

**WEST SHORE TAX BUREAU**

**RULES AND REGULATIONS FOR  
TAX ON EARNED INCOME AND NET  
PROFITS**

**AMENDED LOCAL TAX ENABLING ACT  
BASED ON ACT 32 of 2008**

**ADOPTED: SEPTEMBER 16, 2009**



## **PREAMBLE**

The West Shore Tax Bureau (WSTB) was established September 16, 1968 by fifteen municipalities and school districts. One member from each of the fifteen participating municipalities and school districts constituted the Board of Directors. The purpose of the WSTB was to collect, administer and distribute the earned income and net profit tax imposed by the resolutions and ordinances adopted by the member municipalities and school districts.

The Bureau membership has been expanded. The following thirty municipalities and school districts are members:

Camp Hill Borough  
Carroll Township  
Dillsburg Borough  
East Pennsboro Township and  
Village of West Fairview  
Fairview Township  
Franklin Township  
Franklintown Borough  
Goldsboro Borough  
Hampden Township  
Lemoyne Borough  
Lower Allen Township

Mechanicsburg Borough  
Middlesex Township  
Monaghan Township  
Monroe Township  
New Cumberland Borough  
Newberry Township  
Shiremanstown Borough  
Silver Spring Township  
Upper Allen Township  
Warrington Township  
Wormleysburg Borough  
Wellsville Borough

Camp Hill School District  
Cumberland Valley School District  
East Pennsboro School District  
Mechanicsburg Area School District

Northeastern Sch Dist. (Newberry Twp. Only)  
Northern York County School District  
West Shore School District

All residents, nonresidents and employers in the member municipalities and school districts of the WSTB are subject to these rules and regulations and the Earned Income tax resolutions and ordinances of their respective municipalities and school districts. For purposes of administration and enforcement the WSTB Executive Director has been appointed the "Tax Officer" for all member municipalities and school districts.

The tax resolutions, tax ordinances and these rules and regulations are continuing ones and are applicable until duly changed. Copies of the tax resolutions may be examined at the office of the WSTB at 3607 Rosemont Avenue, Camp Hill, Pennsylvania.

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# ARTICLE I CUSTOMER SERVICE AND TAXPAYER ASSISTANCE

## SECTION 101 LOCAL TAXPAYER'S BILL OF RIGHTS

The West Shore Tax Bureau adopted the Local Taxpayer's Bill of Rights (PA Act 50 of 1998) on October 21, 1998 with Resolution 98-2. The LTBOR sets forth the rights of a Taxpayer and the obligations of the Tax Bureau during an audit or review of a taxpayer's books or records. In addition the LTBOR sets forth the Administrative and Judicial procedures by which a taxpayer may appeal or seek review of any adverse decision as well as outlining the process the Bureau may follow to enforce the collection of delinquent taxes.

**Taxpayers are entitled to receive a written explanation of their rights with regard to audit, appeal, enforcement, refund and collection of taxes by calling the West Shore Tax Bureau 717-761-4900, during the hours of 8:00am through 4:30pm, Monday through Friday.**

## SECTION 102 TAX OFFICE LOCATION AND HOURS FOR TAXPAYER ASSISTANCE AND INFORMATION

The West Shore Tax Bureau's Office is located on the second floor of 3607 Rosemont Avenue, Camp Hill, PA. 17001 (17011). The normal office hours are Monday through Friday, 8:00am to 4:30pm. During the months of March and April the Tax Office offers extended hours, which can be found on the Tax Bureau's website, [www.westab.org](http://www.westab.org). The office can be reached by telephone during normal business hours:

Individual Taxpayer Services	717-761-4900
Employer Services	717-761-4902
Electronic/Magnetic Media Filing Services	717-975-8965

## SECTION 103 FREE LOCAL INCOME TAX RETURN PREPARATION

The West Shore Tax Bureau will complete local income tax returns free of charge during normal and extended office hours. To take advantage of this service a taxpayer must bring his or her income tax information, such as Federal and State returns, W-2 forms and expense schedules, etc. to the office during normal or extended hours. Please note that during peak times near or on due dates there may be lines as taxpayers are served on a first come first served basis.

Certain taxpayers may use the PA Local Income Tax Exchange (PALITE), found at [www.palite.org](http://www.palite.org), to complete and file your local income tax return through the internet. Preparing and filing your return on PALITE is:

**Safe:** Taxpayer information is protected by the latest security, plus taxpayers receive confirmation that they filed. If the return cannot be filed online a copy for filing, a copy for the taxpayer's records and filing instructions will be available for the taxpayer to print or save.

**Easy:** The systems perform all of the math calculations; and

**Fast:** The West Shore Tax Bureau approves paperless refunds within three to four weeks instead of six to eight weeks for paper returns filed by mail.

Local Income Tax Returns are also available on the Tax Bureau's website ([www.westab.org](http://www.westab.org)), including a self calculating return, as well as at certain Post Offices and many of the Municipal Buildings throughout Cumberland County.

## **ARTICLE II      GENERAL PROVISIONS**

### **SECTION 201.      DEFINITIONS**

The following words and phrases used in the Tax Ordinances and Resolutions and in these Rules and Regulations have the following meanings unless the context clearly indicates a different meaning:

- “Article XIII tax officer.” The tax officer authorized by a political subdivision to collect income taxes levied prior to January 1, 2012.
- "Business." An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.
- “Business entity.” A sole proprietorship, corporation, joint stock association or company, partnership, limited partnership, limited liability company, association, business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.
- “Certified public accountant” or “public accountant.” A certified public accountant, public accountant or firm as provided for in the act of May 26, 1947 (P.L.318, No.140), known as the CPA Law.
- “Claim.” A written demand for payment made by a tax collector or tax collection district for income taxes collected by another tax officer or tax collection district.”
- "Corporation." A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency. The term shall include an entity which is classified as a corporation for Federal income tax purposes.
- "Current Year." The calendar year for which the tax is being levied.
- “Department.” The Department of Community and Economic Development of the Commonwealth.
- "Domicile." The place where a person lives and has a permanent home and to which the person has the intention of returning whenever absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce the person to adopt some other permanent home. In the case of a business, domicile is that place considered as the center of business affairs and the place where its functions are discharged.
- “Earned Income.” The compensation as required to be reported to or as determined by the Department of Revenue under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the “Tax Reform Code of 1971,” and rules and regulations promulgated under that section. Employee business expenses as reported to or determined by the Department of Revenue under Article III of the Tax Reform Code of 1971 shall constitute allowable deductions in determining earned income. The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.
- “Earned income and net profits tax.” The tax levied by a political subdivision on earned income and net profits.
- “Effective local services tax rate.” The actual local services tax rate levied by a political subdivision on taxpayers based on the total of all local services taxes imposed under this act and all other acts, adjusted under section 311 of the Local Tax Enabling Act.

- “Effective income tax rate.” The actual tax rate levied by a political subdivision on a taxpayer based on the total of all income taxes imposed under this act and all other acts, adjusted under section 311 of the Local Tax Enabling Act.
- "Employee." A person employed by an "employer" on a salary, wage, commission or other compensation basis. Any person who renders services to another for financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter and shall include temporary, provisional, casual, or part-time employment.
- "Employer." A person, business entity or other entity, employing one or more persons for a salary, wage, commission, or other compensation. The term includes the Commonwealth, a political subdivision and an instrumentality or public authority of either. FOR PURPOSES OF PENALTIES UNDER THIS CHAPTER, THE TERM INCLUDES A CORPORATE OFFICER.
- “Income tax.” Except as set forth in section 511(b) of the Local Tax Enabling Act, an earned income and net profits tax, personal income tax or other tax that is assessed on the income of a taxpayer levied by a political subdivision under the authority of this act or any other act.
- "Independent Contractor." A person who, while performing services for another person, is not subject to the direction and control of the other as to the details, methods and means by which a result directed by the other is accomplished. Where the independent contractor is in the permanent or part-time employment of an employer, however, that contractor will be considered an employee of said employer for the purpose of withholding the tax due under the Ordinances and Resolutions.
- “Joint tax collection committee.” An entity formed by two or more tax collection committees for the purpose of income tax collection in more than one tax collection district.
- “Limited Partnership.” A type of partnership comprised of one or more general partners who manage the business and who are personally liable for partnership debts, and one or more limited partners who take no part in running the business and who incur no liability for partnership obligations beyond the contribution they invested in the partnership.
- “Local services tax.” A tax on individuals for the privilege of engaging in and occupation that is levied, assessed and collected only by the political subdivision of the taxpayer’s place of employment under the authority of this act or any other act.
- “Municipality.” A city of the second class, city of the second class A, city of the third class, borough, town, township of the first class or township of the second class.
- "Net Profits." The net income from the operation of a business, other than a corporation, as required to be reported to or as determined by the Department of Revenue under section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and rules and regulations promulgated under that section. The term does not include income under any of the following paragraphs:
- (1) Income which:
    - (I) Is not paid for services provided; and
    - (II) Is in the nature of earnings from an investment.
  - (2) Income which represents;
    - (I) Any gain on the sale of farm machinery;
    - (II) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; or
    - (III) Any gain on the sale of other capital assets of a farm.
- "Nonresident." A person or business domiciled outside the political subdivision levying the tax.
- “Nonresident tax.” An income tax levied by a municipality on a nonresident.

“Official register.” Local Tax Enabling Act.	The part of the tax register that includes withholding rates as provided in section 511(a) (3) of the
“Overpayment.”	Any payment of tax which is determined in the manner provided by law not to be due.
“Partnership Income.”	The taxable income in respect to a partnership is taxable to its partners, whether or not it is distributed. The character of any item includable in each partner’s share is determined as if the item were realized directly by the partner from the source from which it was realized by the partnership or incurred in the same manner as incurred by the partnership.
“Person.”	A natural person.
“Political Subdivision.”	A city of the second class, city of the second class A, city of the third class, borough, town, township of the first class, township of the second class, school district of the first class A, school district of the second class, school district of the third class, school district of the fourth class or municipal authority.
"Preceding Year."	The calendar year before the current year.
“Private agency.”	A business entity or person appointed as a tax officer by a tax collection committee.
“Public Agency.”	Any and all public bodies, authorities, agencies, instrumentalities, political subdivisions, intermediate units, councils, boards, commissions or similar governmental entities.
"Resident."	A person or business domiciled in the political subdivision levying the tax.
“Resident tax.”	An income tax levied by: (1) a municipality on a resident of that municipality; or (2) a school district on a resident of that school district.
“Resident tax officer.”	The tax officer administering and collecting income taxes for the tax collection district in which the taxpayer is domiciled.
“S Corporation”	A corporation that is eligible to choose S Corporation status and whose shareholders have all consented to the corporation’s choice of S Corporation status as per Federal Law.
"Succeeding Year."	The calendar year following the current year.
“Tax bureau.”	A public nonprofit entity established for the administration and collection of taxes.
"Tax collection committee."	The committee established to govern each tax collection district for the purpose of income tax collection. The term shall include a joint tax collection committee.
“Tax collection district.”	A tax collection district established under section 504 of the Local Tax Enabling Act.
“Tax officer.”	A political subdivision, public employee, tax bureau, county, except a county of the first class, or private agency which administers and collects income taxes for one or more tax collection districts. Unless otherwise specifically provided, for purposes of the obligations of the an employer, the term shall mean the tax officer for the tax collection district within which the employer is located, or, if an employer maintains workplaces in more than one district, the tax officer for each such district with respect to employees principally employed therein.
“Tax records.”	Tax returns, supporting schedules, correspondence with auditors or taxpayers, account books and other documents, including electronic records, obtained or created by the tax officer to administer or collect a tax under this act. The term includes documents required by section 509(e). The term “electronic records” includes data and information inscribed on a tangible medium or stored in an electronic or

other medium and which is retrievable in perceivable form.

- “Tax register.” A database of all county, municipal and school tax rates available on the Internet as provided in section 511(a) (1).
- “Taxable income.” Includes:  
(1) In the case of an earned income and net profits tax, earned income and net profits.  
(2) In the case of a personal income tax, income enumerated in section 303 of the act of March 4, 1971, as reported to and determined by the Department of Revenue, subject to correction for fraud, evasion or error, as finally determined by the Commonwealth.
- “Taxpayer.” A person or business required under this act to file a return of an income tax or to pay an income 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” The payment of an eligible tax made pursuant to the free will of the taxpayer. The term does not include a payment as a result of distraint or levy or pursuant to a legal proceeding in which the local taxing authority is seeking to collect its delinquent taxes or file a claim therefore.
- “Withholding tax.” An income tax or a local services tax levied by a political subdivision under the authority of this act or any other act, or any other tax levied by a municipality or school district for which employer withholding may be required under this act or any other act.

## **ARTICLE III IMPOSITION OF TAX**

### **SECTION 301. PERSONS SUBJECT TO TAX:**

All persons who are:

- a. residents of West Shore Tax Bureau’s taxing jurisdiction and its coterminous Taxing Districts, who are employed or engaged in the operation of a business, profession, or other activity for income or profit;
- b. non-residents of West Shore Tax Bureau’s taxing jurisdiction and its coterminous Taxing Districts, who are employed in West Shore Tax Bureau’s taxing jurisdiction and its coterminous Taxing Districts, or engaged in the operation of a business, profession, or other activity for income or profit in West Shore Tax Bureau’s taxing jurisdiction and its coterminous Taxing Districts, are subject to this tax.

A "resident" is an individual who is domiciled in West Shore Tax Bureau’s taxing jurisdiction or one of its coterminous Taxing District, as evidenced, among other things, by one or more of the following:

- a. By customarily being physically present, sleeping, and eating there.
- b. By holding him or herself out as residing there, i.e. giving address in registration for licenses, voting, and payment of personal or property taxes.
- c. By his or her spouse and minor children living there.
- d. By maintaining religious, civic, and club affiliations there.
- e. By the center of his or her affairs appearing to be there.

Normally it is not difficult to determine the domicile of a person because most of the determining factors point to one conclusion. Obviously, if a person has all of the foregoing factors occurring in one district, he or she is a resident of that district. Of more difficulty is the situation concerning persons for whom some of the factors occur in one district and others take place elsewhere. In such cases the residence or domicile of an individual shall be determined by the Tax Officer based on all of the legally relevant factors which affect the issue. Each case shall be determined solely on its own facts.

### **SECTION 302. WHAT IS TAXED:**

- A. The tax is imposed on earned income and net profits as both are defined in Article II of these Rules and Regulations. These items are subject to the tax whether a taxpayer received them directly or through an agent.
- B. The earned income and net profits tax shall be applicable to earned income received and net profits earned in the period beginning January 1 and ending December 31 of each year, or in the fiscal year of taxpayers electing a fiscal year basis under Section 504.B. The tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of tax is subsequently changed. Changes in the rate shall become effective on the date specified in the Ordinances or Resolutions.
- C. Trusts or Estates. Every estate or trust must pay the tax:
  - (1) on net profits resulting from its engagement in any business, trade or other activity which would require the filing of a return by an individual or partnership, and
  - (2) on income which would be subject to the tax if received by an individual or partnership.

### **SECTION 303. WHAT IS INCLUDED IN EARNED INCOME:**

Pennsylvania ACT 166 of 2002 amended the definitions of “earned income” to more closely follow the Pennsylvania Department of Revenues definitions for “compensation”, with the exception of active military duty and housing allowances received by the clergy.

Examples of earned income (without intending in any way to limit the provisions of the Ordinances or Resolutions to these examples) always considered taxable are:

- a. Salaries.
- b. Wages.
- c. Tips received directly by the employee or through his or her employer.
- d. Gratuities.
- e. Commissions.
- f. Bonuses.
- g. Incentive payments. Incentive payments are payments received from employers or on behalf of employers, other than the usual compensation, for the purpose of inducing the employee to make a decision – such as buying out an agreement or contract or moving to another location or accepting an early retirement or “Golden Parachute Settlement” are incentive payments. Such payments/settlements constitute taxable income. Incentive payments are not to be considered “retirement” payments. Lump sum payments shall be taxed in the year received by the employee or former employee. If the payment/settlement of such sums is to be made in the future, such sums shall be taxed in the year they are received. Incentive payments include Stock Appreciation Rights (SAR) and/or a phantom stock plan payment, where these payments are attributable to remuneration for services rendered.

#### **EXAMPLE**

Employer offers to give employee F an INCENTIVE PAYMENT of \$ 20,000 if employee F agrees to depart or retire before his scheduled date. The \$ 20,000 is to be paid at the rate of \$ 5,000 per year over a four-year period after the retirement become effective. The \$ 20,000 is taxable income. It will be taxed in the years it is

received by employee F. That is to say that employee F shall have to include as earned income/compensation the extra \$ 5,000 received for/in each of the four years following his retirement.

EXAMPLE

The employee has been a product manager with an art supply business for 12 years. He and his wife have purchased a home in the suburbs of Houston for \$ 80,000, \$ 55,000 of which they financed through a loan from their bank. The lending rate for the home mortgage was 6% and their mortgage payments were \$ 520 per month.

Twelve years after purchasing the house, he was offered a transfer to Camp Hill, Pa. to open a sales office and showroom in Camp Hill, Pa. His employer agreed to reimburse him for his moving expenses if he took the assignment. When he and his wife traveled here to look for a new residence, they were told that a comparable home in Camp Hill, Pa. would be \$ 130,000 and that the mortgage rate would be 8.5%. The mortgage on their new home would be \$ 952. His employer was willing to pay the \$ 432 difference between his old and new mortgage for two years. This form of reimbursement is wages to the employee, subject to the earned income/compensation and payroll tax withholding.

EXAMPLE

In a SAR plan, the employee-participant is allowed to share in the appreciation in value of the company stock plan. The employee shares in the appreciation in value of the company stock plan over the period selected.

In a phantom stock plan, the employee shares in the appreciation and is also given the value of the stock at the starting point.

In each of these plans, the employee is not the owner of any shares. By agreement the employee participates in the growth of the business's value through a formula that measures the growth in value of the company's stock. The employee is credited on paper with a percentage of the growth in value, which value is convertible to cash at a future date. The employee will be taxed on the date in the future that he or she receives the cash benefit.

EXAMPLE

An employer offers and pays an employee 15% on a house purchased in another location in lieu of the employer acquiring the employee's house and becoming responsible for selling the house. This type of circumstance shall be considered as an incentive for the employee to move to another location. If the payment is restricted or imperfect with a qualified right to enter (confined, temporary, modified, conditioned, limited provisional, guarded, ambiguous, reserved, dependent, defined) it shall not be taxable as earned income/compensation.

The employee is responsible for providing proper documentation to this Bureau so as to establish whether this payment is or is not restricted.

Moving expenses which are permitted on Pa. Schedule UE, and not reimbursed, will be deducted.

EXAMPLE

Auto manufacturers' incentive payments paid by or on behalf of any automobile manufacturer, whether directly to individual salespersons or through a dealership are taxable for local earned income/compensation tax purposes.

- h. Vacation/holiday pay.
- i. Termination/severance pay.
- j. Payment incentives for early retirement.
- k. Reimbursements and allowances in excess of allowable business expenses.
- l. Directors' fees (will constitute Pennsylvania Schedule C income if one's profession is being an outside board director). Such fees include: Administrator fee, Director fee, Executor fee, Expert Witness fee, Fiduciary fee, Honoraria fee (if one's profession is being a professional speaker), Trustee fee, any fee received for service performed by the taxpayer, and fees received for decisions made by the taxpayer. The fees referenced herein involve activity and participation on the part of the taxpayer.
- m. Jury fees.

- n. Witness fees (will constitute Pennsylvania Schedule C income if testifying as an expert in a field which is considered one's line of business).
- o. Eligible reimbursed moving expenses in excess of allowable expenses on Pennsylvania Schedule UE, UE-1.
- p. Honoraria (will constitute Pennsylvania Schedule C income if one's profession is being a professional speaker).
- q. Executor's or administrator's fees (will constitute Pennsylvania Schedule C income if one's profession is being an executor or administrator).
- r. Covenant not-to-compete or payments received as consideration for refraining from the performance of services.
- s. Proceeds from an employee stock ownership plan to extent of excess computed under cost-recovery method. Earnings component of stock option plans when the option is exercised. The "earnings component" is considered to be the difference between the stock option price and the fair market value of the stock at the time the option is exercised.

The Pennsylvania Supreme Court in its February 22, 2000 decision in the Marchlen case makes no distinction between qualified and non-qualified stock option plans. The case site is:

Louis Thomas Marchlen, Appellee vs. The Township of Mt Lebanon, al, No.7 W.D. Appeal Docket 1998, (707 A2nd 631, Pa.CmwltH 1998).

"At the time that the stock options in this case were granted to Appellee, they could not be exercised. This does not imply that the stock options have no value at the time they are granted. Stock options are valuable inducements to attract and retain employees and to compensate them for their services. The holder of a stock option can reap the benefits of stock price increases without bearing the risks of stock price declines."

- t. Reimbursements made by an employer for dependent care, legal services, or other personal services.
- u. National Service Education Awards.
- v. Income from Peace Corps, VISTA Job Corps and Americorp.
- w. Household employees.
- x. Employee contributions to an eligible Pennsylvania retirement plan and/or employee contributions to a nonqualified deferred compensation plan.

Examples of items that typically are not considered earned income (without intending in any way to limit the provisions of the Ordinances or Resolutions to these examples) are:

- a. Federal active-duty pay.
- b. GI Bill benefits including tuition and living expenses.
- c. Alimony.
- d. Child support.
- e. Income in respect of a decedent.
- f. Inheritance.
- g. Social Security.
- h. Railroad retirement benefits.
- i. Public assistance.
- j. Unemployment compensation.
- k. Occupational Disease Act benefits (if included on W-2, attach explanation).
- l. Meals and lodging provided to an employee by the employer.
- m. Personal use of employer-owned or leased property and/or services, at no cost or at a reduced cost.
- n. Personal use of company automobile, airplane or other employer-owned or leased property. These amounts are not taxable fringe benefits for Pennsylvania Local Income Tax.
- o. Employer-provided parking facilities. These amounts are nontaxable fringe benefits.
- p. Employer-provided professional services paid for directly by the employer. These are nontaxable fringe benefits.
- q. Premiums paid by an employer for group term life insurance (no limit).
- r. Housing allowance paid to members of the clergy.
- s. Foster care.
- t. Employer-paid group term life insurance premiums.

- u. Amounts received for permanent loss of body function, disfigurement, or reimbursed medical expense.
- v. Disability payments paid by employer arising under occupational disease acts or other legislation.
- w. Strike benefits.
- x. Life insurance proceeds or settlements.
- y. Distributions from eligible Pennsylvania retirement plans after retirement age.

Regarding what plans qualify as "eligible Pennsylvania retirement plans," the fact that a plan is a qualified plan for Federal Income Tax is **not** controlling for Pennsylvania Local Income Tax.

The Pennsylvania Department of Revenue provides a Personal Income Tax (PIT) Guide on its website, [www.revenue.state.pa.us](http://www.revenue.state.pa.us), which outlines taxable compensation in Chapter 7. The West Shore Tax Bureau follows the Department of Revenues PIT Guide, Chapter 7 in defining taxable income except for two instances, clergy housing allowances and active military duty which are not taxable for local income tax purposes. Examples of items that are considered earned income based on facts and circumstances (without intending in any way to limit the provisions of the Ordinances or Resolutions to these examples) are:

**Type of Compensation**

Sick pay, sick leave.

**Taxable Description**

Sick pay and sick leave are taxable compensation when representing your regular wages. Your employer must include them as compensation and withhold Pennsylvania Local Income Tax. Request *PA Department of Revenue Form REV-634, "Employee Fringe Benefits and Wage/Salary Supplements,"* for more information.

**Non-Taxable Description**

Payments, not representing regular wages, including payments made by third party insurers for sickness or disability, are not taxable income for Pennsylvania Local Income Tax purposes. Your employer should not include periodic payments for sickness or disability in box 18 of your Form W-2. If your employer includes this income and withholds Pennsylvania Local Income Tax, you must obtain and submit a corrected Form W-2 or a statement from your employer explaining the error.

Disability benefit payments, including payments made by third party insurers for sickness or disability.

Taxable if paid by employer.

Nontaxable if paid by third party insurer.

A premature withdrawal from a regular **IRA** or **Roth IRA**.

A premature withdrawal from a regular **IRA** or **Roth IRA** is taxable as compensation to the extent that the taxpayer receives an amount that exceeds his or her previously taxed contributions. The cost-recovery method of accounting must be used to determine the taxable portion unless timely rolled over into an eligible Pennsylvania retirement plan. Please consult your Summary Plan Description or Plan Administrator.

**Type of Compensation**

Payments received under workers compensation acts, occupational disease acts, or similar legislation, including payments for injuries you received while working, and damages received, whether by suit or otherwise, for personal injuries (unless one is required to pay these monies back to the employer and receives regular salary in return).

Scholarships or fellowships and stipends.

Credit card debt forgiveness, unless includable as part of business or rental income. See discussion on discharge of indebtedness. See **New PA PIT Guide Chapter 24. CANCELLATION OF DEBT FOR PA PIT PURPOSES.**

Employer-provided fringe benefits.

A discharge of indebtedness. See **PA PIT Guide Chapter 24. CANCELLATION OF DEBT FOR PA PIT PURPOSES.**

**Taxable Description**

Taxable when the employee must turnover the worker's compensation payments to the employer in order to receive his or her regular salary in return. The employee does not report the worker's compensation payments, but does report the full amount of his or her regular salary.

The recipient is required to apply the skill and training to advance research, creative work or some other project or activity.

Non-excludible fringes; See Pennsylvania Personal Income Tax Guide Section Pennsylvania Taxation of Fringe benefits for a list of nonexcludable fringes including an option to receive cash or reimbursement.

Taxable in two circumstances, see Pennsylvania Personal Income Tax Guide Section entitled Discharge of Indebtedness.

**Non-Taxable Description**

All other payments received under workers compensation acts. Occupational disease acts are not taxable.

Made on the basis of need or academic achievement, is not taxable if awarded to encourage or allow the recipient to further his or her academic achievement.

Excludible fringes (e.g. personal use of an employer's owned or leased property and/or services, at no cost or at a reduced cost, and using your employer's dependent care facilities.) See Pennsylvania Personal Income Tax Guide Section Pennsylvania Taxation of Fringe Benefits.

Discharge of indebtedness is nontaxable unless two circumstances exist. See Pennsylvania Personal Income Tax Guide Section entitled Discharge of Indebtedness.

**Type of Compensation**

1. Damage awards – Delayed damages received in connection with a court judgment or settlement.
2. Federal taxable punitive damages awarded and settlements from personal injury.
3. Damages, awards, and settlements from personal injury or sickness.
4. All other damage awards.

Television Show winnings.

Awards.

Gifts.

Tuition assistance or educational benefits unless the training or education is either:

- 1) Required by law or regulation; or
- 2) Required of the employee by the employer in order for the employee to retain the skills necessary for his or her present position. If the course, degree program, or training is designed to enable the employee to enter a new field or profession or to obtain a promotion, the reimbursement is taxable.

Employer contributions to eligible Pennsylvania Retirement Plans and Nonqualifying Deferred Compensation Plans.

**Taxable Description**

1. Delay damages received in connection with a court judgment or settlement.
4. Other damage awards that are also taxable e.g. damage awards and settlements to the extent that the payments represent back wages or other uncollected entitlement to Pennsylvania taxable incomes, damage awards for lost profits, etc.). Report on *Pennsylvania Schedule MC Miscellaneous Compensation*.

A prize awarded to a participant in a game or “reality” show is considered non-employee compensation for PA PIT purposes.

Awards given in recognition for past or future service.

Taxable if gift is a transfer of cash or property in payment for past or present services or as an inducement to perform future services.

If employer reimburses employees for education cost, then the reimbursement is fully taxable and the employee may deduct only those directly related to business expenses allowed on *Pennsylvania Schedule UE*.

See Table: Pennsylvania Taxation of Employer Contributions.

**Non-Taxable Description**

2. Federally taxable punitive damages received for personal physical injury or physical sickness, whether received by suit or by settlement.
3. Damage awards and settlements from personal injury or sickness if pain and suffering, emotional distress, or another noneconomic element was or would have been a significant evidentiary factor in determining the amount of the taxpayer’s damages. See Pennsylvania Personal Income Tax Guide discussion on Taxation of Damage Awards.

All awards not given in recognition for past or future service.

Gifts made from detached or disinterested generosity.

Employees of an institute of higher learning that received free or low cost education.

See Table: Pennsylvania Taxation of Employer Contributions.

**Type of Compensation**

Employee contributions to Nonqualifying Deferred Compensation Plans.

Distributions from eligible Pennsylvania Retirement Plans and Nonqualifying Deferred Compensation Plans. See **PA PIT Bulletin 2005-03**

**Taxable Description**

See **PA PIT Bulletin 2005-03 DEFERRED COMPENSATION UNDER NONQUALIFIED PLANS.**

See Table: Pennsylvania Taxation of Distributions from Eligible Pennsylvania Retirement Plans and Nonqualified Deferred Compensation Plans. **Act 2005-40** established the general rule that distributions are **always** taxable, **unless** the contributions were previously taxed, and then use the cost recovery method.

**Non-Taxable Description**

See **PA PIT Bulletin 2005-03 DEFERRED COMPENSATION UNDER NONQUALIFIED PLANS.**

See Table: Pennsylvania Taxation of Distributions from Eligible Pennsylvania Retirement Plans and Nonqualified Deferred Compensation Plans.

Neither the kind nor the rate of payment, nor the manner of employment, exempts an employee from the tax. Compensation received in the form of property shall be taxed at its fair market value at the time of receipt. Net Losses cannot be used to offset compensation.

**SECTION 304. WHAT IS INCLUDED IN NET PROFITS:**

The West Shore Tax Bureau follows the PA Department of Revenue PIT Guide, Chapters 11, 16 and 18 in defining taxable net profits except for: (1) income which is not paid for services provided; and is the nature of earnings from an investment. (2) income which represents any gain on the sale of farm machinery; any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes; or any gain on the sale of other capital assets of a farm.

Examples of "net profits" (without intending in any way to limit the provisions of the Ordinances or Resolutions to these examples) are:

- A. The net profits of a business, profession or farm conducted by a sole proprietor as computed according to the laws, regulations and procedures for computing Pennsylvania Personal Income Tax "net profits" or "net farm profits" and required to be reported on Pennsylvania Income Tax Form PA40 (Schedules C, E, or F of the current year edition).
- B. The net profits of a business, profession or farm conducted as a partnership as computed according to the laws, regulations and procedures for computing Pennsylvania Personal Income Tax "net earnings from self employment" and as required to be reported on Pennsylvania Tax Form PA-65.
- C. Royalties and patent or copyright fees received by authors, composers, inventors and other such individuals.
- D. Net profits from the operation of hotels, motels, trailer camps, tourist homes, boarding houses, bed and breakfast establishments, mobile home parks and other similar businesses.
- E. Net profits from the business of renting personal property.
- F. Real estate rentals received in the course of a trade or business are taxable.
- G. All other net profits of business activities except any portion thereof resulting from items not taxed under the provisions of the Ordinances or Resolutions as set forth in Section 305 hereof.

- H. In determining net profits subject to tax under the provisions of the Ordinances and Resolutions, the net profit of each business activity is to be determined separately with reference only to the gross income and expenses of that business and without mixing the income of one activity with the expenses of another. Persons engaged in more than one business activity during the tax year may offset a loss in one business activity against the gain in another business activity. The tax is imposed on the net profit of all business activity. A loss incurred from a profession, business activity or venture, regardless of the nature, may not be deducted from compensation, however a net loss may be deducted from the net profit of any other business activity.

**EXAMPLE:**

A person who receives net profits from the operation of a sole proprietorship may offset against such profits the net loss incurred as a partner in another business activity.

- I. Each resident partner or member of a non-resident partnership, association or other entity must pay the tax on his or her share of the net profits whether or not it is actually distributed to him or her.
- J. In the calculations utilized to determine the correct net profits, the following items are to be included as they shall be considered to be part of the business income:
- (1) Interest received on business checking and/or savings accounts.
  - (2) Interest received on credit sales.
  - (3) Interest received on withheld employee taxes.
  - (4) Discounts received from Pennsylvania for timely remitting of sales taxes.
  - (5) Damages, awards and settlements received when such damages, awards and settlements represent compensation for income lost.
- J. Net profits do not include:
- (1) Income which:
    - a. Is not paid for services provided; and
    - b. Is in the nature of earnings from an investment.
  - (2) Income which represents:
    - a. Any gain on the sale of farm machinery;
    - b. Any gain on the sale of livestock held 12 months or more for draft, breeding, or dairy purposes; or
    - c. Any gain on the sale of other capital assets of a farm.

**SECTION 305. EXCLUSIONS FROM TAX:**

The following are not considered to be earned income and are not subject to the tax:

- A. Sickness, disability, or retirement benefits paid, other than regular wages as provided in Section 203.M.
- B. Benefits paid under any public assistance, unemployment or worker's compensation legislation, including supplemental unemployment benefits (SUB pay), or strike pay.
- C. Death benefit payments to an employee's beneficiary or estate, whether payable in a lump sum or otherwise.
- D. Proceeds of Life Insurance policies or annuities.
- E. Cash or property received as a gift, by will, or by statutes of descent and distribution.

- F. Personal interest and dividends. (Interest earned on business accounts must be included in the calculations of net profits and may not be deducted).
- G. Value of meals and lodging furnished by the employer to domestics or other employees for the convenience of the employer on the employer's premises.
- H. Capital gains.
- I. Social Security benefits.
- J. Veterans administration allotments for subsistence or disability.
- K. Income from pensions or old age and retirement benefit plans upon retirement.
- L. Active duty military service pay.
- M. Lottery winnings.
- N. Cost of group term life insurance.
- O. Individual Retirement Account (I.R.A.) payments received upon retirement.
- P. S Corporation income. (This does not include compensation paid to the officers of an S corporation nor does this include any salaries, wages, commissions, fees, or other compensation received by an officer, director, stock holder, or employee of an S Corporation).
- Q. Profits from limited partnerships engaged in real estate, oil, gas, mining leases or other similar passive investments.
- R. Distributions from deferred compensation plans to the extent that such distributions represent a return of the taxpayer's own contribution upon which he originally paid the tax.
- S. Damages for personal injuries.
- T. Payments received for child support and alimony.
- U. Scholarships and fellowships awarded from detached generosity on the basis of financial need or academic achievement for the sole purpose of encouraging or allowing the recipient to further his or her educational development and not as compensation for past, present or future services. A scholarship or fellowship shall constitute earned income if the recipient must apply his or her skills and training to advance research, creative work or some other project or activity.
- V. Prizes and awards unless the recipient must render substantial service as a condition to receiving the prize or award.
- W. Housing allowance paid to members of the clergy.

The items listed and described within Section 305 are not to be listed as deductions against income (except paragraph N if included in State or Local wages), as they are a list of non-taxable income sources.

## **SECTION 306. RESIDENT TAXATION:**

The entire earned income and net profits received and/or earned by a resident West Shore Tax Bureau's taxing jurisdiction and its coterminous Taxing Districts is subject to this tax. Neither the source of the earned income or net profits nor the place where it is

received and/or earned exempts a resident from the tax.

**SECTION 307. NON-RESIDENT TAXATION:**

The entire earned income and net profits received and/or earned by a non-resident of the Taxing District who is employed in the Taxing District or engaged in the operation of a business, profession, or other activity for income or profit in the Taxing District, is subject to this tax; provided, however, that non-residents are not subject to taxation by school districts.

**SECTION 308. CREDITS:**

Credit for earned income or net profits tax paid for the concurrent time period to another state or political subdivision will be allowed as a deduction from the tax liability of taxpayers for tax imposed under the provisions of the Ordinances and Resolutions and as provided by the act. Such allowable credit will be available up to the maximum effective rate of the tax levied by the taxpayer's resident Taxing District; provided, however, that this same credit has not already been applied towards the taxpayer's liability for the Pennsylvania Personal Income Tax for the same period. Evidence of the amount of gross earnings and payments of the applicable tax on earned income or net profits is required before this credit is allowed.

The amount of the allowable credit cannot exceed:

- The actual amount of tax paid to the other state or political subdivisions for the same taxable year; or
- The product using the taxpayer's current Local Income Tax rate multiplied by the amount of taxable earned income or net profits earned in the other state or political subdivision, whichever amount is lower.

Example No.1:

C is a resident of Camp Hill. Camp Hill imposes an earned income and net profits tax at the rate of 2%. C earns \$ 50,000 in Philadelphia which imposes a similar tax which C paid. C is entitled to a credit against his Camp Hill tax liability calculated as follows:

- (a) Determine income earned in each locality

Philadelphia income	\$ 50,000
Elsewhere income	<u>\$ 25,000</u>
Total income	\$ 75,000

- (b) Determine C's Camp Hill tax liability

$$\$75,000 \times 2\% = \$ 1,500$$

- (c) Determine maximum credit against C's Camp Hill tax liability

$$\$50,000 \times 2\% = \$1,000$$

Which C may deduct from his Camp Hill tax liability if he has not taken the credit allowed against his Pennsylvania personal income tax liability.

Example No. 2:

H is a resident of Hampden Township and earns income in City A, Delaware. City A imposes an income tax of 2%. Hampden Township imposes an income tax of 1.6%. H is entitled to a credit against his Hampden Township tax liability calculated as follows:

- (a) Determine income earned in each locality.

City A	\$50,000
Hampden Township	<u>\$25,000</u>
Total	\$75,000

- (b) Determine H's Hampden Township tax liability

$$\$75,000 \times 1.6\% = \$1,200$$

- (c) Determine maximum credit against H's Hampden Township tax liability

$$\$50,000 \times 1.6\% = \$800$$

Which H may deduct from his Hampden Township tax liability if he has not taken the credit allowed against his Pennsylvania personal income tax liability.

Example No. 3:

H is a resident of Hampton Township. Township imposes an earned income tax and net profits tax at the rate of 1.6%. H is a partner in a national CPA firm with offices in Hamden Township, Chicago, New York and New Orleans. H has earned income in the Township and each of the cities and pays an earned income tax in the Township and each city. H is entitled to a credit against his Hampden Township tax liability which is calculated as follows:

- (a) Determine the income earned in each locality during the tax year.

\$50,000 in Hampden Township  
 \$ 5,000 in New York City  
 \$15,000 in Chicago  
\$10,000 in New Orleans  
 \$80,000 gross income – all taxable locally

- (b) Determine H's Hampden Township tax liability

$$\$80,000 \times 1.6\% = \$ 1,280$$

- (c) List the amount of local income tax paid to each locality.

\$ 400 to New York City  
 \$ 500 to Chicago  
\$ 600 to New Orleans  
 \$1,500 total paid to other localities

- (d) Determine the maximum credit that can be taken for local income taxes paid to other localities.

\$ 5,000 x 1.6% = \$ 80  
 \$15,000 x 1.6% = \$240  
 \$10,000 x 1.6% = \$160  
 Total \$480

Which H may deduct from his Hampden Township tax liability if he has not taken the credit allowed against his Pennsylvania personal income tax liability.

Residents who take credit for taxes paid in other jurisdictions shall provide the West Shore Tax Bureau with an exact copy of the tax return as filed with the other taxing jurisdictions, along with an exact copy of their Commonwealth of Pennsylvania Personal Income Tax Return (PA-40), as filed, and any additional documentation or schedules requested by the Tax Bureau.

Residents who pay taxes to “any foreign country” **SHALL NOT BE ELIGIBLE FOR CREDITS** against the earned income/compensation and/or net profits tax.

## **SECTION 309. DEDUCTIONS AND LOSSES:**

### A. Deductions:

Employee's Unreimbursed Business Expenses - Business Expenses for which an employee has not been reimbursed are allowed as a deduction from earned income provided such expense must be "ordinary, necessary, reasonable, actually incurred in performing the duties of the job, and directly related to present employment

The Pennsylvania Personal Income Tax Schedule UE covers these expenses:

- a. Travel and mileage;
- b. Union dues/agency fees (or collective bargaining expenses, both of which are deductible over the life of the contract)/initiation fees;
- c. Work clothes not suitable for street wear required to be purchased. This includes cleaning, altering, and repairs;
- d. Small tools and supplies;
- e. Professional license fees, malpractice insurance, and fidelity bond premiums where required by law or employer;
- f. Moving expenses – provided the transfer is from one permanent duty station to another and provided that the net distance difference between the residence and the old duty station and the original residence and the new duty station is 35 miles or more (the 35 mile rule is waived for military personnel and their families). Expenses are limited to those incurred in moving family, self, and household goods from point of departure to point of arrival. Expenses associated with job-hunting trips are not deductible;
- g. Educational expenses. An individual taxpayer’s educational expenses are deductible if the education maintains or improves the skills used in the taxpayer’s employment or trade or business (i.e. continuing education requirements prevalent in many professions or occupations) or is required for the taxpayer to keep his salary, status, or employment. However, the expenses are not deductible if the education qualifies the taxpayer for a new trade or business (i.e. a current teacher qualifying to be a principal of the education institution), or is required to meet the minimum educational requirements of the taxpayer’s current employment, trade or business.
- h. Office work area expenses;
- i. Miscellaneous expenses:
  - Breakage fees
  - Cash shortages
  - Blind employees costs incurred to pay readers
  - Business gifts
  - Fees on W-2 which must be paid back to employer (e.g. Jury duty where employer continues full wages and requires repayment of monies received for jury duty)
  - Reimbursements received not on W-2 must be deducted from expenses claimed on PA Schedule UE
  - Depreciation expense
  - Per Diem expenses if the taxpayer reports the per diem income.

The Pennsylvania Personal Income Tax Schedule UE does NOT cover these expenses:

- a. Deductions not allowable as business expenses;
- b. Personal, living, or family expenses;
- c. Capital expenditures normally are not an allowable business expense except through depreciation. Certain depreciation expense exclusions may be taken. Federal depreciation or cost-recovery deductions are acceptable for Pennsylvania local tax purposes as an administrative convenience to compute allowable business expense deductions;
- d. Dues to professional or fraternal societies, Chambers of Commerce, or recreational club memberships;



transmission of earned income tax withheld by a corporate employer, shall be a fiduciary charged with all the responsibilities of a fiduciary with respect to taxes withheld, and shall be subject to all duties imposed by law on fiduciaries, including criminal penalties for breach of duties.

**SECTION 402. VOLUNTARY WITHHOLDING:**

Any employer located outside the Taxing District may voluntarily withhold the tax from employees who are residents of Taxing District but are employed outside the Taxing District. Such employers assume the fiduciary responsibilities as outlined in Section 401(B).

**SECTION 403. REGISTRATION OF EMPLOYERS:**

- A. Each employer withholding or required to withhold tax pursuant to Sections 401 and 402 shall register with the West Shore Tax Bureau such employer's name and address and such other information as the Officer may require within fifteen (15) days after becoming a withholding employer.
- B. All employers who have a place of business located within the Taxing District shall maintain complete records of all employees for a period of six (6) years in such form as to enable the Officer to determine the employers' liability to withhold for each employee, the amount of taxable income for each employee, the actual amount of tax withheld, the actual amount transmitted to the Officer and such other information available to such employers as will enable the Officer to carry out his or her responsibilities.

**SECTION 404. LIABILITY OF EMPLOYEE:**

Failure or omission of any employer to withhold the tax shall not relieve the employee from payment of the tax, or from complying with the requirements relating to the filing of declarations and returns.

**ARTICLE V PAYMENT OF TAX AND RETURNS**

**SECTION 501. ANNUAL RETURNS OF TAXPAYERS:**

- A. On or before April 15 of each year, every person who was:
  - (1) a resident of the Taxing District who was employed or engaged in the operation of a business, profession, or other activity for income or profit; or
  - (2) a non-resident of the Taxing District who was employed in the Taxing District or engaged in the operation of a business, profession, or other activity for income or profit in the Taxing District, for all or any part of the preceding calendar year; shall file with the West Shore Tax Bureau an Annual Tax Return showing all earned income and net profits received and/or earned for the previous year.
- B. Persons residing in more than one taxing district during the calendar year must file an Annual Tax Return with the Officer for each district in which they resided during the year.
- C. If a person receives an Annual Tax Return from the West Shore Tax Bureau and has no earned income to report, the word "none" shall be entered on the Annual Tax Return, and the return shall be signed, dated, and returned to the West Shore Tax Bureau with an explanation (Military Service, Retired, Disability Income Only, Unemployment Compensation Only, S Corporation Only, Housewife, Unemployed Student, or Deceased).
- D. If net profits are received, the type of business, profession or activity shall be indicated on the Annual Tax Return and the amount of the profit shall be shown on the appropriate line of the return. If a net loss is incurred in the operation of a business activity, it may not be offset against the earned income/compensation. A net loss incurred in the operation of a

business activity, it may be offset against net profit of other business activities, however, and the net amount cannot be less than zero. There shall also be attached to the Annual Tax Return a copy of the appropriate Pennsylvania Income Tax Schedules (e.g., C, E, F, or K1) to substantiate profits and/or losses indicated.

- E. When a return is made for a fiscal year, the return shall be filed within one hundred and five (105) days from the end of said fiscal year.
- F. The Annual Tax Return shall also show the taxpayer's name, Social Security number, address, place or places of employment or business, the amount of tax due, the amount of credit claimed for tax withheld by an employer (with a copy of the Earnings and Tax Statement showing the amount of tax withheld) and such other information as may be indicated on the return form or as may be required by the Officer.
- G. Every person subject to the tax shall file such return regardless of the fact that his or her wages may have been subject to withholding of the tax by his or her employer and regardless of whether or not any tax is due.
- H. At the time of filing the annual return, the taxpayer shall pay any tax due. Total balances less than \$ 1.00 need not be paid.
- I. The annual tax return must be signed and dated by the taxpayer in the space provided.
- J. JOINT FILING of an annual return by husband and wife shall be allowed, provided that there is no combining of earned incomes, net profits (losses), taxes paid by taxpayers, taxes withheld by employers, or unreimbursed business expenses. Each taxpayer shall report his or her earned income(s), net profits(s), taxes paid by the taxpayer, taxes withheld by the taxpayer's employer, and business expenses, individually, in the columns on the annual tax return headed by their social security number.
- K. Taxpayers with S Corporation income shall file an Annual Tax Return and attach a copy of their Federal Tax Form 1120S or PA RK-1. There is no tax due on S Corporation Income at this time; however the filing of Federal or State tax forms is required for audit purposes only and will prevent needless correspondence when the Tax Bureau matches reported local income with reported state income.
- L. Remittances shall be made payable to the West Shore Tax Bureau.
- M. Third party checks in payment of the tax due may be refused by the West Shore Tax Bureau.
- N. Bad Checks - A \$20.00 charge will be levied each time a check is returned from the bank unpaid. Checks issued in violation of the Pennsylvania Crimes Code will be referred to appropriate authorities for possible criminal prosecution.

## **SECTION 502. DECLARATION AND PAYMENT OF TAX:**

### **A. Application.**

(1) Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year; except that taxes imposed for the first time and changes to existing tax rates shall become effective on January 1 or July 1, as specified in the ordinance or resolution, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed.

(2) For a taxpayer whose fiscal year is not a calendar year, the tax officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

### **B. Partial domicile.**

The taxable income subject to tax of a taxpayer who is domiciled in a political subdivision for only a portion of the tax year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the

number of calendar months during the tax year that the individual is domiciled in the political subdivision, and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles are equal, the calendar month shall be included in calculating the number of months in the new domicile.

C. Declaration and payment.

Except as provided in subsection A (2) above, taxpayers shall declare and pay income taxes as follows:

- (1) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under section 512 and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the resident tax officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- (2)
  - (i) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the resident tax officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the resident tax officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.
  - (ii) Any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the resident tax officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.
  - (iii) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the resident tax officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the resident tax officer on or before January 31 of the succeeding year, the final return.
  - (iv) A taxpayer may have a change in income or credits during the year that requires a change to his or her estimated local tax payments. To amend the estimated local tax, the taxpayer must first calculate the total amount of estimated tax due by multiplying the gross income by the taxpayer's resident local tax rate. The taxpayer should then subtract any local income tax withheld, local income tax credit from a previous year and any estimated local income tax payments already made for the current year from the calculated total estimated local income tax. This remaining estimated local income tax shall be divided by the number of payment dates left in the current year to arrive at the amended quarterly estimated local income tax payments.
  - (v) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return as required under this paragraph and pay the tax due.
- (3) Every taxpayer who receives any other taxable income not subject to withholding under section 512(3) shall make and file with the resident tax officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with

such other information as the department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the resident tax officer the amount of income tax due.

(4) An estimated underpayment penalty shall be imposed if timely prepayments of the current year's estimated local income tax are not at least 90 percent of the taxpayer's tax liability as shown on the current year return, or 100 percent of the product of multiplying the taxable income on the prior year's return by the current tax year's local income tax rate.

### **SECTION 503. RETURNS OF EMPLOYERS AND PAYMENTS OF WITHHELD TAX:**

For taxable years commencing on and after January 1, 2010 income taxes shall be withheld, remitted and reported as follows:

(1) Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the tax officer the name and address of the employer and such other information as the department may require.

(2) An employer shall require each new employee to complete a certificate of residency form, which shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form. Upon request, certificate of residency forms shall be provided by the department. The -certificate of residency form shall provide information to help identify the political subdivisions where an employee lives and works.

(3) Every employer having an office, factory, workshop, branch, warehouse or other place of business within a tax collection district that employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall, at the time of payment, deduct from the compensation due each employee employed at such place of business the greater of the employee's resident tax or the employee's nonresident tax as released in the official register under section 511.

(4) Except as set forth in paragraph (5), within 30 days following the end of each calendar quarter, every employer shall file a quarterly return and pay the amount of income taxes deducted during the preceding calendar quarter to the tax officer for the place of employment of each employee. The form shall show the name, address and Social Security number of each employee, the compensation of the employee during the preceding three-month period, the income tax deducted from the employee, the political subdivisions imposing the income tax upon the employee, the total compensation of all employees during the preceding calendar quarter, the total income tax deducted from the employees and paid with the return and any other information prescribed by the department.

(5) Notwithstanding paragraph (4), the provisions of this paragraph shall apply if an employer has more than one place of employment in more than one tax collection district. Within 30 days following the last day of each month, the employer may file the return required by paragraph (4) and pay the total amount of income taxes deducted from employees in all work locations during the preceding month to the tax officer for either the tax collection district in which the employer's payroll operations are located or as determined by the department. The return and income taxes deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the tax officer for each place of employment at least one month before filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

(6) Any employer who for two of the preceding four quarterly periods has failed to deduct the proper income tax, or any part of the income tax, or has failed to pay over the proper amount of income tax as required by paragraph (3) to the tax collection district, may be required by the tax officer to file returns and pay the income tax monthly. In such cases, payments of income tax shall be made to the tax officer on or before the last day of the month succeeding the month for which the income tax was withheld.

(7) On or before February 28 of the succeeding year, every employer shall file with the tax officer where income taxes have been deducted and remitted pursuant to paragraph (3):

(i) An annual return showing, for the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of compensation paid, the total amount of income tax deducted, the total amount of income tax paid to the tax officer and any other information prescribed by the department.

(ii) An individual withholding statement, which may be integrated with the Federal Wage and Tax statement (Form W-2), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the address and Social Security number, the amount of compensation paid to the employee during the period, the amount of income tax deducted, the amount of income tax paid to the tax officer, the numerical code prescribed by the department representing the tax collection district where the payments required by paragraphs (4) and (5) were remitted and any other information required by the department. Every employer shall furnish one copy of the individual withholding statement to the employee for whom it is filed.

(8) Any employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file returns and withholding statements required under this section and pay the income tax due.

(9) Except as otherwise provided in section 511, an employer who willfully or negligently fails or omits to make the deductions required by this subsection shall be liable for payment of income taxes which the employer was required to withhold to the extent that the income taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the income tax or from complying with the requirements for filing of declarations and returns.

(10) Bad Checks - A \$25.00 charge will be levied each time a check is returned from the bank unpaid. Checks issued in violation of the Pennsylvania Crimes Code will be referred to the appropriate authorities for possible criminal prosecution.

#### **SECTION 504. FISCAL YEARS**

- A. Normally taxpayers shall use the calendar year method for reporting and paying the tax.
- B. A taxpayer, by filing with the Officer his written election to do so, may make and file returns and pay tax on the same Fiscal Year basis used for Federal Tax purposes. (See Section 501.E).

#### **SECTION 505. CASH OR ACCRUAL BASIS:**

- A. A taxpayer may calculate income on the cash or accrual basis as those terms are used for Commonwealth of Pennsylvania Personal Income Tax purposes. The basis used by the taxpayer shall be the same as used by the taxpayer for the Pennsylvania Personal Income Tax.
- B. Illustrations of Computations of Net Profits - As amplification of the definition contained in Section 505(A), but not a limitation thereof, the following information and requirements for the determination of net business profits are furnished:
  - (1) "Cash Basis" Method - A taxpayer employing the cash basis of accounting includes in gross income all income subject to tax received during the year in cash or its equivalent. He or she deducts all disbursements made during the year in cash or its equivalent, provided deduction for such expenditures is authorized by law.
  - (2) The use of the "Cash Basis" is mandatory where no books or records of account are maintained.
  - (3) Items of income and expenditure which, as gross income and deduction, are elements in computing taxable income need not necessarily be in the form of cash. It is sufficient that such items, if otherwise properly included in the computation, can be valued in terms of money.

**EXAMPLE:** A taxpayer on the "Cash Basis" received shares of stock in payment of services. Assuming that the stock has a fair market value, the taxpayer has received the equivalent of cash to the extent of its value

and that amount must be included as income.

- (4) If a return is made on the "Cash Basis", gross profit shall include receipts from commissions, fees and interest, as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services.
- (5) "Accrual Basis" - If income is taken into consideration when earned, even though not received in cash, and expenses are considered as soon as incurred, whether paid or not, the system of accounting is said to be on the "Accrual Basis". These are the basic rules: (a) the right to receive an item of income (as distinguished from actual receipt) determines its inclusion in gross income under the "Accrual Basis"; and (b) a deduction cannot be accrued until an actual liability is incurred.

**EXAMPLE:** In September of last year a contractor performed work for a customer. Payment for this work was not received until this year. If the taxpayer reports on the "Accrual Basis", the income will be included in last year's return (when earned). If the taxpayer reports on the "Cash Basis", the payment will be included in this year's return (when received).

- C. A taxpayer engaged in more than one business activity may, in computing taxable income, use a different method for each trade or business activity.
- D. Methods of accounting must clearly reflect income. No method of accounting is allowed unless it clearly reflects income. Thus, even if the taxpayer's accounts are kept and the return made on the "Cash Basis", unusual cases may arise in which a payment made during the year is not deductible.

**EXAMPLE:** Commissions, fees and costs paid in one year by a taxpayer in securing a loan for ten or fifteen years covered by a mortgage on property to be leased are not deductible in full in the year of payment but should be spread over the period of the loan, even though the taxpayer's accounts are kept and the return made on the "Cash Basis."

## **SECTION 506. PENALTY AND INTEREST**

If for any reason the tax is not paid when due, interest at the rate of six percent (.06) per annum on the amount of said tax, and an additional penalty of one-half of one percent (.005) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit shall be brought for recovery of any such tax, the person liable therefore shall, in addition, be liable for the cost of collection and the interest and penalty herein imposed.

Abatement of certain interest and penalty will be considered under the following conditions:

- A. Errors and delays – In the case of any underpayment, the Tax Bureau may abate all or any part of penalty and/or interest for any period for the following:
  - (1) Any underpayment of tax finally determined to be due attributable in whole or in part to any error or delay by the Tax Bureau in the performance of a ministerial act. For the purposes of this paragraph, 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 Tax Bureau has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due or payable.
  - (2) Any payment of a tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Tax Bureau being erroneous or dilatory in the performance of a ministerial act. The Tax Bureau shall determine what constitutes timely performance of ministerial acts performed under this subsection.
  - (3) The timely performance of ministerial acts shall mean that the Tax Bureau shall contact the taxpayer or employer within 60 days of receiving a properly filed tax return. If the Tax Bureau fails to notify the taxpayer or employer of an underpayment of tax within 60 days of the receipt of a properly filed return, that taxpayer or employer shall be given 30 days to satisfy the underpayment without the accrual of penalty and interest. If that

taxpayer or employer fails to satisfy the underpayment within 30 days penalty and interest shall be applied from the date the tax was originally due.

- (4) A “properly filed return” shall be defined as a return that has been prepared in accordance with these Rules and Regulations and contains all supporting documents, forms, schedules, etc.

**B. Abatement due to erroneous written advice by the Tax Bureau:**

- (1) The Tax Bureau shall abate any portion of any penalty or excess interest attributable to erroneous advice furnished to the taxpayer in writing by and officer, employee or agent of the Tax Bureau acting in the officer’s, employee’s or agent’s official capacity if:
- (i) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and
  - (ii) The portion of the penalty or addition to tax or excess interest did not result from the failure by the taxpayer to provide adequate or accurate information.
- (2) This subsection shall not be construed to require the Tax Bureau to provide written advice to the taxpayer.

**SECTION 507. EXTENSIONS:**

A taxpayer who requires an extension of time in which to file his or her Annual Tax Return shall make written application to the West Shore Tax Bureau no later than one hundred and five (105) days from the end of the calendar or fiscal year for which the Return will be filed. A taxpayer who is granted an extension of time for filing his or her Federal or Pennsylvania Income Tax Return shall not automatically be entitled to a similar extension of time for filing his or her local income tax return. A copy of the taxpayer's Federal or Pennsylvania tax extension form must be received by the West Shore Tax Bureau on or before April 15, of the succeeding year, for the extension to be approved. Such approved extension shall be valid through August 15, of the succeeding year.

Any taxpayer who, after receiving an approved extension to August 15, of the succeeding year, finds that he or she needs additional time for proper completion of the Annual Tax Return, shall make written application to the West Shore Tax Bureau on or before August 15, of the succeeding year, requesting an additional extension of time to file. Such approved second extension shall be valid through October 15, of the succeeding year and will only be approved if a first extension was filed and approved on or before April 15, of the succeeding year. Under no circumstances will extensions be approved after October 15, of the succeeding year.

Interest and penalty, as outlined in Section 506, will be added and collected on tax not received by its due date, even though an extension of time for filing has been granted.

**SECTION 508. CHANGE IN FEDERAL OR PENNSYLVANIA TAXABLE INCOME:**

If the amount of a taxpayer's earned income or net profits reported on his or her annual Federal or Pennsylvania Income Tax Return is changed or corrected either by action of the Internal Revenue Service or Pennsylvania Department of Revenue or by the individual's filing of an amended annual Federal or Pennsylvania Return, the taxpayer shall report to the West Shore Tax Bureau such change or correction within thirty (30) days after the date when the change or correction was determined, by filing an amended tax return indicating the applicable tax year on the return.

**ARTICLE VI ADMINISTRATION AND ENFORCEMENT**

**SECTION 601. TAX OFFICER:**

- A. The Tax Officer is charged with the administration and enforcement of the Ordinances and Resolutions and these Rules and Regulations, and is authorized to act on behalf of the West Shore Tax Bureau member municipalities and school districts in such administrative and enforcement matters.
- B. The West Shore Tax Bureau shall keep a record showing the amount received by it from each person paying the tax and, if paid by such person in respect of another person, the name of such other person, and the date of receipt for seven (7) years.
- C. The West Shore Tax Bureau has prepared a "DISCLOSURE STATEMENT" which sets forth the following in simple and non-technical terms:
  - (1) The rights of a taxpayer and the obligation of the local taxing authority during an audit or administrative review of the taxpayer's books and records.
  - (2) The administrative and judicial procedures by which a taxpayer may appeal or seek review of any adverse decision of the local taxing authority.
  - (3) The procedure for filing and processing refund claims and taxpayer complaints.
  - (4) The enforcement procedures.

**SECTION 602. ADMINISTRATIVE APPEALS:**

- A. The West Shore Tax Bureau encourages any taxpayer or employer desiring a specific ruling concerning the Ordinances, Resolutions or these Rules and Regulations to submit all pertinent facts in writing to the Tax Officer who shall issue a written ruling.
- B. The West Shore Tax Bureau has established an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination and refund of eligible taxes as required by ACT 50 of 1998. The Hearing Officer shall rule on all petitions submitted based on the regulations set forth governing the practice and procedures of the Administrative Appeal Process.
- C. Any taxpayer who is aggrieved by an assessment or determination or delinquency of any of the eligible taxes shall have 90 days from the date of the assessment or determination notice to file a petition for reassessment or re-determination with the Hearing Officer.
- D. The petition shall be double spaced, typed or legibly handwritten on plain paper. The petition should contain a brief summary of the action and the "legal basis" that precipitated the filing for reassessment or re-determination, along with any pertinent information (copies of tax returns, supporting information, tax schedules, expense records, etc.)
- E. The petition shall be mailed via First Class Mail, or delivered in person to the Hearing Officer c/o the West Shore Tax Bureau. Hand delivered petitions will be receipted by the Tax Bureau and will be considered filed as of the date receipted. Petitions received by mail will be considered filed as of the United States Postal Service postmark stamped on the envelope.
- F. Petitions will be photocopied by the Tax Bureau and immediately forwarded to the Hearing Officer. Within 10 days of the petition's filing date the Tax Bureau will submit its position and all relevant facts pertaining to the action that precipitated the petition to the Hearing Officer.
- G. Within 60 days of the petition's filing date a "Final Decision" must be issued by the Hearing Officer. Failure to issue a "Final Decision" within 60 days will result in the petition being deemed approved.
- H. Any person aggrieved by a decision of the Hearing Officer, 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.
- I. Decisions under this Section 602 shall be made according to the principles of law and equity.

**SECTION 603. EXAMINATION OF BOOKS AND RECORDS OF TAXPAYERS AND EMPLOYERS:**

- A. The Tax Officer and agents or staff members of the West Shore Tax Bureau designated in writing by him are authorized to examine the books, papers and records of any taxpayer or supposed taxpayer of any employer or supposed employer in order to verify the accuracy of any return; or, if no return was filed, to ascertain the tax due, if any. Every taxpayer or supposed taxpayer and every employer or supposed employer is required to give the Officer or any agent or staff member so designated by him, the means, facilities and opportunity for such examination and investigations as are authorized. In addition to all other powers, the Officer and agents or staff members of the West Shore Tax Bureau shall have the power, on behalf of the taxing jurisdiction to examine any person under oath concerning salaries, wages, commissions, and other compensation listed on the annual tax return, or which should have been listed on the annual tax return for taxation hereunder; to compel the production of books, papers and records, and the attendance of persons (whether as parties, principals, agents or witnesses) before him.

Pursuant to the foregoing, the Officer and agents or staff members of the West Shore Tax Bureau are authorized to require the production of federal and/or state tax returns for purposes of determining the accuracy of a taxpayer's local tax return and/or of assessing the earned income and net profits tax. [See Borough of Brookhaven v. Century 21, 57 Pa. Cmwlth. 211 (1981)].

- B. Minimum time period for taxpayer response to requests for information shall be 30 days from the mailing of the audit notice. The Tax Bureau shall grant reasonable extensions upon application for good cause and shall notify the taxpayer of the procedure to obtain an extension in its initial request for information.

An initial inquiry by the Tax Bureau 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 three years prior to the mailing date of the notice.

The Tax Bureau may make a subsequent request for a tax return or supporting information if, after the initial request, the Bureau determines that the taxpayer has failed to file a tax return, underreported income or failed to pay a tax for one or more of the tax periods covered by the initial request. Note that this requirement shall not apply if the Bureau has sufficient information to indicate that the taxpayer failed to file a required return or pay an eligible tax which was due more than three years prior to the date of the notice.

- C. Any information gained by the Tax Bureau 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 Tax Bureau to:
- (1) Divulge or make known in any manner confidential information gained in any return investigation, hearing or verification to any person.
  - (2) Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person.
  - (3) Print, publish or make known in any manner any confidential tax information.

**SECTION 604. RECORDS TO BE RETAINED BY TAXPAYERS:**

Taxpayers and employers subject to the Ordinances or Resolutions are required to keep such records as will enable the filing of true and accurate returns, whether taxes are withheld at the source of earned income or of taxes payable upon earned income or net profits, or both; and such records shall be preserved for a period of not less than six (6) years in order to enable the West Shore Tax Bureau to verify the correctness and accuracy of the returns filed.

## **SECTION 605. REFUNDS AND CREDITS:**

A valid Annual Tax Return must be filed before a request for a refund or credit can be considered. Depending on the nature of the refund or credit, additional documentation to substantiate the request may be required by the West Shore Tax Bureau. Refund and credit requests will not be processed until the necessary documentation is provided. Requests for refunds and credits will be considered based upon the relevant facts and circumstances pertinent to each case. Unsupported or unexplained expense amounts will be denied and removed from the tax calculations. Amounts less than one dollar (\$1.00) will be refunded only upon written request of the taxpayer, addressed to the Officer, and accompanied by a stamped, self-addressed envelope. Credits of less than one dollar (\$1.00) will be extended only upon written request of the taxpayer, addressed to the Officer, and accompanied by a stamped, self-addressed envelope.

- A. A taxpayer who has paid an eligible tax to the Tax Bureau may file a written request with the Bureau for a refund or credit of the eligible tax. A request for refund shall be made within three years of the due date for filing the report as extended or one year after the actual payment of the tax, whichever is later. If no report is required, the request shall be made within three years after the due date for the eligible tax or within one year after actual overpayment of the eligible tax, whichever is later.
- (1) For purposes of this section, a tax return filed by the taxpayer with the Tax Bureau showing an overpayment of tax shall be deemed to be a written request for a cash refund unless otherwise indicated on the return.
  - (2) A request for refund under this subsection shall not be considered a petition under SECTION 602 of these Rules and Regulations and shall not preclude a taxpayer from submitting a petition under SECTION 602 of these Rules and Regulations.
  - (3) 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 Tax Bureau within one year of the payment.
- B. All overpayments of tax due a local taxing authority shall bear simple interest from the date of overpayment until the date of resolution.
- Interest on overpayments shall be allowed and paid at the same rate the Commonwealth is required to pay pursuant to 72 P.S. Section 806.1 known as the Fiscal Code. Exceptions are as follows:
- (1) No interest shall be allowed if an overpayment is refunded or applied against any other tax, interest or penalty due the Tax Bureau within 75 days after the last date prescribed for filing the report of tax liability or within 75 days after the date the tax return is filed or the report of liability is filed, whichever is later.
  - (2) Overpayments of interest and penalty shall not bear any interest
- C. The taxpayer's acceptance of the Bureau's check shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the Tax Bureau shall be deemed to be acceptance of the check by the taxpayer for the purposes of this SECTION.
- D. As used in this SECTION 605 of these Rules and Regulations, the following words and phrases shall have the meanings given to them in this Subsection D.

“Date of overpayment” The later of the date paid or the date tax is deemed to be overpaid as follows:

- (1) Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day for filing the report for the tax period, determined without regard to any extension of time for filing.
- (2) 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.
- (3) An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.

- (4) Any amount claimed to be overpaid with respect to which lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the initiation of the review or procedure.
- (5) 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 the filing of the amended income tax return.

“Date of resolution”        The date the overpayment is refunded or credited as follows:

- (1) For a cash refund, a date preceding the date of the Tax Bureau’s refund check by not more than 30 days.
- (2) For a credit for an overpayment:
  - (a) The date of the Tax Bureau’s notice to the taxpayer of the determination of the credit; or
  - (b) 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.

**SECTION 606.        FINES AND PENALTIES FOR VIOLATIONS:**

Any person who violates any provision of the Ordinances or Resolutions shall upon conviction, be sentenced to pay a fine of not more than \$500.00 for each offense plus costs, and in default of payment thereof, to be imprisoned in the County Prison for a period not exceeding thirty (30) days. Some of the violations which may result in such conviction are:

- A. Failure, neglect, or refusal on the part of any person, to make and file any declaration or return required by the Ordinances or Resolutions.
- B. Failure, neglect, or refusal of any employer, required to withhold the tax under Article IV of these Rules and Regulations, to register with the West Shore Tax Bureau.
- C. Failure, neglect, or refusal of any employer to deduct or withhold the tax from his or her employees.
- D. Failure, neglect, or refusal to maintain or to reveal to the West Shore Tax Bureau or its authorized representative, by any person, any partner of a partnership, or any officer of a corporation or association, books, records, papers (including Federal or State tax forms) relevant to the tax imposed hereunder.
- E. Knowingly making any incomplete, false or fraudulent report or return or attempting to do any other thing to avoid full disclosure of net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by the Ordinances or Resolutions.

**SECTION 607.        CONCURRENT REMEDIES:**

Imposition of any fine or imprisonment shall not bar either civil liability for tax, penalty or interest or late filing fee or prosecution for embezzlement, fraudulent conversion, theft, or other offense under the Pennsylvania Crimes Code, or failure to file a properly prepared tax return under the Local Tax Enabling Act.

**SECTION 608.        FAILURE TO RECEIVE FORMS:**

Failure of a taxpayer or employer to receive forms or returns required by the Ordinances or Resolutions does not excuse any failure to file any reports or returns required or to pay any tax due.

**SECTION 609. RETURN COMPLETION - GENERAL:**

- A. Each taxpayer shall account for all twelve (12) months of the calendar year as to their place of domicile and, in the case of more than one place of domicile, the months in each place of domicile and also provide the name of each Borough, Township, or City in which they were domiciled during the year.
- B. Figures are not to be rounded off. Actual figures are to be used.
- C. All appropriate schedules (Federal and State tax forms and schedules, as well as taxpayer prepared worksheets referenced on Federal or State tax forms and schedules), W2 forms, and 1099 forms shall be filed with the annual tax return. Annual tax returns received without the appropriate schedules, W2 forms, or 1099 forms shall be considered incomplete and are not a valid filing of the annual return.
- D. Taxpayers with earnings in another State who have paid tax on those earnings to the other State, and are applying for credit for tax paid to the other State, must provide a copy of the State tax return for that State, plus their Pennsylvania personal income tax return. If the aforementioned State tax returns are not provided with the annual tax return, it will be considered as being incomplete and not a valid filing of the annual tax return.
- E. Estimates of income and or expenses by the taxpayer are not acceptable unless approved by the West Shore Tax Bureau.
- F. Should the taxpayer omit the required expense deduction forms or if the expense deduction forms are not fully completed, the expense deductions shall be disallowed and systematically denied without notification to the taxpayer. In the case where the omission of the required expense deduction forms and the subsequent denial of the expense deduction results in a balance of tax due, the taxpayer will be notified of the balance due.
- G. In most cases, taxpayers will be submitting copies of their Pennsylvania Personal Income Tax forms, schedules and worksheets with their local income tax returns. In situations where the PA Personal Income Tax form, schedule or worksheet references a Federal form, schedule or worksheet the taxpayer should attach a copy of the referenced Federal form, schedule or worksheet to their local income tax return. Annual tax returns received without a copy of the PA Personal Income Tax form, schedule or worksheet or a referenced Federal form, schedule or worksheet will be considered as an incomplete and invalid filing of the annual tax return.
- H. Taxpayers may not submit PA form 20S/PA65 in lieu of the applicable PA RK1 or NRK1 form to the West Shore Tax Bureau. Annual tax returns received without the applicable RK1 or NRK1 will be considered as an incomplete and invalid filing of the annual tax return.
- J. Annual tax returns received by the West Shore Tax Bureau that are not signed and dated by the taxpayer filing the annual tax return will be considered as an incomplete and invalid filing of the annual tax return.
- K. It is the responsibility of each taxpayer to carefully review his or her return for compliance with this Section 609 before filing.

The volume of returns filed with the West Shore Tax Bureau prevents it from reviewing all returns for completeness within such time as will permit it to communicate with individual taxpayers that a return is incomplete before date on which the return is due. The penalty and interest shall be paid to the West Shore Tax Bureau notwithstanding claims that the incomplete return was filed sufficiently in advance of the due date such that the taxpayer should or could have been notified that the return was incomplete for the purpose of amending or completing the return on or before the due date.

In the case where a taxpayer remits a voluntary payment towards tax liability, unless specified by the taxpayer otherwise, the payment shall be prioritized as follows:

- (1) Tax

- (2) Interest
- (3) Penalty
- (4) Any other fees or charges

In the case where a taxpayer remits a payment towards the tax due as calculated on the annual tax return and that annual tax return is found to be incomplete or not a valid filing of the annual tax return, as outlined above, the payment will be deposited towards the taxpayer's liability as an estimated tax payment to be reconciled upon the receipt of a complete and valid filing of the annual tax return by the aforementioned taxpayer.

The West Shore Tax Bureau may acquire Pennsylvania Department of Revenue Individual Income Tax information regarding earned income and net profits for audit and compliance purposes.

- L. The Tax Bureau shall notify the taxpayer in writing of the basis for any underpayment that the Bureau has determined to exist. The notification shall include:
  - (1) The tax period or periods for which the underpayment is asserted.
  - (2) The amount of underpayment detailed by tax period.
  - (3) The legal basis upon which the Tax Bureau has relied to determine that an underpayment exists.
  - (4) An itemization of the revisions made by the Tax Bureau to a return or report filed by the taxpayer that results in the determination that an underpayment exists.

**SECTION 610. WHO MUST FILE:**

- A. Every person who was:
  - (1) a resident of a West Shore Tax Bureau member municipality and school district who was employed or engaged in the operation of a business, profession, or other activity for income or profit; or
  - (2) a non-resident of a West Shore Tax Bureau member municipality and school district who was employed in a West Shore Tax Bureau member municipality and school district or engaged in the operation of a business, profession, or other activity for income or profit in a West Shore Tax Bureau member municipality and school district for all or any part of the preceding calendar year;

shall file with the West Shore Tax Bureau an annual tax return showing all earned income and net profits received and/or earned for the previous year.
- B. Partial year residents are required to file an annual tax return for the applicable portion of the calendar year they resided in the West Shore Tax Bureau's taxing jurisdiction.
- C. Taxpayers must file an annual tax return even though they may have had earned income tax withheld by an employer.
- D. Taxpayers who are on active military duty must file an annual tax return for the year in which they first entered the military on active duty and inform the West Shore Tax Bureau of their active duty military status. Upon completion of active duty military status, taxpayers shall resume filing annual tax returns.
- E. Taxpayers who are retired or permanently disabled and have no taxable earned income or net profits may be coded on the West Shore Tax Bureau's files so as not to receive an annual tax form. The taxpayer must notify the West Shore Tax Bureau in writing and must also provide the effective date of retirement or permanent disability.
- F. Approximately every three to five years the West Shore Tax Bureau will send annual tax forms to all residents for the purpose of updating and verifying taxpayer files.

**SECTION 611. REGISTRATION OF TAXPAYERS:**

Every taxpayer who receives, or anticipates that he or she will receive, taxable earned income or net profits during the calendar year must register his or her name and resident address, his or her social security number and the name and address of his or her place of employment or business with the West Shore Tax Bureau. All taxpayers will thereafter be responsible for reporting changes in their name, place of residence or place of employment or business with the West Shore Tax Bureau.

## **SECTION 612.       INSTALLMENT PLANS FOR DELINQUENT AMOUNTS:**

The Tax Bureau 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 Tax Bureau determines that the agreement will facilitate collection. The following terms and conditions shall apply to installment plans:

- A.       The taxpayer must file an annual tax return for the current tax year and any delinquent tax years to be covered under the installment plan. These annual tax returns must include a copy of the taxpayer's Federal and /or State Tax Return and all supporting documentation as verification that all taxable income has been reported. In cases where a Federal and/or State Tax Return cannot be produced, the taxpayer must complete a Federal Form 4506 "Request for Copies Of Tax Return" naming the West Shore Tax Bureau as recipient of the requested copy. The costs to procure the Federal Tax Return and related information are the sole responsibility of the taxpayer.
- B.       Installment plans will not be approved for tax amounts less than \$ 100.00.
- C.       Installment Plans will not be approved for more than 4 months. Payment amounts will be calculated by dividing the total tax liability by 4 and adding the applicable penalty, interest, fines, and costs to each payment.
- D.       Taxpayers will be required to verify that their current year's tax liability has been satisfied to date either by proof of employer withholding or by direct payment from the taxpayer.
- E.       Installment Plans will be granted only 1 time to any taxpayer.
- F.       Installment Plans will be revoked and immediate civil action or garnishment of wages for collection of the tax due will be initiated if any of the aforementioned terms and conditions are not met.
- G.       The Tax Bureau may terminate any prior agreement if:
  - (1)       The information the taxpayer provided to the Tax Bureau prior to the date of the agreement was inaccurate or incomplete, or
  - (2)       If the Tax Bureau believes that collection of any eligible tax under the Installment Plan is in jeopardy.
- H.       If the Tax Bureau finds that the financial condition of the taxpayer has significantly changed, the Tax Bureau may alter, modify or terminate the agreement, but only if:
  - (1)       Notice of the Tax Bureau's finding is provided to the taxpayer no later than 30 days prior to the date of such action; and
  - (2)       The notice contains the reasons why the Tax Bureau believes a change has occurred.
- I.       The Tax Bureau may alter, modify or terminate an Installment Plan agreement if the taxpayer fails to do any of the following:
  - (1)       Pay any installment at the time the installment is due.
  - (2)       Pay any other tax liability at the time the liability is due.
  - (3)       Provide a financial condition update as requested by the taxpayer.
- J.       Nothing in this subsection shall prevent a taxpayer from prepaying in whole or in part any eligible tax under any installment agreement with the Tax Bureau.

**SECTION 613. SUIT FOR COLLECTION OF DELINQUENT AMOUNTS:**

- A. The Tax Officer may sue in the name of the member Municipality or School District for the recovery of taxes, penalties, interest, and costs of collection due and unpaid under the Ordinances or Resolutions.
- B. Any suit brought to recover the tax, penalty, interest, and costs of collection imposed by the Ordinances or Resolutions shall be begun within three years after such tax is due, or within three years after the declaration or return has been filed, whichever date is later: Provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
  - (1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him or her under provisions of the Ordinances or Resolutions, there shall be no limitation.
  - (2) Where an examination of the declaration or return filed by any person, or of any other evidence relating to such declaration or return in the possession of the Officer, reveals a fraudulent evasion of taxes, there shall be no limitation.
  - (3) In the case of substantial understatement of tax liability of twenty-five percent or more and no fraud, suit shall be begun within six years.
  - (4) Where any person has deducted taxes under the provisions of the Ordinances or Resolutions, and has failed to pay the amounts so deducted to the Officer, or where any person has willfully failed or omitted to make the deductions required by the Ordinances or Resolutions, there shall be no limitation.
  - (5) This section shall not be construed to limit the West Shore Tax Bureau from recovering delinquent taxes by any other means provided by the Local Tax Enabling Act.
- C. The Tax Officer may sue for recovery of an erroneous refund or credit provided such suit is begun two years after making such refund or credit, except that such suit may be brought within five years if it appears that any part of the refund or credit was induced by fraud or misrepresentation of material fact.
- D. All taxes deducted and withheld from employees pursuant to these Rules and Regulations, plus any penalties and interest with respect thereto, shall constitute a trust fund for the political subdivision and shall be enforceable against such employer, his representative or any other person receiving such fund.
- E. When suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the penalties and interest herein imposed.

**SECTION 614. WAGE ATTACHMENTS:**

The West Shore Tax Bureau shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms, or individuals, employing persons owing delinquent earned income taxes, or whose spouse owes delinquent earned income taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent earned income taxes, or whose spouse owes delinquent earned income taxes, upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxable or the spouse thereof, and the amount of tax due. Upon presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions, or earnings of such individual employees, then owing or that shall within sixty (60) days thereafter become due or from any unpaid commissions or earnings of any such taxable in the employer's possession, or that shall within sixty (60) days thereafter come into the employer's possession, a sum sufficient to pay the respective amount of the delinquent earned income taxes, penalties, interest,

and costs of collection, shown upon written notice or demand, and to pay the same to the West Shore Tax Bureau sixty (60) days after such notice shall have been given. No more than ten percent of the wages, commissions or earnings of the delinquent taxpayer or spouse thereof may be deducted at any one time for delinquent earned income taxes, penalties, interest and costs of collection. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two percent of the amount of money so collected and paid over to the West Shore Tax Bureau. Upon the failure of any such corporation, political subdivision, association, company, firm, or individual to deduct the amount of such taxes, penalties, interest, and costs of collection or to pay the same over to the tax collector, less the cost of bookkeeping involved in such transaction, as herein provided, within the time required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax, penalty, interest and costs of collection for each such taxable whose taxes, penalties, interest and costs of collection are not withheld and paid over, or that are withheld and not paid over together with a penalty of ten percent added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the West Shore Tax Bureau, or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law.

The West Shore Tax Bureau shall not proceed against a spouse or his or her employer until he has pursued collection remedies against the delinquent taxpayer and his or her employer under this section.

Upon presentation of a written notice and demand under oath or affirmation, to the State Treasurer or any other fiscal officer of the state, or its boards, authorities, agencies or commissions, it shall be the duty of the treasurer or officer to deduct from the wages then owing, or that shall within sixty days thereafter become due to any employee, a sum sufficient to pay the respective amount of the delinquent earned income tax, penalty, interest, late filing fee, and costs shown on the written notice. The same shall be paid to the West Shore Tax Bureau which said delinquent tax, penalty, interest and costs of collection was levied within sixty (60) days after such notice shall have been given.

The West Shore Tax Bureau shall, at least fifteen (15) days prior to the presentation of a written notice and demand to the State Treasurer or other fiscal officer of the State, or to any employer, notify the taxpayer owing the delinquent tax, penalty, interest and costs of collection by registered or certified mail that a written notice and demand shall be presented to the taxpayer's employer unless such tax, penalty, interest and costs of collection are paid. The return receipt card for certified or registered mail shall be marked delivered to addressee only, and the cost of notification by certified or registered mail shall be added to the costs for collecting taxes, penalties, interest, and costs of collection.