more than 3 year prior to the mailing date of the notice.
 - B. The Borough may make a subsequent request for a tax return or supporting information if, after the initial request, the Borough determines that the taxpayer failed to file a tax return, under-reported income or failed to pay a tax for one or more of the tax periods covered by the initial request.

This subsection shall apply if the Borough has sufficient information to indicate that the taxpayer failed to file a required return or pay an eligible tax which was due more than 3 years prior to the date of the notice.

3. Use of Federal Tax Information. The Borough may require a taxpayer to provide copies of the taxpayer's Federal individual income tax return if the Borough can demonstrate that the Federal tax information is reasonably necessary for the enforcement or collection of an eligible tax and the information is not available from other available sources or the Department of Revenue.

(A.O.

§24-505. Refunds of Overpayments.

1. General Rule. A taxpayer who has paid an eligible tax to the Borough may file a written request with the Borough for refund or credit of the eligible tax. A request for refund or credit of the eligible tax. A request for refund shall be made within 3 years of the de date for filing the report as extended or 1 year after actual pay-

TAXATION, SPECIAL

ment of the eligible tax, whichever is later. If no report is required, the request shall be made within 3 years after the due date for payment of the eligible tax or within 1 year after actual payment of the eligible tax, whichever is later.

- A. For purposes of this Section, a tax return filed by the taxpayer with the Borough showing an overpayment of tax shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.
 - B. A request for refund under this Section shall not be considered a petition under §53 Pa.C.S.A. §8340 (relating to petitions).
2. Notice of Underpayment. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed with the Borough within 1 year of the date of the payment.

(A.O.)

§24-506. Interest on Overpayment.

1. General Rule. All overpayments of tax due the Borough, including taxes on real property, shall bear simple interest from the date of overpayment until the date of resolution.
2. Interest Rate. Interest on overpayments shall be allowed and paid at the same rate as the Commonwealth is required to pay pursuant to §806.1 of the Act of April 9, 1929 (P.L. 343, No. 176) known as the Fiscal Code.
3. Exceptions.
 - A. No interest shall be allowed if an overpayment is refunded or applied against any other tax, interest or penalty due the Borough within 75 days after the last date prescribed for filing the report of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.
 - B. Overpayments of interest or penalty shall not bear any interest.
4. Acceptance of Refund Check. The taxpayer's acceptance of the Borough check shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Borough shall be deemed to be acceptance of the check by the taxpayer for purposes of this Section.
5. Definitions. As used in this Section, the following words and phrases shall have the meaning given to them in this Section:

DATE OF OVERPAYMENT — the later of the date paid or the date tax is deemed to have been overpaid as follows:

- A. Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day of filing the report for the tax period, determined without regard to any extension of time for filing.
- B. Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.
- C. An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.
- D. Any amount claimed to be overpaid with respect to which a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the date of initiation of the review or procedure.
- E. Any amount shown not to be due on an amended income or earned income and net profits tax return shall be deemed to have been overpaid 60 days following the date of filing of the amended income tax return.

DATE of RESOLUTION — the date the overpayment is refunded or credited as follows:

- A. For a cash refund, a date preceding the date of the Borough's refund check by not more than 30 days.
- B. For a credit for an overpayment.
 - (1) The date of the Borough's notice to the taxpayer of the determination of the credit; or
 - (2) The due date for payment of the tax against which the credit is applied, whichever first occurs. For a cash refund of a previously determined credit, interest shall be paid on the amount of the credit from a date 90 days after the filing of a request to convert the credit to a cash refund to a date preceding the date of the refund check by not more than 30 days whether or not the refund check is accepted by the taxpayer after tender.

(A.O.

§24-507. Notice of Basis of Underpayment.

The Borough shall notify the taxpayer, in writing, of the basis for any underpayment that the Borough has determined to exist. The notification shall include:

TAXATION, SPECIAL

- A. The tax period or periods for which the underpayment is asserted.
- B. The amount of the underpayment detailed by tax period.
- C. The legal basis upon which the Borough has relied to determine that an underpayment exists.
- D. An itemization of the revisions made by the Borough to a return or report filed by the taxpayer that results in the determination that an underpayment exists.

(A.O.

§24-508. Abatement of Certain Interest and Penalty.

- 1. Errors and Delays. In the case of any underpayment, the Borough may abate all or any part of interest for any period for the following:
 - A. Any underpayment or tax finally determined to be due attributable in whole or in part to any error or delay by the Borough in the performance of a ministerial act. For purposes of this subsection, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the Borough has contacted the taxpayer, in writing, with respect to the underpayment of tax finally determined to be due or payable.
 - B. Any payment of a tax to the extent that any error in delay in the payment is attributable to an officer, employee or agent of the Borough being erroneous or dilatory in performance of a ministerial act. The Borough shall determine what constitutes timely performance of ministerial acts performed under this subsection.
- 2. Abatement Due to Erroneous Written Advice by the Borough.
 - A. The Borough shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the Borough acting in the officer's, employee's or agent's official capacity if:
 - (1) The written advice was reasonably relied upon by the taxpayer and was in response to specific written request of the taxpayer; and
 - (2) The portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information.

- B. This subsection shall not be construed to require the Borough to provide written advice to taxpayers.

(A.O.)

§24-509. Application of Payments.

Unless otherwise specified by the taxpayer, all voluntary payments of an eligible tax shall be prioritized by the Borough as follows:

- A. Tax.
- B. Interest.
- C. Penalty.
- D. Any other fees or charges.

(A.O.)

§24-510. Administrative Appeals.

A political subdivision levying an eligible tax shall establish an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination or refund of an eligible tax. The administrative process shall consist of any one of the following:

- A. Review and decision or hearing and decision by the Borough Tax Appeals Board appointed by the Borough Council. The Board shall consist of at least three but not more than seven members. Qualifications for service on the Board and compensation, if any, of the members shall be determined by the Borough Council. The Borough Council may enter into agreements with other political subdivisions to establish a joint local tax appeal board.
- B. Review and decision by the Borough Council in executive session.
- C. A hearing and decision by a hearing officer appointed by the Borough Council. The Borough Council shall determine the qualifications and compensation, if any, of the hearing officer.
- D. An administrative review or appeal process existing on the effective date of this Part that is substantially similar to the procedures in subsections (A), (B) or (C).

(A.O.)

§24-511. Petitions.

1. Filing. A petition is timely filed if the letter transmitting the petition is post-marked by the United States Postal Service on or before the final day on which the petition is required to be filed. Deadlines for filing petitions are as follows:
 - A. Refund petitions shall be filed within 3 years after the due date for filing the report as extended or 1 year after actual payment of an eligible tax, whichever is later. If no report is required, the petition shall be filed within 3 years after the due date for payment of an eligible tax or within 1 year after actual payment, whichever is later.
 - B. Petitions for reassessment of an eligible tax shall be filed within 90 days of the date of the assessment notice.
2. Contents. The Borough Council shall adopt regulations specifying the form and content of petitions, including the process and deadlines.

(A.O.)

§24-512. Practice and Procedure.

Practice and procedure under this Section shall not be governed by 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action). The Borough Council shall adopt regulations governing practice and procedure under this Section.

(A.O.)

§24-513. Decisions.

Decisions on petitions submitted under this Section shall be issued within 60 days of the date a complete and accurate petition is received. Failure to act within 60 days shall result in the petition being deemed approved.

(A.O.)

§24-514. Appeals.

Any person aggrieved by a decision under this Part who has a direct interest in the decision shall have the right to appeal to the court vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa. C.S. (relating to judiciary and judicial procedure).

(A.O.)

§24-515. Equitable and Legal Principles to Apply.

Decisions under this Part may be made according to principles of law and equity.

(A.O.)

§24-516. Installment Agreements.

1. Authorization. The Borough may enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for any eligible tax in installment payments if the Borough determines that the agreement will facilitate collection.
2. Extent to Which Agreements Remain in Effect.
 - A. Except as otherwise provided in this Section, any agreement entered into by the Borough under subsection (1) shall remain in effect for the term of the agreement.
 - B. The Borough may terminate any prior agreement entered into under subsection (1) if:
 - (1) Information which the taxpayer provided to the Borough prior to the date of the agreement was inaccurate or incomplete; or
 - (2) The Borough believes that collection of any eligible tax under the agreement is in jeopardy.
 - C. If the Borough finds that the financial condition of the taxpayer has significantly changed, the Borough may alter, modify or terminate the agreement, but only if:
 - (1) Notice of the Borough's finding is provided to the taxpayer not later than 30 days prior to the date of such action; and
 - (2) The notice contains the reasons why the Borough believes a significant change has occurred.
 - D. The Borough may alter, modify or terminate an agreement entered into by the Borough under subsection (1) if the taxpayer fails to do any of the following:
 - (1) Pay any installment at the time the installment is due under such agreement.

TAXATION, SPECIAL

- (2) Pay any other tax liability at the time liability is due.
 - (3) Provide a financial condition update as requested by the Borough.
 3. Prepayment Permitted. Nothing in this Section shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any agreement with the Borough.
- (A.O.

§24-517. Confidentiality of Tax Information.

1. Any information gained by the Borough as a result of any audit, return, report, investigation, hearing or verification shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for the Borough to:
 - A. Divulge or make known in any manner an confidential information gained in any return, investigation, hearing or verification to any person.
 - B. Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.
 - C. Print public or make known in any manner any confidential tax information.
2. An offense under this Section is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more than \$2,5000 and cost, or a term of imprisonment for not more than 1 year, or both, may be imposed. If the offender is an officer or employee of the Borough, the officer or employee shall be dismissed from office or discharged from employment.

(A.O.

§24-518. Taxes on Real Property.

Except as provided in §24-506 (Interest on Overpayment) this Part shall not apply to any tax on real property.

(A.O.